

**A Manual to Guide Parents and Educators  
in the Implementation of:**

# **Section 504 Of the Rehabilitation Act of 1973**

**FRANKLIN PIERCE SCHOOLS  
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TACOMA, WA 98444**

**February, 2013**

# SECTION 504 OF THE REHABILITATION ACT OF 1973 A MANUAL TO GUIDE EDUCATORS IN THE IMPLEMENTATION

## TABLE OF CONTENTS

A BRIEF OVERVIEW .....	3
WHO IS COVERED BY SECTION 504? .....	4
REFERRAL .....	6
EVALUATION .....	6
DETERMINING ELIGIBILITY .....	8
ACCOMMODATION PLAN .....	8
ENSURING IMPLEMENTATION .....	11
RE-EVALUATION .....	11
ACCESSIBILITY .....	11
DISCIPLINE .....	12
DISCRIMINATION .....	12
PARENT/GUARDIAN RIGHTS .....	13
THE RIGHT TO RECEIVE NOTICE .....	14
THE RIGHT TO EXAMINE RELEVANT RECORDS .....	14
THE RIGHT TO FILE A GRIEVANCE, REQUEST MEDIATION, OR REQUEST AN IMPARTIAL DUE PROCESS HEARING .....	14
RETALIATION FOR EXERCISING RIGHTS PROHIBITED .....	15
<b>APPENDIX A</b> .....	16
<i>FORMS, POLICY, REGULATION &amp; GRIEVANCE PROCEDURE</i> .....	16
Accommodation Plan .....	18
Discipline Review - Causal Relationship .....	19
Evaluation and Eligibility Determination .....	17
Exchange of Information Form .....	21
Section 504 Referral Form .....	22
NOTICE AND CONSENT FOR EVALUATION .....	23
Notice of Conference .....	24
Notice of Referral Outcome .....	25
RE-EVALUATION .....	26
Accommodation Plan .....	27
<b>APPENDIX B</b> .....	28
<i>CLASSROOM AND FACILITY ACCOMMODATIONS</i> .....	26-31
STATEMENT OF PARENT (OR GUARDIAN) AND STUDENT RIGHTS UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973 .....	32
Procedure 2162P .....	34-40

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

### ***A Brief Overview***

Congress enacted Section 504 of the Rehabilitation Act of 1973 (Section 504) to eliminate discrimination based upon a person's disability in any program or activity receiving federal financial assistance. The law states "No otherwise qualified individual with disabilities in the United States...shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance..."

As a recipient of federal funds, the Franklin Pierce School District is required to comply with Section 504's prohibition of discrimination against individuals because of their disabilities and to provide a free appropriate public education to each qualified disabled student within its jurisdiction. A student who qualifies as disabled under Section 504 is eligible for disability specific accommodations in the form of educational aids, benefits, or services designed to provide the student with an equal opportunity to obtain the same outcomes available to non-disabled students.

The District will take steps to ensure that students who are disabled within the definition of Section 504 are identified, evaluated and provided with appropriate educational services.

The purpose of this manual is to provide educators with the information necessary to comply with Section 504's requirements and to assist each student in achieving an appropriate public education free from unlawful discrimination.

If you have any questions regarding the implementation of Section 504 please contact your school Principal or the Executive Director of Learning Support Services at (253) 298-3048.

# **SERVING STUDENTS WITH DISABILITIES UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973**

## ***WHO IS COVERED BY SECTION 504?***

Under Section 504, an individual with a disability is defined as a person who:

- (1) has a physical or mental impairment
- (2) which substantially limits one or more major life activities.

### **Physical or mental impairment**

Neither the statute nor the regulations implementing Section 504 provide a list detailing the specific conditions that may constitute a physical or mental impairment. "Physical or mental impairment" is an extremely broad term and will include many different types of diseases and conditions, including, but not limited to: schizophrenia, bi-polar disorder, cancer, diabetes, epilepsy, heart disease, cerebral palsy, multiple sclerosis, muscular dystrophy, hearing impairment, attention deficit disorder (ADD), attention deficit hyperactive disorder (ADHD), acquired immune deficiency syndrome (AIDS), and human immuno-deficiency virus (HIV).

A temporary disability such as a broken limb may be classified as a disability under Section 504 if the physical impairment substantially limits a major life activity. A student with an alcohol problem may be Section 504 eligible whereas a student currently using illegal drugs is not covered by Section 504.

### **Major life activity**

Major life activities include such functions as seeing, hearing, speaking, walking, breathing, learning, and working. A student may have an impairment but the impairment may not substantially limit a major life activity. For example, a student may have attention deficit disorder, but perhaps she has developed various strategies to compensate for the limitation and is earning A's and B's in her classes. This student would not be eligible for accommodations under Section 504 since her impairment does not substantially limit a major life activity.

### **Record of impairment, regarded as having an impairment**

A person may also be considered "disabled" and entitled to legal protection under Section 504 if the person:

- (1) has a record of, a history of, or has been misclassified as having a mental or physical impairment substantially limiting a major life, or
- (2) Is regarded as having such impairment.

*Example of a person with a record of impairment substantially limiting a major life function:*

A student who was previously served as a special education student but no longer qualifies.

*Example of a person who has been misclassified as having an impairment limiting a major life function:*

A student with limited English proficiency that is mistakenly determined eligible for a special program for students with mental disabilities.

*Example of a person regarded as having an impairment:*

A student tests positive for HIV but does not suffer any physical effects from it.

A student who has a record of an impairment or is regarded as having an impairment may not be discriminated against, but will only be eligible for accommodations if the student actually has an impairment that substantially limits a major life activity.

Remember, to qualify under Section 504, the student's impairment must be severe enough to result in a substantial limitation of one or more major life activities. Cultural, environmental and economic factors are not to be considered in assessing whether a student is eligible under Section 504.

### ***Interaction of Section 504 Plans and Individual Health Care Plans***

If a student has, or is requesting an individual health care plan, and the student, staff, parents/guardian or administrator believe the student's underlying medical condition may require accommodations, special education and/or related services and supports at school, the student should be referred to his or her building team for consideration of an evaluation under Section 504 and/or the IDEA.

Following the procedures, the team must first decide whether to evaluate the student. If an evaluation under Section 504 is recommended and parental consent is obtained, a properly constituted team must then review the evaluation results and decide whether or not the student has a disability (without regard to any ameliorative or mitigating measures). If the team determines the student has a disability, the team must further decide whether the student needs accommodations, special education services, and/or related services and supports. In making this decision, the team may consider the student's use of ameliorative or mitigating measures.

If the team determines the student has no need of accommodations, special education services, and/or related services and supports, the student would not receive a Section 504 Plan, but only a copy of her Section 504 Procedural Safeguards. For example, a student with severe asthma may have a disability because it substantially limits the major life activity and the function of the respiratory system. However, based upon the evaluation, the team may determine the student does not need accommodations, special education or related services and supports because the student is able to control her asthma with prescribed medication, she fully participates in the school's regular physical education program and in extracurricular sports, and she does not require

any other accommodations or modifications to the school's policies, practices, or procedures.

Based upon this determination, the student would not receive a Section 504 Plan, but the family is entitled to a copy of its Procedural Safeguards and the student remains subject to the nondiscrimination provisions of Section 504, including potential limitations on discipline resulting from the student's disability. However, such student would still receive an individual health care plan to document her asthma and appropriate emergency action should the student have a severe attack with or without access to her medication.

If the team decides the student does need accommodations, special education services, and/or related services, the student would then receive a 504 Plan (or an Individualized Education Program) and, depending on the nature and/or severity of the medical condition, an individual health care plan, along with the associated Procedural Safeguards.

## ***REFERRAL***

Anyone may refer a student for a Section 504 evaluation. A student, parent, teacher, counselor, administrator or other staff member who believes that a student is exhibiting substantially limited performance in school due to a physical or mental impairment should refer the student for a Section 504 evaluation. To refer a student, a person need only complete an identification form and submit it to the school administrator or building Section 504 coordinator. A copy of the identification form is included in the appendix to this manual.

Various events may trigger the referral of a student for a Section 504 evaluation, including, but not limited to, the following:

- When a student exhibits a chronic health condition.
- When a student receives frequent disciplinary referrals or when suspension or expulsion is being considered.
- When a student experiences frequent failures or shows a pattern of not benefiting from the instruction provided.
- When a student is evaluated and is found not to qualify for special education services.
- When an IDEA eligible student is determined to no longer qualify for special education services.
- When a student is being considered for retention.
- When a student returns to school after a serious illness or injury.

## ***EVALUATION***

Prior to taking action with respect to the initial placement of a disabled student or a significant change in a disabled student's placement, it is necessary to evaluate the student. Evaluations should be conducted in a timely manner. Section 504 does not require that specific testing be conducted when students are evaluated to determine 504 eligibility. Section 504 evaluations will vary depending upon the suspected disability and depending upon the individual student and her

or his available records. In some circumstances, formal testing may be necessary but in other situations, testing may not be required.

When a student has been referred as potentially 504-eligible, a building team needs to review available information, including the referral, medical information, current assessments, and available data applicable to the concern, including data from the school and teachers, parents, private agency sources, and/or the student. If this review results in the belief that a disability may exist and that available information is insufficient to make a determination of disability, a more formal evaluation will be necessary. Prior to such an evaluation, it is necessary to provide the student's parent or guardian with notice of intent to evaluate and to obtain the parent or guardian's written permission. Included in the appendix of this manual is a form entitled "notice and consent for evaluation" which should be used for this purpose.

When formal testing is administered to determine eligibility or placement, the following must be ensured:

- Testing and evaluation materials include those tailored to assess specific areas or educational need, not merely those designed to provide a single general intelligence quotient.
- Tests are selected and administered to ensure that when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or other factor the test is designed to measure, not the student's impaired sensory, manual or speaking skills (except where those skills are the factors that the test is designed to measure.)
- Any tests or other evaluation materials used must be validated for the specific purpose for which they are used.
- Tests or other evaluation materials used must be administered by trained personnel.

## **DETERMINING ELIGIBILITY**

After completing any necessary testing and/or receiving and reviewing any necessary medical or other information, a building team should be convened to determine whether the student is disabled under Section 504.

When interpreting evaluation data and when making accommodation or placement decisions, it is important to ensure the following:

- Placement decisions are made by a group of persons, including persons knowledgeable about the student, the meaning of the evaluation data, and the placement options.
- The group draws upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, adaptive behavior, and other pertinent background information.
- Information obtained from all sources is documented and carefully considered.
- The placement decision is made in conformity with Section 504 requirements, including the requirement that students be educated in the regular education environment to the maximum extent appropriate.

Included in the appendix to this manual is an evaluation and eligibility form, which should be used to document the building team's evaluation and eligibility determination. If a student has been found ineligible under Section 504, written notice must be provided to the parent or guardian along with a copy of a statement of parent (guardian) rights. A copy of the statement of rights is included in the appendix to this manual. If a student has been found eligible under Section 504, the next step is to develop a 504-accommodation plan as is described in more detail below.

## **ACCOMMODATION PLAN**

When a student has been determined to be disabled under Section 504, it is necessary to convene a team to develop a 504-accommodation plan. This will likely be the same team that made the eligibility determination. This team must also include persons knowledgeable about the student, the student's evaluation data and placement options. Again, this team also needs to draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, and other pertinent background information.

In developing a student's accommodation plan; it is important to keep in mind that students with disabilities must be educated in the regular educational environment with non-disabled students to the maximum extent appropriate. In order for students to have an equal opportunity to benefit from their education, it is necessary to make specific accommodations for students with disabilities. The accommodations must be designed to provide the student with an equal opportunity to obtain the same outcomes available to non-disabled students.



In developing an accommodation plan for a student, it is important to remember that disabled students are entitled to accommodations in the academic setting as well as in non-academic settings.

### **Academic Setting**

In the academic setting, accommodation may take a variety of forms and may relate to a number of areas, including, but not limited to: classroom management (i.e., behavior plan), instruction (i.e., signing for deaf students), curriculum (i.e., different format for reading material), assessment (i.e., adjusted length of examination) and facilities (i.e., improved access to classroom and widening of classroom aisles for wheelchair).

Examples of other types of accommodations include:

- A student with cancer who is receiving chemotherapy treatment may be required to miss numerous days of school. The school's strict attendance policy may need to be modified as applied to this student since the student's absenteeism is related to her/his handicapping condition.
- A middle school student with diabetes may need a number of accommodations, including having her classes adjusted so that she is not required to take physical education the period before lunch, when her blood sugar would be too low to fully participate in class.
- A high school student with attention deficit disorder may need to be given visual cueing concerning off-task behavior prior to disciplinary action being taken.

Included in the appendix of this manual is a document entitled "Classroom and Facility Accommodations" which provides examples of ways we can accommodate students with disabilities in the regular education environment. The District thanks Jim Rich, formerly of OSPI, for producing this document.

### **Nonacademic Setting**

It is important to remember that a disabled student's need for accommodation does not end when the student leaves the classroom. Students with disabilities must be provided an equal opportunity to nonacademic and extracurricular services and activities including, but not limited to: recess, athletics, transportation, health services, counseling services, and groups or clubs.

With respect to counseling services, it is important to ensure that students with disabilities are not counseled toward more restrictive career objectives than are non-disabled students with similar interests and abilities. With respect to physical education and athletics, disabled students must be provided an equal opportunity for participation. This may mean that a student's accommodation plan details specific accommodations that are necessary to provide the student with an equal opportunity to participate in physical education and athletics.

In working to accommodate students in and out of the classroom, it is important to remember that Section 504 does not guarantee student success. The law states that:

Aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for handicapped and non handicapped persons, but must afford handicapped persons 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 the person's needs.

34 CFR Section 104.4(2).

Accommodation plans should be in writing. Included in the appendix to this manual is an accommodation plan form that can be used for this purpose.

## ***ENSURING IMPLEMENTATION***

Once a student has a 504-accommodation plan, it is critical that the plan be fully implemented.

Obviously, to implement an accommodation plan, staff needs to first be aware of it. All regular and special education teachers of students with disabilities need to be provided with copies of their students' accommodation plans. At the elementary level, that will include the specialists (music, physical education, and library). In some circumstances, it might also be necessary to advise playground supervisors and others of necessary accommodations for students with disabilities. At the secondary level, each of a student's teachers needs to be provided with a copy of the plan. As changes occur with the student's plan, staff must be apprised of the changes. At both elementary and secondary levels, substitute teachers need to be made aware of accommodation plans so that these guest teachers can implement the necessary accommodations for disabled students.

Building administrators and building 504 coordinators will need to work with staff to make sure that they understand what is required by accommodation plans and to ensure that the plans are followed.

## ***RE-EVALUATION***

Section 504 requires "periodic" re-evaluations of eligible students. This has been interpreted to mean at least every three years or when there is a significant change in a student's placement. Examples of significant changes in placement requiring re-evaluation include such items as expulsion of a student and moving a student from the regular education setting to a resource room.

When re-evaluating a student, it is important to review the need for additional evaluation information, the student's continued eligibility under Section 504 and the contents of the student's existing accommodation plan and services provided.

Included in the appendix to this manual is a form that can be used for re-evaluations.

## ***ACCESSIBILITY***

Section 504 also requires that the District's facilities be accessible to the public. It is the District's responsibility to ensure that school activities such as school plays, graduation ceremonies and open houses are accessible to those with disabilities.

Accessibility in this situation means more than simply ensuring that those with wheelchairs and the like can physically enter a building. What Section 504 also requires is that aids and services be provided if necessary for a person with a disability to have the same opportunity as non-disabled persons to benefit from school activities. For instance, if a parent is deaf, the District may need to provide an interpreter for parent conferences and other activities to enable the parent to benefit from the activity. (For accommodations such as this advance notice should be provided.)

## ***DISCIPLINE***

The law currently provides that prior to imposing a long-term suspension or expulsion on a student with a disability, a team of qualified professionals must determine whether there is a causal relationship between the student's misconduct and her or his disability. The team should also consider the student's current placement, program and plan and determine their appropriateness. A form entitled "Discipline Review - Causal Relationship" is included in the appendix to this manual and should be a useful tool for the team to use to document the answers to these important questions.

If the student's misconduct has been determined not to be disability-related or due to an inappropriate placement, program, or plan, the student may be disciplined consistently with non-disabled students. If, however, the student's misconduct has been determined to be disability-related, any suspension or expulsion must be limited in length. Additionally, caution must be exercised when imposing a series of short-term suspensions on students with disabilities. Administrators who do not have specific and current training in this area should consult with staff in the District office when working in this evolving area.

## ***DISCRIMINATION***

Discrimination against qualified individuals with disabilities is unlawful under Section 504. The following constitute unlawful discrimination:

- Denying a student with a disability the opportunity to participate in or benefit from an aid, benefit, or service, which is afforded non-disabled students.

*(Example: Denying credit to a student whose absenteeism is related to her/his disabling condition or refusing to dispense medication to a student who could not otherwise attend school.)*

- Failing to afford a student with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is equal to that afforded non disabled students or failing to provide aids, benefits, or services to a student with a disability that are as effective as those provided to non-disabled students.

*(Example: Requiring a hearing impaired student to sit in the front row of the classroom rather than provide the student with an interpreter.)*

- Providing different or separate aids, benefits, or services than are provided to non-disabled students.

*(Example: Segregating students in separate classes, schools or facilities when unnecessary)*

- Aiding or perpetuating discrimination by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability.

*(Example: Sponsoring a student organization that excludes persons with disabilities.)*

- Denying a person with disabilities the opportunity to participate as a member of a planning or advisory board strictly because of her/his disabling condition;
- Otherwise limiting the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others.

*(Example: Not allowing a person with a vision impairment the ability to use her service dog in the school building.)*

This District will not tolerate discrimination against those with disabilities.

## **PARENT/GUARDIAN RIGHTS**

Parents and guardians play an important role in the education of students with disabilities under Section 504. The law provides them with a number of specific rights. The appendix to this manual includes a formal statement of parent and guardian rights. A copy of the statement of parent/guardian rights should be provided to parents and guardians at each step of the 504 process, including the following:

- When a student is referred for a determination of Section 504 eligibility.
- When a student is evaluated for Section 504 eligibility.
- When eligibility is determined.
- When a Section 504 accommodation plan is developed.
- Before there is a significant change in the plan for services.
- Prior to re-evaluation.
- When it appears that the parent/guardian may be unhappy with the student's education or ability to participate in extra-curricular activities.
- When the student and/or his/her parent asserts discrimination based upon the child's disability.
- Any other time that it appears parents/guardians would benefit from knowing their rights.

Parents have rights by law and we should always err on the side of providing parents and guardians with the statement of their rights. If in doubt, give them a copy.

We will not repeat the entire statement of rights here (please refer to the appendix for the entire statement of rights), but will review three of those rights, including the right to notice, the right to review records and the right to request mediation or a hearing or to file a grievance.

## ***The right to receive notice***

Parents are entitled to receive notice of the identification, evaluation and placement of their children. Included in the appendix of this manual are copies of notice forms that should be helpful in providing parents and guardians with notice of these and other significant events.

As discussed earlier in this manual, parent consent must be obtained before conducting an initial student evaluation, before the initial placement of a student and before conducting re-evaluations. It is also good practice to obtain parent consent prior to implementing a student accommodation plan. Ideally, the parent or guardian will be involved in the creation of the accommodation plan.

## ***The right to examine relevant records***

Parents have a very broad right to inspect and review their student's educational records. A parent has the right to examine all relevant records relating to decisions regarding her/his child's identification, evaluation, educational program, and placement. A parent also has the right to ask the school to amend the educational records of her/his children if the parent believes that they are inaccurate, misleading, or invade the private rights of the student. If the school does not do so, the parents have the right to ask for an internal hearing to challenge the records.

## ***The right to file a grievance, request mediation, or request an impartial due process hearing***

In many circumstances when a parent or guardian has a disagreement with staff about a student's education, the parent and staff are able to resolve the disagreement themselves. At times, however, a disagreement may not be resolved at the building level and parents may find it necessary to pursue another avenue for resolution.

A parent or guardian who is unhappy with decisions or actions taken with respect to the identification, evaluation, program or placement of a child has the right to pursue various options, including requesting mediation, requesting an impartial due process hearing (at which they have the right to have an attorney represent them) or filing a grievance under District Policy 6162. The statement of parent (or guardian) and student rights advises parents and guardians of these rights and who to contact to exercise those rights.

A grievance is a complaint alleging specific acts, conditions, or circumstances which violate Section 504. Students, parents, staff, or other individuals acting on behalf of district students are eligible to participate in this grievance procedure.

Grievances should be addressed to the Section 504 Coordinator, 315 129<sup>th</sup> St S, Tacoma, WA 98444, who has been designated to coordinate Section 504 efforts relating to the evaluation, identification, and accommodation of students under Section 504. If you need the district's policy, 504 manual, grievance procedure, or other information in an alternate format, or if you need to provide information to the Section 504 coordinator or other district officials in an alternate format, please contact the Section 504 coordinator.

Grievances must be submitted in writing, signed by the person submitting the complaint, and contain the following information:

- Name, address, and phone number of the person filing the complaint;
- A description of the specific facts surrounding the complaint;
- The date of facts surrounding the complaint; and
- The name(s) of individual(s) alleged to be responsible for the action.

A grievance must be filed within sixty (60) calendar days of the alleged violation.

Unless the matter can be promptly resolved informally, an investigation will be conducted of timely filed complaints which raise an issue under Section 504 by the Section 504 coordinator or his/her designee. The district anticipates that these procedures will be informal, although investigations will be thorough and impartial and afford all interested persons and their representatives, if any, an opportunity to submit information relevant to the complaint.

The Section 504 coordinator or designee will issue a written determination of the validity of the complaint and a description of the resolution, if any, and will forward a copy to the complainant no later than thirty (30) calendar days after the filing of the complaint. The Section 504 coordinator will maintain records relating to such complaints.

### ***RETALIATION FOR EXERCISING RIGHTS PROHIBITED***

It is a violation of Section 504 to retaliate against a person for exercising her/his rights under Section 504. The Franklin Pierce Schools will not tolerate retaliation against any students, parents or guardians for exercising rights under Section 504. We recognize and respect that parents and guardians have a legal right to raise concerns regarding their children's disability-related educational needs at school without risk of retaliation to them or their children.

## **APPENDIX A**

### **FORMS, POLICY, REGULATION & GRIEVANCE PROCEDURE**

The following is a brief description of District forms and the District Policy, Regulation and Grievance Procedure. Each document is attached.

#### **ACCOMMODATION PLAN FORM**

This form should be used in developing the student's 504-accommodation plan. Additional paper should be added if necessary to fully detail the accommodations, which will be provided to the student.

#### **DISCIPLINE REVIEW - CAUSAL RELATIONSHIP FORM**

This form is to be used when a student has engaged in misconduct and the administrator is considering imposing a long-term suspension or expulsion. This form should be used if an emergency expulsion has been imposed. Additionally, if the administrator is considering imposing a short-term suspension for a student who has already received a short-term suspension during the course of the school year, this form should also be used.

#### **EVALUATION AND ELIGIBILITY DETERMINATION FORM**

This form should be used when the building team completes a student's evaluation and determines whether the student is disabled under Section 504.

#### **EXCHANGE OF INFORMATION FORM**

This form can be used as a release for a parent or guardian to sign when the District needs medical or other information from a health care provider or educational records from another school.

#### **IDENTIFICATION FORM**

This form should be used when a parent, guardian, student, administrator or other staff member suspects that a student suffers from a disability and would like to refer the student for a Section 504 evaluation.

#### **NOTICE AND CONSENT FOR EVALUATION**

This form is to be used when notifying a parent or guardian that his or her child has been referred for a Section 504 evaluation and requesting parent consent for evaluation.

#### **NOTICE OF CONFERENCE**

This form can be used to send to parents or guardians notifying them of meetings relating to Section 504 issues.

#### **NOTICE OF REFERRAL OUTCOME**

This form can be used to send to parents or guardians notifying them of the results of Section 504 referrals.

#### **REEVALUATION FORM**

This form should be used when re-evaluating a Section 504 student.



### **CLASSROOM AND FACILITY ACCOMMODATIONS**

This is a helpful document prepared by Jim Rich, formerly of OSPI, which describes examples of ways that students with disabilities can be accommodated.

### **POLICY 2162 AND PROCEDURE 2162P**

Policy 2162 is the Board-approved policy concerning the education of students with disabilities under Section 504. Procedure 2162P provides more specific information concerning the implementation of Section 504 and the District's grievance procedure. Parents and guardians should be provided a copy of these documents upon their request.

### **STATEMENT OF PARENT (OR GUARDIAN) AND STUDENT RIGHTS**

This is the statement of rights that should be provided to parents or guardians at various critical junctures in the Section 504 process as is described in greater detail in the text of this manual.



<b>Section 504 of the Rehabilitation Act</b> <b>DISCIPLINE REVIEW - CAUSAL RELATIONSHIP</b>
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Franklin Pierce Schools  
 315 129<sup>th</sup> St. S., Tacoma, WA 98444 (253) 298-3048

Student Name:	School:
Student Grade:	Date of Birth:

Summary of incident (describe in detail)
Causal relationship:  (1) Statement of student's disability:  (2) Conduct related to disability? <input type="checkbox"/> yes <input type="checkbox"/> no Explanation:   (3) Placement or program appropriate? <input type="checkbox"/> yes <input type="checkbox"/> no Explanation:
Action taken:
Participants (names and titles): Date of Meeting: _____  _____ _____ _____ _____

c: Student File



# FRANKLIN PIERCE SCHOOLS

## SECTION 504 STUDENT EVALUATION/ELIGIBILITY FORM\*

Student's Name: \_\_\_\_\_ Birthdate: \_\_\_\_\_  
 School: \_\_\_\_\_ Grade: \_\_\_\_\_  
 Date: \_\_\_\_\_

**Eligibility Team Members:** Fill in names and check areas of knowledge for each team members:

Names:	...student	...meaning of evaluation data	...accommodations/ placement options
Note: Make sure there is at least one check in each column			

Sources of evaluation information (check each one used):

aptitude and/or achievement tests                       teacher recommendations  
 adaptive behavior     others (specify): \_\_\_\_\_

- Specify the mental or physical *impairment* \_\_\_\_\_  
 (as recognized in *DSM-IV* or other respected source if not excluded under 504, e.g., illegal drug use)
- Check the *major life activity*:     seeing                       hearing                       walking                       learning  
     reading                       thinking                       concentrating                       sleeping  
     bowel functions                       bladder functions                       digestive functions                       eating

or specify alternative of equivalent scope and importance: \_\_\_\_\_

- Place an "X" on the following scale to indicate the specific degree that the impairment (in #1) limits the major life activity (in #2):
  - Make an educated estimate **without** the effects of mitigating measures, such as medication; low-vision devices (except eyeglasses or contact lenses); hearing aids and cochlear implants; mobility devices, prosthetics, assistive technology; learned behavioral or adaptive neurological modifications; and reasonable accommodations or auxiliary aids/services.
  - Similarly, for impairments that are episodic or in remission, make the determination for the time they are active.
  - Use the average student in the general (i.e., national) population as the frame of reference.
  - Interpret close calls in favor of broad coverage (i.e., construing Items 1-3 to the maximum extent that they permit). Thus, for an "X" at 4.0 or below, fill in specific information evaluated by the team that justifies the rating:

- 5 Extremely \_\_\_\_\_
- 4 **Substantially** \_\_\_\_\_
- 3 Moderately \_\_\_\_\_
- 2 Mildly \_\_\_\_\_
- 1 Negligibly \_\_\_\_\_

- If the team's determination for #3 was less than "4," provide notice to the parents of their procedural rights, including an impartial hearing. If the team's determination was a "4" or above, the team should determine and list on the 504 Plan the specific accommodations that are necessary for the child to have an opportunity commensurate with nondisabled students (of the same age).

\* Adapted with permission from Perry A. Zirkel, author of *Section 504, the ADA and the Schools*.

**Section 504 of the Rehabilitation Act**  
**EXCHANGE OF INFORMATION FORM**

Franklin Pierce Schools  
315 129<sup>th</sup> St. S., Tacoma, WA 98444 (253) 298-3048

Student Name:	School:
Student Grade:	Date of Birth:

I hereby authorize the release and exchange of any education, psychological, or medical records pertaining to the above-named student between the Franklin Pierce School District and the school districts, agencies or individuals (for example, doctors, social workers, counselors, etc.) identified below:

Name and Title	Address and Telephone Number

I certify that I am the parent or legal guardian of the above-named student and have the authority to sign this release.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name printed

\_\_\_\_\_  
Telephone number

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip Code

# SECTION 504 REFERRAL FORM

Franklin Pierce Schools  
315 129<sup>th</sup> St. S., Tacoma, WA 98444 (253) 298-3048

Student Name:	School:
Student Grade:	Date of Birth:

Area of Suspected Limitation:
Suspected Physical and/or Mental Impairment:
Reason for Request to Identify Student:
Other Information:

Referring Person:	Title:	Date Initiated:
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**Section 504 of the Rehabilitation Act**  
**NOTICE AND CONSENT FOR EVALUATION**

Franklin Pierce Schools  
315 129<sup>th</sup> St. S., Tacoma, WA 98444 (253) 298-3048

**TO THE PARENT OR GUARDIAN OF:**

Student Name:	School:
Student Grade:	Date of Birth:

Dear Parent of Guardian:

Your child whose name is referenced above has been recommended for a Section 504 evaluation. The purpose of the evaluation is to determine whether your child has a disability under Section 504 and is entitled to disability-specific accommodations.

Your written consent is requested before we conduct an evaluation to determine your child's educational needs. The evaluation will focus on the area(s) of suspected limitation(s) within the school setting and may include achievement and psycho-educational testing, observations, consultations with practitioners, and information provided by you and/or those individuals the district has been authorized to contact.

A copy of your Section 504 rights is enclosed.

I have received notice of my rights and I DO GIVE my approval for evaluation under Section 504.

\_\_\_\_\_  
Parent/Guardian

\_\_\_\_\_  
Date

I have received notice of my rights, and I DO NOT GIVE my approval for evaluation under Section 504.

\_\_\_\_\_  
Parent/Guardian

\_\_\_\_\_  
Date

Attachment  
c: Student file

# Section 504 of the Rehabilitation Act

## NOTICE OF CONFERENCE

Franklin Pierce Schools  
315 129<sup>th</sup> St. S., Tacoma, WA 98444 (253) 298-3048

### TO THE PARENT OR GUARDIAN OF:

Student Name:	School:
Student Grade:	Date of Birth:

This is to advise you that a conference will be held regarding the above-named student on:

Date: \_\_\_\_\_ Location: \_\_\_\_\_ Time: \_\_\_\_\_

Your attendance is encouraged but is not required. The meeting will take place as indicated unless you request otherwise. The purpose of the conference is indicated below:

**Initial eligibility conference.**

\_\_\_\_ Yes, your child qualifies as disabled under Section 504 and an accommodation plan will be developed at the meeting.

\_\_\_\_ No, your child does not qualify as disabled under Section 504. The results of the evaluation will be discussed at the meeting.

**Change of 504-plan conference.** The appropriateness of your child's current 504 plan will be reviewed along with any new evaluation information. Recommendations for changes in the plan will be discussed and developed.

**Termination of 504-plan conference.** Your child has been found to no longer be disabled as defined by Section 504. Her/his accommodation plan will be terminated.

**Other.** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please contact \_\_\_\_\_ at \_\_\_\_\_ if you wish to request a change in the time or date of the conference.

ATTACHMENT: Parent/Guardian Rights

c: Student File



**Section 504 of the Rehabilitation Act**  
**NOTICE OF REFERRAL OUTCOME**

Franklin Pierce Schools  
315 129<sup>th</sup> St. S., Tacoma, WA 98444 (253) 298-3048

***TO THE PARENT OR GUARDIAN OF:***

Student Name:	School:
Student Grade:	Date of Birth:

This is to advise you that the school's 504 team met on \_\_\_\_\_ and determined the following concerning your child:

- Further information is needed before making an eligibility determination. The information that is needed includes: \_\_\_\_\_  
\_\_\_\_\_
- There is no evidence that the student is disabled as that term is defined by Section 504. She/he does not have an impairment that substantially limits a major life function.
- The student is qualified as disabled under Section 504 and is eligible for accommodation under Section 504. Specific accommodations have been identified on the attached plan.
- A referral to the special education department has been submitted because the team believes that the student may be eligible for special education services in addition to Section 504 accommodations.
- Other. \_\_\_\_\_  
\_\_\_\_\_

Please contact \_\_\_\_\_ at \_\_\_\_\_ if you wish to discuss the above information in greater detail. We will be happy to schedule a time to meet and discuss this further.

ATTACHMENT: Parent/Guardian Rights

c: Student File

**Section 504 of the Rehabilitation Act**  
**RE-EVALUATION**

Franklin Pierce Schools  
315 129<sup>th</sup> St. S., Tacoma, WA 98444 (253) 298-3048

Student Name:	School:
Student Grade:	Date of Birth:

Reason for re-evaluation:
Does the student still have a physical or mental impairment? ____ yes ____ no  If yes, describe the impairment and the source of the diagnosis; if no, describe what has changed:
If the student has a physical or mental impairment, does the impairment substantially limit a major life activity? ____ yes ____ no  If yes, describe the major life activity and how it is impaired; if no, describe what has changed:
Describe new information relied upon in reaching the above determination, including assessments administered and information and other data reviewed:
Participants (names and titles):
Date of Meeting: _____
_____
_____
_____
_____
c: Student File



## APPENDIX B

### CLASSROOM AND FACILITY ACCOMMODATIONS

The following information provides examples of ways in which the needs of children with disabilities (or Section 504 disabilities) may be accommodated in the regular classroom environment.

AREA OF CONCERN	ACCOMMODATIONS
Parent/student/teacher communications	<ul style="list-style-type: none"> <li>• Develop a daily/weekly journal.</li> <li>• Develop parent/student/school contacts.</li> <li>• Schedule periodic parent/teacher meetings.</li> <li>• Provide parents with duplicate sets of texts.</li> </ul>
Staff communications	<ul style="list-style-type: none"> <li>• Identify resource staff.</li> <li>• Network with other staff.</li> <li>• Schedule building team meetings.</li> <li>• Maintain ongoing communication with building principal.</li> </ul>
School/community/agency communication	<ul style="list-style-type: none"> <li>• Identify and communicate with appropriate personnel working with student.</li> <li>• Assist in agency referrals.</li> <li>• Provide appropriate carryover in the school environment.</li> </ul>
Instructional day	<ul style="list-style-type: none"> <li>• Allow student more time to pass in hallways.</li> <li>• Modify class schedule</li> </ul>
District policies/procedures	<ul style="list-style-type: none"> <li>• Allow increase in number of excused absences for health reasons.</li> <li>• Adjust transportation/paring arrangements.</li> <li>• Approve early dismissal for service agency appointments.</li> </ul>
Modification of classroom/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/building to accommodate equipment needs	<ul style="list-style-type: none"> <li>• Plan for evacuation for wheelchair-bound students.</li> <li>• Schedule classes in accessible areas.</li> </ul>
Building health/safety procedures	<ul style="list-style-type: none"> <li>• Administer medication.</li> <li>• Apply universal precautions.</li> <li>• Accommodate special diets.</li> </ul>
Difficulty sequencing and completing steps to accomplish specific tasks (e.g., writing a book report, term paper, organized paragraphs, division problems, etc.)	<ul style="list-style-type: none"> <li>• Break up task into workable and obtainable steps.</li> <li>• Provide examples and specific steps to accomplish task.</li> </ul>
Shifting form one uncompleted activity to another without closure	<ul style="list-style-type: none"> <li>• Define the requirements of a completed activity (<i>e.g., Your math is finished when all 6 problems are complete and corrected: Do not begin on the next task until it is finished.</i>)</li> </ul>
Difficulty following through on instructions from others.	<ul style="list-style-type: none"> <li>• Gain student's attention before giving directions. Use alerting cues. Accompany oral directions with written directions. Use alerting cues. Accompany oral directions with written directions.</li> <li>• Give one direction at a time. Quietly repeat directions to the student after they have been given to the rest of the class. Check for understanding by having the student repeat the directions.</li> <li>• Place general methods of operation and expectations on charts displayed around the room and/or on sheets to be included in student's notebook.</li> </ul>
Difficulty prioritizing from most to least	<ul style="list-style-type: none"> <li>• Prioritize assignments and activities</li> </ul>

important	<ul style="list-style-type: none"><li>• Provide a model to help students. Post the model and refer to it often.</li></ul>
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AREA OF CONCERN	ACCOMMODATIONS
Difficulty sustaining effort and accuracy over time	<ul style="list-style-type: none"> <li>• Reduce assignment length and strive for quality rather than quantity.</li> <li>• Increase the frequency of positive reinforcement (catch the student doing it right and let him know it).</li> </ul>
Difficulty completing assignments	<ul style="list-style-type: none"> <li>• List and/or post (and say) all steps necessary to complete each assignment.</li> <li>• Reduce the assignment into manageable sections with specific due dates.</li> <li>• Make frequent checks for work/assignment completion.</li> <li>• Arrange for the student to have a “study buddy” with phone number in each subject areas.</li> </ul>
Difficulty with any task that requires memory	<ul style="list-style-type: none"> <li>• Combine seeing, saying, writing and doing, student may need to sub vocalize to remember.</li> <li>• Teach memory techniques as a study strategy (e.g., mnemonics, visualization, oral rehearsal, numerous repetitions).</li> </ul>
Difficulty with test taking	<ul style="list-style-type: none"> <li>• Allow extra time for testing, teaching test-taking skills and strategies, and allow student to be tested orally.</li> <li>• Use clear, readable and uncluttered test forms.</li> <li>• Use test format that the student is most comfortable with. Allow ample space for student response. Consider having lined answer spaces for essay or short answer questions.</li> </ul>
Confusion from non-verbal cues (misreads body language, etc.)	<ul style="list-style-type: none"> <li>• Directly teach (tell the student) what non-verbal cues mean. Model and have student practice reading cues in a safe setting.</li> </ul>
Confusion from written material (difficulty finding main idea from a paragraph, attributes great importance to minor details)	<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/details concepts.</li> <li>• Provide tape of text/chapter.</li> </ul>
Confusion from spoken material, lectures and audio-visual material (difficulty finding main idea from presentation, attributes greater importance to minor details)	<ul style="list-style-type: none"> <li>• Provide student with a copy of presentation notes.</li> <li>• Allow peers to share notes from presentation (have student compare own notes with copy of peer’s notes.)</li> <li>• Provide frames outlines of presentations (introducing visual and auditory cues to important information.)</li> <li>• Encourage use of tape recorder.</li> <li>• Teach and emphasize key words (the following..., the most important point... etc.).</li> </ul>
Difficulty sustaining attention to tasks or other activities (easily distracted by extraneous stimuli)	<ul style="list-style-type: none"> <li>• Reward attention. Break up activities into small units. Reward for timely accomplishments.</li> <li>• Use physical proximity and touch. Use earphones and/or study carrels, quiet place, or preferential seating.</li> </ul>

AREA OF CONCERN	ACCOMMODATIONS
Frequent messiness or sloppiness	<ul style="list-style-type: none"> <li>• Teach organizational skills. Be sure student has daily, weekly and/or monthly assignment sheets, list of materials needed daily and consistent format for papers. Have a consistent way for students to turn in and receive back papers, reduce distractions.</li> <li>• Give reward points for notebook checks and proper paper format.</li> <li>• Provide clear copies of worksheets and handouts and consistent format for worksheets.</li> <li>• Establish a daily routine, provide for what you want the student to do.</li> <li>• Arrange for a peer who will help with organization.</li> <li>• Assist student to keep materials in a specific place (e.g., pencils and pens in pouch).</li> <li>• Be willing to repeat expectations.</li> </ul>
Poor handwriting (often mixing cursive and manuscript and capitals with lower-case letters)	<ul style="list-style-type: none"> <li>• Allow for a scribe and grade for content, not handwriting. Allow for use of a computer or typewriter.</li> <li>• Consider alternative methods for student response (e.g., tape recorder, oral reports, etc.)</li> <li>• Don't penalize student for mixing cursive and manuscript (accept any method of production).</li> </ul>
Difficulty with fluency in handwriting (e.g., good letter/word production but very slow and laborious)	<ul style="list-style-type: none"> <li>• Allow for shorter assignments (quality vs. quantity.)</li> <li>• Allow alternate method of production (computer, scribe, oral presentation, etc.)</li> </ul>
Poor self-monitoring (careless errors in spelling, arithmetic, reading)	<ul style="list-style-type: none"> <li>• Teach study skills specific to the subject area-organization (e.g., assignment calendar), textbook reading, note taking, (finding main idea/detail, mapping outlining, skimming, summarizing.)</li> </ul>
Low fluency or production of written material (takes hours on a 10 minute assignment)	<ul style="list-style-type: none"> <li>• Allow for alternative method for completing assignment (oral presentation, taped report, visual presentation, graphs, maps, pictures, etc.) with reduced written requirements.</li> <li>• Allow for alternative method of writing (e.g., typewriter, computer, cursive or printing, or a scribe.)</li> </ul>
Apparent inattention (underachieve, daydreaming, not there)	<ul style="list-style-type: none"> <li>• Get student's attention before giving directions; tell student how to pay attention, (<i>look at me while I talk; watch my eyes while I speak.</i>)</li> <li>• Ask student to repeat directions.</li> <li>• Attempt to actively involve student in lesson (e.g., cooperative learning).</li> </ul>
Difficulty participating in class without being interruptive, difficulty working quietly	<ul style="list-style-type: none"> <li>• Seat student in close proximity to the teacher.</li> <li>• Reward appropriate behavior (catch student being good.)</li> <li>• Use study carrel if appropriate.</li> </ul>
Inappropriate seeking of attention (clowns around, exhibits loud excessive or exaggerated movement as attention-seeking behavior, interrupts, butts into other children's activities, needles others)	<ul style="list-style-type: none"> <li>• Show student (model) how to gain others' attention appropriately</li> <li>• Catch the student when appropriate and reinforce.</li> </ul>

AREA OF CONCERN	ACCOMMODATIONS
Frequent excessive talking	<ul style="list-style-type: none"> <li>• Teach student hand signals and use to tell student when and when not to talk.</li> <li>• Make sure student is called upon when it is appropriate and reinforce listening.</li> </ul>
Difficulty making transitions (from activity to activity or class to class); takes an excessive amount of time to 'find pencil', gives up, refuses to leave previous task; appears agitated during change.	<ul style="list-style-type: none"> <li>• Program student for transitions. Give advance warning of when a transition is going to take place (<i>now we are completing the worksheet, next we will</i>) and the expectations for the transition (<i>and you will need</i>).</li> <li>• Specifically say and display lists of materials needed until a routine is possible. List steps necessary to complete each assignment.</li> <li>• Have specific locations for all materials (pencil pouches, tables in notebooks, etc.)</li> <li>• Arrange for an organized helper (peer).</li> </ul>
Difficulty remaining seated or in a particular position when required.	<ul style="list-style-type: none"> <li>• Give student opportunities to get up and move around. Allow space for movement.</li> </ul>
Frequent fidgeting with hands, feet or objects; squirming in seat.	<ul style="list-style-type: none"> <li>• Break tasks down to small increments and give frequent positive reinforcement for accomplishments (this type of behavior is often due to frustration.)</li> <li>• Allow alternative movement when possible.</li> </ul>
Inappropriate responses in class often blurted out; answers given to questions before they have been completed.	<ul style="list-style-type: none"> <li>• Seat student in close proximity to teacher so that the teacher can do visual and physical monitoring of student behavior.</li> <li>• State behavior that you do want (tell the student how you expect him to behave).</li> </ul>
Agitation under pressure and competition (athletic or academic).	<ul style="list-style-type: none"> <li>• Stress effort and enjoyment for self, rather than competition with others.</li> <li>• Minimize timed activities; structure class for team effort and cooperation.</li> </ul>
Inappropriate behaviors in a team or large group sport or athletic activity (difficulty waiting turn in games or group situations).	<ul style="list-style-type: none"> <li>• Give the student a responsible job (e.g., team captain, care and distribution of the balls, score keeping, etc.); consider leadership role.</li> <li>• Have student in close proximity to teacher.</li> </ul>
Frequent involvement in physically dangerous activities without considering possible consequences.	<ul style="list-style-type: none"> <li>• Anticipate dangerous situations and plan for in advance.</li> <li>• Stress <i>Stop-Look-Listen</i>.</li> <li>• Pair with responsible peer. (Rotate responsible students so that they don't wear out!)</li> </ul>
Poor adult interactions. Defies authority. Sucks up. Hangs on.	<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 of getting what you need or want is...</i>)</li> </ul>
Frequent self-put downs, poor personal care and posture, negative comments about self and others, low self-esteem.	<ul style="list-style-type: none"> <li>• Structure of success...</li> <li>• Train student for self-monitoring, reinforce improvements, teach self-questioning strategies (<i>What m I doing? How is that going to affect others?</i>)</li> <li>• Allow opportunities for the student to show his strength.</li> <li>• Give positive recognition.</li> </ul>
Difficulty using unstructured time recess – hallways, lunchroom, locker room, library, assembly	<ul style="list-style-type: none"> <li>• Provide student with a definite purpose during unstructured activities (<i>the purpose of going to the library is to check out..., the purpose of ....is...</i>).</li> <li>• Encourage group games and participation (organized school clubs and activities.)</li> </ul>



AREA OF CONCERN	ACCOMMODATIONS
Losing things necessary for tasks or activities at school or at home (e.g., pencils, books, assignments before, during and after completion of a given task)	<ul style="list-style-type: none"> <li>• Help student organize, Frequently monitor notebook and dividers, pencil pouch, locker, book bag, desks. <i>A place for everything and everything in its place.</i></li> <li>• Provide positive reinforcement for good organization. Provide student with a list of needed materials and their locations.</li> </ul>
Poor use of time (sitting, staring off into space, doodling, not working on task at hand)	<ul style="list-style-type: none"> <li>• Teach reminder cues (a gentle touch on the shoulder, hand signal, etc.)</li> <li>• Tell the student your expectation of what paying attention looks like (you look like you are paying attention when...)</li> <li>• Give the student a time limit for a small unit of work with positive reinforcement for accurate completion.</li> <li>• Use a contract, time, etc., for self-monitoring.</li> </ul>

Resources: Anchorage School District – *Attention Deficit Disorders, Suggested Classroom Accommodations for Specific Behaviors*

## FRANKLIN PIERCE SCHOOLS

### **STATEMENT OF PARENT (OR GUARDIAN) AND STUDENT RIGHTS UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973**

The following is a description of the rights granted by federal law to student with disabilities under Section 504 of the rehabilitation Act of 1973.

You have the right to:

1. Have your child receive a free appropriate public education and have your child take part in, and receive benefits from, public education programs without discrimination because of his/her disabling conditions.
2. Receive notice with respect to the identification, evaluation, and placement of your child. Parent consent must be obtained before conducting an initial evaluation and placement.
3. Have your disabled child receive reasonable accommodations to provide him/her an equal opportunity to participate in school (academic) and school related (extracurricular) activities offered by the District.
4. Have evaluation, educational, and placement decisions made based upon a variety of information sources, and by persons who know the student, the evaluation data, and placement options.
5. Examine all relevant records relating to decisions regarding your child's identification, evaluation, educational program, and placement.
6. 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 the student may take part in the hearing and have an attorney represent you. Hearing requests must be made to: William Rasplica, Executive Director of Special Services.
7. File a grievance under District Policy 2162. For information on the grievance procedure, please contact William Rasplica.

The person in this District who is responsible for assuring that the District complies with Section 504 is William Rasplica, Executive Director of Learning Support Services, 315 129<sup>th</sup> Street South, Tacoma WA 98444. He can be reached at: (253) 298-3048.

*Please Keep This Explanation for Future Reference.*

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

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

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

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

The superintendent will establish procedures to ensure that students who are disabled within the definition of Section 504 are educated in full compliance with the law.

## **Policy 2162**

Legal References: 42 USC 12212

34 CFR Part 104

45 CFR Part 99

Section 512 Americans With Disabilities Act of 1990

Section 504 of the Rehabilitation Act of 1973  
Family Education and Privacy Act

**Adoption Date: 2/10/98**  
**Franklin Pierce Schools**  
**Revised: 9/9/08; 2/14/12**  
**Classification: Essential**

## ***EDUCATION OF STUDENTS WITH DISABILITIES UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973 PROCEDURE 2162P***

### **A. Free Appropriate Public Education**

The district will provide a free appropriate public education (regular or special education and related aids and services) to school-age children with disabilities in the district's jurisdiction, except for those fees that are imposed on non-disabled students and their parents. Instruction will be designed to meet the individual educational needs of the disabled students as adequately as the needs of the non-disabled students are met and will be based upon adherence to the evaluation, placement, and procedural safeguard provisions below.

### **B. Childfind**

The district will annually undertake to identify and locate every qualified disabled student residing in the district's jurisdiction who is not receiving a public education and take appropriate steps to notify disabled children and their parents or guardians of the district's responsibilities under Section 504 of the Rehabilitation Act of 1973 ("Section 504").

### **C. Equal Educational Opportunity**

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

### **D. Confidentiality of Information**

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

### **E. Parent Involvement**

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

### **F. Participation in the least restrictive environment**

1. Academic setting. To the maximum extent appropriate to the needs of disabled students, the district will educate disabled students with non-disabled students. In order to remove a child from the regular educational environment, the district must demonstrate that education of the student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily for the disabled student. Whenever the district places a

student in a setting other than the regular education environment pursuant to this paragraph, it will take into account the proximity of the alternate setting to the student's home.

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

#### G. Referral and Screening

If a student, parent, teacher, counselor, or administrator believe they are observing in a student substantially limited performance in one or more major life activities that is believed to be caused by a physical or mental impairment, the concerned individual should complete a referral form. Referral forms are available from the school's Section 504 coordinator and from the Learning Support Services Department. Completed referral forms should be submitted to the school's Section 504 coordinator.

A designated building team will review referrals to determine if an evaluation is appropriate. If an evaluation appears to be necessary, the district will obtain written consent from parents or guardians to perform an evaluation and/or gather additional information and will provide parents or guardians with a written statement of their rights under Section 504. If the screening team determines that an evaluation is not necessary, it will provide written notice to parents or guardians, and forward the results of the screening to the source of the referral.

#### H. Evaluations

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

Examples of significant changes in placement include:

- a. Expulsion;
  - b. Suspensions which exceed ten consecutive days in a school year;
  - c. Cumulative short-term suspensions which create a pattern of exclusion;
  - d. Transferring a student to home instruction; and/or
  - e. Significantly changing the student's access to non-disabled peers, in either his or her academic or non-academic settings.
2. The district will establish policies and procedures for evaluation and placement which assure that tests and other evaluation materials:
    - a. Have been validated and are administered by trained personnel;
    - b. Are tailored to assess educational need and are not merely based on IQ scores; and
    - c. Reflect aptitude or achievement or whatever else the tests purport to measure and do not reflect the student's impaired sensory, manual, or speaking skills (unless the test is designed to measure these particular deficits).
  3. The determination of whether a student is substantially limited in one or more major life activities will be made without regard to any ameliorative effects of mitigating measures which include, but are not limited to: medication, medical supplies, equipment, low-vision

devices, prosthetics, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy equipment and supplies, assistive technology, reasonable accommodations, auxiliary aids or services, or learned behavioral or adaptive neurological modifications.

4. Low vision devices do not include ordinary eyeglasses or contact lenses. The ameliorative effects of ordinary eyeglasses or contact lenses may be considered in determining whether the impairment substantially limits a major life activity.
5. A student with a temporary impairment falls within the scope of Section 504 if the temporary impairment is severe enough that it substantially limits one or more of the student's major life activities. A temporary impairment is one with an actual or expected duration of six months or less. For example, pregnancy is not generally regarded as a disability under Section 504; however, if a student was put on bed rest or otherwise limited due to pregnancy complications, this would be a temporary impairment that could qualify the student as disabled under Section 504.
6. A student with an episodic impairment or a disease in remission qualifies as disabled under Section 504 if the impairment would substantially limit a major life activity when active (i.e., a student whose cancer is in remission).

#### I. Placement Procedures

A Section 504 team should be composed of persons knowledgeable about the student's disability and the meaning of the evaluation data and service options. The team will convene to review all evaluation results, determine eligibility as a student with a disability under Section 504, and document the meeting in writing. The team composition may vary according to the needs of the student.

In interpreting evaluation data and in making placement decisions, the district will (1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered; (3) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and (4) ensure that the placement decision is made in conformity with subsection (F) above.

Out-of-district placements will be provided by the district if necessary to provide a free appropriate public education to a disabled student. However, if the district affords a free appropriate public education to a disabled student but the parent chooses to place the child elsewhere, the district is not responsible to pay for the out-of-district placement.

#### J. Re-Evaluations

The district will provide for periodic reevaluation of disabled students. No time frame is specified in Section 504; however, re-evaluating students every three years in accordance with the requirements of the IDEA will satisfy Section 504 requirements as well. A reevaluation is also required before any "significant change of placement," as defined above in Part "G."

### 1. Non-Academic Services

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

2. Counseling Services. In providing personal, academic, or vocational counseling, guidance, or placement services to its students, the district will provide these services without discrimination on the basis of disability. The district will ensure that qualified students with disabilities are not counseled toward more restrictive career objectives than are non-disabled students with similar interests and abilities.

3. Physical education and athletics. In providing physical education courses and athletics and similar programs and activities to any of its students, the district will not discriminate on the basis of disability. If the district offers physical education courses and operates or supports interscholastic, club, or intramural athletics, it will provide an equal opportunity for qualified students with disabilities to participate in these activities. The district may offer to disabled students physical education and athletic activities that are separate or different from those offered to non-disabled students only if separation or differentiation is consistent with the requirements of 34 CFR 104.34 and qualified disabled students will not be denied the opportunity to compete for teams or to participate in courses that are not separate or different.

### K. Preschool And Adult Education Programs

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

### L. Disciplinary Exclusion

1. Students with disabilities protected under Section 504 may not be improperly excluded from school for disciplinary reasons. Certain disciplinary exclusions of disabled students from school constitute a significant change in the student's educational placement. Such disciplinary exclusions cannot be implemented until the district has satisfied the required change of placement procedures.

2. Qualified disabled students should be recognized as having a disabling condition before discipline is imposed on them, especially before imposing long-term suspension (a suspension of more than 10 days duration) or regular expulsion upon a qualified disabled student. The school principal or educational staff person responsible for the imposition of discipline must ensure that a group of qualified professionals determine whether or not there is a causal relationship between the student's misconduct and his or her disability. They are also to consider the appropriateness of the student's current placement and program. This determination will take into account the student's current evaluation and Individualized

Accommodation Plan (“IAP”) under Section 504. For students considered disabled under Section 504, there is no obligation to provide educational services during periods of long-term suspension or expulsion when the student’s misconduct has been properly determined not to be disability-related and not the result of an inappropriate placement or program. When a student’s misconduct is determined to be causally related to his/her disabling condition, procedures at #4 below will be instituted in lieu of either long-term suspension or expulsion.

3. When a student has engaged in misconduct which is causally related to his or her disability, expulsion and/or long term suspension should not be imposed if it would result in more than ten lost school days . Lost days will be measured cumulatively over the period of the entire school year, with any short term suspensions as counting toward the cumulative total.

When a student’s misconduct is related to a disability, additional evaluations and/or a change of placement should be considered in lieu of expulsion/suspension. In this circumstance, the principal or designee responsible for the imposition of discipline, the Section 504 Compliance Officer, and a team of professionals from the school who are knowledgeable about the student will meet to determine if there is a need for further evaluation or a change of program or placement. If further evaluation is recommended, it will be conducted as soon as possible.

4. Consistent with the district’s IDEA procedures, a student may be removed to an interim alternative educational setting for up to 45 school days, if, at school, on school premises, or at a school function, the student carries a weapon to or possesses a weapon or has inflicted serious bodily injury upon another person, even if the conduct is related to the student’s disability.
5. Students and their parent/guardian will be notified of the results of the decision regarding the causal relationship of the misconduct and the student’s disability and of their right to challenge this decision. Students/parents/guardians objecting to procedures used by the district to evaluate the misconduct are entitled to exercise their rights under Section 504 to file a grievance or initiate a due process hearing.
6. Students who are considered disabled under Section 504 are subject to the same disciplinary processes and results as non-disabled students for misconduct regarding the use, sale, or possession of drugs or alcohol at school. The extra due process requirements regarding change of placement do not apply.

#### M. Transportation

If the district places a student in a program not operated by the district, the district will assure that adequate transportation to and from the program is provided at no greater cost to the parent than would otherwise be incurred by the parent if the district placed the student in a program operated by the district.

Because the district provides transportation to all its students within a certain geographic area, it will not discriminate in its provision of transportation to students with disabilities. For example, the length of the bus rides for qualified disabled students should not be longer than that of non-disabled students.



If the district proposes to terminate a qualified disabled student's bus transportation for inappropriate bus behavior, the district will first determine the relationship between the student's behavior and his or her disabling condition, the appropriateness of the related service of transportation, and the need for reevaluation. The parent or guardian will be provided with notice of the results of such determinations and of their right to challenge such determinations.

#### N. Procedural Safeguards

The district will ensure compliance with the requirements of Section 504 by doing the following:

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

**NOTE: Hearing or mediation requests must be made directly to the district's 504 Coordinator. The district is responsible for arranging for hearing officer and mediator expenses.**

#### O. Appropriate Funding

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

## P. Accessibility

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

## Q. Special Issues Related to Drug or Alcohol Addicted Students

If a district suspects that the drug or alcohol problem of a student may be substantially limiting a major life activity such as learning, the district is obligated to recommend an evaluation. If the evaluation verifies the existence of a disabling condition that substantially limits a major life activity, the student is considered disabled under Section 504 and should be planned for appropriately.

With the passage of the Americans with Disabilities Act in 1990, Congress specifically amended Section 504 to exclude persons who are "currently engaging in the illegal use of drugs" from the definition of individuals with disabilities. Therefore, the school district is not required to consider whether a current illegal drug user could successfully participate in the district's education programs. Furthermore, the district is not required to make accommodations for the student if he or she is currently using drugs. The district can treat the student as it treats non-disabled students.

Congress did not amend Section 504 with respect to students who abuse alcohol and alcoholism. Unlike students addicted to drugs, students whose alcoholism constitutes a disabling condition under Section 504 and who continue to use alcohol are protected by Section 504. However, the district may take disciplinary action against any disabled student engaged in the illegal use of drugs or in the use of alcohol at school to the same extent that such disciplinary action is taken against non-disabled students. Furthermore, the change of placement and procedural safeguard procedures set forth above will not apply to such disciplinary action.

**Date: 2/14/12**  
**Procedure 2162P**

