

Klamath Falls City Schools

SECTION 504 OF THE REHABILITATION ACT OF 1973



Building Bridges to Student Success

STUDENT ACCESS ***A RESOURCE GUIDE FOR PARENTS & EDUCATORS***

Revised 10/10

KLAMATH FALLS CITY SCHOOLS SECTION 504 RESOURCE GUIDE

INTRODUCTION

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against individuals with disabilities. It is the intent of Klamath Falls City Schools to ensure that students who are disabled within the definition of Section 504 are identified, evaluated and provided with appropriate educational services. As such, the purpose of this manual is to provide district employees and parents information regarding the application of Section 504 in district programs and services. Where necessary, specific definitions, procedures and forms are provided for employee and parent use and information.

It is important to note that this manual focuses primarily on those students who may be eligible for services under Section 504, but are not eligible for special education services under the Individuals with Disabilities Education Act (IDEA). For students eligible for special education services under the IDEA, different rules and procedures may apply.

Klamath Falls City Schools expects employees to understand the procedures outlined in this manual governing Section 504 compliance in the district, as well as parent and student rights outlined herein.

This manual has been updated in light of the American with Disabilities Act Amendments Act of 2008 (ADAAA), and reflects the district's commitment to providing equal education opportunities to all students.

By providing the information in this manual, Klamath Falls City Schools is not engaged in rendering legal services or advice. If legal advice or other expert assistance is required, the services of legal counsel should be sought.

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NOTIFICATION 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:

1. has a mental or physical impairment which substantially limits one or more major life activities (major life activities include, but are not limited to, activities such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, and the operation of major bodily functions such as neurological, brain, respiratory, circulatory, endocrine and reproductive functions);
2. has a record of such an impairment; or
3. is regarded as having such an impairment.

In order to fulfill its obligation under Section 504, Klamath Falls City Schools 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.

If the parent or guardian disagrees with the determination made by the professional staff of the school district, he/she 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: 1) inspect and review his/her child's educational records; 2) make copies of these records; 3) receive a list of all individuals having access to those records; 4) ask for an explanation of any item in the records; 5) ask for an amendment to any report on the grounds that it is inaccurate, misleading, or violates the child's rights; and 6) a hearing of the issue if the school refuses to make the amendment.

If there are questions, please feel free to contact the Section 504 Compliance Coordinator:

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GENERAL INFORMATION AND DEFINITIONS

What is Section 504?

Section 504 of the Rehabilitation Act of 1973 is a federal civil rights statute designed to protect the rights of individuals with disabilities in programs and activities that receive federal financial assistance. Section 504 provides: “No otherwise qualified individual with disabilities in the United States . . . shall, solely by reason of his/her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance . . . ” 29 USC 794, implemented in regulations at 34 CFR Part 104.

Who is “otherwise qualified”?

1. All school-age children who are disabled under Section 504 are considered to be “qualified.” Preschool children (birth to 5) with disabilities who participate in federally funded programs such as early intervention/early childhood special education and Head Start are also protected by Section 504.
2. Parents, guardians, and school district patrons with a disability.
3. An employee with a disability who can, with or without reasonable accommodations, meet the essential requirements of the job.
4. Under the Americans with Disabilities Act (ADA), persons who are discriminated against because of their association with individuals with disabilities.

Who qualifies as a student with a disability under Section 504?

There are three ways a student may qualify as an individual with a disability under Section 504 regulations. A student is considered disabled under Section 504 if the student:

1. has a physical or mental impairment that *substantially limits one or more major life activities*. The term does not cover children disadvantaged solely by cultural, environmental or economic factors (Comment to 34 CFR 104.3);
2. has a record of such an impairment. The term includes children who have been misclassified (e.g. a non-English speaking student who was mistakenly classified as having mental retardation); or

3. is regarded as having such an impairment.

Note: Students with a record of impairment or those regarded as having an impairment are protected against discrimination but are not eligible for services or accommodations. Only students who have an impairment that *substantially limits a major life activity* are eligible for accommodations.

Examples of conditions that may qualify as disabling conditions under Section 504 if they substantially limit a major life activity include diseases and conditions such as:

- Orthopedic, visual, speech and hearing impairments;
- Cerebral palsy, epilepsy, muscular dystrophy, cancer and diabetes;
- Communicable diseases such as AIDS, tuberculosis and hepatitis;
- Temporary disabilities (consider the needs of the student, anticipated length of disability and the seriousness of the illness or injury)
- Asthma, allergies and multiple chemical sensitivities;
- ADD, ADHD and depression
- Drug or alcohol addiction if student is in recovery

Note: Some of these conditions may be severe enough to affect educational performance and therefore fall under the IDEA as well.

What are “major life activities”?

Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

Major life activities also include the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

Note: An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. In addition, an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

What does “substantially limits” mean?

The term “substantially limits” should be construed broadly. A substantial limitation to a major life activity means that a student is restricted as to the conditions, manner or duration under which the student can perform the activity in comparison to most people.

Note: The determination of whether an impairment substantially limits a major life activity must be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, equipment, prosthetics, hearing aids, use of assistive technology etc. (There is an exception to this general rule for the mitigating effects of ordinary eye-glasses or contact lenses). This is important, because a child with a qualifying impairment could be entitled to accommodations even if his/her condition is under control.

What are the district's responsibilities for evaluating students' Section 504 eligibility?

Like the IDEA, Section 504 has a "child find" requirement. Section 504 regulations require districts to annually undertake to identify and locate every qualified student with a disability residing in the district's jurisdiction. In many cases, the district's child find procedures under the IDEA will identify students that may need to be evaluated for Section 504 eligibility. In other cases, a district employee or parent may bring a concern about a student to the district's attention. In either case, the district must evaluate the student suspected of having a qualifying disability according to the standards set forth under Section 504 regulations. The regulations specify that evaluation procedures must:

1. be validated for the specific purpose for which they are being used
2. be tailored to assess educational need, not just IQ or another noneducational characteristic.
3. reflect aptitude or achievement, or whatever the test is supposed to measure, rather than the student's impaired sensory, manual or speaking skills, unless it is a test of those particular skills.

Note: The district should also review any outside assessments or evaluations to ensure they meet Section 504 standards for evaluation.

Who decides whether a student has a disability under Section 504?

Section 504 eligibility determinations should be made by a team that includes someone who is knowledgeable about the student, about the evaluation data, and about placement or support options. Typically, the team includes a principal or assistant principal, a school counselor and the student's teacher, along with a parent or guardian.

Team composition will vary dependent on the needs of the student. The building 504 coordinator determines the appropriate individuals to comprise the team in a specific situation.

If a student is found to have a disability under Section 504, how does the 504 team determine whether the student needs a 504 accommodation plan?

If the 504 team determines that a student is disabled, the student is protected under Section 504. The next question becomes whether a 504 accommodation plan is necessary to allow the student equal access to educational programs and services.

To answer this question, the team must utilize a variety of assessment tools and strategies dependent on the disability at issue to determine whether a student needs a 504 accommodation plan. The team can review attendance records and behavioral information, review medical records and conduct individual observations. Regardless of the assessment tools used, any assessment should provide information on how the student's disability affects his/her ability to access school programs, participate in school curriculum and activities, and achieve in the general curriculum.

It is important to note, that under the expanded definition of disability under the ADA, almost any impairment with the potential to affect a student's participation at school will qualify as a disability under Section 504. This includes disabilities currently under control through the use of medication or other mitigating measures. This reality creates difficult questions for 504 teams deciding whether an accommodation is appropriate for a student whose impairment does not currently impact his/her education. In these situations, a useful question to ask is whether the student's disability is likely to impact the student's access to, or participation in, student programs or services, regardless of current mitigating measures? If so, the best approach is to create a 504 plan indicating accommodations that will be used if necessary. A useful tool in this situation is to use "if/then" statements such as "if a child misses school because of his allergies, then the school will provide extra time for homework assignments." The sample accommodations/modifications in Appendix pgs. 11-30 can also help in identifying appropriate accommodations for students whose impairments may not be currently affecting their education, but likely could in the future.

Note: Another approach in situations where a disability is not currently impacting a student's education, is to agree with parents to review a child's status by a certain date to make sure he/she does not slip through the cracks. Teams should always review decisions not to create accommodation plans, as future circumstances may necessitate a plan at some point.

Consider the following examples of students who would usually require a 504 accommodation plan vs. student's who would not:

1. Usually would require a 504 plan:

- a. Students with Type 1 diabetes who require staff supervision or assistance in monitoring blood glucose levels and administering insulin.
- b. Students with severe allergies that impact their ability to attend school or jeopardize their health.
- c. Students with severe asthma that prevents them from participating in curriculum or extra-curricular activities.
- d. Students who require time out of class and district staff assistance to administer medication during school hours.
- e. Students whose medication causes them to be drowsy and makes it difficult for them to concentrate during school.
- f. Students whose depression causes them to miss school frequently and fall behind in their school work.
- g. Students who have experienced severe injuries for which the period of recovery may last for many months.

2. Usually would not require a 504 plan:

- a. Students who experience a one-time accident requiring only standard first aid or emergency procedures.
- b. Students who do not need a continuing individual plan to provide them with equal access to school programs or allow them to participate in school safely.
- c. Students who have a temporary condition, such as a sprained ankle, that will heal in a couple weeks.
- d. Students taking medication who do not need the medication to enable them to benefit from education programs.

How should the 504 team determine whether psychological conditions such as ADD/ADHD or depression are disabilities requiring accommodations?

Most conditions affecting psychological or neurological functioning will qualify as disabilities under Section 504 because they often substantially affect major life activities such as concentrating, thinking, learning, and involve various bodily functions. If the condition restricts these activities in comparison to other students, the student should be considered to have a disability under Section 504.

The team should conduct a full evaluation for students suspected of having one of these impairments, or students who have submitted a medical diagnosis of one of these impairments. This evaluation should include a review of the student's behavioral history, academic performance, interviews with parents and the student, as well as observations of the student. The evaluation could also include a psychological evaluation provided by the district or conducted by a school psychologist. The psychologist can help identify ways the impairment may be affecting the student's education and possible appropriate accommodations.

Note: If the student is suspected of having autism, an "other health impairment" or an emotional disturbance, all categories qualifying the student for "specially designed instruction" under the IDEA, they should be evaluated under the IDEA procedures. In such cases, no 504 plan is necessary.

How does the ADAAA affect students formerly on a health plan that now may qualify for 504 status?

The ADAAA's broader definition of disability means that more students formerly served by individual health plans will now be required to be served under a 504 plan instead. If there is a student believed to have a qualifying disability under Section 504 currently being served through a health plan, the district should evaluate whether a 504 plan should be created for the child. This will involve all of the procedures required under Section 504 including the parental notice requirements. (See pg. 16 below for more information on the districts 504 procedures).

What is the difference between the requirement to provide FAPE under the IDEA vs. Section 504?

Both the IDEA and Section 504 mandate the provision of a free appropriate public education (FAPE) to covered students with disabilities. Although the procedural requirements for FAPE are more detailed under the IDEA, the substantive requirements are similar, if not the same, regarding serving the needs of a student with disabilities. Possibly the most important difference between the FAPE requirements of the IDEA and Section 504 is that the IDEA defines FAPE as consisting of special education and related services, implemented on the basis of an IEP document. Under Section 504, on the other hand, FAPE may consist of either regular or special

education, and related aids and services, as implemented by *any appropriate means*, including, but not limited to, an IEP. Thus, while an appropriately developed and implemented IEP may satisfy Section 504 FAPE requirements, a 504 accommodation plan will not satisfy IDEA requirements.

For more information, see Appendix pgs. 31-36.

What happens if a parent refuses consent for a Section 504 evaluation?

Staff should ask the parent to check the box on the Notice of Action and Consent to Evaluate Form (Appendix pg. 4) stating “No, I do not consent to the evaluation.” If the parent refuses to indicate this on the form, staff should document the parent’s refusal by placing a written note in the student’s file with the staff member’s signature and date. A copy of this documentation should also be provided to parents. Staff should be careful to document each attempt to obtain parental consent. Staff may also contact the district 504 coordinator if there are concerns regarding the parent’s refusal to consent.

What happens if a parent revokes consent for special education services (IEP) and wants a 504 plan instead?

Staff should immediately contact the building or district 504 coordinator if a parent requests a 504 plan after revoking IDEA services. In such circumstances, the team must consider, on a case-by-case basis, whether the student is eligible for a Section 504 plan.

What if parents disagree with a 504 eligibility determination, the need for a plan or the content of the plan?

Although it is a good practice to include parents as part of the 504 team, ultimately the district makes the final decision about a student’s eligibility and the need for a 504 accommodation plan. Where there is disagreement, the team could get more information and hold a second meeting, or consult with the district 504 coordinator.

Note: Under the IDEA, one or both of a child’s parents are *necessary* members of the IEP team and districts must ensure they are invited and encouraged to attend.

What are the procedural safeguards under Section 504?

The procedural safeguards afforded parents under Section 504 include:

1. Notice of their rights under Section 504;
2. An opportunity to review relevant educational records;
3. An opportunity to file a grievance under the district grievance policy; and
4. The right to an impartial hearing if the parent or guardian disagrees with the identification, evaluation or educational placement of the student with a disability. The Oregon Department of Education has an administrative rule for regulating due process hearings under Section 504. (See OAR 581-015-0109)

See also pg. 21, Section 504 Procedural Safeguards/Parents Rights, and Appendix pg. 1, Section 504 Notice of Parent/Guardian and Student Rights, for more information.

What could be considered “discrimination” under Section 504?

1. Not following a student’s Section 504 accommodation plan or IEP.
2. Excluding disabled children from a swimming class solely on the basis of their disability.
3. Requiring the parent of a disabled student to accompany her child on a field trip as a condition of the child’s participation.
4. Not investigating or resolving complaints of disability discrimination or harassment.
5. Providing a shortened day for disabled students because of transportation issues.
6. Expelling a student for misconduct without determining whether it is a manifestation of the student’s disability.
7. Not disciplining students appropriately who have bullied or harassed students with disabilities.
8. Locating a magnet program in a school that is not accessible to students with mobility impairments.
9. Scheduling lunch and recess for special education classes at different times than for other classes.
10. Allowing non-disabled students to participate in an inter-district transfer arrangement, but not students with disabilities.

How are complaints regarding disability discrimination under Section 504 processed by the district?

See Appendix for district policies and procedures related to disability discrimination complaints. (Policies AC and AC-AR)

Who enforces Section 504?

The U.S. Department of Education's Office of Civil Rights (OCR) is the government entity responsible for enforcing Section 504 as applied to public school districts. If an individual files a complaint against a school district, OCR will investigate the complaint under both Section 504 and the ADA. An aggrieved party may also file a court action. Under Oregon law, an aggrieved student may also file for a due process hearing before the Oregon Department of Education for alleged violations of Section 504.

TRANSPORTATION

Section 504 of the Rehabilitation Act of 1973 requires transportation of students with disabilities who need special transportation to access their education.

The criteria used to determine possible eligibility are:

1. Whether the student's disability limits the student's ability to get to/from school with regular transportation or an existing bus stop;
2. Whether the disability is projected to exist for at least 60 days from onset of injury or illness.

Procedure for processing transportation requests under Section 504:

1. Upon parent or staff member request, the 504 team determines if special transportation is necessary. The building administrator will participate as part of the 504 team.
2. If the 504 team deems special transportation necessary, they will communicate the need to the district 504 coordinator.
3. The district 504 coordinator review the request and information provided from the 504 team. If it is determined that special transportation is necessary, the 504 coordinator will arrange special transportation with [**district transportation services**].
4. The district 504 coordinator will inform transportation services of the student's
 - a. anticipated duration of special transportation
 - b. emergency contact information
 - c. any special needs such as wheelchair accessibility

Questions may be directed to Shelly Hunt, District 504 Coordinator at (541) 883-4745.

DISTRICT OBLIGATION TO STUDENTS WHO ARE CHEMICALLY DEPENDENT

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

Generally, yes. Students currently using drugs illegally are not protected under Section 504 when the district takes disciplinary action on the basis of the drug use. Drug-addicted students in recovery, however, are entitled to protection under Section 504 if they are not currently using drugs illegally and they are determined to be an individual with a disability under Section 504.

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

Section 504's definition of student with a disability does not exclude users of alcohol. However, Section 504 allows schools to take disciplinary action against students with disabilities using drugs or alcohol to the same extent as students without disabilities.

SECTION 504 PROCEDURES

1. Referral to the Student Services Team (SST) or Educational Behavior and Instructional Support (EBIS) Team

Any person (e.g. a parent, guardian, school staff or persons outside the school) can refer a student for evaluation under Section 504. A concerned person should refer a student for evaluation if the person knows or suspects that, due to a physical or mental impairment, the student needs special education or related aids or services to participate in or benefit from the district's education program.

The district is also responsible to find students who may qualify for services under Section 504. This is accomplished by informing school personnel of the characteristics of disabilities, their effects, and the procedures for making referrals.

A parent or staff member making a referral for 504 eligibility determination should put the referral in writing. Referrals can be made via the SST/EBIS Referral/Recommendation Form (Appendix pg. 3). School personnel should provide assistance to parents who have difficulty putting their concerns in writing.

2. SST/EBIS reviews information to determine whether to refer student to 504 team for evaluation

Each school in the district has a SST/EBIS responsible for reviewing referrals, along with any accompanying evaluations, reports or other written materials. The SST/EBIS reviews the referral, the student's file, and consults with teachers, parent or guardian, the student (if appropriate), and others who have relevant information. Based on this information, the SST/EBIS decides whether to refer the student for evaluation to the 504 team.

If the SST/EBIS knows or suspects that the student is eligible as a disabled student under the IDEA, is an English language learner, or has other needs, the SST/EBIS refers the student for evaluation under those processes.

Note: In cases where the student may qualify under one of the IDEA disability categories, the student should go through the IDEA "child find" process. If there is evidence that the disability issues are affecting the students learning or behavior, the referral should go to the special education team to determine special education eligibility. If the concerns are solely related to medical or health issues, and have little or no effect on learning or behavior, the referral should go through the 504 process.

If the SST/EBIS knows or suspects that the student is eligible as a disabled student under Section 504, the SST/EBIS: (1) refers the student for evaluation by indicating on the bottom portion of the SST/EBIS Referral/Recommendation Form (Appendix pg. 3) that the student is referred for initial evaluation; and (2) submits the form to the students parents. The SST/EBIS also provides parents with a Notice of Parent/Guardian and Student Rights (Appendix pg. 1). The parent or guardian must provide written consent prior to the district conducting an initial evaluation. If the referral information indicates that the student is not eligible as a disabled student under Section 504, the SST/EBIS still provides the parents the SST/EBIS Referral/Recommendation Form and Notice of Rights.

3. 504 team decides whether individual evaluation is necessary

After the SST/EBIS refers the student to the Section 504 team for evaluation, the team considers the student's need for evaluation and what assessment may be needed, if any.

Note: The 504 team may be comprised of some of the same employees on the SST/EBIS. Regardless, the 504 team must be a knowledgeable team under Section 504 regulations (i.e., including someone knowledgeable about the student, the evaluation data and accommodations/placement options). As such, the 504 team is comprised of school/district staff knowledgeable about the student, additional staff with specific expertise regarding the student's disability or suspected disability, the student's parent or guardian, and, as appropriate, the student.

The 504 team must gather pertinent information from all other professionals, within and outside the district (e.g., teachers, doctors, psychologists, parents, etc.). If there is information indicating that the student has a mental or physical impairment that is affecting a major life activity, an evaluation should be conducted.

If the 504 team determines that a 504 evaluation is necessary, the team will select a 504 case manager to coordinate the completion of the evaluation and eligibility determination process. The 504 case manager will give the parent a Notice of Action and Consent to Evaluate Form (Appendix pg. 4).

4. Evaluation process

The 504 team begins by evaluating existing information. Existing information can be reviewed without written parental consent. In many cases, a special education assessment and determination may have already been completed, finding the student ineligible for special education services. In that case, if there is still an indication that the student has an impairment that may substantially limit a major life activity, the team starts by reviewing the existing evaluation results. The team also reviews the student's files, current teacher reports, and other information provided by parents.

If, after reviewing existing data, the team decides that further assessment is needed, the team must get written parental consent with the Section 504 Notice of Action Consent to Evaluate Form (Appendix pg. 4). **No initial individual evaluation will occur before obtaining written consent.**

If further assessment is needed, the team should designate areas of assessment that will help determine:

1. The presence of a mental or physical impairment
2. Whether the impairment substantially limits a major life activity; and
3. The impact of the impairment on the student's access to school and ability to function at school.

The team may also ask a parent to provide a statement from a health care provider if it suspects the student has a mental or physical impairment. **The team may not, however, require such a statement as a condition of 504 eligibility.** If the parent does not have access to a health care provider, the district is ultimately responsible to assist the parent to obtain this information if needed to determine whether the student is 504 eligible. The parent or guardian may also choose to independently evaluate the students at their own expense.

If the 504 team determines the student does not have a disability after careful review of the existing data, and determines there is no need for further assessment, the 504 case manager gives the parents written notice of the decision.

5. If additional assessment is needed and consent is received

With the parent or guardian's prior written consent, the 504 team may conduct an individual evaluation to determine 504 eligibility. Once the evaluation is completed, the 504 team meets to review the results and complete the Section 504 Eligibility Review (Appendix pgs. 5-6).

Note: This may be done in the first meeting if no additional assessment is needed to determine eligibility.

The 504 case manager must send written notice to the parent/guardian that establishes a time and location to share the evaluation data and determine eligibility/non-eligibility (Appendix pg. 37). Based on the existing data, evaluation and any additional information the parent provides, the 504 team decides whether the student has a disability under Section 504, and, whether, as a result, the student needs a 504 accommodation plan for access or to receive an appropriate education.

Note: See question above in general information on pg. 11, regarding what happens when parents and school staff do not agree about 504 eligibility.

Parent should be given a copy of the written evaluation and Section 504 Eligibility Review, along with the Section 504 Notice of Rights.

6. Create the 504 accommodation plan

If the student needs a 504 accommodation plan, the team develops the plan and records it on the Section 504 Student Accommodation Plan (Appendix pgs. 7-9). Best practices support including the student's parent or guardian in the development of the student's 504 plan. The Section 504 plan can be developed at the same time that eligibility is established.

The Section 504 plan describes what educational or related aids or services the student needs to receive a free appropriate public education. The Section 504 team provides the parent both the Notice of Rights and a copy of the student's Section 504 Accommodation Plan. The parent or guardian must provide consent prior to an initial placement.

7. Annually review the student's section 504 plan

A student's Section 504 team meets annually to review the student's Section 504 plan to ensure that it is meeting the student's needs. If the Section 504 team decides that the student's Section 504 plan needs to be revised, the Section 504 team provides the parent or guardian the Section 504 Notice of Action Consent to Evaluate Form and Notice of Rights and a copy of the student's revised Section 504 Accommodation Plan.

8. Periodically reevaluate the student

A student's Section 504 team periodically (i.e., at least every 3 years) determines the scope of the student's reevaluation to see if the student continues to be eligible under Section 504 and to determine if the student's educational needs have changed. Before a re-evaluation, the Section 504 team provides the parent or guardian Section 504 Notice of Action Consent to Evaluate Form and Notice of Rights. Reevaluations must occur at least every 3 years and before any significant change in a student's placement. Significant changes in placement include initiating or discontinuing a service, significantly increasing or decreasing the amount of a service and certain disciplinary removals from school (e.g. long-term suspensions and expulsions).

A reevaluation under Section 504 does not require consent but does require notice. However, Oregon law does require parent consent before conducting an intelligence test or a test of personality, including behavior checklists.

9. Timelines

Section 504 procedures will follow the same suggested timelines as IDEA referrals and should be completed within 60 days from referral to eligibility or non-eligibility.

10. Discipline

Students with disabilities are entitled to all of the same due process rights afforded to non-disabled students when subject to disciplinary actions. However, Section 504 students are provided additional rights. Disciplinary removal of 10 aggregated school days requires a manifestation determination meeting and the completion of the Manifestation Determination Form (Appendix pg. 10). The manifestation determination team must determine whether or not there is a direct relationship between the student's misconduct and his/her disability. The team also considers the appropriateness of the student's current placement and program. Prior to removing a student with disabilities for more than ten school days, review the district discipline procedures and/or contact the District Special Services Department.

11. Records

Student Section 504 plans will be kept on file at the District Office and in the student's cumulative file at the school.

SECTION 504 PROCEDURAL SAFEGUARDS/PARENTS RIGHTS KLAMATH FALLS CITY SCHOOLS

The District shall provide parents/guardians with notification of their rights under Section 504:

1. When the District makes determinations regarding the identification, evaluation or placement of a student suspected of having a disability.
2. When eligibility is determined.
3. When a plan is developed.
4. Before there is a significant change in placement.

Notification should include the following rights under Section 504:

1. Right to file a grievance with the school district through the District's complaint procedure over an alleged Section 504 violation. (See Appendix for policies AC and AC-AR)
2. Right to have an evaluation that draws on information from a variety of sources.
3. Right to be informed of any proposed actions related to eligibility and plan for services.
4. Right to examine all relevant records.
5. Right to receive all information in the parent's/guardian's native language and primary mode of communication.
6. Right to periodic re-evaluations and an evaluation before any significant change in program/service modifications.
7. Right to an impartial hearing if there is disagreement with the school district's proposed action.
8. Right to be represented by counsel in the impartial hearing process.
9. Right to appeal the impartial hearing officer's decision.

Section 504 regulations do **not** define "impartial". However, in similar processes, impartial has been defined as a person not employed by or under contract with the district in any capacity.

Section 504 regulations do **not** require that the selection of the hearing officer be a mutually agreed upon decision between the school district and the parents/guardians.

Section 504 Coordinator: **Shelly Hunt, Director of Special Services, (541) 883-4745**

WHEN SCHOOL STAFF SHOULD CONSIDER THE EXISTENCE OF A HANDICAP AND POSSIBLE SECTION 504 PROTECTION

- When suspension or expulsion is being considered for any student;
- When retention is being considered for any student;
- When a student shows a pattern of not benefiting from the instruction being provided;
- When a student returns to school after a serious illness or injury;
- 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;
- When a student is identified as “at risk” or exhibits the potential for dropping out of school;
- When substance abuse is an issue;
- When a handicap of any kind is suspected;
- When a new building or remodeling is being considered
- When a student’s academic performance is lacking.