

Harrisburg School District

SECTION 504 OF THE REHABILITATION ACT OF 1973

Promoting student access

Updated 9/2019
Updated 12/15/2017
2016-2017

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**Section 504 Representative
2019-20 School Year**

Harrisburg Elementary School: Brenda Yahraes, Principal
Amanda Mathers, Nurse (Medical Protocols
only 504 plans)
Joy DeMoss, K-6 Counselor
Amanda Scisioli, K-3 Counselor

Harrisburg Jr./High School: Josh Stauber, Principal
Amanda Mathers, Nurse (Medical Protocol only 504
plan)
Mary Ahern, 9-12 Counselor
Joy DeMoss, 7-8 Counselor

504 District Coordinator: Bryan Starr, Superintendent/Special Education Director

Section 504 Roles and Responsibilities

Role of Building 504 Coordinator – *coordinates 504 services in the school or program*

- Participates in district-wide training on Section 504 implementation.
- May act as 504 case manager for individual.
- Acts as contact person in school when questions arise about 504 issues.
- Participates on Building Screening Committee.
- Ensures that staff are using current Section 504 forms and following current procedures.
- Coordinates transition of 504 students transferring into and out of the school.
- Provides data and 504 records to district 504 compliance officer as required.

Harrisburg Elementary School – Brenda Yahraes
Harrisburg Jr/High School – Josh Stauber

Role of 504 Case Manager – *coordinates 504 process for individual students*

- Schedules meetings with parents and other participants.
- Participates in district-wide training on Section 504 implementation
- Gathers necessary information for meetings.
- Writes up 504 documents.
- Provides copies of documents to parents and stored according to district guidelines and state archive retention regulations.
- Provides information to all teachers that need to know about 504 plan contents, including when the student's schedule or classes change.
- Verifies the implementation of 504 plan and is available to problem-solve when issues or concerns arise.
- Schedules periodic review at least annually (unless a different timeline is in the plan) or sooner if needed, and before any significant change in placement.

Harrisburg Elementary School: K - 6 Joy DeMoss
 K -3 Amanda Sciscioli

Harrisburg Jr/High School: 7-8 Joy DeMoss
 9-12 Mary Ahern

Role of District 504 Compliance Officer – *coordinates 504 implementation in the district*

- Ensures that district 504 forms and procedures comply with 504 requirements.
- Provides training to 504 coordinators and others annually as needed.
- Provides technical assistance and problem-solving on an as needed basis.
- Provides accurate, accessible information about 504 to school community.
- Acts as contact person for district and Office for Civil Rights (OCR) Section 504 complaints.

Harrisburg School District, Bryan Starr, 541-995-6626

Section 504 of the Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973 provides the "No otherwise qualified individual with a disability in the United States shall, solely by reason of his or her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance..." 29 U.S.C. Section 794(a) (1988). Therefore, school districts are required to provide appropriate educational programming but must also address accessibility issues, including physical accessibility to school district facilities. Although Section 504 also applies to employees and visitors to the school, this manual will focus only on students.

Under Section 504, a student with a disability is defined as one who:

- Has a physical or mental impairment which substantially limits one or more major life activity;
- Has a record of such an impairment; or
- Is regarded as having such an impairment.

34 C.F.R. Pt. 104.4(j)

All students who qualify for special education under the Individuals with Disabilities Education Act (IDEA) are covered under Section 504. However, these students do not need a separate 504 plan. There are other students who have a disability but do not require specially designed instruction (a requirement under IDEA). These students may need some modifications and/or accommodations and may be eligible under Section 504. Examples of this would be students with asthma or juvenile arthritis who are unable to fully participate in a PE class.

Section 504 falls within the general education program. A student found eligible under Section 504 is served by the employees and resources of the general education program. The use of IDEA funds to provide Section 504 services is considered a misuse of IDEA funds and is not allowed under regulations of that program.

The U.S. Department of Education Office for Civil Rights (OCR) is responsible for overseeing and monitoring compliance with Section 504. The Director of Special Education of Harrisburg School District, Bryan Starr, is responsible for compliance in our district. He may be reached at (541) 995-6626.

WHO IS PROTECTED UNDER SECTION 504?

Who is protected from disability discrimination under Section 504?

There are three ways a student may be protected from discrimination under Section 504. A person is considered to be protected from discrimination under Section 504 if the student:

1. Has a physical or mental impairment, which substantially limits one or more major life activities. *The term does not cover children solely disadvantaged by cultural, environmental or economic factors.*
2. Has a record or history of such impairment. *This term includes children who have been misclassified (e.g. a non-English speaking student who was mistakenly classified as having an intellectual disability); or*
3. Is regarded as having such an impairment. *A student would be "regarded" as having a disability under Section 504 if, for example, a nondisabled student frequently receives services from the learning center and is perceived as having a learning disability.*

While all three of the above groups of students are protected by the nondiscrimination provisions of Section 504, only the first group, students with actual, current physical or mental impairments that substantially limit a major life activity, are protected by the "child find" and "free appropriate public education" (FAPE) provisions of Section 504 (found in the U.S. Department of Education's Section 504 regulations). The child find and FAPE provisions of Section 504 do not apply to the second two groups.

Application of Section 504

	504 Protection from Discrimination	504 FAPE Requirements (504 Plan)
Student has a mental or physical impairment	YES	YES, if needed
Student has a history of such an impairment	YES	NO
Student is regarded as having such an impairment	YES	NO

What is a "physical or mental impairment"?

The definition of physical or mental impairment is very broad, including students with medical, physical, or psychological impairments or learning disorders. Section 504 does not include a list of specific diseases or medical conditions. Examples of medical conditions include cancer, diabetes, asthma, epilepsy, hepatitis, etc. Physical conditions may include cerebral palsy, spina bifida, and hearing or vision impairments. Psychological conditions may include ADHD, depression, obsessive-compulsive disorder, and post-traumatic stress disorder. Learning disorders may include dyslexia and other learning disorders.

The determination that a student has a "physical or mental impairment" must be based on credible documentation and not just verbal report or suspicion of disability.

What is a "major life activity?"

The ADAAA expanded and clarified what constitute major life activities, which now include:

Motor activities such as walking, lifting, bending, standing, performing manual tasks;

Sensory functions such as seeing and hearing;

Communication functions such as speaking;

Bodily functions such as sleeping, breathing/respiratory functioning, digestive functioning, bowel/bladder functioning, neurological functioning, endocrine functioning, etc.; and

Other functions such as learning, working, caring for oneself, thinking, concentrating and reading.

The list of major life activities is not exclusive, which means that other activities, if significantly impacting the student's life, could be considered a major life activity.

The student's disability need only substantially limit *one* major life activity for the student to be eligible. A student who is substantially limited in a major life activity other than learning may still need a 504 plan if the student's disability impacts their ability to participate in or benefit from the district's programs.

Activities such as playing a sport, speaking a second language, or playing a musical instrument would most likely **not** be considered a major life activity.

What does "substantially limits" mean?

Section 504 does not provide a formula or scale for measuring substantial limitation. However, the ADA has long defined "substantially limits" as meaning that a person is unable to or is significantly restricted as to the condition, manner or duration under which he or she can perform the major life activity as compared an average person.

"Average person" means average for the student's age or grade level across a large population -- like the state or the country. The comparison is **not** to the student's potential, to the student's other siblings, or to other students in the class or school.

Examples:

- A student may be substantially limited in the area of "**reading**" if, due to a learning disorder and ADHD, the student's reading is so slow (*duration*) that the student takes twice as long to read as an average student at the student's grade level

(based on Woodcock-Johnson reading fluency norms, or timed reading samples compared to norms).

- A student may be substantially limited in the area of “**concentrating**” if, due to ADHD, the student cannot sustain concentration long enough (*duration*) to complete assignments compared to average students of the student’s grade level.
- A student may be substantially limited in the area of “**hearing**” if, due to a hearing impairment, the student cannot hear instruction without amplification (*condition*).
- A student may be substantially limited in the area of “**speaking**” if, due to selective mutism, the student cannot speak at school and must write responses or indicate a response by gesture (*manner*).
- A student may be substantially limited in the area of “**walking**” if, due to juvenile arthritis, the student is unable to walk without the assistance of a walker (*condition*).
- A student may be substantially limited in the bodily functioning of the **endocrine system** if, due to diabetes, the student must be given a highly regimented diet, frequent blood sugar checks, and close monitoring for high and low blood sugar for the endocrine system to function properly (*condition*).

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

In determining whether an impairment is substantially limiting, should a team consider the impact of medication or assistive devices?

No. In the ADA, Congress very specifically stated that medication or assistive devices (such as hearing aids, medication, wheelchairs or walkers, etc.) should **not** be considered in determining whether impairment substantially limits a major life activity.

Examples:

- Students with ADHD or diabetes should be considered as if not taking medication.
- Students with motor impairments just as cerebral palsy or juvenile arthritis should be considered without use of a wheelchair or walker or other device.
- Students with hearing or vision impairments should be considered without the use of hearing aids or magnifiers.

The only mitigating circumstances that may be considered are eyeglasses and contact lenses.

In determining whether impairment is substantially limiting, how should conditions that are episodic or in remission be considered?

Conditions that are episodic, such as epilepsy or irritable bowel syndrome, should be considered as if active. Likewise, conditions that are in remission, such as leukemia or cancer, should be considered as if active when determining whether the impairment substantially limits a major life activity.

Are students with medical or psychological diagnoses automatically (or almost always) considered disabled under Section 504?

No. Students are only considered disabled under Section 504 if they have a mental or physical impairment that substantially limits one or more major life activities. The team considering eligibility needs to consider the medical and/or psychological evaluation information in determining whether the mental or physical impairment substantially limits one or more major life activities at school.

Is pregnancy or teen parenting considered a physical impairment under Section 504?

No. Neither pregnancy nor teen parenting is considered impairment under either Section 504 or the ADA. However, if a student suffers medical complications from pregnancy that substantially limit a major life activity, then the medical condition associated with the pregnancy *may* be a temporary disability under Section 504 and the ADA. Each situation should be determined on a case-by-case basis, and an individual determination should be made.

Is "specific learning disability" considered a disability under Section 504?

Yes, if the student's learning disability substantially limits a major life activity, such as reading or learning. However, "specific learning disability" has the same definition under Section 504 as under the IDEA. This means that a student with a specific learning disability under Section 504 will be eligible for special education under the IDEA.

A student who does not meet the IDEA definition of specific learning disability may still have a learning disorder that substantially limits a major life activity such as reading or learning. The student may be identified as having dyslexia, dysgraphia, or a type of processing disorder and may qualify for a Section 504 plan of accommodations on that basis if the condition substantially limits a major life activity. For clarity, the team should identify a student under these circumstances as having a learning disorder rather than a "specific learning disability".

May a district require a parent to provide a medical diagnosis before it will initiate an evaluation or consideration 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 services to participate in

or benefit from its educational program, regardless of the whether the student has a medical diagnosis. The district may request that the parent provide medical information, or may request the parent's consent to obtain medical information directly from the provider. However, if the district suspects a disability and the parent is unable or unwilling to provide this information, and the district concludes that this information is necessary to determine whether the student has a disability and the specific accommodations needed, the district must assist the parent in obtaining this information.

If the district does not suspect a disability, the district may inform the parent that the district does not suspect a disability but will reconsider if the parent chooses to provide further medical information to the district.

Examples:

- A high school student has chronic attendance problems. The school nurse contacts the parent to find out why the student is missing so much school. The parent says the student has chronic migraine headaches that prevent school attendance. School staff have seen no evidence of migraines at school – the student presents as a typical student when he is at school and the parent has provided no medical documentation to support the diagnosis of chronic migraine headaches. The district does not suspect a disability and may inform the parent that it will consider any additional medical information she provides. In the meantime, the student will be considered as nondisabled.
- An elementary school student demonstrates a pattern of behaviors across educational settings consistent with an attention deficit disorder. The parent is unable or unwilling to provide medical documentation supporting this diagnosis but agrees that the student has difficulty concentrating and paying attention. The district has reason to suspect a disability and must assist the parent with obtaining the necessary medical information or other evaluations necessary to determine if the student has a disability under Section 504 and what supports are needed for the student.

When a temporary impairment is considered a disability under Section 504 for the purposes of FAPE?

OCR has advised that a temporary impairment may be considered a disability based on case-by-case circumstances. If the temporary impairment is so severe that it substantially limits a major life activity, then it could be considered a disability under Section 504.

Examples:

- A high school student with severe leg fractures in a wheelchair would most likely be considered disabled because the student is unable to walk for an extended period of time.

- A kindergarten student with a broken right arm would not likely be considered disabled even if the student is right-handed because writing is most likely not a major life activity in kindergarten (though it could be in higher grades).

WHAT IS DISCRIMINATION BASED ON DISABILITY?

Discrimination under Section 504 occurs when a recipient of federal funds:

1. Denies a person the opportunity to participate in or benefit from an aid, benefit or service on the basis of disability.
2. Fails to afford the student with a disability an opportunity to participate in or benefit from the aid, benefit, or service.
3. Affords a qualified disabled person an opportunity to participate in or benefit from the aid, benefit, or service which is not equal to that provided to others.
4. Provides aids, benefits or services that are not as effective as those provided to others.
5. Provides different or separate aids, benefits or services, unless such action is necessary to be as effective as the aids, benefits or services provided to non-disabled students (e.g. segregating students in separate classes, schools or facilities, unless necessary).
6. Aids or perpetuates discrimination by providing significant assistance to an agency, organization or person that discriminates on the basis of disabilities.
7. Denies a person with disabilities the opportunity to participate as a member of a planning or advisory board.
8. Otherwise limits the enjoyment of any right, privilege, advantage or opportunity enjoyed by others.
9. In determining the site or location of a facility, makes selections that effectively excludes persons with disabilities, denies them the benefits of, or otherwise subjects them to discrimination.

Section 504 applies to all "programs or activities" of an organization that receives federal funds. The term includes all programs or activities of the ODE and all school districts receiving federal funds regardless of whether the specific program or activity involved is a direct recipient of federal funds. For example: if a district contracts with alternative education programs, the district must ensure that a student with disabilities has an equal opportunity to participate in alternative education, even though the programs themselves do not receive any federal funds.

Likewise, before and after school child care programs, school clubs, graduation trips and other activities may be considered a "program or activity" of the school district depending on the circumstances. These circumstances include whether district staff act as advisors and receive

pay for their time, district insurance covers the activity, district does not charge rent or only token rent, etc.

Examples:

A school district may be found to be engaging in illegal disability discrimination if the district:

- Has a practice of refusing to allow any student on an IEP (or previously on an IEP) the opportunity to be on the honor roll.
- Allows non-disabled students to participate in an inter-district transfer arrangement, but not students with disabilities.
- Does not make necessary arrangements for a child with a disability to attend a field trip, outdoor school, or other similar school activity.
- Locates a magnet program in a school that is not accessible to students with mobility impairments.
- Refuses to dispense medication to a student who could not attend school otherwise, or does not have an effective system for dispensing medication.
- Automatically schedules lunch and recess for special education classes at different times than for other classes.
- Automatically provides special transportation for students with disabilities without determining, on an individual basis, that special transportation is necessary.
- Locates special education classes in more remote locations in the building, or in a portable, limiting access to non-disabled peers.
- Allows students with disabilities to be located in inferior facilities, such as trailers, wings in basements and unnecessarily restrictive classrooms due to a lack of classroom space.
- Deny students with disabilities access to recess, assemblies, or other non-academic activities or denied access to lunch based on disability-related behavior.

Examples of Major Life Activities

The Department's Section 504 regulations' list of non-exhaustive major life activities is:

- Caring for oneself
- Speaking
- Performing Manual task
- Breathing
- Walking
- Seeing
- Learning
- Working
- Hearing
- Eating
- Reading
- Sleeping
- Concentrating
- Standing
- Thinking
- Lifting
- Communicating
- Bending
- Interacting with others
- planning
- Other _____

The Amendments Act non-exhaustive list of "major bodily functions" is as follows:

- Functions of the immune system (HIV/Aids, Lupus, Auto-immune disorders)
- Brain (Schizophrenia, intellectual disability, Traumatic Brain Injury)
- Normal cell growth (Cancer)
- Circulatory (Heart disease, high blood pressure)
- Digestive (Crohn's disease, Celiac Disease, Gluten allergies)
- Endocrine (Diabetes)
- Bowel Functions (Ulcerative colitis, Irritable Bowel syndrome)
- Reproductive (inferentiality)
- Neurological (Multiple sclerosis, Epilepsy)
- Bladder (Kidney disease)
- Respiratory (Asthma, severe allergies)
- Musculoskeletal (back impairments)
- Other _____

These are without regard to mitigating measures, except for eye glasses or contact lenses.

504 Meeting Checklist

Before the meeting:

- Contact parents new to the 504 process to explain the purpose of the meeting and identify any questions and concerns.
- Schedule meeting with participants, including parents.
- Send meeting notice reminding parent of date, time and location of meeting. (optional)
- Gather pertinent information to be shared at the meeting: updates from teachers, assessment reports, medical/health information, etc.
- Develop meeting agenda.
- Arrange for any necessary interpreters or accommodations for meeting participants.
- Complete portions of the Section 504 Eligibility Determination Report that can be completed before the meeting.
- Bring all current forms to the meeting.

During the meeting:

- Introduce the participants and their roles.
- Clarify purpose of the meeting.
- Review agenda.
- Identify note-taker for meeting (if using one).
- Facilitate student's input or participation.
- Lead group through agenda – do time-checks as needed.
- Complete Section 504 Eligibility Determination Report (if new to 504).
- Complete Section 504 Plan (if needed), or revise as needed.
- Provide copies of Report and Plan to parents or tell them when they will get a copy.
- Provide Statement of Parent Rights to parent (keep signed copy for Cumulative File).
- Thank everyone for participation and cooperation.

After the meeting:

- If using meeting notes, review and put final copy in Cumulative File, along with a copy of the eligibility and 504 plan.
- If parents did not receive documents at meeting, provide copies.
- Send documents to central office if required.
- Be sure all teachers know and understand their responsibilities under the 504 plan.
- Calendar check-ins to monitor implementation of plan. Keep log of contacts related to implementation of plan.
- Calendar annual review date, and at least one month earlier to begin "before meeting" review process

504 Meeting Planner: Who to Invite?

Who is on the Section 504 Team? (Three members with following criteria):

- Knowledge about the Student
- Knowledge about criteria
- Knowledge to provide accommodations

When should the parent be invited?

- A parent, guardian, or person in parental relationship to the student should always be invited.

When should the school counselor be included?

- When the counselor is the 504 coordinator, 504 case manager or has personal or professional knowledge that would help the team make appropriate decisions for the student.

When should a general education teacher be included?

- When the student is participating in general education.

When should the school nurse be included?

- When there are medical or health issues involved.
- When the parent is asking for health related accommodations at school.
- When the team will be reviewing reports from a medical doctor or other health practitioner.

When should the school psychologist be included?

- When the school psychologist was involved in a recent evaluation of the student.
- When the school psychologist's expertise is necessary for the team to make appropriate decisions for the student.

When should the building administrator be included?

- When the building administrator is the 504 coordinator for the school.
- When the parent is asking for unusual accommodations that raise concerns or fiscal considerations.
- When safety issues are involved.
- When special transportation is likely to be needed.

When should a motor team (OT or PT) representative be included?

- When the student has a motor impairment and will likely need accommodations or supports for the motor impairment.
- When the OT or PT recently evaluated the student and identified motor needs.
- When the parent has requested motor team services or adaptations.

When should the district 504 compliance officer or other district-level administrator be included?

- When it appears that the student will need supports that will require allocation of district resources.
- When the team believes that using a district facilitator will help resolve or prevent conflict.
- When a team wants training, coaching or feedback on the 504 meeting process.

504 Evaluation Guidelines examples

The student's 504 team decides what assessments are needed to determine whether a student has a disability under Section 504. See table below for recommended evaluation procedures. Students who are suspected of having a disability under the IDEA should be evaluated for special education eligibility before consideration of a disability under Section 504.

Suspected Condition	Recommended Evaluation for Disability Determination
Health conditions, such as asthma, cancer, epilepsy, diabetes, hepatitis, etc.	<p>A medical statement including a diagnosis of the condition by a physician licensed by the State Board of Medical Examiners, or a Physician's Assistant or Nurse Practitioner acting within the scope of his or her license**, AND</p> <p>A school nursing assessment.</p> <p><i>Rule out Other Health Impairment if suspected.</i></p>
Chronic physical conditions, such as cerebral palsy, spina bifida, hearing or vision impairments.	<p>A medical statement including a diagnosis of the condition by a physician licensed by the State Board of Medical Examiners, or a Physician's Assistant or Nurse Practitioner acting within the scope of his or her license**, AND</p> <p>An evaluation conducted by the school district or Regional Program.</p> <p><i>Rule out Other Health Impairment, Orthopedic Impairment, Vision Impairment, or Hearing Impairment, if suspected</i></p>
Psychological conditions, such as ADD/ADHD, depression, obsessive-compulsive disorder, post-traumatic stress disorder, etc.	<p>A medical statement including a diagnosis of the condition by a physician licensed by the State Board of Medical Examiners, or a Physician's Assistant or Nurse Practitioner acting within the scope of his or her license**, OR a diagnosis by a licensed clinical psychologist; AND</p> <p>As needed, an evaluation by a school psychologist including a review of information submitted by the parent and new measures, as needed, such as behavior rating scales, structured observations, and interviews.</p> <p><i>Rule out Emotional Disturbance or Other Health Impairment, if suspected.</i></p>
Learning disorder, such as dyslexia.	<p>Individual assessments as needed.</p> <p><i>Rule out Specific Learning Disabilities, if suspected.</i></p>

** The district does not use diagnoses from naturopathic physicians or chiropractors. If a parent submits such a diagnosis, and the team sees evidence that such a condition may exist, contact the District 504 compliance office.

GRIEVANCE PROCEDURE FOR SECTION 504

Students, parents of students, employees and applicants for employment in the district shall have the right to file a formal complaint alleging discrimination under federal or state regulations requiring non-discrimination in programs and employment.

Level One – Principal

Optional – may be bypassed by the grievant

A student, or a parent of a student, with a complaint of discrimination based upon their sex, race, national origin, religion, marital status or disability is encouraged to discuss it with the instructor, counselor, supervisor, building administrator or program administrator directly involved.

Level Two – Compliance Officers

Building Principals

Harrisburg Elementary School – Brenda Yahraes 541-995-6544
Harrisburg Jr/High School – Josh Stauber 541-995-6626

If the grievance is not resolved at level one and the grievant wishes to pursue the grievance, the grievant may formalize it by filing a complaint in writing. The complaint shall state the nature of the grievance and the remedy requested. The filing of the formal, written complaint at level two must be done within 15 working days from the date of the event or the date the grievant could reasonable become aware of such occurrence. The grievant may request that a meeting concerning the complaint be held with the compliance officer. A minor student may be accompanied at that meeting by a parent. The compliance officer shall investigate the complaint and attempt to resolve it. A written report from the compliance officer regarding action taken will be sent to the involved parties within a reasonable time after receipt of the complaint.

Level Three – Superintendent

Bryan Starr, Superintendent/Special Education Director
541-995-662

If the grievant is not satisfied with the resolution of the grievance at level two, the grievant may appeal it to level three by presenting a written appeal to the superintendent within five working days after the grievant receives the report from the compliance officer. The superintendent may request a meeting with the grievant to discuss the appeal. The superintendent will render a decision within a reasonable time after the receipt of the written appeal.

Level Four – Appeal to Board

Call superintendent's office to schedule 541-995-6626

If the grievant is not satisfied with the superintendent's decision, the grievant may file an appeal with the Board within five working days of the decision. It is within the desecration of the Board to determine whether it will hear the appeal.

This procedure in no way denies the right of the grievant to file a formal complaint with the Regional Civil Rights Director, U.S. Department of Education, Office of Civil Rights, Region X 915 2nd Ave., Room 3310, Seattle, WA 98174-1099

504 GRIEVANCE DOCUMENTATION

Name of Individual Alleging Discrimination of Non-Compliance

Name _____

Grievance Date _____

State the nature of the complaint and the remedy requested.

Indicate principal's response or action to above complaint.

Signature of principal _____