



BURLINGTON-EDISON

SCHOOL DISTRICT No. 100

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A Guide to Section 504 & Student Access to a Free Appropriate Public Education



Burlington-Edison School District

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A Parent and Educators Guide to FAPE under Section 504

WHAT IS SECTION 504?

Statute 504 of the Rehabilitation Act (herein after “Section 504”) is a federal civil rights law that is designed to eliminate disability discrimination in programs and activities that receive federal funds. Since all public school districts receive federal funds, all public school districts must comply with Section 504. Under Section 504, denying a disabled student a free appropriate public education constitutes disability discrimination.

WHO IS A DISABLED STUDENT UNDER SECTION 504?

A school-aged student is a disabled student under Section 504 if the student:

- **Has a physical or mental impairment**

Physical or mental impairment means any physiological or psychological disorder or condition. The definition of physical or mental impairment under Section 504 is broad, includes students with life threatening health conditions (conditions that will put a student in danger of death during the school day if a medication or treatment order and a nursing plan are not in place), and is not limited to any specific diseases or categories of medical conditions.

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. A physical or mental impairment may be 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 list of specific diseases and conditions that may constitute a physical or mental impairment is not exhaustive because of the difficulty of ensuring the comprehensiveness of such a list.

- **That substantially limits**

While there is no single formula or scale that measures an impairment’s limitation, an impairment is said to be substantially limiting if it limits the student’s ability to perform a major life activity as compared to the student’s non-disabled age/grade peers. An impairment need not prevent, or significantly or severely restrict, a student in performing a major life activity to be considered substantially limiting.

As a general rule, a student with a physical or mental impairment who is able to participate in and benefit from a district's education program (e.g., attend school, advance from grade to grade, and meet age/grade appropriate standards of personal independence and social responsibility) without the provision of special education or related aids or services, is not a disabled student under Section 504 for the purpose of FAPE.

- **One or more major life activities**

Major life activities include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. Major life activities also include other general activities such as eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, and communicating. In addition, major life activities include major bodily functions such as the functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. The above list of major life activities is not exhaustive; a major life activity or function not specifically listed above may be a major life activity. For example, the ability to meet the standards of personal independence and social responsibility expected of one's age and cultural group is a major life activity for a school-aged student. In addition, the ability to participate in and benefit from school is a major life activity for a school-aged student.

THE AMERICANS WITH DISABILITIES AMENDMENT ACT OF 2008

Congress amended the Americans with Disabilities Act (ADA) in 2008 in response to the rulings by the Supreme Court. The amendments were enacted to create "clear, strong, consistent, enforceable standards" to broaden who qualifies as a "disabled person" under Section 504 and the ADA. As the ADA is a broad statute, the changes mean the following in regard to schools:

- **Interpret the term "physical or mental impairment" broadly:** The term "physical or mental impairment" is not limited to any specific diseases or categories of medical conditions;
- **Interpret the term "substantially limits" broadly:** An impairment need not prevent, or significantly or severely restrict a student in performing a major life activity to be considered "substantially limiting." Compare a student to his or her non-disabled age/grade peers to determine whether an impairment substantially limits a major life activity for the student;
- **Interpret the term "major life activities" broadly:** Just about any activity that is of importance to a school-aged student's daily life now qualifies as a "major life activity" under Section 504 and an impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability under Section 504 or the ADA;

- **Disregard mitigating measures used by a student:** Mitigating measures used by a disabled student to manage his or her impairment or lessen the impact of his or her impairment (e.g. medication, medical devices, related aids and services, etc.) should be disregarded when determining whether a student’s impairment constitutes a disability under Section 504 or the ADA;
- **Consider whether a temporary impairment is a disability:** A temporary impairment (with an actual or expected duration of six months or less) is a disability under Section 504 and the ADA if it is severe enough that it substantially limits a major life activity for a student. The duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity for a student should be the key considerations; and
- **Consider whether an impairment that is episodic or in remission is a disability:** An impairment that is episodic or in remission (e.g. epilepsy, cancer, bipolar disorder, etc.) is a disability under Section 504 and the ADA if it substantially limits a major life activity for a student when active.

WHAT IS FREE APPROPRIATE PUBLIC EDUCATION UNDER SECTION 504?

A free appropriate public education (FAPE) is an education that is designed to meet a disabled student’s individual educational needs and is based upon procedures that satisfy Section 504’s identification, evaluation, placement, and due process requirements. An appropriate education can consist of education in regular classes, education in regular classes with related aids or services, special education, or a combination of such services. The definition of related aids and services under Section 504 is broad and includes any service that a student needs to participate in and benefit from a district’s education program. Related aids and services include but are not limited to the following: school health services; counseling; environmental, instructional and behavioral accommodations; and transportation.

WHAT DOES “APPROPRIATE” MEAN?

“Appropriate” means designed to meet the individual educational needs of a student with a disability as adequately as the needs of students without disabilities are met. It does not mean that a school must maximize a student’s potential or provide “the ideal” education program that it can design for a student. It means that a district must provide sufficient individualized services to enable a disabled student to receive educational benefit (i.e., not maximum benefit, not minimal benefit, some benefit).

WHO CAN REFER A STUDENT FOR A SECTION 504 EVALUATION?

Any person can refer a student for evaluation under Section 504. Parents, guardians, and school staff should refer a student for evaluation if they know or suspect that, due to a physical or

mental impairment, a student needs accommodations or modifications to participate in or benefit from a district's education program.

REFERRAL UNDER SECTION 504

After receiving a Section 504 referral, a district should decide whether to evaluate the student and must notify the student's parent or guardian of its decision. As a general rule, a district should evaluate a referred student if the district knows or suspects that the student, because of a disability, is not attending school, advancing from grade to grade, meeting age/grade appropriate standards of personal independence or social responsibility, or otherwise needs special education or related aids or services to participate in or benefit from the district's education program.

WHAT IS AN EVALUATION UNDER SECTION 504?

Evaluations under Section 504 are individually designed. A Section 504 evaluation may be broad (including aptitude and achievement data, medical and psychological data, social and cultural information, and more) or narrow (medical data). A Section 504 evaluation may be conducted by a district or conducted by an outside agency and reviewed by a district. It is the responsibility of a district to determine the scope of each student's Section 504 evaluation. As a general rule, the scope of a student's Section 504 evaluation should be broad enough to enable the district to determine whether a student is disabled under Section 504 and, if so, what educational and related aids and services the student needs to receive a FAPE.

WHAT PLACEMENT PROCEDURES DOES SECTION 504 REQUIRE?

Placement under Section 504 means services, i.e. the educational and related aids and services that a student needs to receive FAPE. Placement decisions under Section 504 must be documented, based upon a student's evaluated needs, and made by persons knowledgeable about the student, the meaning of the student's evaluation data, and placement options. In addition, placement decisions must ensure that disabled students are educated in the least restrictive appropriate placement.

WHAT DUE PROCESS RIGHTS DO PARENTS AND GUARDIANS HAVE UNDER SECTION 504?

Section 504 gives parents and guardians the right to challenge district decisions regarding the identification, evaluation and educational placement of their child. Under Section 504, a district must notify a student's parent or guardian before it takes any action regarding the identification, evaluation, or placement of their child and provide the parent or guardian an opportunity to challenge the action if they disagree. "Any action" includes a decision not to evaluate a student and denial of placement. The minimum necessary due process rights include: prior notice of any

action; a right to inspect records; an impartial hearing with a right to representation by counsel; and a review procedure.

MUST PARENTS OR GUARDIANS CONSENT PRIOR TO INITIAL EVALUATIONS AND INITIAL PLACEMENTS UNDER SECTION 504?

Yes. Under Section 504, a district must obtain parent or guardian consent in two circumstances: before a child's initial evaluation (the first time a child is evaluated by the district) and before a child's initial placement (the first time a child is placed on a Section 504 Plan in the district). The district must notify a parent or guardian, but need not obtain consent, before it re-evaluates or significantly changes a student's placement.

WHAT IS A SECTION 504 PLAN?

A Section 504 plan is a written plan that describes the educational and related aids and services that a district determines a student needs to receive a FAPE. The content of a Section 504 Plan is fluid and may change within a school year or between school years as a student's needs and services change. A district must provide the services identified in a student's Section 504 plan.

For a student whose only disability is a life threatening health condition, an individual health plan or nursing care plan may serve as the student's Section 504 plan. The process that a district follows to develop an individual health plan or an emergency or nursing care plan to meet the needs of a disabled student must be based on evaluation and placement procedures that satisfy the requirements of Section 504, and must provide procedural due process to the student's parent or guardian.

WHAT IS A SECTION 504 TEAM?

A Section 504 team makes decisions regarding the evaluation and placement of students under Section 504. For example, a Section 504 team determines the scope of Section 504 evaluations, decides which students are disabled under Section 504, develops Section 504 Plans, and makes "manifestation determinations" for purposes of disciplinary exclusion from school.

WHO SHOULD BE ON A SECTION 504 TEAM?

The membership of a Section 504 team will vary depending upon the needs of each student. For example, a nurse may be on the Section 504 team of a student with a life threatening health condition, and a counselor may be on the Section 504 team of a student with a behavioral disorder. The composition of a Section 504 team is fluid and may change within a school year or between school years as a student's needs and services change. A Section 504 team must consist of at least two people and must include persons knowledgeable about the student, the meaning of the student's current evaluation data, and placement options.

HOW IS SECTION 504 ENFORCED?

The U.S. Department of Education enforces Section 504 through the Office for Civil Rights (OCR). OCR investigates individual complaints of disability discrimination, including complaints that a district is denying a disabled student FAPE. OCR also provides training and technical assistance to state education agencies, educational service districts, schools districts, and parents. OCR's focus is on the process a district follows to identify, evaluate, and provide an educational placement to a disabled student, and to provide procedural due process to the student's parent or guardian. Except in extraordinary circumstances, OCR will not review the result of individual placement and other educational decisions, as long as a district complies with Section 504's procedural requirements regarding identification, evaluation, placement, and due process. The proper forum for pure educational disputes, in which a district has followed the correct process to make an educational decision but the parents or guardian disagree with the result of the decision, is a Section 504 due process hearing.

WHO CONDUCTS A SECTION 504 DUE PROCESS HEARING?

The Burlington-Edison School District shall select a hearing officer who is impartial (e.g., has no professional or personal interest that would bias his or her judgment of the case) and has training in Section 504 and how it applies to FAPE.

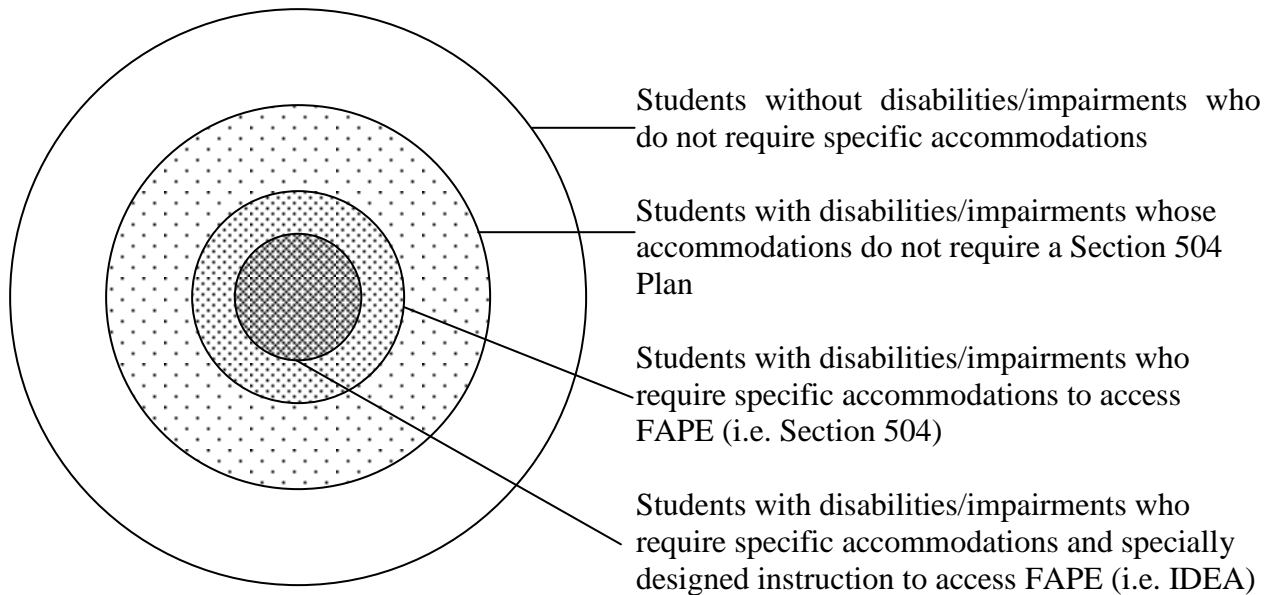
THE BOTTOM LINE

Once the district has determined that a student is disabled under Section 504 for the purposes of FAPE, the district must provide whatever services it decides the student needs to participate in and benefit from the district's education program. As a general rule, a district is under no obligation to provide a service that a student's parent or guardian or doctor requests unless, in the district's determination, the student needs the service to participate in and benefit from its education program.

IDEA and Section 504 Comparison

INTRODUCTION:

The Burlington-Edison School District provides educational programming to students with a variety of strengths and needs.



IDEA AND SECTION 504 – A COMPARISON

Component	IDEA	Section 504
What is it?	A federal funding law and regulation.	A federal civil rights law and regulation.
What is its purpose?	To provide federal funds to state education agencies and districts to educate disabled students.	To eliminate disability discrimination in all programs and activities that receive federal funding.
Who is a “disabled student”?	Both regulations provide protections to “disabled students” but each regulation defines “disabled student” differently. Section 504 defines “disabled student” more broadly than does IDEA. Defines disabled student as a child aged 3-21 who has one or more of 14 specific disabilities (i.e., autism, deaf-blindness, developmental delay, deafness, emotional behavioral disability, hearing	Defines disabled student as a school-aged child who has a physical or mental impairment that substantially limits one or more major life activities. The terms “physical or mental

	impairment, intellectual disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, and visual impairment, including blindness) and, due to disability, needs special education.	impairment,” “substantially limits,” and “major life activities” are to be interpreted broadly.
What is a “Free Appropriate Public Education” (FAPE)?	Both regulations require a district to provide FAPE to each disabled student in its jurisdiction but each regulation defines FAPE differently. Section 504 defines FAPE more broadly than does IDEA.	
	Defines FAPE as special education and related services. Students can receive related services under IDEA only if they need related services to benefit from special education.	Defines FAPE as regular or special education and related aids and services that are designed to meet a student’s individual educational needs and are based upon procedures that satisfy required evaluation, placement, and due process procedures. Students can receive related aids and services under Section 504 even if they are not provided any special education.
What does “appropriate” mean?	Both regulations interpret “appropriate” to mean designed to meet the individual educational needs of a disabled student. An appropriate education provides a disabled student sufficient individualized services to enable the student to receive educational benefit (i.e., not maximum benefit, not minimal benefit, some benefit).	
How is FAPE delivered?	Both regulations require that FAPE be delivered through an individualized education program. Section 504 defines individual education program with less specificity than does IDEA.	
	Requires a written individual education program (IEP) with specific content developed by specific participants at an IEP meeting.	Requires a documented placement decision, commonly called a Section 504 Plan, developed by a group of persons knowledgeable about the student, the meaning of the student’s evaluation data, and placement options.
Who can refer a student for evaluation?	Both regulations contain a child find component, and allow any person (e.g., parents, guardians, school staff, etc.) to refer a student for evaluation.	
What should a district do with a referral?	Both regulations require a district to decide whether to evaluate a referred student and to notify a student’s parent or guardian of its decision. As a general rule, under both regulations, a district should evaluate a referred student if it knows or suspects that the student, because of disability, needs special education or related aids or services to participate in or benefit from the district’s education program.	
What evaluation procedures are	Both regulations require that tests and other evaluation materials:	

required?	<ul style="list-style-type: none"> a. be validated for the specific purpose for which they are used; b. be administered by trained personnel in conformance with the c. instructions provided by their producer; d. include those tailored to assess specific areas of educational need; and e. be selected and administered to assure that the test results accurately reflect whatever factors the tests purport to measure. 	
	Requires that re-evaluations be conducted at least every 3 years.	Requires periodic re-evaluations. The IDEA schedule satisfies Section 504.
	Provides for independent educational evaluations at district expense if a parent or guardian disagrees with a district's evaluation and either the district or a hearing officer agrees.	Does not provide for independent educational evaluations at district expense. However, a district must carefully consider any such evaluations presented.
What Placement procedures are required?	<p>Both regulations require that, when interpreting evaluation data and making a placement decision, a district must:</p> <ul style="list-style-type: none"> a. draw upon information from a variety of sources; b. assure that all information is documented and considered; c. ensure that the eligibility decision is made by a group of persons d. including those who are knowledgeable about the child, the meaning of the evaluation data and placement option; and e. ensure that the student is educated with his/her non-disabled peers to the maximum extent appropriate (i.e. in the least restrictive appropriate environment). 	
	Requires an IEP meeting before any change in placement.	Requires a re-evaluation before any "significant change in placement."
Is parent or guardian consent ever required?	Both regulations require a parent or guardian to consent prior to a student's initial evaluation and initial placement. IDEA alone requires consent prior to re-evaluations. Under IDEA parents can revoke consent for placement at anytime.	
What due process rights do parents and guardians have?	Both regulations require a district to notify a student's parent or guardian before the district takes any action regarding the identification, evaluation or placement of their child. IDEA procedures satisfy Section 504. "Any action" includes a decision not to evaluate a student and denial of placement.	
	Requires written prior notice and specific content to be included in the notice.	Allows oral prior notice, but a district is wise to provide notice in writing.
What kind of grievance procedure is required?	Requires each state education agency (OSPI) to have a special education grievance procedure, commonly called a citizen complaint procedure.	Requires each district to have an internal Section 504 grievance procedure for parents and guardians, students, and employees.
What kind of hearing procedure is required?	Both regulations require a district to provide an impartial due process hearing procedure for parents or guardians who disagree with the	

identification, evaluation, or placement of their child.

Who conducts a due process hearing?

Requires each state education agency (OSPI) to conduct such hearings through a state office of hearings.

Allows either state education agencies or districts to conduct such hearings (in WA, districts conduct such hearings).

How is it enforced?

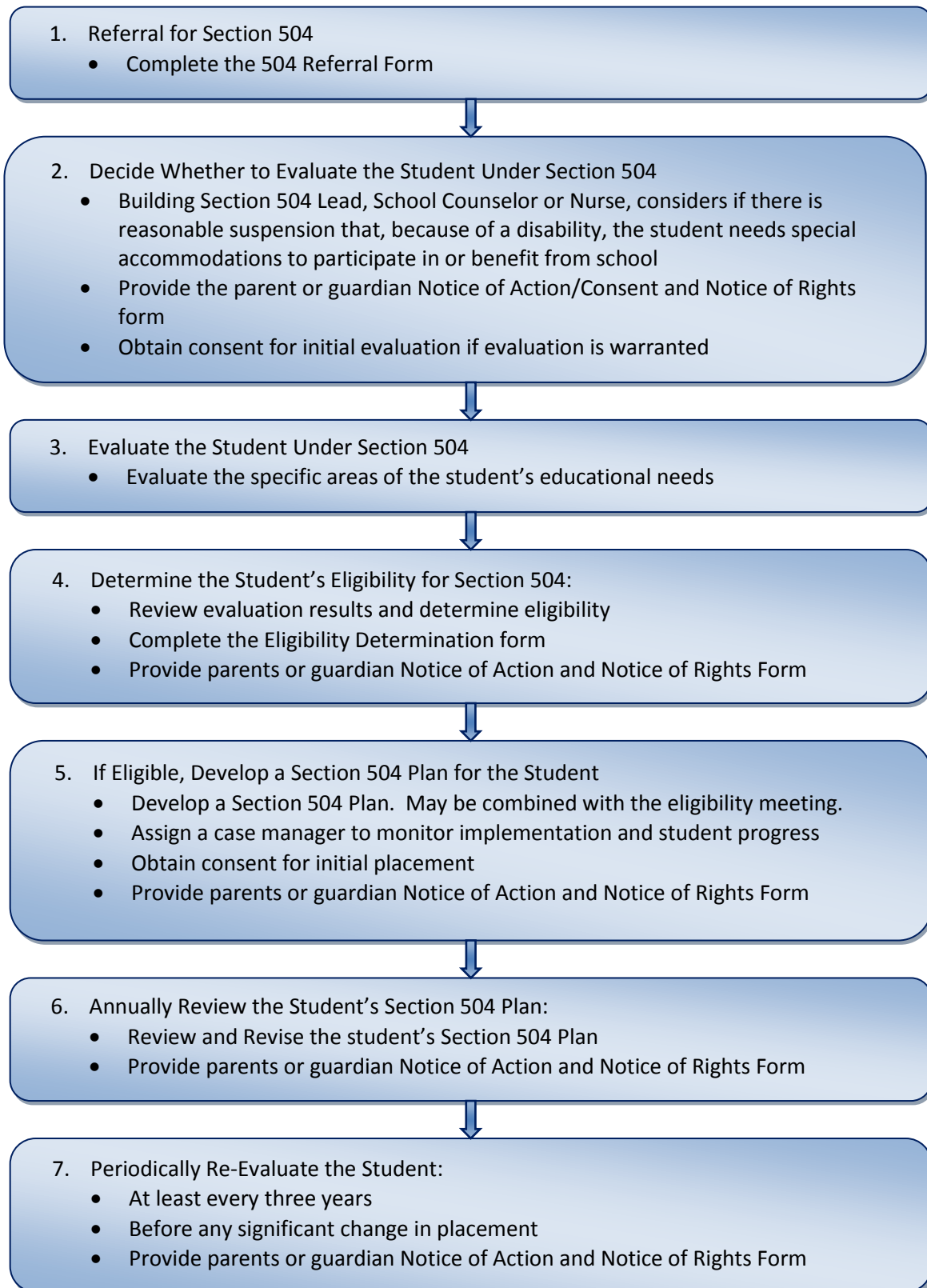
Enforced by the U.S. Department of Education, Office of Special Education Programs (OSEP).

Enforced by the U.S. Department of Education, Office for Civil Rights (OCR).

Each state education agency (OSPI) monitors compliance through complaint investigations and compliance reviews. OSEP monitors compliance through compliance reviews.

OCR monitors compliance through complaint investigations and compliance reviews. The state education agency (OSPI) has FAPE oversight responsibilities. OSPI's FAPE oversight responsibilities require it to take action to correct a situation where it has caused a district to violate Section 504 (for example, through a State policy), and where it has knowledge of repeated, class (not individual) violations of Section 504 by a district.

Section 504 Process Flow Chart



Section 504 Process

INTRODUCTION:

The following is an outline of a typical referral, evaluation, and development of a Section 504 Plan within the Burlington-Edison School District. Each case, however, is unique and decisions are made on a case-by-case basis which may create circumstances in which variation to the typical process occurs.

THE SECTION 504 PROCESS:

1. Concern:

Any person can refer a student for evaluation under Section 504. A concerned person should refer a student for evaluation if the person knows or suspects that, due to a physical or mental impairment, the student needs specific accommodations or services to participate in or benefit from the district's educational program.

2. Decision to Evaluate

The school counselor, or nurse, reviews the referral, the student's file, consults with teachers, parents, teachers, and decides whether it appears that the student might have a disability which is impairing their ability to benefit from the district's educational program.

If the school counselor believes that the student may be eligible under IDEA, may be an English language learner, or have other needs, he/she will refer the student for evaluation/support under those processes.

If the student appears to have a disability under Section 504, the school counselor gives the parents a copy of the Parent/Guardian and Student Rights, and refers the student for evaluation. Parents must provide consent prior to the initial evaluation.

If the school counselor determines that the student does not appear to have a disability under Section 504, other strategies for resolving the concern are suggested, and the parents are provided a prior notice of the action as well as a copy of the Parent/Guardian and Student Rights.

3. Evaluate the Student under Section 504

Once the parents have provided consent for evaluation, qualified persons evaluate the specific area of the student's suspected disability and needs. The parent or guardian may also choose to have their own expert evaluate the student in addition to district personnel, at their own expense.

4. Determine the Student's Eligibility under Section 504

After the student has been evaluated, the student's Section 504 Team reviews the evaluation data and decides if the student is eligible as a disabled student under Section 504. At that time, the Section 504 Team fills out the Section 504 Eligibility Determination Form. The Section 504 Team must include persons knowledgeable about the student, the student's evaluation data, and placement options. In making its eligibility decision, the Section 504 Team must consider information from a variety of sources, including any relevant information submitted by the parent or guardian. The student is eligible as a disabled student under Section 504 if the student has a physical or mental impairment that substantially limits a major life activity. For a school aged student, the ability to participate in or benefit from a district's education program is a major life activity.

If the Section 504 Team determines that the student is eligible as a disabled student under Section 504, the Section 504 Team gives the parent or Notice of Action and Notice of Rights and the Team meets to develop a Section 504 Plan for the student. If the Section 504 Team determines that the student is not eligible as a disabled student under Section 504, the Section 504 Team gives the parent or guardian Notice of Action and Notice of Rights.

5. Once a student is found eligible under Section 504, the student's Section 504 Team meets to develop a Section 504 Plan for the student. The Section 504 Plan may be developed at the same time that eligibility is established if the 504 team wishes. The Section 504 Plan describes what educational or related aids or services the student needs to receive a free appropriate public education. The Section 504 Team provides the parent or Notice of Action and Notice of Rights and a copy of the student's Section 504 Plan. The parent or guardian must provide consent prior to an initial placement.

6. Annually Review the Student' Plan

The student's Section 504 Team will meet annually to review the Section 504 Plan to ensure that it is meeting the student's needs and to ensure that school staff working directly with the student is aware of the plan. The Section 504 Team revises and renews the Section 504 Plan. The revised 504 Plan will be signed and provided to parents, guardians, along with a copy of the Parent/Guardian and Student Rights, the prior written notice.

7. Re-evaluation

The student's Section 504 Team will re-evaluate the student at least every three years, to determine continued eligibility and if the student's educational needs have changed. Before a re-evaluation, the Section 504 Team provides the parent or guardian Notice of Action, and attempts to obtain parental consent to re-evaluate. Re-evaluations must also occur to any significant change of in placement. Significant changes in placement include initiating or discontinuing services, significantly increasing or decreasing the amount of a service, and certain disciplinary removals from school (e.g. long-term suspensions and expulsions).

Section 504 Facts

WHAT IS “DISCRIMINATION” UNDER SECTION 504:

Discrimination occurs when a district, **based on disability**:

- denies a disabled student the opportunity to participate in or benefit from an aid, benefit, or service which is afforded to non-disabled students (e.g., denies credit to a student whose absenteeism is related to his disability, expels a student for behavior related to his disability, fails to dispense medication, or provide an individual health plan or nursing care plan to a disabled student who cannot attend school without such services);
- fails to afford a disabled student an opportunity to participate in or benefit from an aid, benefit, or service that is equal to that afforded to non-disabled students (e.g., conditions a disabled student’s participation in a field trip on the student’s parent or guardian attending the trip, refuses to allow an otherwise qualified disabled student to try out for an interscholastic athletic team);
- fails to provide aids, benefits, or services to a disabled student that are as effective as those provided to non-disabled students (e.g., fails to provide a disabled student necessary environmental, instructional or behavioral accommodations or another related aid or service, fails to provide a disabled student necessary study skills instruction or another special education service);
- provides different or separate aids, benefits or services than are provided to nondisabled students unless there is a legitimate, nondiscriminatory reason for doing so (e.g. requires all disabled students to use special education transportation, segregates all disabled students in portable classrooms, requires all disabled students to use a different recess period);
- denies a disabled student the opportunity to participate in programs or activities that are not separate or different unless there is a legitimate and nondiscriminatory reason for doing so (e.g., denies all disabled students the opportunity to eat meals in the school cafeteria, prohibits all disabled students from participating in full day kindergarten, refuses to allow any disabled students to enroll in regular physical education classes);
- denies a disabled student the opportunity to participate as a member of a planning or advisory board (e.g., denies disabled students the opportunity to participate in student government);
- otherwise limits a disabled student in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others (e.g., denies all disabled students admission under school choice);

- aids or perpetuates discrimination by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability (e.g., sponsors a non-district organization that excludes disabled students); and
- selects the site or location of a facility that has the effect of excluding disabled students from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity (e.g., selects an inaccessible facility in which to hold school plays, concerts, or athletic competitions).

WHEN DOES AN IMPAIRMENT “SUBSTANTIALLY LIMIT” A STUDENT’S MAJOR LIFE ACTIVITY?

There is no single formula or scale that measures substantial limitation. A physical or mental impairment substantially limits a major life activity for a student if the impairment substantially limits the student’s ability to perform a major life activity as compared to the student’s non-disabled age/grade peers. An impairment need not prevent, or significantly or severely restrict, a student in performing a major life activity to be considered substantially limiting.

As a general rule, a student with a physical or mental impairment who is able to participate in or benefit from a district’s education program (e.g. attend school, advance from grade to grade, and meet the standards of personal independence and social responsibility expected of his or her age and cultural group), without the provision of special education or related aids or services, is not a disabled student under Section 504 for purposes of FAPE.

CAN A DISTRICT CONSIDER “MITIGATING MEASURES” USED BY A STUDENT WHEN DETERMINING WHETHER AN IMPAIRMENT CONSTITUTES A DISABILITY FOR A STUDENT?

No. When determining whether an impairment constitutes a disability for a student, districts should disregard the ameliorating effects of any mitigating measures that the student uses. Mitigating measures include: medication; medical supplies; equipment or appliances; low-vision devices (other than ordinary eyeglasses or contact lenses); prosthetics; hearing aids and cochlear implants or other implantable hearing devices; mobility devices; oxygen therapy equipment and supplies; use of assistive technology; environmental or instructional accommodations; other related aids or services; learned behavior or adaptive neurological modifications, etc.

DOES A DISTRICT NEED TO DEVELOP A SECTION 504 PLAN FOR EVERY STUDENT WHO HAS A DISABILITY?

No. A district does not need to develop a Section 504 plan for every student who has a disability. A district needs to develop a Section 504 plan for those students who, because of disability, need accommodations or some other type of related aids or services, to participate in or benefit from the district’s education program.

IS A DISTRICT REQUIRED TO DEVELOP A SECTION 504 PLAN FOR A STUDENT WHO “HAS A RECORD OF DISABILITY” OR IS “REGARDED AS DISABLED?”

No. A district is required to develop a Section 504 plan for those students who have a physical or mental impairment that currently substantially limits a major life activity. The fact that a student “has a record of disability” or is “regarded as disabled” does not trigger a district’s duty to provide FAPE. A district’s duty to a student who “has a record of a disability” or is “regarded as disabled” is to protect the student from discrimination (e.g., it would be discriminatory for a district to prohibit a student who has a record of drug addiction, but is not currently engaging in the illegal use of drugs, from participating in an interscholastic athletic team, based on the student’s “record of disability”).

DOES THE LANGUAGE OF THE LAW STILL INCLUDE "REASONABLE" ACCOMMODATIONS FOR K-12 EDUCATION? IF SO, PLEASE DEFINE "REASONABLE."

Reasonable accommodation is a Section 504 term related to employment not K-12 education. A district is required to provide whatever services it determines a disabled student needs to participate in and benefit from its education program, regardless of the cost of such services.

IS A DISTRICT THAT OPERATES A PUBLIC GENERAL EDUCATION PRESCHOOL PROGRAM REQUIRED TO PROVIDE FAPE TO DISABLED PRESCHOOL STUDENTS PARTICIPATING IN THE PROGRAM?

No. A district that operates a public general education preschool program may not, on the basis of disability, exclude qualified students with disabilities from participating in the program, and must take into account the needs of disabled students in determining the aids, benefits or services to be provided under the program. The district is not, however, required to provide such students a FAPE.

IS A DISTRICT REQUIRED TO PROVIDE FAPE TO A STUDENT WHO HAS A DISABILITY BUT DOES NOT NEED SPECIAL EDUCATION OR RELATED AIDS OR SERVICES TO PARTICIPATE IN OR BENEFIT FROM THE DISTRICT’S EDUCATION PROGRAM?

No. A district is required to provide a FAPE to only those students who have a physical or mental impairment that currently substantially limits a major life activity. A district is not required to provide a FAPE to a student who has a disability but does not have a current need for special education or related aids or services. A district’s duty to such a student is to protect the student from discrimination (e.g. disability harassment).

WHAT ARE “RELATED AIDS AND SERVICES” UNDER SECTION 504?

“Related aids and services” means any service that a disabled student needs to participate in or benefit from a district’s education program (e.g., if, without a specific related aid or service, a disabled student is unable to participate in or benefit from a district’s education program, the aid or service in question is a necessary related aid or service for the student). In contrast to IDEA, under which students are eligible to receive related services if and only if they need related services to benefit from special education, students are eligible to receive related aids or services under Section 504 even if they are not provided any special education. Related aids and services include but are not limited to:

- school health services,
- counseling services,
- environmental, instructional, and behavioral accommodations,
- transportation services,
- audiology services, and
- provision of a modified schedule, grading system, or curriculum.

WHAT IS A “SIGNIFICANT CHANGE IN PLACEMENT” UNDER SECTION 504?

A “significant change in placement” means a significant change in the type or amount of educational or related aids or services that a district provides to a disabled student. A “significant change in placement” may include but is not limited to:

- initiating or terminating a service,
- significantly increasing or decreasing the amount of a service,
- disciplinary actions that exclude a student from school for more than 10 consecutive school days in a school year,
- disciplinary actions that create a pattern of exclusion from school (e.g., cumulative short-term suspensions that are each 10 school days or fewer in duration that create a pattern of exclusion due to the length of each suspension, the proximity in time of the suspensions, the total amount of time the student was excluded from school, and the similarities of the behaviors that led to the suspensions).

CAN A TEMPORARY HEALTH CONDITION BE A DISABILITY UNDER SECTION 504 FOR PURPOSES OF FAPE?

Yes, under certain circumstances. A temporary impairment constitutes a disability under Section 504 if its severity is such that it substantially limits one or more major life activities for a student 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 actually limits a major life activity for a student.

For example, though pregnancy is not considered a disability under Section 504, a district may determine that a pregnant student, who cannot attend school for several months due to pregnancy-related complications, is disabled under Section 504 for purposes of FAPE.

CAN AN IMPAIRMENT THAT IS EPISODIC OR IN REMISSION BE A DISABILITY UNDER SECTION 504 FOR PURPOSES OF FAPE?

Yes, under certain circumstances. An impairment that is episodic or in remission constitutes a disability under Section 504 for purposes of FAPE if it would substantially limit a major life activity when active. For example, a district may determine that a student with epilepsy, major depression, post traumatic stress disorder, cancer, or students that have other impairments that are episodic or in remission, is disabled under Section 504 for purposes of FAPE.

CAN DRUG ADDICTION BE A DISABILITY UNDER SECTION 504 FOR PURPOSES OF FAPE?

Maybe. A student who is drug addicted but is in recovery and is not currently engaging in the illegal use of drugs, may qualify as a disabled student under Section 504 for purposes of FAPE if the student's drug addiction substantially limits the student's ability to perform a major life activity. Such a student may need a modified schedule, school counseling, or another type of special education or related aid or service to participate in or benefit from the district's education program. A student who is drug addicted and is currently engaging in the illegal use of drugs, however, is excluded from the definition of a disabled student under Section 504. A district is under no obligation to evaluate such a student under Section 504 regardless of the educational impact the drug addiction is having on the student. A district may treat such a student in the same manner as it treats non-disabled students.

CAN ALCOHOLISM BE A DISABILITY UNDER SECTION 504 FOR PURPOSES OF FAPE?

Yes. A student who is addicted to alcohol, regardless of whether the student is currently using alcohol or is in recovery, may qualify as a disabled student under Section 504 for purposes of FAPE if the student's alcoholism substantially limits the student's ability to perform a major life activity. Such a student may need a modified schedule, school counseling, or another type of special education or related aid or service to participate in or benefit from the district's education program.

DOES SECTION 504 PROTECT A DISABLED STUDENT WHO ENGAGES IN DRUG OR ALCOHOL RELATED MISCONDUCT AT SCHOOL?

No. A district may discipline a disabled student for the illegal use or possession of drugs or alcohol at school or at a school-sponsored function in the same manner and to the same extent as

it disciplines non-disabled students. The procedures at 34 CFR 104.35 (regarding manifestation determinations) and 104.36 (regarding procedural safeguards) are not required for such disciplinary actions. The parent or guardian of the disabled student may challenge the regular education issues raised by the disciplinary action (e.g., whether the student did what he was charged with doing) at a regular education discipline hearing, but does not have a right to challenge the disciplinary action under Section 504. For example, the parent has no right to challenge the disciplinary action by asserting that the student's drug or alcohol-related misconduct was disability-related.

CAN "SOCIAL MALADJUSTMENT" BE A DISABILITY UNDER SECTION 504 FOR PURPOSES OF FAPE?

Maybe. A student with a "social maladjustment" (e.g., conduct disorder or oppositional defiance disorder) may qualify as a disabled student under Section 504 for purposes of FAPE if the student's condition substantially limits the student's ability to perform a major life activity. Such a student may need medication administration, school counseling, a behavioral intervention plan, or another type of special education or related aid or service to participate in or benefit from the district's education program.

IS "SPECIFIC LEARNING DISABILITY" DEFINED THE SAME UNDER SECTION 504 AS IT IS UNDER IDEA?

The term "specific learning disability" is a special education funding category under IDEA. The term "specific learning disability" is defined the same under Section 504 as it is under IDEA; however, a student who is not diagnosed as having a "specific learning disability" as that term is defined, but is diagnosed as having dyslexia, dysgraphia, dyscalcula, or another type of processing disorder, may qualify as a disabled student under Section 504 for purposes of FAPE if their condition substantially limits their ability to participate in or benefit from school.

CAN A DISTRICT REQUIRE A PARENT TO PROVIDE A MEDICAL DIAGNOSIS BEFORE IT WILL INITIATE AN EVALUATION OF A STUDENT UNDER SECTION 504?

No. Under Section 504, a district must evaluate a student if the district knows or suspects that the student, because of a disability, needs special education or related aids or services to participate in or benefit from its education program, regardless of whether the student has a medical diagnosis. A district may provide a student medical diagnostic services, as a related service, if the district believes that it needs a medical diagnosis to determine whether a student has a medical condition.

DOES A STUDENT WITH A MEDICAL DIAGNOSIS AUTOMATICALLY QUALIFY AS A DISABLED STUDENT UNDER SECTION 504 FOR PURPOSES OF FAPE?

No. Not every medical diagnosis will substantially limit a student’s ability to perform a major life activity. However, if a medical diagnosis does substantially limit a student’s ability to perform a major life activity, the student may qualify as a disabled student under Section 504 for purposes of FAPE. Such a student may need an individual health plan, an emergency or nursing care plan, or another type of special education or related aid or service to participate in or benefit from the district’s education program.

DOES A STUDENT WITH A “LIFE THREATENING HEALTH CONDITION,” AS DEFINED BY STATE LAW, AUTOMATICALLY QUALIFY AS A DISABLED STUDENT UNDER SECTION 504 FOR PURPOSES OF FAPE?

Yes. Because state law, SHB 2834, defines “life threatening health condition” as a health condition that puts a student in danger of death during the school day if a medication or treatment order and a nursing care plan are not in place, by definition, a student with a “life threatening health condition” has a physical or mental impairment that substantially limits a major life activity, and qualifies as a disabled student under Section 504 for purposes of FAPE.

WOULD A HIGH SCHOOL STUDENT WITH A SERIOUS ILLNESS WHO QUALIFIES FOR HOME/HOSPITAL INSTRUCTION ON AN INTERMITTENT BASIS THROUGHOUT THE SCHOOL YEAR REQUIRE A SECTION 504 PLAN?

Yes. An impairment that is episodic or in remission constitutes a disability under Section 504 for purposes of FAPE if it substantially limits a major life activity for the student when active. If it is foreseeable that a student’s illness would require home/hospital instruction throughout a school year on an intermittent basis, the district may develop a Section 504 plan for the student that includes home/hospital instruction.

WHAT SHOULD TRIGGER AN INITIAL EVALUATION UNDER SECTION 504?

A district should evaluate a student if the district knows or suspects that, **due to a disability**, the student needs special education or related aids or services to participate in or benefit from the district’s education program.

For example, the following situations **may** trigger an initial evaluation under Section 504:

- a student is failing to achieve passing grades,
- a student is failing to advance from grade to grade,
- a student is chronically absent from school,
- a student is returning to school after a serious illness or injury,
- a student is returning to school after alcohol or drug treatment,
- a student has a “life threatening health condition”,

- a student has a temporary impairment that will be substantially limiting for an extended period of time,
- a student has an impairment that is episodic or in remission that is substantially limiting when active,
- a student is failing to meet the standards of personal independence or social responsibility expected of his or her age or cultural group, or
- a student is expelled from school.

MUST A SCHOOL DISTRICT OBTAIN PARENTAL CONSENT PRIOR TO CONDUCTING AN INITIAL EVALUATION?

Yes. Section 504 requires 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, Section 504 provides that districts may use due process hearing procedures to seek to override the parents' denial of consent for an initial evaluation.

WHAT CAN A SCHOOL DISTRICT DO IF A PARENT WITHHOLDS CONSENT FOR INITIAL PLACEMENT 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 with respect to 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.

HOW MUCH IS ENOUGH INFORMATION TO DOCUMENT THAT A STUDENT HAS A DISABILITY UNDER SECTION 504 FOR PURPOSES OF FAPE?

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. Section 504 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.

IS EDUCATIONAL TESTING REQUIRED AS A PART OF A SECTION 504 EVALUATION?

Maybe. Evaluations under Section 504 are individually designed. A Section 504 evaluation may be broad (including educational testing) or narrow (limited to medical data). It is the responsibility of the district to determine the scope of each student's Section 504 evaluation.

CAN AN IHP/EMERGENCY CARE PLAN SERVE AS A SECTION 504 PLAN?

Yes. If an IHP/ emergency care plan is serving as a Section 504 plan for a student, the district needs to remember to use its Section 504 process to develop and implement the IHP/emergency care plan (for example, the district needs to base the student's IHP/emergency care plan on evaluation data and provide the student's parent/guardian notice of their procedural safeguards).

IF A STUDENT IS ON AN IEP AND HAS A TUBE FEEDING PROCEDURE, SHOULD HE OR SHE ALSO BE ON A SECTION 504 PLAN?

No. If a student is eligible under IDEA a student must have an IEP. Any related aid or services related to a tube feeding procedure should be included on the student's IEP.

IF A STUDENT HAS A PEANUT ALLERGY, WOULD THE DISTRICT BE REQUIRED TO PROVIDE A PEANUT FREE DIET TO THE STUDENT?

Maybe. If a school provides food services (e.g. breakfast and lunch) to its general student population, it needs to provide food services to disabled students that are designed to meet their disability-related needs. Therefore, if a student with a severe food allergy has a disability-related need for allergen-free food during the school day, a district may need to provide such food to meet the student's disability-related needs at no greater cost than non-disabled students pay for comparable food. A case-by-case determination will need to be made.

REGARDING A YOUNG DIABETIC STUDENT WHOSE PARENT DOES NOT SHOW UP TO PROVIDE CARE - NO RN FULL TIME IN SCHOOL, NO PDA, CAN THE PARENT DEMAND A FULL TIME NURSE IN THE SCHOOL?

No. A school district has a duty to provide a diabetic student the school health services that the district has decided the student needs to participate in and benefit from its education program. If a student needs a full time nurse in their school and their school does not have a full time nurse and the parent has not located a PDA, the district has a duty under Section 504 to place the

student in a school with a full time nurse. It is acceptable under Section 504 for a district to centralize school health services in certain schools and to place students who need those services in those schools.

GIVEN THE NEW LAW REGARDING RE-ENTRY TO SCHOOL AFTER CONCUSSION, SHOULD THOSE STUDENTS HAVE SECTION 504 PLANS?

Maybe. A student with a concussion should have a Section 504 plan if the district has determined that the student's concussion is a disability and that the student needs special education or related aids or services during the school day to participate in or benefit from the district's education program.

CAN A DISTRICT LIMIT ITS DUTY TO PROVIDE FAPE TO A DISABLED STUDENT BASED ON COST?

No. As a general rule, a district's FAPE obligation under Section 504 is not subject to cost considerations. For example, a district generally may not refuse to provide necessary special education or related aids or services to a disabled student because doing so would cause the district a financial hardship.

CAN A DISTRICT REFUSE TO ALLOW DISABLED STUDENTS TO PARTICIPATE IN ADVANCED PLACEMENT OR INTERNATIONAL BACCALAUREATE CLASSES OR PROGRAMS (ACCELERATED CLASSES AND PROGRAMS) SOLELY BECAUSE THE STUDENT HAS A DISABILITY OR NEEDS SPECIAL EDUCATION OR RELATED AIDS OR SERVICES?

No. A district that provides advanced placement or International Baccalaureate classes or programs (accelerated classes and programs) must not discriminate against a student based on disability in admission to such classes and programs. The district cannot categorically deny admission to a student based on disability, or deny admission to a disabled student solely because the student needs special education or related aids or services. The district must provide disabled students an equal opportunity to meet any appropriate minimum eligibility criteria for admission, consistent with the purpose of its accelerated classes and programs and Section 504.

In addition, once a district admits a disabled student to its accelerated classes or programs, it must provide the student with the related aids or services that the student needs to participate in and benefit from the classes or programs. For example, if a student's IEP or Section 504 Plan provides for Braille materials in order to participate in general education classes and he or she enrolls in an accelerated or advanced history class, then he or she must be provided Braille materials for that class. The same would be true for other needed related aids and services such as extended time on tests or the use of a computer to take notes.

CAN A DISTRICT DENY A DISABLED STUDENT ADMISSION UNDER SCHOOL CHOICE SOLELY BECAUSE THE STUDENT HAS A DISABILITY OR NEEDS SPECIAL EDUCATION OR RELATED AIDS OR SERVICES?

No. A district that chooses to participate in school choice must not discriminate against a student based on disability in admission. The district cannot categorically deny admission to a student under school choice based on disability, or deny admission to a disabled student solely because the student needs special education or related aids or services. The district must consider and act upon applications for admission under school choice in a manner that affords disabled students an equal opportunity to be admitted as compared to non-disabled students.

A district that chooses to participate in school choice may develop criteria for admission by nonresident students as long as the criteria are: (1) neutral on their face with respect to disability; (2) educationally justified; (3) applied equally to both disabled and nondisabled students alike; and (4) subject to modification when necessary to avoid discriminating against a student on the basis of disability, unless the district can demonstrate that making the modification would fundamentally alter the nature of the service, program, or activity in question.

For example, it is permissible under Section 504 for a district to deny admission to a disabled student under school choice if the grade level or school that the student needs is at capacity, as long as it applies that reason equally to deny admission to both disabled and nondisabled students alike, and the district can demonstrate that admitting the student would fundamentally alter the nature of the education program in the grade level or school in question. A resident district's refusal to release special education funds for a student is not a legitimate reason to reject a disabled student under school choice.

CAN A DISTRICT THAT OPERATES A MULTI-DISTRICT ONLINE SCHOOL PROGRAM UNDER SCHOOL CHOICE DENY A DISABLED STUDENT ADMISSION SOLELY BECAUSE THE STUDENT HAS A DISABILITY OR NEEDS SPECIAL EDUCATION OR RELATED SERVICES?

No. A district that operates a multi-district online school program under school choice must not discriminate against a student based on disability in admission. The district cannot categorically deny admission to a student based on disability, or deny admission to a disabled student solely because the student needs special education or related aids or services. The district must provide disabled students an equal opportunity to meet any appropriate minimum eligibility criteria for admission, consistent with the mission of the online school program and Section 504.

A district that operates a multi-district online school program under school choice may develop eligibility criteria for admission as long as the criteria are: (1) neutral on their face with respect to disability; (2) educationally justified; (3) applied equally to both disabled and nondisabled students alike; and (4) subject to modification when necessary to avoid discriminating against a student on the basis of disability, unless the district can demonstrate that making the modification would fundamentally alter the nature of its online school program. For example, a district can establish specific reading, writing and math achievement criteria for admission to its

online school program, as long as the criteria are justified by the nature of its online school program, applied equally to all applicants, and subject to modification when necessary to avoid discriminating against a student on the basis of disability, unless the district can demonstrate that making the modification would fundamentally alter the nature of its online school program.

CAN A DISTRICT PLACE A DISABLED STUDENT ON A SHORTENED SCHOOL DAY?

Maybe. As a general rule, a disabled student has the right to the same length school day that a district provides to the student's nondisabled age/grade peers. Before shortening the length of a disabled student's school day as compared with the student's nondisabled peers, a district must determine, through evaluation and placement procedures that satisfy the evaluation and placement requirements of Section 504, that the student needs a shortened school day to meet his or her individual educational needs.

Any determination to provide a disabled student a shortened school day must be based on current evaluation data documenting that shortening the student's school day is necessary to provide the student a FAPE. It would violate Section 504 for a district to base a determination to provide a disabled student a shortened school day on factors such as the category of the student's disability, severity of disability, availability of special education or related services, configuration of the district's service delivery system, availability of space, administrative convenience, or any factor unrelated to the student's individual educational needs.

CAN A DISTRICT EXCLUDE A DISABLED STUDENT FROM A FIELD TRIP?

Maybe. As a general rule, a district cannot exclude a disabled student from participating in a field trip for which the student is otherwise eligible to attend unless the district has a legitimate, nondiscriminatory justification for excluding the student. Any decision to exclude a disabled student from participating in such a field trip is a placement decision, and must be based upon procedures that satisfy the evaluation, placement, and due process requirements of Section 504. It is not permissible under Section 504 to exclude a disabled student from a field trip because:

- the student needs related aids or services (e.g. the administration of medication or the assistance of a school nurse) to participate in the field trip; or
- the student's parent or guardian is unable to attend the field trip, unless the participation of the parents or guardians of non-disabled students is required.

IS A DISABLED STUDENT ENTITLED TO EXTENDED SCHOOL YEAR (ESY) SERVICES UNDER SECTION 504?

Maybe. A district must provide ESY services to a disabled student under Section 504 if the district determines that the student needs ESY services to receive a FAPE.

IS A DISABLED STUDENT ENTITLED TO TRANSITION SERVICES UNDER SECTION 504?

Maybe. A district must provide transition services to a disabled student under Section 504 if the district determines that the student needs transition services to receive a FAPE.

HOW DOES SECTION 504 APPLY TO THE DISCIPLINARY REMOVAL OF A DISABLED STUDENT FROM SCHOOL?

Section 504 protects disabled students from being improperly removed from school for misconduct that is related to their disability. As a general rule, Section 504 and IDEA apply to the disciplinary removal of disabled students in a similar manner. Before a district can implement a disciplinary action that constitutes a “significant change in placement” (Refer to “What is a ‘significant change in placement’ under Section 504?”), it must evaluate the student to determine whether the student’s misconduct was caused by, or had a direct and substantial relationship to the student’s disability or was the direct result of the district’s failure to implement the student’s Section 504 Plan. This type of evaluation is commonly called a “manifestation determination” (Refer to “What is a ‘manifestation determination’ under Section 504?”). If a disabled student’s misconduct is a manifestation of his or her disability, a district cannot implement a disciplinary action that constitutes a significant change in the student’s placement. If a disabled student’s misconduct is not a manifestation of his or her disability, a district can discipline the student in the same manner that it disciplines non-disabled students for the same misconduct. Under Section 504, unlike IDEA, a district does not have to provide a disabled student educational services during the period of time the student is properly removed from school for disciplinary reasons.

WHAT IS A “MANIFESTATION DETERMINATION” UNDER SECTION 504?

A “manifestation determination” is an evaluation that answers two questions:

- *Is the misconduct in question related to the student’s disability?*

This determination must be based upon evaluation data related to behavior, and must be recent enough to afford an understanding of the student’s current behavior. Misconduct is a manifestation of a disability if it “is caused by the disability,” or “has a direct and substantial relationship to the disability”. Misconduct is not a manifestation of a disability if it bears only a weak relationship to the student’s disability. A determination that a student knows the difference between right and wrong does not constitute a determination that the student’s misconduct was or was not a manifestation of the disability. In addition, a district cannot make a categorical determination that misconduct is or is not a manifestation of a disability based on a student’s eligibility label.

- *Is the misconduct in question the direct result of the district's failure to implement the Section 504 Plan?*

This determination must be based upon a review of the implementation of the Section 504 Plan. Misconduct may be a manifestation of the student's disability if the school personnel required to implement the Section 504 Plan were not made aware of the necessary accommodations, if accommodations were not provided by the district, or if school personnel refused to provide the accommodations outlined in the Section 504 Plan.

IS A DISTRICT REQUIRED TO MODIFY AN ELIGIBILITY REQUIREMENT TO ENABLE A DISABLED STUDENT TO PARTICIPATE IN AN EXTRACURRICULAR ACTIVITY?

Maybe. A district must provide disabled students an equal opportunity to participate in extracurricular activities. This issue arises when a disabled student is denied participation in extracurricular activities because he or she hasn't met the requirements for participation. As a general rule, a district can impose eligibility requirements to participate in extracurricular activities as long as they are neutral on their face with respect to disability, essential to the activity in question, and applied equally to both disabled and nondisabled students alike. A district may be required to modify an eligibility requirement if the requirement discriminates against the student in question based on disability and modification of the requirement would not fundamentally alter the nature of the activity in question. For example, a district may establish a grade/credit eligibility requirement for participation in an extracurricular activity. If a disabled student wants to participate in the activity and the district determines that the student is unable to satisfy the eligibility requirement because of his or her disability, the district must modify the requirement to enable the student to participate unless doing so would fundamentally alter the nature of the activity. If the district refuses to allow the student to participate in the activity because making the modification would fundamentally alter the nature of the activity, the district must make a Section 504 grievance procedure available to the student to challenge his or her exclusion from the activity on the basis of disability.

A district may also choose to modify an eligibility requirement to enable a disabled student to participate in an extracurricular activity if a district determines that a disabled student needs to participate in the activity to receive a FAPE.

IF A DISTRICT HAS REASONABLE CAUSE TO BELIEVE THAT A DISABLED STUDENT IS INELIGIBLE TO PARTICIPATE IN OR CONTINUE IN AN INTERSCHOLASTIC ATHLETIC ACTIVITY UNDER THE RULES AND REGULATIONS OF THE WASHINGTON INTERSCHOLASTIC ATHLETIC ASSOCIATION (WIAA), DOES THE DISTRICT HAVE AN INDEPENDENT RESPONSIBILITY UNDER SECTION 504 TO ENSURE THAT APPLYING THE WIAA RULE OR REGULATION IN QUESTION TO THE STUDENT DOES NOT SUBJECT THE STUDENT TO DISCRIMINATION ON THE BASIS OF DISABILITY?

Yes, under certain circumstances. If a district has information that a WIAA rule or regulation as applied to a specific student may subject the student to discrimination on the basis of disability, it must take reasonable steps to ensure that application of the rule or regulation does not discriminate against the student on the basis of disability. For example:

1. Make an initial determination about whether application of the rule or regulation to the student subjects the student to discrimination on the basis of disability;
2. If the district's initial determination is YES, the district must assist the student to appeal the ineligibility through WIAA's several levels of appeal, unless the district becomes persuaded during an appeal that applying the rule to the student does not discriminate against the student on the basis of disability;
3. If the district's initial determination is NO, the district must provide the student and his or her parent or guardian an internal Section 504 grievance procedure to promptly and equitably resolve the matter.

IS A DISTRICT REQUIRED TO MODIFY THE CURRICULUM IN A GENERAL EDUCATION CLASS TO ACCOMMODATE A DISABLED STUDENT?

Maybe. A district must modify the curriculum in a general education class if a disabled student needs a modified curriculum to participate in or benefit from the class and the necessary modification does not fundamentally alter the nature of the class. A district is under no obligation to provide a curriculum modification that would result in a class that is fundamentally different in nature. For example, if a student is enrolled in a lab science class and the student cannot complete the lab requirement due to disability-related absences, the district is under no obligation to modify the class by waiving the lab requirement if doing so would fundamentally alter the nature of the class. The decision of whether a disabled student needs a modified curriculum is a placement decision under Section 504.

IS A DISTRICT REQUIRED TO MODIFY THE GRADING SYSTEM IN A GENERAL EDUCATION CLASS TO ACCOMMODATE A DISABLED STUDENT?

Maybe. A district must modify the grading system in a general education class if doing so is necessary to provide a disabled student an equally effective system to assess the student's performance in the class. The decision of whether a disabled student needs a modified grading system is a placement decision under Section 504.

CAN A REPORT CARD FOR A STUDENT WITH A DISABILITY IDENTIFY SPECIAL EDUCATION OR RELATED AIDS OR SERVICES BEING PROVIDED TO THE STUDENT OR OTHERWISE INDICATE THAT THE STUDENT HAS A DISABILITY?

Yes. Report cards are provided to parents to indicate their child's progress or level of achievement in specific classes, course content, or curriculum. Consistent with this purpose, it is

permissible under Section 504 for a report card to indicate that a student is receiving special education or related services, as long as the report card informs parents about their child's progress or level of achievement in specific classes, course content, or curriculum. For instance, a report card for a student with a disability may refer to an IEP or a Section 504 Plan in order to report on the student's progress on the specific goals in the IEP or Section 504 plan.

CAN SPECIAL NOTATIONS, INCLUDING ASTERISKS OR OTHER SYMBOLS, APPEAR ON A REPORT CARD FOR STUDENT WITH A DISABILITY WHO RECEIVED ACCOMMODATION IN GENERAL EDUCATION CLASSES?

Yes. Accommodations are generally understood to include aids or adjustments that are part of an IEP or Section 504 Plan that enable the student with a disability to learn and demonstrate what the student knows. In general, accommodations do not affect course content or curriculum. Examples may include sign language interpreters in the classroom, the provision of materials in alternate formats, or extra time on tests.

Accordingly, to the extent that the use of notations, asterisks, symbols, or other coding on a report card to indicate that a student with a disability received accommodations is part of the information given to parents about their child's progress or level of achievement in specific classes, course content, curriculum, the IEP or Section 504 Plan, it is permissible under Section 504.

CAN A TRANSCRIPT FOR A STUDENT WITH A DISABILITY INDICATE THAT THE STUDENT HAS A DISABILITY, HAS BEEN ENROLLED IN A SPECIAL EDUCATION PROGRAM, OR HAS RECEIVED SPECIAL EDUCATION SERVICES?

No. Section 504 prohibits unnecessary disclosure of disability status to third parties. A student's transcript generally is intended to inform postsecondary institutions or prospective employers of a student's academic credentials and achievements. Information that a student has a disability, or has received special education or related services due to having a disability, does not constitute information about the student's academic credentials and achievements. Notations that are used exclusively to identify a student as having a disability or identify education programs for students with disabilities unnecessarily discloses the student's disability status to a third party. Identifying programs as being only for students with disabilities also would be viewed as unnecessary disclosure of disability status. Therefore, it would be a violation of Section 504 for a student's transcript to indicate that a student has received special education or a related service or that the student has a disability.

CAN SPECIAL NOTATIONS, INCLUDING ASTERISKS OR OTHER SYMBOLS, APPEAR ON A TRANSCRIPT FOR A STUDENT WITH A DISABILITY WHO RECEIVED ACCOMMODATIONS IN GENERAL EDUCATION CLASSES?

In general, no. Because the use of accommodations generally does not reflect a student's academic credentials and achievement, but does identify the student as having a disability, it would be a violation of Section 504 for a student's transcript to indicate that the student received accommodations in any classes. For example, a notation indicating the use of Braille materials is not related to whether that student mastered all the tenth grade objectives for her literature class. The only purpose of such a notation is to identify that student as having a visual impairment. Because accommodations are generally understood to include aids and adjustments to enable a student with a disability to learn and demonstrate knowledge, this notation would identify the student as having a disability and therefore would unnecessarily disclose the student's disability status to third parties.

CAN A TRANSCRIPT FOR A STUDENT WITH A DISABILITY INDICATE THAT A STUDENT RECEIVED A CERTIFICATE OF ATTENDANCE OR SIMILAR DOCUMENT RATHER THAN A REGULAR DIPLOMA?

Maybe. A transcript for a student with a disability may indicate receipt of a certificate of attendance or a similar document, rather than a regular diploma, under certain circumstances. These circumstances are where this does not disclose that a student has received special education or related services, does not otherwise specifically disclose that a student has a disability (for example, because certificates of attendance are available to both students with disabilities and students without disabilities), is not used for the purpose of identifying programs for students with disabilities, and is consistent with the purpose of a student transcript – to inform postsecondary institutions and prospective employers of a student's academic credentials and achievements.

Resources on Section 504

US Department of Education, Office for Civil Rights: www.ed.gov/ocr

Sound Options Mediation: www.somtg.com

Office of the Superintendent of Public Instruction (OSPI): www.k12.wa.us

Special Education: www.k12.wa.us/specialed

Health Services: www.k12.wa.us/LearnTeachSupp/healthservices

LRP Special Education Connection: www.specialedconnection.com

Educational Service Districts:

- Northwest ESD: www.esd189.org
- Puget Sound ESD: www.psesd.wednet.edu
- North Central ESD: www.ncesd.org
- Olympic ESD: www.oesd.wednet.edu
- ESD 113: www.esd113.k12.wa.us
- ESD 112: www.esd112.wednet.edu
- ESD 105: www.esd105.wednet.edu
- ESD 123: www.esd123.wednet.edu
- ESD 101: www.esd101.net

Council of Educators for Students with Disabilities: www.504idea.org

Appendix A

BOARD POLICY NUMBER 2162:

EDUCATION OF STUDENTS WITH DISABILITIES UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973

It is the intent of the District to ensure that students who are disabled within the definition of Section 504 of the Rehabilitation Act of 1973 are identified, evaluated, and provided with appropriate educational services. Students may be disabled under this policy even though they are not eligible for services pursuant to the Individuals with Disabilities Education (IDEA).

Section 504 of the Rehabilitation Act of 1973 is a civil rights law which protects the rights of individuals with disabilities in programs and activities that receive federal financial assistance from the U.S. Department of Education. A child is a “qualified disabled person” under Section 504 if he or she (1) has a physical or mental impairment that substantially limits one or more major life activities (such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working), has a record of such an impairment, or is regarded as having such an impairment; and (2) is between the ages of 3 to 21 years old.

The District shall comply with the federal policies that require free appropriate public education, childfind, equal educational opportunity, confidentiality of information, parent involvement, participation in least restrictive environment, evaluations, placement, reevaluation, programming to meet individual needs, placement procedures, nonacademic services, preschool and adult education programs, disciplinary exclusion, transportation, procedural requirements, appropriate funding, accessibility, special issues related to drug or alcohol addicted students, special considerations for students having AIDS or HIV infection, and special issues related to ADD/ADHD students.

A. Free Appropriate Public Education

The District shall provide a free appropriate public education (regular or special education and related aids and services) to school-age children with disabilities in the District's jurisdiction. Instruction shall be individually designed to meet the needs of the disabled students as adequately as the needs of the non-disabled students are met.

B. Childfind

The District shall annually undertake to identify and locate every qualified disabled student residing in the District's jurisdiction who is not receiving a public education, and take

appropriate steps to notify disabled children and their parents or guardians of the District's responsibilities under Section 504.

C. Equal Educational Opportunity

The District shall provide students with disabilities an equal opportunity to participate in and benefit from the educational services it provides to non-disabled students. The teachers of disabled students shall meet comparable standards for certification that teachers of non-disabled students meet. Facilities shall be of comparable quality and appropriate materials and equipment shall be available.

D. Confidentiality of Information

The confidentiality of student records will be maintained throughout the period of time when such records are collected, stored, disclosed, or destroyed by the District.

E. Parent Involvement

The District shall obtain the informal consent of parents or guardians before conducting an initial evaluation of a student. The District will notify parents or guardians of the evaluation results and any programming and placement recommendations. The District will notify parents or guardians before initially placing a disabled student, conducting subsequent evaluations of the student, or implementing a significant change in the student's placement. The District shall notify parents or guardians of their right to review and challenge the District's program and placement decisions if they disagree with them. Section 504 does not give parents the right to participate in a meeting during which their child's program is designed and placement is determined, as does the IDEA. However, this practice is recommended.

F. Participation in the least restrictive environment

1. Academic setting

To the maximum extent appropriate to the needs of disabled students, the District shall educate disabled students with non-disabled students. In order to remove a child from the regular educational environment, the District must demonstrate that education of the student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily for the disabled student. Whenever the District places a student in a setting other than the regular education environment pursuant to this paragraph, it shall take into account the proximity of the alternate setting to the student's home.

2. Non-academic setting

In providing or arranging for the provision of non-academic and extra-curricular services and activities, including meals, recess periods, and the services and activities set forth in 34 CFR 104.37, the District shall ensure that disabled students participate with non-disabled students in such activities and services to the maximum extent appropriate to the needs of the disabled student in question.

G. Evaluations

1. If a student needs or is believed to need special education or related services, the District shall evaluate the student prior to placement and before any subsequent “significant change in that placement.”

Examples of significant changes in placement include:

- a. Expulsion;
 - b. Suspensions which exceed 10 consecutive days in a school year;
 - c. Cumulative short-term suspensions which create a pattern of exclusion;
 - d. Transferring a student to home instruction;
 - e. Graduation from high school; and/or
 - f. Significantly changing the composition of the student's class.
2. The District shall establish policies and procedures for evaluation and placement which assure that tests and other evaluation materials:
 - a. Have been validated and are administered by trained personnel
 - b. Are tailored to assess educational need and are not merely based on IQ scores
 - c. Reflect aptitude or achievement or whatever else the tests purport to measure and do not reflect the student’s impaired sensory, manual, or speaking skills (unless the test is designed to measure these particular deficits)

H. Placement Procedures

In interpreting evaluation data and in making placement decisions, the District shall (1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior, (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered, (3) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the student, the meaning of the evaluation data, and the placement options, and (4) ensure that the student is educated with his/her non-disabled peers to the maximum extent appropriate. Residential placements will be provided by the District if necessary to provide a free appropriate education to a disabled student. In regard to out-of-district placements, if the District affords a free appropriate education to a student but the parent chooses to place the child elsewhere, the District is not responsible to pay for the out-of-district placement.

I. Re-Evaluations

The District shall provide for periodic reevaluation of disabled students. No time frame is specified in Section 504; however, the every 3 years requirement of the IDEA will be encouraged. A reevaluation is also required before any “significant change of placement,” as defined above in Part “G.”

J. Programming to Meet Individual Needs

The District recognizes that to be appropriate, educational programs for students with disabilities must be designed to meet their individual needs to the same extent that the needs of non-disabled students are met. To adequately meet individual needs, academic and related services for students with disabilities may need to be significantly different in character from those offered to students without disabilities. A documented procedure such as the development of an individualized accommodation plan by a knowledgeable team of educational professionals is recommended.

K. Non-Academic Services

The District shall provide nonacademic and extracurricular services and activities in such a manner as is necessary to afford disabled students an equal opportunity for participation in such services and activities. Nonacademic and extracurricular services and activities may include counseling services, physical recreation athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the District, referrals to agencies which provide assistance to disabled persons, and employment of students, including both employment by the District and assistance in making available outside employment. The reasonable health and safety standards for all students shall be observed.

1. Counseling Services.

In providing personal, academic or vocational counseling, guidance, or placement services to its students, the District shall provide these services with-out discrimination on the basis of disability. The District shall ensure that qualified students with disabilities are not counseled toward more restrictive career objectives than are non-disabled students with similar interests and abilities.

2. Physical education and athletics.

In providing physical education courses and athletics and similar programs and activities to any of its students, the District shall not discriminate on the basis of disability. As the District offers physical education courses and operates or supports interscholastic, club, or intramural athletics, it shall provide an equal opportunity for qualified students with disabilities to participate in these activities. The District may offer to disabled students physical education and athletic activities that are separate or different from those offered to non-disabled students only if separation or differentiation is consistent with the requirements of 34 CFR ñ 104.34 and only if no qualified disabled student is denied the

opportunity to compete for teams or to participate in courses that are not separate or different.

L. Preschool and Adult Education Programs

In the operation of preschool education, or day care program or activity, or an adult education program or activity, the District shall not, on the basis of disability, exclude qualified students with disabilities from the program or activity and shall take into account the needs of such persons in determining the aid, benefits, or services to be provided under the program or activity.

M. Disciplinary Exclusion

1. Students with disabilities are protected from being improperly excluded from school for disciplinary reasons. Certain disciplinary exclusions of disabled students from school constitute a significant change in the student's educational placement. Such disciplinary exclusions cannot be implemented until the District has satisfied the required change of placement procedures.
2. Qualified disabled students should be recognized as having a disabling condition before discipline is imposed on them, especially before imposing long-term suspension (a suspension of more than five days duration) or regular expulsion upon a qualified disabled student that could constitute a significant change of placement. The school principal or educational staff person responsible for the imposition of discipline must ensure that a group of qualified professionals determine whether or not there is a causal relationship between the student's misconduct and his or her disability. They are also to consider the appropriateness of the student's current placement and program. This determination will take into account the student's current evaluation and Individualized Accommodation Plan (IAP), under Section 504. For students considered disabled under Section 504, there is no obligation to provide educational services during periods of long-term suspension or expulsion when the student's misconduct has been properly determined not to be disability-related or due to an inappropriate placement or program. When a student's misconduct is determined causally related to his/her disabling condition, procedures at 4. below shall be instituted in lieu of either long-term suspension or expulsion.
3. When a student poses an immediate and continuing danger to him or herself and/or others (see WAC 180-40-295), an emergency expulsion of up to ten (10) days may be used to alleviate immediate risk on the condition that procedures at WAC 180-40-300, be modified to require the regular disciplinary hearing be held within ten (10) school business days whether the student or parent/guardian requests a hearing or not. The purpose of this regular disciplinary hearing is to determine the nature of, and consequences for, the misconduct. In the event the student is covered by or believed to be covered by Section 504, the Section 504 Compliance Officer (or designee) must attend

and participate in this hearing. The Section 504 Compliance Officer (or designee) shall advise the hearing officer on Section 504 restrictions. Even if the student and/or parent/guardian refuse to attend this hearing, the hearing shall be held.

4. When a student has engaged in misconduct which is causally related to his or her disability, aside from emergency expulsion (see 3. above), expulsion and/or long term suspension should not be imposed which results in more than ten (10) lost school days (cumulative for the entire school year, considering earlier short term suspension [if any] as counting toward the cumulative total). Instead, the need for additional evaluation and/or a change of placement should be considered. In this circumstance, the principal or designee responsible for the imposition of discipline, the Section 504 Compliance Officer, and a team of professionals from the school who are knowledgeable about the student will meet to determine if there is a need for further evaluation or a change of program or placement. If further evaluation is recommended, it will be conducted as soon as possible. If the student poses an immediate risk to him or herself or others, the procedure at item 3 above may be instituted by the principal or designee.
5. Students and their Parent/Guardian shall be notified of the results of the decision regarding the causal relationship of the misconduct and the student's disability and of their right to challenge this decision. Students/Parents/Guardians objecting to procedures outlined at items 1 through 4 above shall be entitled to exercise their rights under Section 504 to file a grievance or initiate a due process hearing. See O. PROCEDURAL REQUIREMENTS, sub-section 7.c., following.
6. Students who are considered disabled under Section 504 are subject to the same disciplinary processes and results as non-disabled students for misconduct regarding the use, sale, or possession of drugs or alcohol at school. The extra due process requirements regarding change of placement do not apply.

N. Transportation

If the District places a student in a program not operated by the District, the District shall assure that adequate transportation to and from the program is provided at no cost to the parent. Since the District provides transportation to all its students within a certain geographic area, it shall not discriminate in its provision of transportation to students with disabilities. If the District proposes to terminate a qualified disabled student's bus transportation for inappropriate bus behavior, the District shall first determine the relationship between the student's behavior and his or her disabling condition, the appropriateness of the related service of transportation, and the need for reevaluation. The parent or guardian shall be provided with notice of the results of such determinations and of their right to challenge such determinations. The length of the bus rides for qualified disabled students should not be longer than that of non-disabled students.

O. Procedural Requirements

The District shall ensure compliance with the requirements of Section 504 by doing the following:

1. Provide written assurance of non-discrimination whenever the District receives federal money.
2. Designate an employee to coordinate the District's Section 504 compliance activities. The Section 504 Coordinator for the District is (insert position of designee).
3. Provide grievance procedures to resolve complaints of discrimination; students, parents, or employees are entitled to file grievances. (The grievance procedures for the District are set out in the Procedure for Policy 3210, Nondiscrimination.)
4. Provide notice to students, parents, employees, unions, and professional organizations of nondiscrimination in admission or access to, or treatment or employment in, its programs or activities. Notice shall also specify the section 504 coordinator for the district. Notice shall also be included in the student/parent handbooks.
5. Annually identify and locate all Section 504 qualified disabled children in the District's geographic area who are not receiving a public education.
6. Annually notify disabled persons and their parents or guardians of the District's responsibilities under Section 504.
7. Establish and implement procedural safeguards to be provided to parents or guardians with respect to actions regarding the identification, evaluation, or educational placement of persons who, because of disability, need or are believed to need special instruction or related services, that includes:
 - a. Notice of their rights;
 - b. An opportunity to examine relevant records;
 - c. An impartial hearing may be initiated by either the parents/guardian or the school district, with opportunity for participation by the student's parents or guardian. The student/parent is entitled to have representation by legal counsel; and
 - d. A review procedure.

P. Appropriate Funding

The District recognizes that the regular education funding of the District is the funding source for serving students who are qualified as disabled under Section 504 only. However, if students are dual identified as Section 504 and IDEA eligible, state and federal special education funds can be used. The District shall not use money appropriated by the IDEA to serve students found disabled under Section 504 but not the IDEA. The District may use the IDEA money to evaluate a student if the District believes that the student may also be eligible under the IDEA.

Q. Accessibility

1. District's responsibility to make buildings accessible: facilities which were constructed prior to June 3, 1977, need not necessarily be made accessible so long as the program or activity, viewed in its entirety, is readily accessible to persons with disabilities.
2. District's options other than major modifications: the District can redesign equipment, reassign classes or other services to accessible buildings, assign aides to students, deliver services at alternate accessible sites, or alter existing facilities. So long as there are other methods which are as effective in achieving compliance, a District need not undertake structural changes to a building.
3. District recognition of unacceptable accommodations: carrying a student upstairs; segregating all students with mobility impairments due to inaccessibility of other buildings; having disabled students eat on a separate floor due to an inaccessible cafeteria; denying certain programs such as music, art, or assemblies because these programs are inaccessible.
4. District obligation for new buildings and additions: buildings or additions constructed since 1980 must be designed and constructed to allow disabled persons the ability to access and use them readily.
5. District's obligation when a building is altered: to the maximum extent feasible, all facilities which are altered after 1980 must be altered to allow accessibility and usability by persons with disabilities.
6. District recognition of the meaning of the phrase "to the maximum extent possible:" this provision covers the occasional instance where the nature of an existing facility is such as to make it impractical or prohibitively expensive to renovate in a manner that results in its being entirely barrier-free. However, in all of these instances, the alteration should provide the maximum amount of physical accessibility feasible.

R. Special Issues Related To Drug Or Alcohol Addicted Students

If a District suspects that the drug or alcohol problem of a student may be substantially limiting a major life activity, such as learning, the District is obligated to recommend an evaluation. If the evaluation verifies the existence of a disabling condition which substantially limits a major life activity, the student is considered disabled under Section 504 and should be planned for appropriately. With the passage of the Americans with Disabilities Act in 1990, Congress specifically amended Section 504 to exclude persons who are "currently engaging in the illegal use of drugs" from the definition of individuals with disabilities. Therefore, the school district is not required to consider whether a current illegal drug user could successfully participate in the District's education programs.

Furthermore, the District is not required to make accommodations for the student if he or she is currently using drugs. The District can treat the student as it treats non-disabled students. Congress did not amend Section 504 with respect to students with alcoholism in so far as their coverage as qualified disabled persons. Unlike students addicted to drugs, students whose alcoholism constitutes a disabling condition under Section 504 and who continue to use alcohol, are protected by Section 504, although these protections are limited as follows: for purposes of programs and activities providing educational services, the District may take disciplinary action pertaining to the use, sale, or possession of illegal drugs or alcohol at school against any disabled student who currently is engaged in the illegal use of drugs or in the use of alcohol at school to the same extent that such disciplinary action is taken against non-disabled students. Furthermore, the due process procedures at 34 CFR § 104.36 shall not apply to such disciplinary actions.

S. Special Considerations For Students Having Aids or HIV Infection

Students with Acquired Immune Deficiency Syndrome (AIDS), AIDS Related Complex (ARC), or otherwise infected with Human Immunodeficiency Virus (HIV-infected) are individuals with disabilities under Section 504. They either qualify as actually having a physical impairment which substantially limits a major life activity, or are regarded as having such a disabling condition. Depending on the nature of the disease and the student's other conditions, the student may also qualify for services under the IDEA.

Placement of the student must be made by a group of persons knowledgeable about the child, the meaning of the evaluation and medical information, and placement options. A public health representative should be on the team. Unless currently presenting a risk of contagion due to the stage of the disease (e.g., a contagious opportunistic infection, open lesions that cannot be covered) or parents and school agree on an alternative, a student with AIDS should remain in the regular classroom.

T. Special Considerations for ADD/ADHD Students

If a District suspects or has knowledge that a student has an Attention Deficit Disorder (ADD) or Attention Deficit Hyperactivity Disorder (ADHD) that may be substantially limiting a major life activity, such as learning, the District is obligated to recommend an evaluation. Evaluation of the student, and service and placement recommendations should be made by a group of persons knowledgeable about the child, the meaning of the evaluation and medical information, and service and placement options. A qualified medical practitioner's assessment should be considered as well as the impact the student's ADD/ADHD has on his or her ability to learn or to otherwise benefit from his or her educational program. The District shall ensure that the student's educational program meets the full range of his or her individual educational needs.

Appendix B

SECTION 504 FORMS:

Section 504 – Referral Form

Student: _____ DOB: ____/____/____

 Parent: _____ Age: _____

 Address: _____

 Telephone: () _____ () _____ () _____

 School: _____ Grade: _____
 Teachers: _____

 Referral made by: _____ Position: _____

[illegible]

TO BE COMPLETED BY SCHOOL PERSONNEL:

Section 504 Referral Received by:

Name / Role

Date

PLEASE DIRECT TO SCHOOL COUNSELOR

Consent for Section 504 Evaluation

Student: **Enter Name**
Date of Birth: **Enter DOB**
Grade: **Choose Grade**

Date: **Enter Date**
Parent/Student Rights Provided: **Yes/No**
School: **Choose School**

I, as parent or guardian, of the above named student, ☐ DO / ☐ DO NOT provide consent for the evaluation to determine if he/she is eligible for accommodations/modification under Section 504.

I give consent for the evaluation to include the following:

- | | | |
|--|--|--|
| <input type="checkbox"/> Developmental History | <input type="checkbox"/> State and District Assessment | <input type="checkbox"/> Teacher Documentation |
| <input type="checkbox"/> Medical Documentation | <input type="checkbox"/> Student Interview | <input type="checkbox"/> Work Samples |
| <input type="checkbox"/> Parent Data | <input type="checkbox"/> _____ | <input type="checkbox"/> _____ |
| <input type="checkbox"/> _____ | <input type="checkbox"/> _____ | <input type="checkbox"/> _____ |

I understand the results will be reported to me within thirty-five (35) school days unless an alternative timeline has been mutually agreed upon. The results will be used by the team to develop a Section 504 Plan if the student is eligible under Statute 504.

I have received a copy of the Burlington-Edison School District Parent/Student Rights under Section 504. My signed consent is required to initiate this evaluation. The findings will be reported, recorded, filed, and communicated in strict accordance with applicable district policies, state regulations and the Family Rights and Privacy Act.

If you have questions, please contact **Identify School Counselor** at **Phone Number** for additional information regarding this process.

Parent or Guardian Signature/Adult Student

Date

Parent or Guardian Signature/Adult Student

Date

SAMPLE

An evaluation to determine eligibility under Statute 504 is not an evaluation for special education services.

Section 504 Eligibility Determination

Student: Enter Name
 Date of Birth: Enter DOB
 Grade: Choose Grade

Meeting Date: Enter Date
 Parent/Student Rights Provided: Yes/No
 School: Choose School

504 Eligibility/Placement teams must be comprised of persons knowledgeable about the student, the meaning of the student's evaluation data, and accommodations/placement options.

Meeting Participants	The Student	Means of Evaluation	Accommodations or Placement Option
Name, Parent	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Participant, Role	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

A school-aged student meets the legal description of Statute 504 as having a “disability” and should have a 504 Plan in place; if the team above concurs that the student has a physical or mental impairment which substantially limits one or more major life activities.

Indicate the Source(s) of evaluation used to make the eligibility determination and attach supporting documentation:

- | | | |
|--|--|---------------------------------------|
| <input type="checkbox"/> Developmental History | <input type="checkbox"/> State and District Assessment | <input type="checkbox"/> Work Samples |
| <input type="checkbox"/> Medical Documentation | <input type="checkbox"/> Student Interview | <input type="checkbox"/> _____ |
| <input type="checkbox"/> Parent Data | <input type="checkbox"/> Teacher Documentation | <input type="checkbox"/> _____ |

Specify the Mental or Physical Impairment: Note the disability, and if available attach documentation of disability

When documenting the impairment, the team should consider the following:

- *Is the impairment recognized in DSM-IV or other respected source, or*
- *Is the student being regarded as having such an impairment*

SAMPLE

Identify the major life activity, or activities, the impairment limits: **Document the major life activity, or activities. Describe how they are limited, partially in relation to educational performance.**

When documenting the major life activities, the team should consider the following:

- *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.*

Specify the degree to which the impairment limits the major life activity: **Level of Degree**

When determining degree of impairment the team should consider the following:

- *Focus on a major life activity as a whole (e.g., learning), not in a sub-area (e.g. math),*
- *Use the average student in the general population has a frame of reference, and*
- *Discount from the analysis sub-par performance due to other factors, such as normal moods, lack of motivation, and immediate situation or environment.*

Eligibility Determination:

- ☐ Eligible The student has a physical or mental impairment which substantially limits one or more major life activities. A Section 504 Plan should now be developed and implemented.
- ☐ Not Eligible The student either has a physical or mental disability that does not substantially limit one or more major life activities, or has no physical or mental disability.
- ☐ Exited The student is no longer eligible for 504 services because:
- ☐ Student no longer meets eligibility
 - ☐ Graduated on: _____
 - ☐ Other, please specify: _____

Provide parents/student a copy of this document and a copy of Parent/Student Rights.

Parent or Guardian Signature/Adult Student

Date

Parent or Guardian Signature/Adult Student

Date

Section 504 Case Manager

Date

Other - Role

Date

Section 504 Notice of Action

PURPOSE: As a parent/guardian of a child identified or is suspected of needing of accommodations under Statute 504, the school district is required to provide you with notice whenever it proposes or refuses to initiate or change the identification, evaluation, educational placement, or provision of a free appropriate public education to your child. This notice should be given to you after the district makes a decision and before action is taken on the decision. The notice should be given to you in a reasonable amount of time before the district takes action.

To: Parent(s)/Guardian(s), and or Student

Date: Select Date

Regarding: Student's Name

Date of Birth: DOB

The purpose of this prior written notice is to inform you that we are proposing/refusing to initiate, change, continue, or discontinue the action(s) identified below:

- ☐ Evaluation to determine eligibility under Section 504
- ☐ If eligible, develop a Section 504 Accommodation Plan
- ☐ Re-evaluation to determine continued eligibility under Section 504
- ☐ Disciplinary action that is a change of placement
- ☐ Other: _____

Description of the proposed or refused action:

The reason we are proposing or refusing to take action is:

Description of any other options considered and rejected:

The reasons we rejected those options were:

Enclosed you will find copies of the following documents that explain the actions of this team:

- ☐ Section 504 Parent Rights
- ☐ Section 504 Eligibility Determination
- ☐ Section 504 Accommodation Plan
- ☐ Other: _____

If you have questions, please contact Identify School Counselor at Phone Number for additional information regarding this process.

Section 504 – Accommodation Plan

Meeting Date: Enter Date

Parent/Student Rights Provided: Yes/No

School: Choose School

Description of Accommodations: The specific accommodations that are necessary for the child to have an opportunity commensurate with non-disabled students (at about the same age) in this district, e.g. instructional/accessibility, behavioral/social, assessment/testing.

[illegible]

Implementation Date: _____ Next Section 504 Plan Annual Review Date: _____

Parent permission is required for initial placement of services under Section 504. If consent for initial placement is not provided, the district may not provide the accommodations recommended under Section 504. Parent & Student rights have been provided or have been reviewed at the time of initial placement for services under Section 504.

Parent or Guardian Signature/Adult Student
Date

Name/Role	Signature	Date
-----------	-----------	------

Name/Role _____ *Date* _____

<i>Name/Role</i>	<i>Date</i>
------------------	-------------

<i>Name/Role</i>	<i>Date</i>
------------------	-------------

Section 504 – Manifestation Report

Student: Enter Name
Date of Birth: Enter DOB
Grade: Choose Grade

Meeting Date: Enter Date
Disability: Enter Disability
School: Choose School

This form should be used whenever long term suspension or expulsion is being considered as a consequence for serious misbehavior purportedly committed by a student with an identified Section 504 disability. This process is twofold: (1) to review the appropriateness of the Section 504 Plan and if it was implemented and (2) to determine if the student's misbehavior was a manifestation of his or her Section 504 disability.

Part 1: Describe the alleged incident/behavior that initiated this meeting

<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>

Part 2: Was the conduct in question a manifestation of the student's Section 504 disability

Was the conduct in question the direct result of the district's failure to implement the student's Section 504 Plan? Yes/No

Was the conduct in question caused by, or did it have a direct and substantial relationship to, the student's disability as defined in the Section 504 evaluation? Yes/No

** If the answer to either of the above questions is yes, then the behavior is a manifestation of the disability, and to continue with the disciplinary action may constitute discrimination under Section 504.*

Parent or Guardian Signature/Adult Student

Date

Name/Role

Date

Name/Role

Date

Name/Role

Date

Name/Role

Date

Appendix C

Sample Accommodations

ACCOMMODATION EXAMPLES FOR SPECIFIC DISABILITIES

Here are some examples of accommodations and services that might be considered for specific disability profiles. Please keep in mind that these examples are not intended to be all inclusive or mandatory. Do not use these examples as a “checklist.” Accommodations are determined on a case-by-case basis specific to individual need. Please also remember that the mere presence of these conditions does not automatically qualify a student for a Section 504 plan. The disability must significantly limit one or more life functions before a Section 504 Plan is to be considered. Additionally, this disability must impact the student so that he or she is not afforded access and benefit of programs and services equal to that of non-disabled students.

Rather than rely on these examples as a “checklist” the Section 504 Team should review the Section 504 evaluation, or the student’s current functioning, and design the accommodation(s) to specifically address the barrier(s) preventing the student from accessing FAPE.

ALLERGIES

EXAMPLE: The student has severe allergic reactions to certain pollens and foods. For purposes of this example the condition substantially limits the major life activity of breathing and may interfere with the student's ability to get to school or participate once there.

Possible Accommodations and Services:

- In-service necessary persons: dietary people, peers, coaches, laundry service people, etc.
- Allow time for shots/clinic appointments
- Use air purifiers
- Adapt physical education curriculum during high pollen time
- Address pets/animals in the classroom
- Train for proper dispensing of medications; monitor and/or distribute medications; monitor for side effects.

ARTHRITIS

EXAMPLE: A student with severe 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. For purposes of this example, the condition substantially limits the major life activity of learning.

Possible Accommodations and Services:

- Provide a rest period during the day
- Accommodate for absences for doctors' appointments

- Provide assistive devices for writing (e.g., pencil grips, non-skid surface, Typewriter/computer, etc.)
- Adapt physical education curriculum
- Train student for proper dispensing of medications; monitor and/or distribute medications
- Arrange for assistance with carrying books, lunch tray, etc.
- Implement movement plan to avoid stiffness
- Allow extra time between classes
- Provide locker assistance
- Provide for accommodations for writing tasks: a note taker, a computer or tape recorder for note-taking
- Make available access to wheelchair/ramps and school van for transportation
- Install handle style door knobs (openers)
- Have teachers provide outlines of presentations
- Obtain padded chairs
- Provide a shorter school day
- Supply an extra set of books for home use and keep a set at school
- Let student give reports orally rather than in writing
- Provide an awareness program for staff and students

ASTHMA

EXAMPLE: A student has been diagnosed as having severe asthma. The doctor has advised the student not to participate in physical activity outdoors. For purposes of this example, the disability limits the major life activity of breathing.

Possible Accommodations and Services:

- Adapt activity level for recess, physical education, etc.
- Make field trips that might aggravate the condition non-mandatory and supplement with videos, audiotapes, movies, etc.
- Accommodate medical absence by providing makeup work, etc.
- Adjust for administration of medications
- Provide access to water, gum, etc.
- Adapt curriculum expectations when needed (i.e., science class, physical education, etc.)
- Provide rest periods
- Provide indoor space for before and after school activities
- Adapt attendance policies, school day duration, or 180-day requirement, if needed
- Place student in most easily controlled environment

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

EXAMPLE: The student does not meet eligibility requirements under IDEA as emotionally disturbed, learning disabled, or other health impaired. A doctor regards the student as having ADD, and for purposes of this example, the disability limits the major life activity of learning. The student, because of his disability, is unable to participate in the school's programs to the same degree as students without disabilities and therefore is substantially limited by the disability.

Possible Accommodations and Services:

- Use simple, concise instructions with concrete steps
- Give student opportunity to stand/move while working
- Provide seating options
- Schedule subjects which require greater concentration early in the day
- Supply small rewards to promote behavior change
- Avoid withholding physical activity as a negative reinforcer
- Allow for periodic, frequent physical activity, exercise, etc.
- Tolerate (understand the need) excessive movement
- Provide a peer tutor/helper
- Train for proper dispensing of medications; monitor and/or distribute medications; monitor for side effects
- Monitor for stress and fatigue; adjust activities
- Adjust assignments to match attention span, etc.
- Vary instructional pace
- Provide supervision during transitions, disruptions, field trips
- Model the use of study guides, organizing tools
- Accommodate testing procedures; lengthy tests might be broken down into several shorter administrations
- Provide counseling and prompt feedback on both successes and areas needing improvement
- Initiate frequent parent communication
- Establish a school/home behavior management program
- Provide training for staff
- Have the student use an organizer; train in organizational skills
- Establish a nonverbal cue between teacher and student for behavior monitoring
- Assign chores/duties around room/school
- Adapt environment to avoid distractions
- Reinforce appropriate behavior (note specific reinforcer)
- Have child work alone or in a study carrel during high stress times
- Highlight required or important information/directions
- Provide a checklist for student, parents, and/or teacher to record assignments of completed tasks
- Use a timer to assist student to focus on given task or number of problems in time allotted; stress that problems need to be done correctly.
- Have student restate or write directions/instructions
- Allow student to respond in variety of different modes (i.e., may place answers for tests on tape instead of paper)
- Provide additional supervision to and from school
- Adapt student's work area to help screen out distracting stimuli
- Grade for content integrity not just neatness/presentation

BIPOLAR DISORDER

EXAMPLE: The student was diagnosed as having a bipolar disorder, however the severity (frequency, intensity, duration considerations) of the condition did not qualify the student for IDEA. A properly convened 504 committee determined that the condition did significantly impair the major life activity of learning and fashioned a 504 plan for the student.

A Guide to Section 504 & Student Access to a Free Appropriate Public Education

Possible Accommodations and Services:

- Break down assignments into manageable parts with clear and simple directions, given one at a time
- Plan advanced preparation for transitions
- Monitor clarity of understanding and alertness
- Allow most difficult subjects at times when student is most alert
- Provide extra time on tests, class work, and homework if needed
- Strategies in place for unpredictable mood swings
- Provide appropriate staff with training on bipolar disorder
- Create awareness by staff of potential victimization from other students
- Implement a crisis intervention plan for extreme cases where student gets out of control and may do something impulsive or dangerous
- Provide positive praise and redirection
- Report any suicidal comments to counselor/psychologist immediately
- Consider home instruction for times when the student's mood disorder makes it impossible for him to attend school for an extended period

CANCER

EXAMPLE: A student with a long-term medical problem may require special accommodations. Such a condition as cancer may substantially limit the major life activities of learning and caring for oneself. For example, a student with cancer may need a class schedule that allows for rest and recuperation following chemotherapy.

Possible Accommodations and Services:

- Adjust attendance policies
- Limit numbers of classes taken; accommodate scheduling needs (breaks, etc.)
- Send teacher/tutor to hospital, as appropriate
- Take whatever steps are necessary to accommodate student's involvement in extra-curricular activities if they are otherwise qualified
- Adjust activity level and expectations in classes based on physical limitations; don't require activities that are too physically taxing
- Train for proper dispensing of medications; monitor and/or distribute medications; monitor for side effects
- Provide appropriate assistive technology
- Provide dietary accommodations
- Provide a private area in which to rest
- Shorten school day
- Send additional set of texts and assignments to hospital schools
- Tape lessons. Accept the fact that the lessons and content-area tests may not be appropriate; the student is learning many life lessons through this experience
- Provide access to counseling
- Provide awareness training to appropriate staff and students
- Develop health care emergency plan to deal with getting sick at school
- Provide lessons using mastery learning techniques

- Notify parents of communicable diseases in school
- Designate a person in school to function as liaison with parents as a means of updating changing health status

CEREBRAL PALSY

EXAMPLE: The student has serious difficulties with fine and gross motor skills. A wheelchair is used for mobility. For purposes of this example, the condition substantially limits the major life activity of walking. Cognitive skills are intact.

Possible Accommodations and Services:

- Provide assistive technology devices (be specific in the technology recommended and when/where it is required)
- Arrange for use of ramps and elevators
- Allow for extra time between classes
- Assist with carrying books, lunch trays, etc.
- Adapt physical education curriculum
- Train for proper dispensing of medications; monitor and/or distributed medications; monitor for side effects
- Adapt eating utensils
- Initiate a health care plan that also addresses emergency situations
- Train paraprofessionals in the case of this student (i.e. feeding, diapering, transporting to and from the wheelchair)
- Adapt assignments
- Educate peers/staff with parent/student permission
- Ensure that bathroom facilities, sinks and water fountains are readily accessible.

CHRONIC INFECTIOUS DISEASES (i.e., Acquired Immune Deficiency Syndrome (AIDS))

EXAMPLE: The student frequently misses school and does not have the strength to attend a full day. For purposes of this example, the student has a record of a disability, which substantially limits the major life activities of learning.

Possible Accommodations and Services:

- In-service staff and students about the disease, how it is transmitted and how it is treated (Consult appropriate District policies)
- Apply universal precautions
- Administer medications following medication administration protocols, train for proper dispensing of medications; monitor and/or distribute medications; monitor for side effects
- Adjust attendance policies
- Adjust schedule or shorten day
- Provide rest periods
- Adapt physical education curriculum
- Establish routine communication with health professionals, area nurse, and home

- Develop health-care and emergency plan
- Consult with doctor, parents, teachers, area nurse, and administrators
- Train appropriate teachers on medical/emergency procedures
- Arrange for an adult tutor at school or home
- Adapt assignments and tests
- Provide an extra set of textbooks for home
- Provide staff training on confidentiality
- Provide education and support for peers regarding issues of death and dying
- Provide transportation to and from school if needed as a related service
- Tape books or provide a personal reader
- Arrange to communicate with a home computer with e-mail
- Videotape classroom teaching
- Provide a peer support group to encourage communication
- Involve school health consultant in school-related health issues

CYSTIC FIBROSIS

EXAMPLE: This student is a new enrollee school and has an extensive medical history. He has significant difficulty breathing and will often be absent due to respiratory infection. While medical needs can be easily documented on a health plan, his educational needs also need to be accommodated. For purposes of this example, learning is the major life activity that is substantially impaired.

Possible Accommodations and Services:

- Train for proper dispensing of medications; monitor and/or distribute medications; monitor for side effects
- Create a health care plan for management of acute and chronic phases
- Promote good communication between parents, hospital, home, and school on school assignments
- Shorten the school day
- Adapt physical education activities
- Apply universal precautions, correct disposal of fluids
- Recognize need for privacy for “good coughing”
- Educate staff and peers

DEAF/HEARING IMPAIRMENT

EXAMPLE: A student was diagnosed with a substantial hearing impairment at a very early age. Therefore, he has both a hearing loss and a mild speech impediment. He compensates through both lip reading and sign language. Academic abilities test in the average range.

Possible Accommodations and Services:

- Allow for written direction/instructions in addition to oral presentation
- Ensure delivery of instruction facing the student to allow lip reading
- Provide visual information as primary mode of instruction
- Allow for provision of interpreter services
- Seat in a location with minimal background noise

- Provide paper and pencil/pen to write/draw requests when needed
- Facilitate acquisition of TDDs and related assistive technology
- Allow for extra time between classes
- Provide post-secondary or vocational transition planning

DIABETES

EXAMPLE: A sixth grader with juvenile diabetes requires accommodation to maintain optimal blood sugar. His mom provides the crackers and juice to be used at "break" time and before physical education class. She asks that teachers remind him to eat at a certain time of the morning if he does not pay attention to the beeper on his watch. The youngster is very self-sufficient; while he is able to monitor his own blood sugar now, he prefers to do this privately. Therefore, mom asks that the equipment and a notebook/log be stored in a nearby file cabinet and the youngster be allowed to go into the hall with the equipment to check his blood sugar twice a day. She also asks that his teacher allow him to use the bathroom as needed.

Possible Accommodations and Services:

- Health care plan for management of condition in the school setting and in emergencies
- Educate staff to signs/symptoms of insulin reaction/hypoglycemia; hunger, shakiness, sweatiness, change in face color, disorientation, drowsiness
- Do not leave the child alone if he/she is feeling poorly; walk to the office or clinic with the student.
- Train for proper dispensing of medications; monitor and/or distribute medications; monitor for side effects; communicate systematically and frequently with parents
- Adapt physical education activities
- Store equipment and documentation in a readily accessible location for student, parent, and area nurse or clinic aid
- Accommodate food access/meal schedules rigorously
- Allow access to food/snacks/fluids during periods of academic instruction as outlined in the Healthcare plan
- Allow access to bathroom facilities

DRUGS AND ALCOHOL

EXAMPLE: The student has used drugs and alcohol for many years. This problem has affected the major life activities of learning and caring for oneself. The student is presently not using drugs or alcohol and is in a rehabilitation program. *If the student is not using drugs or alcohol, he or she could qualify for accommodations or services under Section 504.*

Possible Accommodations and Services:

- Provide copies of texts and assignments to treatment facility
- Establish daily/weekly assignments monitoring system
- Communicate with treatment facility; pursue transition services available through the treatment facility
- Dismiss from school for treatment without punitive measures
- Ensure strong link with school counselor

- Integrate a student assistance program into the classroom
- In-service faculty/staff with parent/student permission
- Provide ongoing support around chemical dependency in conjunction with other agencies

EMOTIONALLY DISTURBED

EXAMPLE: An emotionally disturbed student may need an adjusted class schedule to allow time for regular counseling or therapy. For purposes of this example, the condition substantially limits the individual's major life activity of learning.

Possible Accommodations and Services:

- Train for proper dispensing of medications; monitor and/or distribute medications; monitor for side effects
- Maintain weekly/daily journals for self-recording of behavior
- Establish home-school communication system
- Schedule periodic meetings with home and treatment specialists
- Provide carry-over of treatment plans into school environment
- Utilize behavior management programs
- Post rules for classroom behaviors; teach expectations
- Provide access to counseling, social skills instruction
- Reinforce replacement behaviors
- Educate other students/staff/school personnel
- Reinforce positive behavior
- Schedule shorter study/work periods according to attention span capabilities
- Be consistent in setting expectations and following up on reinforcements/consequences
- Provide post-secondary or vocational transition planning

ENCOPRESIS/ENURESIS

EXAMPLE: A student who will urinate or defecate in clothes. Not to be confused with physical incontinence, but only to a needed behavior change (i.e. toilet training, bowel/bladder retraining).

Possible Accommodations:

- Maintain low key responses
- Have a change of clothes available at school in the clinic or alternative location
- Plan a consistent response to events; send student to clinic or alternative location for clean-up and change of clothes; while wearing latex/rubber gloves, place soiled clothes in a plastic bag; call parent and make arrangements for soiled items to be returned home
- Observe for consistent trigger events
- Support bowel/bladder retraining program that is recommended by the physician

EPILEPSY

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

Possible Accommodations and Services:

- Call parent and document the characteristics of each seizure
- Assess breathing after seizure
- Train for proper dispensing of medications; monitor and/or distribute medications; monitor for side effects
- Train staff and students and prepare an emergency plan
- Anticipate recovery process should a seizure occur. Move seating/clear space during seizure. Do not insert objects into the student's mouth during seizure; administer no fluids if student is unconscious. Turn the unconscious student on his or her side to avoid aspiration of vomit. Provide rest time and return to academic considerations following seizure.
- Arrange a supervision system, especially for field trips
- Provide an alternative recess, adapt activities such as climbing and/or swimming
- Plan for academic make-up work
- Observe for consistent triggers (e.g., smells, bright light, perfume, hair spray)

LEARNING DISABILITIES

EXAMPLE: The student has a learning disability that impacts her ability to read. She has more difficulty with word decoding and spelling than reading comprehension. Thus, completing reading tasks is difficult and slow; however, she does not require services under IDEA.

Possible Accommodations and Services:

- Provide lower-readability materials covering course context
- Provide extended time on tests
- Allow for student/volunteer readers
- Provide information on accessing materials through recordings for the Blind and Dyslexic (i.e., books on tape)
- Allow access to spell checkers and/or word processing
- Written directions in addition to oral
- Clearly sequenced instruction
- Visual graphs/charts/diagrams to support instruction
- Provision of computer access
- Seating toward the instructor
- Support in the use of organizational/time-management strategies
- Support in the use of strategies to assist memory and problem-solving
- Use of multi-sensory instructional methods (i.e., visual graphs and charts to accompany oral presentation)

LEUKEMIA

EXAMPLE: The student has recently been diagnosed with leukemia and requires frequent hospitalization. The condition substantially limits the major life activity of learning and caring for oneself.

Possible Accommodations and Services:

- Involve area nurse in assessing current limitations and development of health plan
- Provide homebound instruction if needed
- Provide the student with an adjusted school day
- Make needed accommodations during physical education/recess
- Provide rest periods
- Have medical services and medication available at school. Train for proper dispensing of medications; monitor and/or distribute medications; monitor for side effects
- Support the proper diet as per physical recommendation
- With parent/student permission, have area nurse to educate teachers/staff/peers
- Notify parents of existing communicable diseases at school (i.e., chicken pox, flu, strep throat, etc.)
- Consult with medical staff about individual needs and/or concomitant factors

ORTHOPEDICALLY IMPAIRED

EXAMPLE: The student has limited mobility and uses a wheelchair. This condition substantially limits the major life activity of walking.

Possible Accommodations and Services:

- Develop a health care and emergency plan
- Implement an adaptive physical education program
- Correct problems with physical accessibility of facilities/pathways between buildings
- Provide extra time to get to class
- Supply a set of textbooks for home
- Provide a copy of class notes
- Practice emergency exit from school building
- Ensure that access to programs held in the basement or on second or third floors is handicapped accessible
- Ensure that bathroom facilities, water fountains, sinks, etc. are readily accessible

STUDENT WITH SPECIAL HEALTH CARE NEEDS

EXAMPLE: The student has a special health care problem and requires clean intermittent catheterization twice each day. This procedure empties the bladder and helps prevent urinary tract infections and possible wetting. The school is required to provide trained personnel to perform the procedure or to provide the student a private location to perform the procedure. The condition is substantially limiting in the major life activity of caring for oneself.

Possible Accommodations and Services:

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- Provide trained personnel to perform special medical procedures. Train for proper dispensing of medications; monitor and/or distribute medications; monitor for side effects
- Provide student with private location and time to perform procedures
- Involve area nurse, parents, teachers, and staff in periodic review
- Allow preferential seating as indicated by need
- Adapt recess, physical education, and transportation
- Adjust classroom environment
- Develop health care and emergency plan
- If necessary, adapt attendance policy
- Establish health alert system whereby every staff member involved with this student is aware of the health problem and of proper procedures
- Provide a beeper/paging system for trained personnel
- Make available homebound services/instruction if needed
- Provide school counseling
- Arrange for in-service to other students and staff with parent/student permission

TEMPORARILY DISABLED

EXAMPLE: A student was in an automobile accident and will be homebound and/or hospitalized for an extensive period. The student is considered temporarily disabled under Section 504 and should receive accommodations if this disability substantially limits a major life activity for the period of time it does so.

Possible Accommodations and Services:

- Provide duplicate sets of texts
- Provide assignments to hospital school
- Record lessons
- Provide homebound instruction
- Schedule periodic home-school meetings
- Arrange for student to leave class early to get to next class
- Provide access to elevators
- Excuse from or adapt physical education program
- Arrange for assistance in getting from class to class, provide help with getting lunch tray
- Arrange for class notes
- Change seating arrangements to accommodate needs
- Adapt assignments depending on disability
- Allow more time for test completion
- Allow shortened days; adjust attendance policy
- In-service staff and class and prepare an emergency care plan
- Switch programs /classes to an accessible classroom on the main floor
- Test verbally
- Provide area nurse services

TOURETTE'S SYNDROME

EXAMPLE: The student exhibits inappropriate gestures and sounds in the classroom and hallways. The condition is substantially limiting in the major life activities of learning and caring for oneself.

Possible Accommodations and Services:

- Provide student with a means of catching up on missed lessons
- Educate other students about associated outbursts/gestures/tics
- Arrange for frequent parental interaction if indicated
- Monitor administration/side effects of medication
- Implement a behavior management program if indicated; cue student about inappropriate behaviors
- Provide supervision for transition activities, during periods of "acting out"
- Provide alternative/larger work space or appropriate space for the child to act out if indicated
- Adapt assignments if indicated
- Provide peer/teacher in-service with parent/student permission
- Provide post-secondary or vocational transition planning

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 student does not qualify for special education under IDEA. The condition is substantially limiting to the major life activities of learning and performing manual tasks.

Possible Accommodations and Services:

- Provide extended school year/time
- Furnish memory/organizational aids
- Provide alternative testing
- Arrange an emergency plan
- Monitor for seizure activity
- In-service staff and peers with student/parent permission
- Monitor fatigue/mental exhaustion
- Provide frequent short breaks during periods of intense concentration
- Shorten the instructional day if indicated
- Provide strategies for organizing/sequencing tasks
- Provide post-secondary or vocational transition planning

TUBERCULOSIS

EXAMPLE: The student is suspected of having active tuberculosis and must stay home until diagnostic tests are completed. The disease is no longer infectious, but the student is still weak. The condition is substantially limiting to the major life activity of learning.

Possible Accommodations and Services:

- Provide home tutor, as necessary
- In-service staff on the need for confidentiality to limit the stigmatization of him or her
- Have the medical evaluator provide feedback to staff
- Train for proper dispensing of medications; monitor and/or distribute medications; monitor for side effects
- In-service staff and students about the disease, how it is transmitted, and how it is treated
- Work with community agency or health department to provide medication and health education materials
- Work with community agency or health department to test students and staff for exposure and/or infection and to determine when the student can return to school
- Provide therapy and dispense medications if student is diagnosed with active TB; observed for side effects; arrange for parents to give medication on holidays and weekends

VISUAL IMPAIRMENT

EXAMPLE: A student has a progressive medical disorder, which results in increasing loss of visual acuity. He now requires both enhanced lighting and enlarged print materials in order to read.

Possible Accommodations and Services:

- Preferential seating
- Adaptations to the physical environment (i.e., consistent room arrangement, removal of obstacles to path of entry)
- Copies of text/reading materials for adaptation
- Modified writing tools (i.e., dark felt tip pens)
- Perkins Braille
- Slate and stylus
- Dark lined writing paper
- Lighting aids
- Low vision devices including magnifiers, monocular glass, closed-circuit TV
- Desktop slantboard
- Enlarged print materials; textbooks, workbooks, worksheets
- Braille textbooks/reading materials
- Books on tape
- Audiotape recorder, tapes and organizational location (headphones if needed)
- Oral instead of written tests
- Standardized tests (i.e., CAT, SAT) in large print or Braille
- Tactile maps
- Computer with enlarged print screen/adaptations
- Speech synthesizer for input and output
- Screen reading device
- Optical Character Recognition System Scanner
- Mobility devices (i.e., white cane)
- Abacus

WEIGHT: DIAGNOSIS OF OBESITY, ANOREXIA, AND BULIMIA

EXAMPLE: A student has an extreme eating disorder that may require special accommodations. Obesity may be considered a disability under Section 504 where it substantially impairs a major life activity or is regarded by others as doing so.

Possible Accommodations and Services:

- Provide special seating modifications
- Make dietary modifications per physician recommendation
- Adapt physical education program per physician recommendation
- Allow extra time to get to classes
- Adapt rest rooms
- Provide opportunities for socialization and peer counseling/interaction
- Ensure privacy for self-care
- Provide counseling involving the area nurse
- Provide for elevator privileges per physician's recommendation
- Arrange for counselor/area nurse to supervise peer counseling to deal with esteem issues, 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 and extra-curricular events
- Make any class location changes that may be needed

Appendix D

Parent/Student Rights

SECTION 504 – NOTICE OF PARENT/GUARDIAN AND STUDENT RIGHTS

This is a notice of your rights under Section 504. These rights are designed to keep you fully informed about the district's decisions about your child and to inform you of your rights if you disagree with any of those decisions.

You have the right to:

- Have your child participate in and benefit from the district's education program without discrimination based on disability.
- An explanation of your and your child's rights under Section 504.
- Receive notice before the district takes any action regarding the identification, evaluation, or placement of your child.
- Refuse consent for the initial evaluation and initial placement of your child.
- Have your child receive a free appropriate public education. This includes your child's right to be educated with non-disabled students to the maximum extent appropriate. It also includes the right to have the district provide related aids and services to allow your child an equal opportunity to participate in school activities.
- Have your child educated in facilities and receive services comparable to those provided to non-disabled students.
- Have your child receive special education services if she/he needs such services.
- Have evaluation, educational, and placement decisions for your child based upon information from a variety of sources, by a group of persons who know your child, your child's evaluation data, and placement options.
- Have your child be provided an equal opportunity to participate in non-academic and extracurricular activities offered by the district.
- Have educational and related aids and services provided to your child without cost except for those fees imposed on the parents/guardians of non-disabled children.
- Examine your child's education records and obtain a copy of such records at a reasonable cost unless the fee would effectively deny you access to the records.
- A response to your reasonable requests for explanations and interpretations of your child's education records.
- Request the district to amend your child's education records if you believe that they are inaccurate, misleading, or otherwise in violation of the privacy rights of your child. If the district refuses this request, you have the right to challenge such refusal.
- Request mediation or an impartial due process hearing to challenge actions regarding your child's identification, evaluation, or placement. You and your child may take part in the hearing and have an attorney represent you. Hearing requests can be made to the district's Section 504 coordinator.
- Ask for payment of reasonable attorney's fees if you are successful on your claim.
- File a local grievance or a complaint with the U.S. Department of Education Office for Civil Rights (206-607-1600 or www.ed.gov/ocr) or file a complaint in federal court.

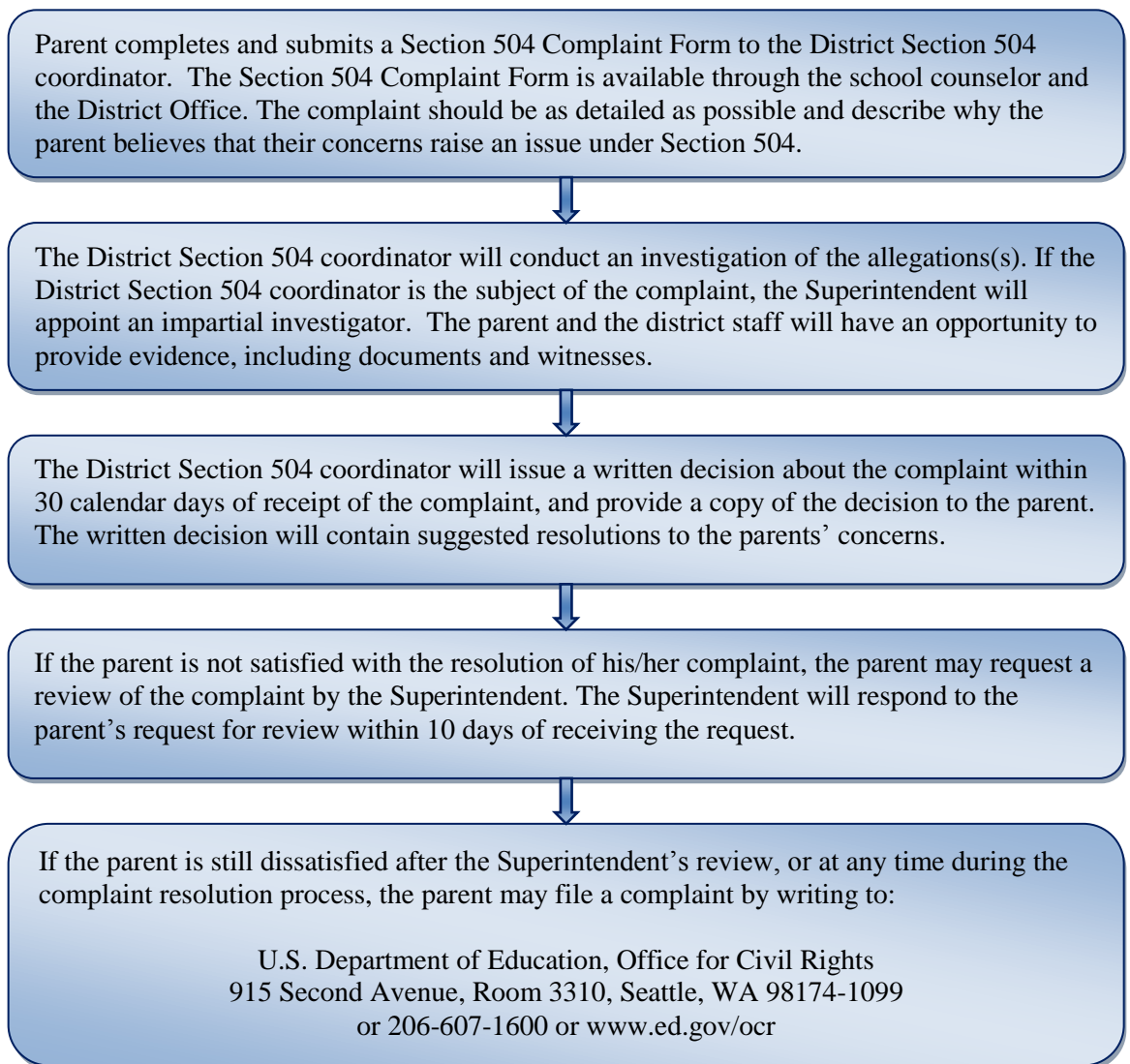
The person in this district who is responsible for ensuring that the district complies with Section 504 is Jeff Brown. If you are unable to have your questions answered at the building level, please feel free to contact him at 360.757.3311 or jbrown@be.wednet.edu

Appendix E

Complaint Process

COMPLAINT PROCEDURE

The best solutions to parent concerns often occur at the school level. Therefore, the Burlington-Edison School District encourages parents to attempt to resolve concerns by working with the building principal, building Section 504 coordinator (school counselor or nurse), and other appropriate staff to reach a joint resolution of the issue. However, regardless of whether a parent attempts to resolve the issue at the building level, a parent may file a formal complaint under Section 504 through the following process:



SECTION 504 - COMPLAINT FORM

Student Name: _____

Date: _____

Student's School: _____

Your Name: _____

Your Phone: _____

Your Address: _____

Please identify the person who you feel discriminated against you: _____

Please describe your concerns and why you believe they raise an issue under Section 504. Include a description of what happened, when and where it happened, and who was involved. *Feel free to attach additional pages if necessary*

Explain what steps you have already taken to resolve this issue, if any:

Describe what resolution to your concern you would like to see:

Please attach any documents or other information you think will assist with the investigation of your complaints.

**Please send the completed complaint form to: Jeff Brown
927 E. Fairhaven Ave.
Burlington, WA 98233**

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SECTION 504 IMPARTIAL HEARING PROCEDURE

1. The parent requests an impartial hearing by filing a written request with district Section 504 Coordinator. The Burlington-Edison School District Section 504 Coordinator is Jeff Brown
2. The Section 504 Coordinator arranges for an impartial hearing officer.
3. Either the Section 504 Coordinator or the hearing officer gives notice of the time and place of the hearing at least 10 calendar days before the hearing. Either party may request that the hearing be rescheduled.
4. The hearing officer holds a telephone conference with the parties to clarify the issues at least 7 calendar days before the hearing.
5. The parties will provide any documents or other evidence they plan to present at the hearing to the other party and the hearing officer at least 5 business days before the hearing.
6. Both parties have the right to accompanied and advised by counsel or other representative. The parents have the right to open the hearing to the public.
7. The parties will not communicate with the hearing officer about any issue of fact or law unless the other party has notice and opportunity to participate in the communication.
8. The parents present their arguments and evidence first, followed by the school district.
9. The hearing will be recorded by mechanical device or by certified court reporters. The parties have the right to request a verbatim record of the hearing.
10. The hearing officer will issue a decision in writing after considering the whole record, but not more than 45 calendar days after the district received the hearing request.