Education of Students with Disabilities Under Section 504 of the Rehabilitation Act of 1973

A. **Free Appropriate Public Education**
The district will provide a free appropriate public education (regular or special education and related aids and services) to school-age children with disabilities in the district's jurisdiction. Instruction will 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 will annually undertake to identify and locate every qualified disabled student residing in the district's jurisdiction who is not receiving a public education and take appropriate steps to notify disabled children and their parents or guardians of the district's responsibilities under Section 504.

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

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

E. **Parent Involvement**
The district will obtain the 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 a significant change in the student's placement. The district will notify parents or guardians of their right to review and challenge the district's program and placement decisions if they disagree with them. Section 504 does not give parents the right to participate in a meeting during which their child's program is designed and placement is determined, as does the IDEA. However, this practice is recommended.

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

1. Academic setting. To the maximum extent appropriate to the needs of disabled students, the district will educate disabled students with non-disabled students. In order to remove a child from the regular educational environment, the district must demonstrate that education of the student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily for the disabled student. Whenever the
district places a student in a setting other than the regular education environment pursuant to this paragraph, it will take into account the proximity of the alternate setting to the student's home.

2. Non-academic setting. In providing or arranging for the provision of non-academic and extra-curricular services and activities, including meals, recess periods and the services and activities set

forth in 34 CFR 104.37, the district will ensure that disabled students participate with non-disabled students in such activities and services to the maximum extent appropriate to the needs of the disabled student in question.

G. **Referral and Screening**

If a student, parent, teacher, counselor or administrator believe they are observing in a student substantially limited performance in one or more major life activities that is believed to be caused by a physical or mental impairment, the concerned individual should complete a referral form. Referral forms are available in each school's office.

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

H. **Evaluations**

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

Examples of significant changes in placement include:

a. Expulsion;

b. Suspensions which exceed ten consecutive days in a school year;

c. Cumulative short-term suspensions which create a pattern of exclusion;

d. Transferring a student to home instruction;

e. Graduation from high school; and/or

f. Significantly changing the composition of the student's class.

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

a. Have been validated and are administered by trained personnel;

b. Are tailored to assess educational need and are not merely based on IQ scores; and

c. Reflect aptitude or achievement or whatever else the tests purport to measure and do not reflect the student's impaired sensory, manual or speaking skills (unless the test is designed to measure these particular deficits).

3. The determination of whether a student is substantially limited in one or more major life activities will be made without regard to any ameliorative effects of mitigating measures which include, but are not limited to: medication, medical supplies, equipment, low- vision devices, prosthetics, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy equipment and supplies, assistive technology, reasonable accommodations, auxiliary aids or services; or learned behavioral or adaptive neurological modifications.

4. Low vision devices do not include ordinary eyeglasses or contact lenses. The ameliorative effects of ordinary eyeglasses or contact lenses may be considered in determining whether the impairment substantially limits a major life activity.

5. A student with a temporary impairment falls within the scope of Section 504 if the temporary impairment is severe enough that it substantially limits one or more of the student's major life activities. A temporary impairment is one with an actual or expected duration of six months or less. For example, pregnancy is not generally regarded as a disability under Section 504; however, if a student was put on bed rest or otherwise limited due to pregnancy complications, this would be a temporary impairment that would qualify the student as disabled under Section 504.

6. A student with an episodic impairment or a disease in remission qualifies as disabled under Section 504 if the impairment would substantially limit a major life activity when active (i.e. a student whose cancer is in remission).

I. **Placement Procedures**

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

In interpreting evaluation data and in making placement decisions, the district will (1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background and adaptive behavior; (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered; and (3) ensure that the student is educated with his/her non-disabled peers to the maximum extent appropriate.

Parents and guardians of students who have a plan developed under Section 504 of the Rehabilitation Act of 1973 will be provided a copy of the district policy (*see Policy 3247*) on the use of isolation and restraint at the time that the plan is created.

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.

J. **Re-Evaluations**

The district will provide for periodic reevaluation of disabled students. No time frame is

specified in Section 504; however, re-evaluating students every three years in accordance with the requirements of the IDEA will satisfy Section 504 requirements as well. A reevaluation is also required before any "significant change of placement," as defined above in Part "G."

K. **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.

L. **Non-Academic Services**

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

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

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

M. **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 will not, on the basis of disability, exclude qualified students with disabilities from the program or activity and will take into account the needs of such persons in determining the aid, benefits or services to be provided under the program or activity.

N. **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 five 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 determine whether or not there is a causal relationship between the student's misconduct and his or her disability. They are also to consider the appropriateness of the student's current placement and program. This determination will take into account the student's current evaluation and Individualized Accommodation Plan (IAP) under Section 504. For students considered disabled under Section 504, there is no obligation to provide educational services during periods of long-term suspension or expulsion when the student's misconduct has been properly determined not to be disability-related and not the result of an inappropriate placement or program. When a student's misconduct is determined to be causally related to his/her disabling condition, procedures at #4 below will be instituted in lieu of either long-term suspension or expulsion.

3. When a student 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 days may be used to alleviate immediate risk. In such cases the procedures at WAC 180-40-300 will 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.

In the event the student is covered by, or is 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) will advise the hearing officer on Section 504 restrictions. Even if the student and/or parent/guardian refuse to attend this hearing, the hearing will be held.

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

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

5. In accordance with #3 above, a student may be expelled for up to ten days to alleviate an immediate risk to the student or others, even if the conduct is related to the student's disability.

6. Students and their parent/guardian will be notified of the results of the decision regarding the causal relationship of the misconduct and the student's disability and of their right to challenge this decision. Students/parents/guardians objecting to procedures used by the district to evaluate the misconduct are entitled to exercise their rights under Section 504 to file a grievance or initiate a due process hearing.

7. 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.

O. **Restraint or Isolation**
Restraint or isolation of students who have a Section 504 plan will be authorized only under the limited circumstances specified in Policy/Procedure 3247 and each incident will require reporting and parent/guardian notification as specified in that policy and procedure.

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

Because the district provides transportation to all its students within a certain geographic area, it will not discriminate in its provision of transportation to students with disabilities.

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

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

P. **Procedural Requirements**
The district will ensure compliance with the requirements of Section 504 by doing the following:

1. Provide written assurance of non-discrimination whenever the district receives federal money.

2. Designate an employee to coordinate the district's Section 504 compliance activities. The Section 504 Coordinator for the district is (insert position of designee).

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 the district's nondiscrimination policy in admission and access to programs and activities, and in treatment and employment. Notice will also specify the Section 504 coordinator for the district. Notice will also be included in 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/guardians of the district's responsibilities under Section 504.

7. Establish and implement procedural safeguards to be provided to parents/guardians with respect to actions regarding the identification, evaluation or educational placement of persons who, because of disability, need, or are believed to need, special instruction or related services. Procedural safeguards will include:

a. Notice of parental/guardian rights;

b. An opportunity to examine relevant records;

c. An impartial hearing, initiated by either the parents/guardian or the school district, with opportunity for participation by the student's parents/guardians. The student/ parent/guardian is entitled to have representation by legal counsel; and

d. A review procedure.

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

R. **Accessibility**
1. Facilities that were constructed prior to June 3, 1977 need not necessarily be made accessible so long as the program or activity, viewed in its entirety, is readily accessible to persons with disabilities.
2. Buildings or additions constructed since 1980 must be designed and constructed to allow disabled persons the ability to access and use them readily.
3. 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.
4. A 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.
5. A district recognizes that some forms of accommodation are unacceptable such as: carrying a student upstairs; segregating all students with mobility impairments due to the inaccessibility of other buildings; having disabled students eat on a separate floor due to an inaccessible cafeteria; denying participation in certain programs such as music, art or assemblies because these programs are inaccessible.
6. District recognition of the meaning of the phrase "to the maximum extent possible." This provision covers the instance where occasionally the nature of an existing facility is such as to make it impractical or prohibitively expensive to renovate in a manner that results in it being entirely barrier-free. However, in all of these instances, the alteration should provide the maximum amount of physical accessibility feasible.

S. **Special Issues Related to Drug or Alcohol Addicted Students**
If a district suspects that the drug or alcohol problem of a student may be substantially limiting a major life activity such as learning, the district is obligated to recommend an evaluation. If the

evaluation verifies the existence of a disabling condition that substantially limits a major life activity, the student is considered disabled under Section 504 and should be planned for appropriately.

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

Congress did not amend Section 504 with respect to students who abuse alcohol and alcoholism. Unlike students addicted to drugs, students whose alcoholism constitutes a disabling condition under Section 504 and who continue to use alcohol are protected by Section 504. However, the district may take disciplinary action against any disabled student engaged in the illegal use of drugs or in the use of alcohol at school to the same extent that such disciplinary action is taken against non-disabled students. Furthermore, the due process procedures at 34 CFR Part 104.36 will not apply to such disciplinary actions.

T. **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 that 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.

A student with AIDS should remain in the regular classroom unless currently presenting a risk of contagion (e.g., a contagious opportunistic infection, open lesions that cannot be covered) or the student's parents and school agree on an alternative.

U. **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 will ensure that the student's educational program meets the full range of his or her individual educational needs.

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 the Office of State Superintendent of Public Instruction (OSPI), Special Services Department,

Old Capital Building, PO Box 47200, Olympia Washington 98504-7200, (360) 725-6075 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 under- stand that the dispute is under Section 504 and that the district is just obtaining information, not seeking to have a special education hearing set up with a state administrative law judge. OPSI encourages districts to first utilize mediation as a method to resolve disputes.

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