

Mt. Diablo Unified School District  
Student Services Office



*Section 504  
of the  
Rehabilitation Act of 1973*

A Procedural Handbook for Educators

Spring 2010  
Second Edition

Mt. Diablo Unified School District  
Student Service Office



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## ***Section 504 of the Rehabilitation Act of 1973***

A Procedural Handbook for Educators

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## **Section 504 of the Rehabilitation Act of 1973**

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*“No otherwise qualified individual with a disability in the United States as defined in section 705(20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”*

*(29 U.S.C. Sec. 794)*

### **I. PURPOSE**

This handbook is intended to be used as a resource while working with students who have a current Section 504 plan or are being considered for eligibility under Section 504 of the Rehabilitation Act of 1973. It is recommended that this handbook be used as a guide in your work as an educator with Section 504 students and as a tool for implementing Section 504 requirements.

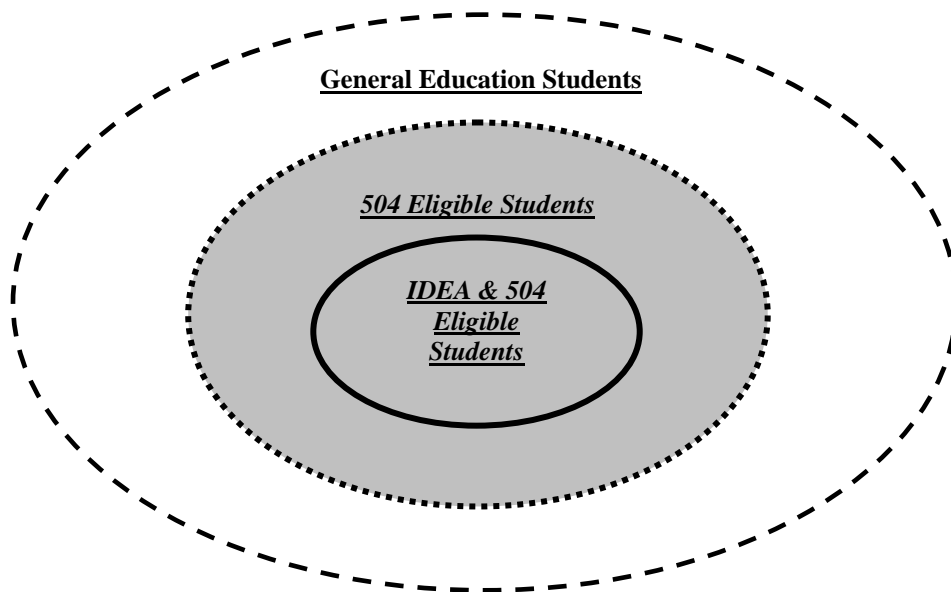
The handbook sections are to be used interchangeably and as a desktop reference while carrying out the Section 504 plan activities. The Mt. Diablo Unified School District is committed to providing Section 504 students with the appropriate accommodations to allow him/her the opportunity to reach his/her full potential. To this end, the goal is to provide you with a Section 504 handbook that is user friendly which will provide clear answers to questions. Additionally, you are encouraged to duplicate sections of the handbook to use as a reference and working document for practical use.

Innovative and effective strategies must exist including all available resources and the engagement of students and parents/guardians in students’ learning process prior to implementing Section 504 plans. It is equally important that you assess students’ current educational performance when determining Section 504 eligibility.

## II. SECTION 504 & IDEA/SPECIAL EDUCATION

Section 504 is not part of the Individuals with Disabilities Education Act (IDEA), or special education.

Section 504 is considered a responsibility of the general education program and requires participation from the general education staff and curriculum. Generally all individuals who are disabled under the IDEA are also considered to be entitled to rights and protection under Section 504. However, all individuals who have been determined to be Section 504 eligible may not be IDEA eligible.



**Free Appropriate Public Education, or FAPE**, is an educational right of children with disabilities in the United States that is guaranteed by the Rehabilitation Act of 1973 and the Individuals with Disabilities Education Act (IDEA). Under Section 504, FAPE is defined as “the provision of regular or special education and related aids and services that are designed to meet individual needs of persons with disabilities as well as the needs of non-disabled persons are met and based upon adherence to procedural guidelines regarding educational setting, evaluation and placement and procedural safeguards as outlined in the law.” Under the IDEA, FAPE is defined as an educational program that is individualized to a specific child, designed to meet that child’s unique needs, provides access to the general curriculum, meets the grade-level standards established by the state, and from which the child receives educational benefit. The United States Department of Education issues regulations that define and govern the provision of FAPE.

Classroom teachers and other school staff are responsible for providing accommodations and/or services necessary for eligible students to participate in and benefit from public education programs and activities. Accommodations may provide support of physical, instructional, or social/emotional nature.

Section 504 regulations require identification, evaluation, provision of appropriate

services, and procedural safeguards. While the IDEA spells out what FAPE means for the IDEA-eligible students with well defined criteria and procedures, Section 504 does not provide similarly detailed eligibility criteria, nor does it require any particular form in which program protections must be delivered.

Furthermore, while the IDEA programs receive state and federal funding, Section 504 receives no state or federal funding.

### III. OVERVIEW OF SECTION 504 ELIGIBILITY

Section 504 of the Rehabilitation Act of 1973 is a *federal civil rights anti-discrimination law* that applies to eligible adults and children.

Section 504 applies broadly to any person who has been identified as having a physical or mental impairment which substantially limits one or more major life activities including but not limited to:

- Walking
- Seeing
- Hearing
- Speaking
- Breathing
- Learning
- Working
- Performing manual tasks
- Caring for oneself
- Reading
- Thinking
- Concentrating

One who has a “record of” or is “regarded as” having such an impairment.

### IV. DEFINITIONS

#### **Individual With a Disability**

A *qualified individual with a disability* under Section 504 is any person who:

1. Has a physical or mental impairment which substantially limits one or more major life activities;
2. Has a record of such impairment; or
3. Is regarded as having such an impairment. [29 U.S.C. Sec. 706(8)]

#### **Has a Record of Such an Impairment**

Has a history of, or has been classified as having, a mental or physical impairment that substantially limits one or more major life activities.

*[34 Code of Federal Regulations, Part 104.3]*

### **Is Regarded as Having an Impairment**

1. Has a physical or mental impairment that does not substantially limit major life activities but is treated by a recipient as constituting such a limitation;
2. Has a physical or mental impairment that does substantially limit major life activities only as a result of the attitudes of others toward such an impairment; or
3. Has none of the impairments defined but is treated by a recipient as having such an impairment.

[34 Code of Federal Regulations, Part 104.3]

### **Qualified Disabled Individual**

A *qualified disabled* individual for public preschool, elementary, secondary, or adult education services is a disabled person who:

1. Is of an age during which nondisabled persons are provided such services;
2. Is of an age during which it is mandatory under state law to provide such services to disabled persons, or
3. To whom the state is required to provide FAPE under the IDEA.

[29 U.S.C. Sec. 706(8)]

### **Major Life Activities**

*Major life activities* are defined as “functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, reading, thinking, and concentrating.” The disability need only substantially limit one major life activity in order for the student to be eligible. (34 Code of Federal Regulations, Part 104.3)

### **Physical or Mental Impairment**

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory; including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hermetic and lymphatic; skin; and endocrine; or
2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(34 Code of Federal Regulations Part 104.3)

### **Evaluation**

Requirements for evaluation are determined by the type of disability believed to be present. The evaluation must provide relevant data needed to assess the nature and extent of the disability, the impact of the disability, and recommended services. Evaluations more limited than a comprehensive special education evaluation may be adequate in many circumstances. However, it is imperative that staff conduct a Section 504 determination regardless of the information the parents/guardians may or may not provide.

Evaluation must cover area(s) of concern and be completed in a reasonable timeframe. Evaluation information from a variety of sources should be considered. Information may be available in the student’s record. While medical records can be provided by the parent/guardian, it is not mandated that the district seek a doctor’s input. It is an option of the parent/guardian to hire a physician in order to determine a medical condition. All information on medical conditions must be considered. If a parent has a diagnosis from a

private medical or mental health provider, an appropriate district staff person (i.e., nurse, psychologist, etc.) should discuss the diagnosis with the parent and the provider, and conduct any supplemental assessment deemed necessary to confirm the diagnosis, including the possibility of the District conducting a medical assessment if necessary.

### **Section 504 Accommodations**

Adjustments made by the classroom teacher and other school staff to enable the student to benefit from his or her educational program. Accommodations may provide support of physical, instructional, or social/emotional nature. It is important that the Section 504 team determine each year what interventions and accommodations are needed by the student to insure an appropriate educational program.

### **Review Annually**

The student's progress must be reviewed by the appropriate school staff and parents/guardians, and modified annually or more often, if there is a change in the student's condition. The plan should be reviewed if the student is not successfully accessing the educational program. A Section 504 transitional meeting must take place between the elementary, middle, and high school staff prior to the Section 504 student entering the six and ninth grades. The transitional meeting shall be held in the Spring of each school year.

## **V. SECTION 504 PROTECTION**

Unless a student actually has a physical or mental impairment, that substantially limits a major life activity, the mere fact that he/she has a "record of" or is "regarded as" an individual with a disability is insufficient, by itself, to trigger the creation of a Section 504 Plan including FAPE or accommodations. Students who have a "record of" or are regarded as "substantially impaired" are entitled to protection against discrimination but are not entitled to a Section 504 Plan.

Examples of rights, "under Section 504, the violation of the rights below may constitute an act of discrimination."

1. Right to program access with no fee charges greater than those charged regular students.
2. Right of equal access to school transportation.
3. Right to evaluation in all areas of suspected disability and an appropriate placement.
4. Right to procedural safeguards, which provide for notice to all of nondiscrimination policy, based on Section 504.
5. An opportunity for student, parent/guardian to examine relevant records.
6. Right to an impartial hearing before an impartial hearing officer if there is a dispute with the district.
7. Right to a free appropriate public education in the least restrictive environment.
8. Right to be integrated with regular students to the maximum extent appropriate.
9. Right to nondiscriminatory testing procedures.
10. Right of equal access to extracurricular activities.

## VI. IDENTIFICATION PROCESS

The district has a responsibility to seek, identify, and develop accommodation plans for Section 504 eligible students. Students may be self-referred or referred by a parent/guardian, teacher, or other certificated school employee.

In many cases, students are first referred for review by a Student Study Team (SST) and the Coordinated Care Team (CCT) to discuss concerns and consider accommodations or support services. The SST/CCT may determine whether the student should be referred for evaluation under IDEA guidelines or Section 504. In the event the student is assessed and not found to have a disability within the definition of IDEA, the assessment information may, but is not required to, be used to determine whether the student has a disability within the definition of Section 504. Not qualifying for special education should not result in automatic qualification for Section 504. Qualification for Section 504 must be based on the specific eligibility standards for Section 504.

Each school must have a designated Section 504 Coordinator, someone who takes a leadership role in planning and facilitating the Section 504 Team Meetings.

### **Prior to conducting a Section 504 Team Meeting, the following steps should be taken:**

1. The Section 504 Coordinator should determine the appropriate membership of the team.  
This may involve input from the student parent/guardian and teachers.
2. A meeting date should be determined. The meeting date should occur within 45 days of referral.
3. A written notice of the Section 504 Team Meeting should be sent to the parents/guardians.
4. The written notice should include a copy of the 504 Parent Rights and a Notice of Nondiscrimination.
5. The Section 504 Coordinator should collect relevant information prior to the team meeting. Evaluation material can include:
  - a) Formal and informal test results.
  - b) Aptitude and achievement tests.
  - c) Observations and anecdotal records.
  - d) Attendance records.
  - e) Behavior records.
  - f) Medical reports.
  - g) Grade records/progress reports.
  - h) Teacher reports/recommendations.

**The Section 504 team should then meet to review the above information and determine the student's eligibility.**

## **VII. PROCEDURAL SAFEGUARDS AND PARENT/GUARDIAN RIGHTS**

**There are several times during the planning process when parent/guardian should be provided with a written copy of their rights:**

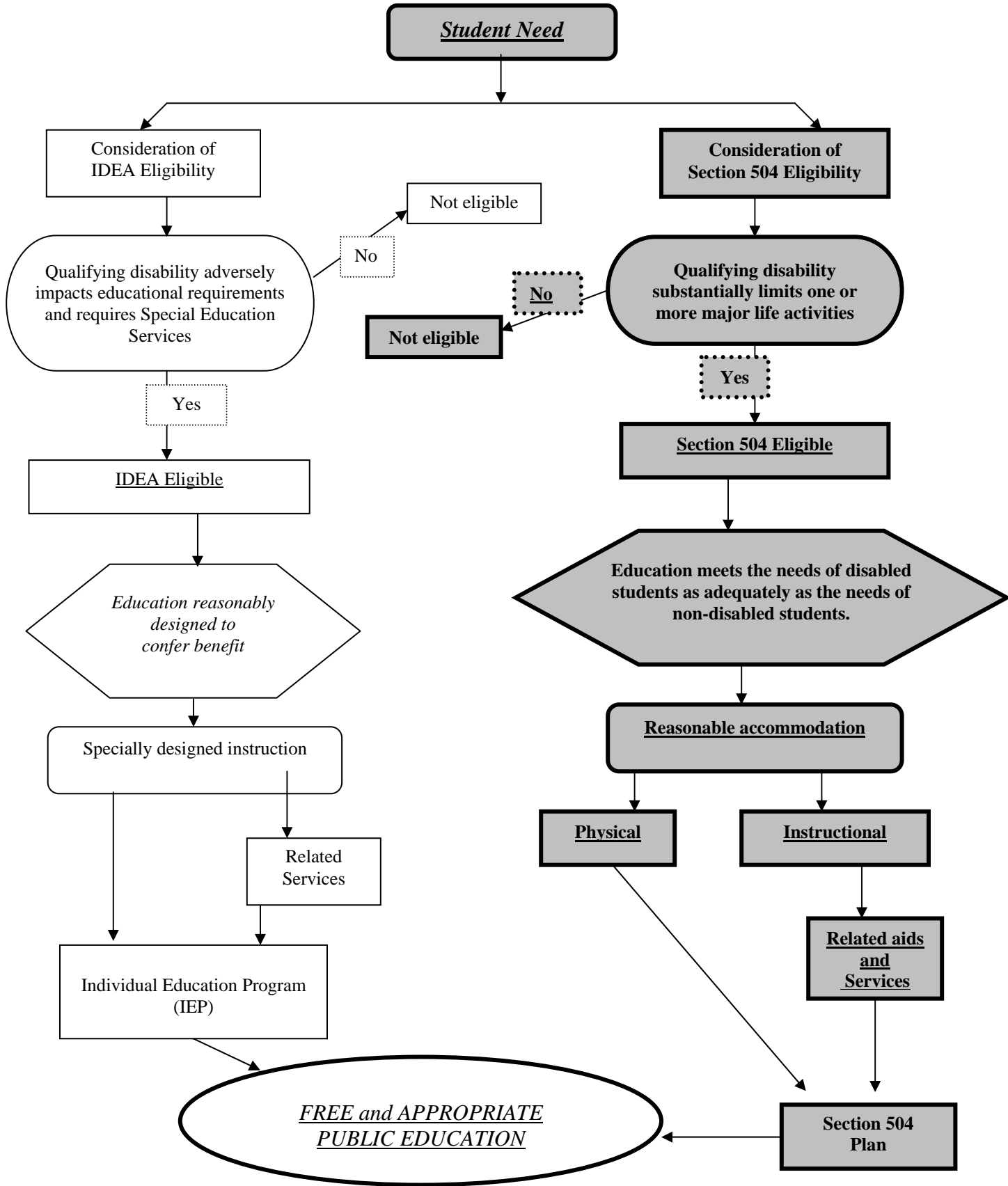
1. When eligibility is questioned and assessment begun.
2. When eligibility is determined and an accommodation plan developed.
3. Before there is a significant change in the plan for services.

**Parent notification should include the following rights under Section 504:**

1. Right to file a grievance with the school district, state department of education or the office of civil rights over an alleged violation of Section 504 regulations.
2. Right to have an evaluation that draws on information from a variety of sources.
3. Right to be informed of proposed actions related to eligibility and plan for services.
4. Right to examine all relevant records.
5. Right to receive all information in the parent/guardian's native language and primary mode of communication.
6. Right to periodic reevaluations and an evaluation before any significant change in program.
7. Right to an impartial hearing if there is disagreement with the school district's proposed action.
8. Right to be represented by counsel in the impartial hearing process.
9. Right to appeal the impartial hearing officer's decision.

The parent/guardian should be provided with written notification of all actions and/or decisions made by a Section 504 Team, including those in which the parent/guardian participated. A record of documentation provided to the parent/guardian should be maintained at the school in the student's pupil records.

### VIII. IDEA/Section 504 Chart: Identification Steps



## IX. SECTION 504 TEAM MEMBERSHIP AND MEETING

A Section 504 team meeting must have at least two persons, the Section 504 Coordinator and the student's teacher. The team must include persons who are knowledgeable about the student, who are able to interpret evaluation data, and who know placement options, the requirement to place a Section 504-eligible student in the least restrictive environment, and the requirement to provide comparably effective aids, benefits and services to Section 504-eligible students.

The district encourages parent/guardian participation in the team meeting. Parents/guardians participation in the team meeting is, however, optional.

Steps taken by the team should include:

1. A review of data. It is imperative that the team considers all areas of need.
2. Consideration of the need for additional evaluation data.
3. Determination of eligibility if sufficient data is available.
4. If the student *is not eligible*, complete pages 1 and 2 of the **MDUSD Section 504 Identification and Eligibility** forms. (See pages 36 and 37.)
5. If the student *is eligible*, complete pages 1 and 2 of the **MDUSD Section 504 Identification and Eligibility** forms. (See pages 36 and 37.) and complete pages 1 and 2 of the "**MDUSD Section 504 Student Accommodation Plan**" (See pages 38 and 39).
6. If the student meets the Section 504 eligibility and receives accommodations, a Section 504 annual meeting must take place within one year from the initial meeting date of his/her eligibility as documented in the **MDUSD Section 504 Identification and Eligibility** forms on pages 36 and 37.
  - a) At the Section 504 annual meeting please complete pages 1 and 2 of the **Section 504 Student Annual Review Meeting**. (See pages 40 and 42.)
  - b) If the student's plan was revised please complete pages 1 and 2 of the **MDUSD Section 504 Student Accommodation Plan**. (See pages 38 and 39.)
  - c) Please include the **MDUSD Section 504 Identification and Eligibility** forms that were completed at the initial Section 504 eligibility meeting in your documents.
7. The parent/guardian should be given a copy of the documentation completed in the team meeting, the MDUSD Notice of Parent/Guardian and Student Rights pages 32 and 33, and the MDUSD Board Policy 6164.6 on pages 69 and 74.
8. If the parent/guardian disagrees with the team findings, the Section 504 Coordinator should advise the parent/guardian of their rights on page 32 and 33 and the Procedural Safeguards on pages 66.
9. Record of documentation should be maintained at the school in the student's pupil records and send copies of the **MDUSD Section 504 Identification and Eligibility** forms, the **MDUSD Section 504 Student Accommodation Plan**, and the **Section 504 Student Annual Review Meeting to the Student Services Office**.

## **X. DEVELOPMENT OF A SECTION 504 PLAN AND ANNUAL REVIEW**

If the student is determined to be Section 504-eligible, the district must develop and implement an “*Accommodation Plan*” for the delivery of needed services. The district must provide what the student needs to access programs and services comparable to that of a non-Section 504 student. Accommodations generally involve adjustments made by classroom teachers and other school staff to enable the Section 504-eligible student to benefit from his/her educational program. Accommodations may provide support of a physical, instructional, or social/emotional nature.

The decisions about Section 504 eligibility, aids and services must be documented in the student's file and reviewed annually by staff, parents/guardians and persons knowledgeable about the student.

Examples of accommodations are included in this handbook.

## **XI. FOLLOW UP STEPS**

Following the meeting:

1. Copies of documentation from the meeting should be placed in the student's cum folder and the school's centralized Section 504 files.
2. If the student was found eligible, a Section 504 label should be placed on the student's cum folder.
3. Information on the student's eligibility must be entered into the district's database with the date of the most recently developed Section 504 plan.
4. **All staff serving the student should be notified of the student's eligibility and their roles in providing accommodations. These staff should receive a copy of the accommodation plan.**
5. The plan must be reviewed on an annual basis, or more often if needed, and modified as needed.
6. Copies of the student's Section 504 Plan and all relevant documents are to be sent to the Student Services Office.

## **XII. SECTION 504 DISCIPLINE**

### **SUSPENSION OF STUDENTS WITH DISABILITIES UNDER SECTION 504**

Procedures listed for general education students shall also apply to the suspension of individuals with disabilities eligible for Section 504 accommodations.

#### **Definition**

A student with previously identified disabilities eligible for Section 504 accommodations is any student with an active Section 504 accommodation plan (“AP”). Such a student is entitled to the procedural safeguards described in this section.

### **Duration**

Students eligible for Section 504 may be suspended for up to 5 days for a single incident of misconduct. If the student is recommended for expulsion, this suspension can be extended pending the expulsion hearing. However, manifestation determination and functional behavioral assessment procedures should be followed. Student should also be provided educational services after the 10<sup>th</sup> cumulative day of suspension in the school year, unless an exception applies.

Following the procedures outlined below (manifestation determination and functional behavioral assessments), students with disabilities under Section 504 may be suspended beyond 10 cumulative days for up to 20 days in a school year, unless, for adjustment purposes, a student, through the Section 504 team, is transferred to, or enrolled in, another school, an opportunity class, or the continuation education school. The days of suspension following such reassignment are limited to 10 additional days.

Students may not be suspended at the end of a school year for a time period that extends into the beginning of the following school year.

### **Procedures Based on Cumulative Days of Suspension/Change in Placement**

No special procedures are required to suspend a student up to 10 cumulative days in a school year.

Federal regulations state, however, that the cumulative days of suspension constitutes a “change in placement” requiring a Section 504 team meeting if the removal is for more than 10 consecutive days, or the student is subjected to a series of removals that constitute a pattern because they accumulate to more than 10 school days in a school year.

### **Manifestation Determination**

In Mt. Diablo Unified, a manifestation determination is required when a student is suspended for more than 10 cumulative days in a school year.

### **Manifestation Determination Process**

As a first step in the manifestation determination process, the school must determine the individuals who should attend the Section 504 team meeting. The Section 504 team shall review all relevant information in the student’s file, including the 504 plan, any teacher observations and any relevant information provided by the parents to determine whether the misconduct is a manifestation of the student’s disability.

The school psychologist will review all relevant information in the student’s file, including the 504 plan, any teacher observations, and any relevant information provided by the parents and make a recommendation regarding whether the misconduct is a manifestation of the student’s disability. A summary report of findings will be completed referencing all the sources. If the psychologist feels that additional assessments must be completed in order to complete this manifestation report, an assessment plan must be signed by the parent. If the parent refuses to consent to an assessment which school staff believes is necessary, refer the issue to the Director, Student Services.

A MDUSD Section 504 Manifestation Determination Finding Form must be completed to document the review and team’s determination.

The team determines:

1. If the conduct in question was caused by, or had a direct and substantial relationship to the student's disability, or
2. If the conduct in question was the direct result of the school's or district's failure to implement the 504 Plan.

If the answer to 1. or 2. is yes, then the conduct shall be determined to be a manifestation of the student's disability.

\*\*If it is determined that the misconduct is not a manifestation of the student's disability, the student may be excluded from school in the same manner as are similarly-situated students who do not have disabilities as long as he or she receives services following 10 cumulative days of suspension in the school year. The placement of services is to be determined by the Section 504 team and must allow the student appropriate access to the general curriculum.

**Determination that the behavior was a manifestation/Functional Behavioral Assessment:**

If it is determined that the misconduct was a manifestation of the student's disability, the student should be allowed to return to school and the Section 504 team shall:

1. Conduct a functional behavioral assessment and implement a Behavior Support Plan (BSP) or
2. If a BSP had been developed, modify it as necessary to address the behavior
3. Return the student to the placement from which the student was removed, unless the parent and school or district agree to a change in placement as part of the modification of the BSP.

**DUE PROCESS**

**Case by Case Determination**

School administration may consider any unique circumstances on a case by case basis when determining whether to order a change in placement for a student with a disability who violates a code of student conduct.

**Procedural Protections regarding a "change in placement"**

When suspensions constitute a "change in placement" the student and his or her parent or guardian are entitled to procedural protections. These protections include:

1. Appropriate notice to parents or guardian
2. An opportunity to examine the student's records
3. An impartial hearing with the participation of parents or guardians which may include representation by counsel and a review procedure.

If a parent/guardian disagrees with the identification, evaluation or educational placement of a student with disabilities under Section 504, he/she may initiate the following procedures:

1. Within 30 days of receiving the student's accommodation plan, set forth in writing his/her disagreement and request that the school principal and school site committee review the plan in an attempt to resolve the disagreement. This

review shall be held within 14 days of receiving the parent/guardian's request, and the parent/guardian shall be invited to attend the meeting at which the review is conducted. [AR 6164.6(C)]

2. If disagreement continues, request in writing that the Superintendent or designee review the plan. This review shall be held within 14 days of receiving the parent/guardian's request, and the parent/guardian shall be invited to meet with the Superintendent or designee to discuss the review.
3. If disagreement continues, request in writing a Section 504 due process hearing. Note: A parent may request a Section 504 due process hearing without following the two levels of review noted in 1 and 2. The request shall include:
  - a. The specific nature of the decision with which the parent/guardian disagrees
  - b. The specific relief the parent/guardian seeks
  - c. Any other information the parent/guardian believes pertinent

Within 20 days of receiving the parent/guardian's request, the Superintendent or designee shall select an impartial hearing officer. This 20 days may be extended for good cause or by mutual agreement of the parties.

Within 45 days of the selection of the hearing officer, the Section 504 due process hearing shall be conducted and a written decision mailed to all parties. This 45 days may be extended for good cause or by mutual agreement of the parties. The Superintendent or designee shall represent the district at this hearing.

Any party to the hearing shall be afforded the right to:

1. Be accompanied and advised by counsel and by individuals with special knowledge or training related to the problems of students who are qualified as an individual with disabilities under Section 504
2. Present written and oral evidence
3. Question and cross-examine witnesses
4. Receive written findings by the hearing officer

If desired, either party may seek a review of the hearing officer's decision by a federal court of competent jurisdiction. [AR 6164.6(d)]

### **Placement during appeals**

When an appeal has been filed by the district or the parents: The student will remain in the interim placement pending the decision of the hearing officer or until the expiration of the 45 day placement which may be 45 school days or the suspension period as applicable to general education students.

### **Unidentified Students**

A pupil not previously identified as a student with a disability under Section 504 who violates a behavior rule may claim protection as provided to individuals identified with exceptional needs **if there was knowledge that the pupil had a disability** before the behavior violation occurred.

**Knowledge arises when:**

1. The parent has expressed concern orally or in writing to supervisory or administrative personnel or a teacher of the student, that they have specific concerns about a pattern of their student's behavior and/or performance or that the student is in need of Section 504 accommodations and related services.
2. The parent of the student has requested an evaluation of the student.
3. The teacher or other school personnel has expressed specific concerns about a pattern of the student's behavior and/or performance. The concern must be expressed in accordance with the district's established referral process to supervisory personnel of the school or district.

**A public agency is not deemed to have knowledge when:**

1. The agency conducted a Section 504 evaluation or IDEA eligibility and determined the student was not a student with a disability under Section 504, or
2. The parent has not allowed an initial evaluation of the student or has refused initial services after an initial evaluation.

**If there was no prior knowledge**, disciplinary measures can be applied as those measures are applied to all general education pupils.

If a parent/guardian indicates he/she believes his/her student should have been previously identified, contact the Director, Student Services for assistance.

If the parent requests an evaluation for a student who has not been assessed recently and found ineligible, the evaluation shall be conducted in an expedited manner if it is determined appropriate. If the student is found to be a student with a disability, the student will receive accommodations as determined by the Section 504 team.

**Suspension from School Bus Transportation**

If a student eligible for Section 504 accommodations is excluded from school bus transportation, the student shall be provided with an alternative form of transportation at no cost to the student or parent/guardian, provided transportation is specified in the student's accommodation plan. The Director, Student Services and Transportation should be contacted to determine an alternate form of transportation. Alternative forms of transportation may include parent reimbursement for transporting his/her child to and from school, with parent consent, and a county bus pass if appropriate.

**Drug Addiction**

Drug addictions may be covered by Section 504. A person who is addicted to drugs, but who is no longer engaged in using drugs, may have a disability and therefore be entitled to rights and protections under Section 504.

However, a person who is currently engaging in the illegal use of drugs is not protected under Section 504. School districts may take disciplinary action against a 504-eligible student who is engaged currently in the use of illegal drugs to the same extent that it takes disciplinary action against persons not having disabilities. Furthermore, the due process procedures discussed above do not apply to disciplinary actions regarding the use or possession of drugs by students with disabilities who are currently engaged in the use of drugs.

## **Suspension of Students with Disabilities Under Section 504**

Student commits offense listed in Education Code sections 48900, 48900.2, 48900.3, 48900.4, 48900.7, or 48915(c).

### **Student is suspended.**

Student may be suspended for up to 5 consecutive school days for a single offense.

The student must receive services (to enable him/her to participate in the general curriculum) after 10 cumulative days of suspension. These services may be provided in an alternative educational setting. The alternative services and setting are determined by the Section 504 Team in consultation with Student Services; documentation is recorded in the conference notes.

The suspension can be extended pending expulsion if the student would cause a danger to persons or property or a threat of disrupting the educational process.

Student can be suspended for no more than 20 cumulative school days, unless for adjustment purposes, they are transferred to another school. If so, they may be suspended for 30 cumulative days in a school year.

### **When cumulative suspensions total less than 10 in a school year:**

No special procedures are required to suspend a student up to 10 cumulative days of suspension.

### **When suspensions exceed 10 cumulative days in a school year and if there is a change in placement:**

The section 504 team must meet to complete a manifestation determination form, a behavior support plan, and revise the 504 plan if necessary. This meeting must be held within 10 school days of the decision to go beyond 10 cumulative days and make a change in placement.

If it is determined that the misconduct was not a manifestation of the student's disability, the student may be excluded from school in the same manner consistent with general education students as long as he/she receives services following the 10<sup>th</sup> cumulative day of suspension. Student Services determines the location of the services.

### **XIII. EXPULSION OF STUDENTS WITH DISABILITIES UNDER SECTION 504**

Students with disabilities under Section 504 are subject to expulsion for violations of E.C. 48900 and 48915. In order for a student with disabilities under Section 504 to be considered for expulsion, procedures must be followed that do not violate the procedural safeguards protecting these students.

#### **Definition**

A student with a previously identified disability eligible for Section 504 accommodations is any student with an active Section 504 accommodation plan (“AP”). Such a student would be entitled to the procedural safeguards described in this section.

#### **Procedural Safeguards**

When determining any course of discipline with a student with disabilities under Section 504, administrators must follow the procedural safeguards that exist in federal and state law. Violation of these procedural safeguards constitutes a violation of the student’s civil rights and may serve as grounds for the discipline being disallowed.

The following pre-expulsion procedure shall be used when a student with disabilities commits an offense for which the student is considered for expulsion.

#### **Unidentified Students**

A pupil not previously identified as a student with a disability under Section 504 who violates a behavior rule may claim protection as provided to individuals identified with exceptional needs **if there was knowledge that the pupil had a disability** before the behavior violation occurred.

#### **Knowledge arises when:**

1. The parent has expressed concern orally or in writing to supervisory or administrative personnel or a teacher of the student, that the parent has specific concerns about a pattern of their student’s behavior and/or performance or that the student is in need of Section 504 accommodations and related services.
2. The parent of the student has requested an evaluation of the student.
3. The teacher or other school personnel has expressed specific concerns about a pattern of the student’s behavior and/or performance. The concern must be expressed in accordance with the district’s established Section 504 referral process, to supervisory personnel of the school or district.

#### **A public agency is not deemed to have knowledge when:**

1. The agency conducted a Section 504 or IDEA eligibility evaluation and determined the student was not a student with a disability under Section 504, or
2. The parent has not allowed an initial evaluation of the student or has refused initial services after an initial evaluation.

**If there was no prior knowledge**, disciplinary measures can be applied. Those measures are applied as to all general education pupils.

If a parent/guardian indicates he/she believes his/her student should have been previously identified, contact the Director, Student Services for assistance.

If the parent requests an evaluation for a student who has not been assessed recently and found ineligible, the evaluation shall be conducted in an expedited manner if it is determined appropriate. If the student is found to be a student with a disability, the student will receive accommodations as determined by the Section 504 team.

## **Procedures to follow for Manifestation and Functional Behavioral Assessments and Section 504 Meeting**

### 1. **Suspension**

Procedures listed in the Suspension of Students with Disabilities under Section 504 section of the Student Conduct, Welfare and Discipline manual apply.

### 2. **Principal's Conference**

Procedures listed in the Principal's Conference-Expulsion section of the Student Conduct, Welfare and Discipline manual apply. The principal must recommend expulsion for the pre-expulsion process described below to proceed.

The expulsion hearing shall not be conducted until after completion of:

- a) The Manifestation Determination report, and
- b) The Section 504 team meeting to make the manifestation determination.

### 3. **Scheduling the Section 504 meeting**

Following the Principal's Conference recommending expulsion, a manifestation determination Section 504 team meeting shall be held no later than 10 school days from the first day of suspension or sooner. The manifestation determination Section 504 team meeting cannot be held beyond the 10 cumulative school days from the first day of the suspension. If the manifestation determination Section 504 team is held after the 10<sup>th</sup> day, the recommendation for expulsion will be nullified. A Behavior Support Plan (BSP) must also be completed at this time.

### 4. **Psychologist Manifestation Determination Report**

The school psychologist will review all relevant information in the student's file, including the accommodation plan, any teacher observations, and any relevant information provided by the parents and make a recommendation regarding whether the misconduct is a manifestation of the student's disability. A summary report of findings will be completed referencing all the sources. If the psychologist determines that additional assessments must be completed in order to complete this manifestation report, an assessment plan must be signed by the parent. If the parent refuses to consent to an assessment which the school psychologist determines is necessary, refer the issue to Director, Student Services.

5. *Pre-expulsion Section 504 Team Meeting*

As a first step in the manifestation determination process, the school and parent shall determine the relevant members of the student's Section 504 team who should attend the Section 504 team meeting. The Section 504 team shall review all relevant information in the student's file, including the Section 504 plan, any teacher observations, and any relevant information provided by the parents, as well as the psychologist summary of findings to determine whether the misconduct is a manifestation of the student's disability.

A MDUSD Section 504 Manifestation Determination Finding Form must be completed to document the team's review and determination.

The team determines:

- a) If the conduct in question was caused by, or had a direct and substantial relationship to the student's disability, or
- b) If the conduct in question was the direct result of the school or district's failure to implement the Section 504 plan.

If the answer to 1 or 2 is yes, then the conduct shall be determined to be a manifestation of the student's disability.

- \*\* If it is determined that the misconduct is not a manifestation of the student's disability, the student may be excluded from school in the same manner as are similarly-situated students who do not have disabilities as long as he/she receives services as described above.

6. *Determination that the behavior was a manifestation:*

If it is determined that the misconduct was a manifestation of the student's disability, the student should be allowed to return to school and the Section 504 team shall:

- a) Conduct a functional behavioral assessment and implement a Behavior Support Plan (BSP), or
- b) Modify a previously developed BSP, as necessary, to address the specific behavior.
- c) Return the student to the placement from which the student was removed, unless the parent and school or district agree to a change in placement as part of the modification of the BSP.

The MDUSD Section 504 Manifestation Determination Finding form should be used to document the Section 504 team's determination with regard to these questions.

## 7. Special Circumstances—Interim Alternative Setting

If school administration seeks to order a change in placement that would exceed 10 cumulative school days (i.e. place the student up for an expulsion hearing) and the behavior that gave rise to the violation is determined not to be a manifestation of the student's disability,

- a) The relevant disciplinary procedures applicable to students with disabilities may be applied in the same manner and for the same duration in which the procedures are applied to students without disabilities except that the students must continue to receive educational services to enable them to participate and progress in the general curriculum. This may be provided in an alternative educational setting.
- b) This means the student is to continue to participate in the general curriculum and receive services according to the student's Section 504 plan, behavior support plan or positive behavioral intervention plan.
- c) The alternative setting is determined by Student Services in consultation with the Section 504 team. If the parent disagrees with the district's determination regarding services and/or manifestation, the parent may challenge this. During the pendency of any challenge, the student remains in the alternative setting.

If the Section 504 team determines the student's action is a manifestation of his disability, or after placing the student in an interim alternative setting for not more than 45 school days for misconduct involving a weapon or drugs or serious bodily injury:

- a) The student shall continue to receive educational services so as to enable the student to continue to participate in the general education curriculum, even if in an alternative setting.
- b) If the student does not have a Behavior Support Plan (BSP), the Section 504 team meeting shall conduct a functional behavioral assessment (FBA), and develop a BSP designed to address the behavior violation so that it does not reoccur.
- c) If the student has a BSP, the Section 504 team must review the plan as necessary and make changes designed to address the behavior violation so that it does not reoccur.

## 8. Placement During the Expulsion Process

- a) If the Section 504 team determines that the student is subject to expulsion, Student Services in consultation with the Section 504 team shall determine an interim placement for the student pending the expulsion hearing. For weapon or drug violations, or serious bodily injury upon another person, refer to next section on 45 School Day Alternative Education Setting.
- b) Two district options for the interim placement include the Home/Hospital Program and the Diablo Day Community School. Availability of space must be determined by contacting the Director of Student Services prior to the Section 504 team meeting. A representative from the proposed interim placement programs must be in attendance.

- c) If the parent disagrees with the Section 504 team determination, the parent may challenge this in an impartial hearing. During the pendency of the impartial hearing, the student remains in the alternative setting.

9. **Expulsion Process following Pre-expulsion Manifestation Determination meeting and/or Administrative Hearing Panel**

- a) If the recommendation for expulsion continues following the pre-expulsion manifestation determination Section 504 meeting, the Director, Student Services should be notified immediately.
- b) If the recommendation for expulsion is denied by the administrative hearing panel or MDUSD Board of Education, a Section 504 team meeting must be convened as soon as possible by the home school with the interim placement program in attendance to determine the educational placement of the student. During this period, the student remains in the interim placement. If the administrative hearing panel or associate superintendent has recommended administrative transfer to another school, a representative of the proposed school must be in attendance. Staff should not be encouraged to expect that the student will attend a different school.
- c) If the recommendation for expulsion is approved by the administrative hearing panel, the home school must pre-schedule a Section 504 meeting to be held as soon as possible after the School Board ratifies or denies the expulsion, as stated in number 10 below.

10. **Placement During Period of Expulsion**

- a) If the student is expelled by the Board of Education, a Section 504 team meeting is held as soon as possible to determine and document the placement of the student during the expulsion period.
- b) This Section 504 meeting will involve representatives of the student's home school, a representative of the program providing interim services, and a representative of the proposed placement during the period of expulsion.
- c) The period of the expulsion placement must be noted in the student's Section 504 plan.
- d) The expulsion placement is not a long term placement.

## **DUE PROCESS**

### **Case by Case Determination**

School administration may consider any unique circumstances on a case by case basis when determining whether to order a change in placement for a student with a disability who violates a code of student conduct.

### **Procedural Protections regarding a “change in placement”**

If a “change in placement” occurs as a result of the expulsion process, the student and his or her parent or guardian are entitled to procedural protections. These protections include:

1. Appropriate notice to parents or guardian
2. An opportunity to examine the student’s records
3. An impartial hearing with the participation of parents or guardians which may include representation by counsel and a review procedure.

Thus, if, after a Manifestation Determination and Functional Behavioral Assessment (FBA), the parents disagree with the determination regarding the relationship of the behavior to the disability, or with the placement proposal, they may request an impartial hearing.

### **Placement during appeals**

When an appeal has been filed by the district or the parents: The student will remain in the interim placement pending the decision of the hearing officer or until the expiration of the 45 day placement which may be 45 school days or the suspension period as applicable to general education students.

### **Readmission Following Period of Expulsion**

1. No later than two weeks prior to the end of the expulsion period, a Readmission Hearing is scheduled to determine if the student has met the terms of his/her rehabilitation plan.
2. If the student is readmitted to the District, a Section 504 team meeting is held at the conclusion of the Readmission Hearing to determine the new placement.
3. If the student is denied readmission and the Board recommends an alternative educational program, a Section 504 meeting is held to address the new placement recommendation.
4. These Section 504 meetings will be scheduled by the student’s home school, and will involve representatives of the home school, and the program providing interim services. Representatives from the school(s) where the student may be placed should also attend.

### **45 DAY INTERIM ALTERNATIVE EDUCATION SETTING FOR WEAPON/ DRUG/SERIOUS BODILY INJURY VIOLATIONS**

A student may be placed in the 45 day Interim Alternative Educational Setting (IAES) placement for acts that are related to school activity or attendance that occur at any time, including, but not limited to, any of the following: while on school grounds; while going to or coming from school; during the lunch period whether on or off the campus; or during, or while going to or coming from a school-sponsored activity if a student with disabilities under Section 504;

1. Carries a weapon or
2. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of controlled substances, or

3. Inflicts serious bodily injury upon another person.
  - a) A substantial risk of death;
  - b) Extreme physical pain;
  - c) Protracted and obvious disfigurement; or
  - d) Protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

Student Services has the authority to place the student in an Interim Alternative Education Setting for up to 45 calendar days. Student Services in consultation with the Section 504 team selects the location of the interim alternative educational setting.

When such misconduct occurs, the principal should:

1. Confirm that a weapon and/or an illegal drug or controlled substance or resultant serious bodily injury was involved in the misconduct.
2. Notify the parent/guardian of the misconduct, the need to suspend the student, and the need to schedule a Section 504 meeting to complete a manifestation determination and initiate an Interim Alternative Education placement. Parents must be provided with a copy of their procedural safeguards notice with the suspension notice.
3. Contact Student Services to request recommendation of an Interim Alternative Education Setting.
4. Determine availability of space in either Diablo Day or Home/Hospital by contacting the Director of Student Services prior to the Section 504 team meeting.
5. Notify the school psychologist to complete a summary report of findings of a review of the records.
6. Schedule the Section 504 team meeting with the parent/guardian and the administrator of the proposed Interim Alternative Education Setting. The parent/guardian should be given reasonable notice and the Section 504 team should meet before the end of the 5 day suspension and in no case later than 10 school days after the decision to make changes in placement for more than 10 cumulative days in the school year.
7. Conduct the Section 504 meeting. The principal should:
  - a) Follow standard protocol for conducting a Section 504 meeting.
  - b) Confirm the nature of the student's offense with the student and parent/guardian(s).
  - c) Conduct a manifestation determination.
  - d) Determine the Interim Alternative Education Setting.
  - e) Review the student's Behavior Support Plan. If none exists, develop a Behavior Support Plan or develop an assessment plan to complete a Functional Behavior Assessment.
  - f) Include in the accommodation plan services and/or accommodations/modifications designed to prevent the misconduct from recurring.
  - g) Complete a Section 504 face sheet to document the placement and services for the 45 school day period.
  - h) Schedule a Section 504 meeting to be held before the end of the 45 school day period to determine a new placement or return the student to the previous placement.

- i) Direct the parent/guardian to complete registration at the Interim Alternative Education Setting to enroll the student at a designated time.
  - j) Complete the Transportation Request Form, if needed.
8. Expulsion timelines are not changed as a result of a 45 school day placement. Refer to Expulsion section of MDUSD Student Conduct, Welfare, and Discipline manual for applicable timelines for holding an expulsion hearing.

## Expulsion of Students with Disabilities under Section 504

Student commits an offense that subjects the student to expulsion consideration.

Student is suspended.  
(Refer to “*Suspension of Students with Disabilities under the Section 504*” for suspension limitations!)  
Student may be suspended for up to 5 consecutive school days for a single offense.

Principal’s conference must be held within 5 school days from the first day of the student’s suspension. **Not the sixth day.**

If recommended for expulsion, the suspension can be extended pending expulsion, if the student would cause a danger to persons or property, or disrupt the education process. In MDUSD, the student must receive services after 10 cumulative days, unless an exception applies. Services may be provided in an alternative educational setting. The alternative setting is determined by Student Services in consultation with the Section 504 team.

If expulsion is recommended, the psychologist shall conduct the manifestation determination review, write a summary report of findings and assist in drafting a BSP (or draft revisions of a BSP).

A manifestation determination Section 504 team meeting shall be held within 10 school days following the decision to make a change in placement beyond 10 cumulative days in a school year or the principal’s decision to recommend expulsion. The suspension may be extended pending expulsion following the principal’s conference. A BSP must also be completed at this meeting.

The Section 504 team may determine the behavior of the student was a manifestation of the student’s disability:

1. If the conduct in question was caused by, or had a direct and substantial relationship to the student’s disability, or
2. If the conduct in question was the direct result of the school or district’s failure to implement the Section 504.

If the Section 504 team determines that the misconduct was caused by, or had a direct and substantial relationship to the student’s disability, or that the conduct in question was the direct result of the school or district’s failure to implement the Section 504, the process leading to expulsion may not proceed.

If it is determined that the misconduct was a manifestation of the student’s disability, the Section 504 team shall conduct a FBA and implement or modify a BSP. The student should be returned to school unless under special circumstances the parent and district agree to a change in placement as part of the modification of the BSP.

If the conduct involves a weapon or illegal substance, or serious bodily injury, the IEP team can make an immediate 45-school-day placement. Options include Diablo Day School and Home/Hospital Program. A Section 504 meeting should be completed indicating that a 45-day placement is being made due to violation listed above. The Section 504 team should meet again before the 45 day are over.

If it is determined that the misconduct was not a manifestation of the student’s disability, the student shall be excluded from school in the same manner as general education students, as long as he/she receives services following the 10<sup>th</sup> cumulative day, unless an exception applies. Student Services in consultation with the Section 504 team determines the location of these services, and they can be provided in an alternative setting. If determined appropriate, the BSP shall be written or modified to prevent the reoccurrence of the misconduct. The student shall be subject to expulsion in accordance with procedures that apply to all students.

The MDUSD Home/Hospital program and Diablo Day School are two district options that teams may consider for interim placement for a student. Availability of space must be determined by contacting the Director of Student Services prior to the Section 504 team meeting.

**Required Expulsion documentation:**  
**Completed Section 504 team meeting forms, BSP if necessary,**  
**Manifestation Determination form and psychologist’s report.**

Revised April 2010

## **XIV. RESOLVING DISPUTES**

Please refer to the MDUSD Board Policy on pages 69 - 74.

If a parent/guardian disagrees with the identification, evaluation or educational placement of a student with disabilities under Section 504, he/she may initiate the following procedures:

1. Within 30 days of receiving the student's accommodation plan, set forth in writing his/her disagreement and request that the school principal and school site committee review the plan in an attempt to resolve the disagreement. This review shall be held within 14 days of receiving the parent/guardian's request, and the parent/guardian shall be invited to attend the meeting at which the review is conducted. *[AR6164.6(c)]*
2. If disagreement continues, request in writing that the Superintendent or designee review the plan. This review shall be held within 14 days of receiving the parent/guardian's request, and the parent/guardian shall be invited to meet with the Superintendent or designee to discuss the review.
3. If disagreement continues, request in writing a Section 504 due process hearing. Note: Parents may directly request a Section 504 due process hearing and bypass steps 1 and 2 noted above. The request shall include:
  - a) The specific nature of the decision with which the parent/guardian disagrees
  - b) The specific relief the parent/guardian seeks
  - c) Any other information the parent/guardian believes pertinent

Within 20 days of receiving the parent/guardian's request, the Superintendent or designee shall select an impartial hearing officer. This 20 days may be extended for good cause or by mutual agreement of the parties.

Within 45 days of the selection of the hearing officer, the Section 504 due process hearing shall be conducted and a written decision mailed to all parties. This 45 days may be extended for good cause or by mutual agreement of the parties. The Superintendent or designee shall represent the district at this hearing.

Any party to the hearing shall be afforded the right to:

1. Be accompanied and advised by counsel and by individuals with special knowledge or training related to the problems of students who are qualified as disabled under Section 504
2. Present written and oral evidence
3. Question and cross-examine witnesses
4. Receive written findings by the hearing officer

If desired, either party may seek a review of the hearing officer's decision by a federal court of competent jurisdiction. *[AR6164.6(d)]*

All written correspondence shall be provided in English and/or translated in the primary language of the home.



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Mt. Diablo Unified School District

Section 504  
The Rehabilitation Act of 1973

**Notice of Parent/Guardian and Student Rights**

The Rehabilitation Act of 1973, commonly referred to as "Section 504" is a nondiscrimination statute enacted by the United States Congress. The purpose of the Act is to prohibit discrimination and to assure that disabled students have educational opportunities and benefits equal to those provided to non-disabled students.

An eligible student under Section 504 is a student who a) has, b) has a record of having, or c) is regarded as having, a physical or mental impairment that substantially limits a major life activity such as learning, self-care, walking, seeing, hearing, speaking, breathing, working, reading, thinking, concentrating and performing manual tasks, .

It is the purpose of this notice to set out the rights assured by Section 504. If parents have questions regarding parents' rights under Section 504, they should contact the Director of Student Services.

The enabling regulations for Section 504 as set out in 34 CFR Part 104 provide parents and/or eligible students with the following rights:

1. You have a right to be informed by the school district of your rights under Section 504 (the purpose of this notice form is to advise you of those rights.) (34 CFR 104.32.)
2. Your child has the right to an appropriate education designed to meet his/her individual educational needs as adequately as the needs of non-disabled students. (34 CFR 104.33.)
3. Your child has the right to free educational services except for those fees that are imposed on non-disabled students or their parents. Insurers and similar third parties are not relieved from an otherwise valid obligation to provide or pay for services provided to a disabled student. (34 CFR 104.33.)
4. Your child has a right to placement in the least restrictive environment. (34 CFR 104.34.)
5. Your child has a right to facilities, services, and activities that are comparable to those provided for non-disabled students. (34 CFR 104.34.)
6. Your child has a right to an evaluation prior to an initial Section 504 placement and any subsequent significant change in placement. (34 CFR 104.35.)
7. Testing and other evaluation procedures must conform to the requirements of 34 CFR as to validation, administration, areas of evaluation, etc. The district shall consider information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, adaptive behavior, physical or medical reports, student grades, progress reports, parent observations, and anecdotal reports. (34 CFR 104.35.)

8. Placement decisions must be made by a group of persons (i.e. the Section 504 Committee), including persons knowledgeable about your child, the meaning of the evaluation data, the placement options, and the legal requirements for least restrictive environment and comparable facilities. (34 CFR 104.35.)
9. If eligible under Section 504, your child has a right to periodic reevaluations, generally every three years. (34 CFR 104.35.)
10. You have the right to a notice prior to any action by the district in regard to the identification, evaluation, or placement of your child. (34 CFR 104.36.)
11. You have the right to examine relevant records. (34 CFR 104.36.)
12. If you wish to challenge the actions of the District's Section 504 team in regard to your child's identification, evaluation, or educational placement, you may file a written Notice of Appeal with the District's Section 504 Coordinator, Director of Student Services, Mt. Diablo Unified School District, 1936 Carlotta Drive, Concord, CA 94519, within 30 calendar days from the time you received written notice of the Section 504 team's action(s).
13. You have the right to an impartial hearing with respect to the district's actions regarding your child's identification, evaluation, or educational placement, with opportunity for parental participation in the hearing and representation by an attorney. (34 CFR 104.36.)
14. If you disagree with the decision of the impartial hearing officer, you have a right to a review of that decision by a court of competent jurisdiction. (34 CFR 104.36.)
15. On Section 504 matters other than your child's identification, evaluation, and placement, you have a right to file a complaint with the District's Section 504 Coordinator (or designee), who will investigate the allegations to the extent warranted by the nature of the complaint in an effort to reach a prompt and equitable resolution.
16. You also have a right to file a complaint with the Office for Civil Rights. The address of the Regional Office that covers California is:

United States Department of Education  
Office for Civil Rights  
50 Beale Street, Suite 7200  
San Francisco, CA 94105  
(415) 486-5555 TDD (871) 521-2172  
[www.ed.gov](http://www.ed.gov)

Mt. Diablo Unified School District  
JAMES W. DENT EDUCATION CENTER  
1936 CarIotta Drive  
Concord, California 94519  
(925) 682-8000

**SAMPLE PARENT/GUARDIAN LETTER**

(Date)

(Parent/Guardian Name)

(Address)

(City)

Dear (Parent/Guardian Name)

This letter follows our conversation today regarding (son/daughter's name). Enclosed please find a copy of the Section 504 parent/student rights. If you have any questions regarding this information, please contact me.

As we discussed, a meeting has been scheduled for (time/date) to evaluate (son/daughter's name) needs and to determine his/her eligibility for a Section 504 Accommodation Plan. The meeting will be held (date, time, location) other school staff knowledgeable about your son/daughter will be in attendance.

I'm also enclosing the form we will complete at that meeting to help you understand what we will consider at that time. Please contact me if you have any questions.

Sincerely,

(Current School Year Section 504 Coordinator)

Mt Diablo Unified School District  
JAMES W. DENT EDUCATION CENTER  
1936 Carlotta Drive  
(925) 682-8000

**SAMPLE AGENDA**

**504 MEETING AGENDA**  
(School)

- I. Introduction
- II. Purpose
- III. Review of Student Academic Progress
- IV. Medical History Review
- V. Review of Assessments, Teacher Observations and Reports
- VI. Student Section 504/Eligibility and Identified Needs
- VII. Student Section 504 Plan Accommodations
- VIII. Other

**\*SECTION 504 STUDENT IDENTIFICATION  
AND ELIGIBILITY**

Page 1 of 2

<input type="checkbox"/> Initial Section 504 Meeting	Annual Review Meeting Date: _____
Name: _____	Meeting Date: _____
Last Name          First          Middle	
Primary Language: _____	Grade: _____ Student ID #: _____
Date of Birth: _____	Age: _____ Male _____ Female _____
Address: _____	
Street          Apt. #          City          Zip Code	
Telephone: (Home) _____ (Work) _____ (Cell) _____	
School of Attendance: _____	

1. Describe the physical or mental impairment and the basis for the determination of the impairment:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Describe how the physical or mental impairment substantially limits a major life activity and the major life activity impacted by the impairment:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. \_\_\_\_\_ Student meets eligibility requirements under Section 504  
\_\_\_\_\_ Student does not meet eligibility requirements under Section 504

**\*Note: Do not complete if this is an annual Section 504 review meeting. Please complete pages 41 and 42.**

Copies to: School, Student Services, Parent

**\*SECTION 504 STUDENT IDENTIFICATION  
AND ELIGIBILITY**

Page 2 of 2

4. Describe any accommodations implemented to date:

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\_\_\_\_\_ I have received the "MDUSD Section 504 Notice of Parent/Guardian and Student Rights" and the MDUSD Board Policy 6164.6.

\_\_\_\_\_ I agree with the determination noted above.

\_\_\_\_\_ I do not agree with the determination noted above and understand that I have rights set forth in the Procedural Safeguards provided to me.

Parent/Guardian Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Signature of others participating in the Section 504 Team Meeting:**

Administrator/Designee: \_\_\_\_\_ Date: \_\_\_\_\_

Teacher(s): \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ Date: \_\_\_\_\_

Student: \_\_\_\_\_ Date: \_\_\_\_\_

Others:	Title	Date
_____	_____	_____
_____	_____	_____
_____	_____	_____

**\*Note: Do not complete if this is an annual Section 504 review meeting. Please complete pages 41 and 42.**

Copies to: School, Student Services, Parent

**SECTION 504 STUDENT ACCOMMODATION PLAN**

Page 1 of 2

Student Name: \_\_\_\_\_ ID#: \_\_\_\_\_

School: \_\_\_\_\_ Grade \_\_\_\_\_

Date Accommodation Plan developed: \_\_\_\_\_

Initial       Annual       Amended       Other \_\_\_\_\_

<b><u>504 Code</u></b>	<b><u>Required Accommodation</u></b>	<b><u>Frequency</u></b> (daily/time of day, weekly, monthly)	<b><u>Start and End Date</u></b>	<b><u>Responsible Person(s)</u></b>

Copies to: School, Student Services, Parent

**SECTION 504 STUDENT ACCOMMODATION PLAN**

Student Name: \_\_\_\_\_ ID#: \_\_\_\_\_

<b><u>504 Code</u></b>	<b><u>Required Accommodation</u></b>	<b><u>Frequency</u></b> (daily/time of day, weekly, monthly)	<b><u>Start and End Date</u></b>	<b><u>Responsible Person(s)</u></b>

Copies to: School, Student Services, Parent

**SECTION 504 ANNUAL REVIEW MEETING**

Page 1 of 3

Annual Section 504 Meeting\*

Name: \_\_\_\_\_ Meeting Date: \_\_\_\_\_  
                    Last Name                      First                      Middle

Primary Language: \_\_\_\_\_ Grade: \_\_\_\_\_ Student ID #: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Age: \_\_\_\_\_ Male \_\_\_\_\_ Female \_\_\_\_\_

Address: \_\_\_\_\_  
                    Street                      Apt. #                      City                      Zip Code

Telephone: (Home) \_\_\_\_\_ (Work) \_\_\_\_\_ (Cell) \_\_\_\_\_

School of Attendance: \_\_\_\_\_

1. The Section 504 team reviewed the following:

- |  |                              |                             |
|--|------------------------------|-----------------------------|
| The student Section 504 plan accommodations were reviewed. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| The student medical history was reviewed.                  | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| The student academic records were reviewed.                | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| The student behavioral record was reviewed.                | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| The student assessments and tests were reviewed.           | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| The student attendance record was reviewed.                | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| The student Section 504 evaluation data was reviewed.      | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| The student services were reviewed.                        | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Other _____  | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

2. Describe the physical or mental impairment which substantially limits one or more major life activities.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. The Section 504 team determined that the student's mental or physical impairment substantially limits one or more of a major life activities:

- |                       |                              |                             |
|-----------------------|------------------------------|-----------------------------|
| a. Walking            | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| b. Seeing             | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| c. Speaking           | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| d. Breathing          | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| e. Learning           | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| f. Caring for oneself | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| g. Reading            | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| h. Thinking           | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| i. Concentrating      | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| j. Other _____        | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

**SECTION 504 ANNUAL REVIEW MEETING**

Page 2 of 3

4. Describe any accommodations implemented to date:

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**\*Note: Do not complete if this is an initial Section 504 meeting. Please complete pages 37 and 38.**

White — School    Canary — Student Services    Pink — Parent

5. The Section 504 team determined that the student's 504 plan and placement were appropriate and the identified services and strategies were provided consistent with the student's 504 plan and placement.  Yes     No

6. The student accommodation plan was revised.  Yes     No

- If yes, please refer to the student Section 504 accommodation plan on pages 39 and 40.
- If no, attach the current student Section 504 accommodation plan on pages 39 and 40.

7. Section 504 Student Behavior Support Plan:

- a. Student does have a behavior support plan     Yes     No
- b. Reviewed     Yes     No
- c. Revised     Yes     No

8. Please mark appropriate response below: (check one only)

- a. Student meets eligibility requirements under Section 504 and accommodations will continue to be implemented.  Yes     No
- b. Student meets eligibility requirements under Section 504 yet accommodations are not necessary.  Yes     No
  - If no accommodations are necessary, must provide evaluation report and relevant information.
- c. Student does not meet eligibility requirements under Section 504.  Yes     No
  - If no, must provide evaluation report and relevant information.
  - Please complete Section 504 Exit form on page 48.

**SECTION 504 ANNUAL REVIEW MEETING**

*Page 3 of 3*

\_\_\_\_\_ I have received the "MDUSD Section 504 Notice of Parent/Guardian and Student Rights" and the MDUSD Board Policy 6164.6

\_\_\_\_\_ I agree with the determination noted above.

\_\_\_\_\_ I do not agree with the determination noted above and understand that I have rights set forth in the Procedural Safeguards provided to me.

Parent/Guardian Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Signature of others participating in the Section 504 Team Meeting:**

Administrator/Designee: \_\_\_\_\_ Date: \_\_\_\_\_

Teacher(s): \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ Date: \_\_\_\_\_

Student: \_\_\_\_\_ Date: \_\_\_\_\_

Others:	Title	Date
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_____	_____	_____
-------	-------	-------

_____	_____	_____
-------	-------	-------

_____	_____	_____
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Copies to: School, Student Services, Parent



● For Official School Use Only ●  
**CODES OF SECTION 504 ACCOMMODATIONS**

(Staff is to Use these Codes in the Accommodation Plan)

Page 1 of 4

**A. Physical Arrangement of Room**

- A001 The student will be seated near the teacher.
- A002 The student will be seated near other students who present positive role models.
- A003 The student will be seated in a location away from distracting stimuli (pedestrian routes, activity centers, air conditioners, etc.) or in a more quiet location in the room.
- A004 The student will be provided with a study area in the classroom to complete work.
- A005 The distance between the student's desk and others will be increased.
- A006 The teacher will stand near the student when giving directions or presenting lessons.
- A007 Student allowed frequent restroom breaks as needed and determined by teacher.
- A008 Preferential seating or at front of class.
- A009 Other

**B. Instruction**

- B001 The teacher will physically move close to the student when giving directions or presenting lessons.
- B002 The student will be paired with another student to provide peer assistance.
- B003 Key points will be provided on board or screen using overhead projector.
- B004 A peer notetaker will be provided to the student.
- B005 Instruction strategies will vary to accommodate learning style.
- B006 The student will be allowed to tape record the lessons.
- B007 The student will be personally asked by the teacher to orally review key points of the lesson.
- B008 The student will have access to a computer.
- B009 The teacher will break lessons into shorter segments for the student.
- B010 The teacher will verbally check for understanding with the student.
- B011 Complex directions will be simplified for the student.
- B012 The student will receive positive recognition in a timely manner for successfully participating in class activities and for successfully completing classwork and homework.
- B013 The student will be permitted short breaks during or between assignments.
- B014 The student will be given access to study support programs (i.e., math labs, after-school homework lab, student skills class, etc.)
- B015 The student will be provided with sequential tasks.
- B016 The student will be provided with limited choices.
- B017 Eye contact by teacher during direction when possible/practical.
- B018 Provided with structured program that provides routine.
- B019 Provide examples of work expected to be completed.
- B020 Student provided with large print materials or other aides.
- B021 Teach through multi sensory modes, variety of activities.
- B022 The student will have access to notes and study materials from the teacher.
- B023 The student will stay after class to review assignments with teacher.
- B024 Other

**C. Assignments**

- C001 Student will be provided with timely feedback on work completed.
- C002 Positive reinforcement will be emphasized with student.
- C003 Student will receive assistance in maintaining a daily log of assignments.
- C004 Accommodate homework assignments; will be revised and/or shortened as needed.
- C005 The student's handwriting will not be graded as determined by the teacher and when appropriate.
- C006 Alternative readings appropriate to the student's reading level will be provided.
- C007 Student will be provided with organization and study skill tips to more efficiently complete work.
- C008 The student will be allowed to tape record assignments/homework
- C009 The teacher will give frequent short quizzes.
- C010 A homework log will be created to facilitate home-to-school communication of assignments with parents.

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**CODES OF SECTION 504 ACCOMMODATIONS**

(Staff is to Use these Codes in the Accommodation Plan)

Page 2 of 4

- C011 Extra time will be allowed for the student to complete work.
- C012 Assignments will be provided in written form by the teacher.
- C013 Computer generated work will be accepted.
- C014 A "homework buddy" will be assigned to the student to provide peer support and assistance.
- C015 The student will be permitted to have an extra set of books to keep at home.
- C016 The student's correct responses on written assignments will be marked instead of mistakes.
- C017 Binder reminder, notebook signed by teacher or parent will be provided by the student.
- C018 Progress reports sent home and signed if needed.
- C019 Other

**D. Test Taking**

- D001 The student will be permitted to use text during exams.
- D002 The student will be provided with oral exams when possible.
- D003 The student will be provided with "take home tests" when appropriate.
- D004 The student will be permitted to take extra time in taking tests.
- D005 Test items will be read to student.
- D006 More frequent, shorter quizzes will be used with the student in place of longer tests.
- D007 The teacher will use more objective items on test and use fewer essay responses.
- D008 The student will be allowed to give test answers on tape recorder.
- D009 Accommodations for STAR/Standard Testing/CAHSEE.
- D010 Quiet and private location will be provided to complete tests.
- D011 Other

**E. Class Assignment/Daily Schedule**

- E001 Class schedule be changed to accommodate student academic needs.
- E002 The student will be placed on a modified day.
- E003 Additional passing time between classes.
- E004 Other

**F. Organization Study Skills**

- F001 The student will be provided with a volunteer homework buddy.
- F002 The student will be allowed to have an extra set of books at home.
- F003 The teacher and parent will provide help to student in developing organization skills.
- F004 Student will maintain a homework assignment notebook.
- F005 Other

**G. Behavior Management**

- G001 The student will receive positive recognition for appropriate behaviors.
- G002 The student will receive support in developing self-monitoring strategies.
- G003 Staff will check with the student to assure an understanding of behavior expectations.
- G004 Consequences will be clear, logical, and related to the behavior.
- G005 Nonverbal signals will be used by the teacher and student to communicate such things as needing to stay on task or the need for a time-out.
- G006 The student will be allowed to leave the room to see an administrator by using a prearranged nonverbal signal to teacher.
- G007 The student will be referred for a vision and/or hearing assessment.
- G008 The student will be allowed to move about the room when appropriate.
- G009 The teacher/administrator will develop a behavior contract/Behavior Support Plan with the student and parent/guardian to identify in writing mutual expectations and responsibilities.
- G010 Time-out procedures will be developed with the student and parent/guardian.
- G011 Recognition points will be awarded to the student for improved behavior.
- G012 The student will be provided with positive opportunities to participate in community service.

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**CODES OF SECTION 504 ACCOMMODATIONS**

(Staff is to Use these Codes in the Accommodation Plan)

Page 3 of 4

- G013 When behavior problems arise, the parent will be called to come to school and will sit with the student to assist student.
- G014 The student will be encouraged to participate in extra-curricular and co-curricular activities.
- G015 Classroom rules will be provided and reviewed with the student.
- G016 Special reminder to students – meds, homework, glasses, snacks, etc.
- G017 Special medical instructions – see student file.
- G018 Other

**H. Accommodations Provided by Parents/Guardians at Home**

- H001 The student will be provided with a quiet place with good lighting to complete homework at home.
- H002 The student will be expected to complete homework during a regularly scheduled study period at home.
- H003 The student's homework will be checked by the parent/guardian on a daily basis.
- H004 The student will receive a (medical, dental, vision, hearing, etc.) assessment as needed.
- H005 If on medication, the student will be expected to take the medication at prescribed times.
- H006 Positive reinforcement will be emphasized with student.
- H007 Student will receive assistance in maintaining a daily log of assignments.
- H008 The student will receive positive recognition for appropriate behaviors.
- H009 The student will receive support in developing self-monitoring strategies.
- H010 The parent/guardian will check with the student to assure an understanding of behavior expectations.
- H011 Consequences will be clear, logical, and related to the misbehavior.
- H012 The student will be provided with positive opportunities to participate in community service.
- H013 The student will be encouraged to participate in extra-curricular and co-curricular activities.
- H014 Homework will be checked by parent weekly.
- H015 Other

**I. Health Codes**

- I001 Student will be allowed to leave class 5 minutes early or arrive 5 minutes late to attend to personal health needs per health care plan (for students with mobility issues, kids needing to take meds prior to PE, etc).
- I002 Student will have preferential seating. (To accommodate vision/hearing needs, specify where student should sit.)
- I003 Have student sit with good ear toward speaker.
- I004 Student may self limit activity in PE without penalty when health issue is exacerbated. (asthma, arthritis)
- I005 Student may need protective/assistive equipment (e.g. helmet, walker, crutches, wheelchair, Hoyer lift etc.) while at school.
- I006 Student will take medication at prescribed time.
- I007 Student will not be excluded from activity or field trip due to health condition; parent may accompany student on field trip. Designated staff member who is trained in the emergency procedure will accompany child on field trip. (i.e. EpiPen or glucagon)
- I008 Student will not be penalized for absences or tardies related to medical condition.
- I009 The teacher will be notified about the student and health condition in beginning of the year or when student enrolls in school.
- I010 The teacher and/or designated staff will be educated about the health condition.
- I011 Designated staff will be trained on emergency medications. Individual Health Care Plan and/or Emergency Care Plan recommendations will be given to the appropriate staff.
- I012 Parent will provide necessary medical supplies for health condition.
- I013 Parents will be notified in advance about field trips, class parties, etc.
- I014 It is recommended that student will wear a medical alert identification bracelet/necklace.

● For Official School Use Only ●  
**CODES OF SECTION 504 ACCOMMODATIONS**

(Staff is to Use these Codes in the Accommodation Plan)

Page 4 of 4

**Diabetes**

- I015 The student will have blood glucose tested prior to standardized tests.
- I016 The student has access to restroom and be allowed to drink water as needed.
- I017 The student will be accompanied with buddy to office for health related concerns.
- I018 The student will be permitted to have snacks as necessary based on student health plan.

**Asthma**

- I019 The student may take medication via inhaler, or nebulizer prior to PE.
- I020 The student may carry inhaler on his/her person with doctor's orders and parent consent.

**Immune Compromised**

- I021 The student's parents will be notified by school staff if there is incidence of communicable disease such as chicken pox, measles, and pertussis.
- I022 The student may need to limit activity.

**Food Allergy**

- I023 Tables will be wiped down in cafeteria.
- I024 Separate tables will be available for peanut-free, nut-free products during lunch and snack times.
- I025 The school will send out notification letter to parents in the involved classrooms at the elementary school level and as appropriate at secondary schools.
- I026 Nut free signs for classroom doors will be posted as specified by Section 504 plan.
- I027 Classmates and staff will be educated about allergy.
- I028 Hand washing policy will be determined by the Section 504 team.
- I029 The school site will implement a "No Food Sharing Policy."
- I030 Parent will provide medication.
- I031 Parent will educate the student about allergy and self management.
- I032 Parent will provide food for the student for the disaster kit.
- I033 Parent will provide safe classroom snacks for the student.
- I034 Student will notify an adult immediately if he/she eats something that may contain the food which the student is allergic.

**Arthritis/Muscle/Orthopedic Issues**

- I035 When the student has fatigue or weakness due to a health condition, there may be altered or shortened physical education classes and/or work assignments.
- I036 The student may use assistive devices.
- I037 The student will have second set of books available to leave at home to avoid carrying the weighted back pack. (For kids with muscle/skeletal/mobility problems.)

**Intravenous Lines (PIC lines, broviac catheter, etc.)**

- I038 The parent will provide medical guidelines for PIC, broviac catheter or intravenous lines.
- I039 Other

## Test Accommodations for Students with 504 Plans

Accommodations should not change what the test measures. Section 504 plans must narrowly tailor testing accommodations in order not to change the test construct. The Section 504 plan should focus on the requirements of the test and ensure that testing accommodations allow the student to demonstrate his or her knowledge.

In order for an accommodation to be considered necessary and appropriate, the answers to questions 1 - 5 below must be "yes."

1. Accommodations must be decided by the Section 504 team with the participation of the parent and student.

*Rationale:* Persons who are familiar with the student's disability and educational history must be involved in the decision.

2. Decisions must be based on accommodations that are provided during classroom, district, or statewide assessments.

*Rationale:* An accommodation is likely to be needed if it is similar to accommodations that are provided during classroom, district, or statewide assessments.

3. Accommodations are made on an individual basis and not on the basis of disability category, social or demographic background, or record of educational achievement.

*Rationale:* An accommodation is likely to be appropriate if it is provided on an individual basis.

4. Accommodations are revised by the Section 504 plan as necessary.

*Rationale:* Although the annual review of the Section 504 is an appropriate time to revise accommodations, more frequent review may be needed. Accommodations should reflect the individual needs of the child at the time of testing.

5. Accommodations are documented in the Section 504 Accommodation Plan.

*Rationale:* Federal law requires that a departure from standardized testing procedures on statewide tests be documented in the Section 504 Plan.

### Checklist of Criteria for Making Decisions about Necessary and Appropriate Accommodations

1. \_\_\_ Yes \_\_\_ No Did the Section 504 team make the decisions about the test accommodations?
2. \_\_\_ Yes \_\_\_ No Were the accommodations provided during classroom, district, or other statewide testing?
3. \_\_\_ Yes \_\_\_ No Were the decisions made on the basis of individual need?
4. \_\_\_ Yes \_\_\_ No Do the accommodations reflect the current needs of the student?
5. \_\_\_ Yes \_\_\_ No Are the accommodations documented in the Section 504 Plan?

**Section 504 Exit Form**

Name: _____			Meeting Date: _____
Last Name	First	Middle	
Primary Language: _____	Grade: _____	Student ID #: _____	
Date of Birth: _____	Age: _____	Male _____	Female _____
Address: _____			
Street	Apt. #	City	Zip Code
Telephone: (Home) _____	(Work) _____	(Cell) _____	
School of Attendance: _____			

The 504 team met to review the planned Student Section 504 Accommodation Plan. The Section 504 meeting notes and the written evaluation report must be attached to this Section 504 Exit form. (See below.)

- Student does not meet eligibility requirements under Section 504.  
If no, must provide evaluation report and relevant information.

Provide evidence including student grades, attendance, behavior/discipline records, academic record, medical history, Section 504 Plan, assessment data, and relevant documents including a written evaluation report on the response checked above.

***Check all that apply:***

- Student no longer meets eligibility criteria.
- Parent/guardian request to exit student from Section 504 accommodations  
(Provide documentation in the written evaluation report as stated above.)
- Other (Please provide relevant documentation as stated above.)

The 504 team recognizes that a meeting to review this decision may be called at any time by any member of the team.

_____ I have received the "MDUSD Notice of Parent/Guardian and Student Rights" and MDUSD Board Policy 6164.6.
_____ I agree with the determination noted above.
_____ I do not agree with the determination noted above and understand that I have rights set forth in the Procedural Safeguards provided to me.
Parent/Guardian Signature: _____ Date: _____

**Signature of others participating in the Section 504 Team Meeting:**

Administrator/Designee: _____	Date: _____
Teacher(s): _____	Date: _____
_____	Date: _____
Student: _____	Date: _____
Others: _____	Title _____ Date _____
_____	_____
_____	_____
_____	_____

Copies to: School, Student Services, Parent

### **SECTION 504 TRANSITION MEETING**

In an effort to enhance the elementary, middle and high school's Section 504 student articulation process, Section 504 transition meetings are to take place during the months of April and May. Mt. Diablo Unified School District must continue to ensure that the students Section 504 accommodation plans are being implemented in a timely fashion as they transition from site to site.

The Section 504 Coordinator from the current school, e.g., middle school is to schedule/host the Section 504 transition meeting with the high school staff and likewise with elementary and middle. The Section 504 Coordinators are to meet and review the students Section 504 accommodation plans including the anticipated accommodations for the next school year. In addition, it is recommended that other staff, e.g., nurse, CWA liaison, attend the Section 504 transition meeting.

The following information must be reviewed and discussed at the Section 504 meeting:

- Student Section 504 Plan and accommodations
- Medical history
- Attendance
- Assessment data
- Section 504 annual review meeting date
- Behavioral record/Activity Tracker
- Academic record – report cards
- Anticipated needs

A letter informing parents/guardians of the Section 504 transition meeting and purpose (sample letter enclosed) is to be sent by the current school Section 504 Coordinator. The letter is to be sent between April and May of the current school year notifying and informing the parent/guardian of the Section 504 transition meeting.

If the receiving Section 504 Coordinator does not attend the transition meeting, then the current 504 Coordinator forwards all Section 504 documents to receiving school to hold a Section 504 transition meeting at the beginning of the school year no later than mid-October.

The current Section 504 Coordinator also sends to the Student Services Office copies of the Transition Parent/guardian letter on page 51 and Section 504 transition meeting forms on pages 52-53.

The receiving school Section 504 Coordinator is to notify the parents/guardians in the fall of the Section 504 annual review meeting date. The enclosed Section 504 transition meeting forms on pages 52 and 53 are to be completed, signed, dated and filed in the student Section 504 school folder. It is important that all Section 504 Coordinators meet with staff in the fall to review the students Section 504 accommodation plan.

Mt Diablo Unified School District  
JAMES W. DENT EDUCATION CENTER  
1936 Carlotta Drive  
(926) 682-8000

**SAMPLE TRANSITION PARENT/GUARDIAN LETTER**

*\* Prepared by the current school year Section 504 Coordinator*

(Date)

(Parent/Guardian Name)

(Address)

(City, State, Zip Code)

Dear (Parent/Guardian Name):

This is to inform you that (son is/daughter is) Section 504 plan will be reviewed at (current school) on (time/date) in Room \_\_\_\_\_. The purpose of the transition meeting between the staff from (current school) and (next year school) is to review the Section 504 accommodation plan and become knowledgeable about the special needs of your child. It also affords staff an opportunity to begin preplanning in preparation for the opening of the new school year.

Staff will also review relevant documents, e.g., medical history, and academic records that may require your assistance, if needed. Your participation at the transition meeting is requested to provide input in your (son's/daughter's) education.

Please feel free to contact me if you have questions or if I can be of further assistance. Also please notify me if you are unable to attend this important meeting.

Sincerely,

(Current School Year Section 504 Coordinator)

cc: Next School Year Section 504 Coordinator

**SECTION 504 TRANSITION MEETING**

*page 1 of 2*

Name: _____			
Last Name	First	Middle	
Primary Language: _____	Grade: _____	Student ID #: _____	
Date of Birth: _____	Age: _____	Male _____	Female _____
Address: _____			
Street	Apt. #	City	Zip Code
Telephone: (Home) _____	(Work) _____	(Cell) _____	
Current School: _____	Next Year School _____		
Meeting Date ____/____/____	Location _____	Annual Section 504 review date ____/____/____	

Please check the appropriate response:

Student <u>meets</u> eligibility requirements under Section 504 and accommodations will continue to be implemented.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Student <u>meets</u> eligibility requirements under Section 504 yet accommodations are not necessary. If no accommodations are necessary, must provide evaluation report and relevant information.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Student <u>does not meet</u> eligibility requirements under Section 504. If no, must provide evaluation report and relevant information. • Please complete Section 504 Exit form on page 48.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
The Section 504 Student Accommodation Plan was reviewed.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
The Section 504 Student Accommodation Plan was revised.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
The Section 504 Annual Review Meeting form was reviewed.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
The student's medical history was reviewed.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
The student's academic records were reviewed.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
The student's behavioral record was reviewed.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
The student's assessments and tests were reviewed.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
The student's attendance record was reviewed.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
The student's services were reviewed.	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Additional Comments: \_\_\_\_\_

\_\_\_\_\_

(attach separate sheet if necessary)

Copies to: School, Student Services, Parent

**SECTION 504 TRANSITION MEETING**

Page 2 of 2

The transition team is in agreement that the student's current Section 504 Student Accommodation Plan is appropriate for the next school year placement .....  Yes  No

If no, the receiving school Section 504 Coordinator will convene a Section 504 meeting in the fall to develop a new Section 504 plan. The student parents/guardians are to be invited to attend the Section 504 meeting.

\_\_\_\_\_ I have received the "MDUSD Notice of Parent/Guardian and Student Rights" and the MDUSD Board Policy 6164.6.

\_\_\_\_\_ I agree with the determination noted above.

\_\_\_\_\_ I do not agree with the determination noted above and understand that I have rights set forth in the procedural safeguards provided to me.

Parent/Guardian Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Signature of others participating in the Section 504 Team Meeting:**

Administrator/Designee: \_\_\_\_\_ Date: \_\_\_\_\_

Teacher(s): \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ Date: \_\_\_\_\_

Student: \_\_\_\_\_ Date: \_\_\_\_\_

Others: \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Copies to: School, Student Services, Parent



## **SECTION 504 ANNUAL ARTICULATION MEETING**

To assist with a smooth transition from one grade level to the next within the same school [i.e. when a student is being promoted from one grade level to another (e.g. 3<sup>rd</sup> grade to 4<sup>th</sup> grade; 7<sup>th</sup> grade to 8<sup>th</sup> grade; 10<sup>th</sup> grade to 11<sup>th</sup> grade), and remaining at the same school], the Section 504 Coordinator from the current school is to facilitate a Section 504 articulation meeting between the current grade level teacher(s) and the receiving teacher(s) for the next school year. The articulation meetings are to take place during the months of April and May to ensure that the receiving teacher(s) are knowledgeable of the student's needs and accommodation plan.

The Section 504 Coordinators are to meet and review the students' Section 504 accommodation plans, including the anticipated accommodations for the next school year. It is recommended that parents and other staff (e.g. nurse, CWA liaison) attend the Section 504 articulation meeting.

The following information must be reviewed and discussed at the Section 504 articulation meeting:

- Student Section 504 Plan and Accommodations
- Medical history
- Attendance
- Assessment data
- Section 504 annual review meeting date
- Behavioral record
- Academic record — report cards
- Activity tracker
- Anticipated needs

A letter informing parents/guardians of the Section 504 articulation meeting and purpose (sample letter enclosed) is to be sent by the current school Section 504 Coordinator. The letter is to be sent between April and May of the current school year notifying and informing the parent/guardian of the Section 504 articulation meeting.

The Section 504 Coordinator is to notify the parents/guardians in the fall of the Section 504 annual review meeting date. It is important that all Section 504 coordinators meet with staff in the fall to review the students' Section 504 accommodation plans.

Mt Diablo Unified School District  
1936 Carlotta Drive  
Concord, CA 94519  
(926) 682-8000

**SAMPLE ARTICULATION PARENT/GUARDIAN LETTER**

(Date)

(Parent/Guardian Name)

(Address)

(City, State, Zip Code)

Dear (Parent/Guardian Name):

This is to inform you that your (son's/daughter's) Section 504 plan will be reviewed on (date/time) in (Room #). The purpose of the articulation meeting between her/his (current teacher) and (next year's teacher) is to review the Section 504 accommodation plan and become knowledgeable about the special needs of your student. It also affords staff an opportunity to begin preplanning in preparation for the opening of the new school year.

Staff will also review relevant documents, e.g., medical history and academic records that may require your assistance, if needed. Your participation at the articulation meeting is requested to provide input in your (son's/daughter's) education.

Please feel free to contact me if you have questions or if I can be of further assistance. Also please notify me if you are unable to attend this important meeting.

Sincerely,

(Current School Year Section 504 Coordinator)



MT. DIABLO UNIFIED SCHOOL DISTRICT  
ADDENDUM TO SECTION 504 PLAN

MANIFESTATION DETERMINATION FINDING

1936 Carlotta Drive, Concord, CA 94519  
Phone (925) 682-8000 or TDD 685-1962

FAX (925) 687-3139  
Community Advisory Committee (CAC)  
Parent Resource Network (925) 687-2129

Section 504 Meeting Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Student: \_\_\_\_\_ ID#: \_\_\_\_\_ Page 1 of 2

**Assessment History:**

Date of most recent evaluation \_\_\_\_ / \_\_\_\_ / \_\_\_\_

- Reassessment completed if appropriate.  Yes (Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_ )  No
- Functional behavioral assessment conducted, if necessary. (Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_ )
- Behavior Support Plan or Positive Behavior Intervention Plan developed, (Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_ ) or modified, if necessary. (Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_ )
- Statement of behavior subject to disciplinary action \_\_\_\_\_
- Disciplinary action taken/proposed \_\_\_\_\_
- Date on which decision to take disciplinary action was made: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

In determining whether the student's behavior was a manifestation of his/her disability, the Section 504 team considered the following in relation to the behavior subject to discipline (check applicable items):

- Evaluation and diagnostic result(s) (describe) \_\_\_\_\_:
- Observations of the student by: \_\_\_\_\_
- Student's Accommodation Plan.
- Other relevant information provided by parents (list): \_\_\_\_\_

**The Section 504 Team determined that:**

- Yes  No The conduct in question was caused by, or had a direct and substantial relationship to the student's disability;  
or
- Yes  No The conduct in question was the direct result of the district's failure to implement the Section 504 Accommodation Plan.

Comments \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Finding of the Section 504 Team:

The behavior  was not a manifestation of the student's disability. (Answer "no" to both boxes above.)  
 was a manifestation of the student's disability. (Answer "yes" to one or more boxes above.)

The parent(s)/guardian(s)  agrees  disagrees with the determination of the Section 504 team.

**Meeting Comments:** (attach additional pages as needed)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Mt. Diablo Unified School District  
**Manifestation Determination Finding**

page 2 of 2

Section 504 Pre-expulsion Evaluation Report

Provide a written summary of the Pre-expulsion Manifestation Determination Evaluation Report using 1-11 as an outline with the above supporting documents and the relevant information supporting the Section 504 Team Manifestation Determination Finding.

- |   |                              |                             |
|---|------------------------------|-----------------------------|
| 1. Observations of student was conducted?                                       | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • If yes, provide written documentation in the evaluation report.               |                              |                             |
| 2. Student academic progress was reviewed?                                      | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • If yes, provide student's transcript or grades.                               |                              |                             |
| 3. Student Section 504 Accommodation Plan, services and placement was reviewed? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 4. Assessments were administered?   | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • If yes, please attach the Assessment Report and Findings.                     |                              |                             |
| 5. Teacher information was reviewed?  | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • If yes, provide written documentation in the evaluation report.               |                              |                             |
| 6. Health history was reviewed?   | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • If yes, provide the report.   |                              |                             |
| 7. Student Section 504 impairment was considered?                               | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • If yes, provide written documentation in the evaluation report.               |                              |                             |
| 8. Other assessments and evaluations were reviewed?                             | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • If yes, please provide written documentation in the evaluation report.        |                              |                             |
| 9. Student was on a behavior contract?  | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • If yes, provide a copy.   |                              |                             |
| 10. Student had a Behavior Support Plan?  | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • If yes, provide a copy.   |                              |                             |
| 11. Other relevant documents and reports were reviewed?                         | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • If yes, provide a copy.   |                              |                             |

\_\_\_\_\_ I have read the "MDUSD Notice of Parent/Guardian and Student Rights" and MDUSD Board Policy 6164.6.  
 \_\_\_\_\_ I agree with the determination noted above.  
 \_\_\_\_\_ I do not agree with the determination noted above and understand that I have rights set forth in the Procedural Safeguards provided to me.

Parent/Guardian Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Signature of others participating in the Section 504 Team Meeting:**

Administrator/Designee: \_\_\_\_\_ Date: \_\_\_\_\_

Teacher(s): \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ Date: \_\_\_\_\_

Student: \_\_\_\_\_ Date: \_\_\_\_\_

Others:	Title	Date
---------	-------	------

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Not for Display - For Teacher/Staff Use Only**

**BEHAVIOR SUPPORT PLAN**

For Behavior Interfering with Student's Learning or the Learning of His/Her Peers

This BSP attaches to:  IEP date:  504 plan date:  Team meeting date:

**Student Name**                      **Today's Date**                      **Next Review Date**

1. The behavior impeding learning is (*describe what it looks like*)
2. It impedes learning because
3. The need for a Behavior Support Plan  early stage intervention  moderate  serious  extreme
4. Frequency or intensity or duration of behavior  
 reported by                      and/or  observed by

**PREVENTION PART I: ENVIRONMENTAL FACTORS AND NECESSARY CHANGES**

<b>Observation &amp; Analysis</b>	<p><b>What are the predictors for the behavior?</b> (<i>Situations in which the behavior is likely to occur: people, time, place, subject, etc.</i>)</p> <p>5.</p> <p><b>What supports the student using the problem behavior?</b> (<i>What is missing in the environment/curriculum or what is in the environment curriculum that needs changing?</i>)</p> <p>6.</p>
<b>Intervention</b>	<p style="text-align: center;"><b>Remove student's need to use the problem behavior</b></p> <p><b>What environmental changes, structure and supports are needed to remove the student's need to use this behavior?</b>  <i>(Changes in Time/Space/Materials/Interactions to remove likelihood of behavior)</i></p> <p>7.</p> <p>Who will establish?                      Who will monitor?                      Frequency?</p>





Behavioral Goal(s)

**13.**

**Required: Functionally Equivalent Replacement Behavior (FERB) Goal**

By when	Who	Will do X behavior	For the purpose of y	Instead of Z behavior	For the purpose of y	Under what conditional conditions	At what level of proficiency	As measured by whom and how

**Option 1: Increase General Positive or Decrease Problem Behavior**

By when	Who	Will do what, or will NOT do what	At what level of proficiency	Under what conditions	Measured by whom and how

**Option 2: Increase General Positive or Decrease Problem Behavior**

By when	Who	Will do what, or will NOT do what	At what level of proficiency	Under what conditions	Measured by whom and how

The above behavioral goal(s) are to:  Increase use of replacement behavior and may also include:  
 Reduce frequency of problem behavior  Develop new general skills that remove student's need to use the problem behavior

**Observation and Analysis Conclusion:**

- Are curriculum accommodations or modifications also necessary? Where described: .....  yes  no
- Are environmental supports/changes necessary? .....  yes  no
- Is reinforcement of replacement behavior alone enough (no new teaching is necessary)? .....  yes  no
- Are both teaching of new replacement behavior AND reinforcement needed? .....  yes  no
- This BSP to be coordinated with other agency's service plans? .....  yes  no
- Person responsible for contact between agencies .....  yes  no

**COMMUNICATION PART V: COMMUNICATION PROVISIONS**

**Manner and content of communication**

**14.**

1. Who?	2. Under what condition(s) (Contingent? Continuous?)	3. Delivery Manner	4. Expected Frequency?	5. Content?	6. How will this be two-way communication

1. Who?	2. Under what condition(s) (Contingent? Continuous?)	3. Delivery Manner	4. Expected Frequency?	5. Content?	6. How will this be two-way communication

1. Who?	2. Under what condition(s) (Contingent? Continuous?)	3. Delivery Manner	4. Expected Frequency?	5. Content?	6. How will this be two-way communication

**PARTICIPATION PART VI: PARTICIPANTS IN PLAN DEVELOPMENT**

- Student
- Parent/Guardian
- Parent/Guardian
- Educator and Title
- Educator and Title
- Educator and Title
- Administrator
- Other
- Other

Copies to: School/CUM, Student Services, Parent

**A Comparison: IDEA and Section 504**

<i>COMPONENT</i>	<i>IDEA</i>	<i>SECTION 504</i>
<u><i>General Purpose</i></u>	Is a Federal funding statute whose purpose is to provide financial aid to states in their efforts to ensure adequate and appropriate services for disabled children.	Is a broad civil rights law that protects the rights of individuals with disabilities in programs and activities that receive Federal financial assistance from the U.S. Department of Education.
<u><i>Who is protected?</i></u>	Identifies all school-aged children who fall within one or more specific categories of qualifying conditions. IDEA identifies 13 disabling conditions for purposes of eligibility.	Identifies all school-aged children who meet the definition of an individual with disabilities.
<u><i>Responsibility to Provide a Free and Appropriate Public Education (FAPE)</i></u>	<p>Both laws require the provision of a FAPE to eligible students covered under them including individually designed instruction.</p> <p>Requires a written IEP document with specific content and a required number of specific participants at the IEP team meeting.</p>	<p>Both laws require the provision of a FAPE to eligible students covered under them including individually designed instruction.</p> <p>Does not require a written IEP document, but it is necessary for the district to document that a group of persons knowledgeable about the student convened, reviewed evaluation data and agreed upon needed services and placement options.</p>

**A Comparison: IDEA and Section 504**

<b>COMPONENT</b>	<b>IDEA</b>	<b>SECTION 504</b>
<b><u>Responsibility to Provide a Free and Appropriate Public Education (FAPE)</u></b>	<p>“Appropriate education” means a program designed to provide “educational benefit.” Related services are provided if required for the student to benefit from specially designed instruction. Related services are called designated instructional services (DIS) in California.</p>	<p>“Appropriate” means an education comparable to the education provided to students without disabilities, including accommodations or services that afford students with disabilities an equal opportunity to obtain the same results, gain the same benefit or reach the same level of achievement as other students.</p>
<b><u>Special Education vs. Regular Education</u></b>	<p>A student is eligible to receive IDEA services if the multidisciplinary team determines that the student is disabled under one or more of the specific qualifying conditions and requires specifically designed instruction to benefit from education.</p>	<p>A student is eligible so long as he/she meets the definition of an individual with a disability that impacts a major life activity within the school environment.</p>
<b><u>Funding</u></b>	<p>Provides additional funding for eligible students.</p>	<p>Does not provide additional funding. IDEA funds may not be used to serve students found eligible only under Section 504.</p>
<b><u>Accessibility</u></b>	<p>Requires that accommodations must be made if necessary to provide access to a FAPE.</p>	<p>Has regulations regarding building and program accessibility.</p>

**A Comparison: IDEA and Section 504**

<b>COMPONENT</b>	<b>IDEA</b>	<b>SECTION 504</b>
<u><b>Procedural Safeguards</b></u>	<p>Both require notice to the parent/guardian with respect to identification, and/or placement, and procedural protections.</p> <p>Requires written notice.</p> <p>Delineates required components of written notice.</p>	<p>Both require notice to the parent/guardian with respect to identification, and/or placement, and procedural protections.</p> <p>Does not require written notice but districts are advised to use written notice.</p> <p>Written notice is advised.</p>
<u><b>Evaluations</b></u>	<p>A full comprehensive evaluation is required, assessing all areas related to the suspected or known disability. The student is evaluated by a multidisciplinary team.</p> <p>Requires informed consent before an initial evaluation is conducted.</p> <p>Requires reevaluations to be conducted at least every 3 years.</p>	<p>Evaluation draws on information from a variety of sources in the area of concern; decisions made by a group knowledgeable about the student, evaluation data, and placement options.</p> <p>Does not require consent, only notice. However, good practice would include informed consent.</p> <p>Requires periodic reevaluation.</p>

**A Comparison: IDEA and Section 504**

<b>COMPONENT</b>	<b>IDEA</b>	<b>SECTION 504</b>
<u><b>Evaluations (continued)</b></u>	Provides for independent educational evaluation at district expense if parent/guardian disagrees with evaluation obtained by school and hearing officer or district concurs.	No provision for independent evaluations at district expense. District should consider any such evaluations presented.
<u><b>Placement Procedures</b></u>	When interpreting evaluation data and making placement decisions, both laws require the district to: a. Draw upon information from a variety of sources. b. Assure that all information is documented and considered. c. Assure that the eligibility decision is made by a group of persons including those who are knowledgeable about the student, the meaning of the evaluation data, and placement options. d. Ensure that the student is educated with his/her nondisabled peers to the maximum extent appropriate (least restrictive environment.)	Same as IDEA.
<u><b>Grievance Procedure</b></u>	Does not require a grievance procedure, or a grievance officer.	Requires district with 15 or more employees to designate an employee to be responsible for assuring district compliance and to provide a grievance procedure for parent/guardian and students.

**A Comparison: IDEA and Section 504**

<b><i>COMPONENT</i></b>	<b><i>IDEA</i></b>	<b><i>SECTION 504</i></b>
<b><u>Due Process</u></b>	Both statutes require impartial hearings for parent/guardian who disagree with the identification, evaluation, or placement of the student.	Same as IDEA.
<b><u>Exhaustion</u></b>	Requires the parent/guardian to pursue administrative remedies before seeking redress in the courts.	Administrative hearings not necessarily required prior to OCR involvement or court action; compensatory damages possible.
<b><u>Enforcement</u></b>	Enforced by the U.S. Office of Special Education Programs. Compliance is monitored by the State Department of Education and the Office of Special Education Programs.	Enforced by the U.S. Office for Civil Rights.
	The State Department of Education resolves complaints.	State Department of Education has no monitoring, complaint resolution, or funding involvement.

# **Mt. Diablo USD**

## **Board Policy**

### **Identification And Education Under Section 504**

BP 6164.6

#### **Instruction**

The Governing Board recognizes the need to identify and evaluate children with disabilities in order to provide them with a free, appropriate public education. Under Section 504 of the federal Rehabilitation Act of 1973, individuals with a physical or mental impairment that substantially limits one or more major life activities, including learning, are eligible to receive services and aids designed to meet their needs as adequately as the needs of nondisabled students are met.

The Superintendent or designee shall establish screening and evaluation procedures to be used whenever there is reason to believe that a student has a disability that limits his/her ability to attend or function at school.

To evaluate the student's eligibility under Section 504, the Superintendent or designee shall convene a school site committee of professionals knowledgeable about the student's individual needs and school history, the meaning of evaluation data, and accommodation options. The student's parent/guardian shall be invited to participate on this committee.

If the student is found to have a disability that requires services under Section 504, the school site committee shall develop a written accommodation plan for the student. Upon reviewing the nature of the disability and how it affects the student's education, the committee shall determine what modifications and/or special services and aids are needed. The student shall be educated with nondisabled students to the maximum extent appropriate to the student's individual needs.

The school site committee shall provide the parent/guardian with a written copy of the accommodation plan and notice of procedural safeguards guaranteed by law.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 0430 - Comprehensive Local Plan for Special Education)

(cf. 5141.24 - Specialized Health Care Services)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

Legal Reference: (see next page)

**IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)**

Legal Reference:

**EDUCATION CODE**

49423.5 Specialized physical health care services

**CODE OF REGULATIONS, TITLE 5**

3051.12 Health and Nursing Services

**UNITED STATES CODE, TITLE 20**

1232g Family Educational Rights and Privacy Act of 1974

1400-1487 Individuals with Disabilities Education Act

**UNITED STATES CODE, TITLE 29**

701-795a Rehabilitation Act

794 Rehabilitation Act of 1973, Section 504

**CODE OF FEDERAL REGULATIONS, TITLE 34**

104.1-104.61 Nondiscrimination on the basis of handicap, especially

104.1 Purpose to effectuate Section 504 of the Rehabilitation Act of 1973

104.3 Definitions

104.33 Free appropriate public education

104.35 Evaluation and placement

104.36 Procedural safeguards

**Policy MT. DIABLO UNIFIED SCHOOL DISTRICT**

adopted: December 10, 2002 Concord, California

# **Mt. Diablo USD**

## **Administrative Regulation**

### **Identification And Education Under Section 504**

AR 6164.6  
**Instruction**

#### Eligibility

A disabled student eligible for services under Section 504 is one who (a) has a physical or mental impairment that substantially limits one or more major life activities, including learning, (b) has a record of such an impairment, or (c) is regarded as having such an impairment. (34 CFR 104.3)

Major life activities are functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. Examples of students with such impairments include, but are not limited to:

1. Students with a normal ability to learn but who have a mobility impairment
2. Students with a normal ability to learn academically but who require occupational or physical therapy in order to function physically
3. Students with emotional disabilities manifested by behavior problems which result in exclusion from classes or school

Indications of a possible disability that significantly interferes with learning include, but are not limited to:

1. Medical conditions such as severe asthma or heart disease
2. Temporary medical condition due to illness or accident
3. Poor or failing grades over a lengthy period of time

#### Referral and Identification Procedures

1. Any student may be referred by a parent/guardian, teacher, other certificated school employee or community agency for consideration of eligibility as a disabled student under Section 504. This referral should be made to the school site principal.
2. The school site committee shall promptly consider the referral and determine whether an evaluation under this procedure is appropriate. This determination shall be based on a review of the student's school records (including academic, social and behavioral records) and the student's needs. Students requiring evaluation shall be referred to appropriate evaluation specialists.

3. If a request for evaluation is denied, the school site committee shall inform the parents/guardians of this decision and of their procedural rights as described below.

#### Accommodation Plan

1. When a student is identified as disabled within the meaning of Section 504, the school site committee shall determine what services are necessary to ensure that the student's individual education needs are met as adequately as the needs of nondisabled students.

2. In making this determination, the school site committee shall consider all significant factors relating to the learning process for the student, including his/her adaptive behavior and cultural and language background. The evaluation may include, but is not limited to, classroom and playground observation, performance-based testing, academic assessment information, and data offered by the parent/guardian.

3. The parents/guardians shall be invited to participate in the school site committee meeting where services for the student will be determined and shall be given an opportunity to examine all relevant records.

4. The school site committee shall develop a written plan describing the disability and specifying the services needed by the student. A copy of this plan shall be kept in the student's cumulative file. The student's teacher and any other staff who provide services to the student shall be informed of the services necessary for the student, to the extent that they need to be informed in order to provide for the student in the school setting.

5. If the school site committee determines that no services are necessary for the student, the record of the committee's meeting shall reflect the identification of the student as a disabled person under Section 504 and shall state the basis for the decision that no special services are presently needed.

6. The disabled student shall be placed in the regular educational environment unless the district demonstrates that a more restrictive placement is required in order to meet the student's needs. The disabled student shall be educated with those who are not disabled to the maximum extent appropriate to his/her individual needs.

7. The parents/guardians shall be notified in writing of the final decision concerning services to be provided, if any, and of the Section 504 procedural safeguards, including the right to an impartial hearing to challenge the decision.

8. The district shall complete the identification, evaluation and placement process within a reasonable time frame.

9. The student's plan shall include a schedule for periodic review of the student's needs and indicate that this review may occur sooner at the request of the parent/guardian or school staff.

#### Review of the Student's Progress

1. The school site committee shall monitor the progress of the disabled student and the

effectiveness of the student's plan. The committee shall periodically determine whether the services are appropriate and necessary and whether the disabled student's needs are being met as adequately as the needs of nondisabled students.

2. A reevaluation of the student's needs will be conducted before any subsequent significant change in placement.

#### Procedural Safeguards

Parents/guardians shall be notified in writing of all district decisions regarding the identification, evaluation or educational placement of students with disabilities or suspected disabilities.

Notifications shall include a statement of their rights to: (34 CFR 104.36)

1. Examine relevant records

2. Have an impartial hearing with an opportunity for participation by the parents/guardians and their counsel

3. Have a review procedure

(cf. 5145.6 - Parental Notifications)

Notifications shall also set forth the procedures for requesting a hearing, the name, address and telephone number of the person with whom the request should be made, and the fact that reimbursement for attorney's fees is available only as authorized by law.

The Superintendent or designee shall maintain a list of impartial hearing officers who are qualified and willing to conduct Section 504 hearings. To ensure impartiality, such officers shall not be employed by or under contract with the district in any capacity other than that of hearing officer and shall not have any professional or personal involvement that would affect their impartiality or objectivity in the matter.

If a parent/guardian disagrees with the identification, evaluation or educational placement of a student with disabilities under Section 504, he/she may initiate the following procedures:

1. Within 30 days of receiving the student's accommodation plan, set forth in writing his/her disagreement and request that the school principal and school site committee review the plan in an attempt to resolve the disagreement. This review shall be held within 14 days of receiving the parent/guardian's request, and the parent/guardian shall be invited to attend the meeting at which the review is conducted.

2. If disagreement continues, request in writing that the Superintendent or designee review the plan. This review shall be held within 14 days of receiving the parent/guardian's request, and the parent/guardian shall be invited to meet with the Superintendent or designee to discuss the review.

3. If disagreement continues, request in writing a Section 504 due process hearing. The request shall include:

- a. The specific nature of the decision with which the parent/guardian disagrees
- b. The specific relief the parent/guardian seeks
- c. Any other information the parent/guardian believes pertinent

Within 20 days of receiving the parent/guardian's request, the Superintendent or designee shall select an impartial hearing officer. This 20 days may be extended for good cause or by mutual agreement of the parties.

Within 45 days of the selection of the hearing officer, the Section 504 due process hearing shall be conducted and a written decision mailed to all parties. This 45 days may be extended for good cause or by mutual agreement of the parties. The Superintendent or designee shall represent the district at this hearing.

Any party to the hearing shall be afforded the right to:

1. Be accompanied and advised by counsel and by individuals with special knowledge or training related to the problems of students who are qualified as disabled under Section 504
2. Present written and oral evidence
3. Question and cross-examine witnesses
4. Receive written findings by the hearing officer

If desired, either party may seek a review of the hearing officer's decision by a federal court of competent jurisdiction.

Regulation MT. DIABLO UNIFIED SCHOOL DISTRICT  
approved: December 10, 2002 Concord, California



## **Attention Deficit/Hyperactivity Disorder**

*April 29, 1993 OCR Memorandum concerning ADD/ADHD*

### **ADD**

Term used to describe a chronic behavioral disorder in children who are inattentive, easily distracted, and impulsive. With ADHD, hyperactivity is the primary characteristic.

### **Symptoms of ADHD**

Diagnostic and Statistical Manual of Mental Disorders

(4th Edition, 1994) DSM-IV

Diagnosis:

1. **Essential feature:** persistent pattern of inattention and/or hyperactivity impulsivity that is more frequent and severe than is typically observed in individuals at a comparable level of development which has been present before age 7 and involves impairment in more than two settings with clear evidence of interference with developmentally appropriate social, academic, or occupational functioning.
2. Three categories:
  - A. Attention-deficit/hyperactivity disorder, predominantly inattentive type.
  - B. Attention-deficit/hyperactivity disorder, predominantly hyperactive-impulsive type.
  - C. Attention-deficit/hyperactivity disorder, combined type.

### **Specific criteria for each category of ADHD:**

A. Inattention:

Six or more of the following symptoms of inattention have persisted for at least 6 months to a degree that is maladaptive and inconsistent with developmental level:

- a. Often fails to give close attention to details or makes careless mistakes in schoolwork, work, or other activities
- b. Often has difficulty sustaining attention in tasks or play activities
- c. Often does not seem to listen when spoken to directly
- d. Often does not follow through on instructions and fails to finish schoolwork, chores, or duties in the workplace (not due to oppositional behavior or failure to understand instructions)
- e. Often has difficulty organizing tasks and activities
- f. Often avoids, dislikes, or is reluctant to engage in tasks that require sustained mental effort (such as schoolwork or homework)
- g. Often loses things necessary for tasks or activities (e.g., toys, school assignments, pencils, books, or tools)
- h. Is often easily distracted by extraneous stimuli
- i. Is often forgetful in daily activities

B. Hyperactivity.

Six or more of the following symptoms of hyperactivity/impulsivity has persisted for at least 6 months to a degree that is maladaptive and inconsistent with developmental level:

- a. Often fidgets with hands or feet or squirms in seat
- b. Often leaves seat in classroom or in other situations in which remaining seated is expected
- c. Often runs about or climbs excessively in situations in which it is inappropriate (in adolescents or adults, may be limited to subjective feelings of restlessness)
- d. Often has difficulty playing or engaging in leisure activities quietly
- e. Is often "on the go" or often acts as if "driven by a motor"
- f. Often talks excessively
- g. Impulsivity
- h. Often blurts out answers before questions have been completed
- i. Often has difficulty awaiting turn
- j. Often interrupts or intrudes on others (e.g., butts into conversations or games)

**Identification and eligibility of students under Section 504 based on ADD or ADHD**

1. When a parent/guardian provides a school district with a medical diagnosis of attention deficit disorder (ADD) or attention deficit hyperactivity disorder (ADHD), the diagnosis should be treated as a parent/guardian referral for special education and considered in determining whether the student is eligible for any specialized instruction and/or related services under the IDEA or Section 504.
2. However, the ADD or ADHD diagnosis, in and of itself does not entitle the student to any special services.
3. Under Section 504, the District is required to provide each qualified student with a free, appropriate public education (FAPE) designed to meet the individual educational needs of students with disabilities as adequately as the needs of students without disabilities.
4. Therefore, a student with a medical diagnosis of ADD or ADHD may be covered under Section 504 if the ADD or ADHD substantially limits a major life activity, such as learning.
5. A student with ADD or ADHD, who is protected under Section 504, may receive related aids and services in the regular education setting where the placement team has determined that he or she needs only adjustments in the regular classroom, rather than special education in order to receive FAPE.
6. Under Section 504, the District is obligated to provide regular or special education programs, including accommodations and supplementary aids and services, to qualified students with ADD or ADHD based on their individual needs.
7. The District, upon finding 504 eligibility must prepare a written 504 plan which specifies the appropriate specialized instruction or services required to receive an education comparable to that provided to students without disabilities, if necessary.

8. District staff must look closely at the eligibility criteria of both IDEA and Section 504 for the means by which students may receive individually designed educational services.
9. Identification process may include:
  - A. Initial interview of child and family  
Develop social and developmental history.
  - B. Individual testing of student
    - a. **ACADEMIC/PREACADEMIC ACHIEVEMENT** – Purpose: These tests measure current reading, spelling, and arithmetic or prereadiness skills such as matching or sorting. Tests may include but are not limited to: Wide Range Achievement Test, Woodcock-Johnson Psychoeducational Battery-R, Wechsler Individual Achievement Test.
    - b. **INTELLECTUAL/COGNITIVE DEVELOPMENT** – Purpose: These tests measure how well an individual remembers what he/she has seen and heard around him/her, how well he/she can use that information, and how he/she solves problems. They also reflect learning rate and assist in predicting how well he/she will do in school. Verbal and performance instruments are used as are appropriate. Tests may include but are not limited to: Stanford-Binet Intelligence Scale IV, Wechsler Tests of Intelligence, Developmental Activities Screening Inventory II, Differential Abilities Test, Kaufman Assessment Battery for Children, Wide Range Assessment of Memory and Learning, Test of Non-Verbal Intelligence.
    - c. **PERSONALITY/EMOTIONAL ASSESSMENT** – Purpose: These instruments assist in obtaining information regarding the individual’s emotional adjustment. Tests may include but are not limited to: Children’s Apperception Test, Thematic Apperception Test, House-Tree-Person, Draw-A-Person, Sentence Completion Tests, Rorschach Tests, Kinetic Family Drawing, Piers-Harris Children’s Self Concept Scale, Roberts Apperception Test.
    - d. **DEVELOPMENTAL/ADAPTIVE SCALES** – Purpose: These scales of development help to tell what an individual can do for himself/herself and how he/she gets along with other people. They may include but are not limited to: AAMD Adaptive Behavior Scale, Vineland Adaptive Behavior Scales, Preschool Attainment Record, Denver Developmental Screening Test, Alpern-Boll Developmental Profile 11, Adaptive Behavior Evaluation Scale.
    - e. **BEHAVIOR ASSESSMENT** – Purpose: These instruments measure the frequency, intensity, duration and settings of behaviors, including learning and social skills and include but are not limited to: Behavior Checklists (Burks, Connors, BASC, Achenbach), Attention Deficit Disorders Evaluation Scale, Observations, Student Parent and Staff Interviews, anecdotal records, student records review.
    - f. **PERCEPTION AND FINE MOTOR COORDINATION** – Purpose: These instruments measure how well an individual processes and integrates auditory, visual and tactile information and tests of fine motor coordination. These tests may include but are not limited to: Bender Visual-Motor Gestalt Test, Quick Neurological Screening Test, Visual Perception Test, Huelsman Auditory Discrimination Test, Jordan Left-Right Reversal Test, Motor Accuracy Test, Post Rotary Nystagmus Test, Hawaii Early Learning Profile, Developmental Programming Profile, Beery Visual Integration Tests, Trails Test A and B, Test of Auditory Perception Skills.
    - g. **COMMUNICATION DEVELOPMENT** – Purpose: These tests measure the individual’s ability to understand, recall, discriminate and use language and speech.

- Tests may include but are not limited to: Clinical Evaluation of Language Fundamentals, Peabody Picture Vocabulary Test, Goldman-Fristoe Test of Articulation, Preschool Language Scale, Expressive One-Word Picture Vocabulary Test, Receptive one-Word Picture Vocabulary Test, Structured Photographic Expressive Language Tests, Test of Language Development, Expressive Vocabulary Test, Stuttering Severity Instrument, Language Samples, Test of Problem Solving, The Word Test, Language Processing Test, Test of Word Finding.
- h. MOTOR DEVELOPMENT/FITNESS – Purpose: These tests measure the individual’s growth and development and physical fitness levels. These tests include, but are not limited to: Mt. Diablo Growth and Development Chart, Adapted Physical Education Assessment Scale (APEAS), A.A.H.P.E.R. Special Test, Brigance Inventory of Early Development, Basic Motor Abilities Test, and/or Project Unique.
  - i. HEALTH ASSESSMENT – Purpose: This area includes evaluating hearing and vision acuity, recording and development history and collecting information about the individual’s unique health and medical needs.
- C. Surveys and questionnaires
  - D. Classroom observation

**All children with ADHD are not automatically protected under Section 504**

Some children with ADD or ADHD may have a disability within the meaning of Section 504; others may not. Children must meet the Section 504 definition of disability to be protected under the Act (i.e., any person who has a physical or mental impairment which substantially limits a major life activity.)

## FREQUENTLY ASKED QUESTIONS

### **When does an impairment substantially limit a student's major life activity?**

Section 504 regulations do not define the word "substantially." The OCR has stated that the term has been interpreted to require an important and material limitation.

OCR directs school districts to make the decision of whether a particular impairment substantially limits a major life activity for a student on an individual basis.

*Letter to McKethan, 23 IDELR 504 (OCR 1994).*

A review of published OCR LOFs uncovers decisions in which the issue is whether impairment, other than learning, limits the student's performance of a major life activity. Four decisions suggest the kind of reasoning that should be used in those cases:

- *Weymouth Pub. Sch.*, 21 IDELR 578 (SEA Mass. 1994) (student with a speech impairment capable of expressing himself orally and capable of communicating effectively is not substantially limited in the major life activity of ability to express oneself orally to communicate).
- *Worth County (GA) Schs.*, 27 IDELR 224 (OCR 1997) (student diagnosed with ADD who made academic progress as shown by grades and standardized test scores is not substantially limited in the major life activity of learning).
- *School Dist. of River Falls (WI)*, 20 IDELR 1364 (OCR 1993) (student whose mild allergy to cats did not adversely affect his physical health was not substantially limited in any major life activity).
- *Graves County (KY) Sch. Dist.*, 20 IDELR 384 (OCR 1993) (student with permanent hip disability who was not limited in physical activities was not substantially impaired in his ability to walk).

### **Is attention deficit disorder (ADD) a recognized disability under Section 504?**

Yes, the Department of Education has acknowledged that attention deficit disorder (ADD) and attention deficit hyperactivity disorder (ADHD) are impairments that can be the basis of eligibility under either Section 504 or the IDEA.

*Joint Policy Memorandum, 18 IDELR 116 (OSERS 1991).*

As OCR explains in *OCR Memorandum*, 19 IDELR 876 (1993), some students with ADD may have a disability within the meaning of Section 504; others may not. The key is whether the student's ADD or ADHD is sufficiently severe that it substantially limits a major life activity.

### **Is drug addiction a "physical or mental impairment" under Section 504'?**

Yes, OCR interprets drug addiction to be a physical or mental impairment under Section 504. Nonetheless, a student who is a current illegal drug user is not covered under either Section 504 or the Americans with Disabilities Act on the basis of his drug addiction.

Changes to Section 504 made in connection with the passage of the Americans with Disabilities Act in 1990 made a statutory exception to the DOE policy interpretation [Section 504], the term "individual with handicaps" does not include an individual who is currently engaging in the

illegal use of drugs, when a covered entity acts on the basis of such use.

It is clear from the statutory language added in 1990 that a student cannot be found eligible for services or protections under Section 504 by virtue of a drug addiction, if the student is currently engaged in the illegal use of drugs.

***If the last time a student took illegal drugs was two months ago, will he be excluded from coverage under Section 504 on the basis of current drug use?***

Possibly. A student who last took illegal drugs two months ago could be considered to be a current drug user, thus making him ineligible for coverage under Section 504.

Section 706(8)(C) excludes individuals who currently are engaging in the illegal use of drugs from coverage under Section 504. Similarly, ADA excludes coverage of such students. The question of whether a student who last took drugs two months ago is a current drug user as opposed to a former drug user cannot be answered by reference to a specific provision in the statutes or regulations, for they set out no specific period of time for current use, such as use within a week.

***Do we have to refer to Section 504 every child who breaks a bone or sprains an ankle?***

No. Schools only need to refer and evaluate those children who are suspected of needing Section 504 services due to a physical or mental impairment that substantially limits one or more major life activities. The referral question must be taken up on a case-by-case basis, depending on the physical impairment, whether it substantially limits a major life activity (which may depend on the type of classes or activities the child is involved in at school), and whether it needs to be addressed with 504 services or accommodations of some kind.

***What about the parent who says that with 504, his child could get the straight A's? Does this child need to be referred to Section 504?***

While parents may honestly believe that a child is not performing to his or her potential, that failure is not sufficient reason for qualification for Section 504. For example, OCR has found no duty to qualify a child for 504 despite his having ADD when the child had acceptable behavior and was making A's and B's in all of his classes, thus the major life activity of learning was not impacted.

*Jefferson Parish (La.) Public Schools, 16 EHLR 755 (OCR 1990).*

“When the disabled child is being educated in the regular classrooms of a public school system, the achievement of passing marks and advancement from grade to grade will be one important factor in determining educational benefit.”

*Hendrik Hudson District Bd. of Education v. Rowley, 458 U.S. 176, 207 fn. 28 (1982).*

As a result, where the child is already passing his classes (without modifications) he is likely receiving educational benefit and in no need of Section 504 or IDEA services. “By definition, a person who is succeeding in regular education does not have a disability which substantially limits the ability to learn. A student who is already succeeding in regular education would not need special education to obtain this level of benefit and, thus, would not meet the standards established for LD eligibility.”

*Saginaw City (MI) School District, EHLR 352:413 (OCR 1987).*

**What is a 504 reevaluation?**

Unlike its special education counterpart, the 504 evaluation does not mean “test,” but instead, means a gathering of data from a variety of sources. No formal testing is necessary. In the 504 context, evaluation refers to a gathering of data or information from a variety of sources so that the committee can make the required determinations. Since specific or highly technical eligibility criteria are not part of the 504 regulations, common sources of evaluation data for 504 eligibility are the student’s grades, disciplinary referrals, health information, language surveys, parent information, standardized test scores, teacher comments, etc. A reevaluation is required prior to any significant change of placement. A reevaluation is also required “periodically” which regulations defines as at least every three years.

The reevaluation is simply a re-gathering of information from a variety of sources to verify eligibility and to determine if additional changes are needed in the child’s program. While the regulations require reevaluation every three years, the better practice is to conduct one at least at the end of every school year, looking forward to the next school year and changes to the child’s schedule, teachers, and other issues that may require adjusting the accommodations and/or behavior management plan.

## Excerpts from September 16, 1991 Joint Policy Memorandum

The 1991 Joint Policy Memorandum was signed by Assistant Secretaries for the Office of Special Education and Rehabilitative Services (OSERS), Office for Civil Rights (OCR) and Office of Elementary and Secondary Education (which oversees “regular Education”).

The 1991 Joint Policy Memorandum lists the following twenty two services that must be available in regular classrooms for Section 504 eligible students:

1. Providing a structured learning environment.
2. Repeating and simplifying instructions about in-class assignments.
3. Repeating and simplifying instructions about homework assignments.
4. Supplementing verbal instructions with visual instructions.
5. Using behavioral management techniques.
6. Adjusting class schedules.
7. Modifying test delivery.
8. Using tape recorders.
9. Computer aided instruction.
10. Other audio-visual equipment.
11. Selecting modified textbooks.
12. Selecting modified workbooks.
13. Tailoring homework assignments.
14. Consultation with special education.
15. Reducing class size.
16. Use of one-on-one tutorials.
17. Use of classroom aides.
18. Use of classroom note takers.
19. Involvement of a services coordinator to oversee implementation of special programs and services.
20. Possible modification of nonacademic time such as lunchroom.
21. Possible modification of nonacademic time such as recess.
22. Possible modification of nonacademic time such as physical education.

The 1991 Memorandum indicates that this list is not exclusive.

