

Section 504

Administrative Guidelines and Forms



Revised Spring 2018

SECTION 504

Administrative Guidelines, Procedures and Forms

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Introduction

Section 504 of the Rehabilitation Act of 1973, 29 USC 794, (sometimes referred to as “504”) prohibits discrimination against individuals with disabilities solely on the basis of their disability. The purpose of this manual is to inform School employees and parents about Section 504 and the School’s procedures to comply with the requirements for Section 504 as it relates to providing services to students. Note: A separate grievance procedure is set forth in the School’s Non-Discrimination Policy for matters which do not relate to the education of students, but rather some other discriminatory action or violation of Section 504 or the ADA. This manual reflects the School’s commitment to serve ALL children. The School expects employees to be knowledgeable about School procedures governing Section 504 activities, grievance procedures for resolving Section 504 complaints, and parent and student rights. If you have Section 504 questions, please contact the School District Section 504 Compliance Officer or School 504 Compliance Officer.

This manual was revised 2018 to reflect the changes to the regulations. **Regulatory revisions 2016 will be highlighted throughout this manual in RED text.**

The Lapeer County Intermediate School District Section 504/ADA Compliance Officer is:

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These administrative guidelines and supporting forms are written in accordance with LCISD policy and guidelines provided by Neola and pertaining to Section 504 students, including:

Policy #5605
Policy #2260.01

Local Districts wishing to utilize this document should consult their Board Policy and Guidelines

This document and related forms may be accessed electronically by visiting the website:
www.lcisd.k12.mi.us

Section 504 Background Information

What is Section 504?

Section 504 of the Rehabilitation Act of 1973, 29 USC 794, as amended by the ADA Amendments Act of 2008 (hereinafter "Section 504"), is Congress' directive to schools receiving any Federal funding to eliminate discrimination based on disability from all aspects of their school operations. It states: "No otherwise qualified individual with a disability shall solely by reason of his/her 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." Since the School District is a recipient of Federal dollars, its administrators and staff are required to provide eligible disabled students with equal access (both physical and academic) to services, programs, and activities offered by its schools. Section 504 is a civil rights statute and not a special education statute.

Does Section 504 differ from the ADA?

Section 504 protects students from discrimination on the basis of disability to the same extent as the Americans with Disabilities Act (ADA). This manual uses only the term "Section 504," but the School acknowledges that qualified students with disabilities have the same rights under the ADA as under Section 504.

How does Section 504 differ from IDEA?

A student who qualifies for special education services under the Individuals with Disabilities Education Act (IDEA), 20 USC 1400, is a qualified disabled student under Section 504. The converse, however, is not true: a qualified disabled student under Section 504 is not necessarily eligible for services under the IDEA. In other words, some disabled students may qualify for accommodations under Section 504 that do not qualify for special education services under IDEA. If a student is determined eligible under Section 504, they are entitled to receive a free appropriate public education (F.A.P.E.), which typically is provided by a 504 accommodation plan. Any necessary accommodations/modifications/interventions must be delineated in a Section 504 Plan.

Any questions regarding IDEA should be directed to the Special Education Department.

Identifying Students for Section 504 Eligibility

What criteria are used to determine 504 eligibility?

A student qualifies for Section 504 protection if s/he is determined to be an individual with a disability as defined by the statute. Specifically, the student must have a physical or mental impairment that substantially limits one or more major life activities, or have a record of such an impairment, or be regarded as having such an impairment. Only those students with an actual impairment, however, are entitled to accommodations/modifications/interventions pursuant to Section 504. Those students with a record of an impairment or who are regarded as having an impairment are entitled to protection from discrimination based upon disability (j)(2)(iii).

The definition of disability in Section 504 and the ADA should be interpreted to allow for BROAD coverage. The determination of whether an individual has a disability should not demand extensive analysis 42 U.S.C. § 12102.

An impairment need not prevent or severely or significantly restrict a major life activity to be considered substantially limiting.

Physical or Mental impairment 34 C.F.R. §104.3(j)(2)(i):

_____ 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, genitor-urinary; hemic and lymphatic; skin; and endocrine; or

_____ Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities.

_____ An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active (42 U.S.C. § 12102(4)(D)). Examples include cancer, epilepsy, depression, and other conditions where the student may experience periods of remission.

The list above is not exhaustive and does not include all diseases and conditions that may be considered a physical or mental impairment.

Substantially limits 34 C.F.R. §104.3(j)(1):

Section 504 does not specifically define the term “substantially limits.” The basis for evaluating this criterion is the impact the impairment has on one or more of a student’s major life activities. It is vital to understand that for a student to qualify for Section 504, the impairment must impose, to a “considerable” or “large degree,” a limitation to one or more major life activities. The 504 Team will consider the nature and severity of the disability as well as how long the disability is expected to last. Simply having a condition or impairment does not automatically qualify a student for Section 504 protection. Instead, the condition must restrict the individual in the conditions, manner or duration under which they can perform the activity as compared to most people. “Substantially limits” does not mean severe restriction or inability in performing major life activity.

The 504 Team may not consider the ameliorative effects of any mitigating measures taken to overcome the impairment, except corrective eyeglasses and contact lenses. The team cannot take into account the effects of mitigating measures used by the individual. For example, districts are to examine a student’s ability to hear without use of a hearing aid, a student’s ability to concentrate without regard to medications taken to increase attention, a student with a mental illness without regard to medications used to manage the impairment, or a student with a respiratory impairment without regard to the use of oxygen therapy, when determining whether each student has a disability under Section 504. Assistive Technology, reasonable accommodations or auxiliary aids or services, learned behavioral or adaptive neurological modifications, prosthetics, and other types of “mitigating measures” are also not to be considered. The only exception: ordinary eyeglasses or contact lenses (Amendments Act § 4(a) (codified as amended at 42 U.S.C. § 12102)).

Major life activities

Determining whether the impairment substantially limits a student’s learning is often critical to the Section 504 eligibility decision, however major life activities include activities other than learning.

Therefore, a student may be achieving academically and still have a qualifying disability if the physical or mental impairment substantially limits another major life activity. For example, a student with asthma may be achieving academically, but still qualify for 504 services due to a substantial limitation in breathing.

Major Life Activities include, but are not limited to (meaning this is not an exhaustive list), the following, as amended by the ADA Amendments Act of 2008:

Major life activities include certain acts a person does (such as hearing, speaking, lifting) and a person's bodily functions (such as a traumatic brain injury that affects the function of the brain).

Major Life Activities

General:	Major Bodily Functions:
<input type="checkbox"/> Caring for oneself	<input type="checkbox"/> Functions of the immune system
<input type="checkbox"/> Performing Manual Tasks	<input type="checkbox"/> Normal Cell Growth
<input type="checkbox"/> Walking	<input type="checkbox"/> Digestive
<input type="checkbox"/> Seeing	<input type="checkbox"/> Bowel Functions
<input type="checkbox"/> Hearing	<input type="checkbox"/> Bladder
<input type="checkbox"/> Lifting	<input type="checkbox"/> Brain
<input type="checkbox"/> Bending	<input type="checkbox"/> Circulatory
<input type="checkbox"/> Reading	<input type="checkbox"/> Endocrine (ex. Thyroid, pituitary, and pancreas)
<input type="checkbox"/> Concentrating	<input type="checkbox"/> Reproductive
<input type="checkbox"/> Breathing	<input type="checkbox"/> Neurological
<input type="checkbox"/> Working	<input type="checkbox"/> Respiratory
<input type="checkbox"/> Eating	
<input type="checkbox"/> Sleeping	
<input type="checkbox"/> Standing	
<input type="checkbox"/> Communicating	
<input type="checkbox"/> Thinking	
<input type="checkbox"/> Speaking	
<input type="checkbox"/> Learning	

A student may still have a physical or mental impairment that substantially limits a major life activity even if the activity is not listed above.

Regarded as having a disability

A student can meet the definition of an individual with a disability by being regarded as a person with disability (treated by others as having a disability). In these circumstances, the student is not entitled to receive aids and services, but is protected from disability-based discrimination under Section 504's general discrimination requirements.

If the physical or mental impairment is transitory (having an actual or expected duration of 6 months or less) and minor, that person is not regarded as a person with a disability even if others treat them as if they have a disability.

Section 504 does not prohibit schools from going beyond what the law requires to assist students with a transitory and minor disability. For example, a student with a broken leg can take the bus or use faculty only elevators.

How is a Section 504 evaluation request made?

Any parent or guardian, teacher, counselor or other school staff member who believes that a student needs support(s) or accommodation(s) for a qualifying disability can request a Section 504 evaluation. Please advise the person wanting an evaluation to use the Section 504 Evaluation Referral Form and forward it to the 504 Building Compliance Officer (school principal or his/her designee).

- Districts have an affirmative duty to individually evaluate any student who, because of a disability, needs or is believed to need related services.
- The district must evaluate the student before his/her initial 504 Services begin. THE PARENT MUST CONSENT TO THE INITIAL EVALUATION.

What is the process for reviewing Section 504 eligibility?

When a 504 evaluation referral is received, the principal of the school (or Building 504 Compliance Officer) will forward the referral to the Section 504 team. The team will determine if a 504 evaluation will be conducted and document the decision on the bottom of the Section 504 Evaluation Referral Form. A decision to not conduct a 504 evaluation will occur only where the school district does not have reason to suspect that the student has a disability. In such a case, the parent must be provided notice of the decision not to evaluate, provided notice of their procedural safeguards, and has a right to challenge the determination through due process. If an evaluation will be conducted, the 504 Team will make an evaluation recommendation.

What is the purpose of the evaluation?

- To determine is the student a qualified student with a disability under Section 504/Title II?
If so,
- What are the student's individual education needs?

The 504 Team must investigate the specific concern that triggered the student review request. The team must draw upon a variety of information. The information that might be considered includes (but is not limited to) grades, attendance reports, behavior plans, review requests, cumulative file information, psychological evaluations, medical information, observations, standardized testing such as aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. The 504 Team may administer and use other formal and informal measures as necessary. Parental consent is required for initial evaluations under Section 504. The team must ensure that information obtained from all sources is documented and carefully considered. A psychologist may need to assist in the evaluation.

What is the Evaluation and Placement Process?

Evaluation tests and materials must be:

- Validated for the specific purpose for which they are being used;
- Appropriately administered by trained personnel;
- Tailored to assess specific areas of educational need; and
- Are selected and administered to best ensure that the test results accurately reflect the factors the test purports to measure.

Interpretations of the evaluation data and placement decisions should rely upon information from a variety of sources, including:

- Aptitude and achievement tests;
- Teacher recommendations;
- Physical condition;
- Social or cultural background; and
- Adaptive behavior

Timeline for evaluations

Section 504 does not provide a specific amount of time for school districts to complete an evaluation, but does look to the IDEA timeline (or State timeline if different) when determining reasonableness. In Michigan, the timeline for an initial evaluation from receipt of parent consent is 30 school days.

Before making a placement determination, the placement team must (See FAQ question 19):

- Carefully consider evaluation information from a variety of sources (see above);
- Document all of the information carefully considered;
- Not rely on assumptions regarding persons with disabilities or classes of such persons;
- **Consider all major life activities, not just learning.**

Rather than considering how an impairment affects a student's ability to learn, the 504 team must consider how an impairment affects any major life activity. Then determine what is needed to full participate (equal opportunity) in school.

The 504 Team must include individuals knowledgeable about the student, the meaning of the evaluation data, and the placement options. This team can include the parent/guardian of the student, teachers, counselors and other school staff members, and staff members of community agencies. The parent/guardian should be included in this process whenever possible. The parent/guardian must be provided with a meaningful opportunity to provide input. The team's task is to determine eligibility based on the Section 504 definition of disability (i.e., does the student have a mental or physical impairment that substantially limits one or more major life activities). If the team determines that the impairment substantially limits one or more major life activities, the team will create a Section 504 Plan for the student that provides the student with a free appropriate public education (FAPE), which is defined as regular or special education and related aids and services designed to meet the student's individual educational needs as adequately as the needs of students without disabilities are met. This is generally done through a 504 accommodation plan, but may include more than just "accommodations." However, not all students eligible under Section 504 will need a 504 Plan.

If the 504 Team determines the student is eligible under Section 504, the Team is responsible for notifying the parent of the determination of eligibility and placement/services, and providing notice and procedural safeguards.

In the event that the 504 Team determines that the student is not eligible to receive a 504 Plan, the 504 Team is responsible for notifying the parent by providing the Section 504 Eligibility

Determination Report, Prior Written Notice and Section 504 Procedural Information and Rights. A parent may contest the determination through due process.

A student may have a disability and eligible for 504 services, including modifications, even if the student earns good grades
OCR, Questions and Answers on the ADA Amendments Act of 2008 (Jan 9, 2012)

Here are some of the common misuses of the 504 evaluation process:

- A parent and/or doctor presents the school with a diagnosis of an impairment, and a 504 Plan is written without first determining if the impairment causes substantial limitation of a major life activity.
- A student is placed on a 504 Plan solely to satisfy a highly competitive parent who wants specific accommodations to help his or her child receive higher grades or test scores on standardized tests, such as the SAT.
- A student fails to qualify for special education services under IDEA, and a 504 Plan is automatically written without first qualifying him or her based on Section 504 criteria.

Design and Implementation of a 504 Plan

Where will accommodations be provided for students and what are some examples of possible accommodations?

Section 504 requires that a student with a disability be educated and participate in nonacademic services with non-disabled students to the maximum extent appropriate. As with IDEA, this is considered educating the student in the least restrictive environment. Therefore, implementation of most Section 504 plans occurs within the regular classroom. Accommodations generally are those adjustments to things like seating arrangement, lesson presentation, assignments, and other facets of the learning experience that provide the student with equal access to learning opportunities. An example could be moving the student to a position in the room that best supports his or her ability to attend to schoolwork. Accommodations might involve the use of special visual aids, large print, or using video recordings. Allowing a student additional time to complete a specific kind of task is also an accommodation. Countless accommodations exist that can support a student's equal access to educational opportunities. The bottom line, however, is that the student must be provided a FAPE, which may include regular or special education or other services and supports. It is the job of the 504 Team to identify those accommodations and supports that support the needs of a 504 eligible student and provide the student with a FAPE. Once these supports have been identified, the 504 Team will identify the placement in which the student will receive these services. The 504 Team may also contact the school 504 Building or District Coordinator for assistance with the accommodation process.

Is an individual Health Plan enough for a student with a peanut allergy? (FAQ Q. 13)

Not necessarily. Continuing with a health plan may not be sufficient if the student needs or is believed to need special education or related services because of his or her disability. The critical question is whether the school district's actions meet the evaluation, placement, and procedural safeguard requirements of the FAPE provisions described in the Section 504 regulation. The effect of the epi-pen or other mitigating measures cannot be considered when determining eligibility. The school district must determine whether the peanut allergy would be substantially limiting the major life activities of breathing and respiratory function.

How are 504 accommodations and related services documented and reviewed?

If the 504 Team determines that a student has a qualifying disability, the team's second responsibility is to identify what is necessary for the student to receive a FAPE, i.e., the regular or special education and related aids and services designed to meet the student's individual educational needs as adequately as the needs of non-disabled students are met. Documentation of the plan's detail is in the Section 504 Student Accommodation Plan. This Plan provides a summary of accommodations that a student needs, the student's placement, as well as the aids, services or modifications necessary for the student to receive a FAPE. The original 504 Plan document will be kept in the student's cumulative file. Also, the 504 Compliance Officer is responsible for sending a copy of the student's 504 Plan to the parent (along with notice of procedural safeguards) and to the District 504 Compliance Officer. Parental consent is required for initial placement under Section 504. The initial placement and 504 Plan is then implemented following receipt from the parent of consent to the plan/placement.

The 504 Compliance Officer is responsible for updating the school student data system to reflect the student's Section 504 eligibility. **The 504 Compliance Officer is responsible for providing copies of the 504 plan to all current teachers following the creation of the plan, and to all teachers new to the student (i.e. start of a new semester, new school year).**

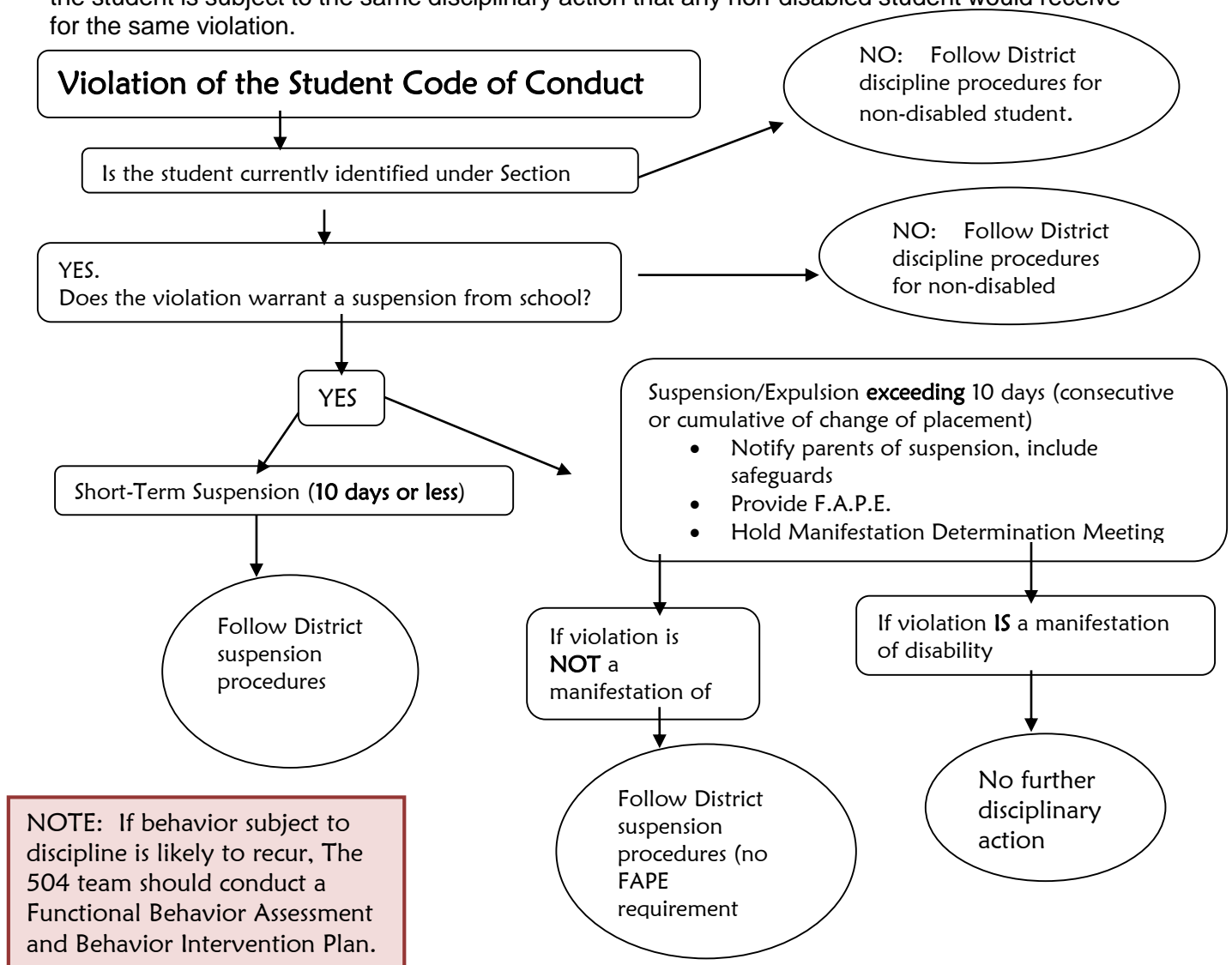
A 504 Team should review the Section 504 Student Accommodation Plan whenever a student moves to another school or it appears that changes to the 504 Plan are needed. It is suggested that the plan be reviewed at least annually. The purpose of a review is to add, subtract and/or modify student accommodations or other services or aids as needed. In addition, a reevaluation is required before a significant change in placement. School districts should identify when plans will be reviewed (annually, bi-annually, monthly...)

A local procedure document is located in the Appendix for districts to specify and post.

Disciplining a 504 Disabled Student

What is the discipline process for a 504 disabled student?

Long term suspension (more than 10 consecutive days, or more than 10 cumulative days in a school year which result in a pattern of exclusion) or expulsion of a student constitutes a significant change in placement. As such, a reevaluation is required before a Section 504 student is long term suspended or expelled. This reevaluation requirement is fulfilled by completing a manifestation determination. Section 504 students are subject to the same disciplinary action as a non-disabled student, provided that the student's behavior is not a manifestation of his or her qualifying disability. A 504 Team must conduct a manifestation determination whenever a student is subject to out of school suspension for 10 consecutive school days or more, or a series of shorter suspensions that total more than 10 days that create a pattern of exclusions constituting a significant change in placement. If the 504 Team concludes that the violation is a manifestation of the student's qualifying disability, the discipline process must end and the 504 Team should review the 504 Plan to determine if changes are appropriate. If the violation is not a manifestation, the student is subject to the same disciplinary action that any non-disabled student would receive for the same violation.



If the 504 Team determines that the behavior is not a manifestation of the disability, the School may impose whatever long term suspension or expulsion it would impose under the same

circumstances if a non-disabled student were the offender. The School has no obligation to continue to provide educational services to a 504 student during the period of a long term suspension or expulsion.

Must a school make a manifestation determination when considering the long-term suspension or expulsion of a student with a Section 504 Plan?

Generally, yes. While the regulations implementing Section 504 do not specifically discuss a “manifestation determination,” they do require that a school complete an evaluation prior to imposing a “significant change in placement.” Long term suspension or expulsion is considered a significant change in placement. To fulfill the evaluation requirements and to ensure that students are not disciplined because they have a disability, schools perform a “manifestation determination.” Similar to suspension or expulsion of a student having a disability under IDEA, a school must conduct a manifestation determination for a Section 504 student whenever the discipline will result in a significant change in placement. A “significant change in placement” occurs when:

- The suspension or expulsion will be for more than 10 consecutive school days. Like IDEA, a suspension/expulsion of more than 10 consecutive days constitutes a significant change in placement and requires schools to determine if the cause of the behavior is the disability identified in the student’s 504 Plan.
- A series of suspensions that total more than 10 cumulative days in a school year may also trigger the manifestation determination requirement of Section 504. If cumulative suspensions/expulsions for a student on a 504 Plan total more than 10 school days, it must be determined if a significant change in placement has occurred. This is done on a case by case basis. If a group of short suspensions creates a pattern of exclusion, then this constitutes a change in placement and the school must conduct a manifestation determination meeting before further suspensions or expulsions occur. The Office of Civil Rights has identified some of the key factors in determining patterns of exclusion: the length of each suspension, the proximity of one suspension to another, the nature of the behavior, and the total amount of time the student is excluded from school.

Who makes the manifestation determination for a student on a 504 Plan and what information is included in this process?

The manifestation determination should be made by a 504 Team that consists of persons who are knowledgeable about the student, the meaning of the evaluation data, and the placement options. The parent/guardian must be given a meaningful opportunity to provide input. When possible, the members of the 504 Team should be the same members who designed the student’s 504 Plan. School officials responsible for school disciplinary procedures, such as the school principal or assistant superintendent, cannot make the determination alone. However, such administrators may be members of the 504 Team and may present pertinent student information to the 504 Team.

The 504 Team must have available information that competent professionals would require when making a manifestation determination. Such information might include information about the misconduct, attendance and academic records, psychological evaluation data, behavior plans, discipline records, the student’s 504 Plan, information from the parents and staff observations. The information should be current enough to afford an understanding of the behavior that is the subject of the manifestation determination.

After reviewing the relevant information, the 504 Team will next consider if the behavior is the result of the student's disability. This inquiry is resolved by considering the relationship between the student's disability and his or her behavior:

- Was the conduct caused by, or have a direct and substantial relationship to the student's disability?
- Was the conduct the result of the school district's failure to implement the 504 Plan?

If the 504 Team answers either question in the affirmative, then the behavior is a manifestation of the student's disability and no disciplinary action can be taken past the 10 days. It is recommended, however, that the 504 Team review the student's current educational placement to determine whether the student is receiving an appropriate instructional program and related aids and services and whether behavioral intervention strategies should be implemented for the student. In addition, subject to procedural safeguards, changes in the student's placement may be made, if appropriate.

If the 504 Team determines that the behavior is not a manifestation of the disability, the School may impose whatever long term suspension or expulsion it would impose under the same circumstances if a non-disabled student were the offender. The School has no obligation to continue to provide educational services to a 504 student during the period of a long term suspension or expulsion.

The 504 Team must conclude its work by completing a Section 504 Manifestation Determination form, and the parent/guardian must be given notice of the results of the manifestation determination and the procedural safeguards available to challenge them.

How does a school proceed with drug/alcohol violations by a student on a Section 504 Plan?

A student who is currently engaged in the illegal use of drugs/alcohol is not considered a student with a disability when the school acts on the basis of that use. 29 USC 705(20)(C)(i). A student with a history of drug/alcohol abuse who has been successfully rehabilitated, or is participating in a drug rehabilitation program and is not currently engaging in the illegal use of drugs, is covered by Section 504. Section 504 permits disciplinary action pertaining to the use or possession of illegal drugs/alcohol against a 504 student who is currently engaging in the illegal use of drugs/alcohol to the same extent such discipline is taken against non-disabled students. 29 USC 705(20)(C)(iv).

504 Procedural Safeguards and Parent/Student Rights

Are schools required to provide parents with notice/invitation of a Section 504 eligibility meeting?

A parent/guardian must receive notice/invitation of a Section 504 eligibility meeting (invitation). If a parent is unable or unwilling to attend, the school may hold the eligibility or 504 plan meeting without the parent. It is, however, best practice to include the parents in such meetings. Parents must be given meaningful opportunity to provide input. The school principal or 504 Team Leader should consult with the school 504 Compliance Officer regarding unique parent concerns.

Are schools required to provide parents with a list of parent/student rights under Section 504 before conducting an initial student review?

Yes. The school district is required to establish and implement procedural safeguards that include, among other things:

- Notice to the parent explaining any identification, evaluation or placement decisions;
- An opportunity for parents to review relevant records;
- An impartial hearing with opportunity for participation by the student's parent or guardian and representation by counsel;
- An appeal procedure to review the hearing decision.

A notice concerning Procedural Information and Rights under Section 504 must be included with the Parent Notice: Section 504 Evaluation form should be given to the parent/guardian prior to the 504 evaluation meeting. Likewise, the Parent's Procedural Information and Rights under Section 504 must be included with the Parent Notice: Section 504 Eligibility or Non-Eligibility Determination.

GRIEVANCE PROCEDURES

Working with Parent Concerns, Complaints and Due Process Hearings

The best solutions to grievances, complaints or parent concerns occur at the school level. Therefore, the parties may agree to resolve the complaint informally. However, this process must be voluntary. If the parties choose to engage in voluntary informal dispute resolution, the first step in resolving a complaint should involve the school principal or 504 Team working with the grievant, complainant or parent toward a mutually acceptable resolution of the concern(s). If the concern(s) cannot be resolved informally, resolution would proceed under the complaint process. You should advise the grievant, complainant or parent of the following steps in the complaint resolution process:

1. The parent should complete and submit a Section 504 Complaint Form to the school 504 Coordinator/Compliance Officer (NOTE: Parent is not required to use district form).
2. The school 504 Compliance Officer or designee will review the complaint. If the parties agree, they may mediate the dispute or resolve the dispute through other informal dispute resolution means. If the parties do not agree, the complaint proceeds through the complaint process below, or if the complaint involves the identification, evaluation, the content of a student's 504 plan, or placement of a student, the matter would be resolved through the impartial due process hearing procedures. If requested by the parent, the school 504 Compliance Officer will meet with the parent to hear the parent's concerns.

If a parent does not agree to mediation and has requested a due process hearing, the matter must be referred for due process. Mediation may not be used to deny a parent the right to due process.

If the complaint asserts allegations of discrimination, the complaint will be investigated as provided by the school district's policies and these procedures. If the complaint challenges a 504 Team determination regarding eligibility, evaluation, or the content of the 504 Plan, the complaint will be referred for due process hearing.

A. Complaint.

The 504 Compliance Officer is designated to receive and resolve complaints from any person who believes that he/she may have been discriminated against in violation of this policy. Any person who believes he/she has been discriminated against in violation of this policy should file a written complaint with the 504 Compliance Officer within one hundred eighty (180) calendar days of the alleged violation. If the complaint involves the 504 Compliance Officer, the school district's Superintendent, or other impartial individual appointed by the Superintendent, will complete the investigation of the complaint. The investigator will then take the following action: First, cause an investigation of the complaint to be commenced. The investigation must be completed within 60 calendar days of receipt of the complaint. Second, within 10 days, arrange for a meeting to occur with the complainant, which may include School staff who are knowledgeable of the facts and circumstances of the particular complaint or who have particular expertise that will assist in resolving the complaint. Third, complete the investigation of the complaint and provide, in writing, a reply to the complainant. During the investigation, the complainant will be provided the opportunity to present witnesses, which will be interviewed by the investigator, and to present written or other evidence. The investigation will be completed and a written determination issued within 60 calendar days of the 504 Compliance Officer receiving the complaint. If the 504 Compliance Officer determines that a violation has occurred, he/she shall propose a fair resolution of the complaint and deliver the written determination to the complainant and the Superintendent/Building Administrator. In the event the complaint is against the Superintendent/Building Administrator, a copy of the determination shall be delivered to the President of the Board of Education.

The complainant may appeal the 504 Compliance Officer's determination to the Superintendent/Building Administrator, or, in the case of a complaint against the Superintendent/Building Administrator, to the President of the Board, by so notifying the Superintendent/Building Administrator or Board President in writing within the ten (10) calendar days of the 504 Compliance Officer's determination. The Superintendent/Building Administrator or Board President may conduct additional investigation of the facts and circumstances surrounding the complaint. The Board President may elect to secure the services of an outside party to investigate the facts and circumstances surrounding any complaint against the Superintendent/Building Administrator. The Superintendent/Building Administrator, or Board President in the case of a complaint against the Superintendent/Building Administrator, shall affirm or reverse the 504 Compliance Officer's decision and, if warranted, implement the 504 Compliance Officer's

proposed resolution or modification thereof. The Superintendent/Building Administrator or Board President's decision shall be final.

A complainant may file a written complaint at any time with the U.S. Department of Education, Office for Civil Rights, 600 Superior Avenue, East, Suite 750, Cleveland, OH 44114.

B. Due Process.

If the complaint challenges a 504 Team determination regarding the evaluation, eligibility or content of a student's 504 Plan, the matter is referred for a due process hearing (CFR 104.36).

The school 504 Compliance Officer will promptly refer the complaint for a due process hearing conducted by an impartial hearing officer. The hearing officer, who is selected by the school 504 Compliance Officer, must have knowledge of Section 504 and must not be an employee of the school. The school appointed hearing officer will schedule a due process hearing to occur as soon as practicable for the parent and school. The parent and/or the school may be represented by legal counsel at the hearing. The parent or attorney may present evidence and/or testimony supporting the parent's challenge to the 504 Team determination. The school may respond by presenting evidence and/or testimony to support the 504 Team determination. The hearing officer will have discretion and authority to permit or direct the taking of testimony, presentation of evidence and other matters to ensure an orderly proceeding. Nothing in this policy requires that the testimony be under oath, nor requires the witnesses to be subjected to cross examination. There is no right to confront witnesses, nor to a verbatim transcript or other "trial like" protections. Upon conclusion of the hearing, the hearing officer will render a written decision with findings of fact and conclusions of law.

Section 504 Frequently Asked Questions

The following questions are frequently asked by individuals regarding Section 504. The U.S. Department of Education Office of Civil Rights also has a Q & A document which can be accessed at <http://www2.ed.gov/print/about/offices/list/ocr/504faq.html>

Q: Are all schools required to adhere to Section 504?

A: Yes. All schools that receive any federal financial assistance must comply with Section 504 of the Rehabilitation Act of 1973.

Q: Are schools required to have a Section 504 Compliance Officer?

A: Yes. All schools must designate, in writing, a person who coordinates 504 services and protections.

Q: Are students who are covered under IDEA always eligible for Section 504 protection?

A: Yes.

Q: Are students who are covered under Section 504 always eligible for IDEA services?

A: No.

Q: Are schools responsible for referring students suspected of being eligible for Section 504?

A: Yes.

Q: Do schools have to evaluate students who are referred for Section 504?

A: No. If the school does not suspect that the student is a student with a disability, an evaluation is not required. However, if the school refuses to perform an evaluation, the student's parents must be informed of their due process rights to appeal.

Q: Do schools have to formally evaluate students before determining eligibility or services?

A: Yes. Schools are required to evaluate a student before determining his/her eligibility for services and before deciding which services are appropriate.

Q: Must schools get permission from parents before getting students involved in Section 504 services?

A: Yes. Schools are required to seek informed parental consent before conducting an initial evaluation. If a parent refuses consent for the school to perform a school based evaluation, the school is permitted, but not required, to use due process procedures to override the parent's refusal.

Q: Do schools have to develop an IEP for a student who is 504 eligible only?

A: No. However, schools must develop an individual accommodation plan for the student.

Q: Does a physician's diagnosis of ADD/ADHD automatically result in a student being eligible for Section 504?

A: No. A physician's diagnosis should be considered as one piece of documentation when evaluating the child. However, a physician's diagnosis alone does not automatically result in eligibility for Section 504.

Q: Do schools have to reevaluate students who are receiving Section 504 services and protections?

A: Yes. Schools are required to periodically evaluate students. Unlike IDEA, which requires a reevaluation every 3 years, Section 504 does not specify a time period.

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Q: Do schools have to label a student with a clinical category before providing protections under Section 504?

A: No. Unlike IDEA, Section 504 does not require a specific label on a student before eligibility. Students never have to have a specific disability but only have to meet the functional definition of disability as defined in Section 504.

Q: Do schools have to make all of their buildings accessible to students with disabilities?

A: No. Schools are required to make all *programs* accessible for students with disabilities, not all buildings. However, all new construction and alterations after the effective dates of the Section 504 and Title II regulations must be accessible (essentially all new construction after 1977).

Q: What can parents do if they are dissatisfied with the way schools are serving students eligible for Section 504 protections?

A: Parents can file a complaint with the U.S. Department of Education's Office for Civil Rights, file a complaint with the school district's 504 Compliance Officer, request an impartial due process hearing (with respect to the school's actions regarding the identification, evaluation, or educational placement of the student), or file suit in federal court.

Q: Can students served under Section 504 receive related services, such as a physical therapy?

A: Yes. Schools must provide related services to students who are eligible for services under Section 504.

Q: Is there any extra federal funding for schools to use to provide appropriate services under Section 504?

A: No. There are no federal or state funds associated with serving Section 504 students.

Q: Is Section 504 age specific, like IDEA, which only deals with students through the age of 21 (Michigan age 25)?

A: No. Students do not "age out" for Section 504 services and protections. With respect to public elementary or secondary educational services, "qualified person with a disability" means of an age during which persons without disabilities are provided such services, of any age during which it is mandatory under state law to provide such services to persons with disabilities, or to whom a state is required to provide a FAPE under IDEA.

Q: Can schools use any tests that they want when evaluating students for Section 504 services?

A: No. While Section 504 is not specific about how to evaluate students for services, it does require that schools obtain information from a variety of sources and requires that nondiscriminatory testing methods be used when students are evaluated using test instruments.

Q: Are eligibility guidelines for Section 504 specific?

A: No. The eligibility requirements for Section 504 are more broad than the IDEA and rather vague in that they do not identify all possible impairments. Basically, a student who has a mental or physical impairment is eligible for 504 services if the mental or physical impairment results in a substantial limitation in a major life activity.

Q: Where are most students who are eligible for Section 504 services placed?

A: Most students who are eligible for Section 504 are primarily served in general education classrooms. Although special education may be required if the team determines it is necessary for a FAPE.

Q: Can students who are served under Section 504 be expelled from school?

A: Yes. However, expulsion is considered a significant change of placement and Section 504 requires an evaluation before any significant change of placement. The "evaluation" requirement may be met by way of a "manifestation determination" which examines the relationship between the inappropriate behavior and the disability.

Appendix

Other Support Documents

1. Assessment and Accountability – MDE
<https://www.michigan.gov/mde/0,4615,7-140-22709---,00.html>
2. Dear Colleague Letter and FAQ from OCR
<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201105-pse.html>
3. Section 504 FAQ (Office of Civil Rights)
<http://www2.ed.gov/about/offices/list/ocr/ga-disability.html>
4. Dear Colleague Letter on the Rights of Children with Disabilities in Public Charter Schools (December 28, 2016)
<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201612-504-charter-school.pdf>
5. Frequently Asked Questions about the Rights of Students with Disabilities in Public Charter Schools under Section 504 of the Rehabilitation Act of 1973 (U.S. Department of Education, Office for Civil Rights, December 28, 2016)
<https://www2.ed.gov/about/offices/list/ocr/docs/dcl-faq-201612-504-charter-school.pdf>
6. Parent and Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools (US Department of Education Office for Civil Rights December, 2016)
<https://www2.ed.gov/about/offices/list/ocr/docs/504-resource-guide-201612.pdf>
7. Questions and Answers about the Dept. of Justice's Final Rule implementing the ADA Amendments Act of 2008 https://www.ada.gov/regs2016/adaaa_ga.html
8. OCR, Questions and Answers on the ADA amendments Act of 2008 for students with Disabilities Attending Public Elementary and Secondary Schools (Jan 19, 2012)
<https://www2.ed.gov/about/offices/list/ocr/docs/dcl-504faq-201109.html>



- ☐ Almont
- ☐ Chatfield School
- ☐ Dryden Community Schools
- ☐ Inlay City Community Schools

- ☐ Lapeer County Intermediate School District
- ☐ Lapeer Community Schools
- ☐ North Branch

Section 504 Local Procedures

Date Established/Revised: _____

District Section 504 Coordinator: _____
required - districts with 15 or more employees 34 CFR § 104.7(a)

Title: _____

The District 504 Coordinator has the following responsibilities:

- ☐ Establish and monitor a Section 504 referral/identification/review process
- ☐ Maintain data on Section 504 referrals
- ☐ Ensure nondiscriminatory educational practices
- ☐ Implement Section 504 grievance procedures for the district
- ☐ Disseminate Section 504 plans

District Non-discrimination Statement included in student/parent handbook (34 CFR § 104.8)

Grievance procedures/timelines (34 CFR 104.7(b) if different from those included in LCISD Section 504 Guidelines)

Other Procedures/Timelines not outlined in LCISD guidelines

Section 504 plans will be reviewed at least:

- ☐ Annually
- ☐ At the beginning of the school year
- ☐ Other(specify): _____

Section 504 plans will be reevaluation at least:

- ☐ Every 3 years
- ☐ Other (specify): _____

Section 504 plans will be distributed upon completion and for transfer students:

- ☐ Within _____ School days Person responsible: _____

Distribution to:

- ☐ Building Administrator or Building Section 504 representative
- ☐ Teachers assigned to student ☐ New teachers (new semester, class, new year)
- ☐ Student CA-60
- ☐ Other (specify): _____

Method to ensure relevant staff have received and are implementing the 504 plans:

FORMS

1. Section 504 Evaluation/Placement Checklist
2. Section 504 Referral
3. Section 504 Evaluation and Consent
4. Section 504 Invitation
5. Section 504 Eligibility Determination Report
6. Section 504 Plan
7. Section 504 Review
8. Section 504 Prior Written Notice
9. Section 504 Manifestation Determination
10. Section 504 Procedural Information and Rights
11. Section 504 Compliance Grievance Form

NOTE: Edplan now has Section 504 forms available in the system to create and track Section 504 plans.