



Section 504/ADA Procedural Manual

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Exceptional Student Education

Section 504 Department

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THE SECTION 504 LIAISON: ROLE AND RESPONSIBILITIES

Section 504 Liaisons will be knowledgeable about Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act Amendments Act (ADA) (2008), and the School Board of Broward County, Florida processes and procedures. The following are the responsibilities of the Section 504 Liaison:

1. Locate all Section 504 student records and distribute Section 504 Accommodation Plans to teachers/implementers responsible for implementation before the first day of student attendance.
2. Attend all Section 504 Liaison mandatory trainings/meetings.
3. Utilize the Section 504 electronic management system to keep current on updates, processes, and procedures.
4. Educate faculty, staff, and parents regarding Section 504/ADA laws and related School Board of Broward County, Florida processes and procedures.
5. Utilize the Section 504 electronic management system to facilitate all Section 504 procedures and meetings and to maintain procedural compliance.
6. Coordinate and facilitate all Section 504 meetings to determine student eligibility and develop Section 504 Accommodation Plans as applicable.
7. Communicate student Section 504 eligibility to teachers/implementers to ensure there is a clear understanding of accommodation plan implementation requirements.
8. Conduct annual reviews of Section 504/ADA eligible students with and without Section 504 Accommodation Plans.
9. Conduct three-year re-evaluations, or earlier if required, of Section 504/ADA eligible students with and without Section 504 Accommodation Plans.
10. Review Section 504 Accommodation Plans for students transferring into Broward County Public Schools and facilitate the transfer student process and procedures.
11. Coordinate and facilitate Manifestation Determination meetings for Section 504 eligible students whose conduct results in a disciplinary consequence that may constitute a change in the student's placement.
12. Coordinate and facilitate matriculation meetings prior to the last day of school for Section 504 eligible students moving on to the next school level.
13. Follow Policy 8540 outlining the procedures for the transfer, retention, and disposal of all student records. NOTE: Section 504 documents are educational records.
14. Ensure accurate and timely Section 504 entries/updates of dates and eligibility information (ex. Eligibility Reviews, Annual Reviews, Reevaluation Reviews) are made in the district wide student electronic management system(s).
15. Consult with District Section 504/ADA Specialists, as needed.

OVERVIEW OF GOVERNING LAWS

Three Federal laws have had a significant impact in the ways in which school districts address the rights and needs of individuals with disabilities. They are the Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA)/Americans with Disabilities Act Amendment of 2008 (ADAAA) and the Individuals with Disabilities Education Act (IDEA).

SECTION 504 OF THE REHABILITATION ACT OF 1973

Section 504 of the Rehabilitation Act of 1973 is Federal Civil Rights legislation that prohibits discrimination against persons with disabilities in any program receiving Federal financial assistance, including public schools.

Section 504 requires school districts to provide a Free Appropriate Public Education (FAPE) to qualified students who have a physical or mental impairment that substantially limits one or more major life activities.

Section 504 also requires, among other things, that a student with a disability receives an equal opportunity to participate in athletics and extracurricular activities, and to be free from bullying and harassment based on disability. 34 C.F.R. § 104.33.

The purpose of Section 504 is to ensure that eligible students have educational opportunities equivalent to their non-disabled peers. Section 504 requires the provision of regular or special education and related aids and services for the opportunity, equal to non-disabled students, to participate in educational experiences.

Section 504 provides no funding and the eligible student's education must be provided in the regular education classroom, unless it is demonstrated that education in the regular environment, with the use of supplementary aids and services, cannot be achieved satisfactorily.

THE AMERICAN WITH DISABILITIES ACT OF 1990 (ADA)

In enacting the Americans with Disabilities Act of 1990, Congress intended the Act to “provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities” and provides broad coverage. Title II of the ADA is applicable to public education and requires students with disabilities to have an equal opportunity to benefit from all their programs, services and activities.

ADA AMENDMENTS ACT OF 2008 (ADAAA)

The ADAAA reinstated the ADA's "broad scope of protection" and prohibits consideration of the ameliorative effects of mitigating measures, (not including ordinary eyeglasses or contact lenses) in determining if a person qualifies as an individual with a disability. The ADAAA rejected the U.S. Supreme Court's strict interpretation of the term "substantially limits," and directed the Equal Employment Opportunity Commission (EEOC) to revise its current definition of "substantially limits" to be consistent with the ADAAA.

The ADAAA also provides additional examples of general activities that are major life activities, as well as a non-exhaustive list of examples of "major bodily functions" that are categorized as major life activities.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)

IDEA authorized a program of grants to the states to initiate, expand and improve educational programs for students with disabilities. IDEA was reauthorized in 1997, and again in 2004. Through IDEA, Congress provided some of the money that states needed to address the needs of students with specific disabilities. These students receive the free services they require in order to achieve educational benefit. Section 504 is broader than IDEA in that it is an access law rather than one that provides for educational benefit to students with disabilities.

RELATIONSHIP BETWEEN SECTION 504 AND THE ADA

Each law separately offers equal opportunities and access for persons with disabilities. Section 504 and the ADA prohibit discrimination against students with disabilities enrolled in public schools.

SECTION 504 DEFINITION OF DISABILITY

To be protected under Section 504, a student must be determined to meet any of the three prongs of eligibility listed in 34 CFR 104.3(j)(1) below:

- have a physical or mental impairment that substantially limits one or more major life activities;
- have a record of such an impairment, or
- be regarded as having such an impairment.

A physical or mental impairment means (a) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body

systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, Genito-urinary; hemic and lymphatic; skin; and endocrine; or (b) any mental or psychological disorder, such as an intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities. However, there is no exhaustive list of specific diseases and conditions, which may constitute physical or mental impairments.

The determination of whether a student has a physical or mental impairment that substantially limits a major life activity must be made on an individual basis. The ADA provides additional examples of general activities that are major life activities, as well as a non-exhaustive list of examples of “major bodily functions” that are categorized as major life activities.

Major life activities include but are not limited to the following:		
Learning	Sleeping	Standing
Caring for oneself	Lifting	Bending
Performing manual tasks	Reading	Concentrating
Walking	Thinking	Speaking
Seeing	Hearing	Working
Communicating	Breathing	Eating

Major bodily functions include but are not limited to the following:		
Functions of the Immune System	Normal cell growth	Reproductive function
Bowel function	Bladder function	Neurological function
Brain function	Respiratory function	Circulatory function
Endocrine function	Digestive function	

Section 504 regulations do not define “substantially limits,” leaving that task to each school district. Commentaries regarding Section 504 have suggested that districts apply the language of ADA, which indicates that a major life activity is significantly limited when a person is:

“...significantly restricted as to the condition, manner, or duration under which the student can perform a particular major life activity as compared to the condition, manner, or duration under which the average student of the same age/grade level in the general population can perform the same major life activity” (29 CFR §1630.2(j)(2)).”

Note: The Office for Civil Rights (OCR) advises districts to look beyond learning in determining a student's need for Section 504 accommodations. The Section 504 Team needs to look at how the impairment affects ANY major life activity and, if necessary, assess what the student needs to have as an equal opportunity to participate in the school district's program. Example: An asthmatic student may require air-conditioned transportation because of the disability's effect on the major life activity of breathing, even though performance in academic areas is not a concern.

MITIGATING MEASURES

Mitigating measures eliminate or reduce the symptoms or impact of a physical or mental impairment. The ameliorative (positive) effects of one or more mitigating measures cannot be considered in determining if an impairment substantially limits a major life activity. This includes impairments in remission. 504 Teams may consider eligibility for students who have no need for accommodation plans (because current mitigating measures meet their needs).

The determination of a disability must focus on whether the individual would be substantially limited in performing a major life activity without considering any mitigating measure that may eliminate or reduce the symptoms or impact of the impairment.

The ADAAA does not define mitigating measures but provides a non-exhaustive list including the following: medication, medical supplies, appliances, low-vision devices (which do not include ordinary contact lenses or eyeglasses), prosthetics, including limbs and devices, hearing aids and cochlear implants, mobility devices, or oxygen therapy equipment and supplies, use of assistive technology, reasonable accommodations or auxiliary aids or services; or learned behavioral adaptive neurological modification 42 U.S.C. §12102(4)(E).

The 504 team must first identify all mitigating measures currently in use for the student's benefit and determine how the student's impairment impacts any major life activity in the absence of each mitigating measure. For example, if the student is evaluated to determine whether his ADHD gives rise to eligibility, and the student is medicated (and medication is his only mitigating measure), the team must determine whether the student's impairment substantially limits a major life activity (such as concentration or learning or any other appropriate major life activity or major bodily function) after subtracting the positive impact of the medication from the equation.

PROCEDURAL SAFEGUARDS

Procedural safeguards are established to ensure that parents/guardians are fully informed about decisions involving their child and to inform them of their rights. Parents/Guardians must be provided Procedural safeguards as soon as the school is notified of the request for Section 504 services.

Notice of Rights for Disabled Students and their Parents and Guardians

Under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, "Section 504"

The purpose of this Notice is to inform parents and students of the rights granted them under Section 504. The federal regulations that implement Section 504 are found at Title 34, Part 104 of the Code of Federal Regulations (CFR) and entitle eligible students and their parents, to the following:

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

provided to non-disabled students. [34 CFR §104.34].

6. You have the right for your child to have transportation provided to and from an alternative placement setting (if the setting is a program not operated by the District) at no greater cost to you than if the student was placed in a District-run program. [34 CFR §104.33(c) (2)].
7. The School District must undertake an evaluation of your child prior to determining his or her appropriate educational placement or program of services under Section 504, and also before every subsequent significant change in placement. [34 CFR §104.35].
8. If formal assessment instruments are used as part of an evaluation, procedures used to administer assessments, and other instruments must comply with the requirements of Section 504 regarding test validity, proper method of administration, and appropriate test selection. [34 CFR §104.35]. The District will appropriately consider information from a variety of sources in making its determinations, including, for example: aptitude and achievement tests, teacher recommendations, reports of physical condition, social and cultural background, adaptive behavior, health records, report cards, progress notes, parent observations, scores on statewide assessments, and mitigating measures, among others.
9. Placement decisions regarding your child must be made by a group of persons (a Section 504 committee) who are knowledgeable about your child, the meaning of the evaluation data, possible placement options, and the requirement that to the maximum extent appropriate, disabled children should be educated with non-disabled children. [34 CFR §104.35].
10. If your child is eligible for services under Section 504, he or she has a right to periodic evaluations to determine if there has been a change in educational need. Generally, an evaluation will take place at least every three years. [34 CFR 104.35].
11. You have the right to be notified by the District prior to any action regarding the identification, evaluation, or placement of your child. [34 CFR §104.36]
12. You have the right to examine relevant documents and records regarding your child (generally documents relating to identification, evaluation, and placement of your child under Section 504). [34 CFR §104.36].
13. You have a right to present a grievance to the District's Section 504 Coordinator (or designee), who will investigate the situation, take into account the nature of the grievance and all necessary factors. Within fifteen (15) school days of receipt of the written grievance, the District's Section 504 Coordinator (or designee) shall provide the grievant with a Grievance Resolution Notice that upholds, modifies, or denies the resolution sought.

14. You have the right to request an impartial hearing if you wish to contest any action of the District with regard to your child's identification, evaluation, or placement under Section 504. [34 CFR 104.36]. You have the right to participate personally at the hearing, present evidence, and witnesses, and to be represented by an attorney, if you wish to hire one. The request for an impartial hearing may follow the District grievance process if you are in disagreement with that outcome.
15. The aggrieved person is not required by law to exhaust the District's grievance procedures before filing a Request for an Impartial Hearing.
16. If you wish to contest an action taken by the Section 504 Committee by means of an impartial due process hearing, you must submit a Notice of Appeal or a Request for Hearing to:

**Assistant Director, Equal Educational Opportunities/ADA Compliance
Department**

**600 SE Third Avenue, 14th Floor
Ft. Lauderdale, FL 33301
(754) 321-2150**

**Teletype Machine -TTY:
(754) 321-2158**

E-Mail: EEO@browardschools.com

A date will be set for the hearing, and an impartial hearing officer will be appointed. You will then be notified in writing of the hearing date, time, and place.

17. If you disagree with the decision of the hearing officer, you have a right to seek a review of that decision before a court of competent jurisdiction (normally, your closest federal district court).
18. You also have a right to file a complaint with the Office for Civil Rights (OCR) of the Department of Education. The address of the OCR Regional Office that covers this school district is:

Director, Office for Civil Rights U.S. Dept. of Education
61 Forsyth St. S.W., Suite 19T10 Atlanta, GA 30303-8927
Tel: (404) 974-9406 Fax: (404) 974-9471
E-mail: ocr.atlanta@ed.gov

EVALUATION UNDER SECTION 504

A district must evaluate students "who, because of handicap, need or are believed to need special education or related services" to fulfill child find obligations. 34 CFR 104.35(a). A parent is not required to request that the district identify and evaluate a child. The district must actively seek to identify students suspected of having a disability who need support and/or services.

If a parent/guardian presents information to the school indicating that his/her child has a disability (e.g., a doctor's note, a private evaluation report from a licensed psychologist or psychiatrist, etc.) and requests a Section 504/ADA Accommodation Plan, the Section 504 Liaison should provide the parent with a Consent for Section 504 Evaluation and Notice of Rights for Disabled Students within 30 calendar days of the parent's request.

Parents should be invited to participate in the process and provide input during the 504-referral process. After obtaining written parental consent, the Section 504 Team collects data from a variety of sources, e.g., student records, standardized test scores, teacher reports, parent reports, medical reports, behavioral rating scales, psycho-educational evaluations, grades, attendance. Unlike most IDEA evaluations, Section 504 evaluations do not necessarily involve formal testing. The evaluation must provide sufficient information to determine the existence of a disability that substantially limits one or more major life activity or bodily function. The 504 team determines what data is sufficient to determine eligibility and services under Section 504. Less complex data may be sufficient when determining temporary/short term accommodations and services.

There is no relationship between Response to Intervention (RtI) and Section 504 eligibility. There will never be a situation in which you need to collect or review RtI data in order to make a Section 504 eligibility decision. If a student with Section 504 eligibility needs interventions to assist with academic and/or behavioral problems, he/she would be provided such under the auspices of general education, not through a Section 504/ADA Accommodation Plan. If RtI is being done for purposes other than Section 504, RtI interventions may be provided simultaneously with the Section 504 evaluation. If upon receipt of a parental request for an evaluation for 504 the team determines that an evaluation is not required, then the parents must receive their procedural safeguards and indicate a refusal to evaluate. If at any time the 504 team determines that the student with a disability needs special education or related aids and services in order to receive educational benefit, a special education referral should be initiated. In interpreting evaluation data and making placement decisions, the school must:

- Draw upon information from a variety of sources.
- Ensure all information is documented and considered.
- Ensure the placement decision is made by a group of professionals who are knowledgeable about the child, knowledgeable about the meaning of the evaluation data, and knowledgeable about placement options
- Ensure the student is educated with his/her non-disabled peers to the extent appropriate, and that any facilities identifiable as persons with disabilities are comparable to facilities provided for other students.

Section 504 requires that the student's evaluation be completed in a reasonable period of time (60 calendar days). An evaluation of a student under IDEA does not prevent the completion of an evaluation for Section 504 eligibility within 60 calendar days of receipt of a notice that a student might need special education or related aids and services under Section 504. When the Section 504 evaluation is complete, the Section 504 Liaison should schedule a meeting with the parent/guardian and members of the Section 504 Team to determine eligibility.

SECTION 504 TEAM

The Section 504 Team is composed of individuals, including the parents/guardians and other persons who are knowledgeable about the student, knowledgeable about the meaning of the evaluation data and knowledgeable about the placement options. The Section 504 Team reviews evaluation data and makes decisions about services and placement.

SECTION 504/ADA ELIGIBILITY DETERMINATION

The district is obligated to evaluate students who need or are believed to need special education or related services because of a disability (34 CFR §104.35). In most circumstances, a parent request for evaluation from the parent or a classroom teacher can prompt the obligation to evaluate a student due to a suspected disability. Once parent consent is received, the district is required to complete the evaluation within 60 calendar days of which the student is in attendance. The evaluation must include information from a variety of sources. A medical diagnosis alone is insufficient for determining eligibility.

Section 504 eligibility and the need for a 504 plan are separate determinations. Students are eligible for the nondiscrimination protections of Section 504, manifestation determination as needed, procedural safeguards, and periodic re-evaluations if they have a disability that substantially limits a major life activity. 504 eligible students are provided with an accommodation plan if they need Section 504 services for their educational needs to be met as adequately as those of non-disabled peers.

SECTION 504 SERVICES & ACCOMMODATIONS

Once a student is deemed eligible under Section 504 and is determined to require services or accommodations, the 504 team creates an accommodation plan. This plan should address the educational impact of the disability and specify the necessary accommodations and services to ensure access to education and school activities in the least restrictive environment. A student eligible under Section 504 should receive the same accommodations for both classroom assignments and assessments. For example, if extended time is required for classroom assignments and tests, it should also apply to standardized exams.

- Parents should be invited and encouraged to participate in developing the plan.
- Services and accommodations must be developed based on the information and data utilized to determine eligibility.
- Services and accommodations should be designed to provide equal access to tasks/activities available to the nondisabled students.
- The plan should indicate the method, the location(s), and who will implement the services and accommodations will be provided.
- The plan may include instructional, behavioral and testing accommodations across school settings
- Schools should employ a method to monitor implementation.
- Schools must ensure copies of the plan are provided to parents, teachers, and other appropriate responsible individuals, as well as retained in the student's records.

RELATED SERVICES

A student may receive related aids and services under Section 504 if such services are necessary to ensure the provision of a free appropriate public education (FAPE). In accordance with Section 504, FAPE encompasses any related aids and services that are designed to meet the individual needs of the student to the same extent as the needs of students without disabilities (34 CFR 104.33).

A multidisciplinary team is responsible for determining eligibility and identifying the related services required under Section 504. If the team concludes that related aids and services are necessary to address the educational needs of a student eligible under Section 504, these services must be documented in the student's Section 504 plan. The district is responsible for providing these services to all qualified students.

TEACHER SUPPORT VS. 504 ACCOMMODATIONS

Only the current needs of the student can be considered when deciding whether an established disability requires an accommodation plan. To be eligible for a Section 504/ADA Accommodation Plan, a student must have a physical or mental impairment AND the impairment must result in substantial limitations in a major life activity. A student who may benefit from sitting near the teacher, having directions repeated, or using an assignment book, would NOT be considered eligible simply because he/she needs one or two of these types of commonly used classroom interventions. A common misunderstanding is that Section 504 is about maximizing the student's performance at school. Section 504/ADA is about meaningful access to one's education, or what courts have called, "a reasonable opportunity to participate and/or learn." It is very important to focus only on access issues when considering eligibility for Section 504/ADA, not the potential for maximizing performance.

Common reasons that would cause a Section 504 Team to move from an informal intervention approach to a set of accommodation(s) requiring a Section 504/ADA Accommodation Plan might include:

- Use of specialized equipment
- Alterations to the facilities or furniture
- Provision of accommodations in a consistent manner across multiple classrooms and other settings
- Coordination to assure consistent implementation over time

- Combination of “in” and “out” of classroom accommodations (e.g., transportation, counseling, medication administration)
- Involvement of additional staff in providing services or monitoring (e.g., trained personnel to monitor glucose levels for a diabetic student)
- Use of multiple accommodations

ACCOMMODATIONS

Accommodations are supports that are provided to a child (for both instruction and assessment) that do not significantly alter what is being taught or how he/she participates in school activities. Accommodations are intended to “level the playing field” by reducing or even eliminating the effects of a student’s disability. Section 504 Accommodations should not significantly alter what is being taught. If they do, the team would need to look at whether that child is actually a child who should be identified under IDEA.

Accommodations for testing, both classroom and standardized assessments, must be addressed when developing the accommodation plan. Testing accommodations must be specified in the accommodation plan. Accommodations used with standardized tests must be consistent with what is specified in the test administration manual.

1. FLDOE Statewide Assessments Accommodations guidelines for making accommodation decisions include the following: Accommodations should facilitate an accurate demonstration of what the student knows or can do.
2. Accommodations should not provide the student with an unfair advantage or interfere with the validity of a test; accommodations must not change the underlying skills that are being measured by the test.
3. Accommodations must be the same or nearly the same as those needed and used by the student in completing classroom instruction and assessment activities.
4. Accommodations must be necessary for enabling the student to demonstrate knowledge, ability, skill,
5. Accommodations must be necessary for enabling the student to demonstrate knowledge, ability, skill, or mastery.

A Section 504/ADA Accommodation Plan should not include an accommodation that is specific only to district or statewide assessments. Similarly, a Section 504 eligible student would not be determined in need of a Section 504/ADA Accommodation Plan because he/she might benefit from an accommodation when taking a district or state test.

Further guidance pertaining to administration of tests to students with a disability can be found in Rule 6A-1.0943, F.A.C., and at <https://www.fl DOE.org/accountability/assessments>.

PLACEMENT

Placement refers to regular and/or special education program(s) in which a student receives educational and/or related services. For the vast majority of Section 504 students, “placement” refers to Accommodation Plan accommodation(s) within the regular classroom. Students whose needs cannot be met in such a manner may require an evaluation to determine eligibility for special education under IDEA. Once a Section 504/ADA Accommodation Plan is written, all school staff are required to follow it.

ANNUAL REVIEW AND REEVALUATION

Schools are to provide Section 504 students with an annual review to update information and accommodations, if necessary. Schools are required to provide a periodic reevaluation for students eligible under Section 504. This requirement is met by following the IDEA approach of performing reevaluation every three years.

SECTION 504/ADA TEMPORARY

A temporary impairment is an impairment with an expected duration of 6 months or less. A temporary Section 504 Accommodation Plan is written for an impairment that is temporary in nature (Example: A broken limb). In the Amendments Act (see FAQ 1), Congress clarified that an individual is not “regarded as” an individual with a disability if the impairment is transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

A temporary impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period of time. The issue of whether a temporary impairment is substantial enough to be a disability must be resolved on a case-by-case basis, taking into consideration both the expected duration of the impairment and the extent to which it actually limits a major life activity of the affected individual.

OUT OF DISTRICT TRANSFER STUDENTS

When a student with a Section 504 plan transfers from another district, the receiving district should review the plan and supporting documentation. The 504 team at the receiving school, including persons knowledgeable about the meaning of the evaluation data and knowledgeable about the placement options should review and implement the plan. If the receiving district determines that the plan is inappropriate, the district is to evaluate the student consistent with the Section 504 procedures at 34 CFR §104.35 and determine which educational program is appropriate for the student. The transfer accommodation plan should be implemented while the evaluation is conducted.

EXTRACURRICULAR /NON- ACADEMIC

Section 504/ADA affords students with disabilities an equal opportunity in extracurricular activities and nonacademic services and extends the least restrictive environment mandate to extracurricular activities. Section 504/ADA protections are available to students identified as disabled under either Section 504/ADA or IDEA regarding extracurricular activities and nonacademic services. Section 504/ADA regulations prohibit exclusion from, or denial of, the benefits of an extracurricular activity on the basis of disability, assuming the student is otherwise qualified to participate.

Section 504/ADA applies to District-sponsored non-academic programs such as counseling, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs, referrals to other agencies, after-school care and summer recreation programs, requiring the District to offer meaningful and equal access. In operating any such program, a District is bound by the anti-discrimination prohibition of 34 CFR 104.4.

Students with Section 504/ADA Accommodation Plans implemented during the academic day are eligible for Section 504/ADA accommodation(s) while participating in extracurricular activities and non-academic services. Where there is a voluntary program offered on a free or tuition basis, eligible Section 504 students with disabilities may not be categorically excluded. They must be offered meaningful and equal access to that program at the same cost as a non-disabled student.

SECTION 504 SPECIAL TRANSPORTATION

Provision of special transportation is appropriate when it is required based on the student's disability and when refusal to provide transportation would hinder the student's access to a free and appropriate education. Students may be eligible for special transportation due to the impact of a temporary or permanent disability.

§504 Liaison schedules a §504 Team meeting, and the Team reviews student records and any additional supporting documents to determine the need for transportation. If the Team determines transportation is needed, it **MUST** be added as an accommodation and as a Related Service to the Accommodation Plan.

SECTION 504 DISCIPLINE

Suspension of a student eligible under Section 504 for more than ten consecutive school days is considered a significant change in placement. Additionally, a series of suspensions within a school year that exceeds 10 cumulative days may create a pattern of exclusions that constitutes a significant change in placement.

If the student is being considered for suspension that would result in removal of more than 10 cumulative school days during one academic year or for expulsion, a Reevaluation Meeting and Manifestation Determination review must be conducted prior to implementing a disciplinary removal. Manifestation Determination is the evaluation of the relationship between a student's disability and act of misconduct. The 504 team must determine whether the misconduct has a direct and substantial relationship to the student's disability and if the student's 504 accommodation plan was implemented before there can be a recommendation of a suspension or expulsion that constitutes a significant change in the placement.

Given the rights regarding discipline afforded by Section 504/ADA, it is particularly important that the Section 504 Team develop a Behavioral Intervention Plan (BIP) for students who present significant behavioral problems based on a Functional Behavior Assessment (FBA).

A school district may take any disciplinary measure for a 504 eligible student who is currently engaged in the illegal use of drugs or alcohol as is taken for students without disabilities. Manifestation determination or due process procedures are not required.

Further information regarding the suspension and/or expulsion of students who are Section 504 eligible is addressed within School Board Policy 5100. The Code of Student Conduct Handbook can be found at: <https://www.browardschools.com>.

MATRICULATION

It is the responsibility of the Section 504 Liaison to ensure a smooth transition between grades, or between classes within a grade, for students with a Section 504 Accommodation Plan. Section 504 Liaisons should include the 504 Liaison from the next school in the 504 meeting (Annual or Interim) to review 504 Accommodation Plans for students matriculating from one level to another (i.e. elementary to middle, middle to high). Revisions to accommodations and/or awareness of accommodations/services may be required for implementation at the next school level by the first day of student attendance. These meetings should be held by May 31st of each school year.

GRIEVANCE

It is the policy of the School Board of Broward County, Florida, not to discriminate against students regarding access to programs, services and activities on the basis of disability. The procedures below are designed to comply with the law for resolution of individual complaints under Section 504 of the Rehabilitation Act, "Section 504", and the Americans with Disabilities Act Amendments Act of 2008, "ADA."

LOCAL GRIEVANCE PROCEDURES:

The following Local Grievance procedures are provided as an avenue for prompt and equitable processing of complaints of unlawful discrimination.

The parent/guardian/student (grievant) is encouraged to first discuss the issue with the teacher, school counselor, the Section 504 liaison, and/or school administrator. However, this step is not required prior to filing a grievance. If informal discussion does not resolve the issue, the grievant may obtain a Grievance Filing form from the school-based 504 Liaison or from the District 504/ADA Specialist at bcps_section504@browardschools.com. The grievant should submit the completed Grievance Filing form to the Principal and District 504/ADA Specialist within 180 days of the event leading to the grievance. The District 504/ADA Specialist and the EEO Office will review the grievance and work with the Principal to provide the grievant with a Grievance Resolution Notice that upholds, modifies or denies the resolution sought **within fifteen school days** of receipt of the written grievance.

IMPARTIAL HEARING:

Parents/guardians/students also have the right to request an impartial hearing if they wish to contest any action of the District with regard to identification, evaluation, or placement under Section 504. An Impartial Hearing is a formal legal proceeding where an impartial Administrative Law Judge from the State of Florida's Division of Administrative Hearings (DOAH), in accordance with the applicable Florida Statutes and State Board of Education Rules, is assigned to conduct and rule in the proceedings. It is much like a court proceeding, in that both parties may be represented by legal counsel, evidence is presented, and

witnesses testify and may be cross-examined. Parents or guardians may participate without legal counsel. Within 120 days after receipt of the request for an Impartial Hearing, the Hearing will be conducted, and a Final Order will be issued by the Administrative Law Judge (ALJ).

The request for an impartial hearing may follow the District grievance process if they are in disagreement with that outcome. However, the aggrieved person is not required by law to exhaust the District's grievance procedures before filing a Request for an Impartial Hearing. To contest an action taken by the Section 504 Committee by means of an impartial due process hearing, a Notice of Appeal or a Request for Hearing must be submitted to:

Assistant Director, Equal Educational Opportunities/ADA Compliance Department

600 SE Third Avenue, 14th Floor

Ft. Lauderdale, FL 33301

(754) 321-2150

Teletype Machine -TTY: (754) 321-2158

E-Mail: EEO@browardschools.com

A date will be set for the hearing, and an impartial hearing officer will be appointed. The person(s) requesting the impartial due process hearing will be notified in writing of the hearing date, time, and place. If there is disagreement with the decision of the hearing officer, parents/guardians/students have a right to seek a review of that decision before a court of competent jurisdiction (normally, the closest federal district court).

OFFICE OF CIVIL RIGHTS COMPLAINT

The aggrieved person is not required by law to exhaust the District's grievance procedures before filing a complaint with the Office for Civil Rights and may do so at any time. The grievant may file a complaint with the Office of Civil Rights. Generally, complaints must be filed within 180 days of alleged discrimination.

Office of Civil Rights

U.S. Department of Education Atlanta Federal Center, Suite 19T10

61 Forsyth St., S.W. Atlanta, GA 30303-8927

Telephone: (404) 974-9406

Fax: (404) 974-9471

Email: OCR.Atlanta@ed.gov

The School Board of Broward County, Florida



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The School Board of Broward County, Florida, prohibits any policy or procedure which results in discrimination on the basis of age, color, disability, gender identity, gender expression, marital status, national origin, race, religion, sex or sexual orientation. Individuals who wish to file discrimination and/or harassment complaints may call the Director of Equal Opportunities/ADA Compliance Department at 754-321-2150 or Teletype machine (TTY) 754-321-2158. Individuals with disabilities requesting accommodations under the Americans with Disabilities Act of 2008 (ADAAA) may call Equal Educational Opportunities (EEO)/ADA Compliance Department at 754-321-2150 or Teletype machine (TTY) 754-321-2158.