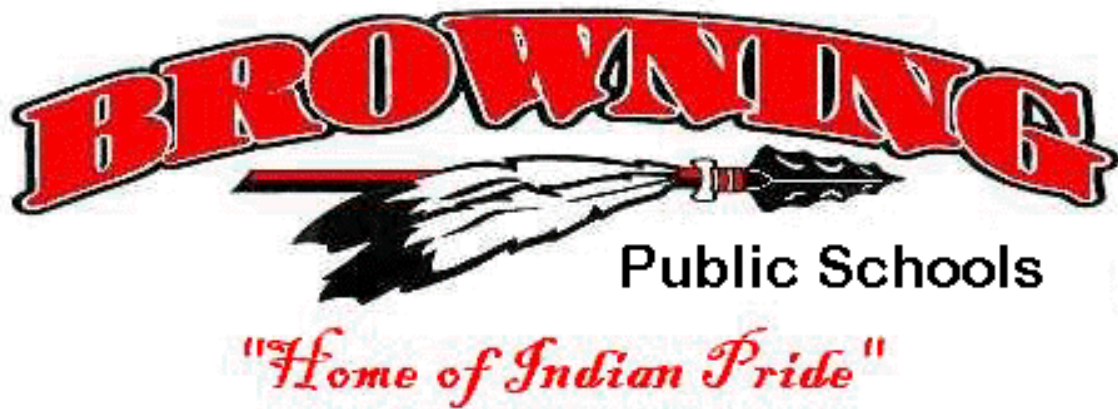


2016/2017



504 HANDBOOK

Browning Public Schools

Section 504 Handbook

2016-2017

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1. INTRODUCTION

Policy: It is the policy of Browning Public Schools District #9 to be in compliance with Section 504 of the Rehabilitation Act of 1973 which states:

“No otherwise qualified individual with handicaps in the United States... shall, solely by reason of her/his handicap, be excluded participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance under any program or activity conducted by any Executive agency or by the United States Postal Service.”
(29 USC 794)

Section 504 of the Rehabilitation Act was adopted by Congress in 1973 and predates the civil rights legislation most educators are most familiar with, the Individual with Disabilities Education Act (IDEA). For many years Section 504's main focus has been in the area of employment for individuals with handicaps and for members of minorities. However, the Office for Civil Rights (OCR), charged with enforcement of Section 504, has become active in the field of education of handicapped individuals. Advocacy organizations and the legal system have focused on Section 504's requirements to insure the education system provides the full range of special accommodations and services necessary for students with special needs to participate in and benefit from public education programs and activities.

Included in the U.S. Department of Education regulations for Section 504 is the requirement that handicapped students be provided with a free appropriate public education in the least restrictive environment. These regulations require identification, evaluation, provision of appropriate services, and procedural safeguards in every public school in the United States.

Section 504 is broader reaching legislation than IDEA and prohibits discrimination against handicapped persons, including parents, students, and staff members, by school districts receiving federal financial assistance. This includes all programs or activities of the school district receiving federal funds, regardless of whether the specific program or activity involved is a direct recipient of federal funds.

Browning Public School District #9 receives federal financial assistance and therefore must comply with provisions of this act. To be in compliance with this act, Browning Public School District #9 must:

- Not discriminate against qualified handicapped persons in all aspects of school district employment solely on the basis of handicap.
- Ensure that facilities, programs, and activities of a school district are accessible, usable and open to qualified handicapped persons.

- Ensure a free appropriate public education is provided each qualified handicapped person at the elementary and secondary levels, including non-academic and extra-curricular services and activities.
- Prohibit exclusion of any qualified handicapped person solely on the basis of handicap from participation in any pre-school education or day care program or activity or any adult education or vocational program or activities offered by a school district.
- Provide each qualified handicapped person the same health welfare or other social services as the school district provides other persons. (*See Browning Public Schools District's policies*).

II. DEFINITIONS

Individuals with handicaps: There are three ways that a person may qualify as an individual with handicaps. A person is considered handicapped under Section 504 if she/he:

- Has a physical or mental impairment which substantially limits one or more major life activities. The term does not include children disadvantaged by cultural, environmental, or economic factors. The term does not include children disadvantaged by cultural, environmental, or economic factors. The term does not include students or employees currently engaging in the abuse of drugs or alcohol. For example “*in recovery may qualify, should be considered for 504*”
- Has a record or history of such an impairment (e.g., a student with learning disabilities who has been de-certified as eligible to receive special education under IDEA, the student who had cancer, a student in recovery). The term includes children who have been misclassified (e.g., a non-English speaking student who was mistakenly classified as having mental retardation). De-certification is determined by the 504 Team. A student is determined de-certified when he/she no longer has a substantial limitation of a the disability, e.g., the students injury has healed).
- Is regarded as having such impairment. A person can be found eligible under this section if she/he:
 - Has a physical or mental impairment that does not substantially limit a major life activity but is treated by the district as having such a limitation (e.g., a student who has scarring, a student walks with a limp).

- Has a physical or mental impairment that substantially limits a major life activity only as a result of the attitude of others towards such impairment (e.g., a student who is obese).
- Has no physical or mental impairment but is treated by the district as having such impairment (e.g., a student who tests positive with HIV virus but has no physical effects from it).

IDEA and Section 504 closely parallel each other and both are designed to guarantee a free and appropriate public education (FAPE). However, IDEA identifies 13 educational disabilities requiring specific criteria for eligibility determination. For eligibility determination, IDEA asks the following questions:

- Does the student meet eligibility criteria?
- Does the student demonstrate a need for special education?

In contrast, Section 504 eligibility requires a decision based on the following information:

- Does the student have a physical or mental impairment?
- Does the impairment affect a major life activity?
- Does the impairment **substantially limit** the major life activity?

IDEA specifically lists types of disabling conditions, which render a child entitled to receive special education. Additionally, in order to be entitled to receive services under the IDEA, the disabling condition must result in a need for special education. Since Section 504 is much broader than the IDEA in its scope there is no categorical listing of disabling conditions. However, if a child is IDEA eligible, she/he will also be protected under Section 504. The regulations also make clear that certain conditions, such as drug or alcohol addiction, heart disease, etc., which would not qualify a child under the IDEA may be handicapping conditions under Section 504. While Section 504 requires that the condition “substantially limit a major life activity” such as walking, it need not necessarily adversely affect the student’s educational performance.

Examples of other potentially handicapping conditions under Section 504 if they substantially limit a major life activity, not typically covered under the IDEA:

- Communicable diseases: AIDS, AIDS related complex (ARC) or asymptomatic carriers of the AIDS virus (HIV); tuberculosis.
- Temporary handicapping conditions: Students injured in accidents or suffering short-term illnesses.
- Attention Deficit Disorder (ADD).
- Behavior disorders.
- Chronic asthma and severe allergies.
- Physical handicaps such as spina bifida, hemophilia and conditions requiring children to use crutches.
- Diabetes.

Note that some of these conditions, such as tuberculosis, diabetes and hemophilia may be severe enough to affect educational performance and therefore fall under the IDEA as well.

Qualified Individual: With respect to public preschool, elementary, secondary or adult educational services, a qualified individual is an individual with disabilities (1) of an age during which persons without disabilities are provided such services, or (2) of an age during which it is mandatory under state law to provide such services to persons with disabilities or (3) to whom the state is required to provide a free appropriate public education under IDEA [34 CFR 104.3 (k) (2)].

Parents who have a handicapping condition are also protected by Section 504. For example, a district should provide an interpreter or some other equivalent service to a parent who is deaf in order to insure that she/he has an equal opportunity to participate in school initiated activities.

Regarding employees, a qualified individual is one, who with reasonable accommodations can perform the essential functions of the job. School districts must make accommodations to the known physical or mental limitations of an otherwise qualified applicant or employee who has a handicapping condition unless the accommodation would impose an undue hardship on the operation of the districts program.

Major Life Activities: **Major life activities include walking, seeing, hearing, speaking, breathing, learning, working, caring for one's self, and performing manual tasks.** The disability need only substantially limit one major life activity in order for the student to be eligible. [34 CFR 104.3 (j) (2) (ii)].

Program or Activity: This term means all operations, including all instructional services or extra-curricular functions regardless of whether the specific program or activity is a direct recipient of federal funds. The term includes academic and non-academic services. Non-academic services include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the school district, referrals to other agencies which provide assistance to individuals with disabilities including both employment by the district an assistance in making outside employment [34 CFR 104.37]

Discrimination: Discrimination under Section 504 occurs when a school district:

- Denies a handicapped person the opportunity to participate in or benefit from an aid, benefit or service which is afforded non-handicapped students (e.g., denial of credit to a student whose absenteeism is related to his/her handicapping condition; refusing to dispense medication to a student who could not attend school other wise) parents of employees.
- Fails to afford the handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is equal to that afforded to others.
- Fails to provide aids, benefits, or services to the handicapped persons that are as effective as those provided to non-handicapped persons (e. g., placing a student with a hearing

impairment in the front row as opposed to providing her with an interpreter). Note: “Equally effective” means equivalent as opposed to identical. Moreover, to be equally effective, an aid, benefit or service need not produce equal results; it must merely afford an equal opportunity to achieve equal results.

- Provides different or separate aids, benefits or services unless such action is necessary to be as effective as the aids, benefits or services provided to non-handicapped students (e.g., sponsoring a student organization that excludes persons with handicaps).
- Aids or perpetuates discrimination by providing significant assistance to an agency, organization or person that discriminates on the basis of handicap (e.g., sponsoring a student organization that excludes persons with handicaps).
- Denies a person with handicaps the opportunity to participate as a member of a planning or advisory board strictly because of his/her handicapping condition.
- Otherwise limits the enjoyment of any right, privilege, advantage or opportunity enjoyed by others (e.g., prohibiting a person with a physical disability from using a service dog at school).

In determining the site or location of a facility, makes selections which effectively exclude persons with disabilities, denies them the benefits of, or otherwise subjects them to discrimination. In *Hendricks v. Gilhool*, EHLR 441:352 (1989), the Pennsylvania Department of Education was found to have violated this section and the EHA by allowing students with disabilities to be located in inferior facilities, such as trailers, wings in basements and unnecessarily restrictive classrooms due to a lack of classroom space

Least Restrictive Environment: The least restrictive environment is the regular classroom. To the maximum extent appropriate, districts must educate students with handicaps with their non-disabled peers. In order to remove a child from the regular educational environment, the district must demonstrate that education of the students in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. Classroom teachers are expected to make reasonable accommodations for handicapped students. Such accommodations may include adjustments in grading, assignments and modes of instructions.

III. RESPONSIBILITIES OF SCHOOL PERSONNEL

The Board of Trustees: The role of the Board Trustees is to:

- Adopt a 504 policy on non-discrimination.
- Establish a grievance procedure.
- Establish a hearing procedure.
- Conduct a self-evaluation.

The District Superintendent - The role of a school superintendent involves administrating school board policy. In order to do this she/he informs the board of educational developments,

controversial issues, and current district activities, which impact district functioning. It is the school superintendent who can best advise the board regarding Section 504 requirements and purpose related policy/budgetary recommendations. The superintendent names the district's Section 504 Compliance Coordinator, outlines Section 504 procedures, and monitors school personnel responsible for Section 504 implementation.

Section 504 Compliance Coordinator - The role of the Section 504 Compliance Coordinator is to synchronize school personnel with their varied expertise in their efforts to make reasonable accommodations for eligible students. The responsibilities shall include preparation of assurances of compliance, development of all plans and reports required, administration of the established grievance procedure, provide notice to students, parents and employees and conduct activities to locate and identify eligible individuals.

District Department/Program Directors - Directors of specific district programs and departments are responsible for Section 504 compliance within their specified program areas. District level administrators must insure that qualified students with disabilities are not discriminated against in the program which they direct. Program directors must ensure that all employment decisions are non-discriminatory.

School Principals - The school principal must understand and approve Section 504 provisions on a daily basis. It is the building administrator who is most closely involved with the varied components of the Section 504 mandate-child find, notification, evaluation, appropriate placement, instructional accommodations, and procedural requirements. As in all other aspects of a school and its related activities, the principal leads his/her staff. It is the school principal who must make sure that students are not discriminated against either in classroom instruction or in extra-curricular activities.

School Counselors - The school counselor or grade level counselor is responsible for providing building based case management for students identified as needing Section 504 accommodations. Counselors will ensure that records are kept regarding each student with 504 accommodations and that records are routed to the appropriate staff members and the 504 coordinator. Individual 504 plans are to be reviewed at least annually and the evaluation/eligibility for each student to be reviewed periodically every 3 years.

Teachers - Regular classroom teachers are responsible for instructing section 504 qualified students. If a student with a disability does not qualify for any other specialized programs, but has been determined to be eligible for Section 504 services, it is the regular classroom teacher who is responsible for accessing and engaging in specialized instruction necessary for meeting the child's educational needs. Least restrictive environment considerations will require the regular education teacher to increase his/her repertoire of teaching methods, to find additional educational materials, and to adjust classroom organization/management routines in order to make reasonable accommodations and modifications to facilitate a free and appropriate public education for the student.

To this end, district and federally funded resources may be utilized, but in order to meet the needs of the student should occur in the regular classroom environment or least restrictive environment that meets the student's needs.

Employment - No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination and the school district shall not limit, segregate, or classify any applicants for employment or any employee in any way that adversely affects their opportunities or status because of handicap. This prohibition applies to all aspects of employment from recruitment to promotions and includes fringe benefits and other elements of compensation.

The school district shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless it is clear that an accommodation would impose an undue hardship on the operation of a school district program.

Employees who develop a handicapping condition during their course of employment with Browning Public School District # 9 will notify their supervisor in writing of the need for accommodation, and provide documentation needed to make a decision. Such reasonable accommodations may include:

- Making facilities used by employees readily accessible to and usable by handicapped persons.
- Job restructuring, part-time modified work schedules, acquisition or modification of equipment or devices; and other similar actions.

In determining whether or not accommodations would impose an undue hardship on the school district, factors to be considered include the nature and cost of the accommodation; provided, however, that the school district may not deny any employment opportunity to a qualified handicapped employee of applicant solely on the basis of the need to make reasonable accommodation.

The district shall not make use of any employment test or criteria that screens out handicapped persons unless:

- The test or criteria is clearly and specifically job related.
- Alternative tests or criteria that do not screen out handicapped persons are not available.
- Tests will be administered in a manner that reflects actual aptitude or skill rather than the sensory, manual or speaking impairment of the applicant unless the test purports to test these skills.
- The district may condition employment on the results of a medical examination only if all applicants, regardless of handicap, are also subject to such an examination and if the results are kept confidential.

The district may not refuse employment to someone who has abused drugs or alcohol in the past. If an applicant or employee is presently abusing drugs or alcohol, the district may not refuse or terminate employment unless the employer can show that the abuse prevents successful

performance on the job or presents a direct threat to property or the safety of others. The district may hold the addicted person to the same standards of performance and behavior as expected of them. The district is not required to retain or hire an individual who is currently using drugs or alcohol.

IV. COMPLIANCE PLAN

1. The Compliance Plan serves students, parents, employees, and applicants for employment and programs within the Browning Public Schools.
 - Browning Public Schools assures students, parents, applicants for employment and employees that it will not discriminate against any individual.
 - The following person is designated as Section 504 Compliance Coordinator: Jason Andreas, Browning Public Schools.
 - Parents are provided procedural safeguards, which are included in the “Notice of Parent/Student Rights in Identification, Evaluation and Placement.”
 - An impartial hearing and appeal are provided upon request. Procedures are detailed in the “Notice of Parent/Student Rights in Identification, Evaluation and Placement.”
 - Notice to students, parents, employees and general public of non-discrimination assurances and parent/student rights and identification, evaluation and placement will be disseminated annually in the following manner:
 - Published in **Student Handbooks** which are distributed in each school building.
 - Published annually in the **Glacier Reporter**.
 - Posted in **each School Building**.
 - Published annually in the **School Calendar**.
2. The Browning Public Schools has established grievance procedures to resolve complaints of discrimination: Such claims must be made in writing and filed with the following individual:

Jason Andreas, Executive Director
Browning Public School District #9
Box 610
Browning, MT 59417
(406) 338-2715 Ext. 281
3. To the maximum extent possible, child evaluation procedures will be multi-cultural and non-discriminatory in that:
 - Techniques, tests and/or materials used in assessment are non-biased relative to race, culture socio-economic status or impaired sensory, manual, or speaking skills, in order to ensure that test results accurately reflect the student’s aptitude, achievement level, or other factors the test purports to measure.

- Qualified personnel provide the evaluation services. Qualified personnel refer to those who have been approved or hold recognized certification, licensing or other comparable requirements which apply to the area of child evaluation. Such personnel must have the expertise to conduct the evaluation and understand the use of the different evaluation procedures.
 - Tests and materials are provided and administered in the child’s native language or primary mode of communication.
 - Tests and materials have been validated for specific purpose for which they are used.
 - Tests and materials are administered in conference with the instructions provided by the producer.
 - No single evaluation procedure is used as the sole criterion for determining an appropriate education program for a child.
4. Browning Public Schools will conduct an annual “child find” campaign with the goal to locate and identify all Section 504 qualified handicapped individuals (ages 0-21) who reside within the participating school district.
- Browning Public Schools will inform all handicapped persons and their parents or guardian of the districts responsibilities and procedural safeguards under Section 504, as well as those under Montana Rules and the Individuals with Disabilities Education Act (IDEA).

V. REFERRAL PROCESS

1. Teachers - A referral for possible 504 eligibility may be initiated by a teacher and forward to the building principal detailing the following:
 - Reason for referral.
 - Strategies/interventions initiated.
 - Information requested.
2. The 504 Coordinator will notify the parent of the referral and provide the parent with a copy of Parent/Student Rights in Identification, Evaluation and Placement.
3. The Building 504 coordinator and principal will coordinate the gathering of relevant information necessary to assist in the identification of a possible 504 handicap for the referred student/employee. A building Administrator should be present at these meetings.
4. Within a reasonable time of the initiation of the referral, the building principal will convene a 504 conference. (Refer to “School Principals” on page 7). The purpose of this conference is to:

- Discuss the information gathered
 - Determine whether the student referred is “handicapped” (has a mental or physical impairment which substantially limits a major life activity).
 - Determine an appropriate regular class placement
 - Develop and implement a regular education individualized 504 intervention plan.
5. The 504 Conference Committee shall include the following:
- Building principal (or designee).
 - Building or grade level counselor.
 - General regular education teacher(s).
 - Assessment team members or representation
 - Other representatives having experience with or information regarding the referred student.
 - Parents(s) and/or guardian.
6. A review will be conducted annually/for each student receiving services as per Section 504. The purpose of the conference is to review and revise, if necessary, the current regular class placement and regular education individualized 504 intervention plan. The placement may be reviewed, however, at any time prior to the annual review. Before a significant change of placement is initiated, a re-evaluation must be completed. Examples of significant change in placement include: expulsion, serial suspensions, and home instruction, or movement to another building or school, facility
7. Students receiving services through Section 504 will be re-evaluated at least every three (3) years. All re-evaluations for 504 services will be discussed at the annual review unless a reconvening of the committee prior to the review is warranted.
8. All information and forms will be maintained at the building level.

VI. GRIEVANCE PROCEDURES – SECTION 504 COORDINATOR

Applicable to all levels of the grievance process. The Section 504 coordinator shall receive complaints, actively and independently investigate the merit of complaints, and assist the parties in resolution of complaints. The coordinator may be utilized as a resource by any party at any level of this procedure. Browning Public Schools has designated the following individual as the Section 504 Coordinator:

Jason Andreas, BPS 504 Coordinator Browning
 Public School District #9
 P.O. Box 610
 Browning, Montana 59417
 (406) 338-2715

Relevant records shall be available in accordance with the Montana Constitution, Article II, Section 10, Right to Privacy and guidelines for Student Records, Appendix E. Montana School Accreditation Standards and Procedures manual, March 1989.

This procedure does not deny the right of the grievant to file formal complaints with other state and federal agencies (Montana Human Rights Commission or the U.S. Department of Education Office of Civil Rights) or to seek private counsel for complaints alleging discrimination. Intimidation, harassment or retaliation against any person filing a grievance or any person participation in the investigation or resolution of a grievance is a violation of law and constitutes the basis for filing a separate and apart from student records for a period of not less than five (5) years. (20-1-212 MCA)

If a grievance is taken to the Board of Trustees for a formal contested case hearing, parties shall have the right to representation, to present witnesses and evidence, and to question opposing witnesses.

It is the policy of this District to process all grievances in a fair, expeditious and confidential manner.

VII. GRIEVANCE PROCEDURE

Level 1: Informal Resolution - A student, parent, or guardian, with a grievance should discuss it with the teacher, counselor, or building administrator involved with the objective or resolving the matter promptly and informally. Employees with a grievance should first discuss it with their principal or immediate supervisor, with the same objective.

Level 2: District 504 Coordinator - If the grievance is not resolved at level 1 and the grievant wishes to pursue the grievance, they may formalize it by filing a grievance in writing. The grievance shall state: 1) the nature of the grievance; 2) the remedy requested; and, 3) be signed by the grievant. The filing or written grievance at Level 2 must be to the coordinator within ten (10) days of the event giving rise to the grievance or from the date the grievant could reasonably become aware of such occurrence.

Level 3: Superintendent - If the grievance is not resolved at Level 2, either party may process it to Level 3 by presenting a written appeal to the Superintendent within ten (10) days of receiving the report from the District Coordinator. The meeting(s) shall be held within (10) days after receipt of the written appeal. A written report regarding the decision an/or action of the Superintendent will be sent to all parties within fifteen (15) days after receipt of the report.

Level 4: The Board of Trustees - Either party may process the grievance beyond the decision reached in Level 3 by filing written grievance within ten (10) days with the chairperson of the Board of Trustees. Upon receiving the grievance, the matter shall be placed on the agenda of the Board of Trustees for consideration at the next regular meeting or at a special meeting. A decision shall be made and reported in writing to all parties within (30) days of said meeting.

Level 5: Rules of Controversy Either party may appeal the decision of the school board by filing a Notice of Appeal with the County Superintendent within (30) days after the final decision of the board pursuant to the Rules of School controversy. (10.6.103 et seq. ARM, see also Ridgeway settlement agreement, page 29).

Other Options for Grievant - At any time during this process, a grievant may file a complaint with the Montana Human Rights Commission or with the U.S. Department of Education, Office of Civil Rights. (Seattle, WA Office)

Montana Human Rights Bureau
PO Box 1728
Helena, MT 59624-1728
(406) 444 – 2884 or 1 (800) 542 – 0807

Office of Civil Rights, Seattle Office
U.S. Department of Education
915 Second Ave., Room 330
Seattle, WA 98174-1099
(206) 607 - 1600
FAX (206) 607 - 1601

**Browning Public Schools
Student 504 Referral**

I. Personal Information

Student: _____ Date of Birth: _____
Parent: _____ Phone No: _____
Address: _____ School: _____
Teacher: _____ Grade: _____
Referred by: _____ Date of Referral: _____

II. Background Information

A. Reason for Referral: _____

B. Strategies/Interventions to Date (attach copies of documentation):

C. Additional Information Requested: _____

III. Referral Direction (Principal Only)

Building 504 Coordinator Signature Date

Copy to: Regular Education Teacher, Counselor, Building Principal, and Compliance Coordinator.

Parent/ Student Rights in Identification, Evaluation and Placement

Section 504 of the Rehabilitation Act of 1973

Please keep this explanation for future reference

Below is a description of the rights granted by federal law to students with disabilities. The intent of the law is to keep you fully informed concerning decisions about your child and to inform you of your rights if you disagree with any of these decisions. This will be mailed to the parents.

You have the right to the following:

- Right to have your child with disabilities take part in, and receive benefits from public education programs without discrimination because of her or his disability.
- Right to receive all information in the parent's or guardian's native language or primary other mode of communication.
- Right to have your child receives a free appropriate public education which includes the right of the child to be educated with students without disabilities to the maximum extent appropriate.
- Right to have your child have equal opportunity to participate in school programs and extra-curricular activities sponsored by the school.
- Right to receive notice a reasonable time before the district identifies, evaluates or changes your child's placement.
- Right to inspect and review all of your child's educational records, including the right to obtain copies of education records at reasonable cost unless the cost would deny you access information contained in the record is inaccurate or misleading. If the school district refuses to amend the record, you have a right to request a hearing.
- Right to have educational evaluation and placement decisions made based on information from a variety of sources and by persons who know the needs of the student, meaning of evaluation data and placement options.
- Right to periodic re-evaluation and evaluation before any significant change in placement.
- Right to an impartial hearing if you disagree with the school district's proposed action. You will be an active participant. You have the right to be represented by counsel in the impartial hearing process. You have the right to appeal the impartial hearing officer's decision.

Principal

Jason A. Andreas
Section 504 Compliance Coordinator

Phone_____

Date Mailed_____

Date Received_____

Information Regarding Section 504 Of the Rehabilitation Act of 1973

Section 504 is an Act which prohibits discrimination against persons with a disability in any program receiving federal financial assistance. The Act defines a person with a disability as anyone who:

- Has a mental or physical impairment which substantially limits one or more major life activity (major life activities include activities such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working);
- Has a record of such impairment;
- Is regarded as having such impairment.

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

The school district has specific responsibilities under the Act, which include the responsibility to identify, evaluate, determine eligibility under Section 504, to afford access to appropriate educational services or accommodations in the work place.

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

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

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

If there are questions, please feel free to contact Jason Andreas, Section 504 Compliance Coordinator at (406) 338- 2715.

**Browning Public Schools
Section 504 Student Evaluation and Intervention Plan**

I. Personal Information

Student: _____ Date of Birth: _____
Parent: _____ Phone No: _____
Address: _____ School: _____
Teacher: _____ Grade: _____
Referred by: _____ Date of Referral: _____

II. Evaluation Review

A. A Section 504 Conference was convened on behalf of the above-mentioned student

On _____
Date

B. The following data was presented: _____

C. Does this data indicate that a mental or physical impairment exists? (or has a condition that is regarded as a impairment? Or has a history of an impairment?).

D. Does the condition limit a major life function? _____

E. Is there a substantial limitation on major life function? (if so, please describe)

F. On the basis of the data presented, the following decision was made:

_____1. The student is identified as a Section 504 disabled student and qualifies for REIP services.

_____2. The student is not disabled

G. This student's Multidisciplinary Group has determined that the disability is projected to be _____short-term (three months or less) or _____long-term.

If identified as having a major life function substantially limited by a mental or physical disability, please describe the necessary accommodations identified for this student in order to assure a free and appropriate education: _____

Review/Reassessment Date: _____
(must be completed)

Participants (Name and Title)

_____	_____
_____	_____
_____	_____

cc: Student's Counselor, Principal, Classroom Teacher, 504 Coordinator

Attachment: Information Regarding Section 504 of the Rehabilitation Act of 1973.

Browning School District 9
Section 504 Employee Evaluation Form

I. Personal Information

Employee: _____ Place of work: _____

Phone No: _____ Address: _____

Referred by: _____ Date of Referral: _____

II. Employee Evaluation Information Summary

A. A Section 504 Conference was convened on behalf of the above mentioned employee
On_

B. The following data was presented: _____

C. Options Discussed: _____

D. This group has determined that the disability is projected to be _____

short-term. (three months or less) or _____ long-term.

E. On the basis of the data presented, the following decision was made:

_____ 1. The employee is identified as Section 504 handicapped.

_____ 2. The employee is not handicapped.

Participants: _____

copy to: Employee, Supervisor, District 504 Coordinator, and Human Resources Director

**Browning Public Schools
Employee
Section 504 Accommodation Plan**

Name: _____ Date of Meeting: _____

1. Describe the nature of the concern: _____

2. Describe the basis for the determination of disability: _____

3. Describe how the disability affects a major life activity: _____

4. Describe the reasonable accommodations that are necessary: _____

Review/Reassessment Date: _____
(must be completed)

Participants (Name and Title)

cc: Employee, Personnel File, Supervisor, Personnel Director.

Attachment: Information Regarding Sect. 504 of the Rehabilitation Act of 1973.

504 Compliance Plan Checklist

The purpose of the checklist is to insure the staff and students are knowledgeable of Section 504. The checklist must be completed by the building principals, 504 Coordinators, department and program directors supervising staff and students.

Activity	Completion Date	Initial and Date of Completion
Board of Trustees Review of Handbook/policies	Annually	
Building 504 Coordinators will be identified in each student handbook.	August 2016	
Building 504 Coordinators names will be in each student and staff handbook.	August 2016	
504 in-service training for school building staff, departments and programs	Annually	<i>(Required sign-in sheets)</i>
504 awareness presentations for students and staff	Annually	<i>(Required sign-in sheets)</i>
504 public awareness	Annually	
Meeting the Child Find requirement	Continuous throughout the year.	
Location of 504 Handbooks and policies	Building Central Office	
504 posters in all buildings	Annually	
District wide self-evaluation	Annually	

Appendix – District Policies

Browning Public Schools

Policy

Policy Name: *Section 504 of the Rehabilitation Act of 1973*

Regulation: #4436R

Impartial Due Process Hearing: If the parent or legal guardian of a student who qualifies under Section 504 for special instruction or related services disagrees with a decision of the District with respect to: 1) the identification of the child as qualifying for Section 504; 2) the district's evaluation of the child; and/or 3) the educational placement of the child, the parents of the student are entitled to certain procedural safeguards. The student shall remain in his/her current placement until the matter has been resolved through the process set forth herein:

- A. The District shall provide written notice to the parent or legal guardian of a Section 504 student, prior to initiating an evaluation of the child and/or determining the appropriate educational placement of the child, including special instruction and/or related services;
- B. Upon request, the parent or legal guardian of the student shall be allowed to examine all relevant records relating to the child's education and the District's identification, evaluation and/or placement decision;
- C. The parent or legal guardian of the student may make a request in writing for an impartial due process hearing. The written request for an impartial due process hearing shall identify with specificity the areas in which the parent or legal guardian is in disagreement with the District;
- D. Upon receipt of a written request for an impartial due process hearing a copy of the written request shall be forwarded to all interested parties within three (3) business days;
- E. Within ten (10) days of receipt of a written request for an impartial due process hearing the District shall select and appoint an impartial hearing officer who has no professional or personal interest in the matter. In that regard the District may select a hearing officer from the list of special education hearing examiners available at the Office of Public Instruction, the County Superintendent or any other person who would conduct the hearing in an impartial and fair manner;
- F. Once the District has selected an impartial hearing officer, the District shall provide the parent or legal guardian and all other interested parties with notice of the person selected;
- G. Within five (5) days of the district's selection of a hearing officer, a pre-hearing conference shall be scheduled to set a date and time for a hearing, identify the issues to be heard and stipulate to undisputed facts to narrow the contested factual issues;
- H. The hearing officer shall, in writing, notify all parties of the date, time and location of the due process hearing;
- I. Anytime prior to the hearing, the parties may mutually agree to submit the matter to mediation. A mediator may be selected from the Office of Public Instruction's list of trained mediators;
- J. At the hearing the District and the parent or legal guardian may be represented by counsel;

- K. The hearing shall be conducted in an informal but orderly manner. Either party may request that the hearing be recorded. Should either party request that the hearing be recorded, it shall be recorded using either appropriate equipment or a court reporter. The District shall be allowed to present its case first. Thereafter the parent or legal guardian shall be allowed to present its case. Witnesses may be called to testify and documentary evidence may be admitted; however, witnesses will not be subject to cross-examination and the Montana Rules of evidence will not apply. The hearing officer shall make all decision relating to the relevancy of all evidence intended to be presented by the parties. Once all evidence has been received, the hearing officer shall close the hearing. The hearing officer may request that both parties submit proposed findings of fact, conclusions and decision;
 - L. Within twenty (20) days of the hearing, the hearing examiner should issue s written report of his/her decision to the parties;
 - M. Appeals may be taken as provided by law. The parent or legal guardian may contact the Office of Civil Rights, 1244 Speer Boulevard, Suite 310, Denver, CO 80204-3582 (303) 844-5694 or (303) 844-5696.
2. **Uniform Grievance Procedure:** If a parent or legal guardian of the student alleges that the District and/or any employee of the District has engaged in discrimination or harassment of the student, the parent or legal guardian will be required to proceed through the District's Uniform Grievance Procedure.

Cross Reference:

Legal Reference: 34 C.F.R. 104.36 Procedural Safeguards

Policy History

Adopted on: 4/28/04

Revised on:

Browning Public Schools

Policy #5010

Policy Name: *Equal Employment Opportunity and Non-Discrimination Policy*

Regulation: -----

It is the policy of School District No. 9 to provide equal employment opportunities to all persons, regardless of sex, race, color, creed, religion, national origin, age, ancestry, military status, citizenship status, use of lawful products while not at work, physical or mental handicap or disability, sexual orientation or gender identity and expression, if otherwise able to perform essential functions of a job with reasonable accommodations, marital or parental status or political belief, and other legally protected categories.

The District will make reasonable accommodation for an individual with a disability known to the District, if the individual is otherwise qualified for the position, unless the accommodation would impose undue hardship on the District. An individual should report his/her condition immediately following diagnosis or an indication the condition may require employment accommodations.

The District also prohibits any retaliation against any employee reporting any form of discrimination prohibited by law or other district policy, anyone assisting in reporting such a complaint or anyone cooperating in the investigation of any such complaint. Such retaliation is itself a violation of the law and may serve as the basis for a separate and independent complaint.

A person with an inquiry regarding discrimination should direct their questions to the Title IX Coordinator or the Superintendent of Schools. A person with a specific written complaint should follow the Uniform Complaint Procedure. In addition, individuals may pursue their complaints or inquiries with the Montana Human Rights Bureau, the U.S. Equal Employment Opportunity Commission or the U.S. Department of Education's Office for Civil Rights at the following phone number and addresses:

Montana Human Rights Bureau
P.O. Box 1728 (406) 444-2884
Helena, MT 59624-1728

Equal Employment Opportunity Commission
303 East 17th Avenue, Suite 510 (303) 866-1300
Denver, CO 80203

Office of Public Instruction
P. O. Box 202501 (406) 444-4402
Helena, MT 59620-2501

Office for Civil Rights, Seattle Office
U. S. Department of Education (206) 607-1600
915 Second Avenue, Room 330
Seattle, WA 98174-1099
FAX (206) 607 - 1601

Cross References: 1700 Uniform Complaint Procedure
Formerly #5010

Legal References: Age Discrimination in Employment Act, 29 U.S.C. §§ 621, et seq.
Americans with Disabilities Act, Title I, 42 U.S.C. §§ 12111, et seq.
Equal Pay Act, 29 U.S.C. § 206(d)\
Immigration Reform and Control Act, 8 U.S.C. §§ 1324 (a), et seq.
Rehabilitation Act of 1973, 29 U.S.C. §§ 791, et seq.
Title VII of the Civil Rights Act, 42 U.S.C. §§ 2000(e), et seq., 29 C.F.R.,

Part 1601
Title IX of the Education Amendments, 20 U.S.C. §§ 1681, et seq., 34
C.F.R., Part 1061
Montana Constitution, Article X, Section 1 – Educational goals and duties
§ 49-2-101, et. al., MCA Human Rights Act
§ 49-3-102, MCA, What local governmental units affected

Policy History:

Adopted on: 2/11/97

Revised on: 8/30/00, 10/10/00, 2/13/01, 4/25/07 (formerly #5050), 1/11/11

Browning Public Schools

Policy #5090

Policy Name: *Complaint Procedure, Alleged Discrimination*

Regulation: -----

Employee Obligations: All employees of School District No. 9 have a responsibility to maintain a positive working environment by reporting all incidents or rumors of sexual harassment or other forms of discrimination, intimidation or retaliation involving themselves or others. Employees who observe or hear about any incidents or rumors of sexual harassment or other forms of discrimination, intimidation or retaliation are required to report the incidents or rumors to the Title IX Compliance Officer or the superintendent. Employees who believe that they may have been the subject of sexual harassment or intimidation or the subject of any other form of discrimination or retaliation prohibited by Board Policy Nos. 5050 - 5070 should immediately contact their respective supervisors, the Title IX Compliance Officer or the superintendent.

Administrative Reporting Obligations: All supervisors of the District are directed to report any above-described incident immediately and directly to the Title IX Compliance Officer or the superintendent. In the event the Title IX Compliance Officer is contacted, he or she will immediately contact and relay the complaint to the superintendent. If the Title IX Compliance Officer is the alleged violator, all reports will be directed to the superintendent who will then be in charge of the investigation and vice versa.

Informal Measures: The District is committed to the prompt and effective resolution of all complaints of sexual harassment, other forms of discrimination or retaliation of any kind. An employee may voluntarily choose informal measures but will in all cases be entitled to utilize the options and steps available to them through the more formal procedure outlined below. In the event the employee does not view the harassment, discrimination or retaliation as severe and he or she wishes to attempt to resolve the matter informally, some of the following informal measures may be attempted:

- Informing the offending individual that his or her behavior is unwelcome, offensive or inappropriate. Confrontation by the employee is not required, however, and may be accomplished through written communication developed with the assistance of and delivered by the Title IX Compliance Officer or the superintendent or his or her designee.
- Notify a supervisor, the Title IX Compliance Officer or the superintendent. Early reporting is crucial and absolutely necessary for the District to assist in addressing the unwanted behavior.
- Keep notes, a journal or other records of dates, times, places and witnesses to offending conduct. Save all such notes and records in a safe place.
- Request a copy of this policy from a supervisor, the Title IX Compliance Officer or the superintendent or his or her designee so that reporting procedures are clear.

Formal Measures: An employee may at any time choose to initiate a formal procedure to resolve a complaint of sexual harassment, discrimination or retaliation. In no event will an employee's attempt at informal resolution be used to delay or excuse the District's responsibility to promptly investigate reports of sexual harassment, other forms of discrimination or retaliation, with or without a formal complaint. All employees are encouraged and permitted to have a friend or advisor present with them for moral support during any stage of the reporting and investigation process.

STEP 1: If an employee does not wish to pursue any informal measures to resolve his or her complaint, or such measures are not successful, the employee should contact a supervisor, the Title IX Compliance Officer or the superintendent and advise him or her of the employee's complaint. If the initial report is

made to a supervisor or the Title IX Compliance Officer, he or she will refer the matter to the superintendent. The formal complaint should be made within thirty (30) days of the events or incidents giving rise to the complaint. Again, early reporting is crucial and necessary for the District to assist in addressing the unwanted behavior.

The Title IX Compliance Officer or the Superintendent or his/her designee will assist the employee in drafting a written summary of the complaint that outlines the nature of the complaint and the remedy sought by him or her. The Title IX Compliance Officer or the superintendent or his or her designee will then proceed to investigate the complaint and may, in his/her discretion, secure the services of a professional investigator to assist in conducting the investigation.

The Title IX Compliance Officer or the Superintendent or his/her designee will endeavor to have the investigation completed within thirty (30) days after his/her receipt of the written summary. Upon completion of the investigation, the Title IX Compliance Officer or the superintendent or his or her designee will prepare a written report (which may be based in all or part on any report prepared by an outside investigator) that includes the following:

- ❖ a clear statement of the allegations of the complaint and the remedy sought by the employee;
- ❖ a statement of the facts as contended by each of the parties to the complaint;
- ❖ a statement of the facts as determined by the superintendent, his/her designee or outside investigator;
- ❖ A list of all witnesses interviewed and documents reviewed during the investigation;
- ❖ The Title IX Compliance Officer's or the superintendent's or his or her designee's conclusion as to whether the allegations in the complaint are meritorious; and
- ❖ If the conclusion is that the complaint is valid, a statement of the remedy to be implemented.

The Title IX Compliance Officer or the superintendent or his or her designee will endeavor to have the investigative report completed no later than ten (10) days after the completion of the investigation. Upon completion of the report, the Title IX Compliance Officer or the superintendent or his or her designee will promptly meet with the parties to the complaint and advise them of the results of the investigation and of the remedy to be implemented.

STEP 2: If the employee or the subject of the complaint is dissatisfied with the investigation, report or remedy, either party may seek to have the Board of Trustees review the Title IX Compliance Officer's or the superintendent's or his or her designee's action. That procedure must be initiated by a written request for review by the Board of Trustees. Upon receipt of the written request, the matter will be placed on the agenda for consideration by the Board of Trustees at their next regularly scheduled meeting.

After hearing from all affected parties, the Board of Trustees shall take action to either, affirm, reject or modify the actions of the Title IX Compliance Officer or the superintendent or his or her designee. The decision of the Board of Trustees will be final.

In the event that part or all of the remedy to be implemented involves a recommendation to the Board of Trustees by the superintendent for the dismissal or suspension without pay of an employee, the Board hearing conducted with respect to such recommendation will serve as the Step 2 Board review under this

procedure. Any decision reached by the Board of Trustees with respect to the superintendent's recommendation under those circumstances may be appealed as may be provided for by law.

Confidentiality: Any reports of sexual harassment, other form of discrimination or retaliation will be kept in confidence to the maximum extent feasible. The District's obligation to investigate and take corrective action may, however, ultimately require disclosure of the names of parties, witnesses and allegations. The District will endeavor in all instances to keep the need for such disclosure to a minimum. Pending the completion of any investigation, the Title IX Compliance Officer or the superintendent or his or her designee is authorized to take any action necessary to protect the alleged victim, or any other individuals assisting with or otherwise participating in the investigation.

Documentation: The District will maintain a record of all complaints of sexual harassment, other forms of discrimination and retaliation in the office of the Title IX Compliance Officer or the superintendent's office, or wherever he or she may otherwise designate. Such records will not be placed in the permanent files of employees without their knowledge and the records will remain confidential.

Retaliation: Retaliation against any employee reporting sexual harassment or any other form of discrimination prohibited by law or policy, anyone assisting in reporting such a complaint or anyone cooperating in the investigation of any such complaint is strictly prohibited. Such retaliation is a violation of the law and may serve as the basis for a separate and independent complaint.

Sanctions: Consistent with the requirements of applicable laws and regulations, the superintendent or his/her designee may take or recommend such action against any employee determined to have engaged in sexual harassment or any other form of discrimination, or retaliation, as he or she deems appropriate after the completion of the investigation. Such action may include disciplinary action up to and including a recommendation by the superintendent for termination of employment.

Other Complaint Measures: Nothing in this complaint procedure prevents an employee from pursuing his/her complaint of sexual harassment, other forms of discrimination of any kind or retaliation through other appropriate avenues. At any time during this complaint process, an employee may initiate a complaint with the Montana Human Rights Bureau or the U.S. Department of Education's Office for Civil Rights. The address and telephone numbers for those agencies are as follows:

Montana Human Rights Bureau
P.O. Box 1728
Helena, MT 59624-1728
(406) 444-2884

Office of Public Instruction
P.O. Box 202501
Helena, MT 59620-2501
(406) 444-4402

Office for Civil Rights, Seattle Office
US Department of Education
915 Second Ave., Room 330
Seattle, WA 98174-1099
(206) 607 – 1600
FAX (206) 607 -1601

False Accusations: Charges of sexual harassment, any other form of discrimination or retaliation are a serious matter and will be promptly responded to and investigated by the District. Employees should not be afraid of making good faith reports of sexual harassment or other forms of discrimination or retaliation, even if such reports might be erroneous. However, employees who knowingly perpetrate false

or fabricated accusations will be held responsible for their actions and may be subject to disciplinary action as listed in SANCTIONS above.

Contact Persons: As outlined above, complaints of sexual harassment, any other form of discrimination or retaliation should be directed to a supervisor, the Title IX Compliance Officer or the superintendent. The names, office locations and telephone numbers for those individuals are as follows:

Jason Andreas
Title IX Compliance Officer
Administration Building
129 First Avenue SE
Browning, MT 59417
(406) 338-2715

John Rouse
Superintendent
Administration Building
129 First Avenue SE
Browning, MT 59417
(406) 338-2715

Cross References: #5050 Equal Employment Opportunity/Non-Discrimination
#5060 Discrimination, Sexual Harassment and Retaliation
#5070 Accommodating Individuals with Disabilities
Formerly Policy #5012

Legal References: Title VII of the Civil Rights Act, 42 U.S.C. §§ 2000(e), et seq.,
29 C.F.R. § 1604.11
Title IX of Education Amendments, 20 U.S.C. §§ 1681, et seq.
Montana Constitution, Art. X, § 1
§ 49-2-101, MCA Human Rights Act
Harris v. Fork Lift Systems, 114 S. Ct. 367 (1993)

Policy History:

Adopted on: 10/10/00

Revised on: 2/28/01

Browning Public Schools

Policy -----

Policy Name: *Student Grievance Process*

Regulation: 3205R

The Board of Trustees supports creating a school environment that is free from discrimination and affords students and their families an opportunity for due process. The grievance process provides the Superintendent and Trustees with opportunities to identify barriers to a discrimination free learning and working environment in our schools. The appeal process facilitates identifying inconsistencies in practice and interpretation of the Board of Trustee's policy.

Public Notice of Process

In order to address potential concerns, the Superintendent shall identify a Title IX and Section 504 Coordinators for the District. District coordinators and building-based representatives will be identified in Student Handbooks annually. The grievance and the appeal process will be included in district policy and Student Handbooks.

Grievance Process

A grievance will consist of any complaint alleging discrimination.

Level 1: Informal Resolution

The grievant is encouraged to promptly discuss the concern with the teacher, counselor, Principal or building administrator with whom the issue could be resolved informally. However, in the case of alleged sexual harassment, the matter should be discussed with the first line administrator that is not involved in the alleged harassment. This level is optional.

Level 2: Coordinator

If the complaint is not resolved at Level 1, the grievant may file a written grievance stating:

1. The nature of the grievance.
2. The remedy requested.
3. Signature and Date

The Level 2 grievance shall be filed within 60 days of the event or incident, or from the date the grievant could have reasonably become aware of the occurrence. The District may investigate and take action when a student refuses or is unable to file a written grievance.

The Coordinator has the authority to investigate all grievances and if possible will resolve the grievance. A written report regarding the investigation shall include the following:

1. Clear statement of the allegations of the grievance and the remedy sought by the grievant.
2. Statement of the facts as contended by each of the parties.
3. Statement of the facts as found by the coordinator and identification of evidence to support each fact.
4. List of witnesses interviewed and documents reviewed during the investigation.
5. Narrative describing attempts to resolve the grievance.
6. Coordinator's conclusions as to whether the allegations in the grievance are with merit.

7. If the Coordinator believes the grievance is valid, the Coordinator will recommend appropriate action to the Superintendent.

The Coordinator will complete the investigation and file the report with the Superintendent within thirty (30) days after receipt of the written grievance. The Coordinator will provide a copy of the report to the grievant.

If the Superintendent agrees with the recommendation of the Coordinator, the recommendation will be implemented.

The Coordinator and the Superintendent may appoint an outside investigator.

Level 3: The Board of Trustees

If the Superintendent rejects the recommendation of the Coordinator, and/or either party is not satisfied with the recommendations from Level 2, either party may make a written appeal within 15 days of receiving the report of the Coordinator to the Board of Trustees for a full contested case hearing. On receipt of the written appeal, the matter shall be placed on the agenda of the Board of Trustees for consideration not later than their next regularly scheduled meeting. A decision shall be made and reported to all parties within thirty (30) days of that meeting. The decision of the Board of Trustees will be final, unless appealed within the period provided by law.

Level 4: The County Superintendent

If the case falls within the jurisdiction of the county superintendent of schools, the decision of the Board of Trustees may be appealed to the County Superintendent by filing a written appeal within thirty (30) days after the final decision pursuant to the Rules of School Controversy (10.6.103, et seq. ARM).

Cross Reference: #3002 Student Handbook Policy
#2112 Duties of the Superintendent
#1240 Member Authority/Responsibility
#3000 Equal Education Nondiscrimination
#3205 Sexual Harassment/Intimidation

Legal Reference: 20-USC-24.9.1001-1011 Sex Discrimination in Education
10.6.103, et seq. ARM Rules of School Controversy
MCA 20-5-201 Appeals by Pupil or Pupil's Parent or Guardian
MCA 20-3-210 Controversy Appeals and Hearings
MCA 20-3-324 Powers and Duties (Trustees)

Policy History:

Adopted on: 3/00

Revised on: 7/27/05

