

A *team* APPROACH TO

# SECTION 504

PROCEDURAL  
HANDBOOK

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**OUR STRATEGIC PLAN GOALS**

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*one* **THE EARLY YEARS:  
BUILDING THE  
FOUNDATION**

Every student scholar will enter kindergarten ready to learn with the social-emotional skills that will propel each scholar to meet or exceed grade level standards in English Language Arts (ELA) and Mathematics by the end of 3rd grade.

*two* **WHOLE CHILD:  
THRIVING,  
CONFIDENT,  
RESPONSIBLE  
INDIVIDUALS**

Every student scholar will be empowered and prepared to develop personal responsibility in order to be positive, productive members of society.

*three* **ACTIVE LEARNERS:  
ENGAGED,  
EMPOWERED  
CRITICAL  
THINKERS**

Every student scholar will be empowered with ownership of their education and be fully engaged in becoming critical and creative thinkers.

*four* **CONTENT-AREA COMPETENCE:  
MASTERY OF  
ALL SUBJECTS**

Every student scholar will receive equitable opportunity for success, and will meet or exceed standards of performance in all subjects by the end of each grade.

*five* **PERSISTENCE TO GRADUATION:  
HIGH SCHOOL  
GRADUATION  
THROUGH  
SUCCESSFUL  
TRANSITIONS**

Every student scholar will successfully navigate the critical transitions in their schooling, and will graduate from high school ready for college, career, and post-secondary experiences.

## SECTION 504 OF THE REHABILITATION ACT

### What is Section 504?

Section 504 of the Rehabilitation Act of 1973 with its amendments is a civil rights statute that prohibits discrimination against individuals with disabilities. This law is enforced by the Office for Civil Rights (OCR) and the EEOC (Equal Employment Opportunities Commission). Both agencies enforce Title II of the Americans with Disabilities Act of 1990 (ADA) reauthorized as the Americans with Disabilities Act Amendments Act (ADAAA) of 2008. The reauthorization extends the prohibition against discrimination to the full range of state or local government services (including public schools), programs, or activities **regardless of whether they receive federal funding or not**. Under Section 504, denying a disabled student a Free Appropriate Public Education (FAPE) constitutes disability discrimination.

Section 504 covers students with diagnosed, certified, or classified disabilities who attend public and some private schools. A student is “disabled” under the Section 504 regulations if the student meets any one of the three prongs of eligibility listed in 34 CFR 104.3(j)(1). To be protected under Section 504, a student must be determined to:

1. Have a physical or mental impairment that substantially limits a major life activity, or
2. Have a record of such impairment, or
3. Be regarded as having such impairment

The ADAAA did not change the actual language of the three prongs, but it did change how the various phrases used in the three prongs are understood. Congress provided, as part of its rules of construction in the ADAAA, that “The definition of disability in this Act shall be construed in favor of broad coverage of individuals under this Act, to the maximum extent permitted by the terms of this Act.” This statement should guide the school’s Section 504 team’s evaluation of the potentially eligible student. The school’s Section 504 team is defined as a group of persons knowledgeable about the student, the meaning of the evaluation data, and the placement options (34 CFR §104.35(c)).

### RELATIONSHIP BETWEEN SECTION 504 AND THE ADAAA

The Americans with Disabilities Act (ADA), enacted in 1990 and amended in 2008 as the ADAAA and the Rehabilitation Act of 1973 (Section 504) are civil rights laws that protect individuals with disabilities from discrimination. The primary difference is that while Section 504 applies only to organizations that receive federal funding, the ADAAA applies to a much broader population. As of January 1, 2009, however, whatever applies to the ADAAA applies to Section 504 as well.

### SECTION 504/ADAAA COMPARED TO THE INDIVIDUAL WITH DISABILITIES EDUCATION ACT (IDEA)

Eligibility for protections and services under Section 504 is not the same as eligibility for IDEA. Section 504 has a much broader definition of disability than IDEA. Special education is the provision of IDEA while Section 504 is the provision that protects the civil rights and “levels the playing field” for students with mild to moderate disabilities in a general education setting who do not need special education. Students covered under IDEA with an Individualized Education Plan (IEP) do not need a separate Section 504 plan as provisions covered under Section 504 would be contained under IDEA.

## Who is a Disabled Student Under Section 504?

The critical, overarching question to consider for eligibility under Section 504:

### PHYSICAL OR MENTAL IMPAIRMENTS

Section 504 defines physical or mental impairment as:

- A. any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- B. any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities

The regulation does not set forth an exhaustive list of specific diseases or categories that may constitute physical or mental impairments. The definition of physical or mental impairment under Section 504 is broad, including students with life-threatening health conditions that will put a student in danger of death during the school day, if medication or treatments are not in place.

### SUBSTANTIAL LIMITATION

A physical or mental impairment substantially limits a major life activity if the student's ability to perform a major life activity or major body function is decreased as compared to the student's non-disabled age/grade peers. There is no single formula or scale that measures substantial limitation. Impairment need not prevent, or significantly or severely restrict a student in performing a major life activity to be considered substantially limiting. Title II provides three (3) factors to consider when determining whether or not the disability substantially limits a major life activity or major bodily function:

1. **Nature and severity** of the impairment;
2. **Duration** or expected duration of the impairment; **and**
3. **Permanent, long-term impact** or expected impact of the impairment.

The determination of whether a student has a physical or mental impairment that substantially limits a major life activity or major body function must be made by the Section 504 team. The ADA (2008) expanded the definition of **substantial limitation** to ensure it reaches a broad spectrum of individuals without the consideration of mitigating measures such as medications and surgical interventions. Eyeglasses and corrective lenses are an exception to this rule (i.e. 504 teams may take into account a student's eyeglasses when making eligibility determination).

### MITIGATING MEASURES

Mitigating measures may be used by a disabled student to manage his or her impairment or lessen the impact of his or her impairment. Mitigating measures include medication, medical devices, related aids and/or services. These mitigating measures must be disregarded when determining whether a student's impairment constitutes a disability under Section 504. However, the mitigating measures/supports may be considered when writing a student's accommodation/support plan.

### OTHERWISE QUALIFIED

If a person with a disability wants to participate in an activity in which the individual is not otherwise qualified to participate, disallowing participation does not constitute discrimination.

For example, a 16-year-old boy with attention deficit hyperactivity disorder (ADHD) tries out for the basketball team but cannot dribble, shoot, or pass. As a result, the coach does not allow the boy to play on the team. This is not discrimination under Section 504 because the boy is not otherwise qualified to be on the team.

### TRANSITORY IMPAIRMENTS

A transitory impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period of time (usually 6 months or less). The issue of whether a transitory impairment is substantial enough to be a disability must be resolved on a case-by-case basis, taking into consideration both the expected duration of the impairment and the extent to which it actually limits a major life activity. A broken arm is one of the most common examples of a transitory impairment.

Approved accommodations for students identified with transitory impairments include those accommodations that are approved for use by Section 504-eligible students. Students who are identified with a transitory impairment may receive testing accommodations. Accommodations that are being considered for use during testing must be used routinely during instruction and similar classroom assessments. The need for accommodations must be documented prior to testing. Copies of this documentation must be kept at the school and made available to test coordinators. Those administering tests with accommodations must be trained prior to the administration by the school system's test coordinator or designee in the use of the specified accommodations.

### IMPAIRMENTS THAT ARE EPISODIC OR IN REMISSION

The ADA defines that "An impairment that is episodic or in remission is a disability only if it would substantially limit a major life activity when active." Although the language covers two different types of impairments with similar treatment, these impairments are better analyzed separately as there are significant differences between the two.

#### *Episodic Impairments*

Some students have physical or mental impairments that vary in severity. Conditions such as seasonal allergies or asthma, migraines, rheumatoid arthritis, and cystic fibrosis are good examples of impairments that may be substantially limiting at times (in hot weather, when the student is stressed, when irritants or trigger factors are present) and have little impact at other times. Schools commonly qualify students under Section 504 if their condition, though not constant, episodically rises to the level of substantial limitation of a major life activity. Students should not be denied eligibility simply because the disability, at the moment of evaluation, is not substantially limiting, especially when the school knows from past experience that substantial limitation will likely occur. School Section 504 teams should look carefully at the range of data over a period of time and not just the student's current level of performance. The timing of the evaluation should not function to preclude eligibility for students whose impairments are episodic and who are not substantially limited at the time of evaluation.

### *Impairments in Remission*

The ADA language on impairments in remission is the same as episodic impairments: "An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active." An example is a student who had cancer that is now in remission. The student would be eligible if the cancer substantially limited when it was active in the past.

### STUDENTS WHO ARE RECEIVING SERVICES UNDER SPECIAL EDUCATION

A student with a disability who is eligible for the protections and provisions of FAPE under the IDEA is not eligible to receive Section 504 services. Once a student is eligible under the IDEA, the IEP team is responsible for the whole child (although still entitled to the Section 504 protections against discrimination and equal access). The District has no flexibility or discretion to provide services and accommodations under Section 504 when a student is IDEA-eligible.

## What Constitutes Discrimination Under Section 504?

Discrimination under Section 504 34 CFR 104.4(b) occurs when a recipient of federal funds:

1. denies a student with a disability the opportunity to participate in or benefit from an aid, benefit, or service which is afforded nondisabled student (e.g., district practice of refusing to allow any student with an individual educational plan (IEP) the opportunity to be on the honor roll, denial of credit to a student whose absenteeism is related to his/her disabling condition, expelling a student for behavior related to his/her disabling condition, refusing to dispense medication to a student who could not attend school otherwise);
2. fails to afford the student with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is equal to that afforded to non-disabled student (e.g., applying a policy that conditions interscholastic sports eligibility on the student's receiving passing grades in five subjects without regard to the student's disabling condition);
3. fails to provide aids, benefits, or services to a student with a disability that are as effective as those provided to non-disabled students (e.g., placing a student with a hearing impairment in the front row as opposed to providing her with an interpreter);
4. provides different or separate aids, benefits, or services than are provided to nondisabled students (e.g., segregating students in separate classes, schools, or facilities, unless necessary);
5. aids or perpetuates discrimination by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability (e.g., sponsoring a student organization that excludes persons with disabilities);
6. denies a person with disabilities the opportunity to participate as a member of a planning or advisory board strictly because of his/her disabling condition;
7. otherwise limits the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others (e.g., prohibiting a person with a physical disability from using a service dog at school);
8. in determining the site or location of a facility, makes selections which effectively exclude persons with disabilities, denies them benefits, or otherwise subjects them to discrimination (e.g., allowing students with disabilities to be located in inferior facilities, such as trailers, wings in basements, and unnecessarily restrictive classrooms due to a lack of classroom space).

It should be noted that the requirements under Section 504 are essentially the same as those under the Washington State Law Against Discrimination and are consistent with the ADA, although the ADA has a broader coverage.

**Note: "Equally effective" means equivalent, as opposed to identical. Moreover, to be equally effective an aid benefit, or service need not produce equal results; it must merely afford an equal opportunity to achieve equal results.**

## School District Obligations for Elementary and Secondary Education

### EDUCATIONAL SETTING

Districts must educate students with disabilities with nondisabled students to the maximum extent appropriate to the needs of the students with disabilities. In order to remove a student from the regular educational environment, the district must demonstrate that educating the student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. (34 CFR 104.34)

### FREE APPROPRIATE EDUCATION

Districts must provide a free appropriate education (regular or special education and related aids and services) to Section 504 disabled school-age children who reside within the district. Instruction must be individually designed to meet the needs of these students as adequately as the needs of nondisabled students are met.

**Note: The Section 504 standard of what is appropriate differs from the IDEA “appropriate” standard which requires the district to design a program reasonably calculated to confer educational benefit. Section 504 requires that persons with disabilities be provided aids, benefits, or services that are as effective as those provided nondisabled persons.**

Section 504 does not require school districts to develop an individualized education program (IEP). However, the district should document what evaluations were performed and/or decisions were made regarding each student considered under Section 504.

The quality of educational services provided to students with disabilities must be equivalent to the services provided to nondisabled students. Teachers must be trained in the instruction of persons with the disability

in question, and appropriate materials and equipment must be available. 34 CFR 104, Appendix A 104.33(b)

**Note: A child does not have to need special education in order to be qualified under Section 504. 34 CFR 104.33(a)(b)**

### TRANSPORTATION

If a district places a student in a program not operated by the district, the district must assure that adequate transportation to and from the program is provided at no greater cost than the parent would have paid to transport the child to the district-operated program. 34 CFR 104.33(c)(2)

If a district provides transportation to all its students within a certain geographic area, the district may not discriminate in its provision of transportation to students with disabilities. 34 CFR 104.4B(1)(1)

If a district proposes to terminate a qualified student’s bus transportation for inappropriate bus behavior, the district must first determine the relationship between the student’s behavior and his/her disabling condition, the appropriateness of the related service of transportation, and the need for reevaluation. The parent or guardian shall be provided with notice of the results of such determinations and of their right to challenge such determinations. If the behavior is related to the disabling condition, the district may not terminate services, but must provide an alternative mode of transportation.

**Note: The length of the bus ride for students with disabilities should not be longer than that of nondisabled students.**

### RESIDENTIAL PLACEMENT

Residential placement must be provided at no cost to the parent only if it is necessary to provide a free appropriate education. 34 CFR 104.33(c)(3)

### NONPUBLIC SCHOOL PLACEMENTS MADE BY PARENTS

If the district has made available a free appropriate education to a student which conforms to the requirements of Section 504, but the parent chooses to place the child elsewhere, the district is not responsible for any costs incurred. 34 CFR 104.33(c)(4)

### EVALUATIONS

If a student with a disability needs or is believed to need special education or related services, the district must evaluate the student prior to initial placement in a regular or special education program and any subsequent significant change in placement. 34 CFR 104.35(a) A full evaluation is not required when neither the district nor the parent believes that the child with a disability is in need of special education or related services.

However, the district should have relevant and current medical information in order to make needed adjustments or modifications for the student.

The district must establish policies and procedures for evaluation and placement which assure that tests and other evaluation materials:

1. have been validated and are administered by trained personnel;
2. are tailored to assess educational need and are not based solely on IQ scores; and
3. reflect aptitude or achievement or whatever else the tests purpose 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). 34 CFR 104.35(b)

**Note: There is no right to an independent educational evaluation under Section 504.**

**PLACEMENT PROCEDURES**

In interpreting evaluation data and making placement decisions, the district must:

1. draw upon information from a variety of sources;
2. ensure that all information is documented and considered;
3. ensure that the placement decision is made by a group of persons including those who are knowledgeable about the child, the meaning of the evaluation data, and placement options; and
4. ensure that the student is educated with his/her non-disabled peers to the extent appropriate, and that any facilities identifiable as being for persons with disabilities are comparable to facilities, services, and activities provided other students. 34 CFR 104.35(c)

**RE-EVALUATIONS**

Section 504 requires “periodic” re-evaluations. There is no specified time frame. However, school districts will be in compliance if they re-evaluate the student every three years. Additionally, Section 504 requires a re-evaluation before any significant change in placement. 34 CFR 104.35(d)

Examples of significant changes in placement or significant transitions which require re-evaluation include:

- expulsion
- suspensions which exceed 10 consecutive days in a school year
- cumulative short-term suspensions which create a pattern of exclusion
- transfer of a student to home instruction
- graduation from high school
- transferring a student from one type of program to another or terminating or significantly reducing a related service

***Note: A re-evaluation consistent with the IDEA is one means of meeting this requirement. Nonacademic Services***

**NONACADEMIC SERVICES**

Districts must provide equal opportunity in areas such as counseling, transportation, health services, recreational activities, special interest groups or clubs, referrals to other agencies, and employment. 34 CFR 104.37

1. Counseling: Districts may not counsel students with disabling conditions toward more restrictive career objectives. 34 CFR 104.37(b)
2. Physical education and athletics: A district must provide equal opportunity for students with disabilities to participate. A district may offer these activities separately for students with disabilities only if necessary. The district may not deny a qualified student with a disability the opportunity to compete in activities which are not separate. 34 CFR 104.37(c)



**DISCIPLINARY EXCLUSION**

1. Students with disabilities are protected from being 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 ten days duration) or regular expulsion upon a qualified disabled student that could constitute a significant change of placement.
3. The school principal or educational staff person responsible for the imposition of discipline must ensure that a group of qualified professionals, including persons knowledgeable about the student, 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 all information available to the District and relevant to the inquiry, including the student's current evaluation and Individualized Accommodation Plan (IAP), under Section 504 (Manifestation Review). 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 or due to an inappropriate placement or program. When a student's misconduct is determined causally related to his/her disabling condition, procedures at 4 below shall be instituted in lieu of either long-term suspension or expulsion.
4. When a student poses an immediate and continuing danger to him or herself and/or others (see WAC 180-40-295), an emergency expulsion of up to ten (10) days may be used to alleviate immediate risk on the condition that procedures at WAC 180-40-300, be modified to require the regular disciplinary hearing be held within ten (10) school business days whether the student or parent/guardian requests a hearing or not. The purpose of this regular disciplinary hearing is to determine the nature of, and consequences for, the misconduct.
5. In the event the student is covered by or believed to be covered by Section 504, the Section 504 Compliance Officer (or designee) must attend and participate in this hearing. The Section 504 Compliance Officer (or designee) shall advise the hearing officer on Section 504 restrictions. Even if the student and/or parent/guardian refuse to attend this hearing, the hearing shall be held.
6. When a student has engaged in misconduct which is causally related to his or her disability, aside from emergency expulsion (see No. 3 above), expulsion and/or long term suspension should not be imposed which results in more than ten (10) lost school days (cumulative for the entire school year, considering earlier short term suspension [if any] as counting toward the cumulative total).
7. Instead, the need for additional evaluation and/or a change of placement should be considered. 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. If the student poses an immediate risk to him or herself or others, the procedure at No 3 above may be instituted by the principal or designee.
8. Students and their Parent/Guardian shall 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 outlined at 1 through 4. above shall be entitled to exercise their rights under Section 504 to file a grievance or initiate a due process hearing.
9. 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.

## Section 504 Process Flow Chart for Initial/Continuing Students

### 1. REFER THE STUDENT

- Complete the Referral Form. Refer to and attach additional supplementary documents as needed.
- If the student's needs are suspected of rising to the level of special education qualification and the provision of specifically designed special education instruction (SDI), refer the student on to the building special education multidisciplinary team (MDT). The Section 504 process ends.
- If not, proceed to step 2.

### 2. DECIDE WHETHER TO EVALUATE THE STUDENT FOR 504 QUALIFICATION

- Does the building Section 504 team know or suspect that, because of a disability, the student needs Section 504 accommodations or services to participate in or benefit from school?
- If yes, initiate a Section 504 evaluation. Provide the parent or guardian with the Notice to Conduct a Section 504 Evaluation, which includes space for parent to give permission for the evaluation, and a copy of the Section 504 Parent/Guardian/Student Procedural Safeguards. Obtain permission to gather any records needed using the Exchange of Confidential Information and/or Exchange of Medical Information. Proceed to step 3.
- If no, provide the parent/guardian with a Prior Written Notice explaining the decision not to evaluate, and a copy of the Section 504 Parent/Guardian/Student Procedural Safeguards. The Section 504 process ends.

### 3. EVALUATE THE STUDENT

- Evaluate the specific areas of the student's educational needs by obtaining and reviewing all available information

### 4. DETERMINE THE STUDENT'S ELIGIBILITY

- To invite the parent/guardian to the Section 504 eligibility meeting, (may be combined with the Section 504 plan development meeting for qualifying students) use the Notice to Conduct a Section 504 Meeting.
- Review evaluation results and determine eligibility. Complete the Section 504 Evaluation Report. Is the student Eligible under Section 504?
- If yes, provide the parent/guardian with a copy of the Section 504 Evaluation Report, a copy of the Section 504 Notice of Evaluation Results and a copy of the Section 504 Parent/Guardian/Student Procedural Safeguards. Proceed to step 5.
- If no, provide the parent/guardian with the same documents as above, however, the Section 504 process ends.

## 5. DEVELOP A SECTION 504 PLAN FOR THE STUDENT

- To invite the parent/guardian to the Section 504 plan development meeting, (may be combined with the Section 504 eligibility meeting for qualifying students) use the Notice to Conduct a Section 504 Meeting.
- Review evaluation results and complete the Section 504 Accommodation Plan.
- Provide the parent/guardian with a copy of the Section 504 Accommodation plan and a copy of the Section 504 Parent/Guardian/Student Procedural Safeguards.

## 6. REVIEW THE STUDENT'S SECTION 504 PLAN ANNUALLY (OR AS NEEDED)

- To invite the parent/guardian to the Section 504 plan review meeting, use the Notice to Conduct a Section 504 Meeting.
- Review, revise and complete the Section 504 Accommodation Plan.
- Provide the parent/guardian with a copy of the Section 504 Accommodation plan and a copy of the Section 504 Parent/Guardian/Student Procedural Safeguards.

## 7. RE-EVALUATE THE STUDENT'S SECTION 504 QUALIFICATIONS EVERY THREE YEARS (OR AS NEEDED)

- To invite the parent/guardian to a Section 504 re-evaluation meeting, use the Notice to Conduct a Section 504 Meeting.
- Provide the parent/ guardian with the Notice to Conduct a Section 504 Evaluation, which includes space for parent to give permission for the re-evaluation, and a copy of the Section 504 Parent/Guardian/Student Procedural Safeguards.
- Obtain all needed information for the re-evaluation. Review, revise and consider the student's qualification and need for Section 504. Complete the Section 504 Evaluation Report.
- Provide the parent/guardian with a copy of the Section 504 Evaluation Report, a copy of the Notice of Evaluation Results and a copy of the Section 504 Parent/Guardian/Student Procedural Safeguards.
- Follow through with the recommendations of the re-evaluation. If the re-evaluation indicates that a review of the student's Section 504 plan is needed, initiate that review immediately (may be combined with the Section 504 re-evaluation meeting).

## 8. RECORD KEEPING

- The Section 504 Evaluation Report, the Section 504 Accommodation Plan and all Notices should be maintained in the student's cumulative file and a copy sent to Student Support Services, Attention: Registration and Records Secretary.

## Section 504 Process Flow Chart for Students Transferring into the District

### 1. GATHER THE TRANSFERRING STUDENT'S SECTION 504 INFORMATION

- On receiving information that a student with a current section 504 plan has transferred into the district, provide the parent/guardian with a copy of the Section 504 Parent/Guardian/Student Procedural Safeguards and obtain permission to gather any records needed using the Exchange of Confidential Information and/or Exchange of Medical Information.

### 2. REVIEW THE SECTION 504 PLAN FOR THE STUDENT (TO BE COMPLETED WITHIN 30 CALENDAR DAYS OF STUDENT ENTRY)

- To invite the parent/guardian to the Section 504 plan development meeting, (may be combined with the Section 504 eligibility meeting for qualifying students) use the Notice to Conduct a Section 504 Meeting.
- Review the student's past section 504 records and complete the Section 504 Accommodation Plan. Provide the parent/guardian with a copy of the Section 504 Accommodation plan and a copy of the Section 504 Parent/Guardian/Student Procedural Safeguards.
- Proceed to steps 6, 7 and 8 of the Section 504 Process Flow Chart for Initial/Continuing Students (see previous pages) for instructions on section 504 plan and evaluation reviews and record maintenance.



Federal Way Public Schools  
 33330 8th Avenue South  
 Federal Way WA 98003  
 Phone: 253-945-2000 | Fax: 253-945-2177

### Referral

<b>Student Name</b>	Home Phone	Date
Date of Birth	Home Address	
Student No.	Student State I.D.	

Age	Gender	Grade	Home School	Attending School
Ethnicity			Primary Language / Date Determined	Home Language / Date Determined

#### Parent/Guardian

Name	Home Phone	Name	Home Phone
Address	Work Phone	Address	Work Phone
	Emergency Phone		Emergency Phone

#### Referred By

Reason for Referral *(identify deficient skills. Please be specific and write in full sentences to describe problem areas/weaknesses.)*

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Student Strengths

General Areas of Concern

#### Interventions

#### Attendance History

Year	Grade	School Location	Absences	Significant Information

#### Cultural Factors

#### Standardized Testing

**Referral** *(continued)*

**Student**

Name	Date of Birth	Student Number	Document Date
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**Summary of Test History**

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**Performance in Special and General Education**

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**Medical**

**Vision Results**

Date	Referral	Referral Date	Referral Result	Near Right Eye	Near Left Eye
Without Glasses					
	Right Eye		Left Eye		Both Eyes
With Glasses					
	Right Eye		Left Eye		Both Eyes

**Hearing Results**

Date	Right Result	Left Result

**Health Issue**

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**Medications**

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Federal Way Public Schools  
33330 8th Avenue South  
Federal Way WA 98003  
Phone: 253-945-2000 | Fax: 253-945-2177

## Authorization for Exchange of Confidential Educational Information

Student name \_\_\_\_\_ Date of birth \_\_\_\_\_

I hereby authorize the exchange of confidential information regarding the above named student for the purpose of establishing special education eligibility, placement, and program planning between:

### Federal Way Public Schools and

\_\_\_\_\_  
Name of school district, agency, etc.

\_\_\_\_\_  
Street address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Fax number

### Information Requested (check all that apply)

- |   |  |
|---|--|
| <input type="checkbox"/> Special Education Records            | <input type="checkbox"/> Manifestation Determination Review(s) |
| <input type="checkbox"/> Education Evaluations/Test Scores    | <input type="checkbox"/> Health Records                        |
| <input type="checkbox"/> Psychological and Counseling Records | <input type="checkbox"/> Other (specify) _____                 |
| <input type="checkbox"/> Social/Emotional                     |  |

Student name \_\_\_\_\_ Date of birth \_\_\_\_\_

I acknowledge notification of this transfer of records as required by the Family Education Right and Privacy Act of 1974 and understand that I have a right to receive a copy at my own expense, if requested, and have an opportunity for a hearing to challenge the contents of the records. I understand that the information obtained will be treated in a confidential manner and will not be transmitted to a third party without my permission. I also understand that it is my right to request a copy of all information and contest any information I feel is incorrect. This authorization is valid until revoked in writing.

### PLEASE RETURN TO:

**Federal Way Public Schools  
Student Support Services  
33330 8th Avenue South  
Federal Way WA 98003**

Attn: \_\_\_\_\_  
FW Home School:  
\_\_\_\_\_

\_\_\_\_\_  
Signature of parent, guardian, or adult student

\_\_\_\_\_  
Relationship to student

\_\_\_\_\_  
Street address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip



**Federal Way Public Schools**  
 33330 8th Avenue South  
 Federal Way WA 98003  
 Phone: 253-945-2000 | Fax: 253-945-2177

### HIPAA Authorization for Exchange of Medical Information

Student name \_\_\_\_\_ Date of birth \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ Zip \_\_\_\_\_

I hereby authorize the following to disclose the protected health information regarding the above-named patient to **Federal Way Public Schools**, 31405 18th Avenue South, Federal Way WA 98003, for the purpose of educational evaluation and planning.

\_\_\_\_\_  
 Name of agency / physician / counselor / etc.

\_\_\_\_\_  
 Street address City State Zip

\_\_\_\_\_  
 Phone (+ area code) Fax number (+ area code)

Information obtained with this authorization will be used solely for the purpose defined above and will be limited to the minimum information necessary to achieve the stated purpose.

Information to be disclosed (X all that apply)  
 Medical Records     Diagnostic Records     Treatment Records  
 Other \_\_\_\_\_

By initialing, I authorize release of the information pertinent to my case:

\_\_\_\_\_ Chemical Dependency (includes alcohol/drug treatment)  
 \_\_\_\_\_ HIV/AIDS  
 \_\_\_\_\_ Mental Health information

I understand that the information used or disclosed may be subject to redisclosure by the person or class of persons or facility receiving it, and would then no longer be protected by federal privacy regulations.

I may revoke this authorization by notifying **Federal Way Public Schools** in writing of my desire to revoke it. However, I understand that any action already taken in reliance on this authorization cannot be reversed; and my revocation will not affect those actions. I understand that the medical provider to whom this authorization is furnished may not condition the treatment of me on whether or not I sign the authorization.

This authorization expires on \_\_\_\_\_, **or** upon occurrence of the following event that relates to me or to the purpose of the intended use or disclosure of information about me: \_\_\_\_\_

If this authorization form does not contain an expiration date, it expires 90 days from the date this form was signed.

**PLEASE RETURN TO:**

**Federal Way Public Schools**  
**Student Support Services**  
**33330 8th Avenue South**  
**Federal Way WA 98003**

Attn: \_\_\_\_\_  
 FW Home School: \_\_\_\_\_

\_\_\_\_\_  
 Signature of parent, guardian, or adult student Date

**or** Personal representative's name  
 Relationship to patient:  Parent     Legal guardian\*     Holder of Power of Attorney\*

\* Attach legal documentation if legal guardian or Holder of Power of Attorney

\_\_\_\_\_  
 Street address

\_\_\_\_\_  
 City State Zip





Federal Way Public Schools
33330 8th Avenue South
Federal Way WA 98003
Phone: 253-945-2000 | Fax: 253-945-2177

Notice to Conduct a 504 Meeting

Date: RE: ID No: School:

- Consider 504 Evaluation Eligibility Report Review

Date

To Parent/Legal Educational Decision Maker:

Address

On behalf of: (Student's name) Date of birth:

Grade: School:

The school staffing team will meet:

- to discuss the need for a 504 evaluation
to review the results of the 504 evaluation and determine if your student qualifies for a 504 Plan
to discuss whether changes are needed for your student's 504 Plan
to determine continued student eligibility for a 504 Plan

The proposed meeting due date, time and location are:

Date Time Location

If you would like additional information or have questions regarding this evaluation/review, please contact:

Staff member: Phone:





Federal Way Public Schools
33330 8th Avenue South
Federal Way WA 98003
Phone: 253-945-2000 | Fax: 253-945-2177

Section 504: Consent to Initial Evaluation

Parent Consent for initial evaluation

- Yes, I do consent for initial evaluation for my child for a Section 504 plan.
No, I do not consent for initial evaluation for my child for a Section 504 plan.

Signature: (parent/adult student/guardian) Date

Signature: (parent/adult student/guardian) Date

Section 504 Coordinator: Telephone

- Copies to: 1. Parent/adult student/guardian
2. School Section 504 file
3. District Section 504 coordinator



Federal Way Public Schools  
 33330 8th Avenue South  
 Federal Way WA 98003  
 Phone: 253-945-2000 | Fax: 253-945-2177

### 504 Evaluation Report

**Student Name** \_\_\_\_\_ **Home Phone** \_\_\_\_\_ **Date** \_\_\_\_\_  
**Date of Birth** \_\_\_\_\_ **Home Address** \_\_\_\_\_  
**Student No.** \_\_\_\_\_ **Student State I.D.** \_\_\_\_\_

Age	Gender	Grade	Home School	Attending School
Ethnicity			Primary Language / Date Determined	Home Language / Date Determined

**Parent/Guardian**

Name	Home Phone	Name	Home Phone
Address	Work Phone	Address	Work Phone
	Emergency Phone		Emergency Phone

Purpose for the Evaluation:  
 Eligibility Determination     504 Plan Review

**DATA OPTIONS—Data/Documentation Used:**

Classroom Observation \_\_\_\_\_  
Medical Records \_\_\_\_\_  
Assessment \_\_\_\_\_  
Teacher Input \_\_\_\_\_  
Other \_\_\_\_\_

*Based on the evaluation data, please explain how the student is affected in the school setting:*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**TEAM RECOMMENDATIONS**

Based on the information listed above, your student:  
 is eligible for a 504 Plan.  
 is not eligible for a 504 Plan.  
 needs to continue the 504 Plan.  
 needs a revised 504 Plan.  
 no longer requires a 504 Plan.

**TEAM MEMBERS PRESENT**

Name	Position	Signature



Federal Way Public Schools  
 33330 8th Avenue South  
 Federal Way WA 98003  
 Phone: 253-945-2000 | Fax: 253-945-2177

### Notice of 504 Evaluation Results

<b>Student Name</b>	Home Phone	Date
Date of Birth	Home Address	
Student No.	Student State I.D.	

Age	Gender	Grade	Home School	Attending School
Ethnicity			Primary Language / Date Determined	Home Language / Date Determined

**Parent/Guardian**

Name	Home Phone	Name	Home Phone
Address	Work Phone	Address	Work Phone
	Emergency Phone		Emergency Phone

To be given to parents prior to an action to change or to refuse to initiate the identification, evaluation, educational placement of a child with a disability or provision of FAPE. Notice will be given at the same time the district requests parent consent on such actions requiring consent.

**DESCRIPTION OF ACTIONS PROPOSED BY THE DISTRICT: Notice of 504 Evaluation Results**

The 504 team, after conducting a comprehensive evaluation/review of [student’s] information and educational progress, has determined that [student] qualifies for 504 support under Washington State law.

Explanation of why the district proposes or refuses to take action:

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Description of each evaluation procedure, assessment, record or report used as a basis for the proposed or refused action:

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Description of other options considered and why those options were rejected:

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Description of other factors relevant to the actions proposed or refused:

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This decision is proposed to be implemented on:

Parents of a student and the student have protection under procedural safeguards in accordance with Federal Law. Contact the school psychologist or call the Special Education office if you want a copy of the procedural safeguards.

Procedural Safeguards provided to parent(s)

Sources of assistance in understanding Procedural Safeguards are listed below:

Case Manager: \_\_\_\_\_

Phone: \_\_\_\_\_

## Section 504 Parent/Guardian/Student Procedural Safeguards

This is a notice of your rights under Section 504. These rights are designed to keep you fully informed about the district's decisions about your child and to inform you of your rights if you disagree with any of those decisions.

### YOU HAVE THE RIGHT TO:

1. Have your child participate in and benefit from the district's education program without discrimination based on disability.
2. An explanation of your and your child's rights under Section 504.
3. Receive notice before the district takes any action regarding the identification, evaluation, or placement of your child.
4. Refuse consent for the initial evaluation and initial placement of your child.
5. Have your child receive a free appropriate public education. This includes your child's right to be educated with non-disabled students to the maximum extent appropriate. It also includes the right to have the district provide related aids and services to allow your child an equal opportunity to participate in school activities.
6. Have your child educated in facilities and receive services comparable to those provided to non-disabled students.
7. Have your child receive special education services if she/he needs such services.
8. Have evaluation, educational, and placement decisions for your child based upon information from a variety of sources, by a group of persons who know your child, your child's evaluation data, and placement options.
9. Have your child provided an equal opportunity to participate in non-academic and extracurricular activities offered by the district.
10. Have educational and related aids and services provided to your child without cost except for those fees imposed on the parents/guardians of non-disabled children.
11. Examine your child's education records and obtain a copy of such records at a reasonable cost unless the fee would effectively deny you access to the records.
12. A response to your reasonable requests for explanations and interpretations of your child's education records.
13. Request the district to amend your child's education records if you believe that they are inaccurate, misleading, or otherwise in violation of the privacy rights of your child. If the district refuses this request, you have the right to challenge such refusal.
14. Request mediation or an impartial due process hearing to challenge actions regarding your child's identification, evaluation, or placement. You and your child may take part in the hearing and have an attorney represent you. Hearing requests can be made to the district's 504 coordinator.
15. Ask for payment of reasonable attorney's fees if you are successful on your claim.
16. File a local grievance or a complaint with the U.S. Department of Education Office for Civil Rights.

***If you have questions about the compliance of your 504 plan there are personnel that can assist you:***

- 1) Your local School Counselor
- 2) Your School Nurse
- 3) Catherine Reesman,  
Executive Director of  
Student Support Services,  
Federal Way School District,  
33330 8th Avenue South,  
Federal Way, WA 98003



Federal Way Public Schools
33330 8th Avenue South
Federal Way WA 98003
Phone: 253-945-2000 | Fax: 253-945-2177

Section 504 Manifestation Determination Form

Name of Student: Date:

School: Grade:

Disability:

Behavior Subject to Disciplinary Action:

The Section 504 Team has reviewed the student's evaluation and diagnostic data and Section 504 Plan, observations of the student, and information provided by the student's parent. Based on this review, the Section 504 Team concludes:

QUESTION 1: There is a direct and substantial relationship between the behavior and the student's disability.

Agree Disagree

Discussion:

QUESTION 2: The behavior is the direct result of the school district's failure to develop and implement an appropriate 504 plan.

Agree Disagree

Discussion:

DETERMINATION: Determination of the behavior subject to disciplinary action is a manifestation of the student's disability. (Note: The behavior is a manifestation of the student's disability if the answer to 1 or 2 is "Agree".)

Agree Disagree

Name/Title of Qualified Professionals who are making this Determination: (must include personnel who are knowledgeable about the student and the relationship of the infraction to the disability).

- 1. If any of the two questions are answered "AGREE," the behavior subject to discipline must be considered a manifestation of the student's disability and the student cannot be suspended for more than 10 consecutive school days.
2. If the determination is answered "DISAGREE," the student may be disciplined in the same manner as non-disabled students are disciplined and all educational services to the student may cease.

Copy to be placed in Student 504 File



Federal Way Public Schools  
33330 8th Avenue South  
Federal Way WA 98003  
Phone: 253-945-2000 | Fax: 253-945-2177

### Section 504: Notice of Action / Consent

**Parent Consent (only required for initial placement)**

- Yes, I do consent for initial placement for my child for a Section 504 plan.
- No, I do not consent for initial placement for my child for a Section 504 plan.

Signature: \_\_\_\_\_ Date \_\_\_\_\_  
(parent/adult student/guardian)

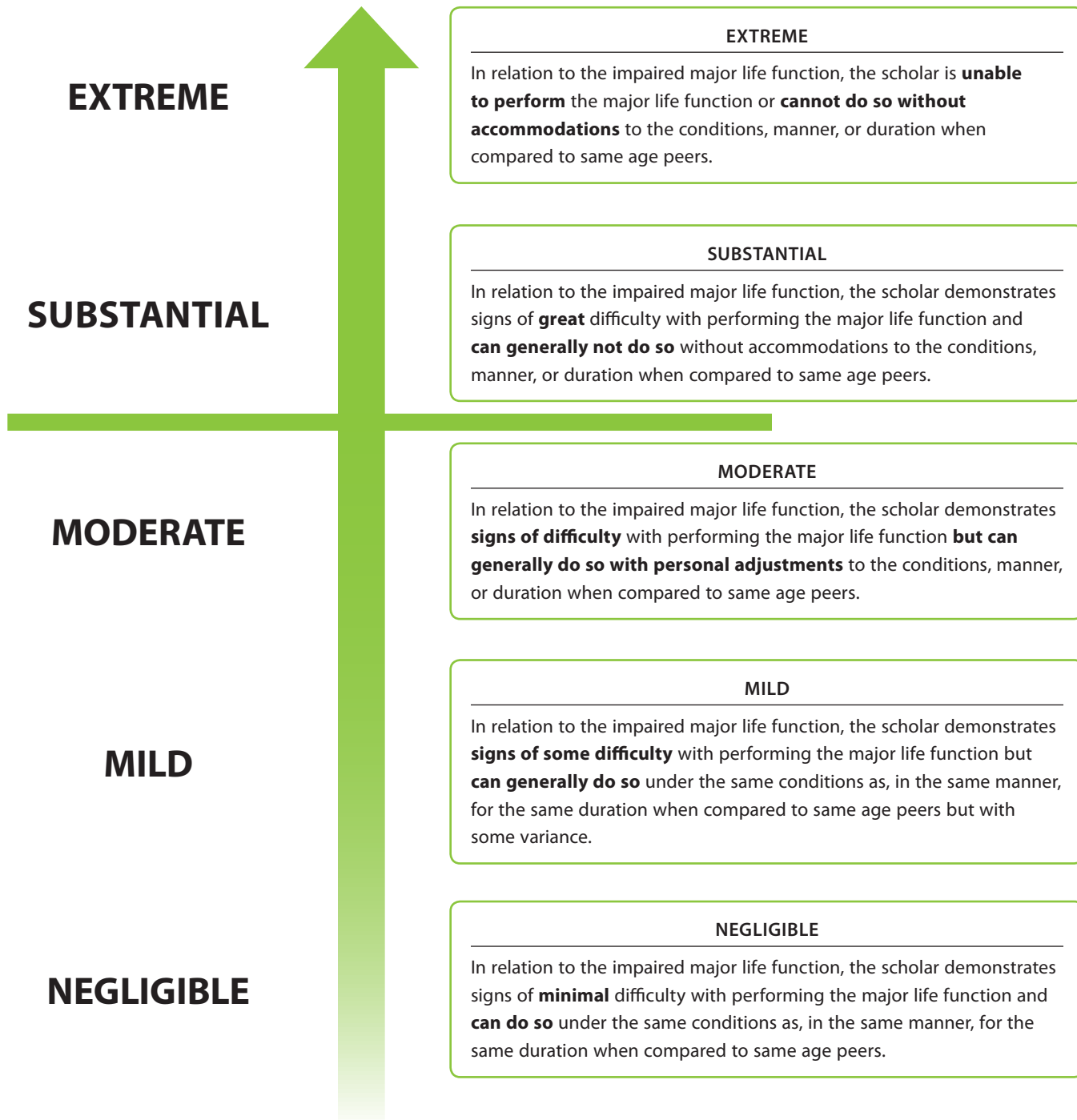
Signature: \_\_\_\_\_ Date \_\_\_\_\_  
(parent/adult student/guardian)

Section 504 Coordinator: \_\_\_\_\_ Telephone \_\_\_\_\_

- Copies to:
1. Parent/adult student/guardian
  2. School Section 504 file
  3. District Section 504 coordinator



### Substantial Impairment



## Level of Impact of Impairment on School Participation: Grading Rubric

1. Mental or physical impairment is \_\_\_\_\_
2. Major life activity impacted is \_\_\_\_\_
3. Level of impact
  - a. Make an educated estimate without the effects of mitigating measures such as medication, assistive technology, reasonable accommodations or auxiliary aids/services.
  - b. For impairments that are episodic or in remission, make the determination for the time they are active.
  - c. Use the average in the general (school) population as the frame of reference.
  - d. Substantially limits means:
    - i. unable to perform a major life activity that the average person in the general population can perform; or
    - ii. significantly restricted as to the condition, manner, or duration under which an individual can perform a major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity.

	ACADEMIC	SOCIAL	BEHAVIORAL	PARTICIPATION/ ATTENDANCE
<b>5 EXTREME</b>	<ul style="list-style-type: none"> <li>• Performs far below average on standardized tests</li> <li>• Failing grades</li> <li>• Never complete/turns in work</li> <li>• Grade retention</li> </ul>	<ul style="list-style-type: none"> <li>• Has no friends</li> <li>• Always alone</li> <li>• No relationship with adults at school</li> <li>• Poor self esteem</li> </ul>	<ul style="list-style-type: none"> <li>• Multiple/frequent suspensions</li> <li>• In office several times a week</li> <li>• Alternative learning center (ALC) several times a week</li> <li>• Parents called more than once a week</li> </ul>	<ul style="list-style-type: none"> <li>• Misses over 75% of school activities (due to behavior or discipline)</li> <li>• Excessive absent</li> <li>• More than 10 min. tardy to four or more classes per week</li> </ul>
<b>4 SUBSTANTIAL</b>	<ul style="list-style-type: none"> <li>• Below average on standardized tests</li> <li>• Failing or very low grades</li> <li>• Completes/turns in very little work</li> <li>• Grade retention or placement</li> </ul>	<ul style="list-style-type: none"> <li>• Has very few friends</li> <li>• Expresses feelings of loneliness</li> <li>• Very few relationships with adults at school</li> <li>• Poor self esteem</li> </ul>	<ul style="list-style-type: none"> <li>• Frequent suspensions</li> <li>• In office several times a month</li> <li>• Detention several times a month</li> <li>• ALC several times a month</li> <li>• Parents called monthly</li> </ul>	<ul style="list-style-type: none"> <li>• Misses over 50% of school activities</li> <li>• Frequently absent</li> <li>• More than 10 min. tardy to two or more classes per week</li> </ul>
<b>3 MODERATE</b>	<ul style="list-style-type: none"> <li>• Average or below on standardized tests</li> <li>• Poor grades</li> <li>• Inconsistent work completion</li> <li>• Grade placement or promotion</li> </ul>	<ul style="list-style-type: none"> <li>• Makes but loses friends</li> <li>• Trouble interacting with adults</li> <li>• Occasionally expresses low self esteem</li> </ul>	<ul style="list-style-type: none"> <li>• Some suspensions</li> <li>• Some office referrals</li> <li>• Occasional detention</li> <li>• Occasional ALC</li> <li>• Parents have been called</li> </ul>	<ul style="list-style-type: none"> <li>• Misses over 25% of school activities</li> <li>• Often absent</li> <li>• More than 10 min. tardy to at least one class per week</li> </ul>
<b>2 MILD</b>	<ul style="list-style-type: none"> <li>• Average or above on standardized tests</li> <li>• Grades of concern</li> <li>• Occasionally misses school work</li> <li>• Grade promotion</li> </ul>	<ul style="list-style-type: none"> <li>• Would like more friends</li> <li>• Typical relationships with adults</li> <li>• Self esteem average</li> </ul>	<ul style="list-style-type: none"> <li>• Occasional behavioral concerns</li> <li>• Occasional discipline actions</li> <li>• Parents have been called</li> </ul>	<ul style="list-style-type: none"> <li>• Occasionally misses school activities</li> <li>• Occasionally absent</li> <li>• Occasionally tardy</li> </ul>
<b>1 NEGLIGIBLE</b>	<ul style="list-style-type: none"> <li>• Average or above on standardized tests</li> <li>• Average or above average grades</li> <li>• Completes/turns in most school work</li> <li>• Grade promotion</li> </ul>	<ul style="list-style-type: none"> <li>• Many friends</li> <li>• Participates in activities with others</li> <li>• Good relationships with adults</li> <li>• Good self esteem</li> </ul>	<ul style="list-style-type: none"> <li>• Behavior typical of peers</li> </ul>	<ul style="list-style-type: none"> <li>• Participates in almost all school activities</li> <li>• Average attendance</li> <li>• Tardy less than once a month</li> </ul>

# PROCEDURAL REQUIREMENTS OF SECTION 504 and FEDERAL WAY PUBLIC SCHOOLS GRIEVANCE PROCEDURES

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## Procedural Requirements of Section 504

To be in compliance with Section 504, school districts must provide for public notification of their policies of nondiscrimination and of their grievance procedures; and they must publicly identify the person who coordinates compliance. Specifically, districts must do the following:

1. Provide written assurance of nondiscrimination whenever the district receives federal money. 34 CFR 104.4(a)  
**Note: This assurance form is provided by the federal government, and districts have made such assurance since 1977.**
2. Designate an employee to coordinate compliance with Section 504. 34 CFR 104.7(a)
3. Provide grievance procedures to resolve complaints of discrimination. 34 CFR 104.7(b)
4. Provide notice to students, parents, employees, unions, and professional organizations of nondiscrimination in admission or access to, or treatment or employment in, its programs or activities. Notice must also specify the responsible employee designated to coordinate compliance. 34 CFR 104.8
5. Annually identify and locate all Section 504 qualified children with disabilities in the district's geographic area who are not receiving a public education. 34 CFR 104.32(a)
6. Annually notify persons with disabilities and their parents or guardians of the district's responsibility under Section 504. 34 CFR 104.32(b)
7. Provide parents or guardians with procedural safeguards: 34 CFR 104.32
  - a. notice of their rights
  - b. an opportunity to review relevant records
  - c. an impartial hearing with opportunity for participation by parents or guardians and representation by counsel
  - d. a review procedure

Persons disagreeing with the identification, evaluation, and placement of their child have several options open to them, including (1) filing a complaint or grievance through the district's discrimination complaint procedure Section 504, (2) having a due process hearing before an impartial hearing officer, (3) filing a complaint with the Office for Civil Rights (OCR), (4) filing a complaint with the U.S. Department of Education, and/or (5) filing in civil court.

## Federal Way Public Schools Grievance Procedure

Students, and/or parents, staff or other individuals acting on behalf of students of the district are eligible to participate in this complaint procedure. This complaint procedure is designed to assure that the resolution of real or alleged violations shall be directed toward a just solution that is satisfactory to the complainant, the administration and the board of directors. This grievance procedure shall apply to the general conditions of the nondiscrimination policy, and more particularly to policies dealing with guidance and counseling, co-curricular programs, and curriculum development and instructional materials. As used in this procedure,

**“Grievance” shall mean a complaint which has been filed by a complainant (a student, an employee, a parent or guardian) relating to alleged violations of any anti-discrimination law including Title IX regulations and Washington Administrative Code (WAC) 392-190 or Section 504 of the Rehabilitation Act of 1973, or Title VII of the Civil Rights Act of 1964.**

**A complaint shall mean a charge alleging specific acts, conditions or circumstances, which are in violation of the anti-discrimination laws. A respondent shall mean the person alleged to be responsible or who may be responsible for the violation alleged in the complaint.**

Complaints related to section 504 should be filed using the grievance procedure set forth in District procedure 3210P. Please refer to procedure 3210P for a full explanation. The 3210P grievance procedure is set forth below:

### A. INFORMAL PROCESS FOR RESOLUTION

Anyone with an allegation of discrimination may request an informal meeting with the District Nondiscrimination/Title IX Compliance Officer or designated employee to resolve their concerns. Such a meeting will be at the option of the Complainant. If unable to resolve the issue at this meeting, the Complainant may submit a written complaint to the Compliance Officer. During the course of the informal process, the District must notify the Complainant of their right to file a formal complaint. The District will provide this notice in a language the complainant can understand, which may require language assistance for complainants with limited English proficiency.

### B. FORMAL PROCESS FOR RESOLUTION

#### LEVEL ONE: Complaint to the District

The complaint must be in writing, signed by the complaining party, and must set forth the specific actions, conditions, or circumstances alleged to be discriminatory [see Form 3210(F1)]. Upon receipt of a complaint, the Compliance Officer will provide the complainant a copy of this procedure in a language the complainant can understand, which may require language assistance for complainants with limited English proficiency. The Compliance Officer will ensure that the District conducts a prompt and thorough investigation into the allegations in the complaint.\* Within thirty (30) calendar days. The District and the Complainant may agree to resolve the complaint in lieu of an investigation. The Compliance Officer shall provide the Superintendent with a full written report of the complaint and the results of the investigation.

The Superintendent or designee will respond to the Complainant with a written decision as expeditiously as possible, but in no event later than thirty (30) calendar days following receipt of the written complaint, unless otherwise agreed to by the Complainant or if exceptional circumstances related to the complaint require an extension of the time limit. In the event an extension is needed, the District will notify the Complainant in writing of the reason for the extension and the anticipated response date at the time the District responds to the Complainant. This notice must be provided in a language the complainant can understand, which may require language assistance for complainants with limited English proficiency. At the time the District responds to the complaint, the District must send a copy of the response to the Office of the Superintendent of Public Instruction.

The decision of the Superintendent or designee will include:

1. a summary of the results of the investigation;
2. whether the District has failed to comply with anti-discrimination laws;
3. if non-compliance is found, corrective measures the District deems necessary to correct it; and
4. notice of the Complainant's right to appeal to the school board and the necessary filing information.

The Superintendent's or designee's response will be provided in a language the complainant can understand and may require language assistance for complainants with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964.

*\* Note: Under WAC 392-190-081, a discrimination complaint made to a school district or an appeal to the school board or OSPI may be held in abeyance during the pendency of any proceeding in state or federal court or before a local, state, or federal agency in which the same claims are at issue under any law.*

**LEVEL TWO: Appeal to the Board of Directors**

If a Complainant disagrees with the Superintendent's or designee's written decision, the Complainant may appeal the decision to the Board of Directors by filing a written notice of appeal with the secretary of the board within ten (10) calendar days following the date upon which the Complainant received the response [see Form 3210(F2)].

The Board shall schedule a hearing to commence by the twentieth (20th) calendar day following the filing of the written notice of appeal, unless otherwise agreed to by the Complainant and the Superintendent or for good cause. Both parties shall be allowed to present such witnesses and testimony as the Board deems relevant and material. Unless otherwise agreed to by the Complainant, the Board will render a written decision within thirty (30) calendar days following the filing of the notice of appeal and provide the Complainant with a copy of the decision. The decision of the Board will be provided in a language the Complainant can understand, which may require language assistance for complainants with limited English proficiency in accordance with Title VI of the Civil Rights Act. The decision will include notice of the Complainant's right to appeal to the Superintendent of Public Instruction and will identify where and to whom the appeal must be filed. The District will send a copy of the appeal decision to the Office of the Superintendent of Public Instruction.

**LEVEL THREE: Complaint to the Superintendent of Public Instruction**

If a Complainant disagrees with the decision of the Board of Directors, or if the District fails to comply with this procedure, the Complainant may file a complaint with the Superintendent of Public Instruction.

A complaint must be received by the Superintendent of Public Instruction on or before the twentieth (20) calendar day following the date upon which the Complainant received written notice of the Board of Directors' decision, unless the Superintendent of Public Instruction grants an extension for good cause. Complaints may be submitted by mail, fax, electronic mail, or hand delivery.

A complaint must be in writing and include:

1. A description of the specific acts, conditions or circumstances alleged to violate applicable anti-discrimination laws;
2. The name and contact information, including address, of the Complainant;
3. The name and address of the District subject to the complaint;
4. A copy of the District's complaint and appeal decision, if any; and
5. A proposed resolution of the complaint or relief requested. If the allegations regard a specific student, the complaint must also include the name and address of the student, or in the case of a homeless child or youth, contact information, and the name of the school and District the student attends.

Upon receipt of a complaint, the Office of the Superintendent of Public Instruction may initiate an investigation, which may include conducting an independent on-site review. OSPI may also investigate additional issues related to the complaint that were not included in the initial complaint or appeal to the superintendent or board. Following the investigation, OSPI will make an independent determination as to whether the district has failed to comply with RCW 28A.642.010 or Chapter 392-190, WAC and will issue a written decision to the Complainant and the District that addresses each

allegation in the complaint and any other noncompliance issues it has identified. The written decision will include corrective actions deemed necessary to correct noncompliance and documentation the District must provide to demonstrate that corrective action has been completed. OSPI will provide this written decision in a language that the complainant can understand, which may require language assistance for complainants with limited English proficiency.

All corrective actions must be completed within the timelines established by OSPI in the written decision unless OSPI grants an extension. If timely compliance is not achieved, OSPI may take action including but not limited to referring the District to appropriate state or federal agencies empowered to order compliance with the law or the initiation of sanctions or corrective measures under WAC 392-190-080.

A complaint may be resolved at any time when, before the completion of the investigation, the District voluntarily agrees to resolve the complaint. OSPI may provide technical assistance and dispute resolution methods necessary to resolve a complaint.

#### **LEVEL FOUR: Administrative Hearing**

A complainant or a district that desires to appeal the written decision of the Office of the Superintendent of Public Instruction may file a written notice of appeal with OSPI within thirty (30) calendar days following the date of receipt of that office's written decision. OSPI will conduct a formal administrative hearing in conformance with the Administrative Procedures Act, Chapter 34.05, RCW.

### **C. MEDIATION**

At any time during the discrimination complaint procedure set forth in WAC 392-190-065 through 392-190-075, the District may, at its own expense, offer mediation. The Complainant and the District may agree to extend the discrimination complaint process deadlines in order to pursue mediation.

The purpose of mediation is to provide both the Complainant and the District an opportunity to resolve disputes and reach a mutually acceptable agreement through the use of an impartial mediator. Mediation must be voluntary and requires the mutual agreement of both parties. It may be terminated by either party at any time during the mediation process. It may not be used to deny or delay a complainant's right to utilize the complaint procedures.

Mediation must be conducted by a qualified and impartial mediator who may not:

- 1) Be an employee of any school district, public charter school, or other public or private agency that is providing education related services to a student who is the subject of the complaint being mediated; or
- 2) Have a personal or professional conflict of interest. A mediator is not considered an employee of the district or charter school or other public or private agency solely because he or she serves as a mediator.

If the parties reach agreement through mediation, they may execute a legally binding agreement that sets forth the resolution and states that all discussions that occurred during the course of mediation will remain confidential and may not be used as evidence in any subsequent complaint, due process hearing or civil proceeding. The agreement must be signed by the Complainant and a District representative who has authority to bind the District.

**Note: Due process hearing or mediation requests must be made directly to the District 504 Compliance Officer. If a parent requests a due process hearing or mediation, districts should contact:**

Office of State Superintendent  
of Public Instruction  
Special Services Department  
Old Capitol Building  
PO Box 47200  
Olympia, WA 98504-7200  
360-753-6733

to obtain a list of qualified hearing officers or mediators and a sample hearing officer or mediator contract. Districts are responsible for hearing officers or mediators. Districts are responsible for arranging for hearing officer and mediator expenses. When contacting OSPI, be sure they understand that the dispute is under Section 504 and that the district is just obtaining information, not seeking to have a special education due process hearing set up with a state administrative law judge. OSPI encourages districts to first utilize mediation as a method to resolve disputes.

## Education of Students with Disability Under Section 504: 2162

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 (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, 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 shall 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.

### A. FREE APPROPRIATE PUBLIC EDUCATION

The District shall 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. Instruction shall be individually designed to meet the needs of the disabled students as adequately as the needs of the non-disabled students are met.

### B. CHILDFIND

The District shall 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.

### C. EQUAL EDUCATIONAL OPPORTUNITY

The District shall 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 shall meet comparable standards for certification that teachers of non-disabled students meet. Facilities shall be of comparable quality and appropriate materials and equipment shall 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 shall obtain the informal 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 any change in the student’s placement. The District shall notify parents or guardians of their right to review and challenge the District’s program and placement decisions if they disagree with them. Parents are not required to be present during meetings at which their child’s program is designed and placement determined. However, parents are encouraged to be present.

### F. PARTICIPATION IN THE LEAST RESTRICTIVE ENVIRONMENT

#### 1. Academic setting

To the maximum extent appropriate to the needs of disabled students, the District shall 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 shall 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 shall 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. EVALUATIONS**

1. If a student needs or is believed to need special education or related services, the District shall 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 10 consecutive days in a school year;
- c. Cumulative short-term suspensions which create a pattern of exclusion;
- d. Transferring a student to home instruction;
- e. Graduation from high school; and/or

Transferring a student from one type of program to another or terminating or significantly reducing a related service

2. The District shall establish 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;
- 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).

**H. PLACEMENT PROCEDURES**

In interpreting evaluation data and in making placement decisions, the District shall:

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 student, the meaning of the evaluation data, and the placement options; and
4. Ensure that the student is educated with his/her non-disabled peers to the maximum extent appropriate.

Residential placements will be provided by the District if necessary to provide a free appropriate education to a disabled student.

In regard to out-of-district placements, if the District affords a free appropriate education to a student but the parent chooses to place the child elsewhere, the District is not responsible to pay for the out-of-district placement.

**I. RE-EVALUATIONS**

The District shall provide for periodic reevaluation of disabled students. No time frame is specified in Section 504; however, the every 3 years requirement of the IDEA will be encouraged. A reevaluation is also required before any "significant change of placement," as defined above in Part "G."

**J. PROGRAMMING TO MEET INDIVIDUAL NEEDS**

The District recognizes that to be appropriate, educational programs for students with disabilities must be designed to meet their individual needs to the same extent that the needs of non-disabled students are met. To adequately meet individual needs, academic and related services for students with disabilities may need to be significantly different in character from those offered to students without disabilities. A documented procedure such as the development of an individualized accommodation plan by a knowledgeable team of educational professionals is recommended.

**K. NON-ACADEMIC SERVICES**

The District shall 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, special interest groups or clubs sponsored by the District, 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 reasonable health and safety standards for all students shall be observed.



**1. Counseling Services**

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

**2. Physical Education and Athletics**

In providing physical education courses and athletics and similar programs and activities to any of its students, the District shall not discriminate on the basis of disability. As the District offers physical education courses and operates or supports interscholastic, club, or intramural athletics, it shall 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 only if no qualified disabled student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

**L. PRESCHOOL AND ADULT EDUCATION PROGRAMS**

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

**M. DISCIPLINARY EXCLUSION**

1. Students with disabilities are protected from being 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 ten [10] days duration) or regular expulsion upon a qualified disabled student that could constitute a significant change of placement.

The school principal or educational staff person responsible for the imposition of discipline must ensure that a group of qualified professionals, including persons knowledgeable about the student, 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 all information available to the District and relevant to the inquiry, including 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 or due to an inappropriate placement or program.

When a student’s misconduct is determined causally related to his/her disabling condition, procedures at 4 below shall be instituted in lieu of either long-term suspension or expulsion.

3. When a student poses an immediate and continuing danger to him or herself and/or others (see WAC 180-40-295), an emergency expulsion of up to ten (10) days may be used to alleviate immediate risk on the condition that procedures at WAC 180-40-300, be modified to require the regular disciplinary hearing be held within ten (10) school business days whether the student or parent/guardian requests a hearing or not. The purpose of this regular disciplinary hearing is to determine the nature of, and consequences for, the misconduct.
4. In the event the student is covered by or believed to be covered by Section 504, the Section 504 Compliance Officer (or designee) must attend and participate in this hearing. The Section 504 Compliance Officer (or designee) shall advise the hearing officer on Section 504 restrictions. Even if the student and/or parent/guardian refuse to attend this hearing, the hearing shall be held.

5. When a student has engaged in misconduct which is causally related to his or her disability, aside from emergency expulsion (see No. 3 above), expulsion and/or long term suspension should not be imposed which results in more than ten (10) lost school days (cumulative for the entire school year, considering earlier short term suspension [if any] as counting toward the cumulative total).
6. Instead, the need for additional evaluation and/or a change of placement should be considered. 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. If the student poses an immediate risk to him or herself or others, the procedure at No 3 above may be instituted by the principal or designee.
7. Students and their Parent/Guardian shall 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 outlined at 1 through 4 above shall be entitled to exercise their rights under Section 504 to file a grievance or initiate a due process hearing. See O. PROCEDURAL REQUIREMENTS, subsection 7.c., following.

8. 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.

#### N. TRANSPORTATION

If the District places a student in a program not operated by the District, the district shall assure that adequate transportation to and from the program is provided at no cost to the parent.

Since the District provides transportation to all its students within a certain geographic area, it shall not discriminate in its provision of transportation to students with disabilities.

If the District proposes to terminate a qualified disabled student's bus transportation for inappropriate bus behavior, the District shall 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 shall be provided with notice of the results of such determinations and of their right to challenge such determinations.

The length of the bus rides for qualified disabled students should not unnecessarily be longer than that of non-disabled students.

#### O. PROCEDURAL REQUIREMENTS

The District shall 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 Director of Student 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 the Procedure for Policy 3210, Nondiscrimination.)
4. Provide notice to students, parents, employees, unions, and professional organizations of nondiscrimination in admission or access to, or treatment or employment in, its programs or activities. Notice shall also specify the section 504 coordinator for the District. Notice shall also be included in the 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 or guardians of the District's responsibilities under Section 504.
7. Establish and implement procedural safeguards to be provided to parents or 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, that includes:

- a. Notice of their rights;
- b. An opportunity to examine relevant records;
- c. An impartial hearing may be initiated by either the parents/guardian or the school district, with opportunity for participation by the student's parents or guardian. The student/parent is entitled to have representation by legal counsel; and
- d. A review procedure.

#### P. 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 shall 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.

#### Q. ACCESSIBILITY

1. District's responsibility to make buildings accessible: facilities which 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. District's options other than major modifications: 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.

3. District recognition of unacceptable accommodations: carrying a student upstairs; segregating all students with mobility impairments due to inaccessibility of other buildings; having disabled students eat on a separate floor due to an inaccessible cafeteria; denying certain programs such as music, art, or assemblies because these programs are inaccessible.
4. District obligation for new buildings and additions: buildings or additions constructed since 1980 must be designed and constructed to allow disabled persons the ability to access and use them readily.
5. District's obligation when a building is altered: to the maximum extent feasible, all facilities which are altered after 1980 must be altered to allow accessibility and usability by persons with disabilities.
6. District recognition of the meaning of the phrase "to the maximum extent possible:" this provision covers the occasional instance where the nature of an existing facility is such as to make it impractical or prohibitively expensive to renovate in a manner that results in its being entirely barrier-free. However, in all of these instances, the alteration should provide the maximum amount of physical accessibility feasible.

#### R. 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 which 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 with alcoholism in so far as their coverage as qualified disabled persons. 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, although these protections are limited as follows: for purposes of programs and activities providing educational services, the District may take disciplinary action pertaining to the use, sale, or possession of illegal drugs or alcohol at school against any disabled student who currently is 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 due process procedures at 34 CFR § 104.36 shall not apply to such disciplinary actions.

**S. SPECIAL CONSIDERATIONS FOR STUDENTS HAVING AIDS OR HIV INFECTION**

Students with Acquired Immune Deficiency Syndrome (AIDS), AIDS Related Complex (ARC), or otherwise infected with Human Immunodeficiency Virus (HIV-infected) are individuals with disabilities under Section 504.

They either qualify as actually having a physical impairment which substantially limits a major life activity, or are regarded as having such a disabling condition. Depending on the nature of the disease and the student's other conditions, the student may also qualify for services under the IDEA.

Placement of the student must be made by a group of persons knowledgeable about the child, the meaning of the evaluation and medical information, and placement options. A public health representative should be on the team. Unless currently presenting a risk of contagion due to the stage of the disease (e.g., a contagious opportunistic infection, open lesions that cannot be covered) or parents and school agree on an alternative, a student with AIDS should remain in the regular classroom.

**T. SPECIAL CONSIDERATIONS FOR ADD/ADHD STUDENTS**

If a District suspects or has knowledge that a student has an Attention Deficit Disorder (ADD) or Attention Deficit Hyperactivity Disorder (ADHD) that may be substantially limiting a major life activity, such as learning, the District is obligated to recommend an evaluation.

Evaluation of the student, and service and placement recommendations should be made by a group of persons knowledgeable about the child, the meaning of the evaluation and medical information, and service and placement options. A qualified medical practitioner's assessment should be considered as well as the impact the student's ADD/ADHD has on his or her ability to learn or to otherwise benefit from his or her educational program. The District shall ensure that the student's educational program meets the full range of his or her individual educational needs.

**Cross References:**

Administrative Policy—2161:  
Special Education and Related Services

Administrative Policy—3210:  
Nondiscrimination

**Legal References:**

34 CFR Part 104:  
Section 504 of the Rehabilitation Act of 1973

45 CFR Part 99:  
Family Education and Privacy Act

PL 101-336:  
Section 512 Americans With Disabilities Act of 1990

## Nondiscrimination: 3201P

Students, and/or parents, staff or other individuals acting on behalf of students of the District are eligible to participate in this complaint procedure. This complaint procedure is designed to assure that the resolution of real or alleged nondiscrimination violations are directed toward a just solution that is satisfactory to the Complainant, the administration and the Board of Directors. This grievance procedure shall apply to the general conditions of the nondiscrimination policy (Policy – 3210), and to policies and practices dealing with guidance and counseling, co-curricular programs, service animals in schools, and curriculum development and instructional materials. As used in this procedure:

- A. The Complainant is the person filing the complaint;
- B. The Respondent is the person alleged to be responsible or who may be responsible for the violation alleged in the complaint.
- C. A complaint under this policy/procedure is any complaint that has been filed by a Complainant relating to alleged violation of any state or federal anti-discrimination laws. A complaint must be in writing, signed by the complaining party, and must set forth the specific actions, conditions, or circumstances alleged to be discriminatory.
- D. The time period for filing a complaint is one year from the date of the occurrence that is the subject matter of the complaint. However, a complaint filing deadline may not be imposed if the Complainant was prevented from filing due to:
  - 1) Specific misrepresentations by the District that it had resolved the problem forming the basis of the

complaint; or 2) Withholding of information that the District was required to provide under WAC 392-190-065 or WAC 392-190-005. Complaints may be submitted by mail, fax, e-mail or hand-delivery to the District office, any school, or to the District Compliance Officer responsible for investigating discrimination complaints. Any District employee who receives a complaint that meets these criteria will promptly notify the District Compliance Officer.

The primary purpose of this procedure is to secure an equitable solution of a justifiable complaint. To this end, specific steps shall be taken. The District is prohibited by law from intimidating, threatening, coercing or discriminating against any individual for the purpose of interfering with their right to file a grievance under this policy and procedure and from retaliating against an individual for filing such a grievance.

### A. INFORMAL PROCESS FOR RESOLUTION

Anyone with an allegation of discrimination may request an informal meeting with the District Nondiscrimination/Title IX Compliance Officer or designated employee to resolve their concerns. Such a meeting will be at the option of the Complainant. If unable to resolve the issue at this meeting, the Complainant may submit a written complaint to the Compliance Officer. During the course of the informal process, the District must notify the Complainant of their right to file a formal complaint. The District will provide this notice in a language the complainant can understand, which may require language assistance for complainants with limited English proficiency.

### B. FORMAL PROCESS FOR RESOLUTION

#### LEVEL ONE: Complaint to the District

The complaint must be in writing, signed by the complaining party, and must set forth the specific actions, conditions, or circumstances alleged to be discriminatory [see Form 3210(F1)]. Upon receipt of a complaint, the Compliance Officer will provide the complainant a copy of this procedure in a language the complainant can understand, which may require language assistance for complainants with limited English proficiency. The Compliance Officer will ensure that the District conducts a prompt and thorough investigation into the allegations in the complaint.\* Within thirty (30) calendar days. The District and the Complainant may agree to resolve the complaint in lieu of an investigation. The Compliance Officer shall provide the Superintendent with a full written report of the complaint and the results of the investigation.

The Superintendent or designee will respond to the Complainant with a written decision as expeditiously as possible, but in no event later than thirty (30) calendar days following receipt of the written complaint, unless otherwise agreed to by the Complainant or if exceptional circumstances related to the complaint require an extension of the time limit. In the event an extension is needed, the District will notify the Complainant in writing of the reason for the extension and the anticipated response date at the time the District responds to the Complainant. This notice must be provided in a language the complainant can understand, which may require language assistance for complainants with limited English proficiency. At the time the District responds to the complaint, the District must send a copy of the response to the

Office of the Superintendent of Public Instruction.

The decision of the Superintendent or designee will include:

1. a summary of the results of the investigation;
2. whether the District has failed to comply with anti-discrimination laws;
3. if non-compliance is found, corrective measures the District deems necessary to correct it; and
4. notice of the Complainant's right to appeal to the school board and the necessary filing information.

The Superintendent's or designee's response will be provided in a language the complainant can understand and may require language assistance for complainants with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964.

*\* Note: Under WAC 392-190-081, a discrimination complaint made to a school district or an appeal to the school board or OSPI may be held in abeyance during the pendency of any proceeding in state or federal court or before a local, state, or federal agency in which the same claims are at issue under any law.*

#### **LEVEL TWO: Appeal to the Board of Directors**

If a Complainant disagrees with the Superintendent's or designee's written decision, the Complainant may appeal the decision to the Board of Directors by filing a written notice of appeal with the secretary of the board within ten (10) calendar days following the date upon which the Complainant received the response [see Form 3210(F2)].

The Board shall schedule a hearing to commence by the twentieth (20th) calendar day following the filing of the written notice of appeal, unless otherwise agreed to by the Complainant

and the Superintendent or for good cause. Both parties shall be allowed to present such witnesses and testimony as the Board deems relevant and material. Unless otherwise agreed to by the Complainant, the Board will render a written decision within thirty (30) calendar days following the filing of the notice of appeal and provide the Complainant with a copy of the decision. The decision of the Board will be provided in a language the Complainant can understand, which may require language assistance for complainants with limited English proficiency in accordance with Title VI of the Civil Rights Act. The decision will include notice of the Complainant's right to appeal to the Superintendent of Public Instruction and will identify where and to whom the appeal must be filed. The District will send a copy of the appeal decision to the Office of the Superintendent of Public Instruction.

#### **LEVEL THREE: Complaint to the Superintendent of Public Instruction**

If a Complainant disagrees with the decision of the Board of Directors, or if the District fails to comply with this procedure, the Complainant may file a complaint with the Superintendent of Public Instruction.

A complaint must be received by the Superintendent of Public Instruction on or before the twentieth (20) calendar day following the date upon which the Complainant received written notice of the Board of Directors' decision, unless the Superintendent of Public Instruction grants an extension for good cause. Complaints may be submitted by mail, fax, electronic mail, or hand delivery.

A complaint must be in writing and include:

1. A description of the specific acts, conditions or circumstances alleged to violate applicable anti-discrimination laws;
2. The name and contact information, including address, of the Complainant;
3. The name and address of the District subject to the complaint;
4. A copy of the District's complaint and appeal decision, if any; and
5. A proposed resolution of the complaint or relief requested. If the allegations regard a specific student, the complaint must also include the name and address of the student, or in the case of a homeless child or youth, contact information, and the name of the school and District the student attends.

Upon receipt of a complaint, the Office of the Superintendent of Public Instruction may initiate an investigation, which may include conducting an independent on-site review. OSPI may also investigate additional issues related to the complaint that were not included in the initial complaint or appeal to the superintendent or board. Following the investigation, OSPI will make an independent determination as to whether the district has failed to comply with RCW 28A.642.010 or Chapter 392-190, WAC and will issue a written decision to the Complainant and the District that addresses each allegation in the complaint and any other noncompliance issues it has identified. The written decision will include corrective actions deemed necessary to correct noncompliance and documentation the District must provide to demonstrate that corrective action has been completed. OSPI will provide

this written decision in a language that the complainant can understand, which may require language assistance for complainants with limited English proficiency.

All corrective actions must be completed within the timelines established by OSPI in the written decision unless OSPI grants an extension. If timely compliance is not achieved, OSPI may take action including but not limited to referring the District to appropriate state or federal agencies empowered to order compliance with the law or the initiation of sanctions or corrective measures under WAC 392-190-080.

A complaint may be resolved at any time when, before the completion of the investigation, the District voluntarily agrees to resolve the complaint. OSPI may provide technical assistance and dispute resolution methods necessary to resolve a complaint.

#### **LEVEL FOUR: Administrative Hearing**

A complainant or a district that desires to appeal the written decision of the Office of the Superintendent of Public Instruction may file a written notice of appeal with OSPI within thirty (30) calendar days following the date of receipt of that office's written decision. OSPI will conduct a formal administrative hearing in conformance with the Administrative Procedures Act, Chapter 34.05, RCW.

#### **C. MEDIATION**

At any time during the discrimination complaint procedure set forth in WAC 392-190-065 through 392-190-075, the District may, at its own expense, offer mediation. The Complainant and the District may agree to extend the discrimination complaint process deadlines in order to pursue mediation.

The purpose of mediation is to provide both the Complainant and the District an opportunity to resolve disputes and reach a mutually acceptable agreement through the use of an impartial mediator. Mediation must be voluntary and requires the mutual agreement of both parties. It may be terminated by either party at any time during the mediation process. It may not be used to deny or delay a complainant's right to utilize the complaint procedures.

Mediation must be conducted by a qualified and impartial mediator who may not:

1. Be an employee of any school district, public charter school, or other public or private agency that is providing education related services to a student who is the subject of the complaint being mediated; or
2. Have a personal or professional conflict of interest. A mediator is not considered an employee of the district or charter school or other public or private agency solely because he or she serves as a mediator.

If the parties reach agreement through mediation, they may execute a legally binding agreement that sets forth the resolution and states that all discussions that occurred during the course of mediation will remain confidential and may not be used as evidence in any subsequent complaint, due process hearing or civil proceeding. The agreement must be signed by the Complainant and a District representative who has authority to bind the District.

#### **Preservation of Records:**

The files containing copies of all correspondence relative to each complaint communicated to the District and the disposition, including any corrective measures instituted by the District, shall be retained in the office of the Nondiscrimination/Title IX Compliance Officer for a period of not less than five (5) years.

#### **Forms:**

3210(F1)—Discrimination Complaint

3210(F2)—Discrimination Complaint:  
Appeal to the Board of Directors