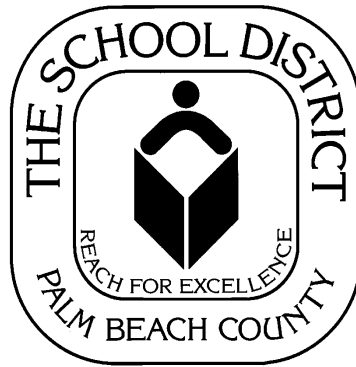


THE SCHOOL DISTRICT  
OF PALM BEACH COUNTY



SECTION 504 & AMERICANS  
WITH DISABILITIES ACT  
PROCEDURAL MANUAL

**SEPTEMBER 2011**

**THE SCHOOL DISTRICT OF PALM BEACH COUNTY, FLORIDA**

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**MISSION STATEMENT**

The School Board of Palm Beach County is committed to excellence in education and preparation of all our students with the knowledge, skills and ethics required for responsible citizenship and productive employment.

*The School District of Palm Beach County, Florida, prohibits any policy or procedure which results in discrimination on the basis of age, color, disability, national origin, marital status, race, religion or sex.*

## Table of Contents

Mission Statement .....	1
Alphabetical Reference .....	4-5
Overview of Governing Laws .....	6
• Section 504 of the Rehabilitation Act of 1973 .....	6
• The Americans with Disabilities Act of 1990 .....	6
• The Relationship between Section 504 and the ADA .....	6
• The ADA Amendments Act of 2008 .....	7
Section 504's Definition of Disability .....	7
Eligibility Determination.....	8
Child Find Requirements .....	9
Section 504 Eligibility Requirements and Process.....	10
Section 504 Quick Reference Guide.....	11
Making Legally Compliant Disability Determinations .....	12
Physical or Mental Impairments.....	12
Substantially Limited .....	12
Major Life Activities .....	13
Mitigating Measures .....	13
Temporary Impairments.....	14
Excluded from Section 504 Eligibility .....	14
Grievance Procedures .....	14
Discrimination and Harassment .....	14
Section 504 Terminology and Acronyms .....	15
Section 504 Frequently Asked Questions.....	16-25
Policies Impacting Students with 504 Plans .....	25
Directions and Link to District Policies .....	26
Opening School Guidelines .....	26
Substitutes and New Staff.....	26
Multi-Disciplinary Team Requirements .....	26
Exceptional Student Education .....	27
School Based Team/Problem Solving Team .....	27
Response to Intervention (RtI).....	27
Functional Behavior Assessment.....	28
Testing Accommodations.....	29

Discipline of Section 504 Students .....	31
Choice and Charter Programs .....	31
Extracurricular Activities and Nonacademic Services .....	32
Summer Academic Programs .....	32
Monitoring and Updating .....	33
Student Progression Plan .....	33
Student Absences .....	33
Progress Monitoring Plans Criteria .....	33
Reevaluation .....	33
Inactive 504 Status .....	34
Transfer Students with 504 Plans .....	34
Data Entry .....	34
Service Animals .....	35
Restraint.....	35
John M. McKay Scholarships for Students with Disabilities.....	36
Records Management.....	36
Transportation.....	36
Section 504 Process Flowchart .....	38
Appendix and Form references.....	39-54
Acknowledgements.....	55

## Alphabetical Reference

Acknowledgements .....	55
Appendix and Form references .....	39-54
Child Find Requirements .....	9
Choice and Charter Programs .....	31
Data Entry .....	34
Directions and Link to District Policies .....	26
Discipline of Section 504 Students .....	31
Discrimination and Harassment .....	14
Eligibility Determination.....	8
Exceptional Student Education .....	27
Excluded from Section 504 Eligibility .....	14
Extracurricular Activities and Nonacademic Services .....	32
Forms.....	40-54
Functional Behavior Assessment.....	28
Grievance Procedures .....	14
Inactive 504 Status .....	34
John M. McKay Scholarships for Students with Disabilities.....	36
Major Life Activities .....	13
Making Legally Compliant Disability Determinations .....	12
Mission Statement .....	1
Mitigating Measures.....	13
Monitoring and Updating.....	33
Multi-Disciplinary Team Requirements .....	26
Opening School Guidelines .....	26
Overview of Governing Laws .....	6
Physical or Mental Impairments.....	12
Policies Impacting Student with 504 Plans .....	25
Progress Monitoring Plans Criteria .....	33
Records Management.....	36
Reevaluation .....	33
Response to Intervention (Rtl) .....	27
Restraint.....	35
School Based Team/Problem Solving Team .....	27
Section 504's Definition of Disability .....	7

Section 504 Eligibility Requirements and Process.....	10
Section 504 Frequently Asked Questions.....	16-25
Section 504 of the Rehabilitation Act of 1973.....	6
Section 504 Process Flowchart.....	38
Section 504 Quick Reference Guide.....	11
Section 504 Terminology and Acronyms.....	14
Service Animals.....	35
Student Absences.....	33
Student Progression Plans.....	33
Substantially Limited.....	12
Substitutes and New Staff.....	26
Summer Academic Programs.....	32
Temporary Impairments.....	14
Testing Accommodations.....	29
The ADA Amendments Act of 2008.....	7
The Americans with Disabilities Act of 1990.....	6
The Relationship between Section 504 and the ADA.....	6
Transfer Students with 504 Plans.....	34
Transportation.....	36

## Overview of Governing Laws

### Section 504 of the Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973 (Section 504) is federal civil rights legislation that prohibits discrimination against persons with disabilities in any program receiving federal financial assistance, including public schools. In the school environment, the purpose of Section 504 is to ensure that eligible students have educational opportunities equivalent to those of their nondisabled peers. It is often said that Section 504 “levels the playing field” for all students attending public schools. Section 504 states:

*No otherwise qualified individual with a disability shall solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any other program or activity receiving Federal financial assistance. 42 U.S.C. § 794.*

To be protected under Section 504, a student must be determined to: (1) have a physical or mental impairment which substantially limits one or more major life activities; or (2) have a record of such an impairment; or (3) be regarded as having such an impairment. Section 504 requires that school districts provide a free appropriate public education (FAPE) to qualified students in their jurisdictions who have a physical or mental impairment that substantially limits one or more major life activities.

In addition, Section 504 protects students from discrimination on the basis of disability if they are “regarded as” having an impairment, or have a “record of” an impairment, even if they no longer have such an impairment, or an impairment never really existed. 29 U.S.C. § 705(20)(b)(iii).

### The Americans with Disabilities Act of 1990

Similar to Section 504, the Americans with Disabilities Act of 1990 (ADA) is civil rights legislation that prohibits discrimination against persons with disabilities. Title II of the ADA covers all activities of state and local governments, regardless of the government entity's size or receipt of federal funding. Title II is applicable to public education. Title II requires that state and local governments give people with disabilities an equal opportunity to benefit from all of their programs, services, and activities.

### The Relationship between Section 504 and ADA

Congress patterned Title II of the ADA after Section 504. Therefore, Section 504 and the ADA are considered sister statutes, as they share the same definition of disability and are intended to be interpreted consistently with each other. Section 504 and the ADA prohibit discrimination against students with disabilities enrolled in public schools.

Each law separately assures equal opportunities and access for persons with disabilities. Congress amended the ADA, effective January 1, 2009, with the ADA Amendments Act of 2008.

### **The ADA Amendments Act of 2008**

The ADA Amendments Act of 2008 (ADAAA) reinstated the ADA's "broad scope of protection." It reinforces the ADA's original objectives of providing "a clear and comprehensive national mandate for the elimination of discrimination," while emphasizing "clear, strong, consistent, enforceable standards addressing discrimination."

Through the ADAAA, Congress rejected U.S. Supreme Court decisions that it viewed as improperly narrowing ADA coverage in a manner that excluded individuals who were meant to fall within the law's protections. The ADAAA prohibits consideration of the ameliorative effects of mitigating measures, (not including ordinary eyeglasses or contact lenses) in determining if a person qualifies as an individual with a disability.

The ADAAA specifically rejected the U.S. Supreme Court's stringent interpretation of the term "substantially limits," and directed the Equal Employment Opportunity Commission (EEOC) to revise its current definition of "substantially limits" to be consistent with the ADAAA. Consistent with the ADAAA, the EEOC's final regulations adopted "rules of construction" to use when determining if an individual is substantially limited in performing a major life activity.

The ADAAA also provides additional examples of general activities that are major life activities, as well as a non-exhaustive list of examples of "major bodily functions" that are categorized as major life activities.

The ADAAA does not require the U. S. Department of Education (ED) to amend its Section 504 regulations. The ED's Section 504 regulations as currently written are valid and the Office for Civil Rights (OCR) is enforcing them consistent with the ADAAA. OCR is evaluating the impact of the ADAAA on OCR's enforcement responsibilities under Section 504 and Title II of the ADA.

### **Section 504's Definition of Disability**

To be entitled to services and/or accommodations under Section 504 and the ADAAA, the District must determine a student to have a physical or mental impairment that substantially limits one or more major life activities. An impairment that substantially limits one major life activity need not limit other major life activities in order to qualify a student as disabled. In addition, an impairment that is "episodic" or "in remission" is a disability, if it would substantially limit a major life activity when active.

A temporary impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period of time. Temporary impairments are addressed on

a case-by-case basis, taking into consideration both the duration (and expected duration) of the impairment and the extent to which it actually limits a major life activity.

Students who have a “record of” a physical or mental impairment, or whom are “regarded as” having such impairments, are protected from discrimination in all forms, but are not entitled to services and/or accommodations, as they are not actually disabled.

For example, a person with severe facial scarring may be denied a job because she/he is “regarded as” impaired. An individual with a history of mental illness may be denied admission to college because of the “record of” impairment. These persons are not, in fact, disabled, but have been treated by others as if they were. It is the negative action taken based on the perception or the record that entitles a person to protection against discrimination, based on the assumptions of others.

### **Eligibility Determination**

The 504 Team is a multi-disciplinary team composed of persons who are knowledgeable about a student, the meaning of the evaluation data, and the placement options. The 504 Team must determine if they have enough information to make a knowledgeable decision as to whether or not the student has a disability.

The 504 Team draws from a variety of sources in the evaluation process to minimize the possibility of error. Typical sources include current medical information, psychological evaluations, behavioral observations, checklists, classroom tests, teacher observations, reports, current grades, academic history, standardized tests, and other relevant reports. Additional sources can include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior.

In evaluating a student suspected of having a disability, the 504 Team must never rely on presumptions and stereotypes regarding persons with disabilities, or classes of such persons. In each case, the 504 Team must deliberately determine student eligibility by assessing whether the factual sources support the conclusion that a student has a physical or mental impairment that substantially limits a major life activity. In making the eligibility decision, the 504 Team must be governed by the ADA's instruction that "the question of whether an individual's impairment is a disability . . . should not demand extensive analysis."

When a 504 Team determines eligibility for a student with a physical or mental impairment that substantially limits a major life activity and services are needed in order that the student's needs are met as adequately as those of nondisabled peers, a Section 504 Plan will be developed and implemented. It is understood that the student is protected by Section 504's antidiscrimination provisions and cannot be discriminated against on the basis of disability.

When a 504 Team determines eligibility for a student with an episodic physical or mental impairment that, when active, substantially limits a major life activity, a Section

504 Plan will be developed that will be implemented when the impairment is active. When the impairment is inactive, the 504 Plan will not be implemented, but it is understood that the student is protected by Section 504's antidiscrimination provisions and cannot be discriminated against on the basis of disability.

When a 504 Team determines eligibility for a student with a physical or mental impairment that is in remission but, when active, substantially limits a major life activity, a Section 504 Plan will be developed that will be implemented if/when the impairment is out of remission. When the impairment is in remission, the 504 Plan will not be implemented, but it is understood that the student is protected by Section 504's antidiscrimination provisions and cannot be discriminated against on the basis of disability.

When a Section 504 Team determines that a student is disabled but is not in need of accommodations because the student's educational needs are met as adequately as those of nondisabled peers based on the positive effect(s) of mitigating measures currently in use, a Section 504 Plan will not be developed. Should the positive effect(s) of mitigating measures currently in use no longer exist, the need for a Section 504 Plan will be revisited. When the student is not in need of services, it is understood that the student is protected by Section 504's antidiscrimination provisions and cannot be discriminated against on the basis of disability.

### **Child Find Requirements**

Section 504 requires school districts to annually "undertake to identify and locate every qualified [individual with a disability] residing in [the school district's] jurisdiction who is not receiving a public education." 34 C.F.R. § 104.32. The school district's obligation, known generally by the term "child find," extends to privately enrolled students as well as those children residing in hospitals. Homeless children within school district boundaries are also included in the scope of Section 504's child find mandate.

The District must consider a referral to a 504 Team for evaluation under the following circumstances:

- Parent requests an evaluation for a 504 Plan.
- Suspension or expulsion is being considered.
- Academic performance is lower than expected.
- Student is evaluated and is not IDEA-eligible.
- Student exhibits a chronic medical problem.
- Student enrolls with a 504 Plan from another county or state.
- Student is chronically absent due to medical/health issues.
- Student receives medication on school grounds.
- Student formerly found ineligible for Section 504 due to mitigating measures.
- Student is dismissed from Hospital/Homebound.

## **Section 504 Eligibility Requirements and Process**

1. Parent/teacher/504 Designee/other refers student with documented mental and/or physical disability to the 504 team. Evidence exists of student's mental and/or physical impairment: e.g., school psychologist's psycho-educational report is acceptable in those cases when student has not qualified for placement under IDEA; school completes checklists to determine ADHD characteristics as per ADHD Assessment directions. Acceptable documentation includes: psychological/psychiatric/psycho-educational report, Physician's Authorization for Medication Form (PBSD 0257), doctor/medical report and/or checklists/assessment data.

2. Parent signs Consent (PBSD 1467, p.1) for school to proceed with ADA/504 evaluation/eligibility and receives procedural safeguards (PBSD 1467, p. 2).

3. 504 Designee conducts review to determine if more data is needed to determine eligibility under Section 504/ADA.

If current data, e.g., psychological/psychiatric/psycho-educational, current test results, current teacher reports, grades, is sufficient to determine eligibility, go to step 4. If additional data, e.g. teacher/other observations, behavioral checklists, is needed to determine eligibility, 504 Designee arranges for collection of further data.

4. 504 Designee arranges for the Team eligibility meeting. 504 Designee notifies the parent/guardian (PBSD 1467), and the appropriate school personnel/teacher(s), school psychologist, school counselor, administrator, school nurse, and ESE staff.

5. The Team reviews the data and documents the eligibility decision on ADA/504 Record Form (PBSD 1468). 504 Designee should send a copy of PBSD 1468 to parent/guardian if not in attendance.

6. If 504 eligible, complete PBSD 1470/1595. All persons in attendance should sign and receive copies. 504 Designee should send a copy of 1470/1595 to parent/guardian if not in attendance.

7. Input plan date, status and any testing accommodations on the A23 Terms screen.

8. Behavioral contracts and/or addendum behavioral plans can be included with PBSD 1470/1595 if the Team determines the need per the individual student. Refer to Discipline Section of this manual.

## Section 504 Quick Reference Guide

Question	Answer
Who are the 504 students in my school?	J-Panel print on computer (Refer to page 26 - Opening School Guidelines).
Forms needed: Access forms on the District's website: <a href="http://www.palmbeachschools.org">www.palmbeachschools.org</a>  PBSD Forms 1467, 1468, 1470 and 1595 are available in English, Spanish, Creole and Portuguese.	Elementary Consent/Notice/Safeguards: PBSD 1467 (Consent/Notice/Safeguards) PBSD 1468 (504 Record) PBSD 1470 (Elementary 504 Plan)  Middle/High Consent/Notice/Safeguards: PBSD 1467 (Consent/Notice/Safeguards) PBSD 1468 (504 Record) PBSD 1595 (Middle/High 504 Plan)
What are impairments?	Practically any physical and/or mental impairment could be covered under the 504 eligibility definition (Refer to page 12).
A new eligibility? What do I need?	Parent consent signed; procedural safeguard provided and documentation of impairment.
What is acceptable documentation for evidence of a physical or mental impairment?	Report of a diagnosis by a licensed psychologist or medical doctor Authorization of medication form Psycho-educational report Checklists and assessment data for denoting attention problems
Evaluating for attention challenges?	If attention challenges are suspected, the 504 Team can evaluate. Parent consent must be signed. Parent has the option to provide physician with the data.
Transportation?	A student might be eligible for transportation, even if living under the two miles (Refer to page 36).
What about behavior plans?	A Functional Behavior Assessment and Behavior Intervention Plan can be recommended by a 504 Team at any time.
Discipline and Manifestation?	All active 504 students must have a manifestation determination if the cumulative days of suspension are over 10 per year. Refer to policy 5.1891. Utilize PBSD 2209, Manifestation of Disability Hearing Process for Students with Section 504 Plans (Refer to pages 31).
Testing Accommodations?	Individual needs of students (Refer to page 29).
Student Absences?	Disability related (Refer to page 33).
Monitoring and Updating Active Plans?	It is imperative for compliance that active 504 Plans are monitored by retaining copies of progress reports, Edline and/or report cards in the student's file. If the document shows more than one "D" or "F", (or what shows similar progress on the elementary report card), the 504 Team must convene and address the accommodation plan (Refer to page 33).
When do I refer to SBT?	Students with active 504 Plans who are not responding to academic or behavioral accommodations can be referred to the SBT for scientifically-based interventions (Refer to page 27).

## **Making Legally Compliant Disability Determinations**

Section 504 and the ADAAA each define a person with a disability as a qualified individual who has a physical or mental impairment that substantially limits a major life activity.

Section 504 and the ADAAA also protect persons from discrimination, harassment and retaliation based on a “record of” such an impairment, or being “regarded as” having such an impairment. However, neither law entitles such persons to services or accommodations because they are not actually disabled.

### **Physical or Mental Impairments**

The determination of whether a student has a physical or mental impairment that substantially limits a major life activity must always be made on an individual basis.

In an illustrative, non-exhaustive list, the ADAAA states that a physical or mental impairment is any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic; lymphatic; skin; and endocrine; or any mental or psychological disorder, such as intellectual disability (formerly termed mental retardation), organic brain syndrome, emotional or mental illness, and specific learning disabilities.

There is no exhaustive list of specific diseases and conditions that may constitute physical or mental impairments, as lawmakers concluded it is not feasible to include all potential impairments in such a list. This means that a bodily function not specifically listed in the ADAAA as a physical or mental impairment can still qualify as an impairment.

### **Substantially Limited**

The determination of whether a physical or mental impairment substantially limits a major life activity must be made on a case-by-case basis with respect to each individual student. The ADAAA requires that the “substantially limited” determination be interpreted broadly, using a common sense analysis, without resort to scientific or medical evidence. An impairment need not prevent, or significantly or severely restrict, an individual’s performance of a major life activity to be considered “substantially limiting.”

An impairment that is episodic or in remission meets the definition of a disability if it would substantially limit a major life activity when active. An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

The determination of whether an impairment substantially limits a major life activity is made without regard to the ameliorative effects of mitigating measures, with one

exception. The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

### **Major Life Activities**

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

Major life activities include the operation of “major bodily functions,” including functions of the immune system, special sense organs and skin, normal cell growth, digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. As there is no exhaustive list of major life activities, an activity or function not specifically listed in the law as a major life activity can still qualify as one.

### **Mitigating Measures**

Mitigating measures eliminate or reduce the symptoms or impact of a physical or mental impairment. The ADAAA directs that the ameliorative (positive) effects of one or more mitigating measures cannot be considered in determining if an impairment substantially limits a major life activity. This means the determination of disability must focus on whether the individual would be substantially limited in performing a major life activity without consideration of any mitigating measure that may eliminate or reduce the symptoms or impact of an impairment.

The ADAAA and the final regulations do not define the term mitigating measures, but rather provide a non-exhaustive list, which includes: medication; medical supplies, equipment or appliances; low-vision devices (which do not include ordinary eyeglasses or contact lenses); prosthetics (including limbs and devices); hearing aids and cochlear implants or other implantable hearing devices; mobility devices; oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; and learned behavioral or adaptive neurological modifications. In addition, the final regulations add psychotherapy, behavioral therapy and physical therapy to the ADAAA’s list of examples.

The ADAAA includes one large exception to this rule, stating that the ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining if a physical or mental impairment substantially limits a major life activity.

## **Temporary Impairments**

A temporary impairment is generally not considered a disability unless it substantially limits one or more major life activities over an extended period of time. Section 504 Teams must evaluate, on an individual basis, both the temporary impairment's expected duration, the degree to which it actually limits a major life activity and its impact.

### **Excluded from Section 504 Eligibility**

Students with limitations in major life activities resulting from environmental, cultural and economic disadvantages are not covered under Section 504. Nor does the law cover students who are currently engaging in the illegal use of drugs, when the District acts on the basis of such current, illegal use. The District may take disciplinary action against students with disabilities currently using drugs or alcohol to the same extent as students without disabilities.

There are coverage exceptions for students in rehabilitation programs who are no longer engaging in the illegal use of drugs.

### **Grievance Procedures**

The District has adopted comprehensive grievance procedures that incorporate impartial due process hearing standards, providing for prompt and equitable resolution of complaints. Parents have the right to a hearing regarding all decisions or actions regarding their child's identification, evaluation, educational purpose or placement. The District's grievance process includes the right to prior notice of any legal action, the right to inspect records, the right to an impartial due process hearing before an administrative law judge from the Department of Administrative Hearings, the right to representation by counsel, and an appeal process.

In addition, School Board Policy 5.001, entitled "Protecting Students from Harassment and Discrimination," requires the District to investigate and take prompt, equitable, and appropriate action with regard to any alleged act of discrimination and harassment. It also provides a multi-step grievance process.

PBSD Form 1467, entitled "Section 504/ADA Parental Notification and Consent," includes the Notice of Procedural Safeguards to Parents and Guardians under Section 504 and Procedural Rights and Safeguards.

### **Discrimination and Harassment**

The District prohibits and actively discourages any act or form of discrimination or harassment against any of its students for any reason, including, but not limited to, gender expression and/or gender identity, race, color, religion, national origin, age, disability, marital status, ancestry, ethnicity, gender, linguistic preference, political beliefs, sexual orientation, or social/family background in its education programs or admissions to education programs.

The District prohibits such discrimination against, or harassment of, any student by any Board member, District employee, consultant, contractor, agent, visitor, volunteer, student, or other person in the school or outside the school at school-sponsored events, on school buses, and at training facilities or training programs sponsored by the District.

In an effort to further promote an environment free of discrimination and harassment, Policy 5.001, entitled "Protecting Students from Harassment and Discrimination," has been adopted. The goal of Policy 5.001 is to prevent, investigate, and take prompt, equitable, and appropriate action with regard to any act of alleged discrimination and harassment. To view the Policy 5.001 go to <http://www.palmbeachschools.org/policies/>.

### **Section 504 Terminology and Acronyms**

ADA: Americans with Disabilities Act of 1990

ADAAA: Americans with Disabilities Amendment Act of 2008

Equal access: equal opportunity of a qualified person with a disability to participate in or benefit from educational aid, benefits, or services

FAPE: free appropriate public education. A term used in the elementary and secondary school context; for purposes of Section 504, refers to the provision of regular or special education and related aids and services that are designed to meet individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met and is based upon adherence to procedures that satisfy the Section 504 requirements pertaining to educational setting, evaluation and placement, and procedural safeguards.

LRE: least restrictive environment

MLA: major life activity

OCR: Office for Civil Rights

Placement: a term used in the elementary and secondary school context; refers to regular and/or special educational program in which a student receives educational and/or related services.

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

Rehabilitation Act: Section 504 of the Rehabilitation Act of 1973

Related services: a term used in the elementary and secondary school context to refer to developmental, corrective, and other supportive services, including psychological, counseling and medical diagnostic services and transportation.

## **Section 504 Frequently Asked Questions**

### What federal agency enforces Section 504?

In the public education context, the Office for Civil Rights (OCR) enforces Section 504 and Title II of the Americans with Disabilities Act (ADA) in programs and activities that receive federal financial assistance from the U.S. Department of Education. The regulations implementing Section 504 in the context of educational institutions appear at 34 C.F.R. Part 104.

### What type of education must the District provide to students eligible under Section 504?

Section 504 require the District to provide a free appropriate public education (FAPE) to each qualified student with a disability who is in the District's jurisdiction, regardless of the nature or severity of the disability. Under Section 504, FAPE consists of the provision of regular or special education and related aids and services designed to meet the student's individual educational needs as adequately as the needs of nondisabled students are met.

Section 504 prohibits discrimination on the basis of disability in programs or activities that receive federal financial assistance from the U.S. Department of Education. Title II of the ADA prohibits discrimination on the basis of disability by state and local governments.

The Office of Special Education and Rehabilitative Services (OSERS), also a component of the U.S. Department of Education, administers the Individuals with Disabilities Education Act (IDEA), a statute which funds special education programs. Each state educational agency is responsible for administering IDEA within the state and distributing the funds for special education programs. IDEA is a grant statute and attaches many specific conditions to the receipt of federal IDEA funds. Section 504 and the ADA are anti-discrimination laws and do not provide any type of federal funding.

### How does OCR get involved in disability issues within the District?

OCR receives complaints, conducts agency initiated compliance reviews, and provides technical assistance to School Districts, parents, guardians, and advocates.

### What resources are available to obtain more information on Section 504?

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

### What services are available for students with disabilities under Section 504?

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

### Does OCR protect against retaliation?

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

### Does OCR examine individual placement or other educational decisions for students with disabilities?

No, except in extraordinary circumstances. OCR generally does not review the result of individual placement or other educational decisions, as long as the District complied with the procedural requirements of Section 504 relating to identification and location of students with disabilities, evaluation of such students, and due process. Accordingly, OCR generally will not evaluate the content of a Section 504 Plan. Any disagreement can be resolved through the District's established grievance process, as set forth in the District's Notice of Procedural Safeguards.

OCR routinely examines procedures that School Districts use to identify and evaluate students with disabilities and the procedural safeguards that those School Districts provide to students. OCR also examines incidents in which students with disabilities are allegedly subjected to treatment which is different from the treatment to which similarly situated students without disabilities are subjected. Such incidents may involve the unwarranted exclusion of disabled students from educational programs and services.

### Does OCR mediate complaints?

No. Parents have the right to request mediation related to decisions or actions regarding their child's identification, evaluation, educational program or placement. In such cases, an impartial mediator will attempt to facilitate a dispute resolution acceptable to all parties. Mediation is completely optional and OCR may offer to facilitate mediation, referred to as "Early Complaint Resolution," to resolve a complaint filed under Section 504. This approach brings the parties together so that they may discuss possible resolution of the complaint immediately. If both parties agree, OCR will work with the parties to facilitate resolution by providing each party an understanding of pertinent legal standards and possible remedies. Any resolution agreement reached between the parties is not monitored by OCR.

### Are there appeal rights with OCR?

Yes. A complainant can contact the OCR staff person whose name appears in the complaint resolution letter. The complainant should address his or her concerns with as much specificity as possible, focusing on factual or legal questions or concerns that would change the resolution of the case. Should a complainant continue to have questions or concerns, he or she is advised to send a request for reconsideration to the Director of the responsible OCR field office.

The OCR Director will review the appropriateness of the complaint resolution. If the complainant remains dissatisfied, he or she may submit an appeal in writing to the Deputy Assistant Secretary for Enforcement. The decision of the Deputy Assistant Secretary for Enforcement constitutes OCR's final decision.

### What does noncompliance with Section 504 mean?

A District is in noncompliance when it is determined to have violated any provision of the Section 504 statute or regulations.

### Can OCR impose sanctions on the District that is out of compliance with the law?

Yes. If OCR is unable to achieve the District's voluntary compliance, OCR may initiate a range of enforcement actions. OCR can decide to: (1) ask the District to voluntarily resolve the complaint violation in a form and manner acceptable to OCR; (2) initiate administrative proceedings to terminate U.S. Department of Education financial assistance to the recipient; or (3) refer the case to the U.S. Department of Justice for judicial proceedings.

### Who has ultimate authority to enforce Section 504?

In the educational context, OCR has been given administrative authority to enforce Section 504. Section 504 is a federal statute that may be enforced through OCR's administrative process or through the federal court system. The Section 504 regulations do not require that a person first file a complaint with OCR in order to exhaust administrative remedies before filing a lawsuit.

### How should schools ensure that all students know the District has zero tolerance for any discriminatory or harassing acts or words?

School principals, staff and teachers should routinely review and share with students School Board Policies 5.001, 5.002, 5.18, 5.81, and 5.1891, which prohibit discrimination and harassment in any form.

Is there a different definition of "qualified student with a disability" based on a student's educational level, i.e., elementary and secondary versus students enrolled at the post-secondary?

Yes. At the elementary and secondary educational level, a "qualified student with a disability" is a student with a disability who is: of an age at which students without disabilities are provided elementary and secondary educational services; of an age at which it is mandatory under state law to provide elementary and secondary educational services to students with disabilities; or a student to whom a state is required to provide FAPE under the IDEA. At the post-secondary educational level, a qualified student with a disability is a student with a disability who meets the academic and technical standards requisite for admission or participation in the institution's educational program or activity.

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

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

At the post-secondary level, the recipient is required to provide students with appropriate academic adjustments and auxiliary aids and services that are necessary to afford an individual with a disability an equal opportunity to participate in a school's program.

School Districts are not required to make adjustments or provide aids or services that would result in a fundamental alteration of the program or impose an undue burden on the District.

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

The protections of Section 504 extend only to individuals who meet the regulatory definition of a person with a disability. If the District reevaluates a student in accordance with the Section 504 regulatory provision at 34 C.F.R. § 104.35 and determines that the mental or physical impairment no longer substantially limits his/her ability to learn or any other major life activity, the student is no longer eligible for services under Section 504.

Can the District consider "mitigating measures" in determining whether the student has a disability under Section 504?

No, with one limited exception. School Districts, in determining whether a student has a physical or mental impairment that substantially limits that student in a major life activity,

are prohibited from considering the ameliorating effects of any mitigating measures that student is using, with the sole exception of ordinary eyeglasses or contact lenses.

The elimination of virtually all “mitigating measures” from the eligibility process is a major change from prior law. Before January 1, 2009, rulings of the U.S. Supreme Court required the District to consider a student’s use of mitigating measures in determining whether that student had a physical or mental impairment that substantially limited that student in a major life activity. In the ADAAA, Congress specified that the ameliorative effects of mitigating measures must not be considered in determining if a person is an individual with a disability.

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

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

Does OCR endorse a single formula or scale that measures “substantially limited”?

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

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

No. A physician's medical diagnosis, as well as other physician-created information, is important data that must be considered, along with other sources, in evaluating a student with a physical or mental impairment, or believed to have an impairment, which substantially limits a major life activity. Other sources to be considered, along with the medical diagnosis, include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior. The Section 504 regulations require Districts to draw upon a variety of sources in interpreting evaluation data and making placement decisions.

Are there any physical or mental impairments which automatically qualify a student for a disability under Section 504?

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

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

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

Are "obese" students eligible under Section 504?

Obese students can be eligible if: (1) the obesity results from a physiological disorder or condition affecting one or more of the bodily systems; and (2) the obesity substantially limits one or more major life activities. 34 C.F.R. § 104.3(j)(2)(i)(A).

If a student's obesity results from the student's voluntary action or inaction, the obesity is not a physiological disorder or condition and, therefore, cannot qualify as a disability. An obese student must obtain and produce medical evidence as to the nature of the physiological disorder or condition causing the obesity.

Are outside independent evaluations relevant to the eligibility determination?

Yes. The District will consider an outside independent evaluation. However, the result of an outside independent evaluation is generally one of many sources to consider. The District's multi-disciplinary team must draw from a variety of sources in the evaluation process so that the possibility of error is minimized.

Does all data brought to a multi-disciplinary team need to be considered and given equal weight?

All significant factors related to the student's learning process must be considered. These sources and factors include, but are not limited to: aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior. Information from all sources must be documented and considered by knowledgeable team members. The weight of the information is determined by the team given the student's individual circumstances.

What should the District do if a parent refuses to consent to an initial evaluation under the IDEA, but demands a Section 504 Plan for a student without further evaluation?

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

Who in the evaluation process makes the ultimate decision regarding eligibility for Section 504 services?

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

Once a student is identified as eligible for Section 504 services, is there an annual or triennial review requirement? If so, what is the appropriate process to be used?

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

Is a Section 504 reevaluation similar to an IDEA reevaluation?

Yes, it may be similar or it may be a review of existing data. Section 504 specifies that reevaluations in accordance with the IDEA are one of the acceptable means of compliance with Section 504.

How often should the District perform a Section 504 reevaluation?

The Section 504 regulations require that reevaluations be conducted periodically. Section 504 also requires the District to conduct a reevaluation prior to a significant change of placement. OCR considers an exclusion from the educational program of more than 10 school days a significant change of placement. OCR would also consider transferring a student from one type of program to another or terminating or significantly reducing a related service a significant change of placement.

What is reasonable justification for referring a student for evaluation for Section 504 eligibility?

Section 504 requires School Districts to evaluate if there is a suspected disability or concerns that a student may be in need of services.

If a parent wishes to withdraw the student from a Section 504 Plan, how can the District ensure continuation of services?

The District may initiate a Section 504 due process hearing to resolve the dispute if it believes the student needs the accommodations or services in order to receive an appropriate education.

Is a student who has a disability referenced in the IDEA, but does not demonstrate a need for special education services, eligible for services under Section 504?

The student is potentially eligible for Section 504 services. The District must determine whether the student has a physical or mental impairment which substantially limits a major life activity, including but not limited to the ability to learn or concentrate, and, if so, make an individualized determination of the child's educational needs. For example, such a student may require modifications or accommodations in the regular classroom, such as preferential seating or extended time on tests.

Are “temporary” disabilities covered under Section 504?

Temporary disabilities can be covered under some circumstances. The District must examine the nature and severity of the impairment(s); the duration (resulting or expected) of the impairment(s); and the impact (resulting or expected) of the impairment(s).

How should the District view a “temporary” impairment?

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

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

Yes, under certain circumstances. In the ADAAA, Congress clarified that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. A student with an active impairment is entitled to FAPE under Section 504.

Are “transitory” or “minor” disabilities covered under Section 504?

No. The ADAAA clarifies that an individual is not “regarded as” an individual with a disability if the impairment is transitory and minor. A transitory impairment is defined as an impairment with an actual or expected duration of 6 months or less.

If a student is eligible for services under both the IDEA and Section 504, must the District develop both an individualized education program (IEP) under the IDEA and a Section 504 Plan?

No. If a student is eligible under IDEA, the student must have an IEP. All accommodations, modifications and services must be included within the IEP. Under the Section 504 regulations, one way to meet Section 504 requirements for FAPE is to implement an IEP.

Must the District develop a Section 504 Accommodation Plan for a student who either "has a record of" disability or is "regarded as" disabled?

No. Unless a student actually has an impairment that substantially limits a major life activity, the mere fact that a student has a "record of" or is "regarded as" disabled is insufficient, in itself, to trigger those Section 504 protections that require the provision of a FAPE. This is consistent with the Amendments Act, in which Congress clarified that an individual who meets the definition of disability solely by virtue of being "regarded as" disabled is not entitled to reasonable accommodations or the reasonable modification of policies, practices or procedures. The phrases "has a record of" disability and "regarded as" disabled are meant to address situations in which a student either does not currently have or never had a disability, but is treated by others as either having a past or present disability.

What is the District's responsibility under Section 504 toward a student with a Section 504 Plan who transfers from another District?

If a student with a disability transfers to the District from another District with a current Section 504 Plan, the receiving District should review the plan and supporting documentation. If a group of persons at the receiving District, including persons knowledgeable about the meaning of the evaluation data and knowledgeable about the placement options determines that the plan is appropriate, it is required to implement the plan. If the District determines that the plan is inappropriate, it must evaluate the student consistent with the Section 504 procedures at 34 C.F.R.104.35 and determine which educational program is appropriate for the student.

There is no bar in Section 504 to the receiving District honoring a previous District's Section 504 Plan during the interim transition period.

In what form is parental consent required?

Section 504 does not specify the form of parental consent required. OCR has accepted written consent as compliance with Section 504 procedures.

What are the responsibilities of general education teachers with respect to implementation of Section 504 Plans?

General education teachers must implement the provisions of Section 504 Plans when those plans govern the teachers' treatment of students for whom they are responsible.

What is the difference between a general education intervention plan and a Section 504 Plan?

A regular education intervention plan is appropriate for a student who does not have a disability or is not suspected of having a disability, but may be facing challenges in school.

Must the District obtain parental consent prior to conducting an initial evaluation?

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

What can the District do if a parent withholds consent for a student to secure accommodations or services under Section 504 after a student is determined eligible for services?

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

What procedural safeguards are required under Section 504?

School Districts are required to establish and implement procedural safeguards that include a comprehensive grievance process. The grievance process includes notice, an opportunity for parents to review relevant records, an impartial due process hearing before an administrative law judge, which provides for the opportunity for participation by the student's parents or guardian, representation by counsel, and an appeal process. 34 C.F.R. § 104.36.

What is the District's responsibility under Section 504 to provide information to parents and students about its evaluation and placement process?

Section 504 requires the District to provide notice to parents explaining any evaluation and placement process affecting their children and explaining the parents' right to review educational records and appeal any decision regarding evaluation and placement through an impartial hearing.

**Policies Impacting Students with 504 Plans**

For guidance developing and implementing 504 Plans, please refer to the following:

- Policy 5.001, Protecting Students from Harassment and Discrimination
- Policy 5.002, Prohibition of Bullying and Harassment
- Policy 5.321, Administration of Student Medication/Treatment

- Policy 5.3212, Blood Glucose Monitoring\*
- Policy 5.322, Students with Chronic Illnesses and Infectious Diseases (including HIV/AIDS)
- Policy 5.324, Students with Life Threatening Health Conditions

\*Please refer to the Diabetes Type 1 Section 504 Plan in Appendix.

To view policies, go to <http://www.palmbeach.org/policies/>.

### **Opening School Guidelines**

Running a J-Panel report of 504 students is the first step to ensure transition compliance under Section 504. With the J-Panel report, the school 504 Designee, per Principal direction, distributes the 504 Plans to teachers/staff as appropriate.

1. Refer to J-Panel on TERMS-Special Reports-to print a list of the school's students on 504 Plans as appears on the terms A-23 screen.
  - The screen indicates "P" for active, with plan
  - The screen indicates "A" for active, no plan
  - The screen indicates "T" for temporary plan
  - The screen indicates "I" for inactive
2. Distribute 504 Plans to appropriate teachers/staff/substitutes per Principal direction, including staff and teachers hired after the opening of school, along with new teachers due to schedule changes. Obtain signature of teachers/staff/substitutes to document receipt of 504 Plans.
3. Schools must implement existing 504 Plans unless, after parental notice, the 504 Team agrees on a revised 504 Plan at a meeting.

### **Substitutes and New Staff**

Disseminate 504 Plans, per Principal's direction, to appropriate staff and teachers, including permanent substitutes hired after the opening of school. Place a copy of the 504 Plan in each teacher's substitute folder.

### **Multi-Disciplinary Team Requirements**

To insure compliance for all decisions made under Section 504 and the ADA, two components are necessary. First, parent(s)/guardian(s) must be notified of all meetings scheduled to determine eligibility or subsequent meetings to make changes to the 504 Plan. Second, service, accommodation and placement decisions must be made by the Section 504 multi-disciplinary team.

## **Exceptional Student Education**

Section 504 requires school districts to provide a free appropriate public education (FAPE) for students who are eligible. The term FAPE means the provision of regular or special education services designed to meet the student's individual needs as adequately as the individual needs of nondisabled students are met. Section 504 may require accommodations to the regular education program. Under Section 504, parent/guardian consent is required for the multidisciplinary team to evaluate for a disability, as parent/guardian attendance is primary to the partnership of home/school.

Exceptional Student Education (ESE) students receiving services with an existing IEP are automatically eligible for 504 services or accommodations, as their ESE disability/handicap automatically classifies them "disabled" under the "504" definition. Therefore, ESE students do not need separate 504 Plans. Any 504 accommodations can be added to the student's existing IEP. This includes all ESE programs, with one exception:

Gifted Students who have a gifted Education Plan (EP) may have a separate 504 Plan if a multidisciplinary team determines 504 as per their documented mental/physical impairment. The area of gifted is under the umbrella of ESE in the state of Florida but is not a mental/physical disability under "504." If a gifted student is determined eligible as disabled under Section 504, 504 accommodations are addressed by completing and attaching PBS 1470 and PBS 1595 to the EP.

### **School Based Team/Problem Solving Team**

The School Based Team/Problem Solving Team (SBT/PST) is a multidisciplinary, school-level student assistance team. The SBT/PST assesses individual students who exhibit academic or behavior deficits and/or social or emotional barriers to learning. This team operates at every school and facilitates the intervention process for any general education student.

Students with active 504 Plans who are not responding to academic or behavioral accommodations can be referred to the SBT/PST for interventions at any time. An intervention is a specific academic/behavioral research-based program and/or strategy that differs from activities occurring in the student's general education classroom. It is designed to provide an at-risk student with the necessary skills to accelerate academic learning or improve behavior to achieve grade-level expectations.

### **Response to Intervention (RtI)**

The SBT/PST utilizes the Response to Intervention (RtI) model to assist in preventing over-identification of students with disabilities. The basic components of the multi-tiered RtI model include:

- Using a problem solving model at all levels of problem identification;

- Identifying and utilizing research-based interventions that are proven effective for the identified deficiency (school-wide, classroom, group, or individual);
- Organizing the remedial services into tiers of increasing intensity;
- Creating an individualized plan, which can include a behavior plan, for each identified student; and
- Ensuring that interventions are implemented with fidelity.

The Rtl process has three tiers that build sequentially upon one another. Each tier provides more intensive levels of support:

- Tier I includes high quality instruction. The school provides all students with access to high quality curriculum, instruction, and behavior supports in the general education classroom.
- Tier II includes additional targeted, supplemental instruction/interventions. The school provides interventions to small groups of students who need more support than they are receiving through Tier I.
- Tier III includes intensive interventions. The school develops and implements interventions to meet the individual needs of students.

The School Based Team/Problem Solving Team targets students' individual academic or behavioral deficiencies, identifies appropriate intervention(s), monitors the students' progress, gathers data to determine child responsiveness to the provided intervention, and continues to problem solve as needed.

Note that during the Rtl process, individual circumstances may provide sufficient justification for the District to reasonably suspect that a student has a qualifying disability under Section 504 or IDEA. For example, a student's failure to respond to the Rtl process, or lack of expected progress, over a substantial period of time, may suggest the student could be eligible. Data may also indicate a student requires a comprehensive evaluation in particular areas, such as serious behavioral issues documented over time by the student's teachers and school staff. In circumstances where the District has grounds to reasonably suspect a disability, the student is entitled to certain legal protections, such as a manifestation determination review in the discipline context, even without a formal declaration of eligibility.

### **Functional Behavior Assessment**

A Functional Behavior Assessment (FBA) is a process for developing a useful understanding of how a student's behavior is influenced by or relates to the environment. An FBA attempts to discover the purposes, goals, or functions of a student's behavior and identify the conditions under which the behavior is most likely and least likely to occur. It identifies clear, predictive relationships between events in the student's environments and occurrences of the target behavior.

The FBA team members conduct the FBA. Once a hypothesis is formulated regarding the possible function of the target behavior, interventions are developed to provide the

student with pro-social behavior that will meet the student's needs. Effective behavior intervention plans (BIPs) are hypothesis-driven and address the causes of the student's behavior.

An FBA can be implemented as an intervention within the established Response to Intervention (RtI) framework. It can also be recommended at any time for a student presenting with behavior challenges. Teams can consider an FBA/BIP when:

- A behavior contract or behavior plan is not successful
- Behavior results in a recommendation for In-School Suspension (ISS) or Out-of-School Suspension (OSS)
- Behavior results in a total of ten (10) days or more of accrued OSS
- Behavior results in a pattern of removals, including removals from class
- Before considering Alternative Education for behavior
- A student has not yet been determined eligible for special education and related services under IDEA and who has engaged in behavior that violates the code of student conduct

Determining a pattern of removals depends on assessing if the student's behavior is substantially similar to the behavior in previous incidents that resulted in the series of removals, including such factors as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another.

Short removals for separate unrelated incidents of behavior over the course of the academic year would not constitute a pattern. Administrators are advised to keep careful records on the number and length of removals, descriptions of the misconduct that leads to the removals and the proximity to one another.

Please refer to the ***Functional Behavior Assessment and Behavior Intervention Plans*** manual for detailed information on developing FBA/BIPs. The manual is available at every school.

### **Testing Accommodations**

The determination of appropriate accommodations in assessment situations for students with disabilities is based on the individual needs of the student. Decisions on accommodations are made by the 504 Team and documented on the 504 Plan. Students with active 504 Plans may be eligible to receive accommodations on both district and state assessments, but such accommodations are never automatic.

Appropriate testing accommodations may include:

- Should facilitate an accurate demonstration of what students know or can do
- Must not provide the student with an unfair advantage
- Must not interfere with the validity of a test
- Must not change the underlying skills that are being measured by the test
- Are based on current instructional accommodations and accessible

- instructional materials used by the student in the classroom
- Must be necessary for enabling the student to demonstrate knowledge, ability, skill, or mastery

Appropriate testing accommodations for standardized testing may include:

- Flexible presentation
- Flexible response options
- Flexible scheduling
- Assistive technology devices
- Unique accommodations

Section 504 Teams must be specific regarding the amount of extended time for standardized testing up to 100 percent additional time.

Unique accommodations usually involve alterations of existing test materials. In addition, they must be regularly used by the student for classroom instruction and must not alter the underlying content of the assessment. Each unique accommodation must be approved by the Commissioner of Education prior to its use. Written requests for unique accommodations must be forwarded to District level staff for review and approval. District level staff submits all requests for unique accommodations to FLDOE.

Accommodations for standardized tests must be documented on the 504 Plan form under the “Standardized Test Taking” section. Unless the 504 Plan denotes specific accommodations for standardized tests, the student cannot receive accommodations.

The 504 Plan must include the name of the standardized test, the subject area(s), and accommodation(s) needed for each subject area.

- A Section 504 Team MUST be convened, with parental notice, to determine accommodations for standardized testing, unless this determination was made at the time of eligibility, or at the time of a plan update, and the accommodation(s) does appear on the active 504 Plan under the section for standardized tests.
- The 504 Team MUST look at current data on the individual’s performance on all types of testing situations, and any history of performance on standardized tests, to determine a student eligible for accommodations on state or district assessments.
- It is rare that a student be eligible for accommodations on a standardized test if the student has no accommodations for classroom testing situations. However, a student could have accommodations on classroom tests and not be eligible for accommodations on standardized tests if the Section 504 Team made this determination based on the performance data on standardized and other testing situations.

There are no exemptions from District or state assessments for students with active 504 Plans. However, the 504 Team must determine whether a student with a 504 Plan may

need testing accommodations. Testing accommodations are determined by the 504 Team.

If a student with a 504 Plan receives standardized testing accommodations, the code 504 must be entered on the bottom of the A-23 screen. The 504 code must be specific to the subject.

### **Discipline of Section 504 Students**

Whenever a student displays a pattern of behavior that interferes with their learning or the learning of others, a 504 Team should consider the need for behavior interventions or a behavior management plan that includes alternatives to suspension. The nature of the disability should be considered when developing and implementing behavior management strategies and discipline.

When a student with a disability commits a violation of the code of student conduct that would result in 10 cumulative days of suspension or expulsion, or a long-term suspension or expulsion (exceeding 10 days), a manifestation staffing must be conducted to determine whether or not the student's misconduct was a manifestation of the student's disability. The District must provide parents with prior notice of the manifestation determination review and invite them to participate.

If the District determines that the misconduct was caused by, or had a direct and substantial relationship to the disability, or a direct result of the District's failure to implement the 504 Plan, then the 504 Team shall modify the 504 Plan. If the misconduct was not caused by, or did not have a direct and substantial relationship to the disability, or was not a direct result of the District's failure to implement the 504 Plan then the District may implement its normal disciplinary procedures.

Note that if the District is deemed to have known of or reasonably suspected a student's disability before imposing long-term discipline, its failure to conduct a prior manifestation determination review may violate provisions of the Section 504.

School Board Policy 5.1891, "Discipline of Students Eligible for Services Under Section 504 of the Rehabilitation Act of 1973 ('Section 504') and Americans with Disabilities Act ('ADA')," refers to students with active 504 Plans and addresses suspension, expulsion and reevaluation. To view the policy, go to: <http://www.palmbeach.org/policies/>.

The Manifestation of Disability Determination Process for Students with 504 Plans, (PBSD 2209), has been developed to assist in the manifestation determination process. Please refer to Appendix for this form.

### **Choice and Charter Programs**

After each semester or trimester, the 504 Designee will access, through EDW, grades for students with active 504 Plans. If a student's GPA falls below acceptable Choice Program (magnet, career academy and choice) or Charter Program criteria as defined by the school, a copy of 504 procedural safeguards and parent notification of a 504

Team meeting will be sent to the parents along with the parent notification/contract regarding impending probation.

The 504 Team will review the 504 Plan, including documentation of accommodations. Determination will be made on an individual student basis to determine if the performance is related to the disability. The accommodation plan will be updated, as needed.

### **Extracurricular and Nonacademic Services**

Section 504 affords students with disabilities an equal opportunity in extracurricular activities and nonacademic services. Section 504 protections are available to students identified as disabled under either Section 504 or IDEA in regard to extracurricular activities and nonacademic services. Section 504 regulations prohibit exclusion from, or denial of the benefits of an extracurricular activity on the basis of disability, assuming the student is otherwise qualified to participate.

Section 504 applies to District-sponsored nonacademic program such as day care, after-school care and summer recreation programs, requiring the District to offer meaningful and equal access. The provision of reasonable accommodations is assessed on an individual basis, and must not present an undue burden or alter the fundamental nature of the particular nonacademic program.

Students with 504 Plans and IEPs implemented during the academic day are eligible for Section 504 accommodations while participating in extracurricular activities and nonacademic services. An individualized 504 Plan designed with individualized, reasonable accommodations is afforded the student during these activities.

It is always imperative that there be effective communication and shared knowledge between a school's 504 Designee, the ESE Contact and the administrator(s) of the extracurricular activities and nonacademic services. Additionally, staff training may be needed.

Section 504 Accommodations/Extracurricular Activities and Nonacademic Services (PBSD 2103) is to be utilized to formalize accommodations for students under ADA/504 and IDEA specific to extracurricular and nonacademic services.

### **Summer Academic Programs**

For students with 504 Plans who will be attending summer academic programs, you should pony a copy of their 504 Plans to your school's summer school feeder sites. Address the pony envelope as follows: Summer Site Administrators.

You must document in each student's 504 file that you have forwarded the 504 Plan to the attention of the summer site administrator. Be certain to include the date that you forwarded the plan and your signature.

## **Monitoring and Updating**

The 504 Plan documents each of the accommodations required to ensure the student receives FAPE and has an equal opportunity to access the general education curriculum. If a 504 Team decides to make any alteration to the 504 Plan, the change must be documented in the 504 Plan.

A parent or guardian must be notified of any proposed changes to the 504 Plan and given the opportunity to provide input on decisions made by the 504 Team. 504 Plans should be reviewed annually, at a minimum. Teachers may refer a student with a 504 Plan to the SBT or 504 Team, as warranted.

504 Plans are monitored by retaining copies of Edline, progress reports and/or report cards in the file. If the progress document shows more than one “D” or “F”, (or what shows similar progress on the elementary report card) the plan must be reviewed.

## **Student Progression Plans**

Please refer to the current student progression plans for elementary, middle and high school students.

## **Student Absences**

When a student on an active Section 504 Accommodation Plan has been in attendance for less than ninety (90) percent of class time, the student must demonstrate mastery. In each case, the Multi-Disciplinary Team must meet to determine if the absences are caused by the disability on record. If the Multi-Disciplinary Team determines the absences are caused by the student’s disability, the student’s placement must be reevaluated for appropriateness.

The Section 504 Accommodation Plan must address any additional accommodations, strategies, and/or interventions needed, to ensure that the student has an equal opportunity to demonstrate course mastery, pass the nine-week assessment, and/or earn passing grades.

## **Progress Monitoring Plans**

Refer to the District’s current Student Progression Plan to identify and implement the appropriate monitoring plan process for students at each academic level.

## **Reevaluation**

Reevaluations must be conducted periodically. A 504 Team meets to reevaluate a student prior to a significant change of placement. A significant change of placement is an exclusion from the educational program of more than 10 school days, such as a suspension or a recommendation for expulsion, transferring a student from one type of program to another or terminating or significantly reducing a related service.

## **Inactive 504 Status**

As a student progresses, it may become evident that accommodations may no longer be needed. In such cases, the school multi-disciplinary team should proceed as follows:

Step 1: Notify parent/guardian, using PBSO 1467, that the multi-disciplinary team will be meeting to establish a formal trial period of one semester or trimester without accommodations listed on the current active Section 504 Plan.

NOTE: If during the trial period the student demonstrates unsuccessful performance: notify the parent that the 504 Team will meet to determine if the unsuccessful performance is due to the disability of record, and will implement accommodations as appropriate per the current Section 504 Plan with additions as needed.

Step 2: After the trial period without accommodation, notify the parent that the 504 Team will meet to determine inactive status.

Step 3: At the 504 Team meeting, if the current data from the trial period indicates that the student has been successful without accommodations, complete the eligibility section on the ADA/504 Record Form-PBSO 1468.

Step 4: Update A-23 screen status-enter "I" for inactive under "ST" for status. Date change is not necessary.

## **Transfer Students with 504 Plans**

A transferring 504 student is a student who was previously enrolled in any other school or agency with an active 504 Plan and who is enrolling in a Florida school district. Upon notification that a transferring student is one with an active 504 Plan, the receiving school must review the existing 504 Plan and supporting documentation and revise as needed.

If a group of persons at the receiving school district, including persons knowledgeable about the meaning of the evaluation data and knowledgeable about the placement options determines that the 504 Plan is appropriate, the District is required to implement it. If the district determines that the 504 Plan is inappropriate, the District must evaluate the student consistent with Section 504 procedures and determine which educational program is appropriate.

## **Data Entry**

Schools must input the 504 Plan date (date of eligibility) on the TERMS A-23 screen. Your school's data processor is authorized to input the data. Input the eligibility date for new students that have just been determined eligible or for existing students if the date of their plan does not appear on a J-panel printout of the A-23 screen. The date under "504" on the A-23 screen remains the date of original eligibility. Under ST (status), a "P"

denotes active status, with plan, an “A” denotes active status, no plan, a “T” denotes temporary plan and an “I” denotes inactive status.

Enter “I” for inactive only when the 504 team has made this determination. NOTE: If an active Section 504 student is determined eligible for ESE services and placed on an IEP, the status section for 504 automatically goes to “I” inactive when the IEP data is entered.

### **Service Animals**

Both Title II of the ADA and Section 504 recognize that service animals can be reasonable modifications or accommodations for students with disabilities. This means that the District cannot unilaterally prohibit the use of service animals deemed necessary for a student to access a District program.

Service animal decisions for a Section 504-eligible child, regarding the need for and integration of a particular service animal, must be individually decided by the child’s Section 504 Team, taking into account the parents’ actively solicited input and participation. The Team must carefully evaluate whether the requested animal is necessary to provide the child accommodations to ensure the child receives a free appropriate public education (FAPE). While the District must always consider the parents’ input, the final decision is the District’s, as the District is ultimately responsible for providing a FAPE. Parents cannot demand that a service animal be allowed in school, just as they may not dictate the form or manner of other services, methodologies, modifications or accommodations.

### **Restraint**

The legal obligation to establish documentation, and report the use of seclusion and restraint for students with disabilities, applies to students with active Section 504 Accommodation Plans.

Physical restraint is defined as a personal restriction that immobilizes or reduces the ability of a student to move his or her torso, arms, legs, or head freely. It does not include a physical escort such as the temporary touching or holding of the hand, wrist, arm, shoulder or back for the purpose of inducing a student who is acting out to walk to a safe location. Restraint is only to be used in an emergency situation and there must be imminent risk of injury or death to the student or others. A restraint may never be used as a punishment. Only trained personnel are permitted to utilize restraints.

Seclusion is the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. It does not include timeout, which is a behavior management technique that is part of an approved program, involves the monitored separation of the student in a non-locked setting, and is implemented for the purpose of calming. School personnel may not close, lock or physically block a student in a room that is unlit and the student must be consistently supervised.

A staff member at each school is assigned as a mandated reporter to complete and submit incident reports. The content of the incident report is stipulated by law.

### **John M. McKay Scholarships for Students with Disabilities**

Students with active 504 Plans may be eligible to participate in the John M. McKay Scholarship Program for Students with Disabilities, a parental choice program offering both private and public school choice options. Parent information is available through the Florida Department of Education website at: [www.floridaschoolchoice.org](http://www.floridaschoolchoice.org) or 1-800-447-1636. Parents may also be referred to the District's McKay Contact at (561) 434-8626 or the District ESE website at: [www.palmbeachschools.org/ease](http://www.palmbeachschools.org/ease).

### **Records Management**

When a student moves out of county, forward the student's 504 file along with the cumulative file.

When a student has/had a temporary 504 Plan, the documentation stays in the 504 file and moves with the student's cumulative file, even if inactive.

When ineligibility is determined for a student under 504, establish a 504 file. The 504 file moves with the student's cumulative file.

When a 504 student meets eligibility for ESE, keep a copy of the eligibility in the student's 504 file. Necessary accommodations are transferred to the IEP.

DO NOT use white correction fluid or tape. Cross out, initial and date all errors or changes.

### **Transportation**

Students who live under the two-mile transportation rule may be eligible for transportation, due to the impact of a temporary or permanent disability.

Parent/teacher/504 Designee/other refers student with transportation need to 504 Team.

504 Designee provides parent/guardian with parent notice/procedural safeguards (PBSD 1467), and Release or Transfer of Student Information (PBSD 0313).

Physician/medical doctor provides school with information documenting the need for transportation and the estimated duration of the need for the requested transportation.

504 Designee schedules the 504 Team eligibility meeting.

At the 504 Team eligibility meeting:

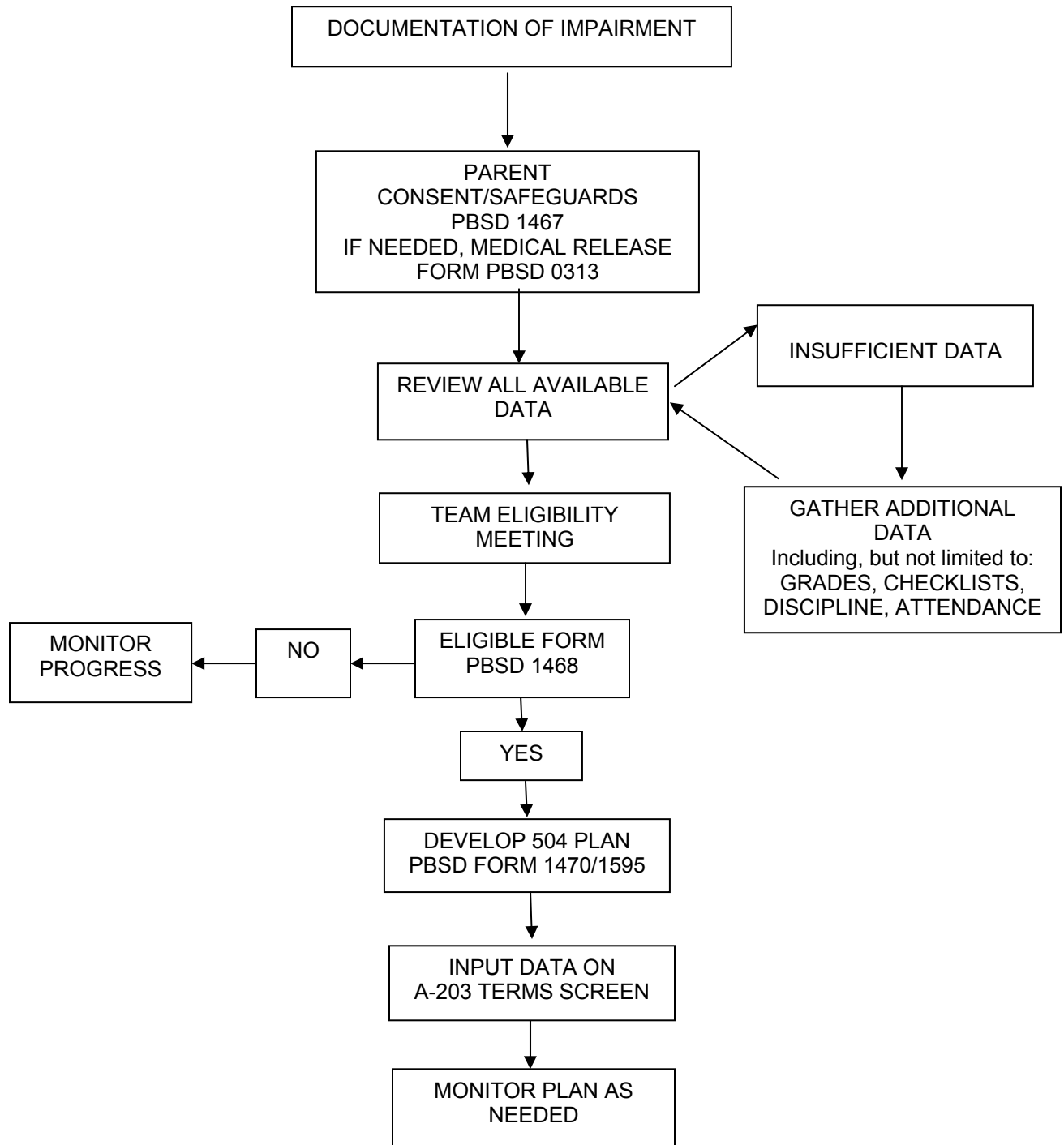
- If the Team reviews the medical report and finds information sufficient to determine a need for transportation, complete the eligibility section on PBSD

1468, complete PBS 1848 (Transportation Request for Special Needs Student) via Liquid Office.

- If the Team reviews the medical report and finds information insufficient to determine need for transportation, complete the eligibility section on PBS 1468 as insufficient need.

Fax the 504 Plan to the appropriate transportation compound. Allow up to ten (10) business days for processing. When the need for transportation is temporary, contact the Transportation Department to advise when transportation is no longer necessary.

## Section 504 Process Flowchart



## Appendix

### Optional Section 504 Articulation Sheet:

Elementary.....	40
Secondary.....	41
Optional Student Information Checklist .....	42
Section 504 Compliance Checklist.....	43-44
Diabetes Type 1 Section 504 Plan*.....	62-71
Acknowledgements .....	72

## Forms

Available on: [www.palmbeachschools.org](http://www.palmbeachschools.org)

Section 504/ADA Parental Notification and Consent (PBSD 1467)

Parental Notice of Procedural Safeguards Section 504/ADA (PBSD 1467)

ADA/504 Conference Record\* (PBSD 1468)

Section 504 Accommodation Plans:

Elementary\* (PBSD 1470)

Middle/High School\* (PBSD 1595)

Section 504 Accommodations for Extracurricular Activities and Nonacademic Services\* (PBSD 2103)

Conference Record\* (PBSD 1051)

Conference Record Continuation\* (PBSD 1051A)

Release or Transfer of Student Information (PBSD 0313)

Transportation Request for Special Needs Student (PBSD 1848)

Manifestation of Disability Determination Process for Students with Section 504 Plans (PBSD 2209) \*available in multiple languages

**OPTIONAL FORM TO COMPLETE AND SEND  
TO RECEIVING SCHOOL AS CONFIDENTIAL RECORDS**

**SECTION 504 ARTICULATION SHEET  
ELEMENTARY**

SENDING SCHOOL NAME: \_\_\_\_\_ DATE: \_\_\_\_\_

SECTION 504 DESIGNEE/OTHER: \_\_\_\_\_

RECEIVING SCHOOL NAME: \_\_\_\_\_

RECEIPT SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

POSITION: \_\_\_\_\_

COMMENTS: (if applicable) \_\_\_\_\_

Student Name	Disability	Medication (Circle one)	Date of Plan (leave blank if Terms A-23 shows date)	Additional Programs (complete only if needed)
1.		Y N		
2.		Y N		
3.		Y N		
4.		Y N		
5.		Y N		
6.		Y N		
7.		Y N		
8.		Y N		
9.		Y N		
10.		Y N		
11.		Y N		
12.		Y N		
13.		Y N		
14.		Y N		
15.		Y N		

**OPTIONAL FORM TO COMPLETE AND SEND  
TO RECEIVING SCHOOL AS CONFIDENTIAL RECORDS**

**SECTION 504 ARTICULATION SHEET  
SECONDARY**

SENDING SCHOOL NAME: \_\_\_\_\_ DATE: \_\_\_\_\_

SECTION 504 DESIGNEE/OTHER: \_\_\_\_\_

RECEIVING SCHOOL NAME: \_\_\_\_\_

RECEIPT SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

POSITION: \_\_\_\_\_

COMMENTS: (if applicable) \_\_\_\_\_

Student Name	Disability	Medication (Circle one)	Date of Plan (leave blank if Terms A-23 shows date)	Additional Programs (complete only if needed)
1.		Y N		
2.		Y N		
3.		Y N		
4.		Y N		
5.		Y N		
6.		Y N		
7.		Y N		
8.		Y N		
9.		Y N		
10.		Y N		
11.		Y N		
12.		Y N		
13.		Y N		
14.		Y N		
15.		Y N		

## OPTIONAL STUDENT INFORMATION CHECKLIST

Date: \_\_\_\_\_

Please complete this from on \_\_\_\_\_ Return it to \_\_\_\_\_ by \_\_\_\_\_  
Student Name 504 Designee/other Date

Grade: (elementary only) \_\_\_\_\_

Subject: (Circle for Middle/High) Math Reading Language Science Social Studies Other \_\_\_\_\_

### ACADEMIC PERFORMANCE (check one)

Excellent     Satisfactory     Unsatisfactory     Failing Grade (middle/high only) \_\_\_\_\_

PRODUCTIVITY ITEMS: Rate only if they apply to your grade/subject.

4 = almost always                  3 = frequently                  2 = sometimes                  1 = hardly ever

*Directions: Please rate this student compared to others in your class of similar ability and cultural background.*

	4	3	2	1
Contributes to large group discussion				
Contributes to small group discussion				
Follows directions without prompting				
Keeps place in book/materials				
Keeps track of supplies needed for task				
Finishes independent work within assigned time				
Completes work				
Turns in classwork he/she finishes				
Turns in legible work				
Takes tests carefully and/or completes on time				
Completes assigned homework				
Turns in assigned homework				
Compares favorably in overall productivity with average student in class				
Concentrates on task				
Is organized				
Follows class rules				
Perseveres on task				
<b>TOTAL</b>				

SCORING: Majority of ratings in columns 1 and 2 suggest possible SUBSTANTIAL interference to learning

Teacher Signature \_\_\_\_\_

## **Section 504 Compliance Checklist**

Student \_\_\_\_\_ Student No. \_\_\_\_\_ Date \_\_\_\_\_

School \_\_\_\_\_ 504 Designee \_\_\_\_\_

Directions: Check all that apply.

### **Documentation of Disability**

\_\_\_\_ Physician's Authorization of Medication Form

\_\_\_\_ Medical/Psycho-educational/Psychiatric Evaluation

\_\_\_\_ Physician's report

\_\_\_\_ Checklist/data per attentional assessment

\_\_\_\_ Other documentation

### **Eligibility**

\_\_\_\_ Signed Parental Notification and Consent (PBSD 1467)

\_\_\_\_ Section 504 Procedural Safeguards (PBSD 1467) provided and documented on PBSD 1468

\_\_\_\_ Signed release of information (PBSD 0313), if applicable

\_\_\_\_ Requested information received, if applicable

\_\_\_\_ ADA Record Form (PBSD 1468)

\_\_\_\_ Legally compliant team

\_\_\_\_ Section 504 Plan (PBSD 1470/1595)

### **A 23 Terms Screen**

\_\_\_\_ Active, with plan ("P")

\_\_\_\_ Active, no plan ("A")

\_\_\_\_ Temporary plan ("T")

\_\_\_\_ Inactive ("I")

\_\_\_\_ Testing accommodations (504)

## **Section 504 Compliance Checklist**

### **Monitoring**

- \_\_\_ Edline, progress reports or report card
- \_\_\_ If concern, Signed Parental Notification and Consent (PBSD 1467)
- \_\_\_ Section 504 Procedural Safeguards (PBSD 1467) provided
- \_\_\_ Team meeting notes (PBSD 1051)
- \_\_\_ Revised Section 504 Plan (PBSD 1470/1595), if applicable

### **Section 504 Plan Review and Update**

- \_\_\_ Annual review, unless required more frequently
- \_\_\_ Signed Parental Notification and Consent (PBSD 1467)
- \_\_\_ Section 504 Procedural Safeguards (PBSD 1467) provided
- \_\_\_ Team meeting notes (PBSD 1051)
- \_\_\_ Updated Section 504 Plan (PBSD 1470/1595)

**Reevaluation** (Needed if significant change of placement, e.g., manifestation determination to consider suspension for more than 10 days; recommendation for expulsion or alternative educational program; or significant reduction or termination in a related service).

- \_\_\_ Signed Parental Notification and Consent (PBSD 1467)
- \_\_\_ Section 504 Procedural Safeguards (PBSD 1467) provided and documented on PBSD 1468
- \_\_\_ Signed release of information (PBSD 0313), if applicable
- \_\_\_ Requested information received, if applicable
- \_\_\_ ADA Record Form (PBSD 1468)
- \_\_\_ Legally compliant team
- \_\_\_ Revised Section 504 Plan (PBSD 1470/1595), if applicable

## **504 Plan for Diabetes**

The attached Section 504 Plan was developed by the American Diabetes Association (ADA) and the Disability Rights Education and Defense Fund, Inc. (DREDF).

*PLEASE NOTE: The basic 504 Plan is the format for this plan. However, several changes have been made in order to reflect language, policies and procedures used in Palm Beach County Schools.*

Section 504 Plan for: \_\_\_\_\_

Student Name

Student #

School: \_\_\_\_\_

School Year: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_

Birth Date	Grade	Type diabetes Disability
------------	-------	-----------------------------

\_\_\_\_\_

Homeroom Teacher	Bus Number
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### **Objectives/Goals of the Plan**

1. Identification and implementation of accommodations and modifications to ensure equal opportunities for learning and academic testing of the student with diabetes
2. Minimal disruption of the student's school schedule with minimal time out of the classroom
3. Maintenance of blood glucose levels within specific parameters as ordered by physician
4. Establish a plan to prevent hypoglycemia and hyperglycemia
5. Establish a plan to treat signs/symptoms of hypoglycemia and hyperglycemia

Note: Growth and development may require significant periodic changes in above-mentioned plans

### **References**

- School accommodations, diabetes care, and other services set out by this Plan will be consistent with the information and protocols contained in the National Diabetes Education Program *Helping the Student with Diabetes Succeed: A Guide for School Personnel*, June 2003.

### **Definitions used in this Plan**

1. **School Nurse** - A registered, licensed professional nurse (RN)
2. **School Staff** - School employees who are not licensed health care professionals. Employees must receive training by a licensed health care provider in order to assist student with special health needs. This category includes all professional teaching staff, paraprofessionals, coaches and front office employees. Training for care of a student with diabetes must be consistent with American Diabetes Association (ADA) guidelines as seen in the ADA National Standards for Diabetes Self-Management Education. This includes instruction in:
  - Signs and symptoms of hypoglycemia and hyperglycemia
  - Finger-stick blood glucose testing, testing urine for ketones and recording results
  - Appropriate steps to take when blood glucose level is outside the range as established by the physician on Physician Authorization form

- Unassisted administration of glucagon and insulin injections
  - Proper disposal of all items used
  - Recommended schedule and menu for meals and snacks, and actions to take if normal schedule is disrupted
- 3. Additional School Staff** - Includes cafeteria employees, bus drivers and attendants. Will be trained by licensed health care provider, but will not receive training as detailed as school staff identified above. Training will include:
- Signs and symptoms of hypoglycemia and hyperglycemia
  - Appropriate steps to take if signs and symptoms are identified
  - Definition of emergency situation
  - Understanding of emergency plan
  - Recommended schedule and menu for meals and snacks, and actions to take if normal schedule is disrupted
- 4. Individualized Health Care Plan (IHCP)** - A nursing care plan prepared by the school nurse for any student with a relatively complex health condition or a need for an accommodation in the school environment due to a health condition. The RN creates the IHCP, using the most current standards and information on nursing care as well as input from the physician, family and student.
- The IHCP:
- Helps to create a safer process for delegation of nursing care in the school setting
  - Ensures continuity of care as students transition from home to school or if a new school nurse is assigned to the school
  - Is legal protection for student and staff with documentation of proper plans and safeguards.
- 5. Emergency Care Plan (ECP)** - A nursing care plan which includes procedural guidelines indicating person to call and other information to be used when a predictable emergency occurs. The ECP is shared, **only** with parental consent, with the school principal and specific school staff persons who have a “need to know.”
- 6. Physician Authorization** - Form entitled “Physician Authorization for Diabetes Medication Only” that is completed by the physician, signed by the physician and parent/guardian. This is necessary to provide care in school for the student with diabetes. The original form is on file in the Health Room.

## **Academic Related Accommodations**

### **1. Health Care Supervision**

At least three adult staff members, designated by the school principal, will receive training by an RN to provide care for the student with diabetes. Care of the student must be available the entire school day, as well as extracurricular activities, field trips, etc., in order to oversee the student's health care in accordance with this Section 504 Plan and the student's IHCP. The training must include administration of, or supervision of, insulin and glucagon injections. For pump users, this includes programming and troubleshooting the student's insulin pump, blood glucose testing, testing for ketones, and response to hypoglycemia and hyperglycemia reactions. The RN instructor will monitor performance of staff members on a regular basis to assure safe care of the student.

### **2. Trained Personnel**

The following school staff members, including but not limited to school administrators, teachers, counselors, paraprofessionals, cafeteria workers, media center staff, and bus drivers will be trained for the following procedures:

<b>PROCEDURE</b>	<b>SCHOOL STAFF</b>	<b>DATE</b>	<b>INST. INITIALS</b>

Instructor: \_\_\_\_\_

Instructor: \_\_\_\_\_

### **3. Student's Level of Self-care and Location of Supplies and Equipment**

3.1 As stated in the attached IHCP:

- (a) The student is able to perform the following diabetes care tasks without help or supervision:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

and the student will be permitted to provide this self-care at any time and in any location at the school, at field trips, at sites of extracurricular activities, and on school buses.

- (b) The student needs assistance or supervision with the following diabetes health care tasks:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- (c) The student needs a school nurse or trained designee to perform the following diabetes care tasks:

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- 3.2 The student will be permitted to carry the following diabetes supplies and equipment with him/her at all times and in all locations:

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- 3.3 Diabetes supplies and equipment that are not kept on the student and additional supplies will be kept at:

---

- 3.4 Parent is responsible for providing diabetes supplies and food to meet the needs of the student.

**4. Snacks and Meals**

- 4.1 The school nurse will work with the student and his/her parent/guardian to coordinate a meal and snack schedule in accordance with the attached Physician Authorization. The student's schedule will match with classroom schedule as closely as possible. The student should eat lunch at the same time each day and must be allowed enough time to finish lunch. Lunch should be scheduled earlier if the student repeatedly experiences hypoglycemia. A snack and fast-acting source of glucose must always be available regardless of location of the student.

- 4.2 The parent/guardian will supply snacks for daily use as well as extra snacks for emergency use. The school nurse may request a snack supply from the cafeteria manager.

- 4.3 All school personnel will allow the student to eat a snack at designated time per Physician Authorization, and for emergency use, regardless of location.

- 4.4 A designated school staff member will ensure that the student eats snacks and meals at the specified time each day, regardless of location.

- 4.5 The attached Physician Authorization details the regular time for snacks each day, what constitutes a snack, when the student needs additional snacks. The location of snacks: \_\_\_\_\_.

**5. Exercise and Physical Activity**

- 5.1 The student shall be permitted to participate fully in physical education classes and team sports except as set out in the student's Physician's Authorization.

- 5.2 Physical education instructors and sports coaches will have a copy of the student's care plan and be able to recognize and assist with the treatment of low blood glucose levels.

5.3 Responsible school staff members will make sure that the student's blood glucose meter, a quick-acting source of glucose, and water is always available at the site of physical education class and team sports practices and games.

**6. Water and Bathroom Access**

6.1 The student shall be permitted immediate access to drinking water without restriction, either own water bottle or use a drinking fountain.

6.2 The student shall be permitted to use the bathroom without restriction.

**7. Treatment of Hypoglycemia/Hyperglycemia**

7.1 Follow directions on Physician Authorization and ECP to treat signs/symptoms of hypoglycemia and hyperglycemia.

7.2 The student shall have unrestricted access to blood glucose testing equipment, insulin and syringes in case he/she experiences signs/symptoms of hypoglycemia or hyperglycemia. The student shall be allowed to carry all equipment at all times. In addition, the student must also carry snacks and a form of glucose (glucose gel or tablets) for treatment of symptoms of hypoglycemia. Testing and treatment must be initiated as soon as symptoms are suspected.

7.3 When a student exhibits symptoms of hypoglycemia or hyperglycemia, his/her blood glucose level should be checked at the student's present location. The student, regardless of age, should not walk unattended to the Health Room, or anywhere, if there is any suspicion of alteration of blood glucose level. An adult must accompany the student in this situation.

7.4 If a staff member finds a student unconscious, he/she will immediately notify the First Responder, per school's emergency plan. Refer to the ECP for procedures specific to this particular student.

7.5 The location of supplies for testing and treatment of alteration in blood glucose level:

ITEM	LOCATION
GLUCOMETER	
INSULIN	
SYRINGES	
GLUCAGON	
KETONE STRIPS	
SNACKS	
GLUCOSE TABS, GEL	
OTHER	

## **8. Blood Glucose Testing**

- 8.1 PBC School District's policy states that the parent/guardian has the responsibility to notify school administration in advance that the child will use a glucose monitoring device in school. In addition, the student is responsible to show the monitoring device to his/her teachers and school administration at the start of use of the glucose monitoring device.
- 8.2 Blood glucose testing will be done in accordance with the level of self-care determined in the Physician's Authorization.
- 8.3 The school nurse will determine whether the student demonstrates the ability and maturity to check own blood glucose level. Blood glucose testing may be performed at almost any location at school, except in the restrooms. Acceptable locations for testing are as follows: Health Room, classroom, field trip, and school bus (in an emergency situation only).
- 8.4 Blood glucose testing will be performed as needed if the school nurse or school staff suspects a high or low reading due to symptoms exhibited by the student.
- 8.5 The student's blood glucose parameters are found on the Physician Authorization.

## **9. Insulin Injections**

- 9.1 The student shall be provided with desired level of privacy for blood glucose monitoring and insulin administration and any other procedure necessary for diabetes management.
- 9.2 Insulin will be administered in accordance with the level of self-care and in accordance with the Physician Authorization.
- 9.3 The location of insulin and equipment to administer insulin is listed in this Plan.

## **10. Field Trips and Extracurricular Activities**

- 10.1 The student will be permitted to participate in all field trips and extracurricular and nonacademic activities without restrictions. All accommodations as described in the Section 504 Plan and Physician Authorization will be provided.
- 10.2 A trained staff member will accompany the student on all field trips and extracurricular activities off the school's premises. If determined necessary the trained designee will provide student's care. This includes, but is not limited to, blood glucose testing, provision of snacks and water as needed, administration of insulin per physician's orders and test/treatment for signs/symptoms of hypoglycemia and hyperglycemia. The student's parent/guardian will not be required to accompany the student on field trips or any other school activity.
- 10.3 The student's equipment for testing and treatment will be with the student when on a field trip or extracurricular activity on or off school premises.

## **11. Testing, Classroom Work and Monitoring**

- 11.1 If the student has high or low blood glucose reading at the time of regular testing, the student will be permitted to repeat the test at another time without penalty.

- 11.2 The student will be given extra time, as needed, without penalty for the following: complete classroom work, test blood glucose level, eat a snack, drink water, treat symptoms of hypoglycemia or hyperglycemia and use the bathroom.
- 11.3 The student shall not be penalized for absences required for medical appointments and/or for illness. The parent will provide documentation from the treating health care professional if otherwise required by school policy.
- 11.4 Mid-term reports, grade card and individual school student progress reports should be used to monitor the success of the Section 504 Plan. It is a recommended best practice for the 504 designee to place copies of the above in the student's 504 file. If the progress reports, grade cards, etc. indicate that the student is unsuccessful, or if there is documentation of an additional disability, or retention is being considered, the parent/guardian will be notified. The team must then review the 504 Plan and update with the intent to increase the opportunity for success.
- 11.5 When a student on an active Section 504 Plan has been in attendance for less than 90% of class time, the student must demonstrate mastery. The multidisciplinary team must meet to determine if the absences are caused by the disability on record. If the Team determines the absences ARE caused by the disability of record, the Team would look at providing extra time or other accommodations as determined appropriate by that Team for that student to have an equal opportunity to demonstrate mastery/pass the nine-week assessment and/or earn a passing grade.

## **12. Changes in Daily Schedule, Substitute Teachers, and Communication**

- 12.1 The school staff will make every effort to contact the parent/guardian and school nurse **two** days in advance when there will be a change in planned activities such as exercise, playground time, field trip, party, or lunch schedule. This information is needed to make necessary changes with meal and snack times.
- 12.2 The classroom teacher must provide the substitute teacher with written instructions regarding the student's care, including a list of persons trained to care for the student.
- 12.3 The school nurse will share confidential medical information with school staff on a "need to know" basis **only** with written consent from the parent/guardian.
- 12.4 All school staff will maintain confidentiality of student's medical information except to the extent that the student decides to share personal information with others.
- 12.5 Encouragement is essential. The student will be treated in a way that encourages the student to eat snacks on time and to progress toward self-care with his/her diabetes management skills.

## **13. Emergency Evacuation and Lock-Down Situations**

- 13.1 In the event of an evacuation or a lock-down situation, the school nurse, trained designee or emergency responder will provide diabetes care to the student as outlined by this Plan, will be responsible for transporting the student's diabetes supplies and equipment, will attempt to establish contact with the student's parents/guardians and provide updates, and will receive information from parents/guardians regarding the student's diabetes care.

13.2 In code red lock-downs, there is no movement of staff or students on campus and no communication by phone or walkie talkie. Preparations should be in place per this Plan for the student to either have all essential diabetic supplies (glucose tabs, cake gel, complex carbs/protein snacks, etc.) and a copy of the Diabetes School Staff Response Tool\*\* either in a pouch on his/her person, or in each classroom the student is in throughout the day, including specials and physical education.

\*\*Available from the school nurse

**14. Parental Notification**

**14.1 *Notify parents/guardians immediately in the following situations:***

- Symptoms of severe low blood sugar such as continuous crying, extreme tiredness, seizure, or loss of consciousness
- The student’s blood glucose test results are below \_\_\_\_\_ or are below \_\_\_\_\_ 15 minutes after consuming juice or glucose tables
- Symptoms of severe high blood sugar such as frequent urination, presence of ketones, vomiting or blood glucose level above \_\_\_\_\_
- The student refuses to eat or take insulin injection or bolus
- Any injury
- Insulin pump malfunctions cannot be remedied
- Other: \_\_\_\_\_

**14.2 Emergency Contact Instructions**

Call parent/guardian at numbers listed below. If unable to reach parent/guardian, call the other emergency contacts or student’s health care providers listed below.

**Emergency Contacts:**

_____	_____	_____	_____
Parent’s/Guardian’s Name	Home Phone Number	Work Phone Number	Cell Phone Number
_____	_____	_____	_____
Parent’s/Guardian’s Name	Home Phone Number	Work Phone Number	Cell Phone Number

**Other emergency contacts:**

_____	_____	_____	_____
Parent’s/Guardian’s Name	Home Phone Number	Work Phone Number	Cell Phone Number
_____	_____	_____	_____
Parent’s/Guardian’s Name	Home Phone Number	Work Phone Number	Cell Phone Number

**Student’s Health Care Provider(s):**

_____	_____
Name	Phone Number
_____	_____
Name	Phone Number

15. Review

All 504 Plans are reviewed annually unless checked otherwise:

\_\_\_\_\_ Weeks \_\_\_\_\_ Months

- Start of Marking Periods                       Semester

People Involved in Development of This Plan Must Sign Below:

\_\_\_\_\_  
PARENT/GUARDIAN

\_\_\_\_\_  
PARENT/GUARDIAN

\_\_\_\_\_  
504 CONTACT

\_\_\_\_\_  
STUDENT

\_\_\_\_\_  
PRINCIPAL

\_\_\_\_\_  
SCHOOL PSYCHOLOGIST

\_\_\_\_\_  
TEACHER

\_\_\_\_\_  
AREA RESOURCE TEACHER

\_\_\_\_\_  
TEACHER

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## **Acknowledgements**

The Department of Exceptional Student Education would like to thank the Area Superintendents, the Principals, and the school personnel who serve as the District's Section 504 building Designees. The time, energy, effort and expertise they have dedicated to this task has not gone unnoticed. Throughout previous years, these persons have played, and continue to play, a pivotal role in insuring the rights of our disabled students. We extend a special thanks to the ADA/504 Procedural Manual Committee for their suggestions, support and contributions.

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