Section 504

Staff Manual

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INTRODUCTION

Section 504 of the Rehabilitation Act of 1973 (commonly referred to as "504") prohibits discrimination against students on the basis of their disability.

The purpose of this manual is to inform District employees about Section 504 and the School District's procedures that have been developed to comply with the requirements of Section 504. This manual reflects the District's commitment to address the educational needs of ALL children.

The District expects employees to be knowledgeable about the District procedures concerning Section 504, with a particular emphasis on parent and student rights. If you have questions about Section 504, please contact:

Assistant Superintendent for Human Resources
Birmingham Public Schools
31301 Evergreen Road
Beverly Hills, Michigan 48025-3800
(248) 203-3000

SECTION 504 – OVERVIEW

Section 504 of the Rehabilitation Act of 1973 is a federal law which prohibits discrimination against persons with disabilities. The law provides:

> No otherwise qualified individual with a disability. . . shall, solely by reason of her or his 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. . . .
>
> 29 USC 794.

The principal purpose of Section 504 is to assure that students with disabilities are not denied access to educational facilities, programs and opportunities on the basis of their disability.

For a student to qualify for Section 504 protection, the student must: **(1) have a mental or physical impairment, (2) which substantially limits, (3) one or more major life activities**. A student also qualifies for protection under Section 504 if he/she has a record of such an impairment or is regarded as having such an impairment.

Section 504 requires that the School District offer a Free Appropriate Public Education ("FAPE") to each eligible student who has a physical or mental impairment that substantially limits a major life activity. Under Section 504, FAPE consists of the provision of regular or special education and related aids and services that are designed to meet the student's individual educational needs as adequately as the needs of non-disabled students, and in accordance with Section 504 requirements pertaining to educational setting, evaluation, placement and procedural safeguards. The FAPE obligation extends to all students described in this paragraph, regardless of the nature or severity of their disability.

DEFINITIONS UNDER SECTION 504

"Free Appropriate Public Education" ("FAPE") – A "free appropriate public education" is the provision of regular or special education and related aids and services that are (i) designed to meet the individual educational needs of disabled persons as adequately as the needs of non-disabled persons are met, and (ii) are based upon adherence to procedures that satisfy the requirements of the Section 504 Regulations.

"Individual with a disability" – An "individual with a disability" is a person who:

1. Has a physical or mental impairment which substantially limits one or more of such person's major life activities;

2. Has a record of such an impairment; or

3. Is regarded as having such an impairment.

"Major Life Activities" – A "major life activity" includes, but is not limited to functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. Major life activities also include standing, lifting, bending, reading, concentrating, thinking and communicating. The term also includes the operation of a major bodily function, including but not limited to functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

"Physical or mental impairment" – a "physical or mental impairment" is:

1. 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; genitourinary; hemic and lymphatic; skin; and endocrine; or

2. Any mental or psychological disorder such as cognitive impairment, organic brain syndrome, emotional or mental illness and specific learning disabilities.

"Substantially Limits" – A student who has a physical or mental impairment that *substantially limits* a major life activity is a person with a disability under Section 504. This determination is made on a case-by-case basis.

Except for ordinary eye glasses or contact lenses, the effects of mitigating measures (*e.g.*, medications, prosthetics, hearing aids, *etc*.) may not be considered when assessing whether a student has an impairment that substantially limits a major life activity. To the extent feasible, only the impact the impairment has on a major life activity without mitigating measures may be considered when determining whether the disability substantially limits a major life activity.

If a student has an impairment that is episodic or in remission, the School District must consider whether the impairment, *when active*, would substantially limit a major life activity. If so, then the student meets the definition of a student with a disability.

2260.01 – SECTION 504/ADA PROHIBITION AGAINST DISCRIMINATION BASED ON DISABILITY

Pursuant to Section 504 of the Rehabilitation Act of 1973 ("Section 504"), the Americans with Disabilities Act of 1990, as amended ("ADA") and the implementing regulations (collectively "Section 504/ADA"), no otherwise qualified individual with a disability shall, solely by reason of his/her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. The Board of Education does not discriminate in admission or access to, or participation in, or treatment in its programs or activities. As such, the Board's policies and practices will not discriminate against students with disabilities and will make accessible to qualified individuals with disabilities its facilities, programs, and activities. No discrimination will be knowingly permitted against any individual with a disability on the sole basis of that disability in any of the programs, activities, policies, and/or practices in the District.

"An individual with a disability" means a person who has, had a record of, or is regarded as having, a physical or mental impairment that substantially limits one or more major life activities. Major life activities are functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, eating, sleeping, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

Major life activities also include the operation of a major bodily function, including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

An impairment that is episodic in nature or in remission is considered a disability if it would substantially limit a major life activity when active.

The determination of whether an impairment substantially limits a major life activity must be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, equipment or appliances, low-vision devices (not including ordinary eyeglasses or contact lenses), prosthetics (including limbs and devices), hearing aids and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy equipment or supplies, assistive technology, reasonable accommodations or auxiliary aids or services, or learned behavioral or adaptive neurological modifications.

With respect to public preschool, elementary and secondary educational services, a qualified person with a disability means a disabled person:

A. who is of an age during which nondisabled persons are provided educational services;

B. who is of any age during which it is mandatory under Michigan law to provide educational services to disabled persons; or

C. to whom the State is required to provide a free appropriate public education pursuant to the Individuals with Disabilities Education Improvement Act (IDEIA).

With respect to vocational education services, a qualified person with a disability means a disabled person who meets the academic and technical standards requisite to admission or participation in the vocational program or activity.

District Compliance Officer

The following person is designated as the District Section 504 Compliance Officer/ADA Coordinator ("District Compliance Officer"):

Assistant Superintendent for Human Resources

31301 Evergreen Road

Beverly Hills, MI 48025-3800

248-203-3000

248-203-3007 (fax)

www.birmingham.k12.mi.us

The District Compliance Officer is responsible for coordinating the District's efforts to comply with and fulfill its responsibilities under Section 504 and Title II of the ADA. A copy of Section 504 and the ADA, including copies of the implementing regulations, may be obtained from the District Compliance Officer.

The District Compliance Officer will oversee the investigation of any complaints of discrimination based on disability, which may be filed pursuant to the Board's adopted internal complaint procedure, and will attempt to resolve such complaints.

The Board will provide for the prompt and equitable resolution of complaints alleging violations of Section 504/ADA. The Board will further establish and implement a system of procedural safeguards in accordance with Section 504, including the right to an impartial due process hearing.

Training

The District Compliance Officer will also oversee the training of employees in the District so that all employees understand their rights and responsibilities under Section 504 and the ADA, and are informed of the Board's policies, administrative guidelines and practices with respect to fully implementing and complying with the requirements of Section 504/ADA.

The Board will provide in-service training and consultation to staff responsible for the education of persons with disabilities, as necessary and appropriate.

Facilities

No qualified person with a disability will, because the District's facilities are inaccessible to or unusable by persons with disabilities, be denied the benefits of, be excluded from participation

in, or otherwise be subjected to discrimination under any program or activity to which Section 504/ADA applies.

For facilities constructed or altered after June 3, 1977, the District will comply with applicable accessibility standards. For those existing facilities constructed prior to June 3, 1977, the District is committed to operating its programs and activities so that they are readily accessible to persons with disabilities. This includes, but is not limited to, providing accommodations to parents with disabilities who desire access to their child's educational program or meetings pertinent thereto. Programs and activities will be designed and scheduled so that the location and nature of the facility or area will not deny a student with a disability the opportunity to participate on the same basis as students without disabilities.

Education

The Board is committed to identifying, evaluating, and providing a free appropriate public education (FAPE) to students within its jurisdiction who are disabled within the definition of Section 504, regardless of the nature or severity of their disabilities.

If a student has a physical or mental impairment that significantly limits one or more major life activities, the Board will provide the student with a free appropriate public education. An appropriate education may include regular or special education and related aids and services to accommodate the unique needs of students with disabilities. For disabled students who are not eligible for specially designed instruction under the IDEIA, the related aids and services (including accommodations/modifications/interventions) they need in order to have their needs met as adequately as the needs of nondisabled students are met, shall be delineated, along with their placement, in a Section 504 Plan (Form 2260.01A F13). Parents/guardians/custodians ("parents") are invited and encouraged to participate fully in the evaluation process and development of a Section 504 Plan.

The Board is committed to educating (or providing for the education of) each qualified person with a disability who resides within the District with persons who are not disabled to the maximum extent appropriate. Generally, the District will place a person with a disability in the regular educational environment unless it is demonstrated that the education of the person in the regular environment, even with the use of supplementary aids and services cannot be achieved satisfactorily. If the District places a person in a setting other than the regular educational environment, it shall take into account the proximity of the alternate setting to the person's home.

The District will provide non-academic extracurricular services and activities in such a manner as is necessary to afford qualified persons with disabilities an equal opportunity for participation in such services and activities. Non-academic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interests groups or clubs sponsored by the District, referrals to agencies that provide assistance to persons with disabilities, and employment of students. In providing or arranging for the provision of meals and recess periods, and non-academic and extracurricular services and activities, including those listed above, the District will verify that

persons with disabilities participate with persons without disabilities in such services and activities to the maximum extent appropriate.

Notice

Notice of the Board's policy on nondiscrimination in education practices and the identity of the District's Compliance Officer will be posted throughout the District, and published in the District's recruitment statements or general information publications.

29 U.S.C. 794, Section 504 Rehabilitation Act of 1973, as amended
34 C.F.R. Part 104
42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended
Revised 1/17/12
Revised 4/16/13

CHILD FIND

The School District attempts to identify and locate every student residing in the School District who may be a student with a disability under Section 504, regardless of whether he or she is currently receiving a public education. The School District will notify those students and their parents of their rights under Section 504.

The School District may satisfy the Section 504 notification obligation by advertising, by posting notices in places likely to be visited by qualified students with disabilities and their parents, by including notices in School District publications and on its web site, and by directly contacting parents of students the School District believes may be eligible.

The School District will also ensure that the information in its Section 504 notices is written in a manner that would reasonably be easily understandable to a parent. The notices will contain the name and contact information for the School District's Section 504 coordinator.

PRE-REFERRAL STRATEGIES

Pre-referral team strategies are an important first step in providing educational opportunities and services to students who are experiencing difficulties in school. The implementation of such strategies helps teachers vary instructional and behavioral methodologies and expectations, and, by so doing:

1) Assists teachers with students who present a wide variety of educational and behavioral needs; and

2) Strengthens educational opportunities within the general education program.

It must be emphasized that the pre-referral procedures are **not** intended to impede any necessary referrals for consideration of eligibility under the Individuals with Disabilities Education Act ("IDEA") or Section 504. If, at any time, a teacher, counselor, administrator, or other professional staff member suspects that the student's difficulties are attributable to a disability, the student should be referred for an evaluation. If a parent/guardian at any time requests an evaluation, the School District must either honor that request or notify the parent/guardian of his/her due process rights under the IDEA, or Section 504, as applicable.

PARENTAL RIGHTS – SECTION 504

Section 504 guarantees certain rights to parents of students with disabilities. The intent of these procedural protections is to keep the parent/guardian fully informed concerning educational decisions about their child, and to inform the parent/guardian of their rights if they disagree with any of these decisions. At age 18, these rights transfer to the student.

A student's parent(s) or guardian(s) will be given a meaningful opportunity to provide input during the evaluation of the student for eligibility under Section 504. A Notice of Procedural Safeguards – Section 504 (**Form C**) has been developed for distribution to parents.

SECTION 504 – THE PROCESS

- Referral
- Evaluation
- Eligibility Determination
- Development of Services Plan
- Review
- Reevaluation
- Timeframe

A. Referral

A student who, because of a suspected mental or physical impairment, is believed to be in need of accommodations or educational services under Section 504, may be formally referred by a parent, teacher, other certified school employee(s), or the adult aged student himself/herself. Where a teacher or other certified school employee suspects Section 504 eligibility, a referral *must* be made.

- The person making the referral is to complete a Section 504 Referral form (**Form B**) and submit the form to the School District's Section 504 Coordinator.
- Upon receipt of a Section 504 referral from a staff member, the parent should be provided the form letter "Parent Notice – Section 504 Referral" (**Form D**).
- Whether the referral is made by the parent or by school staff, the parent should be provided with copies of "Consent for Section 504 Evaluation" (**Form E**) and "Notice of Procedural Safeguards – Section 504." (**Form C**).

B. Evaluation

A determination of Section 504 eligibility (*i.e.*, a physical or mental impairment that substantially limits a major life activity within the school environment) must be based on a multi-source evaluation. The evaluation procedures to be followed may, but need not, include all of those which are followed in evaluating students under the Individuals with Disabilities Education Act ("IDEA"). The nature and extent of the information needed to make a Section 504 eligibility decision is determined on a case-by-case basis by a group of persons knowledgeable about the student and the meaning of evaluation data.

The evaluation process should begin with a thorough review of the student's educational records, and will include completion of the General Education Teacher Report (**Form I**). The following may also be considered:

- Observations of the student;
- Standardized tests or other assessments by school staff;

- Parent/Student/Teacher interviews;
- Behavior rating scales or other checklists;
- Pertinent medical information; and
- Information provided by the parent.

Where formal testing is determined to be necessary, the evaluation procedures must ensure that:

1. Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer.

2. Tests and evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient.

3. Tests are selected and administered so as to best 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 whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the facets that the tests purport to measure).

If a student is suspected of having a physical impairment and the School District does not already have a current diagnosis documented by a physician, input from a physician may be sought as part of the evaluation process. (See Cover Letter to Physician (**Form G**), Authorization for Release and Exchange of Student Educational and Medical Information (**Form F**) and Physician's Statement (**Form H**)). It must be noted that a parent (or student) is not required to provide a medical statement as a condition of a Section 504 evaluation being conducted. If the School District determines that a medical assessment is necessary for a complete evaluation, the assessment will be at no cost to the parents.

Please note that a diagnosis of a physical or mental impairment does not, in and of itself, determine eligibility under Section 504. As mentioned above, there must also be separate findings that the impairment substantially limits a major life activity.

C. Eligibility Determination

The eligibility determination should be made by a group of persons knowledgeable about the student, the meaning of the evaluation data and placement options (the "Team"). The parent(s)/guardian(s) of the student should be given a meaningful opportunity to provide input into the evaluation process and invited to the meeting concerning the eligibility determination. (**Form J**).

A final determination regarding eligibility shall be made by the Team through completion of the Section 504 Eligibility Determination Report. (**Form K**).

D. Section 504 Services Plan

Where a student is found to be eligible under Section 504, a Section 504 Services Plan (**Form N**) will be developed. The building Section 504 Team, which includes the parents, will be responsible for determining the special education and related services, as well as any accommodations, that are needed to ensure that the student receives a free appropriate education. The Plan will specify how services will be provided and by whom. Where a student's Section 504 Services Plan or IEP includes use of an assistive technology device, the Plan or IEP shall require that teachers and paraprofessionals receive the necessary training to ensure that the technology can be utilized properly. The IEP or Services Plan shall specifically address what will occur when an assistive technology device is out of service for repair or is otherwise not functioning.

The Section 504 Services Plan shall be signed by the Building Administrator/Designee. Prior to implementation, a copy of the Plan shall be provided to the parent(s)/guardian(s), which indicates the School District's intent to implement the plan. A copy of the Notice of Procedural Safeguards – Section 504 (**Form C**) shall accompany the notice of the intent to implement.

If a Section 504 Services Plan is developed for a student, all school personnel with implementation responsibilities shall be informed of the existence and particulars of the Plan, on a "need to know" basis.

E. Review

The teacher or other person(s) designated by the Section 504 Team shall monitor the student's progress and the effectiveness of the student's Plan. The teacher or other designated person will meet with the parent(s) at least annually to determine whether the Services Plan continues to be appropriate or whether any changes are thought to be necessary. If changes are to be considered, the Section 504 Team will be convened.

F. Reevaluation

A multi-source evaluation should be completed periodically to re-determine eligibility under Section 504 and before any significant changes are made in the Services Plan.

G. Time Frame

A time frame of thirty (30) school days will be followed for completion of the identification, evaluation, and, if necessary, development of a Section 504 Services Plan for each student who is referred pursuant to the School District's Section 504 policy.

SUSPENSION AND EXPULSION OF STUDENTS SERVED UNDER SECTION 504

Students who are eligible under Section 504 have certain additional protections when charged with a violation of the Code of Student Conduct which may result in a suspension or expulsion. Similar to suspension or expulsion of a student with a disability under the IDEA, it is necessary to conduct a manifestation determination for a Section 504 disabled student when:

- The suspension or expulsion will be for more than ten (10) consecutive school days. As is true under the IDEA, a suspension/expulsion of more than ten (10) consecutive days constitutes a significant change in placement and requires the School District to determine if the cause of the behavior is the disability identified in the student's Section 504 Plan.

- A series of suspensions that total more than ten (10) school days in a school year may create a pattern of exclusion. If cumulative suspensions/expulsions for a student on a Section 504 Plan total more than ten (10) school days in a school year, it must be determined if a significant placement change has occurred. This is done on a case-by-case basis. If a group of short suspensions creates a pattern of exclusion, then this constitutes a change in placement and the School District must conduct a manifestation determination meeting before further suspensions or expulsions occur. The Office for Civil Rights has identified some of the key factors in determining the existence of a "pattern of exclusion." These include the length of each suspension, the proximity of one suspension to another, the similar or dissimilar nature of the behavior, and the total amount of time the student is excluded from school.

If the behavior is found to be a manifestation of a disability, no discipline may be imposed and the student will be returned to his/her pre-disciplinary educational placement. The Section 504 Team will be convened to determine whether the student's Section 504 Plan should be modified.

Section 504 allows a student to be disciplined, without going through the manifestation determination review process, where the student is charged with and found to be currently engaging in the illegal use of drugs or alcohol, in violation of the Code of Student Conduct.

IMPARTIAL DUE PROCESS HEARINGS

Parents or persons in a parental relationship who disagree with the identification, evaluation, placement or provision of a free appropriate publication for a student with a disability have the right to request an impartial due-process hearing. Request for a Section 504 due process hearing must be made to the School District Section 504 Coordinator. Upon receipt of such a request, the necessary arrangements will be made by the School District, including the selection of a hearing officer. A hearing may not be conducted by a person who is an employee of the School District, or by any person having a personal or professional interest which would conflict with his or her objectivity in the hearing.

Any party to a hearing has the right to:

1. Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;

2. Present evidence and confront, cross-examine, and compel the attendance of witnesses;

3. Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five days before the hearing;

4. Request that the hearing officer bar as evidence any evaluation or recommendation completed but not disclosed to the other party at least five business days prior to the hearing;

5. Obtain a written or electronic verbatim record of the hearing or obtain alternate forms of the verbatim record to be provided in the parent's native language; and

6. Obtain written or electronic findings of fact and decisions.

The School District will adhere to the following timeframes in the event of a request for a due process hearing:

1. A hearing will be scheduled not less than fifteen (15), nor more than thirty (30) calendar days following receipt of a written request from the parent.

2. The Hearing Officer will, not later than thirty (30) calendar days after the hearing, do both of the following:

   a. Reach a final decision regarding the matter; and

   b. Send a written copy of the decision to each party.

3. In the absence of an appeal, or written notice of an intent to pursue an appeal, the decision of the Hearing Officer will be implemented by the School District within ten (10) business days of the School District’s receipt of the decision.

The non-prevailing party in an impartial due process hearing may request a review (appeal) of the hearing officer's decision. The process shall be:

1. An appeal shall be in writing, specify the findings and conclusions with which there is disagreement, and delivered to the other party within ten (10) business days of receipt of the decision of the hearing officer.

2. Upon receipt of an appeal from the parent, or, where the School District initiates an appeal, the School District will appoint an independent appeals officer to conduct an impartial review.

3. The appeals officer shall receive the entire record of the proceedings below and request short written statements of position from the parents. The appeals officer may, at his/her discretion, conduct the review either with or without oral argument.

4. Upon completion of the review, the appeals officer shall render a written decision, within fifteen (15) school days, which decision will be final.

The procedure, above, is not intended to, nor shall it be interpreted as, denying a parent his/her right to file a complaint with the United States Department of Education or in a court of competent jurisdiction

COMPLAINTS/GRIEVANCES

Apart from an impartial due process hearing, as provided for, above, a person who believes that he/she has been discriminated against by the Birmingham Public Schools on the basis of his/her disability may pursue a grievance/complaint through Birmingham Public Schools' Grievance/Complaint Procedure. (**Form O**).

Section 504 Forms

Birmingham PUBLIC SCHOOLS Achievement. Character. Community.

FORM A: SECTION 504 CHECKLIST

Student Name: _____ Student #: _____

School: _____ Grade: _____

1. If, at any time, a parent or a teacher, counselor, administrator or other professional staff member suspects that a student may have a disability, and, because of the suspected disability, the student needs or is believed to need special education or related services, a Section 504 Referral (**Form B**) should be completed. The form should be filed with the Section 504 Coordinator.

2. The building Team Leader receives the Section 504 Referral (**Form B**).

(Date)

3. The Team Leader shall review the referral and, if the referral, on its face, includes the criteria necessary for an evaluation, the Section 504 evaluation process will be commenced. If it is determined that the referral is deficient in that some or all required criteria has not been included, and an evaluation will *not* occur, the Team Leader is to record this decision, including the rationale, on the bottom of the Section 504 Referral (**Form B**). If the Referral was made by the parent, the parent must be informed of the decision not to proceed with the evaluation and provided with Notice of Procedural Safeguards – Section 504. (**Form C**).

(Date)

4. If it is determined that an evaluation should occur, the Team Leader sends Parent Notice – Section 504 Referral (**Form D**) to parent/guardian to advise of proposed evaluation. Notice of Procedural Safeguards – Section 504 (**Form C**) and Consent for Section 504 Evaluation (**Form E**) are also sent. (If applicable, **Form F**, Authorization For Release And Exchange Of Student Educational And Medical Information should also be sent.)

(Date)

5. If applicable, **Form F**, Authorization For Release And Exchange Of Student Educational And Medical Information, **Form G**, Cover Letter to Physician and **Form H**, Physician's Statement should be sent to physician.

(Date)

6. Team Leader should send **Form I**, General Education Teacher Report – Section 504 Evaluation to Student's general education teachers.

(Date)

7. The Team Leader identifies members of the Section 504 Team and sends Evaluation Team Meeting Invitation (**Form J**).

(Date)

8. The Section 504 Team evaluates the child's reported impairment and completes the Section 504 Eligibility Determination Report (**Form K**). **The Team Leader is to send a hard copy of the completed Form L to the School District Section 504 Coordinator, regardless of evaluation outcome**.

(Date)

9. The Team Leader provides parent(s)/guardian(s) with Parent Notice – Section 504 Eligibility or Non-Eligibility Determination (**Form L**) and Notice of Procedural Safeguards – Section 504 (**Form C**), either in person or by mail. **The Team Leader is to send a hard copy of this completed form to the School District Section 504 Coordinator, regardless of the evaluation outcome**.

(Date)

10. If the student is found eligible under Section 504, the Team Leader sends Parent Invitation – Section 504 Services Plan meeting. (**Form M**).

(Date)

11. Where a student is found eligible, a Section 504 Services Plan (**Form N**) is developed. The Team Leader is responsible for ensuring that teachers and other staff members who have implementation responsibilities are made aware of the existence of the Plan and its terms, on a need to know basis. **The Team Leader is to send a hard copy of this completed form to the School District Section 504 Coordinator**.

(Date)

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FORM B: SECTION 504 REFERRAL

Student Name: _____ Student #: _____

School: _____ Grade: _____

1. **Reason for Referral**. (Please state the nature of your concern(s)).

   A. Academic concern(s):

   B. Behavioral concern(s):

   C. Motor/Movement:

   D. Social/Emotional:

   E. Medical:

   F. Other:

2. **Observations of student**. (Please describe any supporting observations).

3. **Pre-referral Interventions**. (Please describe any interventions that have been tried at home or at school).

4. **Records**. (Please attach a copy of the student's most recent grades and/or standardized test scores, if available. Also, attach any medical documentation that supports the student's physical or mental disability).

Signature of Person Making Referral	**Relationship to Student**	**Date of Referral**
_____	_____	_____

FOR SCHOOL DISTRICT USE ONLY:
ACTION TAKEN:

☐ Notice sent to parent(s) requesting consent to conduct a Section 504 evaluation on (date) _____.

☐ Section 504 Team Leader (school principal or his/her designee) determined not to conduct a Section 504 evaluation at this time.

FORM C: NOTICE OF PROCEDURAL SAFEGUARDS

The following is a summary description of the rights provided by Section 504 of the Rehabilitation Act of 1973 to students with disabilities, or suspected disabilities, as well as certain rights you have under other laws. These include the Individuals with Disabilities Education Act (IDEA) and the Family Education Rights and Privacy Act (FERPA). The intent of the law is to keep you fully informed about decisions concerning your child, to have you be an active participant in the educational planning for your child, and to inform you of your rights in the event you disagree with any decisions concerning your child.

You have the right to:

1. Have the Birmingham Public Schools advise you of your rights under federal law.

2. Receive notice with respect to: a) Section 504 identification, evaluation, and/or eligibility determinations of your child; b) your procedural safeguards; c) your opportunity to examine relevant records with regard to your child; and d) your right to an impartial due process hearing, including the right to participate and be represented by legal counsel, but at your own expense, as well as to request a review of the decision of an impartial hearing officer.

3. Have evaluation, educational, and placement decisions made based upon a variety of information sources, and by a team of persons who are knowledgeable about the student, the evaluation data, and placement options.

4. Examine all education records related to your child, including those concerning the decisions regarding your child's Section 504 identification, evaluation, educational program, and placement.

5. Obtain copies of educational records at a reasonable cost, unless the fee would effectively deny you access to the records.

6. Receive a response from the Birmingham Public Schools to reasonable requests for explanations and interpretations of your child's records.

7. Request an amendment of your child's educational records if there is reasonable cause to believe that they are inaccurate, misleading, or otherwise in violation of the privacy rights of your child. If the Birmingham Public Schools refuses this request for amendment, the School District shall notify you within a reasonable time and advise you of your right to an impartial hearing.

8. Have your child receive a free appropriate public education, including related services, if he/she is found to be a qualified student with a disability. The services will be without cost to you or your child, except for those fees that are imposed on non-disabled students or their parents or guardians.

9. In the event that a Section 504 Services Plan or IEP includes the use of an assistive technology device, the Plan or IEP will also include a requirement that teachers and paraprofessionals receive the necessary training to ensure that the technology can be utilized properly. The Plan or IEP will also specifically address what will occur when an assistive technology device is out of service for repair or is otherwise not functioning.

10. Have your child take part in, and receive benefits from, the School District's education programs without discrimination because of his/her disabling condition(s).

11. Have your child be educated with non-disabled students to the maximum extent appropriate. This includes the right to have the Birmingham Public Schools make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities.

    In the event that a special education teacher, to whom your child is assigned, will be absent for a period known to be five (5) consecutive school days, or longer, and it is necessary to utilize the services of a substitute:

    a. Birmingham Public Schools will use reasonable means to determine the availability of a teacher with special education certification to fill the position. In the event that a substitute teacher with special education certification cannot be found to fill the position, a teacher without special education certification may be assigned.

    b. The Birmingham Public Schools' special education administrator with primary responsibility for the classroom will meet with the substitute teacher and arrange training to ensure that your child's needs are met to the same extent as are the needs of nondisabled students in the classroom.

12. Have your child educated in facilities and receive services comparable to those provided non-disabled students.

13. Have transportation provided to and from an alternative placement setting at no greater cost to you than would be incurred if the student were placed in a program operated by the Birmingham Public Schools.

14. Have your child be given an equal opportunity to participate in nonacademic and extracurricular activities offered by the Birmingham Public Schools. Advance notification of field trips will be provided through the same means of communication and at the same time as such notification is given to parents/guardians of students who are not disabled. This will include notification of the time, place and cost of the field trip. For a regularly scheduled field trip, notice will be provided no later than five (5) days before the trip. Where a field trip was not regularly scheduled, notice will be provided as soon as possible once the details are known.

15. Request an impartial due process hearing regarding the Section 504 identification, evaluation, eligibility, placement or provision of a Free Appropriate Public Education ("FAPE") for your child.

16. File a complaint in accordance with the Birmingham Public Schools' Section 504 grievance procedure.

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FORM D: PARENT NOTICE – SECTION 504 REFERRAL

Student Name: _____ Student #: _____

School: _____ Grade: _____

[**Insert Date**]

Via First Class Mail

[Insert Parent/Legal Guardian Name]
[Address Line 1]
[Address Line 2]

Dear [Insert Parent/Legal Guardian Name]:

As part of our continuing efforts to monitor the educational performance of our students, we have found that [**Insert Child's First Name**] is experiencing some difficulties. I am prepared to form an evaluation team to determine if [**Insert Child's First Name**] may have a qualifying disability under Section 504 of the Rehabilitation Act. Members of the evaluation team would collect and review information on your child's learning and behavior. Your child's teacher(s), the school's guidance counselor, school psychologist, and other staff members may be involved in observations, assessments and other data collection activities.

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

Under Section 504 you have specific rights concerning this evaluation process, which are designed to keep you fully informed concerning decisions about your child. These rights are summarized in the Notice of Procedural Safeguards – Section 504 document that is enclosed with this letter. Also enclosed is a Consent for Section 504 Evaluation. Please sign and return the form to me so that we may begin the evaluation process.

If you have any questions with regard to the evaluation process, please feel free to contact me at (____) ___-____.

Sincerely,

[**Insert Name**], Section 504 Team Leader
Enclosures

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FORM E: CONSENT FOR SECTION 504 EVALUATION

Student Name: _____ Student #: _____

School: _____ Grade: _____

Date Requested: _____

Parent/Guardian: _____

Address: _____ Phone: _____

I understand that my child has been referred for an evaluation as a student with a disability under Section 504 of the Rehabilitation Act of 1973 (Section 504). The evaluation will draw upon information from a variety of sources, which may include, but are not limited to: a school records review, observations of the student, parent/child/teacher input or interviews, assessments and other relevant information. The purpose of the evaluation is to determine whether my child is eligible for services under Section 504.

(**Check All That Apply**)

☐ I have received information regarding the Section 504 evaluation procedures and have been informed of the procedural safeguards afforded under Section 504.

☐ I consent to the above evaluation for my child.

☐ I refuse permission for the above evaluation for my child.

Dated: _____ _____

Signature of Parent/Guardian

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FORM F: AUTHORIZATION FOR RELEASE AND EXCHANGE OF STUDENT EDUCATIONAL AND MEDICAL INFORMATION

Student's Name: _____ Date of Birth: _____/_____/____

Parent(s)/Legal Guardian(s): _____

Street Address: _____ Phone: (____) ____-_____

City, State Zip Code: _____

I hereby authorize the release and exchange of otherwise confidential educational and medical information between the Birmingham Public Schools and:

_____
Physician's Name

_____
Street Address

_____
City, State Zip Code

(____) ____-_____
Phone Number

(____) ____-_____
Fax Number

I understand that any information released or exchanged will be treated in a confidential manner and will not be transmitted to a third party without my permission.

This authorization is valid for a period of ninety (90) days unless earlier revoked by me in writing.

Date: _____ _____
Signature of Parent, Guardian or Adult Student
Relationship to Student: _____

_____
Street Address

_____
City, State Zip Code

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PLEASE FORWARD DOCUMENTS TO:

Birmingham PUBLIC SCHOOLS Achievement. Character. Community.

FORM G: COVER LETTER TO PHYSICIAN

[**Insert Date**]

Via First Class Mail

[Insert Physician's Name]
[Insert Company Name]
[Address Line 1]
[Address Line 2]

Re: [Insert Student's Name]

Dear [Insert Physician Name]:

[**Insert Student's Name**] is currently being evaluated by the Birmingham Public Schools for the purpose of determining eligibility as a person with a disability under Section 504 of the Rehabilitation Act of 1973. The student may be eligible for special education or related services under Section 504 if he/she has a mental or physical impairment which substantially limits a major life activity.

Enclosed is an authorization for release of information to the School District which has been signed by the student's parent(s)/guardian(s). We ask that you please assist us by completing and returning the enclosed Physician's Statement no later than [**Insert Date**] to:

[**Insert Name, Title and Address**]

If you have any questions, please do not hesitate to contact me at (___) ____-_____. Thank you for your cooperation in this matter.

Sincerely,

[**Insert Name**], [**Insert Title**]
Section 504 Team Representative

Birmingham PUBLIC SCHOOLS Achievement. Character. Community.

FORM H: PHYSICIAN'S STATEMENT

Student's Name: _____ Date of Birth: _____

Parents: **The following items are to be completed by the physician. Return completed form to the building your child attends**.

1. Does the student have a mental or physical condition? ☐ Yes ☐ No

   If yes, specify diagnosis: _____

2. Prognosis: This student's mental or physical condition is:

   ☐ Stable ☐ Deteriorating ☐ Improving

3. Describe the nature and extent of possible change in this student's condition:

   _____

   _____

   _____

4. What are the anticipated effects of the physical or mental impairment on the student's ability to access, participate in, or benefit from the school/educational experience?

   _____

   _____

   _____

5. Has the student been prescribed any medication about which the School District should be aware?

   ☐ No ☐ Yes; explain: _____

   _____

   _____

   _____

6. Are there any other medical factors of which the School District should be aware which could affect this student's performance in a school setting?

☐ No ☐ Yes; explain: _____

_____

_____

_____

Date: _____ _____

Physician's Signature

Physician's Name & Title (Type or Print): _____

Office Address: _____

Phone #: _____

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FORM I: GENERAL EDUCATION TEACHER REPORT – SECTION 504 EVALUATION

Student's Name: _____ Grade: _____ Subject: _____

1. The student comes to class with appropriate materials

   ☐ less often than other students of his/her age/grade; or
   ☐ with about the same frequency as others

2. The student attends and participates appropriately in class discussions/activities

   ☐ less often than other students of his/her age/grade; or
   ☐ with about the same frequency as others

3. The student completes homework assignments

   ☐ less often than other students of his/her age/grade; or
   ☐ with about the same frequency as others

4. Based on collected data, the student's reading skills are

   ☐ adequate to handle the material/work that is expected in this class; or
   ☐ inadequate to handle the material/work that is expected in this class; or
   ☐ unknown at this time due to the short time student has been in class; or
   ☐ unknown at this time due to lack of work output upon which to base an assessment

5. Based on collected data, the student's writing skills are

   ☐ adequate to handle the material/work that is expected in this class; or
   ☐ inadequate to handle the material/work that is expected in this class; or
   ☐ unknown at this time due to the short time student has been in class; or
   ☐ unknown at this time due to lack of work output upon which to base an assessment

6. Based on collected data, the student's math skills are

   ☐ adequate to handle the material/work that is expected in this class; or
   ☐ inadequate to handle the material/work that is expected in this class; or
   ☐ unknown at this time due to the short time student has been in class; or
   ☐ unknown at this time due to lack of work output upon which to base an assessment

7. The student's grade to date in this class is: _____

8. In order for the student to earn this grade, have you provided accommodations/ interventions which are outside the range of what you would expect to provide for a typical student in this age/grade range?

   ☐ No

   ☐ Yes, explain _____

9. The student's behavior

   ☐ is manageable within the general education classroom setting; or
   ☐ is not manageable within the general education classroom setting.

   If you checked "**is not,**" describe the types of behaviors you see that are problematic within the classroom:

   _____

   _____

   If you checked "**is not,**" describe how you have attempted to deal with the problematic behaviors, and how the student has responded to the interventions:

   _____

   _____

10. Based on your observations, interactions, and evaluation(s), does the student's mental or physical condition substantially limit any major life activity?

    Explain: _____

    _____

Dated: _____ _____
Teacher

Please return to Section 504 Team Leader by [**Insert Date**].

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FORM J: EVALUATION TEAM MEETING INVITATION

Student's Name: _____ Grade: _____

Attending School: _____

You are invited to attend a Section 504 Evaluation Meeting to discuss the results of your child's evaluation. The purpose of this meeting is to determine if your child needs or is believed to need special education or related services. If it is determined that your child needs special education or related services, a Section 504 Services Plan will be developed (or reviewed and revised) at this meeting. You are encouraged to attend this meeting.

The meeting will be held at:

Date: _____ Time: _____

Location: _____

Persons invited to the 504 evaluation team meeting:

_____ Parent/Guardian	_____ Parent/Guardian
_____ Student	_____ Student's Teacher
_____ Additional School Staff	_____ Additional School Staff
_____ Additional School Staff	_____ Additional School Staff
_____ Administrator/Designee	_____ Other

Contact Name: _____ Phone #: _____

Date Invitation Sent: _____

PLEASE TEAR OFF & RETURN THIS PORTION IN THE ENCLOSED ENVELOPE

___ I will attend the scheduled Section 504 Evaluation Team Meeting

___ I am unable to attend the scheduled meeting, and am requesting the meeting be rescheduled.

___ I am unable to attend the scheduled meeting, but am requesting that the process continue and that the paperwork be sent to my home address.

___ I would like my child to attend the Section 504 Evaluation Team Meeting.

___ I do not want my child to attend the Section 504 Evaluation Team Meeting.

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FORM K: SECTION 504 ELIGIBILITY DETERMINATION REPORT

Student Name: _____ Student #: _____ Grade: ____ Date: _____

School: _____ ☐ Initial Section 504 Evaluation ☐ Section 504 Reevaluation

ELIGIBILITY: **Based on the evaluation data gathered from a variety of sources, the Section 504 Team is to answer the following questions to determine Section 504 eligibility:**

1. ☐ **Yes** ☐ **No** Does the student have a physical or mental impairment? If so, check the impairment. The Section 504 regulations define a "physical or mental impairment" as: **1.** 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, ❑ speech organs ❑ cardiovascular, ❑ reproductive, ❑ digestive, ❑ genito-urinary, ❑ hemic and lymphatic, ❑ skin or endocrine; or

   2. any mental or psychological disorder such as ❑ mental retardation, ❑ organic brain syndrome, ❑ emotional illness, ❑ mental illness, specific learning disabilities, or ❑ other. If "other," then state: _____

2. ☐ **Yes** ☐ **No** Does the physical or mental impairment affect one or more major life activities? If so, which major life activity or activities are affected?

   ❑ caring for oneself, ❑ performing manual tasks, ❑ seeing, ❑ hearing, ❑ eating, ❑ sleeping, ❑ walking, standing, lifting, ❑ bending, ❑ speaking, ❑ breathing, ❑ learning, ❑ working, ❑ reading, ❑ concentrating, ❑ thinking, ❑ communicating, ❑ the operation of a major bodily function (includes, but is not limited to functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions), ❑ other.

3. ☐ **Yes** ☐ **No** Does the physical or mental impairment SUBSTANTIALLY limit a major life activity?

If all three questions are answered "Yes," the student is eligible for a free, appropriate public education under Section 504, and a Services Plan should be developed. If any answer is "No," the student is not eligible.

SOURCES OF DATA: **(Check the data obtained for the evaluation. All data obtained must be carefully considered.)**

Grades	_____	Parent Report	_____	Classroom Teacher(s) Report	_____
School Records	_____	Medical Reports	_____	Individual Achievement Tests	_____
Work Samples	_____			Group Achievement Test	_____
Other _____				Psycho-education Evaluation (date)	_____

TEAM OF EVALUATORS:

Name:	**Title**:
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Send a hard copy of this completed form to the School District Section 504 Coordinator.

FORM L: PARENT N OTICE – SECTION 504
ELIGIBILITY OR NON-ELIGIBILITY DETERMINATION

Student Name: _____ Student #: _____

School: _____ Grade: _____

[**Insert Date**]

Via First Class Mail

[Insert Parent/Legal Guardian Name]
[Address Line 1]
[Address Line 2]

Re: Eligibility Determination Under Section 504

Dear [Insert Parent/Legal Guardian Name]:

As you are aware, on _____, an evaluation team met to determine whether your child has a qualifying disability under Section 504 of the Rehabilitation Act. Based on the team's review of all of the information collected, the evaluation team determined that:

☐ Your child has a qualifying disability under Section 504 of the Rehabilitation Act and may require a Services Plan to ensure that he/she receives a free appropriate public education.

☐ Your child does not have a disability or condition that meets the definition of a qualifying disability under Section 504. Therefore, your child is not entitled to free special education or related services.

Enclosed is a copy of the Notice of Procedural Safeguards form. This document summarizes your rights and the rights of your child under Section 504.

If you have any questions or would like to schedule a meeting to discuss this determination, please do not hesitate to contact me.

Sincerely,

[**Insert Name**], Building Principal

Enclosure
cc: School District Section 504 Coordinator

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FORM M: PARENT INVITATION – SECTION 504 SERVICES PLAN MEETING

Student Name: _____ Student #: _____

School: _____ Grade: _____

Date: _____

[**Insert Date**]

Via First Class Mail

[Insert Parent/Legal Guardian Name]
[Address Line 1]
[Address Line 2]

Re: Section 504 Meeting Invitation

Dear [Insert Parent/Legal Guardian Name]:

You are invited to attend a meeting to develop a Section 504 Services Plan for your child. The meeting will be held at:

Date: _____ Time: _____

Location: _____

Your participation is very important and we strongly encourage you to attend this meeting. Although it is certainly preferable that you actually be present, if you are unable to do so we can arrange to have you participate through a speaker telephone or other means.

The school staff members listed below have been involved in the education of your child. Each person will attend the meeting or be represented by someone else who is knowledgeable about your child and the information that will be reviewed in the meeting.

If you have any questions, please feel free to contact me.

Sincerely,

[**Insert Name**], Section 504 Team Leader

Section 504 Team:

_____ _____
_____ _____
_____ _____
_____ _____

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FORM N: SECTION 504 SERVICES PLAN

STUDENT INFORMATION

Meeting Date	Previous Date	Date of Birth:	Gender-Circle One	Building
Student's Last Name, First Name Middle Initial			SSN (if Available)	Student No.
Student's Home Address, City, Zip Code				Home No.
Parent(s)/Guardian(s) Last Name, First Name			Work No.	Cell No.
Parent(s)/Guardian(s) Address, City, Zip Code				Native Language
				Parent: Student:

MEETING PURPOSE

☐ Initial ☐ Review ☐ Redetermination

PARENT CONTACT

Professional personnel contacted the parent(s)/guardian(s) to ensure that they would have an opportunity to attend this meeting, and to explain the purpose of this meeting and the role of the participants.

MEETING PARTICIPANTS IN ATTENDANCE

Parent(s)/Guardian(s)	Administrator/Designee
Student	Student's Teacher
Additional School Staff	Additional School Staff
Additional School Staff	Additional School Staff

All information used must be documented in writing and attached to this report.

☐ Describe how the identified disability significantly limits a major life activity: _____

_____

_____

☐ Evaluation Summary Information: _____

_____

_____

ELIGIBILITY

☐ Student qualifies under Section 504 criteria

☐ Student does not qualify under Section 504 criteria

SERVICES

AREA OF NEED	SERVICES	PERSON(S) RESPONSIBLE

NOTICE OF INTENT TO IMPLEMENT SECTION 504 SERVICES PLAN

Date Section 504 Services Plan will be implemented _____

Location: Building _____ ☐ Regular Classroom ☐ Other

Person responsible for implementation/review _____

Anticipated duration of Section 504 Services Plan ☐ One school year ☐ Other ____

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SCHOOL DISTRICT COMMITMENT

Signature of Building Principal will indicate intent to implement Section 504 Accommodation Plan as written:

Dated: _____ _____
Building Principal

ANNUAL REVIEW

[**Insert Name**] will periodically monitor the student's progress and the effectiveness of this Plan.

[**Insert Name**] will meet with the parents at least annually while this Plan remains in effect to determine whether it continues to be appropriate or whether any changes are thought to be necessary. If changes are to be considered, the Section 504 Team will be convened.

PARENT NOTICE

A complete copy of the Section 504 Accommodation Plan, together with Notice of Procedural Safeguards – Section 504 (**Form C**), was provided to the parent(s)/guardian(s) on:

Dated: _____ _____
Contact

Method of Contact: ☐ U.S. Mail to home address ☐ Delivered personally to parent(s)/guardian(s) ☐ Other – specify method _____

Parent signature indicates agreement with the Section 504 Accommodation Plan.

Dated: _____ _____
Parent(s)/Guardian(s)

PARENT AGREEMENT / DISAGREEMENT

☐ I have received notice of the procedural safeguards.
☐ I agree with the determination above.
☐ I disagree with the determination above and request mediation.
☐ I disagree with the determination above and request a due process hearing.

Date: _____ _____
Parent/Guardian Signature

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FORM O: SECTION 504 DUE PROCESS HEARING REQUEST FORM

STUDENT INFORMATION:

Student's Name: _____ DOB: _____

Address: _____

City/State/Zip: _____

School District of Residence: _____

Address: _____

City/State/Zip: _____

Phone: _____ Fax: _____

Email: _____@_____

Name of School the Student is Attending (if different from School District of Residence):

_____

Address: _____

City/State/Zip: _____

Phone: _____ Fax: _____

Parents' Name: _____

(if different from student address):

Address: _____

City/State/Zip: _____

Phone: _____ Fax: _____

Email: _____@_____

PROBLEM AND FACTS: What is the nature of the problem and what are the facts that relate to the problem? (You may list more than one problem).

_____

_____

_____

(Use additional pages if necessary)

PROPOSED SOLUTION: Describe the actions or services that you believe will resolve the issues based on the information available to you.

_____

_____

_____

(Use additional pages if necessary)

Signature of Individual Submitting Request:

Date: _____ _____

Please print name here: _____

Address: _____

City/State/Zip: _____

Phone: _____ Fax: _____

Email: _____@_____

PLEASE RETURN THIS FORM TO THE SCHOOL DISTRICT'S SECTION 504 COORDINATOR.

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FORM P: SECTION 504 MANIFESTATION DETERMINATION REVIEW

Date of Review	Date of Current Section 504 Plan	Date of Birth	Grade
Student's Name		Student ID Number	

PARENT CONTACT

Written invitation including purpose of meeting, role of participants and procedural safeguards was sent to the parent(s) on

Date _____ By _____

Additional efforts to arrange a mutually agreeable time and place:

Method _____ By _____ Date _____

SECTION 504 MEETING PARTICIPANTS AND ATTENDANCE

_____ Parent(s)/Guardian(s)

_____ Public Agency Representative

_____ Student

_____ General Education Teacher/Provider

_____ Other

_____ Section 504 Evaluation Committee Representative

_____ Other

_____ Other

CONSIDERATIONS FOR REVIEW

Describe the behavior or incident that is subject to disciplinary action: _____

_____

_____

In carrying out a manifestation determination review, the Section 504 committee team (as determined by the parent and the manifestation team) shall review:

☐ All relevant information in the student's file – Describe: _____

_____

_____

☐ The student's Section 504 Plan. _____

_____

_____

☐ Any teacher observations of the student. _____

_____

_____

☐ Relevant information provided by the parent. _____

_____

_____

MANIFESTATION DETERMINATION

In relationship to the conduct in question:

Was the conduct caused by the student's disability or did it have a direct and substantial relationship to the student's disability? ☐ No ☐ Yes

Was the conduct a direct result of the School District's failure to implement the Section 504 Accommodation Plan? ☐ No ☐ Yes

If the determination of the Section 504 Committee is "Yes" to either of the statements below, then the behavior must be considered a manifestation of the student's disability.

The determination of the Section 504 Committee is that the behavior subject to discipline is:

☐ Not a manifestation of the disability [pertinent records are to be transferred to general education for disciplinary procedures].

☐ Is a manifestation of the disability.

Date: _____ _____

Signature of Section 504 Coordinator or Designee

PARENT NOTICE AND AGREEMENT

☐ I have received Notice Of Procedural Safeguards – Section (**Form C**).

☐ I agree with the determination above.

☐ I disagree with the determination above and request mediation.

☐ I disagree with the determination above and request a due process hearing.

Date: _____ _____

Parent/Guardian Signature

FORM Q: GRIEVANCE / COMPLAINT PROCEDURE

Any student who believes that s/he has been the victim of discrimination, including discrimination based on disability, may seek resolution of his/her complaint through either the informal or formal procedures described below.

Informal Complaint Procedure

The informal complaint procedure is provided as a less formal option for a student who believes s/he has been the victim of discrimination. This informal procedure is **not** required before filing a formal complaint. Moreover, a student who seeks resolution through the informal process may request, at any time, that the matter be moved to the formal complaint process.

Step 1

A student who believes s/he has been the victim of discrimination by another student(s), a School District employee or third party may make an informal complaint, either orally or in writing, to (1) a teacher, other employee, or building administrator in the school the student attends; or (2) the Section 504 Coordinator.

All informal complaints received by a staff member must be reported to the Section 504 Coordinator within two (2) school days. The Section 504 Coordinator who will either facilitate an informal resolution as described below on his/her own, or appoint another individual to facilitate an informal resolution.

Step 2

The School District's informal complaint procedure is designed to provide students who believe they are being discriminated against with a range of options designed to bring about a resolution of their concerns. Depending upon the nature of the complaint and the wishes of the student claiming discrimination or harassment, informal resolution may involve, but not be limited to, one or more of the following:

A. Advising the student about how to communicate the unwelcome nature of the behavior to the other person.

B. Distributing a copy of the nondiscrimination policy as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works or attends.

C. If both parties agree, the Compliance Officer (or Title IX Coordinator) may arrange and facilitate a meeting between the student claiming discrimination and the other individual to work out a mutual resolution.

Step 3

The Section 504 Coordinator will exercise his/her authority to attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint. Parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint.

All materials generated as part of the informal complaint process will be retained in a single location under the control of one of the Section 504 Coordinator, in accordance with the Board of Education's records retention policy and/or Student Records policy.

Formal Complaint Procedure

Step 1

A student who believes s/he has been subjected to discrimination by another student(s), a School District employee or a third party may file a formal complaint, either orally or in writing, with a teacher, principal, or other District employee at the student's school, or with the Section 504 Coordinator. An employee who receives such a complaint must report such information to the Section 504 Coordinator within two (2) school days.

All formal complaints must include the following information to the extent it is available:

A. the name of the alleged victim and, if different, the name of the person reporting the allegation;

B. the nature of the allegation, a description of the incident(s), and the date(s) and time(s) (if known);

C. the name(s) of all persons alleged to have committed the alleged discriminatory act, if known, or a description/identifying information available if the name is not known; and

D. the name(s) or description/identifying information of all known witnesses to the alleged incident.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the Section 504 Coordinator shall ask for such details in an oral interview. Thereafter, the Coordinator will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the reported charge by signing the document.

Throughout the course of the process, the Section 504 Coordinator shall keep the parties informed of the status of the investigation and the decision-making process.

Note: Upon receiving a formal complaint, the person conducting the investigation shall consider whether any action should be taken during the investigatory phase to protect the Complainant from further discrimination, including, but not limited to, a change of work assignment or

schedule for the Complainant and/or the accused person. In making such a determination, the person conducting the investigation should consult the Complainant to assess his/her agreement with the proposed action. If the Complainant is unwilling to consent to the proposed change, the person conducting the investigation may, nevertheless, take whatever actions are deemed appropriate for the protection of all persons, following consultation with the Superintendent.

Step 2

Within two (2) business days of receiving the complaint, the person who will conduct the investigation will initiate a formal, impartial investigation to determine whether the Complainant has been subjected to discrimination.

Simultaneously, the person conducting the investigation will inform the individual alleged to have engaged in discrimination or harassment that a complaint has been received. The accused person will be informed about the nature of the allegations and provided with a copy of any relevant Board policy or administrative guidelines. The accused will also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, the Section 504 Coordinator or a designee will attempt to complete an investigation into the allegations of discrimination within fifteen (15) business days of receiving the formal complaint. The investigation will include:

A. interviews with both parties;

B. obtaining and reviewing any written statements of the person filing the claim, the victim (if different from the person filing the claim), the accused student(s) and/or employee(s), and any known witnesses;

C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations;

D. consideration of any documentation or other information presented by the parties, or any other witness that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Section 504 Coordinator shall, within fifteen (15) school days of receiving the formal complaint, prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation, and the response of School personnel. The report shall provide recommendations based on the evidence. A preponderance of the evidence standard will be followed. The investigating person's recommendations should consider the totality of the circumstances, including the ages and maturity levels of those involved.

Step 3

Absent extenuating circumstances, within ten (10) school days of receiving the report of the Section 504 Coordinator, the Superintendent must either issue a final decision regarding whether the complaint has been substantiated or request further investigation. A copy of the Superintendent's final decision will be delivered to both parties.

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within ten (10) school days. At the conclusion of the additional investigation, the Superintendent shall issue a final written decision as described above.

Step 4

A party who is dissatisfied with the final decision of the Superintendent may appeal through a signed written statement to the Board of Education within five (5) business days of his/her receipt of the Superintendent's final decision.

The Board may choose to meet with the concerned parties or decide the matter on the record it has received. The Board's disposition shall be made within twenty (20) school days of the receipt of such an appeal. A copy of the Board's disposition of the appeal shall be sent to each concerned party within ten (10) business days of this meeting. The decision of the Board will be final.

The Board reserves the right to investigate and resolve a complaint or report of discrimination regardless of whether the student alleging the discrimination pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

Step 5

Filing a Complaint with the Office for Civil Rights

A Student alleging discrimination on the basis of disability, may, at any time, file a complaint with the United States Department of Education Office for Civil Rights at:

U.S. Department of Education
Office for Civil Rights
Cleveland Office
1350 Euclid Avenue, Suite 325
Cleveland, Ohio 44115
(216) 522-4970
FAX: (216) 522-2573
TDD: (216) 522-4944
E-mail: OCR.Cleveland@ed.gov
Web: http://www.ed.gov/ocr

Retaliation

Retaliation against a person who files a complaint alleging discrimination or harassment, or participates as a witness in an investigation, is strictly prohibited. Upon a finding that a person has engaged in retaliation, appropriate disciplinary action will be taken.

Maintenance of Records

All materials generated as a part of the formal complaint process will be retained in a single location under the control of the Section 504 Coordinator, in accordance with the Board of Education's records retention policy and/or Student Records policy.

Birmingham PUBLIC SCHOOLS Achievement. Character. Community.

FORM R: SECTION 504 GRIEVANCE / COMPLAINT FORM

Birmingham Public Schools pledges that the School District complies with Section 504 of the Rehabilitation Act of 1973, 29 USC § 794, and its implementing regulations, and that no discrimination on the basis of disability is permitted in the programs or activities that the School District operates. If you believe that discrimination has occurred against a student because of a disability, please complete, sign and submit this form to your school's principal or the School District Section 504 Coordinator, located at [**Insert Address of Section 504 Coordinator**].

Date: _____

On behalf of: _____

Complainant is:
- ☐ Student: _____
- ☐ Student's parent(s): _____
- ☐ Other: _____

Address: _____
Street City State Zip

Telephone: _____
Home Work

1. Describe the alleged violation of Section 504 in specific terms. Include: (1) the specific incident or activity that is viewed as discrimination; (2) the individuals involved; (3) dates, times, and locations involved; and (4) the disability that forms the basis of the complaint (attach additional pages if needed).

2. Describe any relevant communication that has already occurred to address the issue. Please specify the types of communication, dates of communication, and names of individuals with whom any communication has occurred.

3. Please include any information, including documents, that you believe should be considered in support of your position.

4. Please describe how you propose to resolve this issue.

5. Do you wish this complaint to be mediated by the School District Section 504 Coordinator or designee? ☐ No ☐ Yes

PLEASE RETURN THIS FORM TO YOUR SCHOOL'S PRINCIPAL OR TO THE SCHOOL DISTRICT SECTION 504 COORDINATOR.