



Section 504 and ADA Procedures Manual

Identification, Evaluation, and
Provision of Support to
Students with Disabilities



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Introduction

*Equality is giving everyone a shoe.
Equity is giving everyone a shoe that fits.*

~Unknown

Section 504 of the Rehabilitation Act of 1973 (“Section 504”) and the Americans with Disabilities Act (“ADA”) of 1990, each prohibit discrimination on the basis of disability. These laws apply to students with disabilities in public school districts and other local educational agencies.

The purpose of this manual is to provide schools with a comprehensive, step by step framework by which to identify, evaluate, and provide support to students with disabilities under each of these laws.

This manual is the result of over fifteen years of hands on, diverse experience, working with school district administrators, teachers, and other service providers in order to understand the complexities of addressing the needs of students with disabilities, and the difficulties that often arise, in navigating the legal nuances of Section 504 and the ADA.

While the Office for Civil Rights, the federal agency charged with enforcing Section 504 and Title II of the ADA, states that students must be given “equal access” or an “equal opportunity” to participate in a public school’s educational programming and activities, this manual, and the Section 504 and ADA training that accompanies it, goes beyond *equal* access in an attempt to ensure *equitable* access.

In other words, Section 504 and the ADA must be implemented with the mindset that each student’s individual circumstances (not just assumptions based upon the “label” of their impairment), must be carefully considered in deciding:

- If the student meets 504/ADA eligibility criteria;
- Whether the student requires supports and accommodations beyond those available to all students; and if so,
- Which specific supports and accommodations must be provided.

It is my hope that this manual provides public school districts and other local educational agencies with all the tools necessary to tackle the “typical” Section 504 request, from start to finish, as well as the more complex or nuanced Section 504 and ADA cases that do occasionally arise.

With gratitude and admiration for your ongoing support to all students and public education,

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Section 504 and ADA Procedures Manual

Identification, Evaluation, and Provision of Support to Students with Disabilities

I. Purpose of Section 504

Section 504 of the Rehabilitation Act of 1973 (“Section 504”) is an anti-discrimination statute that prohibits discrimination against individuals with disabilities. Specifically, Section 504 reads: “No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. . . .” (29 U.S.C. § 794(a).) The District is a recipient of Federal financial assistance, and thus, is subject to Section 504. This law also provides that identified individuals with disabilities shall be placed in the least restrictive educational environment. (34 C.F.R. § 104.34(a).

II. Purpose of the Americans with Disabilities Act

The Americans with Disabilities Act (“ADA”) was signed into law on July 26, 1990, and was amended by the Americans with Disabilities Act Amendments Act (“ADAAA”) in 2008. It is often still just referred to, though, as the “ADA.” Like Section 504, Title II of the ADA also prohibits discrimination on the basis of disability in programs, activities and services provided by public entities.

III. Definitions

Disability: A student with a disability under Section 504 or the ADA is one who:

- 1) has a physical or mental impairment that substantially limits one or more major life activities;
- 2) has a record of such impairment; or
- 3) is regarded as having such an impairment.

However, unless a student actually has an impairment that substantially limits a major life activity, the mere fact that a student has a "record of" or is "regarded as" disabled is insufficient, in itself, to trigger those Section 504 protections that require the provision of a free appropriate public education (i.e. a Section 504 Plan).

In addition, an individual is not "regarded as" an individual with a disability if the impairment is transitory and minor. A transitory impairment is one with an actual or expected duration of 6 months or less.

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FAPE: the provision of regular or special education and related aids and services designed to meet individual educational needs of disabled persons as adequately as the needs of non-disabled persons are met. 34 C.F.R. § 104.33(b). The provision of a FAPE to a Section 504 eligible student is documented via a Section 504 Plan. FAPE should provide equal access or, in accordance with Multi-Tiered System of Support objectives, *equitable* access.

Physical or Mental Impairment: (1) 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, genitourinary; hemic and lymphatic; skin; and endocrine; or (2) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Examples of physical or mental impairments include, but are not limited to: mobility impairments, medical conditions such as epilepsy, hemophilia, diabetes, AIDS, arthritis, allergies/asthma, tuberculosis, cancer, spina bifida, cerebral palsy, and ADHD.

**An impairment alone is insufficient to qualify a student as disabled under Section 504. The impairment must also substantially limit at least one major life activity. The existence of an impairment is, however, a reason to suspect a disability and should trigger consideration for a Section 504 evaluation.

Substantially Limits: The term “substantially limits” is not defined under Section 504. However, pursuant to the 2008 Americans with Disabilities Amendments Act (“ADAAA”), it means something less than “significantly restricted.” In addition, an impairment that substantially limits one major life activity need not also limit other major life activities. Also, an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

Major Life Activities: Major life activities are functions including, but not limited to: caring for one’s self, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and operation of a bodily function. Section 504 teams may determine that another activity not listed herein is a major life activity for that student. For example, a Section 504 team may determine that homework completion, or socialization, is a substantially limited major life activity for a particular student.

Mitigating Measures: The determination of whether an impairment substantially limits a major life activity must be made without regard to the ameliorative effects of mitigating measures, including but not limited to:

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1. Medication or medical equipment;
2. Use of assistive technology;
3. Reasonable accommodations or auxiliary aids or services;
4. Learned behaviors, strategies or significant academic over-compensation (e.g. the student routinely spends 4 hours on assignments which nondisabled students can complete in 1 hour);
5. Private therapy, counseling, or tutoring.

The term “auxiliary aides and services” includes:

1. Qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;
2. Qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;
3. Acquisition or modification of equipment or devices; and
4. Other similar services and actions.

In essence, a “mitigating measure” is anything that the student has, does, or is provided, that helps the student cope with the effects of his/her impairment.

Technically Eligible: Because Section 504 teams must discount the ameliorative effects of mitigating measures when determining if a student meets Section 504 eligibility criteria, there are some occasions wherein a student will “technically” meet eligibility criteria— insofar as they have an impairment that substantially limits one or more life activities. However, that student regularly comes to school with their mitigating measures in place (e.g., they come to school on their medication). And, with those mitigating measures in place, they do not require any additional accommodations or supports beyond those provided to all general education students in order to have equitable access to the educational environment. When a Section 504 multidisciplinary team determines a student is technically eligible, they are still entitled to the non-discrimination protections of Section 504; however, they are not entitled to (because they do not need) a Section 504 Plan. Such students are still entitled to general education accommodations, for example, an individualized health plan, if they require one.

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IV. Referral Procedures: Form A

1. The District must identify and evaluate any student whom it suspects has a disability that would result in eligibility (or technical eligibility) under Section 504.
2. Each school within the District shall designate a school site Section 504 Coordinator to be responsible for implementing the District's referral and evaluation procedures.
3. A student may be referred by a parent/guardian (hereinafter, for ease of reference, "Parents" or "Parent"), teacher, or any other school employee for consideration as to whether the student should be evaluated under Section 504. Within **10 calendar** days of a written or verbal referral, the school site Section 504 Coordinator shall give the referring person the District's **Section 504 Referral Form (Form A)** and, if the referring party is a Parent, should also provide the Parent with a copy of the **District's 504 Procedural Safeguards**.
4. The District has an affirmative responsibility to ensure that students are evaluated if there is reason to suspect that they may qualify under Section 504. This is commonly referred to as the District's "child find" obligation. Therefore, it is important that students who are or may be disabled are referred to the school site Section 504 Coordinator, so that the evaluation process may be initiated, as appropriate. Some *examples* of students who should be considered for referral include, but are not limited to, the following:
 - A student with medical conditions such as severe asthma, diabetes, severe allergies or ADHD;
 - A student who uses a wheelchair or other mobility device on a non-temporary basis;
 - A student with a degenerative neurological disorder, a student who is missing a limb, or a student with other impaired manual skills;
 - A student with poor or failing grades over a lengthy period of time;
 - A student with frequent referrals for behavioral problems;
 - A student who has excessive physical or mental health-related absences.

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5. It is important to note that a student need not necessarily be struggling *academically* in school, in order for a District's child find obligation to arise. This is because a student could have a substantial limitation in major life activity other than learning, concentrating, reading, etc. For example, the student could be substantially limited in the function of their endocrine system if they have diabetes and, thus, be eligible, or technically eligible, under Section 504.

V. Initial Evaluation Procedures: Forms B, C, D, E

1. Review of Existing Data ("RED") Meeting

- a. Within **15 school** days of receipt of the completed Section 504 Referral (Form A), the school site Section 504 Coordinator shall **schedule and convene** a multidisciplinary 504 team to review existing data for the student. The 504 Coordinator shall utilize the **Section 504 Meeting Notice (Form C)** to notify Parents of the initial 504 meeting.
- b. If the Section 504 referral was generated as a result of a doctor, psychiatrist or other private provider's recommendation, the Section 504 Coordinator shall provide Parents with a **release of information, as soon as possible and, prior to the RED meeting**, to gather additional information from those individuals or agencies. The **Medical Provider Questionnaire (Form L)** may also be used to gather relevant information in conjunction with, or in lieu of, the release of information.
- c. Also prior to the RED meeting, the Section 504 Coordinator shall provide each of the student's teachers with a **Teacher Input Form (Form B)**. Teachers should be strongly encouraged to complete the form, and, if possible, also attend the scheduled 504 meeting.
- d. The 504 multidisciplinary team should be composed of the student's Parents and other persons knowledgeable about:
 - the student (such as the student's regular education teachers);
 - the student's school history;
 - the student's individual needs (such as a person knowledgeable about the student's impairment);
 - the meaning of evaluation data; and

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- the options for placement, services, supports and/or accommodations.
- e. The purpose of this initial 504 meeting will be to complete the **RED (Form D)** and determine whether any additional formal assessments are necessary in order to determine the student's eligibility under Section 504.
- f. The decision regarding what formal assessments, if any, are necessary shall be based upon the team's review of the student's school records (including academic, social, and behavioral records), any relevant medical records, and team member input. The school site Section 504 Coordinator shall complete the **RED (Form D)** to document the data reviewed.
- g. **In many instances, the RED, alone, will be sufficient for the Section 504 multidisciplinary team to move forward and make an eligibility determination and decision. If this is the case, the team should proceed with completion of the Section 504 Eligibility Determination and Decision (Form E) in the same meeting.**
- h. The completed RED (Form D) and, if applicable, Section 504 Eligibility and Decision (Form E) should be given to Parents within a reasonable time after the Section 504 meeting.

2. Formal Assessments - On As Needed Basis

- a. In the event the Section 504 multidisciplinary team determines that the information gathered through the RED process is insufficient and additional formal assessment or information collection is needed, **the Section 504 Coordinator shall consult with relevant staff persons (e.g. school psychologist, school nurse, etc.,** to determine which boxes on the **Section 504 Formal Assessment Plan (Form F)** to "check" in order to gather all necessary data.
- b. In the event school staff believe that **many** (i.e., more than two or three) areas of assessment are necessary, school staff should consider making a referral for an IDEA assessment, in lieu of completing the 504 evaluation process.
- c. Within **5 calendar** days of the initial 504 meeting in which the team completed the RED Form D, the Section 504 Coordinator shall provide Parents with the District's **Section 504 Formal**

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Assessment Plan (Form F). Written consent shall be obtained for any formal assessments determined necessary for the student. If Parents refuse to provide such consent, the student shall be considered to be non disabled under Section 504 and shall remain a regular education student. The District may, but is not required to, utilize the due process procedures identified in the District's 504 Procedural Safeguards to obtain consent to an initial assessment request.

- Parents must provide consent to the entire assessment plan and may not agree to only some of the requested assessments or areas of assessment.
- However, Parents may request modification to the assessment plan. If such a request is made, the Section 504 Coordinator shall send Parents a **Notice of Action (Form H)**, within **10 calendar** days, agreeing or disagreeing with Parents' proposed modification. If the modification is agreed upon, a new (re-dated) copy of the Section 504 Formal Assessment Plan shall be prepared and attached to the Notice of Action.
- As part of the District's formal assessment and, within the assessment plan, Parents may be asked to provide a written release to speak with and/or obtain information from the student's physician, psychologist, or other health care providers. If such information is necessary to complete the assessment process, and Parents withhold such consent, the District shall treat such refusal as a refusal to consent to the initial assessment, and the student shall be considered to be non disabled under Section 504 and shall remain a general education student.
- The information that can be obtained when a release of information for medical information is sought through an assessment plan is limited to only that which is necessary to 1) determine the existence of a mental/physical impairment; 2) which major life activities are impacted; 3) the degree of limitation such an impairment causes upon those major life activities; **and/or** 4) recommended school based supports and/or accommodations, and the rationale for such recommendations.
- A release of information for medical information may only be sought through an assessment plan from student's "relevant"

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medical providers. A "relevant" provider is defined as one who has already provided some documentation to the District and/or a provider Parents have previously referenced in conjunction with a request for a 504 evaluation.

- d. For students requiring additional formal assessment in order to make an eligibility determination, the District shall ensure, in accordance with 34 C.F.R. § 100.35, that:
- Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer;
 - Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and
 - Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).
- e. The evaluation of the student, whether through a review of existing data alone, or through formal assessment, must be sufficient for the Section 504 Team to accurately and completely describe: (a) the nature and extent of the disabilities; (b) the student's special needs; and (c) what regular or special education and/or related aids and services are appropriate to ensure that the student receives a free appropriate public education. All significant factors relating to the learning process for that student, including adaptive behavior and cultural and language background, must be considered.
- f. The formal assessment may include, but is not limited to: classroom and playground observation, performance-based testing, academic assessment, information and data offered by the student's teachers and parent/guardian (e.g. rating scales), etc. In addition, if a release of information with a medical provider is insufficient, or there are no current medical providers, and a

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medical evaluation is necessary in order to determine eligibility, such evaluation shall be provided at no cost to Parents.

- g. Within **60 calendar** days (not including school holidays, emergency school closures, or school vacations) of receipt of consent to the Assessment Plan (Form F), the Section 504 Coordinator shall reconvene a Section 504 team meeting to review and consider the results of those assessments. Again, the Section 504 Team shall be composed of the student's Parents and other persons knowledgeable about the student (such as the student's regular education teachers), the student's school history, the student's individual needs (such as a person knowledgeable about the student's disabling condition), the meaning of evaluation data, and the options for placement, services, and/or accommodations.
- h. Considering the results of the formal assessments and the information initially obtained through the review of existing data, the Section 504 multidisciplinary team shall then make an eligibility determination and decision utilizing the **Section 504 Eligibility Determination and Decision Form E**.
- i. The completed Section 504 Eligibility and Decision (Form E), should be given to Parents within a reasonable time after the Section 504 meeting.

VI. Initial Section 504 Plan—Provision of a FAPE: Form G

- 1. On the same day as, or within **15 school** days of, a determination of eligibility under Section 504, the Student's Section 504 multidisciplinary team shall complete the student's **Section 504 Plan (Form G)**. As a reminder, a Section 504 Plan should not be completed for students who are determined to be only *technically eligible*.
- 2. For each eligible student, the Section 504 Team shall develop a Section 504 Plan describing the student's disability and the accommodations and supports necessary for the student to have equitable access to the educational environment.
- 3. Each agreed-upon Section 504 accommodation or support must be **reasonably linked**, both to the identified impairment(s) AND to the major life activity or activities the Section 504 team determined to be substantially limited. In addition, each must be **necessary** for equitable access.

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4. The Section 504 Plan should specify **where** the accommodations/supports will be provided (e.g. the classroom, the hallways, the lunch area, etc.) and **who** (e.g. teacher, counselor, etc.) is responsible for providing each accommodation/support. The Section 504 Plan should also specify which of the accommodations will be applicable to an Emergency Distance Learning (“EDL”) situation.
5. A student or Parents should not be solely responsible for any accommodation or support, as the Section 504 Plan is the *District’s* obligation to implement.
6. Other Actions Portion of the Section 504 Plan. If Parents or the student must necessarily be responsible for a specific action (e.g. checking a planner at home), it should be listed under the “Other Actions” section of the Section 504 Plan. Other Actions can also include “one off” things that the District is responsible for such as an annual notification to parents, or a specific training to be given to staff.
7. Attaching Additional Documents to the 504 Plan. The Section 504 team should consider whether an individual health plan, behavior plan, or other documents should be “attached” to the Section 504 Plan and incorporated by reference.
8. Parent Consent to Initial Provision of Section 504 Plan. The Section 504 Coordinator must obtain at least one Parent’s consent to implement an initial Section 504 Plan. The Section 504 Coordinator shall document all attempts to obtain Parent consent.
9. Disagreement *Between Parents* Regarding Consent to the Initial Section 504 Plan. If one Parent consents to implementation of an initial Section 504 Plan, but another Parent refuses consent, the District shall request Court Documents to determine which parent has educational decision-making authority. If both Parents have equal educational decision-making authority, the District shall implement the Section 504 Plan based on one Parent’s consent and provide a **Notice of Action (Form H)** to both Parents, informing them that implementation is in the best interest of the student at the present time. The Notice of Action should further indicate that the District will halt implementation upon receipt of a Court Document indicating that the non-consenting parent has superseding educational authority.
10. Notice to Staff. The Section 504 Coordinator shall notify the student’s teacher(s), and any other staff who are to provide accommodations or supports to the student within **2 school** days of receipt of Parent’s consent to an initial Section 504 Plan. Each staff person who is responsible for

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implementing the Section 504 Plan should be provided with a full copy of the Section 504 Plan. Additionally, copies of each Section 504 Plan developed shall be kept in the student's cumulative file in a manner that limits access to only those persons involved in the Section 504 process and/or the provision of accommodations and supports.

11. Least Restrictive Environment. A Section 504 eligible student shall be placed in the regular education environment unless the evaluation data indicates that the student's needs cannot be met in the regular education environment with supplementary aids and services. A Section 504 eligible student shall be educated with students who are not disabled to the maximum extent appropriate to his/her individual needs.
12. The Section 504 Plan shall include a schedule for annual review of the student's Section 504 Plan and triennial review of the student's eligibility.

VII. Annual Review for Section 504 Eligible Students

1. Eligible Students. The Section 504 Team shall monitor the progress of the Section 504 eligible student and the effectiveness of the student's Section 504 Plan. According to the review schedule set out in the student's Section 504 Plan, the Section 504 Team shall, at least on an annual basis, re-convene to determine whether the designated accommodations and supports continue to be appropriate. Parents should be invited and encouraged to attend these meetings, but the annual review meeting may be conducted in Parents' absence if they refuse to attend. The team need only review and revise the student's **Section 504 Plan (Form G)** during this meeting.
2. Technically Eligible Students. Technically eligible students are also entitled to annual review meetings. The Section 504 team should re-convene on at least an annual basis to discuss whether the student's needs have changed and, if so, whether the student now requires accommodations or supports beyond those provided to all general education peers. If the team wishes to change student's status from "technically eligible" to "eligible," it should prepare a new **Section 504 Eligibility Determination and Decision Form E** to document the change in eligibility and complete a **Section 504 Plan (Form G)** for the student.
3. Parent Consent to Annual Section 504 Plan. Parent consent to implement a student's annual Section 504 Plan should actively be sought and efforts should be documented by the Section 504 Coordinator. However, a student's annual Section 504 Plan may be implemented, without Parent consent, after 60 days have elapsed, unless Parent has filed a Section 504 due process hearing contesting the Section 504 Plan in that time

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period. **Prior to unilaterally implementing an annual Section 504 Plan, a Notice of Action (Form H) should be sent to Parents documenting the decision to implement, notwithstanding lack of Parents' consent, and the basis for that decision.**

- **Stay-Put:** There is no explicit "stay-put" requirement under Section 504. However, the Office for Civil Rights has indicated that where a parent has filed a request for an impartial hearing to challenge a proposed change, a "fair" due process system would allow the student to "stay-put" with his/her current placement/supports/accommodations pending the outcome of the hearing. The District should consult with legal counsel when this issue arises.
4. Notice to Staff. The Section 504 Coordinator shall notify the student's teacher(s) and any other staff who are to provide accommodations or supports to the student within **2 school** days of receipt of Parent's consent to an annual Section 504 Plan. Each staff person who is responsible for implementing the Section 504 Plan should be provided with a full copy of the Section 504 Plan. Additionally, copies of each Section 504 Plan developed shall be kept in the student's cumulative file in a manner that limits access to only those persons involved in the Section 504 process and/or the provision of accommodations and supports.

VIII. Home Instruction Due to Medical Necessity

1. **General information:**
- a. An assigned Home Instruction teacher works directly with the student in the home environment, providing specific course and/or grade-level instruction.
 - b. Home instruction is designed to keep the student connected to their neighborhood school and to provide on-going instruction during a medical doctor's diagnosed times of physical or mental illness that preclude the student from physically attending their neighborhood school program.
 - c. The school site Section 504 Coordinator and the student's school site teacher(s) work in concert with the Home Instruction teacher, guiding the instructional activities by providing materials (e.g. instructional scope and sequence, applicable textbooks, supplementary books/materials, project overviews, quizzes or tests) as are required for the student to complete their work.

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2. In considering the needs of students with chronic illnesses or with medical conditions that are reasonably likely to require hospitalization and/or extended absences, or for students who otherwise have a Section 504 Plan and require a temporary home instruction due to an unrelated transitory and minor impairment, Section 504 teams should consider whether Home Instruction should be included in the student's Section 504 Plan to support the student.
3. If a Parent requests Home Instruction for an already eligible Section 504 student, the District will follow its typical general education Home Instruction requests process, except that the Section 504 team must convene to discuss and approve the change in placement to Home Instruction.
 - a. The student's Section 504 team should meet to review the circumstances, medical information and parent request to determine whether the student should be permitted to receive Home Instruction.
 - b. If so, the Section 504 team shall also review and revise the student's Section 504 Plan, as necessary, to provide appropriate accommodations, if any, during the period of Home Instruction, and to indicate the anticipated duration of the Home Instruction.
 - c. The Section 504 team should re-convene prior to the end of the Home Instruction to re-visit the student's needs and review and revise the Section 504 Plan.
4. **Creation of Home Instruction Teaching Supports Within a Section 504 Plan:** When creating a Section 504 Plan that includes Home Instruction, teams should specify the following within the Section 504 Plan:
 - a. The duration and frequency of the Home Instruction. When determining the appropriate duration and frequency, Section 504 teams should consider medical doctors' orders and the student's educational needs for access to the educational environment;
 - b. The subject matter(s) to be taught;
 - c. Which staff member (likely the school site Section 504 Coordinator) will be responsible for coordinating the student's receipt of school work;

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- d. Which, if any, of the student's existing Section 504 accommodations/supports continue to be applicable in the home environment and will continue to be implemented during Home Instruction;
- e. A specified date for a future Section 504 meeting to plan for the student's return to school.

IX. Re-Evaluation of Section 504 Eligibility

1. A re-evaluation of the student's Section 504 eligibility shall be conducted at least on a **triennial** basis and, as with the initial evaluation, may be comprised of just a review of existing data utilizing Form D. As with an initial evaluation, re-evaluations comprised of only a review of existing data do not require parental consent.
2. A re-evaluation must also occur before any subsequent significant change in placement. Some examples of a significant change of placement include, but are not limited to:
 - Disciplinary sanctions are imposed as follows (see also Section XI below):
 - A student is up for expulsion; or
 - A student is subject to a series of short-term suspensions that, together, create a pattern of exclusion.
 - Removal of eligibility is being proposed; or
 - A student is offered placement in a setting outside of general education.
3. If the student's Section 504 multidisciplinary team determines that the student requires formal assessment as part of the re-evaluation, Parental consent must be obtained to an assessment plan. If Parents refuse to consent to a re-evaluation assessment plan, per guidance from the Office for Civil Rights, the District must initiate due process procedures to obtain parental consent.

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X. Transfer Procedures

1. Internal Transfers: When Section 504 students transition between schools in the District, each school site Section 504 Coordinator shall contact the receiving school's site Section 504 Coordinator to discuss whether a re-evaluation is necessary and/or whether the student's Section 504 Plan should be revised to address the changing educational environment. If so, the student's Section 504 multidisciplinary team shall be convened to address these issues and to discuss the educational impact of the transfer.
2. External Transfers: When Section 504 students transition in from another school district, the District shall request records from the sending school district, including copies of any 504 evaluations, eligibility determinations and Section 504 Plans. Upon receipt of such records, the school site Section 504 Coordinator shall determine whether to initiate a re-evaluation. In all cases of external transfers, a Section 504 multidisciplinary team should be convened within 30 school days of receipt of the student's prior Section 504 Plan to discuss any necessary changes. Any existing Section 504 Plan from another school district must be implemented until the District convenes its own Section 504 meeting.

XI. Discipline Procedures: Form I

1. There is no explicit manifestation determination requirement under Section 504. However, the Office for Civil Rights has indicated that a manifestation determination similar to those conducted under the IDEA will fulfill the District's obligation to "re-evaluate" a student before a significant change of placement, including expulsion or a pattern of disciplinary removals.
2. If a student has been recommended for expulsion, the student's Section 504 multidisciplinary team shall conduct a manifestation determination within 10 school days of the date of the decision to change the student's placement through a disciplinary removal. In addition, if the total number of days of suspension for an instance of misconduct is ten (10) or less, but the student has accumulated more than 10 days of suspension total in a school year, the administration must consider whether a pattern of exclusion has been created. If so, a manifestation determination shall also be conducted in that circumstance.
3. Parents shall be invited and encouraged to attend, but are not mandatory participants. At a minimum, the principal or assistant principal recommending the disciplinary change in placement and the school psychologist should attend the Section 504 meeting, in addition to the

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Section 504 Coordinator. The student's teacher(s) should also be encouraged to attend. The team should complete **District Form I** during the manifestation determination meeting.

4. If the team determines that the behavior in question is not a manifestation of the student's disability, the student may be treated the same as nondisabled students and may be suspended and/or expelled in accordance with the District's policies and procedures. In this circumstance, no supports or accommodations are required during the period of suspension/expulsion, unless such services are provided to nondisabled students during suspension/expulsion.
5. If the team determines that the behavior in question is a manifestation of the student's disability, the student may not be further suspended or expelled for the offense in question, and the team should discuss: (a) whether a change of placement, re-evaluation and/or additional supports and/or accommodations are necessary; (b) whether the student requires behavioral assessments and/or a behavior plan; and/or (c) whether the student should be referred for an evaluation pursuant to the IDEA.
6. Drug/Alcohol Use Caveat: A student who is otherwise eligible under Section 504, but is currently engaged in the illegal use of drugs or alcohol, and is being disciplined for such use (or possession), is not entitled to a manifestation determination for such use and/or possession, and may be disciplined for those offenses as if he or she were a nondisabled student.
7. If a student is subject to a disciplinary change of placement for drug/alcohol use or possession AND simultaneously, also for another offense (for example, bullying), the Section 504 team must still conduct a manifestation determination for the second **non** - drug/alcohol - related offense.

XII. Transitory and Minor Impairments: Form J

Impairments that are **both** transitory (having an actual or expected duration of 6 months or less) AND minor, do not constitute a disability under Section 504. For example, if a student sustains a broken arm that is expected to heal in 2 months, the student may need to use speech to text and have a set of textbooks for home. The District may voluntarily accommodate a student's transitory and minor impairment without the student being "regarded as" having a disability under Section 504. Should the District wish to do this, the school team may utilize **District Form J** to document such voluntary supports and/or accommodations. Staff should monitor the transitory and minor impairment status, as sometimes such impairments can become disabilities. For example, while a mild concussion may be a transitory and minor impairment, it could result in post-concussive syndrome, thereby warranting a Section 504 evaluation.

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XIII. Section 504 Due Process Hearing Procedures: Form K

1. The District has designated the following person as its District-wide Section 504 Compliance Officer: Gil Ogden, 1574 Canal Drive, Turlock, CA, (209) 667-0632



The Section 504 Compliance Officer is responsible for coordinating the District's compliance with Section 504, including addressing complaints regarding the identification, evaluation, or educational placement of a student with a disability under Section 504 and complaints alleging discrimination or harassment of a student based on his/her actual or perceived disability.

2. Parents shall be notified in writing of final District decisions regarding the identification, evaluation, or educational placement of students with disabilities or suspected disabilities, and shall be provided with a copy of the Section 504 Procedural Safeguards, at a minimum when provided with a Section 504 meeting notice.
3. If a Parent disagrees with the identification, evaluation, or educational placement of a student with a disability or suspected disability under Section 504, he/she may request a hearing to initiate due process procedures. The Parent shall set forth in writing his/her request for a hearing and include all of the following:
 - The circumstances giving rise to the request for hearing, including all relevant facts;
 - The specific issues to be decided at the impartial due process hearing; and
 - The relief requested.
4. Parent requests for a Section 504 due process hearing shall be made to the District's Section 504 Compliance Officer, named above. If a request for hearing is made to another staff person, that person shall transfer the request to the District's Section 504 Compliance Officer.

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5. Parent or District requests for a due process hearing must be made **in writing and within 60 calendar days from date of the District's written notice of proposed or refused action.** Parents may utilize the District **Section 504 Request for an Impartial Due Process Hearing (Form K)**, but are not required to do so, as long as the written request provides all relevant information indicated above.
6. The Section 504 Compliance Officer shall maintain a list of impartial hearing officers who are qualified to conduct hearings, knowledgeable about Section 504, and willing to conduct Section 504 hearings. To ensure impartiality, such officers shall not be employed by or under contract within the District or the County Office of Education in any capacity, other than as a Section 504 hearing officer, and he/she shall not have any professional or personal involvement that would affect his/her impartiality or objectivity in the matter.
7. The District may offer the Parent the option to participate in an alternative dispute resolution process. However, the timeline for the hearing, outlined below, shall remain in effect unless it is extended by mutual written agreement of the Parent and the District. Alternative dispute resolution options include:
 - Mediation by a neutral third party;
 - Informal dispute resolution meeting; and/or
 - Review of the Section 504 Plan by the District's Section 504 Compliance Coordinator.
8. Hearing Timelines:
 - a. Within **20 calendar** days of receiving the Parent's request, the District's Section 504 Compliance Officer shall appoint and retain a single impartial hearing officer to hear and decide the case. The District is not required to consult with the Parent with respect to the hearing officer appointment. The **20 calendar** day timeline to appoint and retain a single impartial hearing officer may be extended for good cause or by mutual agreement of the Parent and the District.
 - b. Within **45 calendar** days of the selection of the hearing officer, the due process hearing shall be conducted. These **45 calendar** days may be extended by the hearing officer for good cause or by mutual agreement of the Parent and the District.
 - c. The hearing officer shall issue a written decision within **30 calendar** days of the hearing unless the District and Parent agree otherwise.

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9. The hearing shall be conducted at a time and place mutually agreeable to the District and Parent. The District's facilities are presumed to be a mutually agreeable location; however, the Parent may challenge that presumption with the hearing officer by filing a motion to have the hearing at another location within the District's boundaries. If the hearing officer grants such a motion, any expense associated with the new location shall be borne by the Parents.
10. The issues for the hearing shall be limited to those raised in the due process complaint, unless the other party agrees.
11. Parents and the District shall be afforded the right to:
 - Be accompanied and advised by legal counsel (at their own expense) and/or by individuals with special knowledge or training related to the individual needs of students who are qualified as disabled under Section 504;
 - Present written and oral evidence;
 - Question and cross-examine witnesses, including the student; and
 - Receive written findings and conclusions by the hearing officer.
12. The Parent shall, in his or her discretion alone, elect whether to have the hearing open to the public or closed to the public. The Parent shall also, in his or her discretion alone, elect whether the minor student shall be present during the hearing.
13. The District is responsible for costs related to the impartial hearing, including compensation of the hearing officer. As noted above, the District is not responsible for the costs of Parent's legal counsel or any other Parent representative or Parent-secured witness.
14. If desired, either party may seek a review of the hearing officer's decision by any court of competent jurisdiction. The hearing officer's decision shall be implemented unless the decision is stayed, modified, or overturned by a court.

XIV. Americans with Disabilities Act: Forms M and N

1. As noted in Section II of these Procedures, the ADA prohibits discrimination on the basis of disability in public schools (among other places). If a student has an identified physical or mental impairment that

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substantially limits a major life activity, and requires an accommodation or support that is not otherwise provided to the student pursuant to the District's FAPE obligations under the IDEA or Section 504 of the Rehabilitation Act, the District may accommodate that student pursuant to the ADA.

2. In the event a student requests an accommodation or support under the ADA that is not otherwise provided via the student's IEP or Section 504 Plan, an **ADA Student Referral (Form M)** should be completed by the referring party.
3. The District's Section 504 Compliance Officer should also serve as the "ADA Compliance Officer" for students who require accommodations under the ADA.
4. Upon receipt of the ADA Referral, the District's Section 504 (and ADA) Compliance Officer should determine whether the student should be referred back to his/her IEP team, Section 504 team, or, if the student's pertinent multidisciplinary team has already considered and denied the requested support/accommodation, the Compliance Officer should schedule a meeting with the Parents and any relevant health/private providers to discuss the request. The pertinent box on the bottom of Form M should be marked to document next steps.
5. Any agreed-upon ADA accommodations or supports should be documented on the **ADA Accommodation Plan (Form N)**.
6. Examples of when the ADA process is appropriate to consider include, but are not limited to:
 - A student with an IEP requests an after-school aide or nursing services to access a District sponsored program or activity;
 - A student with a hearing impairment requests CART services in the classroom pursuant to Title II of the ADA, and the student's IEP team has determined that such services are not required to provide the student with a FAPE under the IDEA;
 - A student with autism requests the ability to utilize a service dog while at school, and the student's IEP team has determined that a service dog is not required to provide the student with a FAPE under the IDEA.