



NEBO SCHOOL DISTRICT BOARD OF EDUCATION POLICIES AND PROCEDURES

SECTION: J - Students
POLICY TITLE: Students with Disabilities under Section 504
FILE NO.: JR
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1. PURPOSE AND PHILOSOPHY

- 1.1. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794, et seq., along with its implementing regulations, 34 C.F.R. Part 104, et seq. ("Section 504"), is a federal law that prohibits discrimination against students on the basis of their disability. The purpose of this policy is to inform Nebo School District employees, students, and parents about Section 504 and to provide a system for implementing its procedural provisions. In conjunction with Nebo School District Policy JDC, *Student Discrimination and Harassment*, 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. In accordance with 34 CFR 104.7, the District has designated a 504 Coordinator as the responsible employee to coordinate its efforts to comply with this policy. Individuals with Section 504 questions should 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**

- 1.3. The District shall conduct child find activities and take continuing steps to notify students and patrons that it does not discriminate based on disability. Notice shall be provided at a minimum on the District website, at school buildings, and in parent information guides. Employees shall receive annual training on this policy.

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 students with disabilities have educational opportunities and benefits equal to those provided to other students. The District satisfies this purpose by providing eligible students a free, appropriate public education (FAPE). 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, the District must provide such accommodations as are necessary to ensure that the student has equal access to services, programs, and activities offered by its 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 Special Education under IDEA?

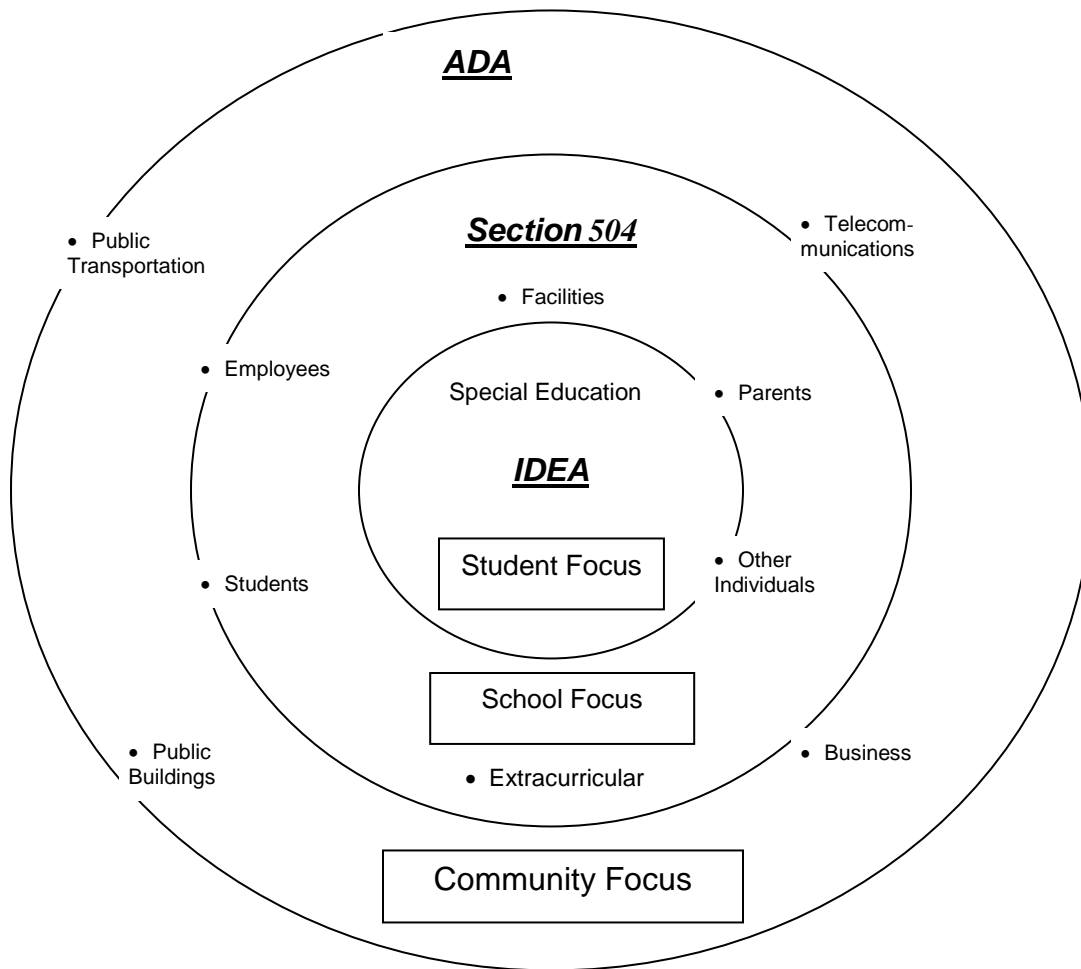
- 2.3.1.** A student qualifies for special education and/or related services under the Individuals with Disabilities Education Act, 20 U.S.C. §1400, et seq., and its implementing regulations, 34 C.F.R. Part 300, et seq. (“IDEA”) when the student has met the eligibility criteria for one or more of the enumerated categories identified in the IDEA. The categories, eligibility criteria, and evaluation procedures under the IDEA are set forth in Nebo School District Policy JS, *Special Education*. A student who qualifies for special education and/or related services under the IDEA is also a student with a disability under Section 504. However, the converse is not always true: a student with a disability under Section 504 is not necessarily qualified to receive special education services and the protections of IDEA. In other words, all students with disabilities under the IDEA are simultaneously protected under Section 504, but some students with disabilities under Section 504 may not qualify for special education services under IDEA.

- 2.3.2.** If a student is receiving special education or related services under IDEA, then the student is adequately accommodated for purposes of Section 504 for the disability for which the IDEA accommodations are provided in the student’s IEP. For this reason, it is not necessary to provide a student with a duplicative Section 504 Plan. In most cases a student will not have both an IEP and a Section 504 Plan. Any accommodations that would normally be placed in a 504 Plan should be included in the IEP. However, under rare circumstances when a student with an IEP has an additional disability that cannot be adequately accommodated by the IEP, the District 504 Coordinator may approve a separate 504 Plan in addition to the IEP. Such

approval should be given only in extremely rare circumstances in which the disability for which the student has an IEP, and the services, accommodations, and employees involved, are so vastly different from the disability and accommodations for which the student is eligible for a 504 Plan that it is impracticable for the employees responsible for implementing the IEP to also implement the 504 Plan.

2.3.3. If a student is evaluated and determined to be not eligible under IDEA, the 504 Team Leader should consider assembling a 504 Team to evaluate the student under Section 504. This policy addresses Section 504; questions regarding IDEA should be directed to the District Special Education / Federal Programs Department.

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 requirement that the impairment 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 consent required.
Annual review of student's IEP. Mandatory reevaluation every three (3) years.	"Periodic" reevaluation required, but no prescribed time period. Meeting IDEA evaluation and review requirements satisfies Section 504.
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. How is a Section 504 evaluation request made?

3.1.1. Any parent, guardian, teacher, counselor, or other school staff member who believes that a student, because of disability, may need accommodations at school, 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. A Team Leader who receives a verbal request for a Section 504 evaluation or who otherwise becomes aware that a student may have a disability under this policy should document the request using the Section 504 Referral form.

3.1.2. The 504 Team Leader may become aware of the need to evaluate under this policy through a variety of means, including but not limited to verbal comments by students or parents about a student's illness or other medical condition, notice from an employee, direct observation, individual health care plan, medical condition indicated at registration, or excessive absences.

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

3.2.1. For a student to qualify for Section 504 protection, the student must meet three 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 criteria must be met before the student is eligible for Section 504 protection. Additional detail on each of the three criteria is as follows:

3.2.1.1. Mental or Physical Impairment

3.2.1.1.1. 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.

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

3.2.1.2. Substantially Limits

3.2.1.2.1. 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.

3.2.1.2.2. The 504 Team will consider the nature and severity of the impairment as well as how long it is expected to last. Simply

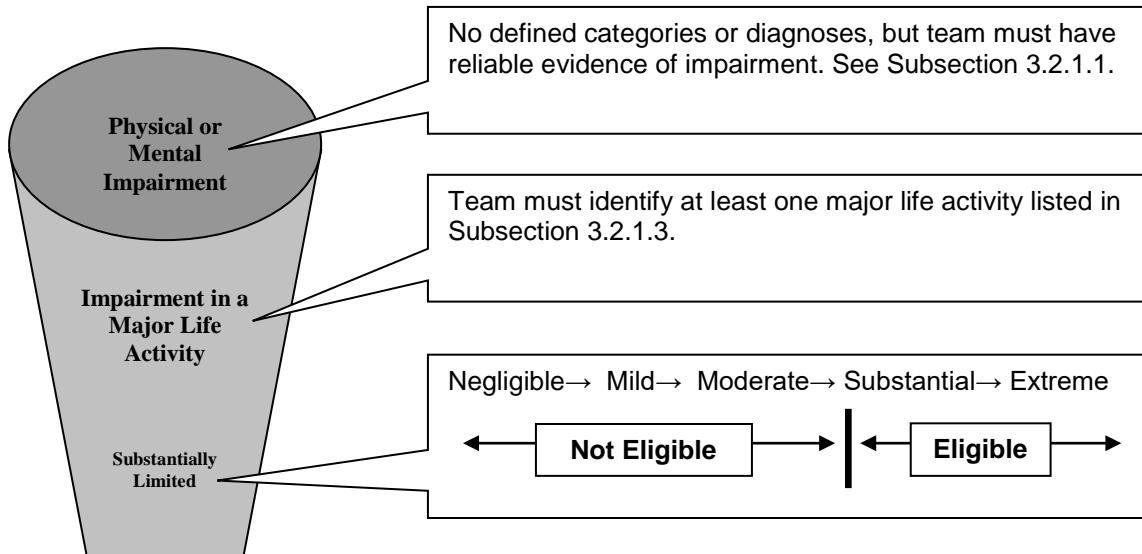
having a condition or impairment does not automatically qualify a student for Section 504 protection. Nevertheless, the term “substantially limits” is not meant to be a demanding standard.

3.2.1.2.3. 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. Mitigating measures may include, but are not limited to, medication, medical equipment, assistive technology, accommodations, or other learned modifications the student may have used to overcome or minimize the effects of the impairment. The 504 Team must evaluate the student as though such measures were not in place. The only exception to this rule is that the 504 Team may consider the effects of ordinary eyeglasses or contact lenses.

3.2.1.3. 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.

3.2.2. The following diagram illustrates the Section 504 eligibility determination criteria as more fully described in Subsection 3.2.1. The diagram is meant to aid understanding but not replace the descriptions in Subsection 3.2.1.



- 3.3. What is the process for determining Section 504 eligibility? (Eligibility Determination Meeting)**
- 3.3.1.** When a Section 504 Referral is received or completed by the 504 Team Leader, the 504 Team Leader shall ensure that the parent/legal guardian is provided the Parent's Rights and Safeguards under Section 504. The 504 Team Leader 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 should generally be based on the fact that one or more similar requests for the same student for the same disability have been made within one calendar year, and no new evidence of disability has been presented.**
- 3.3.2.** In cases where the Section 504 Referral form indicates that the major life activity being limited is "learning," "reading," "thinking," or "communicating," the 504 Team Leader should first consider whether the student should be evaluated for eligibility 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.
- 3.3.3.** Unless a 504 evaluation will not be conducted, the principal or designee shall provide the parent/legal guardian with the Section 504 Parent Notice and Consent for Evaluation along with the Parent's Rights and Safeguards under Section 504.
- 3.3.4.** The 504 Team Leader (school principal or designated assistant principal) will conduct a preliminary review to determine the nature of the student's impairment, the individuals needed to comprise the Team, and the information to be reviewed. After the 504 Team Leader receives the Parent Notice and Consent for Evaluation form signed by the parent or guardian, the 504 Team Leader will appoint a 504 Team to make the eligibility determination.
- 3.3.5.** 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 eligibility meeting using the Parent Invitation. The following people should be considered by the 504 Team Leader 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, determine whether the student has a physical or mental impairment that substantially limits a major life activity, and, if so, determine appropriate accommodations.
- 3.3.6.** 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, the 504 Referral, 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 ensure that information obtained from all sources is documented and carefully considered.

- 3.3.7.** 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 Eligibility Determination form to the District 504 Coordinator at the District Office.
 - 3.3.8.** The 504 Team Leader is responsible for notifying the parent/legal guardian of the eligibility determination by completing the Eligibility Determination and providing it to the parent/legal guardian along with a copy of the Parent's Rights and Safeguards under Section 504 if not already provided.
 - 3.3.9.** 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.
- 3.4.** The Team Leader should ensure that a student's eligibility under Section 504 is reevaluated by the 504 Team periodically. The team should conduct a reevaluation at least every three years and/or when the student enters middle school, junior high, and high school. Reevaluations and the team's eligibility determination shall be documented on the Section 504 Eligibility Reevaluation form.

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 file 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 shall 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. Reviews shall be documented on the Section 504 Annual Review of Services form.

4.3. When does a student not require a Section 504 Accommodation Plan?

- 4.3.1.** Eligibility under Section 504 is always decided by evaluating and determining that all three of the criteria identified in Section 3 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 criteria are not met, the student is not eligible, and the 504 Team shall not create a 504 Plan for the student.

- 4.3.2.** The following circumstances, without an eligibility determination by the 504 Team, are not sufficient reason to create a 504 Plan. Upon being notified of any of these circumstances, the 504 Team Leader should first cause that an evaluation under Section 3 be conducted.

4.3.2.1. A parent and/or doctor presents the school with a disability diagnosis.

4.3.2.2. A parent requests specific accommodations solely to help his or her student receive higher grades or test scores on standardized tests.

4.3.2.3. A student fails to qualify for special education services under IDEA.

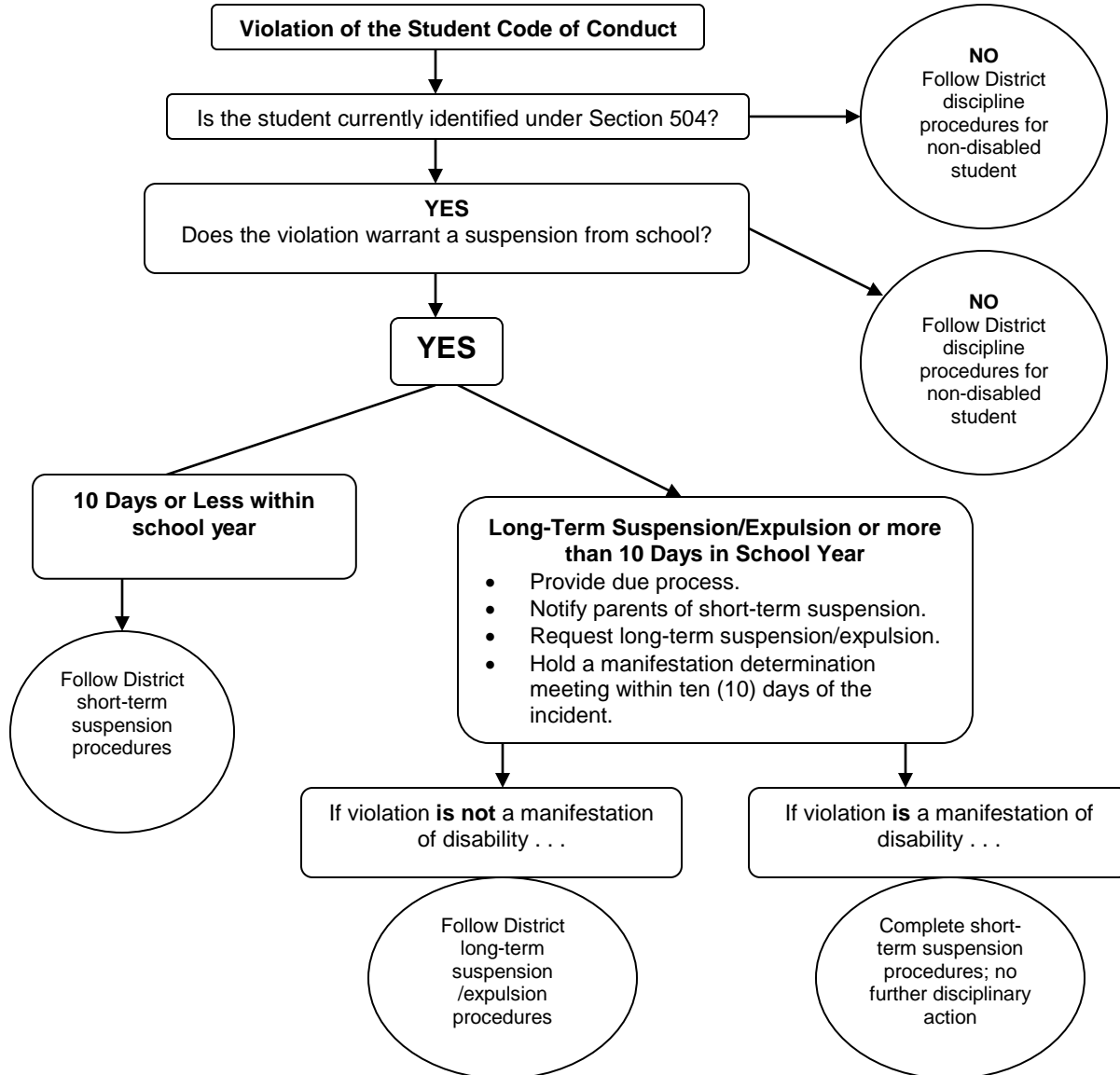
- 4.3.3.** Some students will meet the eligibility requirements but not be in need of any accommodations. Documentation must be kept indicating these students are eligible but no formal 504 Plan is necessary. The documentation must be reviewed annually, and eligibility must be reviewed periodically. 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.

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 other students, 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) school days within a single school year. 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. The following flowchart illustrates the discipline process for an eligible student under Section 504.



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

5.3.1. 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 as provided below.

5.3.1.1. 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.

5.3.1.2. 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.

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

- 5.4.1. 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.
- 5.4.2. 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.
- 5.4.3. The manifestation determination should begin with the 504 Team deciding whether the student’s Section 504 Plan is appropriate and is being properly implemented.
- 5.4.4. 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.
- 5.4.5. 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:
 - 5.4.5.1. Does the disability impair the student’s ability to control his or her behavior?
 - 5.4.5.2. Does the disability impair the student’s ability to understand the consequences of his or her behavior?
- 5.4.6. 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.
- 5.4.7. 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.

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

5.5. 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 for purposes of disciplining the student for drug or alcohol violations. 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/STUDENT RIGHTS

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

Yes. A parent/legal guardian must receive prior notice of a Section 504 eligibility meeting. The Parent Invitation form should be completed and provided to parents before an eligibility meeting.

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

Yes. Even though the Section 504 regulations do not include any express provision related to parental consent, OCR has interpreted Section 504 to require districts to obtain parental permission for initial evaluations. Before holding an eligibility meeting, the 504 Team Leader shall ensure that parental consent is obtained. The Section 504 Parent Notice and Consent for Evaluation form should be used to obtain parental consent.

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 Section 504 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 processes.
- 7.2. Complaints of bullying or harassment based on disability should be made and investigated in accordance with Nebo School District Policy JDC, *Student Discrimination and Harassment*.
- 7.3. Complaints related to the sufficiency or implementation of a student's 504 Plan, including allegations of FAPE denial, should be made and investigated in accordance with the following:
 - 7.3.1. **Step 1.** The parent/legal guardian should complete and submit a Section 504 Complaint to the District 504 Coordinator.
 - 7.3.2. **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).
 - 7.3.3. **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).
 - 7.3.4. **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.

7.3.5. 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.

7.3.6. The Utah State Board of Education (“USBE”) and the United States Department of Education, Denver Office for Civil Rights (“OCR”) investigate complaints against school districts within their jurisdiction and monitor and enforce compliance with Section 504.

8. LIST OF NEBO SCHOOL DISTRICT SECTION 504 FORMS

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

8.1. Initial Evaluation 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. 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 Parent Notice and Consent for Evaluation and the Eligibility Determination.

8.5. Parent Invitation

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

8.6. Evaluation Worksheet

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. 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. 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. Annual Review of Services

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

8.10. Eligibility Reevaluation

Purpose: Documents the periodic reevaluation of a student’s eligibility under Section 504.

8.11. 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.

8.12. Complaint

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

8.13. 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

Nebo School District Section 504 Initial Evaluation Checklist
Nebo School District Section 504 Referral
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 Eligibility Reevaluation
Nebo School District Section 504 Manifestation Determination
Nebo School District Section 504 Complaint
Nebo School District Complaint Resolution Procedures

HISTORY

Revised – March 14, 2018. Clarified purpose & philosophy section; added child find and reference to FAPE; expanded section on IDEA and provided exception for simultaneous IEP and 504 plan; added section on making request for evaluation; revised illustrations; reorganized section on not creating plan; clarified need for consent; revised reevaluation procedures; referred to discrimination and harassment policy for certain investigations; updated names of forms; made general clarifications and technical changes throughout.

Revised – April 4, 2012. Updated in accordance with ADAAA and implementing regulations and OCR guidance.

Adopted – July 9, 2008.
