

New Hampshire
School Administrative Unit #18

**SECTION 504 OF THE
REHABILITATION ACT OF 1973 and the Americans With
Disabilities Act (“ADA”) of 1990**

**School Administrative Unit #18
Approved by the SAU Board October 6, 2011**

NOTICE OF NONDISCRIMINATION

Applicants for admission and employment, students, parents, employees, sources of referral of applicants for admission and employment, and all unions or professional organizations holding collective bargaining or professional agreements with the Districts of SAU #18 (Franklin and Hill) are hereby notified that these Districts do not discriminate on the basis of race, color, national origin, religion, sex, age, sexual orientation, or disability in admission or access to, or treatment or employment in, its programs, services and activities. Any persons having inquiries concerning these Districts' compliance with the regulations implementing Title VI, Title IX, Section 504 and the ADA is directed to contact the Superintendent, SAU #18 Office, Franklin, NH (603) 934-3108, who has been designated by these School Districts to coordinate their efforts to comply with the regulations implementing Title VI, Title IX, Section 504 and the ADA.

All Students suspected of having a disability under Section 504 or the ADA shall be referred and evaluated, to the extent deemed necessary. All students who qualify under Section 504 and the ADA shall have the benefit of an accommodation plan.

Nondiscrimination Policy

The Districts of SAU #18 (Franklin and Hill) do not discriminate on the basis of race, color, national origin, religion, sex, age, sexual orientation, or disability in admission or access to, or treatment or employment in, its their programs, services and activities.

All students suspected of having a disability under Section 504 or the ADA shall be referred and evaluated, to the extent deemed necessary. All students who qualify under Section 504 and the ADA shall have the benefit of an accommodation plan.

Title VI, Title IX, Section 504 of the Vocational Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA)

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SECTION 504 OF THE REHABILITATION ACT OF 1973

INTRODUCTION

Section 504 prohibits discrimination against persons with disabilities, including both students and staff members, by school districts receiving federal financial assistance. The ADA contains the same provisions, regardless of the receipt of federal financial assistance. This nondiscrimination includes all programs, services and activities of the school district receiving federal funds, regardless of whether the specific program or activity involved is a direct recipient of federal funds. Included in the U.S. Department of Education regulations for Section 504 is the requirement that students with disabilities be provided with a free appropriate public education (FAPE). These regulations require identification, evaluation, provision of appropriate services, and procedural safeguards in every public school in the United States.

The Section 504 regulations at 34 C.F.R. 104.33(b)(2) provide "...an Individualized Education Program (IEP) developed in accordance with the Education of the Handicapped Act (IDEA, 2004) is one means of meeting the standard established in Section 504." The definition of a free appropriate public education (FAPE) under Section 504 is more inclusive than under the IDEA. That is, while the IDEA defines FAPE to include the provision of special education and related services, the definition of FAPE under Section 504 includes the provision of regular education with accommodations or special education and related services.

Because of the difficulty of ensuring the comprehensiveness of a list of acceptable physical or mental impairments (disabilities) that qualify a student as covered under Section 504, the Department of Education in Appendix A to the Section 504 regulations, provides a rather broad definition of the phrase "physical or mental impairment:

- (A) "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, genitor-urinary; hemic and lymphatic; skin; and endocrine; or
- (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities."

A short nonexclusive list of conditions follows this definition "...such diseases and conditions as orthopedic, visual, speech, hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction, and alcoholism." However, the existence of an impairment or disability does not satisfy the eligibility criteria under Section 504. The impairment or disability must rise to the level of a "substantial limitation" of a major life activity. Major life activities include, but are not limited to caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. How the condition functionally limits the particular student in comparison to most people is the ruler by which to measure eligibility, taking into consideration all the mitigating measures the student may be utilizing.

Section 504 regulations require the school district to evaluate any student needing or believed to need special education and related services or regular education and accommodations. Within SAU 18, the first step of this procedure is a referral to a Child Study Team or Pupil Evaluation Team. This Team will determine what, if any, appropriate evaluations need to be administered. The team may also consider, as appropriate, using existing pupil interventions pursuant to the building's assistance team procedures, prior to conducting any evaluations.

What is required for the Section 504 evaluation and placement process is determined by the type of disability, or suspected disability, believed to be present, and the type of services and/or accommodations the student may need. Requirements for evaluation under Section 504 are similar to those under the IDEA, that is, that tests and other evaluation materials have been validated for the specific purposes for which they will be used and administered by qualified and trained personnel; that these materials are tailored to assess specific areas of educational need; are selected and administered to ensure that when a test is given to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

Unlike IDEA, which requires a comprehensive evaluation, Section 504 only requires that the evaluation be conducted in suspected areas of need. Additionally, unlike IDEA, Section 504 does not require a team to conduct the evaluation. However, Section 504 regulations do require that in the interpretation of evaluation data and including any subsequent placement decisions in classes, course, and programs the school (Section 504 coordinator and/or school assistance team) must draw upon information from a variety of sources, use established procedures to ensure that information obtained from all such sources is documented and carefully considered; and ensure that decisions about the student are made by a group of persons, including persons knowledgeable about the student, the evaluation data, and the placement options.

The group should review the nature of the disability, how it affects the student's education, whether specialized services are necessary, and if so what those services are. The decisions about Section 504 eligibility and services should be documented in the student's Section 504 file and reviewed periodically. Unlike IDEA, Section 504 does not require that students be reevaluated every three years. However, Section 504 does require that students be reevaluated periodically as may be appropriate, and before a significant change in program and/or placement is made.

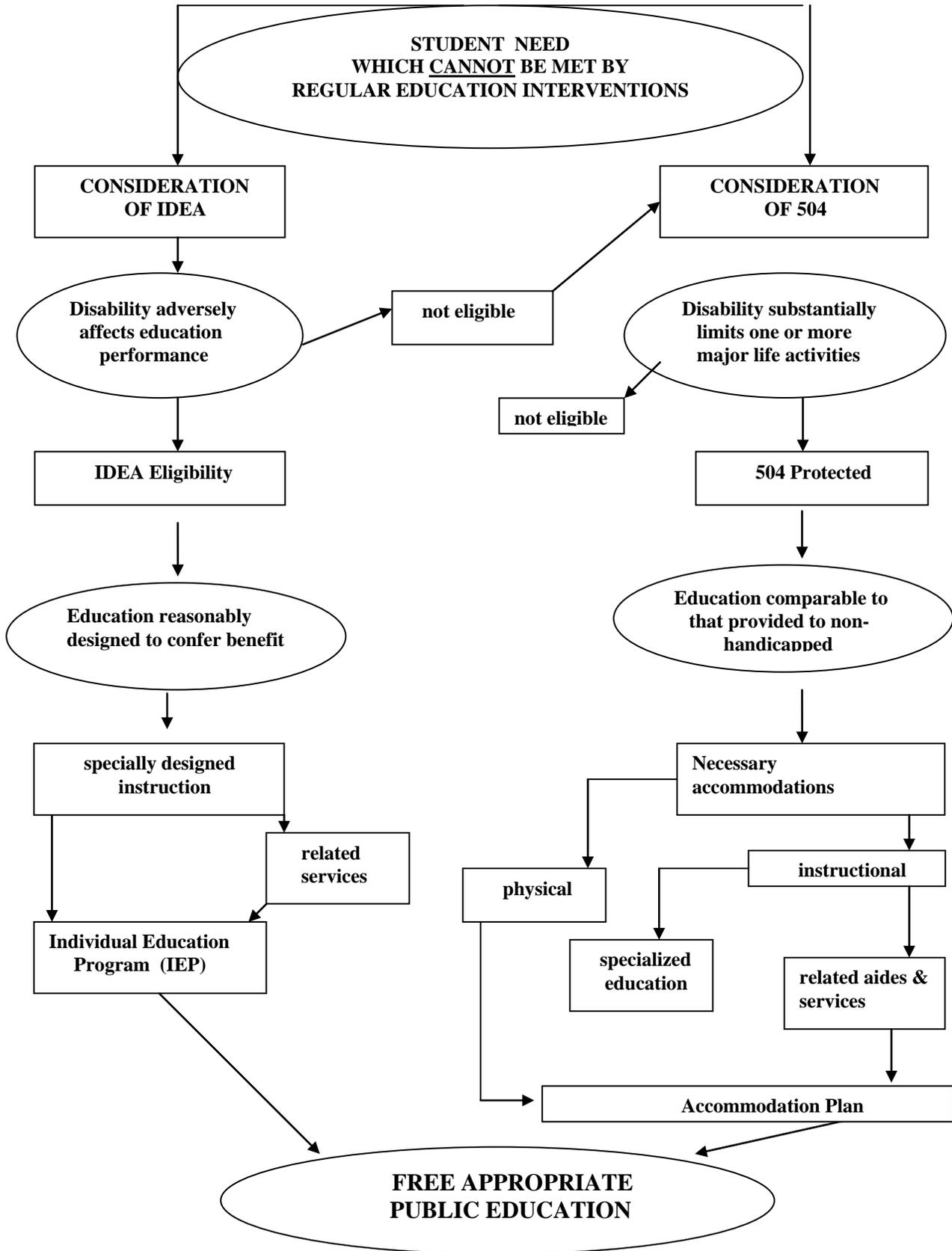
It should also be noted that, under Section 504, the parent or guardian must be provided with notice of actions affecting the identification, evaluation, or placement of the student and are entitled to an impartial hearing if they disagree with district decisions in these areas. For disabilities covered only by Section 504 and not the IDEA, a Section 504 hearing will need to be made available. Districts should contact the Superintendent if a hearing is requested by the parent or guardian.

It is important to keep in mind that some students who have physical, health or mental conditions that limit their ability to access and participate in the education program are protected under Section 504 from discrimination (e.g., different treatment based upon their disability) and may be eligible for accommodations if the physical or mental impairment or condition rises to the level of a substantial limitation to a life activity, such as learning (see definition of eligibility above).

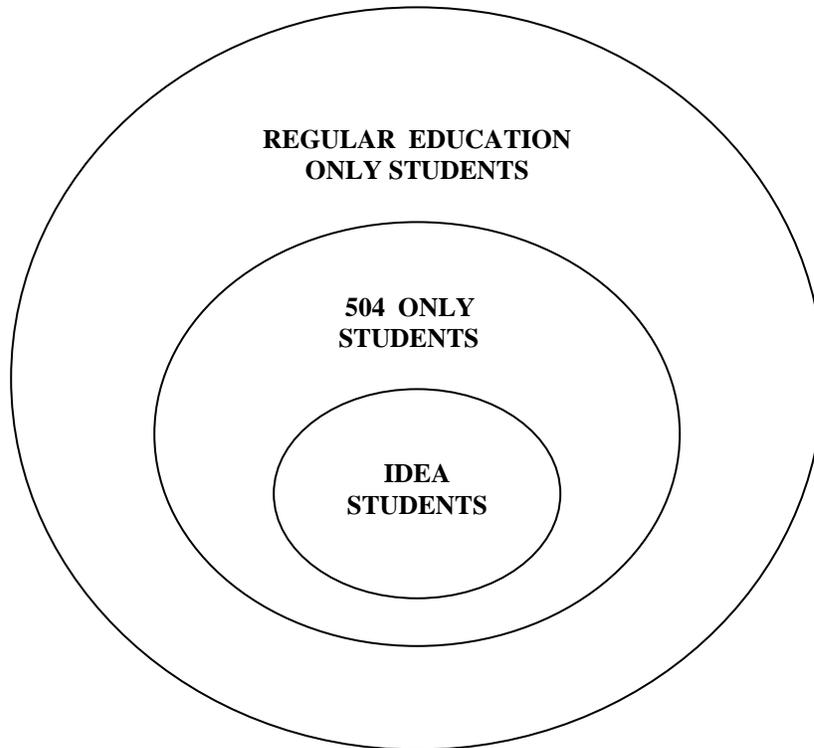
Realizing that not every student with a disability will be eligible under the IDEA, it is important to understand that Section 504 is not an aspect of "special education". Rather, it is a responsibility of the comprehensive general public education system. As such, building administrators, as well as central office administrators, have been designated as responsible for its implementation within districts. Special education administrators may be participants but are not ultimately the responsible LEA administrators for ensuring compliance with Section 504. Ideally, when special and regular educators collaborate, students' needs will be addressed in a thoughtful and timely fashion, thereby helping to ensure that students will not fall through the cracks. Regular educators should tap into the expertise of special education staff if they have questions about specific disabilities and about how best to assist students in regular classes, courses, and programs that have been determined eligible

under Section 504 but are deemed not eligible for special education under the IDEA. Collaboration is the key to proper identification and appropriate student supports and services.

IDEA/504 FLOW CHART



STUDENT POPULATION



IDEA/504 STUDENTS

Students are qualified under one or more of thirteen (13) IDEA disabling conditions. Specially designed individual education programs are designed for each student by IEP Teams.

SECTION 504 STUDENTS ONLY

Due to substantial mental or physical impairments that limit one or more of the student's major life activities, special accommodations to the student's program are required. A 504 accommodation plan is designed for each student according to Individual needs.

Examples of potential 504 disabling conditions not typically covered under IDEA are:

- communicable diseases – HIV, Tuberculosis
- medical conditions – asthma, allergies, diabetes, heart disease
- Attention Deficit Disorder (ADD, ADHA)
- eating disorders and other mental health impairments
- drug/alcohol addiction so long as student is no longer using illegal drugs
- other conditions

Students with temporary disabilities, although not generally considered eligible under Section 504 for accommodations, may be eligible if the temporary disability substantially limits at least one major life activity for a period of time that likely will significantly disrupt the student's education. The student would then, in all likelihood be covered for the duration of the disability. The determination to extend

coverage must be made on a case-by-case basis, taking into consideration factors such as how long and how severely the temporary impairment limits a major life activity for the particular student.

IDEA AND SECTION 504

A COMPARISON

| COMPONENT | IDEA | SECTION 504 |
|--------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| General Purpose | Is a Federal Funding statute whose purpose is to provide financial aid to states in their efforts to ensure adequate and appropriate services for students with disabilities. | Is a broad civil rights law which protects the rights of individuals with disabilities in programs and activities that receive Federal financial assistance from the U.S. Department of Education. |
| Who is Protected? | All school-age children who fall within one or more of the specific categories of disability. | Identifies all school-age children as disabled who meet the definition of qualified disabled person; i.e. (1) has or (2) has had a physical or mental impairment which substantially limits a major life activity, or (3) is regarded as disabled by others. Major life activities include walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself, and performing manual tasks. The disability substantially limits one major life activity in order for the student to be eligible. |
| Responsibility to provide a Free and Appropriate Public Education (FAPE) | <p>Both laws require the provision of a free appropriate public education to eligible students covered under them.</p> <p>Requires a written IEP document with specific content and specific participants at the IEP meeting.</p> <p>“Appropriate education” means a program designed to provide “educational benefit”. Related services are provided if required for the student to benefit from specially designed instruction.</p> | <p>Does not require a written IEP document, but does require a plan. It is recommended the district document that a group of persons knowledgeable about the student convened and specified the agreed upon services.</p> <p>Appropriate means an education comparable to the education provided to non-disabled students, requiring that necessary accommodations be made. Necessary accommodations means “all supports and services needed to bring the student up to the level of comparable education with his/her peers, thereby eliminating any possible discrimination based upon the disability.”</p> |
| Special Education vs. Regular Education | A student is only eligible to receive IDEA services if the team determines that the student is disabled under one or more of the specific eligibility categories and requires specially designed instruction to benefit from education. | A student is eligible so long as she/he meets the definition of qualified handicapped person; i.e. has a physical or mental impairment which substantially limits a major life activity. It is not required that the disability adversely affect educational performance or that the |

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| | | student needs special education in order to be protected, but it must impact the educational environment. |
| Funding | Provides additional funding for eligible students. | Does not provide additional funds. |
| Accessibility | Requires that modifications must be made if necessary to provide access to a free appropriate education. | Has regulations regarding building and program accessibility requiring that necessary accommodations be made. |
| Procedural Safeguards | <p>Requires written notice.</p> <p>Delineates required components of written notice.</p> <p>Requires written notice prior to decreases involving eligibility, programming, and placement.</p> | <p>Does not require <u>written</u> notice, but a district would be wise to do so.</p> <p>Less content requirement</p> <p>Requires notice regarding student's identification, evaluation or placement.</p> |
| Evaluations | <p>A full comprehensive evaluation is required, assessing all areas related to the suspected disability. The child is evaluated by a multidisciplinary team.</p> <p>Requires informed consent before an initial evaluation is conducted.</p> <p>Requires re-evaluation to be conducted at least every three (3) years.</p> <p>A re-evaluation is not required before a significant change in placement; however, a review of current evaluation data, including progress monitoring, is strongly recommended.</p> <p>Provides for independent educational evaluation at district expense if parent disagrees with evaluation obtained by school and hearing officer concurs.</p> | <p>Evaluation draws on information from a variety of sources in the area of concern; decisions made by a group knowledgeable about the student, evaluation data and placement options.</p> <p>Does not require consent, only notice. However, good professional practice indicates informed consent.</p> <p>Requires periodic re-evaluations. IDEA schedule for re-evaluation will suffice.</p> <p>Re-evaluation is required before a significant change in placement.</p> <p>No provision for independent evaluations at district expense. District should consider any such evaluations presented.</p> |
| Placement Procedures | <p>When interpreting evaluation data and making placement decisions, both laws require districts to:</p> <ol style="list-style-type: none"> Draw upon information from a variety of sources Assure that all information is documented and considered Ensure that the eligibility decision is made by a group of persons including those who are knowledgeable about the child, the meaning of the evaluation data, and placement options. Ensure that the student is educated with her/his non-disabled peers to the maximum extent appropriate (least restrictive environment). | |

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|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Grievance Procedure | Does not require a grievance procedure, or a compliance officer. | Requires districts with more than 15 employees to: 1) designate an employee to be responsible for assuming district compliance with Section 504 and 2) provide a grievance procedure for parents, students, and employees. |
| Due Process | Both statutes require districts to provide impartial hearings for parents or guardians who disagree with the identification, evaluation or placement of a student. Delineates specific requirement. | Requires that the parent have an opportunity to participate and be represented by counsel. Other details are left to the discretion of the local school district. Policy statement should clarify specific details. |
| Exhaustion | Requires the parent or guardian to pursue administrative hearing before seeking redress in courts. | Exhausting administrative procedures not required. |

Appendix

- A Section 504 of the Rehabilitation Act of 1973, including Definitions
- B Discrimination under Section 504
- C Section 504 Policy Statement for SAU 18
- D Procedural Safeguards/ Parents' Rights
- E Notice of Parent Rights
- F Practice Tips: Identification, Evaluation, Placement
- G Eligibility Determination
- H Classroom and Facility Accommodations
- I Referral for Section 504 Services
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- P Peanut/Tree Nut Safe Protocols

SECTION 504 OF THE REHABILITATION ACT OF 1973

“No otherwise qualified individual with a disability in the United States shall, solely by reason of his or her disability, as defined in Section 705 (20) of this title, 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 or any program or activity conducted by any Executive agency or by the United State Postal Service.” (29 U.S.C. Sec. 794)

Definitions

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|----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Individual with a disability | ...”any individual who (i) has a physical or mental impairment which substantially limits one or more of such person’s major life activities, (ii) has a record of such impairment , or (iii)is regarded as having such an impairment.” [29 U.S.C. Sec 706 (8)] |
| Physical or mental impairment | ... “(A) 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; genitor-urinary; hermic and lymphatic; skin; and endrocine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.” [34 Code of Federal Regulations Part 104.3] |
| Major Life activities | “functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.” [34 Code of Federal Regulations Part 104.3] |
| Has a record of such an impairment <i>(history does not make it current therefore, not a disability and Not 504 eligible)</i> | “...has a history of, or has been classified as having, a mental or physical impairment that substantially limits one or more major life activities.” [34 Code of Federal Regulations Part 104.3] |
| Is regarded as having an impairment <i>(enjoys protection from discrimination but does NOT make them disability eligible)</i> | “...(A) has a physical or mental impairment that does not substantially limit major life activities but is treated by a recipient as constituting such a limitation; (B) 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 |

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(C) has none of the impairments defined but is treated by a recipient as having such an impairment. [34 Code of Federal Regulations Part 104.3]

Disability does not include

“...(iii) Psychoactive substance use disorders resulting from current illegal use of drugs. Drug means a controlled substance as defined in schedule I through V of Section 202 of the Controlled Substances Act (21 U.S.C. 812). For further explanation/information refer to Federal Regulations Vol. 56, No. 144, 1991.

DISCRIMINATION UNDER SECTION 504

Discrimination under Section 504 occurs when a recipient of federal funds:

1. Denies a person with a disability the opportunity to participate in or benefit from an aid, benefit or service which is afforded non disabled students (e.g. district practice of refusing to allow any student on an IEP the opportunity to be on the honor roll; denial of credits to a student whose absenteeism is related to his/her handicapping condition; expelling a student for behavior related to his/her condition; refusing to dispense medication to a student who could not attend school otherwise).
2. Fails to afford the person with a disability an opportunity to participate in or benefit from the aid, benefit or service that is equal to that afforded others (e.g. providing kitchen facilities in self-contained program which are inferior to those provided non disabled students).
3. Fails to provide aids, benefits or services to the person with a disability that are as effective as those provided to non handicapped persons (e.g. placing a student with hearing impairment in the front row as opposed to providing him/her with an interpreter when such is deemed necessary). 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.
4. 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 disabled students (e.g. segregating students in separate classes, schools or facilities unless necessary).
5. 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 person with disabilities).
6. Denies a person with disabilities the opportunity to participate as a member of a planning or advisory board strictly because of his/her disability.
7. 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).
8. In determining the site or location of a facility, makes selections which effectively exclude persons with disabilities from the benefit of or otherwise subjects them to discrimination.

SECTION 504 POLICY STATEMENT FOR SAU 18

SAU 18 SCHOOL DISTRICT POLICY INCLUDES:

- An affirmative statement that the district does not discriminate on the basis of disability
- Reference to Section 504 of the Rehabilitation Act of 1973
- Reference to a referral/evaluation/placement process for students suspected of being disabled under Section 504.

Section 504 Policy Statement for SAU 18

The school districts of SAU 18 will identify, evaluate and provide an appropriate public education to students who are determined to be disabled within the meaning of Section 504 of the Rehabilitation Act of 1973.

It is the policy of the school districts of SAU 18 to provide a free and appropriate public education to each student with a disability residing within its jurisdiction, regardless of the nature or severity of the disability.

It is the intent of the districts to ensure that students who are disabled within the definition of Section 504 of the Rehabilitation Act of 1973 are identified, evaluated and provided with appropriate educational services. Students may be disabled under this policy even though they do not require services pursuant to the Individuals with Disabilities Education Act (IDEA).

Due process rights of students with disabilities and their parents under Section 504 will be enforced.

The Superintendent of Schools is the coordinator of Section 504 activities.

School Administrative Unit 18

PROCEDURAL SAFEGUARDS/PARENTS RIGHTS

For 504 Coordinators you must provide procedural safeguards to parents/guardians:

1. Whenever the school is taking action pertaining to a student's identification, evaluation or placement.

As a parent or guardian of a student with a current disabling condition, you have the following rights under Section 504:

1. Right to receive all information in the parent's/guardian's native language and primary mode of communication.
2. Right to examine all relevant educational records.
3. Right to have an inquiry conducted to determine whether a student has a disabling condition under Section 504.
4. Right to be informed of any proposed actions related to eligibility and plan for services.
5. Right to periodic review of the 504 Plan.
6. Right to file a grievance with the school district over an alleged violation of Section 504.
7. Right to an impartial hearing if there is disagreement with the school district's proposed action regarding the student's identification, evaluation or placement.
8. Right to be represented by counsel in the impartial hearing process.
9. Right to appeal the impartial hearing officer's decision.

Not all students who have physical or mental impairments and are "protected" by Section 504 will be eligible for accommodations. That is, merely having a physical or mental impairment that substantially limits one or more major life activities does not make a student "automatically" eligible for services unless that student also is somehow denied access to the school's programs and activities, or is in need of accommodations to "level the playing field" thereby eliminating any discrimination based on the disability. The severity and extent of the physical or mental impairment notwithstanding, when there is no educational need, there is no eligibility for supports and services. You may contact the principal of the student's school or the school's Section 504 Coordinator if you have any questions about these procedural safeguards.

NOTICE OF PARENT/STUDENT RIGHTS

Section 504 of the Rehabilitation Act of 1973

The following is a description of the rights granted by Section 504 of the Rehabilitation Act ("Section 504") to parents and their children who are identified as disabled. The school district is obligated to inform you of decisions about your child and of your rights if you disagree with any of those decisions.

You have the following rights:

1. To have your child take part in, and receive benefits from, public education programs without discrimination because of his/her disability;
2. To have the school district advise you of your rights under federal law;
3. To receive notice from the school with respect to the identification, evaluation, educational program or placement of your child;
4. According to the Department of Education's 504 Regulations, to have your child receive a free appropriate public education. This includes the right to be educated with non-disabled students to the maximum extent appropriate. It also includes the right to reasonable accommodations, modifications, and related aids and services necessary for your child to benefit from his or her educational program.
5. To have your child educated in comparable facilities and receive comparable services to those provided non-disabled students;
6. To have decisions regarding your child's evaluation, program and placement based upon a variety of information sources, and made by persons familiar with the student, the evaluation data, and the placement options;
7. To have your child reevaluated periodically, to the extent necessary, including before any significant changes are made to your child's educational program or placement;
8. To have your child receive an equal opportunity to participate in extra-curricular school activities;
9. To examine all relevant educational records relating to decisions regarding your child's identification, evaluation, education program, and placement;
10. To obtain copies of educational records at a reasonable cost unless the fee would effectively deny you access to the records;
11. To receive a response from the school district to reasonable requests for explanations and interpretations of your child's records;
12. To request amendment of your child's educational records if there is reasonable cause to believe that they are inaccurate, misleading or otherwise in violation of the privacy rights of your child. If the school district refuses this request for amendment, it shall notify you within a reasonable time, and advise you of the right to a hearing;

13. To file a grievance through local grievance procedures regarding any alleged violation of the Rehabilitation Act;
14. To request an impartial hearing, to be conducted by a person who is not an employee of the district, to dispute decisions or actions regarding your child's identification, evaluation, educational program or placement as a student with a disability. You and your child may take part in the hearing and have an attorney represent you at your expense. Questions about how to request a hearing may be forwarded to the person responsible for the district's compliance with Section 504 listed below;
15. To have the decisions made by hearing officers or others reviewed in state or federal court;

The person in this District who is responsible for assuring that the District complies with Section 504 is:

**Superintendent
SAU #18
119 Central Street
Franklin, NH 03235
603-934-3108 X 411**

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**PRACTICE TIPS WHEN SCHOOL STAFF MAY WISH TO CONSIDER
THE EXISTENCE OF A DISABLING CONDITION AND
POSSIBLE SECTION 504 PROTECTION:**

- * When long-term suspension or expulsion is being considered for any student;
- * When retention is being considered for any student;
- * When a student shows a long-term pattern of not benefiting from the instruction being provided;
- * When a student is referred for an IDEA evaluation but it is determined not to do an evaluation under the IDEA;
- * When a student is evaluated and is found not to qualify for Special Education services under the IDEA;
- * When a student exhibits a chronic health condition that impacts the educational environment;
- * When a student is identified as “at risk” or exhibits the potential for dropping out of school and there is concern that some type of impairment is at play;
- * When substance abuse is an issue (although the school district is not obligated to evaluate students based on a suspicion of the use of illegal drugs);
- * When a disability is suspected;

SECTION 504 ELIGIBILITY DETERMINATION FORM

Student's Name: _____ DOB: _____ Grade: _____

Parent(s)/Guardian(s): _____ School: _____

School Contact Person: _____ Position: _____ Date: _____

A. Purpose of Meeting:

- Determine initial eligibility under Section 504 and consider eligibility for accommodations/related aids or services.
- Review eligibility under Section 504.
- Review eligibility and accommodations/related aids or services before significant change in placement.

B. Eligibility Team Members:

Name/Position:

Knowledgeable about:

| | | | |
|-------|-------------|----------------------------------|---------------------------------|
| _____ | _____ Child | _____ Meaning of Evaluation Data | _____ Accommodations/ Placement |
| _____ | _____ Child | _____ Meaning of Evaluation Data | _____ Accommodations/ Placement |
| _____ | _____ Child | _____ Meaning of Evaluation Data | _____ Accommodations/ Placement |
| _____ | _____ Child | _____ Meaning of Evaluation Data | _____ Accommodations/ Placement |

C. Sources of Evaluation Information:

- School records review _____
- Grades and Report Card review _____
- Parent and/or student report _____
- Medical Information _____
- Standardized Testing _____
- Other: _____
- Observations of student _____
- Teacher reports _____
- Checklists, rating scales _____
- Nursing Assessment _____
- Parent/student interviews _____

D. Eligibility Criteria:

1. The student has a mental or physical impairment (specify): _____

AND

2. The impairment substantially limits one or more of the following major life activities (check):

- | | | | |
|-----------------------------------------------------------|--------------------------------------------------|---------------------------------------------------------------|----------------------------------------|
| <input type="checkbox"/> Seeing | <input type="checkbox"/> Hearing | <input type="checkbox"/> Caring for oneself | <input type="checkbox"/> Breathing |
| <input type="checkbox"/> Walking | <input type="checkbox"/> Learning | <input type="checkbox"/> Working | <input type="checkbox"/> Eating |
| <input type="checkbox"/> Sleeping | <input type="checkbox"/> Standing | <input type="checkbox"/> Lifting | <input type="checkbox"/> Bending |
| <input type="checkbox"/> Reading | <input type="checkbox"/> Concentrating | <input type="checkbox"/> Thinking | <input type="checkbox"/> Communicating |
| <input type="checkbox"/> Speaking | <input type="checkbox"/> Performing Manual Tasks | <input type="checkbox"/> Operation of a major bodily function | |
| <input type="checkbox"/> Other Major Life Activity: _____ | | | |

The term "substantially limits" means that the student is:

- a) unable to perform a major life activity that the average student in the general population can perform, or
- b) substantially restricted as to the condition, manner or duration under which a particular life activity is performed as compared to the average student in the general population (*compared to national norms*).

E. Eligibility Determination:

- The student does not have a physical or mental impairment and/or any identified impairment does not substantially limit a major life activity. Therefore, the student is not eligible for Section 504 protections. the parent/guardian must be provided notice of their procedural rights, including the right to an impartial hearing.*
- The student does have a physical or mental impairment that substantially limits a major life activity.*
 - The student requires accommodations/related aids or services in a 504 plan.**
 - The student does not require accommodations/related aids or services in a 504 plan at this time.**

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Section 504 Eligibility Determination Form

| Major Life Activity | Inability to Perform a Major Life Activity <i>Is the student unable to perform Ms major life activity that the average person the same age in the general population can?</i> | OR | Restriction of Condition* Duration <i>Jo what degree is the student restricted as to the condition, manner, or duration under which the major life activity is performed by the ayerage person of the same age</i> | <i>Based on the review! Is there a Substantial Limitation?</i> |
|-------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|
| Caring for Oneself | <input type="checkbox"/> No <input type="checkbox"/> Yes | OR | None Mild Moderate Severe 1 2 3 4 5 | <input type="checkbox"/> No <input type="checkbox"/> Yes |
| Performing Manual tasks | <input type="checkbox"/> No <input type="checkbox"/> Yes | OR | None Mild Moderate Severe 1 2 3 4 5 | <input type="checkbox"/> No <input type="checkbox"/> Yes |
| Walking | <input type="checkbox"/> No <input type="checkbox"/> Yes | OR | None Mild Moderate Severe 1 2 3 4 5 | <input type="checkbox"/> No <input type="checkbox"/> Yes |
| Seeing | <input type="checkbox"/> NO <input type="checkbox"/> Yes | OR | None Mild Moderate Severe 1 2 3 4 5 | <input type="checkbox"/> No <input type="checkbox"/> Yes |
| Hearing | <input type="checkbox"/> No <input type="checkbox"/> Yes | OR | None Mild Moderate Severe 1 2 3 4 5 | <input type="checkbox"/> No <input type="checkbox"/> Yes |
| Speaking | <input type="checkbox"/> No <input type="checkbox"/> Yes | OR | None Mild Moderate Severe 1 2 3 4 5 | <input type="checkbox"/> No <input type="checkbox"/> Yes |
| Breathing | <input type="checkbox"/> No <input type="checkbox"/> Yes | OR | None Mild Moderate Severe 1 2 3 4 5 | <input type="checkbox"/> No <input type="checkbox"/> Yes |
| Learning | <input type="checkbox"/> No <input type="checkbox"/> Yes | OR | None Mild Moderate Severe 1 2 3 4 5 | <input type="checkbox"/> No <input type="checkbox"/> Yes |

CLASSROOM AND FACILITY ACCOMMODATIONS

The intent of Section 504 is to “accommodate” for differences within the regular education environment. For this to be accomplished, staff should be provided with awareness activities and given specific information concerning the district’s procedures for dealing with Section 504 referrals.

As individual students are identified, the classroom teacher may need specific training in the area of the identified disability (e.g. training from the school nurse on danger signs of an impending asthma attack, training from a physical therapist on correct positioning of a student using a wheelchair, etc.). The following classroom/facility accommodations are presented as some examples of ways in which the needs of students with disabilities may be successfully addressed within the regular education environment.

I. Communication

- A. Modify parent/student/teacher communications.
 - develop parent/student/school contacts
 - schedule periodic parent/teacher phone calls or communications
 - provide parents with duplicate sets of texts
- B. Modify staff communications.
 - identify resource staff
 - network with other staff
 - schedule building team meetings
 - maintain on-going communication with building principal
- C. Modify school/community agency communication.
 - identify and communicate with appropriate agency personnel working with student
 - assist in agency referrals
 - provide appropriate carryover in the school environment

II. Organization/Management

- A. Modify the instructional day.
 - allow student more time to pass in hallways
 - modify class schedule
- B. Modify classroom organization/structure.
 - adjust placement of student within classroom (e.g., study carrel, proximity to teacher, etc.
 - increase/decrease opportunity for movement
 - determine appropriate classroom assignment (e.g. open versus structured)
 - reduce external stimuli
- C. Modify the district’s policies/ procedures.
 - allow increase in number of excused absences for health reasons
 - adjust transportation/parking arrangements
 - approve early dismissal for service agency appointments

CLASSROOM AND FACILITY ACCOMMODATIONS

III. Alternative Teaching Strategies

A. Modify teaching methods.

- adjust testing procedures (e.g. length of time, administer orally, tape record answers)
- individualize classroom/homework assignments
- utilize technology (computers, tape recorders, calculators, etc.)

B. Modify materials.

- utilize legible materials
- utilize materials that address the student's learning style (e.g. visual, tactile, auditory, etc.)
- adjust reading levels of materials

IV. Student Precautions

A. Modify the classroom/building climate for health purposes.

- use an air purifier in classroom
- control temperature
- accommodate specific allergic reactions

B. Modify classroom/building to accommodate equipment needs:

- plan for evacuation for students using wheelchairs
- schedule classes and other events in accessible areas

C. Modify building health/safety procedures.

- administer medication
- apply universal precautions
- accommodate special diet

**REFERRAL FOR SECTION 504 SERVICES
(Section 504 of the Rehabilitation Act of 1973)**

Student Name: _____ **Grade:** _____ **Date of Birth:** _____

School: _____ **Academic Year:** _____

I. Statement of Suspected Disabling Condition:

I am concerned that this person may have a physical or mental impairment which substantially limits one or more major life activities including, but not limited to: walking, seeing, hearing, speaking, breathing, learning, working, caring for one's self, performing manual tasks and/or engaging in activities of central importance to most people's daily lives that is impacting their ability to access educational opportunities.

II. Disabling Conditions:

III. Nature of the Concern:

A. State the physical or mental impairment which may be substantially limiting a major life activity.

B. Indicate how the major life activities are substantially limiting access to educational opportunities (compared to an average student).

Signature of the person making the referral: _____ **Date:** _____

The signature of the Administrator (see below) receiving this referral also documents that a copy of this referral has been given or sent to the parent or legal guardian.

Date Received

Signature of Administrator

Copies to: Parent/Guardian
 Superintendent

Guidance
Cumulative Folder

Principal
Other

504 ACCOMODATION PLAN

Student's Name: _____ DOB: _____ Grade: _____

Parent(s)/Guardian(s): _____ School: _____

School Contact Person: _____ Position: _____

What is the Disability: _____

Date of Meeting at which Plan was developed: _____ Date of next *annual* review: _____

A. Team Members:

Name/Position:

Knowledgeable about:

____ Child ___ Meaning of Evaluation Data ___ Accommodations/ Placement Options
____ Child ___ Meaning of Evaluation Data ___ Accommodations/ Placement Options
____ Child ___ Meaning of Evaluation Data ___ Accommodations/ Placement Options
____ Child ___ Meaning of Evaluation Data ___ Accommodations/ Placement Options

B. Accommodations/ Related Aids and Services

Note: After eligibility has been determined, the team should consider the student's current functional limitations with consideration of the use of mitigating measures in developing the 504 Plan. All accommodations or related aids and services should be directly linked to the student's disability and should be measures that are unique to and necessary for the student.

The team believes that the following accommodations or related aids and services are necessary for the student to access and benefit from his or her educational program:

1. The school will: (state action and person responsible)

a. _____
b. _____
c. _____
d. _____

2. The parent(s) will:

a. _____
b. _____
c. _____
d. _____

3. The student will:

a. _____
b. _____
c. _____
d. _____

4. Participation in assessments: _____ No accommodations _____ With accommodations

SPECIFY ASSESSMENT ACCOMMODATIONS: _____

"Schools Do Not Determine College Board Eligibility"

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SECTION 504 STUDENT ACCOMMODATION PLAN

REVIEW / REASSESSMENT

Student's Name: _____ Grade: _____ Date: _____

School: _____ DOB: _____ Parent(s): _____

School Contact Person: _____ Position: _____

Eligibility Team Members: child meaning of evaluation data accommodations

Variety of sources of evaluation information: (any new or additional information)

| | |
|------------------------|--------------------------------------------|
| ____ achievement tests | ____ teacher recommendations/ observations |
| ____ adaptive behavior | ____ student work samples |
| ____ medical report | ____ cognitive assessments |
| ____ other (specify): | ____ current school based assessments |

1. Specify the mental or physical impairment. (diagnosis/date)

2. (a) Check the major life activity that is affected by the impairment:

- | | | | |
|-------------------------------------------------|-----------------------------------|--------------------------------------------------|------------------------------------|
| <input type="checkbox"/> seeing | <input type="checkbox"/> hearing | <input type="checkbox"/> caring for one's self | <input type="checkbox"/> breathing |
| <input type="checkbox"/> walking | <input type="checkbox"/> learning | <input type="checkbox"/> performing manual tasks | <input type="checkbox"/> working |
| <input type="checkbox"/> other (specify): _____ | | | |

(b) Specify how the impairment affects the ability to learn or access learning.

**SECTION 504 STUDENT ACCOMMODATION PLAN
REVIEW / REASSESSMENT**

3. The term "**substantially limits**" means that the student is:

a) **unable** to perform a major life activity that the **average student** of approximately **the same age can perform**

OR

b) **significantly restricted** as to the condition, manner or duration under which a particular life activity is performed as compared to the average student of approximately the same age.

The impairment must be **substantial and somewhat unique** rather than commonplace, when compared to the average student of approximately the same age.

4. Place an "X" on the following scale to indicate the specific degree that the impairment (in #1) limits the major life activity of learning

____ Extremely

____ Moderately

____ Substantially

____ Mildly

____ Negligibly

If the team should determine that a 504 Accommodation Plan is appropriate, then the specific accommodations that are **necessary** for the student to have an opportunity to access educational opportunities **commensurate** with non-disabled students of approximately the same age in this district need to be listed on the plan.

Section 504: Due Process Hearing Procedures

An impartial due process hearing will be utilized to resolve differences involving the education of a Section 504 qualified student with a disability when such differences cannot be resolved by means of a less formal procedure or at the request of the parent or eligible student. In this instance, due process is defined as an opportunity to present objections and reasons for the objections to the decision and/or procedures of the committee regarding application of Section 504. A section 504 due process hearing may be called at the request of the District or a parent, guardian, surrogate of an affected student, or the student him/herself, if s/he is of the age of majority. The proceedings will be presided over and decided by an impartial hearing officer. Impartial hearing officer means a person selected to preside at a due process hearing to assure that proper procedures are followed and to assure the protection of the rights of both parties. The hearing officer will not have a personal or professional conflict of interest which would render him/her biased against either party or must recuse him/herself.

Parents/student or the District may initiate a due process hearing on a matter related to (1) the identification, (2) evaluation or (3) educational placement of a student who is alleged to have a disability. The parents or eligible student may elect to file a grievance with the SAU on any other matter not subject to a hearing or in place of a hearing request. Any allegation must be initiated within 180 calendar days of the alleged occurrence in order to be considered timely.

Due process hearing requests are to be submitted to:

Superintendent
SAU # 18
119 Central Street
Franklin, NH 03235

Include:

Your name and address and student's name and address
Statement of concerns
What you believe the violation is
The facts on which your statement is based
The remedy you are seeking
The efforts that have been made to resolve the dispute

If the request is incomplete, the Superintendent may return the request to the affected party and ask for more specificity. If the request involves an occurrence that occurred beyond 180 days from the date of filing, the Superintendent should dismiss the matter.

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Hearing Procedures

Unless extraordinary circumstances warrant, such as summer vacation and the unavailability of witnesses, or with agreement of the parties, the hearing shall commence within 45 calendar days from receipt of a complete hearing request. The hearing officer shall preside at the hearing and shall conduct the proceedings in an impartial manner to the end that all parties involved have an opportunity to:

- Present their evidence
- Produce outside expert testimony and be represented by legal counsel at their own expense and be accompanied by individuals with knowledge or training with respect to problems of students with disabilities

Parents involved in the hearing will be given the right to:

- Have the student present at the hearing.
- Open the hearing to the public.

The hearing officer may schedule a prehearing conference to narrow the issues, discuss settlement possibilities and identify witnesses and hearing dates. The hearing officer is designated to control all aspects of the hearing, including the submission of written and testimonial evidence.

The hearing officer shall review all relevant facts concerning the issues, be they identification, eligibility or the student's educational placement.

The hearing officer shall determine:

- Whether the District's team decision is supported by the evidence. The party challenging the team's decision has the burden of persuasion.

Decision of the Hearing Officer

A copy of the hearing officer's decision shall be delivered to the District and the parent, guardian, or surrogate within fifteen (15) working days following completion of the hearing, unless the parties request an extension to submit post-hearing submissions. Any such continuances are at the sole discretion of the hearing officer.

If a party is dissatisfied with the hearing officer's decision, the party may appeal to the Superintendent within 14 calendar days of the issuance of the decision. To effectuate an appeal, the party must set forth with particularity any findings that are not supported by the evidence and/or legal conclusions not supported in the law. The Superintendent or his/her designee shall review the record, the hearing officer's decision and the submissions of the parties and, within 30 calendar days of receipt of the appeal, shall issue a written decision to affirm reverse or amend the decision.

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Hearing Procedures

The appeal to the Superintendent is limited to the record before the hearing officer and will not include additional evidence, unless the party can demonstrate that the failure to submit such evidence at the hearing level should be excused.

The decision of the Superintendent is binding on all parties concerned; it is subject only to judicial review.

Record of Hearing

A written or electronic verbatim recording of the Section 504 due-process hearing shall be on file at the District office and will be available for review upon request to the parents and/or any of the involved parties. Parents may have a copy of the proceedings.

Alternative Dispute Resolution

SAU 18 encourages the parties to attempt to resolve their disagreements in an informal manner. By mutual agreement of the parties, SAU 18 will support the participation of its member school districts in alternative dispute resolution, such as mediation, at any time the parties so desire.

SECTION 504
MANIFESTATION DETERMINATION CHECKLIST

Name of Student: _____ **Date of Meeting:** _____

1. The manifestation determination 504 Team meeting should be held within 10 school days or any decision to change the placement of a child with a 504 disability because of a violation of a code of student conduct. A "change of placement" generally means:
 - A. a disciplinary removal from school for more than 10 consecutive school days; or
 - B. a series of removals totaling more than 10 school days in a school year that constitutes a pattern because the behavior is substantially similar to the previous incidents that resulted in removals and because of additional factors such as length of each removal, the total removal time and proximity of removals.
2. The manifestation determination must be made by relevant members of the student's 504 Team, including the parent/guardian and not simply by school personnel. At the Team meeting, the Team must review all relevant information in the student's file, including the child's 504 Plan, any teacher observations and any relevant information provided by the parent(s)/guardian(s).
3. The 504 Team will answer the following questions:
 - A. Was the conduct in question caused by, or did it have a direct and substantial relationship to, the child's disability?
 Yes No
 - B. Was the conduct in question the direct result of the local school unit's failure to implement the 504 Plan?
 Yes No

If the answer to either of these two questions is "yes," then the behavior in question should be considered a manifestation of the student's disability.
4. If the 504 Team determines that the misconduct is a manifestation of the student's disability, then the Team should determine how to address the student's misbehavior and should consider a possible functional behavior assessment and possible development of a behavior intervention plan for the student. In addition, the Team must decide on the student's future placement and ensure that the student continues to receive a free, appropriate public education.
5. If the Team determines that the misconduct is not a manifestation of the student's disability, then the school may use the regular disciplinary procedures applicable to students without disabilities in the same manner as would be applied to children without disabilities. *The school need not provide educational services to the child if he or she is suspended or expelled for misbehavior that is not a manifestation of the child's disability.*
6. **Special Rule for Drug and Alcohol Violations:**
If a Section 504 student is found 1) to be currently engaging in the illegal use of drugs or alcohol and 2) to have violated school policies on the use or possession of drugs or alcohol, then the local school unit may take disciplinary action against that student to the same extent and degree as the school unit would undertake for students who are not disabled. The school is not required to have a prior 504 Team meeting, need not determine if the use or possession is related to the student's disability and need not provide any alternative services during any removal that may be ordered for the use or possession violation, as long as such a consequence is consistent with school policy for non-disabled students. {29 U.S.C §705(20)(C)(iv)}

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Annual Notice of Student Education Records and Information Rights

The Family Educational Rights and Privacy Act ("FERPA") provides certain rights to parents and eligible students (18 years of age or older) with respect to the student's education records.

Inspection of Records

Parents/eligible students may inspect and review the student's education records within 45 days of making a request. Such requests must be submitted to the building administrator in writing and must identify the record(s) to be inspected. The building administrator will notify the parent/eligible student of the time and place where the record(s) may be inspected. Parents/eligible students may obtain copies of education records at a cost of \$0.25 per page.

Amendment of Records

Parents/eligible students may ask the School District to amend education records they believe are inaccurate, misleading or in violation of the student's right to privacy. Such requests must be submitted to the building administrator in writing, clearly identify the part of the record they want changed, and specify why it is inaccurate or misleading. If the building administrator decides not to amend the record as requested, the parent/eligible student will be notified of the decision, their right to request a hearing, and information about the hearing procedure.

Disclosure of Records

The School District must obtain a parent/eligible student's written consent prior to disclosure of personally identifiable information in education records except in circumstances as permitted by law.

1. Directory Information

The School District designates the following student information as directory information that may be made public at its discretion: name, participation and grade level of students in officially recognized activities and sports, height and weight of student athletes, dates of attendance in the school unit, honors and awards received, and photographs and videos relating to student participation in school activities open to the public (except photographs and videos on the Internet). Parents/eligible students who do not want the School District to disclose directory information must notify the building administrator in writing by September 15th, or within thirty (30) days of enrollment, whichever is later.

2. Military Recruiters/Institutions of Higher Education

Military recruiters and institutions of higher education are entitled to receive the names, addresses and telephone numbers of secondary students and the School Districts must comply with any such request, provided that parents have been notified of their right to request that this information not be released without their prior written consent. Parents/eligible students who do not want the School District to disclose this information must notify the building administrator in writing by September 15th, or within thirty (30) days of enrollment, whichever is later.

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3. School Officials with Legitimate Educational interests

Education records may be disclosed to school officials with a "legitimate educational interest." A school official has a legitimate educational interest if he/she needs to review an education record in order to fulfill his/her professional responsibility. School officials include persons employed by the School District as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel); members of the Board of Education; persons or companies with whom the School District has contracted to provide specific services (such as attorneys, auditors, medical consultants, evaluators, or therapists); and parents, students and volunteers serving on an official committee (such as a disciplinary or grievance committee) or assisting a school official in performing his/her professional responsibilities.

4. Other Entities/Individuals

Education records may be disclosed to other entities and individuals as specifically permitted by law. Parents/eligible students may obtain information about other exceptions to the written consent requirement by request to the building administrator.

Complaints Regarding School Department Compliance with FERPA

Parents/eligible students who believe that the School District has not complied with the requirements of FERPA have the right to file a complaint with the U.S. Department Of Education.

Peanut/Tree Nut Safe Protocols

STAFF:

1. If a student requires medical attention, he or she will be escorted to nurse by an adult.
2. Parents will be notified by the school nurse, or designee should a concern, or allergic incident occur.
3. No math, science, or craft projects which use peanut, peanut butter, all tree nuts, sesame seeds, or pineapple will be used as part of any project.
4. All cafeteria staff will be notified of which students have peanut/tree nut allergies and items approved for the allergic child will be closely monitored by all staff.
5. The 504 plan and medical alert list will be located in the substitute's folder. Additionally, the classroom location of the Epi-Pen, Benadryl and any other prescribed medications will be known to the substitute.
6. All staff will familiarize themselves with the protocols for allergies and the medical plan for students with peanut/tree nut allergies.
7. Staff will send notices home to alert parents that there are students with allergies to peanuts and tree nuts and to request that no items containing these products be sent to school or on field trips with their children.
8. All staff will comply with Policy JLCF and not use food or beverages as rewards or incentives.

PARENTS:

1. Parent agrees to send note if medication has been given prior to school attendance to ensure compliance with recommended dosages and times.
2. Parent agrees to apprise team of any changes in medicine, health status, home phone numbers and emergency contact numbers
3. Food and drinks will be sent from home unless parents agree to certain lunch menu items in advance.
4. Parents will continue to reinforce, with their child not to take foods he or she is not sure are "safe".
5. Parent's consent to sharing information regarding peanut, tree nut, sesame seeds and pineapple allergy to child's classmates and their parents/guardians.

STUDENT:

1. Will wear a medic alert identification bracelet.
2. Will continue to notify the closest adult or send a friend for help should he or she experience allergic symptoms.

FOOD/SANITATION:

1. To avoid cross-contamination, sound hygienic practices must be implemented. Students will be supervised washing their hands before and after eating snack, lunch, or any other eating event. All tables and surfaces will be washed prior to food eaten in the classroom, cafeteria, or other location.