



BOARD OF COOPERATIVE EDUCATIONAL SERVICES
301 W. POWELL * PO Box 98, HAXTUN, CO 80731 * 970-521-2771

SECTION 504 HANDBOOK

This handbook is a compilation of information from a variety of sources and includes guidelines for compliance with Section 504's student-related provisions. For additional details regarding the BOCES Section 504 policies or procedures, please contact the BOCES Section 504/ADA Compliance Officer.

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Northeast BOCES and Section 504

What Is Section 504?

Section 504 of the Rehabilitation Act of 1973 (“Section 504”) is a civil rights statute that protects persons with disabilities from discrimination. It states that: “[n]o otherwise qualified individual with a disability shall solely by reason of his or her disability be excluded from the participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving Federal financial assistance.” The Americans with Disabilities Act (“ADA”) contains similar prohibitions against discrimination.

Under Section 504, school districts, including the BOCES, are required to make their programs and activities (including non-academic and extracurricular programs and activities) accessible to all individuals with disabilities and to provide students with disabilities a “free appropriate public education.” A free appropriate public education includes the provision of regular or special education, related aids and services, and other accommodations designed to meet the individual educational needs of the student.

Please note that Section 504 applies to all students with disabilities -- including those students eligible for services under the Individuals with Disabilities Education Act (“IDEA”).¹ With respect to IDEA-eligible students, however, school districts, including the BOCES fulfill the requirements of Section 504 by complying with the more stringent procedural and substantive provisions of the IDEA. Please note that this handbook does not address the process associated with identifying, evaluating, and serving the “IDEA-eligible student.” Rather, it focuses on the process associated with identifying, evaluating, and serving the “Section 504-only student.”

¹ To clarify, “IDEA-eligible students” are those disabled students who require special education services, *in addition to* related aids and services and/or other accommodations. By comparison, “Section 504-only students” are those disabled students who require *only* related aids and services and/or other accommodations to gain equal access to the district’s programs and activities.

What Are the BOCES Responsibilities under Section 504?

To be in compliance with Section 504, the BOCES must:

- ◆ Designate a BOCES-level Section 504 Compliance Officer. Currently, the BOCES Executive Director is the Section 504 Compliance Officer.
- ◆ Provide grievance procedures to resolve complaints of discrimination. See BOCES Policy File: AC-R. These procedures are discussed *infra* at pages 12-14.
- ◆ Provide annual notice of nondiscrimination in admission or access to its programs or activities. The BOCES includes its notice of nondiscrimination on its website.
- ◆ Annually identify and locate all qualified children with disabilities who are not receiving a free and appropriate public education.
- ◆ Periodically notify persons with disabilities and their parents or guardians of their rights under Section 504. See Student and Parent Rights under Section 504 (included in the Appendix).
- ◆ Notify parents/guardians of their right to challenge decisions regarding the identification, evaluation, or placement of their child. See Student and Parent Rights under Section 504 (included in the Appendix).
- ◆ Conduct a self-evaluation of BOCES policies, programs, and practices to make sure discrimination is not occurring.
- ◆ Provide parents the opportunity to examine relevant records. See Student and Parent Rights under Section 504 (included in the Appendix).

Who Is a Person with a “Disability” under Section 504?

A person has a “disability” under Section 504 if that individual: (1) has a physical or mental impairment that substantially limits one or more of the individual’s major life activities; (2) has a “record of” such an impairment, or (3) is “regarded as” having such an impairment.

Section 504 does not specifically define the term “substantially limits.” The basis for evaluating this criterion is the impact the impairment has on one or more of a student’s major life activities. A substantial limitation means that the student is unable to perform a major life activity that *the average person in the general population* can perform or is substantially limited in the condition, manner, or duration under which the individual can perform the major life activity at issue.

Additionally, with the exception of ordinary eyeglasses and contact lenses, the ameliorative effects of available “mitigating measures” (including, but not limited to, medications, prosthetics, hearing aids, mobility devices, and learned adaptations) may not be considered in determining whether someone is “substantially limited” in a major life activity.

Major life activities include such things as: seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, working, breathing, learning, reading, communicating, thinking, concentrating, caring for oneself, and performing manual tasks. The operation of major bodily functions (*e.g.*, the immune system, cell growth, digestive, bowel, bladder, respiratory, circulatory, endocrine, neurological, brain, and reproductive functioning) also count as major life activities. Please note that this list of major life activities is not exhaustive.

When Is It Appropriate to Write a Section 504 Accommodation Plan?

To qualify for a Section 504 accommodation plan: (1) the student must have a mental or physical impairment; (2) that mental or physical impairment must be “substantially limiting;” and (3) the impairment must substantially limit one or more major life activities. If any of the three criteria is missing, do not create a Section 504 accommodation plan for the student.

Additionally, even if a student actually has a disability (*i.e.*, has a physical or mental impairment that “substantially limits” a major life activity), he may not need a Section 504 accommodation plan. To determine whether the student needs a 504 plan, you must ask whether the student, despite his disability, is able to access the programs and services of the school districts, including the BOCES as adequately as non-disabled students. If the answer to this question is “yes,” then accommodations and modifications are not necessary, and a 504 plan need not be developed. If the answer is “no,” a 504 plan should be developed.

Special Note for “Record of” or “Regarded as” Individuals:

Please note that while Section 504 prohibits the school districts, including the BOCES from discriminating against students who have a “record of” or are “regarded as” having a disability, it does not require the school districts, including the BOCES to evaluate or develop a 504 plan for such students. In sum, Section 504 seeks to protect those who have a “record of” or are “regarded as” having a disability from the prejudice or stereotypic attitudes of others. It does

not, however, require that the school districts, including the BOCES accommodate them (*i.e.*, develop a 504 plan for them) because they are not, in fact, disabled. Only students who are actually disabled (that is, students who, in fact, have a physical or mental impairment that substantially limits a major life activity) are entitled to accommodations.

What Do Section 504 Accommodations Look Like?

Accommodations are changes in the learning process or environment that will provide access to services without fundamentally altering or lowering the standard or expectations inherent in the learning experience. Section 504 planning most commonly focuses on identifying and implementing specific accommodations. Accommodations may be as simple as changes in daily schedule or as complex as using assistive technologies that address specific disabilities. For example, FM amplifiers may be needed to help a student with a hearing impairment understand class lectures, magnification devices may be needed to help a student read, and any number of devices may be needed to aid student mobility.

The following pages contain some examples of accommodations that may be provided as part of a Section 504 plan. Please note that **the examples listed in the following pages are not intended as all-inclusive or mandatory “checklists” of accommodations to be provided for 504-eligible students.** Rather these examples are intended to provide some ideas as to the potential accommodations that may allow a student equal access to the school district’s, including the BOCES’s programs, services, and activities. **All accommodations should be determined on a case-by-case basis, based on the unique needs of the student at-issue.**

Finally, please note that the accommodations listed below are not reserved exclusively for students with disabilities. There is a common misunderstanding that for students to receive accommodations, they must be on Section 504 accommodation plans. This is not true. Simply put, a student receives a 504 plan not because he/she needs an accommodation, but because he/she has a “disability” and, by virtue of that disability, he/she needs an accommodation.

Potential Accommodations to Address Section 504 Issues

Environmental Changes

- Provide a structured learning environment
- Adjust class schedules
- Provide aides or note takers
- Modify nonacademic times such as lunch room and recess
- Modify physical education
- Change student seating
- Provide use of a study carrel
- Alter location of personal supplies for easier access or to minimize distraction
- Implement self-recording of behaviors

Organizational Strategies

- Modify tests
- Use tape recorders or AV equipment
- Tailor homework assignments
- Provide one-on-one tutoring
- Provide peer tutoring
- Set time expectations for assignments
- Provide cues such as clock faces indicating beginning and ending times
- Provide tests in segments so that student finishes one segment before receiving the next part
- Highlight main ideas and supporting details in the book

Behavioral Strategies

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

Presentation Strategies

- Tape lessons so the student can listen to them again
- Provide materials for extra practice
- Require fewer drill and practice activities
- Give oral and visual instructions for assignments
- Vary the method of lesson presentation
 - a. lecture
 - b. small groups
 - c. large groups
 - d. audio visuals (i.e. filmstrips, study prints)
 - e. peer tutors or cross-age tutors (i.e., take notes, monitor assignments, read aloud, listen)
 - f. demonstrations
 - g. experiments
 - h. simulations
 - i. games
 - j. 1-to-1 instruction with other adult
- Provide for oral testing
- Ask student to repeat directions/assignments to ensure understanding
- Arrange for a mentor to work with student in his or her interest area or area of greatest strength

Instructional Methods

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

Curricular Changes

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

What Does the BOCES Section 504 Referral, Evaluation, and Planning Process Entail?

The goal of the BOCES 504 referral process is to provide an environment that meets student needs in ways that are safe, educationally sound, and consistent with the requirements of Section 504. A Section 504 referral may be initiated by parents, school staff, community agencies, medical providers, the student, or other concerned parties. Such a referral may address an immediate physical or medical need or a more long-term learning-related need. In all cases:

1. **Referral:** The process begins with the submission of a completed Section 504 Referral form to the building-level 504 Coordinator. A 504 file should be started for the student at the time a referral is made.
2. **Determination Regarding Evaluation:** The 504 Coordinator will determine whether or not a 504 evaluation will be conducted. If it is determined that an evaluation will not occur, the 504 Coordinator will notify the student's parents/legal guardians as to the reasons why and provide them with a copy of the completed Section 504 Referral form and a copy of the Student and Parent Rights under Section 504.

If it is determined that an evaluation will occur, the 504 Coordinator will work with persons knowledgeable about the student (*e.g.*, his/her teachers, counselors, the school nurse, etc.) to determine the data to be collected as part of the evaluation. After determining the data to be collected, the 504 Coordinator will complete and send the Section 504 Notice of Evaluation and a copy of the Student and Parent Rights under Section 504 to the student's parents/legal guardians.

3. **The 504 Evaluation:** An evaluation must be completed prior to determining a student's eligibility under Section 504 and prior to any significant change in placement. Evaluations should include information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. Depending on the nature of the suspected disability, the evaluation data collected may include formal testing results, behavioral observations, disciplinary referrals, classroom performance

indicators, academic achievement results, anecdotal records, and outside professional opinions, including medical opinions provided by parents.

Tests and other evaluation materials used must be validated for the specific purpose for which they are used and administered by trained personnel in conformance with the instruction provided by their producer. Additionally, tests and other evaluation materials should be tailored to assess specific areas of educational need and not merely provide a single general intelligence quotient. Finally, tests administered to students with impaired sensory, manual, or speaking skills should be selected so as to ensure that they accurately reflect the student's aptitude, achievement level or other factor, rather than the student's impairment. (This would not apply where the impairment is the factor that the test purports to measure).

4. **Scheduling the 504 Eligibility Meeting:** Once all necessary evaluation data has been collected, the 504 Coordinator will schedule a Section 504 eligibility meeting and invite the student's parents/legal guardians to attend by sending them a Notice of Section 504 Meeting. The school districts, including the BOCES will endeavor to schedule this meeting no later than 60 days after receipt of the Section 504 Referral form. The 504 Coordinator shall ensure that individuals knowledgeable about the student, the evaluation data collected, and the accommodation and placement options available, attend the meeting. The individuals invited should be listed (by title) on the Notice of a Section 504 Meeting.
5. **The 504 Eligibility Meeting/Creation of Accommodation Plan:** The 504 team will, in turn, meet, review the evaluation data collected, and determine whether the student is eligible for a Section 504 accommodation plan. As noted above, decisions regarding the student's eligibility and educational placement should be made based on a variety of information and by individuals who know the student, the evaluation data collected, and the accommodation and placement options available. Additionally, the team's decisions should take into consideration the fact that students with disabilities have the right to be educated with non-disabled peers to the maximum extent appropriate.

The Section 504 Eligibility Determination Report should be used to document both the team's careful consideration of the evaluation data collected, as well as its analysis of the student's eligibility under Section 504. The team should complete the accommodation section of the form (Part C), only if the student is found eligible for a 504 plan. Please note that in making any accommodation and/or placement decisions, students with disabilities have the right to be educated with non-disabled peers to the maximum extent appropriate.

A copy of the finalized Section 504 Eligibility Determination Report should be provided to the student's parent/legal guardian, along with a copy of the Student and Parent Rights under Section 504, if requested by the parent/legal guardian.

6. **Implementation of the 504 Plan:** If a student is found eligible, the team will assign a case manager to oversee implementation of the student's accommodation plan. The case manager, in turn, is responsible for ensuring that a copy of the student's accommodation plan (Part C of the Section 504 Eligibility Determination Report) is provided to those administrators, teachers, and other school districts, including the BOCES staff responsible for implementation.

7. **Annual Review:** Section 504 plans should be reviewed annually or whenever information is received that indicates a need for review or reevaluation.² As noted above, a reevaluation (which may include, as appropriate, assessments as described in Step 3 above) shall occur prior to any significant change of placement. At the review meeting, the 504 team will review the student's progress and any data collected as part of the reevaluation. The team will, in turn, complete a Section 504 Review Report and update, revise, or terminate the plan, as appropriate. If updated or revised, the student's case manager is responsible for ensuring that a copy of the student's new accommodation plan is provided to those administrators, teachers, and other school districts, including the BOCES staff responsible for implementation.

² Note that the team will set a review date in Part D of the Section 504 Eligibility Determination Report.

8. **Forwarding the 504 Plan/File:** Building-level 504 Coordinators are responsible for ensuring that a student's Section 504 file and accommodation plans are forwarded to his/her new school, as the student advances or changes schools.

Role of the 504 Case Manager

As noted above, each student placed on a 504 plan will be assigned a case manager. The case manager may be a building administrator, counselor, certified teacher, or nurse, as appropriate. The 504 team assigns the case manager at the same time the 504 accommodation plan is developed. The role of the case manager is to:

- communicate the plan to all necessary staff;
- monitor staff implementation;
- report to the 504 team successes and challenges encountered by the student;
- communicate with the parent/guardian relative to student progress and/or problems;
- participate in any review meetings including recommendations relative to revision or termination of the plan; and
- ensure that the student's current 504 plan (and file) follow the student as he changes schools.

504 Record Keeping

As noted above, once a Section 504 Referral form is submitted, a 504 file should be started for that child. The file should contain (as applicable):

- the Section 504 Referral form;
- any minutes from Section 504 meetings relating to that student;
- copies of correspondence with the parent including the Section 504 Notice of Evaluation and Notice of a Section 504 Meeting;
- consent forms including confirmation of receipt of the Student and Parent Rights under Section 504;
- the Section 504 Eligibility Determination Report (including the Accommodation Plan);
- documentation from the case manager relative to monitoring;
- Section 504 Review Reports documenting the results of any review meetings including decisions to revise or terminate the plan; and
- any other documentation relevant to the active 504 plan.

Section 504 accommodation plans should be kept apart from student cumulative files. Active Section 504 files should be kept in a central location within the building. Inactive files (*i.e.*, files related to 504 plans that have been completed and terminated by the building level team) should be forwarded to the BOCES Section 504/ADA Compliance Officer for storage.

Discipline and Section 504

Students with disabilities are not exempt from school discipline codes. However the student's disability must be taken into account when considering the appropriate disciplinary response for a 504 student. If a behavior is not related to a student's disability, then the disciplinary consequences are the same as for any other student. The vehicle for assessing the link between a behavior and a disability is a manifestation determination meeting.

Student suspensions must be tracked for Section 504-eligible students, just as they are for IDEA-eligible students. Short-term removals (suspensions for either 10 consecutive days or 10 days in aggregate) do not constitute a "change in placement" and as such do not require more than normal due process (a notice and hearing). However cumulative short-term removals totaling more than 10 school days which demonstrate a "pattern of exclusion," or long-term removals of more than 10 consecutive days, may be considered a "change in placement" and trigger certain procedural safeguards, including a manifestation determination and, if appropriate, the implementation of a behavior plan or a functional behavior assessment. *See Section 504 Manifestation Determination Report*.

BOCES Section 504 Policy and Grievance/Hearing Procedures

The BOCES has adopted a policy titled Nondiscrimination/Equal Opportunity (Policy File: AC). The BOCES Executive Director currently serves as the BOCES Section 504/ADA Compliance Officer. Among other things, Policy File: AC-R establishes a grievance procedure, including timelines, to be followed in the event that a student, parent, employee, or member of the general public believes that there has been discrimination on the basis of a disability. While we encourage discussion of any concerns with the BOCES administrators and other appropriate BOCES staff prior to filing a complaint, the grievance procedure related to 504 complaints is as follows:

- In the event that an individual believes that there has been a violation of Section 504 or the ADA, he/she shall mail or deliver to the Section 504/ADA Compliance Officer a written statement (“complaint”) on the BOCES designated complaint form. The complaint must set out the alleged violations in specific terms, describing the incident or activity involved, the individuals involved and the dates, times and locations involved. Employees and members of the general public can obtain a complaint form from the BOCES administrative office. Students and parents can obtain a complaint form from the Executive Director.
- Within two school days of receiving the complaint, the Section 504/ADA Compliance Officer shall provide the individual filing the complaint an opportunity to discuss the matter personally, if requested.
- The Section 504/ADA Compliance Officer shall make such additional investigation as is necessary to determine the complete facts involved and shall provide a report of his/her findings and recommendations regarding resolution of the matter within 14 days of meeting with the complainant. The Section 504/ADA Compliance Officer shall take action as necessary, in his or her judgment, to resolve the matter. The Section 504/ADA Compliance Officer shall also issue a written decision regarding the complaint and the resolution thereof, to the complainant within 5 school days of reporting the Section 504/ADA Compliance Officer’s findings and recommendations. The matter shall be reported to the Board at its next regular meeting for its review and action if the Section 504/ADA Compliance Officer deems further action is necessary.
- If the individual submitting the complaint of an alleged violation is not satisfied with the handling of the matter by the Section 504/ADA Compliance Officer, he/she may give written notice to the BOCES Section 504/ADA Compliance Officer explaining the reason for dissatisfaction and requesting an appearance before the BOCES Board. Such notice shall be given within 10 school days of the Section 504/ADA Compliance Officer’s decision. In turn, the BOCES will arrange for the complainant to appear before the Board at its next regularly scheduled meeting. The complainant shall be notified in writing of the Board’s decision within 10 school days of his/her meeting with the Board.

In addition to utilizing the grievance process described above, if a complaint involves a student’s identification, evaluation, or educational placement, the student’s parents or legal guardians also have the option of requesting an impartial due process hearing. The BOCES due process hearing procedures are as follows:

- An impartial due process hearing may be requested by filing written notice with the BOCES Section 504/ADA Compliance Officer.
- Upon receiving a written request for a hearing, the BOCES Section 504/ADA Compliance Officer will select a hearing officer from the list of impartial hearing

officers maintained by the Colorado Department of Education to hear cases pursuant to the Individuals with Disabilities Education Act and who have been trained regarding Section 504.

- The BOCES-appointed hearing officer will schedule a due process hearing to occur as soon as reasonably practicable for the parent/legal guardian and BOCES. The parent/legal guardian and BOCES may be represented by legal counsel at the hearing, may examine relevant records, and participate in the hearing.
- Within ten (10) school days after the conclusion of the hearing, the hearing officer will issue a written decision. The decision shall include applicable findings of fact and conclusions of law. The hearing officer shall submit the written decision to the parent/legal guardian and the Board. The decision of the hearing officer shall constitute the final administrative decision in the matter.
- If either the parent/legal guardian or the BOCES is not satisfied with the decision rendered by the hearing officer, the parent/legal guardian or BCOES may initiate legal proceedings in a court of competent jurisdiction.

Should a student's parents/legal guardians wish to file a complaint of disability discrimination or challenge the identification, evaluation, educational program, or placement of their student, they should be provided with a copy of the BOCES Section 504 Complaint form and Student-Related Section 504 Complaint Procedures. Copies of these documents are included in the Appendix.

Finally, the United States Department of Education's Office of Civil Rights ("OCR") is the agency responsible for enforcing Section 504 compliance. While the BOCES encourages complainants to attempt resolution of any issues through the BOCES procedures described above, parents and guardians always have the right to initiate a complaint with the OCR or to involve the OCR at any time during the complaint process. Contact information for the regional OCR office is as follows:

**Office of Civil Rights, Region VIII
U.S. Department of Education
1244 Speer Boulevard, Suite 310
Denver, CO 80204-3582
(303) 844-5695
TDD: (303) 844-3417**

Appendix A: BOCES Section 504 Forms

Section 504 Evaluation Checklist

Purpose: Assists the 504 Coordinator in organizing and documenting the steps necessary to meet the legal requirements for the Section 504 evaluation and eligibility determination process.

Section 504 Referral

Purpose: Requests that a student be evaluated to determine if the student qualifies under Section 504.

Section 504 Notice of Evaluation

Purpose: Informs parents/legal guardians that a 504 team will evaluate their student to determine if he/she qualifies under Section 504.

Student and Parent Rights under Section 504

Purpose: Informs parents/legal guardians of their rights under Section 504. This form should be provided to parents at the outset of the referral process, at the time of the eligibility determination meeting (if requested), and upon request.

Notice of Section 504 Meeting

Purpose: Invites parents/legal guardians to a 504 eligibility meeting.

Section 504 Eligibility Determination Report

Purpose: Organizes and documents the steps that the 504 team must follow to determine whether a student is eligible under Section 504. This form also serves to document the Section 504 Accommodation Plan created by the team *if* the team determines that the student is eligible for such a plan. A copy of this completed form should be provided to the parents/legal guardians.

Section 504 Review Report

Purpose: Organizes and documents the steps that the 504 team follows in annually reviewing the 504 Accommodation Plan.

Section 504 Manifestation Determination Report

Purpose: Organizes and documents the steps that the 504 team must follow in determining whether a student's misconduct is a manifestation of his/her disability.

Section 504 Complaint and Student-Related Complaint Procedures

Purpose: To be used to submit a complaint to the BOCES-level Section 504/ADA Compliance Officer, alleging that a student's rights under Section 504 have been violated. Also provides the complainant with a copy of the BOCES complaint resolution procedures pertaining to student-related Section 504 disputes.

SECTION 504 EVALUATION CHECKLIST

| | |
|-----------------------|----------------------|
| Name: _____ | Student ID: _____ |
| School/Grade: _____ | Date of Birth: _____ |
| Parent(s) Name: _____ | Home Phone: _____ |

| | | |
|--|-------|--|
| 1. Building 504 Coordinator receives <u>Section 504 Referral</u> and opens a 504 file. | Date: | |
| 2. The 504 Coordinator determines whether or not a 504 evaluation will be conducted. If it is determined that an evaluation will <u>not</u> occur, the 504 Coordinator records the decision, and reasons for the decision, on the bottom of the <u>Section 504 Referral</u> form and provides parents with a copy of the Referral form and a copy of the <u>Student and Parent Rights under Section 504</u> . | Date: | |
| 3. If it is determined that an evaluation will occur, the 504 Coordinator completes and sends the <u>Section 504 Parent Notice of Evaluation</u> and a copy of the <u>Student and Parent Rights under Section 504</u> to the parent/legal guardian. (Have parent/guardian sign and return this form.) | Date: | |
| 4. The 504 Coordinator identifies members of the 504 eligibility team. | Date: | |
| 5. Once all necessary data on the student has been collected, the 504 Coordinator sends the <u>Notice of a Section 504 Meeting</u> to the parent/legal guardian. | Date: | |
| 6. The 504 team meets, evaluates the student's impairment and eligibility for services, and completes the <u>Section 504 Eligibility Determination Report</u> . (Team completes the accommodation section (Part C) only if the student is found eligible under Section 504.) A copy of the finalized form is placed in the student's 504 file and a copy is provided to parent/legal guardian. An additional copy of the <u>Student and Parent Rights under Section 504</u> should be provided, if parents request it. | Date: | |
| 7. If the student is determined eligible, the 504 Coordinator is responsible for assigning a case manager to ensure that the student's teachers and other appropriate staff members implement the accommodations outlined in Part C the Report. | Date: | |
| 8. If the student is determined eligible, the 504 Coordinator is responsible for ensuring that the student's 504 accommodation plan is reviewed annually or whenever information is received that indicates a need for review or reevaluation. For review meetings, the 504 Coordinator will reconvene the 504 team to complete the <u>Section 504 Review Report</u> . ("Date" here is the anticipated date of review.) | Date: | |
| 9. If the student is determined eligible, the 504 Coordinator shall ensure that the student's current 504 accommodation plan and 504 file are forwarded to new schools as the student moves-up or changes schools. | | |

SECTION 504-REFERRAL FORM

| | |
|---|----------------------|
| Name: _____ | Student ID: _____ |
| School/Grade: _____ | Date of Birth: _____ |
| Parent(s) Name: _____ | Home Phone: _____ |
| Referred by: _____ | |
| Relationship to Student/Position: _____ | |

1. Please state the nature of your concern(s):

A. Academic concern(s):

B. Behavioral concern(s):

C. Major life activity that may be limited (for example, walking, standing, lifting, bending, seeing, hearing, speaking, breathing, eating, sleeping, reading, learning, communicating, thinking concentrating, working, caring for oneself, performing manual tasks, etc.):

2. Please describe any supporting observations (including academic, behavioral, or other concerns).

3. Please describe any interventions that have been tried.

4. Please attach copies of any pertinent data on the student (grades, standardized test scores, etc.). Also, please attach any available medical documentation regarding the student's physical or mental impairment.

| | | |
|--|-------------------|--------------|
| Name of Person Making Referral: | Signature: | Date: |
| _____ | _____ | _____ |

FOR BOCES USE ONLY

ACTION TAKEN:

____ Notice sent on (date) _____ to parent/legal guardian to conduct a 504 evaluation.

____ It was determined not appropriate to conduct a 504 evaluation at this time because: _____

(If no evaluation will occur, a copy of this form should be provided to parent/guardian along with a copy of the Student and Parent Rights under Section 504.)

By: _____
Building 504 Coordinator

Date: _____

SECTION 504 NOTICE OF EVALUATION

Date: _____

Dear Mr./Mrs. _____:

_____ has been referred for an evaluation under Section 504 of the Rehabilitation Act of 1973. (Please see attached Section 504 Referral.) To facilitate this referral, the BOCES is seeking your consent for an evaluation.

The evaluation procedures that will be used will include: _____

Once the information has been collected, a meeting will be scheduled. You will receive notice of the meeting and are encouraged to attend and participate in the decision-making process.

Section 504 provides you with specific rights concerning this evaluation process, which are designed to keep you fully informed concerning decisions about your student. These rights are summarized on the enclosed "Student and Parent Rights under Section 504" hand-out. Please review this hand-out and then indicate your response to the request for evaluation in the box below.

If you have any questions or concerns, please do not hesitate to contact me.

Building 504 Coordinator

Telephone Number

I have received a copy of the Student and Parent Rights _____ (please initial).

I **do** **do not** (please circle one) give written consent to have my child evaluated for Section 504 eligibility.

Parent Signature

Date

Enclosures: *Section 504 Referral*
Student and Parent Rights under Section 504

RIGHTS UNDER SECTION 504

YOU HAVE THE RIGHT TO:

1. Have your child take part in, and receive benefits from public education programs without discrimination based on a disability.
2. Have the BOCES advise you as to your rights under federal law.
3. Receive written notice with respect to the identification, evaluation, or placement of your child.
4. Have your child receive a free appropriate public education. This includes the right to be educated with other students without disabilities to the maximum extent appropriate within the “least restrictive environment.” It also includes the right to have the BOCES make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities.
5. Have your child be educated in facilities and receive services comparable to those provided students without disabilities.
6. Have your child receive special education and related services if she/he is eligible to do so under the Individuals with Disabilities Education Act or receive reasonable accommodations under Section 504 of the Rehabilitation Act.
7. Have eligibility, education, and placement decisions made based upon a variety of information sources and by individuals who know your child, the evaluation data, and placement options.
8. Have transportation be provided to a school placement setting at no greater cost to you than would be incurred if the student were placed in a program operated by the BOCES.
9. Give your child an equal opportunity to participate in non-academic and extracurricular activities offered by the BOCES through the provision of reasonable accommodations.
10. Examine all relevant records relating to decisions regarding your child’s identification, evaluation, educational program, and placement.
11. Obtain copies of educational records at a reasonable cost unless the fee would effectively deny you access to the records.
12. Receive a response from the BOCES to reasonable requests for explanations and interpretations of your child’s records.
13. Request amendment of your child’s educational records if there is reasonable cause to believe that they are inaccurate, misleading or otherwise in violation of the privacy rights of your child. If the BOCES refuses this request, it shall notify you within a reasonable time, and advise you of the right to a hearing.
14. File a complaint with the BOCES when you believe your child’s rights have been violated. The complaint will be reviewed, investigated, and addressed pursuant to BOCES policy ACE.
15. Request an impartial due process hearing related to decisions regarding your child’s identification, evaluation, educational program, or placement. You and your child may take part in the hearing and have an attorney represent you at your own cost. The BOCES hearing procedures are outlined in BOCES policy AC-R.
16. File a formal complaint with the regional Office for Civil Rights located at 1244 Speer Boulevard, Suite 310, Denver, Colorado, 80204; Ph: (303) 844-5695; TTD: (303) 844-3417.

NOTICE OF A SECTION 504 MEETING

Student: _____ Date: _____

School: _____

Dear Mr./Mrs. _____:

As you know, the Section 504 eligibility team at (school) _____ is in the process of planning an eligibility meeting for your child. The purpose of this meeting is to determine whether (student name) _____ is (or continues to be) eligible to receive accommodations under Section 504, and, if so, to devise an appropriate accommodation plan. The meeting details are as follows:

Date: _____ Time: _____

Location: _____

Other eligibility team members invited (by title): _____

Review meeting type: Initial _____ Yearly _____ Other _____

We encourage you to participate in this session as part of the eligibility team. If you have any questions, or if this meeting time is not convenient for you, please call me at _____. We will discuss your questions and/or work to arrange a mutually-convenient meeting time.

Sincerely,

Building 504 Coordinator

SECTION 504 ELIGIBILITY DETERMINATION REPORT

| | |
|---|----------------------|
| Name: _____ | Student ID: _____ |
| School/Grade: _____ | Date of Birth: _____ |
| Parent(s) Name: _____ | Home Phone: _____ |
| Referred by: _____ | |
| Relationship to Student/Position: _____ | |

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

B. DETERMINATION OF WHETHER THE STUDENT HAS A DISABILITY UNDER SECTION 504

1. Does the student have a physical or mental impairment? Yes ___ No ___. If yes, identify the impairment and provide information supporting the existence of the impairment such as the diagnosis or specific indicators of the impairment.

2. Does the physical or mental impairment substantially limit one or more major life activities? Yes ____ No ____.

If so, please identify the major life activity that is impacted by the impairment:

walking, standing, lifting, bending, seeing, hearing,
 speaking, breathing, eating, sleeping, reading, learning,
 communicating, thinking, concentrating, working, caring for
oneself, performing manual tasks, other (*please describe:* _____).

Briefly describe the reason for and data supporting the decision:

3. Does the student need accommodations to access the programs and services of the school district, including the BOCES as adequately as his/her non-disabled peers? Yes ____ No ____.

Briefly explain the reason for this decision.

If Questions 1-3 were answered "Yes," the student is eligible for a Section 504 Accommodation Plan, and Part C of this form should be filled out.

C. ACCOMMODATION PLAN

Student Name: _____ Effective Date: _____

Case Manager Assigned (title): _____

Please specify the student's needs as related to the identified disability, and the accommodations the student needs in order to access school programming as adequately as non-disabled students.

1. Need: _____

Accommodation: _____

Accommodation: _____

Accommodation: _____

2. Need: _____

Accommodation: _____

Accommodation: _____

Accommodation: _____

3. Need: _____

Accommodation: _____

Accommodation: _____

Accommodation: _____

(Attach additional needs and corresponding accommodations/services, as necessary.)

Student responsibilities:

Parent/guardian responsibilities:

*****A copy of this plan should be provided to all individuals responsible for implementation.***

D. DURATION OF SERVICES

Anticipated Duration of Accommodation Plan: from (Date): _____ to (Date): _____

Next Review/Reassessment Meeting Scheduled for (Date): _____

E. MEETING PARTICIPANTS

| <u>Name</u> | <u>Title</u> | <u>Signature</u> |
|-------------|--------------|------------------|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

Parent/Legal Guardian Statements (Please Initial):

____ I have received a copy of Student and Parent Rights under Section 504

____ I agree with the Section 504 plan as written.

| | |
|--|---------------|
| _____ Parent/Legal Guardian Signature | _____ Date |
|--|---------------|

| | |
|--|---------------|
| _____ Parent/Legal Guardian Signature | _____ Date |
|--|---------------|

For BOCES Use:

- **File the original 504 Eligibility Determination Report in the student’s 504 file.**
- **Provide/send a copy of the report to the student’s parent/guardian.**
- **Provide copies of Part C (the Accommodation Plan) to administrators, teachers, and any other BOCES staff responsible for implementation.**

SECTION 504 REVIEW REPORT

| | |
|-----------------------|----------------------|
| Name: _____ | Student ID: _____ |
| School/Grade: _____ | Date of Birth: _____ |
| Parent(s) Name: _____ | Home Phone: _____ |

PURPOSE OF MEETING: It is necessary to review periodically the student's progress under his/her Section 504 plan and make recommendations to continue, modify, or terminate the plan, as appropriate. (The student's 504 plan should be reviewed at least once each year.)

DISCUSSION OF PROGRESS: _____

RECOMMENDATION

- Continue current Section 504 accommodation plan with no changes.

- Modify the Student's Section 504 accommodation plan.
(If modified, attach a revised accommodation plan.)

- Exit from program based upon evaluation results.

REASONS FOR RECOMMENDATION: _____

The following individuals participated in this 504 review:

| <u>Name</u> | <u>Title</u> | <u>Signature</u> |
|-------------|--------------|------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

Next Review/Reassessment Meeting Scheduled for (Date): _____

Parent/Legal Guardian Statements (Please Initial):

____ I have received a copy of Student and Parent Rights under Section 504

____ I agree with the recommendations made during this review.

Parent/Legal Guardian Signature

Date

Parent/Legal Guardian Signature

Date

For BOCES Use:

- **File the original Review Report in the student's 504 file.**
- **Provide/send a copy of the report to the student's parent/guardian.**
- **If applicable, provide copies of the revised Accommodation Plan to administrators, teachers, and any other BOCES staff responsible for implementation.**

SECTION 504 MANIFESTATION DETERMINATION REPORT

| | |
|-----------------------|----------------------|
| Name: _____ | Student ID: _____ |
| School/Grade: _____ | Date of Birth: _____ |
| Parent(s) Name: _____ | Home Phone: _____ |

PURPOSE OF MEETING

The purpose of this meeting is to determine if the student's misconduct was a manifestation of the student's Section 504 disability. It is not an opportunity to dispute whether the misconduct actually occurred or what disciplinary action is appropriate. (These issues can be resolved in other forums.)

AGENDA

- I. Description of Misconduct: It is appropriate to have the building administration provide this information based on personal knowledge and discipline notices sent to the parents from the school. The description should be as thorough and detailed as possible.

Note: The BOCES may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against a student who has a 504 disability and who is currently engaged in the use of illegal drugs or alcohol to the same extent that such disciplinary action is taken against students without disabilities. Under such circumstances, consult with the BOCES 504/ADA Compliance Officer and/or legal counsel.

- II. Analysis: Review the relevant information in the student's file, including information from parents, any teacher observations and the student's 504 Plan.
- A. *Was the misconduct for which the BOCES seeks to discipline the student either caused by, or does it have a direct and substantial relationship to, the student's Section 504 disability? Y/N*

 - B. *Was the misconduct for which the BOCES seeks to discipline the student a direct result of the failure to implement the current 504 Plan? Y/N*

If the answer to either question is "yes," the misconduct is a manifestation of the student's disability. If the answer to both questions is "no," then the misconduct is not a manifestation of the student's disability.

III. Conclusions of the Manifestation Determination: Please provide a precise and well-reasoned summary explaining why the team found that the misconduct (described in Section I) was or was not a manifestation of the student's disability.

IV. Next Steps (as appropriate):

- A. If the student's misconduct is a manifestation of the student's disability, the 504 team must withdraw the recommendation to expel, long-term suspend, or impose any other disciplinary change of placement, and return the student to the placement from which he/she was removed (unless the parent and the BOCES agree to a change in placement). The team should also discuss whether any changes to the student's 504 plan are necessary and consider whether a behavior plan should be drafted.

- B. If the student's alleged misconduct is not a manifestation of the student's disability, the student may be disciplined in the same manner as non-disabled students.

V. Participants:

| <u>Name</u> | <u>Title</u> | <u>Signature</u> |
|-------------|--------------|------------------|
| _____ | | |
| _____ | | |
| _____ | | |
| _____ | | |
| _____ | | |
| _____ | | |
| _____ | | |

SECTION 504 COMPLAINT

The BOCES does not permit discrimination on the basis of disability in any of its programs or activities. If you believe that discrimination has occurred because of a disability, please complete, sign, and submit this form to the BOCES Section 504/ADA Compliance Officer, [ADDRESS], [CITY], Colorado, [ZIP CODE].

Date: _____

Complainant: _____

Name of Student: _____

Address: _____ Phone: _____

-
-
1. Describe the alleged violation of Section 504 in specific terms. Include: (a) the specific incident or activity that is viewed as discrimination; (b) the individuals involved; (c) the dates, times, and locations of the incident or activity; and (d) the disability that forms the basis of the complaint (attach additional pages if needed).

 2. Describe any relevant communication that has already occurred to address the issue. Please specify the type of communication, dates of communication, and names of individuals involved (attach additional pages if needed).

 3. Please describe how you would propose to resolve this issue (attach additional pages if needed).

Complainant's Signature

***A copy of the BOCES Section 504 Complaint Resolution Procedures is attached.*

SECTION 504 COMPLAINT RESOLUTION PROCEDURES

Grievance Procedures

- Step 1.** The parents/legal guardian should complete and submit a Section 504 Complaint to the BOCES Section 504/ADA Compliance Officer as designated in BOCES Policy AC-R.
- Step 2.** The Section 504/ADA Compliance Officer shall provide the individual filing the written statement (“the complainant”) an opportunity to discuss the matter personally, if requested, and shall make such additional investigation as is necessary to determine the complete facts involved. The Compliance Officer shall create a report of his/her findings and recommendations regarding resolution of the matter within fourteen (14) days of receiving the complaint.
- Step 3.** The Section 504/ADA Compliance Officer shall take such action as is necessary, in his or her judgment, to resolve the matter. The Section 504/ADA Compliance Officer shall also issue a written decision regarding the complaint and resolution thereof to the complainant within five (5) school days of completing the findings and recommendations.
- Step 4.** If the complainant is not satisfied with the Section 504/ADA Compliance Officer’s decision, the parent/legal guardian may give written notice to the BOCES Section 504/ADA Compliance Officer explaining the reason for dissatisfaction and requesting an appearance before the BOCES Board. Such notice must be given within ten (10) school days of Section 504/ADA Compliance Officer’s decision. In turn, the BOCES will arrange for the complainant to appear before the Board at its next regularly scheduled meeting. The complainant shall be notified in writing of the Board’s decision within 10 school days of his/her meeting with the Board.

Hearing Procedures

- Step 1.** If a complaint involves a child’s identification, evaluation, educational program, or placement, parents/legal guardians also have the option of requesting a Section 504 due process hearing. Pursuant to BOCES Policy AC-R, a hearing may be requested by filing written notice with the BOCES Section 504/ADA Compliance Officer.
- Step 2.** Upon receiving a written request for an impartial due process hearing, the BOCES Section 504/ADA Compliance Officer will select a hearing officer from the list of impartial hearing officers maintained by the Colorado Department of Education to hear cases pursuant to the Individuals with Disabilities Education Act and who have been trained regarding Section 504.
- Step 3.** The BOCES-appointed hearing officer will schedule a due process hearing to occur as soon as reasonably practicable for the parent/legal guardian and BOCES. The parent/legal guardian and BOCES may be represented by legal counsel at the hearing, may examine relevant records, and participate in the hearing.
- Step 4.** Within ten (10) school days after the conclusion of the hearing, the hearing officer will issue a written decision. The decision shall include applicable findings of fact and conclusions of law. The hearing officer shall submit the written decision to the parent/legal guardian and the Board. The decision of the hearing officer shall constitute the final administrative decision in the matter.
- Step 5.** If either the parent/legal guardian or the BOCES is not satisfied with the decision rendered by the hearing officer, the parent/legal guardian or BOCES may initiate legal proceedings in the United States District Court, District of Colorado, or other court of competent jurisdiction.

Appendix B: Procedural Guidance Regarding Shortened School Day Schedules (“shortened schedule”) for students with an Individual Education Program (IEP)

Procedural Guidance regarding Shortened School Day Schedules (“shortened schedule”³) for students with an Individualized Education Program (IEP)

I. Introduction

In general, the length of a school day should be no different for a student with an Individualized Education Program (IEP). Under certain specific circumstances though, an IEP team can agree to shorten the school day of a student with a disability where it is required to meet that particular child’s unique needs and provide him or her with a free appropriate public education (FAPE). Still, it should be very rare and typically, only temporary.

a. Definition of a Shortened Schedule

Students with an IEP must attend school for the same number of hours and minutes as non-disabled students, unless a student’s IEP team determines otherwise based on a student’s unique, disability-related needs. Any shortening of the school day from the number of hours and minutes attended by non-disabled students constitutes a shortened schedule for a student with an IEP.

b. Circumstances in which a shortened schedule is permissible⁴

A shortened schedule for a student with an IEP is permissible only under specific circumstances and when it is required to meet the child’s unique needs and provide him or her with FAPE. Examples of appropriate uses of a shortened schedule could include, but are not limited to:

- i. Student with a recent brain trauma, currently in recovery, needs a transitional reduced day due to cognitive fatigue associated with recovery;
- ii. Physician of a student transitioning to new seizure medications requests gradually increasing the length of the school day for the student;
- iii. Recently adopted student from another country is experiencing transition difficulties and the parents and therapist request a gradual transition to school;
- iv. Driving distance and full school day for a student with a seizure disorder has a direct impact on the student’s health causing increased seizures;
- v. For a student with school phobia, school refusal or selective mutism who is in treatment, when the student’s therapeutic plan specifies a gradual transition to full day attendance with beginning and end dates specified;
- vi. When due to a student’s severe emotional, behavioral and/or medical needs, the student is physically unable to tolerate a full school day despite extensive efforts to provide positive behavioral interventions, supports, strategies and/or medical intervention;
- vii. Student discharged from residential treatment experiences transition difficulties and the student’s therapist requests a gradual transition to school.

³ This procedural guidance pertains to shortened school days, not to otherwise modified schedules.

⁴ All circumstances must comply with the requirements of applicable civil rights laws and regulations.

c. Examples of impermissible reasons for a shortened schedule

A shortened schedule raises issues regarding the provision of FAPE under the Individuals with Disabilities Education Act (IDEA), as well as potential discrimination under Section 504 of the Rehabilitation Act. There are clear impermissible reasons for a shortened schedule including, but not limited to:

- i. Administrative convenience;
- ii. Cost savings or limited funding;
- iii. Unavailability of staff (due to staff shortages);
- iv. Driving distance (exclusive of impact on student);
- v. Difficulty with implementation of the child's IEP;
- vi. For management of student behavior or discipline, and/or as a form of punishment, or in lieu of an appropriate behavioral intervention plan (BIP) or necessary behavioral supports;
- vii. For transportation convenience which leads to a reduction of instructional time for a student with an IEP (i.e. either by starting the student's school day later or by releasing the student earlier than non-disabled peers);
- viii. Establishing a standard for an alternative program for an entire group of students with IEPs for fewer hours of instruction than non-disabled students;
- ix. Making a change based upon a parent request alone (the IEP team is obligated to offer and implement a legally compliant IEP, and thus may refuse a parent request if the team believes the shortened day does not constitute FAPE or provide a student with an opportunity to receive educational benefit);
- x. Indefensible rationales (For instance, "We knew he shouldn't attend school only one hour a day, but we didn't know what else to do so now we are shortening his day" or "We can't have him at our school. He gets in too many fights in the afternoon. He's fine in the morning, so we will only have him on campus for the first three periods." Having a parent come pick a student up in these temporary situations is considered removal, so caution is warranted).

d. Who makes the decision regarding a shortened day schedule⁵

The decision regarding a shortened day schedule must be made on an individual, case-by-case basis by the student's IEP team after the IEP team fully considers if there are other ways to meet the student's needs. When considering a shortened schedule, the IEP team must be mindful of legal mandates regarding FAPE, least restrictive environment (LRE), and educational benefit. IEP teams should exercise caution as a shortened day may limit a student's ability to make adequate progress, to access the general education curriculum, to meet graduation requirements and to receive FAPE.

⁵ This provision must comply with applicable regulations for IEP teams.

e. Requirements of the Individualized Education Program (IEP) of each student on a shortened schedule

An IEP team meeting must be held before the school district shortens the length of a school day for a student with an IEP. At a minimum, the IEP generated shall include:

- i. Specific details related to the shortened schedule, including, at a minimum, the student's school start time and end time for each day of the school week (i.e., Monday to Friday) in the accommodations section of the IEP;
- ii. The student's need for a shortened school day in the present levels of performance section of the IEP, for example, "The IEP team has determined that the student is unable to attend school for the required number of hours because... Therefore, a full school day is not appropriate for the student to receive his public education";
- iii. The parent's or parents' input regarding the shortened schedule in the present levels of performance section of the IEP;
- iv. A description of the special education and/or related services resulting from the change in the service delivery section of the IEP, if the shortened schedule changes the student's special education and/or related services from the student's then-current IEP;
- v. A description of the LRE resulting from that change in the LRE section of the IEP, if the shortened schedule changes the LRE for the student from the student's then-current IEP;
- vi. Team discussion of the continuum of services and placement, including a shortened schedule and any alternatives considered as appropriate in the Prior Written Notice (PWN) section of the IEP;
- vii. At a minimum, an IEP Amendment is required each time the shortened schedule changes for the student.

A shortened day may be an appropriate offer of FAPE in limited circumstances. An offer of services and placement must provide a student educational benefit in the LRE.

f. IEP teams must review the student's need for a shortened schedule

Use of a shortened schedule to provide FAPE may be appropriate for limited students, in limited circumstances, and for limited periods of time. IEP teams should continuously monitor and review a student's progress and plan and meet for an IEP meeting at least annually, and more frequently, if needed, to determine whether a shortened school schedule continues to be necessary to meet the student's unique, disability-related needs⁶. The student should return to a full day schedule as soon as he or she is able.

g. Transportation providers for students on a shortened schedule must be notified, in writing, of the initiation of, the elimination of, and any interim changes to shortened schedules

⁶ This may be at the annual review. This provision must comply with applicable regulations for IEP teams.

If a student is placed on a shortened schedule due to an IEP team decision, the school district is required to offer transportation to the student to accommodate their modified schedule if that student is otherwise eligible for special education transportation.

The transportation director and bus driver(s) for a student with a shortened schedule must be notified, in writing, of the initiation of, the elimination of, and any interim changes to a shortened schedule for a student.

At a minimum, the transportation director and bus driver(s) will be provided with:

- i. Specific details related to the shortened schedule, including, at a minimum, the student's school start time and end time for each day of the school week (i.e., Monday to Friday).

This written notification to the transportation director and bus driver(s) will be provided by the building principal, unless delegated by the building principal to another designated member of the IEP team.