

Instruction

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

A. Free Appropriate Public Education

The district will provide a free appropriate public education to school-age children with disabilities in the district's jurisdiction.

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

1. **Initial Evaluation.** The district will obtain the informed consent of parents or guardians before conducting an initial evaluation of a student. The district will notify parents or guardians of the evaluation results.
2. **Initial Placement.** The district will notify parents or guardians before initially placing a disabled student.
3. **Significant Change in Placement.** The district will notify parents or guardians before implementing a significant change in the student's placement.
4. **Right to Challenge.** 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.
5. **Meetings.** Section 504 does not require parents or guardians to participate in meetings during which their child's program is designed and placement is determined. However, the practice is recommended.

F. Participation in the least restrictive environment

1. **Academic setting.** To the maximum extent appropriate, , 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 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.

G. Referral and Screening

1. **Referral.** If a student, parent, teacher, counselor or administrator believe that a student needs accommodations, special education and/or related services and supports at school due to substantially limited performance in one or more major life activity that is believed to be caused by a known or suspected disability, the concerned individual should complete a referral form.
2. **Screening.** 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 the informed consent of parents or guardians to perform an evaluation and/or gather additional information and will provide parents or guardians with a written statement of their rights under Section 504. If the team determines that an evaluation is not necessary, it will provide written notice to parents or guardians along with a written statement of their rights under Section 504.

H. Evaluations

1. **Significant Change in Placement.** If a student with a disability needs or is believed to need accommodations, special education and/or related services, the district will evaluate the student prior to placement and before any subsequent "significant change in that placement." (See Reevaluation Section below) An evaluation need not include formal or written assessments but may involve, in appropriate circumstances, a review and consideration of existing information.
2. **Tests and Evaluation Materials.** The district will use tests and other evaluation materials that:
 - 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. **Mitigating Measures.** The determination of whether a student is substantially limited in one or more major life activity 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. However, ameliorative effects of mitigating measures may be relevant as to whether a student needs any specific accommodation or a 504 accommodation plan.
4. **Temporary Impairments.** 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.

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. Placement Procedures

The Section 504 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.

After determining a student has a disability, but as part of its determination as to whether or not the student needs accommodations, special education, and/or related services and supports due to that disability, the team may consider the student's use of mitigating or ameliorative measures.

In interpreting evaluation data and in making placement decisions, the district will (1) draw upon information from a variety of sources, as appropriate, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background and adaptive behavior; (2) ensure that information obtained from all such sources is documented and carefully considered; and (3) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the student, the meaning of the evaluation data, and the placement options; and (4) ensure that the student is educated with the student's non-disabled peers to the maximum extent appropriate.

Parents and guardians of students who have a plan developed under Section 504 will be provided a copy of the district policy (see Policy 3246) on the use of isolation and restraint at the time that the plan is created.

If the district affords a free appropriate public education to a disabled student but the parent chooses to place the student elsewhere, the district is not responsible for the cost of the student's 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, the district will re-evaluate students every 3 years. A reevaluation is also required before any “significant change of placement” of such students.

Examples of “significant change in placement” include:

1. Expulsion;
2. Suspensions which exceed ten consecutive days in a school year;
3. Cumulative short-term suspensions which create a pattern of exclusion;
4. Transferring a student to home instruction; and/or
5. Significantly changing the student’s access to non-disabled peers, in either the student’s academic or non-academic settings.

K. 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, and interest groups or clubs sponsored by the district. 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 consistent with their abilities and needs.

L. Preschool and Adult Education Programs

In the operation of preschool education, or day care 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.

M. Disciplinary Exclusion

1. **Exclusions.** Certain disciplinary exclusions of disabled students from school constitute a significant change in the student’s educational placement. A disciplinary change in the student’s educational placement occurs if the student has been suspended for more than ten consecutive

days or if the disciplinary exclusions constitute a “pattern of exclusion” (defined below). Such disciplinary exclusions cannot be implemented unless the district first determines that the student’s misconduct which led to the disciplinary exclusion was not a manifestation of the student’s disability.

A pattern of exclusion occurs if:

- a. The removal is for more than ten cumulative school days in a year; and
- b. The student’s behavior is substantially similar to the behavior that the student was previously removed for.

Additional factors to consider are the length of each removal (the total amount of time the student has been removed, and the proximity of the removals to one another). The school must determine on a case-by-case basis whether a pattern of removals is significant enough to constitute a change in placement.

2. **Manifestation Determinations.** If a disciplinary exclusion (a suspension of more than 10 days duration) or regular expulsion which constitutes a change in placement is implemented, 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 the student’s misconduct is a manifestation of the student’s disability. The misconduct is considered a manifestation of the disability if the conduct was caused by, or had a direct and substantial relationship to the student’s disability. This manifestation determination will take into account the student’s current evaluation and accommodation under the Section 504 Plan. 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 determined not to be disability-related. However, Washington state law requires the district to provide educational services to all students during a period of suspension or expulsion (See Policy /Procedure 3241 and 3241P). When a student’s misconduct is determined to be a manifestation of the student’s disability procedures in #3 below will be instituted in lieu of either long-term suspension or expulsion.
3. **Conduct that is a Manifestation of a Disability.** When a student has engaged in misconduct which is a manifestation of the student’s disability, expulsion and/or long term suspension should not be imposed if it would result in a change in educational placement as defined above. Lost school days will be measured cumulatively over the period of the entire school year, with any short term suspensions 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 this circumstance, the Section 504 team will meet to determine if there is a need for further evaluation or a change of program. If further evaluation is recommended, it will be conducted as soon as reasonably possible.

4. Consistent with the district’s IDEA procedures, a student may be removed to an interim alternative educational setting for up to 45 school days, if, at school, on school premises, or at

a school function, the student carries a weapon to or possesses a weapon or has inflicted serious bodily injury upon another person, even if the conduct is related to the student's disability.

5. **Right to Challenge.** Students and their parent/guardian will be notified of the results of the manifestation decision and of their right to challenge this decision.
6. **Drugs or Alcohol.** Students who are considered disabled under Section 504 are subject to the same disciplinary processes and results as non-disabled students for misconduct involving the use, sale or possession of drugs or alcohol at school or school-sponsored events or activities. In such circumstances, the procedural safeguards and requirements regarding change of placement do not apply.

N. **Restraint or Isolation**

Restraining or Isolation of students who have a Section 504 plan will be authorized only under the limited circumstances specified in Policy and Procedure 3246. Each incident will require reporting and parent/guardian notification as specified in that policy and procedure.

O. **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 greater cost to the parent than would otherwise be incurred by the parent if the district placed the student in a program operated by the district.

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 parent or guardian will be provided with notice of the results of such determinations and of their right to challenge such determinations.

P. **Procedural Safeguards**

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

1. **Assurance.** Provide written assurance of non-discrimination whenever the district receives federal money.
2. **Designation of Employee.** Designate an employee to coordinate the district's Section 504 compliance activities. The Section 504 Coordinator for the district is the Executive Director of Academic Services.
3. **Grievance Procedures.** Provide grievance procedures to resolve complaints of discrimination under Section 504. Students, parents or employees are entitled to file such grievances. The

grievance procedures for the district are set out in the Procedure for Board Policy 3210, Nondiscrimination.

4. **Notice.** Provide notice to students, parents/guardians, 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 District's student/parent handbooks.
5. **Locate.** Adopt procedures intended to identify and locate all Section 504 qualified disabled children in the district's jurisdiction;
6. **Annual Notification.** Annually take appropriate steps to notify disabled children and their parents/guardians of the district's responsibilities under Section 504; and
7. **Procedural Safeguards.** 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, accommodations, special instruction or related services. Procedural safeguards will include:
 - a. Notice of parent/guardian procedural rights;
 - b. An opportunity to examine their student's relevant records;
 - c. An impartial hearing, initiated by either the parents/guardian or the district, with opportunity for participation by the student's parents/guardians and representation by legal counsel. Such impartial hearing must be initiated within two years of the date that of the hearing shall bear the burden of proof and shall present their evidence first at the hearing; and
 - d. A review procedure. Any such review will be in writing, addressed to the Superintendent or designee. Such written review request must be received by the Superintendent or designee within ten (10) school business days of the decision(s) subject to review. The Superintendent or designee will only consider information available at the impartial hearing. The Superintendent or designee will then issue a written decision addressing the substance of any timely review request, as determined by the Superintendent or designee. Such written decision will be the final decision of the district, subject only to review by the courts.

Impartial hearing or mediation requests must be made directly to the district's Section 504 Coordinator.

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. Facilities alterations commenced June 3, 1977, that affect or could affect the facility's usability must be accomplished so that , to the maximum extent feasible, the altered portion of the facility is assessible and usable by persons with disabilities.
3. 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.
4. District recognition of the meaning onf the phrase "to the maximum extent feasible." This provision covers the instance where the nature of an existing facility is such that it is impractical or phohibitively expensive to renovate in a manner that results in it being entirely barrier free. However, in all of these instances, the alternation 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. Section 504 excludes persons who are "currently engaging in the illegal use of drugs" from the definition of individuals with disabilities. Therefore, the 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 the student is currently using drugs. The district can treat the student as it treats non-disabled students.

Unlike students engaged in the illegal use of drugs, students whose alcoholism constitutes a disabling condition under Section 504 and who continue to use alcohol may be protected by Section 504.

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