

SECTION 504

Guidelines for Educators and Administrators for Implementing Section 504 of the Rehabilitation Act of 1973

New Mexico Public Education Department
300 Don Gaspar
Santa Fe, New Mexico 87501

June 2007



Special Note

The U.S. Department of Education's Office for Civil Rights (OCR)

has jurisdiction over Section 504. Its primary responsibilities include investigating complaints, conducting compliance reviews, and providing technical assistance. The regional OCR office representing New Mexico is located at

U.S. Department of Education
Office of Civil Rights, Region VIII
1244 Speer Boulevard, Suite 310
Denver, Colorado 80204-3582
(303) 844-5695, TTY (303) 844-3417

Website: <http://www.ed.gov/about/offices/list/ocr/index.html>

New Mexico Public Education Department

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This document was developed by the Mountain Plains Regional Resource Center, an affiliate of the Center for Persons with Disabilities, a University Affiliated Program at Utah State University.

The Mountain Plains Regional Resource Center operates under Grant No. H326R040006 with the Office of Special Education Programs (OSEP), U.S. Department of Education. Partial support is also provided by Utah State University. The content of this document does not necessarily reflect the position or policy of OSEP or USU and no official endorsement should be inferred.

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The State of New Mexico
Guidelines for Educators and Administrators for
Implementing Section 504
of the Rehabilitation Act of 1973
June 2007

Governor
Bill Richardson

Office of the Secretary of Education

Dr. Veronica García, Secretary of Education
Dr. Catherine Cross Maple, Deputy Secretary of Education
Dr. Karen K. Harvey, Assistant Secretary for Quality Assurance
and Systems Integration
Dr. Sheila Hyde, Director, Quality Assurance Bureau

New Mexico Public Education Commission

Ms. Millie Pogna, Albuquerque
Ms. Karen Haughness, Capitan
Mr. Eugene E. Gant, Las Cruces
Ms. Mavis Price, Thoreau
Ms. Aileen Garcia, Santa Fe

Ms. Catherine M. Smith, Mimbres
Mr. Dennis James Roch, Texico
Mr. M. Andrew Garrison, Albuquerque
Ms. Kathryn K. Krivitzky, Albuquerque

The Secretary of Education would like to acknowledge the following individuals and Bureaus at the New Mexico Public Education Department (NMPED) for their assistance with this project:

John Copenhaver and Staff at Mountain Plains Regional Resource Center, an affiliate of the Center for Persons with Disabilities at Utah State University

NMPED Quality Assurance Bureau

NMPED Special Education Bureau

NMPED School and Family Support Bureau

NMPED Career and Technical Workforce Education Bureau

This document is also available on the
New Mexico Public Education Department's website at
<http://www.ped.state.nm.us/>. Click on the link for *Parents/Students*.

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: Overview
of Section 504



Section 504—An Overview

What is Section 504?

Section 504 is federal civil rights law under the Rehabilitation Act of 1973. It provides protection against discrimination for individuals with disabilities

How does Section 504 relate to schools?

Students in school settings fall under the protection of Section 504 and prohibits discrimination on the basis of disability from all school programs and activities in both public and private schools receiving direct or indirect federal funding. Section 504 is the other service option available to students with disabilities, **but who are not already eligible and receiving special education services under the eligibility requirements of the Individuals with Disabilities Education Act (IDEA)**. It is designed to provide equal access and fairness in general education to students with disabilities, thereby leveling the playing field for them through what is known as a Section 504 Accommodation Plan. It is **not** a plan designed to enhance a student's performance. It is only a plan to provide fairness and equal access to education.

Who is eligible for a Section 504 Accommodation Plan?

A student is eligible and **entitled to** a Section 504 Accommodation Plan if an evaluation shows that the individual has a **mental or physical impairment that substantially limits one or more major life activities and it impacts the student's education**.

Where does the process start? How does Section 504 relate to the Three-Tier Model of Student Intervention?

The Student Assistance Team (SAT) is the starting point to consider whether or not a student needs to be evaluated for a Section 504 Plan. When a student has not responded positively to interventions in a SAT intervention Plan and/or has a suspected disability, the SAT may determine that it needs to consider this option. Thus, a Section 504 Plan is a Tier II intervention— part of an early intervention and response to intervention (RtI) framework.

Who makes up a Section 504 Team?

Responsibility for considering and developing a Section 504 Accommodation Plan consists of a core group that includes the principal or administrator, referring and/or classroom teacher, school counselor, and parent—virtually the same as the core members of the SAT. **In fact, the SAT in many cases may also be the school's Section 504 Team.**

Is Section 504 funded like other federal programs?

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



What are the parts of the Section 504 law?

Section 504 has several areas of particular importance for schools:

- Subpart B—Employment Practices
- Subpart C—Program accessibility
- **Subpart D—Requirements for pre-school, elementary, and secondary education**
- Subpart E—Requirements for Post Secondary Education

A summary of all parts of the Section 504 regulations is included in Appendix H (page 119) of this guide. This guide will primarily address Subpart D of the regulation which is relevant to schools.

All schools and public agencies must comply with the following seven requirements:

- Provide written assurances of nondiscrimination when applying for federal funds.
- Take steps to eliminate discrimination against individuals with disabilities.
- Appoint a 504/ADA Coordinator for local educational agencies with 15 or more employees to coordinate efforts to comply with this law.

—Best Practice—

Even if a district/school has fewer than 15 employees, they should appoint a Section 504/ADA Coordinator.

- Develop an ongoing process to locate and identify children who are not receiving services.
- Provide public notice regarding nondiscrimination and responsibilities.
- Develop a grievance procedure.
- Conduct a self-evaluation of their programs and activities to ensure facilities are accessible and discriminatory practices are eliminated.

Three Required Elements of Section 504

1. Eligibility process for 504 is not the first step in determining the needs of students. The first step begins with the school's Student Assistance Team (SAT) process who determines if the student has a need that warrants evaluation.
2. The determination of impairment must limit a major life activity. Courts have said it must be pervasive, not a situational or a skill-specific disability.
3. Limitation on the major overall life activity must be substantial, not mild or moderate, and it must impact the student's education.

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

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

Although Section 504 does not require schools to develop an Individualized Education Program (IEP) with annual goals, it is required that the schools provide written documentation for each eligible student. If the SAT suspects a need for accommodation, a referral should be made, evaluations conducted, and possible eligibility determined by a team knowledgeable about the student. If the student is eligible, the team might develop a Section 504 Accommodation Plan.

The quality of educational services provided to students with disabilities must be equivalent to the services provided to students without disabilities. Teachers, administrators, staff, and parents should receive ongoing training in the instruction of individuals with disabilities and be knowledgeable about the disability, appropriate materials, and equipment. The district's Section 504 Coordinator will be responsible to develop and implement staff and parent training. In addition, each school should appoint a 504 Representative for each school building

Responsibility

Section 504 falls under the ***responsibility of general education***. The figure on the following page illustrates some obligations of general education under Section 504 and their relationship to school personnel roles. The school staff and parents should collaborate to help guarantee that students are provided with necessary accommodations. A student who is found to have a disability under Section 504 is served by the resources provided through general education.

In summary, it is important to keep in mind that some students who have physical or mental impairments that substantially limit their ability to participate in the education program are entitled to accommodations under Section 504. **It is also important to remember that Section 504 is a management responsibility of general education.**



Three Laws: How They Relate

To understand Section 504, it is helpful to see how it relates to other relevant laws.

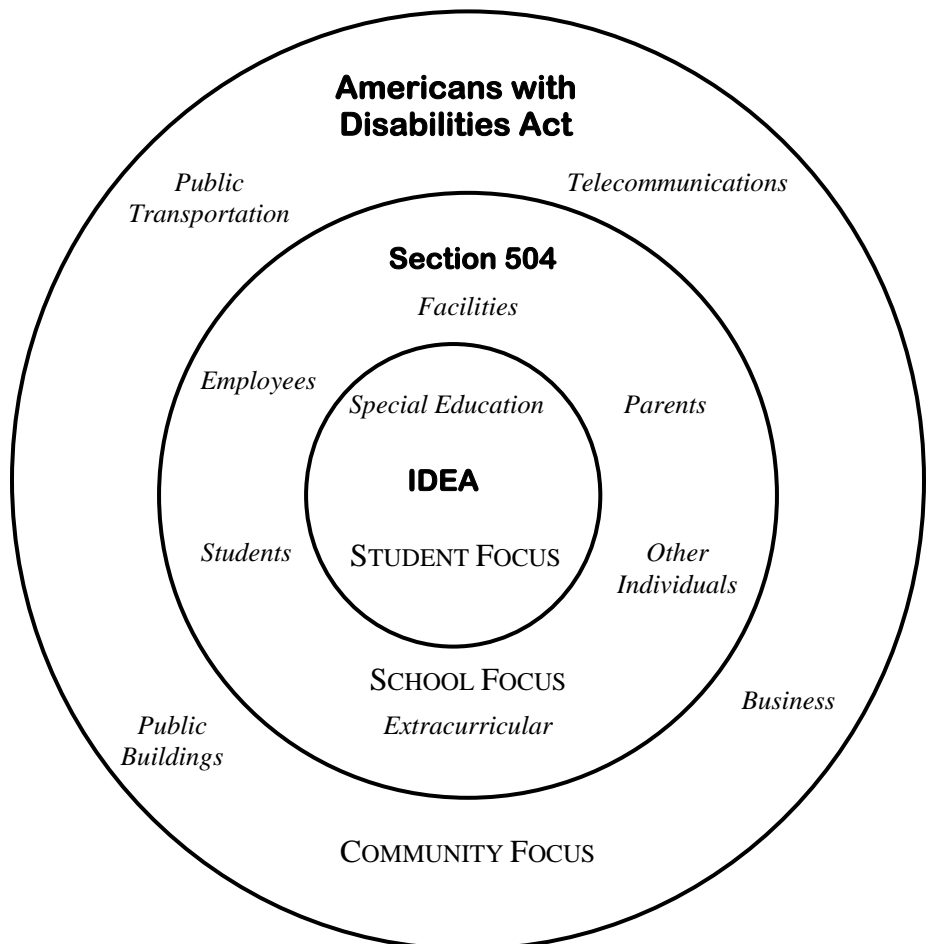
ADA—The ADA is federal law which provides civil rights protections to **all individuals with disabilities in our society** similar to those provided to individuals on the basis of race, color, sex, national origin, age, and religion. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, State and local government services, and telecommunications.

Section 504—While Congress intended Section 504 to be consistent with the Individuals with Disabilities Education Act (IDEA), Section 504 is more encompassing. The Section 504 definition of a disability is much broader, including any physical or mental disability that substantially limits one or more major life activities, including, but not limited to, learning. **For public schools**, Section 504 covers all students who meet this definition, even if they do not fall within an IDEA disability category. All individuals who receive special education and related services under IDEA are also already considered to be qualified individuals under Section 504, as they are identified as students with a disability. However, the reverse is not true. Students who qualify for Section 504 services do not automatically qualify for special education under IDEA. The eligibility for Section 504 services must be based upon evaluations and conducted by a team of individuals knowledgeable about the student.

Students who qualify for Section 504 may require accommodations through a **Section 504 Accommodations Plan**

developed by the school's SAT/504 Team. Section 504 is a Tier II Intervention. (See pages 9 to 10.)

IDEA—This law defines eligible students as those who have certain specific types of disabilities and who, because of those conditions, need special education (specially-designed instruction) and related services in order to benefit from their education provided through an **Individualized Education Program (IEP)**. Services under the IDEA are a Tier III Intervention. (See pages 9 to 10.)



The Three-Tier Model: How Section 504 Relates

An Introduction to the Three-Tier Model of Student Intervention

The Three-Tier Design Model

The term *three-tier* model of intervention is borrowed from public health treatment models that focus on levels of intervention. Simply put, it is a model consisting of three well-defined and separate processes running on different levels within a system. In New Mexico, this principle has been applied to develop a model of student intervention for school-aged students. The model has three distinct levels, or **tiers**, of instructional interventions that account for **all** students within a learning system. Each tier encompasses a layer of intervention or instruction that responds to student needs. As a student has more intense learning or behavioral needs, he or she may progress to the next tier that provides more intense intervention.

Tier I—Universal Screening/Appropriate Instruction

Tier I provides primary intervention in the form of universal screening, appropriate classroom instruction, and school-wide interventions to **all** students. The majority (80–90%) of school-aged students at this level will respond successfully in the regular education classroom to appropriate instruction based on state and district standards. A teacher may recognize that an individual student is struggling to learn the standard curriculum, working beyond the standard curriculum, or having difficulty maintaining appropriate behavior in the regular education classroom. At that point, the teacher tries typical classroom-or grade-level-based interventions. In some cases, a student will demonstrate little or no positive response to the teacher’s informal interventions. Or, universal screening procedures will indicate a need. At that point, the student is referred to Tier II.

Tier II—Early Intervention: The Child Study Process by the Student Assistance Team (SAT) or the Section 504 Team

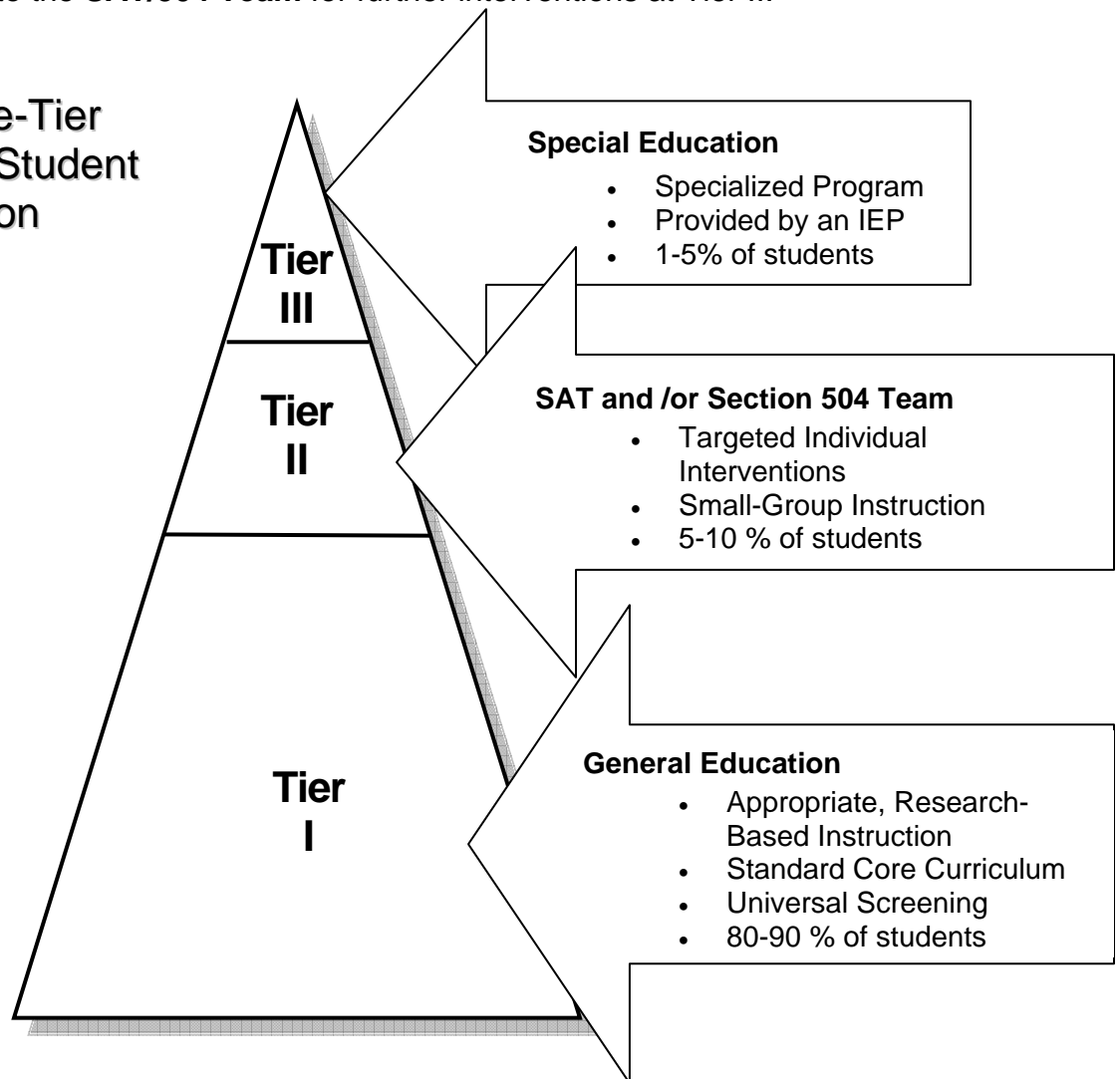
Tier II is designed to provide early intervention for a small percentage (5–10%) of students who are performing above or below standards in academics and/or behavior. Interventions for these at-risk students either are provided as targeted individual interventions in one or more areas. That is done, through a SAT Intervention Plan or, as described in this manual, a **Section 504 Plan**, or through a specialized school program that includes small-group instruction. Tier II interventions are provided **in addition to** the appropriate instruction provided in Tier I. The interventions are designed to prevent, alleviate, or accommodate challenges a student may be facing. These interventions may be short-term or they may continue for an entire school year. The ultimate goal is to assist the student in succeeding within the regular education setting with the standard curriculum. In spite of a school’s best efforts at delivering appropriate Tier I instruction

and Tier II interventions, a few students may not demonstrate a significant and positive response to intervention or have an obvious disability that requires specially-designed instruction. In those cases, the **SAT/504 Team** may refer those students to Tier III.

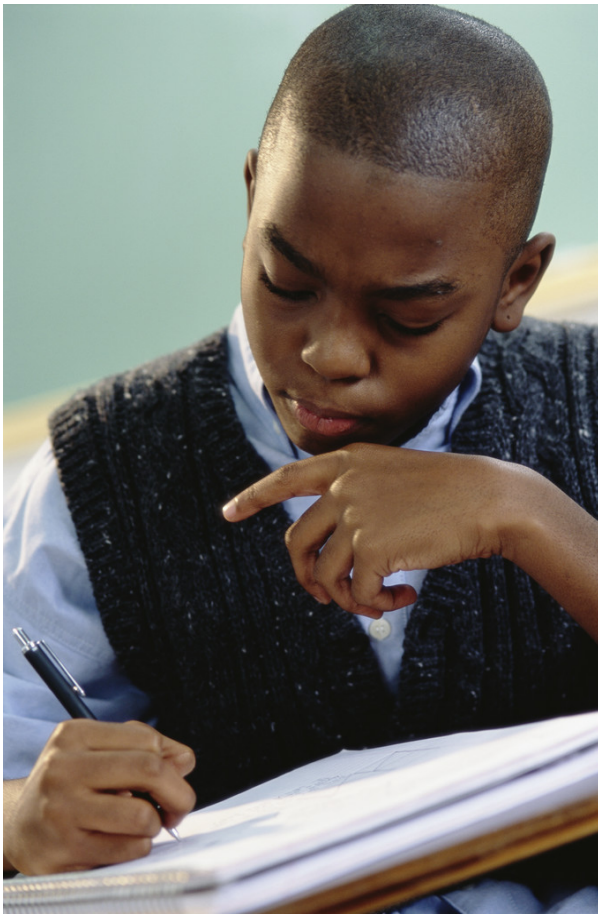
Tier III—Multidisciplinary Evaluation/Special Education

Students formally referred to Tier III first receive a multidisciplinary evaluation to determine their possible need for services at this level. Tier III serves a very small percentage of students (1–5 %) who demonstrate a need for special education under the IDEA to accommodate and/or modify their learning or behavioral. Special education teachers, related service providers, and regular education teachers provide Tier III interventions that consist of specially-designed instruction, supplementary aids and services, and related services as necessary. Tier III interventions are provided to a student through an **Individualized Education Program (IEP)** that is solely developed and monitored by an IEP Team. The goal of Tier III is for the student to be successfully involved in and progress in the general education curriculum, and achieve the goals in his or her IEP. Students who are evaluated for special education and do not qualify, get referred back to the **SAT/504 Team** for further interventions at Tier II.

The Three-Tier Model of Student Intervention



⋮ Procedural Requirements



The Eight Procedural Requirements of Section 504*

To be in compliance with Section 504, districts/schools must do the following:

1. Provide written assurance of nondiscrimination whenever the school receives federal money (e.g., on the LEA application). [34 CFR § 104.5(a)]
2. Designate an employee to coordinate compliance with Section 504 (required if there are 15 or more employees—recommended for all). [34 CFR § 104.7(a)]
3. Adopt and implement grievance procedures, which incorporate due process standards, to resolve complaints of discrimination. While providing for mediation is a best practice, developing the grievance procedures for the complaint process and due process hearings are mandatory for a recipient of federal funds that employs 15 or more persons. [34 CFR § 104.7(b)].
4. Provide notice to students and parents stating that the agency does not discriminate on the basis of disability. The notification shall identify the employee responsible for coordination compliance with Section 504 (if more than 15 employees). Notice must be included in student/parent handbook. [34 CFR § 104.8] See Appendix B—Sample Forms—Form B(1).
5. Identify and locate qualified children with disabilities within their jurisdiction who are not receiving a public education. Complying with IDEA Child Find requirements is one way to comply with this requirement. [34 CFR § 104.32(a)]
6. Annually notify persons with disabilities and their parents or guardians of the school's responsibilities under Section 504 to identify and locate every qualified child with a disability who is not receiving a public education. [34 CFR § 104.32(b)]
7. Provide parents or guardians with procedural safeguards:
 - a. Notice of their rights
 - b. An opportunity to review relevant records
 - c. An impartial hearing: It is important that parents or guardians be notified of their right to request a hearing regarding the identification, evaluation, or educational placement of individuals with disabilities and to be represented by counsel. [34 CFR § 104.36]
 - d. Review procedures: Compliance with the procedural safeguards under the IDEA is one way of meeting these requirements.
8. Conduct a self-evaluation of the school facilities, programs, and policies to ensure that discrimination is not taking place. [34 CFR § 104.6 (c)] This study is conducted with help from interested persons, including persons with disabilities.

**Adapted from Perry Zirkel by Mountain Plains Regional Resource Center.*

New Mexico Public Education Department: Section 504 Guide

Discussion of the Eight Procedures

Procedure One: Written Assurance

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

Procedure Two: Section 504 Coordinator

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

- Ensure nondiscriminatory educational practices
- Establish and monitor a Section 504 referral/identification/review process
- Maintain data on Section 504 referrals
- Conduct staff and parent awareness and training activities concerning Section 504 requirements
- Implement Section 504 grievance procedures for the district
- Monitor the local Section 504 budget
- Consult with the director of special education
- Serve as a liaison with the State Section 504 Coordinator
- Serve as the liaison with the regional Office for Civil Rights

The Section 504 Coordinator could be someone already employed by the district. A general education administrator or school counselor who is knowledgeable about federal laws and regulations would be preferred. See Appendix B: Sample Form; Form B(1). In addition, it is best practice for each school to designate a Section 504 Representative to coordinate the district's Section 504 Coordinator. A member of the school's SAT/Section 504 Team would make a good Section 504 Representative for the school.

Procedure Three: Grievance Procedures

General Information

If any person believes that the district or any of its staff or schools have inadequately applied the regulations of Section 504 of the Rehabilitation Act of 1973, he/she may initiate a grievance with the district's Section 504 Coordinator. The grievance procedures must explicitly state and make clear to the individual(s) involved that **a complaint can be made to the regional office of U. S. Department of Education's**

Office for Civil Rights (OCR) without going through the district's grievance procedures. The grievance procedures are meant to provide for a prompt and equitable resolution of a complaint. OCR is the governmental agency that administers Section 504, therefore, the NMPED does not accept, investigate, or resolve 504 complaints.

Local Grievance Procedures (Informal)

The 504 Coordinator, on request, will provide a copy of the district's grievance procedure and investigate all complaints in accordance with this procedure. The procedure must contain a description of the types of complaints covered by the grievance procedure and a description of the investigative appeals process. The grievance procedure includes a statement that a copy of each of the acts and the regulations on which the notice is based may be found in the Coordinator's office.

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

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

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

Step 3. If the complainant remains unsatisfied, he/she may appeal through a signed written statement to the local board of education within 10 business days of his/her receipt of the Superintendent's response in Step 2. In an attempt to resolve the grievance, the board shall meet with the concerned parties and their representative within 40 days of the receipt of such an appeal. A copy of the board's disposition of the appeal shall be sent to each concerned party within 10 business days of this meeting.

**These are suggested grievance timelines.*

***If the Superintendent also serves as the Section 504 Coordinator, the appeal must go to another individual or the school board.*

Federal Complaint Procedures (Formal)

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

Office for Civil Rights
Federal Office Building
1244 Speer Boulevard, Suite 310
Denver, CO 80204-3582.
(303) 844-5695 TTY (303) 844-3417.

The website for the Denver office is www.ed.gov/about/offices/list/OCR/index.html. Filing a grievance is not the same as filing a request for a due process hearing, which is discussed later.

Office for Civil Rights Complaint Process

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

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

- Name, address, and phone (a daytime telephone number is helpful)
- A general description of the person(s) or class of persons injured by the alleged discriminatory act(s) (names of the injured person(s) are not required)
- The name and location of the agency that committed the alleged discriminatory act(s), as well as the name of the “injured” person.
- A description of the alleged discriminatory act(s) in sufficient detail to enable OCR to understand what occurred, when it occurred, and the basis for the alleged discrimination (race, sex, color, national origin, age, or disability)

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



Mediation

Most of the time, parents and school staff agree upon issues regarding evaluation, eligibility, program, and placement of students with disabilities. However, there are times when disagreement occurs.

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

—Best Practice—

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

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

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

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

Section 504 Due Process Hearing

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

Things to know about a Section 504 Due Process hearing are as follows:

- The proceedings will be presided over and decided by an impartial hearing officer, who is not the same individual as the Section 504 Coordinator. An impartial hearing officer is a person selected to preside at a due process hearing to ensure that proper procedures are followed and to ensure the protection of the rights of both parties.
- A copy of the hearing officer's decision shall be delivered to the school and the parent or guardian following completion of the hearing. Following IDEA procedures and timelines is one way to comply with Section 504 due process hearing requirements.
- Section 504 hearings are conducted by the schools. School districts must establish procedures for conducting the hearings, including timelines for issuing a final decision.
- Documentation of the events of the due process hearing will be maintained at the school office and shall be available for review upon request by the parents or involved parties. Although not required, a written or verbatim recording of the due process hearing would be one way to provide this documentation.
- If the school proposes to change the student's 504 placement and the parent files a request for a hearing, the school is obligated to maintain the student's 504 placement until administrative proceedings are completed.



Procedure Four: General Notice to Students, Parents, Employees, and Other Individuals

Sample Notice

Section 504 of the Rehabilitation Act And Americans with Disabilities Act

Notice of Nondiscrimination

Applicants for admission and employment, students, parents, persons with disabilities, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the _____ are hereby notified that this district does not discriminate on the basis of race, sex, color, national origin, age, or disability in admission or access to, or treatment or employment in, its programs and activities.

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

Name _____

Title: _____

Phone: _____

Recommendations for notice dissemination

- Staff, parent, and student handouts
- Annual mailing to staff/parents
- Staff workrooms
- Bulletin boards
- Student/parent handbooks
- Professional contracts
- School district website
- Job announcements



Procedure Five: Locate and Identify (Child Find)

The district shall maintain an ongoing program to find unserved children who might qualify for special education or Section 504 services. This is known as **Child Find**. To encourage the use of services and ongoing assistance at the earliest age possible, the following methods could be used to identify unserved children.

It is recommended that the district combine the special education and Section 504 Child Find procedures. Costs could be shared between special and general education budgets to meet this requirement.

- Use the existing special education Child Find process; just add Section 504 language to the school's notice and announcements.
- Develop a series of spot announcements for all local news media.
- Create a series of posters to be placed in post offices, city hall, schools, and other public buildings.
- Distribute a referral form to such public and private agents as hospital administrators, public health officers, social welfare offices, private medical practitioners, public nursery schools, and/or child-care and Head Start directors.

Section 504 or special education referrals resulting from Child Find efforts are sent to district's Child Find Office. That office will then direct the referral to a district administrator or school, as appropriate.



Procedure Six: Notice to Parents and Individuals with Disabilities

Sample Notice

NOTICE

Programs for Students with Disabilities under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990

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

Has a mental or physical impairment which substantially limits one or more major life activities such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

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

Recommendations for notice dissemination

- To parents upon referral
- Bulletin boards
- School district website
- Professional contracts
- Job announcements
- Staff workrooms
- Annual mailing to staff



Procedure Seven: Parent and Student Rights under Section 504

Sample Notice

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

You have the right to the following:

- Have your child take part in and receive benefits from public education programs without discrimination based on a disability.
- Receive notice with respect to identification, evaluation, program, or placement of your child.
- Have your child receive a free appropriate public education. This includes the right to be educated with other students to the maximum extent appropriate. It also includes the right to have the school make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities.
- Have your child educated in facilities and receive services comparable to those provided for students without disabilities.
- Have evaluation, educational, and placement decisions made based upon a variety of information sources and by individuals who know the student, disability, evaluation data, and placement options.
- Give your child an equal opportunity to participate in nonacademic and extracurricular activities offered by the school.
- Examine all relevant records relating to decisions regarding your child's identification, evaluation, educational program, and placement.
- File a local grievance with your school if you feel your child is being discriminated against because of their disability.
- Request a due process hearing to help resolve issues with the school.
- File a formal complaint with the regional Office for Civil Rights. The office is part of the U.S. Department of Education. The regional office is located at 1244 Speer Boulevard, Suite 310, Denver, Colorado, 80204-3582. This can be in addition to or in lieu of a school grievance or due process hearing.

If both a district-level grievance and formal OCR complaint are filed, OCR will have jurisdiction.

Procedure Eight: Self-Evaluation

A self-evaluation to determine possible discrimination involving school facilities, programs, activities, and policies is a requirement of both Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. Any district/school that employs **15 or more employees** shall conduct such an evaluation and develop a transition plan that outlines how the school will eliminate any form of discrimination. The self-study should be on file and available for public inspection.

The following are key considerations when conducting the self-evaluation:

- Evaluate facilities, programs, and policies for possible discriminatory practices.
- Involve other individuals, including persons with disabilities.
- Develop a Section 504 transition plan that outlines any modifications that will be necessary. This plan identifies facilities, programs, and policies that could be discriminatory and how the school intends to solve the problems.
- Modify any policies, facilities, or practices that do not meet the requirements of Section 504 or ADA, after consultation with others, including persons with disabilities.
- Take appropriate remedial steps to eliminate the effects of any discrimination resulting from policies and practices.
- Keep a copy of the self-evaluation on file for public inspection.
- Conduct periodic updates of the self-evaluation.
- Ensure all new policies are nondiscriminatory.
- Ensure all new facilities are accessible for individuals with disabilities.

Instructions and forms for conducting a self-assessment are available in the appendices of this document or from the Office for Civil Rights (www.ed.gov/about/offices/list/OCR/index.html).



Everyone Has Section 504 Responsibilities

Student and Parent

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

School Principals, Certified, and Classified Staff

- Conduct nondiscriminatory practices in classrooms.
- Refer/identify/evaluate students, as appropriate.
- Encourage parent involvement.
- Develop and implement program modifications and accommodations.
- Designate a Section 504 Representative for the building.

504 Coordinator

- Coordinate Section 504 processes and training for the district.
- Provide staff and parent training.
- Manage Section 504 grievance procedures.
- Help conduct the self-evaluation.

Superintendent

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

School Board

- Establish policies of nondiscrimination.
- Develop grievance procedures.
- Develop hearing procedures.

⋮
Eligibility and
Determination of
Section
504 Services



Section 504 Eligibility

The following is the eligibility criteria for a student to receive accommodations under Section 504.

A person may be considered disabled under the definition of Section 504 if the individual

1. Has a mental or physical impairment that substantially limits one or more of such person's major life activities **and** impacts the student's educational program.

"Major life activities" include functions such as the following:

- caring for one's self
- walking
- seeing
- speaking
- learning
- performing manual tasks
- hearing
- breathing
- working

*When a condition does not substantially limit a major life activity, the individual does not qualify for services under Section 504. **The condition must impact the child's educational program.***

2. Has a record of such an impairment.
3. Is regarded as having such an impairment.

Important:

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

General Section 504 Procedures: An Overview

If the school has reason to suspect that because of a disability, a student needs accommodations in the general educational environment in order to have equally effective participation in the school program, then the school must notify the parent of the need for an individual evaluation and evaluate the student. If the student then qualifies for a Section 504 Plan, a plan is developed and implemented. **In New Mexico, schools are required to have a Student Assistance Team (SAT). The Section 504 referral and eligibility procedures occur through the SAT process. The school's SAT also wears the hat of the Section 504 Team.**

First, the SAT/504 process determines the need for the evaluation. The evaluation must be sufficient to assess the nature and extent of the educational impact of the disability so that appropriate educational services can be determined. Identification of services that are needed must be made by a group of persons knowledgeable about the student and based on evaluation data.

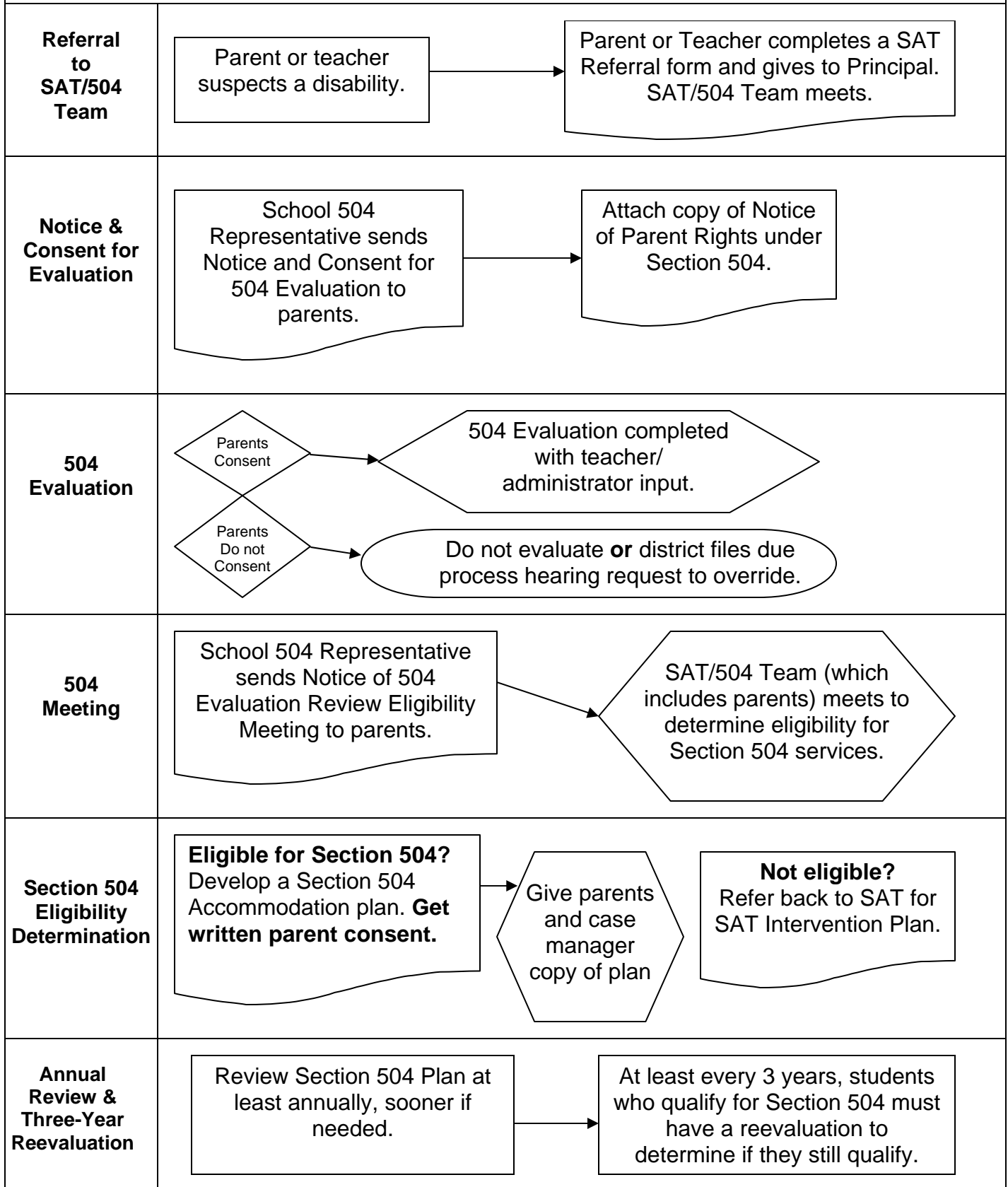
Decisions about Section 504 eligibility must be documented in the student's SAT or Section 504 file. Once a Section 504 Plan is developed, it is reviewed at least yearly or whenever any member of the 504 Team believes it is necessary. A case manager, who is often the school's 504 Representative, must be assigned to complete and manage each Section 504 student file. A student's Section 504 Plan must be provided in the least restrictive environment, most likely the general education classroom.

Under Section 504, parents or guardians must be provided with notice of any action that changes the identification, evaluation program, or placement of their child. **Written consent for initial evaluation and initial placement is required.** The parents should be included in the evaluation, eligibility, and placement process whenever possible. Parents or guardians have the right to file a grievance, request mediation, ask for a due process hearing, or file a complaint with the regional Office for Civil Rights in Denver, Colorado, if they disagree with the school's actions.

—*Best Practice*—

Parent participation should always be encouraged throughout the Section 504 process.

General Overview of Section 504 Process (A Tier II Intervention)



Process for Determining the Need for a Section 504 Plan

The district's Section 504 Coordinator and school's Student Assistance Team (SAT) should ensure that the following process has occurred. There are sample forms available in Appendix B for each step of this process. Please also see the Tier II Child Study Process and the Section 504 overview contained in the state's *Technical Assistance Manual: The Student Assistance Team and the Three-Tier Model of Student Intervention* available at www.ped.state.nm.us.

SAT Referrals

1. When a student is experiencing difficulty or has impairment, he or she should be referred to the school's SAT . Referrals to the SAT are filed with the building administrator and are accepted from parents and/or the student's teacher.

General Education Interventions and/or Further Referral (Tier II)

2. The SAT, which includes the parent, meets to discuss the concerns. The presenting problem(s) and previous remedies are considered and reviewed. The review/discussion should include all current information, performance data, and recommendations.
3. The SAT suggests intervention strategies to help correct the difficulties. The primary function of the SAT is to develop a SAT Intervention Plan, if necessary.
4. If the SAT determines that a SAT Intervention Plan is warranted, then the plan is implemented and reviewed after a defined period of time (no more than 18 weeks, monitored at 2-week increments). If the review demonstrates that shows that the response to this intervention was unsuccessful, the SAT can make a referral to another program for evaluation. (Section 504, special education under the IDEA, Title I, or other district program, as appropriate)
5. The SAT may also determine at Step 2 above that the nature of the student's difficulty warrants an immediate referral to another program for evaluation. Important: If the student has an obvious disability or is in obvious crisis, the SAT should not delay in making a referral for a Tier III multidisciplinary evaluation to consider the possible need for special education.
6. A word about **temporary disabilities**—a temporary impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period of time. The issue of whether a temporary impairment is substantial enough to be a disability and warrant evaluation or intervention must be resolved on a case-by-case basis, taking into consideration both the duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity of the affected individual

Evaluation for Section 504—Notification

7. The Section 504 regulation requires school districts to individually evaluate a student before providing the student with a Section 504 plan. The school notifies the parents, in writing, of the school's reason and intent to conduct an evaluation under Section 504. The notice should include a description of the evaluation and of a copy the procedural safeguards (parents' rights) under Section 504.

Written Consent for Evaluation

8. Section 504 requires written parental permission for initial evaluations.
9. If a parent refuses consent for an initial evaluation and a school district suspects a student has a qualify impairment, Section 504 regulations provide that school districts *may* use due process hearing procedures to override the parents' denial of consent.

Evaluation

10. The school evaluates a student suspected of having a qualifying impairment under Section 504. Tests used for this purpose must be selected and administered so as best to ensure that the test results accurately reflect the student's aptitude or achievement or other factors being measured rather than reflect the student's impairment, except where those are the factors being measured. Section 504 also requires that tests and other evaluation materials include those tailored to evaluate the specific areas of educational need and not merely those designed to provide a single intelligence quotient. The tests and other evaluation materials must be validated for the specific purpose for which they are used and appropriately administered by trained personnel.

Eligibility

11. The SAT/Section 504 team meets and analyzes the evaluation data to determine if the student has a mental or physical impairment that substantially limits a major life activity and impacts education. An impairment in and of itself does not qualify a student for protection under Section 504. The impairment must substantially limit one or more major life activities in order to qualify a student for protection under Section 504. The determination of what constitutes a substantial limitation must be made on a case-by-case basis with respect to each individual student.
12. The Section 504 regulation requires the Section 504 Team to draw from a variety of sources in the eligibility determination process so that the possibility of error is minimized. The information obtained from all such sources must be documented and all significant factors related to the student's learning process must be considered. These sources and factors may include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior. It is unacceptable to rely on

presumptions and stereotypes regarding persons with disabilities or classes of such persons.

Written Consent for Section 504 Placement

13. Written consent from the parent is required for an initial Section 504 placement.

Section 504 Accommodation Plan/Services

14. Factors to be considered for plan/service options by a group of individuals knowledgeable about the student and his/her disability and evaluation are as follows:
 - a. Evaluation results
 - b. Section 504 eligibility determination
 - c. The student's unmet needs
 - d. Services and/or accommodations based on needs
 - e. Least restrictive environment for services
 - f. Discussion of and plan for possible staff training

Implementation

15. The Section 504 Team makes decisions regarding the necessary accommodations/services to allow for the student's disability. Parents should be consulted and given the opportunity for input regarding the accommodations.
16. The accommodations and/or services are documented on a Section 504 Plan form (see Appendix B) and implemented.
17. A Section 504 Case Manager is designated to coordinate the student's plan.

Review

18. Each student's Section 504 Plan is reviewed **at least annually**—sooner if warranted.



Red Flags! for Considering Possible Accommodations and/or Services under Section 504

- When a student is **referred to the SAT**, but the SAT determines an evaluation under the IDEA is not appropriate under the circumstances
- When a student is evaluated and **does not qualify for special education** services under the **IDEA**
- When a **parent** frequently expresses a concern about their child's performance
- When **suspension or expulsion** is being considered for any student
- When **retention** is being considered for any student
- When a student shows a pattern of **not benefiting from instruction**
- When a student returns to school after a **serious illness or injury**
- When a student **exhibits a chronic health condition**
- When a student has been identified as having **attention deficit disorder (ADD)** or **attention deficit hyperactivity disorder (ADHD)**
- When a student is identified as "**at risk**" or exhibits the potential for dropping out of school
- When **substance abuse** is an issue—the individual must have stopped using the substance and should either be in rehabilitation or have gone through the rehabilitation process.
- When a **disability** of any kind is known or suspected
- When a new **building or remodeling** is being considered
- When a student has a **parent with a disability**



⋮ Strategies,
Accommodations, and
Services



See also
Appendix F
for Accommodation suggestions
related to
particular disabilities.

Strategies

The following is a list of possible strategies and accommodations for eligible students. Each case must be considered based upon the unique needs of the student. There may be other strategies and accommodations found in the New Mexico *Student Assistance Team (SAT) Manual* or found at www.interventioncentral.org.

See also Appendix F for specific suggestions related to the category of disability.

Environmental Strategies

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

Organizational Strategies

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

Behavior Strategies

- Resource: *Addressing Student Behavior: A Guide for Educators* available on the PED website at <http://www.ped.state.nm.us/seo/discipline/guide.htm>.
- Use behavioral management techniques.
- Implement behavioral/academic contracts.
- Use positive reinforcements (rewards).
- Use negative reinforcements (consequences).
- Confer with the student's parents and other teachers.
- Establish a home/school communication system for behavior monitoring.
- Post rules and consequences for classroom behavior.
- Write a contract for student behavior.
- Offer social reinforcers (e.g., praise) for appropriate behavior.
- Establish daily/weekly progress report for the student.
- Implement self-recording of behaviors.

Presentation Strategies

- Tape lessons for the student.
- Provide photocopied material for extra practice (e.g., outlines, study guides).
- Require fewer drill and practice activities.
- Give both oral and visual instructions for assignments.
- Vary the method of lesson presentation:
 - a. Lecture
 - b. Small groups
 - c. Large groups
 - d. Audio visuals (e.g., filmstrips, study prints)
 - e. Peer tutors or cross-age tutors (e.g., take notes, monitor assignments, read aloud, listen)
 - f. Demonstrations
 - g. Experiments
 - h. Simulations
 - i. Games
 - j. One-to-one instruction with other adult
- Provide for oral testing.
- Ask student to repeat directions/assignments to ensure understanding.
- Arrange for a mentor to work with the student in his or her interest area or area of greatest strength.

Methodology Strategies

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

Curriculum Strategies

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

100 Effective Accommodations/Services

The following accommodations/services can be used for students experiencing academic and/or behavioral difficulties:

1. Provide study carrels.
2. Use room dividers.
3. Provide headsets to muffle noise.
4. Seat child away from doors/windows.
5. Seat near model (student or teacher).
6. Provide time-out area.
7. Rearrange student groups (according to instructional needs, role models, etc.).
8. Group for cooperative learning.
9. Vary working surface (e.g., floor or vertical surface such as blackboards).
10. Simplify/shorten directions.
11. Give both oral and written directions.
12. Have student repeat directions.
13. Have student repeat lesson objective.
14. Ask frequent questions.
15. Change question level.
16. Change response format (e.g., from verbal to physical, from saying to pointing).
17. Provide sequential directions (label as first, second, etc.).
18. Use manipulatives.
19. Alter objective criterion level.
20. Provide functional tasks (relate to child's environment).
21. Reduce number of items on a task.
22. Highlight relevant words/features.
23. Use rebus (picture) directions.
24. Provide guided practice.
25. Provide more practice trials.
26. Increase allocated time.
27. Use a strategy approach.
28. Change reinforcers.

29. Increase reinforcement frequency.
30. Delay reinforcement.
31. Increase wait time.
32. Use physical warm-up exercises.
33. Use specific rather than general praise.
34. Have a peer tutor program.
35. Provide frequent review.
36. Have student summarize at end of lesson.
37. Use self-correcting materials.
38. Adapt test items for differing response modes.
39. Provide mnemonic devices.
40. Provide tangible reinforcers.
41. Use behavioral contracts.
42. Establish routines for handing work in, heading papers, etc.
43. Use timers to show allocated time.
44. Teach self-monitoring.
45. Provide visual cues (e.g., posters, desktop number lines, etc.).
46. Block out extraneous stimuli on written material.
47. Tape record directions.
48. Tape record student responses.
49. Use a study guide.
50. Provide critical vocabulary list for content material.
51. Provide essential fact list.
52. Use clock faces to show classroom routine times.
53. Use dotted lines to line up math problems or show margins.
54. Provide transition directions.
55. Assign only one task at a time.
56. Provide discussion questions before reading.
57. Use word markers to guide reading.
58. Alter sequence of presentation.
59. Enlarge or highlight key words on test items.
60. Provide daily and weekly assignment sheets.
61. Post daily/weekly schedule.
62. Use graph paper for place value or when adding/subtracting two-digit numbers.
63. Provide anticipation cues.
64. Establish rules and review frequently.
65. Teach key direction words.
66. Use distributed practice.
67. Provide pencil grip.
68. Tape paper to desk.
69. Shorten project assignment into daily tasks.
70. Segment directions.
71. Number (order) assignments to be completed.
72. Change far-point to near-point material for copying or review.
73. Put desk close to blackboard.

74. Incorporate currently popular themes/characters into assignments for motivation.
75. Repeat major points.
76. Use physical cues while speaking (e.g., 1, 2, 3, etc.).
77. Pause during speaking.
78. Use verbal cues (e.g., "Don't write this down," "This is important").
79. Change tone of voice, whisper, etc.
80. Use an honor system.
81. Collect notebooks weekly (periodically) to review student notes.
82. Reorganize tests to go from easy to hard.
83. Color code place value tasks.
84. Use self-teaching materials.
85. Do only odd or even numbered items on a large task sheet.
86. Use a primary typewriter or large print to create written material.
87. Provide organizers (e.g., cartons/bins) for desk material.
88. Teach varied reading rates (e.g., scanning, skimming, etc.).
89. Provide content/lecture summaries.
90. Use peer-mediated strategies (e.g., "buddy system").
91. Call student's name before asking a question.
92. Use extra spaces between lines of print.
93. Color code materials/directions.
94. Use raised-line paper.
95. Circle math computation sign.
96. Establish a rationale for learning.
97. Use hand signals to cue behavior (e.g., attention, responding).
98. Use advance organizers.
99. Help students develop their own learning strategies.
100. Provide calculators.





Notes _____



APPENDICES



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Appendix A

Section 504 of the Rehabilitation Act of 1973— Regulations

34 CFR Chapter 1, Section 104.31

Subpart D—Preschool, Elementary, and Secondary Education
(July 1, 1999)

Section 104.31 Application of this subpart

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

Section 104.32 Location and notification

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

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

Section 104.33 Free appropriate public education

- (a) *General.* A recipient that operates a public elementary or secondary education program shall provide a free appropriate public education to each qualified handicapped person who is in the recipient's jurisdiction, regardless of the nature or severity of the person's handicap.
- (b) *Appropriate education.*
 - (1) For the purpose of this subpart, the provision of an appropriate education is the provision of regular or special education and related aids and services that
 - (i) are designed to meet individual educational needs of handicapped persons as adequately as the needs of nonhandicapped persons are met and
 - (ii) are based upon adherence to procedures that satisfy the requirements of Section 104.34, 104.35, and 104.36.
 - (2) Implementation of an individualized education program developed in accordance with the Education of the Handicapped Act is one means of meeting the standard established in paragraph (b)(1)(i) of this section.
 - (3) A recipient may place a handicapped person in or refer such a person for aids, benefits, or other services other than the one that it operates or provides as its means of carrying out the requirements of this subpart. If so, the recipient remains responsible for ensuring that the requirements of

this subpart are met with respect to any handicapped person so placed or referred.

(c) *Free education*

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

(2) *Transportation.* If a recipient places a handicapped person in or refers such person for aids, benefits, or other services not operated by the recipient as its means of carrying out the requirements of this subpart, the recipient shall ensure that adequate transportation to and from the program is provided at no greater cost than would be incurred by the person or his or her parents or guardian if the person were placed in the program operated by the recipient.

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

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

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

Section 104.34 Educational setting

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

Section 104.35 Evaluation and placement

- (a) *Preplacement evaluation.* A recipient that operates a public elementary or secondary education program shall conduct an evaluation in accordance with the requirements of paragraph (b) of this section of any person who, because of handicap, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in a regular or special education program and any subsequent significant change in placement.
- (b) *Evaluation procedures.* A recipient to whom this subpart applies shall establish standards and procedures for the evaluation and placement of persons who, because of handicap, need or are believed to need special education or related services which ensure that
 - (1) Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer;
 - (2) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and
 - (3) Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking

skills (except where those skills are the factors that the test purports to measure).

- (c) *Placement procedures.* In interpreting evaluation data and in making placement decisions, a recipient shall
- (1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;
 - (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered;
 - (3) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and
 - (4) ensure that the placement decision is made in conformity with Section 104.34.
- (d) *Reevaluation.* A recipient to whom this section applies shall establish procedures, in accordance with paragraph (b) of this section, for periodic reevaluation of students who have been provided special education and related services. A reevaluation procedure consistent with the Education for the Handicapped Act is one means of meeting this requirement.

Section 104.36 Procedural safeguards

A recipient that operates a public elementary or secondary education program shall establish and implement, with respect to actions regarding the identification, evaluation, or educational placement of persons who, because of handicap, need or are believed to need special instruction or related services, a system of procedural safeguards that includes

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

Compliance with the procedural safeguards of Section 615 of the Education of the Handicapped Act is one means of meeting this requirement.

Section 104.37 Nonacademic services

- (a) *General.*
- (1) A recipient to which this subpart applies shall provide nonacademic and extracurricular services and activities in such manner as is necessary to afford handicapped students an equal opportunity for participation in such services and activities.
 - (2) Nonacademic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the recipients, referrals to agencies which provide assistance to handicapped persons, and employment of students, including both

employment by the recipient and assistance in making available outside employment.

- (b) *Counseling services.* A recipient to which this subpart applies that provides personal, academic, or vocational counseling, guidance, or placement services to its students shall provide these services without discrimination on the basis of handicap. The recipient shall ensure that qualified handicapped students are not counseled toward more restrictive career objectives than are nonhandicapped students with similar interests and abilities.
- (c) *Physical education and athletics.*
 - (1) In providing physical education courses and athletics and similar programs and activities to any of its students, a recipient to which this subpart applies may not discriminate on the basis of handicap. A recipient that offers physical education courses or that operates or sponsors interscholastic, club, or intramural athletics shall provide to qualified handicapped students an equal opportunity for participation in these activities.
 - (2) A recipient may offer to handicapped students physical education and athletic activities that are separate or different from those offered to nonhandicapped students only if separation or differentiation is consistent with the requirements of Section 104.34 and only if no qualified handicapped student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

Section 104.38 Preschool and adult education

A recipient to which this subpart applies that operates a preschool education or day care program or activity or an adult education program or activity may not, on the basis of handicap, exclude qualified handicapped persons from the program or activity and shall take into account the needs of such persons in determining the aid, benefits, or services to be provided under the program or activity. (*Note: The reference to adult programs does not apply to schools, but the law, which is quoted here, makes reference to them.*)

Section 104.39 Private education programs

- (a) A recipient that operates a private elementary or secondary education program may not, on the basis of handicap, exclude a qualified handicapped person from such program if the person can, with minor adjustments, be provided an appropriate education, as defined in Section 104.33(b)(1), within the recipient's program.
- (b) A recipient to whom this section applies may not charge more for the provision of an appropriate education to handicapped persons than to nonhandicapped persons except to the extent that any additional charge is justified by a substantial increase in cost to the recipient.
- (c) A recipient to which this section applies that operates special education programs shall operate such programs in accordance with the provisions of Section 104.35 and 104.36. Each recipient to which this section applies is subject to the provisions of Section 104.34, 104.37, and 104.38.

Appendix B

Sample Forms for Section 504

- B-1 Section 504—General Information (for Parent and Student Manuals)
- B-2 Section 504—Referral Form/Packet
- B-3 Section 504—Invitation to Parents for Initial Section 504 Meeting
- B-4 Section 504—Parents Rights
- B-5 Section 504—Parent Input
- B-6 Section 504—Consent to Evaluate
- B-7 Section 504—Notice of Evaluation Review & Eligibility Determination Meeting
- B-8 Section 504—Evaluation Review and Eligibility Meeting
- B-9 Section 504—Accommodation Plan
- B-10 Section 504—Notification of Evaluation & Eligibility Results (in absence of parent participation)
- B-11 Section 504—Plan Review
- B-12 Section 504—Grievance Form



Information for Parents Regarding

- **Section 504 of the Rehabilitation Act Of 1973**
- **Family Educational Rights and Privacy Act (FERPA)**

Section 504 is federal law that prohibits discrimination against persons with a disability in any program that receives federal financial assistance. The law defines a person with a disability as anyone who

Has a mental or physical impairment that substantially limits one or more major life activities (major life activities include activities such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working).

In order to fulfill its obligations under Section 504, the district recognizes its responsibility to avoid discrimination in policies and practices regarding its personnel and students. No discrimination against any person with a disability will knowingly be permitted in any of the programs and practices in the school system.

The school has specific responsibilities under the law, which includes the responsibility to identify and evaluate students suspected of having a disability. If the student is determined to be eligible under Section 504 an accommodation plan will be developed on order to provide the student with equal access to education.

If the parent or guardian disagrees with the determination made by the professional staff of the school under Section, he/she has a right to file a grievance or request a hearing with an impartial hearing officer provided by the district.

The federal Family Educational Rights and Privacy Act (FERPA) also specifies rights related to educational records. This Act gives the parent or guardian the right to the following:

- Inspect and review his/her child's educational records.
- Make copies of these records.
- Receive a list of all individuals having access to those records.
- Ask for an explanation of any item in the records.
- Ask for an amendment to any report on the grounds that it is inaccurate, misleading, or violates the child's rights.
- Request a hearing on the issue if the school refuses to make the amendment.

If you have questions, please feel free to contact:

District Section 504 Coordinator

Phone

Form B-1

Section 504 Referral Packet

Student _____ Grade _____ Date _____

School _____ Teacher _____

Name/Signature of Referring Teacher _____

Name of Parent/Guardian _____

Fill out sections A–D for all students. Fill out section E only if behavior is an area of concern.

A. Mark **only** areas of concern below that **significantly affect** the student’s classroom experiences. Rate your concern as **(H)** High or **(S)** Some. If you are not sure, **do not** mark it.

- | | |
|---|---------------------------------------|
| _____ physical attributes | _____ attention span |
| _____ attendance | _____ memory skills |
| _____ activity level | _____ ability to follow directions |
| _____ oral comprehension | _____ listening skills |
| _____ language development | _____ response to questions |
| _____ language fluency | _____ ability to focus on task |
| _____ problem-solving ability | _____ frustration threshold |
| _____ vocabulary | _____ self-expression |
| _____ organizational skills | _____ self-discipline |
| _____ easily confused | _____ gross motor skills/coordination |
| _____ social/interpersonal skills | _____ fine motor skills |
| _____ self-awareness | _____ disorientation |
| _____ over-aggression | _____ passive/nonresponsive |
| _____ low self-esteem | _____ lack of responsibility |
| _____ academic progress (list skills/areas of concern) | |

_____ medical/health (manifestations/areas of concern) Note: Vision and/or hearing concerns should be screened and resolved prior to continuing the SAT process and documented here.

_____ behavior (observations/areas of concern) _____

_____ emotional/social (specify and describe) _____

_____ OTHER (specify and describe) _____

B. Add any other information you can to help the team better understand your concerns.

Also describe the student's **strengths.** _____

C. PRIOR ACTIONS TAKEN TO ADDRESS THE CONCERN

1. Of the four main areas listed below, which have you changed in some way in an attempt to address the concern? Check the area(s) and describe what you manipulated.

Presentation: How lessons are delivered and materials are displayed

Physical Environment: The classroom arrangement and learning environment

Materials: Changing student and teacher materials

Instruction: Ways students acquire skills in the classroom

2. Below is a partial list of possible **Tier I** interventions. Check any that have been used prior to this point to address the concern. Add other specific interventions that have been tried.

using tape recorder; overhead projector

previewing; rephrasing

using graphic organizers

posting charts; labeling

contracts

giving visual/verbal clues

peer tutoring

use of alternative materials

cooperative learning

tailored assignments

memory drills (math facts)

memory drills (sight words)

pattern books and word families

manipulatives for math/other

modified discipline plan

attendance follow-up

observation by another staff member

ESL (English as a Second Language)

ECL (Early Childhood Literacy)

Title I reading

- | | |
|---|---|
| <input type="checkbox"/> reinforcement schedules | <input type="checkbox"/> Bilingual Education |
| <input type="checkbox"/> parent involvement | <input type="checkbox"/> Reading First |
| <input type="checkbox"/> preferential seating | <input type="checkbox"/> counseling |
| <input type="checkbox"/> acknowledging correct responses | <input type="checkbox"/> point out relevance to students' lives |
| <input type="checkbox"/> dividing tasks into smaller portions | <input type="checkbox"/> giving opportunities for success |
| <input type="checkbox"/> offer strategies for self-management | <input type="checkbox"/> giving opportunities for leadership |
| <input type="checkbox"/> incorporating cultural differences | <input type="checkbox"/> promoting family involvement |
| <input type="checkbox"/> providing bilingual signs/labels | <input type="checkbox"/> building on student's strengths |
| <input type="checkbox"/> using music, art, drama | <input type="checkbox"/> tutoring |
| <input type="checkbox"/> other _____ | |
| <input type="checkbox"/> other _____ | |
| <input type="checkbox"/> other _____ | |
| <input type="checkbox"/> other _____ | |
| <input type="checkbox"/> other _____ | |
| <input type="checkbox"/> other _____ | |

3. If interventions have been tried, describe their effectiveness and duration in weeks.

(Optional) If they were ineffective, what do you hypothesize as the possible reason?

D. ATTACHMENTS

If the student is having **academic difficulties**, please attach a sample(s) of the student's work and/or standards-based or short-cycle assessment results that reflect your specific concern(s).

- sample(s) attached N/A

If there is a **medical concern**, please attach any known relevant information or history.

- information attached N/A

If there is a **behavioral concern**, please attach any disciplinary action taken or other documentation and fill out section E: *Teacher Input for Addressing Problem Behaviors*.

documentation attached teacher input completed (section E) N/A

E. Teacher Input for Addressing Problem Behaviors

(Teacher fills out this section if student is being referred to the SAT for behavioral concerns. If behavior is not an issue, there is no need to complete this section.)

1. Describe the behavior(s) of concern. Use measurable terms. *Example: Rather than “Lisa picks fights,” describe the actions and frequency: “Lisa demonstrates aggressive behavior toward other children at least 2–3 times a day, often more. She shows her aggression by such actions as pushing, grabbing materials from others, and by using verbal commands and name-calling.”*

2. When is the behavior most and least likely to occur? Mark each as **M** (More Likely), **L** (Less Likely), or **U** (Unlikely).

_____ On a particular day or days of the week, such as Fridays?

If so, which? _____

_____ At a particular time or times of the day, such as lunch or transitions?

If so, when? _____

_____ During certain types of activities or tasks, such as math or independent work?

If so, when? _____

_____ When interacting with certain people—individuals or groups?

If so, who? _____

_____ Under specific environmental conditions, such as in crowds or outdoor recess?

If so, what? _____

_____ When physically tired, hungry, or sick?

If so, which? _____

3. What do you think the student gains or avoids by demonstrating the behavior?

Get attention? _____ What kind? From whom? _____

Avoid attention? _____ What kind? From whom? _____

Get control? _____ Of what? _____

Avoid embarrassment? _____ Regarding what? _____

Get relief? _____ From what? _____

Avoid task? _____ Which? _____

OTHER? _____

4. Describe the specific expectations you have for the student that are not being met.

5. How have you conveyed your expectations to the student? _____

6. Do you think the student **can't** (is unable to) or **won't** (is unwilling to) demonstrate the appropriate/desired behavior? Why? _____

7. What appropriate/acceptable behavior(s) could the student use as a substitute for the behavior regarded as unacceptable? _____

8. What have you already tried to change about the situations in which the behavior occurs?

modified tasks/assignments to align better with student's skills

changed the student's schedule or order of activities

changed the curriculum for this student

provided extra assistance

changed the student's physical environment (seating, room arrangement, grouping...)

other _____

other _____

9. What techniques have you already tried to help the student meet behavioral expectations?

- | | |
|---|--|
| <input type="checkbox"/> posted rules for the whole class | <input type="checkbox"/> denied desired items/activities |
| <input type="checkbox"/> immediate feedback | <input type="checkbox"/> notes/phone calls to parents |
| <input type="checkbox"/> teacher–student contract | <input type="checkbox"/> loss of privileges |
| <input type="checkbox"/> met with parents | <input type="checkbox"/> reprimands |
| <input type="checkbox"/> reward system | <input type="checkbox"/> ignored the behavior |
| <input type="checkbox"/> hand or other signals | <input type="checkbox"/> detention |
| <input type="checkbox"/> offered options/choices | <input type="checkbox"/> referral to office |
| <input type="checkbox"/> consistency of enforcement | <input type="checkbox"/> referral to school counselor |
| <input type="checkbox"/> other_____ | |
| <input type="checkbox"/> other_____ | |

NOTE: For in–depth analysis and guidance regarding behavior issues, see the New Mexico Public Education Department’s publication *Addressing Student Behavior: A Guide for Educators*.

Invitation to Parents for Initial Section 504 Meeting

Student _____ Date _____

School _____

Dear Parent or Guardian:

This letter is to inform you that the Student Assistance Team (SAT)/Section 504 Team at the school has concerns about your child's academic and/or behavioral progress. Prior to this time, the SAT may have developed and implemented academic and/or behavioral interventions with your child. They include the following:

Intervention	Duration	Effectiveness
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

After evaluating the SAT Intervention Plan and/or your child's current performance, we believe that additional information is necessary to fully determine your child's educational needs and whether he/she might be eligible for accommodations in the regular classroom under Section 504—a federal law that provides accommodations to eligible students. We would like to meet with you to discuss a possible evaluation under Section 504 in order to ensure that your child is afforded an appropriate education.

We have scheduled a meeting on _____ at _____.

This meeting will be held at _____.

It would be helpful if you could fill out the attached parent input form and bring it to the meeting or send it to your child's teacher if you cannot attend. If you have any questions, cannot attend, or if this meeting time is not convenient for you, please call me at _____. We will discuss your questions or arrange a mutually convenient meeting time. A description of your rights under Section 504 is attached.

Sincerely,

School Section 504 Representative
Form B-3



Attachment: Section 504 Parent Rights, Parent Input Form

Section 504 Parent Rights Notice

School _____ Date _____

The intent of this notice is to keep you fully informed concerning decisions about your child and to inform you of your rights if you disagree with any of these decisions.

If your child is eligible for Section 504 accommodations/services, you have the right to the following:

1. Have your child take part in and receive benefits from public education programs without discrimination based on a disability.
2. Receive written notice with respect to identification, evaluation, or placement of your child.
3. Have your child receive a free appropriate public education. This includes the right to be educated with other students without disabilities to the maximum extent appropriate.
4. Have your child educated in facilities and receive services comparable to those provided to students without disabilities.
5. Have evaluation, educational, and placement decisions made based upon a variety of information sources and by individuals who know your child, the evaluation data, and placement options.
6. If eligible, have your child receive accommodations under Section 504 of the Rehabilitation Act of 1973.
7. Give your child an equal opportunity to participate in nonacademic and extracurricular activities offered by the school.
8. Examine all relevant records relating to decisions regarding your child's identification, evaluation, educational program, and placement.
9. Obtain copies of educational records at a reasonable fee or no cost if the fee would effectively deny you access to the records.
10. Receive a response from the school to reasonable requests for explanations and interpretations of your child's records.
11. Request amendment of your child's educational records if there is reasonable cause to believe that they are inaccurate, misleading, or otherwise in violation of the privacy rights of your child. If the school refuses this request, it shall notify you within a reasonable time and advise you of the right to a hearing.
12. Request mediation or an impartial due process hearing related to decisions regarding your child's identification, evaluation, educational program, or placement. You and your child may take part in the hearing and have an attorney represent you.
13. File a local grievance or complaint to the Office for Civil Rights in Denver, Colorado. The office is part of the U.S. Department of Education. The regional office is located at 1244 Speer Boulevard, Suite 310, Denver, Colorado, 80204-3582. The person at the school who is responsible for Section 504 compliance is

School Section 504 Representative
Form B-4

Telephone Number

Section 504 Meeting Parent Input

Student Name: _____ Date: _____

School: _____ Grade: _____

Father's Name: _____

Mother's Name: _____

Who has legal authority to make educational decisions for this child? _____

With whom does this student live? _____

Please answer any questions that you think might be helpful to the 504 Team.

What are some of your child's strengths? _____

What does your child do when not in school? _____

Please describe your child's behavior at home? _____

What activities does the family do together? _____

Have any family members had learning problems? _____

Have there been any important changes within the family during the last 3 years? _____

Do you feel your child is experiencing problems in school? _____

When were you first aware of this problem? _____

What do you think is causing the problem? _____

Form B-5, page 1 of 2

What time does your child go to bed at night? _____

Does your child usually eat breakfast? _____

What methods of discipline are used with your child at home? _____

What is your child's reaction to discipline? _____

Has your child mentioned any problems with school? If so, how does he/she feel about the problem? _____

Health History

Were there any problems before, during, or immediately after birth? _____

Please describe any serious illnesses, accidents, or hospitalizations. _____

Does your child appear to have any physical health problems, including allergies? _____

Is your child receiving service(s) from another agency? _____

Is your child currently taking medications? If so, please list. _____

Are there any known side affects from the medication? _____

Please tell us anything else that you think would be helpful in planning for your child's success at school.

Section 504 Consent to Evaluate

Student Name _____

School _____ Date _____

Following a discussion with school personnel acquainted with my child, I authorize the use of school educational diagnosis for my child to determine possible eligibility for Section 504 accommodations/services. I understand that this evaluation may include administration of the following:

The school is requesting your consent to conduct the following evaluation procedures:

Evaluation Procedures	Person Responsible
_____	_____
_____	_____
_____	_____
_____	_____

I understand that following the evaluation, I will be given the opportunity to meet with appropriate school staff to review the evaluation results and plan next steps for my child's education.

I give written consent to have my child evaluated.

Signed

Parent Name (printed)

Date

Copies: Parents
Student file

Form B-6

Notice of Section 504 Meeting To Review Evaluation Results and Determine Eligibility

Date sent/mailed: _____

Student's name: _____

School: _____ Grade: _____

Parent's Name: _____

Address: _____

Home Phone: _____ Work Phone: _____

Dear _____,

This letter is to inform you that the Section 504 Team at your child's school would like to meet with you to discuss the results of an evaluation under Section 504. Your insights and contributions will be quite helpful to us in effecting the best decisions possible. If you have not already done so, please fill out and return the Parent Input Form.

Meeting Date: _____ Meeting Time: _____

Location: _____

Please call me at _____ if you have any questions or need to arrange an alternative date.

Sincerely,

School Section 504 Representative

Copies: Parents
Student file

Attachment: Parent Input Form

Form B-7

New Mexico Public Education Department: Section 504 Guide—Appendices



Section 504 Eligibility Determination Summary

Student's name:		
School:		Grade:
Parent's Name:		
Address:		
Home Phone:		Work Phone:
Student Referred by:		Date of Referral: Date of Meeting:
The Section 504 Team reviewed and carefully considered the following data that was gathered from the following sources, including the Referral Document. (Please check all that apply.)		
<input type="checkbox"/>	Grade reports	<input type="checkbox"/> Teacher/Administrator input
<input type="checkbox"/>	Disciplinary records/referrals	<input type="checkbox"/> Student work portfolio
<input type="checkbox"/>	Standardized Tests and Other Tests	<input type="checkbox"/> School Health Information
<input type="checkbox"/>	Medical Evaluations/diagnoses from parents	<input type="checkbox"/> Other:
<input type="checkbox"/>	Parent input	<input type="checkbox"/> Other:
YES	NO	Based on the evaluation data gathered from a variety of sources, the Section 504 Team answered the following questions to determine Section 504 eligibility:
		1. Does the student have a physical or mental impairment? If so, please describe the impairment. NOTE: <i>This is an educational determination only, and not a medical diagnosis for purposes of treatment.</i>
		2. Does the physical or mental impairment affect one or more major life activities? If so, which major life activity or activities is/are affected?
		3. Does the physical or mental impairment substantially limit a major life activity?
		4. Does the student need Section 504 accommodations in order for his/her educational need to be met as adequately as those of non-disabled peers?
<p><i>If all four questions were answered "Yes," the student is eligible for a free appropriate public education under Section 504, and the Section 504 Accommodation Plan should be developed. If any answer is "No," the student is not eligible.</i></p>		
The Section 504 Team's analysis of the eligibility criteria as applied to the evaluation data indicates that:		
<input type="checkbox"/>	The student is not eligible for services under Section 504 and will continue to receive regular education and any available regular education resources and programs.	
<input type="checkbox"/>	The student is eligible under Section 504 and will receive an Accommodation Plan, which governs the provision of 504 services to the student.	
<input type="checkbox"/>	The student remains eligible under Section 504 and will receive an updated Accommodation Plan, which governs the provision of 504 services to the student. (Annual and 3-year evaluations only)	
<input type="checkbox"/>	The student is no longer eligible for Section 504 and is exited from the program. The student will now receive regular education without Section 504 services.	
<input type="checkbox"/>	Other:	

Signatures and Printed Names	Position	Agree	Disagree
	Person knowledgeable of the child		
	Person knowledgeable of the evaluation results		
	Person knowledgeable of placement options		
	Other:		
	Other:		

If you disagree with the school team's decision, please contact the School's Section 504 Representative and consult the Parents Rights Notice for other options.

Name

Phone

Copies: Parent
Student file



Section 504 Accommodation Plan

Student _____ Grade _____ Date _____
 School _____ Teacher _____

- YES NO The student has a mental or physical impairment that substantially limits one or more of his/her major life activities.
- YES NO The physical or mental impairment impacts his/her education.
- YES NO The impairment substantially affects the student's overall performance at school in regards to
- seeing hearing doing manual tasks
- breathing walking speaking caring for oneself
- writing learning working showing troubling behavior

To be eligible for a 504 Accommodation Plan, all three answers above must be YES.
 Is this student is eligible to receive a 504 Accommodation Plan? _____
 Describe what evaluation data was used; Describe this student's circumstances and its educational impact in more detail (that is, document the basis for the 504 Plan):

The case manager for this Section 504 Plan will be: _____
 Date of Meeting & Initial Plan _____ Annual Review scheduled for _____
 List each need in order of priority and describe specifically how it is to be met.

Specific Need (How does the impairment impact the student's education and what is needed to eliminate the restriction?)	Accommodations that Address the Need
	Special Materials or Training Needed—Who, How, and When?
	Who Will Implement the Accommodations
	Criteria for Evaluating Success

Specific Need (How does the impairment impact the student's education and what is needed to eliminate the restriction?)	Accommodations that Address the Need
	Special Materials or Training Needed—Who, How, and When?
	Who Will Implement the Accommodations
	Criteria for Evaluating Success
Specific Need (How does the impairment impact the student's education and what is needed to eliminate the restriction?)	Accommodations that Address the Need
	Special Materials or Training Needed—Who, How, and When?
	Who Will Implement the Accommodations
	Criteria for Evaluating Success

Section 504 Plan Team:

Signature: _____ Title: _____ Date: _____
 Signature: _____ Title: _____ Date: _____
 Signature: _____ Title: _____ Date: _____
 Signature: _____ Title: _____ Date: _____
 Signature: _____ Title: _____ Date: _____

PARENT/GUARDIAN:

I, _____, as this student's parent/guardian,

give do not give permission for my child to receive the accommodations described.

Signed: _____ Date: _____

Copies: Parent, Student file
 Form B-9, Page 2 of 2

**Notification of Section 504 Evaluation
And Eligibility Results
(in absence of parent participation)**

Date Sent/Mailed: _____
Student's Name: _____
School: _____ Grade: _____
Parent's Name: _____
Address: _____
Home Phone: _____ Work Phone: _____

Dear _____,

This letter is to inform you that the Section 504 Team had a meeting on _____. After careful review of relevant evaluation data, the Section 504 Team made the following decisions regarding you child's placement:

- Regular education without Section 504 services
- Placement in regular education with Section 504 services. A copy of the Section 504 Accommodation Plan is enclosed
- Will continue Section 504 services. A copy of the Accommodation Plan is enclosed
- Exit from Section 504
- Referral for a multidisciplinary evaluation for consideration for special education services.
- Other: _____

A copy of the Section 504 Eligibility Determination Summary is enclosed. If you have any questions concerning this decision, please call me at _____.

Sincerely,

School Section 504 Representative

Attachments: Section 504 Eligibility Determination Summary
Section 504 Accommodations Plan, if applicable

Copies: Parents
Student file

Form B-10

Section 504 Plan Review

Student _____ Date _____

Case Manager _____

Purpose of meeting: It is necessary to periodically review the student's progress under Section 504 services and make recommendations to continue, modify, or terminate the program(s) (504 plan should be reviewed once each year.)

Discussion of progress _____

Recommendation

- Continue present services with no changes.
- Modify the present Accommodation Plan (see new plan attached).
- Conduct additional evaluations.
- Exit from Section 504 services based upon the following evaluation results/rationale.

Discussion of recommendations:

The following members of the Section 504 Team participated in this review:

Signature(s)

_____ Parent /Guardian	_____ Parent/Guardian
Signature: _____	Title: _____ Date: _____
Signature: _____	Title: _____ Date: _____
Signature: _____	Title: _____ Date: _____
Signature: _____	Title: _____ Date: _____

Copies: Parent
Student file

Section 504 Grievance Form

Student Name: _____

School: _____

Parent Name(s): _____

Address: _____

Phone(s): _____

1. Summary of Grievance—What is the problem? What are the facts?

2. How can the problem be solved?

3. Who have you spoken to or met with at the school to address this situation?
What was the result of this contact? _____

4. Please describe any corrective action you wish to see taken with regard to
this grievance.

Please attach any additional information or documentation you wish the district to consider. You also have the right to file a complaint with the regional office of the U. S. Department of Education's Office for Civil Rights (OCR) without going through the district's grievance procedures

Signature of Parent

Date

Received by:

Signature of Section 504 Coordinator

Date

Copies: Parent
Student file
District 504 Coordinator file

Form B-12

Appendix C

Frequently Asked Questions and Answers: Clarification of Policy for Section 504 Issued by the Office for Civil Rights (OCR)

1. Q. *What is ADD?*
 - A. Attention Deficit Disorder (ADD) is a neurobiological disability. It is characterized by attention skills that are developmentally inappropriate, impulsivity, and in some cases, hyperactivity.

2. Q. *Are all students with ADD automatically protected under Section 504?*
 - A. **No.** Some students with ADD may have a disability within the meaning of Section 504; others may not. Students must meet the Section 504 definition of disability to be protected under the regulation. Under Section 504, a “person with disabilities” is defined as any person who has a physical or mental impairment that substantially limits a major life activity (e.g., learning). Thus, depending on the severity of their condition, students with ADD may or may not fit within that definition.

3. Q. *Must students thought to have ADD be evaluated by school districts?*
 - A. Yes. If parents believe that their student has a disability, whether ADD or any other impairment, and the school district has reason to believe that the student may need special education or related services, the school district must evaluate the student. If the school district does not believe the student needs special education or related services, and thus does not evaluate the student, the school district must notify the parents of their due process rights.

4. Q. *Must school districts have a different evaluation process for Section 504 and the IDEA?*
 - A. No. School districts may use the same process for evaluating the needs of students under Section 504 that they use for implementing IDEA.

5. Q. *Can school districts have a different evaluation process for Section 504?*
 - A. Yes. School districts may have a separate process for evaluating the needs of students under Section 504. However, they must follow the requirements for evaluation specified in the Section 504 regulation.

6. Q. *Is a student with ADD, who has a disability within the meaning of Section 504, but not under the IDEA, entitled to receive services?*
 - A. Yes. If a student with ADD is found to have a disability within the meaning of Section 504, he or she is entitled to receive any services the 504 team decides are necessary.

7. Q. *Can a school district refuse to provide accommodations to a student with ADD because he or she does not meet the eligibility criteria under the IDEA?*
A. No.
8. Q. *Can a student with ADD, who is protected under Section 504, receive related aids and services in the regular educational setting?*
A. Yes. Should it be determined that a student with ADD has a disability within the meaning of Section 504 and needs only adjustments in the regular classroom, rather than special education, those adjustments are required by Section 504.
9. Q. *Must a school district have a separate due process hearing procedure for Section 504 and the IDEA?*
A. No. School districts may use the same procedures for resolving disputes under both Section 504 and the IDEA. In fact, many local school districts and some State education agencies are conserving time and resources by using the same due process procedures. However, education agencies should ensure that hearing officers are knowledgeable about the requirements of Section 504.
10. Q. *Can school districts use separate due process procedures for Section 504?*
A. Yes. School districts may have a separate system of procedural safeguards in place to resolve Section 504 disputes. However, these procedures must follow the requirements of the Section 504 regulation.
11. Q. *What should parents do if the State due process hearing process does not include Section 504?*
A. Under Section 504, school districts are required to provide information and inform parents of these procedures. Thus, school districts are responsible for providing a Section 504 hearing even if the State process does not include it.
12. Q. *When do the second and third prongs of the Section 504 definition become relevant?*
Second Prong—Has a record of an impairment.
Third Prong—Is regarded as having an impairment.
A. **Section 504 teams should only use the first prong of the Section 504 eligibility definition:** A student may be considered disabled if the individual has a mental or physical impairment that substantially limits one or more of such person's major life activities. The second and third prongs were meant for situations where individuals are discriminated against based upon a record of an impairment or being perceived and treated in a discriminatory manner. *Prongs two and three should not be used for eligibility purposes.* It is the negative action taken based on the perception of the record that entitles a person to protection against discrimination.
13. Q. *Are slow learners eligible for Section 504 accommodations or services?*
A. "Slow learning" is not a disability any more than giftedness would be considered an impairment. If a slow learner cannot cope with the general education, the

problem is with the curriculum or instructional approach, not the student. The curriculum or instruction must be modified to meet the ability and pace of the student. It should be noted that the student could have a disability (for example, an attention deficit disorder) and also be a slow learner. The ADD could entitle the student to Section 504 services.

14.Q. *Who should serve on the Section 504 Team?*

- A. A practice that has worked for many schools is the use of the intervention team or prereferral (SAT) team as the Section 504 Team. This team is usually knowledgeable about the student and is familiar with interventions that have been successful and strategies that have failed. The core team will usually include the following:
- A. Parent(s)
 - B. Student, when appropriate
 - C. Principal or designee
 - D. Classroom teacher(s)
 - E. School counselor
 - F. Others as appropriate

15.Q. *Can a school use the special education IEP form to document Section 504 accommodations and services? Can a student have both a Section 504 Plan and an IEP?*

- A. **No, in both cases.** If a student is eligible to receive accommodations under Section 504, they should be documented on a Section 504 Accommodation Plan. Students with IEPs have all their needs (academic, behavioral, related services, supplemental services and accommodations) addressed via an IEP.

16.Q. *Should each eligible Section 504 student have a case manager?*

- A. **Yes.** After determining eligibility, the Section 504 team should appoint a case manager to ensure the services are implemented and to manage the Section 504 file. If the student transitions to a new level or building, a new case manager will need to be assigned. The case manager is usually the primary service provider. Typical case managers include school counselors, regular education teachers, and school nurses.

17.Q. *How does free appropriate public education differ in Section 504 and special education?*

- A. In special education, a student must be eligible under one of the IDEA's disability categories and requires special education before he/she is entitled to related services. The definition for eligibility under Section 504 is very broad and could include any physical or mental impairment that substantially limits a major life activity. The impairment must be shown to impact the student's education program. The student could receive accommodations, and/or related services. Some students could receive just a related service, such as physical therapy or school counseling.

- 18.Q. *Who conducts school evaluations to determine Section 504 eligibility?*
- A. Many students who are eligible for Section 504 services have medical conditions that have already been diagnosed. In these cases the school would request permission from the parents to obtain copies to document the Section 504 eligibility. In many cases, the student is referred for an evaluation under special education but is not found to be eligible. That evaluation can be used for Section 504 consideration. In cases where the school conducts the evaluation, special education staff or other support staff may be involved. Most schools pay a portion of the salary and benefits of special education staff and could justify the use of these individuals to conduct 504 evaluations.
- 19.Q. *When a student exits special education should they be considered for Section 504 eligibility?*
- A. **Yes.** Many exiting special education, students will not require Section 504 accommodations or services. If the students IEP team decides upon exiting the student that Section 504 eligibility should be considered, a referral would be made to the SAT to determine if 504 eligibility or other interventions should be considered. Special education students who are graduating from high school and moving on to post secondary opportunities should be considered for Section 504 services. Post secondary programs receiving federal funds are under the same obligations as schools.
- 20.Q. *Where can parents or the school receive technical assistance regarding Section 504 issues?*
- A. There are several sources of technical assistance for parents and school, including the following:
1. School Section 504 coordinator
 2. Regional Office for Civil Rights, Denver, Colorado
- 21.Q. *To what extent should parents be involved in the Section 504 process?*
- A. The Section 504 regulations do not specify the degree of parent participation. It is always best practice to involve parents every step along the way in their student's educational program. It is recommended that parents receive notice whenever their student is singled out for evaluation, eligibility or service delivery. Written consent must be obtained prior to evaluation and placement. The parents should be invited to participate in all Section 504 meetings regarding their student.
- 22.Q. *Can the Section 504 team recommend alternatives to an eligible student's graduation requirements?*
- A. **Yes.** For example, a student with a severe physical disability might not be able to participate and fulfill physical education graduation requirements. Adapted physical education would be a modification for the physical education requirement. Schools are encouraged to develop alternative options rather than totally waive a course requirement.

- 23.Q. *Are all students with attention deficient disorder eligible for Section 504 services?*
- A. Although many students who have been diagnosed with ADD/ADHD **do** qualify for Section 504 services, many others do not. Many students who have been diagnosed with ADD/ADHD are either on medication or have been taught and apply compensatory skills to successfully function in a school environment and may not require Section 504 services. Some students with ADD/ADHD will be eligible for special education services if they were first found to be eligible for special education under the categories of learning disability, other health impaired, emotionally disturbed, or traumatic brain injury. If the student has a mental or physical disability that substantially limits a major life activity (in the case of ADD/ADHD, learning), then the student would qualify for Section 504 accommodations and/or services if an evaluation supports that determination.
- 24.Q. *What are the consequences for a school that refuses to meet Section 504 obligations?*
- A. Mediation should be used whenever possible to assist in resolving disputes between parents in the school. The parents could file a local grievance with the school, request a due process hearing, take the school to court, or file a complaint with the Office for Civil Rights. OCR is part of the U. S. Department of Education.
- 25.Q. *Should a school document and keep a Section 504 file on each eligible student?*
- A. It is best practice to document the events of each Section 504 service. Files should be kept on eligible students and maintained by the case manager. These files should be separate from the cumulative files to avoid possible discrimination based on the record. Section 504 files would be under all requirements listed in the Family Educational Rights and Privacy Act (FERPA).
- 26.Q. *Who pays the costs for Section 504 services?*
- A. Schools are responsible to fund this mandate. Federal and State special education funds **should not** be used for Section 504 services.
- 27.Q. *Are private schools responsible to provide Section 504 requirements?*
- A. Yes, if the private school (including preschool) is receiving any form of federal funding.
- 28.Q. *Can a school require a medical statement for students for whom they cannot pinpoint a medical or physical impairment that is substantially limiting a major life activity within the school and for which assistance is needed in the school?*
- A. A school cannot require a parent or student to provide a medical statement *if* the school suspects that the student has a disability that would necessitate the provision of regular or special education and related aids and services under the regulations implementing Section 504 of the Rehabilitation Act of 1973. However, a school is not required to evaluate a student who the school does not believe has a disability (e.g., a mental or physical impairment that substantially limits a major life activity, such as learning). A school is required to conduct an

evaluation of any person whom, because of disability or needs, the school believes to need regular or special education and related aids and services before placing the person in regular special education with related aids and services. If a school determines, based on the facts and circumstances of the individual case, that a medical assessment is necessary to make an appropriate evaluation consistent with 34 CFR Section 104.35 (a) and (b), the school must ensure that the student receives this assessment at no cost to the parents. If alternative assessment methods meet the evaluation criteria, these methods may be used in lieu of a medical assessment. If a district does not believe that a student has a disability and refuses to evaluate the student, the district must inform the parents of their due process rights under 34 CFR Section 104.36.

29.Q. *Are schools required to provide food when dietary modifications are needed? Or do parents provide the food and have the school prepare it (as is the case with medication)?*

A. It depends. A school, in providing any aid, benefit, or service, may not deny or afford a person with a disability an opportunity to participate in, or benefit from, an aid, benefit, or service, such as the provision of food services, that is not equal to, or as effective as, that provided to persons without disability. The school is also required to provide free appropriate public education to each qualified person with a disability. Unlike medicine, which the school is not required to provide for any student, if the school provides food to students generally, it would also have to provide an appropriate lunch to the student with disabilities who has special dietary needs on the same basis that food is provided to students without disabilities. Depending on the circumstances, the school may have to provide special foods to meet the individual needs of the student with disabilities. This responsibility is determined on a case-by-case basis.

30.Q. *Do school responsibilities under Section 504 also include providing services to students in private schools?*

A. If a school has made available a free appropriate public education to a person with a disability and the person's parent or guardian chooses to place the person in a private school, Section 504 does not require the recipient to receive services in the private school unless that private school receives federal funding. 34 CFR Section 104.33(c)(4). The private, rather than the public, school provides and pays for Section 504 services when it provides the services because it is a recipient of federal funds.

31.Q. *For students who are referred to special education, but do not qualify under IDEA criteria, do they automatically become Section 504 students?*

A. **No.** Under Section 504, a "person with disabilities" is defined as any person who has a physical or mental impairment that substantially limits a major life activity. Thus, depending on the severity of their condition, students who do not meet the standards under the Individuals with Disabilities Education Act (IDEA) may or may not fit within the Section 504 definition.

32.Q. *Can a student be identified as IDEA eligible and be receiving some services under IDEA and also be identified as a Section 504 student and be receiving different assistance in the regular classroom under Section 504?*

A. **No.** In order to be eligible for services under the IDEA, a student must be found to have one or more of the disability categories specified *and* must also be found to need special education (specially-designed instruction). A student identified as IDEA eligible and receiving services under the IDEA receives a free appropriate public education through an individualized education program (IEP) developed in accordance with IDEA—**not** through a Section 504 Accommodation Plan.

33.Q. *If a student is identified as in need of accommodations under Section 504, and the parent decides to home-school the student, is the school still responsible for providing services in the home for the student because they are in the jurisdictional area of the school's responsibility?*

A. **No.** Where a school has offered an appropriate education, a school is not responsible, under Section 504, for the provision of educational services to students not enrolled in the public educational program based on the personal choice of the parent or guardian.

34.Q. *If a Section 504 student is, due to his/her disability, constantly disruptive on the school bus, can the school have the student's bus privileges removed if she/he needs the transportation to get to school? If so, must the school still provide transportation? How about when the student is a threat to the safety of other students on the bus?*

A. If transportation is a related service for a student with disabilities, any incident of misconduct on the bus should be viewed in the same manner as any disciplinary incident in the school. A school cannot revoke transportation services just as a school could not suspend a student with disabilities in excess of 10 days or, in some cases, impose cumulative suspensions exceeding 10 days, without taking a number of prior actions. A school can change the mode or method of providing transportation services if a student with disabilities is endangering himself or others, just as the school can place a student with disabilities in a more restrictive setting if the student becomes dangerous.

For other Questions and Answers from OCR, go to
<http://www.ed.gov/about/offices/list/ocr/504faq.html>

Appendix D

Acronyms and Definitions

The following are commonly used acronyms and definitions used in Section 504.

ADA	Americans with Disabilities Act
ADAAG	Americans with Disabilities Act Accessibility Guidelines
ADD	Attention Deficit Disorder
ADHD	Attention Deficit Hyperactivity Disorder
AG	Annual Goal
AIP	Academic Improvement Plan
AP	Accommodation Plan
AYP	Adequate Yearly Progress
BLST	Building-Level Support Team (i.e. the SAT/Section 504 Team)
CD	Cognitive Delay
CFR	Code of Federal Regulations
CIMP	Continuous Improvement Monitoring Process
DD	Developmental Disabilities
DNR	Do Not Resuscitate
ED	Emotionally Disturbed
ESY	Extended School Year
FAPE	Free Appropriate Public Education
FERPA	Family Educational Rights and Privacy Act
HI	Hearing Impaired
IDEA	Individuals with Disabilities Education Act—Special Education
IEP	Individualized Education Program
IFSP	Individualized Family Service Plan
LEA	Local Education Agency
LRE	Least Restrictive Environment
LD	Learning Disability
NCLB	No Student Left Behind (Act)

OCR	Office for Civil Rights
OHI	Other Health Impaired
OSEP	Office of Special Education Programs
OT	Occupational Therapy
Part B	Special Education for School-Aged Student (IDEA)
Part C	Special Education for Infants and Toddlers Birth to Two Years (IDEA)
PT	Physical Therapy
RtI	Response to Intervention
SAT	Student Assistance Team
SEA	State Education Agency
Section 619	Special Education for Three to Five Year Olds
SLP	Speech-Language Pathology
TTY	A Telecommunication Device for the Deaf (Teletypewriter)
VI	Visually Impaired
504	Section 504 of the Rehabilitation Act of 1973

Definitions

Accommodations—Adaptations made by classroom teacher(s) and other school staff to enable the students to benefit from their educational program. In some cases, a Section 504 plan should be developed outlining accommodations.

ADA Accessibility Guidelines (ADAAG)—Standards used to meet Section 504 accessibility requirements for the design, construction, and alteration of buildings.

Americans With Disabilities Act—1990 (ADA)—A civil rights law that prohibits discrimination against persons with disabilities in the areas of accessibility, employment, public services, public accommodations, transportation, and communication.

Barrier-Free Environment—A school environment that contains no obstacles to accessibility and usability by students and other individuals with disabilities. Barriers can be physical and non-physical.

Consent—Written parent permission before initial evaluation and placement.

Contagious Diseases Protected Under 504—Contagious diseases are those that can be transmitted from person-to-person. Examples are diseases such as AIDS, HIV, and tuberculosis.

Free Appropriate Public Education—Related aids and services that are designed to meet individual educational needs of students with disabilities as adequately as the needs of nondisabled persons are met.

Individuals With Disabilities Education Act, (IDEA)—Federal special education law and regulations.

Major Life Activity—Functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Office for Civil Rights (OCR)—This federal agency has three primary responsibilities: investigating complaints, conducting compliance reviews, and providing technical assistance. The regional OCR office representing New Mexico is located at the U.S. Department of Education, Office of Civil Rights, Region VIII, 1244 Speer Boulevard, Suite 310, Denver, Colorado 80204-3582, (303) 844-5695, TTY (303) 844-3417.

Physical Or Mental Impairment—(1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (2) any mental or physical disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term “physical or mental impairment” includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction, and alcoholism.

Program Accessibility—The school will ensure programs and activities are accessible to and usable by persons with disabilities. In many instances, programs and activities may be made accessible through slight modifications and adjustments in procedures, practices, and policies. In others, building renovation or construction may be required. Structural change is required only where program accessibility cannot be achieved effectively through other means.

Program or Activity—In the context of Section 504, this includes all operations of State and local agencies that receive federal funds. This includes colleges, universities, and/or school districts.

Public Entity—Any school, organization, agency, or office that receives federal funding and is therefore obligated to follow Section 504 requirements.

Public Notice—The school is required to provide public notice and internal notice (i.e., to staff, individuals with disabilities, and students) stating it does not discriminate on the basis of a disability.

Qualified Student—Any student who has been determined through an evaluation to have a physical or mental impairment that substantially limits one or more major life activities and impacts education.

Section 504—The Rehabilitation Act of 1973 that guarantees specific rights in federally funded programs and activities to people who qualify as disabled. Section 504 states, “No otherwise qualified disabled individual in the United States... shall, solely by reason of a 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.”

Section 504 Coordinator—A school employing 15 or more persons must assign a person to coordinate compliance with Section 504 regulations. It is recommended that all districts appoint a Section 504 Coordinator. It is recommended that the same individual serve as the Americans with Disabilities Act Coordinator and be a general educator.

Section 504 Representative—It is recommended that each school appoint a 504 Coordinator to collaborate with the district’s Section 504 Coordinator and coordinate building level 504 activities.

Section 504 Case Manager—This is usually the primary school staff member providing accommodations for a specific student. Common case managers are counselors, school nurses, and general education teachers. The case manager maintains the Section 504 student file.

Self-Evaluation—The Americans with Disabilities Act requires that federal fund recipients evaluate their programs, physical accessibility, and employment practices to determine the extent to which programs and activities require modification to ensure full participation by students with disabilities. These evaluations should be revisited annually by the Section 504 Coordinator. The self-evaluation should not be confused with student evaluation.

Student Assistance Team (SAT)—A group of school staff knowledgeable about the student who work together to study the child’s challenges and develop a SAT Intervention Plan as necessary to help the student succeed in his/her general educational program—a Tier II Intervention. **In most school’s the SAT also functions as the school’s 504 Team.**

Title I—A federal program that provides financial assistance to States and eligible agencies to deliver supplemental services to at-risk students.

Transition Plan—If a school determines that structural modifications are necessary to meet Section 504 or ADA accessibility requirements, the school must develop a plan specifying the steps necessary to complete such changes and the time frame for completion

Appendix E

Comparison of IDEA, 504, and ADA

ISSUES	SECTION 504	INDIVIDUALS WITH DISABILITIES EDUCATION ACT—2004	AMERICANS WITH DISABILITIES ACT
Type	A Civil Rights Law	An Education Act	A Civil Rights Law
Title	The Rehabilitation Act of 1973	The Individuals with Disabilities Education Improvement Act (IDEA) 2004	Americans with Disabilities Act of 1990 (ADA)
Purpose	Is a 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.	Is a federal funding statute whose purpose is to provide financial aid to States in their efforts to ensure a free appropriate public education for students with disabilities.	Provides a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.
Responsibility	General education, but shared with special education	Special education, but shared with general education	Public and private schools, business establishments, and public buildings (services)
Funding	State and local responsibility (no federal funding)	State, local, and federal IDEA funds. IDEA Funds cannot be used to serve students eligible only under Section 504.	Public and private responsibility (no federal funding)
Administrator	Section 504 Coordinator (Systems with 15 or more employees) to coordinate efforts to comply with this law	Special education director or designee	ADA Coordinator is required to coordinate efforts to comply with this law.

ISSUES	SECTION 504	INDIVIDUALS WITH DISABILITIES EDUCATION ACT—2004	AMERICANS WITH DISABILITIES ACT
Service Tool	Accommodations and/or services	Individualized Education Program (IEP). Some IEPs will include accommodations similar to those in a Section 504 plan necessary for success in the regular classroom.	Reasonable accommodations and legal employment practices
Population	Identifies person as disabled so long as she/he meets the definition of qualified persons with disabilities, i.e., has or has had a physical or mental impairment that substantially limits a major life activity, or is regarded as disabled by others.	Identifies 13 qualifying conditions: autism, deafness, deaf-blindness, hearing impairment, mental retardation, multiple disabilities, orthopedic impairment, other health impairment, emotional disturbance, specific learning disability, speech or language impairment, traumatic brain injury, and visual impairment.	Identifies person as disabled so long as she/he meets the definition of a qualified person with disabilities; i.e., has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as disabled by others.
Eligibility	A student is eligible so long as she/he meets the definition of a qualified person with disabilities, i.e., currently has or has had a physical or mental impairment that substantially limits a major life activity or is regarded as disabled by others. The student is not required to need special education services to be protected.	A student is only eligible to receive special education and related services if the multidisciplinary team determines that the student has a disability under one of the 13 qualifying conditions of the IDEA <u>and</u> requires special education services.	A person is eligible so long as she/he meets the definition of a qualified person with disabilities, i.e., currently has or has had a physical or mental impairment that substantially limits a major life activity or is regarded by others as having a disability. The student is not required to need special education services in order to be protected.

ISSUES	SECTION 504	INDIVIDUALS WITH DISABILITIES EDUCATION ACT—2004	AMERICANS WITH DISABILITIES ACT
Free Appropriate Public Education	A student could receive services and/or accommodations through a Section 504 Plan.	A student must first be eligible and need special education before he or she is entitled to a special education and related services. Services are based on the student’s unique needs as provided by an Individualized Education Program (IEP).	Addresses education in terms of accessibility requirements. Requires private and public entities not to use employment practices that discriminate on the basis of a disability.
Accessibility	Federal regulations regarding building and program accessibility require that reasonable accommodations be made.	Requires that modifications must be made if necessary to provide access to a free appropriate public education to an eligible student.	Requires that public programs be accessible to individuals with disabilities.
Undue Hardship	Consideration is given for the size of the program, extent of accommodation, and cost relative to the total school budget. (Employment only).	Budget and administrative convenience is never an excuse.	Consideration is given to the size of the business and its budget, type of operation, and nature and cost of accommodation.
Drug and Alcohol Use	Current drug use is not considered a disability. An individual who has stopped using drugs and/or alcohol and is undergoing rehabilitation <i>might</i> be eligible for accommodations.	Drug and alcohol use is not covered as a qualifying disability under the IDEA.	Current drug use is not considered a disability. Current alcohol abuse that prevents individuals from performing duties of the job or that constitutes a direct threat to property or safety of others is not considered a disability.

ISSUES	SECTION 504	INDIVIDUALS WITH DISABILITIES EDUCATION ACT—2004	AMERICANS WITH DISABILITIES ACT
Contagious Diseases	Individual with disabilities excludes any individual with a contagious disease that renders the individual unable to perform the job.	Possibly eligible under the category of “other health impaired.”	Permits qualification standard requiring that an individual with a currently contagious disease or infection not pose a direct threat to the health or safety of others.
Procedural Safeguards	Both require notice and rights to the parent or guardian with respect to identification, evaluation, programming, and placement.		Makes provisions for public notice, hearings and awarding attorney fees.
Procedural Safeguards, Cont.		Notice provisions are much more comprehensive. Minimum requirements of the notice are specified.	Self-evaluations and transition plans are required and updated annually.
Notice and Consent	Notice is required before a “significant change in placement.” Written consent would be considered a best practice.	Written notice is required prior to any change in placement. Written consent is required before the initial evaluation and reevaluation.	Does not apply to this category.

ISSUES	SECTION 504	INDIVIDUALS WITH DISABILITIES EDUCATION ACT—2004	AMERICANS WITH DISABILITIES ACT
Evaluations	<p>Evaluation draws on information from a variety of sources in the area of concern. Decisions are made by a group knowledgeable about the student, evaluation data, and placement options. Requires written parental notice. Written parental consent is considered a best practice. Requires periodic reevaluations. Reevaluation is required before a significant change in placement. No provision is made for independent evaluations at district expense. The school district should consider other evaluations and information regarding the student.</p>	<p>A full comprehensive evaluation is required assessing all areas related to the suspected disability. The student is evaluated by a multidisciplinary team within 60 days of written parent consent. Requires reevaluations to be conducted at least every three years if determined appropriate by the team.</p> <p>A reevaluation is not required before a significant change in placement, but an IEP meeting is. Provides for a request for an independent educational evaluation.</p>	<p>All schools should conduct or update their Section 504 evaluation regarding services, accessibility, practices, and policies to ensure discrimination is not occurring with any individual with disabilities under the ADA.</p>
Services	<p>When interpreting evaluation data and making service decisions, both laws require districts to do the following:</p> <ul style="list-style-type: none"> • Draw upon information from a variety of sources. • Ensure that all information is documented and considered. • Ensure that the service decision is made by a group of persons including those who are knowledgeable about the student, disability, the meaning of the evaluation data and placement options. • Provide notice and evaluation before any change of services. 		

ISSUES	SECTION 504	INDIVIDUALS WITH DISABILITIES EDUCATION ACT—2004	AMERICANS WITH DISABILITIES ACT
	<ul style="list-style-type: none"> Ensure that the student is educated with his/her nondisabled peers to the maximum extent appropriate (Least Restrictive Environment—LRE). 		
Review of Program	Accommodations should be reviewed periodically.	An IEP review meeting is required at least annually or before any significant change.	
Local Level Grievance Procedures	Requires districts to provide a local grievance procedure for parents, students, and employees.	Does not require a local grievance procedure. Provides for state-level IDEA complaint procedures and due process hearings.	Any school district shall adopt and publish grievance procedures for resolution of ADA complaints.
Formal Complaint Procedures	An individual or organization may file a complaint with the Office for Civil Rights (OCR). An OCR complaint must be filed, in writing, within 180 days after the violation has occurred. In certain cases, OCR will consider complaints where more than 180 days have elapsed.	A formal complaint process is required. Parents can file a complaint with the State. A decision must be provided within 60 days.	An individual or organization may file a complaint with OCR. An OCR complaint must be filed, in writing, within 180 days after the violation has occurred. In certain cases, OCR will consider complaints where more than 180 days have elapsed.
Due Process	Both statutes require districts to provide impartial hearings for parents or guardians who disagree with the identification, evaluation, or placement of student with disabilities. School districts or parents can initiate due process hearings. Requires that the parent have an opportunity to participate and be represented by counsel. Other details are left to the discretion of the local school district or state law. Policy statements should clarify specific details and delineates specific requirements.		Due process hearings can be initiated by either party. The court may allow a reasonable attorney's fee for the prevailing party.

ISSUES	SECTION 504	INDIVIDUALS WITH DISABILITIES EDUCATION ACT—2004	AMERICANS WITH DISABILITIES ACT
Mediation	Not required. However, mediation should always be suggested.	Mediation and resolution sessions are available for the parties in a dispute and are encouraged as a way to resolve a state-level complaint or due process hearing.	Not required. However, mediation should always be suggested.
Exhaustion of Remedies	Administrative hearing is not required prior to OCR involvement or court action.	The parent or guardian should exhaust all available administrative remedies before seeking court action.	An administrative hearing is not required prior to OCR involvement or court action.
Enforcement	Enforced by the U.S. Office of Civil Rights. Regional offices are located throughout the United States. The office is part of the U.S. Department of Education.	Enforced by the U.S. Office of Special Education Programs (OSEP) and the State as the enforcement arm of OSEP.	Enforced by the U.S. Office for Civil Rights under an agreement with EEOC.
Discipline of Students With Disabilities	Requires that a school district evaluate all students with disabilities before making an initial placement or any subsequent, significant change in his or her placement. The proposed exclusion of a student with disabilities that is permanent (expulsion), for an indefinite period, or for more than 10 consecutive school days, constitutes a “significant change in placement.”	Requires that a school district evaluate all students with disabilities before making an initial placement or any subsequent, significant change in his or her placement. The proposed exclusion of a student with disabilities that is permanent (expulsion), for an indefinite period, or for more than 10 consecutive school days, constitutes a “significant change in placement.”	

ISSUES	SECTION 504	INDIVIDUALS WITH DISABILITIES EDUCATION ACT—2004	AMERICANS WITH DISABILITIES ACT
	<p>Before implementing a suspension or expulsion that constitutes a significant change in the student's placement, the school must conduct a reevaluation to determine if the behavior was caused by the disability.</p> <p>If there is no relationship between the disability and the behavior, the school can expel the student. The school is not required to provide services and/or accommodations during the expulsion period.</p>	<p>Before implementing a suspension or expulsion that constitutes a significant change in the student's placement, the school must conduct a manifestation determination reevaluation to determine if the behavior was caused by the disability and develop or revise the behavior intervention plan.</p> <p>If there is no relationship between the disability and the behavior, the school can remove the student, but still needs to provide a free appropriate public education. This means special education services outlined in the IEP.</p>	

Appendix F

Examples of Disabilities And Accommodations

The Section 504 accommodations/services a student receives will be based upon the unique needs identified during the evaluation process. The pages that follow are intended to offer sample accommodations for typical disabilities that may qualify a student to receive a Section 504 Accommodation Plan. Some of the suggested accommodations could be listed in the plan as the parent's or students' responsibility.

Remember, these disabilities are covered by Section 504 only if an evaluation determines that the condition is substantially limiting to a major life activity and impacts education.

ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)
<i>EXAMPLE: The student frequently misses school and does not have the strength to attend a full day. This student has a disability that substantially limits the life activities of caring for one's self and learning.</i>

Possible Accommodations

- Develop a health care and emergency plan.
- Apply universal precautions.
- Administer medications as prescribed.
- Adjust attendance policies.
- Adjust schedule or shorten day.
- Provide rest periods.
- Adapt physical education curriculum.
- Establish routine communication with health professionals, school nurse, and home.
- Meet with doctor, parents, teachers, and administrators.
- Provide two-way audio/video link between home and classroom.

- Arrange for an adult tutor at school or home.
- Modify assignments and tests.
- Provide an extra set of textbooks for home.
- Provide staff training on confidentiality.
- Provide education and support for peers regarding issues of death and dying.
- Provide transportation to and from school.
- Tape books or provide a personal reader.
- Provide a home computer with e-mail.
- Arrange for a support group.
- Provide employment transitions for secondary students.
- Develop supportive community attitudes regarding the school's need to educate student who are HIV positive/AIDS.
- Develop and promote nondiscriminatory classroom climate and supportive student attitudes.
- Promote the most supportive, least restrictive educational program for student with AIDS.
- Initiate a "Kids on the Block" AIDS program to promote understanding.
- Video-tape classroom teacher.
- Provide a peer support group to encourage communication.
- Furnish home and hospital care for extended periods of illness.
- Provide technology at home with a possible link to the school.

ALLERGIES

EXAMPLE: The student has severe allergic reactions to certain pollens and foods. The student is substantially limited in the major life activity of breathing.

Possible Accommodations

- Avoid allergy-causing substances: soap, weeds, pollen, food.
- Inservice necessary persons: dietary people, peers, coaches, laundry for sports people (soap).
- Allow time for shots/clinic appointments.
- Use air purifiers.
- Adapt physical education curriculum during high pollen time.
- Improve room ventilation (e.g. When remodeling has occurred and materials may cause an allergy).

ARTHRITIS

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

Possible Accommodations

- Develop health care plan and emergency plan.
- Provide a rest period during the day.
- Accommodate for absences for doctor's appointments.
- Provide assistive devices for writing (e.g., pencil grips, non-skid surface, typewriter/computer, etc.).
- Modify physical education curriculum.
- Administer medication as prescribed.

- Arrange for assistance with carrying books, lunch tray, etc.
- Provide book caddy.
- Implement movement plan to avoid stiffness.
- Provide seating accommodations.
- Allow extra time between classes.
- Provide locker assistance.
- Provide modified eating utensils.
- Accommodate for writing with a computer and note-taking with a tape recorder.
- Make available access to wheelchair/ramps and school van for transportation.
- Modify recess time.
- Provide peer support groups.
- Arrange for instructional aide support.
- Arrange for someone else to take notes.
- Install handle style doorknobs (openers).
- Record lectures/presentations.
- Have teacher provide outlines of presentation.
- Issue Velcro® fasteners for bags, shoes, and coats.
- Provide a more comfortable style of desk.
- Adjust attendance policy, if needed.
- Furnish a warmer room and sit student close to the heat.
- Modify curriculum for the lab classes.
- Supply an extra set of books for home use and keep a set at school.

- Let student give reports in oral form rather than written.
- Begin an awareness program for other student.
- Monitor any special dietary considerations.
- Provide individual school counseling.
- Make any needed bathroom accommodations.

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

Possible Accommodations

- Develop health care and emergency plan.
- Modify activity level for recess, physical education, etc.
- Use air purifier or inhalants.
- Provide inhalant therapy assistance.
- Administer medication as prescribed.
- Provide homebound instruction.
- Remove allergens—e.g., hairspray, lotions, perfumes, pine trees, carpet.
- Make field trips non-mandatory and supplement with videos, audios, movies, etc.
- Accommodate medical absence; arrange transportation to home/clinic.
- Provide education to peers/teachers/others (bus drivers, cooks, etc.).
- Provide access to water, gum, etc.
- Provide curriculum considerations (science class, physical education, etc.)
- Provide alternatives if individual misses an excessive amount of school.

- Have peers available to carry materials to and from classes (e.g., lunch tray, books).
- Provide rest periods.
- Make school health care needs known to appropriate staff.
- Modify field trip experiences.
- Provide indoor space for before and after school.
- Arrange for access to wheelchair for transition purposes.
- Have a locker location that is centralized and free of atmosphere changes.
- Reimburse parent for transportation costs or provide alternate transportation to and from school.
- Modify attendance policies.
- Modify certain learning activities.

<p>ATTENTION DEFICIT DISORDER (ADD) ATTENTION DEFICIT HYPERACTIVITY DISORDER (ADHD)</p>
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<p><i>EXAMPLE: The student does not meet eligibility requirements under IDEA as emotionally disturbed, learning disabled, or other health impaired. The student is diagnosed as having ADD by a doctor, and the disability limits the major life activity of learning.</i></p>
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Possible Accommodations

- Have student work in a study carrel.
- Adjust student seating.
- Use simple, concise instructions.
- Provide a peer tutor/helper.
- Teach compensatory strategies.
- Administer medication as prescribed.

- Monitor stress and fatigue; adjust activities.
- Modify assignments, as necessary.
- Change instructional pace.
- Provide supervision during transitions, disruptions, and field trips.
- Use study guides, organizing tools.
- Modify testing procedures.
- Provide school counseling.
- Initiate frequent parent communication.
- Establish a school/home behavior management program.
- Provide training for staff and parents.
- Have the student use an organizer—train in organizational skills.
- Establish a visual cue between teacher and student.
- Assign chores/duties around room/school.
- Modify environment to avoid distractions.
- Highlight required or important information/directions.
- Place assignments, directions on tape for auditory learner.
- Provide a checklist for student, parents, and/or teacher to record assignments or completed tasks.
- Use a timer to assist student to focus on given task or number of problems in time allotted—*stress* they need to be done correctly.
- Have student restate or write directions/instructions.
- Allow student to respond in variety of different modes (e.g., may place answers for tests on tape instead of paper.)
- Give student opportunity to stand while working.
- Provide additional supervision to and from school.

- Modify student's work area with barriers.
- Inservice other student and staff about ADD/ADHD.
- Supply treats and rewards to promote behavior change.
- Prescribe physical activity, exercise, etc.
- Determine trigger points and prevent action leading to trigger points.
- Provide a sociometric/sociogram design, such as circle of friends.

CANCER

<p><i>EXAMPLE: The student has been diagnosed with cancer. The condition has become substantially limiting to the major life activities of learning and caring for one's self.</i></p>
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Possible Accommodations

- With the school nurse, develop a health and emergency plan.
- Apply universal precautions.
- Adjust attendance policies.
- Limit number of classes taken; accommodate scheduling (breaks, etc.).
- Send teacher/tutor to hospital, as appropriate.
- Take whatever steps are necessary to accommodate student's involvement in extracurricular activities.
- Adjust activity level and expectations in classes based on physical limitations; do not require activities that are too physically taxing.
- Schedule daily monitoring or distribution of medications, as prescribed.
- Provide appropriate assistive technology.
- Have accommodations available for transportation to and from school and extracurricular activities.
- Provide dietary accommodations.

- Shorten day and/or arrange for home tutoring following treatment.
- Provide additional set of texts and assignments to hospital school.
- Tape lessons.
- Modify schedule to include rest breaks.
- Provide counseling; establish peer support group.
- Adapt physical education.
- Provide access as needed to school health services.
- Provide awareness training to staff and other student about cancer.
- Offer counseling for death and dying.
- Furnish a peer tutor.
- Modify workload.
- Provide a separate bathroom.
- Provide an interactive computer/modem.
- Instigate a free pass system from the classroom.
- Adjust the proficiency requirement.
- Provide individual school counseling.
- If necessary, adjust requirements for graduation.
- Provide teachers with counseling, emphasizing positive attitudes.

CEREBRAL PALSY

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

Possible Accommodations

- Initiate a health care plan.
- Provide assistive technology devices (computer).
- Arrange for use of ramps and elevators.
- Allow for extra time between classes.
- Assist with carrying books, lunch trays, etc.
- Modify physical education curriculum.
- Provide time for physical therapy.
- Monitor medication administration, as prescribed.
- Modify eating utensils.
- Educate peers/staff about cerebral palsy.

DRUGS AND ALCOHOL

EXAMPLE: The student has used drugs and alcohol for many years. This problem has affected the major life activities of learning and caring for one's self. The student is presently not using drugs or alcohol and is in a rehabilitation program.

Possible Accommodations

- Allow student to attend rehabilitation sessions.
- Provide texts and assignments to treatment facility.

- Arrange for periodic home-school contacts.
- Establish daily/weekly journal.
- Communicate with treatment facility.
- Provide/arrange for school counseling.
- Establish peer support group.
- Dismiss from school for treatment without punitive measures.
- Arrange for access to treatment at other locations, as needed.
- Integrate a student assistance program into the classroom.

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

Possible Accommodations

- Train staff and prepare an emergency plan.
- Monitor and/or distribute medications.
- Change seating.
- Provide rest time and academic considerations following seizure.
- Arrange buddy system.
- Avoid using chalkboards.
- Provide an alternative recess.
- Provide clean rooms and avoid rooms with carpet.
- Provide education for peers and staff about epilepsy.
- Plan for academic make-up work so individual can catch up with peers.

OBSITY

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

Possible Accommodations

- Provide special seating modifications.
- Make dietary modifications.
- Adjust meal schedule.
- Adapt physical education program.
- Allow extra time to get to classes.
- Educate peers about eating disorders.
- Adapt restrooms.
- Begin a peer support group.
- Allow more passing time.
- Ensure privacy for self-care.
- Provide school counseling.
- Provide for elevator privileges or other accommodations—for example, individuals in wheelchairs or with other disabilities that prevent them from using stairs.
- Arrange classroom furniture to provide room to negotiate and move around classroom seating.
- Arrange for peer counseling/helping to deal with esteem issues; also peer attitudes, teasing, etc.
- Address busing concerns to ensure room on buses for seating.

- Arrange to provide opportunities for the individual to participate in intramural events.
- Provide proper and safe transportation to and from school.
- Make any class location changes that may be needed.
- Promote out-of-school support.
- Adjust attendance policy.

ORTHOPEDICALLY IMPAIRED

<p><i>EXAMPLE: The student has limited mobility and is confined to a wheelchair. The impairment substantially limits the major life activity of walking and caring for one's self.</i></p>
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Possible Accommodations

- Develop a health care and emergency plan.
- Provide an adaptive physical education program.
- If necessary, provide physical therapy at school.
- Check facilities regarding physical accessibility.
- Provide extra time to get to class.
- Supply a set of textbooks for home.
- Provide a copy of class notes from a peer.
- Practice emergency exit from school building.

CONDUCT DISORDER

EXAMPLE: The student exhibits poor peer interactions, has no friends, violates school rules, and isolates himself from group activities. The condition substantially limits the major life activity of learning.

Possible Accommodations

- Teach cooperative learning strategies within the classroom.
- Work with the family to implement home/school behavior plan.
- Provide school counseling.
- Implement a behavior management plan.
- Furnish a big brother/sister program.
- Provide extracurricular activities that interest the student.
- Monitor case management with human service.
- Pair with peer/tutor or role model.
- Begin social skills instruction.
- Monitor and/or administer needed medications.
- Involve mental health agencies.

STUDENT FORMERLY RECEIVING SPECIAL EDUCATION SERVICES

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

Possible Accommodations

- Network; plan with all staff.
- Maintain ongoing monitoring of progress; notify staff.

- Establish daily/weekly progress reports.
- Allow for academic accommodations in the general education classroom.
- Provide mentoring services at school.
- Consider Title I services.
- Provide after-school tutoring.
- Provide peer tutoring.
- Adjust homework assignments.
- Have student work toward more independent achievement of assignments within a structured environment (build self-esteem).
- Contact previous special education teachers for suggestions.
- Review files of progress reports and see what plans were successful.

STUDENT WITH SPECIAL HEALTH CARE NEEDS

<p><i>EXAMPLE: The student has a special health care problem and requires clean intermittent catheterization twice each day. The impairment substantially limits the major life activity of caring for one's self.</i></p>
--

Possible Accommodations

- Develop health care and emergency plan.
- Apply universal precautions.
- Provide trained personnel to perform special procedures.
- Provide student with private location and time to perform procedures.
- Involve school nurse, parents, teachers, and staff.
- Allow preferential seating.
- Modify recess/PE/transportation.
- Reevaluate/update periodically.

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

TEMPORARILY DISABLED

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

Possible Accommodations

- Provide duplicate sets of texts and tape record lessons.
- Provide assignments to hospital school.
- Provide homebound instruction.
- Schedule periodic home-school meetings.
- Arrange for student to leave class early to get to next class.
- Provide access to elevators.
- Excuse from or adapt physical education program.
- Arrange for a friend to assist student in getting from class to class (support network).
- Provide a cordless telephone/beeper.
- Provide an interactive system—computer, e-mail, TV.
- Provide school counseling—trauma from accident.

- Provide physical therapy as necessary.
- Arrange for a tutor.
- Arrange for peer notes.
- Provide help with getting lunch tray.
- Change seating arrangements to accommodate needs.
- Modify assignments depending on disability.
- Modify completion of assignment.
- Allow more time for test completion.
- Allow shortened days; adjust attendance policy.
- Address special accommodations of a wheelchair.
- Inservice staff and class and prepare an emergency care plan.
- Switch classrooms to main floor.
- Test verbally.
- Provide peer assistance for social involvement (keep student informed of social activities).

TOURETTE SYNDROME
<i>EXAMPLE: The student exhibits inappropriate gestures and sounds in the classroom and hallways. The impairment substantially limits the major life activity of learning.</i>

Possible Accommodations

- Educate other student and staff about Tourette Syndrome.
- Pair with a neighboring student to prevent tardiness or absenteeism.
- Provide student with a means of catching up on missed lessons.
- Pair with a fellow student for study.

- Arrange for frequent parental interaction.
- Administer medication, if necessary.
- Provide supervision for transition activities.
- Modify assignments.
- Provide alternative workspace.
- Cue student for inappropriate behavior.
- Furnish supervision while student is acting out.
- Inservice teachers about different discipline procedures.

TRAUMATIC BRAIN INJURY

<p><i>EXAMPLE: The student sustained a brain injury in an automobile accident. Many academic and motor skills have been lost from the injury. The condition substantially limits the major life activity of learning.</i></p>

Possible Accommodations

- Arrange for a health care and emergency plan.
- Provide extended school year/time.
- Furnish memory/organizational aids.
- Provide alternative testing.
- Initiate tutoring programs.
- Inservice staff and peers about TBI.
- Implement an academic monitoring process.

PARENT WITH HEARING IMPAIRMENT

<i>EXAMPLE: A parent is hearing impaired and requests access to school-sponsored activities.</i>
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Possible Accommodations

- Provide an interpreter for all school events of expected participation.
- Make arrangements for home-school contacts/communication.
- Assist with locating peer or support groups.
- Use written notes for communication.
- Provide information on assistive technology.

Appendix G

Examples of Section 504 Discrimination

The following are some examples of how school districts can discriminate against individuals with disabilities:

- A student with a disability is denied recognition on the honor roll because one of his or her classes is in the special education resource room.
- A student is expelled from school for misbehavior that is related to his/her disability.
- The school refuses to provide bus transportation that is as short in duration (within reason) as provided to students without disabilities.
- The school refuses to allow a student with a disability the opportunity to audition for athletic teams, cheerleading, or other extracurricular activities.
- The school denies course credit to a student whose absenteeism is the result of a disability.
- The school refuses to dispense medication to a student who needs it to benefit and have access to his or her education.
- The high school counselor fails to provide information about the special provisions of College Board examinations to students with disabilities.
- The school refuses to provide a modified adaptive physical education program for a student who is obese and cannot participate in regular physical education.
- The school does not provide an interpreter for a parent who is deaf to attend a school meeting regarding his/her student.
- Student with disabilities are denied access to extracurricular activities.

Appendix H

Summary of Section 504 Regulations Subparts

Subpart A: General Provisions

This part of the regulations outlines the nondiscriminatory responsibilities of schools that receive federal funds or are a public entity. No person, on the basis of a disability, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program that benefits from federal funding or is a public entity.

Subpart B: Employment Practices

No qualified person shall, on the basis of his/her disability, be subjected to discrimination in employment by any program or activity that receives federal funds or is a public entity.

The school must make reasonable accommodations for qualified applicants or employees with known physical and mental impairments unless the accommodation would impose an undue hardship on the operation of the school's program. Examples of reasonable accommodations would include: making facilities accessible to and usable by persons with disabilities, job restructuring, part-time or modified work schedules, and acquisition or modification of equipment or devices.

The regulations mention the following factors to consider in determination of "undue hardship." The school district can claim undue hardship in the area of employment.

1. The overall size of the school's program with respect to the number of employees, number and type of facilities, and size of budget
2. The type of the school's operation, including the composition and structure of its workforce
3. The nature and cost of the accommodation needed
4. The burden of proof is always on the school.

Undue hardship cannot be used in relation to providing eligible student with a free appropriate public education. Like special education (IDEA), lack of funds cannot be used as an excuse for not providing services.

Subpart C: Program Accessibility

No individual with a disability shall be denied the benefits of, be excluded from participation in, or be otherwise subjected to discrimination under any program or activity because facilities are inaccessible or unusable. Building and program accessibility is applicable to any individual with disabilities accessing any activities or programs in that school building.

The regulation contains two standards to be used in determining whether programs and activities are accessible to individuals with disabilities. One standard deals with

“existing” facilities; the other deals with “new” construction. The term “existing facility” means the facility was in existence or in the process of construction before June 3, 1977, the effective date of the regulation. The term “new construction” means the ground breaking took place on or after the effective date of the regulation. Existing facility under ADA was January 26, 1992.

Leased facilities (mobile units) that are leased or constructed with federal funds are required to meet the standards of new construction. Other leased units are required to meet the standards of existing facilities.

The standard for a facility existing before June 3, 1977, for 504, or January 26, 1992, for ADA, requires that federally assisted programs or activities operated in that facility must, when viewed in their entirety, be readily accessible. **This standard does not require that every facility or part be accessible, so long as the program or activity as a whole is accessible.** Thus, recipients need not make structural changes to facilities that existed before June 3, 1977, for 504 or before January 26, 1992, for ADA where other alternative methods are effective in making programs and activities accessible so long as priority consideration is given to offering the services in the most integrated setting appropriate.

One example of an alternative method in a school would be the relocation of classes, activities, or services to an accessible site. Facility alteration or new construction is required to achieve program accessibility only if sufficient relocation of classes, activities, or services cannot be housed in an existing facility. In meeting the objective of program accessibility, the school must take precautions not to isolate or concentrate students with disabilities in settings away from students without disabilities.

The regulation requires that all new construction begun after June 3, 1977, for 504 or January 26, 1992, for ADA, as well as alterations to existing facilities, must be designed and constructed so as to make facilities accessible and usable by individuals with disabilities.

Subpart D: Requirements For Preschool, Elementary, Middle Level/Junior High, And Secondary Education

Preschool, elementary, middle level/junior high, and secondary programs must take into account the needs of qualified persons with disabilities in determining the aid, benefits, or services to be provided under these programs or activities.

The school must provide a free appropriate public education to students with disabilities in its jurisdiction who are eligible under Section 504. Instruction must be individually designed to meet the needs of those students as adequately as the needs of students without disabilities. **This standard of what is “appropriate” differs from the IDEA “appropriate” standard, which requires the school to design a program reasonably calculated to confer educational benefit. An appropriate education under Section 504 requires that the services be effective and equal.**

Although Section 504 does not require schools to develop an Individual Education Program with annual goals and objectives, it is required that the school provide written documentation for each student eligible under Section 504. If the Student Assistance Team suspects a need for accommodation, a referral should be made, evaluations conducted, and possible eligibility determined by a team knowledgeable about the student. If the student is eligible, the team might develop a Section 504 Accommodation Plan.

The quality of educational services provided to students with disabilities must be equivalent to the services provided to students without disabilities. Teachers, administrators, staff, and parents should receive ongoing training in the instruction of individuals with disabilities and be knowledgeable about the disability, appropriate materials, and equipment. The Section 504 coordinator will be responsible to develop and implement staff and parent training.

Responsibility

It must be emphasized that Section 504 falls under the *management of general education*. The figure on the next page illustrates some obligations of general education under Section 504 and their relationship with school personnel roles. The school staff and parents should collaborate to help guarantee that students are provided with necessary accommodations. A student who is found to have a disability under Section 504 should be served by the resources provided through general education. The exception to this standard is a student who has been determined eligible as having a disability under the Individuals with Disabilities Education Act (IDEA). Such a student could receive special education services under IDEA and accommodations required under Section 504. Many schools will include the Section 504 accommodations on the IEP, rather than developing two separate documents.

504 RESPONSIBILITIES

Student and Parent

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

School Principals, Certified, and Classified Staff

- Conduct nondiscriminatory practices in classrooms.
- Refer/identify/evaluate students, as appropriate.
- Encourage parent involvement.
- Develop and implement program modifications and accommodations.

504 Coordinator*

- Coordinate Section 504 process.
- Provide staff and parent training.
- Manage Section 504 grievance procedures.
- Help conduct the self-evaluation.

Superintendent

- Designate 504 Coordinator.
- Provide annual notice to parents/students.
- Provide continuing notice to students/employees.

School Board

- Establish policies of nondiscrimination.
- Develop grievance procedures.
- Develop hearing procedures.

***Parents and school personnel must be notified of the name, address, and telephone # of the 504 coordinator.**

—Best Practice—

Every attempt should be made to resolve any differences between the school and parents before a complaint is filed or the Office for Civil Rights is contacted. Mediation is an excellent technique to resolve differences, but both parties must agree to mediation, and the district must agree to the costs.

In summary, it is important to keep in mind that some students who have physical or mental impairments that substantially limit their ability to participate in the education program are entitled to accommodations under Section 504 even though they may not fall into special education categories and be covered by the special education law. **It is also important to remember that Section 504 is a management responsibility of general education.**

Subpart E: Postsecondary Education

Listed below are some responsibilities of postsecondary programs:

Admissions

- An individual with a disability cannot be denied admission to a program solely on the basis of his/her disability. Recruitment efforts by a postsecondary school must avoid any discrimination against individuals who have a disability.
- A test cannot be used that discriminates against an individual with disabilities. All tests should be validated and normed for the population to which it is given and for the purpose it is intended.
- The school must provide internal and external public notice stating the program does not discriminate on the basis of a disability.

Treatment of students

- No qualified student with a disability can be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination in any academic, research, occupational training, housing, health insurance,

- counseling, financial aid, physical education, athletics, recreation, transportation, other extracurricular, or other postsecondary education program or activity.
- A postsecondary program may not exclude any qualified student from any course of study or other part of its education program on the basis of a disability.

Academic adjustments

- Adjustments to academic requirements may be necessary to ensure that such requirements do not discriminate on the basis of disability.
- Modifications may include changes in the length of time permitted for the completion of a degree, substitution of specific courses required for the completion of the degree, and accommodations in the manner in which specific courses are conducted.
- Academic adjustments could include tape recorders in classrooms, guide dogs or service dogs in campus buildings, and special arrangements for administering examinations.
- Auxiliary aids could include taped texts, interpreters or other effective methods of making orally delivered materials available to students with hearing impairments, readers in libraries for students with visual impairments, classroom equipment adapted for use by students with manual impairments, and other similar services and actions.
- The school should provide comparable, convenient, and accessible housing to individuals with disabilities at the same cost as to others.

Financial and employment assistance

- In providing financial assistance to qualified individuals with disabilities, a school may not provide less assistance than is provided to nondisabled persons, limit eligibility for assistance, or otherwise discriminate.
- A school that assists any agency, organization, or person in providing employment opportunities to any of its students shall ensure that such employment opportunities are made available to all students.

Nonacademic services

- A school that offers physical education courses or that operates or sponsors intercollegiate, club, or intramural athletics should provide an equal opportunity to participate in these activities to a qualified individual with a disability.
- A school that provides personal, academic, or vocational counseling, guidance, or placement services to students should make these services available to individuals with disabilities.
- A school that provides assistance to fraternities, sororities, or similar organizations should ensure that the membership practices of such organizations do not permit discrimination.

Appendix I

Web Links

The Access Center

<http://www.k8accesscenter.org/default.asp>

The Access Center is a national technical assistance center funded by the U.S. Department of Education's Office of Special Education Programs. It contains information on research-based programs, practices, and tools. It includes a list of links related to access, content-area resources, federal resources, and general information on disabilities.

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

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

OCR Reports and Resources

<http://www.ed.gov/about/offices/list/ocr/publications.html#Section504>

Frequently Asked Questions about Section 504 and the Education of Student with Disabilities: Clarifies the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, in the area of elementary and secondary education.

New Mexico Public Education Department

<http://www.ped.state.nm.us>

Student Assistance Team (SAT) Manual

Click on link for *Parents/Students* on right side of home page.

Understanding the Differences Between IDEA and Section 504

http://www.ldonline.org/ld_indepth/legal_legislative/edlaw504.html

Article at LD Online: "Understanding the Differences Between IDEA and Section 504," *Teaching Exceptional Children* Vol. 34, No. 3, Copyright 2002 by the Council for Exceptional Children. Reprinted with permission.

Council of Educators for Students with Disabilities, Inc.

<http://www.504idea.org/504resources.html>

Website has Section 504 and IDEA training and resource information for educators, including downloadable presentations and useful materials.



LRP Publications

Section 504 Compliance Advisor (Monthly Newsletter)

<http://www.lrpdartnell.com/cgi-bin/SoftCart.exe/scstore/p-300065.html?L+scstore+tvpo6553+1089245737>

Each monthly issue of Section 504 Compliance Advisor explains the law's requirements and helps you understand Section 504. You examine real cases and learn how these cases affect your policies and programs. Learn how to handle complaints, from the letter of notification to OCR investigations and resolutions. Plus, you receive detailed tips and guidance on disciplining students under Section 504. And you get advice from your colleagues on how to solve the problems you face today.



LRP Publications

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LRP Publications For Sale

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72 Quick Tips to Boost Your Special Education IQ

Determining Section 504 Eligibility: A Guide for Successful Staff Training

Differences Between IDEA and Section 504

Discipline and the Section 504 Student: Your Quick-Reference Guide to Best Practices

The Dos and Don'ts of Section 504: Step-by-Step Training to Ensure Compliance

Homebound Services under the IDEA and Section 504: An Overview of Legal Issues

Identify, Locate and Evaluate: Student Find under the IDEA and Section 504

Making Section 504 Eligibility Determinations

Section 504 and Physical Disabilities: Best Practices in Accommodating Students

Section 504 Compliance Advisor (504CA)

Section 504 Compliance: Issues, Analysis & Cases

The Section 504 Guide to a Successful School-Level Program

Section 504, the ADA and the Schools - 2nd Edition

Section 504 Retaliation Claims: A Legal Overview

The Section 504 Trainer's Manual

Section 504 Individual Accommodation Plan Writer Software 2.0

Section 504 Individual Accommodation Plan Writer Software 2.0 & Section 504, the ADA and the Schools—Second Edition Combo

Section 504 of the Rehabilitation Act of 1973: An Overview - Tape Two

Special Education Law Training Series - Ten Video Set

Staff Training Tips: Focusing on Section 504

Student Discipline and Section 504 Compliance: Striking the Balance

The Top Section 504 Errors: Expert Guidance to Avoid 25 Common Compliance Mistakes

What Do I Do When... The Answer Book on Placement under the IDEA and Section 504

What Do I Do When... The Answer Book on Section 504

Who's Eligible for Section 504? A Quick-Reference Guide for Proper Placement