Procedure - Education of Students With Disabilities Under Section 504 of the Rehabilitation Act of 1973

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. **Child Find**
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 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 give parents or guardians the right to participate in a meeting during which their child's program is designed and placement is determined, as does the IDEA. However, this 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 in the 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, 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, 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 or guardian, teacher, counselor or administrator believe they are observing in a student substantially limited performance in one or more major life activities that is believed to be caused by a physical or mental impairment, the concerned individual should complete a referral form *[indicate where referral forms are available and to whom they should be submitted].*

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 written consent from parents or guardians to perform an evaluation and/or gather additional information and will provide parents with a written statement of their rights under Section 504. If the building team determines that an evaluation is not necessary, it will provide written notice to parents/guardians, and forward the results of the screening to the source of the referral.

H. Evaluations

1. **Significant Change in Placement.** If a student is believed to be disabled and needs, or is believed to need, special education or related services, the district will evaluate the student prior to placement and before any subsequent "significant change in that placement." An evaluation need not include formal or written assessments but may involve, in appropriate circumstances, a review and consideration of existing information.

   Examples of significant changes in placement include:

   a. Expulsion;

   b. Suspensions which exceed ten consecutive days in a school year;

   c. Cumulative short-term suspensions which create a pattern of exclusion;

   d. Transferring a student to home instruction; and/or

   e. Graduation from high school.

2. **Tests and Evaluation Materials.** The district will establish procedures for evaluation and placement which assure that tests and other evaluation materials:

   a. Have been validated and are administered by trained personnel;

   b. Are tailored to assess educational need and 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 activities will be made without regard to any ameliorative effects of mitigating measures which include, but are not limited to: medication, medical supplies, equipment, low-vision devices, prosthetics, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy equipment and supplies, assistive technology, reasonable accommodations, auxiliary aids or services; or learned behavioral or adaptive neurological modifications. However, ameliorative effects of mitigating measures may be relevant as to whether a student needs any specific accommodation or a 504 accommodation plan.

   Low vision devices do not include ordinary eyeglasses or contact lenses. The ameliorative effects of ordinary eyeglasses or contact lenses may be considered in determining whether the impairment substantially limits a major life activity.

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. For example, pregnancy is not generally regarded as a disability under Section 504; however, if a student was put on bed rest or otherwise limited due to pregnancy complications, this would be a temporary impairment that would qualify the student as disabled under Section 504.

   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 (e.g. a student whose cancer is in remission).

A. 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.

In interpreting evaluation data and in making placement decisions, the district will (1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background and adaptive behavior; (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered; (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 placements options; and (4) ensure that the student is educated with his/her 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 education to a student but the parent chooses to place the child elsewhere, the district is not responsible to pay for the out-of-district placement.

J. Reevaluations

The district will provide for periodic reevaluation of disabled students. No time frame is specified in Section 504; however, re-evaluating students every three years in accordance with the requirements of the IDEA will satisfy Section 504 requirements as well. A reevaluation is also required before any "significant change of placement," as defined above in Part "H."

K. Programming to Meet Individual Needs

The district recognizes that to be appropriate, educational programs for students with disabilities must be designed to meet their individual needs to the same extent that the needs of non-disabled students are met. A documented procedure, such as the development of an individualized accommodation plan by a knowledgeable team of educational professionals, may be appropriate.

XX. 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, interest groups or clubs sponsored by the district, referrals to agencies which provide assistance to disabled persons and employment of students, including both employment by the district and assistance in making available outside employment. 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.

LLLLLLLLL. Preschool and Adult Education Programs

In the operation of preschool education, or day care program or activity, or an adult education 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.

N. Disciplinary Exclusion

1. **Exclusions.** Students with disabilities are protected from being improperly excluded from school for disciplinary reasons. Certain disciplinary exclusions of disabled students from school constitute a significant change 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, which are change of placement, 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.

2. **Manifestation Determinations.** If a disciplinary exclusion (suspension or 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 (the student's Section 504 team) determine whether or not the 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 individualized accommodation plan under Section 504.

   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 properly 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).

   If a student's misconduct is determined to be a manifestation of his/her 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 to his or her disability, expulsion and/or long term suspension should not be imposed if it would result in a change in educational placement (a disciplinary exclusion from school of over ten consecutive days or exclusions which constitutes a pattern of exclusion). Days will be measured cumulatively over the period of the entire school year, with any short-term suspensions as 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. **Pattern of Exclusion.** Suspension or emergency removal of a disabled student may occur, without the need to determine if there is a causal connection with the disability, if the suspension or emergency removal is ten consecutive days or less, or if more than ten cumulative days is not a pattern of exclusion. A pattern of exclusion occurs if:

   a. The removal is for more than ten school days in a year; and

   b. The student's behavior is substantially similar to the behavior that he/she 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), and the school must determine on a case-by-case basis whether a pattern of removals is significant enough to constitute a change in placement.

5. **Right to Challenge.** Students and their parent/guardian will be notified of the results of the manifestation decision and of their right under the law 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 regarding the use, sale or possession of drugs or alcohol at school.

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

- **Transportation**
  If the district places a student in a program not operated by the district, the district will assure that adequate transportation to and from the program is provided at no cost to the parent.

  Because the district provides transportation to all its students within a certain geographic area, it will not discriminate in its provision of transportation to students with disabilities.

  If the district proposes to terminate a qualified 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.

- **Procedural Requirements**
  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 *(insert position of designee)*;

  3. **Grievance Procedures.** Provide grievance procedures to resolve complaints of discrimination. Students, parents or employees are entitled to file grievances. The grievance procedures for the district are set out in the Procedure for Policy 3210, Nondiscrimination;

  4. **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;

  5. **Locate.** Annually undertake to identify and locate all Section 504 qualified disabled children in the district's jurisdiction who are not receiving a public education;

  6. **Annual Notification.** Annually take appropriate steps to notify disabled persons 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, special instruction or related services. Procedural safeguards will include:

     a. Notice of parental/guardian rights;

     b. An opportunity for parents/guardians to examine 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; and

     d. A review procedure.

- **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.

- **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. Facility alterations commenced after 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 readily accessible 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 of the phrase "to the maximum extent feasible." This provision covers the instance where occasionally the nature of an existing facility is such as to make it impractical or prohibitively expensive to renovate in a manner that results in it being entirely barrier-free. However, in all of these instances, the alteration should provide the maximum amount of physical accessibility feasible.

- **Special Considerations for ADD/ADHD Students**
  Section 504 obligations apply to all students with disabilities, including students with attention deficit disorder (ADD) or attention-deficit/hyperactivity disorder (ADHD). Under federal guidance, there are three different types of ADHD, which are categorized depending upon which symptoms are the strongest: (1) predominately inattentive type; (2) predominately hyperactive-impulsive type; and (3) combined type (where symptoms of the first two types are equally present). See U.S. Department of Education, Office for Civil Rights, *Students with ADHD and Section 504: A Resource Guide* (July 2016) (available on the Office for Civil Rights' website at http://www2.ed.gov/about/offices/list/ocr/frontpage/faq/rr/policyguidance/disability.html).

- **Due Process Hearing or Mediation Requests**
  Due process hearing or mediation requests must be made directly to the district 504 Compliance Officer.

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Management Resources:

- 2023 - July Issue
- 2016 - November Policy Issue
- 2014 - June Issue
- 2011 - June Issue

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