NORTH DAKOTA
DEPARTMENT OF
PUBLIC INSTRUCTION

SECTION 504 SUBPART D

Guidelines for Educators and Administrators

Department of Public Instruction

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INTRODUCTION

The purpose of these guidelines is to guide school staff regarding obligations under Section 504 of the Vocational Rehabilitation Act. These same obligations are required by Title II of the Americans with Disabilities Act (ADA).

These guidelines address Subparts D and E of the Section 504 regulations regarding student issues.

Purpose

Section 504 was implemented to prevent discrimination against individuals with disabilities in federally funded programs. Section 504 of the Rehabilitation Act was enacted in 1973. These federal regulations were implemented in 1977, and have seven sections:

Subpart A	General Provisions
Subpart B	Employment Practices
Subpart C	Program Accessibility
Subpart D	Preschool, Elementary, and Secondary Education Requirements
Subpart E	Postsecondary Education Requirements
Subpart F	Health, Welfare, and Social Services
Subpart G	Procedures

"Handicapped individuals" will hereafter be referred to as "individuals with disabilities" in order to be consistent with current educational terminology.

Enforcement/Oversight

For many years, the main area of enforcement of Section 504 has been employment issues for individuals with disabilities. However, within the last several years, the Office for Civil Rights (OCR) has become more active in the provisions of Section 504 regarding the education of students with disabilities.

Requirement

Section 504 prohibits discrimination against any individuals with disabilities by public schools receiving federal financial assistance.

Management

Section 504 should be a general education management responsibility.

SECTION 504 EXAMPLES OF DISCRIMINATION

The following are some examples of how discrimination has occurred against individuals with disabilities:

1. A student with a disability is denied recognition as an honor roll student because one class is in the special education resource room.

2. A student is expelled from school for misbehavior that is related to his/her disability.

3. The school refuses to provide bus transportation that is as short in duration (within reason) as provided to students without disabilities.

4. The school refuses to allow a student with a disability the opportunity to audition for athletic teams or other extracurricular activities.

5. The school refuses to dispense medication to a student who needs it to benefit from education.

6. The high school counselor fails to provide information about the special provisions of college board examinations to students with disabilities.

7. The school refuses to provide a modified adaptive physical education program for a student who is obese and cannot participate in regular physical education.

8. The school does not provide an interpreter for a parent to attend a school meeting regarding his/her student.

9. The school does not provide an interpreter for a parent who is deaf to attend a school meeting regarding his/her student.

10. Students with disabilities are denied access to extracurricular activities.

ACRONYMS/ DEFINITIONS

The following are commonly used acronyms and definitions used in Section 504 and special education.

ADA — Americans with Disabilities Act

ADAAG — Americans with Disabilities Act Accessibility Guidelines

ADD — Attention Deficit Disorder

ADHD — Attention Deficit Hyperactivity Disorder

AG — Annual Goal

AP — Accommodation Plan

APR — Annual Performance Report

AYP — Annual Yearly Progress

BIE — Bureau of Indian Education

CD — Cognitive Delay

CFR — Code of Federal Regulations

DD — Developmental Disabilities

DNR — Do Not Resuscitate

DOE — Department of Education

ED — Emotionally Disturbed

EI — Early Intervening

ESY — Extended School Year

FAPE — Free Appropriate Public Education

FERPA — Family Educational Rights and Privacy Act

HI — Hearing Impaired

IDEA — Individuals with Disabilities Education Act—Special Education

IEP — Individualized Education Program

IFSP — Individualized Family Service Plan

LEA — Local Education Agency

LRE — Least Restrictive Environment

LD — Learning Disability

OCR — Office for Civil Rights

OHI — Other Health Impaired

OSEP — Office of Special Education Programs

OT — Occupational Therapy

Part B — Special Education for School-Aged Students

Part C — Special Education for Infants and Toddlers Birth through Two Years

PT — Physical Therapy

RtI—Responsiveness to Intervention

SEA — State Education Agency

Section 619 — Special Education for Three to Five-Year-Olds

SPP — State Performance Plan

TTY — A Telecommunication Device for the Deaf (Teletypewriter)

VI — Visually Impaired

504 — Section 504 of the Rehabilitation Act

DEFINITIONS

The following are definitions that will be used in this manual.

ACCOMMODATIONS—Adaptations made by the classroom teacher(s) and other school staff to enable the students to access their educational program. In some cases, a Section 504 plan should be developed outlining accommodations.

ADA ACCESSIBILITY GUIDELINES (ADAAG)—Standards used to meet Section 504/ADA accessibility requirements for the design, construction, and alteration of buildings.

AMERICANS WITH DISABILITIES ACT (ADA)—A civil rights law that prohibits discrimination against persons with disabilities in the areas of accessibility, employment, public services, public accommodations, transportation, and communication. Congress recently passed the ADA Amendments of 2009.

BARRIER-FREE ENVIRONMENT—A school environment that contains no obstacles to accessibility and usability by students and other individuals with disabilities.
Barriers can be physical and non-physical.

CONSENT — Written parent permission before initial evaluation and initial education placement.

CONTAGIOUS DISEASES PROTECTED UNDER 504—Contagious diseases are those that can be transmitted from person to person. Examples are diseases such as AIDS, HIV, and tuberculosis.

EARLY INTERVENING TEAM—A group of school staff knowledgeable about students "at risk." The team assists other teachers and suggests accommodations to help the student succeed in his/her general education program. This is sometimes referred to as a Building Level Support Team. Every effort should be made to keep the student in the general education program.

FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)—the federal law and regulations that address student record-keeping and confidentiality.

FREE APPROPRIATE PUBLIC EDUCATION (FAPE)—Related aids and services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of nondisabled persons are met.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)—Federal special education law and regulations.

MAJOR LIFE ACTIVITY—Functions such as walking, breathing, learning, reading, concentrating, thinking, communicating, seeing, speaking, caring for oneself, working, helping, eating, sleeping, standing, lifting, bending, and operating of a bodily function.

OFFICE FOR CIVIL RIGHTS (OCR)—this federal agency has three primary responsibilities: investigating complaints, conducting compliance reviews, and providing technical assistance. There are 10 regional offices located throughout the United States.

PHYSICAL OR MENTAL IMPAIRMENT—(1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (2) any mental or physical disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; mental retardation; emotional illness; drug addiction; and alcoholism.

PROGRAM ACCESSIBILITY—the school will ensure programs and activities are accessible to and usable by persons with disabilities. In many instances, programs and activities may be made accessible through slight modifications and adjustments in procedures, practices, and policies. In others, building renovation or construction may be required. Structural change is required only where program accessibility cannot be achieved effectively through other means.

PROGRAM OR ACTIVITY—in the context of Section 504/ADA, this includes all operations of State and local agencies that receive federal funds. This includes colleges, universities, and/or school districts.

PUBLIC ENTITY—Any school, organization, agency, or office that receives federal funding and is, therefore, obligated to follow Section 504/ADA requirements.

PUBLIC NOTICE—The school is required to provide public notice and internal notice (i.e., to staff, individuals with disabilities, and students) stating it does not discriminate on the basis of a disability.

QUALIFIED STUDENT—Any student who has a physical or mental impairment that substantially limits one or more major life activities.

SECTION 504—The Vocational Rehabilitation Act of 1973 guarantees specific rights in federally funded programs and activities to people who qualify as disabled. Section 504 states, "No otherwise qualified disabled individual in the United States... shall, solely by reason of a disability be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

SECTION 504/ADA COORDINATOR—The school employing 15 or more persons must assign a person to coordinate compliance with Section 504 regulations. It is recommended that all schools appoint a 504/ADA coordinator. It is recommended that the same individual serve as the Americans with Disabilities Act Coordinator and be a general educator.

SECTION 504 CASE MANAGER—This is usually the primary school staff member providing accommodations for a specific student. Case managers could include counselors, school nurses, and general education teachers. The case manager maintains the Section 504 student file.

SELF-EVALUATION—The Americans with Disabilities Act requires that federal fund recipients evaluate their programs, physical accessibility, and employment practices to determine the extent to which programs and activities require modification to ensure full participation by students with disabilities. These evaluations should be revisited annually by the Section 504/ADA Coordinator.

TRANSITION PLAN—If a school determines that structural modifications are necessary to meet Section 504/ADA program accessibility requirements, the school must develop a plan specifying the steps necessary to complete such changes and the time frame for completion.

OVERVIEW

Section 504/ADA is a civil rights statute aimed at discrimination against individuals with disabilities. Like other statutes of Title VI (race) and Title IX (gender), Section 504/ADA focuses on discrimination based on disability. All programs or activities of the school are covered by Section 504/ADA obligations.

There is no State or federal funding provided to assist in complying with Section 504. All costs are the obligation of the general school district budget. Many schools have established a Section 504-line item in their general fund budget to cover necessary accommodations for individuals with disabilities.

REGULATIONS

Section 504 regulations have several areas that are particularly important for schools: Subpart B—employment practices, Subpart C—program accessibility, and Subparts D and E—requirements for preschool, elementary, secondary, and postsecondary education. **These guidelines will focus on Subparts D and E.**

SUMMARY OF SUBPARTS A–E

SUBPART A: GENERAL PROVISIONS

This part of the regulations outlines the nondiscriminatory responsibilities of schools that receive federal funds or are public entities. No person, on the basis of a disability, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program that benefits from federal funding or is a public entity.

SUBPART B: EMPLOYMENT PRACTICES

No qualified person shall, on the basis of his/her disability, be subjected to discrimination in employment by any program or activity that receives federal funds or is a public entity.

The school must make reasonable accommodations for employees with known physical and mental impairments unless the accommodation would impose an undue hardship on the operation of the school's program. Examples of reasonable

accommodations would include making facilities accessible to and usable by persons with disabilities, job restructuring, part-time or modified work schedules, and acquisition or modification of equipment or devices.

SUBPART C: PROGRAM ACCESSIBILITY

No individual with a disability shall be denied the benefits of, excluded from participation in or be otherwise subjected to discrimination under any program or activity because facilities are inaccessible or unusable. Building and program accessibility applies to any individual with disabilities accessing any activities or programs in that school building.

The regulation contains two standards to be used in determining whether programs and activities are accessible to individuals with disabilities. One standard deals with "existing" facilities; the other deals with "new" construction. The term "existing facility" means the facility was in existence or in the process of construction before June 3, 1977, the effective date of the regulation. The term "new construction" means groundbreaking that took place on or after the effective date of the regulation.

Leased facilities (mobile units) that are leased or constructed with federal funds are required to meet the standards of new construction. Other leased units are required to meet the standards of existing facilities.

The standard for a facility existing before June 3, 1977, for 504 or January 26, 1992, for ADA requires that federally assisted programs or activities operated in that facility must, when viewed in their entirety, be readily accessible. *This standard does not require that every facility or part be accessible so long as the program or activity is accessible*. Thus, recipients need not make structural changes to facilities that existed before June 3, 1977, for 504 or before January 26, 1992, for ADA where other alternative methods are effective in making programs and activities accessible so long as priority consideration is given to offering the services in the most integrated setting appropriate.

One example of an alternative method in a school would be the relocation of classes, activities, or services to an accessible site. Facility alteration or new construction is required to achieve program accessibility only if sufficient relocation of classes, activities, or services cannot be housed in an existing facility. In meeting the objective of program accessibility, the school must take precautions not to isolate or concentrate students with disabilities in settings away from students without disabilities.

The regulation requires that all new construction began after June 3, 1977, for 504 or January 26, 1992, for ADA, as well as alterations to existing facilities, must be designed and constructed to make facilities accessible and usable by individuals
with disabilities.

SUBPART D: REQUIREMENTS FOR PRESCHOOL, ELEMENTARY, MIDDLE LEVEL, JUNIOR HIGH, SECONDARY EDUCATION, AND ADULT EDUCATION PROGRAM

Preschool, elementary, middle level/junior high, and secondary programs must consider the needs of qualified persons with disabilities in determining the aid, benefits, or services to be provided under these programs or activities.

The school must provide a free appropriate public education to students with disabilities in its jurisdiction who are eligible under Section 504. Instruction must be individually designed to meet the needs of those students as adequately as the needs of students without disabilities. **This standard of what is "appropriate" differs from the IDEA "appropriate" standard, which requires the school to design a program reasonably calculated to confer educational benefits. An appropriate education under Section 504/ADA requires that the services be effective and fair.**

Although Section 504 does not require schools to develop an Individualized Education Program with annual goals or an accommodation plan, the school should provide written documentation for each student identified and provided accommodations and/or services under Section 504. If the Building Level Support Team suspects a need for an accommodation, a referral should be made, evaluations conducted, and possible identification determined by a team knowledgeable about the student. If the student is identified, the team might develop a Section 504 Accommodation Plan.

The quality of educational services provided to individuals with disabilities must be equivalent to the services provided to individuals without disabilities. Teachers, administrators, staff, and parents should receive ongoing training in the instruction of individuals with disabilities and be knowledgeable about the disability, appropriate materials, and equipment. The Section 504 Coordinator will be responsible to develop and implement staff and parent training.

RESPONSIBILITY

Section 504 should fall under the *management of general education.* The figure on the next page illustrates some obligations of general education under Section 504 and their relationship with school personnel roles. The school

staff and parents should collaborate to help guarantee that students are provided accommodations through general education. The exception to this standard is a student who has been determined eligible as having a disability under the Individuals with Disabilities Education Act (IDEA). Such a student could receive special education services under IDEA and accommodations required under Section 504. Many schools will include the Section 504 accommodations on the IEP rather than developing two separate documents.

RESPONSIBILITIES IN THE SECTION 504 PROCESS

Student and Parent:

- Are involved in suggesting accommodations.
- Participate in meetings.
- Benefit from the program.

School Principals and School Staff:

- Conduct nondiscriminatory practices in classrooms.
- Refer/identify/evaluate students.
- Encourage parent involvement.
- Develop program modifications and accommodations.

504 Coordinator:

- Coordinates Section 504 procedures.
- Provides staff and parent training.
- Manages Section 504 grievance procedures.
- Helps conduct the self-evaluation.

Superintendent:

- Designates 504 Coordinator.
- Provides annual notice to parents/students.
- Provides continuing notice to students/employees.

School Board:

- Establishes policy on nondiscrimination.
- Develops grievance procedures.
- Develops hearing procedure.

**** Parents and school personnel must be notified as to who is the 504 coordinator. If possible, the coordinator should be a person from general education.***

SOME PROCEDURAL REQUIREMENTS

To comply with Section 504, schools must have policies and procedures in place for the following:

1. Provide **written assurance** of nondiscrimination whenever the school receives federal money (e.g., on the LEA application). [34 CFR § 104.5(a)]

2. Designate an **employee to coordinate compliance** with Section 504/ADA (if there are more than 15 employees). [34 CFR § 104.7(a)]

3. Provide **grievance procedures** to resolve complaints of discrimination (if more than 15 employees): mediation, complaint process, and due process hearings. [34 CFR 104.7(b)]

4. Provide **notice to students and parents**. A separate notice should be available for employees, unions, and professional organizations of nondiscrimination in admission or access to, treatment at, and employment in its programs or activities (if more than 15 employees). The notice must be included in the student/parent handbook. [34 CFR §104.8]

5. The school will **identify and locate qualified students with disabilities** within their jurisdiction. [34 CFR 104.32]

6. **Annually notify persons with disabilities** and their parents or guardians of the school's responsibilities under Section 504/ADA. [34 CFR § 104.32(b)]

7. Provide parents or guardians with **procedural safeguards:**
    a. Notice of their rights
    b. An opportunity to review relevant records
    c. An impartial hearing. Parents or guardians must be notified of their right to request a hearing regarding the identification, evaluation, or educational placement of individuals with disabilities [34 CFR § 104.36].
    d. Review of procedures. Compliance with the procedural safeguards under special education is one way of meeting these requirements.

8. **Conduct a self-evaluation** of the school facilities, programs, and policies to ensure that discrimination is not taking place. [34 CFR § 104.6 (c)] This study should be conducted with the assistance of interested persons, including persons with disabilities.

The next few pages will clarify and provide suggested procedures for complying with the procedural requirements under Section 504.

PROCEDURE ONE:
34 CFR 104.56 (A)
WRITTEN ASSURANCE OF NONDISCRIMINATION

Whenever a school applies for State or federal monies, it must assure that it does not discriminate on the basis of race, sex, color, national origin, age, or disability. This requirement is done routinely by all schools.

PROCEDURE TWO:
34 CFR 104.7 (A)
SECTION 504 COORDINATOR

The general provisions of Section 504/ADA, together with other federal nondiscrimination laws, require the designation of a person to coordinate the school's efforts to comply with these laws. Coordination activities could include some or all of the following:

Suggested Responsibilities of the Section 504 Coordinator

- Ensure nondiscriminatory educational practices.
- Establish and monitor a Section 504/ADA referral/identification/ review process.
- Maintain data on Section 504/ADA referrals.
- Conduct staff and parent awareness and training activities concerning Section 504/ADA requirements.
- Implement Section 504/ADA grievance procedures.
- Monitor Section 504/ADA budget.
- Consult with the Special Education Coordinator.
- Serve as the school liaison with the regional Office for Civil Rights.

The Section 504/ADA Coordinator could be someone already employed by the school. A general education staff member or school counselor who is knowledgeable about federal laws and regulations would be preferred. In many cases, this person oversees and is responsible for other civil rights laws.

— Best Practice Examples—

General Education Administrator *School Counselor* *School Nurse*

PROCEDURE THREE: 34 CFR 104.7 (B)
SAMPLE SCHOOL GRIEVANCE PROCESS

Section I

If any person believes that the school or any of the school's staff have inadequately applied the regulations of (1) Title VI of the Civil Rights Act of 1964, (2) Title IX of the Education Amendment Act of 1972, (3) Section 504 of the Rehabilitation Act of 1973, or
(4) the Americans with Disabilities Act, he/she may bring forward a grievance to the school's Section 504/ADA coordinator. It should be understood by the individual(s) involved that a complaint can be made to the Office for Civil Rights without going through the school's grievance procedures. The grievance procedures are to provide for a prompt and equitable resolution of a complaint.

Section II

The school 504 coordinators, on request, will provide a copy of the school's grievance procedure and investigate all complaints in accordance with this procedure. The grievance procedure should include a statement that a copy of each of the acts and the regulations on which this notice is based may be found in the coordinator's office.

The person who believes he/she may have been discriminated against based on a disability shall discuss the grievance and give the completed grievance form to the school Section 504 coordinator who shall in turn investigate the complaint and reply with an answer to the complainant.

Step 1

A written grievance form signed by the complainant shall be submitted to the school Section 504 Coordinator. The coordinator shall further investigate the matters of grievance and reply in writing to the complainant within 10
school days.

Step 2

If the complainant wishes to appeal the decision of the school Section 504 Coordinator, he/she may submit a signed statement of appeal to the district administrator within 10 school days after receipt of the coordinator's response. The coordinator and superintendent should not be the same individual. The superintendent shall meet with all parties involved, formulate a conclusion, and respond in writing to the complainant within 10 school days.

Step 3

If the complainant remains unsatisfied, he/she may appeal through a signed written statement to the school board of education within 10 school days of his/her receipt of the district's response in Step Two. To resolve the grievance, the board shall meet with the concerned parties and their representative within 15 school days of the receipt of such an appeal. A copy of the board's disposition of the appeal shall be sent to each concerned party within 10 school days of this meeting.

Step 4

The complainant may file a complaint with the Office for Civil Rights at any time before or during the grievance procedures.

SECTION 504 SCHOOL GRIEVANCE FORM

Date: _____ Name: _____

Title: _____

Student: _____

Address: _____
Phone: _____

1. Summary of why your child's civil rights have been violated—What is the problem?

_____
_____
_____
_____

2. How can the problem be resolved?

_____
_____
_____
_____

3. Please describe any corrective action you wish to see taken about the possible. You may also provide other information relevant to this grievance.

_____
_____
_____
_____

4. Please describe any corrective action you wish to see taken about the possible. You may also provide other information relevant to this grievance.

_____
_____
_____
_____

If others are affected by the possible violation, please give their names and/or positions:

_____
_____
_____
_____

Signature of Parent Date

_____

Signature of Section 504 Coordinator Date Received

_____

MEDIATION

Mediation is not a requirement under Section 504 but should be considered a best practice. Most of the time, parents and school staff agree on issues regarding the evaluation, identification, program, and placement of students with disabilities. However, there are times when disagreement occurs.

Conflict is often inevitable, but it need not produce negative results. If the parent and school are unable to resolve a conflict concerning a student with a disability, then mediation is an available alternative to a long and expensive due process hearing.

Section 504 does not require mediation. **Mediation is completely voluntary**. It should not interfere with any procedural safeguards, including a request for a due process hearing or filing a complaint with OCR. **Mediation costs are the responsibility of the school.**

The mediator is a neutral third party and, therefore, has no power to decide regarding the dispute. He or she will listen to the views of each party and will assist in developing an acceptable solution to the problem. The mediator has been trained to handle Section 504 disputes.

A trained mediator works with both parties to guide them toward a mutually satisfactory solution in the best interest of the student. This occurs at a no adversative meeting that is more structured than a parent-school conference but less formal than a due process hearing.

Parents and schools are encouraged to try mediation before relying on more formal procedures, such as grievance procedures, complaints to OCR, or due process hearings.

OFFICE FOR CIVIL RIGHTS COMPLAINT PROCESS

An individual or an organization may file a complaint with the regional Office for Civil Rights (OCR). An OCR complaint must be filed, in writing, within 180 days after the violation has occurred. In certain cases, OCR will consider complaints where more than 180 days have elapsed.

Anyone wishing to file a formal complaint with OCR should submit in writing the following information in a letter or on the Discrimination Complaint Form available from OCR regional offices:

1. Name and address (a telephone number where they may be reached during business hours is helpful but not required)

2. A general description of the person(s) or class of persons injured by the alleged discriminatory act(s) (names of the injured person(s) are not required)

3. The name and location of the institute that committed the alleged discriminatory act(s)

4. A description of the alleged discriminatory act(s) in sufficient detail to enable OCR to understand what occurred when it occurred, and the basis for the alleged discrimination (race, sex, color, national origin, age, or disability)

A school may not retaliate against any person who has made a complaint, testified, assisted, or participated in any manner in an investigation.

PROCEDURE FOUR: 34 CFR 104.8
GENERAL NOTICE TO STUDENTS, PARENTS, EMPLOYEES, AND OTHER INDIVIDUALS

The school must provide an ongoing notice of nondiscrimination.

Example

NOTICE OF NON-DISCRIMINATION

Applicants for admission and employment, students, parents, persons with disabilities, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the _____are hereby notified that this school does not discriminate on the basis of race, sex, color, national origin, age, or disability in admission or access to, or treatment or employment in, its programs and activities. Any person having inquiries concerning the school's compliance with the regulations implementing Title VI, Title IX, the Americans with Disabilities Act (ADA), or Section 504 is directed to contact _____who has been designated by the school to coordinate efforts to comply with the regulations regarding nondiscrimination.

Recommendations for notice dissemination

- Staff, parent and student handouts
- Letterheads
- Staff workrooms
- Bulletin boards
- Included on professional contracts
- Included on job announcements
- Annual mailing to staff
- School website

PROCEDURE FIVE: 34 CFR 104.32
LOCATE AND IDENTIFY—CHILD FIND

The school shall maintain a continual program to find unserved students who might qualify for special education or Section 504 accommodations and/or services. To encourage the use of services and ongoing assistance at the earliest age possible, the following methods could be used to identify unserved students:

- A series of spot announcements on all local news media, including newspapers
- A series of posters to be placed in post offices, city hall, schools, and other public buildings
- Distribution of a referral form to such public and private agents as hospital administrators, public health officers, social welfare offices, private medical practitioners, public nursery schools, and/or childcare and Head Start directors. Referrals should be made to the district special education coordinator, or Section 504 Coordinator, for appropriate action.

PROCEDURE SIX:
34 CFR 104.36
ANNUAL NOTICE TO INDIVIDUALS WITH DISABILITIES AND PARENTS

The school must provide a form to individuals with disabilities regarding the school's obligations under Section 504.

Example

NOTICE

PROGRAMS FOR STUDENTS WITH DISABILITIES UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973 AND THE AMERICANS WITH DISABILITIES ACT OF 1990

Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act prohibits discrimination against persons with a disability in any program receiving federal financial assistance. Section 504/ADA defines a person with a disability as anyone who, based on an evaluation,

Has a mental or physical impairment that substantially limits one or more major life activities such as walking, breathing, learning, reading, concentrating, thinking, communicating, seeing, speaking, caring for oneself, working, helping, eating, sleeping, standing, lifting, bending, and operation of a bodily function.

The school has the responsibility to provide accommodations and necessary services to identified individuals with disabilities.

The school acknowledges its responsibility under Section 504/ADA to avoid discrimination in policies and practices regarding its personnel and students. No discrimination against any person with a disability shall knowingly be permitted in any program or practice in the school.

Recommendations for notice dissemination

- Upon referral to parents
- School website
- Letterheads
- Staff workrooms
- Included on professional contracts
- Bulletin boards
- Included on job announcements
- Annual mailing to staff

PROCEDURE SEVEN: 34 CFR 104.36
PARENT AND STUDENT RIGHTS UNDER SECTION 504/ADA

The school must provide certain procedural safeguards to parents of students with disabilities.

Example

The following is a description of some student and parent rights under Section 504 and other federal laws. Many school districts use their IDEA procedural safeguards as the parent's rights for Section 504. The intent of the law is to keep you fully informed concerning decisions about your student and to inform you of your rights if you disagree with any of these decisions.

You have the right to the following:

1. Have your student take part in and receive benefits from public education programs without discrimination based on a disability.
2. Receive notice concerning the identification, evaluation, program, or placement of your student.
3. Have your student receive a free appropriate public education. This includes the right to be educated with other students to the maximum extent appropriate. It also includes the right to have the school make reasonable accommodations to allow your student an equal opportunity to participate in school and school-related activities.
4. Have your student educated in facilities and receive services comparable to those provided to students without disabilities.
5. Have evaluation, educational, and placement decisions made based on a variety of information sources and by individuals who know the student, disability, evaluation data, and placement options.
6. Give your student an equal opportunity to participate in nonacademic and extracurricular activities offered by the school.
7. Examine all relevant records relating to decisions regarding your student's identification, evaluation, educational program, and placement.
8. File a local grievance with your school if you feel your student is being discriminated against because of his or her disability.
9. Request the use of a mediator to help resolve the differences.
10. Request a due process hearing to help resolve issues with the school.
11. File a formal complaint with the regional Office for Civil Rights.

PROCEDURE EIGHT:
34 CFR 104.6 (C) SELF-EVALUATION

A self-evaluation to determine possible discrimination involving school facilities, programs, activities, and policies is a requirement of Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. Any school that employs 15 or more employees shall conduct such an evaluation and develop a transition plan that outlines how the school will eliminate any form
of discrimination.

The self-study should be on file and available for public inspection.

The following are key considerations when conducting the self-evaluation:

- Evaluate facilities, programs, and policies.
- Involve other individuals, including persons with disabilities.
- Develop a Section 504/ADA transition plan that outlines any modifications that will be necessary. This plan identifies facilities, programs, and policies that could be discriminatory and how the school intends to solve
  the problems.
- Modify any policies, facilities, or practices that do not meet the requirements of Section 504 or ADA, after consultation with others, including persons with disabilities.
- Take appropriate remedial steps to eliminate the effects of any discrimination resulting from policies and practices.
- Keep a copy of the self-evaluation on file for public inspection.
- Conduct periodic reevaluations as needed.
- Ensure all new policies are non-discriminatory.
- Ensure all new facilities are accessible for individuals with disabilities.

Schools should request comprehensive instructions and forms to conduct a self-assessment from the Office for Civil Rights.

U.S. Department of Education Office for Civil Rights

Lyndon Baines Johnson Department of Education Bldg.

400 Maryland Avenue, SW,

Washington, D.C. 20202-1100

Telephone: 1-800-421-3481

FAX: 202-453-6012; TDD: 800-877-8339

Email: OCR@ed.gov

SECTION 504 IDENTIFICATION/EVALUATION

The following are the identification criteria for a student to receive accommodations and/or services under Section 504.

SECTION 504 IDENTIFICATION CRITERIA

A person may be considered disabled under the definition of Section 504 if the individual is evaluated and

1. Has a mental or physical impairment that substantially limits one or more of such person's major life activities

   "Major life activities" include functions such as but at not limited to:

   - Walking
   - Breathing
   - Learning
   - Reading
   - Concentrating
   - Thinking
   - Communicating
   - Seeing
   - Speaking
   - Other
   - Caring for oneself
   - Working
   - Helping
   - Eating
   - Sleeping
   - Standing
   - Lifting
   - Bending
   - Operation of a bodily function

2. Has a record of such an impairment.

3. Is regarded as having such an impairment.

   The second and third prongs of the definition only become a factor if discrimination has occurred because of the "record" or "history" or is regarded as having an impairment

Major Life Activities

The ADA Amendments of 2009 included the major life activities in the law and added several new life activities. The list is not exhaustive. Listed below are the activities in the ADA. The new ones are bolded.

Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, **eating, sleeping**, walking, **standing, lifting, bending,** speaking, breathing, learning, **reading, concentrating, thinking**, **communicating**, and working. 42 U.S.C. 12102(4)(a)(2)(A).

It also includes the operation of a major bodily function as follows:

For purpose of paragraph (1), a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. 42 U.S.C.
12102(4)(a)(2)(B).

Impairment/Disability

Notice that this definition distinguishes between an "impairment" and a "disability." There are many more people with "impairments" than there are people with "disabilities." The difference lies in the effect the impairment has on the person. If the impairment causes a "substantial limitation" of a "major life activity" then the person has a "disability." If the impairment does not "substantially limit" the person, then it is just an impairment, not a disability.

Substantial Limitation

The determination of substantial limitation must be made on a case-by-case basis concerning each individual student. The Section 504 regulatory provision at 34 C.F.R.
104.35 (c) requires that a group of knowledgeable persons draw upon information from a variety of sources in making this determination.

Neither the ADA nor Section 504 provide a definition of this critical term. The ADA amendments simply state:

The term "substantially limits" shall be interpreted consistently with the findings and purposes of the ADA Amendment Act of 2008. 42 U.S.C. 12102(4)(a)(4)(B). For many years the Equal Employment Opportunity Commission (EEOC) has defined "substantially limits" as follows

unable to perform a major life activity that the average person in the general population can perform, or
significantly restricted as to the condition, manner, or duration under which an individual can perform a major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity. 29 C.F.R. 1630.2(j).

Mitigating Measures

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the effects of mitigating measures such as:

Medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies. Use of assistive technology. Reasonable accommodations or auxiliary aids or services; or learned behavioral or adaptive neurological modifications. 42 U.S.C. 12102(4)(a)(4)(E)(i).

So, under the 2009 ADAA, students and employees are disabled under Section 504 if they have a physical or mental impairment that WOULD substantially limit them in a major life activity IF THEY WERE NOT taking advantage of mitigating measures.

Temporary Impairments

A temporary impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period of time. The issue of whether a temporary impairment is substantial enough to be a disability must be resolved on a case-by-case basis, taking into consideration both the duration (or expected duration) of the impairment and the extent to which it limits a major life activity of the affected individual.

Procedural Safeguards

School districts are required to establish and implement procedural safeguards that include notice, an opportunity for parents to review relevant records, an impartial hearing with an opportunity for participation by the student's parents or guardian, representation by counsel and a review procedure. Many school districts modify their special education parent rights for Section 504 situations.

If the school has reason to suspect that because of a disability, a student needs special accommodations in the general educational environment to have equally effective participation in the school program, the school must notify the parent of an individual evaluation, secure parent consent, evaluate the student, and develop and implement a plan for the delivery of all necessary educational accommodations. Requirements for the evaluation and placement process are determined by the type of disability suspected and the type of services needed by the student. The team knowledgeable about the student makes the decision based on evaluation data. Identification of services needed must be made by a group of persons knowledgeable about the student.

Decisions about Section 504 should be documented in the student's Section 504 file and reviewed at least yearly and whenever any member of the team feels it is necessary. A case manager should be assigned to complete and manage each Section 504 student file. A student's program must be provided in the least restrictive environment, most likely the general education classroom.

Under Section 504/ADA, parents or guardians must be provided with notice of any action that changes the identification, evaluation program, or placement of their student. Written consent would be considered a **best practice.** The parents should be included in the evaluation and placement process. Parents or guardians have the right to file a grievance, request mediation, ask for a due process hearing, or call the Office for Civil Rights if they disagree with the school.

— Best Practice —
Parent participation should always be encouraged throughout the Section 504 process.

RED FLAGS FOR CONSIDERING POSSIBLE EVALUATION FOR IDENTIFICATION AND ACCOMMODATIONS UNDER SECTION 504/ADA

1. When a **parent** frequently expresses concern about the student's performance
2. When **suspension or expulsion** is being considered for any student
3. When **retention** is being considered
4. When a student shows a pattern of **not benefiting from classroom instruction**
5. When a student returns to school after a **serious illness or injury**

6. When the student **does not respond to early intervening strategies**
7. When a student is evaluated and **does not qualify for special education** services under the **IDEA**
8. When a student **exhibits a chronic health condition**
9. When a student has been identified as having **attention deficit disorder (ADD)** or **attention deficit hyperactivity disorder (ADHD)**
10. When a **disability** of any kind is known or suspected

It is important to note that accommodations and/or services under Section 504 are not automatic. The student in question needs to be referred for an evaluation, receive an evaluation, and have the results considered by a school team.

SUGGESTED PROCESS FOR IDENTIFICATION/EVALUATION

The following is a suggested identification and evaluation Section 504 process:

1. The teacher becomes aware of the student's problem
2. The teacher attempts many adaptations
    a. Adaptions correct the problems.
3. Problem/s continue.
4. The teacher refers the student to the Building Level Support Team.
5. The team plans accommodations.
6. Accommodations are tried and documented.
7. The team meets to review the progress.
    a. The plan corrects the problem/s.
8. The team troubleshoots or writes a new plan.
9. The team meets to review the second plan.
    a. The plan corrects the problem/s.
10. The team refers the student for evaluation – assessment plan.
11. The parent is sent a parent notice of evaluation and a permission form for evaluation.
12. The evaluation is conducted.
    a. No IDEA disability is found – refer to 504 team.
    b. The 504 identification/evaluation is conducted.
    c. The 504 Team develops accommodations.
13. Student meets IDEA criteria.
14. The IEP team determines special education services based on the unique needs of the student.
15. IEP is written.
16. The IEP is implemented.
17. The student is dismissed from special education or graduated from the IEP.
    a. Team needs to consider if 504 accommodations are necessary for the student.

SECTION 504 SERVICES

STEP 1—GENERAL EDUCATION INTERVENTIONS

a) If a student experiences educational difficulties, the Building Level Support Team meets to discuss the concerns.

b) The team suggests intervention strategies to help correct the difficulties. The primary function of the team is to offer assistance to teachers.

c) If the strategies are unsuccessful, the team can make a referral for evaluation to Section 504, special education, or Title I.

STEP 2—REFERRAL

a) Referrals are accepted from parents and/or the Building Level Support Team.

b) The presenting problem(s) and previous remedies are considered and reviewed. The summary should include all current information and recommendations.

STEP 3—NOTIFICATION

The school notifies the parents or guardians, in writing, of the school's reason and intent to conduct an evaluation. The notice should include a description of the evaluation and procedural safeguards.

STEP 4—WRITTEN CONSENT

Receive written consent from the parent for the initial evaluation and accommodation plan.

STEP 5—EVALUATION

The school evaluates a student suspected of having a disability before making an initial provision for services or any subsequent, significant change in his or her services.

STEP 6—IDENTIFICATION

Section 504 Team—a recommended strategy is to use the Building Level Support Team as the Section 504 Team. The team meets and analyzes the evaluation data to determine if the individual has a mental or physical impairment that substantially impairs a major life activity.

STEP 7—WRITTEN CONSENT

Written consent before the initial accommodations/ service should always be considered a **best practice**.

STEP 8—SERVICES/ACCOMMODATIONS

The Section 504 Team develops an accommodation plan to be implemented in the general education environment.

STEP 9—IMPLEMENTATION

a) The school staff implements the necessary accommodations/services. Parents should be consulted and allowed input regarding the accommodations.

STEP 10—REVIEW

Each student's accommodations and/or services are reviewed periodically.

— Best Practice —
The team should review the accommodations at least annually.

SECTION 504 ACCOMMODATIONS/SERVICES

The following is a list of possible accommodations for identified students under Section 504. Each case must be considered based on the evaluation results and unique needs of the student.

ENVIRONMENTAL STRATEGIES

- Provide a structured learning environment.
- Adjust class schedules.
- Provide classroom aides and note-takers.
- Modify nonacademic times, such as lunchroom and recess.
- Modify physical education.
- Change student seating.
- Provide the use of a study carrel.
- Alter the location of personal or classroom supplies for easier access or to minimize distraction.

ORGANIZATIONAL STRATEGIES

- Modify test delivery.
- Use tape recorders, computer-aided instruction, and other audiovisual equipment.
- Select modified textbooks or workbooks.
- Tailor homework assignments.
- Use one-to-one tutors.
- Provide peer tutoring.
- Set time expectations for assignments.
- Provide tests in segments so that the student finishes one segment before receiving the next part.
- Highlight the main ideas and supporting details in the book.

BEHAVIOR STRATEGIES

- Use behavioral management techniques.
- Implement behavioral/academic contracts.
- Use positive reinforcements (rewards).
- Use negative reinforcements (consequences).
- Confer with the student's parents and other teachers.
- Establish a home/school communication system for behavior monitoring.
- Post rules and consequences for classroom behavior.
- Write a contract for student behavior.
- Offer social reinforcers (e.g., praise) for appropriate behavior.
- Establish daily/weekly progress reports for the student.
- Implement self-recording of behaviors.

PRESENTATION STRATEGIES

- Tape lessons for the student.
- Provide photocopied material for extra practice (e.g., outlines, study guides).
- Require fewer drill and practice activities.
- Give both oral and visual instructions for assignments.
- Vary the method of lesson presentation:
    - lecture
    - small groups
    - large groups
    - audiovisuals (e.g., filmstrips, study prints)
    - peer tutors or cross-age tutors (e.g., take notes, monitor assignments, read aloud, listen)
    - demonstrations
    - experiments

- simulations
- games
- one-to-one instruction with another adult

- Provide for oral testing.
- Ask the students to repeat directions/assignments to ensure understanding.
- Arrange for a mentor to work with the student in his or her interest area or area of greatest strength.

METHODOLOGY STRATEGIES

- Repeat and simplify instructions about in-class and homework assignments.
- Supplement oral instructions with visual instructions.
- Change the instructional pace.
- Change instructional methods.

CURRICULUM STRATEGIES

- Assess whether the student has the prerequisite skills. Determine whether materials are appropriate to the student's current interest and functioning levels.
- Use supplementary materials.
- Implement study skill strategies (survey, read, recite, review). Introduce definitions of new terms/vocabulary and review to check for understanding.
- Limit the amount of material presented on a single page.
- Provide a sample or practice test.
- Be aware of students' preferred learning styles and provide appropriate instruction/materials.

100 Effective Educational Accommodations

The following are effective academic and behavioral accommodations found in the educational literature.

1. Provide study carrels.
2. Use room dividers.
3. Provide headsets to muffle noise.
4. Seat students away from doors/windows.
5. Seat near the model (student or teacher).
6. Provide a time-out area.
7. Rearrange student groups (according to instructional needs, role models, etc.).
8. Group for cooperative learning.
9. Vary working surfaces (e.g., floor or vertical surfaces such as blackboards).
10. Simplify/shorten directions.
11. Give both oral and written directions.
12. Have students repeat directions.
13. Have the student repeat the lesson objective.
14. Ask frequent questions.
15. Change the question level.
16. Change response format (e.g., from verbal to physical; from saying to pointing).
17. Provide sequential directions (label as first, second, etc.).
18. Use manipulatives.
19. Alter objective criterion level.
20. Provide functional tasks (relate to the student's environment).
21. Reduce the number of items on a task.
22. Highlight relevant words/features.
23. Use rebus (picture) directions.
24. Provide guided practice.
25. Provide more practice trials.
26. Increase allocated time.
27. Use a strategic approach.
28. Change reinforcers.
29. Increase reinforcement frequency.
30. Delay reinforcement.

31. Increase wait time.
32. Use physical warm-up exercises.
33. Use specific rather than general praise.
34. Have a peer tutor program.
35. Provide frequent reviews.
36. Have students summarize at end of the lesson.
37. Use self-correcting materials.
38. Adapt test items for differing response modes.
39. Provide mnemonic devices.
40. Provide tangible reinforcers.
41. Use behavioral contracts.
42. Establish routines for handing work in, heading papers, etc.
43. Use timers to show allocated time.
44. Teach self-monitoring.
45. Provide visual cues (e.g., posters, desktop number lines, etc.).
46. Block out extraneous stimuli on written material.
47. Tape-record directions.
48. Tape-record student responses.
49. Use a study guide.
50. Provide a critical vocabulary list for the content material.
51. Provide an essential fact list.
52. Use clock faces showing classroom routine times.
53. Use dotted lines to line up math problems or show margins.
54. Provide transition directions.
55. Assign only one task at a time.
56. Provide discussion questions before reading.
57. Use word markers to guide reading.
58. Alter the sequence of the presentation.
59. Enlarge or highlight keywords on test items.
60. Provide daily and weekly assignment sheets.
61. Post daily/weekly schedule.
62. Use graph paper for place value or when adding/subtracting two-digit numbers.
63. Provide anticipation cues.
64. Establish rules and review them frequently.
65. Teach key direction words.
66. Use distributed practice.

67. Provide pencil grips.
68. Tape paper to the desk.
69. Shorten project assignments into daily tasks.
70. Segment directions.
71. Number (order) assignments to be completed.
72. Change far-point to near-point material for copying or review.
73. Put the desk close to the chalkboard.
74. Incorporate currently popular themes/characters into assignments for motivation.
75. Repeat major points.
76. Use physical cues while speaking (e.g., 1, 2, 3, etc.).
77. Pause during speaking.
78. Use verbal cues (e.g., “Don’t write this down,” “This is important”).
79. Change the tone of voice, whisper, etc.
80. Use an honor system.
81. Collect notebooks weekly (periodically) to review student notes.
82. Reorganize tests to go from easy to hard.
83. Color code place value tasks.
84. Use self-teaching materials.
85. Do only odd or even numbered items on a large task sheet.
86. Use a computer or large print to create written material.
87. Provide organizers (e.g., cartons/bins) for desk material.
88. Teach varied reading rates (e.g., scanning, skimming, etc.).
89. Provide content/lecture summaries.
90. Use peer-mediated strategies (e.g., “buddy system”).
91. Call the student’s name before asking a question.
92. Use extra spaces between the lines of print.
93. Color code materials/directions.
94. Use raised-line paper.
95. Provide calculators.
96. Circle math computation sign.
97. Use hand signals to cue behavior (e.g., attention, responding).
98. Establish a rationale for learning.
99. Use advance organizers.
100. Help students to develop their own learning strategies.

EXAMPLES OF IDENTIFIED STUDENTS

The Section 504 Team and Accommodation Plan is not mentioned in the federal regulations but is considered best practice. Accommodations are determined by the Section 504 team and based on the evaluation results and the student's unique needs. Each of these examples assumes the students have been evaluated and identified by the school Section 504 team. Please note that for any accommodations or services that relate to "health care procedures," the school should contact an RN or LPN and adhere to the State Nurse Practice Act.

ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)

EXAMPLE: The student frequently misses school and does not have the strength to attend a full day. This student has a record of a disability that substantially limits the life activities of learning and working.

POSSIBLE ACCOMMODATIONS

- Develop a health care and emergency plan.
- Apply universal precautions.
- Administer medications as prescribed.
- Adjust attendance policies.
- Adjust the schedule or shorten the day.
- Provide rest periods.
- Adapt the physical education curriculum.
- Establish routine communication with health professionals, school nurses, and home.
- Meet with doctors, parents, teachers, and administrators.
- Modify assignments and tests.
- Provide an extra set of textbooks for home.
- Provide staff training on confidentiality.
- Provide transportation to and from school.
- Tape books or provide a personal reader.
- Provide a home computer with e-mail.
- Arrange for a support group.

- Provide employment transitions for secondary students.
- Develop supportive community attitudes regarding the school districts' need to educate students who are HIV/AIDS positive.
- Develop and promote a nondiscriminatory classroom climate and supportive student attitudes.
- Promote the most supportive, least restrictive educational program for students with AIDS.
- Video-tape classroom teacher.
- Provide a peer support group to encourage communication.
- Furnish home and hospital care for extended periods of illness.
- Provide technology at home with a possible link to the school.

ALLERGIES

EXAMPLE: The student has severe allergic reactions to certain pollens and foods. The student is substantially limited to the major life activity of breathing.

POSSIBLE ACCOMMODATIONS

- Avoid allergy-causing substances: soap, weeds, pollen, and food.
- Train necessary persons: dietary people, peers, coaches, laundry for sports people (soap).
- Allow time for shots/clinic appointments.
- Use air purifiers.
- Adapt the physical education curriculum during high pollen time.
- Improve room ventilation (when remodeling has occurred, and materials may cause an allergy).

ARTHRITIS

EXAMPLE: A student with arthritis may have persistent pain, tenderness, or swelling in one or more joints. A student experiencing arthritic pain may require a modified physical education program. The student is substantially limited in the major life activity of walking and performing manual tasks.

POSSIBLE ACCOMMODATIONS

- Develop a health care plan and emergency plan.
- Provide a rest period during the day.
- Accommodate absences for doctor's appointments.
- Provide assistive devices for writing (e.g., pencil grips, non-skid surface, typewriter/computer, etc.).
- Modify the physical education curriculum.
- Administer medication as prescribed.
- Arrange for assistance with carrying books, lunch trays, etc.
- Provide book caddy.
- Implement a movement plan to avoid stiffness.
- Provide seating accommodations.
- Allow extra time between classes.
- Provide locker assistance.
- Provide modified eating utensils.
- Accommodate writing with a computer and note-taking with a tape recorder.
- Make available access to wheelchairs/ramps and school vans for transportation.
- Modify recess time.
- Provide peer support groups.
- Arrange for instructional aide support.
- Arrange for someone else to take notes.
- Install handle-style doorknobs (openers).
- Have the teacher provide outlines of the presentation.
- Issue Velcro fasteners for bags, shoes, and coats.
- Provide a more comfortable style of the desk.
- Adjust attendance policy, if needed.
- Provide a shorter school day.

- Furnish a warmer room and sit the student close to the heat.
- Modify the curriculum for the lab classes.
- Supply an extra set of books for home use and keep a set at school.
- Let students give reports in oral form rather than written.
- Begin an awareness program for other students.
- Make any needed bathroom accommodations.

ASTHMA

EXAMPLE: A student has been diagnosed as having asthma. The disability limits the major life activity of breathing.

POSSIBLE ACCOMMODATIONS

- Develop health care and emergency plan.
- Modify activity level for recess, physical education, etc.
- Use air purifier or inhalants.
- Provide inhalant therapy assistance.
- Administer medication as prescribed.
- Provide homebound instruction.
- Remove allergens—e.g., hairspray, lotions, perfumes, pine trees, carpet.
- Make field trips non-mandatory and supplement with videos, audio, movies, etc.
- Accommodate medical absence; arrange transportation to home/clinic.
- Provide education to peers/teachers/others (bus drivers, cooks, etc.).
- Provide access to water, gum, etc.
- Provide curriculum considerations (science class, physical education, etc.)
- Provide easy compensation if an individual misses an excessive amount of school.
- Have peers available to carry materials to and from classes (e.g., lunch tray, books).
- Provide rest periods.
- Make school health care needs known to appropriate staff.
- Modify field trip experiences.
- Provide indoor space before and after school.

- Arrange for access to a wheelchair for transition purposes.
- Have a locker location that is centralized and free of atmosphere changes.
- Reimburse parents for transportation costs or provide alternate transportation to and from school.
- Modify attendance policies.
- Modify certain learning activities.

ATTENTION DEFICIT DISORDER (ADD) AND ATTENTION DEFICIT HYPERACTIVITY DISORDER (ADHD)

EXAMPLE: The student does not meet eligibility requirements under IDEA as emotionally disturbed, learning disabled, or other health impaired. The student is diagnosed as having ADD by a doctor, evaluated by a school team, and has a disability that limits the major life activity of learning.

POSSIBLE ACCOMMODATIONS

- Adjust the student's seating.
- Use simple, concise instructions.
- Provide a peer tutor/helper.
- Teach compensatory strategies.
- Administer medication as prescribed.
- Monitor stress and fatigue; adjust activities.
- Modify assignments.
- Change the instructional pace.
- Provide supervision during transitions, disruptions, and field trips.
- Use study guides and organizing tools.
- Modify testing procedures.
- Provide school counseling.
- Initiate frequent parent communication.
- Establish a school/home behavior management program.
- Provide training for staff and parents.
- Have the student use an organizer—train in organizational skills.
- Establish a cue between teacher and student.

- Assign chores/duties around the room/school.
- Modify the environment to avoid distractions.
- Have student work alone or in a study carrel.
- Highlight required or important information/directions.
- Provide a checklist for students, parents, and/or teachers to record assignments or completed tasks.
- Use a timer to assist the student to focus on a given task or number of problems in the time allotted stress they need to be done correctly.
- Have the student re-state or write directions/instructions.
- Allow students to respond in a variety of different modes, e.g., may place answers for tests on tape instead of paper.
- Modify students' work areas with barriers.
- Inservice other students and staff about ADD/ADHD.
- Prescribe physical activity, exercise, etc.
- Determine trigger points and prevent action leading to trigger points.

CANCER

EXAMPLE: The student has been diagnosed with cancer. The condition has become substantially limited the major life activities of learning and caring for oneself.

POSSIBLE ACCOMMODATIONS

- Develop health care emergency plan.
- Apply universal precautions.
- Adjust attendance policies.
- Limit the number of classes taken; accommodate scheduling (breaks, etc.).
- Send teacher/tutor to hospital, as appropriate.
- Take whatever steps are necessary to accommodate students' involvement in extracurricular activities.
- Adjust activity level and expectations in classes based on physical limitations; don't require activities that are too physically taxing.

- Schedule daily monitoring or distribution of medications.
- Have accommodations available for transportation to and from school and extracurricular activities.
- Provide dietary accommodations.
- Shorten the day and arrange for home tutoring following treatment.
- Provide an additional set of texts and assignments to the hospital school.
- Tape lessons.
- Modify the schedule to include rest breaks.
- Provide counseling; establish a peer support group.
- Adapt physical education.
- Provide access as needed to school health services.
- Provide awareness training to staff and other students about cancer.
- Furnish a peer tutor.
- Modify workload.
- Instigate a free pass system from the classroom.
- Adjust the proficiency requirement.
- Provide individual school counseling.
- Provide teachers with counseling, emphasizing positive attitudes.

CEREBRAL PALSY

EXAMPLE: The student has serious difficulties with fine and gross motor skills. A wheelchair is used for mobility. Cognitive skills are very good. The impairment substantially limits the major life activity of walking.

POSSIBLE ACCOMMODATIONS

- Initiate an emergency health care plan.
- Provide assistive technology devices (computers).
- Arrange for use of ramps and elevators.
- Allow for extra time between classes.
- Assist with carrying books, lunch trays, etc.
- Modify the physical education curriculum.
- Monitor medication administration.

- Modify eating utensils.
- Educate peers/staff about cerebral palsy.

DIABETES MELLITUS

EXAMPLE: Diabetes impairs major life activities such as regulating blood glucose levels, eating, and caring for oneself. The student may take insulin and/or other medication and regularly monitor blood in order to help regulate blood glucose levels.

POSSIBLE ACCOMMODATIONS

- Develop an individualized health care and emergency plan.
- Allow for blood glucose checks as frequently as needed.
- Allow students to carry and use medical supplies, check blood glucose levels, and respond to high and low levels, as needed.
- Provide free and unrestricted access to the bathroom and drinking water to treat hyperglycemia.
- Provide quick access to snacks (carbohydrates/sugars) to treat hypoglycemia.
- Allow students to eat lunch at an appropriate time and have enough time to check blood glucose and finish the meal.
- Allow snacks, when necessary.
- Adjust attendance policies, accommodating diabetes-related absences (doctor appointments or diabetes-related illness).
- Make school health care needs known to appropriate staff.
- Educate peers/staff
- Facilitate full participation in physical education, extracurricular activities, and field trips making sure trained personnel are always in attendance.
- Allow for blood glucose checking before any testing or assessment. Allow a delay of testing—with equal time and opportunity—until blood glucose levels are in range, if necessary.

EPILEPSY

EXAMPLE: The student is on medication for seizure activity but experiences several grand mal seizures each month. The condition substantially limits the major life activity of learning.

POSSIBLE ACCOMMODATIONS

- Develop an emergency plan to deal with seizures.
- Train staff and students and prepare an emergency plan.
- Provide medical monitoring.
- Monitor and/or distribute medications.
- Change the seating.
- Provide rest time and academic considerations following a seizure.
- Arrange a buddy system.
- Avoid using chalkboards.
- Provide an alternative recess.
- Provide clean rooms and avoid rooms with carpet.
- Provide education for peers and staff about epilepsy.
- Plan for academic make-up work so the individual can catch up with peers.

OBESITY

EXAMPLE: A student has an eating disorder that may require special accommodations. Obesity may be considered a disability under Section 504 where it substantially impairs the major life activity of walking.

POSSIBLE ACCOMMODATIONS

- Provide special seating modifications.
- Make dietary modifications.
- Adjust meal schedule.
- Adapt the physical education program.
- Allow extra time to get to classes.
- Educate peers about eating disorders.
- Adapt restrooms.
- Begin a peer support group.

- Allow more passing time.
- Ensure privacy for self-care.
- Provide school counseling.
- Provide elevator privileges or other accommodations—for example, individuals in wheelchairs or with other disabilities that prevent them from using stairs.
- Arrange classroom furniture to provide room to negotiate and move around classroom seating.
- Arrange for peer counseling/helping to deal with esteem issues, also peer attitudes, teasing, etc.
- Address busing concerns to ensure room on buses for seating.
- Arrange to provide opportunities for the individual to participate in intramural events.
- Provide proper and safe transportation to and from school.
- Make any class location changes that may be needed.
- Promote out-of-school support.
- Adjust attendance policy.

ORTHOPEDICALLY IMPAIRED

EXAMPLE: The student has limited mobility and is confined to a wheelchair. The impairment substantially limits the major life activity of walking and caring for oneself.

POSSIBLE ACCOMMODATIONS

- Develop a health care and emergency plan.
- Implement an adaptive physical education program.
- Provide physical therapy at school.
- Check facilities regarding physical accessibility.
- Provide extra time to get to class.
- Supply a set of textbooks for home.
- Provide a copy of class notes from a peer.
- Practice emergency exit from the school building.

PARENTS WITH HEARING IMPAIRMENT

EXAMPLE: A parent is hearing impaired and requests access to school-sponsored activities.

POSSIBLE ACCOMMODATIONS

- Provide an interpreter for all school events of expected participation.
- Decide on home-school contacts/communication.
- Assist with locating peer or support groups.
- Use written notes for communication.

A STUDENT WITH SPECIAL HEALTH CARE NEEDS

EXAMPLE: The student has a special health care problem and requires clean intermittent catheterization twice each day. The impairment substantially limits the major life activity of caring for oneself.

POSSIBLE ACCOMMODATIONS

- Develop health care and emergency plan.
- Apply universal precautions.
- Provide trained personnel to perform special procedures.
- Provide students with private locations and time to perform procedures.
- Involve school nurses, parents, teachers, and staff.
- Allow preferential seating.
- Modify recess/PE/transportation.
- Modify classroom environment.
- Reevaluate/updated periodically.
- If necessary, modify the attendance policy.
- Establish health alert—every staff member involved with this student is aware of the health problem and proper procedures.
- Provide a beeper/paging system for trained personnel.
- Make available homebound services/instruction.
- Begin a disability awareness program upon parent or student request.

- Provide school counseling.
- Arrange for trained personnel on school field trips.

TEMPORARILY DISABLED

EXAMPLE: A student was in an automobile accident and will be homebound and/or hospitalized for a period of time. The student is considered temporarily disabled and is substantially limited in the major life activity of walking.

POSSIBLE ACCOMMODATIONS

- Provide duplicate sets of texts.
- Provide assignments to hospital school.
- Tape lessons.
- Provide homebound instruction.
- Schedule periodic home-school meetings.
- Arrange for the student to leave class early to get to the next class.
- Provide access to elevators.
- Excuse or adapt physical education program.
- Arrange for a friend to assist students in getting from class to class (support network).
- Organize school counseling—trauma from the accident.
- Provide physical therapy as necessary.
- Arrange for a tutor.
- Make transportation available.
- Arrange for proper medication.
- Arrange for peer notes.
- Provide help with getting lunch trays.
- Change seating arrangements to accommodate needs.
- Modify assignments depending on the disability.
- Modify the completion of the assignment.
- Allow more time for test completion.
- Allow shortened days; adjust attendance policy.
- Address special accommodations for a wheelchair.

- Inservice staff and class and prepare an emergency care plan.
- Switch classrooms to the main floor.
- Test verbally.
- Provide peer assistance for social involvement (keep the student informed of social activities).

TOURETTE'S SYNDROME

EXAMPLE: The student exhibits inappropriate gestures and sounds in the classroom and hallways. The impairment substantially limits the major life activity of learning.

POSSIBLE ACCOMMODATIONS

- Provide students with a means of catching up on missed lessons.
- Pair with a fellow student for study.
- Educate other students about associated outbursts.
- Arrange for frequent parental interaction.
- Provide supervision for transition activities.
- Modify assignments.
- Provide alternative workspace.
- Initiate time out.
- Cue students of inappropriate behavior.
- Provide peer in-service.
- Furnish supervision while the student is acting out.
- Inservice teachers about different discipline procedures.
- Provide appropriate space for the student to act out the episode.

TRAUMATIC BRAIN INJURY

EXAMPLE: The student sustained a brain injury in an automobile accident. Many academic and motor skills have been lost from the injury. The condition substantially limits the major life activity of learning.

POSSIBLE ACCOMMODATIONS

- Develop an emergency plan.
- Provide extended school year/time.
- Furnish memory/organizational aids.
- Provide alternative testing.

- Initiate tutoring programs.
- Inservice staff and peers about TBI.

VISUAL IMPAIRMENT

EXAMPLE: Hannah has been tested with visual acuity or 20/200 in both eyes. She wears glasses but still has difficulty seeing. Hannah is entering 7th grade. Hannah has a physical impairment that substantially limits her major life activity of seeing and impacts her learning.

POSSIBLE ACCOMMODATIONS

- Provide seating accommodations,
- Modify assignments and tests,
- Provide an extra set of textbooks for home,
- Tape books or provide a personal reader,
- Adapt physical education curriculum,
- Allow extra time between classes,
- Arrange for someone else to take notes,
- Record lectures/presentations,
- Orientation and mobility training,
- Have the teacher provide outlines of the presentation,
- Modify the curriculum for the lab classes.
- Let students give reports in oral form rather than written.
- Provide education to peers/teachers/others (bus drivers, cooks, etc.).
- Modify field trip experiences.
- Use simple, concise instructions.
- Provide a peer tutor/helper.
- Change the instructional pace.

- Initiate frequent parent communication.
- Provide appropriate assistive technology.
- Arrange classroom furniture to provide room to negotiate and move around classroom seating.
- Allow preferential seating.
- Test verbally.

OFFICE FOR CIVIL RIGHTS (OCR) QUESTIONS AND ANSWERS (PUBLISHED BY OCR)

An important responsibility of the Office for Civil Rights (OCR) is to eliminate discrimination on the basis of disability against students with disabilities. OCR receives numerous complaints and inquiries in the area of elementary and secondary education involving Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 (Section 504). Most of these concern the identification of students who are protected by Section 504 and the means to obtain an appropriate education for such students.

Section 504 is a federal law designed to protect the rights of individuals with disabilities in programs and activities that receive Federal financial assistance from the U.S. Department of Education (ED). Section 504 provides: "No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance ..... "

OCR enforces Section 504 in programs and activities that receive Federal financial assistance from ED. Recipients of this Federal financial assistance include public school districts, institutions of higher education, and other state and local education agencies. The regulations implementing Section 504 in the context of educational institutions appear at 34 C.F.R. Part 104.

The Section 504 regulations require a school district to provide a "free appropriate public education" (FAPE) to each qualified student with a disability who is in the school district's jurisdiction, regardless of the nature or severity of the disability. Under Section 504, FAPE consists of the provision of regular or special education and related aids and services designed to meet the student's individual educational needs as adequately as the needs of nondisabled students are met.

This resource document clarifies pertinent requirements of Section 504. For additional information,

please contact the Office for Civil Rights.

INTERRELATIONSHIP OF IDEA AND SECTION 504

1. **What is the jurisdiction of the Office for Civil Rights (OCR), the Office of Special Education and Rehabilitative Services (OSERS), and state departments of education/instruction regarding educational services to students with disabilities?**

   OCR, a component of the U.S. Department of Education, enforces Section 504 of the Rehabilitation Act of 1973, as amended, (Section 504) a civil rights statute that prohibits discrimination against individuals with disabilities. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), which extends this prohibition against discrimination to the full range of state and local government services, programs, and activities (including public schools) regardless of whether they receive any Federal financial assistance. The Americans with Disabilities Act Amendments Act of 2008 (Amendments Act), effective January 1, 2009, amended the Americans with Disabilities Act of 1990 (ADA) and included a conforming amendment to the Rehabilitation Act of 1973 (Rehabilitation Act) that affects the meaning of disability in Section 504. The standards adopted by the ADA were designed not to restrict the rights or remedies available under Section 504. The Title II regulations applicable to free appropriate public education issues do not provide greater protection than applicable Section 504 regulations. This guidance focuses primarily on Section 504.

   Section 504 prohibits discrimination on the basis of disability in programs or activities that receive Federal financial assistance from the U.S. Department of Education. Title II prohibits discrimination on the basis of disability by state and local governments. The Office of Special Education and Rehabilitative Services (OSERS), also a component of the U.S. Department of Education, administers the Individuals with Disabilities Education Act (IDEA), a statute that funds special education programs. Each state educational agency is responsible for administering IDEA within the state and distributing the funds for special education programs. IDEA is a grant statute and attaches many specific conditions to the receipt of Federal IDEA funds. Section 504 and the ADA are antidiscrimination laws and do not provide any type of funding.

2. **How does OCR get involved in disability issues within a school district?**

   OCR receives complaints from parents, students or advocates, conducts agency-initiated compliance reviews, and provides technical assistance to school districts, parents or advocates.

3. **Where can a school district, parent, or student get information on Section 504 or find out information about OCR's interpretation of Section 504 and Title II?**
   OCR provides technical assistance to school districts, parents, and students upon request. Additionally, regulations and publicly issued policy guidance are available on OCR's website, at Office for Civil Rights (OCR) | U.S. Department of Education

4. **What services are available for students with disabilities under Section 504?**
   Section 504 requires recipients to provide students with disabilities with appropriate educational services designed to meet the individual needs of such students to the same extent as the needs of students without disabilities are met. An appropriate education for a student with a disability under the Section 504 regulations could consist of education in regular classrooms, education in regular classes with supplementary services, and/or special education and related services.

5. **Does OCR examine individual placement or other educational decisions for students with disabilities?**
   Except in extraordinary circumstances, OCR does not review the result of individual placement or other educational decisions so long as the school district complies with the procedural requirements of Section 504 relating to the identification and location of students with disabilities, evaluation of such students, and due process. Accordingly, OCR generally will not evaluate the content of a Section 504 plan of an individualized education program (IEP); rather, any disagreement can be resolved through a due process hearing. The hearing would be conducted under Section 504 or the IDEA, whichever is applicable.
   OCR will examine procedures by which school districts identify and evaluate students with disabilities and the procedural safeguards that those school districts provide students. OCR will also examine incidents in which students with disabilities are allegedly subjected to treatment that is different from the treatment to which similarly situated students without disabilities are subjected. Such incidents may involve the unwarranted exclusion of disabled students from educational programs and services.

6. **What protections does OCR provide against retaliation?**

   Retaliatory acts are prohibited. A recipient is prohibited from intimidating, threatening, coercing, or discriminating against any individual to interfere with any right or privilege secured by Section 504.

7. **Does OCR mediate complaints?**

   OCR does not engage in formal mediation. However, OCR may offer to facilitate mediation, referred to as "Early Complaint Resolution," to resolve a complaint filed under Section 504. This approach brings the parties together so that they may discuss possible resolution of the complaint immediately. If both parties are willing to utilize this approach, OCR will work with the parties to facilitate resolution by providing each an understanding of pertinent legal standards and possible remedies. An agreement reached between the parties is not monitored by OCR.

8. **What are the appeal rights with OCR?**

   OCR is committed to a high-quality resolution of every case. If a complainant has questions or concerns about an OCR determination, he or she may contact the OCR staff person whose name appears in the complaint resolution letter. The complainant should address his or her concerns with as much specificity as possible, focusing on factual or legal questions that would change the resolution of the case. Should a complainant continue to have questions or concerns, he or she is advised to send a request for reconsideration to the Director of the responsible OCR field office. The Director will review the appropriateness of the complaint resolution. If the complainant remains dissatisfied, he or she may submit an appeal in writing to the Deputy Assistant Secretary for Enforcement.
   The decision of the Deputy Assistant Secretary for Enforcement constitutes OCR's final decision.

9. **What does noncompliance with Section 504 mean?**

   A school district is out of compliance when it is violating any provision of the Section 504 statute or regulations.

10. **What sanctions can OCR impose on a school district that is out of compliance?**

    OCR initially attempts to bring the school district into voluntary compliance through the negotiation of a corrective action agreement. If OCR is unable to achieve voluntary compliance, OCR will initiate an enforcement action. OCR may: (1) initiate administrative proceedings to terminate Department of Education financial assistance to the recipient; or (2) refer the case to the Department of Justice for judicial proceedings.

11. Who has the ultimate authority to enforce Section 504?

In the educational context, OCR has been given administrative authority to enforce Section 504. Section 504 is a Federal statute that may be enforced through the Department's administrative process or through the Federal court system. In addition, a person may at any time file a private lawsuit against a school district. The Section 504 regulations do not contain a requirement that a person files a complaint with OCR and exhaust his or her administrative remedies before filing a private lawsuit.

STUDENTS PROTECTED UNDER SECTION 504

Section 504 covers qualified students with disabilities who attend schools receiving Federal financial assistance. To be protected under Section 504, a student must be determined to: (1) have a physical or mental impairment that substantially limits one or more major life activities; or (2) have a record of such an impairment; or (3) be regarded as having such an impairment. Section 504 requires that school districts provide a free appropriate public education (FAPE) to qualified students in their jurisdictions who have a physical or mental impairment that substantially limits one or more major life activities.

12. What is a physical or mental impairment that substantially limits a major life activity?

The determination of whether a student has a physical or mental impairment that substantially limits a major life activity must be made on the basis of an individual inquiry. The Section 504 regulatory provision at 34 C.F.R. 104.3(j)(2)(i) defines a physical or mental impairment as any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; Genito-urinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The regulatory provision does not set forth an exhaustive list of specific diseases and conditions that may constitute physical or mental impairments because of the difficulty of ensuring the comprehensiveness of such a list.

Major life activities, as defined in the Section 504 regulations at 34 C.F.R. 104.3(j)(2)(ii), include functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. This list is not exhaustive. Other functions can be major life activities for

Section 504. In the Amendments Act (see FAQ 1), Congress provided additional examples of general activities that are major life activities, including eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, and communicating. Congress also provided a non-exhaustive list of examples of "major bodily functions" that are major life activities, such as the functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. The Section 504 regulatory provision, though not as comprehensive as the Amendments Act, is still valid – the Section 504 regulatory provision's list of examples of major life activities is not exclusive, and an activity or function not specifically listed in Section 504 regulatory provision can nonetheless be a major life activity.

13. Does the meaning of the phrase "qualified student with a disability" differ on the basis of a student's educational level, i.e., elementary and secondary versus postsecondary?

Yes. At the elementary and secondary educational level, a "qualified student with a disability" is a student with a disability who is: of an age at which students without disabilities are provided elementary and secondary educational services; of an age at which it is mandatory under state law to provide elementary and secondary educational services to students with disabilities; or a student to whom a state is required to provide a free appropriate public education under the Individuals with Disabilities Education Act (IDEA).

At the postsecondary educational level, a qualified student with a disability is a student with a disability who meets the academic and technical standards requisite for admission or participation in the institution's educational program or activity.

14. Does the nature of services to which a student is entitled under Section 504 differ by educational level?

Yes. Public elementary and secondary recipients are required to provide a free appropriate public education to qualified students with disabilities. Such an education consists of regular or special education and related aids and services designed to meet the individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met.

At the postsecondary level, the recipient is required to provide students with appropriate academic adjustments and auxiliary aids and services that are necessary to afford an individual with a disability an equal opportunity to participate in a school's program. Recipients are not required to make adjustments or provide aids or services that would result in a fundamental alteration of a recipient's program or impose an undue burden.

15. Once a student is identified as eligible for services under Section 504, is that student always entitled to such services?

Yes, if the student remains eligible. The protections of Section 504 extend only to individuals who meet the regulatory definition of a person with a disability. If a recipient school district re-evaluates a student by the Section 504 regulatory provision at 34 C.F.R. 104.35 and determines that the student's mental or physical impairment no longer substantially limits his/her ability to learn or any other major life activity, the student is no longer eligible for services under Section 504.

16. Are current illegal users of drugs excluded from protection under Section 504?

Generally, yes. Section 504 excludes from the definition of a student with a disability, and from Section 504 protection, any student who is currently engaging in the illegal use of drugs when a covered entity acts on the basis of such use. (There are exceptions for persons in rehabilitation programs who are no longer engaging in the illegal use of drugs).

17. Are current users of alcohol excluded from protection under Section 504?

No. Section 504's definition of a student with a disability does not exclude users of alcohol. However, Section 504 allows schools to take disciplinary action against students with disabilities using drugs or alcohol to the same extent as students without disabilities.

EVALUATION

At the elementary and secondary school level, determining whether a child is a qualified disabled student under Section 504 begins with the evaluation process. Section 504 requires the use of evaluation procedures that ensure that children are not misclassified, unnecessarily labeled as having a disability, or incorrectly placed, based on inappropriate selection, administration, or interpretation of evaluation materials.

18. What is an appropriate evaluation under Section 504?

Recipient school districts must establish standards and procedures for initial evaluations and periodic re-evaluations of students who need or are believed to need special education and/or related services because of disability. The Section 504 regulatory provision at 34 C.F.R. 104.35(b) requires school districts to individually evaluate a student before classifying the student as having a disability or providing the student with special education. Tests used for this

The purpose must be selected and administered so as best to ensure that the test results accurately reflect the student's aptitude or achievement, or other factors being measured rather than reflect the student's disability, except where those are the factors being measured. Section 504 also requires that tests and other evaluation materials include those tailored to evaluate the specific areas of educational need and not merely those designed to provide a single intelligence quotient. The tests and other evaluation materials must be validated for the specific purpose for which they are used and appropriately administered by trained personnel.

19. How much is enough information to document that a student has a disability?

At the elementary and secondary education level, the amount of information required is determined by the multi-disciplinary committee gathered to evaluate the student. The committee should include persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. The committee members must determine if they have enough information to make a knowledgeable decision as to whether or not the student has a disability. The Section 504 regulatory provision at 34 C.F.R. 104.35(c) requires that school districts draw from a variety of sources in the evaluation process so that the possibility of error is minimized. The information obtained from all such sources must be documented and all significant factors related to the student's learning process must be considered. These sources and factors may include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior. In evaluating a student suspected of having a disability, it is unacceptable to rely on presumptions and stereotypes regarding persons with disabilities or classes of such persons. Compliance with the IDEA regarding the group of persons present when an evaluation or placement decision is made is satisfactory under Section 504.

20. What process should a school district use to identify students eligible for services under Section 504? Is it the same process as that employed in identifying students eligible for services under the IDEA?

School districts may use the same process to evaluate the needs of students under Section 504 as they use it to evaluate the needs of students under the IDEA. If school districts choose to adopt a separate process for evaluating the needs of students under Section 504, they must follow the requirements for evaluation specified in Section 504 regulatory provision at 34 C.F.R. 104.35.

21. May school districts consider "mitigating measures" used by a student in determining whether the student has a disability under Section 504?

No. As of January 1, 2009, school districts, in determining whether a student has a physical or mental impairment that substantially limits that student in a major life activity, must ***not*** consider the ameliorating effects of any mitigating measures that student is using. This is a change from prior law. Before January 1, 2009, school districts had to consider a student's use of mitigating measures in determining whether that student had a physical or mental impairment that substantially limited that student in a major life activity. In the Amendments Act (see FAQ 1), however, Congress specified that the ameliorative effects of mitigating measures must not be considered in determining if a person is an individual with a disability.

Congress did not define the term "mitigating measures" but rather provided a non-exhaustive list of "mitigating measures." The mitigating measures are as follows: medication; medical supplies, equipment, or appliances; low-vision devices (which do not include ordinary eyeglasses or contact lenses); prosthetics (including limbs and devices); hearing aids and cochlear implants or other implantable hearing devices; mobility devices; oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; and learned behavioral or adaptive neurological modifications.

Congress created one exception to the analysis of the mitigating measures. The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining if an impairment substantially limits a major life activity. "Ordinary eyeglasses or contact lenses" are lenses that are intended to fully correct visual acuity or eliminate refractive error, whereas "low-vision devices" (listed above) are devices that magnify, enhance, or otherwise augment a visual image.

22. Does OCR endorse a single formula or scale that measures substantial limitation?

No. The determination of substantial limitation must be made on a case-by-case basis concerning each individual student. The Section 504 regulatory provision at 34 C.F.R. 104.35 (c) requires that a group of knowledgeable persons draw upon information from a variety of sources in making this determination.

23. Are there any impairments that automatically mean that a student has a disability under Section 504?

No. An impairment in and of itself is not a disability. The impairment must substantially limit one or more major life activities to be considered a disability under Section 504.

24. Can a medical diagnosis suffice as an evaluation to provide FAPE?

No. A physician's medical diagnosis may be considered among other sources in evaluating a student with an impairment or believed to have an impairment that substantially limits a major life activity. Other sources to be considered, along with the medical diagnosis, include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior. As noted in FAQ 22, the Section 504 regulations require school districts to draw upon a variety of sources in interpreting evaluation data and making placement decisions.

25. Does a medical diagnosis of an illness automatically mean a student can receive services under Section 504?

No. A medical diagnosis of an illness does not automatically mean a student can receive services under Section 504. The illness must cause a substantial limitation on the student's ability to learn or another major life activity. For example, a student who has a physical or mental impairment would not be considered a student in need of services under Section 504 if the impairment does not in any way limit the student's ability to learn or other major life activity, or only results in some minor limitation in that regard.

26. How should a recipient school district handle an outside independent evaluation? Do all data brought to a multi-disciplinary committee need to be considered and given equal weight?

The results of an outside independent evaluation may be one of many sources to consider. Multi-disciplinary committees must draw from a variety of sources in the evaluation process so that the possibility of error is minimized. All significant factors related to the subject student's learning process must be considered. These sources and factors include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior, among others. Information from all sources must be documented and considered by knowledgeable committee members. The weight of the information is determined by the committee given the student's individual circumstances.

27. What should a recipient school district do if a parent refuses to consent to an initial evaluation under the Individuals with Disabilities Education Act (IDEA), but demands a Section 504 plan for a student without further evaluation?

A school district must evaluate a student prior to providing services under Section 504. Section 504 requires informed parental permission for initial evaluations. If a parent refuses consent for an initial evaluation and a recipient school district suspects a student has a disability, the IDEA and Section 504 provide that school districts may use due process hearing procedures to seek to override the parent's denial of consent.

28. Who in the evaluation process makes the ultimate decision regarding a student's eligibility for services under Section 504?

The Section 504 regulatory provision at 34 C.F.R.104.35 (c) (3) requires that school districts ensure that the determination that a student is eligible for special education and/or related aids and services be made by a group of persons, including persons knowledgeable about the meaning of the evaluation data and knowledgeable about the placement options. If a parent disagrees with the determination, he or she may request a due process hearing.

29. Once a student is identified as eligible for services under Section 504, is there an annual or triennial review requirement? If so, what is the appropriate process to be used? Or is it appropriate to keep the same Section 504 plan in place indefinitely after a student has been identified?

Periodic re-evaluation is required. This may be conducted in accordance with the IDEA regulations, which require re-evaluation at three-year intervals (unless the parent and public agency agree that re-evaluation is unnecessary) or more frequently if conditions warrant, or if the child's parent or teacher requests a re-evaluation, but not more than once a year (unless the parent and public agency agree otherwise).

30. Is a Section 504 re-evaluation similar to an IDEA re-evaluation? How often should it be done?

Yes. Section 504 specifies that re-evaluations in accordance with the IDEA are one means of compliance with Section 504. The Section 504 regulations require that re-evaluations be conducted periodically. Section 504 also requires a school district to conduct a re-evaluation prior to a significant change of placement. OCR considers an exclusion from the educational program of more than 10 school days a significant change of placement. OCR would also consider transferring a student from one type of program to another or terminating or significantly

reducing a related service and a significant change in placement.

31. What is a reasonable justification for referring a student for evaluation for services under Section 504?

School districts may always use regular education intervention strategies to assist students with difficulties in school. Section 504 requires recipient school districts to refer a student for an evaluation for possible special education or related aids and services or modification to regular education if the student, because of disability, needs or is believed to need such services.

32. A student is receiving services that the school district maintains are necessary under Section 504 to provide the student with an appropriate education. The student's parent no longer wants the student to receive those services. If the parent wishes to withdraw the student from a Section 504 plan, what can the school district do to ensure the continuation of services?

The school district may initiate a Section 504 due process hearing to resolve the dispute if the district believes the student needs the services to receive an appropriate education.

33. A student has a disability referenced in the IDEA but does not require special education services. Is such a student eligible for services under Section 504?

The student may be eligible for services under Section 504. The school district must determine whether the student has an impairment that substantially limits his or her ability to learn or another major life activity and if so, make an individualized determination of the child's educational needs for regular or special education or related aids or services. For example, such a student may receive adjustments in the regular classroom.

34. How should a recipient school district view a temporary impairment?

A temporary impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period of time. The issue of whether a temporary impairment is substantial enough to be a disability must be resolved on a case-by-case basis, taking into consideration both the duration (or expected duration) of the impairment and the extent to which it limits a major life activity of the affected individual.

In the Amendments Act (see FAQ 1), Congress clarified that an individual is not “regarded as” an individual with a disability if the impairment is transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

35. Is an impairment that is episodic or in remission a disability under Section 504?

Yes, under certain circumstances. In the Amendments Act (see FAQ 1), Congress clarified that an episodic impairment or in remission is a disability if it would substantially limit a major life activity when active. A student with such an impairment is entitled to a free appropriate public education under Section 504.

PLACEMENT

Once a student is identified as being eligible for regular or special education and related aids or services, a decision must be made regarding the type of services the student needs.

36. If a student is eligible for services under both the IDEA and Section 504, must a school district develop both an individualized education program (IEP) under the IDEA and a Section 504 plan under Section 504?

No. If a student is eligible under IDEA, he or she must have an IEP. Under the Section 504 regulations, one way to meet Section 504 requirements for a free appropriate public education is to implement an IEP.

37. Must a school district develop a Section 504 plan for a student who either "has a record of disability" or is "regarded as disabled"?

No. In public elementary and secondary schools, unless a student has an impairment that substantially limits a major life activity, the mere fact that a student has a "record of" or is "regarded as" disabled is insufficient, in itself, to trigger those Section 504 protections that require the provision of a free appropriate public education (FAPE). This is consistent with the Amendments Act (see FAQ 1), in which Congress clarified that an individual who meets the definition of disability solely by being “regarded as” disabled is not entitled to reasonable accommodations or the reasonable modification of policies, practices, or procedures. The phrases "has a record of disability" and "is regarded as disabled" are meant to reach the situation in which a student either does not currently have or never had a disability but is treated by others as such.

As noted in FAQ 34, in the Amendments Act (see FAQ 1), Congress clarified that an individual is not "regarded as" an individual with a disability if the impairment is transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

38. What is the receiving school district's responsibility under Section 504 toward a student with a Section 504 plan who transfers from another district?

If a student with a disability transfers to a district from another school district with a Section 504 plan, the receiving district should review the plan and supporting documentation. If a group of persons at the receiving school district, including persons knowledgeable about the meaning of the evaluation data and knowledgeable about the placement options, determines that the plan is appropriate, the district is required to implement the plan. If the district determines that the plan is inappropriate, the district is to evaluate the student consistent with the Section 504 procedures at 34 C.F.R. 104.35 and determine which educational program is appropriate for the student. There is no Section 504 bar to the receiving school district honoring the previous IEP during the interim period. Information about IDEA requirements when a student transfers is available from the Office of Special Education and Rehabilitative Services at http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CQaCorner%2C3%2C

39. What are the responsibilities of regular education teachers concerning the implementation of Section 504 plans? What are the consequences if the district fails to implement the plans?

Regular education teachers must implement the provisions of Section 504 plans when those plans govern the teachers' treatment of students for whom they are responsible. If the teachers fail to implement the plans, such failure can cause the school district to be in noncompliance with Section 504.

40. What is the difference between a regular education intervention plan and a Section 504 plan?

A regular education intervention plan is appropriate for a student who does not have a disability or is not suspected of having a disability but may be facing challenges in school. School districts vary in how they address the performance problems of regular education students. Some districts employ teams at individual schools, commonly referred to as "building teams." These teams are designed to provide regular education classroom teachers with instructional support and strategies for helping students in need of assistance. These teams are typically composed of regular and special education teachers who provide ideas to classroom teachers on methods for helping students experiencing academic or

behavioral problems. The team usually records its ideas in a written regular education intervention plan. The team meets with an affected student's classroom teacher(s) and recommends strategies to address the student's problems within the regular education environment. The team then follows the responsible teacher(s) to determine whether the student's performance or behavior has improved. In addition to building teams, districts may utilize other regular education intervention methods, including before-school and after-school programs, tutoring programs, and mentoring programs.

PROCEDURAL SAFEGUARDS

Public elementary and secondary schools must employ procedural safeguards regarding the identification, evaluation, or educational placement of persons who, because of disability, need or are believed to need special instruction or related services.

41. Must a recipient school district obtain parental consent prior to conducting an initial evaluation?

Yes. OCR has interpreted Section 504 to require districts to obtain parental permission for initial evaluations. If a district suspects a student needs or is believed to need special instruction or related services and parental consent is withheld, the IDEA and Section 504 provide that districts may use due process hearing procedures to seek to override the parent's denial of consent for an initial evaluation.

42. If so, in what form is consent required?

Section 504 is silent on the form of parental consent required. OCR has accepted written consent as compliance. IDEA as well as many state laws also require written consent prior to initiating an evaluation.

43. What can a recipient school district do if a parent withholds consent for a student to secure services under Section 504 after a student is determined eligible for services?

Section 504 neither prohibits nor requires a school district to initiate a due process hearing to override a parental refusal to consent concerning the initial provision of special education and related services. Nonetheless, school districts should consider that IDEA no longer permits school districts to initiate a due process hearing to override a parental refusal to consent to the initial provision of services.

44. What procedural safeguards are required under Section 504?

Recipient school districts are required to establish and implement procedural safeguards that include notice, an opportunity for parents to review relevant records, an impartial hearing with an opportunity for participation by the student's parents or guardian, representation by counsel, and a review procedure.

45. What is a recipient school district's responsibility under Section 504 to provide information to parents and students about its evaluation and placement process?

Section 504 requires districts to provide notice to parents explaining any evaluation and placement decisions affecting their children and explaining the parents' right to review educational records and appeal any decision regarding evaluation and placement through an impartial hearing.

46. Is there a mediation requirement under Section 504?

No.

TERMINOLOGY

The following terms may be confusing and/or are frequently used incorrectly in the elementary and secondary school context.

Equal access: equal opportunity of a qualified person with a disability to participate in or benefit from educational aid, benefits, or services

Free appropriate public education (FAPE): a term used in the elementary and secondary school context; for purposes of Section 504, refers to the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met and is based upon adherence to procedures that satisfy the Section 504 requirements about the educational setting, evaluation and placement, and procedural safeguards

Placement: a term used in the elementary and secondary school context; refers to regular and/or special educational programs in which a student receives educational and/or related services

Reasonable accommodation: a term used in the employment context to refer to modifications or adjustments employers make to a job application process, the work environment, the manner or circumstances under which the position held or desired is customarily performed, or that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment; this term is

sometimes used incorrectly to refer to related aids and services in the elementary and secondary school context or to refer to academic adjustments, reasonable modifications, and auxiliary aids and services in the postsecondary school context

Reasonable modifications: under a regulatory provision implementing Title II of the ADA, public entities are required to make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination based on disability unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity

Related services: a term used in the elementary and secondary school context to refer to developmental, corrective, and other supportive services, including psychological, counseling, and medical diagnostic services and transportation

COMPARISON—SECTION 504 AND SPECIAL EDUCATION

This section illustrates some of the basic similarities and differences between Section 504 and special education.

COMPARING SECTION 504, INDIVIDUALS WITH DISABILITIES EDUCATION ACT, AND AMERICANS WITH DISABILITIES ACT:

Section 504 is a civil rights law, known as The Rehabilitation Act of 1973. Its purpose is a civil rights law that protects the rights of individuals with disabilities in programs and activities that receive federal financial assistance from the U.S. Department of Education.

Individuals with Disabilities Education Act – 2004 (IDEA) is an education law. Its purpose is a federal funding statute whose purpose is to provide financial aid to States in their efforts to ensure a free appropriate public education for students with disabilities.

Americans with Disabilities Act is a civil rights law, sometimes referred to as the Americans with Disabilities Act of 1990 (ADA) Amendments of 2009. Its purpose is to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.

Responsibility:

- 504 - General education, but shared with special education
- IDEA - Special education, but shared with general education
- ADA - Public and private schools, business establishments, and public buildings (services)

Funding:

- 504 - State and local responsibility (no federal funding)
- IDEA - State, local, and federal IDEA funds. IDEA funds cannot be used to serve students eligible only under Section 504.
- ADA - Public and private responsibility (no federal funding)

Administrator:

504 - Section 504 coordinator (Systems with 15 plus employees) to coordinate efforts

- to comply with this law
- IDEA - Special education director or designee
- ADA - ADA coordinator is required to coordinate efforts to comply with this law.

Service Tool:

- 504 - No requirement but the best practice is to provide a Section 504 accommodation plan and/or services.
- IDEA - Individualized Education Program (IEP). Some IEPs will include Section 504 accommodations necessary for success in the general classroom.
- ADA - Reasonable accommodations and legal employment practices

Team:

- 504 - Section 504 Team
- IDEA - IEP Team

- ADA - Civil Rights Team

Population:

- 504 - Identifies a person as disabled so long as she/he meets the definition of qualified persons with disabilities, i.e., has or has had a physical or mental impairment that substantially limits a major life activity or is regarded as disabled by others.
- IDEA - Children and youth were evaluated and found to need special education.
- ADA - Identifies a person as disabled so long as she/he meets the definition of a qualified person with disabilities, i.e., has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as disabled by others.

Identification:

- 504 - A student is identified so long as she/he meets the definition of a qualified person with disabilities, i.e., currently has or has had a physical or mental impairment that substantially limits a major life activity or is regarded as disabled by others.
    - Evaluation is required.
- IDEA - A student is only eligible to receive special education and related services if the multidisciplinary team determines that the student has a disability under one of the qualifying conditions and requires special education services.
    - Evaluation is required.
- ADA - A person is eligible so long as she/he meets the definition of a qualified person with disabilities, i.e., currently has or has had a physical or mental impairment that substantially limits a major life activity or is regarded by others as having a disability.

Free Appropriate Public Education:

- 504 - A student could receive special education services and/or related services and/or accommodations.
- IDEA - A student must first be eligible and need special education before they are entitled to a related service.
- ADA - Addresses education in terms of accessibility requirements.
  Requires private and public entities not to use employment practices that discriminate based on a disability.

Accessibility:

- 504 - Federal regulations regarding building and program accessibility require that reasonable accommodations be made.
- IDEA - Requires that modifications must be made if necessary to provide access to a free appropriate public education.
- ADA - Requires that public programs be accessible to individuals with disabilities.

Undue Hardship (Employment):

- 504 - Consideration is given to the size of the program, the extent of accommodation, and the cost relative to the total school budget.
- IDEA - Budget and administrative convenience are never an excuse.
- ADA - Consideration is given to the size of the business and its budget, type of operation, and nature and cost of accommodation.

Notice:

- 504 and IDEA - Both require notice to the parent or guardian concerning identification, evaluation, and placement.
- ADA - Makes provisions for public notice, hearings, and awarding attorney fees.

Consent:

- 504 - Written consent for initial evaluation and services
- IDEA - Consent is required before the initial placement and reevaluation.
- ADA - NA

Evaluations:

- 504 - The evaluation draws on information from a variety of sources in the area of concern. Decisions are made by a group knowledgeable about the student, evaluation data, and placement options. Requires written parental notice. Requires periodic reevaluations. Reevaluation is required before a significant change in placement. No provision is made for independent evaluations at district expense. The school district should consider other evaluations and information regarding the student.
- IDEA - A full comprehensive evaluation is required to assess all areas related to the suspected disability. The student is evaluated by a multidisciplinary team. Consent is required before the initial evaluation is conducted. Requires reevaluations to be conducted at least every three years if determined appropriate by the team. A reevaluation is not required before a significant change in placement. Provides for independent educational evaluation. A due process hearing is available if the school and parent disagree on the need for an independent evaluation.
    - When interpreting evaluation data and making service decisions, both **504 and IDEA** require districts to do the following:
        - Draw upon information from a variety of sources.
        - Ensure that all information is documented and considered.
        - Ensure that the service decision is made by a group of persons including those who are knowledgeable about the student, disability, the meaning of the evaluation data, and placement options.
        - Ensure that the student is educated with his/her nondisabled peers to the maximum extent appropriate (Lease Restrictive Environment—LRE).
- ADA - All schools should conduct or update their Section 504 evaluation regarding services, accessibility, practices, and policies to assure discrimination is not occurring with any individual with disabilities.

Review of Programs:

- 504 - Accommodations should be reviewed periodically.
- IDEA - An IEP review meeting is required at least annually or before any significant change.
- ADA - NA

Grievance Procedures:

- 504 - Requires districts to provide a grievance procedure for parents, students, and employees.
- IDEA - Does not require a grievance procedure. Complaint Procedures (SEA)
- ADA - Any school district shall adopt and publish grievance procedures for the resolution of ADA complaints.

Complaint Procedures:

- 504 - An individual or organization may file a complaint with the Office for Civil Rights. An OCR complaint must be filed, in writing, within 180 days after the violation has occurred. In certain cases, OCR will consider complaints where more than 180 days have elapsed.
- IDEA - A formal complaint process is required. Parents can file a complaint with the State. A decision must be provided within 60 days.

- ADA - An individual or organization may file a complaint with the Office of Civil Rights. An OCR complaint must be filed, in writing, within 180 days after the violation has occurred. In certain cases, OCR will consider complaints where more than 180 days have elapsed.

Due process:

- 504 and IDEA - Both statutes require districts to provide impartial hearings for parents or guardians who disagree with the identification, evaluation, or placement of students with disabilities. School districts or parents can initiate due process hearings.

  Requires that the parent have an opportunity to participate and be represented by counsel. Other details are left to the discretion of the local school district. Policy statements should clarify specific details.

  Delineates specific requirements.
- ADA - Due process hearings can be initiated by either party. The court may allow a reasonable attorney's fee for the prevailing party.

Mediation:

- 504 - Not required. However, mediation should always be suggested.
- IDEA - Mediation is optional for the parents and should always be suggested.
- ADA - Not required. However, mediation should always be suggested.

Enforcement:

- 504 - Enforced by the U.S. Office of Civil Rights. Regional offices are located throughout the United States. The office is part of the U.S. Department of Education.
- IDEA - Enforced by the U.S. Office of Special Education Programs. Compliance is monitored by the North Dakota Department of Public Instruction Education Unit.
- ADA - Enforced by the U.S. Office for Civil Rights under an agreement with EEOC.

SAMPLE FORMS

THIS APPENDIX CONTAINS SAMPLE FORMS THAT CAN BE USED BY SCHOOLS AT VARIOUS PHASES OF THE SECTION 504 IDENTIFICATION PROCESS.

—INFORMATION FOR PARENTS

—SECTION 504 REFERRAL

—NOTICE TO PARENTS

—SECTION 504 PARENT RIGHTS

—SECTION 504 EVALUATION PROCEDURES

—SECTION 504 TEAM MEETING/ IDENTIFICATION SUMMARY

—PART II STUDENT ACCOMMODATIONS

—SECTION 504 STUDENT ACCOMMODATION PLAN

—SECTION 504 ACCOMMODATION PLAN

—SCHOOL INDIVIDUALIZED HEALTH CARE PLAN

—EMERGENCY PLAN

—SECTION 504 REVIEW OF SERVICES

Utility of Form—To provide general information about Section 504

INFORMATION FOR PARENTS REGARDING SECTION 504 OF THE REHABILITATION ACT OF 1973

Section 504 is an Act that prohibits discrimination against persons with a disability in any program that receives federal financial assistance. The Act defines a person with a disability as anyone who

Has a mental or physical impairment that substantially limits one or more major life activities (major life activities include activities such as walking, breathing, learning, reading, concentrating, thinking, communicating, seeing, speaking, caring for one's self, working, helping, eating, sleeping, standing, lifting, bending, and operation of a bodily function).

In order to fulfill its obligations under Section 504, the school recognizes a responsibility to avoid discrimination in policies and practices regarding its personnel and students.
No discrimination against any person with a disability will knowingly be permitted in any of the programs and practices in the school system.

The school has specific responsibilities under the Act, which include the responsibility to identify, evaluate and, if the student is determined to be identified under Section 504, to afford access to appropriate educational services.

If the parent or guardian disagrees with the determination made by the professional staff of the school, he/she has a right to a hearing with an impartial hearing officer.

The Family Educational Rights and Privacy Act (FERPA) also specifies rights related to educational records. This Act gives the parent or guardian the right to do the following:

- Inspect and review his/her student's educational records.
- Make copies of these records.
- Receive a list of all individuals having access to those records.
- Ask for an explanation of any item in the records.
- Ask for an amendment to any report on the grounds that it is inaccurate, misleading, or violates the student's rights.
- Request a hearing on the issue if the school refuses to make the amendment.

If there are questions, please feel free to contact

Section 504 Coordinator: Telephone Number:

_____

Utility of Form—To provide general information about Section 504. To provide parents with their rights and request consent to conduct a Section 504 evaluation

INFORMATION FOR PARENTS REGARDING SECTION 504 OF THE REHABILITATION ACT OF 1973

School: _____Date: _____

The intent of this notice is to keep you fully informed concerning decisions about your student and to inform you of your rights if you disagree with any of these decisions.

If your student is identified for Section 504 services, among other things, you have the right to the following actions:

1. Have your student take part in and receive benefits from public education programs without discrimination based on a disability.

2. Receive written notice concerning the identification, evaluation, or placement of your student.

3. Have your student receive a free and appropriate public education. This includes the right to be educated with other students without disabilities to the maximum extent appropriate.

4. Have your student educated in facilities and receive services comparable to those provided to students without disabilities.

5. Have evaluation, educational, and placement decisions made based on a variety of information sources and by individuals who know your student, the evaluation data, and placement options.

6. If eligible, have your student receive accommodations under Section 504 of the Rehabilitation Act of 1973.

7. Give your student an equal opportunity to participate in appropriate nonacademic and extracurricular activities offered by the school.

8. Examine all relevant records relating to decisions regarding your student's identification, evaluation, educational program, and placement.

9. Obtain copies of educational records at a reasonable cost if the fee would effectively deny you access to the records.

10. Receive a response from the school to reasonable requests for explanations and interpretations of your student's records.

11. Request an amendment of your student's educational records if there is reasonable cause to believe that they are inaccurate, misleading, or otherwise in violation of the privacy rights of your student. If the school refuses this request, it shall notify you within a reasonable time and advise you of the right to a hearing.
12. Request mediation or an impartial due process hearing, related to decisions regarding your student's identification, evaluation, educational program, or placement. You and your student may take part in the hearing, and have an attorney represent you.

13. File a local grievance or complaint.

    The person at the school who is responsible for Section 504 compliance is

    Section 504 Coordinator: Telephone Number:
    _____

CONSENT

The school is requesting your consent to conduct the following evaluation procedure:

Evaluation Procedures: Person Responsible:

_____
_____
_____
_____

I give written consent to have my child evaluated for possible Section 504 identification.

Parent Signature: Date:

_____

Utility of Form—To be used as a referral form when an evaluation is being requested

SECTION 504 REFERRAL

Student: _____Date: _____
School: _____Date of Birth: _____
Teacher: _____Grade: _____
Parent: _____Phone: _____
Address:

_____
Referred by:

_____
Position:

_____

1. Reason for referral:

   _____
   _____
   _____

2. Accommodations and interventions attempted:

   _____
   _____
   _____

3. Has the student been referred, evaluated, and/or received services from special education?
   Yes: _____No: _____

   If yes, please explain:
   _____
   _____
   _____

4. Referral action:

   _____
   _____
   _____

   504 Coordinator Signature: _____ Date: _____

Utility of Form—To provide written notice to the parents when a referral for evaluation to consider Section 504 services is made

NOTICE TO PARENTS SECTION 504 MEETING

Student: _____Date: _____
School: _____

Dear Parent or Guardian:

This letter is to inform you that we have some concerns about your student's progress at school. We have attempted some interventions with your student. They include those listed below:

_____
_____
_____
_____
_____
_____
_____
_____

We would like to arrange a meeting to discuss identification for further accommodations/ services to ensure that your student is afforded an appropriate education. We have scheduled a meeting on _____. This meeting will be held at _____ to discuss your student's educational needs. We would very much appreciate your participation.

If you have any questions, or if this meeting time is not convenient for you, please call me at _____. We will discuss your questions or arrange a mutually convenient meeting time.

Sincerely,

Name: _____ Position: _____

Utility of Form—Gives parents general information about Section 504 evaluation procedures.

SECTION 504 EVALUATION PROCEDURES

If the school suspects a student has a disability, then parental notice is given, and an individual evaluation is conducted. The following are some considerations for meeting 504 evaluation requirements:

1. The evaluation team must be knowledgeable about the student and the disability and be familiar with the evaluation data and placement options.

2. Each evaluation should be tailored to the specific needs of the student.

3. The parents need to be notified and provide written consent before the evaluation is conducted.

4. Tests and other evaluation materials should be validated for the specific purpose for which they are used and administered by trained personnel in conformance with the instructions provided by their producer.

5. Tests and other evaluation materials include those tailored to assess specific areas of educational need.

6. Tests are selected to ensure that when a test is administered to a student with impaired sensory, manual, or speaking skills, the results accurately reflect whatever the test is designed to measure.

7. In interpreting evaluation data and in making placement or accommodation decisions, a school should draw on information from a variety of sources, including aptitude and achievement tests, interest inventories, teacher recommendations, physical condition, social or cultural background, and adaptive behavior.

8. A reevaluation should be conducted before making any significant change in placement. A reevaluation procedure consistent with the Individuals with Disabilities Education Act is one means of meeting this requirement.

The school may refuse to conduct an evaluation, but it has the obligation to inform the parents of the reasons for the refusal and their right to file a grievance, contact the Office for Civil Rights, or request a due process hearing.

Utility of Form—To be used at the Section 504 committee meeting for documenting identification and evaluation results.

SECTION 504 TEAM MEETING/IDENTIFICATION AND EVALUATION SUMMARY

Student: _____Date: _____
School: _____Date of Birth: _____
Teacher: _____Grade: _____
Parent: _____Phone: _____
Address:
_____
Referred by:
_____
Position:
_____

PARTICIPANTS—Staff knowledgeable about the student, disability, and the results of the evaluation data

SUMMARY OF EVALUATION DATA—Information from a variety of sources, including, as relevant, aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior.

Determination of whether the student has a disability under Section 504.

☐ The student **does not** have a physical or mental impairment that substantially limits one or more major life activities, such as walking, breathing, learning, reading, concentrating, thinking, communicating, seeing, speaking, caring for oneself, working, helping, eating, sleeping, standing, lifting, bending, and operation of a bodily function.

☐ The student **has** a physical or mental impairment that substantially limits one or more major life activities, such as walking, breathing, learning, reading, concentrating, thinking, communicating, seeing, speaking, caring for oneself, working, helping, eating, sleeping, standing, lifting, bending, and operation of bodily function.

Utility of Form—To document what accommodations will be necessary for the student to access his/her education

PART II STUDENT ACCOMMODATIONS

Accommodation 1:

_____
_____

Evaluation:

_____

_____

Accommodation 2:

_____
_____

Evaluation:

_____

_____

Accommodation 3:

_____
_____

Evaluation:

_____

_____

Accommodation 4:

_____
_____

Evaluation:

_____

_____

DURATION OF ACCOMODATION/S From: _____ To: _____
Review/Reassessment Date: _____

Participants:

Name: Title:

_____
_____
_____
_____

I give permission for my student to receive the above-mentioned services.

Parent: _____ Date: _____

Utility of Form—To document what accommodations will be necessary for the student to access his/her education

SECTION 504 STUDENT ACCOMMODATION PLAN

Student: _____Date: _____
School: _____Date of Birth: _____
Review Date: _____Grade: _____
Case Manager:
_____
Justification for Section 504 Identification:
_____

Part 1: Justification for services

1. The student has a physical or mental impairment that substantially limits one or more of his/her major life activities. ☐ Yes ☐ No

☐ walking
☐ breathing
☐ learning
☐ reading
☐ concentrating
☐ thinking
☐ communicating
☐ seeing
☐ speaking
☐ caring for oneself
☐ working
☐ helping
☐ eating
☐ sleeping
☐ standing
☐ lifting
☐ bending
☐ operation of a bodily function
☐ other: _____

2. Is the student identified for Section 504 accommodations? ☐ Yes ☐ No

3. Briefly document the basis for determining the disability.

_____
_____
_____
_____

4. Describe areas of need and action to be taken.

_____
_____
_____
_____

Utility of Form—To document what accommodations will be necessary for the student to access his/her education

SECTION 504 ACCOMMODATION PLAN

Student: _____Date: _____
School: _____Date of Birth: _____
Review Date: _____Grade: _____
Case Manager:

_____

Justification for Section 504 Identification:

_____

Part 1: Justification for services

5. The student has a physical or mental impairment that substantially limits one or more of his/her major life activities. ☐ Yes ☐ No

☐ walking
☐ breathing
☐ learning
☐ reading
☐ concentrating
☐ thinking
☐ communicating
☐ seeing
☐ speaking
☐ caring for oneself
☐ working
☐ helping
☐ eating
☐ sleeping
☐ standing
☐ lifting
☐ bending
☐ operation of a bodily function
☐ other: _____

Accommodations and Services

1. _____
_____
_____
_____

2. _____
_____
_____
_____

3. _____
_____
_____
_____

4. _____
_____
_____
_____

5. _____
_____
_____
_____
6. _____
_____
_____
_____
7. _____
_____
_____
_____

I give permission for my student to receive the above-mentioned services.

Parent: _____ Date: _____

Section 504 Committee Members

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

SCHOOL INDIVIDUALIZED HEALTH CARE PLAN

Student: _____Effective Date: _____
School: _____Parent: _____
Physician: _____Nurse: _____

☐ Special Education ☐ Section 504 ☐ General Education

Accommodations and Services

1. Brief Description of the Condition:
_____
_____
_____

2. Concerns:
_____
_____
_____

3. Goal:
_____
_____
_____

4. Interventions and Procedures:
_____
_____
_____

5. Necessary Staff Training:
_____
_____
_____

I have read and approve the above health care plan for: _____

Parent: _____ Date: _____

Physician: _____ Date: _____

Nurse who provides services in school: _____ Date: _____

EMERGENCY CARE PLAN—SAMPLE

Student: _____ Date: _____
School: _____Grade: _____
Preferred Hospital in Case of Emergency: _____
Hospital Phone Number: _____
Parent: _____ Phone: _____
Physician: _____ Phone: _____

Medical Condition:

_____
_____

Treatment Program:

_____
_____

Signs of Emergency:

_____
_____

Actions to be taken during an emergency:

_____
_____

If an emergency occurs and is life-threatening, immediately call a designated emergency number.

a. State who you are
b. State where you are.
c. State problem
d. Stay with a student or designate another adult to do so.
e. Call or designate someone to call the hospital.

The following staff members are trained to deal with an emergency and to initiate the appropriate procedures:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

I approve the above Emergency Care Plan and request school personnel to follow the above plan in the event of an emergency involving my child. I will notify the school immediately if my child's health status changes or if there is a change or cancellation of this Emergency Care Plan.

In consideration of this authorization made at our request, the undersigned agrees to indemnify, defend, and save harmless the School Board, the individual members thereof, and any officials or employees involved in the rendering of care in accordance with the above Emergency Care Plan from any
claims or liability for injury or damages, including but not limited to costs and reasonable attorney's fees, caused, or claimed to be caused or to result from the administration of care in accordance with the above Emergency Care Plan.

Parent: _____ Date: _____
Address:
_____

Utility of Form—To be used as documentation of review of progress and future recommendations

SECTION 504 REVIEW OF SERVICES

Student: _____ Date: _____
Case Manager: _____

Purpose of meeting: It is necessary to periodically review the student's progress under Section 504 services and make recommendations to continue, modify, or terminate the program(s). (504 plan should be reviewed once each year.)

Discussion on Progress:
_____
_____
_____

Recommendations:
☐ Continue present services with no changes.
☐ Modify the present program (see attached).
☐ Conduct additional evaluations.
☐ Exit from the program based on the following evaluation results.

Discussion of recommendations:
_____
_____
_____

The following members of the Section 504 Committee agree with the recommendations:

Signatures

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Utility of Form—To document a behavior intervention plan

SECTION 504 BEHAVIOR INTERVENTION PLAN (BIP)

Student: _____Date of FBA: _____
School: _____Date of Birth: _____
Grade/Age: _____Date of BIP: _____
Qualifying 504/IEP Impairment: _____
Case Manager: _____

Definition of the target behavior(s) identified during the FBA/evaluation process:

_____
_____
_____
_____

The hypothesized function of behavior(s) determined through the FBA/evaluation process:

_____
_____
_____
_____

What is the desired replacement behavior (that serves the same function) as the targeted behavior (e.g., ask for a break, raise a hand to get attention, or help)?

_____
_____
_____
_____
_____
_____
_____
_____

How will replacement behaviors be taught (who will teach the skill, what strategies will be used, how frequently, and in what setting(s) will it be taught)?

_____
_____
_____
_____
_____
_____
_____
_____

What is the plan to reinforce positive behaviors as they occur?

How will adults and peers respond to negative behaviors as they occur?

Is there a need for a safety plan? ☐ Yes ☐ No

A safety plan will be written and shared in the following manner (including by who, and when):

What is your progress monitoring goal (including baseline data)?

How will data be collected (e.g., behavior sheet, charting/graphing, interval data)?

What is the format for data reviews and schedule for review(s)of plan effectiveness?

Team Member	Title

Utility of Form—To document a functional behavior assessment

SECTION 504 FUNCTIONAL BEHAVIOR ASSESSMENT (FBA)

Student: _____Date of FBA: _____
School: _____Date of Birth: _____
Grade/Age: _____
Qualifying 504/IEP Impairment: _____
Case Manager: _____

Reason for referral:
_____
_____
_____
_____

Define the behavior in observable and measurable terms (1-2 behaviors):
_____
_____
_____
_____
_____
_____

Review of existing data (i.e.: impact of disability, health history, medications/side effects, information from family/guardians, trauma history, patterned or cyclic behavior, office/discipline referrals, academic impact, and /or other relevant data):
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

What prior interventions have been implemented?

_____
_____
_____
_____
_____
_____

- What were the results how long with the intervention implemented and by whom/where?

  _____
  _____
  _____
  _____
  _____
  _____

- What are the child's strengths, interests, or settings where they excel that could be built on?

  _____
  _____
  _____
  _____
  _____
  _____

Summary and results of records review, checklists, rating scares, and interviews:

_____
_____
_____
_____
_____
_____

Summary of results of behavioral observations collected across settings (scatterplots, antecedent-behavior-consequence data):

_____
_____
_____
_____
_____
_____

The hypothesized function of behavior:

☐ Gain Attention. Explain.

_____
_____

☐ Gain a tangible consequence. Explain.

_____
_____

☐ Gain a sensory consequence. Explain.

_____
_____

☐ Escape from or avoidance of an undesirable situation Explain.

_____
_____

☐ Other. Explain.

_____
_____

Hypothesis statement (describe the antecedent(s), target behavior(s), and function of each behavior):

_____
_____
_____
_____

Team Member	**Title**
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Utility of Form—To document a manifestation

SECTION 504 MANIFESTATION DETERMINATION REPORT (MDR)

Student: _____Date of MDR: _____
School: _____Date of Birth: _____
Grade: _____
Qualifying 504/IEP Impairment: _____
Case Manager: _____

Sources of Information for completing Manifestation Determination (attach copies)

☐ Functional Behavior Assessment
☐ Direct Observations
☐ Diagnostic Information
☐ Assessment Evaluations
☐ Interventions Conducted
☐ Information from Parents
☐ 504/IEP documents
☐ other: _____

Describe the 504/IEP impairment:
_____
_____
_____
_____

How has the disability manifested itself in the past?
_____
_____
_____
_____

Describe the current incident and past behaviors.
_____
_____
_____
_____

General building policy which relates to the behavior/s in question:
_____
_____
_____
_____

Disciplinary action:

_____
_____
_____
_____

504/IEP Accommodations:

1. Was the plan and placement appropriate in association with the behavior in question?
   ☐ Yes ☐ No
2. Were special education services, supplemental aids/services, and behavior intervention strategies provided consistent with the 504/IEP plan and placement?
   ☐ Yes ☐ No

Manifestation Determination:

If the determination of the team is "YES" to any of the following statements, then the behavior should be considered a manifestation.

3. Does the disability interfere with their ability to understand the impact and consequences of the behavior/s? ☐ Yes ☐ No
4. The behavior was caused by the disability or had a direct relationship to the disability?
   ☐ Yes ☐ No
5. The behavior directly resulted from the school district's failure to implement the 504/IEP plan with fidelity? ☐ Yes ☐ No

Parent's Rights:

Parent's Rights Provided ☐ Yes ☐ No

Parent's Signature: _____

Parent in agreement with team decision ☐ Yes ☐ No

Parent's Signature: _____

Participants

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____