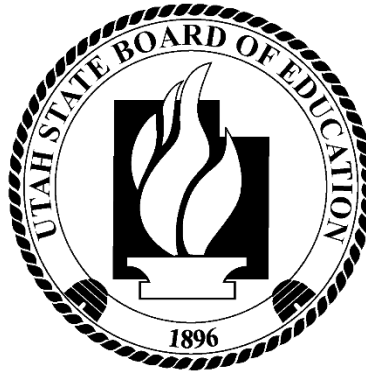


Utah State Board of Education Student Advocacy Services Educational Equity Section



Guidelines for Administrators and Educators for Implementing Section 504 of the Rehabilitation Act of 1973 – Subpart D including State Laws & Board Rules

Preschool – Elementary – Secondary Education

Student Advocacy Services

Utah State Board of Education

250 East 500 South

Salt Lake City, UT 84114-4200

Sydnee Dickson, Ed.D., State Superintendent of Public Instruction

[Utah State Board of Education Educational Equity Website](#)

REVISED/ADA Compliant WINTER 2018

Special Note

The U.S. Department of Education's Office for Civil Rights (OCR) has jurisdiction over Section 504. Its primary responsibilities include investigating complaints, conducting compliance reviews, and providing technical assistance. These materials serve as guidance only and should not replace legal advice. These are guidelines and might not reflect the opinion of the Office for Civil Rights and/or current court cases. Civil Rights laws and regulations change periodically and will change interpretations of various rules and regulations. Always check with your school (district) legal counsel regarding specific policies and procedures. Office for Civil Rights is located at:

U.S. Department of Education Office for Civil Rights, Region VIII

Cesar E. Chavez Memorial Building

1244 Speer Boulevard, Suite 310

Denver, Colorado 80204-3582

Telephone: 303-844-5695

FAX: 303-844-4303

[Denver OCR Email Address](mailto:OCR.Denver@ed.gov) (OCR.Denver@ed.gov)

[Denver OCR Website](https://www2.ed.gov/about/offices/list/ocr/docs/howto.html?src=rt) (https://www2.ed.gov/about/offices/list/ocr/docs/howto.html?src=rt)

Excerpts from the [Parent & Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools \(2016\)](#) are included in this handbook. Permission granted from USDOE/OCR, Catherine E. Lhamon, Assistant Secretary, Dec. 2016

Notice of Nondiscrimination

The Utah State Board of Education does not discriminate on the basis of race, color, national origin, sex, disability, or age in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups. The following person has been designated to handle inquiries regarding the non-discrimination policies:

Name and/or Title: [Momi Tu'ua](mailto:momi.tuua@schools.utah.gov) (momi.tuua@schools.utah.gov),

Equity & Advocacy Specialist

Phone: 801-538-7828

Utah State Board of Education Members

[\(Return to Table of Contents\)](#)

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The [Board Member List](#) is subject to change based on elections.

Please see <http://schoolboard.utah.gov/> for the most current list of Board Members.

Key to Acronyms

ADA	Americans with Disabilities Act
ADAAA	Americans with Disabilities Act Amendments Act
ADD	Attention Deficit Disorder
ADHD	Attention Deficit Hyperactivity Disorder
BIP	Behavioral Intervention Plan
EAP	Emergency Action Plan
EEOC	Equal Employment Opportunity Commission
FAPE	Free Appropriate Public Education
FBA	Functional Behavioral Assessment
GPA	Grade Point Average
IAES	Interim Alternative Educational Setting
IDEA	Individuals with Disabilities Education Act
IEP	Individualized Education Plan
IHP	Individual Healthcare Plan
LEA	Local Education Agency
LRE	Least Restrictive Environment
OCR	Office for Civil Rights
ODD	Oppositional Defiant Disorder
OSERS	Office of Special Education and Rehabilitative Services
PTSD	Post-Traumatic Stress Disorder
RTI	Responsiveness to Intervention
SEA	State Education Agency
UPIPS	Utah Program Improvement Planning System
USB E	Utah State Board of Education
UTREx	Utah eTranscript and Record Exchange

See [Appendix D](#) for a Glossary of Terms

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Section 504, Subpart D—An Overview

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The purpose of this document is to provide information and best practices regarding districts’/charter schools’ responsibilities under Section 504, Subpart D—preschool, elementary, and secondary schools. These guidelines address student, not employee, 504 issues.

Section 504 is a federal civil rights law under the Rehabilitation Act of 1973. It provides protection against discrimination for individuals with disabilities. The Americans with Disabilities Act (ADA) was amended, which resulted in some changes to the interpretation of Section 504. The ADA Amendments Act was signed into law in September 2008, and became effective on January 1, 2009. Congress passed the Amendments Act in part to supersede Supreme Court decisions that had too narrowly interpreted the ADA’s definition of a disability. Students with disabilities in school settings fall under the civil rights protection of Section 504. The law and regulations prohibit discrimination on the basis of disability in all school programs and activities, in public school districts, charter schools, as well as private schools receiving direct or indirect federal funding.

Section 504 accommodations and services could be available to identified students with disabilities who have been evaluated. Section 504 is designed to provide equal access and fairness in general education to students with disabilities, thereby leveling the playing field for them through what is known as a Section 504 Accommodation Plan.

A student could have a Section 504 Accommodation Plan if he/she has been identified, and the evaluation shows that the individual has a mental or physical impairment that substantially limits one or more major life activities. This determination is made by a team of knowledgeable individuals, including the parents, who are familiar with the student and his/her disability.

Note: The Section 504 regulations do not mention an “Accommodation Plan,” which is the mechanism many school districts/charter schools use to document accommodations and services. Documentation is always a best practice to track meetings and accommodations.

Where does the process start?

There is a “Child Find” requirement under Section 504 [34 CFR 104.32(a)], to identify, locate, and evaluate children who might have a disability. General education is a starting point to consider whether or not a student needs to be evaluated for accommodations. School districts/charter schools have various procedures to address the needs of “at risk” students. Responsiveness to Intervention (RTI) is one process. When a student has not responded positively to interventions and/or has a suspected disability, the team should determine to conduct an evaluation for special education and/or Section 504. School districts/charter schools approach Child Find in different ways, but the end result is the same—making sure students in need are identified and provided with accommodations.

Who makes up a Section 504 Team?

Responsibility for considering and developing a Section 504 Accommodation Plan belongs to a core group of knowledgeable persons that could include the school principal or administrator, referring and/or general education classroom teacher, school counselor, and parents. The Section 504 team should also include the school nurse if the student has an Individual Healthcare Plan (IHP). This group is referred to as the Section 504 team; this team is to Section 504 what the IEP team is to Special Education.

Is Section 504 funded like other federal programs?

There is no federal or state funding provided to assist in complying with Section 504. All costs are the obligation of the general school district/charter school budget. Many schools have established a Section 504 budget line item in their general fund budget to cover necessary accommodations for students with disabilities.

What services are available for students with disabilities under Section 504?

Section 504 requires schools to provide students with disabilities appropriate educational services designed to meet their individual needs to the same extent as the needs of students without disabilities. An appropriate education for a student with a disability under the Section 504 regulations could consist of education in regular classrooms, education in regular classes with supplementary services, and/or special education and related services.

What are the areas of the Section 504 regulations?

Section 504 has several areas of particular importance for schools:

- Subpart A—General Provisions
- Subpart B—Employment Practices
- Subpart C—Program Accessibility
- **Subpart D—Requirements for Preschool, Elementary, and Secondary Education**
- Subpart E—Requirements for Post-Secondary Education

Is there a copy of Subpart D of the Section 504 regulations included in this handbook?

Yes. This guide will primarily address Subpart D of the regulations and suggested practices which are relevant to all eligible preschool, elementary, and secondary schools students under Section 504. *See Appendix A*

Subpart D: Requirements for Preschool, Elementary, Middle Level/Junior High, and Secondary Education

Preschool, elementary, middle level/junior high, and secondary programs must take into account the needs of qualified persons with disabilities in determining the aid, benefits, and/or services to be provided under these programs or activities. The school must provide a free appropriate public education (FAPE) to students with disabilities in its jurisdiction who are eligible under Section 504.

If the school suspects a need for accommodations or services, a referral for identification should be made, evaluations conducted, and the need for accommodations determined by a Section 504 team knowledgeable about the student. If the student is identified, the 504 team should develop a Section 504 Accommodation Plan.

The educational programs provided to students with disabilities must be equivalent to the same programs provided to students without disabilities. Teachers, administrators, staff, and parents should receive ongoing training and be knowledgeable about the disability. The school's Section 504 Coordinator is responsible for developing and implementing staff and parent training. [UPDATED A parent guide to Section 504](https://www.schools.utah.gov/sas/scep/overview/equity/section504)
(<https://www.schools.utah.gov/sas/scep/overview/equity/section504>)

Responsibility

Section 504 should fall under the management responsibility of general education. The figure on page 9 illustrates some obligations of general education under Section 504 and their relationship to school personnel roles. The school staff and parents should collaborate to help guarantee that students are provided with necessary accommodations.

In summary, it is important to keep in mind that some students who have been evaluated and have a physical or mental impairment that substantially limits one or more major life activities could be entitled to accommodations under Section 504.

Free Appropriate Public Education (FAPE)

Section 504/ADA requires the provision of a FAPE for students who are identified as having a disability. The regulations define FAPE as:

The provision of an appropriate education is the provision of general or special education and related aids and services that (i) are designed to meet individual needs of disabled persons as adequately as the needs of nondisabled persons are met and (ii) are based upon adherence to procedures that satisfy the requirements of 104.34 (LRE), 104.35 (evaluation), 104.36 (procedural safeguards).

Subpart E: Transition to Post-Secondary Education

Students who are in grades 9-12 and their parents should be made aware of their responsibility in preparing for post-secondary education while also working with their school counselor and teachers in the transition process.

A resource for educators is The U.S. Department of Education, Office for Civil Rights, Transition of Students with Disabilities to Postsecondary Education: [A Guide for High School Educators](http://www2.ed.gov/about/offices/list/ocr/transitionguide.html), Washington, D.C., 2011 (<http://www2.ed.gov/about/offices/list/ocr/transitionguide.html>). This discusses the differences between the rights and responsibilities students with disabilities have once they are in the postsecondary education setting. There are also practical suggestions educators can share with students to facilitate a successful transition to postsecondary education.

There is also a pamphlet for students that explains what a student with disabilities can expect at a post-secondary institution, including their rights and the process they need to follow to qualify for accommodations that give them access to education. This resource, The U.S. Department of Education, Office for Civil Rights, [Students With Disabilities Preparing for Postsecondary Education: Know Your Rights and Responsibilities](https://www2.ed.gov/about/offices/list/ocr/transition.html), Washington, D.C., 2011 (<https://www2.ed.gov/about/offices/list/ocr/transition.html>).

Three Laws: How They Relate

To understand Section 504, it is helpful to see how it relates to two other relevant laws – Title II of the American with Disabilities Act (ADA) and Individuals with Disabilities Education Act (IDEA). Students with disabilities may be protected under two or all three of these Federal laws simultaneously.

Title II of the American with Disabilities Act (ADA)— Title II of the ADA prohibits state and local governments from discriminating on the basis of disability, regardless of whether or not those entities receive Federal financial assistance. The Office for Civil Rights and the U.S. Department of Justice share in the enforcement of Title II in public elementary and secondary education systems.

American Disabilities Act

The ADA protects the civil rights of all individuals with impairments in our society, similar to those provided to individuals on the basis of race, color, sex, national origin, age, and religion. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, state and local government services, and telecommunications. The Amendments Act in 2009 amended only the ADA and, through a conforming amendment, Section 504. The Amendments Act does not amend the IDEA, and therefore, does not affect that law's requirements.

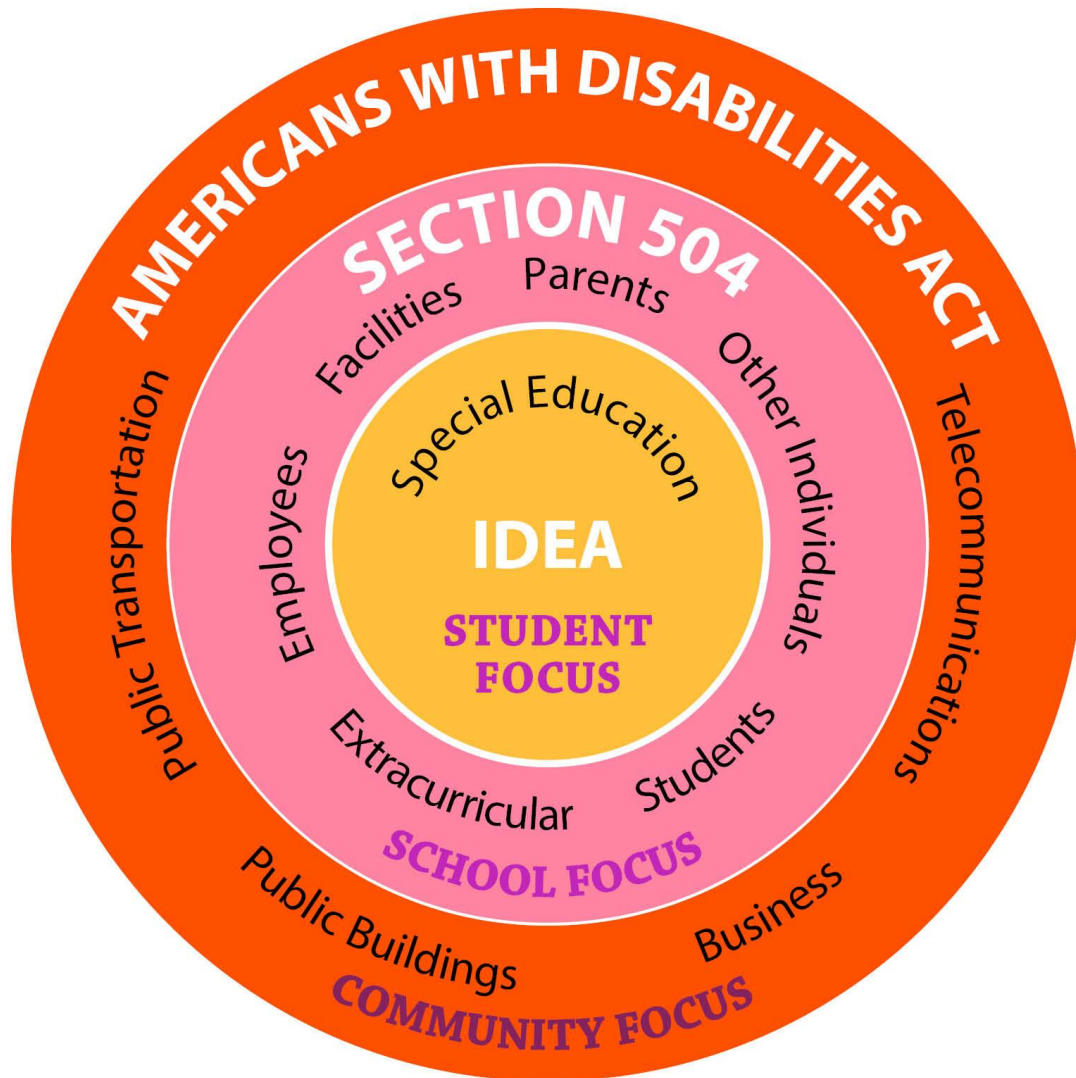
Section 504

Section 504 covers students, parents, employees, and other individuals with impairments. The Section 504 definition of an impairment is much broader, including any physical or mental disability that substantially limits one or more major life activities, including, but not limited to, learning. For public schools, Section 504 covers all students who meet this definition, even if they are not eligible under the Individuals with Disabilities Education Act (IDEA). Students who qualify for Section 504 services do not automatically qualify for special education under the IDEA. The identification for Section 504 services must be based upon evaluations and conducted by a team of individuals knowledgeable about the student. Students who qualify for Section 504 may require accommodations through a Section 504 Accommodations Plan developed by the school's Section 504 Team.

Individuals with Disabilities Education Act (IDEA)

IDEA defines eligible students as those who have specific types of disabilities and who, because of those conditions, need special education (specially designed instruction) and related services to benefit from their education provided through an Individualized Education Program (IEP). The OCR does not enforce the IDEA; however, it does enforce the Section 504 and Title II rights of IDEA-eligible students with disabilities. This means the OCR can investigate allegations that a school district/charter school violated the Section 504 and Title II rights, including Section 504 FAPE rights of students who have an IEP under IDEA.

General Relationship Between ADA, 504, and IDEA



Procedural Requirements of Section 504*

*Adapted from Perry Zirkel

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The following information relates to suggested methods for implementing Section 504 procedural requirements.

Procedure One: Written Assurance (34 CFR, 104(5)(a))

Whenever a school applies for state or federal monies, it must assure that it does not discriminate on the basis of race, sex, color, national origin, age, or disability by signing assurance forms. This requirement is done routinely by all schools when they complete an application for funds.

Procedure Two: Section 504 Coordinator (34 CFR, 104(7)(a))

The general provisions of Section 504, together with other federal nondiscrimination laws, require the designation of a person to coordinate the district's/charter school's efforts to comply with these laws. Section 504 Coordinator responsibilities and activities could include some or all of the following suggested responsibilities:

- Ensure nondiscriminatory educational practices
- Establish and monitor a Section 504 referral/identification/review process
- Maintain data on Section 504 referrals
- Conduct regular staff and parent training presentations concerning Section 504 requirements
- Implement Section 504 grievance procedures for the district/charter school
- Consult with the district/charter school director of special education
- Serve as a liaison with the Utah State Board of Education (USBE) Section 504 Educational Equity Office in Student Advocacy Services
- Provide reports to the USBE as outlined in R277-753
- Serve as the contact person with the regional Office for Civil Rights

The Section 504 Coordinator is someone already employed by the school. A general education administrator or school counselor who is knowledgeable about federal laws and regulations would be preferred. In addition, it is best practice for each school to designate a Section 504 representative to coordinate with the district's/charter school's Section 504 Coordinator.

Procedure Three: General Non-Discrimination Notice to Students, Parents, Employees, and Other Individuals (34 CFR, 104.8).

As a recipient of federal money, the district/charter school shall assure non-discriminatory practices are implemented in programs and activities by clearly stating they do not discriminate on the basis of disability. The notification shall identify the Section 504 Coordinator and contact information (if more than 15 employees). Notice must be included in student/parent handbook, school website, and postings in prominent areas of the building [34 CFR §104.8].

Sample Notice: Section 504 of the Rehabilitation Act and Americans with Disabilities Act

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Notice of Nondiscrimination

Applicants for admission and employment, students, parents, persons with disabilities, employees, and all unions or professional organizations holding collective bargaining or professional agreements with _____ does not discriminate on the basis of race, color, national origin, sex, disability, or age in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups.

Any person having inquiries concerning the school district's/charter school's compliance with the regulations implementing Title VI, Title IX, The Americans with Disabilities Act (ADA) or Section 504 is directed to contact the following individual who has been designated by the school to coordinate efforts to comply with the regulations regarding nondiscrimination:

Name: _____

Title: _____

Phone: _____

Email: _____

Recommendations for notice dissemination:

- Staff, parent, and student handouts
- Annual mailing to staff/parents
- Bulletin boards
- Student/parent handbooks
- School website

Procedure Four: Locate and Identify Qualified Children with Disabilities (Child Find) (34 CFR, 104.32(a))

The school district/charter school shall maintain an ongoing program to find and identify children who might qualify for special education or Section 504 services, within their jurisdiction, who are not receiving public education. This is known as Child Find. To encourage the use of services and ongoing assistance at the earliest age possible, the following methods could be used to find and identify children.

Possible strategies: Develop a series of spot announcements for all local news media (including newspapers). Create a series of posters to be placed in post offices, city hall, schools, and other public buildings. Distribute a referral form to public and private agents such as hospital administrators, public health officers, social welfare offices, private medical practitioners, public nursery schools, and/or child-care and Head Start directors.

Procedure Five: Annual Notice to Parents and Individuals with Disabilities (34 CFR, 104.32(b))

The school district/charter school shall provide information regarding accommodations and services to eligible individuals with disabilities at no cost to the student and family.

Sample Notice: Annual Notice to Parents and Individuals with Disabilities

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Programs for Students with Disabilities under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act prohibits discrimination against persons with a disability in any program receiving federal financial assistance. Section 504 defines a person with a disability as anyone who . . .

Has a mental or physical impairment which substantially limits one or more major life activities such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, sleeping, standing, lifting, reading, concentrating, thinking, communicating, helping, eating, bending, or operation of a bodily function. (This is not an exhaustive list of major life activities, which means even if an activity or function is not listed it can, nonetheless, be a major life activity.)

The school district/charter school has the responsibility to provide accommodations and services to eligible individuals with disabilities. The district/charter school acknowledges its responsibility under Section 504 to avoid discrimination in policies and practices regarding its personnel and students. No discrimination against any person with a disability shall knowingly be permitted in any program or practice in the school.

Recommendations for notice dissemination:

- Staff, parent, and student handouts
- Annual mailing to staff/parents
- Bulletin boards
- Student/parent handbooks
- School website

Procedure Six: Procedural Safeguards for Parents and Students under Section 504 (34 CFR, 104.36)

The school district/charter school shall provide students and parents information regarding their rights under Section 504.

Sample Notice: Parent and/or Student Rights under Section 504

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The following is a description of student and parent rights under Section 504 and other federal laws. The intent of the law is to keep you fully informed concerning decisions about your child, and to inform you of your rights if you disagree with any of these decisions.

Your child has the right to take part in and receive benefits from public education programs without discrimination based on a disability.

Your child has the right to:

- Receive a free appropriate public education. This includes the right to be educated with other students to the maximum extent appropriate. It also includes the right to have the school make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities.
- Be educated in facilities and receive services comparable to those provided for students without disabilities.
- Receive an evaluation, eligibility determination, and if qualified, receive placement and accommodation decisions based upon a variety of information sources and by individuals who know the student, disability, evaluation data, and placement options.
- Receive an equal opportunity to participate in nonacademic and extracurricular activities offered by the school.

As a parent/guardian, you have the right to:

- Examine all relevant records relating to decisions regarding your child's identification, evaluation, educational program, and placement.
- File a local grievance with your school if you feel your child is being discriminated against because of his/her disability and/or is not able to access his/her free appropriate public education.
- Request a due process impartial hearing to help resolve issues with the school. It is important parents or guardians be notified of their right to request a hearing regarding the identification, evaluation, or educational placement of individuals with disabilities and to be represented by counsel [34 CFR § 104.36].
- Contact the Section 504 Educational Equity monitor at the Utah State Board of Education in Student Advocacy Services at 801-538-7828.
- File a formal complaint with the regional Office for Civil Rights. The office is part of the U.S. Department of Education. The regional office is located at 1244 Speer Boulevard Ste 310, Denver, Colorado 80204-3582. Telephone: 303-844-5695. Email: OCR.Denver@ed.gov
<https://www2.ed.gov/about/offices/list/ocr/docs/howto.html?src=rt>

Procedure Seven: Grievance Procedures (34 CFR, 104(7)(b))

General Information

If any person believes the school or any of its staff have inadequately applied the regulations of Section 504 of the Rehabilitation Act of 1973, he/she may initiate a grievance with the school's Section 504 Coordinator. The grievance procedures must explicitly state and make clear to the individual(s) involved that a complaint can be made to the regional office of the U.S. Department of Education's Office for Civil Rights (OCR) without going through the school's grievance procedures. The grievance procedures are meant to provide for a prompt and equitable resolution of a complaint.

While providing for mediation is a best practice, developing the grievance procedures for the complaint process and due process hearings are mandatory for a recipient of federal funds that employs 15 or more persons [34 CFR § 104.7(b)].

Suggested Local Grievance Procedures

The Section 504 Coordinator, on request, will provide a copy of the school's grievance procedures and investigate all complaints in accordance with these procedures. In order to be prompt and equitable, the district/charter school should incorporate the following:

1. Notice of the grievance procedures provided to students and parents
2. Procedures that afford an opportunity for adequate, reliable, and impartial investigation, including a description of the investigative appeals process
3. Timeframes that are reasonably prompt that have been established for various stages of the complaint process
4. Notice of the outcomes of the complaint provided to the parties
5. An assurance that any violations will be addressed, and steps that will be taken to prevent a recurrence

The person who believes he/she has been discriminated against based on disability shall discuss the grievance with, and give the completed grievance form to the Section 504 Coordinator who shall, in turn, investigate and reply to the complainant.

Suggested Process/Timeline

Step 1. A written grievance form signed by the complainant shall be submitted to the Section 504 Coordinator. The Coordinator shall further investigate the matters of grievance and reply in writing to the complainant within 10 (ten) business days.

Step 2. If the complainant wishes to appeal the decision of the Section 504 Coordinator, he/she may submit a signed statement of appeal to the Superintendent of Schools within 10 business days after receipt of the Coordinator's response. The Coordinator and Superintendent cannot be the same individual. The Superintendent shall meet with all parties involved, formulate a conclusion, and respond in writing to the complainant within 10 business days.

Note: If the Superintendent also serves as the Section 504 Coordinator, the appeal must go to another individual. Communicate with the USBE Equity Officer in Student Advocacy Services for advice and guidance.

Suggested Mediation

Mediation is not required under Section 504, but should be considered a best practice. Most of the time, parents and school staff agree upon issues regarding evaluation, eligibility, program, and placement of students with disabilities. However, there are times when disagreement occurs.

Conflict is often inevitable, but it need not produce negative results. If the parent and school are unable to resolve a conflict concerning a student with a disability, then mediation is an available alternative to a long and expensive due process hearing.

The mediator is a neutral third party and, therefore, has no power to make a decision regarding the dispute. He or she will listen to the views of each party and will assist the parties in developing their solution to the problem. The mediator has been trained to handle Section 504 disputes.

-----Best Practice-----

Every attempt should be made to resolve any differences between the school and parents before a complaint is filed and/or before the OCR is contacted. Mediation is an excellent technique to resolve differences.

Mediation is completely voluntary. It should not interfere with any procedural safeguards, including filing a grievance with the district/charter school requesting a due process hearing or filing a complaint with OCR. Mediation costs are the responsibility of the school.

A trained mediator works with both parties to guide them toward a mutually satisfactory solution in the best interest of the student and in compliance with Section 504 regulations. This occurs at a non-adversarial meeting that is more structured than a parent-school conference, but less formal than a due process hearing. Parents and schools are encouraged to try mediation before relying on more formal procedures such as the grievance procedures, complaints to OCR, or due process hearings.

Due Process Hearing

Due process is defined as an opportunity to resolve a dispute between parents and schools over the decisions made and/or procedures used by the school under Section 504. A Section 504 due process hearing (CFR 104.36) may be called at the request of the school or a parent, guardian, or surrogate parent of the student. It is required that parents or guardians be notified of their right to request a hearing regarding a dispute over the identification, evaluation, or educational placement of a student with disabilities being served or considered for Section 504.

OCR Complaint Procedures (Formal)

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The complainant may file a complaint with the Office for Civil Rights (OCR) at any time before, during, or after the local grievance procedures. The contact information for the regional office is as follows:

Office for Civil Rights, Region VIII
Cesar E. Chavez Memorial Building
1244 Speer Boulevard, Suite 310
Denver, Colorado 80204-3582
Telephone: 303-844-5695
FAX: 303-844-4303

[Denver OCR Email Address](mailto:OCR.Denver@ed.gov) (OCR.Denver@ed.gov)

[Denver OCR Website](https://www2.ed.gov/about/offices/list/ocr/docs/howto.html?src=rt) (https://www2.ed.gov/about/offices/list/ocr/docs/howto.html?src=rt)

Office for Civil Rights Complaint Process

An individual or an organization may file a complaint with the regional Office for Civil Rights (OCR). An OCR complaint must be filed, in writing, within 180 days after the alleged discriminatory act or from the time the person becomes aware of the alleged discriminatory act. In certain cases, the OCR will consider complaints where more than 180 days have elapsed.

Anyone wishing to file a formal complaint with the OCR should submit, in writing, the following information in a letter or on the Discrimination Complaint Form, available from the OCR regional offices:

- Name, address, and phone (a daytime telephone number is helpful)
- A general description of the person(s) or class of persons injured by the alleged discriminatory act(s) (names of the injured person(s) are not required)
- The name and location of the agency that committed the alleged discriminatory act(s), as well as the name of the “injured” person
- A description of the alleged discriminatory act(s) in sufficient detail to enable the OCR to understand what occurred, when it occurred, and the basis for the alleged discrimination (race, sex, color, national origin, age, or disability)
- [The form can be found online](https://www2.ed.gov/about/offices/list/ocr/docs/howto.html?src=rt) (https://www2.ed.gov/about/offices/list/ocr/docs/howto.html?src=rt)

REMEMBER! A school or individual may not retaliate against or harass any person who has made a complaint, testified, assisted, or participated in any manner in an investigation.

Everyone Has Section 504 Responsibilities

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Suggested Involvement

Student and Parent

- Be involved in suggesting accommodations.
- Participate in Section 504 meetings.
- Benefit from the accommodations.

School Principals, Certified, and Classified Staff

- Conduct nondiscriminatory practices in classrooms.
- Refer/identify/evaluate students with disabilities.
- Encourage parent involvement.
- Develop and implement program modifications and accommodations.
- Designate a Section 504 representative for the school.

Section 504 Coordinator

- Coordinate Section 504 processes and training.
- Provide staff and parent training.
- Manage Section 504 grievance procedures.
- Develop grievance procedures.
- Develop 504 hearing procedures.

Superintendent

- Designate a district/charter school Section 504 Coordinator.
- Provide written notice to parents, students, school personnel, and community members of the name and contact information of the Section 504 Coordinator.
- Provide continuing notice to students/employees.

School Board

- Maintain an understanding of civil rights laws relating to schools.
- Establish policies of nondiscrimination.

Suggested Process for Determining the Need for Section 504 Services and an Accommodation Plan

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The district's/charter school's Section 504 Coordinator and school administrator shall ensure that the following process occurs.

General Education Intervention Team

1. When a student is experiencing difficulty, he or she should be referred to the school's "At Risk" Intervention Team. Referrals to the team are given to the building administrator and are accepted from parents and/or the student's teacher.
2. The Intervention Team, which includes the parent, meets to discuss the concerns. The presenting problem(s) and previous remedies are considered and reviewed. The review/discussion should include all current information, performance data, and recommendations.
3. The Intervention Team suggests intervention strategies to help correct the difficulties. The primary function of the team is to develop an Intervention Plan, if necessary.

Referral for Evaluation

4. If the Intervention Team determines that an Intervention Plan is needed, then the plan is developed, implemented, and reviewed after a defined period of time. If the review demonstrates that the response to this intervention was unsuccessful, the team can make a referral to another program for evaluation (Section 504, special education under the IDEA, Title I, or other school program, as appropriate).
5. The Intervention Team may also determine whether the nature of the student's difficulty warrants an immediate referral to another program for evaluation. Important: If the student has an obvious disability or is in obvious crisis, the team should not delay in making a referral for a multidisciplinary evaluation to consider the possible need for special education.

Many school districts/charter schools evaluate students first under the Individuals with Disabilities Education Act to rule out the possibility of a disability under IDEA. If the student does not qualify for IDEA, then the evaluation results can be used for possible Section 504 eligibility.

Note: A court case (Lamkin v. Lone Jack C-6 School District, 58 IDELR197 [W. D. Mo. 2012]) takes the position that parents who revoke consent for special education services are also revoking consent for services under Section 504.

Note: In a more recent court case, BK v. Douglas County School District, U.S. District Court, CO, February 25, 2013, the parents revoked the IEP and special education. The district offered the same plan via a Section 504 plan, which the parents revoked. The court concluded that the parents could not hold the district liable for failing to provide accommodations because they rejected the Section 504 plan. The court also observed that the district's obligation to protect the student from disability discrimination included a duty to continue to provide services for the student to ensure the student had the opportunity to receive FAPE.

Initial Evaluation for Section 504—Notification (CFR 34,104.32(b))

6. Obtain written parental permission for initial evaluations. Section 504 does not provide a specific timeline for districts/charter schools to complete an evaluation. However, under the IDEA and Utah state law (53E-7-207), initial evaluation must be conducted within 45 days of receiving parental consent for the evaluation. The Office for Civil Rights generally looks to the IDEA timelines and state requirements to assess the reasonableness of the time it takes the school to evaluate the student once parental consent has been obtained. Therefore, as a best practice, Utah follows the 45-day timeline for initial Section 504 evaluations.

Written Consent for Evaluation

7. Section 504 regulations require schools to individually evaluate a student before providing the student with a Section 504 plan. Again, some school districts/charter schools evaluate first under the IDEA. The school notifies the parents in writing of the school's reason and intent to conduct an evaluation under Section 504. The notice should include a description of the evaluation and of a copy the procedural safeguards (parents' rights) under Section 504. (See [Appendix C #41.](#))

Note: A parent can also request a 504 evaluation.

Evaluation (CFR 34,104.35(b))

8. School districts/charter schools may use the same process to evaluate the needs of students under Section 504 as they use to evaluate the needs of students under the IDEA. If school districts/charter schools choose to adopt a separate process for evaluating the needs of students under Section 504, they must follow the requirements for evaluation specified in the Section 504 regulatory provision at 34 C.F.R. 104.35. The school evaluates a student suspected of having a qualifying impairment under Section 504.

Tests used for this purpose must be selected and administered so as best to ensure that the test results accurately reflect the student's aptitude or achievement. Section 504 also requires that tests and other evaluation materials include those tailored to evaluate the specific areas of educational need and be from a variety of sources. The tests and other evaluation materials must be validated for the specific purpose for which they are used and appropriately administered by trained personnel.

9. The Section 504 Team is made up of a group of persons, including persons knowledgeable about the student. The Section 504 Team should draw from a variety of sources in the identification determination process so the possibility of error is minimized. The information obtained from all such sources must be documented and all significant factors related to the student's learning process must be considered. These sources and factors may include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior.

Identification

10. The Section 504 team meets and analyzes the evaluation data to determine if the student has a mental or physical impairment that substantially limits a major life activity or activities. An impairment in and of itself does not qualify a student for protection under Section 504. The impairment must substantially limit one or more major life activities in order to qualify a student for protection under Section 504. The positive effects of mitigating measures could impact the need, or not, for accommodations. The determination of what constitutes a substantial limitation must be made on a

case-by-case basis with respect to each individual student. An appropriate education for a student with a disability under the Section 504 regulations could consist of education in general classrooms, education in regular classes with supplementary services, and/or special education and related services.

The following are the criteria for identification under Section 504:

A. Has a mental or physical impairment that substantially limits one or more of such person's major life activities.

“Major life activities” include, but not limited to, the following:

- caring for oneself
- walking
- seeing
- speaking
- learning
- breathing
- sleeping
- standing
- lifting
- reading
- concentrating
- thinking
- communicating
- helping
- eating
- bending
- operation of a bodily function
- other

B. Has a record of such an impairment.

C. Is regarded as having such an impairment.

Important:

The second and third prongs of the definition become a factor if discrimination or negative action has occurred because of the “record” or “history” of being regarded as having an impairment.

Major Life Activities

The Americans with Disabilities Act Amendments Act (ADAAA) of 2009 include the major life activities in the law and several new activities. The list is not exhaustive. Listed below are the activities in the ADA.

Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working (42 U.S.C. 12102(4)(a)(2)(A)).

Major life activities also include the operation a major bodily function, including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions (42 U.S.C. 12102(4)(a)(2)(B)).

Impairment/Disability

Notice that this definition draws a distinction between an “impairment” and a “disability.” There are many more people with “impairments” than “disabilities.” The difference lies in the effect the impairment has on the person. If the impairment causes a “substantial limitation” of a “major life activity” then the person has a “disability.” If the impairment does not “substantially limit” the person, then it is an impairment, not a disability.

Substantial Limitation

The determination of substantial limitation must be made on a case-by-case basis with respect to each individual student. The Section 504 regulatory provision at 34 C.F.R. 104.35(c) requires that a group of knowledgeable persons draw upon information from a variety of sources in making this determination.

Neither the ADA nor Section 504 provide a definition of this critical term. The ADA amendments simply state the term “substantially limits” shall be interpreted consistently with the findings and purposes of the ADA Amendment Act of 2008 (42 U.S.C. 12102(4)(a)(4)(B)).

Currently, the Equal Employment Opportunity Commission (EEOC) has defined “substantially limits” as follows:

- a. The term “substantially limits” shall be construed broadly in favor of expansive coverage, to the maximum extent permitted by the terms of the ADA. “Substantially limits” is not meant to be a demanding standard.
- b. An impairment is a disability within the meaning of this section if it substantially limits the ability of an individual to perform a major life activity as compared to most people in the general population (29 C.F.R. 1630.2(j) (May 25, 2011).

Determination for Eligibility Based on Grade Point Average

In the OCR’s investigative experience, school districts/charter schools sometimes rely on a student’s average, or better-than-average, classroom grades or grade point average (GPA) and, as a result, make inappropriate decisions. For example, a school district might wrongly assume that a student with an above-average GPA does not have a disability and therefore fail to conduct a Section 504 evaluation of that student, even if the school suspects that the student has Attention Deficit Hyperactivity Disorder (ADHD) or the school is aware that the student has been diagnosed with ADHD outside of school.

However, a student with a disability may achieve a high level of academic success but may nevertheless be substantially limited in a major life activity due to the student’s impairment because of the additional time or effort the student must spend to read, write, or learn compared to others.

Scenario 1 – Suspected Disability & Evaluation

Rosita is a fourth-grade student at her local public elementary school. Her teacher notices that Rosita has trouble concentrating during class lessons and it takes Rosita significantly longer than most students to complete in-class assignments. While the teacher acknowledges that it is very difficult for Rosita to stay seated and on-task, she does not think Rosita needs special education services because she is earning B’s and C’s. What should the teacher do?

In this situation, Rosita's teacher needs to inform the proper individuals in the school system that Rosita needs to be evaluated. It is only through an evaluation process that a school district can properly determine if a student has a disability and needs Section 504 services.

Note that grades alone, whether good or bad, do not necessarily indicate whether a student has or does not have a disability.

Even if Rosita does not require special education, she could still receive other Section 504 services if she meets the Section 504 definition of disability and is in need of related aids or services, or supplemental services. For example, Rosita may have ADHD and may, because of her ADHD, need extra time to complete assignments and assistance from a classroom aide to stay on task during class. However, even if Rosita does not require either special education or related aids and services, as long as she is a student with a disability under Section 504, she is still protected under that law from other forms of discrimination. The teacher's referral of Rosita for evaluation is central to complying with Section 504 here.

Mitigating Measures

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the effects of mitigating measures such as:

- i. Medication; medical supplies, equipment, or appliances; low-vision devices (which do not include ordinary eyeglasses or contact lenses); prosthetics, including limbs and devices; hearing aids and cochlear implants or other implantable hearing devices; mobility devices; or oxygen therapy equipment and supplies;
- ii. Use of assistive technology;
- iii. Reasonable accommodations or auxiliary aids or services; or
- iv. Learned behavioral or adaptive neurological modifications (42 U.S.C. 12102(4)(a)(4)(E)(i)).

Under the 2009 ADAAA, students and employees are disabled under Section 504 if they have a physical or mental impairment that would substantially limit them in a major life activity if they were not taking advantage of mitigating measures.

Episodic Impairments/Intermittent Impairments

An impairment that is episodic or in remission is a disability if, when in an active phase, it would substantially limit a major life activity (Amendments Act § 4(a) [codified as amended at 42§ 12102]). For example, a student with bipolar disorder would be covered if, during manic or depressive episodes, the student is substantially limited in a major life activity (e.g., thinking, concentrating, neurological function, or brain function). Another example would be a student with migraines or allergies that may contribute to student absences at certain times of the year (e.g., spring or fall).

Scenario 2 – Disabilities in Remission

Doctors diagnosed Omar with cancer at the beginning of the summer break, between fourth grade and fifth grade. When initially diagnosed, Omar was weak and tired all the time, and, at times, unable to even get out of bed or dress or feed himself. He received chemotherapy in July and August and returned to school, without any symptoms of his disease, at the beginning of the school year. At that

time his parents informed the school of Omar's cancer diagnosis. It is now November and doctors have informed Omar's parents that his disease appears to be in remission. Omar's mom notes that he runs and plays like all the other children and his grades are great. How would a group of knowledgeable persons determine if Omar has a disability?

A student who has an impairment that is episodic (for example, epilepsy or post-traumatic stress disorder) or in remission is considered to be a person with a disability if, when active (that is, when symptoms are evident or reoccur), the impairment substantially limits a major life activity. When active, Omar's illness left him weak and unable to get out of bed. In other words, when active, cancer substantially limits his ability to care for himself which, under Federal law, is a major life activity. Moreover, the cancer substantially limits the major bodily function of normal cell growth, which is also a major life activity under Federal law. For this reason, the group of knowledgeable persons would determine that Omar is a student with a disability.

However, Omar may or may not require special education or related aids and services that are designed to meet his individual educational needs as adequately as the needs of non-disabled students are met. Even if Omar does not need special education or related aids and services, he would still be protected under Section 504, for example, from bullying and harassment based on his disability.

Temporary Impairments

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 typically beyond six months. The issue of whether a temporary impairment is substantial enough to be a disability and must be resolved on a case-by-case basis, taking into consideration either the duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity of the affected individual (Frequently Asked Questions About Section 504 and the Education of Children with Disabilities, 111 LRP 76408 (OCR 03/17/11)).

Students with Medical Needs

The enactment of ADAAA, a medical condition or other disability need not prevent, or severely or significantly restrict, a major life activity in order to be substantially limiting (42 USC 12101(a)(8)). Also, due to the passing of ADAAA, a student that has allergies, chemical sensitivities, asthma, cancer, diabetes, or a seizure disorder is more likely to be found eligible for Section 504 as a student with a disability.

While there are no disabilities under Section 504 and Title II per se, the nature of many impairments is such that, in virtually every case, a determination in favor of disability will be made. Thus, a school district/charter school should not need or require extensive documentation or analysis to determine that a child with diabetes, epilepsy, bipolar disorder, or autism has a disability under Section 504 and Title II (Dear Colleague Letter, 58 IDELR 79 (OCR 2012)).

No medical diagnosis is required for Section 504 eligibility

"Section 504 does not require that a school district/charter school conduct a medical assessment of a student who has or is suspected of having ADHD unless the district/charter school determines it is necessary to determine if the student has a disability" (Williamson County (TN) Sch. Dist., 32 IDELR261 (OCR 2000)).

Furthermore, if a school district determines, based on the facts and circumstances of the individual case, that a medical assessment is necessary to conduct a Section 504 individual evaluation to determine whether a child

has a disability under Section 504, and needs special education or related services because of a disability, the school district must ensure that the student receives this assessment at no cost to the student's parents (34 C.F.R. §§ 104.33, 104.35, and 34 C.F.R. pt. 104, App. A (discussing Subpart D, ¶ 23)).

When Students with Medical Needs Are Technically Eligible Under Section 504

A student with medical needs may technically be found eligible under Section 504. Students only need to have a disability that substantially limits a major life activity, but may not need an accommodation plan to be technically eligible.

Examples include a student whose impairment is in remission; a student whose needs are addressed through mitigating measures that he/she control; or a student with severe asthma that substantially limits the major life activity of breathing and function of the respiratory system, but who, after completing an evaluation, does not need special education or other related services as a result of the disability (Dear Colleague Letter, 58 IDELR 79 (OCR 2012)).

The 2nd and 3rd prongs of the law “has record of such impairment” or “regarded as having such an impairment” protect these students with disabilities from discrimination.

Taking a conservative approach, pending clarification from the OCR, would provide students with Section 504 protections such as the right to a manifestation determination and the right to file an OCR complaint and obtain a due process hearing, as well as equal opportunity to participate in nonacademic services and extracurricular activities.

Written Consent for Section 504 Placement

Written consent from the parent should be obtained for an initial Section 504 placement. In most cases, “placement” is in general education.

Section 504 Accommodation Plan/Services

Factors to be considered for plan/service options by a group of individuals knowledgeable about the student and his/her disability and evaluation are as follows:

- a. Evaluation results
- b. Section 504 identification determination
- c. The student's unmet needs
- d. Services and/or accommodations based on needs
- e. Least restrictive environment for services

Implementation/Least Restrictive Environment

- a. The Section 504 team makes decisions regarding the necessary accommodations/services to allow for the student's disability. Parents should be consulted and given the opportunity for input regarding the accommodations.
- b. The accommodations and/or services are documented on a Section 504 plan form and implemented.
- c. A Section 504 Case Manager is designated to coordinate the student's plan.
- d. In most cases, the educational environment is in general education.

Extracurricular Activities § 104.37 (a) General

- (1) A recipient to which this subpart applies shall provide non-academic and extracurricular services and activities in such manner as is necessary to afford handicapped students an equal opportunity for

participation in such services and activities.

(2) Non-academic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the recipients, referral to agencies which provide assistance to handicapped persons, and employment of students, including both employment by the recipient and assistance in making available outside employment.

“In considering whether a reasonable modification is legally required, the school district/charter school must first engage in an individualized inquiry to determine whether the modification is necessary. If the modification is necessary, the school district/charter school must allow it unless doing so would result in a fundamental alteration or the nature of the extracurricular athletic activity. A modification might constitute a fundamental alteration if it alters such an essential aspect of the activity or game that would be unacceptable even if it affected all competitors equally (such as adding an extra base in baseball). Alternatively, a change that has only a peripheral impact on the activity or game itself might nevertheless give a particular player with a disability an unfair advantage over others and, for that reason, fundamentally alter the character of the competition. Even if a specific modification would constitute a fundamental alteration, the school district/charter school would still be required to determine if other modifications might be available that would permit the student’s participation” (Dear Colleague Letter, January 25, 2013).

Manifestation Determination

Before a student with a disability may be removed from school for more than 10 school days at a time in a school year, or before implementing a series of suspensions in excess of 10 school days that constitute a pattern of exclusion, a recipient must first conduct a reevaluation of the student. The first step in the reevaluation includes a determination, by a group of persons knowledgeable about the child and the meaning of the evaluation data, whether the behavior for which the student is being disciplined is a manifestation of the student’s disability. The group must have available to it information that competent professionals would require, such as psychological evaluation data related to behavior, and the relevant information must be recent enough to afford an understanding of the student’s current behavior. Disciplinary removal constituting a change in placement cannot be imposed unless the team determines that the misbehavior is not a manifestation of the student’s disability. If it is determined that the behavior is a manifestation of the student’s disability, the group must continue the evaluation, in accordance with Section 504, to determine whether the student’s current educational placement is appropriate. Parents are entitled to notice of the results of the manifestation determination and of the procedural safeguards available to them to challenge the determination.

Removal of a Student with Disabilities to an Interim Alternative Educational Setting (IAES)

In removing a student to an Interim Alternative Educational Setting (IAES), a “manifestation determination” must take place before removing a student for more than a 10-day suspension, or the cumulative of no more than 10 days throughout the school year. A student may be removed to an IAES regardless of whether his/her misconduct is related to his/her disability.

Individuls with Disabilites Education Act regulations at 34 CFR 300.530 (g) are as follows:

School personnel may remove a student to an interim alternative educational setting for not more than 45 days without regard to whether the behavior is determined to be a manifestation of the child’s disability, if the child carries or possesses a weapon to or at school, on school premises, or to or at a school function under the

jurisdiction of an SEA or an LEA; knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA; or has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA.

Infliction of serious bodily injury (34 CFR 300.530(i)(3)):

In the regulation the term “serious bodily injury” has the meaning given in under 18 USC 1365(h)(3). That section is not related to education, and defines “serious bodily injury” that involves one or more of the following:

- A substantial risk of death
- Extreme physical pain
- Protracted and obvious disfigurement.
- Protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

Under 18 USC 1365(h)(4) the definition of “bodily injury” is as follows:

- A cut, abrasion, bruise or disfigurement
- Physical pain
- Illness
- Impairment of the function of a bodily member, organ or mental faculty
- Any other injury to the body, no matter how temporary

OSERS has stated that neither states nor local educational agencies may modify this statutory definition. In general, most “simple” assaults by a student upon another student, teacher, or administrator will not meet the definition. In Mountain Sch., Dist., 109 LRP 26432 (SEA PA 2009), a student broke a teacher’s nose and, although it was injurious, frightening, and intimidating, it did not rise to the narrow definition of the infliction of “serious bodily injury.”

One case where a student’s acts constituted a serious bodily injury and justified removal to an IAES was in Westminster School District, 56 IDELR 85 (SEA CA 2011), where a six-year-old with autistic-like behaviors “head-butted” his teacher. The Administrative Law Judge (ALJ) reasoned that the facts surrounding the teacher’s medical treatment, and her characterization that it was the worst pain she had in her life, constituted serious bodily injury.

Required Services for a Student Removed to IAES 34 CFR 300.530(d)(1)

Regulations require that a child removed to an IAES continue to receive educational services, “so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child’s IEP.” That section also requires that the child “receive, as appropriate, a functional behavioral assessment (FBA), behavioral intervention services (BIP) and modifications that are designed to address the behavior violation so that it does not reoccur” (Dangerous Conduct by Students with Disabilities: Legal Guidelines for Appropriate Responses, John W. Norlin, ESQ., LRP Publications, 2012).

Review/Reevaluation

Periodic review and reevaluation is required. This may be conducted in accordance with the IDEA regulations, which require reevaluation at three-year intervals (unless the parent and public agency agree that reevaluation is unnecessary) or more frequently if conditions warrant, or if the child's parent or teacher requests a reevaluation, but not more than once a year (unless the parent and public agency agree otherwise).

Red Flags for Considering Possible Identification Under Section 504

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- When a student is evaluated and does not qualify for special education services under the IDEA
- When a parent frequently expresses a concern about his/her child's performance
- When suspension or expulsion is being considered for a student
- When retention is being considered for any student
- When a student shows a pattern of not benefiting from classroom instruction
- When a student returns to school after a serious illness or injury
- When a student exhibits a chronic health condition
- When a student has been identified as having attention deficit disorder (ADD) or attention deficit hyperactivity disorder (ADHD)
- When substance abuse is an issue—the individual must have stopped using the substance and should either be in rehabilitation or have gone through the rehabilitation process
- When a disability of any kind is known or suspected
- When a new building or remodeling is being considered
- When a student is absent often/multiple days missed due to a medical impairment that may be a disability under Section 504

General Strategies

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The following is a list of possible services, strategies, and/or accommodations for identified students. Each student is unique. These accommodations should be determined by evaluation results and input from the Section 504 team.

Environmental Strategies

- Provide a structured learning environment
- Adjust class schedule
- Provide classroom aides and note takers
- Modify nonacademic times such as lunchroom and recess
- Modify physical education
- Change student seating
- Provide use of a study carrel
- Alter location of personal or classroom supplies for easier access, or to minimize distraction

Organizational Strategies

- Modify test delivery
- Use tape recorders, computer-aided instruction, and other audiovisual equipment
- Select modified textbooks or workbooks
- Tailor homework assignments
- Provide peer tutoring
- Set time expectations for assignments
- Provide tests in segments so that student finishes one segment before receiving the next part
- Highlight main ideas and supporting details in the book

Behavior Strategies

- Use behavioral management techniques
- Implement behavioral/academic contracts
- Use positive reinforcements (rewards)
- Use negative reinforcements (consequences)
- Confer with the student's parents and other teachers
- Establish a home/school communication system for behavior monitoring
- Post rules and consequences for classroom behavior
- Offer social reinforcers (e.g., praise) for appropriate behavior
- Establish daily/weekly progress report for the student
- Implement self-recording of behaviors

Presentation Strategies

- Record lessons for the student
- Provide photocopied material for extra practice (e.g., outlines, study guides)
- Require fewer drill and practice activities
- Give both oral and visual instructions for assignments

- Vary the method of lesson presentation:
 - Lecture
 - Small groups
 - Large groups
 - Audiovisuals
 - Peer tutors or cross-age tutors (e.g., take notes, monitor assignments, read aloud, listen)
 - Demonstrations
 - Experiments
 - Simulations
 - Games
- One-to-one instruction with other adult
- Provide for oral testing
- Ask student to repeat directions/assignments to ensure understanding
- Arrange for a mentor to work with the student in his or her interest area or area of greatest strength

Methodology Strategies

- Repeat and simplify instructions about in-class and homework assignments
- Supplement oral instructions with visual instructions
- Change instructional pace
- Change instructional methods

Curriculum Strategies

- Assess whether student has the necessary prerequisite skills
- Determine whether materials are appropriate to the student's current interest and functioning levels
- Use supplementary materials
- Implement study skill strategies (survey, read, recite, review)
- Introduce definition of new terms/vocabulary and review to check for understanding
- Limit amount of material presented on a single page
- Provide a sample or practice test
- Be aware of student's preferred learning style and provide appropriate instruction/materials

100 Effective Accommodations/Services

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The following suggested accommodations/services can be used for students experiencing academic and/or behavioral difficulties. Remember, every student is different and accommodations need to be decided by the Section 504 team, which includes the parents.

1. Provide study carrels
2. Use room dividers
3. Provide headsets to muffle noise
4. Seat child away from doors/windows
5. Seat near model (student or teacher)
6. Provide time-out area
7. Rearrange student groups (according to instructional needs, role models, etc.)
8. Group for cooperative learning
9. Vary working surface (e.g., floor or vertical surface such as blackboard)
10. Simplify/shorten directions
11. Give both oral and written directions
12. Have student repeat directions
13. Have student repeat lesson objective
14. Ask frequent questions
15. Change question level
16. Change response format (e.g., from verbal to physical, from saying to pointing)
17. Provide sequential directions (label as first, second, etc.)
18. Use manipulatives
19. Alter objective criterion level
20. Provide functional tasks (relate to child's environment)
21. Reduce number of items on a task
22. Highlight relevant words/features
23. Use rebus (picture) directions
24. Provide guided practice
25. Provide more practice trials
26. Increase allocated time
27. Use a strategy approach
28. Change reinforcers
29. Increase reinforcement frequency
30. Delay reinforcement
31. Increase wait time
32. Use physical warm-up exercises
33. Use specific rather than general praise
34. Have a peer tutor program
35. Provide frequent review
36. Have student summarize at end of lesson
37. Use self-correcting materials
38. Adapt test items for differing response modes
39. Provide mnemonic devices

40. Provide tangible reinforcers
41. Use behavioral contracts
42. Establish routines for handing work in, heading papers, etc.
43. Use timers to show allocated time
44. Teach self-monitoring
45. Provide visual cues (e.g., posters, desktop number lines, etc.)
46. Block out extraneous stimuli on written material
47. Tape record directions
48. Tape record student responses
49. Use a study guide
50. Provide critical vocabulary list for content material
51. Provide essential fact list
52. Use clock faces to show classroom routine times
53. Use dotted lines to line up math problems or show margins
54. Provide transition directions
55. Assign only one task at a time
56. Provide discussion questions before reading
57. Use word markers to guide reading
58. Alter sequence of presentation
59. Enlarge or highlight key words on test items
60. Provide daily and weekly assignment sheets
61. Post daily/weekly schedule
62. Use graph paper for place value or when adding/subtracting two-digit numbers
63. Provide anticipation cues
64. Establish rules and review frequently
65. Teach key direction words
66. Use distributed practice
67. Provide pencil grip
68. Tape paper to desk
69. Shorten project assignment into daily tasks
70. Segment directions
71. Number (order) assignments to be completed
72. Change far-point to near-point material for copying or review
73. Put desk close to blackboard
74. Incorporate currently popular themes/characters into assignments for motivation
75. Repeat major points
76. Use physical cues while speaking (e.g., 1, 2, 3, etc.)
77. Pause during speaking
78. Use verbal cues (e.g., "Don't write this down," "This is important")
79. Change tone of voice, whisper, etc.
80. Use an honor system
81. Collect notebooks weekly (periodically) to review student notes
82. Reorganize tests to go from easy to hard
83. Color code place value tasks
84. Use self-teaching materials
85. Do only odd- or even-numbered items on a large task sheet
86. Use a primary typewriter or large print to create written material

87. Provide organizers (e.g., cartons/bins) for desk material
88. Teach varied reading rates (e.g., scanning, skimming, etc.)
89. Provide content/lecture summaries
90. Use peer-mediated strategies (e.g., "buddy system")
91. Call student's name before asking a question
92. Use extra spaces between lines of print
93. Color code materials/directions
94. Use raised-line paper
95. Circle math computation sign
96. Establish a rationale for learning
97. Use hand signals to cue behavior (e.g., attention, responding)
98. Use advance organizers
99. Help students develop their own learning strategies
100. Provide calculators

Examples of Disabilities and Accommodations

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The Section 504 accommodations/services a student receives will be based upon the unique needs identified during the evaluation process. The pages that follow are intended to offer sample accommodations for typical disabilities that may qualify a student to receive a Section 504 Accommodation Plan.

Remember, these disabilities are covered by Section 504 only if an evaluation determines that the condition is substantially limiting to a major life activity. Each student is different, so the accommodation will be different and decided by the Section 504 team, including the parent.

As of January 1, 2009, school districts/charter schools, in determining whether a student has a physical or mental impairment that substantially limits that student in a major life activity, must not consider the ameliorating effects of any mitigating measures that student is using. This is a change from prior law. Before January 1, 2009, school districts/charter schools had to consider a student's use of mitigating measures in determining whether that student had a physical or mental impairment that substantially limited that student in a major life activity. In the Amendments Act ([Appendix C #21](#)), however, Congress specified that the ameliorative effects of mitigating measures must not be considered in determining whether a person is an individual with a disability.

Congress did not define the term "mitigating measures," but rather provided a non-exhaustive list of mitigating measures. The mitigating measures are as follows: medication; medical supplies, equipment, or appliances; low-vision devices (which do not include ordinary eyeglasses or contact lenses); prosthetics (including limbs and devices); hearing aids and cochlear implants or other implantable hearing devices; mobility devices; oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; and learned behavioral or adaptive neurological modifications.

Congress created one exception to the mitigating measures analysis. The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity. "Ordinary eyeglasses or contact lenses" are lenses that are intended to fully correct visual acuity or eliminate refractive error, whereas "low-vision devices" are devices that magnify, enhance, or otherwise augment a visual image.

ANXIETY

Example: A student in a classroom appears anxious throughout the day. Some students can have such intense anxiety that it disrupts the entire class.

Possible Accommodations

- Provide a calm, supportive, and organized classroom
- Allow the student to give yes/no answers or pose opinion questions
- Provide alternatives to classroom presentations, such as giving the presentation to teacher or turning in a video/audio flash drive presentation
- Provide a quiet and distraction-free room for testing
- Provide extended time for tests
- Provide a peer mentor to accompany the student to lunch, recess, etc.
- Assign a safe person/adult mentor who can provide an understanding and calming presence for the student

- Use a “cooldown pass” for a student when he/she is overanxious
- Use carefully-thought-out seating in large groups/assemblies
- Provide the student with class notes from lessons when the student returns from an absence, and provide assistance to complete missed work if needed

ARTHRITIS

EXAMPLE: A student with arthritis may have persistent pain, tenderness, or swelling in one or more joints. The student is substantially limited in the major life activities of walking and performing manual tasks.

Possible Accommodations

- According to the Nurse Practice Act, a school nurse should develop an Individual Healthcare Plan (IHP) and Emergency Action Plan (EAP) if needed
- Provide a rest period during the day
- Accommodate for absences for doctor appointments
- Provide assistive devices for writing (e.g., pencil grips, non-skid surface, typewriter/computer, etc.)
- Modify physical education curriculum
- Administer medication as prescribed (school nurse)
- Arrange for assistance with carrying books, lunch tray, etc.
- Provide book caddy
- Implement movement plan to avoid stiffness
- Provide seating accommodations
- Allow extra time between classes
- Provide locker assistance
- Provide modified eating utensils
- Accommodate for writing with a computer and note-taking with a tape recorder
- Make available access to wheelchair/ramps and school van for transportation
- Modify recess time
- Provide peer support groups
- Arrange for instructional aide support
- Arrange for someone else to take notes
- Shorten assignments or tests that still meet core expectations
- Install handle style doorknobs (openers)
- Record lectures/presentations
- Have teacher provide outlines of presentation
- Use Velcro® fasteners for bags, shoes, and coats
- Provide a more comfortable style of desk
- Adjust attendance policy, if needed
- Furnish a warmer room and sit student close to the heat
- Modify curriculum for the lab classes
- Supply an extra set of books for home use and keep a set at school
- Let student give reports in oral form rather than written
- Begin an awareness program for other students
- Provide individual school counseling
- Make any needed bathroom accommodations

ASTHMA

EXAMPLE: A student has been diagnosed as having asthma. The disability limits the major life activity of breathing.

Possible Accommodations

- According to the Nurse Practice Act, a school nurse could develop an Individual Healthcare Plan (IHP) and Emergency Action Plan (EAP)
- Modify activity level for recess, physical education, etc.
- Use air purifier or inhalers
- Provide inhalant therapy assistance
- Administer medication as prescribed—school nurse
- Remove allergens (e.g., hairspray, lotions, perfumes, pine trees, carpet)
- Make field trips non-mandatory and supplement with videos, audios, movies, etc.
- Accommodate medical absence; arrange transportation to home/clinic
- Provide education to peers/teachers/others (bus drivers, cooks, etc.)
- Provide access to water, gum, etc.
- Provide curriculum considerations (science class, physical education, etc.)
- Provide alternatives if the student misses an excessive amount of school
- Have peers available to carry materials to and from classes (e.g., lunch tray, books)
- Provide rest periods
- Modify field trip experiences
- Provide indoor space for before and after school
- Arrange for access to wheelchair for transition purposes
- Have a locker location that is centralized and free of atmosphere changes
- Modify attendance policies

ATTENTION DEFICIT DISORDER (ADD) & ATTENTION DEFICIT HYPERACTIVITY DISORDER (ADHD)

EXAMPLE: The student does not meet eligibility requirements under IDEA as emotionally disturbed learning disabled, or other health impaired. According to assessments and observations, it is determined the student's disability is the inability to concentrate as the major life activity.

Possible Accommodations

- Have student work in a study carrel
- Adjust student seating
- Use simple, concise instructions
- Provide a peer tutor/helper
- Teach compensatory strategies
- Administer medication as prescribed (school nurse)
- Monitor stress and fatigue; adjust activities
- Modify assignments as necessary
- Change instructional pace
- Provide supervision during transitions, disruptions, and field trips
- Use study guides, & organizing tools
- Modify testing procedures
- Provide school counseling
- Initiate frequent parent communication

- Establish a school/home behavior management program
- Provide training for staff and parents
- Have the student use an organizer and train in organizational skills
- Establish a visual cue between teacher and student
- Assign chores/duties around room/school
- Modify environment to avoid distractions
- Highlight required or important information/directions
- Record assignments and directions for auditory learners
- Provide a checklist for student, parents, and/or teacher to record assignments or completed tasks
- Use a timer to assist student to focus on a given task or number of problems in time allotted; stress that they need to be done correctly
- Have student restate or write directions/instructions
- Allow student to respond in variety of different modes (e.g., may record answers for tests on a recording device instead of paper)
- Give student opportunity to stand while working
- Provide additional supervision during trips to and from school
- Modify student's work area with barriers
- Provide training to other student and staff about ADD/ADHD
- Supply treats and rewards to promote behavior change
- Prescribe physical activity, exercise, etc.
- Determine trigger points and prevent action leading to trigger points

AUTISM

EXAMPLE: The student does not meet eligibility requirements under IDEA, but presents communication, social interaction, and other behaviors that are defined as autistic.

Possible Accommodations

- Provide sensitivity training to school staff by school psychologist or by another expert while still maintaining confidentiality of the student. Notify parents ahead of time to determine level of disclosure
- Do not disclose diagnosis to student unless otherwise granted by parents
- Provide general sensitivity training to students
- Provide a set and predictable routine in classroom
- Extend time to complete assignment or test
- Shorten assignments or tests that still meet core expectations
- Review and make adjustments to physical arrangement of classroom and preferential seating
- Vary activities and teaching approaches (visual, auditory, and multi-sensory)
- Allow different ways for student to respond
- Allow change of material formatting (highlighted words, note-taking assistance, larger print, multiple choice vs. fill in the blank, etc.)
- Provide reinforcement of meeting intended outcomes to increase motivation

BIPOLAR AND DEPRESSION

Example: A student with bipolar disorder may have frequent mood switches, be sick more often, and have more mixed episodes both manic and depressive symptoms.

Possible Accommodations

- Build in opportunities for the student to talk to a supportive adult.
- Give the student the opportunity for self-time out to regroup when he/she is feeling sad or irritable.
- Build in physical activities during the day, such as shooting hoops or walking the track, that are not contingent on behavior.
- Give flexible deadlines for work completion.
- Avoid the lowering of grades for messy work.
- Give the student the time needed to respond to requests or questions.
- Allow the student to be in a cooperative group without requiring active participation.
- Assist the student in using a planner to keep track of assignments, and review at the end of the day to ensure he/she has all the assignments listed.
- Provide the student with an extra set of books or access to online books to use at home.
- Assist the student in breaking down assignments and projects into manageable parts.
- Assist the student in setting short-term goals, even for one period or day.
- Allow preferential seating based on the student's needs.
- Reduce homework or extend deadlines as necessary and appropriate.

CANCER

EXAMPLE: The student has been diagnosed with cancer. The condition has become substantially limiting to the major life activities of learning and caring for oneself.

Possible Accommodations

- According to the Nurse Practice Act, a school nurse should develop an Individual Healthcare Plan (IHP) and Emergency Action Plan (EAP)
- Apply universal precautions
- Adjust attendance policies
- Limit number of classes taken; accommodate scheduling (breaks, etc.)
- Send teacher/tutor to hospital, as appropriate
- Take whatever steps are necessary to accommodate student's involvement in extracurricular activities
- Adjust activity level and expectations in classes based on physical limitations; do not require activities that are too physically taxing
- Schedule daily monitoring or distribution of medications, as prescribed
- Have accommodations available for transportation to and from school and extracurricular activities
- Provide dietary accommodations
- Shorten day and/or arrange for home tutoring following treatment
- Provide additional set of texts and assignments to hospital school
- Record lessons
- Modify schedule to include rest breaks
- Provide counseling; establish peer support group
- Adapt physical education
- Provide access as needed to school health services
- Provide awareness training to staff and other students about cancer

- Furnish a peer tutor
- Modify workload
- Provide a separate bathroom
- Provide an interactive computer/modem
- Instigate a free pass system from the classroom
- Adjust the proficiency requirement
- Provide individual school counseling
- If necessary, adjust requirements for graduation
- Provide teachers with counseling, emphasizing the maintenance of positive attitudes

CEREBRAL PALSY

EXAMPLE: The student has serious difficulties with fine and gross motor skills. A wheelchair is used for mobility. Cognitive skills are very good. The impairment substantially limits the major life activity of walking and caring for oneself.

Possible Accommodations

- A school nurse should initiate an Individual Healthcare Plan (IHP)
- Provide assistive technology devices (computer)
- Arrange for use of ramps and elevators
- Allow for extra time between classes
- Assist with carrying books, lunch trays, etc.
- Modify physical education curriculum
- Provide time for physical therapy
- Monitor medication administration as prescribed (school nurse)
- Modify eating utensils
- Educate peers/staff about cerebral palsy

CHEMICAL/SEASONAL ALLERGIES

EXAMPLE: An adverse response to chemicals in products, fragrances, building materials, or cleaning supplies that triggers illness affecting a major life activity.

Possible Accommodations

- Provide training to staff regarding chemical/seasonal allergies and school's obligation to FAPE and non-discrimination laws
- According to the Nurse Practice Act, a school nurse should create an Individual Healthcare Plan (IHP) and Emergency Action Plan (EAP) if allergies are life threatening
- Provide training to necessary persons: dietary people, peers, coaches, laundry for sports people (if allergy is to soap)
- Ban scents
- Adapt physical education curriculum during high pollen time
- Improve room ventilation (e.g., when remodeling has occurred and materials may cause an allergy)
- Provide air filter in classroom
- Collaborate with maintenance to know when pesticides or fertilizers are being sprayed or building renovations that could affect ventilation within the school
- Avoid allergy-causing substances: soap, weeds, pollen, and food
- Clean surfaces periodically with chemical-reduced products
- Provide access to appropriate medication

- When service animals are used to meet need of another student's needs that may cause an allergic reaction to another student, assigning both to "different locations within a classroom or to different rooms in the school building" may be necessary (114 LRP 32429 (OCR 04/02/14))
- Provide allergen-free tables
- Allow time for doctor's appointments
- Review and modify attendance policies.
- Provide transportation needs, including field trips.

CONCUSSION

EXAMPLE: The student suffers trauma to the brain that substantially limits a major life activity whose duration is approximately six months or longer. (TRAUMATIC BRAIN INJURY is listed toward the end of this section)

Possible Accommodations

- Provide preferential seating
- Reduce in written work
- Extend time on tests and assignments
- Allow for voice recording of lessons
- Provide copies of notes
- Allow student to leave class early or late to avoid crowded hallways
- Adjust attendance policy to meet student needs
- Allow student to wear sunglasses to reduce headaches
- Permit breaks in a quiet space
- Modify schedule to include rest breaks
- Allow time for doctor's appointments without penalty

DIABETES

EXAMPLE: The student is monitored and taking medication to regulate blood sugar levels that requires regular insulin therapy, diet, and exercise.

Possible Accommodations

- According to the Nurse Practice Act, a school nurse should develop an Individual Healthcare Plan (IHP/DMMP) and Emergency Action Plan (EAP)
- Train diabetes personnel (non-medical school personnel qualified by nurse)
- Allow student to leave class to administer insulin (self, nurse, or trained personnel)
- Allow for privacy when blood sugar monitoring and medication administration takes place
- Allow student immediate access to snacks and water
- Adjust snack and mealtimes
- Permit bathroom use without restriction
- Allow student to take a class test at a later date if blood sugar is too high or low on day of exam without penalty
- Allow student to extend completion of projects, assignments, or tests
- Permit student to carry diabetes supply in backpack
- Allow activity and extracurricular participation with necessary personnel present as needed
- Provide safe storage of insulin pump if student chooses not to wear it during physical activity
- Provide adequate personnel during transportation, including field trips
- Provide instruction to make up absences without penalty

- Allow time for doctor's appointments
- Review and modify attendance policies
- Notify parents when planned activities have been changed to adjust insulin schedule (P.E., recess, lunch schedule, parties, field trips, etc.)

DYSGRAPHIA

EXAMPLE: The student does not meet eligibility requirements under IDEA but has difficulty in motor and non-motor (lack of orthographic memory) issues affecting the ability to write.

Possible Accommodations

- Decrease amount of handwriting
- Provide word processor or scribe
- Provide speech-to-text note-taker
- Allow student to show knowledge verbally instead of in writing
- Provide extra time to take notes
- Provide typed copies of lesson outline and/or notes
- Allow student to start writing projects and assignments early
- Allow for certain class sessions to be recorded
- Grade on student knowledge and not penalize for handwriting or spelling
- Allow student to use graph paper to line up math and other problems

DYSLEXIA

EXAMPLE: The student does not meet eligibility requirements under IDEA but has difficulty in reading or interpreting words, letters, and other symbols that do not affect general intelligence.

Possible Accommodations

- Provide preferential seating near teacher to minimize distractions
- Check for understanding of directions/expectations and content
- Break directions into smaller steps/segments
- Allow physical movement in classroom to meet sensory processing challenges
- Reduce visual clutter on worksheets
- Enlarge print
- Provide worksheets in light overlay colors
- Allow use of heavy paper strip to assist in tracking
- Color coding using highlights
- Allow student to show knowledge verbally instead of in writing
- Avoid multiple choice or bubble answer sheets to reduce confusion
- Allow access to word processing device for student to complete assignments/tests
- Allow use of spelling/grammar devices
- Provide list of key vocabulary words prior to presentation of lesson
- Allow access to audio recordings of books with text-to-speech

EPILEPSY

EXAMPLE: The student is on medication for seizure activity but experiences several grand mal seizures each month. The condition substantially limits the major life activity of learning.

Possible Accommodations

- According to the Nurse Practice Act, a school nurse should develop an Individual

Healthcare Plan (IHP) and Emergency Action Plan (EAP)

- A school nurse should train staff
- Monitor and/or administer medications (school nurse)
- Move student to a more appropriate seat for access to assist during seizures
- Provide rest time and academic considerations following seizures
- Avoid using chalkboards
- Provide an alternative recess
- Provide clean rooms and avoid rooms with carpet
- Provide education for peers and staff about epilepsy
- Plan for academic make-up work so individual can catch up with peers

FOOD ALLERGIES

EXAMPLE: An adverse immune response that occurs reproducibly on exposure to a given food and is distinct from other adverse responses to food, such as food intolerance.

Possible Accommodations

- Provide training to staff regarding food allergies and school's obligation to FAPE and non-discrimination laws
- Speak to students and parents of existing disability and provide guidelines of behavior during school.
- According to the Nurse Practice Act, a school nurse should create an Individual Healthcare Plan (IHP) and Emergency Action Plan (EAP) if allergies are life threatening
- Provide access to appropriate medication
- Provide allergen-free tables
- Provide substitute snacks when other snacks are provided to other students
- Clean surfaces periodically
- Require students to wash their hands occasionally throughout the day
- Restrict particular food items from the classroom and cafeteria
- Allow time for doctor's appointments
- Review and modify attendance policies
- Notify parents of lunch menus, ingredients, and activities involving food ahead of time
- Monitor student throughout school day, particularly during lunch by a school nurse or other qualified person
- Provide transportation needs, including field trips

OBESITY

EXAMPLE: A student has an eating disorder that may require special accommodations. (Obesity may be considered a disability under Section 504, where it substantially impairs the major life activity of mobility.)

Possible Accommodations

- Provide special seating modifications
- Make dietary modifications
- Adjust meal schedule
- Adapt physical education program
- Allow extra time to get to classes
- Educate peers about eating disorders
- Adapt restrooms
- Begin a peer support group

- Allow more passing time
- Ensure privacy for self-care
- Provide school counseling
- Provide for elevator privileges or other accommodations—for example, for individuals in wheelchairs or with other disabilities that prevent them from using stairs
- Arrange classroom furniture to provide room to negotiate and move around classroom seating
- Arrange for peer counseling/helping to deal with esteem issues; also peer attitudes, teasing, etc.
- Address busing concerns to ensure room on buses for seating
- Arrange to provide opportunities for the individual to participate in intramural events
- Provide proper and safe transportation to and from school
- Make any class location changes that may be needed
- Promote out-of-school support
- Adjust attendance policy

OPPOSITIONAL DEFIANT DISORDER (ODD)

Example: A student is constantly challenging class rules, refuses to complete assignments, and argues and fights with students and staff.

Possible Accommodations

- Give the student two choices when he/she needs to make a decision. State them briefly and clearly.
- Set clear classroom rules and be clear about what is nonnegotiable
- Post a daily schedule so the student knows what to expect
- Give positive reinforcement when the student responds positively
- Ensure work is at an appropriate level. When work is too hard, students become frustrated, and when it's too easy become bored.
- Pace instruction. When the student completes a portion of a hard assignment, then let him/her do something he/she enjoys for a period of time.
- Systematically teach social skills, including anger management, conflict resolution, and how to be assertive in an appropriate way
- Implement consistency, structure, and clear consequences for the student's behavior
- Provide opportunities and materials that promote student interaction
- Plan transitions carefully and avoid downtime
- Give the student opportunity to redo his/her assignment for a better grade

ORTHOPEDIC IMPAIRMENT

EXAMPLE: The student has limited mobility and is confined to a wheelchair. The impairment substantially limits the major life activity of walking and caring for oneself.

Possible Accommodations

- A school nurse could develop an Individual Healthcare Plan (IHP) and Emergency Action Plan (EAP)
- Provide an adaptive physical education program
- If necessary, provide physical therapy at school
- Check facilities regarding physical accessibility
- Provide extra time to get to class
- Supply a set of textbooks for home
- Provide a copy of class notes from a peer
- Practice emergency exit from school building

POST-TRAUMATIC STRESS DISORDER (PTSD)

Example: A student with PTSD can be unpredictable and have such variability that it can create a perception that there are no explanations for behavior.

Possible Accommodations

- Identify triggers that may be upsetting or traumatizing to the students. Avoid or stop activities where those triggers are present.
- Provide a consistent daily schedule. Let the student know ahead of time when there are changes to the schedule if possible. Explain what will be different and why.
- Include a good balance between active and quiet activities
- Assign an adult who can listen to the student, respecting the student's need for confidentiality
- Include opportunities for the student to participate in large motor activities throughout the day
- Staff should not tell the student to forget about the incident

STUDENT FORMERLY RECEIVING SPECIAL EDUCATION SERVICES

EXAMPLE: The student has exited from a special education program but still needs some academic accommodations to function in a general classroom. The learning disability still substantially limits the major life activity of learning.

Possible Accommodations

- Conduct an evaluation to determine possible Section 504 eligibility
- Network; plan with all staff
- Maintain ongoing monitoring of progress; notify staff
- Establish daily/weekly progress reports
- Allow for academic accommodations in the general education classroom
- Provide mentoring services at school
- Consider Title I services
- Provide after-school tutoring
- Provide peer tutoring
- Adjust homework assignments
- Have student work toward more independent achievement of assignments within a structured environment (to build self-esteem)
- Contact previous special education teachers for suggestions
- Review files of progress reports and see what plans were successful

STUDENT WITH SPECIAL HEALTH CARE NEEDS

EXAMPLE: The student has a special health care problem and requires clean intermittent catheterization twice each day. The impairment substantially limits the major life activity of caring for oneself.

Possible Accommodations

- According to the Nurse Practice Act, a school nurse should develop an Individual Healthcare Plan (IHP) and Emergency Action Plan (EAP) if needed
- Apply universal precautions
- Provide trained personnel to perform special procedures
- Provide student with private location and time to perform procedures
- Involve school nurse, parents, teachers, and staff
- Allow preferential seating

- Modify recess/PE/transportation
- Reevaluate/update periodically
- If necessary, modify attendance policy
- Establish a health alert—see that every staff member involved with this student is aware of the health problem and of proper procedures
- Provide a beeper/paging system for trained personnel
- Begin a disability awareness program upon parent or student request
- If necessary, provide school counseling
- Arrange for trained personnel for school field trips

TEMPORARY DISABILITY

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, usually six months or more in duration. 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 duration (and expected duration) of the impairment and the extent to which it actually limits a major life activity of the affected individual.

EXAMPLE: A student was in an automobile accident and will be homebound and/or hospitalized for a period of time. The student is considered temporarily disabled and is substantially limited in the major life activity of walking.

Possible Accommodations

- Provide duplicate sets of texts and recorded lessons
- Schedule periodic home-school meetings
- Arrange for student to leave class early to get to next class on time
- Provide access to elevators
- Excuse from or adapt physical education program
- Arrange for a friend to assist student in getting from class to class (support network)
- Provide a cordless telephone/beeper
- Provide school counseling regarding trauma from accident
- Provide physical therapy as necessary
- Arrange for a tutor
- Arrange for peer notes
- Provide help with getting lunch tray
- Change seating arrangements to accommodate needs
- Modify assignments depending on disability
- Modify completion of assignment
- Allow more time for test completion
- Allow shortened days; adjust attendance policy
- Address special accommodations of a wheelchair
- Provide training for staff and class and prepare an emergency care plan
- Switch classrooms to main floor
- Test verbally
- Provide peer assistance for social involvement (keep student informed of social activities)

TOURETTE SYNDROME

EXAMPLE: The student exhibits inappropriate gestures and sounds in the classroom and hallways. The impairment substantially limits the major life activity of learning.

Possible Accommodations

- Educate other students' and staff about Tourette syndrome
- Pair with a neighboring student to prevent tardiness or absenteeism
- Provide student with a means of catching up on missed lessons
- Pair with a fellow student for study
- Arrange for frequent parental interaction
- Administer medication, if necessary (school nurse)
- Provide supervision for transition activities
- Modify assignments
- Provide alternative workspace
- Provide a separate location for test taking so student can focus on the test, not his/her tics
- Cue student for inappropriate behavior
- Furnish supervision while student is acting out
- Provide training for teachers about different discipline procedures

TRAUMATIC BRAIN INJURY

EXAMPLE: The student sustained a brain injury in an automobile accident. Many academic and motor skills have been lost due to the injury. The condition substantially limits the major life activity of learning.

Possible Accommodations

- According to the Nurse Practice Act, a school Nurse should develop an Individual Healthcare Plan (IHP) and Emergency Action Plan (EAP)
- Allow additional time to complete assignments
- Allow for extra or extended breaks
- Provide student with teachers or another student's notes
- Allow student to record teacher lectures to listen to later
- Provide both written and oral instructions
- Provide a study guide when available
- Allow student to use a computer, iPad, etc. to check spelling and grammar
- When grading papers, focus less on spelling and grammatical errors (unless it is the purpose of the assignment)
- Permit referencing a dictionary or thesaurus for assignments
- Provide preferential seating at or near the front of the classroom
- Reduce quantity of work required in favor of quality
- Avoid putting student in high-pressure situations (e.g., short time frames, extensive volume of work, highly competitive situations)
- Allow additional time to complete tests
- Provide a quiet place for test to be taken that minimizes distractions
- Administer long examinations in a series of short segments with breaks allowed between sections
- Furnish memory/organizational aids
- Provide alternative testing, such as oral testing of materials
- Initiate tutoring programs
- Provide training for staff and peers about TBI

- Implement an academic monitoring process
- Mental Health Accommodations



Manifestation Determination Reviews

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MDRs are conducted to determine whether:

IDEA (Individual with Disabilities Education Act)	SECTION 504 (Federal Rights Law)
<ol style="list-style-type: none">1. A student's misconduct was caused by, or had a direct and substantial relationship to the child's disability; or2. The misconduct in question was the direct result of the district's failure to implement the IEP. 34 CFR 300.530(e)(1).	<p>The student's misconduct was caused by or related to his physical or mental impairment.</p> <p>Dunkin (MO) R-V Sch. Dist., 52 IDELR 138 (OCR 2009).</p>

A change in placement occurs when:

IDEA (Individual with Disabilities Education Act)	SECTION 504 (Federal Rights Law)
<ol style="list-style-type: none">1. A student is removed for more than 10 consecutive school days; or2. A student is subjected to a series of removals that constitutes a pattern because: a) the removals total more than 10 school days in a school year; b) the child's behavior in previous incidents that results in removal; and c) additional factors such as length of each removal and the proximity of the removals to each other. 34 CFR 300.536(a).	<ol style="list-style-type: none">1. A student is suspended or expelled for more than 10 consecutive school days; or2. A student is subjected to a series of suspensions that are 10 cumulative days within the school year. <p>OCR Staff Memorandum, 16 IDELR 491 (OCR 1989); and Dunkin (MO) R-V Sch. Dist., 52 IDELR 138 (OCR 2009).</p>

Districts/Charters MUST:

IDEA (Individual with Disabilities Education Act)	SECTION 504 (Federal Rights Law)
<p>Perform MDR "within 10 days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct."</p> <p>34 CFR 300.530(e).</p>	<p>Conduct an evaluation...of any person who...needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person...and any subsequent significant change in placement.</p> <p>34 CFR 104.35(a).</p>

The MDR team must include:

IDEA (Individual with Disabilities Education Act)	SECTION 504 (Federal Rights Law)
<p>The district, the parent, and relevant members of the IEP team (as determined by the parent and the district).</p> <p>34 CFR 300.530 (e).</p>	<p>A group of persons who are knowledgeable about the child, the meaning of the evaluation data, placement options, least restrictive environment requirements, and comparable facilities.</p> <p>34 CFR 104.35(c)(3)</p>

The MDR team must:

IDEA (Individual with Disabilities Education Act)	SECTION 504 (Federal Rights Law)
<p>Review “all of the relevant information in the student’s file, including the child’s IEP, any teacher observations, and any relevant information provided by the parents.”</p> <p>43 CFR 300.530(e).</p> <p>NOTE: That list of relevant information is NOT exhaustive</p> <p>71 Fed. Reg. 46,719 (2006).</p>	<p>Consider a broad range of data that competent professional would require and relevant information that is recent enough to afford an understanding of the student’s behavior, such as psychological evaluation.</p> <p><i>OCR Staff Memorandum</i>, 16 IDELR 491 (OCR 1989).</p>

If the MDR team determines the student’s misconduct was a manifestation of the student’s disability:

IDEA (Individual with Disabilities Education Act)	SECTION 504 (Federal Rights Law)
<p>The IEP team must return the student to the placement from which he was removed and:</p> <ol style="list-style-type: none"> 1. Conduct a functional behavioral assessment and implement a BIP for the student; or 2. If a BIP is already in place, review the BIP and modify it as necessary to address the behavior. <p>34 CFR 300.530(f)</p>	<p>The team must assess whether the student’s current educational placement is appropriate, and if necessary, change the student’s placement to a setting that meets his educational and behavioral needs.</p> <p><i>Knox County (TN) Sch. Dist.</i>, 26 IDELR 762 (OCR 1997).</p>

If the MDR team determines the student's misconduct was NOT related to his disability:

IDEA (Individual with Disabilities Education Act)	SECTION 504 (Federal Rights Law)
<p>The student is subject to the same disciplinary sanctions a student without a disability. However, the student must:</p> <ol style="list-style-type: none"> 1. Continue to receive educational services that enable him to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the IEP; and 2. Receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications that address the behaviors that led to the disciplinary incident. <p>34 CFR 300.530(d)(i).</p>	<p>The district may elect to impose whatever suspension, expulsion, or other disciplinary penalty it would impose on a nondisabled student under the same circumstances.</p> <p><i>See, e.g., Gates-Chili (NY) Cent. Sch. Dist., 50 IDELR 51 (OCR 2007); and Youngstown (OH) City Sch. Dist., 114 LRP 29317 (OCR 02/26/14).</i></p>

APPENDICES

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Appendix A: Section 504 of the Rehabilitation Act of 1973— Regulations, Subpart D

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34 CFR Chapter 1, Section 104.31–104.39.

Subpart D—Preschool, Elementary, and Secondary Education (December 13, 2000)

§ 104.31 Application of this subpart.

Subpart D applies to preschool, elementary, secondary, and adult education programs or activities that receive Federal financial assistance and to recipients that operate, or that receive Federal financial assistance for the operation of, such programs or activities.

§ 104.32 Location and notification.

A recipient that operates a public elementary or secondary education program or activity shall annually:

- (a) Undertake to identify and locate every qualified handicapped person residing in the recipient's jurisdiction who is not receiving a public education; and
- (b) Take appropriate steps to notify handicapped persons and their parents or guardians of the recipient's duty under this subpart.

§ 104.33 Free appropriate public education.

- (a) General. A recipient that operates a public elementary or secondary education program or activity shall provide a free appropriate public education to each qualified handicapped person who is in the recipient's jurisdiction, regardless of the nature or severity of the person's handicap.

- (b) Appropriate education.

(1) For the purpose of this subpart, the provision of an appropriate education is the provision of regular or special education and related aids and services that (i) are designed to meet individual educational needs of handicapped persons as adequately as the needs of non-handicapped persons are met and (ii) are based upon adherence to procedures that satisfy the requirements of §§ 104.34, 104.35, and 104.36.

(2) Implementation of an Individualized Education Program developed in accordance with the Education of the Handicapped Act is one means of meeting the standard established in paragraph (b)(1)(i) of this section.

(3) A recipient may place a handicapped person or refer such a person for aid, benefits, or services other than those that it operates or provides as its means of carrying out the requirements of this subpart. If so, the recipient remains responsible for ensuring that the requirements of this subpart are met with respect to any handicapped person so placed or referred.

- (c) Free education.

(1) General. For the purpose of this section, the provision of a free education is the provision of educational and related services without cost to the handicapped person or to his or her parents or guardian, except for those fees that are imposed on non-handicapped persons or their parents or guardian. It may consist either of the provision of free services or, if a recipient places a handicapped person or refers such person for aid, benefits, or services not operated or provided by the recipient as its means of carrying out the requirements of this subpart, of payment for the costs of the aid, benefits, or services. Funds available from any public or private agency may be used to meet the requirements of this subpart. Nothing in this section shall be construed to relieve an insurer or similar third party from an otherwise valid obligation to provide or pay for services provided to a handicapped person.

(2) Transportation. If a recipient places a handicapped person or refers such person for aid, benefits, or

services not operated or provided by the recipient as its means of carrying out the requirements of this subpart, the recipient shall ensure that adequate transportation to and from the aid, benefits, or services is provided at no greater cost than would be incurred by the person or his or her parents or guardian if the person were placed in the aid, benefits, or services operated by the recipient.

(3) Residential placement. If a public or private residential placement is necessary to provide a free appropriate public education to a handicapped person because of his or her handicap, the placement, including non-medical care and room and board, shall be provided at no cost to the person or his or her parents or guardian.

(4) Placement of handicapped persons by parents. If a recipient has made available, in conformance with the requirements of this section and §104.34, a free appropriate public education to a handicapped person and the person's parents or guardian choose to place the person in a private school, the recipient is not required to pay for the person's education in the private school. Disagreements between a parent or guardian and a recipient regarding whether the recipient has made a free appropriate public education available or otherwise regarding the question of financial responsibility are subject to the due process procedures of §104.36.

(d) Compliance. A recipient may not exclude any qualified handicapped person from a public elementary or secondary education after the effective date of this part. A recipient that is not, on the effective date of this regulation, in full compliance with the other requirements of the preceding paragraphs of this section shall meet such requirements at the earliest practicable time and in no event later than September 1, 1978.

§ 104.34 Educational setting.

- (a) Academic setting. A recipient to which this subpart applies shall educate, or shall provide for the education of, each qualified handicapped person in its jurisdiction with persons who are not handicapped to the maximum extent appropriate to the needs of the handicapped person. A recipient shall place a handicapped person in the regular educational environment operated by the recipient unless it is demonstrated by the recipient that the education of the person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. Whenever a recipient places a person in a setting other than the regular educational environment pursuant to this paragraph, it shall take into account the proximity of the alternate setting to the person's home.
- (b) Nonacademic settings. In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in § 104.37(a)(2), a recipient shall ensure that handicapped persons participate with non-handicapped persons in such activities and services to the maximum extent appropriate to the needs of the handicapped person in question.
- (c) Comparable facilities. If a recipient, in compliance with paragraph (a) of this section, operates a facility that is identifiable as being for handicapped persons, the recipient shall ensure that the facility and the services and activities provided therein are comparable to the other facilities, services, and activities of the recipient.

§ 104.35 Evaluation and placement.

- (a) Pre-placement evaluation. A recipient that operates a public elementary or secondary education program or activity shall conduct an evaluation in accordance with the requirements of paragraph (b) of this section of any person who, because of handicap, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in regular or special education and any subsequent significant change in placement.
- (b) Evaluation procedures. A recipient to which this subpart applies shall establish standards and procedures for the evaluation and placement of persons who, because of handicap, need or are

believed to need special education or related services which ensure that: (1) 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; (2) 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 (3) 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).

- (c) Placement procedures. In interpreting evaluation data and in making placement decisions, a recipient shall (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 child, the meaning of the evaluation data, and the placement options, and (4) ensure that the placement decision is made in conformity with § 104.34.
- (d) Reevaluation. A recipient to which this section applies shall establish procedures, in accordance with paragraph (b) of this section, for periodic reevaluation of students who have been provided special education and related services. A reevaluation procedure consistent with the Education for the Handicapped Act is one means of meeting this requirement.

§ 104.36 Procedural safeguards.

A recipient that operates a public elementary or secondary education program or activity shall establish and implement, with respect to actions regarding the identification, evaluation, or educational placement of persons who, because of handicap, need or are believed to need special instruction or related services, a system of procedural safeguards that includes notice, an opportunity for the parents or guardian of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of section 615 of the Education of the Handicapped Act is one means of meeting this requirement.

§ 104.37 Nonacademic services.

(a) General. (1) A recipient to which this subpart applies shall provide non-academic and extracurricular services and activities in such manner as is necessary to afford handicapped students an equal opportunity for participation in such services and activities.

(2) Nonacademic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the recipients, referrals to agencies which provide assistance to handicapped persons, and employment of students, including both employment by the recipient and assistance in making available outside employment.

- (b) Counseling services. A recipient to which this subpart applies that provides personal, academic, or vocational counseling, guidance, or placement services to its students shall provide these services without discrimination on the basis of handicap. The recipient shall ensure that qualified handicapped students are not counseled toward more restrictive career objectives than are non-handicapped students with similar interests and abilities.

(c) Physical education and athletics. (1) In providing physical education courses and athletics and similar aid, benefits, or services to any of its students, a recipient to which this subpart applies may not discriminate on the basis of handicap. A recipient that offers physical education courses or that operates or sponsors interscholastic, club, or intramural athletics shall provide to qualified handicapped students an equal opportunity for participation.

(2) A recipient may offer to handicapped students physical education and athletic activities that are separate or different from those offered to non-handicapped students only if separation or differentiation is consistent with the requirements of §104.34 and only if no qualified handicapped student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

§ 104.38 Preschool and adult education.

A recipient to which this subpart applies that provides preschool education or day care or adult education may not, on the basis of handicap, exclude qualified handicapped persons and shall take into account the needs of such persons in determining the aid, benefits, or services to be provided.

§ 104.39 Private education.

A recipient that provides private elementary or secondary education may not, on the basis of handicap, exclude a qualified handicapped person if the person can, with minor adjustments, be provided an appropriate education, as defined in §104.33(b)(1), within that recipient's program or activity.

A recipient to which this section applies may not charge more for the provision of an appropriate education to handicapped persons than to non-handicapped persons except to the extent that any additional charge is justified by a substantial increase in cost to the recipient.

A recipient to which this section applies that provides special education shall do so in accordance with the provisions of §§ 104.35 and 104.36. Each recipient to which this section applies is subject to the provisions of §§ 104.34, 104.37, and 104.38.

Appendix B: Utah Laws and Board Rules

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[Rescue Medication in Schools Section 53G-9-505.5](#) (<https://le.utah.gov/~2016/bills/static/SB0232.html>)

[Students with Disabilities Accommodations Funding Section 53F-2-512](#)

(<https://le.utah.gov/~2017/bills/static/SB0061.html>)

LEA Reporting Requirements for Section 504 Students Utah Board Rule R277-753:

R277. Education, Administration. R277-753.

LEA Reporting Requirements for Section 504 Students.

R277-753-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53E-3-401, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53F-2-512, which directs the Board to make rules for implementation of a reimbursement program for special education funds to address Section 504 accommodations.

(2) The purpose of this rule is to establish reporting requirements for LEAs providing Section 504 accommodations to students.

R277-753-2. Definitions.

(1) "Autism" means a disability of verbal, non-verbal or social interaction that substantially limits one or more major life activities and does not require specialized instruction under special education services.

(2) "Brain injury impairment" or "Concussion impairment" means a short term disability of the brain caused by an external physical force that substantially limits one or more major life activities, and which adversely affects a student's access to the student's education.

(3) "Hearing impairment" means a hearing disability that substantially limits one or more major life activity, which may require assistive technology but does not require specialized instruction under special education services.

(4) "Learning impairment" means a learning disability, which includes, but is not limited to, dyslexia, dysgraphia, and dyscalculia, that substantially limits one or more major life activities, but does not require specialized instruction under special education services.

(5) "Major bodily function impairment" means an impairment to any of the following functions that adversely limit a student's access to the student's education:

(a) immune system function;

(b) normal cell growth;

(c) genitourinary function;

(d) bladder function;

(e) brain function;

(f) circulatory function;

(g) endocrine function;

(h) lymphatic function;

(i) special sensory organ and skin function;

(j) digestive function;

- (k) bowel function;
- (l) neurological function;
- (m) respiratory function;
- (n) cardiovascular function;
- (o) hemic function;
- (p) musculoskeletal function; and
- (q) reproductive function.

(6) "Medical impairment" means a disability that is chronic or acute in nature, which may be active or in remission, and which substantially limits one or more major life activities, including, but not limited to:

- (a) allergies;
- (b) asthma;
- (c) attention deficit disorder or attention deficit hyperactivity disorder;
- (d) chemical sensitivities;
- (e) diabetes;
- (f) epilepsy;
- (g) a heart condition;
- (h) hemophilia;
- (i) lead poisoning;
- (j) leukemia;
- (k) cancer;
- (l) arthritis;
- (m) nephritis;
- (n) rheumatic fever;
- (o) sickle cell anemia;
- (p) Tourette syndrome;
- (q) HIV/AIDS; or

(R) an acquired brain injury adversely affecting a student's access to the student's education, which may result from health problems such as:

- (i) an hypoxic event;
- (ii) encephalitis;
- (iii) meningitis;
- (iv) brain tumor; or
- (v) stroke.

(7) "Mental health impairment" means a mental disability that is chronic or acute in nature, and which substantially limits one or more major life activities, including, but not limited to:

- (a) anxiety;
- (b) attention deficit disorder or attention deficit hyperactivity disorder;
- (c) depression;
- (d) post-traumatic stress disorder; or
- (e) emotional or mental illnesses.

(8) "Orthopedic impairment" means a physical disability, which may be on-going or short term in nature, that substantially limits one or more major life activities, and which adversely affects a student's access to the student's education.

(9) "Other impairment" means any other disability not specifically defined in this rule, which substantially limits one or more major life activities.

(10) "Section 504" means section 504 of the Vocational Rehabilitation Act of 1973, 29 U.S.C. 701, et seq., which guarantees certain rights to disabled students.

(11) “Utah eTranscript and Record Exchange” or “UTREx” means a system that allows individual detailed student records to be exchanged electronically between public education LEAs and the Board. (12) “Utah Program Improvement Planning System” or “UPIPS” is a secure website utilized by the Board Special Education Services section to collect compliance and fiscal LEA data regarding students with disabilities, required under state and federal law.

R277-753-3. LEA Section 504 Reporting Requirements.

(1) An LEA shall include a count of students with Section 504 accommodations in its daily UTREx submission.

(2) An LEA shall report financial costs incurred as a result of Section 504 accommodations to the Superintendent through UPIPS by June 30 annually.

(3) An LEA’s data submissions under this rule shall be broken down in the following categories:

- (a) Autism;
- (b) Brain Injury or Concussion Impairment;
- (c) Hearing Impairment;
- (d) Learning Impairment;
- (e) Major Bodily Function Impairment;
- (f) Medical Impairment;
- (g) Mental Health Impairment;
- (h) Orthopedic Impairment; and
- (i) Other Impairment.

KEY: reporting, requirements, Section 504

Date of Enactment or Last Substantive Amendment: August 7, 2017

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401

Appendix C: Frequently Asked Questions and Answers for Section 504

Issued by the OCR

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INTERRELATIONSHIP OF IDEA AND SECTION 504

1. What is the jurisdiction of the Office for Civil Rights (OCR), the Office of Special Education and Rehabilitative Services (OSERS), and state departments of education/instruction regarding educational services to students with disabilities?

OCR, a component of the U.S. Department of Education, enforces Section 504 of the Rehabilitation Act of 1973, as amended (Section 504), a civil rights statute that prohibits discrimination against individuals with disabilities. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), which extends this prohibition against discrimination to the full range of state and local government services, programs, and activities (including public schools), regardless of whether they receive any Federal financial assistance. The Americans with Disabilities Act Amendments Act of 2008 (Amendments Act), effective January 1, 2009, amended the Americans with Disabilities Act of 1990 (ADA) and included a conforming amendment to the Rehabilitation Act of 1973 (Rehabilitation Act) that affects the meaning of disability in Section 504. The standards adopted by the ADA were designed not to restrict the rights or remedies available under Section 504. The Title II regulations applicable to free appropriate public education issues do not provide greater protection than applicable Section 504 regulations. This guidance focuses primarily on Section 504.

Section 504 prohibits discrimination on the basis of disability in programs or activities that receive Federal financial assistance from the U.S. Department of Education. Title II prohibits discrimination on the basis of disability by state and local governments. The Office of Special Education and Rehabilitative Services (OSERS), also a component of the U.S. Department of Education, administers the Individuals with Disabilities Education Act (IDEA), a statute which funds special education programs. Each state educational agency is responsible for administering IDEA within the state and distributing the funds for special education programs. IDEA is a grant statute and attaches many specific conditions to the receipt of Federal IDEA funds. Section 504 and the ADA are antidiscrimination laws and do not provide any type of funding.

2. How does OCR get involved in disability issues within a school district/charter school?

OCR receives complaints from parents, students, or advocates; conducts agency initiated compliance reviews; and provides technical assistance to school districts/charter schools, parents, or advocates.

3. Where can a school district/charter school, parent, or student get information on Section 504 or find out information about OCR's interpretation of Section 504 and Title II?

OCR provides technical assistance to school districts/charter schools, parents, and students upon request. Additionally, regulations and publicly issued [policy guidance is available on OCR's website](http://www.ed.gov/policy/rights/guid/ocr/disability.html) (<http://www.ed.gov/policy/rights/guid/ocr/disability.html>).

4. What services are available for students with disabilities under Section 504?

Section 504 requires recipients to provide to students with disabilities appropriate educational services designed to meet the individual needs of such students to the same extent as the needs of students without

disabilities are met. An appropriate education for a student with a disability under the Section 504 regulations could consist of education in regular classrooms, education in regular classes with supplementary services, and/or special education and related services.

5. Does OCR examine individual placement or other educational decisions for students with disabilities?

Except in extraordinary circumstances, OCR does not review the result of individual placement or other educational decisions so long as the school district/charter school complies with the procedural requirements of Section 504 relating to identification and location of students with disabilities, evaluation of such students, and due process. Accordingly, OCR generally will not evaluate the content of a Section 504 plan or of an individualized education program (IEP); rather, any disagreement can be resolved through a due process hearing. The hearing would be conducted under Section 504 or the IDEA, whichever is applicable.

OCR will examine procedures by which school districts/charter schools identify and evaluate students with disabilities and the procedural safeguards which those school districts/charter schools provide students. OCR will also examine incidents in which students with disabilities are allegedly subjected to treatment which is different from the treatment to which similarly situated students without disabilities are subjected. Such incidents may involve the unwarranted exclusion of disabled students from educational programs and services.

6. What protections does OCR provide against retaliation?

Retaliatory acts are prohibited. A recipient is prohibited from intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Section 504.

7. Does OCR mediate complaints?

OCR does not engage in formal mediation. However, OCR may offer to facilitate mediation, referred to as “Early Complaint Resolution,” to resolve a complaint filed under Section 504. This approach brings the parties together so that they may discuss possible resolution of the complaint immediately. If both parties are willing to use this approach, OCR will work with the parties to facilitate resolution by providing each an understanding of pertinent legal standards and possible remedies. An agreement reached between the parties is not monitored by OCR.

8. What are the appeal rights with OCR?

OCR is committed to a high quality resolution of every case. If a complainant has questions or concerns about an OCR determination, he or she may contact the OCR staff person whose name appears in the complaint resolution letter. The complainant should address his or her concerns with as much specificity as possible, focusing on factual or legal questions that would change the resolution of the case. Should a complainant continue to have questions or concerns, he or she is advised to send a request for reconsideration to the Director of the responsible OCR field office. The Director will review the appropriateness of the complaint resolution. If the complainant remains dissatisfied, he or she may submit an appeal in writing to the Deputy Assistant Secretary for Enforcement. The decision of the Deputy Assistant Secretary for Enforcement constitutes OCR’s final decision.

9. What does noncompliance with Section 504 mean?

A school district/charter school is out of compliance when it is violating any provision of the Section 504 statute or regulations.

10. What sanctions can OCR impose on a school district/charter school that is out of compliance?

OCR initially attempts to bring the school district/charter school into voluntary compliance through negotiation of a corrective action agreement. If OCR is unable to achieve voluntary compliance, OCR will initiate enforcement action. OCR may (1) initiate administrative proceedings to terminate Department of Education financial assistance to the recipient or (2) refer the case to the Department of Justice for judicial proceedings.

11. Who has ultimate authority to enforce Section 504?

In the educational context, OCR has been given administrative authority to enforce Section 504. Section 504 is a Federal statute that may be enforced through the Department's administrative process or through the Federal court system. In addition, a person may at any time file a private lawsuit against a school district/charter school. The Section 504 regulations do not contain a requirement that a person file a complaint with OCR and exhaust his or her administrative remedies before filing a private lawsuit.

STUDENTS PROTECTED UNDER SECTION 504

Section 504 covers qualified students with disabilities who attend schools receiving Federal financial assistance. To be protected under Section 504, a student must be determined to: (1) have a physical or mental impairment that substantially limits one or more major life activities; or (2) have a record of such an impairment; or (3) be regarded as having such an impairment. Section 504 requires that school districts provide a free appropriate public education (FAPE) to qualified students in their jurisdictions who have a physical or mental impairment that substantially limits one or more major life activities.

12. What is a physical or mental impairment that substantially limits a major life activity?

The determination of whether a student has a physical or mental impairment that substantially limits a major life activity must be made on the basis of an individual inquiry. The Section 504 regulatory provision at 34 C.F.R. 104.3(j)(2)(i) defines a physical or mental impairment as 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 any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The regulatory provision does not set forth an exhaustive list of specific diseases and conditions that may constitute physical or mental impairments because of the difficulty of ensuring the comprehensiveness of such a list.

Major life activities, as defined in the Section 504 regulations at 34 C.F.R. 104.3(j)(2)(ii), include functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. This list is not exhaustive. Other functions can be major life activities for purposes of Section 504. In the Amendments Act (see FAQ 1), Congress provided additional examples of general activities that are major life activities, including eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, and

communicating. Congress also provided a non-exhaustive list of examples of “major bodily functions” that are major life activities, such as the functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. The Section 504 regulatory provision, though not as comprehensive as the Amendments Act, is still valid—the Section 504 regulatory provision’s list of examples of major life activities is not exclusive, and an activity or function not specifically listed in the Section 504 regulatory provision can nonetheless be a major life activity.

13. Does the meaning of the phrase "qualified student with a disability" differ on the basis of a student's educational level, i.e., elementary and secondary versus postsecondary?

Yes. At the elementary and secondary educational level, a "qualified student with a disability" is a student with a disability who is of an age at which students without disabilities are provided elementary and secondary educational services, of an age at which it is mandatory under state law to provide elementary and secondary educational services to students with disabilities, or a student to whom a state is required to provide a free appropriate public education under the Individuals with Disabilities Education Act (IDEA).

At the postsecondary educational level, a qualified student with a disability is a student with a disability who meets the academic and technical standards requisite for admission or participation in the institution's educational program or activity.

14. Does the nature of services to which a student is entitled under Section 504 differ by educational level?

Yes. Public elementary and secondary recipients are required to provide a free appropriate public education to qualified students with disabilities. Such an education consists of regular or special education and related aids and services designed to meet the individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met.

At the postsecondary level, the recipient is required to provide students with appropriate academic adjustments and auxiliary aids and services that are necessary to afford an individual with a disability an equal opportunity to participate in a school's program. Recipients are not required to make adjustments or provide aids or services that would result in a fundamental alteration of a recipient's program or impose an undue burden.

15. Once a student is identified as eligible for services under Section 504, is that student always entitled to such services?

Yes, as long as the student remains eligible. The protections of Section 504 extend only to individuals who meet the regulatory definition of a person with a disability. If a recipient school district reevaluates a student in accordance with the Section 504 regulatory provision at 34 C.F.R. 104.35 and determines that the student's mental or physical impairment no longer substantially limits his/her ability to learn or any other major life activity, the student is no longer eligible for services under Section 504.

16. Are current illegal users of drugs excluded from protection under Section 504?

Generally, yes. Section 504 excludes from the definition of a student with a disability, and from Section 504 protection, any student who is currently engaging in the illegal use of drugs when a covered entity acts on the basis of such use. (There are exceptions for persons in rehabilitation programs who are no longer engaging in the illegal use of drugs).

17. Are current users of alcohol excluded from protection under Section 504?

No. Section 504's definition of a student with a disability does not exclude users of alcohol. However, Section 504 allows schools to take disciplinary action against students with disabilities using drugs or alcohol to the same extent as students without disabilities.

EVALUATION

At the elementary and secondary school level, determining whether a child is a qualified disabled student under Section 504 begins with the evaluation process. Section 504 requires the use of evaluation procedures that ensure that children are not misclassified, unnecessarily labeled as having a disability, or incorrectly placed, based on inappropriate selection, administration, or interpretation of evaluation materials.

18. What is an appropriate evaluation under Section 504?

Recipient school districts/charter schools must establish standards and procedures for initial evaluations and periodic reevaluations of students who need or are believed to need special education and/or related services because of disability. The Section 504 regulatory provision at 34 C.F.R. 104.35(b) requires school districts/charter schools to individually evaluate a student before classifying the student as having a disability or providing the student with special education. Tests used for this purpose must be selected and administered so as best to ensure that the test results accurately reflect the student's aptitude or achievement or other factor being measured rather than reflect the student's disability, except where those are the factors being measured. Section 504 also requires that tests and other evaluation materials include those tailored to evaluate the specific areas of educational need and not merely those designed to provide a single intelligence quotient. The tests and other evaluation materials must be validated for the specific purpose for which they are used and appropriately administered by trained personnel.

19. How much is enough information to document that a student has a disability?

At the elementary and secondary education levels, the amount of information required is determined by the multi-disciplinary committee gathered to evaluate the student. The committee should include persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. The committee members must determine if they have enough information to make a knowledgeable decision as to whether or not the student has a disability. The Section 504 regulatory provision at 34 C.F.R. 104.35(c) requires that school districts/charter schools draw from a variety of sources in the evaluation process so that the possibility of error is minimized. The information obtained from all such sources must be documented and all significant factors related to the student's learning process must be considered. These sources and factors may include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior. In evaluating a student suspected of having a disability, it is unacceptable to rely on presumptions and stereotypes regarding persons with disabilities or classes of such persons. Compliance with the IDEA regarding the group of persons present when an evaluation or placement decision is made is satisfactory under Section 504.

20. What process should a school district/charter schools use to identify students eligible for services under Section 504? Is it the same process as that employed in identifying students eligible for services under the IDEA?

School districts/charter schools may use the same process to evaluate the needs of students under Section

504 as they use to evaluate the needs of students under the IDEA. If school districts/charter schools choose to adopt a separate process for evaluating the needs of students under Section 504, they must follow the requirements for evaluation specified in the Section 504 regulatory provision at 34 C.F.R. 104.35.

21. May school districts/charter schools consider "mitigating measures" used by a student in determining whether the student has a disability under Section 504?

No. As of January 1, 2009, school districts/charter schools, in determining whether a student has a physical or mental impairment that substantially limits that student in a major life activity, must not consider the ameliorating effects of any mitigating measures that student is using. This is a change from prior law. Before January 1, 2009, school districts/charter schools had to consider a student's use of mitigating measures in determining whether that student had a physical or mental impairment that substantially limited that student in a major life activity. In the Amendments Act (see FAQ 1), however, Congress specified that the ameliorative effects of mitigating measures must not be considered in determining if a person is an individual with a disability.

Congress did not define the term "mitigating measures" but rather provided a non-exhaustive list of "mitigating measures." The mitigating measures are as follows: medication; medical supplies, equipment, or appliances; low-vision devices (which do not include ordinary eyeglasses or contact lenses); prosthetics (including limbs and devices); hearing aids and cochlear implants or other implantable hearing devices; mobility devices; oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; and learned behavioral or adaptive neurological modifications.

Congress created one exception to the mitigating measures analysis. The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining if an impairment substantially limits a major life activity. "Ordinary eyeglasses or contact lenses" are lenses that are intended to fully correct visual acuity or eliminate refractive error, whereas "low-vision devices" (listed above) are devices that magnify, enhance, or otherwise augment a visual image.

22. Does OCR endorse a single formula or scale that measures substantial limitation?

No. The determination of substantial limitation must be made on a case-by-case basis with respect to each individual student. The Section 504 regulatory provision at 34 C.F.R. 104.35 (c) requires that a group of knowledgeable persons draw upon information from a variety of sources in making this determination.

23. Are there any impairments that automatically mean a student has a disability under Section 504?

No. An impairment in and of itself is not a disability. The impairment must substantially limit one or more major life activities in order to be considered a disability under Section 504.

24. Can a medical diagnosis suffice as an evaluation for the purpose of providing FAPE?

No. A physician's medical diagnosis may be considered among other sources in evaluating a student with an impairment or believed to have an impairment that substantially limits a major life activity. Other sources to be considered, along with the medical diagnosis, include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior. As noted in FAQ 22, the Section 504 regulations require school districts/charter schools to draw upon a variety of sources in

interpreting evaluation data and making placement decisions.

25. Does a medical diagnosis of an illness automatically mean a student can receive services under Section 504?

No. A medical diagnosis of an illness does not automatically mean a student can receive services under Section 504. The illness must cause a substantial limitation on the student's ability to learn or another major life activity. For example, a student who has a physical or mental impairment would not be considered a student in need of services under Section 504 if the impairment does not in any way limit the student's ability to learn or other major life activity, or only results in some minor limitation in that regard.

26. How should a recipient school district/charter school handle an outside independent evaluation? Do all data brought to a multi-disciplinary committee need to be considered and given equal weight?

The results of an outside independent evaluation may be one of many sources to consider. Multi-disciplinary committees must draw from a variety of sources in the evaluation process so that the possibility of error is minimized. All significant factors related to the subject student's learning process must be considered. These sources and factors include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior, among others. Information from all sources must be documented and considered by knowledgeable committee members. The weight of the information is determined by the committee given the student's individual circumstances.

27. What should a recipient school district/charter schools do if a parent refuses to consent to an initial evaluation under the Individuals with Disabilities Education Act (IDEA) but demands a Section 504 plan for a student without further evaluation?

A school district/charter school must evaluate a student prior to providing services under Section 504. Section 504 requires informed parental permission for initial evaluations. If a parent refuses consent for an initial evaluation and a recipient school district/charter school suspects a student has a disability, the IDEA and Section 504 provide that school districts/charter schools may use due process hearing procedures to seek to override the parents' denial of consent.

28. Who in the evaluation process makes the ultimate decision regarding a student's eligibility for services under Section 504?

The Section 504 regulatory provision at 34 C.F.R.104.35(c)(3) requires school districts/charter schools ensure the determination that a student is eligible for special education and/or related aids and services be made by a group of persons, including persons knowledgeable about the meaning of the evaluation data and knowledgeable about the placement options. A group of knowledgeable persons is often called a Section 504 Team. If a parent disagrees with the determination, he or she may request a due process hearing.

29. Once a student is identified as eligible for services under Section 504, is there an annual or triennial review requirement? If so, what is the appropriate process to be used? Or is it appropriate to keep the same Section 504 plan in place indefinitely after a student has been identified?

Periodic reevaluation is required. This may be conducted in accordance with the IDEA regulations, which require reevaluation at three-year intervals (unless the parent and public agency agree that reevaluation is

unnecessary) or more frequently if conditions warrant, or if the child's parent or teacher requests a reevaluation, but not more than once a year (unless the parent and public agency agree otherwise).

30. Is a Section 504 reevaluation similar to an IDEA reevaluation? How often should it be done?

Yes. Section 504 specifies that reevaluations in accordance with the IDEA is one means of compliance with Section 504. The Section 504 regulations require that reevaluations be conducted periodically. Section 504 also requires a school district/charter school to conduct a reevaluation prior to a significant change of placement. OCR considers an exclusion from the educational program of more than 10 school days a significant change of placement. OCR would also consider transferring a student from one type of program to another or terminating or significantly reducing a related service a significant change in placement.

31. What is reasonable justification for referring a student for evaluation for services under Section 504?

School districts/charter schools may always use regular education intervention strategies to assist students with difficulties in school. Section 504 requires recipient school districts/charter schools to refer a student for an evaluation for possible special education or related aids and services or modification to regular education if the student, because of disability, needs or is believed to need such services.

32. A student is receiving services that the school district/charter school maintains are necessary under Section 504 in order to provide the student with an appropriate education. The student's parent no longer wants the student to receive those services. If the parent wishes to withdraw the student from a Section 504 plan, what can the school district/charter school do to ensure continuation of services?

The school district/charter school may initiate a Section 504 due process hearing to resolve the dispute if the district/charter school believes the student needs the services in order to receive an appropriate education.

33. A student has a disability referenced in the IDEA, but does not require special education services. Is such a student eligible for services under Section 504?

The student may be eligible for services under Section 504. The school district/charter school must determine whether the student has an impairment that substantially limits his or her ability to learn or another major life activity and, if so, make an individualized determination of the child's educational needs for regular or special education or related aids or services. For example, such a student may receive adjustments in the regular classroom.

34. How should a recipient school district/charter school view a temporary impairment?

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 duration (and expected duration) of the impairment and the extent to which it actually limits a major life activity of the affected individual.

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 six months or less.

35. Is an impairment that is episodic or in remission a disability under Section 504?

Yes, under certain circumstances. In the Amendments Act (see FAQ 1), Congress clarified that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. A student with such an impairment is entitled to a free appropriate public education under Section 504.

PLACEMENT

Once a student is identified as being eligible for regular or special education and related aids or services, a decision must be made regarding the type of services the student needs.

36. If a student is eligible for services under both the IDEA and Section 504, must a school district/charter school develop both an individualized education program (IEP) under the IDEA and a Section 504 plan under Section 504?

No. If a student is eligible under IDEA, he or she must have an IEP. Under the Section 504 regulations, one way to meet Section 504 requirements for a free appropriate public education is to implement an IEP.

37. Must a school district/charter school develop a Section 504 plan for a student who either "has a record of disability" or is "regarded as disabled"?

No. In public elementary and secondary schools, 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 (FAPE). This is consistent with the Amendments Act (see FAQ 1), in which Congress clarified that an individual who meets the definition of disability solely by virtue of being "regarded as" disabled is not entitled to reasonable accommodations or the reasonable modification of policies, practices or procedures. The phrases "has a record of a disability" and "is regarded as disabled" are meant to reach the situation in which a student either does not currently have or never had a disability, but is treated by others as such.

As noted in FAQ 34, 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.

38. What is the receiving school district's/charter school's responsibility under Section 504 toward a student with a Section 504 plan who transfers from another district/charter school?

If a student with a disability transfers to a school district/charter school from another school district/charter school with a Section 504 plan, the receiving district/charter should review the plan and supporting documentation. If a group of persons at the receiving school district/charter school, including persons knowledgeable about the meaning of the evaluation data and knowledgeable about the placement options determines that the plan is appropriate, the district/charter is required to implement the plan. If the district/charter determines that the plan is inappropriate, the district/charter is to evaluate the student consistent with the Section 504 procedures at 34 C.F.R.104.35 and determine which educational program is appropriate for the student. There is no Section 504 bar to the receiving school district/charter school honoring the previous IEP during the interim period. Information about IDEA requirements when a student transfers is available from the [Office of Special Education and Rehabilitative Services](http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CQaCorner%2C3%2C) (<http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CQaCorner%2C3%2C>)

39. What are the responsibilities of regular education teachers with respect to implementation of Section 504 plans? What are the consequences if the district/charter fails to implement the plans?

Regular education teachers must implement the provisions of Section 504 plans when those plans govern the teachers' treatment of students for whom they are responsible. If the teachers fail to implement the plans, such failure can cause the school district/charter school to be in noncompliance with Section 504.

40. What is the difference between a regular education intervention plan and a Section 504 plan?

A regular education intervention plan is appropriate for a student who does not have a disability or is not suspected of having a disability but may be facing challenges in school. School districts/charter schools vary in how they address performance problems of regular education students. Some districts/charter schools employ teams at individual schools, commonly referred to as "building teams." These teams are designed to provide regular education classroom teachers with instructional support and strategies for helping students in need of assistance. These teams are typically composed of regular and special education teachers who provide ideas to classroom teachers on methods for helping students experiencing academic or behavioral problems. The team usually records its ideas in a written regular education intervention plan. The team meets with an affected student's classroom teacher(s) and recommends strategies to address the student's problems within the regular education environment. The team then follows the responsible teacher(s) to determine whether the student's performance or behavior has improved. In addition to building teams, districts/charters may utilize other regular education intervention methods, including before-school and after-school programs, tutoring programs, and mentoring programs.

PROCEDURAL SAFEGUARDS

Public elementary and secondary schools must employ procedural safeguards regarding the identification, evaluation, or educational placement of persons who, because of disability, need or are believed to need special instruction or related services.

41. Must a recipient school district/charter school obtain parental consent prior to conducting an initial evaluation?

Yes. OCR has interpreted Section 504 to require districts/charters to obtain parental permission for initial evaluations. If a district/charter suspects a student needs or is believed to need special instruction or related services and parental consent is withheld, the IDEA and Section 504 provide that districts/charters may use due process hearing procedures to seek to override the parents' denial of consent for an initial evaluation.

42. If so, in what form is consent required?

Section 504 is silent on the form of parental consent required. OCR has accepted written consent as compliance. IDEA as well as many state laws also require written consent prior to initiating an evaluation.

43. What can a recipient school district/charter school do if a parent withholds consent for a student to secure services under Section 504 after a student is determined eligible for services?

Section 504 neither prohibits nor requires a school district/charter to initiate a due process hearing to override a parental refusal to consent. Nonetheless, school districts/charter schools should consider that IDEA no longer permits school districts/charters to initiate a due process hearing to override a parental refusal to

consent to the initial provision of services.

44. What procedural safeguards are required under Section 504?

Recipient school districts/charter schools are required to establish and implement procedural safeguards that include notice, an opportunity for parents to review relevant records, an impartial hearing with opportunity for participation by the student's parents or guardian, representation by counsel and a review procedure.

45. What is a recipient school district's/charter school's responsibility under Section 504 to provide information to parents and students about its evaluation and placement process?

Section 504 requires districts/charters to provide notice to parents explaining any evaluation and placement decisions affecting their children and explaining the parents' right to review educational records and appeal any decision regarding evaluation and placement through an impartial hearing.

46. Is there a mediation requirement under Section 504?

No.

Appendix D: Glossary of Terms

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Americans with Disabilities Act (ADA): The ADA is federal law which protects civil rights to all individuals with impairments in our society similar to those provided to individuals on the basis of race, color, sex, national origin, age, and religion. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, State and local government services, and telecommunications.

Americans with Disabilities Act Amendments Act (ADAAA): Revised version of a document originally developed by the Chicago Office of the Office for Civil Rights (OCR) in the U.S. Department of Education (ED) to clarify the requirements of Section 504 of the Rehabilitation Act of 1973, as amended (Section 504) in the area of public elementary and secondary education. The primary purpose of these revisions is to incorporate information about the Americans with Disabilities Act Amendments Act of 2008 (Amendments Act), effective January 1, 2009, which amended the Americans with Disabilities Act of 1990 (ADA) and included a conforming amendment to the Rehabilitation Act of 1973 that affects the meaning of disability in Section 504. The Amendments Act broadens the interpretation of disability.

Child Find: The “Child Find” requirement under Section 504 [34 CFR 104.32(a)], is to identify, locate and evaluate children that might have a disability. General education is a starting point to consider whether or not a student needs to be evaluated for accommodations.

Due process hearing: An opportunity to resolve a dispute between parents and schools over the decisions made and/or procedures used by the school under Section 504. A Section 504 due process hearing (CFR 104.36). May be called at the request of the school or a parent, guardian, or surrogate parent of the student. It is required that parents or guardians be notified of their right to request a hearing regarding a dispute over the identification, evaluation, or educational placement of a student with disabilities being served or considered for Section 504.

Equal access: Equal opportunity of a qualified person with a disability to participate in or benefit from educational aid, benefits, or services.

Equal Employment Opportunity Commission (EEOC): Enforces laws that prohibit discrimination based on race, color, religion, sex, national origin, disability, or age in hiring, promoting, firing, setting wages, testing, training, apprenticeship, and all other terms and conditions of employment. Race, color, sex, creed, and age are now protected classes.

Free Appropriate Public Education (FAPE): If it is determined that your child meets the definition of an individual with a disability under Section 504/ADA, then your child will be entitled to a free and appropriate public education. This means that your child’s education will be designed to meet his/her individual educational needs as adequately as the needs of nondisabled students are met. A “free” public education means that no fees will be imposed on you except for the same fees that are imposed on parents of nondisabled students. However, insurance companies and other third parties that are obligated to provide or pay for services to your child are still obligated to do so.

Individuals with Disabilities Education Act (IDEA): This law defines eligible students as those that have certain specific types of disabilities and who, because of those conditions, need special education (specially-designed

instruction) and related services in order to benefit from their education provided through an Individualized Education Program (IEP).

Least Restrictive Environment (LRE): This means that your child will be served with nondisabled students in the regular education environment to the maximum extent appropriate. Prior to removing your child from the regular education environment due to his/her disability, the school will consider the use of supplementary aids and services. Your child will be removed from the regular education environment only if he/she cannot be served satisfactorily in that environment, even when supplementary aids and services are provided.

Manifestation Determination: A process to determine if a student's behavior problem was or was not a manifestation of the student's disability. OCR policy states, "when the exclusion of a child with a disability is permanent (expulsion), or for an indefinite period, or for more than 10 consecutive school days each or fewer in duration may create a pattern of exclusion that constitutes a significant change in placement. The determination of whether the series of suspensions creates a pattern of exclusions that constitutes a significant change in placement must be made on a "case-by-case basis."

Mediation: A trained mediator works with both parties to guide them toward a mutually satisfactory solution in the best interest of the student and in compliance with Section 504 regulations. This occurs at a non-adversarial meeting that is more structured than a parent- school conference, but less formal than a due process hearing. Parents and schools are encouraged to try mediation before relying on more formal procedures such as the grievance procedures, complaints to OCR, or due process hearings.

OCR: Office for Civil Rights.

Placement: A term used in the elementary and secondary school context, refers to regular and/or special educational in which a student receives education and/or related services.

Procedural safeguard: Includes notice, an opportunity for the parents or guardian of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parents or guardian and representation by counsel, and a review procedure.

Reasonable accommodation: A term used in the employment context to refer to modifications or adjustments employers make to a job application process, the work environment, the manner or circumstances under which the position held or desired is customarily performed, or that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment; this term is sometimes used incorrectly to refer to related aids and services in the elementary and secondary school context or to refer to academic adjustments, reasonable modifications, and auxiliary aids and services in the postsecondary school context

Reasonable modifications: Under a regulatory provision implementing Title II of the ADA, public entities are required to make reasonable modification in policies, practices, or procedures when modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making modifications would fundamentally alter the nature of the service, program, or activity.

Related services: A term used in the elementary and secondary school context to refer to developmental, corrective, and other supportive services, including psychological, counseling and medical diagnostic services and transportation.

Related services: A term used in the elementary and secondary school context to refer to developmental, corrective, and other supportive services, including psychological, counseling and medical diagnostic services and transportation

Response to Intervention (RTI): A combination of high quality, culturally and linguistically responsive instruction, assessment, and evidence-based intervention.

Section 504: Section 504 is more encompassing. Section 504 could cover students, parents, employees, and other individuals with impairments. A definition of an impairment is much broader, including any physical or mental disability that substantially limits one or more major life activities, including, but not limited to, learning. For public schools, Section 504 covers all students who meet this definition, even if they are not eligible under the Individuals with Disabilities Education Act (IDEA). Students who qualify for Section 504 services do not automatically qualify for special education under IDEA. The identification for Section 504 services must be based upon evaluations and conducted by a team of individuals knowledgeable about the student. Students who qualify for Section 504 may require accommodations through a Section 504 Accommodations Plan developed by the school's Section 504 Team: The team consists of a core group that includes the school principal or administrator, referring and/or classroom teacher, school counselor, and parent—virtually the same as the core members of EIT.

Section 504 Accommodation Plan: Section 504 regulations do not mention an "Accommodation Plan." It is a term used to describe the mechanism many school districts/charter schools use to document accommodations and services. It is best practice to track meetings and accommodations.

Significant change of placement—504: Substantial and fundamental change in programming (Harlowton (MT) Pub. Schs., 26IDELR 1156 (OCR 1997)).

Examples:

- More than 10 days (consecutive or cumulative within a year) of suspension.
- Transfer of a student from one program type to another.
- Termination of accommodations.
- Significant reduction of related services.

Appendix E: Web Links

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[U.S. Department of Education, Office for Civil Rights](#)

(<http://www.ed.gov/about/offices/list/ocr/504faq.html>)

U.S. Department of Education, Office for Civil Rights Reports and Resources and [Frequently Asked Questions about Section 504 and the Education of Students with Disabilities](#)

(<https://www2.ed.gov/about/offices/list/ocr/504faq.html>) Clarifies the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, in the area of elementary and secondary education:

U.S. Department of Education Office for Civil Rights [Parent and Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools](#) (<https://www2.ed.gov/about/offices/list/ocr/docs/504-resource-guide-201612.pdf>)

Utah State Board of Education Website, [where this document may be downloaded as a PDF file](#):

(<https://schools.utah.gov/sas/scep/overview/equity/section504>)

[Understanding the Interrelationship and Differences Between IDEA and Section 504](#)

(<https://www2.ed.gov/about/offices/list/ocr/504faq.html#interrelationship>)

[Article at LD Online: Understanding the Differences Between IDEA and Section 504](#)

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