

**Tumwater School District
Administrative Procedures**

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

A. Free Appropriate Public Education (FAPE)

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. Child Find

The district is obligated to locate and identify every qualified student residing in its jurisdiction, to take appropriate steps to notify such persons and/or their parents/guardians of the school system's duty to do so, and to provide a free appropriate public education to each student regardless of the nature or the severity of the disability.

C. Equal Educational Opportunity

The district will provide students with disabilities and equal opportunity to participate in and benefit from the educational services it provides to non-disabled students. The teacher 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 /Guardian/Adult Student Involvement

The district will obtain the formal consent of parents/guardians or adult students (students 18 years or older) before conducting an initial evaluation of a student. The district will notify parents/guardians or adult students of the evaluation results and any programming and placement recommendations. The district will notify the parents/guardians/adult students before initially placing a student with a disability, conducting subsequent evaluations of the student or implementing a significant change in the student's placement. The district will notify parents/guardians/adult students 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/guardians the right to participate in a meeting during which their child's program is designed and placement is determined, as does the IDEA, the practice is recommended.

Parents/guardians/adults students may invite other individuals to participate on the designated building Section 504 Team. The Section 504 Team shall provide parents/guardians/adult students with written notification of evaluation meetings, including a copy of the Procedural Safeguards. A Section 504 Team meeting must proceed in the parents/guardian/adult student's absence if the school has made reasonable attempts to secure parental/adult student participation, including written notification and record of phone calls. A school must attempt to schedule meetings on dates convenient to both school and parents/ guardian/adult student.

F. Participation in the least restrictive environment

- a. Academic setting. To the maximum extent appropriate to the needs of the disabled students, the district will educate students with disabilities 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 student with a disability. Whenever the district places a student in a setting other than the regular education environment pursuant to this paragraph, it will consider the proximity of the alternate setting to the student's home.
- b. 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 students with disabilities participate with non-disabled students in such activities and services to the maximum extent appropriate to the needs of the student with the disability in question.

G. Referral and Screening

If a student, parent/guardian, or school district staff member believes they are observing in a student a substantially limited performance in or of more major life activities, that is believed to be caused by a physical or mental impairment, the concerned individual must place the referral in writing. Supporting documentation of the condition (e.g. medical, psychological, agency reports), if available, shall be provided with the referral. Referrals shall be made to a building School Counselor.

A designated building team, lead by the designated building School Counselor, will review referrals to determine if an evaluation is appropriate. If an evaluation appears to be required, the district will obtain written consent from parents to perform an evaluation and provide parents/guardians/adult students with a written statement of their rights under Section 504. If the designated building team determines that an evaluation is not necessary, it will provide written notice to parents/guardians/adult students.

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 of placement".

Examples of significant changes of 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.
2. The Section 504 Team shall determine whether a student is disabled under Section 504 by considering multiple evaluative data including, but not limited to, assessments, student records, observation, anecdotal reports, teacher reports, medical information, physician's orders, emergency care plans, individual and group administered tests, achievement tests, and other data as appropriate. A physician's diagnosis, alone, may not form the sole basis for finding a student to have a disability under Section 504.
 3. 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 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).
 4. 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.
 5. 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.
 6. A student with a temporary condition is one that exists for a short duration; generally less than six months. An example of a temporary condition is a broken arm that heals within the expected timeframe. A student with a temporary condition is not considered to have a disability under Section 504. In the event that the condition becomes chronic, the student may be evaluated under Section 504.
 7. A student with an episodic impairment or a disease in remission may continue to be considered as a student with a disability 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.

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

In regard to out-of-district placements, if the district affords a free appropriate public education to a student and 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 re-evaluation of disabled students. No time frame is specified in Section 504; however, re-evaluating students every three years in accordance with the requirements of IDEA will satisfy Section 504 requirements as well. A re-evaluation is also required before any "significant change of placement" as defined above in Part "H".

K. Programming to Meet Individual Needs

The district recognizes that to be appropriate, education programs for student 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 student with disabilities may 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 non-academic 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. Non-academic and extracurricular services and activities may include counseling services, physical recreation athletics, transportation, health services, recreational activities, interests groups or clubs sponsored by the district, referrals to agencies which provide assistance to disabled persons and employment of students, including employment by the district. The district will observe reasonable health and safety standards for all students.

1. Counseling Services. In providing personal, academic or college and career readiness 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 counseling toward

appropriate career objectives as it does with non-disabled peers 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 student 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 no separate or different.

M. Preschool or Adult Education Programs

In the operation of preschool or adult education programs or activities, the district will not, on the basis of disability, exclude qualified students with disabilities from the program or activity and will consider 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 of 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 student with disabilities should be recognized as having a disabling condition before discipline is imposed on them, especially before imposing a long-term suspension or regular expulsion upon a qualified disabled student that could constitute a change of placement. A building administrator or designee responsible for the imposition of discipline that the building Section 504 team 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 manifestation determination will take into account the student's current evaluation and Individualized Accommodation Plan (IAP) under Section 504. For students considered to have a disability under Section 504, there is no obligation to provide educational services during period of long-term suspension or expulsion when the student's misconduct has been properly determined not to be disability –related and not the result 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), and 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 to be held within ten school business days, whether the student or parent/guardian or adult student requests a hearing or not. The purpose of this regular disciplinary hearing is to determine the nature of, and consequence for, the misconduct. In the event the student is covered by, or is believed to be covered by, Section 504, the district designated Section 504 Compliance Officer (or designee) must attend and participate in the 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 the hearing the hearing will be held.

When the student has engaged in misconduct which is causally related to his/her disability, expulsion and/or long-term suspension should not be imposed if it would result in more than ten lost school days.

When the 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 building administrator 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 students 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.

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.

4. Students and their parent/guardian will be allowed to participate in the manifestation determination meeting in which the causal relationship between the student's misconduct and disability are discussed. Parents/guardians and/or adult students will be notified of the decision regarding the manifestation meeting and of their right to challenge this decision. Students/parents/guardians objecting to procedures sued 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.
5. 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 Individual Accommodation Plan will be authorized only under the 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 student's bus transportation for inappropriate bus behavior, the district will 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 re-evaluation. The parent or guardian will be provided with notice of the results of such determinations and of their rights to challenge such determinations.

The length of bus rides for qualified students with disabilities should be no longer than that of non-disabled students as provided in the WAC regarding length of ride.

Q. Procedural Requirements

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

1. Provide written assurances 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 Special 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 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 students with disabilities 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 parent/guardian/adult student rights;
 - b. An opportunity to examine relevant records;

- c. An impartial hearing, initiated by either the parents/guardians/adult students 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.

R. Appropriate Funding

The district recognizes that the regular education funding of the district is the funding source for serving students who are qualified as have a disability under Section 504 only. 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 fund eligible under Section 504 and not the IDEA. The district may use IDEA money to evaluate a student if the district believes that the student may also be eligible under the IDEA.

S. 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 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. As long as there are other methods which are as effective in achieving compliance, a district need not undertake structural changes to a building.
5. The district recognizes that some forms of accommodations are unacceptable such as: carrying a student up the stairs; segregating all students with mobility impairments due to the inaccessibility of other buildings; having disabled students eat on a separate floor of a building due to an inaccessible cafeteria; denying participation in certain programs such a music, art or assemblies because these programs are in accessible.
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 and 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.

T. Special Issues Related to Drug or Alcohol Addicted Students

If the 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 to have a disability under Section 504 and should be planned for appropriately.

With the passage of the American 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 program. Furthermore, the district is not required to make accommodations for the student if he/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, student 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 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.

U. Special Considerations for Students having AIDS or HIV infections

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 the student’s other conditions, the student may also qualify for services under the IDEA.

Placement of the student must be made by the designated Section 504 team knowledgeable about the student, the meaning of the evaluation and medical information and placement options. Subject to an authorized release of confidentiality by the parent/guardian/adult student, a public health representative should be included on the team. Unless currently presenting a risk of contagion due to the stage of the disease (e.g. contagious opportunistic infection, open lesions that cannot be covered) or parents/guardians/adult student and school district agree on an alternative, a student with AIDS should remain in the regular classroom.

V. Special Considerations for ADD/ADHD

If the district suspects or has knowledge that a student has 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 recommendation 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/her ability to learn or to otherwise benefit from his/her educational program. The district will ensure that the student's educational program meets the full range of his/her individual educational needs.

W. Staff Responsibilities

Once developed, a 504 plan is a contract between the school district and the parents/guardians and/or adult students. Teachers and other designated staff are responsible for implementing the designated services and strategies identified on the student's plan. Teachers and other designated staff do not have the discretion to decline or refuse to implement any component of the 504 plan. This is another reason why teachers should always participate in the entire 504 process. Only the student's 504 team can modify services and strategies. Any changes must be based on the student's identified disability. When a teacher or other staff member has a concern about the nature of a student's plan, he/she should discuss it with the student's 504 case manager. Teachers should maintain documentation which demonstrates compliance with a student's 504. If issues arise, the 504 case manager should be contacted immediately.

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