



NEBO SCHOOL DISTRICT BOARD OF EDUCATION POLICIES AND PROCEDURES

SECTION: J - Students
POLICY TITLE: Section 504 of the Rehabilitation Act of 1973
FILE NO.: JR
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1. INTRODUCTION

- 1.1. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794, et seq., and its implementing regulations, 34 C.F.R. Part 104, et seq. ("Section 504"), prohibits discrimination against students on the basis of their disability. The purpose of this policy is to inform Nebo School District employees about Section 504, and to provide a system for the implementation of the procedural provisions of Section 504. This policy also reflects the District's commitment to serve all students.
- 1.2. The District expects employees to be knowledgeable about District policies and procedures governing Section 504, grievance procedures for resolving Section 504 complaints, and parent and student rights. If you have Section 504 questions, please contact the District 504 Coordinator.

**District 504 Coordinator
Nebo School District
350 South Main Street
Spanish Fork, Utah 84660
Telephone No.: (801) 354-7475
Fax No.: (801) 354-7487**

2. SECTION 504 BACKGROUND INFORMATION

2.1. What is Section 504?

- 2.1.1. Section 504 of the Rehabilitation Act of 1973, commonly referred to as "Section 504," is a federal statute that prohibits discrimination against persons on the basis of their disability by institutions that receive federal financial assistance, such as Nebo School District. It states, in part, as follows:

No otherwise qualified individual with a disability . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance
29 U.S.C. §794(a).

2.1.2. Section 504's purpose is, among other things, to assure that disabled students have educational opportunities and benefits equal to those provided to non-disabled students. An eligible student under Section 504 is a student who has a physical or mental impairment that substantially limits a major life activity. If a student is covered by Section 504, Nebo School District must provide such accommodations as are necessary to ensure that the student has equal access to services, programs, and activities offered by our schools.

2.2. 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, 42 U.S.C. §12101, et seq., and its implementing regulations, 28 C.F.R. Part 35, et seq. ("ADA"). This policy uses only the term "Section 504," but the District acknowledges that qualified students with disabilities have the same rights under the ADA as under Section 504.

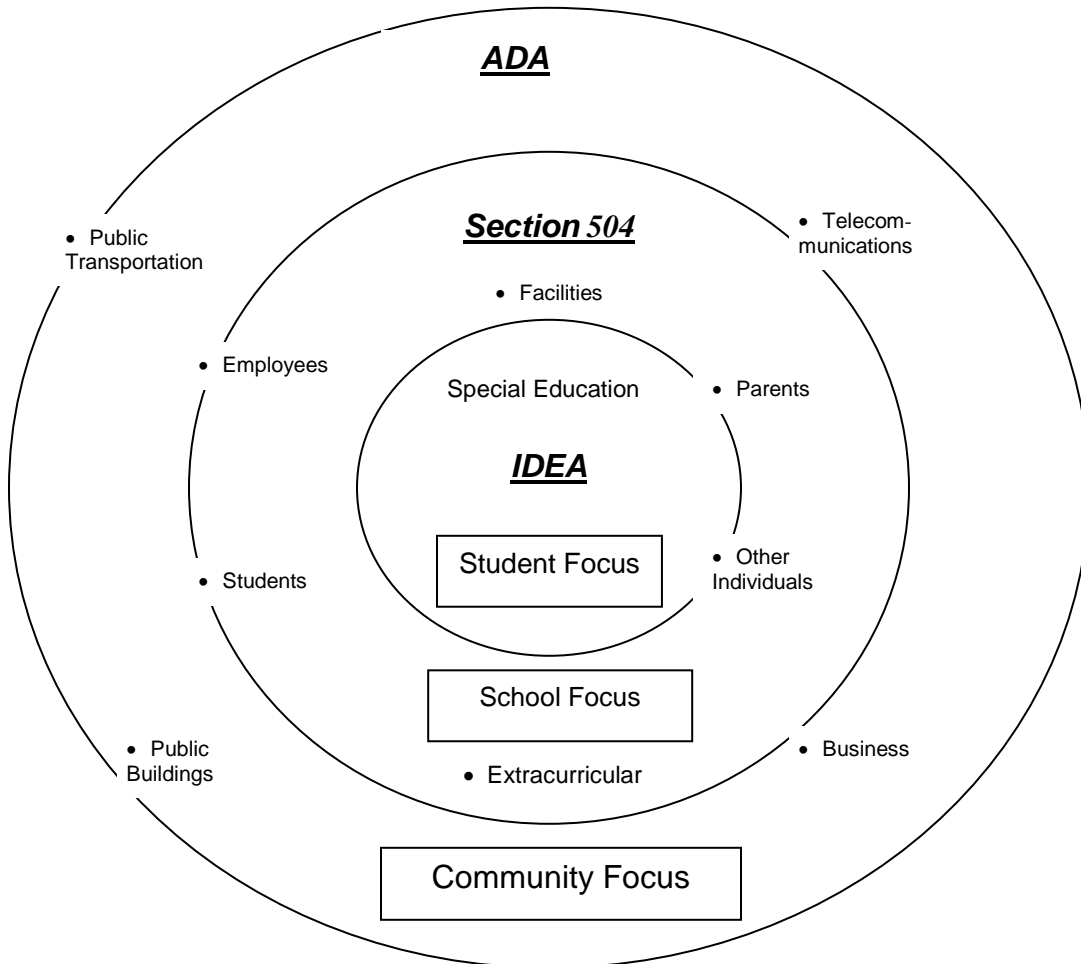
2.3. How does Section 504 differ from IDEA?

2.3.1. A student who qualifies for special education services under the Individuals with Disabilities Education Act, 20 U.S.C. §1400, et seq., and its implementing regulations, 34 C.F.R. Part 300, et seq. ("IDEA") is a qualified disabled student under Section 504. The converse, however, is not true: a qualified disabled student under Section 504 is not necessarily qualified to receive special education services and the protections of IDEA. In other words, some students with disabilities may qualify for accommodations under Section 504 but not qualify for special education services under IDEA.

2.3.2. If a student is receiving special education services in accordance with IDEA, then the student is adequately accommodated for the purposes of Section 504. For this reason, it is not necessary or appropriate to provide a student with Section 504 protections (i.e., notice, evaluation, and accommodation) if the student has already been determined eligible under IDEA.

2.3.3. However, if a student is determined to be not eligible under IDEA, the 504 Team may want to consider whether the student would, nevertheless, qualify for accommodations under Section 504. This policy will focus solely on Section 504. Any questions regarding IDEA should be directed to the Special Education / Federal Programs Department at Nebo School District.

2.3.4. The figure below gives a visual representation of the relationship between the ADA, Section 504, and IDEA.



- See Key Differences between IDEA and Section 504 on the following page -

| Key Differences between IDEA and Section 504 | |
|---|--|
| Identification | |
| IDEA | Section 504 |
| The student must have a disability that falls within one or more specific categories of qualifying conditions (i.e., autism, specific learning disability, communication disorder (speech or language impairment), emotional disturbance, traumatic brain injury, visual impairment, hearing impairment (deafness), blindness, deafblindness, intellectual disability, developmental delay, multiple disabilities, orthopedic impairment, and other health impairment). | The student must have a physical or mental impairment that substantially limits a major life activity (including, but not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working); or the operation of a major bodily function (including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproduction). |
| The student's disability must adversely affect educational performance. | No provision that the student's disability must adversely affect educational performance. |
| Evaluation | |
| Full comprehensive evaluation, including psychological evaluation. Decision by multidisciplinary team, including parent/legal guardian. | Evaluation using relevant information from a variety of sources. Decision by a group of knowledgeable persons. |
| Parent/legal guardian consent required. | Parent/legal guardian notice required. Parent/legal guardian consent required only if student will undergo individualized standardized testing. |
| Annual review of student's IEP. Mandatory reevaluation every three (3) years. | "Periodic" reevaluation required, but no prescribed time period. |
| Independent evaluation at District expense if parents disagree with first evaluation. | No provision for independent evaluation at District expense. |
| Dispute Resolution | |
| District complaint. Due process hearing by state-appointed hearing officer. | District complaint. Due process hearing by District-appointed hearing officer |
| State complaint. | State complaint. |
| Federal complaint. | Federal complaint. |

3. IDENTIFYING STUDENTS FOR SECTION 504 ELIGIBILITY

3.1. What criteria are used to determine Section 504 eligibility?

For a student to qualify for Section 504 protection, the student must meet three (3) criteria: **(1) a mental or physical impairment; (2) which substantially limits; (3) one or more major life activities.** If the student has an impairment that substantially limits a major life activity, the impairment is a qualifying disability. It is important to understand that all three (3) criteria must be met before the student is eligible for Section 504 protection. Additional detail on each of the three (3) criteria is as follows:

3.1.1. Mental or Physical Impairment

3.1.1.1. This criterion includes any mental or physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems. Section 504, in contrast to IDEA, does not limit eligibility to specific categories of medical conditions. Environmental, cultural, and economic disadvantages are not covered unless the student who has any of these characteristics also has a physical or mental impairment.

3.1.1.2. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

3.1.2. Substantially Limits

3.1.2.1. While Section 504 does not specifically define the term “substantially limits,” the law contemplates that it will be interpreted broadly to create an inclusive standard for eligibility. The basis for evaluating this criterion is the impact the impairment has on one or more of a student’s major life activities. For a student to qualify for Section 504, the impairment need not prevent or significantly restrict a major life activity but must simply impose a substantial limitation.

3.1.2.2. 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 disability does not automatically qualify a student for Section 504 protection. Nevertheless, the term “substantially limits” is not meant to be a demanding standard.

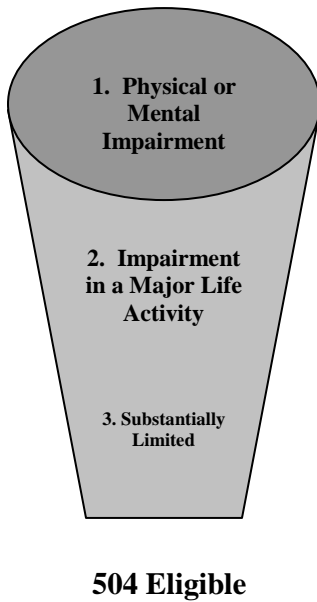
3.1.2.3. In determining whether the impairment substantially limits a major life activity, the 504 Team **must do so without regard to the effects of mitigating measures.** Mitigating measures are devices or practices that a person uses to correct or reduce the effects of an impairment and include, but are not limited to, medication, medical equipment, assistive technology, reasonable accommodations, or other learned modifications the student may have used to overcome the impairment. The only exception to this rule is that the 504 Team may consider the effects of ordinary eyeglasses or contact lenses.

3.1.3. Major Life Activities

Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. Major life activities also include the operation of major bodily functions,

including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproduction.

3.1.4. The Section 504 Eligibility Determination Criteria



1. Physical or Mental Impairment

Any physical or mental impairment may result in qualification under Section 504. Unlike IDEA, there are no categories of qualifying disabilities. This step in the Section 504 evaluation process relies heavily upon medical/psychiatric diagnosis by qualified professionals.

2. Impairment in a Major Life Activity

The identified physical or mental impairment must affect a major life activity, including but not limited to those listed in Section 3.1.3 above.

3. Substantially Limited

The impairment must substantially limit the major life activity. The 504 Team has the responsibility to decide whether the major life activity is substantially limited. The following diagram is provided as guidance.

3.1.5. How is a Section 504 evaluation request made?

Any parent or legal guardian, teacher, counselor, or other school staff member who believes that a student, because of disability, may need accommodations or related services, can request a Section 504 evaluation. The Nebo School District Section 504 Referral form may be used but is not required. Any request or referral for evaluation should be forwarded to the school’s 504 Team Leader. The Team Leader is the school principal or a designated assistant principal.

3.1.6. What is the process for determining Section 504 eligibility?

3.1.6.1. When a Section 504 Referral is received, the student’s principal or designated assistant principal shall provide the parent/legal guardian, in person or by mail, with the Parent’s Rights and Safeguards under Section 504. The principal or designated assistant principal will determine if a 504 evaluation will be conducted and document the decision on the bottom of

the Section 504 Referral form. **A decision to not conduct a 504 evaluation will be extremely rare and most likely be based on similar requests for the same student for the same disability in one calendar year.**

- 3.1.6.2.** In cases where the Section 504 Referral form indicates that the major life activity being limited is “learning,” “reading,” “thinking,” or “communicating,” it may be advisable to first consider assessing and evaluating under IDEA. Any assessment and evaluation for eligibility under IDEA must follow Nebo School District’s Special Education Policies and Procedures, and be in compliance with applicable federal and state law. Concerns and questions regarding assessment and evaluation for eligibility under IDEA should be directed to the Special Education / Federal Programs Department at Nebo School District.
- 3.1.6.3.** Unless a 504 evaluation will not be conducted, the principal or designee shall provide the parent/legal guardian, in person or by mail, with the Section 504 Parent Notice and Consent for Evaluation along with the Parent’s Rights and Safeguards under Section 504.
- 3.1.6.4.** The 504 Team Leader (school principal or designated assistant principal) will conduct a preliminary review to determine the nature of the student’s disability, the individuals needed to comprise the Team, and the information to be reviewed. The principal or designee will appoint a 504 Team to make the eligibility determination.
- 3.1.6.5.** The 504 Team must be a group of persons and include individuals knowledgeable about the needs of the student, the meaning of the evaluation data being reviewed, and the placement options. The parent/legal guardian should be included in this process and be invited to the 504 Team eligibility meeting by providing the parent /legal guardian, in person or by mail, with the Parent Invitation: Section 504 Eligibility Meeting. The following people should be considered by the principal or designated assistant principal to serve on the 504 Team: the student’s teacher(s), school nurse (especially when health/medical issues are involved), counselor, psychologist, physical therapist, occupational therapist, communication disorder specialist, special education teacher, vision specialist, audiologist, and other individuals with specific relevant knowledge or skills. The team’s role is to review the evaluation data and determine whether the student has a physical or mental impairment that substantially limits a major life activity.
- 3.1.6.6.** Section 504 eligibility meetings are not intended to be as comprehensive as a special education evaluation. However, the 504 Team must investigate the specific concern(s) that triggered the student review request. 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 information, and physical condition. The 504 Team may administer and use other formal and informal measures as necessary. The team must obtain parent/legal guardian permission if it is determined that individualized standardized testing is necessary as part of the 504 evaluation. The team must ensure that information obtained from all sources is documented and carefully considered.

- 3.1.6.7. The 504 Team will determine the student's eligibility under Section 504, and the 504 Team Leader is responsible for completing and providing a copy of the Section 504 Eligibility Determination Report to the District 504 Coordinator at the District Office.
- 3.1.6.8. In the event that the 504 Team determines that the student is not eligible, the 504 Team Leader is responsible for notifying the parent/legal guardian by completing the Parent Notice: Section 504 Eligibility or Non-Eligibility Determination and providing it to the parent/legal guardian, either in person or by mail, along with a copy of the Parent's Rights and Safeguards under Section 504.
- 3.1.6.9. If the team determines that the impairment does substantially limit a major life activity, the team will determine whether there is a need to create a Section 504 Student Accommodation Plan for the student that outlines the appropriate accommodations. In addition, the 504 Team Leader is responsible for notifying the parent/legal guardian by completing the Parent Notice: Section 504 Eligibility or Non-Eligibility Determination and providing it to the parent/legal guardian, either in person or by mail, along with a copy of the Parent's Rights and Safeguards under Section 504.

3.1.7. When is it not appropriate to offer a Section 504 accommodation plan?

- 3.1.7.1. Eligibility under Section 504 is always decided by evaluating and determining that all three (3) of the criteria, discussed above, are met. The student must have a mental or physical impairment. That mental or physical impairment must be substantially limiting. The impairment must substantially limit one or more major life activities or bodily functions. If any of the three (3) criteria are not met, the 504 Team should not create a formal 504 Plan for the student. **Keep in mind that while a 504 Plan might not be appropriate, an informal intervention plan may be appropriate.** Here are some of the common misuses of the 504 evaluation process:
 - 3.1.7.1.1 A parent and/or doctor presents the school with a disability diagnosis, and a 504 Plan is written without first determining if the disability causes substantial limitation of a major life activity.
 - 3.1.7.1.2 A student is placed on a 504 Plan solely to satisfy a highly competitive parent who wants specific accommodations to help his or her student receive higher grades or test scores on standardized tests.
 - 3.1.7.1.3 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.
- 3.1.7.2. Some students will meet the eligibility requirements but not be in need of any accommodations. Documentation must be kept indicating these students are eligible but no formal 504 Plan is necessary. The documentation must be reviewed annually, and eligibility must be reviewed periodically. Despite not needing a 504 Plan, these students must still be protected from discrimination based on their disability, including being protected from bullying or harassment and following appropriate disciplinary procedures for students with disabilities.

4. DESIGN AND IMPLEMENTATION OF A SECTION 504 PLAN

4.1. 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 with non-disabled students to the maximum extent appropriate. As with IDEA, this is considered educating the student in the least restrictive environment. Implementation of most Section 504 Plans occurs within the regular classroom. Accommodations generally are those minor adjustments to things like seating arrangements, removal of physical barriers, 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 school work. Accommodations might involve the use of special visual aids, large print texts, or video recordings. Allowing a student additional time to complete a specific kind of task is also an accommodation. Numerous accommodations exist that can support a student's equal access to educational opportunities. It is the duty of the 504 Team to identify those accommodations that best support the access needs of a 504 eligible student. The 504 Team may contact the District 504 Coordinator for assistance with the accommodation process.

4.2. How are Section 504 accommodations and related services documented and reviewed?

4.2.1. If the 504 Team determines that a student has a qualifying disability, the team's second responsibility is to identify the student's needs and the accommodations the student will receive. Documentation of the 504 Plan's detail is in the Section 504 Student Accommodation Plan. The 504 Plan provides a summary of accommodations that a student needs in order to have equal access to the learning process, or to other school-related programs, activities, and events. The original Section 504 Plan and all related 504 documentation should be kept in the student's file. The 504 Team Leader is responsible for providing a copy of the student's Section 504 Plan to the District 504 Coordinator at the District Office. The District 504 Coordinator shall update the District's Student Information System ("SIS") to reflect that this student is now an eligible 504 student.

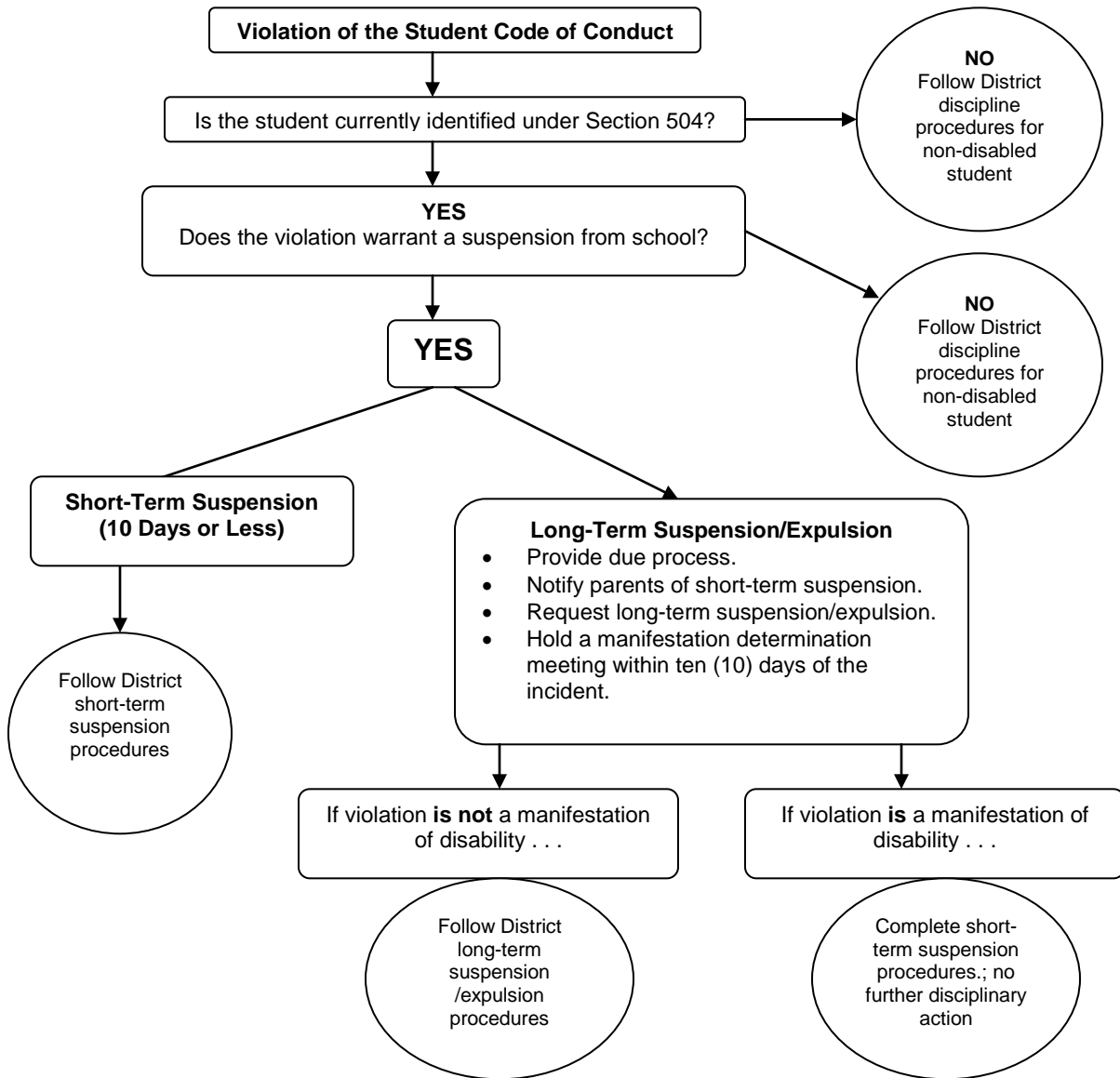
4.2.2. The student's 504 Team Leader (principal or designated assistant principal) shall be responsible to review each student's Section 504 Student Accommodation Plan annually and any time a student moves to another school or it appears that changes to the Section 504 Plan are needed. The purpose of a review is to add, subtract, and/or modify student accommodations, as needed. Section 504 eligibility should also be reevaluated every three (3) years. Reviews and reevaluations shall be documented on the Section 504 Review of Services form.

5. DISCIPLINING A 504 STUDENT

5.1. What is the discipline process for a Section 504 identified student?

Section 504 identified 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 Section 504 identified student is subject to out-of-school suspension for more than ten (10) consecutive school days. 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.



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

5.2.1. Yes. See the flow chart above. Similar to suspension or expulsion of a student having a disability under IDEA, it is necessary to conduct a manifestation determination for a Section 504 student when:

5.2.1.1. The suspension or expulsion will be for more than ten (10) consecutive school days. Like IDEA, a suspension/expulsion of more than ten (10) consecutive school 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 Section 504 Plan.

5.2.1.2. A series of suspensions that total more than ten (10) days may also trigger the manifestation determination requirement of Section 504. If cumulative suspensions/expulsions for a student on a Section 504 Plan total more than ten (10) days, it must be determined if a significant placement change has occurred. This is done on a case-by-case basis. If a group of short-term 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 for Civil Rights (“OCR”) has identified some of the key factors in determining patterns of exclusion: (a) the length of each suspension; (b) the proximity of one suspension to another; (c) the nature of the behavior; and (d) the total amount of time the student is excluded from school.

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

5.3.1. The manifestation determination should be made by a 504 Team that consists of persons who have knowledge of the student and the meaning of the information that will be reviewed. When possible, the members of the 504 Team should be the same members who designed the student’s Section 504 Plan. School officials responsible for school disciplinary procedures, such as the school principal or the District Coordinator of Student Services, cannot make the determination. However, such administrators may present pertinent student information to the 504 Team, especially the school principal if he/she is the 504 Team Leader.

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

5.3.3. The manifestation determination should begin with the 504 Team deciding whether the student’s Section 504 Plan is appropriate and is being properly implemented.

5.3.4. If the 504 Team concludes the Section 504 Plan is not appropriate or that the accommodations are not being provided, the school should not take any further disciplinary action. The 504 Team should review and update the 504 Plan, if appropriate.

5.3.5. If the student’s educational placement is correct, 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 ability to control and understand the consequences of his or her behavior:

5.3.5.1. Does the disability impair the student’s ability to control his or her behavior?

5.3.5.2. Does the disability impair the student’s ability to understand the consequences of his or her behavior?

5.3.6. 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 beyond the ten (10) day suspension.

5.3.7. If the 504 Team determines that the behavior is not a manifestation of the disability, the District may impose whatever long-term suspension or expulsion it would impose under the same circumstances if a non-disabled student were the offender. In addition, the District is obligated to continue to provide educational services to a 504 student during the period of a long-term suspension or expulsion only to the same extent it provides those services to students without disabilities during disciplinary removals.

5.3.8. The 504 Team must conclude its work by completing a Section 504 Manifestation Determination form.

5.4. 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. 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 allows school districts to take 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.

6. SECTION 504 PROCEDURAL SAFEGUARDS AND PARENT/SIGNATURE RIGHTS

6.1. Are schools required to provide parents with prior notice of a Section 504 eligibility meeting?

A parent/legal guardian must receive prior notice of a Section 504 eligibility meeting. Parent/legal guardian consent is not required to conduct eligibility determination; however, it is recommended that written consent be obtained if possible. Parent/legal guardian consent must be obtained before administering any individualized standardized testing. The Section 504 Parent Notice and Consent for Evaluation form explains the evaluation process.

6.2. Must schools secure parental consent before conducting an initial eligibility meeting?

Schools should include parents/legal guardians in the evaluation process. However, Section 504 does not require the parent's/legal guardian's participation or consent to conduct a 504 eligibility meeting. The 504 Team Leader should consult with the District 504 Coordinator regarding unique parent/legal guardian concerns.

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

6.3.1. Yes. Nebo School District is required to establish and implement procedural safeguards that include:

6.3.1.1. Notice to the parent/legal guardian explaining any evaluation or placement decisions.

6.3.1.2. An opportunity for parents/legal guardians to review relevant records.

6.3.1.3. A complaint resolution process that may be pursued through administrative levels in the District, starting with the District 504 Coordinator.

6.3.1.4. An impartial hearing with opportunity for participation by the student's parent / legal guardian with representation by legal counsel.

- 6.3.2.** These procedural safeguards have been addressed by creating Section 504 evaluation procedures and a set of forms that guide the 504 Team through the eligibility determination and placement process. A notice concerning Parent's Rights and Safeguards under Section 504 must be included with the Section 504 Parent Notice and Consent for Evaluation form provided to the parent/legal guardian prior to the 504 evaluation meeting. Likewise, the Parent's Rights and Safeguards under Section 504 must be provided along with the Parent Notice: Section 504 Eligibility or Non-Eligibility Determination.

7. WORKING WITH PARENT CONCERNS AND COMPLAINTS

- 7.1.** The best solutions to parent/legal guardian concerns occur at the school level. Therefore, the first step in resolving a complaint should involve the school principal or 504 Team Leader working with the parent/legal guardian to a mutually acceptable resolution of the parent's concern(s). If the concern(s) cannot be resolved informally, the parent/legal guardian may seek formal resolution under the District's complaint process. The 504 Team Leader should advise the parent/legal guardian of the following steps in the complaint resolution process:

- 7.1.1. Step 1.** The parent/legal guardian should complete and submit a Section 504 Complaint to the District 504 Coordinator.

- 7.1.2. Step 2.** The District 504 Coordinator or designee will review the complaint and meet with the parent/legal guardian to hear their concerns. The District 504 Coordinator or designee will decide whether to seek to mediate the dispute between the parent/legal guardian and school or render a decision regarding the complaint and submit it in writing to the parent/legal guardian. If the mediation was unsuccessful or if the parent/legal guardian is not satisfied with the decision rendered by the District 504 Coordinator or designee, the parent/legal guardian may either: (a) give written notice to the District 504 Coordinator requesting a meeting with the Superintendent (Step 3); or (b) give written notice to the Superintendent requesting an impartial hearing (Step 4).

- 7.1.3. Step 3.** The Superintendent or designee will review the complaint and meet with the parent/legal guardian to hear their concerns. The Superintendent or designee will render a decision regarding the complaint and submit it in writing to the parent/legal guardian. If the parent/legal guardian is not satisfied with the decision rendered by the Superintendent or designee, the parent/legal guardian may give written notice to the Superintendent requesting an impartial hearing (Step 4).

- 7.1.4. Step 4.** Upon receiving a written request for an impartial due process hearing, the Superintendent or designee will promptly refer the complaint to a due process hearing conducted by an impartial hearing officer. The hearing officer will be selected by the District. The hearing officer shall meet the following criteria: (a) must be knowledgeable about Section 504; (b) must not be an employee of the District; (c) must not be from another school district that shares a contractual arrangement for special education services; (d) must not have a personal or professional conflict of interest; and (e) must not participate in the formulation of state policy affecting students with disabilities. If the parent/legal guardian can demonstrate that the selected hearing officer does not meet the above criteria, the parent/legal guardian may then request the District to select another hearing officer who meets the above criteria. The District-appointed hearing officer will schedule a due process hearing to occur as soon as reasonably practicable for the parent/legal guardian and District. The parent/legal guardian and District may be represented by legal counsel at the hearing, may examine relevant records, and participate in the hearing. Within ten (10) business days after the conclusion of the hearing, the hearing officer will render a

written decision. The written decision shall include applicable findings of fact and conclusions of law. The hearing officer shall submit the written decision to the parent/legal guardian and to the Board of Education of Nebo School District. The decision of the hearing officer shall constitute the final administrative decision on the Section 504 matter.

7.1.5. Step 5. If either the parent/legal guardian or the District is not satisfied with the decision rendered by the hearing officer in Step 4, the parent/legal guardian or District may initiate federal legal proceedings in the United States District Court, District of Utah, or other court of competent jurisdiction.

7.1.6. The Utah State Office of Education (“USOE”) and the United States Department of Education, Denver Office for Civil Rights (“OCR”) investigates complaints against school districts within their jurisdiction and monitors and enforces compliance of Section 504 laws and regulations.

8. LIST OF NEBO SCHOOL DISTRICT SECTION 504 FORMS

The following forms may be found online at www.nebo.edu.

8.1. Section 504 Checklist

Purpose: Assists the 504 Team Leader in organizing and documenting the steps necessary to meet the legal requirements for the Section 504 evaluation and eligibility determination process.

8.2. Section 504 Referral

Purpose: Requests that a student be evaluated to determine if the student has a qualifying disability under Section 504.

8.3. Section 504 Parent Notice and Consent for Evaluation

Purpose: Informs parent(s)/legal guardian(s) that a 504 Team will evaluate their student for possibly qualifying for a 504 disability.

8.4. Parent’s Rights and Safeguards Under Section 504

Purpose: Informs the parent(s)/legal guardian(s) of their rights under Section 504. This form must be sent with the Section 504 Parent Notice and Consent for Evaluation and the Parent Notice: Section 504 Eligibility or Non-Eligibility Determination.

8.5. Parent Invitation: Section 504 Eligibility Meeting

Purpose: Invites parent(s)/legal guardian(s) to a 504 eligibility meeting.

8.6. Section 504 Eligibility Determination Report

Purpose: Organizes and documents the steps that the 504 Team must follow to determine whether a student is eligible under Section 504. Provide a copy of this completed form to the District 504 Coordinator at the District Office.

8.7. Parent Notice: Section 504 Eligibility or Non-Eligibility Determination

Purpose: Informs parent(s)/legal guardian(s) of the student’s 504 eligibility or non-eligibility. Provide a copy of this completed form to the District 504 Coordinator at the District Office.

8.8. Section 504 Student Accommodation Plan

Purpose: Organizes and documents the Section 504 Plan created by the 504 Team if the team determines that the student has a qualifying disability. Provide a copy of this completed form to the District 504 Coordinator at the District Office.

8.9. Section 504 Review of Services

Purpose: Documents the periodic review of the Section 504 Student Accommodation Plans, and recommends any additions, subtractions, and/or modifications of student accommodations.

8.10. Section 504 Manifestation Determination

Purpose: Organizes and documents the steps that the 504 Team must follow to determine the relationship between the student's disability and behavior.

8.11. Section 504 Complaint

Purpose: Submits a complaint to the District 504 Coordinator alleging that a student's rights under Section 504 have been violated.

8.12. Complaint Resolution Procedures

Purpose: Provides parents/legal guardians of student's due process procedures in an attempt to resolve Section 504 disputes.

EXHIBITS

None

REFERENCES

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794, et seq. & 34 C.F.R. Part 104, et seq.
Americans with Disabilities Act, 42 U.S.C. §12101, et seq. & 28 C.F.R. Part 35, et seq. ("ADA")
Individuals with Disabilities Education Act, 20 U.S.C. §1400, et seq. & 34 C.F.R. Part 300, et seq. ("IDEA")

FORMS

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Nebo School District Section 504 Parent Notice and Consent for Evaluation
Nebo School District Parent's Rights and Safeguards Under Section 504
Nebo School District Parent Invitation Section 504 Eligibility Meeting
Nebo School District Section 504 Eligibility Determination Report
Nebo School District Parent Notice: Section 504 Eligibility or Non-Eligibility Determination
Nebo School District Section 504 Student Accommodation Plan
Nebo School District Section 504 Review of Services
Nebo School District Section 504 Manifestation Determination
Nebo School District Section 504 Complaint
Nebo School District Complaint Resolution Procedures
