

Section 504 Manual
Richmond County School System
2017-2018

Richmond County School System
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Dr. Angela Pringle
Superintendent of Schools

Mission Statement

The mission of the Richmond County School System is building a world-class school system through education, collaboration, and innovation.

Vision Statement

The Richmond County School System will create a world-class, globally competitive school system where all students will graduate and are college/career ready.

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Special Note

The **U.S. Department of Education's Office for Civil Rights (OCR)** has jurisdiction over Section 504. Its primary responsibilities include investigating complaints, conducting compliance reviews, and providing technical assistance. These materials serve as guidance only and should not replace legal advice. These guidelines might not reflect the opinion of the Office for Civil Rights and/or current court cases. Civil Rights laws and regulations change periodically and will change interpretations of various rules and regulations. Always check with your school (district) legal counsel regarding specific policies and procedures. The national OCR office is located at

**U.S. Department of Education
Office for Civil Rights
400 Maryland Avenue, SW
Washington, D.C. 20202-1100**

(800) 421-3481, TTD (877) 521-2172

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

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CHAPTER I:

Section 504 and Related Federal Laws



Section 504: An Overview

What is Section 504?

Section 504 is a federal civil rights law under the Rehabilitation Act of 1973. It provides protection against discrimination for individuals with disabilities. Students in school settings fall under the civil rights protection of Section 504. Section 504 guarantees the right to full participation and access to a free appropriate public education (FAPE) with enforcement being from the Office for Civil Rights (OCR). If OCR is unable to achieve voluntary compliance, they may initiate proceedings to terminate federal funding or refer the case to the Department of Justice for judicial proceedings. The law prohibits discrimination on the basis of disability from all school programs and activities in both public and private schools receiving direct or indirect federal funding. Section 504 is designed to provide equal access and fairness in general education to students with disabilities, through what is known as a Section 504 Accommodation Plan or an Individual Accommodation Plan (IAP). It is **not** a plan designed to enhance a student's performance, but rather a way to provide fairness and equal access to education. Section 504 requires the provision of FAPE for students who are identified as having a disability. Sadly, there is no federal funding provided to assist in complying with Section 504. All costs are the obligation of the general school district budget.

Who is Eligible under Section 504?

A student may be considered eligible under Section 504 regulations if they meet any one of the three “prongs” of eligibility listed in the law. These are:

1. Has a physical or mental impairment which substantially limits one or more major life activities,
2. Has a record of such an impairment, or
3. Is regarded as having such impairment.

The prong under which a student is eligible will assist in determining which of the Section 504 protections are extended to the student. For example, the second or third prongs tend to become a factor if discrimination or negative action has occurred toward the student.

What does Section 504 consider to be a physical or mental impairment?

Section 504 defines a physical or mental impairment as any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; 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. The regulatory provision does not set forth an exhaustive list of specific diseases and conditions that may constitute physical or mental impairments because of the difficulty of ensuring the comprehensiveness of such a list.

What does Section 504 consider to be a major life activity?

Major life activities include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. Other major life activities include eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, and communicating.

In the definition section of the Americans with Disabilities Act Amendments Act of 2008 (ADAAA), Congress indicated that “a major life activity also includes 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 reproductive functions.” Schools that merely look at the major life activities, while ignoring major bodily functions do so at their own risk.

What does it mean for an impairment to substantially limit a major life activity?

Section 504 esoterically does not provide an operational definition of substantial limitation, but instead allows each local education agency (LEA) to make its own determination of what this phrase means. Section 504 simply “requires that a group of knowledgeable persons draw upon information from a variety of services in making this determination.” However, the ADAAA (effective May 24, 2011) indicates that an impairment is a disability if it substantially limits the ability of an individual to perform a major life activity as compared to most people in the general population.

One other significant change that is a result of the ADAAA addresses the impact of mitigating factors. The rule provides that “the determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures.” In short, students are disabled under Section 504 if they have a physical or mental impairment that WOULD substantially limit them in a major life activity IF THEY ARE NOT taking advantage of the mitigating measure (e.g., medication).

Defining Discrimination under Section 504

Section 504 defines discrimination as: “No qualified person with a disability shall, on the basis of disability, be excluded from participation in, being denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives federal financial assistance.”

Discrimination under Section 504 would occur when a school system engages in any of the following practices:

“Denying a qualified person with a disability the opportunity to participate in or benefit from the aids, benefits, or services that are afforded students without disabilities.”

Examples could include:

- Denying credit to a student whose excused absenteeism is related to his/her disability
- Giving a student grades of zero for worked missed as a result of absences related to his/her disability
- Expelling a student and denying access to services for behavior caused by his/her disability

“Denying qualified persons with disabilities the opportunity to participate as a member of a planning or advisory board because of their disabilities.”

Examples may include:

- Excluding a student with a seizure disorder from participating on student council
- Excluding a blind student from running for class president due to his/her disability

“Otherwise limiting a qualified person with a disability from the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others.”

Examples may include:

- Prohibiting a student with a disability from going on a field trip
- Excluding a deaf student from trying out for the school basketball team solely due to his disability

The above section only includes some of the areas of possible discrimination regarding Section 504 students. The OCR has updated a frequently asked questions document which provides useful information about 504 discrimination and many other topics. This document is available in Appendix A or at <http://www.ed.gov/about/offices/list/ocr/504faq.html>

What is considered an evaluation under Section 504?

An evaluation under Section 504 is not necessarily a comprehensive, individual evaluation as required under Individuals with Disabilities Education Act (IDEA). Section 504 evaluations draw upon a variety of sources and may include cumulative record and work sample review; observational data; interviews with student, parent and/or school personnel; and/or administration of formal assessment measures. “Section 504 also requires that tests and other evaluation materials include those tailored to evaluate the specific area of educational need and not those designed to provide a single intelligence quotient.”(OCR FAQ Document 2009, Question 18; See Appendix A).

The OCR has opined that, at the elementary and secondary education level, the amount of information required to determine if a student has a disability is determined by a multi-disciplinary team. This team may also be the RtI/SST. The team may decide that a comprehensive psychoeducational evaluation is necessary; however, they may also determine that a simple review of existing data in the cumulative record is sufficient. This team should include persons knowledgeable about the student, interpretation of evaluation data, and the placement options available. It is “unacceptable to rely on presumptions and stereotypes regarding” whether or not a student has a disability.

A physician’s medical diagnosis alone is insufficient to suffice as an evaluation (OCR FAQ Document 2009, Questions 24 & 25). Although a medical diagnosis is one source of data to consider, it is neither required nor sufficient for establishing eligibility under Section 504. The Section 504 team (which also may be the RtI/SST) determines whether a medical evaluation is necessary in order to determine eligibility.

Eligibility under Section 504

For the purpose of determining whether a student is in need of Section 504 accommodations, using a problem solving method (e.g., Tier 3) will facilitate the identification of the severity and impact which a disability has on a major life activity. Under Child Find, a school district is obligated to evaluate students who need or are believed to need special education or related services because of a disability. This would seem to relate to Section 504. Section 504 eligibility and the need for an accommodation plan are separate determinations. At least two OCR letters of finding (Memphis Community Schools, 110 LRP 7395, OCR 2009 and Oxnard CA Union High School District, 55 IDELR 21, OCR, 2009) have highlighted a view of Section 504 eligibility most school districts do not recognize. In these decisions, OCR has separated eligibility questions from the question of whether a student needs a Section 504 accommodation plan.

Apparently, OCR has indicated that a student does not have to demonstrate a need for services or accommodations in order to be Section 504 eligible.

An example of this could be a student with ADHD whose current use of medication (a mitigating measure) results in no need for services or accommodations. This student could qualify under Prong One, but the student would not be in need of services if the medication removes the need for other accommodations or supports. In this situation, although the student does not need a Section 504 plan, they can be eligible and receive manifestation determination, procedural safeguards, periodic reevaluation and the nondiscrimination protections of Section 504. Should the need for an accommodation plan develop, the Section 504 Team would reconvene and develop an appropriate plan at this time.

Mitigating Factors. As a result of the changes from ADAAA, eligibility for Section 504 shall be made without regard to the ameliorative effects of mitigating measures (e.g., medications, medical supplies, prosthetics, etc.). To comply with this rule, the Section 504 team must first identify all mitigating measures currently being used by the student. Once identified, the team must determine how the student's impairment impacts the major life activity at issue in the absence of the mitigating measure. For example, if the student is evaluated to determine whether his juvenile arthritis gives rise to eligibility and the student is medicated (a mitigating measure), the team must determine whether the impairment substantially limits a major life activity after subtracting the positive impact of the medication from the equation. If the student has been educated in school without medication, the team can look to performance data during the unmediated time to help determine the value of the mitigating measure. Obviously, these types of decisions will require the use of professional judgment in most situations. OCR has determined that health plans and emergency plans are actually mitigating measures (North Royalton, Ohio City School District, 52 IDELR 203, OCR, 2009). When a student with a health or emergency plan is evaluated for Section 504 eligibility, the positive effects of the plan must be subtracted to determine whether the student's impairment substantially limits a major life activity.

As mentioned earlier, there are three prongs of eligibility which relate to Section 504. Historically, OCR has seemed to reject the idea of accommodation plans for students with records of impairment (Prong Two) or students regarded as impaired (Prong Three). OCR clarified the FAPE duty and its applications to students eligible under Prong One, but not Prongs Two and Three in a 1992 Senior Staff Memorandum:

“The reason for the inclusion of the second and third prongs of the definition is explained in the regulation at Section 104.3 (j) (2) (iii) and (iv). Those two prongs of the definition are legal fictions. They are meant to reach situations where individuals either never were or are not currently handicapped, but are treated by others if they were.”

Prongs Two and Three are most often useful in the areas of employment or post-secondary education. It is rare for either of these prongs to be used in elementary or secondary student cases, since they only provide protection from exclusion. Realistically, they cannot be the basis upon which the requirement for FAPE is triggered. Logically, if a student is not mentally or physically handicapped, there is no real need for special education or related aids and services (i.e., Section 504).

However, this historical approach has been complicated by the ADAAA language, which essentially transforms students eligible under Prong Two into Prong One students, if they were substantially limited when their impairment was active. That move from Prong Two eligibility to Prong One eligibility could additionally result in the need for a Section 504 accommodation plan. OCR has not issued definitive

guidance on this question. For example, questions 35 and 37 seem to provide conflicting answers from the OCR Frequently Asked Questions provided in Appendix A.

Federal Laws and their Relationships to Section 504

Americans with Disabilities Act of 1990

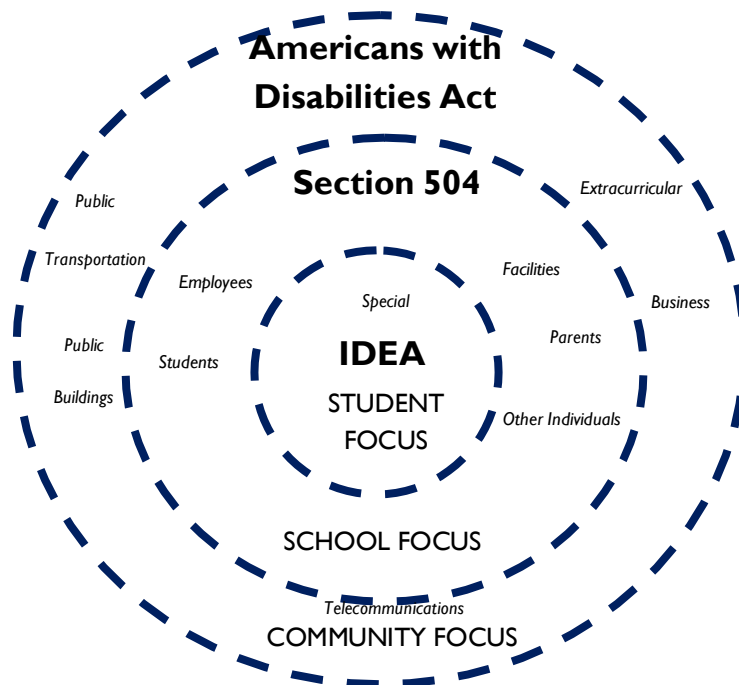
The *Americans with Disabilities Act of 1990* (ADA) is federal law which provides civil rights protections to all individuals with impairments in our society similar to those provided to individuals on the basis of race, color, sex, national origin, age, and religion. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, State and local government services, and telecommunications. One of the major differences between ADA and Section 504 is that Section 504 applies to entities that receive any type of federal funding, but ADA covers most all organizations whether or not they receive federal financial assistance. The ADA does not replace Section 504 but instead seems to expand its protective mandates.

Americans with Disabilities Act Amendments Act of 2008

The *Americans with Disabilities Act Amendments Act of 2008* (ADAAA), effective January 1, 2009, amended the meaning of “disability” in ADA. The changes made to ADAAA apply to school students under Section 504. The ADAAA did not change the actual language of the three prongs, but it did change how some of the phrases used on the prongs are understood (e.g., broadened major life activities and addressed mitigating factors).

Individuals with Disabilities Education Act

The *Individuals with Disabilities Education Act* (IDEA) was initially called the Education for All Handicapped Children Act of 1975. This law defines eligible students as those who have certain specific types of disabilities and who, because of those conditions, need special education (specifically-designed instruction) and related services in order to benefit from their education provided through an Individualized Education Program (IEP). An evaluation is also required to determine if a student meets eligibility for special education, but is typically more comprehensive than is required under Section 504.



Major Differences between IDEA and Section 504

While Congress probably intended Section 504 to be consistent with the Individuals with Disabilities Education Act (IDEA), Section 504 is more encompassing. Section 504 could cover students, parents, employees, and other individuals with impairments. The Section 504 definition of an impairment is much broader, including any physical or mental disability that substantially limits one or more major life activities, including but not limited to, learning. For public schools, Section 504 covers all students who meet this definition, even if they do not fall within an IDEA disability category. Students who qualify for Section 504 services do not automatically qualify for special education under IDEA. The identification for Section 504 services must be based upon evaluations and conducted by a team of individuals knowledgeable about the student. Students who qualify for Section 504 may require accommodations through a Section 504 Accommodations Plan developed by the school's 504 Team.

Please see Appendix K for a detailed chart of the major differences.

Child Find and Section 504

The Georgia Department of Education has written the following law (160-4-7-.03) establishing child find procedures for school districts in Georgia. This law pertains to special education as well as Section 504.

(1) GENERAL

(a) Each LEA must have in effect policies and procedures to ensure that all suspected children with disabilities, including those who are homeless, are wards of the State or are attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located and evaluated. [34 C.F.R. § 300.111]

(b) Each LEA shall ensure that before conducting any significant activity that is designed to identify, locate or evaluate children, annual notice must be published or announced in newspapers or other media, or both, to notify parents of this activity. [34 C.F.R. § 300.612 (b)]

(c) These policies and procedures shall provide for the screening and evaluation of all children with suspected disabilities birth through age 21 to include:

1. Children birth through age three. An LEA may fulfill its child find responsibility through referral to the Babies Can't Wait early intervention program operated by the Department of Community Health.

2. Preschool children, ages 3-5, not yet eligible for state-funded kindergarten.

3. Children enrolled in the LEA schools including public charter schools.

(i) Children who are suspected of being children with disabilities and in need of special education, even though they are progressing from grade to grade. [34 C.F.R. § 300.111(c)(1)]

(ii) Highly mobile children, including migrant children. [34 C.F.R. § 300.111(c)(2)]

4. Children who are detained or incarcerated in city/county operated jails or correctional facilities.

5. Children who reside in the LEA and are enrolled in home school/study programs.

6. Parentally-placed private school children. [34 C.F.R. § 300.131(a)]

(i) Children enrolled by their parents in private, including religious, elementary and secondary schools located in the LEA's jurisdiction. [34 C.F.R. § 300.130]

(d) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services. [34 C.F.R. § 300.111 (a)(ii)]

1. Each LEA shall submit to the Georgia Department of Education (GaDOE), in an electronic format specified by GaDOE, data requested by the GaDOE on all children ages three through twenty-one who have been found eligible for special education and related services.

2. All data shall be accurate and timely. [34 C.F.R. § 300.645]

(2) INTERVENTIONS PRIOR TO REFERRAL.

(a) The screening of children by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services. [34 C.F.R. § 300.302]

(b) Prior to referring a student for consideration for eligibility for special education and related services, a student must have received scientific, research or evidence based interventions selected to correct or reduce the academic, social or behavioral problem(s) the student is having.

1. Student referrals must be accompanied by documentation of scientific, research or evidence based academic and/or behavioral interventions that have been implemented as designed for the appropriate period of time to show effect or lack of effect that demonstrates the child is not making sufficient rate of progress to meet age or State-approved grade-level standards within a reasonable time frame.

2. Exceptions may be made in circumstances where immediate evaluation and/or placement is required due to a significant disability that precludes access to instruction.

3. The exception noted in (2)(b)2 should be an infrequent and rare occurrence, and the circumstances evidencing the need for the LEA's use of the exception must be clearly documented in the eligibility decision.

CHAPTER 2:

Richmond County School System

Procedures for Section 504



Section 504 Process

Refer the Student (Parent, teacher, etc.)

- Rtl/SST convenes and reviews either standard Rtl/SST referral packet or referral for Section 504 forms

Decide Whether or Not to Evaluate

- Does the Rtl/SST know or suspect that because of a disability the student needs accommodations to participate in or benefit from school?
- If yes, provide the parent/ guardian with Consent for Evaluation and Parent's Rights
- If No, provide parent/guardian with written notice of decision and Parent's Rights

Evaluate the Student

- Evaluate the student in all areas of suspected educational need. Only an evaluation sufficient to provide information to determine the existence of a disability under Section 504 is required.

Determine Eligibility

- The Section 504 Building Coordinator schedules and conducts the eligibility team meeting. This team decides if the student has a disability under Section 504 and if he/she requires accommodations due to this disability.
- If yes, develop a Section 504 Plan, get the parent(s) to sign it, and provide a written copy to the parent.
- If No, provide written notice to parents of this decision.

Review the Section 504 Plan

- Review Section 504 plan on a regular basis to consider any changes to the plan. An annual review is typically considered best practice.

Periodic Re-evaluation

- At least every 3 years, students who are eligible for Section 504 should have a re-evaluation to determine if they continue to be eligible. The Section 504 Building Coordinator schedules and conducts this meeting.
- At a minimum, re-evaluations shall be conducted the year preceding the student's promotion to middle school and high school, and the student's senior year.

Procedures

Student Referrals

The Response to Intervention/Student Support Team (RtI/SST) is the process used by the Richmond County School System (RCSS) to refer and identify students who require Section 504 support. It should be emphasized that the RtI/SST is a general education function. Section 504 referrals to the RtI/SST are typically made by the student's teacher or parent/guardian.

When properly implemented, the RtI/SST (especially Tier 3 or the problem-solving method) framework addresses the needs of all students and ensures that students with disabilities are identified and given appropriate support. Although the end goal of RtI/SST is not eligibility and placement but improved student outcomes, RtI/SST helps identify students who may have a disability.

As noted in the *Overview of Section 504*, Section 504 is designed to provide equal access and fairness in general education to students with disabilities. It is **not** a plan designed to enhance a student's performance, but rather a way to provide fairness and equal access to education. Therefore, a student may not need to be in the RtI/SST process to be referred for a Section 504 Accommodation Plan. However, the RtI/SST team is responsible for completing the 504 Referral forms (See Appendix B) and providing the parent with the Medical Documentation Statement (Appendix C) to be completed by a physician or licensed clinical psychologist. The Section 504 Building Coordinator should be in attendance at the RtI/SST meetings if a referral is made, or be notified of the referral within 5 school days.

Situations that may result in consideration of Section 504 services include the following:

- When a teacher or parent initiates a request
- When a disability is suspected (i.e., Child Find law)
- When a student exhibits a chronic health condition
- When a student manifests persistent academic, learning, or behavioral problems and RtI/SST interventions have been ineffective
- When a student is evaluated but not eligible for Special Education services

~FICTION~

There can be no special "coding" of report cards to indicate Section 504 eligibility.

~FACT~

The OCR has warned that no special coding should be used on report cards or transcripts to denote the receipt of Section 504 accommodations. However, markings or colors on student folders to identify Section 504-eligible students for staff are appropriate provided the confidentiality requirements of the Family Educational Rights and Privacy Act (FERPA) are met.

Evaluation

One of the primary functions of the RtI/SST when considering whether to refer a student for an evaluation (504 and/or Special Education) is to determine if there is a reasonable suspicion that the student has a disability. This process is accomplished by a thorough examination of data (e.g., documentation of research or evidence-based intervention effectiveness, review of medical information, etc.).

- If the RtI/SST determines that referral for an evaluation is appropriate, they will provide the parent/guardian with:
 - Consent for Evaluation (either the consent for Special Education consideration or the consent for Section 504 consideration only)
 - See Appendix D for Section 504 Consent; Obtain consent form from your school psychologist if requesting an evaluation for Special Education consideration
 - Notice of Rights and Procedural Safeguards (See Appendix E)
- If the team decides on a “504 only” type of referral, they will need to decide on, and indicate, what specific information will be required in order to determine eligibility (e.g., if psychological testing is needed.)
- If an evaluation is determined by the RtI/SST to be inappropriate and the parent is making the request for evaluation, the parent must be given:
 - A written explanation of the team’s decision
 - Notice of Rights and Procedural Safeguards

***It should be noted that if a student is a “504 only” referral, the Section 504 Building Coordinator should be in attendance at the RtI/SST meetings. In many schools the Section 504 Building Coordinator will also be the RtI/SST chairperson/facilitator.

-FICTION-

Section 504 requires extensive, formal evaluations.

-FACT-

Although a 504 “evaluation” may include formal assessment, it is not required. Only an evaluation sufficient to provide information to determine the existence of a disability under Section 504 need be obtained. The 504 team determines what data is necessary to make the appropriate eligibility and services decisions.

Eligibility

In the Richmond County School System, the 504 Eligibility Team (which may also be the RtI/SST), is a multi-disciplinary team which includes persons knowledgeable about the referred student, interpretation of evaluation data, and the placement options which are available. This team will include, at a minimum, the Section 504 Building Coordinator, the student's teacher/s (if unavailable a teacher certified to teach the student's grade level) and the parent/s or guardian/s (See Appendix F for Parent Notification letter) of the student. However, the meeting can proceed without parents/guardians as long as they were invited to participate and have not requested a change in the date or time of the meeting. The student also should be invited if he/she is in high school, or if the Team indicates a need for the student's presence for a younger child. Other professionals may also be invited to the eligibility meeting (e.g. school psychologists, school counselors, school nurses, etc.) if the Section 504 Building Coordinator determines there is a need for their presence.

The 504 Eligibility Team has the task of first determining whether the referred student has a physical or mental impairment that substantially limits one or more major life activities.

- If the answer is NO, the eligibility process stops and the student should be referred back to the tiered interventions of the RtI/SST process. The parents or guardians are then given a copy of the meeting results.
- If the answer is YES, the student is eligible for the nondiscrimination protections of Section 504, together with manifestation determination, procedural safeguards and periodic reevaluations.

~FICTION~

A medical diagnosis is required to determine Section 504 eligibility for students with characteristics of attention deficit hyperactivity disorder (ADHD).

~FACT~

Section 504 regulatory provisions require school districts to individually evaluate a student. An impairment (e.g., ADHD) in and of itself is not a disability—the impairment must substantially limit one or more life activities. Although a medical diagnosis of ADHD is one source of data to consider, a medical diagnosis is neither required nor sufficient for establishing eligibility under Section 504. The multidisciplinary committee (i.e., 504 team) must draw from a variety of sources to interpret evaluation data and make eligibility decisions. The Section 504 team determines whether a medical evaluation is necessary for the team to make the eligibility and placement decision. If the team, on the basis of existing evaluation data from a variety of sources, can make the required determinations without a medical evaluation, no medical evaluation is required. If medical information is deemed necessary to determine whether the student is 504 eligible, then the school district could be responsible for providing the medical evaluation at no cost to the parent.

Next, the team will have to determine whether the student needs a 504 accommodation plan.

- If the answer is YES, then the team will develop an appropriate plan.
- If the answer is NO, the process stops here.
 - However, as indicated above, the student is eligible for Section 504 protections. The parent/s or guardian/s then sign a consent form for Section 504 eligibility, indicating eligibility with or without the need for an accommodation plan, and are given a copy of the meeting results (See Appendix for forms).

The eligibility determination forms (See Appendix G) will guide the team in understanding what the impairment is as well as how to examine the impairment's impact on the individual's ability to function in the school setting. Specific instructions are provided on the forms which instruct you on whether or not to proceed with the eligibility.

~FICTION~

Whenever we want special accommodations in standardized testing for a student, we need only make the student "504 eligible" and include testing accommodations.

~FACT~

Section 504 plans are not to be written for the sole purpose of providing accommodations on standardized testing. If the student does not need educational accommodations during the school day to address a disabling condition, then a Section 504 accommodation plan is not appropriate. In addition, whether a student has an official accommodation plan for the school environment or not, if the student needs accommodations in the testing environment to accommodate a disability, the student is entitled to such accommodations under Section 504 to afford that student equal access and to prevent discrimination on the basis of disability. In fact, it is conceivable that a student may not need a particular accommodation for regular school activities but would need it during testing in the classroom and on high stakes tests.

Accommodation Plans

If a student is found to be in need of a 504 Accommodation Plan, the plan developed by the review committee is based upon the individual student's educational needs and least restrictive environment considerations. The plan will document the committee's decisions and will include the date, student information, accommodations and services, and signatures and recommendations of members present at the meeting. A copy of the plan will be made available to appropriate school personnel. The plan will be filed and maintained in each student's educational records. A non-exhaustive list of accommodations can be found in the appendix along with relevant information from the Georgia Student Assessment Handbook (Appendix H).

At any time, an amendment meeting may be held to make changes to a student's Accommodation Plan. The meeting may be called by the parent, or the teacher, or another individual directly involved with the child's academic program.

| Common Errors in the Development/Implementation of a Section 504 Plan |
|---|
| Using a predetermined checklist and checking accommodations or services that are not necessary |
| Failing to match services and accommodations with students' needs |
| Failing to provide copies and an explanation of the Section 504 plan to everyone responsible for implementation |
| Failing to conduct timely evaluations |
| Writing vague plans |
| Providing minimal or no monitoring of the implementation of the plan |
| Failing to get school administration involved with monitoring of implementation |

Annual Reviews

Although not required by OCR, it would be considered best practice to provide all Section 504 students with an annual review in order to update information and accommodations if necessary. Students that are transitioning to the next level (middle and high school) should always have a review in the spring before they transition up. However, this meeting could be considered a re-evaluation and not simply an annual review. These meetings will be conducted by the Section 504 Building Coordinator. Participants in these meetings will be similar to those of the 504 Eligibility Team.

Periodic Re-evaluation

Once a student is identified as eligible under Section 504, a periodic re-evaluation is required. OCR has indicated that these may be conducted in accordance with the IDEA regulations, which require a triennial re-evaluation (See questions 29 and 30 in Appendix A). **Richmond County School System is requiring that a re-evaluation be conducted at a minimum upon moving from elementary to middle school, middle school to high school, and during the student's senior year. However, it would be most beneficial for a re-evaluation to be conducted every three years.** Although an annual review is considered best practice, a triennial re-evaluation can be sufficient in many cases. However, it is imperative that all appropriate school staff are aware of the responsibilities for implementation of any 504 plan. This may be handled through an annual review, triennial re-evaluation or simply an informal parent-teacher conference.

Re-evaluation would consist of a review of the accommodation plan and current data on performance, which may include grades and assessment information. Re-evaluation under Section 504 does not require a comprehensive evaluation; however, the 504 Team determines if any additional information is required. The primary functions of the re-evaluation are to determine whether the student continues to be eligible for Section 504 services and to determine if the current plan is appropriate or needs to be modified.

Re-evaluations are also required before any significant change in placement occurs, such as expulsion, a pattern of suspensions that exceed 10 days in a school year, and any other significant change in the delivery of educational accommodations or services specified in the 504 plan. More about this will be discussed in the following section on discipline.

As with annual reviews, re-evaluations will be conducted by the Section 504 Building Coordinator. The only exception will relate to re-evaluations as a result of disciplinary action which will be conducted by the System Section 504 Coordinator. Participants in re-evaluations will be similar to those of the 504 Eligibility Team.

~FICTION~

A reevaluation under Section 504 must be conducted every three years, just like under IDEA.

~FACT~

A “reevaluation” need only be conducted “periodically” and as necessary under Section 504. OCR indicates that a 3-year interval reevaluation as specified under IDEA would satisfy the “periodic” requirement. In addition, formal testing may not be required as part of a “reevaluation” under Section 504. The process of collecting data, reviewing eligibility, and reviewing a Section 504 plan may constitute a “reevaluation” in and of itself.

Revocation of Consent

There is nothing in the Section 504 regulation that specifically addresses revocation of consent for services/accommodations. If a revocation of consent is requested in writing and the RCSS does not believe the student continues to need the services in order to receive an appropriate education, the Revocation of Consent for 504 Services (See Appendix I) should be signed by the parent/guardian or 18+ year old student. However, in these situations, the person signing the consent should be provided prior written notice explaining the potential consequences for the student that could follow such a decision (e.g., will not receive test accommodations on any standardized testing). Please see FAQ #32 in Appendix A if the RCSS staff believes the student needs to continue with their 504 services.

Roles and Responsibilities

The collaboration of all stakeholders provides the greatest opportunity for the 504 process to be successful.

System Section 504 Coordinator

The System Coordinator's primary responsibility is to coordinate the school district's efforts to comply with the law and general provisions of Section 504. The System Coordinator has the following responsibilities:

- Establishes and monitors the district's Section 504 referral/identification/review process
- Maintains data on Section 504 referrals
- Conducts staff and parent awareness and training activities concerning Section 504 requirements
- Implements and monitors Section 504 grievance procedures for the district
- Monitors the local Section 504 budget
- Serves as a liaison with the State Section 504 Coordinator and the regional Office for Civil Rights
- Ensures that Section 504 disciplinary procedures are followed

Principal

As the instructional leader of the school, the principal is responsible for ensuring that all applicable Federal and State laws are complied with, so that all students receive a free appropriate public education (FAPE). The principal's role includes:

- Facilitates Section 504 professional development for school staff
- Ensures the integrity of 504 eligibility determinations
- Ensures 504 student data is accurate
- Serves as or appoints school contact person for 504
- Recruits core 504 team members
- Ensures that 504 procedures are followed and required program data is maintained
- Ensures that the procedural rules of discipline for 504 students are followed. Before a significant change in placement can occur as a result of a disciplinary infraction (e.g., any suspension totaling more than 10 days in a school year) a manifestation determination must be made.
- Submits the name/s of any Section 504 student when they accrue over 5 days of suspension in a school year, to the System Section 504 Coordinator. This information must be submitted within 10 school days.

Section 504 Building Coordinator (Building Coordinator)

This is a certified staff member who is designated by the principal to coordinate all 504 activities including: the referral, evaluation, and eligibility processes. In most situations, the principal will designate an appropriate staff member (e.g., assistant principal) to serve in this position. In some instances the principal may designate themselves. However, a school psychologist or special education teacher may not serve in this role. Responsibilities include:

- Serve as a contact person in the school when questions arise regarding 504 issues
- Participates on RtI/SST for 504 referrals
- Schedules meetings and sends notices to appropriate individuals (See Appendix F)

- Gathers necessary information for meetings
- Conducts initial eligibility, annual review, and reevaluation meetings
- Provides documents to parents
- Provides and reviews current accommodation plan with all individuals/school personnel who need to know about the individual student's 504 plan at the beginning of the year or at initial school enrollment (See Appendix J).

School Nurse

The school nurse plays an important role in identifying health-related limitations on major life functions for students with health problems and interpreting the scope of Section 504 for eligibility teams, administrators, teachers and/or parents. By participating in the identification of Section 504 students, the school nurse contributes to maximizing student academic performance by helping to prevent further health problems. The school nurse roles include:

- Assists in the eligibility process
- Assesses student's health status through communication with parents and health care providers
- Consults with school staff on medical issues related to 504 students
- Helps develop health care protocols to meet Section 504 students' specific health needs during the school day
- Monitors 504 students' health and progress related to accommodations
- Maintains open communication with family members regarding the health status of 504 students

Teachers

The teacher's role includes:

- Conduct nondiscriminatory practices in the classroom
- Refer students as appropriate
- Implement identified Section 504 accommodations when appropriate
- Provide evidence on the effectiveness of Section 504 accommodations as needed
- Participate in the Section 504 eligibility determination process and annual review meetings when requested
- Encourage parent involvement

School Counselor

The School Counselor's role includes:

- Assist in the eligibility determination process
- Assist staff in understanding how to conduct nondiscriminatory practices in the school setting
- Ensure that students with 504 plans receive the appropriate accommodations during "high stakes" testing (e.g., Milestones, SAT, etc.)
- Ensure that students' 504 information accompanies them when they transition to another school
- Assist in distributing 504 plans to the appropriate staff in the school

- Provide classroom guidance, individual and/or group counseling to Section 504 students within the scope of the school's counseling program
- Serve as consultants to staff and parents regarding the needs of Section 504 students

School Psychologists

The School Psychologist's role includes:

- Assist the Section 504 Building Coordinator in conducting appropriate evaluations of Section 504 students
- Serve as a consultant to the school and parents regarding best practices for Section 504 students
- Assist in the eligibility determination process, especially in helping to determine appropriate accommodations, as needed
- Serve as a liaison between the school and System Section 504 Coordinator
- May assist in training of school staff regarding Section 504
- Advocate for an equal educational opportunity for all Section 504 students
- Assist school staff if disagreements arise with a Section 504 student's parent/guardian

Parents

The Parent's role includes:

- Share concerns about their child with the school early
- Participate in Section 504 meetings and assist in the eligibility process
- Help determine appropriate accommodations for their child

An informational handout is available for parents in Appendix K. Handouts include general information about Section 504 and the differences between an Individual Accommodation Plan (IAP) and an Individualized Education Program (IEP).

CHAPTER 3: Discipline



Much of the information in this Chapter was directly taken from the Florida Department of Education Section 504 manual.

Discipline

This section offers guidance on the trends in disciplinary cases and complaint resolution pertaining to students with disabilities. It is a general guide for school personnel concerned with discipline issues and students with disabilities protected by Section 504 and the ADA. Due to the lack of explicit guidance from the OCR, the following compilation is a review of the literature and practices regarding trends in the discipline of students with disabilities. Note that the discipline of a student with a disability should be determined on a case-by-case basis, with assistance of the school board attorney as appropriate. Individual cases and situations should be considered on their own merit, and individual circumstances considered in all situations. Of primary importance under Section 504 is that students with disabilities cannot be denied services based solely on their disabilities.

Background

The Richmond County School System has made discipline and safe schools one of its highest priorities. The safety and discipline of students with disabilities is also of major concern. Some educators are under the misconception that current law prohibits disciplining students with disabilities. Others are unclear about the procedural safeguards in which students with disabilities have, and the flexibility that schools and districts have in disciplining those students. IDEA 2004 regulations have provided increased flexibility to school districts in disciplining students with disabilities while preserving essential protections and rights afforded to students with disabilities. IDEA law and regulations are mentioned in this chapter by reference because the OCR maintains a policy of reviewing IDEA and related case law to determine whether due process and other FAPE standards have been met under Section 504.

~FICTION~

A student covered by Section 504 is not entitled to any special rules of discipline.

~FACT~

Incorrect. The discipline rules regarding changes of placement, patterns of exclusion and manifestation determination are founded on nondiscrimination principles. The essence of discrimination is excluding students from school because of behavior related to disability. Manifestation determination is designed to identify those situations where removal will be discriminatory on the basis of disability and protect the student from discriminatory “disconnection” from educational services.

Change in Placement

When the exclusion of a student with a disability is permanent, for an indefinite period of time, or for more than 10 consecutive school days, OCR generally considers the exclusion to be a significant change in placement. Additionally, a series of suspensions within a school year that exceeds 10 cumulative days may create a pattern of exclusions that OCR would consider to constitute a significant change in placement. Whether serial suspensions constitute a change in placement, however, must be determined on a case-by-case basis and by considering factors such as the length of each suspension, the proximity of suspensions to one another, and the total amount of time the student is excluded from school.

The Georgia law 160-4-7-.10 regarding discipline notes the following in regards to change in placement:

- (a) For purposes of removals of a child with a disability from the child's current educational placement under this Rule, a change in placement occurs if:
 1. The removal is for more than 10 consecutive school days, or
 2. The child has been subjected to a series of removals that constitute a pattern –
 - (i) Because the series of removals total more than 10 school days in a school year;
 - (ii) Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals, and;
 - (iii) Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another. [34 C.F.R. § 300.536(a)]
- (b) The LEA determines on a case-by-case basis whether a pattern of removals constitutes a change of placement. [34 C.F.R. § 300.536(b)(1)]
 1. This determination is subject to review through due process hearings and judicial proceedings. [34 C.F.R. § 300.536(b)(2)]

Suspension for More Than 10 Days

An in-school suspension (ISS) may constitute a significant change in placement if it results in an interruption in the services or educational program that the district must provide to the student with a disability. The critical question is whether the ISS is the educational equivalent of an out-of-school suspension—that is, whether the student is denied educational services during the period of suspension.

In-school suspensions may need to be considered when determining whether a significant change in placement has occurred as a result of disciplinary sanctions. When in-school suspensions result in the student's removal from the educational program and/or there is failure to provide

services as specified in a student's Section 504 plan, then the in-school suspension would be counted in determining whether a significant change in placement has occurred.

In Millcreek Township (PA) School District, OCR found that in-school suspension counted toward significant change in placement when students attending the in-school suspension room were permitted to work on classroom assignments but were excluded from the educational program and regular school activities. [OCR Case 03-89-1158 (1989)]

In Chester County (TN) School District, OCR found that in-school suspension did not count toward change in placement when the nature and quality of the educational services provided during in-school suspension were comparable to those provided prior to in-school suspension. [OCR Case 04-90-1240 (1990)]

Schools seeking to use the in-school suspension exception should become familiar with the following commentary from the U.S. Department of Education in the IDEA regulations of 2006. The commentary explains that three factors are critical should the school seek to use ISS and not count the days toward a pattern of exclusion. The commentary provides that:

...it has been the Department's long-term policy that an in-school suspension would not be considered a part of the days of suspension addressed in §300.530 as long as the child is afforded the opportunity to continue to appropriately participate in the general curriculum, continue to receive the services specified on the child's IEP, and continue to participate with nondisabled children to the extent they would have in their current placement. This continues to be our policy [71 Fed. Reg. 46,715 (2006)].

A final note: The exception appears focused on ISS placements made for a few days at a time. It should not be read as a mechanism to justify long-term ISS placement, even if the three requirements are met.

Manifestation Determination for Section 504

Does Section 504 require a district to conduct a manifestation determination before suspension or expulsion of a student with a disability? In certain circumstances, yes. The IDEA uses the term "manifestation determination" to mean the evaluation of the relationship between a student's disability and act of misconduct that must be undertaken when a district proposes to take specified serious disciplinary actions.

The requirement is for school districts to conduct an "evaluation" in accordance with 34 CFR §104.35(b) prior to any subsequent significant change in placement as noted in 34 CFR §104.35(a). If disciplinary actions constitute a significant change in placement, a school district must conduct a reevaluation of the student. In a disciplinary context, the reevaluation process is to include a determination of whether the misconduct is related to the student's disability. This determination is made prior to implementing a disciplinary removal of more than 10 consecutive school days or a pattern of short-term removals that cumulate to more than 10 school days in a year that would constitute a significant change of placement. Under Section 504, however, there is an exception related to drug and alcohol offenses, which is addressed later in this section.

The requirement that the Section 504 team complete a discipline review is found in 34 CFR §104.35(c). Per a memorandum to chief state school officers, parents must be given an opportunity to provide input into the manifestation determination, as persons uniquely knowledgeable about their child's disability. [OCR memorandum "Questions and Answers on Disciplining Students with Disabilities", April 1995]

As with any placement meeting, parental participation in the manifestation determination meeting is a practical and effective means of obtaining the information Section 104.35(c) requires. Parents must be given notice of the results of the manifestation determination and of the available procedural safeguards.

Persons knowledgeable about the student may include the persons involved in the evaluation process or individuals who have sufficient knowledge regarding the student, the meaning of the evaluation data, and the placement options (34 CFR §104.35(c)). This knowledgeable group should determine whether the conduct in question was caused by or had a direct and substantial relationship to the student's disability.

An additional question to ask is, was the conduct in question the direct result of the school's failure to implement the student's 504 plan? If either of these standards is met, the group concludes that the behavior is a manifestation of the disability. In making this determination, the group takes into account the appropriateness of the student's placement and whether the school's failure to provide aids and services or strategies identified in the student's 504 plan directly resulted in the behavior.

If it is determined that the misbehavior is a manifestation of the disability, the student may not be expelled or suspended for more than 10 days. School officials should review the student's current educational placement to determine appropriateness and if behavioral intervention strategies should be implemented. Changes in the student's placement may be appropriate subject to applicable procedural safeguards. [Office of Special Education Programs (OSEP) Memorandum 95-16]

When a student's misconduct is determined not to be caused by his disability, then the district may suspend the student for more than 10 days or expel altogether. This action would be consistent with the district's Student Code of Conduct for all students.

A school district must establish and implement a system of procedural safeguards to be afforded to parents or guardians before the district takes any action regarding the identification, evaluation, or educational placement of a student believed to be disabled. The RCSS Manifestation Determination can be found in Appendix L.

~FICTION~

Students with a disability affecting behavioral control can never be suspended or expelled.

~FACT~

Just because a student has a disability affecting behavioral control does not mean that everything that the student does is directly caused by a disability.

Drug and Alcohol Offenses

A student with alcoholism (which, for purposes of this question, is defined as a student who is addicted to the use of alcohol) may be eligible for protection and services under Section 504 on that basis. Nevertheless, that protection does not extend to immunity from sanctioning for use or possession of alcohol in violation of the district’s disciplinary code.

For a student with a disability who is currently engaged in the illegal use of drugs or alcohol, a school district may take any disciplinary measure pertaining to the use or possession of illegal drugs or use of alcohol as is taken for students without disabilities. No manifestation determination or due process procedures are required. However, a student with a disability who is **not currently** engaged in the illegal use of drugs or alcohol who commits a drug/alcohol offense, such as possession, sale, or distribution of drugs or alcohol, is afforded Section 504 and ADA protection, including the right to an evaluation of whether the behavior is related to the disability and the right to due process.

Example

A student with a disability is entitled to procedural protection when illegal drugs are found in his locker if it is determined that the student is not currently using the drugs. OCR defines “current use of drugs” as “illegal use of drugs that occurred recently enough to justify a reasonable belief that a person’s drug use is current or that continuing use is a real and ongoing problem [OCR Staff Memorandum, 19 EDEL 859 (OCR, 1992)].” Thus if it is known that the student with the drugs in his locker has been consistently using illegal drugs but happened not to be using them that day, the student may not be protected because he could still be a current user.

A person with a disability who formerly used drugs illegally is protected under Section 504 if not currently engaging in illegal use of drugs. The person is protected if the individual has successfully completed a supervised rehabilitation program and is no longer engaging in drug use, the person is participating in a supervised rehabilitation program and is not engaging in such use, or the person is erroneously regarded as engaging in such use. (See questions 16 and 17 in Appendix A.)

Weapons and Serious Bodily Injury Offenses

School personnel are authorized to take disciplinary action if the student carries or possesses a weapon, or has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of a state or LEA. The language in the ban concerning weapons remains as it has been since 1997.

In the above two cases, students can be removed immediately for up to 45 school days without regard to the direct connection between disability and behavior, but the manifestation process must still take place. If the behavior is determined to be a manifestation of the disability, the 504 team will need to conduct a functional behavioral assessment and develop a behavior

intervention plan (BIP).

If it is determined that the behavior is not a direct result of the disability, the student is subject to the same consequences as would be applied to a student without a disability and removal can exceed 45 school days as long as the term is consistent with that applied to a nondisabled student committing the same infraction.

Transportation

According to OCR, bus suspensions are not counted when they do not prohibit attendance at school and when bus transportation is not covered by the student's 504 plan [OCR Case 03-97-1006 (1997)]. This position takes into account that suspension from the bus is not suspension from the educational program or FAPE services; the student is still required and permitted to attend school and participate in his/her educational program and receive all FAPE services. However, school districts should consider whether behavior on a school bus is similar to behavior in the classroom and needs to be addressed in the Section 504 accommodation plan.

In a December 1993 letter to the Texas Association of Section 504 Coordinators and Hearing Officers, OCR determined that disciplinary rules regarding whether a manifestation determination is required under Section 504 apply to bus suspensions only if the transportation is being provided to a student with a disability as a related service listed on the 504 plan.

Referral to and Action by Law Enforcement and Judicial Authorities

The Georgia law 160-4-7-.10 regarding discipline notes the following in regards to referral to and action by law enforcement and judicial authorities concerning students with disabilities.

(a) Nothing in this Rule prohibits a LEA from reporting a crime committed by a child with a disability to appropriate authorities or prevents State law enforcement or judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability. [34 C.F.R. § 300.535(a)]

(b) An LEA reporting a crime committed by a child with a disability must ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime. [34 C.F.R. § 300.535(b)(1)]

(c) A LEA reporting a crime under this Rule may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act. [34 C.F.R. § 300.535(b)(2)]

Protections for Children Not Yet Eligible for Services through Section 504

Georgia law 160-4-7-.10 regarding discipline indicates the following concerning services for students who are not yet eligible for special education and related services:

(a) A child who has not been determined to be eligible for special education and related services and who has engaged in behavior that violated a code of student conduct, may assert any of the protections provided for in this Rule if the LEA had knowledge (as determined in accordance with this Rule) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred. [34 C.F.R. §300.534(a)]

1. An LEA must be deemed to have knowledge that a child is a child with a disability if before the behavior that precipitated the disciplinary action occurred –

(i) The parent of the child expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency or a teacher of the child, that the child is in need of special education and related services;

(ii) The parent of the child requested an evaluation of the child pursuant to Rule 160-4-7-.04 Eligibility Determinations and Criteria; or

(iii) The teacher of the child or other personnel of the LEA expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education of the LEA or to other supervisory personnel of the LEA. [34 CFR §300.534(b)(1) - (3)]

2. An LEA would not be deemed to have knowledge that a child is a child with a disability if the parent of the child has not allowed an evaluation of the child or has refused services or the child has been evaluated and determined not to be a child with a disability as described in Rule 160-4-7-.04 Eligibility Determinations and Criteria. [34 C.F.R. § 300.534(c)(1) -(2)]

3. If an LEA does not have knowledge that a child is a child with a disability prior to taking disciplinary measures against the child, the child may be subjected to the disciplinary measures applied to children without disabilities who engaged in comparable behaviors. [34 C.F.R. § 300.534(d)(1)]

4. If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures, the evaluation must be conducted in an expedited manner. Until the evaluation is completed, the child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and the information provided by the parents, the agency must provide special education and related services. [34 C.F.R. § 300.534(d)(2)(i) -(iii)]

Glossary

504 Eligibility Team – is a multi-disciplinary team which includes persons knowledgeable about the referred student, interpretation of evaluation data, and the placement options which are available. The team should include at minimum, the Section 504 Building Coordinator, the referring teacher(s) and the parents/guardians.

Accommodations – means a change in how instruction is given, how the child is expected to respond, how the child participates in class activities or kinds of learning materials and how they are used. Accommodations provide children with disabilities different ways to access the curriculum so that their disabilities are not barriers to achievement. Children with accommodations are still expected to meet the same grade-level curriculum as their peers without disabilities.

Adaptations - Any adjustments or modifications in environment, instruction, or materials used for learning that enhance the student's performance or allow participation in an activity.

Behavior Intervention Plan (BIP) - A behavior intervention plan is comprised of practical and specific strategies designed to increase or reduce a definable set or pattern of behaviors. These strategies address preventive techniques, teaching replacement behaviors, and how to react to the behavior of concern. The BIP is often developed in conjunction with a functional behavioral assessment (FBA).

Disability – means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having an impairment.

Equal Access – Equal opportunity of a qualified person with a disability to participate in or benefit from educational aid, benefits, or services.

Episodic/Remission – An episodic impairment or impairment in remission may be a disability if it substantially limits a major life activity when active.

Free and Appropriate Public Education (FAPE) - The term "free appropriate public education" under Section 504 means special education and related services in the elementary and secondary schools as adequately as the needs of students without disabilities are met and is based upon adherence to procedures that satisfy the Section 504 requirements pertaining to educational setting, evaluation and placement, and procedural safeguards.

Functional Behavioral Assessment (FBA) - Process for determining why a student engages in challenging behavior and how a student's behavior relates to the environment. This type of assessment can provide a 504/Student Support team with useful data in order to design effective behavior intervention plans that assist the student in developing more appropriate behaviors and reducing inappropriate behaviors.

Individual Accommodation Plan - a plan developed to ensure that a child, with a disability pursuant to Section 504 of the Rehabilitation Act of 1973 attending an elementary or secondary educational institution, receives accommodations providing him/her access to the learning environment.

Manifestation Determination - A manifestation determination requires the team to review the possible relationship between a student's disability and the student's behavior that may result in a suspension or expulsion. The team must consider evaluation and diagnostic results, including data gleaned from the FBA, BIP, or behavior contract. The team must also determine if the accommodation plan is appropriate, including if supplementary aids and services were provided, if the outlined behavioral interventions/plan was consistently/reliably implemented as outlined in the 504 plan, and if the student understood his or her behavior and could control the behavior.

Major life activities – means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Mitigating measures – include medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies. Other mitigating measures also include the (1) use of assistive technology, (2) reasonable accommodations or auxiliary aids or services; or (3) learned behavioral or adaptive neurological modifications.

Nonacademic and Extracurricular Services and Activities - They include the following services or activities when provided by a district: counseling services, athletics, transportation, health services, recreational activities, referrals to agencies which provide assistance to persons with disabilities, assistance provided by the public agency in making outside employment available, meals, and recess periods.

Office for Civil Rights (OCR) - mission is to ensure equal access to education and to promote educational excellence throughout the nation through vigorous enforcement of civil rights. The civil rights laws enforced by OCR extend to all state education agencies, elementary and secondary school systems, colleges and universities, vocational schools, proprietary schools, state vocational rehabilitation agencies, libraries, and museums that receive U.S. Department of Education funds.

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

Public entity – Any state or local government; any department, agency, special purpose district, or other instrumentality of a State or States or local government.

Reasonable modifications – Under a regulatory provision implementing Title II of the ADA, public entities are required to make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

Record of such an impairment – means having a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

Regarded as having an impairment – means having a physical or mental impairment that does not substantially limit major life activities but that is treated by public entity as constituting such a limitation; has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or has none of the impairments defined in the definition of *physical or mental impairment* but is treated by a public entity as having such an impairment.

Section 504 – means section 504 of the Rehabilitation Act of 1973. Section 504 defines a person with a disability as: Any person who has a physical or mental disability, which substantially limits a major life activity or has a record of such disability or is regarded as having such a disability.

Student Support Team (SST) - is a court-ordered problem-solving process in every Georgia school. Its purpose is to find ways around roadblocks to success for any student referred to it.

Supplementary Aids and Services - Aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with children without disabilities to the maximum extent appropriate.

Temporary Impairments – A temporary impairment is generally not considered a disability unless it is a substantial impairment, taking into account both the expected duration and the degree to which it actually limits a major life activity.

Transitory Impairment – is an impairment with an actual or expected duration of 6 months or less

Transportation- A related service that includes travel to and from school and between schools, travel in and around school buildings, and specialized equipment (such as special; or adapted buses, lifts' and ramps), if required, to provide special transportation for a child with a disability, and it is stipulated in that student's Section 504 Individual Accommodation Plan.

Appendix A

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

INTERRELATIONSHIP OF IDEA AND SECTION 504

1. Q. What is the jurisdiction of the Office for Civil Rights (OCR), the Office of Special Education and Rehabilitative Services (OSERS) and state departments of education/instruction regarding educational services to students with disabilities?

A. OCR, a component of the U.S. Department of Education, enforces Section 504 of the Rehabilitation Act of 1973, as amended, (Section 504) a civil rights statute which prohibits discrimination against individuals with disabilities. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), which extends this prohibition against discrimination to the full range of state and local government services, programs, and activities (including public schools) regardless of whether they receive any Federal financial assistance. The Americans with Disabilities Act Amendments Act of 2008 (Amendments Act), effective January 1, 2009, amended the Americans with Disabilities Act of 1990 (ADA) and included a conforming amendment to the Rehabilitation Act of 1973 (Rehabilitation Act) that affects the meaning of disability in Section 504. The standards adopted by the ADA were designed not to restrict the rights or remedies available under Section 504. The Title II regulations applicable to free appropriate public education issues do not provide greater protection than applicable Section 504 regulations. This guidance focuses primarily on Section 504.

Section 504 prohibits discrimination on the basis of disability in programs or activities that receive Federal financial assistance from the U.S. Department of Education. Title II prohibits discrimination on the basis of disability by state and local governments. The Office of Special Education and Rehabilitative Services (OSERS), also a component of the U.S. Department of Education, administers the Individuals with Disabilities Education Act (IDEA), a statute which funds special education programs. Each state educational agency is responsible for administering IDEA within the state and distributing the funds for special education programs. IDEA is a grant statute and attaches many specific conditions to the receipt of Federal IDEA funds. Section 504 and the ADA are antidiscrimination laws and do not provide any type of funding.

2. Q. How does OCR get involved in disability issues within a school district?

A. OCR receives complaints from parents, students or advocates, conducts agency initiated compliance reviews, and provides technical assistance to school districts, parents or advocates.

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3. Q. Where can a school district, parent, or student get information on Section 504 or find out information about OCR’s interpretation of Section 504 and Title II?

- A. OCR provides technical assistance to school districts, parents, and students upon request. Additionally, regulations and publicly issued policy guidance is available on OCR’s website, at <http://www.ed.gov/policy/rights/guid/ocr/disability.html>.

4. Q. What services are available for students with disabilities under Section 504?

- A. Section 504 requires recipients to provide to students with disabilities appropriate educational services designed to meet the individual needs of such students to the same extent as the needs of students without disabilities are met. An appropriate education for a student with a disability under the Section 504 regulations could consist of education in regular classrooms, education in regular classes with supplementary services, and/or special education and related services.

5. Q. Does OCR examine individual placement or other educational decisions for students with disabilities?

- A. Except in extraordinary circumstances, OCR does not review the result of individual placement or other educational decisions so long as the school district complies with the procedural requirements of Section 504 relating to identification and location of students with disabilities, evaluation of such students, and due process. Accordingly, OCR generally will not evaluate the content of a Section 504 plan or of an individualized education program (IEP); rather, any disagreement can be resolved through a due process hearing. The hearing would be conducted under Section 504 or the IDEA, whichever is applicable.

OCR will examine procedures by which school districts identify and evaluate students with disabilities and the procedural safeguards which those school districts provide students. OCR will also examine incidents in which students with disabilities are allegedly subjected to treatment which is different from the treatment to which similarly situated students without disabilities are subjected. Such incidents may involve the unwarranted exclusion of disabled students from educational programs and services.

6. Q. What protections does OCR provide against retaliation?

- A. Retaliatory acts are prohibited. A recipient is prohibited from intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Section 504.

7. Q. Does OCR mediate complaints?

- A. OCR does not engage in formal mediation. However, OCR may offer to facilitate mediation, referred to as “Early Complaint Resolution,” to resolve a complaint filed under Section 504. This approach brings the parties together so that they may discuss possible resolution of the complaint immediately. If both parties are willing to utilize this approach, OCR will work with the parties to facilitate resolution by providing each an

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understanding of pertinent legal standards and possible remedies. An agreement reached between the parties is not monitored by OCR.

8. Q. What are the appeal rights with OCR?

- A. OCR affords an opportunity to the complainant for appeal of OCR's letters of finding issues pursuant to Section 303(a) of the OCR Case Processing Manual (<http://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.html>). OCR also affords an opportunity to the complainant for appeal of OCR's dismissals or administrative closures of complaints issued pursuant to Sections 108, 110, and 111 of the Manual. The appeal process provides an opportunity for complainants to bring information to OCR's attention that would change OCR's decision, but it does not involve a de novo review of OCR's decision. The complainant may send a written appeal to the Director of the regional Enforcement Office that issued the determination within 60 days of the date of the determination letter being appealed from. In an appeal, the complainant must explain why he or she believes the factual information was incomplete, the analysis of the facts was incorrect, and/or the appropriate legal standard was not applied, and how this would change OCR's determination in the case. More information about appeals is found in Section 306 of the Manual.

9. Q. What does noncompliance with Section 504 mean?

- A. A school district is out of compliance when it is violating any provision of the Section 504 statute or regulations.

10. Q. What sanctions can OCR impose on a school district that is out of compliance?

- A. OCR initially attempts to bring the school district into voluntary compliance through negotiation of a corrective action agreement. If OCR is unable to achieve voluntary compliance, OCR will initiate enforcement action. OCR may: (1) initiate administrative proceedings to terminate Department of Education financial assistance to the recipient; or (2) refer the case to the Department of Justice for judicial proceedings.

11. Q. Who has ultimate authority to enforce Section 504?

- A. In the educational context, OCR has been given administrative authority to enforce Section 504. Section 504 is a Federal statute that may be enforced through the Department's administrative process or through the Federal court system. In addition, a person may at any time file a private lawsuit against a school district. The Section 504 regulations do not contain a requirement that a person file a complaint with OCR and exhaust his or her administrative remedies before filing a private lawsuit.

STUDENTS PROTECTED UNDER SECTION 504

Section 504 covers qualified students with disabilities who attended schools receiving Federal financial assistance. To be protected under Section 504, a student must be determined to: (1) have a physical or mental impairment that substantially limits one or more major life activities; or (2) have a record of such an impairment; or (3) be regarded as having such an impairment. Section 504

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requires that school districts provide a free appropriate public education (FAPE) to qualified students in their jurisdictions who have a physical or mental impairment that substantially limits one or more major life activities.

12. Q. What is a physical or mental impairment that substantially limits a major life activity?

- A. The determination of whether a student has a physical or mental impairment that substantially limits a major life activity must be made on the basis of an individual inquiry. The Section 504 regulatory provision at 34 C.F.R. 104.3(j)(2)(i) defines a physical or mental impairment as any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; 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. The regulatory provision does not set forth an exhaustive list of specific diseases and conditions that may constitute physical or mental impairments because of the difficulty of ensuring the comprehensiveness of such a list.

Major life activities, as defined in the Section 504 regulations at 34 C.F.R. 104.3(j)(2)(ii), include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. This list is not exhaustive. Other functions can be major life activities for purposes of Section 504. In the Amendments Act (see FAQ 1), Congress provided additional examples of general activities that are major life activities, including eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, and communicating. Congress also provided a non-exhaustive list of examples of "major bodily functions" that are major life activities, such as the functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. The Section 504 regulatory provision, though not as comprehensive as the Amendments Act, is still valid – the Section 504 regulatory provision's list of examples of major life activities is not exclusive, and an activity or function not specifically listed in the Section 504 regulatory provision can nonetheless be a major life activity.

13. Q. Does the meaning of the phrase "qualified student with a disability" differ on the basis of a student's educational level, i.e., elementary and secondary versus postsecondary?

- A. Yes. At the elementary and secondary educational level, a "qualified student with a disability" is a student with a disability who is: of an age at which students without disabilities are provided elementary and secondary educational services; of an age at which it is mandatory under state law to provide elementary and secondary educational services to students with disabilities; or a student to whom a state is required to provide a free appropriate public education under the Individuals with Disabilities Education Act (IDEA).

At the postsecondary educational level, a qualified student with a disability is a student

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with a disability who meets the academic and technical standards requisite for admission or participation in the institution's educational program or activity.

14. Q. Does the nature of services to which a student is entitled under Section 504 differ by educational level?

A. Yes. Public elementary and secondary recipients are required to provide a free appropriate public education to qualified students with disabilities. Such an education consists of regular or special education and related aids and services designed to meet the individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met.

At the postsecondary level, the recipient is required to provide students with appropriate academic adjustments and auxiliary aids and services that are necessary to afford an individual with a disability an equal opportunity to participate in a school's program. Recipients are not required to make adjustments or provide aids or services that would result in a fundamental alteration of a recipient's program or impose an undue burden.

15. Q. Once a student is identified as eligible for services under Section 504, is that student always entitled to such services?

A. Yes, as long as the student remains eligible. The protections of Section 504 extend only to individuals who meet the regulatory definition of a person with a disability. If a recipient school district re-evaluates a student in accordance with the Section 504 regulatory provision at 34 C.F.R. 104.35 and determines that the student's mental or physical impairment no longer substantially limits his/her ability to learn or any other major life activity, the student is no longer eligible for services under Section 504.

16. Q. Are current illegal users of drugs excluded from protection under Section 504?

A. Generally, yes. Section 504 excludes from the definition of a student with a disability, and from Section 504 protection, any student who is currently engaging in the illegal use of drugs when a covered entity acts on the basis of such use. (There are exceptions for persons in rehabilitation programs who are no longer engaging in the illegal use of drugs).

17. Q. Are current users of alcohol excluded from protection under Section 504?

A. No. Section 504's definition of a student with a disability does not exclude users of alcohol. However, Section 504 allows schools to take disciplinary action against students with disabilities using drugs or alcohol to the same extent as students without disabilities.

EVALUATION

At the elementary and secondary school level, determining whether a child is a qualified disabled student under Section 504 begins with the evaluation process. Section 504 requires the use of evaluation procedures that ensure that children are not misclassified, unnecessarily labeled as having a disability, or incorrectly placed, based on inappropriate selection, administration, or interpretation of evaluation materials.

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18. Q. What is an appropriate evaluation under Section 504?

A. Recipient school districts must establish standards and procedures for initial evaluations and periodic re-evaluations of students who need or are believed to need special education and/or related services because of disability. The Section 504 regulatory provision at 34 C.F.R. 104.35(b) requires school districts to individually evaluate a student before classifying the student as having a disability or providing the student with special education. Tests used for this purpose must be selected and administered so as best to ensure that the test results accurately reflect the student's aptitude or achievement or other factor being measured rather than reflect the student's disability, except where those are the factors being measured. Section 504 also requires that tests and other evaluation materials include those tailored to evaluate the specific areas of educational need and not merely those designed to provide a single intelligence quotient. The tests and other evaluation materials must be validated for the specific purpose for which they are used and appropriately administered by trained personnel.

19. Q. How much is enough information to document that a student has a disability?

A. At the elementary and secondary education level, the amount of information required is determined by the multi-disciplinary committee gathered to evaluate the student. The committee should include persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. The committee members must determine if they have enough information to make a knowledgeable decision as to whether or not the student has a disability. The Section 504 regulatory provision at 34 C.F.R. 104.35(c) requires that school districts draw from a variety of sources in the evaluation process so that the possibility of error is minimized. The information obtained from all such sources must be documented and all significant factors related to the student's learning process must be considered. These sources and factors may include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior. In evaluating a student suspected of having a disability, it is unacceptable to rely on presumptions and stereotypes regarding persons with disabilities or classes of such persons. Compliance with the IDEA regarding the group of persons present when an evaluation or placement decision is made is satisfactory under Section 504.

20. Q. What process should a school district use to identify students eligible for services under Section 504? Is it the same process as that employed in identifying students eligible for services under the IDEA?

A. School districts may use the same process to evaluate the needs of students under Section 504 as they use to evaluate the needs of students under the IDEA. If school districts choose to adopt a separate process for evaluating the needs of students under Section 504, they must follow the requirements for evaluation specified in the Section 504 regulatory provision at 34 C.F.R. 104.35.

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21. Q. May school districts consider "mitigating measures" used by a student in determining whether the student has a disability under Section 504?

A. No. As of January 1, 2009, school districts, in determining whether a student has a physical or mental impairment that substantially limits that student in a major life activity, must *not* consider the ameliorating effects of any mitigating measures that student is using. This is a change from prior law. Before January 1, 2009, school districts had to consider a student's use of mitigating measures in determining whether that student had a physical or mental impairment that substantially limited that student in a major life activity. In the Amendments Act (see FAQ 1), however, Congress specified that the ameliorative effects of mitigating measures must not be considered in determining if a person is an individual with a disability.

Congress did not define the term "mitigating measures" but rather provided a non-exhaustive list of "mitigating measures." The mitigating measures are as follows: medication; medical supplies, equipment or appliances; low-vision devices (which do not include ordinary eyeglasses or contact lenses); prosthetics (including limbs and devices); hearing aids and cochlear implants or other implantable hearing devices; mobility devices; oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; and learned behavioral or adaptive neurological modifications.

Congress created one exception to the mitigating measures analysis. The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining if an impairment substantially limits a major life activity. "Ordinary eyeglasses or contact lenses" are lenses that are intended to fully correct visual acuity or eliminate refractive error, whereas "low-vision devices" (listed above) are devices that magnify, enhance, or otherwise augment a visual image.

22. Q. Does OCR endorse a single formula or scale that measures substantial limitation?

A. No. The determination of substantial limitation must be made on a case-by-case basis with respect to each individual student. The Section 504 regulatory provision at 34 C.F.R. 104.35 (c) requires that a group of knowledgeable persons draw upon information from a variety of sources in making this determination.

23. Q. Are there any impairments which automatically mean that a student has a disability under Section 504?

A. No. An impairment in and of itself is not a disability. The impairment must substantially limit one or more major life activities in order to be considered a disability under Section 504.

24. Q. Can a medical diagnosis suffice as an evaluation for the purpose of providing FAPE?

A. No. A physician's medical diagnosis may be considered among other sources in evaluating a student with an impairment or believed to have an impairment which

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substantially limits a major life activity. Other sources to be considered, along with the medical diagnosis, include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior. As noted in FAQ 22, the Section 504 regulations require school districts to draw upon a variety of sources in interpreting evaluation data and making placement decisions.

25. Q. Does a medical diagnosis of an illness automatically mean a student can receive services under Section 504?

A. No. A medical diagnosis of an illness does not automatically mean a student can receive services under Section 504. The illness must cause a substantial limitation on the student's ability to learn or another major life activity. For example, a student who has a physical or mental impairment would not be considered a student in need of services under Section 504 if the impairment does not in any way limit the student's ability to learn or other major life activity, or only results in some minor limitation in that regard.

26. Q. How should a recipient school district handle an outside independent evaluation? Do all data brought to a multi-disciplinary committee need to be considered and given equal weight?

A. The results of an outside independent evaluation may be one of many sources to consider. Multi-disciplinary committees must draw from a variety of sources in the evaluation process so that the possibility of error is minimized. All significant factors related to the subject student's learning process must be considered. These sources and factors include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior, among others. Information from all sources must be documented and considered by knowledgeable committee members. The weight of the information is determined by the committee given the student's individual circumstances.

27. Q. What should a recipient school district do if a parent refuses to consent to an initial evaluation under the Individuals with Disabilities Education Act (IDEA), but demands a Section 504 plan for a student without further evaluation?

A. A school district must evaluate a student prior to providing services under Section 504. Section 504 requires informed parental permission for initial evaluations. If a parent refuses consent for an initial evaluation and a recipient school district suspects a student has a disability, the IDEA and Section 504 provide that school districts may use due process hearing procedures to seek to override the parents' denial of consent.

28. Q. Who in the evaluation process makes the ultimate decision regarding a student's eligibility for services under Section 504?

A. The Section 504 regulatory provision at 34 C.F.R.104.35 (c) (3) requires that school districts ensure that the determination that a student is eligible for special education and/or related aids and services be made by a group of persons, including persons knowledgeable about the meaning of the evaluation data and knowledgeable about the placement options. If a parent disagrees with the determination, he or she may request a due process hearing.

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29. Q. Once a student is identified as eligible for services under Section 504, is there an annual or triennial review requirement? If so, what is the appropriate process to be used? Or is it appropriate to keep the same Section 504 plan in place indefinitely after a student has been identified?

A. Periodic re-evaluation is required. This may be conducted in accordance with the IDEA regulations, which require re-evaluation at three-year intervals (unless the parent and public agency agree that re-evaluation is unnecessary) or more frequently if conditions warrant, or if the child's parent or teacher requests a re-evaluation, but not more than once a year (unless the parent and public agency agree otherwise).

30. Q. Is a Section 504 re-evaluation similar to an IDEA re-evaluation? How often should it be done?

A. Yes. Section 504 specifies that re-evaluations in accordance with the IDEA is one means of compliance with Section 504. The Section 504 regulations require that re-evaluations be conducted periodically. Section 504 also requires a school district to conduct a re-evaluation prior to a significant change of placement. OCR considers an exclusion from the educational program of more than 10 school days a significant change of placement. OCR would also consider transferring a student from one type of program to another or terminating or significantly reducing a related service a significant change in placement.

31. Q. What is reasonable justification for referring a student for evaluation for services under Section 504?

A. School districts may always use regular education intervention strategies to assist students with difficulties in school. Section 504 requires recipient school districts to refer a student for an evaluation for possible special education or related aids and services or modification to regular education if the student, because of disability, needs or is believed to need such services.

32. Q. A student is receiving services that the school district maintains are necessary under Section 504 in order to provide the student with an appropriate education. The student's parent no longer wants the student to receive those services. If the parent wishes to withdraw the student from a Section 504 plan, what can the school district do to ensure continuation of services?

A. The school district may initiate a Section 504 due process hearing to resolve the dispute if the district believes the student needs the services in order to receive an appropriate education.

33. Q. A student has a disability referenced in the IDEA, but does not require special education services. Is such a student eligible for services under Section 504?

A. The student may be eligible for services under Section 504. The school district must determine whether the student has an impairment which substantially limits his or her ability to learn or another major life activity and, if so, make an individualized

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determination of the child's educational needs for regular or special education or related aids or services. For example, such a student may receive adjustments in the regular classroom.

34. Q. How should a recipient school district view a temporary impairment?

A. A temporary impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period of time. The issue of whether a temporary impairment is substantial enough to be a disability must be resolved on a case-by-case basis, taking into consideration both the duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity of the affected individual.

In the Amendments Act (see FAQ 1), Congress clarified that an individual is not "regarded as" an individual with a disability if the impairment is transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

35. Q. Is an impairment that is episodic or in remission a disability under Section 504?

A. Yes, under certain circumstances. In the Amendments Act (see FAQ 1), Congress clarified that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. A student with such an impairment is entitled to a free appropriate public education under Section 504.

PLACEMENT

Once a student is identified as being eligible for regular or special education and related aids or services, a decision must be made regarding the type of services the student needs.

36. Q. If a student is eligible for services under both the IDEA and Section 504, must a school district develop both an individualized education program (IEP) under the IDEA and a Section 504 plan under Section 504?

A. No. If a student is eligible under IDEA, he or she must have an IEP. Under the Section 504 regulations, one way to meet Section 504 requirements for a free appropriate public education is to implement an IEP.

37. Q. Must a school district develop a Section 504 plan for a student who either "has a record of disability" or is "regarded as disabled"?

A. No. In public elementary and secondary schools, unless a student actually has an impairment that substantially limits a major life activity, the mere fact that a student has a "record of" or is "regarded as" disabled is insufficient, in itself, to trigger those Section 504 protections that require the provision of a free appropriate public education (FAPE). This is consistent with the Amendments Act (see FAQ 1), in which Congress clarified that an individual who meets the definition of disability solely by virtue of being

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“regarded as” disabled is not entitled to reasonable accommodations or the reasonable modification of policies, practices or procedures. The phrases "has a record of disability" and "is regarded as disabled" are meant to reach the situation in which a student either does not currently have or never had a disability, but is treated by others as such.

As noted in FAQ 34, in the Amendments Act (see FAQ 1), Congress clarified that an individual is not “regarded as” an individual with a disability if the impairment is transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

38. Q. What is the receiving school district's responsibility under Section 504 toward a student with a Section 504 plan who transfers from another district?

A. If a student with a disability transfers to a district from another school district with a Section 504 plan, the receiving district should review the plan and supporting documentation. If a group of persons at the receiving school district, including persons knowledgeable about the meaning of the evaluation data and knowledgeable about the placement options determines that the plan is appropriate, the district is required to implement the plan. If the district determines that the plan is inappropriate, the district is to evaluate the student consistent with the Section 504 procedures at 34 C.F.R. 104.35 and determine which educational program is appropriate for the student. There is no Section 504 bar to the receiving school district honoring the previous IEP during the interim period. Information about IDEA requirements when a student transfers is available from the Office of Special Education and Rehabilitative Services at <http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CQaCorner%2C3%2C>

39. Q. What are the responsibilities of regular education teachers with respect to implementation of Section 504 plans? What are the consequences if the district fails to implement the plans?

A. Regular education teachers must implement the provisions of Section 504 plans when those plans govern the teachers' treatment of students for whom they are responsible. If the teachers fail to implement the plans, such failure can cause the school district to be in noncompliance with Section 504.

40. Q. What is the difference between a regular education intervention plan and a Section 504 plan?

A. A regular education intervention plan is appropriate for a student who does not have a disability or is not suspected of having a disability but may be facing challenges in school. School districts vary in how they address performance problems of regular education students. Some districts employ teams at individual schools, commonly referred to as "building teams." These teams are designed to provide regular education classroom teachers with instructional support and strategies for helping students in need of assistance. These teams are typically composed of regular and special education teachers who provide ideas to classroom teachers on methods for helping students experiencing academic or behavioral problems. The team usually records its ideas in a written regular education intervention plan. The team meets with an affected student's

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classroom teacher(s) and recommends strategies to address the student's problems within the regular education environment. The team then follows the responsible teacher(s) to determine whether the student's performance or behavior has improved. In addition to building teams, districts may utilize other regular education intervention methods, including before-school and after-school programs, tutoring programs, and mentoring programs.

PROCEDURAL SAFEGUARDS

Public elementary and secondary schools must employ procedural safeguards regarding the identification, evaluation, or educational placement of persons who, because of a disability, need or are believed to need special instruction or related services.

41. Q. Must a recipient school district obtain parental consent prior to conducting an initial evaluation?

A. Yes. OCR has interpreted Section 504 to require districts to obtain parental permission for initial evaluations. If a district suspects a student needs or is believed to need special instruction or related services and parental consent is withheld, the IDEA and Section 504 provide that districts may use due process hearing procedures to seek to override the parents' denial of consent for an initial evaluation.

42. Q. If so, in what form is consent required?

A. Section 504 is silent on the form of parental consent required. OCR has accepted written consent as compliance. IDEA as well as many state laws also require written consent prior to initiating an evaluation.

43. Q. What can a recipient school district do if a parent withholds consent for a student to secure services under Section 504 after a student is determined eligible for services?

A. Section 504 neither prohibits nor requires a school district to initiate a due process hearing to override a parental refusal to consent with respect to the initial provision of special education and related services. Nonetheless, school districts should consider that IDEA no longer permits school districts to initiate a due process hearing to override a parental refusal to consent to the initial provision of services.

44. Q. What procedural safeguards are required under Section 504?

A. Recipient school districts are required to establish and implement procedural safeguards that include notice, an opportunity for parents to review relevant records, an impartial hearing with opportunity for participation by the student's parents or guardian, representation by counsel and a review procedure.

45. Q. What is a recipient school district's responsibility under Section 504 to provide information to parents and students about its evaluation and placement process?

A. Section 504 requires districts to provide notice to parents explaining any evaluation and placement decisions affecting their children and explaining the parents' right to review

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educational records and appeal any decision regarding evaluation and placement through an impartial hearing.

46. Q. Is there a mediation requirement under Section 504?

A. No.

Appendix B

Referral for Section 504

| | | |
|----------------------|-------------|---------------------------|
| Student Name: | | Date: |
| DOB: | Age: | Ethnicity/Sex: |
| School: | | Grade: |
| Parent Name: | | |
| Address: | | |
| Phone (h): | | Phone (work/cell): |

| |
|--|
| Medical Diagnosis (attach Medical Statement): |
| How does the diagnosis impact the student's education (academic and/or behavior)? |
| |
| |
| |
| |
| |

List the modifications/accommodations that you have used to assist the student to this point with the difficulties the student is having related to the medical diagnosis.

| Modification/Accommodation | Dates |
|----------------------------|-------|
| | |
| | |
| | |
| | |
| | |
| | |

Appendix B

What accommodations and/or modifications do you feel are needed in order to maximize the student's ability to engage in the school environment including the curriculum equal to his/her peers? (check all that apply)

Minimize environmental distractions
(e.g., study carrels, room dividers, headphones)
Assistance with on-task behaviors
(e.g., redirection, nonverbal cuing, timer, frequent questions)
Assist with organization
(e.g., notebook/agenda checks, daily assignment sheets)
Repeat/Simplify/Paraphrase instructions
Tailored assignments
(e.g., shortened classwork/homework)
Assign a peer "buddy" or mentor to assist with on-task behavior, work completion, etc.
Provide visual aids and/or cues
(e.g., highlight important points, circle math signs)
Change visual layout of assignments
(e.g., enlarged text, remove visual distractions)

Alternate textbooks
(e.g., large print text, extra set)
Changes to test delivery
(e.g., extended time, small group, oral presentation)
Allow use of technology
(e.g., computer programs, tape recorder, calculator)
Provide modified/altered writing tools
(e.g., word processor, pencil grip, raised line paper)
Alternate note-taking or copies of notes/study guides, etc.
Modifying non-academic time
(e.g., lunch, recess, P.E.)
Adjusting schedules
(e.g., work, class, exams, projects)
Behavior management
(e.g., behavior contract, reinforcement system, time-out area)

Decision of the team:

Additional information is requested by the team in order for the team to proceed for eligibility.

Specify needed information: _____

The team considered that sufficient information has been provided. Refer for Section 504 eligibility.

Other: _____

Team Members Present:

| | NAME | TITLE |
|----|-------|-------|
| 1. | _____ | _____ |
| 2. | _____ | _____ |
| 3. | _____ | _____ |
| 4. | _____ | _____ |
| 5. | _____ | _____ |
| 6. | _____ | _____ |
| 7. | _____ | _____ |
| 8. | _____ | _____ |

Appendix C

RICHMOND COUNTY SCHOOL SYSTEM

864 Broad Street
Augusta, Georgia 30901
706-826-1000

Medical Documentation Statement

STUDENT NAME: _____ DATE OF BIRTH: _____

SCHOOL: _____ GRADE: _____

DATE OF MOST RECENT MEDICAL EXAMINATION: _____

MEDICAL DIAGNOSIS/PROGNOSIS: _____

Based on my examination, the above named student _____ DOES _____ DOES NOT demonstrate a long-term illness and/or health disorder or impairment which results in limited strength, vitality, and/or alertness and adversely affects his/her educational performance. Examples may include, but are not limited to, tuberculosis, asthma, diabetes, cancer, heart condition, epilepsy, leukemia, nephritis, sickle cell anemia, cystic fibrosis, rheumatic fever, lead poisoning, seizure disorder, ADHD, and Tourette Syndrome.

This student's medical problems are considered to be of a _____Mild _____Moderate _____Severe nature.

EDUCATIONAL IMPLICATIONS OF HEALTH PROBLEMS: Check those which apply.

- Extended school absences
 Inability to attend full academic schedule
 Inability to attend to tasks the same length of time as peers.
 Unable to function physically and/or academically with peers of the same age and grade expectancy

Please briefly describe any special health care procedures, special diet, activity restrictions and/or any other recommended modifications: _____

Medications currently prescribed: _____

Is medication to be administered at school? _____ YES _____NO

Is the child receiving any outside services?

Physical Therapy Occupational Therapy Speech Counseling

Name of Licensed Physician (PRINTED)

Signature of Licensed Physician

Date

Physician Contact Information: _____

Address (Street, City, State, & Zip Code)

Phone Number

Fax Number

Appendix D



CONSENT TO EVALUATE FOR SECTION 504

Student Name: _____ Date of Birth _____

School: _____ Grade: _____

Date: _____

Dear Parent/Guardian:

We need to receive permission to evaluate your child for Section 504 determination. This means that we will gather various forms of data such as: grades, medical information, benchmarks, hearing and vision results, teacher input, parent input, and other forms of functioning to determine if your child meets eligibility under Section 504. You will be invited to attend a Section 504 meeting in which we will all discuss these findings/data.

No additional data is needed; Adequate information is available

Additional data is needed for eligibility determination including (be specific):

Parent Response:

_____ Yes, I agree to allow school system personnel to gather information in making a 504 determination on my child.

_____ No, I do not agree to allow school system personnel to gather information in making a 504 determination on my child.

Parent/Guardian Signature

Date

Appendix E

Notice of Rights of Students and Parents Under Section 504

Section 504 of the Rehabilitation Act of 1973, commonly referred to as "Section 504," is a nondiscrimination statute enacted by the United States Congress. The purpose of Section 504 is to prohibit discrimination and to assure that students with disabilities have educational opportunities and benefits equal to those provided to students without disabilities.

For more information regarding Section 504, or if you have questions or need additional assistance, please contact the Richmond County School System's Section 504 Coordinator at the following address:

Dr. Ed Sanderson
Director of Student Services
Richmond County School System
864 Broad Street
Augusta, Georgia 30901
(706) 826-1000
sandeed@boe.richmond.k12.ga.us

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

1. Your child has the right to an appropriate education designed to meet his or her individual educational needs as adequately as the needs of students without disabilities. 34 CFR 104.33.
2. Your child has the right to free educational services except for those fees that are imposed on students without disabilities or their parents. Insurers and similar third parties who provide services not operated by or provided by the School System are not relieved from an otherwise valid obligation to provide or pay for services provided to a student with disabilities. 34 CFR 104.33.
3. Your child has the right to participate in an educational setting (academic and nonacademic) with students without disabilities to the maximum extent appropriate to his or her needs. 34 CFR 104.34.
4. Your child has a right to facilities, services, and activities that are comparable to those provided for students without disabilities. 34 CFR 104.34.
5. Your child has a right to an evaluation prior to a Section 504 determination of eligibility. 34 CFR 104.35.
6. You have the right to refuse consent to the School System's request to evaluate your child. 34 CFR 104.35.7. You have the right to ensure that evaluation procedures, which may include testing, conform to the requirements of 34 CFR 104.35.

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7. You have the right to ensure that the School System will consider information about the student from a variety of sources as appropriate, which may include aptitude and achievement tests, grades, teacher recommendations and observations, physical conditions, social or cultural background, adaptive behavior, medical records, and parental recommendations. 34 CFR 104.35.
8. You have the right to ensure that decisions regarding eligibility and placement are made by a group of persons, including persons knowledgeable about your child, the meaning of the evaluation data and the placement options. 34 CFR 104.35.
9. If your child is eligible under Section 504, your child has a right to periodic reevaluations, including prior to any subsequent significant change in placement. 34 CFR 104.35.
10. You have the right to notice prior to any actions by the School System regarding the identification, evaluation, or placement of your child. 34 CFR 104.36.
11. You have the right to examine your child's educational records. 34 CFR 104.36.
12. You have the right to an impartial hearing with respect to the School System's actions regarding your child's identification, evaluation, or educational placement, with opportunity for parental participation in the hearing and representation by an attorney. 34 CFR 104.36.
13. You have the right to receive a copy of this Notice and a copy of the School System's impartial hearing procedure upon request. 34 CFR 104.36. [SEE SECTION 504 PROCEDURAL SAFEGUARDS.]
14. If you disagree with the decision of the impartial hearing officer (Local Board of Education members and other School System employees are not considered impartial hearing officers), you have a right to a review of that decision according to the School System's impartial hearing procedure. 34 CFR 104.36. [SEE SECTION 504 PROCEDURAL SAFEGUARDS.]
15. You have the right, at any time, to file a complaint with the United States Department of Education's Office for Civil Rights.

Appendix E

Section 504 Procedural Safeguards

1. **Overview:** Any student, parent or guardian may request an impartial hearing due to a School System's alleged actions or inactions regarding their child's identification, evaluation, or educational placement under Section 504. Requests for an impartial hearing must be in writing to the School System's Section 504 Coordinator; however, a parent or guardian's failure to request a hearing in writing does not alleviate the School System's obligation to provide an impartial hearing if the parent/guardian orally requests an impartial hearing through the School System's Section 504 Coordinator. As needed, the School System's Section 504 Coordinator will assist the parent/guardian in completing the written Request for Hearing, but may not provide legal advice to the Parent/Guardian.

To request an impartial hearing or for more information regarding Section 504, please contact the School System's Section 504 Coordinator at the following address:

Dr. Ed Sanderson
Director of Student Services
Richmond County School System
864 Broad Street
Augusta, Georgia 30901
(706) 826-1000
sanded@boe.richmond.k12.ga.us

2. **Hearing Request:** The Request for the Hearing must include the following:
- The name of the student.
 - The address of the residence of the student.
 - The name of the school the student is attending.
 - The decision that is the subject of the hearing.
 - The requested reasons for review.
 - The proposed remedy sought by the parent/guardian.
 - The name and contact information of the parent/guardian.

Within 10 business days from receiving the parent/guardian's Request for Hearing, the Section 504 Coordinator will acknowledge the Request for Hearing in writing and schedule a time and place for a hearing. If the written Request for Hearing does not contain the necessary information noted above, the Section 504 Coordinator will inform the parent/guardian of the specific information needed to complete the request. All timelines and processes will be stayed until the Request for Hearing contains the necessary information noted above.

3. **Mediation:** The School System may offer mediation to resolve the issues detailed by the parent/guardian in his or her Request for Hearing. Mediation is voluntary, and both the parent/guardian and School System must agree to participate. Either party may terminate the mediation at any time. If the mediation is terminated without an agreement, the School System will follow the procedures for conducting an impartial hearing without an additional Request for Hearing.

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4. Hearing Procedures:

- a. The Section 504 Coordinator will obtain an impartial review official who will conduct a hearing within 45 calendar days from the receipt of the Request for Hearing unless agreed to otherwise or unless a continuance is granted by the impartial review official.
- b. Upon a showing of good cause by either party, the impartial review official, at his or her discretion, may grant a continuance and set a new hearing date. The request for a continuance must be in writing and copied to the other party.
- c. The parent/guardian will have an opportunity to examine the child's educational records prior to the hearing.
- d. The parent/guardian will have the opportunity to be represented by legal counsel at his or her own expense at the hearing and participate, speak, examine witnesses, and present information at the hearing. If the parent/guardian is to be represented by legal counsel at the hearing, he or she must inform the Section 504 Coordinator of that fact in writing at least 10 calendar days prior to the hearing. Failure to notify the Section 504 Coordinator in writing of representation by legal counsel shall constitute good cause for continuance of the hearing.
- e. The parent/guardian will have the burden of proving any claims he or she may assert. When warranted by law, the impartial hearing officer may require either party to defend its position/decision regarding the claims. One or more representatives of the School System, who may be an attorney, will attend the hearing to present the evidence and witnesses, respond to the parent/guardian testimony and answer questions posed by the impartial review official.
- f. The impartial review official shall not have the power to subpoena witnesses, and the strict rules of evidence shall not apply to hearings. The impartial review official shall have the authority to issue pre-hearing instructions, which may include requiring the parties to exchange documents and to provide the names of witnesses each party expects to appear at the hearing.
- g. The impartial review official shall determine the weight to be given any evidence based on its credibility, reliability and probative value, according to applicable legal standards.
- h. The hearing shall be closed to the public.
- i. The issues of the hearing will be limited to those raised in the written request for the hearing.

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- j. Witnesses will be questioned directly by the party who calls them. Cross-examination of witnesses will be allowed. The impartial review official, at his or her discretion, may allow further examination of witnesses or ask questions of the witnesses.
 - k. Testimony shall be recorded by court reporting or audio recording at the expense of the School System. All documentation related to the hearing shall be retained by the School System.
 - l. Unless otherwise required by law, the impartial review official shall uphold the action of the School System unless the parent/guardian can prove that a preponderance of the evidence supports his or her claim. A “preponderance of evidence,” while determined by the impartial review official, has been described as just enough evidence to make it more likely than not that the fact that the parent/guardian seeks to prove is true.
 - m. Failure of the parent/guardian to appear at a scheduled hearing (unless prior notification of absence was provided and approved by the impartial review official or unless just cause is shown) shall constitute a waiver of the parent/guardian’s right to a personal appearance before the impartial review official.
5. **Decision:** The impartial review official shall issue a written determination within 20 calendar days of the date the hearing concluded. The determination of the impartial review official shall not include any monetary damages or the award of any attorneys’ fees.
6. **Review:** If not satisfied with the decision of the impartial review official, any party may pursue any right of review, appeal, cause of action or claim available to them under the law or existing state or federal rules or regulations.

Appendix F



PARENT/GUARDIAN NOTIFICATION of SECTION 504 MEETING

Date: _____

To the Parent/Guardian of _____

You are invited to attend a Section 504 meeting for your child at _____
(School)

on _____ at ____:____ am/pm.
(Date)

The purpose of the meeting is to:

_____ Determine initial Section 504 eligibility.

_____ Review your child's Section 504 Accommodation Plan.

_____ Conduct a periodic re-evaluation.

_____ Amend your child's current Section 504 Accommodation Plan.

You are invited and urged to participate in the meeting. You may be accompanied to this meeting by a third party if you wish. If you would like more information about this meeting or would like the meeting date and/or time changed, please contact the Section 504 Building Coordinator,
_____ at 706-_____-_____.

A copy of the recommendations made by the committee is available upon your request if you are unable to attend this meeting.

RETURN THIS SECTION TO THE SCHOOL

Concerning the Section 504 meeting for _____
(Student Name)

_____ I can attend the meeting.

_____ I would like to attend the meeting but cannot at this date and time. I will contact the Section 504 Building Coordinator regarding a different date or time.

_____ I am unable to attend but would like for the meeting to proceed without me. I understand I will receive a copy of the team's decision(s).

Parent/Legal Guardian Signature

Date

"Learning today...Leading tomorrow"

The Mission of the Richmond County School System is to educate students to become lifelong learners and productive citizens.

RICHMOND COUNTY SECTION 504 DETERMINATION

Student Name: _____ Date: _____

Date of Birth: _____ Gender: _____ Age: _____

School: _____ Grade: _____

STEP 1: PURPOSE OF MEETING

_____ Initial Determination* (Complete Steps 1-7)

_____ Amendment (Complete Steps 1, 5-7)

_____ Reevaluation* (Complete Steps 1-7)

_____ Annual Review (Complete Steps 1, 5-7)

*Consent to Evaluate for Section 504 obtained on? ____/____/____

Section 504 Parent Rights and Safeguards given & reviewed with parent: __YES __NO

STEP 2: GATHER DETERMINATION CRITERIA

| | | | | |
|---|--|------------|--|-----------|
| Is there documentation regarding specific mental or physical impairment(s) issued by a medical professional in order to make the diagnosis? | | YES | | NO |
|---|--|------------|--|-----------|

Documentation regarding impairment (provide relevant data and keep copy in the file):

| SOURCE | DATE of INFO | RELEVANT INFORMATION/DIAGNOSES Indicate diagnoses & name of professional(s) |
|--|--------------|--|
| Medical professional and/or licensed psychologist | | |
| Other: | | |

List any medications that the student is currently taking:

Relevant academic data (e.g., Milestones EOG/EOC, CogAT, universal screeners, benchmarks, grades, etc.):

Appendix G

Student Name: _____

Meeting Date: _____

| | | | | | |
|---|---------------|----|-------------------------------|-----------------------------|--|
| Is the student in the RtI process? (Check one) | | | | | |
| | TIER 2 | | TIER 3 | Not currently in RtI | |
| Does the student have frequent attendance problems or irregular attendance that impacts his/her ability to make reasonable progress toward the appropriate grade-level curriculum? | | | YES | NO | |
| Days absent last school year: | | | Days absent this school year: | | |
| Do the attendance problems seem to be related to the student's disability? | | | YES | NO | |
| Is the student age appropriate for grade level? | | | YES | NO | |
| If NO, specify grade(s) retained: | | | | | |
| Does the student receive any outside or school counseling services? | | | YES | NO | |
| If YES, Describe: | | | | | |
| Does the student wear glasses? | | | YES | NO | |
| Does the student wear hearing aids? | | | YES | NO | |
| Are there concerns with hearing and/or vision? | | | YES | NO | |
| If YES, Specify: | | | | | |
| Does the student have motor/coordination/mobility needs? | | | YES | NO | |
| If YES, does the team recommend an OT and or PT screening or observation be conducted? | | | YES | NO | |
| If YES, indicate for : | | OT | PT | | |
| Does the student have adaptive or medical needs (i.e., eye glasses, wheelchair, walker, hearing aids, leg braces, feeding tubes, etc.)? | | | YES | NO | |
| If YES, Explain: | | | | | |

Appendix G

Student Name: _____

Meeting Date: _____

| | | |
|---|-----------------|------------|
| Does the student have or require a Health Care plan? (Check one) | | |
| Has a plan | Requires a plan | Not Needed |

STEP 3: IS THERE A SUBSTANTIAL LIMITATION TO A MAJOR LIFE ACTIVITY?

The team must consider the impact of the documented mental or physical impairment along with documented relevant information to determine substantial limitation.

| What major life activity*does the disability impact? | Describe how the disability impacts the student in the school environment when compared to other students of the same age/grade level. |
|--|--|
| | |
| | |
| | |

** Major life activities may include but are not limited to: reading, concentration, thinking, sleeping, eating, digestive functions, bowel functions or bladder functions.*

STEP 4: DISABILITY DETERMINATION

Based on the information above; answer the following questions.

- | | | |
|--|------------|-----------|
| 1. Does the documentation establish that the student has a mental or physical impairment? | YES | NO |
| 2. Does the documentation establish that the student's impairment substantially limits a major life activity? | YES | NO |
| 3. Based on the answers to questions 1 and 2, does the student meet Section 504 eligibility criteria? <i>(Both answers must be YES in order for the student to be eligible.)</i> | YES | NO |
| 4. Based on the answers to the questions 1 and 2 above the student meets Section 504 eligibility criteria AND requires an accommodation plan or health plan. | YES | NO |

Appendix G

Student Name: _____

Meeting Date: _____

STEP 5: SECTION 504 ACCOMMODATION PLAN

| | |
|--|--|
| | School/Classroom List accommodations (Any test accommodation will occur in the classroom as well): |
| | State/District Assessments and/or College Entrance Exams List accommodations: Setting: Presentation: Response: Scheduling: 1. 1. 1. 1. 2. 2. 2. 2. 3. 3. 3. 3. |
| | Medical Health Plan List accommodations: |
| | Transportation Needs (<i>Specify and provide documentation</i>) |
| | Other (e.g., OT, PT, counseling) List referral areas: |

STEP 6: PARENTAL RESPONSE

I received a written notice of my rights under Section 504. I received notice of the Section 504 meeting. I understand that, if I disagree with the content of this plan, I have the right to ask for a Section 504 review meeting by filing a written request with the school principal, Building 504 Coordinator, or designee.

Parent
Initials

I agree with the team's decision and the developed accommodation plan. YES NO

Parent Signature

Date

Appendix H

100 Effective Accommodations/Services

The following suggested accommodations/services can be used for students experiencing academic and/or behavioral difficulties. Remember, every student is different and accommodations need to be decided by the Section 504 Team, which includes the parents.

1. Provide study carrels.
2. Use room dividers.
3. Provide headsets to muffle noise.
4. Seat child away from doors/windows.
5. Seat near model (student or teacher).
6. Provide time-out area.
7. Rearrange student groups (according to instructional needs, role models, etc.).
8. Group for cooperative learning.
9. Vary working surface (e.g., floor or vertical surface such as blackboards).
10. Simplify/shorten directions.
11. Give both oral and written directions.
12. Have student repeat directions.
13. Have student repeat lesson objective.
14. Ask frequent questions.
15. Change question level.
16. Change response format (e.g., from verbal to physical, from saying to pointing).
17. Provide sequential directions (label as first, second, etc.).
18. Use manipulatives.
19. Alter objective criterion level.
20. Provide functional tasks (relate to child's environment).
21. Reduce number of items on a task.
22. Highlight relevant words/features.
23. Use rebus (picture) directions.
24. Provide guided practice.
25. Provide more practice trials.
26. Increase allocated time.
27. Use a strategy approach.
28. Change reinforcers.
29. Increase reinforcement frequency.
30. Delay reinforcement.
31. Increase wait time.
32. Use physical warm-up exercises.
33. Use specific rather than general praise.
34. Have a peer tutor program.
35. Provide frequent review.
36. Have student summarize at end of lesson.
37. Use self-correcting materials.
38. Adapt test items for differing response modes.
39. Provide mnemonic devices.
40. Provide tangible reinforcers.
41. Use behavioral contracts.
42. Establish routines for handing work in, heading papers, etc.
43. Use timers to show allocated time.
44. Teach self-monitoring.
45. Provide visual cues (e.g., posters, desktop number lines, etc.).
46. Block out extraneous stimuli on written material.
47. Tape record directions.
48. Tape record student responses.
49. Use a study guide.
50. Provide critical vocabulary list for content material.
51. Provide essential fact list.
52. Use clock faces to show classroom routine times.
53. Use dotted lines to line up math problems or show margins.
54. Provide transition directions.
55. Assign only one task at a time.
56. Provide discussion questions before reading.
57. Use word markers to guide reading.
58. Alter sequence of presentation.

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59. Enlarge or highlight key words on test items.
60. Provide daily and weekly assignment sheets.
61. Post daily/weekly schedule.
62. Use graph paper for place value or when adding/subtracting two-digit numbers.
63. Provide anticipation cues.
64. Establish rules and review frequently.
65. Teach key direction words.
66. Use distributed practice.
67. Provide pencil grip.
68. Tape paper to desk.
69. Shorten project assignment into daily tasks.
70. Segment directions.
71. Number (order) assignments to be completed.
72. Change far-point to near-point material for copying or review.
73. Put desk close to blackboard.
74. Incorporate currently popular themes or characters into assignments for motivation.
75. Repeat major points.
76. Use physical cues while speaking
77. Pause during speaking.
78. Use verbal cues (e.g., Don't write this down, This is important).
79. Change tone of voice, whisper, etc.
80. Use an honor system.
81. Collect notebooks weekly (periodically) to review student notes.
82. Reorganize tests to go from easy to hard.
83. Color code place value tasks.
84. Use self-teaching materials.
85. Do only odd or even numbered items on a large task sheet.
86. Use a primary typewriter or large print to create written material.
87. Provide organizers (e.g., cartons/bins) for desk material.
88. Teach varied reading rates (e.g., scanning, skimming, etc.).
89. Provide content/lecture summaries.
90. Use peer-mediated strategies (e.g., buddy system).
91. Call student's name before asking a question.
92. Use extra spaces between lines of print.
93. Color code materials/directions.
94. Use raised-line paper.
95. Circle math computation sign.
96. Establish a rationale for learning.
97. Use hand signals to cue behavior (e.g., attention, responding).
98. Use advance organizers.
99. Help students develop their own learning strategies.
100. Provide calculators.

Appendix H

General Strategies

The following is a list of possible services, strategies, and accommodations for identified students. Each case must be considered based upon the unique needs of the student by the Section 504 Team.

Environmental Strategies

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

Organizational Strategies

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

Behavior Strategies

- Use behavioral management techniques
- Implement behavioral/academic contracts
- Use positive reinforcements (rewards)
- Use negative reinforcements (consequences)
- Confer with the student's parents and other teachers
- Establish a home/school communication system for behavior monitoring
- Post rules and consequences for classroom behavior
- Write a contract for student behavior
- Offer social reinforcers (e.g., praise) for appropriate behavior
- Establish daily/weekly progress report for the student
- Implement self-recording of behaviors

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Presentation Strategies

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

Methodology Strategies

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

Curriculum Strategies

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

Appendix H

The following is an excerpt taken directly from the *Georgia Department of Education Accommodations Manual* dated 2016-2017. For further information regarding student assessments, accommodations, and modifications, please refer to the entire document.

Assessing Special Populations

Section 504 Students (Students with Disabilities who are not served in special education)

Section 504 of the Rehabilitation Act of 1973 is a comprehensive civil rights law which addresses the rights of persons with a disability, indicating that “no otherwise qualified [disabled] individual shall, solely by reason of his/her [disability], be excluded from the participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance.” This law applies to agencies and organizations, including public school systems. The definition of a person with a disability under Section 504 is much broader in scope than that of the IDEA. Under Section 504, the term *disability* refers to a person who (a) has a physical or mental impairment which substantially limits one or more major life activities, (b) has a record of such impairment, or (c) is regarded as having such impairment. Students with a disability under IDEA are entitled to reasonable accommodations to allow their participation in the school programs, activities, and procedures in which their non-disabled peers participate. Therefore, Section 504 students must be included in state and local assessments with reasonable accommodations, if any, which may be necessary to allow participation in the assessment.

As indicated above, no student identified as having a disability under Section 504 shall “solely by reason of his/her (disability) be excluded from the participation in, be denied the benefits of, or be subject to discrimination.” Thus, students who have been identified as having a disability under the Section 504 guidelines must be included in statewide assessments. In Georgia, the Student Support Team (SST) can satisfy certain 504 requirements with respect to determining the appropriate educational needs of a student. As a result, some students with disabilities may have a 504 Individual Accommodation Plan (IAP) developed by the SST.

Accommodations considered by the SST must be consistent with those used during classroom instruction and assessment. Only state-approved accommodations may be considered and included in the Section 504 IAP. If an accommodation is recommended that is not included in Table 4 of this manual, approval MUST be received from the Assessment and Accountability of the GaDOE prior to the inclusion of the accommodation in the student’s IAP and its use. The SST may not include accommodations in Section 504 IAPs which have not been approved by the state.

Special Considerations Related to Accommodations for the Georgia High School Graduation Tests and the Georgia High School Writing Test

Passing scores on the Georgia High School Graduation Tests (English/language arts, science, social studies, and mathematics) and the Georgia High School Writing Test are required for a Georgia High School Diploma. The accommodations that students with disabilities, 504 students, and ELL students

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may require are allowed on this test are specified in this handbook as well as the test administration manual and while there are no state-approved conditional accommodations listed for the GHS GT or GHS WT, individual students may need an accommodation that could result in a conditional accommodation. Approval of such an accommodation must be received by the Assessment and Accountability Division of the GaDOE prior to inclusion of the accommodation in the student's IEP, IAP, or ELL/TPC and its subsequent use of the GHS GT or GHS WT. Use of an approved conditional accommodation will not satisfy the testing requirements for receiving a high school diploma and must be communicated to parents and students with appropriate documentation.

Students who have NO means of written communication sufficient to complete the GHS WT due to a severe physical disability may apply for a waiver of the GHS WT graduation requirement (Rule 160.3-1.07). Any decision to waive this requirement must be clearly documented with justification in the student's IEP or IAP and permanent record and must be consistent with the student's current instructional program once approved by the State Board of Education.

Local School System Responsibilities

Local school systems have policies and procedures that require the administration of assessments that are not part of the state assessment program. If a local system administers an assessment other than those specified by the state, the assessment must also include students with disabilities or provide an alternate assessment. Students with disabilities may not be excluded if an assessment is administered to all students in a particular grade, class, or school. Local school systems must continue to review all assessments administered at the district's discretion and plan for accommodations or for alternate assessment. The system should have policies and guidelines for including students with disabilities in locally administered assessments. For local assessments, systems may use the state alternate assessment (Georgia Alternate Assessment) or they may develop their own alternate assessment. Should the local system elect to use the GAA as an alternate for a locally mandated assessment, the local system is responsible for the scoring and reporting. The state will score and report GAA results for state-mandated grades only (i.e., K – 8 and 11).

Accommodation Guidelines for Students with Disabilities

In determining appropriate accommodations to provide the student with a disability the opportunity to participate in the assessment in the most standard way possible, there should be a direct link between classroom accommodations and assessment accommodations; accommodations must be specified in the student's IEP/IAP. No accommodation(s) for a student should be considered for the first time during a state or local assessment. **Just because a student needs an accommodation does not mean he/she will know how to use it. Students need training and practice in using accommodations.** Informed decision making regarding accommodations is critical in assuring successful and meaningful participation of students with disabilities. IEP teams (which should include the student by age 14) should analyze an assessment for what it requires the student to do in order to take the test.

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Additional information and guidance on the appropriate use of accommodations for students with disabilities is provided in the publication entitled, *Accommodation Manual: A Guide to Selecting, Administering, and Evaluating the Use of Test Administration Accommodations for Students with Disabilities*, posted on the GaDOE web site (<http://www.gadoe.org/Curriculum-Instruction-and-Assessment/Assessment/Pages/default.aspx>; in the portlet labeled ‘For Educators’).

Test Administration Accommodations Considerations for Students with Disabilities and English Learners

Types of Accommodations

Students with disabilities and EL students often need accommodations when participating in an assessment. If a student needs accommodations and does not receive them, the assessment results may reflect the student’s disability or limited English language proficiency rather than the student’s acquired skills or knowledge. Accommodations for students with disabilities under the IDEA must be determined at the annual IEP team meeting, while accommodations for EL must be determined at a documented EL/TPC meeting. Section 504 students receive accommodations through an Individual Accommodation Plan (IAP).

Accommodations are usually broken down into the following categories:

Setting Accommodations: adjust the place in which the testing normally occurs

Scheduling Accommodations: adjust the time allowance or scheduling of a test

Presentation Accommodations: adjust the presentation of test material and/or test directions

Response Accommodations: adjust the manner in which students respond to or answer test questions

Standard and Conditional Administrations

What is meant by “standard” and “conditional” test administration?

Standard administration refers to testing conditions in which the procedures and directions included in the administration manual are followed *exactly*. (e.g., using a large-print test or a small-group setting).

Conditional administration refers to testing conditions in which more expansive accommodations are used to provide access for students with more severe disabilities or very limited English language proficiency and who would not be able to access the assessment without such assistance. The appropriate team must determine that the conditional administration is absolutely necessary for the student to participate in state assessments.

Conditional accommodations should be used sparingly. State Board rule sets forth the expectation that only a small percentage of students will participate through a conditional administration. **Most students can and should participate in the assessments with standard accommodations.** The use of any accommodation must be considered in light of the student’s disability or language proficiency *and must be required by the student to access the test because of his/her disability or language proficiency.*

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Conditional accommodations may not be provided solely as a way to ensure proficiency. The ultimate goal of any accommodation is meaningful measurement of what the student has learned.

Because conditional accommodations may encroach on the construct the test is designed to measure, caution must be exercised in considering whether a student requires a conditional accommodation in order to access the test. Further, test results for a student provided conditional accommodation(s) must be interpreted in light of the conditional accommodation(s). EL-M students are not eligible for conditional accommodations.

Standard and conditional administrations vary according to each test. Additional information can be found in specific test administration manuals. Whether a standard or a conditional administration is given, the recommended accommodation(s) identified in the student's IEP, IAP, or EL/TPC plan must be provided. The students' answer documents must be coded to reflect the use and/or provision of accommodations and to provide data of the number and performance of students with disabilities under the IDEA. Use of conditional accommodations must also be coded. In an instance where a student clearly declines or refuses an accommodation (e.g. refuses to go to a designated small group setting), the school should document this fact.

Modifications vs. Accommodations

Accommodations do not reduce learning expectations. They provide access. However, modifications or alterations refer to practices that change, lower, or reduce learning expectations. Modifications can increase the gap between the achievement of students with disabilities and expectations for proficiency at a particular grade level. Using modifications may result in implications that could adversely affect students throughout their educational career. Examples of modifications include:

- requiring a student to learn less material (e.g., fewer objectives, shorter units or lessons, fewer pages or problems),
- reducing assignments and assessments so a student only needs to complete the easiest problems or items,
- revising assignments or assessments to make them easier (e.g., crossing out half of the response choices on a multiple-choice test so that a student only has to pick from two options instead of four), or
- giving a student hints or clues to correct responses on assignments and tests.

Providing modifications to students during classroom instruction and/or classroom assessments may have the unintended consequence of reducing their opportunity to learn critical content. If students have not had access to critical, assessed content, they may be at risk for not meeting graduation requirements. Providing a student with an unapproved modification during a state-mandated assessment may constitute a test irregularity and may result in an investigation into the school or system testing practices.

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An accommodation may not alter, explain, simplify, paraphrase, or eliminate any test item, reading passage, writing prompt, or answer option. Further, accommodations may not provide verbal or other clues or suggestions that hint at or give away the correct response to the student.

Additional Considerations for Accommodations

Accommodations for students with disabilities under the IDEA must be determined in the annual IEP team meeting. These accommodations must be consistent with the instructional accommodations required for the student. Accommodations for Section 504 students must be written in their IAP, and accommodations for ELL students must be documented in their EL/TPC plan.

Accommodation decisions made by the appropriate IEP, IAP, or EL/TPC committees must take into account the accommodations that are currently used in the instructional and classroom assessment processes. In addition, these committees must also consider the following: (a) whether the accommodations are necessary for access to the assessment process; (b) previous experience and usefulness with the recommended accommodations; and (c) whether or not the recommended accommodation affects the integrity of the assessment. It is important to remember that not all instructional accommodations are appropriate assessment accommodations; only state-approved accommodations may be used on state-mandated assessments. Students should receive the state-approved accommodations they need in order to participate in the assessment but should not be given more accommodations than are necessary to participate meaningfully. (Table 4 lists state-approved accommodations for students with disabilities.)

Only state-approved accommodations may be considered.

In rare instances, the GaDOE will consider a request for use of an accommodation that is not included in the *Student Assessment Handbook*, on a student by student basis. In order to consider the request, the Assessment Division will need the following information for **each** student:

- District
- School
- Grade (or course if EOCT)
- Last name of student
- Accommodation Requested
- How the accommodation is used instructionally in the classroom
- Why the accommodation is required by the student to **access** the test (include information about the student's disability)
- The specific tests on which the student will use the accommodation
- System Test Coordinator review/approval statement

The Assessment Division will review this information with staff from the Division of Special Education Services and determine if the request can be granted. To grant the request, there must be a clear relationship between the student's disability and the need for the accommodation to access the test.

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Accommodations that serve to grant the student a differential boost in correct answers cannot be approved if that is the sole reason for the request. Given that accommodations are to be prescribed based upon the needs of individual students, requests that are identical for multiple students are not appropriate and will not be reviewed.

The System Test Coordinator must review all requests submitted by their local schools PRIOR to submission to GaDOE and indicate their approval of the school's request. Requests must be reviewed with consideration given to the purpose of the assessment and the constructs measured. **Requests must not be forwarded to GaDOE if they are not appropriate and/or are incomplete.**

Requests must be submitted by systems in a "batched" fashion so that all being submitted for each state assessment are provided to GaDOE at one time (e. g.: all Milestones requests submitted in one batch). This will likely require local systems to establish internal timelines for such requests to be tendered to the System Test Coordinator.

This information should be submitted to the Assessment Division by submitting the form by fax at (404) 656-5976, or preferably by emailing the information to Melissa Fincher, Associate Superintendent at mfincher@doe.k12.ga.us. **Requests MUST be received six weeks prior to the opening of each applicable state testing window for consideration.**

Table 4 provides a list of approved test administration accommodations by testing program. Additional information about accommodation(s) can also be located in each program's administration manuals.

Writing Assessment Scribe - Standard Accommodation

- Students may dictate to the scribe or in a tape recorder
- The scribe may write or use a word processor
- The scribe writes or types as the student dictates
- As the student is dictating, the scribe will ask the student to spell each word. Do not repeat duplicating words. Scribe spells the words exactly as the student states. The scribe should not punctuate. NOTE: The student may dictate prose without interruption. When the student is finished, the scribe should go back and ask the student to spell each word.
- Once the scribe has completed the writing as the student has dictated, the scribe should show the student the written document (without punctuation, capitalization, etc.) and ask them to indicate to the scribe where punctuation should be placed. Please note: It is important the scribe reviews the document before the student is allowed to view the document. This assures that the scribe has not included additional information, punctuation, capitalization, etc.
- Please keep in mind that this process usually requires an extended amount of time and may also require frequent breaks.

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- If a word processor is used, the final draft should be printed and placed inside the Answer Document. Please be certain that the student's GTID number is also indicated in the right-hand corner of the printout.
- Accommodations should be reflected in the student's IEP and be a part of their regular education program.

If the above scribing process is not followed, then the assessment may result in a conditional administration. Please contact the Assessment and Accountability Division prior to implementing scribing techniques that do not follow the above process.

Appendix H

| Table 4. Allowable Accommodations for Students with Disabilities (S= Standard; C=Conditional) | | | | | | | |
|---|------------------------------|-------------------------------|------------------------------|-------------------------------|-------|----------------|------|
| Setting Accommodation | Georgia Milestones EOG Paper | Georgia Milestones EOG Online | Georgia Milestones EOC Paper | Georgia Milestones EOC Online | GKIDS | ACCESS | NAEP |
| 1. Special education classroom | S | S | S | S | S | * | S |
| 2. Special or adapted lighting | S | S | S | S | S | * | S |
| 3. Small group | S | S | S | S | S | * | S |
| 4. Preferential seating | S | S | S | S | S | * | S |
| 5. Sound field adaptations | S | S | S | S | S | * | S |
| 6. Adaptive furniture (e.g. slant board) | S | S | S | S | S | * | S |
| 7. Individual or study carrel | S | S | S | S | S | * | S |
| 8. Individual administration | S | S | S | S | S | * | S |
| 9. Test administered by certified educator familiar to student | S | S | S | S | S | * | S |
| Presentation Accommodations | Georgia Milestones EOG Paper | Georgia Milestones EOG Online | Georgia Milestones EOC Paper | Georgia Milestones EOC Online | GKIDS | ACCESS | NAEP |
| 10. Large print /Large Font | S | S | S | S | S | S | S |
| 11. Sign the directions | S | S | S | S | S | S | S |
| 12. Sign test questions | S | S | S | S | S | | S |
| 13. Sign English Language Arts (ELA) passages | C ¹ | C ¹ | C ¹ | C ¹ | S | | |
| 14. Oral reading of test questions in English | S ¹¹ | S ¹¹ | S ¹¹ | S ¹¹ | | S ³ | S |
| 15. Oral reading of English Language Arts (ELA) passages in English | C ¹ | C ¹ | C ¹ | C ¹ | | S ³ | |
| 16. Explain or paraphrase the directions for clarity (in English only) | S | S | S | S | S | * | |
| 17. Braille | S | | S | | S | | S |
| 18. Color overlays, templates, or place markers | S | S | S | S | S | S ² | S |

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| Presentation Accommodations | Georgia Milestones EOG Paper | Georgia Milestones EOG Online | Georgia Milestones EOC Paper | Georgia Milestones EOC Online | GKIDS | ACCESS | NAEP |
|---|------------------------------|-------------------------------|------------------------------|-------------------------------|----------------|------------------|----------------|
| 19. Use of highlighter by student | | | | | | S ² | S |
| 20. Low vision aids (e.g. CCTV, magnifying equipment) | S | S | S | S | S | S ² | S |
| 21. Repetition of directions (in English only) | S | S | S | S | S | * | |
| 22. Audio amplification devices or noise buffer/listening devices | S | S | S | S | S | S ² | S |
| 23. Use directions that have been marked by teacher | | | | | | S | |
| Response Accommodations | Georgia Milestones EOG Paper | Georgia Milestones EOG Online | Georgia Milestones EOC Paper | Georgia Milestones EOC Online | GKIDS | ACCESS | NAEP |
| 24. Technology applications, such as Braille, word processor, or other communications device with grammar and spell checks disabled; Internet disabled for device | S | S | S | S | S | S | S |
| 25. Student marks answers in test booklet | S | | S | | | S ¹² | |
| 26. Student points to answers | S | S | S | S | S | S ¹² | S |
| 27. Verbal response in English only | S | S | S | S | S | S ⁴ | S |
| 28. Scribe | S ⁶ | S ⁶ | S ⁶ | S ⁶ | S ⁶ | S ^{6,7} | S ⁸ |
| 29. Braille writer | S | | S | | S | | S |
| 30. Abacus | S ⁹ | | S ⁹ | | | | |
| 31. Basic function calculator or adapted basic calculator (e.g. Braille or talking calculator) | C ¹ | C ¹ | | | | | S ⁵ |
| 32. Adapted writing tools (e.g. pencil grips, large diameter pencil) | S | S | S | S | S | S ² | S |
| 33. Adapted/ lined paper | S | S | S | S | | | |

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| Scheduling Accommodations | Georgia Milestones EOG Paper | Georgia Milestones EOG Online | Georgia Milestones EOC Paper | Georgia Milestones EOC Online | GKIDS | ACCESS | NAEP |
|--|------------------------------|-------------------------------|------------------------------|-------------------------------|-------|-----------------|------|
| 34. Frequent monitored breaks | S | S | S | S | S | * | S |
| 35. Optimal time of day for testing | S | S | S | S | S | S | S |
| 36. Extended time | S | S | S | S | S | S | S |
| 37. Flexibility in the order of administration for content areas | S | S | S | S | | S ¹³ | |
| 38. Extending sessions over multiple days | | | | | | S ¹⁰ | |

* For ACCESS for ELLs, these are considered test administration procedures allowable for all ELLs.

| Footnotes |
|---|
| 1. Restricted to eligible students only; see guidance for eligibility. For oral reading, screen reader is the preferred method of administration (exception Signing of ELA Passages). Where a human reader delivers the accommodation, examiners must adhere to directions provided in the Read-Aloud Guidelines. |
| 2. If prescribed as an accommodation, allowable for all ACCESS domains. Allowable as an accessibility tool for all students. |
| 3. Allowed for ACCESS Writing, Listening, and Speaking only. |
| 4. Allowed for ACCESS Listening, Reading, Speaking; not allowed for ACCESS Writing. |
| 5. Only NAEP calculator active blocks will be given to students who need this accommodation. |
| 6. Use of a scribe is allowable if guidelines are followed exactly. |
| 7. Use of a scribe is not allowed for ACCESS Speaking. |
| 8. Accommodation not allowed on NAEP Writing assessments. |
| 9. Allowed for students with visual impairments only. |
| 10. Paper-Pencil Mode: Allowed for ACCESS Listening and Reading; not allowed for ACCESS Writing and Speaking. Not allowed for any domain via online testing mode. |
| 11. Screen reader is the preferred method of administration. Where a human reader delivers the accommodation, examiners must adhere to directions provided in the posted Read-Aloud Guidelines. |
| 12. Paper-Pencil Mode: Allowed for ACCESS Listening, Reading, and Writing; not allowed for ACCESS Speaking. Online Mode is not recommended for students requiring this accommodation. |
| 13. Listening and Reading must be administered prior to Speaking and Writing. |

Appendix H

Eligibility Guidelines: Reading of English Language Arts (ELA) Passages

Guidance for Use of Conditional Accommodation 13: Sign ELA passages.

The use of this conditional accommodation for the English Language Arts Georgia Milestones, *regardless of grade level*, must be restricted to only those students with IEPs who meet the **ALL** eligibility criteria outlined below:

1. The student is deaf and has a specific documented disability that severely limits or prevents his or her ability to decode text at any level of difficulty, even after varied and repeated attempts to teach the student to do so; **and**
2. The student has access to printed materials only through a sign-language interpreter or is provided with signed text or other electronic format during routine instruction; **and**
3. There are clear and specific goals within the student's IEP addressing the deficits which necessitate the need for this conditional accommodation.

Under secure conditions, supervised by the School or System Test Coordinator, the sign interpreter may review test materials prior to the test administration to plan appropriate signing.

Guidance for Use of Conditional Accommodations 15: Oral Reading of English Language Arts (ELA) passages.

The use of this conditional accommodation for the English Language Arts Georgia Milestones, *regardless of grade level*, must be restricted to only those students with IEPs who meet **ALL** eligibility criteria outlined below:

1. The student has a specific documented disability that severely limits or prevents his or her ability to decode text at any level of difficulty, even after varied and repeated attempts to teach the student to do so (i.e., the student is a non-reader, not simply reading below grade level); **and**
2. The student has access to printed materials only through a reader or other electronic format during routine instruction; **and**
3. There are clear and specific goals within the student's IEP addressing the deficits which necessitate the need for this conditional accommodation.

NOTE: The preferred method of administration for this conditional accommodation is the screen reader. Where a human reader delivers the accommodation, examiners must adhere to directions provided in the posted Read- Aloud Guidelines.

Eligibility Guidelines: Calculator Usage

Guidance for Use of Conditional Accommodations 31: Basic function calculator or adapted basic calculator.

The use of this conditional accommodation for the Mathematics Georgia Milestones for students in **grades 3 - 5** must be restricted to only those students with IEPs who meet **ALL** eligibility criteria outlined below:

1. The student has a specific disability that prohibits him or her from performing basic calculations (i.e., addition, subtraction, multiplication, and division), even after varied and repeated attempts to teach the student to do so; **and**
2. The student is unable to perform calculations without the use of a calculation device, which the student uses for routine classroom instruction; **and**
3. There are clear and specific goals within the student's IEP addressing the deficits which necessitate the need for this conditional accommodation.

NOTE: Only a basic function or basic adapted calculator may be used; scientific and other advanced calculators are strictly prohibited. The test administrator may not provide any assistance or direction to the student regarding the use of the calculator.

Appendix I



REVOCATION OF CONSENT FOR SECTION 504 SERVICES

Your written request to revoke consent for the provision of Section 504 Services was received on _____ . By revoking your consent you will be giving up the procedural safeguards available under Section 504. A copy is attached. If you have questions, you may contact the Director of Student Services at 706-826-1000.

The following services/accommodations will be eliminated upon receipt of this consent:

Revocation of your consent does not prevent you from requesting an evaluation to determine Section 504 or special education services in the future. In this case, the referral will be considered as an initial referral.

I have read the above information and received a copy of the 504 Procedural Safeguards. I understand that the above services/accommodations will no longer be provided for my child, _____, Date of Birth: _____.

Parent/Guardian (Print)

Date

Parent/Guardian (Signature)

Appendix J

Student Name: _____ Grade: _____ School Year: _____

Disability Area(s): _____

I have been notified of this student's disability area(s) listed above. I have received this student's Section 504 Accommodation Plan and/or Health Plan, with a list of this student's accommodations and/or modifications (if applicable).

I understand the accommodations and/or health plan requirements to which the student is required to receive by law and that his/her information is to remain confidential and in a secure location.

| Teacher/Staff Name & Title | Signature | Date Signed |
|----------------------------|-----------|-------------|
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504 Signature Page

As the building level 504 coordinator and/or principal, I certify that the above teachers and school personnel have received a copy of this student's 504 plan and/or health plan.

504 Coordinator/Principal Signature

Appendix K

504 Parent Information Sheet

"504 plan" refers to Section 504 of the Rehabilitation Act and the Americans with Disabilities Act, which specify that no one with a disability can be excluded from participating in federally funded programs or activities, including elementary, secondary, or postsecondary schooling. Section 504 states:

“No otherwise qualified individual with a disability in the United States, as defined in section 706(8) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance...” [29 U.S.C. §794(a), 34 C.F.R. §104.4(a)].

"Disability" in this context refers to a "physical or mental impairment which substantially limits one or more major life activities." This can include physical impairments, illnesses or injuries, communicable diseases, chronic conditions like asthma, allergies, and diabetes, and learning problems.

A 504 Accommodation Plan spells out the modifications and accommodations that are needed for the student to have an opportunity to perform at the same level as their peers.

Parent Notice

It should be noted, under Section 504, that the parent or guardian must be provided with notice of actions affecting the identification, evaluation and placement of the student. However, the Richmond County School System will invite the parent/guardian to meetings educational decisions are being made. Parents are entitled to an impartial due process hearing if they disagree with district decisions in these areas.

How do I get my child a 504 Plan?

- 1. Contact the 504 Building Coordinator** or principal at your child's school to request a 504 Referral or Response to Intervention (RtI) meeting.
- 2. Attend the 504 Referral Meeting/RtI Meeting**
 - Bring medical documentation and/or documentation of your child's disability to the meeting. (The 504 Coordinator may give you a Medical Documentation Statement form for your child's doctor or medical personnel to complete.)
 - During the 504/RtI meeting the following people should be in attendance: parent/legal guardian, teachers, 504 Building Coordinator, support staff (i.e. nurse, counselor, psychologist, principal, language/speech pathologist, therapists).
 - The team, including the parent(s), will review the student's educational, behavioral, and medical information and determine if adequate information is available to make a referral for eligibility.
- 3. Attend the 504 Eligibility Meeting.** As a team you all will decide if your child has a disability and is in need of an accommodation plan. You know your child's needs the best, so please be active in this decision-making process!
- 4. Know your rights**
 - The 504 Building Coordinator will give you a copy of your rights.
 - You may also be asked to sign important paperwork concerning your 504 parental rights.
 - If a 504 Plan is developed, your child's 504 Plan should be reviewed with his teachers and other needed staff members on a regular basis.

Appendix K

Differences between IDEA and Section 504

What is the difference between having an IEP and an IAP (504 Plan)?

| | IDEA/IEP | Section 504/IAP |
|--|--|---|
| General Purpose | A federal funded statute which provides financial aid to states in their efforts to ensure adequate and appropriate services for disabled students. | A broad civil rights law which protects the rights of individuals with disabilities in programs and activities which receive federal financial assistance from the U.S. Dept. of Education |
| Eligibility | Lists categories of disabilities. | A person who has or has had a physical or mental impairment that substantially limits a major life activity or is regarded as disabled by others. |
| FAPE | “Appropriate” means a program designed to provide an educational benefit. | “Appropriate” means an education comparable to the education provided to nondisabled students. |
| Special Education vs. General Education | A student is only eligible to receive IDEA services if the IEP team determines that the student has one of the disabling conditions and needs special education and related services. | A student is eligible if s/he has or has had a physical or mental impairment, which substantially limits a major life activity or is regarded as disabled by others. The student is not required to need special education. |
| Funding | The LEA receives additional funds or eligible students. | Additional funds are not provided. |
| Accessibility | Not specifically mentioned, although if modifications must be made to provide FAPE, IDEA requires it. Does not extend least restrictive environment to nonacademic services | Detailed regulations regarding building and program accessibility and comparable facilities. Includes academic settings. |
| Procedural Safeguards | Requires written notice regarding identification, evaluation, and placement. Notice requirements are specifically spelled out. Prior written notice required before any change in placement. | Written notice not required although it is recommended. Notice required before a significant change in placement. |
| Evaluations | Consent required prior to an initial evaluation. Reevaluations must be conducted at least every 3 years. Not required before a change in placement. | Notice, consent required prior to initial evaluation. Periodic reevaluations required. Reevaluation required before a significant change in placement. |
| Transition Services | IDEA requires the development of a transition plan within the IEP process beginning at age 14. | No requirement. |
| Grievance Procedures | Not required. | LEAs with 15 or more employees must designate an employee to ensure compliance with Section 504 and provide a grievance procedure for parents, students, and employees. |
| Due Process Hearings | Requires impartial hearing. Rules are almost identical. | |
| Exhaustion | Must pursue administrative hearing before seeking redress in court. | Not required. |
| Enforcement | Compliance monitored by GADOE. GADOE will resolve complaints. | Enforced by OCR. OCR will investigate complaints. |

Appendix L

RICHMOND COUNTY SCHOOL SYSTEM Manifestation Determination for Students Eligible under Section 504

Complete this form if the total number of suspension days, including current suspension, will exceed more than 10 days during the school year.

Student's Name: _____ DOB: _____ Meeting Date: _____
School: _____ Total Number of ISS Days: _____ Total Number of OSS Days: _____

I. Manifestation Review

- a. Behavior subject to disciplinary action (rules violated):

- b. Consider the following:

| | | |
|--|-----|----|
| Illegal drugs and/or controlled substances were involved in this incident? | Yes | No |
| A weapon was involved in this incident? | Yes | No |
| The incident resulted in serious bodily injury? | Yes | No |

- c. Consideration of all relevant student information, including:

| | |
|--|---|
| Evaluation and diagnostic results | Relevant information provided by the parent |
| Observations of the student | Current IAP and placement |
| All relevant information in the student's file | Other: _____ |

- d. This student has a:

| | | |
|---------------------------------------|---------------------------------|---------------------|
| Functional Behavior Assessment (FBA)? | Yes – Consider revising the FBA | No – Develop an FBA |
| Behavior Intervention Plan (BIP)? | Yes – Consider revising the BIP | No – Develop a BIP |

II. Manifestation Determination

- a. The conduct in question was the direct result of the district's failure to implement the student's IAP.

Yes No

- b. The conduct in question was caused by or had a direct and substantial relationship to the student's disability/disabilities.

Yes No

| | |
|------------|--|
| Yes | The conduct/behavior is a manifestation of the student's disability. <i>Check if at least one answer to the above statements is YES.</i> |
| No | The conduct/behavior is NOT a manifestation of the student's disability. <i>Check if both answers to the above statements are NO.</i> |

The Team's recommendations for student going to tribunal: _____

Team members - The team must include the parents and relevant members of the SST/RtI/504 team.

Parent/Guardian/Surrogate

LEA

General Education Teacher

Administrator/Designee

Student

Other

Other

Other