

## **NOTICE**

**The Burlington County Institute of Technology District does not discriminate in admission or access to, or employment in, its programs and activities on the basis of disability in violation of Section 504 and its implementing regulations. The District official responsible for coordinating compliance with Section 504 and implementing its regulations is Laura Reigelsperger, Director of Pupil Personnel Services, who may be contacted at the following phone number:**

**Burlington County Institute of Technology District  
Administration Building  
2 Academy Drive  
Westampton, NJ**

**Telephone: Medford 609-654-0200 Extension 2226  
Westampton 609-267-4226 Extension 2226**

*This Notice should be part of the student handbook, school newsletters and the BCIT School Guide and Calendar.*

*All Parents/Guardians need to be notified annually regarding Section 504.*

## Section 504 of the Rehabilitation Act

*“No otherwise qualified individual with disabilities in the United States shall, solely by reason of her or his disability, as defined in section 706(8) of this title 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 or under any program or activity conducted by any Executive agency or by the United States Postal Service.” (29 U.S.C. Sec. 794)*

Section 504 of the federal Rehabilitation Act of 1973 is a civil rights statute which was enacted to protect individuals with disabilities from discrimination based on a disability in programs and activities administered by any entity that receives federal financial assistance, and the 1978 regulations (34 C.F.R. Part 104) noted protections for students with disabilities in the public schools.

The §504 regulations include requirements for child find, evaluation, procedural safeguards, and provision of a free, appropriate public education (FAPE) to each qualified student with a disability, regardless of the nature or severity of the disability in the school district. When needed, this includes individual accommodations – regular & special education and related aids and services that are (a) designed to meet individual educational needs of [individuals with disabilities] as adequately as the needs of nondisabled persons are met and (b) adhere to procedures that meet requirements of Sections 104.34 [educational setting], 104.35 [evaluation & placement] and 104.36 [procedural safeguards] for eligible students if the impairment substantially limits their ability to function in school and they need the accommodations to ensure that they have access to educational opportunities like their nondisabled peers.

**Nonacademic Services/Extracurricular Athletics:** The district must provide equal opportunity in such areas as counseling, physical/recreational athletics, transportation, health services, recreational activities, special interest groups or clubs, referrals to other agencies, and employment (34 C.F.R. 104.37). Modifications ensure equal opportunity to participate but do not grant an unfair advantage that alters the fundamentals of the athletic activity.

Section 504 does not guarantee success for students with disabilities;  
it guarantees an equal opportunity to participate in and benefit from a school’s educational program.

Note:

Section 504 was ratified by Congress in 1973, and the Education for All Handicapped Children Act (predecessor of IDEA) was ratified in 1975. The regulations for both laws were published at about the same time, two years later, and there was a conscious effort to coordinate these. Thus, murkiness can lead to confusion when they share definitions or do not clearly differentiate them. For example, a student’s disability needs to “adversely affect” his/her educational performance such that he/she requires specialized instruction to ensure FAPE under IDEA, and a student’s impairment needs to “substantially limit” a major life activity under §504 for the student to qualify for services if these are needed for the student to access his/her educational program, be provided with an equal educational opportunity, and gain access to FAPE.

**Regulations and publicly issued policy guidance for §504  
are provided by the Office for Civil Rights on the OCR website at:**

<http://www2.ed.gov/policy/rights/guid/ocr/disability.html>

<http://www2.ed.gov/policy/landing.ihtml>

## Americans with Disabilities Act and ADA Amendments

The Americans with Disabilities Act (ADA), passed in 1990, and reauthorized as the ADA Amendments Act of 2008 (ADAAA) as Public Law No. 110-325, requires schools to make the reasonable accommodations or modifications necessary to ensure access of goods and services that do not result in undue hardship to the school. All persons covered by §504 or Title II of the ADA are protected from discrimination under regulatory provisions that cover program and physical accessibility requirements as well as protection against retaliation and harassment. Title II of the ADA extends the antidiscrimination prohibition in Section 504, and the ADAAA was passed to supersede Supreme Court decisions that had too narrowly interpreted the ADA's definition of a disability. Specifically, Congress directed that the definition of disability be construed more broadly and not demand extensive analysis.

### The ADAAA:

- (a) changed the determination of eligibility to be one in which the ameliorative effects of mitigating measures could not be considered when determining eligibility;
- (b) added that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active;
- (c) noted that a person would not be “regarded as” a person with a disability if the impairment is both transitory (meaning that it has an actual or expected duration of 6 months or less) and minor;
- (d) specified that the “regarded as” prong of the disability definition entitles protections if an individual can establish that s/he has been subjected to an act prohibited by Title II or §504 because of an actual or perceived physical or mental impairment, and the person does not actually need to have an impairment or a substantial limitation for these protections;
- (e) added more major life activities to include less global functions for students than learning as well as various health-related conditions; and
- (f) includes a conforming amendment to the Rehabilitation Act of 1973 that affects the meaning of disability under §504.

### Defining a disability in the ADAAA:

- Substantial limitation can be for one major life activity (not necessarily others).
- An impairment can be episodic or in remission and, if active, would be a disability if it substantially limits a major life activity when active.
- A substantial limitation is determined without regard to the ameliorative effects of mitigation measures (like medication, prosthetics, low-vision devices, hearing aids/cochlear implants, equipment, mobility devices, assistive technology, or learned behavioral or adaptive neurological modifications) except that eyeglasses or contact lenses shall be considered.

### Auxiliary Aids & Services now include:

- interpreters or other effective means to make aurally delivered information available to individuals with hearing impairments
- qualified readers, taped texts or other effective means to make visually delivered materials available to individuals with visual impairments
- acquisition or modification of equipment or devices

**For more information, see *Questions and Answers on the ADA Amendments Act of 2008 for Students with Disabilities Attending Public Elementary and Secondary Schools*, issued by the US Department of Education's Office for Civil Rights, at:**

<http://www2.ed.gov/print/about/offices/list/ocr/docs/dcl-504faq-201109.html>

See Appendix A for a comparison of IDEA, 504 and ADA.

## GENERAL REQUIREMENTS FOR §504 COMPLIANCE BY THE DISTRICT

To be in compliance with §504 and state nondiscrimination requirements, Burlington Institute of Technology must do the following:

- Designate a §504 Compliance Officer.
- Provide notice that the district does not discriminate on the basis of disability in admission or access to, or treatment or employment in, its programs and activities.
- Conduct child find activities and appropriate evaluations.
- Have §504 teams where several individuals, knowledgeable of the student, assessment data and district programs, review data to make eligibility determinations and, when appropriate, develop accommodation plans for §504 eligible students.
- Establish standards and procedures for the identification and evaluation process.
- Provide students with disabilities equal access to nonacademic and/or extracurricular activities.
- Provide FAPE through the provision of a §504 Accommodation Plan if the student has a disability that substantially limits a major life activity/bodily function and needs accommodations to access educational opportunities.
- Determine if the behavior of a student with a §504 disability that resulted in disciplinary action was a manifestation of his/her disability.
- Provide notice of the designated §504 Compliance Officer and how to obtain information about access, the grievance procedures, and the district's statement of nondiscrimination to students, parents, employees, and professional organizations. These notices should be included in the student/parent handbooks and on the district's website.
- Adopt and implement procedures to ensure that interested persons can obtain information regarding the existence and location of services, activities and facilities that are accessible to and usable by persons with disabilities.
- Provide equal access to parents/guardians who have a disability.
- Provide notice to parents/guardians of their procedural rights that includes notice of meetings/decisions pertaining to the identification, evaluation or placement of students under §504, opportunity to examine relevant records of their child, an impartial hearing with an opportunity to participate and be represented by counsel if they disagree with a determination or believe that the district violated §504, and a review procedure.
- Have grievance procedures that incorporate appropriate due process standards that provide for a prompt and equitable resolution of a complaint about any prohibited action regarding the identification, evaluation and educational placement of a student who has or is suspected of having a disability.
- Complete self-evaluation of district policies and procedures to ensure that they are not discriminatory or do not have the effect of discrimination, and maintain records of these self-evaluations for at least three years.

NOTE: Students in voluntary preschool programs are covered under §504 if the program provider receives federal funds.

## **INFORMATION REGARDING SECTION 504 OF THE REHABILITATION ACT OF 1973**

### **Section 504 Defined:**

Section 504 of the federal Rehabilitation Act of 1973 is a civil rights statute that prohibits discrimination against persons with a disability. The Americans with Disability Act Amendments of 2008 provide further guidance for determining eligibility and, if appropriate, providing a plan for accommodations.

### **A person with a disability is anyone who:**

1. has a physical or mental impairment which substantially limits one or more of such person's major life activities. This does not include children solely disadvantaged by cultural, economic or environmental factors. The Americans with Disabilities Act Amendments of 2008 (ADAAA) includes impairments that are episodic or in remission if they would substantially limit a major life activity when in an active phase as a disability. It also specifies that determination of eligibility cannot take into consideration the ameliorative effects of mitigating measures, other than eyeglasses or contact lenses, from things like medication, prosthetics, low-vision devices, hearing aids/cochlear implants, equipment, mobility devices, assistive technology, or learned behavioral or adaptive neurological modifications, which are actions or procedures that may be used by a student with a disability to manage the effects of an impairment or lessen the impact of the impairment.
2. has a record or history of such impairment. *(entitled to discrimination protection but not FAPE)*
3. is regarded as having such an impairment. *(entitled to discrimination protection but not FAPE)*

### **District Responsibilities:**

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

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

### **Parental Rights and Responsibilities:**

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

The Family Educational Rights and Privacy Act (FERPA) also specifies rights related to the privacy of student education records. This Act gives the parent/guardian (or student over the age of 18) the right to: 1) inspect and review his/her child's educational records; 2) make copies of these records; 3) receive a list of all individuals having access to those records; 4) ask for an explanation of any item in the records; 5) ask for an amendment to any report on the grounds that it is inaccurate, misleading, or violates the child's rights; and 6) a hearing on the issue if the school refuses to make the amendment.

### **The person in the district who is responsible for assuring that the district complies with Section 504 is:**

Laura Reigelsperger, Director of Pupil Personnel Services & §504 Compliance Officer  
609-654-0200 ext. 2226 or 609-267-4226 ext. 2226

## Rights of Parents/Guardians under Section 504 and the ADA

1. Have your child take part in, and receive benefits from public education programs without discrimination because of his/her disabling condition(s);
2. Have the school district advise you of parental rights under Federal law;
3. Receive notice regarding 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 nondisabled students to the maximum extent appropriate. It also includes the right to have the school district make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities.
5. Have your child educated in facilities and receive services comparable to those provided for students without disabilities;
6. Have your child receive special education and related services if s/he is found to be eligible under the Individuals with Disabilities Education Improvement Act of 2004 (PL 108-446) or accommodations or services if eligible under Section 504 of the Rehabilitation Act;
7. Have evaluation, educational, and placement decisions made based upon a variety of information sources, and by persons who know your child, the meaning of evaluation data, and placement options;
8. Have transportation provided to and from an alternative placement setting, directed by the district, at no greater cost to you than would be incurred if your child were placed in a program operated by the district;
9. Have your child be given an equal opportunity to participate in nonacademic and extracurricular activities offered by the district;
10. Examine all relevant records relating to decisions regarding your child's identification, evaluation, educational program, and placement;
11. Obtain copies of your child's educational records at a reasonable cost unless the fee would effectively deny you access to the records;
12. A response from the school district to reasonable requests for explanations and interpretations of your child's records;
13. Request amendment of your child's education 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 school district refuses this request for amendment, it shall notify you within a reasonable time, and advise you of the right to a hearing;
14. File a local grievance, in writing, to the district §504 Compliance Officer of Burlington County Institute of Technology at the Administration Building, 2 Academy Drive, Westampton, NJ
15. Request mediation or an impartial due process hearing related to decisions or actions 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. Disputes may be made to the New Jersey Office of Special Education Programs, Ms. Peggy McDonald, Director, NJ Department of Education, PO Box 500, Trenton, NJ 08625-0500 and/or to US Department of Education, Office for Civil Rights - NY Office, 32 Old Slip, 26<sup>th</sup> Floor, New York, NY 10005-2500. **The person in the district who is responsible for assuring that the district complies with Section 504 is the §504 Compliance Officer - Laura Reigelsperger, Director of Pupil Personnel Services (609-654-0200 ext. 2226 or 609-267-4226 ext.2226).**

## What is Discrimination based on Disability?

Discrimination under §504, as defined in 34 CFR 104.4(b), occurs when a recipient of federal funds:

- ~ acts in bad faith
  - ~ acts with gross misjudgment
  - ~ acts with deliberate indifference to a student's unique needs
- Denies a qualified person the opportunity to participate in or benefit from an aid, benefit or service on the basis of a disability (e.g., district practice of refusing to allow any student with an IEP the opportunity to be on the honor roll; denial of credit to a student whose absenteeism is related to his/her disabling condition; expelling a student for behavior related to his/her disabling condition; refusing to dispense medication to a student who could not attend school otherwise).
  - Fails to afford the student with a disability an opportunity to participate in or benefit from the aid, benefit or service that is equal to that which is afforded others (e.g., applying a policy that conditions interscholastic sports eligibility on the student's receiving passing grades in five subjects without regard to the student's disabling condition).
  - Affords a qualified disabled person an opportunity to participate in or benefit from the aid, benefit or service which is not as effective as that provided to others\* (e.g., placing a student with a hearing impairment in the front row as opposed to providing him/her with an interpreter).
- \* **“Equally effective”** aid, benefit or service need not produce identical results or level of achievement for students with and without a disability but must afford the student with a disability equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement in the most integrated setting appropriate to that student's needs.
- Provides different or separate aids, benefits or services, unless necessary to be as effective as the aids, benefits or services provided to nondisabled students (e.g. segregating students in separate classes, schools or facilities, unless necessary).
  - Aids or perpetuates discrimination by providing significant assistance to an agency, organization or person that discriminates on the basis of disabilities (e.g., sponsoring a student organization that excludes persons with disabilities).
  - Denies a person with disabilities the opportunity to participate as a member of a planning or advisory board.
  - Otherwise limits the enjoyment of any right, privilege, advantage or opportunity enjoyed by others (e.g., prohibiting a person with a physical disability from using a service dog at school).
  - In determining the site or location of a facility, makes selections that effectively exclude persons with disabilities, denies them the benefits of, or otherwise subjects them to discrimination. In *Hendricks v. Gilhool*, EHLR 441:352 (1989), the Pennsylvania Department of Education was found to have violated this section and the EHA by allowing students with disabilities to be located in inferior facilities such as trailers, wings in basements, and unnecessarily restrictive classrooms due to lack of classroom space.

Section 504 applies to all programs or activities of an organization that receives federal funds regardless of whether the specific activity/program directly receives federal funds. This includes all contracted services. Depending on the circumstances, this could apply to trips, clubs, and before and after school child care programs. 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. If a person with a disability wants to participate in an activity in which the individual is not otherwise qualified to participate, disallowing participation does not constitute discrimination.

## Who Is Protected from Disability Discrimination under §504?

### A person is considered to be protected from discrimination under §504 if the student:

- (i) has a physical or mental impairment which substantially limits one or more of such person’s major life activities. This does not include children solely disadvantaged by cultural, economic or environmental factors.  
*The Americans with Disabilities Act Amendments of 2008 (ADAAA) includes impairments that are episodic or in remission if they would substantially limit a major life activity when in an active phase, and determination of eligibility cannot take into consideration the ameliorative effects of mitigating measures (see below).*
- (ii) has a record or history of such impairment. This term includes those who have been misclassified (e.g. non-English speaking student who was mistakenly classified as having an intellectual disability).
- (iii) is regarded as having such an impairment. A student could be “regarded” as having a disability under §504 if he frequently receives counseling services, if someone treats him/her as though observed behaviors are due to a disability, etc.

**Note:** Only students who have a physical or mental impairment (even if the impairment is episodic or in remission) that (2) substantially limits (without consideration of the ameliorating effects of mitigating measures) (3) a major life activity, are eligible for referral, evaluation and accommodations (FAPE) under §504.

Students who (a) have a record of or (b) are regarded as having an impairment have legal protection from discrimination based on their history or someone’s unfounded disability-related prejudices. Section 504 and the ADA do not entitle students with a “record of” or who are “regarded as having” an impairment to services or accommodations (FAPE) because they are not technically disabled under these laws. It is the negative action taken, based on the assumptions (perception or the record), that entitles a student to protection from discrimination, including but not limited to protection from retaliation and harassment on the basis of disability.

Disability Eligibility Application of Section 504	504 Protection from Discrimination	504 Eligible	504 FAPE Requirements (accommodations)
Student <i>has</i> a documented physical or mental impairment (current, episodic or in remission) <i>that substantially limits</i> a major life activity without considering positive effects of mitigating measures & considering a condition that’s in remission/episodic as though it were active	YES	YES	YES, and develop Accommodation Plan if needed
Student <i>has</i> a documented physical or mental impairment <i>that DOES NOT substantially limit</i> a major life activity without considering positive effects of mitigating measures.	YES	NO	NO
Student has a <i>history of</i> such an impairment.	YES	NO	NO
Student is <i>regarded as</i> having such an impairment.	YES	NO	NO
Student’s school difficulties are primarily the result of cultural, environmental or economic factors.	NO	NO	NO



## NONDISCRIMINATION PROTECTIONS

Section 504 and the ADAAA protect students from discrimination, harassment and retaliation based on a “record of” such an impairment or being “regarded as” having such an impairment (in addition to those found to have a disability under §504). Protections afforded to these students include:

- the right to be free from actions that discriminate on the basis of disability,
- right to manifestation determinations prior to disciplinary changes of placement,
- right to protection from accumulation of short-term disciplinary removals that, during the year, constitute a pattern of exclusion,
- right to make complaints to the Office for Civil Rights (OCR),
- right to §504 due process hearings,
- right to periodic reevaluations, and
- equal right to access nonacademic services and extracurricular activities.

## ELIGIBILITY UNDER §504

### What is a “physical or mental impairment”?

The definition is very broad, and §504’s regulations (34 Code of Federal Regulations Part 104.3) defines it as: (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.” ADAAA expanded this to note that an impairment/condition can be episodic or in remission and, if active, would be a disability under §504.

*NOTE: Specific Learning Disability has the same definition under IDEA and §504, so a student who qualifies for §504 and not IDEA should be noted as having a learning disorder, for clarity.*

Determination must be based on credible documentation. A verbal report or suspicion of disability is not adequate for the §504 team to make a determination about disability.

### What is a “major life activity” (MLA)?

Section 504 regulations note that these are functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. The ADAAA expanded and clarified what constitutes major life activities, which now include, but are not limited to:

<b>Motor functions:</b>	<b>Other functions:</b>	<b>Operations of major bodily functions:</b>
walking	eating	immune system
lifting	caring for oneself	normal cell growth
bending	sleeping	digestive
standing	learning	bowel
performing manual tasks	working	bladder
<b>Communication functions:</b>	thinking	neurological
speaking	concentrating	brain
communicating	reading	respiratory
<b>Sensory functions:</b>		circulatory
seeing		endocrine
hearing		reproductive

The 504 Committee should realize that this list of major life activities (MLAs) is not exhaustive. For example, the §504 Committee could conclude that, due to a student’s impairment, s/he has a substantial limitation in another MLA such as controlling one’s own behavior, interacting with others, attending school, listening, organizing, participating in his/her educational program, or working independently.

## What does “substantial limitation” mean?

Section 504 does not provide a formula or scale for measuring substantial limitation. However, the ADA has long defined this as meaning that a person, when compared with average non-disabled people in the general population, is:

- (a) **unable to** or is
- (b) **substantially restricted as to the condition, manner or duration** under which s/he can perform the major life activity.

The ADAAA specifies that the determination of “substantial limitation” by an impairment may not take into consideration the beneficial effects of “mitigating measures” used by/for the student.

**Average person:** average for the student’s age/grade across a large population (like the state or country). The comparison is not to the student’s potential, siblings, or other students in the class or school.

Title II provides the following factors to consider in making a determination about whether the disability substantially limits a major life activity:

- the nature and severity of the impairment,
- the duration or expected duration of the impairment, **AND**
- the (current or expected) permanent or long-term impact of or resulting from the impairment

### Points to be mindful of:

- Think of “substantial” as a 4 or 5 on a scale from 1 to 5.
- Compare the potentially eligible student’s ability to perform the MLA (without mitigating measures) with the average student’s ability to perform the MLA.
- Substantially limiting = effects are usually evident over a period of time (duration)
- Duration & the extent to which the impairment actually limits the MLA should be taken into consideration when determining if a temporary impairment (e.g., concussion) is substantial enough to be a disability. Six months (anticipated duration) is an approximate guide, borrowed from the ADA Amendments, but this should be considered a very tentative and approximate rule of thumb in light of unsettled but emerging post-ADAAA case law concerning temporary impairments.

**General rule:** If a student is able to participate in or benefit from a district’s educational program (e.g. attend school, receive instruction, advance from grade to grade, & meet standards of personal independence and social responsibility expected for his/her age/grade) without the provision of special education and related services or other accommodations/services, and discounting the benefits of mitigating measures, that student would not generally be considered disabled under §504.

## Mitigating Measures

Generally, the typical supports or interventions provided by general education teachers to any student in the general education classroom or any school activity are not considered to be “mitigating measures”. **Mitigating measures are actions or procedures that may be used by/for a student with a disability to manage the impairment or lessen the impact of the impairment.**

The §504 team may **not** consider the beneficial effects of mitigating measures in making an eligibility determination. In other words, if the student has an impairment that is aided by any of the following and, without it, s/he would be substantially limited in a major life activity, the student would likely be a qualified person with a disability under §504.

### Mitigating Measures (cont.)

The “mitigating measures” noted in ADAAA are:

- medication;
- medical supplies, equipment or appliances; low-vision devices (which do not include ordinary eyeglasses or contact lenses); prosthetics including limbs and devices; mobility devices; or oxygen equipment and supplies;
- use of assistive technology;
- reasonable accommodations or auxiliary aids or services; or
- learned behavioral or adaptive neurological modifications

Notes:

1. If the student qualifies as having a disability, the subsequent discussion about any needed accommodations to access educational opportunities may take into consideration the effects of mitigating measures. If the mitigating measures are fully addressing the student’s condition, and the student performs adequately in all domains of school functioning, such a student may be a student with a disability under §504 but may not need an accommodation plan at the present time. Such a student may be “technically eligible” for §504 nondiscrimination protections but not need accommodations.
2. OCR has determined that **individual health plans and emergency plans are mitigating measures**, and the positive or ameliorative effects of a plan cannot be considered when determining if the student’s impairment would substantially limit a major life activity if the plan was not implemented. Students with health plans should not categorically be excluded from consideration for eligibility under §504 because they may be eligible for protections and/or additional accommodations if they are found to have a disability according to §504.
3. Students with conditions that require individual health plans should be reviewed, on a case-by-case basis, to ensure that the district follows the evaluation, placement and procedural safeguard requirements of the FAPE provision in the §504 regulation.

### **Conditions that are episodic or in remission**

In considering whether a condition which may episodically rise to the level of substantially limiting a major life function or is currently in remission, schools should consider these as active when making eligibility determinations.

**Episodic Impairments:** Seasonal allergies, migraines, rheumatoid arthritis, epilepsy, irritable bowel syndrome, and cystic fibrosis are examples of impairments that may be substantially limiting at times (in hot weather, when the student is stressed, when irritants or trigger factors are present) and have little impact at other times. Students should not be denied eligibility simply because the disability, at the time of evaluation, is not substantially limiting, especially if the school has knowledge from past experience that substantial limitation is likely to occur.

**Impairments in Remission:** If impairment such as cancer or leukemia were active and would substantially limit a major life function, the student would be eligible. S/He may not need an accommodation plan at the present time, but may need to be monitored for a period of time. If the impairment returns, a plan must be developed immediately.

### **Temporary Impairment under §504 for the Purpose of FAPE**

A temporary impairment is one of a short duration (usually 6 months or less) or there is no residual effect to major life activities. A temporary impairment that is minor does not constitute a disability for purposes of §504 unless its severity is such that it results in substantial limitation of a major life activity for an extended period of time; then, it could be considered a disability under §504. Decisions about these should be made on a case-by-case basis, and the student’s age/grade should be considered along with curricular and/or extracurricular expectations when reviewing the expected duration and the extent to which it limits a major life activity.

*Note: Students do not need to have completed interventions through Response to Interventions (RtI) before being considered as disabled under §504. RtI is data-based problem solving that facilitates the systematic identification of students needing additional assistance and matches the intervention support to student need. Ongoing monitoring of RtI helps identify students who may have a disability, but this can't delay a referral for a student who may need §504 services.*

## **Students who are eligible for Section 504 Nondiscrimination Protections but not for FAPE Provisions because they are not considered to be disabled under §504:**

### **Student has a record of an impairment.**

- ... “has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.”

(34 Code of Federal Regulations Part 104.3)

### **Student is regarded as having an impairment.**

(A) “ has a physical or mental impairment that does not substantially limit major life activities but is treated by a recipient as constituting such a limitation;

(B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(C) has none of the impairments defined but is treated by a recipient as having such an impairment.”

(34 Code of Federal Regulations Part 104.3)

### **Excluded from §504 protections – not a student with a disability**

- Limitations that are considered transitory or temporary (typically with duration of less than 6 months). Temporary health conditions with an expected duration of less than six months generally are not considered disabilities if they are minor. Temporary health conditions may be distinguished from ongoing health concerns where symptoms & needs for treatment arise intermittently (episodic impairment) and may qualify as a disability.
- Pregnancy or teen parenting
- Minor impairment (e.g., broken arm) Note: There may be a need for a temporary §504 disability identification and accommodation plan if the student’s participation in State testing cannot be accomplished without accommodations.
- Current illegal use of drugs (that occurred recently enough to justify a reasonable belief that a person’s drug use is current or that continuing use is a real and ongoing problem) 28 CFR 35.104. However, students who are currently in a rehabilitation program and are not engaging in the illegal use of drugs may be considered for §504 protections, and current users of alcohol are not excluded from protection under §504. Students with history of drug abuse may qualify for §504 accommodations if they are not currently using. Current use can be established through student confessions or a juvenile record. Hearsay allegations by other students or declarations by staff may serve in a similar capacity, but there is no definitive guidance about this.
- Difficulties where the primary factor is due to cultural, environmental or economic disadvantage
- “Slow learners” without a suspected disability
- Impairments that do not substantially limit a major life activity

**NOTE:** §504 does not exclude users of alcohol from the definition of a student with a disability, but §504 allows schools to take disciplinary action against students with disabilities using drugs or alcohol to the same extent as students without disabilities.

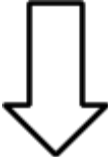
**Section 504 Process: Flowchart**

<b>Referral</b>	⇒	Parent given notice of referral receipt	Parent given information about §504 & rights	Parent, teachers & nurse asked to provide information	Parent/Guardian provides written <b>consent</b> for evaluation
	↓				

<b>Evaluation</b>	school records	nurse's information about health	private evaluations; medical documentation
§504 Evaluation Committee gathers & reviews information	teacher input	parent input	discipline records
§504 Evaluation Committee determines if the student ...	<i>has a documented impairment</i>	<i>that substantially limits a major life activity</i>	<i>without considering ameliorative effects of mitigating measures</i>

Notice of Eligibility Meeting to Parent & notice that a Plan may be developed if eligible	Develop Eligibility Report	Eligibility Meeting	<b>Determination of Eligibility by §504 Evaluation Committee</b>
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↓	↓	↓	↓	↓
<b>Not eligible</b>	<b>Need more information</b>	<b>Eligible; no accommodations needed</b>	<b>Eligible; need accommodations</b>	<b>Eligible; may have IDEA disability and need special education &amp; related services</b>
<b>Parent is given copy of Eligibility Report, Notice letter &amp; Parental Rights.</b>				
End of process	Get consent to contact physician or	Alert administrators of		Give parent CST referral letter & PRISE

	do assessment	eligibility without a plan			
	Review information; give parent copies of information received	May need to monitor if no plan was needed because of remission or positive effects of mitigating measures	<b>Develop §504 Accommodation Plan</b>		
	Follow process for determining eligibility and, if needed, developing a Plan	<p><b>nondiscrimination protections:</b></p> <ul style="list-style-type: none"> <li>● history of impairment</li> <li>● regarded as having impairment</li> <li>● mitigating measures are enough</li> <li>● condition in remission</li> </ul>			

**Assign Case Coordinator**

copies of Plan to parent & staff *	inservice if needed	implem ent plan	monito r plan	annual review	periodic reevaluation
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\* Include coaches, extracurricular activities' advisors, nurse, bus drivers, etc. (as appropriate)

# PROCESS FOR DETERMINING IF A STUDENT IS A QUALIFIED STUDENT WITH A DISABILITY UNDER SECTION 504

## Referral

Staff members are required to refer a student for consideration of eligibility/services under Section 504 if they have reason to suspect that the student would be eligible. Do not wait for a parent to request a 504 meeting. Any student who needs or is believed to need special accommodations, related services or programs under Section 504 may be referred to the school's §504 Evaluation Committee for determination of eligibility under §504 by a staff member, parent/guardian, or a state official.

### Some Instances When School Staff Should Consider the Existence of a Disability and Possible Section 504 Protection

- when a disability is suspected
- when long-term suspension or expulsion is being considered
- when retention is being considered
- when a student shows a pattern of not benefiting from the instruction being provided
- when a student has chronic absences
- when a student returns to school after a serious/extended illness or injury
- when a student returns to school after being released from a treatment center, institution, or after an extended hospitalization for a physical condition or illness
- after a determination that a student does not qualify (or continue to qualify for) special education & related services but evaluation or other information indicates a mental or physical impairment
- after a parent revokes consent for special education & related services
- when a student exhibits a chronic or major health condition
- when a student is identified as “at risk” or exhibits the potential for dropping out of school
- when substance abuse is an issue
- when a new building or remodeling is being considered

**Note: This is not an exhaustive list.**

Parent/Guardian or school personnel who know the student present a written & signed referral to the §504 Evaluation Committee for determination of eligibility.

The parent/guardian is contacted by the Principal/Designee with an initial explanation of §504 procedures and parent/guardian rights. The parent/guardian is given a copy of *Information Regarding Section 504 of the Rehabilitation Act of 1973 with Rights of Parents/Guardians under Section 504 and the ADA*.

## Consent for Evaluation

Though the §504 regulations are not specific about the need to obtain consent before reviewing records as the initial evaluation, OCR's interpretation has indicated that consent is needed before the initial evaluation, even if it is a review of “already available” information. Thus, consent from the parent/guardian is needed to proceed.

## Evaluation

Within ten (10) school days of receiving a written referral, the §504 Evaluation Committee requests consent for the evaluation and, once received, reviews all available data which may include school-based data, observations and staff input, as well as parent's provision of private evaluations and/or a physician's written medical diagnosis of the child. An evaluation includes a review of all available and relevant information from student

records, the parent/guardian, and consultation with the student's teachers, counselor, parent/guardian and, when applicable, the student.

**The §504 Evaluation Committee** should include persons knowledgeable about

- (1) the student,
- (2) the meaning of evaluation data, and
- (3) placement options.

The committee must draw from a **variety of sources** in the evaluation process and document the information from these sources as well as all significant factors related to the student's functioning in school in a **team process**.

Though §504 regulations do not specify the committee makeup or require the attendance of the **parent/guardian**, inviting the parent/guardian and staff who have direct knowledge of the student is a good practice since it provides an opportunity for those closest to the student to provide input about the student's needs and the educational environment. The parent/guardian is not considered to be a member of the §504 Evaluation Committee for the purpose of eligibility decision-making.

### **Evaluation: Review of Available Information and Data**

To determine if a student has a physical or mental impairment that substantially limits a major life activity, without considering any positive effects of mitigating measures, **evaluation procedures must:**

- be sufficient to determine whether a student has a disability under §504,
- gather information from a variety of sources, and
- review the information as a team;
- ensure that students are not misclassified, unnecessarily labeled as having a disability, or incorrectly placed, based on inappropriate selection, administration, or interpretation of evaluation materials; and
- not rely on presumptions or stereotypes regarding persons with disabilities or classes of such persons.

**Data** used by the §504 Evaluation Committee to determine (a) existence of a documented impairment and (b) substantial limitation of a major life activity include:

- Information from parent about observations at home, medication, outside supports for the student, etc.
- Medical diagnosis or current report from person qualified to make a diagnosis
- School cumulative records (report cards, current grades, attendance, state testing assessment data, district benchmark assessments, portfolios, work samples)
- Discipline record
- Input from the school nurse, counselor and any other staff providing support to the student
- Aptitude tests
- Achievement tests
- Parent/Guardian observations and input
- Teacher recommendations/observations
- Teacher anecdotal data about the student's organizational skills, ability to focus, etc.
- Physical condition
- Social and cultural background\*
- Adaptive behavior
- Mitigating measures (must review their impact and ignore the positive effects in determining eligibility)

\* Problems that are primarily the result of cultural, environmental or economic factors rule-out §504 eligibility.

All significant factors related to the student's learning and access to educational opportunities (via major life activities) must be considered in making a determination about eligibility. The weight of the information considered is determined by the committee given the student's individual circumstances.



If additional assessment is requested by the district to help determine eligibility, parental consent is required. This needs to be informed, signed consent. Any assessment needs to be completed at no cost to the parent/guardian.

*Since eligibility is to be determined by ignoring the effect of mitigation, treatment, remediation efforts, or self-learned compensatory strategies, the process becomes somewhat speculative when the student is receiving such mitigating measures. Efforts need to be made to remain focused on the individual and not on stereotypes about functioning with a specific impairment without mitigating measures.*

<b>Q &amp; A</b>	<p><b>Can a doctor determine that a student requires a §504 Accommodation Plan?</b></p> <p>NO. Doctors diagnose medical conditions or impairments. The §504 Evaluation Committee must consider all information in making determinations about eligibility &amp;/or need for accommodations. Only the §504 Evaluation Committee can determine if the student is considered a student with a disability according to §504/ADA and if, due to a documented impairment + substantial limitation of a major life activity, that student also needs accommodations.</p> <p><b>Are all students with an impairment/medical condition eligible?</b></p> <p>NOT NECESSARILY. An evaluation by the §504 Evaluation Committee may determine that the student's impairment/condition does not substantially limit a major life activity. New statutory language added in 1990 clearly states that a student who is currently using illegal drugs/substances is not eligible for §504 protections or services.</p> <p><b>Are parents/guardians members of the §504 Evaluation Committee?</b></p> <p>NO. Decisions about eligibility/accommodations are made by a committee of people who know the student, can interpret the data, and are aware of program/support options. Parents/Guardians should be invited to meetings where eligibility and program planning will be discussed, and they can file complaints/grievances if they do not agree with the determinations of the Committee.</p> <p><b>Should a parent/guardian participate in the evaluation process?</b></p> <p>Although §504 regulations do not specify the degree of parental participation, it is best practice to include the parent/guardian. The parent/guardian can provide valuable information regarding health and social history, strategies that have been successful, techniques that have failed, and services that have been/are being provided. Efforts should be made to gather information from the parent/guardian during the evaluation process.</p>
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## Transfer Student with a §504 Plan

If a student with a disability transfers into district with a §504 plan, the receiving district should review the plan and supporting documentation. If a group of people, knowledgeable about the meaning of evaluation data and placement options, determines that the plan is appropriate, the district is required to implement it. If the district determines that the plan is inappropriate, the district is to evaluate the student consistent with §504 procedures to determine what program is appropriate for the student. Section 504 does not prohibit a district from honoring a previous plan during the interim period.

<b>Q &amp; A</b>	<p><b>Must a district provide services to students enrolled in private schools?</b></p> <p>The district must provide a free, appropriate public education to all students with disabilities protected under §504. If the district has offered free, appropriate public education, it is not obligated to provide services to those students who enroll in private schools based on parental choice.</p>
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## Eligibility Determination

As a Committee, the group must determine if the student meets any of the following criteria for eligibility:

- Student has a mental or physical impairment that substantially limits one or more major life activity. (note: ALL major life activities need to be considered.)
- Student has a record of such impairment.
- Student is regarded as having such an impairment.

From a review of a variety of sources of information, and discounting any ameliorative effect of mitigating measures, the §504 Evaluation Committee will make one of the following determinations that:

- (a) The student is eligible as a student with a disability under §504.
  - The eligible student needs accommodations or services, and a §504 Accommodation Plan will be developed.
  - The eligible student has an Individual Health Plan, and this is all that is needed to address §504 eligibility needs. NOTE: This Health Plan should be attached to the student's 504 Accommodation Plan.
  - The eligible student does not require §504 accommodations or services at this time because:
    - ~ The student's condition is currently in remission
    - ~ The mitigating measures in place are addressing the disability in a way that the student has equal access to educational opportunities
- (b) The student is not eligible under §504 as a student with a disability who has FAPE rights, but the student is regarded as having an impairment; thus, the student and parent will be apprised of their procedural rights.
- (c) The student is not eligible under §504 as a student with a disability who has FAPE rights, but the student has a record of having an impairment; thus, the student and parent will be apprised of their procedural rights.
- (d) A determination cannot be made, and additional information is needed. If an evaluation is needed to determine if the student is a student with a disability according to §504, this needs to be provided at no cost to the parent/guardian, and written consent from the parent/guardian must be obtained before proceeding. If exchange of information is needed between the district and private provider(s), parental written consent is needed.<sup>1</sup>
- (e) The student is eligible as a student with a disability under §504, and a §504 Accommodation Plan will be developed. Additionally, a referral to the Child Study Team should be made when there is reason to believe that the student might qualify for IDEA eligibility AND need special education & related services. The §504 Evaluation Committee will send the parent/guardian a letter about this decision and include a copy of Parental Rights in Special Education (PRISE) with that letter.

<sup>1</sup> If consent is needed to complete an evaluation to make a determination about eligibility, the §504 committee must alert the district §504 Compliance Officer before speaking with the parent since this may involve allocation of resources. The district §504 Compliance Officer is the person with the authority to identify the person who will be assigned to complete the evaluation.

### **Eligibility Document:**

On the form which documents the eligibility decision, the §504 Evaluation Committee will document the

- reason for referral,
- Team members & their knowledge of the student, evaluative data and program options,
- reviewed information and sources,
- consideration of the degree of limitation on major life activities,
- any mitigating measures that were identified (and not considered) for making an eligibility decision,
- the eligibility determination,
- and participants in the Eligibility meeting.

### **Notice/Notification to Parent/Guardian:**

- The parent/guardian is invited to attend a meeting where §504 eligibility will be discussed and, if appropriate, plan for accommodations. <sup>2</sup>
- Notice is sent to the parent/guardian informing the parent/guardian of the §504 Evaluation Committee's determination about eligibility. Notice includes a copy of:  
Rights of Parents/Guardians under Section 504 and the ADA.

<sup>2</sup> There is no requirement to include a parent/guardian in a meeting where eligibility is determined or an Accommodation Plan is developed. However, a parent/guardian may be invited to participate if the §504 Evaluation Committee believes that this would be of benefit to the student. Best practice is to involve the parent/guardian since s/he has relevant input and collaboration is always beneficial to students.

## **DETERMINING THE NEED FOR ACCOMMODATIONS FOR A STUDENT WITH A DISABILITY UNDER §504 AND FOLLOW-UP PROCEDURES**

Once a student is found to have a disability (impairment + substantial limitation of a major life activity) under §504, the committee must then consider whether the student needs a §504 plan to access the benefits of public education to a level comparable to students without disabilities. The Accommodation Plan must be directly related to the substantial impact of the physical or mental impairment on major life activity/ies. At this point, the committee may factor-in the effects of mitigating measures in determining what, if any, accommodations/services are needed by the student.

Note: Section 504 plans are developed for the student as s/he is **at the present time**. Thus, consideration is allowed for the positive effects of mitigating measures as well as a condition that is in remission at the present time. At times, students who have a disability according to §504 may not need an accommodation plan if their disability is adequately addressed with an Individual Health Plan, or if there is no current impact from a condition that is in remission, but the §504 Evaluation Committee needs to document their consideration of the need for §504 accommodations.

### **Questions to ask in developing a §504 Accommodation Plan:**

From the information gathered to determine eligibility, what, if anything, does this student need to access (participate in and benefit from) the general education program/activities to guarantee equal opportunity without discrimination based on his/her disability? NOTE: Consideration of the mitigating measures should be factored-in when determining if a student needs accommodations.

Within fifteen (15) days of an eligibility notice, the §504 Evaluation Committee will:

1. request a Case Coordinator and
2. document any/all of the following:
  - Develop an accommodation plan
  - Provide recommendations for modifications in the class or other school-based activities
  - Provide general recommendations related to the student's personal, social, adaptive and/or academic development

Principal/Designee will designate a Case Coordinator for the student.

### **The §504 Case Coordinator for the student will:**

- Send the parent/guardian a copy of the §504 Accommodation Plan and/or recommendations with a copy of Rights of Parents/Guardians under Section 504 and the ADA.
- Inform appropriate staff members of their responsibilities as delineated in the §504 Accommodation Plan and/or recommendations.
- File all documents used to determine eligibility and make a plan, along with copies of all correspondence, plans, recommendations and consent in the student's secure, confidential §504 file. Note: If confidential medical documents are in the student's health records, a note about this should be placed in the §504 file, and the confidential health record should be maintained securely by the School Nurse.
- Schedule a review of the student's progress/needs by the §504 Evaluation Committee once a year or earlier, if there is a need.
- Contact the §504 Evaluation Committee to schedule a reevaluation prior to any significant change in placement including transferring to a new school level (elementary / intermediate / middle / high), consideration for termination of eligibility, or when disciplinary exclusions from school approach the level of a "change of placement" (see section about discipline).
- Complete the Individual Student §504 Folder Contents: End of Year Check.
- Complete the §504 School Yearly Activity Summary Log & give copies to Principal & District §504 Compliance Officer in June.

### **Matriculating or Transitioning to New School**

**Suggestion:** When a student will move to a new school for the following school year, schedule a §504 Review meeting near the end of the year, and invite the §504 Coordinator from the receiving school to participate.

### **Reevaluation:**

Within three (3) years of the most recent accommodation plan or if there is a change in the student's status, a reevaluation will be conducted by the §504 Evaluation Committee to determine if the accommodations should be continued, revised or discontinued. A reevaluation typically includes a review of relevant data and information, similar to the process followed for an initial referral evaluation. As was the case with the initial referral, **consent** should be requested before proceeding with a reevaluation (review of information & available data) and, if several documented attempts to secure consent for a reevaluation are not responded to, the §504 Evaluation Committee should proceed with the reevaluation and notify the parent/guardian of this action.

Reevaluations should also be considered when:

- serial suspensions occur.
- retention is considered.
- the student shows a pattern of not benefitting from instruction.
- the student moves from one educational setting to another (e.g. elementary / intermediate to middle; middle to high.
- additional information is gathered that affects the instructional program of the student.
- circumstances change and eligibility is in question.
- there is a request for a reevaluation from parent/guardian, teacher or administrator.
- there is a significant “change of placement” (i.e., suspensions)

<b>Q &amp; A</b>	<p><b>Does a student who is taking medication to address a condition/impairment require a §504 Accommodation Plan?</b></p> <p>MAYBE. If the student has access to and benefits from educational opportunities like nondisabled peers do, taking this medication, a §504 Accommodation Plan is not required. However, this student is still considered to be a student with a disability if s/he has an impairment that substantially impacts a major life activity when the positive effects of the medication are not considered. If the student stops taking the medication, the §504 Tam should monitor his/her performance and, if necessary, convene a meeting to discuss a need for a §504 Accommodation Plan.</p> <p><b>Does there need to be a meeting when a student no longer seems to need §504 accommodations?</b></p> <p>YES. When the provision of services may be changed, a reevaluation is required first. Parental consent should be requested. The §504 team should schedule a reevaluation meeting to review available data and, if appropriate, complete the Eligibility Form to indicate that the student either (a) is no longer a student with a disability, and/or (b) no longer needs §504 accommodations.</p>
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### Terminology Clarification

The term “reasonable accommodation” is used in the employment context to refer to modifications or adjustments employers make to a job application process, the work environment, the manner/circumstances under which the position held or desired is customarily performed, or that enable a covered entity’s employee with a disability to enjoy equal benefits and privileges of employment. This term is sometimes used incorrectly to refer to related aids/services in school.

The term “reasonable modifications” is found in regulatory provisions of Title II of the ADA where public entities are required to make reasonable modifications in policies, practices, or procedures when modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

*from Frequently Asked Questions about Section 504 and the Education of Children with Disabilities by the Office for Civil Rights at <http://www2.ed.gov/print/about/offices/list/ocr/504faq.html>*

## §504 Accommodation Plan

A §504 Accommodation Plan describes the accommodations and related aids and/or services that the district determines that a student with a disability needs to receive FAPE. The content of the plan is fluid and may change during the school year or as the student’s needs change. A district must implement the plan as written.

**See Appendix B for examples of accommodations that may be appropriate in specific situations.**

### **In the §504 Accommodation Plan:**

- List the disability, area(s) of major life activity/ies substantially limited by the impairment, and mitigating measures that are currently implemented (along with their effectiveness).
- Describe the accommodations, aids and/or services that are needed by the student, relative to the substantially impacted major life activity(ies)/bodily function (s), so that the student can access the benefits of the public education to a level comparable to nondisabled students. List people who will be responsible for implementing the plan.
- Note whether or not accommodations, aids or services will be needed for the student’s participation in state testing and non-academic/extracurricular activities.
- List the student’s §504 Case Coordinator who will monitor implementation and effectiveness of the plan.
- List the date by when the plan will be reviewed (annual review).

**NOTE: If a student will need accommodations for PARCC, those must (a) be needed in daily activities in school and (b) be listed in the §504 Accommodation Plan prior to the test registration process.**

### **§504 Accommodation Plan for Students with Individual Health Plans**

If the student’s medical condition is considered a disability under §504, then the §504 Committee may need to develop an accommodation plan that is based on an evaluation, which can be a review of the student’s health records and individual health plan. The parent/guardian needs to be notified that this eligibility is being considered, the eligibility determination, the planning of accommodations, if needed, and be provided with §504 procedural safeguards.

To comply with §504, plans for a student with intensive health monitoring and support needs (who qualifies as a student with a disability under §504) must include:

- notice of rights under §504,
- be developed by a properly comprised §504 committee, and
- be based on an evaluation.

<b>Q &amp; A</b>	<p><b>Must teachers and other school staff comply with the §504 Plan?</b></p> <p>YES. The §504 Plan is developed to provide those accommodations the student with a disability needs to access the curriculum and other school activities. Although often unintentional, failure to implement the agreed upon plan may result in the parent/guardian filing a discrimination complaint. School staff should be provided training in order to understand the importance of §504 and their obligation to ensure compliance with this law.</p> <p>It is important that teachers be involved in developing the §504 Plan. They should provide input regarding the curriculum rigor and requirements &amp; suggest possible necessary accommodations. It is equally important that the §504 Plan be easily implemented and communicated to all school staff involved with the student.</p>
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## PROCEDURAL SAFEGUARDS, NOTICE, CONSENT & DOCUMENTATION

Notice	Consent	Documentation
<p>Notice to the parent/guardian is required with a:</p> <ul style="list-style-type: none"> <li>determination of eligibility/ineligibility</li> <li>significant change in programming/status</li> </ul> <p>Written documentation/a letter needs to be sent to the parent/guardian that specifies the proposed action and includes a copy of Parental Rights.</p> <p>Parents are to be notified that eligibility is being considered.</p> <p>Notice needs to include procedural safeguards that include the right of the parent/guardian to file a grievance or a complaint with the Office for Civil Rights or request mediation or an impartial due process hearing related to decisions or actions regarding the identification, evaluation, or educational program of his/her child.</p>	<p>Informed, written permission is required:</p> <ul style="list-style-type: none"> <li>prior to completing an evaluation (even if it is only a review of information from a variety of sources) or</li> <li>when seeking information from a student's private service provider or physician.</li> </ul>	<p>Documentation is needed at each event to include, but not be limited to:</p> <ul style="list-style-type: none"> <li>notice of action to be taken</li> <li>permission to gather new data (if applicable)</li> <li>eligibility determination (initial and reevaluation)</li> <li>development of a §504 accommodation plan</li> <li>significant change of programming</li> <li>release from the §504 accommodation plan</li> </ul>

## RECORDS AND ACCESS TO SECTION 504 PLANS

The Principal/Designee is responsible for maintaining the student's §504 records securely and confidentially in a place that is separate from the student's cumulative or health records.

The student's §504 records should be sent to a new school when the student moves to another school in the district or to another public school. Parental consent is not needed to provide these records to a new school, but the parent should be informed, in writing, of this action. Consent from the parent to send §504 records to private schools should be obtained before doing so.

Principal/Designee will maintain a record of students for whom a §504 accommodation plan has been developed with the anticipated review date, and he/she will ensure that any district student data system where this plan should be posted is only viewable by those who have educational or coaching responsibility for the student. This access should be changed each year or when the student changes schools.

Teachers and others who are responsible for the student as he/she participates in school activities document that they reviewed the student's §504 Plan. This documentation is maintained in the student's §504 records.

## SECTION 504 DISCIPLINE, SUSPENSION/EXPULSION PROCEDURES

As a nondiscrimination statute, §504 prohibit districts from disciplining students with disabilities more harshly than nondisabled students on the basis of disability. Excluding students from school because of behavior caused by the disability is a discriminatory practice prohibited by §504. Disciplinary rules regarding changes of placement, patterns of exclusion and manifestation determinations are founded on nondiscriminatory principles.

Students who are covered by §504 are expected to conform to the same behavior standards as their nondisabled peers, unless explicitly outlined in their §504 Plan. They have, however, extra protections when facing serious discipline, such as suspension or expulsion. Discipline procedures for students with disabilities as defined by §504 follow guidelines similar to those that apply to students with disabilities under IDEA. The student should be considered as having a disability, for discipline purposes, under §504 if:

1. The student has been determined to be a student with a disability and has/does not have §504 plan.
2. Staff members regard the student as though he/she has a disability.
3. The student's history reveals that he/she may have a disability.

NOTE: Also ask if the district knew or should have known that the student was a child with a disability before issuing disciplinary procedures that are a change of placement.

- A district *knew, or should have known*, if the parent had expressed concerns in writing to supervisory or administrative personnel of the district or to the student's teacher; the student's teacher or other district personnel expressed specific concerns about a pattern of behavior demonstrated by the student directly to the Director of Pupil Services or other district supervisory personnel.
- The district will *not be found to have known or should have known* if the parent had not allowed the student to be evaluated or has refused services for the child, or if the child was evaluated and found ineligible for services under §504 or IDEA.

**Best Practice:**

Monitor suspensions on a regular basis for §504 eligible students. If several suspensions are for similar behavior, review the §504 Plan to see if there is a Behavioral Interventions Plan (BIP) that may need revisions. If there is no BIP, a Functional Behavioral Assessment (FBA) should be done, with parental consent, to develop a BIP before there is a need for a Manifestation Determination.

**Discipline (cont.)**

- 1. Before disciplining a student with a disability, make sure that the plan's supports or accommodations for that student are appropriate and have been fully implemented.**
- 2. At the time each removal, the administrator should forward notification and a description of reasons for the disciplinary action to the student's §504 Case Coordinator and parent/guardian.**
- 3. Determine if this suspension results in a "change of placement" before implementing discipline that is the 11<sup>th</sup> day of cumulative days of suspension.**
- 4. If so, a Manifestation Determination meeting is required for the student within 10 school days of the suspension.**

## Change of Placement

### (A) Exclusion from school for 10 consecutive days or more

- When the exclusion of a student with a disability is permanent, for an indefinite period of time, or for more than 10 consecutive school days, it is considered a "change of placement".



## **(B) Pattern of exclusion from school for 10 or more cumulative days during the school year**

- If the district plans to suspend a student with a disability who has already been suspended for ten days within the school year, it must first consider whether or not the cumulative day of suspension amount to a “change of placement”. If the district determines that this additional removal would result in a change of placement, the student and his/her parent/guardian have the right to:
  - ~ notice of charges and evidence against him/her
  - ~ question & present witnesses
  - ~ review & present evidence
  - ~ bring an attorney at own expense
- A series of short-term suspensions in a school year that exceeds 10 cumulative days may create a **pattern of exclusion** that may be a change of placement. To determine if there is a pattern of exclusion that could be considered a change of placement as the result of disciplinary sanctions, on a case-by-case basis, the §504 Case Coordinator and administrator need to consider factors such as:
  - ~ the length of each suspension
  - ~ the proximity of suspensions to one another, and
  - ~ the total amount of time the student is excluded from school
  - ~ the similarity of behaviors that resulted in each suspension during the current school year
- In-school suspension for short periods of time may not be counted in the cumulative time of exclusion if the student is afforded the opportunity to continue to appropriately participate in the general curriculum. In other words, if the student is being instructed or has the opportunity to get guidance from a teacher while completing classwork, in-school suspensions might not count. If not, in-school suspension time counts when determining 10 or more days of suspension.
- Suspension “pending ... (usually pending an evaluation)” should be considered a “change of placement” if the action designated as “pending” is not completed promptly.

## **Manifestation Determination**

A student with a disability may not be suspended for more than 10 consecutive school days for misconduct that was a manifestation of his/her disability (unless the behavior involved weapons, drugs or serious bodily injury). If a suspension or series of suspensions is considered to be a “change of placement”, the district **must** conduct a reevaluation that includes a determination of whether the misconduct is related to the student’s disability (manifestation determination).

Exclusion must be done in a nondiscriminatory manner. A manifestation determination immediately after a “change of placement” protects the student with a disability from discriminatory discipline. The Manifestation Determination meeting must take place no later than ten (10) school days after the disciplinary recommendation that resulted in a change of placement.

The spirit of the regulations would rather support continued review and revision of positive behavioral interventions & supports, changes to an IEP or §504 Accommodation Plan, or consideration of educational placement options rather than engaging in continued short-term removals. Determination of a “change of placement” is subject to review through due process and judicial proceedings.

NOTE: Home Instruction needs to be provided within five (5) school days of the short- or long-term suspension of a student (with or without a disability) when the suspension is for 5 consecutive days. [N.J.A.C. 6A:16-7.2(a)5-i & 7.3(a)8-i].

If the behavior that resulted in disciplinary action involves weapons, drugs or serious bodily injury, the student may be removed to an interim disciplinary setting for 45 calendar days regardless of the manifestation

determination conclusion. If the student carried or possessed a gun or dangerous weapon, knowingly used or possessed illegal drugs, sold or solicited a controlled substance, or inflicted serious bodily injury on another at school, on school grounds, or at a school function, best practice is to conduct a reevaluation (manifestation determination) to review information that can aid the team in planning appropriate interventions.

### **Practical Guidance for Preparing for Manifestation Determination Meetings**

- Notify the Director of Pupil Services if a student with a §504 Plan is suspended for ten consecutive or cumulative days. Special education procedures are used for §504 students who are disciplined.
- Informally, the Administrator, §504 Case Coordinator and any other relevant staff members who will participate in the meeting, should staff the case to develop consensus prior to the meeting but not to the point of predetermination. If consensus cannot be reached, benefit goes to the student.
- Review all evidence available about the offense. Sometimes, little details tell a lot about the manifestation of a disability.
- Remember that the disability of the student that qualified him/her for §504 protections with/without accommodations includes all components of that disability as well as any other(s) that s/he may have. Consideration of the relationship of the behavior to disability(ies) needs to consider the student's evaluation data and a full range of disabilities in making a manifestation determination.
- Looking at the questions to be answered to determine if the behavior was/was not a manifestation of the student's disability, draft team members' thinking and rationales so that the team members can explain their thinking clearly and rationally.
- Be prepared to acknowledge some degree of relationship of the behavior to the disability, but be certain about the level of direct/causal relationship between the behavior and the disability.
- Review the student's §504 Plan and its implementation. Is the plan appropriate? Are there positive behavioral supports in the plan? Has the plan been implemented fully? Remember – The Plan needs to provide access to FAPE for a student with a disability.
- Ensure that the §504 Plan includes services that need to be provided during long-term disciplinary removals from school. If not, plan to revise the §504 Plan, after the Manifestation Determination meeting, to specify what appropriate supports will be provided to the student during the time of exclusion from school.

### **MANIFESTATION DETERMINATION MEETING**

**Purpose:** to determine if the behavior of the student, resulting in the most recent disciplinary action, was (a) caused by or directly & substantially related to the student's disability/ies or (b) because the district failed to implement his/her §504 Plan.

#### **Notice to the Parent**

- The student's §504 Case Coordinator sends the parents written notice of the Manifestation Determination meeting along with copies of *Parental Rights in Special Education (PRISE)*. Parent/Guardian is alerted that he/she can bring others to the meeting, and the list of anticipated participants is listed in the letter of notice.
- After the meeting, the parent is provided with a copy of the Manifestation Determination meeting report and notice of the outcome.

#### **Participants**

- The school administrator/designee arranges for staff members who know the student as well as those who were involved in the disciplinary action to participate in the Manifestation Determination meeting.

- Parents and child advocates participating in the manifestation determination can ensure that the members consider the full range of the student's disabilities and discern patterns of behavior related to the student's disability.
- A school Behaviorist or Child Study Team Psychologist or Social Worker could be invited to participate in the manifestation determination meeting to offer expertise in the area of the student's disability and how this may manifest itself. Additionally, if a Behavior Plan needs to become part of a student's 504 Plan, the Behaviorist or CST member can assist.

## **AT THE MANIFESTATION DETERMINATION MEETING**

Records will be reviewed, and staff and the student will be consulted as part of the Manifestation Determination meeting. Input from the parent will be considered. As much as possible, gather and review information before this meeting and be prepared to provide parent/guardian with copies of documents that were reviewed along with the completed Manifestation Determination meeting report.

### **Review of Information and Input:**

- Review the student's current §504 Plan as well as implemented supports for the student
- Examine the components of the student's existing positive behavior support plan (if there is one) for their impact in increasing or decreasing behaviors of concern
- Examine the records of behavior of the student during the current school year, explicitly looking to see if the behaviors are similar
- Interview administrators regarding this violation and the results of their investigation
- Interview the student with an emphasis on the student's current mental health and his/her understanding of the school policy / Student Code of Conduct violation (or review interview information provided by the administrator and parent/guardian)
- Interview teachers, seeking to identify the extent to which the problem behaviors are evident
- Consider information about the student's performance in school from school staff
- Review historical academic and behavior data regarding the student, with a particular eye to whether this type of behavior was the reason for the initial referral
- Consider information about behavior at home from parent/guardian
- Consider the usual characteristics of individuals with this student's disability, and consider any disability that has been identified in this student's records
- Consider the cognitive, emotional and behavior status of the student in regard to school policy violations and self-control
- Review options for appropriate programming/supports and any recommended follow-up

**Documentation of Determination:** For all behaviors except drugs, weapons or serious bodily injury:

**(A) Manifestation of Disability** - If the outcome of the Manifestation Determination meeting = ***YES, the behavior was caused by or directly & substantially related to the disability or was due to the district's failure to implement the §504 Plan***, the Administrator, in consultation with the student's §504 Case Coordinator and relevant people, will determine the next course of action to ensure that the student's §504 Plan includes positive behavioral intervention strategies and supports to address the behavior (e.g., could be to develop new behavioral interventions, recommend additional counseling, coach staff in ways to deal with the student's behaviors, etc.). If the student's misconduct had a direct/substantial relationship to his/her disability, the group must also consider if a Functional Behavioral Assessment (FBA) is needed, and they must review the Behavioral Intervention Plan (BIP) in the §504 plan to determine if it needs to be revised. If there is no BIP, they need to develop one for the student. The student WILL NOT be suspended.

**(B) Not a Manifestation of Disability** - If the outcome of the Manifestation Determination meeting = *NO, the behavior was NOT caused by or directly & substantially related to the disability or was not due to the district's failure to implement the §504 Plan*, regular discipline will be issued in the same manner and for the same duration as the procedures would be applied for a student without a disability (e.g., suspension), and the student's §504 Case Coordinator will make further recommendation to address the student's behavior. Consideration needs to be made and documented about the provision of any supports for the student during the time of exclusion from school.

**Behavior involving Drugs, Weapons or Serious Bodily Injury** - Parents and child advocates need to understand that removal for offenses involving use of illegal drugs, weapons or serious bodily injury is allowed, regardless of the outcome of the manifestation determination, for up to 45 calendar days.

- If a student is currently engaged in the illegal use of drugs or alcohol, the district may take disciplinary actions consistent with the district's Student Code of Conduct. No manifestation determination or due process procedures are required. Possession of drugs or alcohol does not result in a loss of §504 protections unless the student is currently illegally using drugs.
- If a student with a disability carries or possesses a weapon, or has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function, school personnel are authorized to immediately remove the student from school for 45 school days without regard to any connection between the behavior and disability, but a manifestation determination must take place. If it is a manifestation of the student's disability, the §504 team will need to conduct a functional behavioral assessment and develop a behavioral intervention plan.

*Note: Federal law & regulations allow removal for 45 school days, but NJ Special Education Code has limited the removal to 45 calendar days.)*

Parents and child advocates need to understand that if they file a challenge, the student will remain in the disciplinary setting during the pendency of the challenge.

#### **Document recommended follow-up actions.**

Note:

- If the parent revealed that the student had been hospitalized for psychiatric needs and/or the parent revealed that the student had been receiving therapy for a period of time to address the behavior, consider this when determining if the conduct that led to discipline should result in a referral to the CST or only for a psychiatric evaluation (if warranted).
- If the student has a §504 Plan or I&RS Plan, and behavior has not improved as a result of interventions that have been implemented for a period of time, the plan needs to be revised after an exploration through a functional behavioral assessment (FBA), done informally by the §504 or Intervention & Referral Committee or, if done formally, after receiving parental consent for the FBA.

#### **ADDITIONAL ASSESSMENTS THAT MAY BE NEEDED**

If an assessment such as a Psychiatric, formal Functional Behavioral Assessment (FBA), or Child Study Team evaluation is warranted by the information reviewed during the Manifestation Determination meeting, the parent/guardian needs to give consent. Consent must be informed and written. Before requesting consent, the parent/guardian need to be given copies of the special education code, *N.J.A.C. 6A:14* and due process rights, *N.J.A.C. 1:6A*. Copies of the PRISE booklet and Codes are available through the Department of Pupil Personnel Services/Guidance, and the CST in each building should have copies of these with them.

## Requesting a Psychiatric or CST Evaluation

- Alert the Director of Pupil Personnel Services if the team is considering recommending an additional evaluation at the Manifestation Determination meeting since this may involve district payment. Discuss the reasons for this consideration with the Director before the meeting.
- If the student’s behavior is extremely out of the norm, and this is the first incident, a referral for a psychiatric evaluation without a referral to the CST might be appropriate. Parents are free to take their child to any psychiatrist for clearance to return to school or to gather additional information to help the student but, if this evaluation is to be arranged through the Department of Pupil Services, written consent and a description of the reason for referral are needed on the “Single Assessment” consent form.
- If a student’s discipline record reveals a persistent pattern of misbehaviors over an extended period of time, the student should be referred to the CST with the suspicion that he/she may have an emotional disturbance or some other disability that has not yet been identified. Parent/Guardian will be provided with a letter of referral and, if possible (agreeable to the parent/guardian & CST members are available), an initial identification meeting with the required CST members can take place after the Manifestation Determination meeting.

<b>Referral for a Psychiatric Evaluation or a Functional Behavioral Assessment:</b>	<b>Referral for a CST Evaluation:</b>
<p>If a Psychiatric or formal Functional Behavioral Assessment is needed, and this will be provided by the district, parental written consent is needed.</p> <p>If either evaluation is to be arranged through the Department of Pupil Personnel Services, information about the student (grade, birthdate, and other relevant information), along with pertinent details about the incident(s) and reason(s) for the evaluation, needs to be forwarded, along with the parent’s written consent for the evaluation, to the Director of Pupil Personnel Services. The administrator/designee who requested the evaluation should be available to speak with the Psychiatrist or Behaviorist, and information about the appointment will be sent to the school once it is scheduled. The report of the Psychiatrist or Behaviorist will be sent to the parent and school official once it is received.</p>	<p>If a referral to the Child Study Team is warranted, this needs to be in writing, signed by the referring staff member, administrator or parent.</p> <p>If a referral is to be made to the CST, the administrator should use the letter from the Principal (in the §504 forms/letters) as a model, and promptly send this to the parent with a copy to the CST. If the parent agrees to discuss a referral to the CST at a meeting where disciplinary action or a manifestation determination is reviewed, and the appropriate people can be gathered at that time, an Initial Planning Meeting for CST evaluations could be held then, and the CST would provide the parents with notice, documentation and copies of codes. NOTE: An Initial Planning Meeting for a CST referral must include the following participants: School Psychologist, Learning Disabilities Teacher-Consultant, School Social Worker, and a general education teacher.</p>

### FOLLOW-UP:

Someone will be designated to follow up with the student and/or parent following the determination and/or recommendation for additional assessment(s). This could be an administrator, counselor, the §504 Case Monitor, or a CST member.

## OPTIONS FOR RESOLVING DISPUTES UNDER SECTION 504

Filing a discrimination complaint is a protected activity. Retaliation against any individual who reports §504 violations, or makes a complaint, testifies, assists or participates in any manner in a §504 investigation, proceeding, or hearing is prohibited. Coercion, intimidation, threats or interference with anyone who exercises §504 rights or helps/encourages someone else to do so is prohibited.

Section 504 regulations require that district grievance procedures incorporate appropriate due process standards and be prompt and equitable. The district has an internal resolution procedure to provide a prompt and impartial review of complaints that allege any disability-based discriminatory action and/or inaction that affects the rights of students regarding §504 identification, evaluation, educational program or placement, and accommodations. This is an **optional resolution procedure** for a complainant. The resolution procedure is not a prerequisite before a complainant may directly pursue any other state or federal remedy available under law. As part of the informal approach to complaint resolution, parents, guardians and students have the opportunity to make concerns known to the district and for the district to have an opportunity to respond and resolve concerns as rapidly as possible at the local level. The parent/guardian has the right to be accompanied by counsel; however, notice should be given to the school of this intent prior to meeting(s).

These procedures are intended to protect the substantive rights of interested persons, meet appropriate due process standards, and assure district compliance with Section 504 of the Rehabilitation Act of 1973.

**Complaint:**

This is a written allegation that the district or its personnel have violated, misinterpreted or erroneously applied provisions of §504. It must contain the name and contact information of the complainant and a brief description of the alleged violation.

**Grievance Resolution: Informal Level 1**

1. Complaint should be filed with the student's school administration within thirty (30) days after the complainant becomes aware of the alleged violation. The complaint should include the student's identifying information, a description of the problem with facts and any additional information to be considered, information about any attempt to resolve the concern, and ways in which this complaint might be resolved to the satisfaction of the complainant.
2. After receiving the complaint, the school administrator will notify the school's §504 Coordinator and additional staff, as needed. Additionally, the district's §504 Compliance Officer will be notified. The school administrator or Principal designee will begin an investigation and schedule a conference with the complainant to discuss the complaint. The conference will be scheduled as promptly as practicable, but in any event, no later than fourteen (14) school days following receipt of the complaint. All interested parties and their representatives, if any, shall have an opportunity to submit evidence relevant to the complaint. All parties will attempt to resolve the complaint at this meeting.
3. The conference will be informal and provide the complainant an opportunity to fully explain the nature of the complaint, the circumstances which gave rise to it, and the resolution requested so that the school administrator or designee can fully discover the facts that bear on the complaint.
4. As soon as possible, but no later than thirty (30) 30 calendar days after the conference, the school administrator or designee will prepare a written report of the attempt to resolve the complaint and send the complainant a copy with an additional copy to the district's §504 Compliance Officer. The report will summarize the complaint and conference, state the conclusions and reasons supporting them, and note any remedial action, if any, that the school administrator or designee intends to take. For §504 compliance purposes, the school administrator or designee will maintain the files and records of complaints received and investigated.

## **Grievance Resolution: Informal Level 2**

1. The complainant may request reconsideration if s/he is dissatisfied with the Level 1 resolution. Within 20 school days of receipt of the written report from the school administrator or designee, the complainant should provide a written request to the district's §504 Compliance Officer.
2. The district's §504 Compliance Officer will review the Level 1 investigation, conduct any additional interviews or procedures necessary to understand the situation, and make a written report to the complainant and the school administrator or designee within twenty (20) school days of receiving the request. The report will state relevant findings of fact, conclusions and the reasons supporting them.

## **Grievance Resolution: Informal Level 3**

1. If it is determined that a satisfactory conclusion cannot be reached, a meeting can be scheduled within five (5) business days with the Superintendent of schools.
2. The Superintendent will review prior investigation reports and conduct any additional interviews or procedures as necessary to understand the situation and make a written report to the complainant within twenty (20) school days of receiving the request. The report will state relevant findings of fact, conclusions and the reasons supporting them.
3. If the complainant believes that the violation remains unresolved after the meeting with the Superintendent, the complainant may request a meeting with the district Board of Education (BOE). The BOE will arrange for such a meeting to be held within forty-five (45) calendar days of such request and hold such a meeting within the rules, regulations of the board, and in accordance with prevailing law.

## **Grievance Resolution: Formal Level**

If the parent/guardian does not feel that meetings with any of these district personnel resolved their disagreements, s/he may:

1. request an impartial hearing before an impartial hearing officer, or
2. file a complaint with OCR.

### ***NOTE:***

***A parent/guardian is not required to pursue district level grievance procedures before filing a complaint with OCR.***

The US Department of Education's Office for Civil Rights (OCR) is the agency responsible for enforcement of §504. An individual or an organization may file a written complaint of disability discrimination with OCR, including a complaint that the district is not providing FAPE for a student with a disability. An OCR complaint must be filed, in writing, within 180 days after the alleged violation has occurred.

A formal complaint with OCR should include:

- The complainant's name, address and if available, daytime phone number;
- A general description of the person(s) or class of persons injured by the alleged discriminatory act(s);
- The name and location of the school or program that committed the alleged discriminatory act(s); and
- A description of the alleged discriminatory act(s) in sufficient detail to enable OCR to understand what occurred, when it occurred, and the basis for the alleged discrimination (race, color, national origin, sex, disability, or age).

OCR's focus is on the process a district uses to identify, evaluate, and provide an educational placement to a student with a disability, and to provide procedural rights to the student's parent/guardian. Except in

extraordinary circumstances, OCR does not review the team-based decisions about evaluation, eligibility, content of §504 plans or placement, as long as the district complies with the procedural requirements for §504. If a parent/guardian disagrees with the team's decision, the proper forum would be a §504 due process hearing.

**The address for the Office for Civil Rights is:**

US Department of Education  
Office for Civil Rights - New York Office  
32 Old Slip, 26<sup>th</sup> Floor  
New York, NY 10005-2500  
Phone: 646-428-3800  
Fax: 646-428-3843  
Email: [OCR.NewYork@ed.gov](mailto:OCR.NewYork@ed.gov)



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### **How are complaints handled?**

It is always best when a complaint is resolved at the local level. Districts should have a complaint process in place, and administrators should understand the process. Every attempt should be made to resolve the complaint at the school level. Should a parent not be satisfied with the district's proposed resolution, the parent may file a complaint with the Office for Civil Rights (OCR). An OCR complaint must be filed, in writing, within 180 days following the alleged violation. Of note, a parent/guardian is not required to use the district level complaint process before filing with OCR.

### **What happens during an OCR investigation?**

OCR does not investigate every complaint it receives. However, once OCR reviews a complaint and finds it to be of merit, an investigation process begins. Except in extraordinary circumstances, OCR does not review the result of individual placement or other educational decisions as long as the district complies with the procedural requirements of §504 relating to identification & location of students with disabilities, evaluation of such students, and due process. OCR will examine procedures by which a district identifies & evaluates students with disabilities and the procedural safeguards the district provides students. OCR will also examine incidents in which students with disabilities are allegedly subjected to treatment which is different from the treatment to which similarly situated students without disabilities are subjected.

OCR will review the complaint and request additional information, if necessary. An on-site investigation may be conducted. A Letter of Finding (LOF) will be issued, and this documents the complaint, information gathered during the investigation, applicable legal standards, and compliance findings. If the district is found to be out of compliance, OCR will seek voluntary compliance through negotiation of a corrective action agreement. If unable to resolve the issue(s), the district may be sanctioned. OCR will be able to provide technical assistance.

### **How should the district respond to an OCR complaint?**

The district's §504 Compliance Officer should be familiar with OCR's Case Resolution Manual, found at <http://www.ed.gov/offices/OCR/docs/ocrcrm.html>. An internal investigation should be conducted early to determine the district's position and possible resolutions. In most cases, the district will want to resolve the complaint quickly and should request an early complaint resolution.

### **What are the consequences of a school or district failing to meet §504 obligations?**

Should a district be found out of compliance with §504 regulations, a range of consequences may be imposed. Consequences could include payment of compensatory damages, punitive damages, tuition reimbursement, attorney fees, and loss of federal funds.

### **Where can a district receive technical assistance?**

Technical assistance is available from the Office for Civil Rights. To contact OCR, visit <http://bcol01.ed.gov/CFAPPS/OCR/contactus.cfm> or call (800) 368-1019 (voice) or (800) 537-7697 (TDD).

## Appendix A: Comparison of IDEA, 504 and ADA

	<b>Section 504</b>	<b>IDEA 2004</b>
	The Rehabilitation Act of 1973	The Individuals with Disabilities Improvement Act of 2004
<b>Type &amp; purpose</b>	Civil rights law – protects rights of individuals with disabilities in programs & activities that receive federal financial assistance from the DOE	Education act – federal funding statute with the purpose of providing financial aid to states & LEAs in their effort to provide FAPE for students with disabilities
<b>Responsibility</b>	General education, but shared with special education	Special education, but shared with general education
<b>Funding</b>	State & local responsibility (no federal funding)	State, local & federal IDEA funding. IDEA funds cannot be used for 504 students.
<b>Administrator</b>	Section 504 Compliance Officer	Director of Pupil Personnel Services
<b>Who is protected? (Eligibility)</b>	Any person who (1) has a physical or mental impairment that substantially limits a major life activity, (2) has a record of such impairment or (3) is regarded as having such an impairment	Children ages 3-21 who are determined by a multidisciplinary team to be eligible with one or more of the 13 specific disability categories <u>and</u> who need special education & related services.
<b>Members of the Decision Making Team &amp; a Plan</b>	A plan is required when needed, but §504 does not require it to be written. A group of people knowledgeable about the student, evaluation results & placement options should convene and specify the agreed-upon services. Parents are not required participants, but it is best practice to include them.	Requires development of an IEP with specific content and required participants at the IEP meeting.

	<b>Section 504</b>	<b>IDEA 2004</b>
<b>Evaluation &amp; Placement Procedures</b>	<p>Unlike IDEA, §504 requires only notice, not consent, for evaluation. However, it is recommended by OCR that the district obtain parental consent before completing an evaluation.</p> <p>Like IDEA, information needs to be obtained from a variety of sources, all data needs to be considered &amp; documented, and</p>	<p>A comprehensive evaluation is required. Parental consent is required before an initial multidisciplinary evaluation of a child &amp; initiation of the initial IEP. IDEA requires reevaluations to be conducted every 3 years, and testing is required for this if deemed needed by the team.</p> <p>For evaluation &amp; placement decisions, IDEA requires that more than one single procedure or information source be used; that information from all sources be documented &amp; carefully considered; that the eligibility</p>

	<p>decisions are made by a group of people knowledgeable about the student, evaluation results &amp; placement options.</p> <p>A reevaluation is required periodically.</p> <p>Section 504 requires that students be educated with their nondisabled peers to the maximum extent appropriate.</p> <p>Before a significant change in services, notice &amp; a reevaluation (review of data) are needed.</p> <p>No provision is made for independent evaluations at district expense.</p>	<p>decision be made by a group of people knowledgeable about the student, evaluation results &amp; placement options; and that the placement decision serves the student in the least restrictive environment.</p> <p>A reevaluation is not required before a significant change in placement, but an IEP meeting is; the IEP is notice of the change.</p> <p>Provides for request for an independent educational evaluation.</p>
<p><b>Provides for a free, appropriate public education (FAPE)</b></p>	<p>Appropriate education = comparable to that provided to students without disabilities (meets the educational needs of students with disabilities as adequately as those needs are met for students without disabilities) through accommodations, services or aids.</p> <p>Although a written plan is not specified, documentation of evaluation procedures &amp; accommodations/services is required. A written plan is considered best practice to provide clarification &amp; directions to those delivering services or making accommodations. OCR does require a written plan to ensure FAPE.</p>	<p>FAPE is defined as special education &amp; related services.</p> <p>Special education = specially designed instruction, at no cost to the parents, to meet the unique needs of the child with a disability. It is to be designed to provide meaningful educational benefit. Related services are provided if the student needs these to benefit from specially designed instruction.</p> <p>Requires a written IEP with specific content planned by specific people at the IEP meeting.</p>

	<b>Section 504</b>	<b>IDEA 2004</b>
<b>Procedural Safeguards</b>	Both require notice and rights to the parent/guardian with respect to identification, evaluation, programming & placement.	
<b>Notice &amp; Consent</b>	Notice is required before a significant change in placement. Written consent is considered a best practice before any initial or reevaluation, and it is required before completing additional assessments (testing).	Written notice is required before any change in placement. Written consent is required before the initial evaluation, implementation of the initial IEP, and program changes via an IEP amendment. Consent should be obtained prior to a reevaluation, and it is needed to waive testing as part of a reevaluation.

<p><b>Discipline</b></p>	<p>Review all pertinent data prior to disciplinary removals for more than 10 days to determine if it is a change of placement”. If so, hold a Manifestation Determination meeting &gt; If the behavior is caused by/directly &amp; substantially related to the student’s disability, or if the school did not implement the §504 Plan, the student may not be removed for more than 10 consecutive days (exceptions: drug/alcohol related, weapons, serious bodily injury). If behavior was not a manifestation of student’s disability, student may be disciplined as others without disabilities are.</p>	<p>Any disciplinary removal of more than 10 consecutive days = a significant” change of placement” &amp; triggers procedural safeguards of IDEA, including the right to remain in the current educational placement pending appeal (exceptions: drugs, weapons, serious bodily injury). Cumulative removals of more than 10 days may be considered a “change of placement, and if so, procedural safeguards are triggered. Manifestation Determination meeting must take place within 10 days of the start of the last suspension if it is a “change of placement”.</p> <p>FAPE cannot be terminated as a disciplinary measure.</p>
<p><b>Review of program</b></p>	<p>Accommodations should be reviewed periodically.</p>	<p>An IEP review meeting is required at least annually or before any significant change.</p>
<p><b>Internal Grievance Procedure</b></p>	<p>Requires districts to provide a local grievance procedure for parents, students &amp; employees.</p>	<p>Does not require a local grievance procedure. Provides for state-level IDEA complaint procedures &amp; due process hearings, allowing for resolution meetings at the local level.</p>

	<b>Section 504</b>	<b>IDEA 2004</b>
<b>Formal Complaint Procedures</b>	An individual organization may file a complaint with the Office for Civil Rights (OCR), and this must be filed within 180 days after the violation has occurred. In certain cases, OCR will consider complaints after more than 180 days have elapsed.	A formal complaint process is required. Parents/Guardians can file a complaint with the State. A decision must be provided within 60 days.
<b>Due Process</b>	Both statutes require districts to provide impartial hearings for parents/guardians who disagree with the identification, evaluation or placement of a student with a disability. Districts or parents/guardians can initiate due process hearings. Parents must have the opportunity to participate & be represented by counsel.	
<b>Mediation</b>	Not required, but it should always be suggested.	Mediation & resolution sessions are available for parties in a dispute, and they are encouraged as a way to resolve a state-level complaint or due process petition.
<b>Exhaustion of Remedies</b>	Administrative hearing is not required prior to OCR involvement or court action. Compensatory damages are possible.	Parent/Guardian should exhaust all available administrative remedies before seeking redress through court action.
<b>Enforcement</b>	Enforced by the U.S. Office for Civil Rights which is part of the U.S. Department of Education. State Department of Education has no monitoring, complaint resolution or funding involvement.	Enforced by the U.S. Office of Special Education Programs (OSEP) and the State as the enforcement arm of OSEP. Compliance is monitored by the State Department of Education and the Office of Special Education Programs. The State Department of Education resolves complaints.

## Appendix B

### **Accommodations that may be appropriate for student who (1) has a disability according to §504 and, (2) as a result of this disability substantial impact on a major life activity &/or bodily function, needs accommodations or aids/services to access educational opportunities**

Notes: Be clear in the §504 Plan which classes & activities do / do not require each specific accommodation.

Accommodations must be specified in the student's §504 Plan if they are needed for:

- extracurricular activities, including trips
- State testing

BEHAVIOR AFFECTED BY LIMITATION, OR NEED, DUE TO DISABILITY	ACCOMMODATIONS TO CONSIDER
Unable to participate in full day	<ul style="list-style-type: none"> <li>• Modify schedule (early dismissal or late arrival).</li> <li>• Modify class schedule.</li> <li>• Modify attendance requirements.</li> </ul>
Modification of classroom or building climate to accommodate student needs	<ul style="list-style-type: none"> <li>• Use air purifier.</li> <li>• Control temperature.</li> <li>• Accommodate specific allergic reactions.</li> </ul>
Modification of classroom or building to accommodate equipment needs	<ul style="list-style-type: none"> <li>• Plan for evacuation for student in wheelchair.</li> <li>• Schedule classes in accessible areas.</li> <li>• Ensure that bathroom is accessible.</li> </ul>
Building health/safety procedures	<ul style="list-style-type: none"> <li>• Administer medication in school.</li> <li>• Use Universal Precautions.</li> <li>• Accommodate special dietary requirements.</li> </ul>
Poor use of time	<ul style="list-style-type: none"> <li>• Use reminder cues – a gentle touch on the shoulder, hand signal, etc.</li> <li>• Tell the student your expectations for what paying attention looks like (<i>You look like you are paying attention when ...</i>).</li> <li>• Give student a time limit for a small unit of work, and positively reinforce timely &amp; accurate completion.</li> <li>• Use a contract, timer, etc. for self-monitoring.</li> </ul>
Difficulty sequencing and completing steps to accomplish specific tasks	<ul style="list-style-type: none"> <li>• Break up tasks into workable and obtainable steps.</li> <li>• Give one part of a task at a time.</li> <li>• Provide examples &amp; specific steps to accomplish the task.</li> </ul>
Difficulty finishing one task before starting another one	<ul style="list-style-type: none"> <li>• Define the requirements of a completed task (i.e., <i>Your math is finished when all 6 problems are complete and corrected. Do not begin the next task until it is finished.</i>).</li> </ul>
Difficulty prioritizing from most to least important	<ul style="list-style-type: none"> <li>• Prioritize activities/assignments for student.</li> <li>• Provide a model to help students. Post the model, and refer to it often.</li> </ul>

<b>BEHAVIOR AFFECTED BY LIMITATION, OR NEED, DUE TO DISABILITY</b>	<b>ACCOMMODATIONS TO CONSIDER</b>
<p><b>Difficulty sustaining attention to tasks/activities – easily distracted by extraneous stimuli; inattentive; daydreams</b></p>	<ul style="list-style-type: none"> <li>● Reward attention - Make an effort to identify those infrequent times when the student is appropriately focused on the lesson, and immediately give the student positive attention.</li> <li>● Redirect attention.</li> <li>● Involve student actively in lesson (i.e., cooperative learning).</li> <li>● Use physical proximity and touch to signal need to focus or regain focus of student.</li> <li>● Seat student away from distracting stimuli (air conditioner, high traffic areas, noisy/active peers, etc.).</li> <li>● Include a variety of activities during each lesson.</li> <li>● Have student repeat/rephrase directions or key information.</li> <li>● Question student to monitor attention.</li> <li>● Break up activities into small units.</li> <li>● Reward timely accomplishments.</li> <li>● Use earphones &amp;/or study carrels, quiet place to work, or preferential seating.</li> <li>● Increase distance between desks.</li> <li>● Permit student to manipulate a small object quietly if it isn't too distracting. This can improve attention by decreasing restlessness.</li> <li>● Give students a quick overview of the activities planned for the instructional period or day. This “advance organizer” provides students with a mental schedule of the learning activities, how those activities interrelate, important materials needed for specific activities, and the amount of time set aside for each activity.</li> <li>● Program instructional activities so that students must frequently “show what they know” through some kind of active [visible] response. For example, first demonstrate a learning strategy to students and then divide the class into pairs and have students demonstrate the strategy to each other while the teacher observes, gives feedback/coaching and evaluates.</li> <li>● Allowing students to exercise some degree of choice in their instructional activities can boost attention span and increase academic engagement. Teachers will make lists of 'choice' options that they are comfortable offering students during typical learning activities. During independent seatwork, for example, the teacher might routinely let students choose where they sit, allow them to work alone or in small groups, or give them 2 or 3 different choices of assignments selected to be roughly equivalent in difficulty and learning objectives.</li> </ul>

<b>BEHAVIOR AFFECTED BY LIMITATION, OR NEED, DUE TO DISABILITY</b>	<b>ACCOMMODATIONS TO CONSIDER</b>
<b>Difficulty following through on instructions</b>	<ul style="list-style-type: none"> <li>• Gain students attention before giving directions.</li> <li>• Use alerting cues.</li> <li>• Use clear, concise directions.</li> <li>• Give one direction at a time.</li> <li>• Accompany verbal directions with written directions.</li> <li>• Quietly repeat direction to student after they have been given to the class.</li> <li>• Check for understanding by having the student repeat the directions.</li> <li>• Place general methods of operation and expectations on charts in the room and/or on sheets to be included in the student’s notebook.</li> <li>• Provide organizers as aids.</li> </ul>
<b>Difficulty sustaining effort &amp; accuracy over time</b>	<ul style="list-style-type: none"> <li>• Reduce length of assignment, and strive for quality (rather than quantity).</li> <li>• Increase frequency of positive reinforcement – Catch the student doing it correctly and let him know (being specific with feedback).</li> <li>• Periodically, if necessary, modify classroom and homework assignments (e.g., complete every other problem/question, or use a timer and draw a line below completion of work for 15 minutes of sustained work).</li> <li>• Provide close guidance with respect to planning long-term assignments/projects. Assist student in gauging of time and how long tasks will take. Model examples of how to plan, and coach student through the planning process, with the goal of independence and time management.</li> </ul>
<b>Difficulty completing assignments</b>	<ul style="list-style-type: none"> <li>• List &amp;/or post (and say) all steps needed to complete each assignment.</li> <li>• Reduce assignment into manageable sections (and perhaps require periodic check-in after a section is completed).</li> <li>• Provide breaks between sections.</li> <li>• Make frequent checks for work/assignment completion.</li> <li>• Arrange for the student to have a volunteer “study/homework buddy” with phone number (for each affected subject area).</li> <li>• Develop a reward system for completion of school &amp; homework.</li> <li>• Send daily/weekly progress report home.</li> <li>• Provide consistent coaching from all teachers to support organization, study management, and test taking skills.</li> </ul> <p>Designate one teacher as the coordinator/advisor for the implementation of this plan. Permit student to check in with this advisor at the beginning of each week and at the end of the week to plan and organize for the week/weekend.</p>



<b>BEHAVIOR AFFECTED BY LIMITATION, OR NEED, DUE TO DISABILITY</b>	<b>ACCOMMODATIONS TO CONSIDER</b>
<b>Difficulty with grade level expectations for specific subjects</b>	<ul style="list-style-type: none"> <li>• Adjust the reading level of text, test or worksheet.</li> <li>• Reduce paper &amp; pencil tasks.</li> <li>• Provide alternative assignments (and for older students, include choice).</li> <li>• Shorten assignments.</li> <li>• Provide review of basic skills.</li> <li>• Allow student to go to the teacher after completing the first few problems to confirm that the work is being done correctly, and provide gentle correction or praise.</li> <li>• Provide student with a legible outline/guided lecture notes before the lesson/lecture.</li> <li>• Provide student with copies of notes from lectures and discussions, from the teachers or a classmate.</li> <li>• Provide student with a weekly syllabus in advance.</li> <li>• Allow student to leave class for assistance.</li> <li>• Provide small group instruction supported by a specialist.</li> <li>• Use computer-assisted instruction/practice.</li> <li>• Support the formation of study groups and the student seeking assistance from peers; encourage collaboration among students.</li> </ul>
<b>Difficulty with tasks that require memory</b>	<ul style="list-style-type: none"> <li>• Provide a word bank for tests.</li> <li>• Encourage (and model) quiet subvocalization (see, say, write/do).</li> <li>• Teach memory techniques as a study strategy (i.e., mnemonics, visualization, oral rehearsal, numerous repetitions).</li> </ul>

<p><b>Difficulty with test taking</b></p>	<ul style="list-style-type: none"> <li>• Allow extra time for testing.</li> <li>• Reduce length of test.</li> <li>• Give frequent short quizzes rather than long tests.</li> <li>• Teach test-taking skills &amp; strategies.</li> <li>• Allow student to be tested orally – Read test to student &amp;/or allow student to respond verbally.</li> <li>• Allow open book exams.</li> <li>• Give take-home tests.</li> <li>• Use clear, readable &amp; uncluttered test forms.</li> <li>• Allow ample space for student’s written responses.</li> <li>• Consider providing lined spaces for essay or short answer questions.</li> <li>• Modify test format (i.e., use more objective items than essay ones; use multiple choice format).</li> <li>• Read test items to student.</li> <li>• Allow use of ___dictionary ___spell check ___computer ___calculator.</li> <li>• Provide the student with specific information in writing about what will be on the next test or quiz.</li> <li>• Provide student with practice test/quiz to study the day before the actual one.</li> </ul>
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BEHAVIOR AFFECTED BY LIMITATION, OR NEED, DUE TO DISABILITY	ACCOMMODATIONS TO CONSIDER
<b>Difficulty determining main idea &amp;/or key information in text</b>	<ul style="list-style-type: none"> <li>• Provide student with copy of reading material with main ideas underlined or highlighted.</li> <li>• Provide an outline of important points from reading material.</li> <li>• Teach outlining, main idea, detail concepts.</li> <li>• Provide tape of text/chapter.</li> <li>• Encourage the use of books on tape to support reading assignments.</li> <li>• Provide student with published book summaries, synopses or digests of major reading assignments beforehand.</li> </ul>
<b>Difficulty gaining information from spoken instruction, presentation, etc.</b>	<ul style="list-style-type: none"> <li>• Provide visual support for verbal information.</li> <li>• Provide student with a copy of presentation notes.</li> <li>• Simplify complex directions.</li> <li>• Allow peers to share notes from presentations.</li> <li>• Have student compare own notes with copy of peer’s notes.</li> <li>• Provide framed outlines of presentation.</li> <li>• Encourage student’s use of tape recorder.</li> <li>• Teach &amp; emphasize key words – the following ..., the most important point ...</li> <li>• Pre-teach vocabulary.</li> </ul>
<b>Difficulty organizing materials or work completion (messy, sloppy, etc.)</b>	<ul style="list-style-type: none"> <li>• Teach organizational skills.</li> <li>• Reduce distractions.</li> <li>• Establish a daily routine that clearly notes what the student is expected to do.</li> <li>• Be willing to repeat expectations.</li> <li>• Make sure student has daily, weekly &amp;/or monthly assignment sheets, list of materials needed daily, and consistent format for papers.</li> <li>• Give reward points for notebook checks &amp; proper paper format.</li> <li>• Provide clear copies of worksheets &amp; handouts and consistent format for worksheets.</li> <li>• Provide organizational aids such as outlines.</li> <li>• Arrange for a peer who will help student with organization.</li> <li>• Assist student to keep materials in a specific place.</li> </ul>
<b>Losing things necessary for tasks or activities at school or home</b>	<ul style="list-style-type: none"> <li>• Help student organize. Frequently monitor notebook and dividers, desk, locations of materials so that there is a place for everything and everything is in its place.</li> <li>• Provide positive reinforcement for good organization.</li> <li>• Provide student with a list of needed materials and their locations.</li> </ul>
<b>Poorly developed study skills</b>	<ul style="list-style-type: none"> <li>• Teach study skills specific to subject area (i.e., assignment calendar, text reading/note taking – finding main idea/details, mapping, outlining, skimming, summarizing, creating questions).</li> </ul>

	<ul style="list-style-type: none"> <li>• Provide student with assignment sheet/pad &amp; require its use.</li> </ul>
<b>Poorly developed self-monitoring skills (careless errors)</b>	<ul style="list-style-type: none"> <li>• Teach specific self-monitoring methods (i.e. stop, look, listen).</li> <li>• Provide proofreading checklists.</li> <li>• Model proofreading methods &amp; require student to proofread work.</li> </ul>
<b>BEHAVIOR AFFECTED BY LIMITATION, OR NEED, DUE TO DISABILITY</b>	<b>ACCOMMODATIONS TO CONSIDER</b>
<b>Poor handwriting</b>	<ul style="list-style-type: none"> <li>• Grade for content (not handwriting).</li> <li>• Allow use of computer.</li> <li>• Consider alternative methods for student response (i.e., tape recorder, oral reports).</li> <li>• Do not require student to copy from books; provide copies.</li> </ul>
<b>Slow, laborious handwriting</b>	<ul style="list-style-type: none"> <li>• Allow for shorter assignments.</li> <li>• Allow alternate methods of production (computer, scribe, oral presentation, visual presentation, graphs, maps, pictures, etc.).</li> <li>• Allow student to use preferred mode of handwriting (manuscript or cursive).</li> </ul>
<b>Difficulty participating in class without interrupting; difficulty working quietly</b>	<ul style="list-style-type: none"> <li>• Seat student in close proximity to teacher.</li> <li>• Reward appropriate behavior; catch student “being good”.</li> <li>• Use study carrel if appropriate.</li> <li>• Use self-monitoring or behavior modification plan.</li> </ul>
<b>Inappropriate attention-seeking</b>	<ul style="list-style-type: none"> <li>• Show student/model how to gain another’s attention appropriately.</li> <li>• Catch the student seeking attention appropriately &amp; reinforce this.</li> </ul>
<b>Frequent excessive talking</b>	<ul style="list-style-type: none"> <li>• Teach student hand signals and use them to tell student when/when not to talk.</li> <li>• Call on student when appropriate and reinforce listening.</li> </ul>
<b>Inappropriate responses in class (blurted out answers; answers given before questions are completed)</b>	<ul style="list-style-type: none"> <li>• Stress effort &amp; enjoyment for self rather than competition with others.</li> <li>• Minimize timed activities.</li> <li>• Structure activity for team effort &amp; cooperation.</li> </ul>
<b>Difficulty making transitions</b>	<ul style="list-style-type: none"> <li>• Prepare student for transitions. Give advance warning of when a transition will take place – <i>Now, , we are completing the worksheet; next, we will ...</i> and include information about expectations for transition (<i>You will need to ...</i>)</li> <li>• Specifically say &amp; display lists of materials needed until a routine is established.</li> <li>• List steps necessary to complete each activity.</li> <li>• Have specific location for all materials (pencils, pouches, tabs in notebooks, etc.).</li> </ul>

	<ul style="list-style-type: none"> <li>• Arranged for an organized helper (peer).</li> </ul>
<b>Difficulty remaining seated or in a particular position when required</b>	<ul style="list-style-type: none"> <li>• Give student frequent opportunities to get up and move around. Allow space for movement.</li> </ul>
<b>Frequent fidgeting with hands, feet, objects; squirming in seat</b>	<ul style="list-style-type: none"> <li>• Break down tasks into small increments, and give frequent positive reinforcement for accomplishments (since fidgeting may be due to frustration).</li> <li>• Allow alternative movement when possible.</li> <li>• Allow student to stand, and restrict area for movement.</li> </ul>
<b>BEHAVIOR AFFECTED BY LIMITATION, OR NEED, DUE TO DISABILITY</b>	<b>ACCOMMODATIONS TO CONSIDER</b>
<b>Inappropriate behavior as team member or in large group</b>	<ul style="list-style-type: none"> <li>• Give student a responsible job (i.e., team captain, care &amp; distribution of materials, scorekeeper, etc.).</li> <li>• Consider giving student a leadership role.</li> </ul>
<b>Frequent involvement in physically dangerous activities without considering possible consequences</b>	<ul style="list-style-type: none"> <li>• Anticipate dangerous situations, and plan in advance.</li> <li>• Stress “stop, look, listen”.</li> <li>• Pair student with a responsible peer; rotate so that the responsible student does not tire.</li> </ul>
<b>Difficulty interacting appropriately with adults</b>	<ul style="list-style-type: none"> <li>• Provide positive attention.</li> <li>• Talk with student individually about the inappropriate behavior – <i>What you are doing is ...; a better way to get what you need/want is ...</i></li> </ul>
<b>Frequent self-put downs; poor personal care/posture; negative comments about self or others; low self-esteem</b>	<ul style="list-style-type: none"> <li>• Structure engagements for success.</li> <li>• Train student for self-monitoring - teach self-questioning strategies – <i>What am I doing? How is that going to affect others?</i></li> <li>• Allow opportunities for student to show his/her strengths.</li> <li>• Reinforce improvements &amp; give positive recognition.</li> <li>• Mark student’s correct answers, not his/her mistakes.</li> </ul>
<b>Difficulty using unstructured time (recess, lunch, in hallways/locker room, library, assembly)</b>	<ul style="list-style-type: none"> <li>• Provide student with definite purpose during unstructured activities – <i>The purpose of ... is to ...</i></li> </ul>
<b>Special Considerations</b>	<ul style="list-style-type: none"> <li>• Increase the immediacy of rewards.</li> </ul>
	<ul style="list-style-type: none"> <li>• Implement time-out procedures (need BIP).</li> </ul>
	<ul style="list-style-type: none"> <li>• Suggest parenting program(s).</li> </ul>
	<ul style="list-style-type: none"> <li>• Monitor student closely on field/class trips.</li> </ul>

	<ul style="list-style-type: none"> <li>• Inservice teachers (and others like bus drivers, when appropriate) about the student's disability &amp; plan.</li> </ul>
	<ul style="list-style-type: none"> <li>• Provide social skills group experiences.</li> </ul>
	<ul style="list-style-type: none"> <li>• Alert bus driver, coaches, extracurricular advisors, lunch monitors, etc. (as appropriate) about disability &amp; plan.</li> </ul>
	<ul style="list-style-type: none"> <li>• Suggest agency involvement.</li> </ul>
	<ul style="list-style-type: none"> <li>• Plan evacuation procedure.</li> </ul>
	<ul style="list-style-type: none"> <li>• Accommodate special diet.</li> </ul>
	<ul style="list-style-type: none"> <li>• Monitor medication.</li> </ul>