

POLICY 4195 - SECTION 504 STUDENT ACCOMMODATIONS

I. PURPOSE AND PHILOSOPHY

Pursuant to Section 504 of the Rehabilitation Act of 1973 ("Section 504"), no otherwise qualified student with a disability shall, solely by reason of his/her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of the Weber School District (District). The purpose of this policy is to ensure that all qualified students with a disability are provided reasonable accommodations and related aids and services to allow them to receive a free appropriate public education ("FAPE").

II. POLICY

The Administration will provide accommodations to students with special needs who require special services/interventions by Weber School District and its personnel to enable their participation in the educational process.

III. DEFINITIONS

- A. "Student Eligible for Accommodations under Section 504": a student must be determined to have a physical or mental impairment that substantially limits one or more major life activities; or have a record of such impairment, or be regarded of having such an impairment.
- B. "Major Life Activities": includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- C. "Mental or Physical Impairment": any mental or physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems
- D. "School 504 Coordinator": is the building principal or designated administrator

IV. REFERRAL & EVALUATION PROCEDURES FOR STUDENTS WITH DISABILITIES

A. Referral Process

- 1. A parent, teacher, administrator, or other certificated school employee who has reason to believe a student has a disability and may need special education, related services, or reasonable accommodations in order to have his or her individual educational needs met adequately as the needs of nondisabled

students may refer the student to the principal or school's designated 504 coordinator for evaluation and identification of the student's individual education needs.

- a. Referrals from parents may be in writing or verbal. All verbal communications between parent and school personnel will be documented in writing by school personnel.
- b. The individual requesting evaluation and special services may also submit documentation of the student's impairment, including but not limited to, reports from physicians or other health providers, reports from psychologists, therapists or other mental health professionals, and teacher observations.
- c. In cases where a student is experiencing academic and/or behavioral difficulties, the school should first consider a review by the school's Student Support Team/Child Study Team to discuss and evaluate the student's difficulties. The team may evaluate the student's difficulties unless it is obvious that the disability is at issue.
 - i. The Student Support Team/Child Study Team will review available information and data and may implement appropriate classroom interventions, and propose appropriate mitigating measures to help correct the difficulties encountered by the student. If the interventions are successful, the team will continue to implement any necessary interventions and monitor the student under an informal intervention plan, as may be appropriate under the circumstances.
 - ii. If the early intervention strategies are unsuccessful, the team should make a referral for evaluation under Section 504, special education, or other appropriate school program.

B. Notice of Rights and Release of Information

1. Upon receipt of a referral, the administrator or school 504 coordinator shall send written acknowledgment of receipt to the parent, along with a copy of the following documents:
 - a. District's written "Notice of Parent and Student Rights under Section 504, "Your Rights Under Section 504 (Procedural Safeguards)"
 - b. "Consent to Evaluate" form
 - c. "Release of Information" forms for the parent to sign and return to facilitate direct communication between school personnel and the student's medical or mental health service providers. The parent may bring the medical information directly to the 504 coordinator without a medical release.

C. Evaluation

1. Upon receipt of parental consent, appropriate school or District personnel, at the request of the school or District 504 coordinator, shall initiate a prompt individualized evaluation of the student's disability and educational needs and gather all other information relevant to the student's disability and the manner in which it affects his/her major life activities and educational performance. The amount of information required for the evaluation is determined by the multi-disciplinary team gathered to evaluate the student. The team should include persons' knowledgeable about the student, the meaning of the evaluation data, and the placement options. The team members must determine what information will be needed by the student's 504 team to make a knowledgeable decision as to whether or not the student has a disability.
2. The Section 504 regulatory provision at 34 C.F.R. 104.35 (c) requires that the multi-disciplinary team 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, but are not limited to, aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, adaptive, and behavior.
3. Tests and other evaluation materials are validated for the specific purpose for which they are used.
4. Tests are appropriately administered by trained personnel.
5. A purely medical impairment (e.g., asthma, cancer, diabetes, etc.) may not require a full educational evaluation by the school team. In this case, the 504 team's evaluation may simply be a review of all relevant data provided by health care professionals and the parents. The District will make every reasonable effort to respond within five (5) business days to requests that seek an expedited response.

D. Eligibility Determination

1. The student's 504 team shall be composed of persons knowledgeable about the student, the meaning of the evaluation data, and the placement/service options. The 504 team will consist of a minimum of three people, which may include:
 - a. the child's regular education teacher or teachers;

- b. the school 504 coordinator or other school administrator;
 - c. a school psychologist, related server, school nurse, or other school employee capable of interpreting the meaning of educational evaluation data;
 - d. a special education teacher or representative, as appropriate (particularly if a special education teacher has been involved in testing or evaluating the student);
 - e. the student's parent(s) or legal guardian(s);
 - f. the student, if appropriate;
 - g. other individuals with relevant knowledge about the student, including but not limited to mental health professionals and counselors.
2. Following the evaluation and the gathering of all relevant data, the student's 504 team shall meet promptly to review and consider the relevant information and data collected and determine the student's eligibility for accommodations under Section 504.
 3. The school will notify the student's parent or legal guardian of the 504 team's eligibility/placement meeting and invite the parent to attend and participate. The 504 team shall issue a written decision regarding the student's eligibility for free appropriate public education and accommodations using the District's "504 Program – Student Accommodations" form and provide a copy to the student's parent or legal guardian.
 4. If the student's 504 team determines that there are legitimate questions about either the student's eligibility (disability status) or requested services/accommodations, the school 504 coordinator shall contact the District 504 Coordinator for technical assistance.

E. Reevaluation

1. For students deemed eligible for accommodations under Section 504, the school or District 504 coordinator shall periodically initiate a re-evaluation of the student's continued eligibility and needs. A re-evaluation may be initiated as conditions warrant, or if the student's parent or teacher requests a re-evaluation, but not more than once a year (unless the parent and District 504 Coordinator agree otherwise).
2. A re-evaluation must be conducted prior to a significant change of placement such as terminating or significantly reducing a related service or when the student transitions from elementary school to junior high, and from junior high to high school.

V. ACCOMMODATION PLANS FOR ELIGIBLE STUDENTS

- A. If the student's 504 team determines that the student has a disability and is eligible for free appropriate public education and reasonable accommodations under Section 504, the student's 504 team shall develop a written 504 accommodation plan recorded on the District's Student Information System. The Section 504 Plan is not a plan designed to enhance a student's performance. It is a plan to provide fairness and equal access to education.
- B. Students may be eligible for reasonable accommodations under Section 504 even though they do not qualify for special education and related services under the Individuals with Disabilities Education Act (IDEA). At the same time, students who qualify for reasonable accommodations in the regular education environment may also qualify for special education and related services under IDEA, and be entitled to an appropriate Individualized Education Plan ("IEP").
 - 1. If the student's IEP team determines that the student is eligible for special education and related services under IDEA, it is not necessary for the student's 504 team to develop a 504 plan. Rather, the IEP team must develop an IEP that, among other things, addresses any program modifications, aids, services, or reasonable accommodations which may have been included in a 504 plan. On rare occasions, where accommodations and services in the IEP do not align with the student's IEP goals, there may be a need for both an IEP and a 504.

VI. TRANSFER STUDENTS

- A. If a student with a disability transfers to Weber School District from another school district with an existing Section 504 accommodation plan, the receiving school shall initiate a review of the existing plan and supporting documentation.
- B. If the school 504 coordinator determines the existing plan is appropriate, the school shall implement the plan and record the plan in the District's Student Information System and notify parents.
- C. If the school 504 coordinator determines the existing plan is not appropriate, the team shall initiate the evaluation and eligibility procedures as outlined in this policy and determine which educational program or accommodations are appropriate for the student.
- D. A school may implement the previous 504 plan from the other school during the interim period.

VII. 504 GRIEVANCE PROCEDURES

- A. A parent or legal guardian who believes their student has been subjected to discrimination based on an alleged violation of Section 504 relative to the identification, evaluation, or educational placement of their student under the provisions of this policy may file a complaint as follows:
1. Informal Resolution Process:
 - a. Parents/legal guardians are encouraged to work with their building administrators and/or the District 504 Coordinator/Facilitator in an effort to reach a mutually acceptable resolution.
 - b. If necessary, the building administrator will conduct an investigation into the parents/guardians allegations of discrimination. The building administrator will notify the parents of the results of an investigation within five (5) school days of the complaint. If the investigation requires longer due to complexity of the allegations, the building administrator will notify parents of the status of the investigation at day 5 and will make best efforts to conclude the investigation within ten (10) school days.
 - c. If the complaint cannot be resolved through an informal process, parents may submit a Formal Complaint.
 2. Formal Complaint Process:
 - a. The School 504 Coordinator will provide WSD's Section 504 Complaint form for the parents (if not already submitted) to document the formal complaint. The complaint must include:
 - i. a description of the alleged violation of Section 504 in specific terms and include: the specific incident or activity that is viewed as discrimination, the individuals involved, dates, times, and locations involved; and the disability that forms the basis of the complaint.
 - ii. any relevant communication that has already occurred to address the issue including the types of communication, dates of communication, and names of individuals with whom any communication has occurred.
 - iii. a proposal to resolve the issue
 - b. The building administrator has 5 school days to respond to the written complaint. If an investigation is necessary and has not been conducted during an informal attempt to resolve the complaint, a building administrator may take no longer than 10 school days to respond to the written complaint.
 - c. The building administrator's response must be in writing and must include findings, conclusions, and resolution, if appropriate.

- d. The parent may appeal the principal's response (or failure to respond) in writing to the District 504 Coordinator/Facilitator. The District 504 Coordinator/Facilitator will conduct an impartial investigation and respond to the parent within 10 school days.
- e. If the parent's complaint is about the identification, evaluation, or placement of a student, and the complaint is not resolved by the building administrator, the parent may request an impartial due process hearing before the District 504 Coordinator/Facilitator.
 - i. Requests for an impartial due process hearing must be submitted in writing to the District 504 Coordinator/Facilitator within 90 calendar school days from the incident giving rise to the dispute or 10 school days if receiving a response from the building administrator.
 - ii. Within 10 days of the receipt of the request, WSD will appoint an impartial hearing officer to reside over the hearing and issue a decision. The hearing officer will be hired WSD at no cost to the parents. A hearing officer need not be an attorney but shall be familiar with the requirements of Section 504 and WSD's hearing procedures outlined below. under Section 504.

3. Due Process Hearing Procedures

- a.
 - i. Within 10 days the appointed hearing officer shall issue notice to the parent/guardian and the District 504 Coordinator/Facilitator setting a date/time for the location and hearing to be held within 15 days of the notice.
 - ii. The parent or guardian shall notify the Hearing Officer at least 7 days prior to the set hearing date of their desire to be represented by an attorney and whether they wish the hearing be open to the public.
 - iii. The hearing shall be conducted in an informal, non-adversarial manner. The Rules of Evidence and Procedures will not apply. Each party will have an opportunity to present evidence relevant to the dispute. As part of their presentations, the parties may submit any reports, evaluations, correspondence, notes, or any other documents that may support their positions and that the Hearing Officer will admit at their discretion.

- iv. The due process hearing will be ~~tape~~-recorded. The parent or guardian may obtain a copy of the ~~tape~~-recording at their request.
 - v. At the conclusion of all presentations, the Hearing Officer may make an oral ruling at the conclusion of the hearing or take the case under advisement. In either case, the Hearing Officer must make a decision within 15 school days in writing, addressing and ruling on all issues raised by the parent or guardian and indicating what corrective actions, if any, the LEA must take.
 - vi. If not satisfied by the decisions of the Hearing Officer, a parent or guardian may seek a review of the hearing decision in a court of competent jurisdiction, generally the closest federal district court.
- b. At any time, a parent may file a complaint with the appropriate state and federal agencies without exhausting administrative appeals, including the U.S. Department of Education's Office for Civil Rights:

U.S. Department of Education
Cesar E. Chavez Memorial Building
1244 Speer Boulevard, Suite 310
Denver, CO 80204-3582
Telephone: (303) 844-5695
Facsimile: (303) 844-4303
Email: OCR.Denver@ed.gov

VIII. RETALIATION

- A. The District will not tolerate retaliation or intimidation of any kind towards anyone filing a complaint under this grievance procedure. All complainants shall be informed of their right to be free from retaliation and intimidation.
- B. The District will take swift and strict disciplinary action against any individual who retaliates against a complainant, or who retaliates against a person who testifies, assists, or participates in an investigation, proceeding, or hearing in connection with a complaint.
- C. For purposes of this policy, retaliation includes but is not limited to, any form of physical or verbal intimidation, reprisal, coercion, discrimination, physical or verbal harassment, threats, or extortion.