



Fort Mill School District
Section 504 of the Rehabilitation Act of 1973
District Handbook

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NOTICE OF NONDISCRIMINATION

It is the policy of Fort Mill School District to afford all persons, regardless of their actual or perceived race, religion, color, disability, sexual orientation, national origin, ancestry, or gender, including gender identity, expression, and appearance, equal rights and opportunities in all of its educational institutions.

Introduction

This Section 504 Handbook is designed to give an overview of Section 504 of the Rehabilitation Act of 1973 as it pertains to the Fort Mill School District (FMSD). While Section 504 prohibits discrimination against both students and employees on the basis of disability, this publication will focus on students.

Under Section 504, the Fort Mill School District has a responsibility to locate, identify, evaluate, and place individuals who are, or are believed to be, in need of specialized education or related services due to a physical or mental impairment as defined by Section 504. The district is required to establish and implement procedural safeguards. These safeguards include notice, an opportunity for parents to review relevant records, an impartial hearing with the opportunity for participation by the student's parents or guardian, representation by counsel, and a review of procedure.

Background

Three federal laws regulate provision of educational services to children and adolescents with disabilities: Individuals with Disabilities Act (IDEA), Section 504 of the Rehabilitation Act of 1973 (§504), and the Americans with Disabilities Act (ADA). These laws fundamentally mandate that each child with a disability be provided a free education that is appropriate to the child's educational needs in light of their particular disability. The definition of what constitutes a disability, however, is not identical under each of these laws. The information contained in this document focuses mainly on Section 504 and the ADA Amendments Act of 2008 (and the revised ADA Title II regulations issued by the Department of Justice in August 2016). The district has specific responsibilities under the Act, which include the responsibility to identify, evaluate, and if the child is determined to be eligible under Section 504 and has needs, to afford access to appropriate educational services through a written 504 Plan. The substantive standard is commensurate opportunity.

Child Find

"Child Find" refers to the requirement that districts must annually identify and locate all qualified disabled children residing within the district's boundaries. The district must also provide an annual notification of the protections of Section 504 and how to access them. This is an ongoing

process and includes those children attending private, parochial, and home schools. “Child Find” also requires that districts provide ways for parents to refer their own children as disabled persons. Additionally, administrators and teachers must understand their obligations to identify and refer qualified disabled students.

FMSD strives to locate and identify every individual within the district who may not be receiving a free appropriate public education due to a physical or mental impairment. District staff engage in ongoing child find activities, such as presenting information at school staff meetings, posting information on the district website, and reviewing student information upon registration and/or when medical needs arise.

In addition to district-based initiatives, individual schools employ school-based procedures to assist in the identification of students with a suspected disability. School-based procedures may include a review of student absences, academic progress, incident reports due to ongoing behaviors, students who have health concerns, students who have been exited from special education services, and students who did not qualify for special education services but who have a medical or health condition.

Section 504 of the Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973 (Section 504) is a federal anti-discrimination law that protects the rights of students with disabilities in programs and activities that receive federal financial assistance from the U.S. Department of Education.

A student is disabled pursuant to Section 504 if the student:

- Has a physical or mental impairment which substantially limits one or more major life activities
- Has a record of such an impairment
- OR is regarded as having such impairment

In accordance with its obligation to provide a free and appropriate education (FAPE), the district shall provide accommodations to a student with disabilities that are designed to allow the student full access to curricular and extracurricular activities in a manner that is consistent with their non-disabled peers. It is important to note that Section 504 is not a part of special education, rather it is a responsibility of the comprehensive general public education system. Copies of all letters, modifications, recommendations, and relevant educational and/or medical documents will be maintained within district records.

Section 504 vs. Individuals with Disabilities Education Act (IDEA)

Eligibility for protections and services under Section 504 is not the same as eligibility under IDEA. Section 504 has a much broader definition of a disability. Section 504 provides protection from discrimination for students with disabilities in a general education setting who do not need

specially designed instruction. Students covered under IDEA with an Individualized Education Program (IEP) do not need a separate Section 504 plan, as provisions covered under Section 504 are covered under IDEA. Therefore, students who are covered under IDEA must have an IEP that addresses both the special education needs and any accommodations that would be provided under Section 504. The District has no flexibility or discretion to provide services and accommodations under Section 504 when a student is IDEA-eligible.

Section 504 and the IDEA contain requirements for affording a Free and Appropriate Public Education (FAPE) for students with disabilities, but there are some differences.

- Under the IDEA, FAPE is a statutory term. It requires a school district to develop an individualized education program (IEP) for each eligible student with a disability that sets out, among other information, the student's program of special education and related services.
- Under Section 504, FAPE is the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of non-disabled students are met and are based on adherence to procedures governing educational setting, evaluation and placement, and procedural safeguards.

District/School 504 Team Members

504 Team

The 504 Team is a multi-disciplinary group including individuals that are knowledgeable about the child. The 504 Team **may** include the 504 Facilitator, general education teacher(s), parent/guardian(s), the nurse, a counselor, the student (as deemed appropriate), and/or any other person with relevant knowledge of the student and the disability at issue. The 504 Team is responsible for reviewing multiple sources of data when determining eligibility and, if appropriate, accommodations, related aids or services for eligible students with disabilities. The team must be composed of a group of persons who are:

- Knowledgeable about the student
- Understand the meaning of the evaluation data and
- Are familiar with the options with respect to accommodations, services and placement

Teachers play an important role in this process as they can supply pertinent data and anecdotal information about the child. Teacher input should be obtained and considered by the 504 team. This information may be collected in advance or within a formal 504 meeting. The parent or guardian is also an essential member of the team and should be invited to all 504 Team meetings, but the parent may waive or refuse the opportunity to attend.

504 Facilitator

The 504 Facilitator is the designee who is responsible for managing the Section 504 Team in their building. The 504 Facilitator ensures that all meetings are scheduled, forms are requested and completed, facilitates 504 meetings and creates the Evaluation and Eligibility Form and 504 Accommodation Plan.

District 504 Coordinator

The District 504 Coordinator (Coordinator of Psychological Services) is the person who ensures that the district is in compliance with legal requirements specified under Section 504. The District Section 504 Coordinator has the authority to investigate and recommend to the Senior Executive Director of Special Services a resolution of written grievances.

504 Evaluation/Eligibility Process

Referral

- ❖ Parents, teachers, school nurses, counselors, or other school personnel may initiate a Section 504 referral if the child has, or is suspected of having, a disabling condition that substantially limits a major life activity.
 - If the student's suspected disabling condition is impacting learning or classroom performance (i.e., concentrating, learning, thinking, reading), FSMD 504 procedures encourage consideration be given first to whether there is a basis to consider eligibility for Special Education Services prior to considering eligibility under Section 504.
 - If a student is referred for consideration of eligibility through Special Education Services, and it is determined the student either does not qualify or is not in need of an evaluation pursuant to the IDEA, referral back to a 504 Team may be appropriate if there is a basis to suspect the child may have a disabling condition that substantially impairs a major life activity.
 - Likewise, students already qualified under Section 504 and receiving services should be referred back to the Special Education Team for consideration of special education services if there is a concern that the student may be in need of specialized instruction.
- ❖ If a staff member or parent has knowledge of a disability and suspects a need for Section 504 eligibility consideration, the building 504 Facilitator should be notified to initiate the referral process.
- ❖ The 504 Facilitator will review available information and consult with the parent, teacher, and pertinent staff to determine whether additional data is needed to determine 504 eligibility and/or assist the team in establishing appropriate educational programming.
 - If the team suspects the need for short-term accommodations/supports during the evaluation process the 504 team will convene to review referral concerns, compose an evaluation plan, and draft short-term accommodations.
 - If short-term accommodations are not necessary and/or all team members are in agreement with the proposed evaluation plan, the Consent for 504 Evaluation form may be sent home for parent signature in lieu of a formal 504 referral meeting.

Evaluation

To determine Section 504 eligibility, an evaluation must be conducted by the 504 Team.

The evaluation is the initial step required for determining whether a student has a disability that substantially limits one or more major life activities. Evaluations or diagnoses provided by the

parents must be considered in the 504 eligibility process, as would evaluations and assessments that may have previously been conducted by the district for eligibility consideration under the IDEA. The team may also choose to conduct a district evaluation if appropriate and necessary to the eligibility determination process. In determining whether a student has a disability under 504, the team must review information from a variety of sources. Common sources of information include: information provided by the parent; educational/psychological assessments or evaluations; medical records; diagnoses; rating scales; teacher reports on classroom performance; standardized test results; academic achievement; discipline reports; work samples and attendance information.

While the school team always considers the recommendations of doctors or other professionals who work with the child, it remains the school team's responsibility to review multiple sources of information to determine Section 504 eligibility, and what, if any, accommodations are appropriate at that time

Parent consent must be obtained prior to initiation of an initial 504 evaluation.

Eligibility

Following completion of the evaluation the 504 Team will review findings, including multiple sources of information, to answer the following:

1. Does the individual have a physical or mental impairment?
2. Does the impairment affect a major bodily function or life activity?
3. To what degree does the impairment limit a major life activity or major bodily function?
4. Does the individual need accommodations, services, or supports to access the benefits of public education at a level similar to their non-disabled peers?

To be considered a disability under Section 504, BOTH of the following criteria must be met:

1. The disability must be a physical or mental impairment. The Department of Education describes "physical or mental impairment" as follows:
 - 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 any mental or psychological disorder, such as an intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities.
2. The disabling condition must substantially limit one or more major life activity. A major life activity includes (but is not limited to) learning, concentrating, thinking, communicating, reading, walking, seeing, hearing, speaking, breathing, eating, sleeping, standing, lifting, bending, caring for oneself, performing manual tasks, and major bodily functions/systems (neurological, immune, respiratory, etc.).

Substantially limits is defined as being unable to perform a major life activity that the average person in the general population can perform, or is significantly restricted in the condition, manner, or duration under which an individual can perform a particular major life function as compared to the condition, manner, or duration that the average person in the general population can perform.

- When determining whether the substantial limitation requirement is met, the nature and severity of the impairment, the duration of the impairment, and any long-term impact of the impairment needs to be considered. However, being considered for Section 504 accommodations does not mean that the student is eligible. Simply having a condition or disability does not automatically qualify a student for a Section 504 Plan. The condition must present a barrier to the student's ability to access the same educational opportunities as a non-disabled student.
- The standard used to determine whether a physical or mental impairment results in a substantial limitation is "average performance in the general population". Therefore, the standard is not the optimal performance level for a person, but the average performance of individuals found in the general population.
- Title II provides three (3) factors for teams to consider when determining whether or not the impairment substantially limits a major life activity or major bodily function:
 - Nature and severity of the impairment;
 - Duration or expected duration of the impairment; AND
 - Permanent, long-term impact or expected impact of the impairment.

Eligibility Determinations

The 504 Team will make the following determinations of eligibility:

- Not 504 Eligible
- 504 Eligible + Plan
- 504 Eligible + No Plan (Impairment Episodic or in Remission)
- 504 Eligible + No Plan (Mitigating Measures)

Not all children with a disabling condition under 504 will need a 504 Plan – some disabilities that substantially limit a major life activity may not be impacting a student while at school, may be a condition in remission, or may be currently treated with medication or other health interventions outside of the FMSD that improve the symptomology or manifestation of the disability while the child is at school, making a 504 Plan unnecessary.

- a. Students that fall in this category qualify for Section 504 protections, such as not being discriminated against on the basis of their disability, receipt of all procedural protections, and access to manifestation determination review in the event of a long-term suspension or a series of short-term suspensions that exceed ten (10) school days.
- b. Should the status or impact of the student's disabling condition change, a 504 team will reconvene to consider whether accommodations are necessary to provide the student with equal access to the educational program.

Parents/Guardians have the right to consider the proposed 504 eligibility determination. Written consent is required to implement the initial 504 Accommodation Plan.

Mitigating Measures

When determining eligibility, 504 teams are prohibited from considering any mitigating measures. This means that teams must consider whether the disabling condition substantially impairs a major life activity without considering such mitigating measures as behavior plans, informal accommodations or adjustments made by the regular education teacher, interventions put in place through MTSS, health care plans, assistive technology devices, auxiliary aids, medical therapies, and medications. The only exception to this prohibition is the ability of teams to consider the use of eyeglasses and contact lenses when determining whether a vision impairment substantially limits a major life activity. If a Section 504 accommodation plan is warranted, the benefits of a mitigating measure should be considered when writing a student's accommodation/support plan.

Temporary 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. While it would be unusual for a temporary injury or illness with an expected duration of 6 months or less to qualify as an impairment that substantially limits a major life activity, temporary illnesses or injuries can qualify as a disabling condition, and must be considered on a case-by-case basis. Factors that impact the decision regarding a temporary disability or illness include the duration or expected duration of the impairment, as well as the extent to which the impairment actually limits a major life activity.

Disabling Conditions that are Episodic or in Remission

Some students have physical or mental impairments that vary in frequency. Conditions such as seasonal allergies or asthma, migraines, and epilepsy 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. Determination of whether a disabling condition substantially impairs a major life activity must consider the impact of the condition at times when the condition is active, regardless of whether the student is currently in a state of remission or is asymptomatic.

504 Accommodation Plans

Classroom Accommodations

Once the Section 504 team identifies a student as eligible the team then determines if a 504 plan is required and, if so, the appropriate accommodations will be written into a Section 504 Plan. These accommodations will be implemented by all staff that have relevant interactions with the student. The purpose of an accommodation under Section 504 is to meet the individual and educational needs of students with disabilities as adequately as the needs of students

without disabilities. Accommodations must relate to the student's disability and its impact on major life activities and bodily functions in the here and now. Accommodations must be reasonable and allow students with disabilities to have equal access to their learning environment, manage a medical condition, and participate in class activities along with extracurricular activities. Accommodations can be changed or modified as the student's needs change. Accommodations that include an instructional component should be written so the integrity of the course content is maintained. Accommodations needed to manage a medical condition should allow the student opportunities to take care of their condition to the extent the student is able.

Accommodations should promote equal access to the general education curriculum and not provide an undue advantage for the student. Additionally, while reasonable accommodations should be offered, a school is not required to provide an accommodation that would create an undue burden or would be a fundamental alteration of the program at issue.

Each student's Section 504 accommodation plan is constructed individually. While there are accommodations that are commonly used to address and manage certain specific conditions, each student's individual needs must be considered when choosing the appropriate accommodations. Selecting and monitoring the effectiveness of accommodations should be an ongoing process. Changes to a student's Section 504 accommodations should only be made at a Section 504 meeting with multidisciplinary input from students, parents, and educators.

Testing Accommodations

If a student needs a testing accommodation, the accommodation must be used *every time* a student is tested. In order for a testing accommodation to be used for district and state-mandated tests it must be considered "routinely used" in the classroom. To be considered as "routinely used" the accommodation should be in place for approximately 30 calendar days before the test window opens. Therefore, testing accommodations **MUST NOT** be implemented solely for district or state-wide assessments

Testing accommodations should in no way alter the content of the assessment or interfere with the integrity of the test construct. 504 Facilitators should regularly consult with the school's testing coordinator for updates and new information. School assignments and tests completed with accommodations should be graded the same way as those completed without accommodations. Accommodations are meant to provide equal and ready access to the testing materials and are not meant to provide an undue advantage for the student.

Related Services

Section 504 requires that related services be provided for students with disabilities if these services are essential to meet the student's educational needs. A related service can be provided under Section 504 to children who do not receive any other special education services or interventions.

The district must educate each qualified disabled student with non-disabled students to the maximum extent appropriate to the needs of the qualified disabled student. 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.

Sharing the Section 504 Plan

The 504 Facilitator will circulate the 504 plan to the student's teacher(s) and relevant staff member(s) as appropriate. Every teacher must follow the plan and offer the accommodations that are listed.

Once a student is found eligible for a 504 Plan, it moves with them from year-to-year and from school-to-school. The 504 Facilitator will distribute the plan to teachers before school begins so that the accommodations are immediately and continuously available.

Periodic Review and Reevaluation

Annual Review

The Section 504 team should meet periodically (typically annually) for every student who has been determined to have a qualifying disability under Section 504. The team may meet more frequently if the student's needs or condition changes, there are concerns with the current plan, or as otherwise requested by the parent/guardian or staff member. The purpose of the annual review meeting is to review the 504 Plan and make modifications to the Plan as warranted. The team may also choose to examine the data to determine if a 504 Plan is still warranted. If evidence suggests a student may no longer be eligible under Section 504 (i.e., the student may no longer have a disabling condition that substantially limits a major life activity), the team may also conduct or schedule a reevaluation.

Snapshots

The 504 Snapshot for Annual Review allows for a "desk" review of a student's current needs and 504 Plan in lieu of holding a formal meeting. It may only be used in certain circumstances, which are outlined below.

A Snapshot is an option for students who:

- ❖ Do not have a 3-year reevaluation date coming up within the next year
- ❖ Do not have a complex or intricate plan
- ❖ Do not require adjustments to their service plan that require a team discussion and decision
 - Examples of an adjustment that do not require a team decision:
 - Removal of an accommodation that is offered to all students (e.g., state assessments allow extended time for all students)
 - A change to the student's health plan that directly translates to an accommodation adjustment (e.g., EpiPen will now be carried by the student rather than kept in the nurse's office).

- A slight adjustment in how an accommodation is worded, but the spirit of the accommodation is not changing and still addresses the identified need.

Reevaluation

The Section 504 Team will meet at least once every three years to reevaluate the student to determine continued eligibility. The reevaluation meeting is conducted in the same manner as the initial meeting with review of existing evaluation data, or a determination that additional data is not needed to assess eligibility. The evaluative data shall be used to determine if the student continues to have a disabling condition that substantially impairs a major life activity.

- ❖ 1. If the team determines the student no longer meets the criteria for Section 504 eligibility, the student will be exited from Section 504 and any existing 504 Plan would be discontinued.
- ❖ 2. If the team determines the student continues to be eligible, the team must next determine if the student is in need of a 504 Plan, and if so, review and modify any existing plan, or develop a new plan.

Special Circumstances

Transfer Students

Students who are new to the FMSD or reenroll in the district.

If a student with a disability transfers to FMSD from another school district with a Section 504 plan FMSD will review the plan and supporting documentation and convene a Section 504 team meeting within a reasonable time upon entry. Until the FMSD Section 504 team meets school staff will follow the student's current plan on a temporary basis. Upon evaluation, if the Section 504 team determines that the student's mental or physical impairment no longer substantially limits a major life activity, the student will no longer be eligible for services under Section 504 and will be exited from the program. If the team finds the student eligible and is in need of accommodations the Section 504 team will develop a 504 plan to offer equal access in FMSD.

Student transfers within FMSD.

When a student moves from one FMSD school to another FMSD school the 504 plan will follow the student to the receiving school. The 504 Facilitator has the specific responsibility to ensure that the student's 504 plan is passed on to the receiving school. Parents of Section 504 students should also inform their child's new school of the existence of a 504 Plan.

Service Animals

Title II of the Americans with Disabilities Act (ADA) and its regulations require government entities, including public schools, to make reasonable modifications to programs and services to allow access for persons with disabilities. A "service animal," as defined by the Americans with Disabilities Act (ADA), means any dog (or miniature horse) that is individually trained to work or perform tasks for an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

A school may exclude a particular service animal if the animal is out of control and the handler does not take effective action to control it, or if it is not housebroken. In addition, a school may exclude a service animal if “the animal would fundamentally alter the nature of the service, program, or activity.” Examples of work or tasks include, but are not limited to: assisting an individual who is blind or who has low vision with navigation; alerting an individual who is deaf or hard of hearing to the presence of people or sounds; pulling a wheelchair; assisting an individual during a seizure; alerting individuals to the presence of allergens; retrieving items; providing physical support and assistance with balance and stability to individuals with mobility impairments; and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors.

Non-Academic Services

Qualified disabled students shall be provided an equal opportunity to engage in counseling services, physical recreational athletics, transportation, special interest clubs, etc.

Qualified disabled students:

1. Will not be counseled toward more restrictive career objectives than nondisabled students (with similar abilities).
2. Will have an equal opportunity to participate in physical education courses and athletics. Disabled students may try out for any extracurricular activity they desire, but they must generally meet the standards applied to all students.
3. 504 students must submit to the general behavioral, academic and performance standards applied to nondisabled students.

Discipline and Section 504

General Overview

Section 504 protects students with disabilities from being improperly removed from school for misconduct that is related to or caused by their disability. Before FMSD is able to implement a disciplinary action that constitutes a “significant change in placement” the school-based Section 504 team must convene to review and discuss the misconduct.

A **significant change in placement** is defined as a significant change in the type or amount of educational or related aids or services that FMSD provides to a student with disabilities. A significant change in placement may include, but is not limited to:

- terminating eligibility under Section 504;
- initiating or terminating a related service or hospital/homebound services
- disciplinary actions that exclude a student from school for more than 10 consecutive school days in a school year
- disciplinary actions that create a pattern of exclusion from school

Bus suspension is a disciplinary action. If, as the result of a bus suspension, a student stops coming to school then one must count each day as accumulative toward consideration under the rules governing suspensions if the bus is part of an accommodation.

Manifestation Determination Review (MDR) Process

Students determined eligible under Section 504 may be disciplined to the same extent as their non-disabled peers, provided the disciplinary action does not amount to a change in placement.

If a 504 student is recommended for long-term suspension, or subject to a series of short-term suspensions that amount to more than ten (10) school days and constitute a change in placement, a 504 team must be convened to determine if the student's behavior that led to the out-of-school suspension is a manifestation of the student's disability.

During this process the Section 504 team considers the student's documented disability(ies) as well as the details of the specific incident to determine whether the misconduct was caused by, or had a direct and substantial relationship to, the student's disability; or was the direct result of the District's (school's) failure to implement the student's Section 504 Plan.

If a student's misconduct **is determined to be a manifestation** of their disability, FMSD is legally prohibited from implementing a disciplinary action that constitutes a significant change in the student's placement. If a disabled student's misconduct is **determined to NOT be a manifestation** of their disability, FMSD may legally discipline the student in the same manner as students without disabilities.

Under Section 504, the District is not required to provide a student with disabilities educational services during the period of time they are properly removed from school for disciplinary reasons. However, students must be provided the same access to services that are available to non-disabled students who are long-term suspended or expelled, including access to re-entry programs.

Interim Alternative Educational Settings (IAES) (45 day rule)

If a student eligible under Section 504 carries a weapon to school or to a school-sponsored event or function; possesses, uses, sells, or solicits illegal drugs on school grounds or at a school-sponsored event or function; or inflicts serious bodily injury upon another person at school or a school-sponsored event or school function, FMSD may place the student in an Interim Alternative Educational Setting (IAES) for up to 45 school days. However, a Manifestation Determine Review must be scheduled during that time to review the student's Section 504 Plan, discuss the need for a Functional Behavior Assessment (FBA) and a Behavior Intervention Plan (BIP), and determine if the behavior was a manifestation of the student's disability.

Illegal Drugs and Alcohol

Eligibility for Section 504 Related to Illegal Drug or Alcohol Use

Illegal Drug Use.

- ❖ Section 504 generally excludes from the definition of “individual with a disability” any individual who is “currently engaging in the illegal use of drugs.”
 - “Illegal use of drugs” means the use of drugs that are illegal to possess or distribute under the federal Controlled Substances Act. Individuals who have rehabilitated successfully or who are in a supervised rehabilitation program” and not currently using may qualify as having a disabling condition. These students may potentially be eligible for 504 services and protections, but only if they are not current users.
 - Eligibility for 504 may still be considered for current illegal drug users if they have a different disabling condition (i.e., depression or some other emotional or mental health diagnosis), but eligibility must be determined independent of the student’s current drug use.
 - When a student’s behavior is the result of illegal drug or alcohol use, the student will not be eligible for services.
- ❖ Illegal Alcohol Use.
 - A student with alcoholism may be eligible for protection and services under Section 504 if the impairment substantially limits one or more major life activities, *even if the student is a current user of alcohol*. However, as described below, a student with alcoholism may be disciplined for violating rules regarding the use or possession of alcohol to the same extent that students without disabilities are.

Discipline for Drug and Alcohol Use

1. Current Users of Drugs or Alcohol.
 - a. Eligible students who are current users of either drugs or alcohol are not entitled to an MDR for any “disciplinary action pertaining to the use or possession of illegal drugs or alcohol.” 29 USC 705(20) (C) (iv).
 - i. Such students are subject to disciplinary action “to the same extent that such disciplinary action is taken against students who are not individuals with disabilities.” 29 USC 705(20) (C) (iv).
 - ii. This holds true, regardless of the student’s underlying disabling condition, including alcoholism.
 - b. The regulatory standard for “current” use of illegal drugs is “illegal use of drugs that occurred recently enough to justify a reasonable belief that a person’s drug use is current or that continuing use is a real and ongoing problem.” 28 CFR 35.104.
2. Possession of Illegal Drugs or Alcohol.
 - a. Eligible students charged with *possession* of illegal drugs or alcohol who do not meet the definition of a current user (or the district has no evidence that they are current users) continue to receive the protections of a manifestation determination review.
 - b. The mere “possession” of illegal drugs or alcohol does not result in loss of procedural protections unless the student is also “currently using” illegal drugs or alcohol. OCR Staff Memorandum, 17 EHLR 609 (OCR 1991).

Dispute Resolution

Parents are encouraged to reach out to the 504 Facilitator at their child's school to address any concerns regarding their child's 504 plan. Oftentimes, concerns can be addressed quickly and easily through a 504 Team meeting. If concerns are in regard to the implementation of agreed-upon accommodations parents should notify building administration.

If this proves unsuccessful, school administrators as well as the FMSD 504 Coordinator are also resources for parent concerns. However, other mechanisms are also available if these informal measures are not successful or for those parents who would like a more formal process. For disagreement with respect to actions taken regarding the evaluation, identification, educational plan or placement for a student who, because of disability, needs or is believed to need a Section 504 plan, a parent or guardian may file a grievance with the Senior Executive Director of Special Services. They may also request a due process hearing before any impartial hearing officer at any time.

Parent and Student Rights and Procedural Safeguards

The following is a description of student and parent rights under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Amendments Act (ADA). The law requires that you be kept fully informed concerning decisions about your child and that you be informed of your rights if you disagree with any of these decisions.

1. You have a right to be informed about your rights under §504. [34 CFR 104.32] The School District must provide you with written notice of your rights under §504 (this document represents written notice of rights as required under §504). If you need further explanation or clarification of any of the rights described in this Notice, contact appropriate staff persons at the District's §504 Office and they will assist you in understanding your rights.
2. Under §504, your child has the right to an appropriate education designed to meet his or her educational needs as adequately as the needs of non-disabled students are met. [34 CFR 104.33]. You have the right to refuse consent for services at any time.
3. Your child has the right to free educational services, with the exception of certain costs normally also paid by the parents of non-disabled students. Insurance companies and other similar third parties are not relieved of any existing obligation to provide or pay for services to a student that becomes eligible for services under §504. [34 CFR 104.33].
4. To the maximum extent appropriate, your child has the right to be educated with children who are not disabled. Your child will be placed and educated in regular classes, unless the District demonstrates that his or her educational needs cannot be adequately met in the regular classroom, even with the use of supplementary aids and services. [34 CFR 104.34].
5. Your child has the right to services, facilities, and activities comparable to those provided to non-disabled students. [34 CFR 104.34].

6. The School District must undertake an evaluation of your child prior to determining his or her appropriate educational placement or program of services under §504, and also before every subsequent significant change in placement. [34 CFR 104.35]. You have the right to refuse consent for initial evaluation.
7. If formal assessment instruments are used as part of an evaluation, procedures used to administer assessments and other instruments must comply with the requirements of §504 regarding test validity, proper method of administration, and appropriate test selection. [34 CFR 104.35]. The District will appropriately consider information from a variety of sources in making its determinations, including, for example: aptitude and achievement tests, teacher recommendations, reports of physical condition, social and cultural background, adaptive behavior, health records, report cards, progress notes, parent observations, statewide assessment scores, and mitigating measures, among others. [34 CFR 104.35].
8. Placement decisions regarding your child must be made by a group of persons (a §504 committee) knowledgeable about your child, the meaning of the evaluation data, possible placement options, and the requirement that to the maximum extent appropriate, disabled children should be educated with non-disabled children. [34 CFR 104.35].
9. If your child is eligible under §504, he or she has a right to periodic reevaluations. A reevaluation must take place at least every three years. [34 CFR 104.35].
10. You have the right to be notified by the District prior to any action regarding the identification, evaluation, or placement of your child. [34 CFR 104.36]
11. You have the right to examine relevant documents and records regarding your child (generally documents relating to identification, evaluation, and placement of your child under §504). [34 CFR 104.36].
12. You have the right to an impartial due process hearing if you wish to contest any action of the District with regard to your child's identification, evaluation, or placement under §504. [34 CFR 104.36]. You have the right to participate personally at the hearing, and to be represented by an attorney, if you wish to hire one.
13. If you wish to contest an action taken by the §504 Committee by means of an impartial due process hearing, you must submit a Notice of Appeal or a Request for Hearing to the District's §504 Coordinator at the address below. Failure to make a timely request will result in the loss of your opportunity to pursue a due process hearing on that action or omission. A date will be set for the hearing and an impartial hearing officer will be appointed. You will then be notified in writing of the hearing date, time, and place.

Amy Maziarz

Senior Executive Director of Special Services

(803) 548 - 2527

2233 Deerfield Dr.,

Fort Mill, SC 29715 14.

14. If you disagree with the decision of the hearing officer, you have a right to seek a review of the decision by making a written request to the District's Section 504 Coordinator, and/or you may seek relief in state or federal court as allowed by law.

15. You also have a right to present a grievance or complaint through the District's local grievance process. The District will investigate the situation, take into account the nature of the complaint and all necessary factors, and respond appropriately to you within a reasonable time. Parents may contact the District's Section 504 Coordinator for more information about the District's grievance process.
16. You also have a right to file a complaint with the Office for Civil Rights (OCR) of the Department of Education. The address of the OCR Regional Office that covers this school district is:

Director, Office for Civil Rights,
400 Maryland Ave., SW,
Washington, DC 20202
Telephone: (202) 453 - 6020, Telephone 2: (800) 877 - 8339