

## I. SECTION 504 OVERVIEW

Section 504 of the Rehabilitation Act of 1973 provides as follows:

**No otherwise qualified individual with disabilities in the United States shall, solely by reason of her or his disability, as defined in Section 706(8) of this title, be excluded from the participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance or under any program or activity conducted by any executive agency or by the United States Postal Service.**

**(29 U.S.C. Sec. 794)**

Section 504 refers to a subsection of the Rehabilitation Act of 1973, as amended through Public Law 102-569 in 1992. It is a civil rights or equal opportunity law. Section 504 prohibits discrimination against persons with disabilities, both students and staff members, by school districts that receive federal financial assistance. This includes all programs or activities of a school district that receives federal funds, regardless of whether or not a specific district program or activity is a direct recipient of federal funds.

The Americans with Disabilities Act Amendments Act of 2008 (ADAAA), effective January 1, 2009, emphasizes that the definition of disability should be construed in favor of broad coverage of individuals to the maximum extent permitted by the terms of ADA.

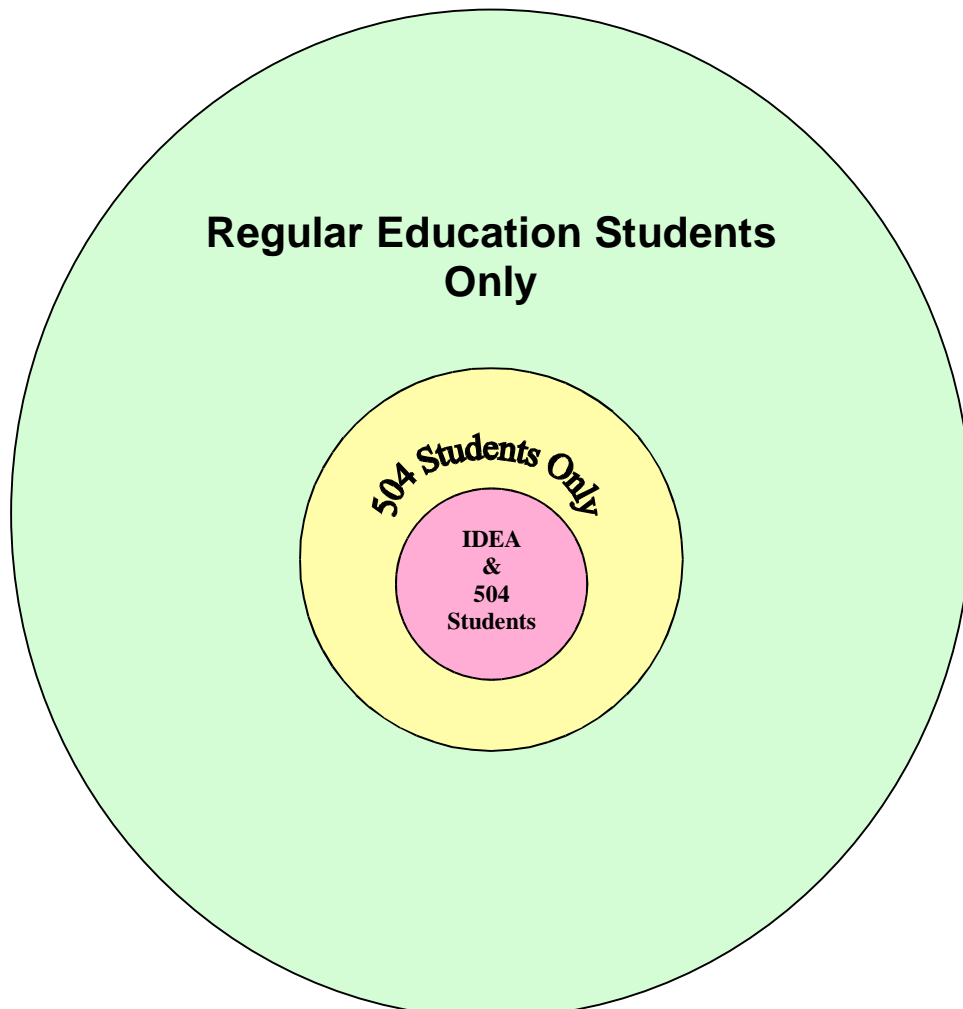
For many years, the main application of Section 504 occurred in the area of employment for individuals with disabilities. The Office for Civil Rights, U.S. Department of Education, which is charged with enforcement of Section 504, has been increasingly proactive in the field of education in an effort to ensure that students with disabilities have an equal opportunity to access, participate in, and derive benefits from public education programs. Similarly, advocacy organizations and the legal system have increasingly focused on Section 504 requirements to ensure that the education system provides a full range of reasonable accommodations and services for students with disability-related educational needs. The following overview focuses on public education issues for students with disabilities and their parents and legal guardians under Section 504 (subparts C and D).

### SECTION 504 VERSUS SPECIAL EDUCATION

Section 504 is not an element or aspect of special education, as most educators currently know it. All students who are identified as having disabilities under the Individuals with Disabilities Education Act (IDEA), Public Law 105-17, are also considered to have disabilities under Section 504. Consequently, all special education students are entitled to protection under Section 504. In contrast, not all students who are determined to have disabilities under Section 504 will meet the eligibility requirements for disabilities under the IDEA.

In many respects, the Section 504 regulations parallel the requirements of the IDEA and state law pertaining to special education. Section 504 requires that students with disabilities be provided a Free Appropriate Public Education (FAPE), as does the IDEA. Section 504 regulations also require identification and evaluation practices, the provision of appropriate services, and procedural safeguards relative to the operation of every public school. In these parallel areas, by fulfilling the special education requirements identified in the IDEA and state law, a school district is also meeting Section 504 regulatory requirements for students with disabilities who are eligible for special education.

In some other respects, the requirements of these two federal laws are significantly different. The IDEA defines as eligible only those students who manifest certain specific types of disabilities and who, because of one or more of those disabilities, require special education and related services (i.e., specially designed instruction and support services). In contrast, Section 504 supports all students who manifest a physical or mental impairment which substantially limits one or more major life activities, which include functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. Section 504 is intended to protect all students with identified impairments who require educational accommodations, including those students who do not meet special education eligibility criteria under the IDEA and state law. (For more information on IDEA versus Section 504 requirements, see Appendix A.)



Students who are identified as having disabilities under Section 504 require academic adjustments by the general education staff in relation to general education services and the curriculum. These adjustments typically involve reasonable accommodations to enable the students to access, participate in, and derive benefits from the general education program. However, it must be emphasized that the development and implementation of Section 504 accommodations occurs only when the nature and extent of a student's physical or mental impairment substantially limits one or more of the student's major life activities.

**Examples.** A student who may not be covered by the IDEA but who may be protected under Section 504 is one who has juvenile arthritis. If a student has this physical impairment, but he/she does not require specially designed instruction in a special education program, then the student would not be IDEA eligible. Yet this student would still have a physical impairment and may qualify as a disabled student entitled to accommodations under Section 504 if the severity of the physical impairment substantially limits his/her ability to learn and function in school. Similar examples might involve a student with Acquired Immune Deficiency Syndrome (AIDS) or a student with Attention Deficit Hyperactivity Disorder (ADHD). Other examples of potential disabilities under Section 504 include: diabetes, spina bifida, hemophilia, chronic asthma, or severe allergies, if these impairments cause a substantial limitation on a major life activity. Students who manifest these impairments may not meet the specific eligibility criteria for special education under the IDEA, such as the Specific Learning Disabilities, Other Health Impairment, or Emotional Disturbance classifications. However, if the impairments substantially limit their ability to function at school, they would be considered to have disabilities within the meaning of Section 504 and therefore, they must be provided with reasonable accommodations and services to enable them to access, participate in, and derive benefits from the public education program.

## **OVERVIEW OF SECTION 504 POLICIES AND PROCEDURES**

If a district has reason to believe that, because of an identified or suspected disability, as defined under Section 504, a student needs reasonable accommodations in order to access, participate in, and benefit from the general education program, then the district must complete an evaluation for the student.

Section 504 evaluations need not be comprehensive, formal, psychoeducational evaluations; that is, evaluations that are specific to the referral question(s) may be adequate. What is required for a Section 504 evaluation is determined by the type of disability presented and the types of supports or services that the student may need to derive benefits from the general education program.

- **Parents must be formally notified of a proposed Section 504 evaluation or refusal to evaluate.**

- **Parental consent to evaluate** is required prior to conducting an evaluation (e.g., psychoeducational evaluation, etc.) on a student identified or suspected of having a disability if individualized assessments are needed. Parental consent to evaluate is not required if the evaluation simply involves a review of existing records and/or administering tests or other evaluations that are administered to all students without parental consent (e.g., a parent may provide the school with a copy of the student's most recent medical information, etc.).
- **A Section 504 evaluation must be sufficient** to: (1) assess the nature and extent of a student's disability, (2) identify educationally-related needs, and (3) facilitate recommendations for appropriate aids, benefits, or services.

These identification and evaluation steps **must be taken** even though the student may not be covered by IDEA special education provisions and procedures.

**Examples.** In the case of the student with juvenile arthritis, the evaluation might consist of a school-based team, with participation by the School Nurse, obtaining copies of and reviewing **all** the student's current medical records, discussing the condition with the parents/guardians, and after conferring with teachers and reviewing the student's academic performance, determining what effect the physical impairment is having on the student's ability to access and participate in educational programs and activities. In cases of students with suspected Attention Deficit/Hyperactivity Disorder (AD/HD), current educational information and behavioral checklists may be utilized as part of the assessment process, in combination with appropriate medical information, if such medical information addresses the AD/HD issue. Additional medical evaluation or testing may be necessary, if warranted.

- If the student is determined to be disabled under Section 504, then the district must **develop and implement a plan** for the delivery of necessary accommodations, aids, and services (i.e., a Section 504 Accommodation Plan).
- The determination of what accommodations and placements are needed must be made by a **multidisciplinary team** that includes persons knowledgeable about the student, the meaning of the evaluation data, and the placement options available to students.

The school-based multidisciplinary team should function and make decisions in a manner consistent with the district's Student Intervention Program (SIPP) model, which is a collaborative problem-solving model that may be used to address the educational needs of all students at risk for school failure, including students who are suspected of having disabilities. The multidisciplinary team should review the nature and extent of a student's impairment, how it affects the student's education, whether or not accommodations, aids, and services are needed, and if so, what services should be provided. (For more information on the SIPP model, see Appendix B.)

- All accommodations and services identified in a **Section 504 Accommodation Plan must be implemented as written and reviewed at least annually** (i.e.,

within a 12 month period). Any decisions pertaining to identification, evaluation, or educational placement under Section 504 must be documented in the student's cumulative file. (The "Checklist for Identification under Section 504" is identified in Appendix C. Section 504 forms are identified in Appendix D.)

**Examples.** A Section 504 Accommodation Plan for the student with juvenile arthritis might include the provision of a keyboarding course and use of a computer or some type of assistive technology to improve writing speed or to provide a less painful means of writing. For the student with Acquired Immune Deficiency Syndrome (AIDS), a Section 504 Accommodation Plan might include the administration and monitoring of medication, or a class schedule modified to address the student's stamina. For a student with Attention Deficit Hyperactivity Disorder (ADHD), an accommodation plan might include modifications to work assignments, use of a graphic organizer that includes key words for each part of an assignment, implementation of a behavior management plan that incorporates physical activity to prime and focus mental activity, counseling, social skills training activities, and/or the monitoring of medication.

- **Parents must be provided with notice of proposed educational actions or refusals to act concerning the identification, evaluation, or educational placement of the student.**

Among the procedural safeguard requirements under Section 504, parents are entitled to formal written notice of proposed or refused actions by the school district concerning the identification, evaluation, or educational placement of the student. Parents are also entitled to dispute resolution alternatives, both informal and formal, including a request for a formal impartial hearing to resolve disputes pertaining to the identification, evaluation, or educational placement of the student, or the provision of FAPE to the student.

- **Compliance with Section 504 is the responsibility of the general education program.**

Site administrators (i.e., School Principals and their building administrations) are responsible for implementation of and compliance with the provisions of Section 504. While special education personnel may participate in the Section 504 evaluation and planning process, they are **NOT** to be designated as the responsible local educational agency representative for Section 504 (i.e., the Section 504 Building Facilitator) for the purposes of implementing Section 504 protection in the schools.

#### **A Reminder:**

It is important to keep in mind that students who have physical or mental impairments that limit their ability to access, participate in, or progress in general education programs are entitled to protection under Section 504, even though they may not be eligible for special education under the provisions of the IDEA. However, it is also important that a physical or mental impairment does not constitute a "disability," for the purposes of Section 504, unless its severity is such that it results in substantial limitation to one or more of the student's major life activities.

## II. DEFINITIONS

### A. Qualified Individual

A "qualified individual" under Section 504 includes any individual who: (1) has a physical or mental impairment which substantially limits one or more of a person's major life activities, (2) has a record of such impairment, or (3) is regarded as having such impairment. (29 U.S.C. Sec. 706(8))

### B. Physical or Mental Impairment

"Physical or mental impairment" includes: (1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculo-skeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hermic and lymphatic; skin; and endocrine; or (2) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. (34 C.F.R. 104.3(j)(2)(i)), The regulatory provision does not set forth an exhaustive list of specific diseases and conditions that may constitute physical or mental impairments because of the difficulty of ensuring the comprehensiveness of such a list.

### C. Major Life Activity

"Major life activities" include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. (34 C.F.R. 104.3 (j)(2)(ii)). This list is not exhaustive. Other functions can be major life activities for purposes of Section 504. In the ADAAA, Congress provided additional examples of general activities that are major life activities, including eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, and communicating. Congress also provided a non-exhaustive list of examples of "major bodily functions" that are major life activities, such as the functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. The Section 504 regulatory provision, though not as comprehensive as the Amendments Act, is still valid – the Section 504 regulatory provision's list of examples of major life activities is not exclusive, and an activity or function not specifically listed in the Section 504 regulatory provision can nonetheless be a major life activity.

### D. Substantially Limits

The term "substantially limits" generally means that an impairment negatively affects the student's ability to learn, perform, or achieve to a marked degree (e.g., a student who is functioning at least 1 to 2 years behind his/her peers due to a physical or mental impairment; or a student who is not passing some or all of his/her classes and this is directly attributed to his/her identified physical or mental impairment). Additional changes with the ADAAA, effective January 2009, provide guidance in applying the term "substantially limits" and prohibit consideration of mitigating measures in determining whether a person has a disability.

**E. Has a Record of an Impairment**

A "record of impairment" is a history of, or prior classification as having, a physical or mental impairment which substantially limits one or more major life activities. (34 C.F.R. 104.3)

**F. Regarded as Having an Impairment**

Being "regarded as having an impairment" means that an individual: (1) has a physical or mental impairment that does not substantially limit major life activities but is treated by a recipient (e.g., school) as constituting such a limitation; (2) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (3) has none of the impairments defined but is treated by a recipient as having such an impairment." (34 C.F.R. 104.3) The ADAAA, effective January 2009, clarified that a person who is regarded as having a disability does not have to be regarded as being substantially limited in a major life activity to meet the definition of disability.

**Example:** Being "regarded as having an impairment" may be applicable to individuals with stigmatic conditions, such as an individual who have been severely scarred from burns. This condition may be perceived as a disability when, in fact, it may not substantially limit major life activities.

**Note:** Section 504 protection, under the definitions described in E and F, arises most often in the area of employment. Unless a person actually has a disabling condition, **the mere fact that he/she has a record of, or is regarded as having disabilities, is insufficient itself to trigger Section 504 free appropriate public education (FAPE) obligations.** It is uncommon for these two prongs of the definition to be used in elementary and secondary student cases.

**G. Education Records**

"Education records" are all records which: (1) contain information directly related to a student and (2) are maintained by an educational agency or institution or by a party acting for the agency or institution. (34 C.F.R. 99.3)

**Note:** The term education records does not include personal notes that are kept in the sole possession of the maker of the notes and which are not revealed to anyone but a temporary substitute, or records of a school's or school district's law enforcement unit.

**H. Equally Effective**

"Equally effective" aids, benefits, or services means equivalent as opposed to identical aids, benefits, or services. Moreover, to be equally effective, an aid, benefit, or service need not produce equal results; that is, it must merely afford an equal opportunity to achieve equal results.

**I. Parent**

"Parent" means a parent of the student and includes: (1) a natural parent, (2) a guardian, or (3) a surrogate or an individual acting as a parent in the absence of a parent or guardian.

**J. Reasonable Accommodations**

"Reasonable accommodations" means steps taken by the recipient (e.g., school) to enable a person with disabilities to perform the essential functions of a job or service or to achieve the purpose of a program under which a beneficiary is required to meet academic standards or to achieve a level of accomplishment.

**Definition Exclusions/Inclusions**

The Section 504 definition of disability was amended in 1992 to exclude the following:

Homosexuality, bisexuality, transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders; compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from illegal use of drugs.

The Americans with Disabilities Act (ADA) of 1990 also amended the Rehabilitation Act to exclude current illegal drug use from the definition of disabled when a covered entity acts on the basis of such use. However, the ADA specifically amended the Rehabilitation Act definition of "qualified individual with a disability" to include:

- Individuals who have successfully completed a supervised drug rehabilitation program and who are no longer engaging in the illegal use of drugs or have been otherwise rehabilitated successfully and are no longer using drugs;
- Individuals who are participating in a supervised rehabilitation program and are no longer using drugs; and
- Individuals who are not using drugs but are erroneously regarded as engaging in drug use.

Alcoholism is not considered a protected disability if it interferes with a person's ability to work or poses a threat to the property or safety of others.



### III. DISCRIMINATION UNDER SECTION 504

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

- A. Denies a person with a disability the opportunity to participate in, or benefit from aids, benefits, or services which are afforded individuals without disabilities.**

**Examples:** a district practice of refusing to allow any student an opportunity to be on the honor roll; denial of credit to a student whose absenteeism is related to his/her disability condition; expelling a student for behavior related to his/her disability condition; refusing to dispense medication to a student who could not attend school otherwise.

- B. Fails to afford a person with a disability an opportunity to participate in, or benefit from aids, benefits, or services that are equal to that afforded others.**

**Example:** implementing a policy where interscholastic sports eligibility is contingent on the student receiving passing grades in five subjects without regard to the student's disability condition.

- C. Fails to provide aids, benefits, or services to a person with a disability that are equally as effective as those provided to individuals without disabilities.**

**Example:** placing a student with a hearing impairment in the front row as opposed to providing him/her with an interpreter.

- D. Provides different or separate aids, benefits, or services unless such action is necessary to be as effective as the aids, benefits, or services provided to individuals without disabilities.**

**Example:** segregating students in separate classes, schools or facilities when aids, benefits and services can be provided effectively in the regular classroom.

- E. Aids or perpetuates discrimination by providing assistance to an agency, organization, or person that discriminates on the basis of disabilities.**

**Example:** sponsoring a student organization that excludes persons with disabilities.

- F. Denies a person with a disability the opportunity to participate as a member of a planning or advisory board strictly because of his/her disability condition.**

- G. Limits the enjoyment of any right, privilege, advantage or opportunity enjoyed by others.**

**Example:** prohibiting a person who is legally blind from using a service dog at school.

**H. Determines a site or location of a facility, makes selections which effectively exclude persons with disabilities, denies them the benefits of, or otherwise subjects them to discrimination.**

## **IV. ROLES AND RESPONSIBILITIES**

### **A. Section 504 Compliance**

#### **1. Information Distribution**

The Director, Student Support Services and staff provide assistance with the coordination and distribution of information to McFarland Unified School District general education programs relative to Section 504.

#### **2. Resource Coordination**

The Director, Student Support Services and staff provide assistance with the identification and coordination of resources related to Section 504 for McFarland Unified School District schools.

#### **3. Staff Development**

The Director, Student Support Services and staff prepare and present district-wide staff development activities for identified school district personnel in accordance with Section 504.

#### **4. Communication**

The Director, Student Support Services and staff serve as consultants to building facilitators.

#### **5. Complaint Resolution Process**

The Student Support Services department facilitates appropriate referrals or responses, with the necessary involvement of appropriate school personnel, School Principals and Superintendent regarding Section 504 student complaints referred to the District. District level staff will work with the parties to resolve these complaints.

### **B. Section 504 Compliance Monitors**

#### **1. Information Maintenance and Distribution**

Student Support Services assists with the maintenance of a Section 504 student database and data gathering relative to the investigation of Section 504 student complaints. The office assists in coordinating the distribution of information to McFarland Unified School District general education programs relative to Section 504.

#### **2. Resource Coordination**

Student Support Services assists with the identification and coordination of resources related to the implementation, monitoring, and review of Section 504 Accommodation Plans.

#### **3. Staff Development**

Student Support Services assists in promoting awareness of relevant issues, policies, and procedures related to Section 504 through in-service activities to internal and external audiences.

**4. Consultation**

Student Support Services assists in problem identification and problem resolution related to Section 504 through ongoing technical support to building liaisons and site-based administrators.

**C. Section 504 Building Facilitators**

All McFarland Unified School District schools are required to follow Section 504 implementation procedures, as described in Section V. These procedures include the identification of the principal or his/her designee as the "Section 504 Building Facilitator," who is the building-level compliance monitor and coordinator for Section 504 support. The Section 504 Building Facilitator may be any administrative or certificated staff member at the school, other than a special education staff member, such as an Assistant Principal, School Counselor, or General Education Teacher. Site-based special education personnel (i.e., Special Education Teachers and related services personnel) may serve as members of the Student Intervention Planning Program (SIPP) Team for Section 504 problem solving and decision-making purposes, but they are not to be designated as the Section 504 Building Facilitator for the purposes of compliance with the law.

**1. Monitoring/Tracking of Section 504 Cases**

The building facilitator is responsible for developing and maintaining a tracking log (**504.TL**) of all Section 504 referrals at his/her school. This tracking log is submitted monthly to the District 504 Coordinator. Referrals must be tracked to ensure prompt responses and to facilitate any necessary follow-up activities (e.g., recommended evaluation, accommodation plan development or review), as deemed appropriate by the Student Intervention Planning Program (SIPP) Team.

**2. Facilitating SIPP Team Activities**

The building facilitator is responsible for ensuring that appropriate meetings are scheduled with the SIPP Team and that a chairperson has been assigned for each Section 504 case. The building facilitator must ensure that all teachers and other personnel with implementation responsibilities are made aware of a student's Section 504 Accommodation Plan and the identified accommodations, aids, or services for that student.

**3. Maintaining Student Records**

The building facilitator must monitor and review Section 504 forms completion by the SIPP Team to ensure completeness and appropriateness.

**4. Notifying Concerned Parties**

The building facilitator is responsible for notifying parties including:

- Teachers and other personnel responsible for monitoring student health conditions and implementing Section 504 Accommodation Plans;

- Principals & Vice Principals, for consideration of student disabilities relative to discipline;
- Athletic Directors, when appropriate, regarding athletic activity exceptions or exemptions;
- Section 504 Coordinator, as requested (e.g., Fall and Spring requests for Section 504 updates from the schools); and
- Other Section 504 Building Facilitators, regarding student transitions and school transfers.

**5. Staff Development**

The building facilitator, principal's designee, or another site-based administrator is responsible for ensuring that appropriate information and in-service activities regarding Section 504 are provided to staff members.

**6. Communication and Problem Solving**

The building facilitator is often the point of contact through which all questions pertaining to Section 504 will be directed at a school site. Many questions can be resolved simply by actively listening to the party, developing an awareness of the party's concerns, assisting with problem identification, and setting appropriate follow-up actions in motion (e.g., researching policies and resource information; requesting additional information from teachers; initiating a counselor or SIPP Team referral). Remember that **not all** questions, requests, or concerns presented by a party are related to or involve Section 504 procedures (e.g., a parent request for the student to be transferred to another school site).

## V. SECTION 504 IMPLEMENTATION PROCEDURES

Implementation of Section 504 services is defined by activities including referral and identification, evaluation, determination of Section 504 needs, educational planning and placement, development and maintenance of student records, and review and evaluation of student progress. (See the "Checklist for Identification under Section 504" in Appendix C. Section 504 forms and reference materials are identified in Appendix D.)

### A. Identification and Referral

Student referrals for Section 504 are processed by the Student Intervention Planning (SIPP) Team (or an equivalent multidisciplinary team) at the school site. The site administrator (i.e., the School Principal or his/her designee) is ultimately responsible for designating SIPP Team members.

In order to review Section 504 referrals, the SIPP Team is typically composed of one or more the student's General Education Teachers and appropriate specialists on staff, as deemed appropriate (e.g., School Counselor, Intervention program teacher, academic coach). The SIPP Team may also include special education personnel, such as a School Nurse, School Psychologist, Speech Pathologist, or Special Education Teacher, as deemed appropriate for the individual student. At the discretion of the site-based administrator, the SIPP Team may also include the parents.

Student identification and referral under Section 504 are pursued according to the following procedures:

#### 1. Initiating a Referral

Any student who is identified or suspected of having a physical or mental impairment and who needs, or is believed to need, reasonable accommodations, aids, or services in order to receive a free appropriate public education should be referred for an evaluation for accommodation services under Section 504. A referral may be initiated by anyone, including the parent or legal guardian, a teacher, or another licensed school employee. Referrals should be forwarded to the site administrator or a designee (e.g., Section 504 Building Facilitator), and a SIPP Team meeting convened to review the referral.

- **Forms/Documentation - "Section 504 Referral"** (504.2).

#### 2. Response to Referral

Within a reasonable time after the site administrator's/designee's receipt of a Section 504 referral (i.e., within 30 calendar days), the SIPP Team must consider the referral and, based upon obtaining and reviewing all relevant, available information for the student, including any pertinent academic, social, health/medical, and behavioral records, make a decision as to whether a Section 504 evaluation is appropriate. The SIPP Team must

document what information was reviewed and considered in justifying their evaluation decisions.

### **3. Parent Notification of Referral Status and Rights**

Parents must be notified of proposed and/or refused actions resulting from a Section 504 referral, primarily, whether a recommendation for evaluation has been made by the SIPP Team. Actions refused by the district must be noted (e.g., identifying that the student does not need a Section 504 evaluation; identifying that the district refused to conduct specific assessments requested by the parent). This notice must be given or sent via U.S. mail to the parent within 7 calendar days of reviewing the referral and determining whether the student needs a Section 504 evaluation. The parents must also be given a copy of their Section 504 procedural safeguard rights with this written notice.

- **Forms/Documentation - "Parent Notice of Section 504 Action"**

(Sections A, B, C, and D for English: 504.5 and Spanish: 504.5s);  
**"Explanation of Procedural Safeguards Available to Parents of Children with Disabilities"**

### **B. Evaluation**

Parents have the right to individualized evaluations for their children, examine educational records, and challenge proposals or decisions regarding Section 504 identification and evaluation. Written parental consent for a Section 504 evaluation **is required** when individualized assessments are needed. Written parental consent for a Section 504 evaluation **is not required** if the evaluation simply involves a review of existing records and/or administering a test or other evaluation that is administered to all children without the need for consent (e.g., classroom-based assessments; routine generalized progress reports). A log of all attempts to contact the parents should be maintained by the site administrator (or designee).

If the parents do not respond to written or telephonic notice of a proposed evaluation, then school personnel may proceed with a basic Section 504 evaluation wherein assessments do not require written parental consent. If the parents notify the school that they object or refuse to support a Section 504 evaluation for their child, then school personnel may pursue one or more of the following discretionary options: (a) continue to work with the student by providing assistance at the school through the general education program (e.g., accessing available programs); (b) continue to work with the student through the general education program while considering meeting with the parents in the future to review the student's progress and revisit the need for a Section 504 evaluation (e.g., developing an informal intervention plan with a built in review date); (c) notify the parent and proceed with a basic Section 504 evaluation wherein assessments **do not** require written parental consent; and/or d) following consultation with appropriate administrative personnel (e.g., Educational Services

Department), continue pursuing a Section 504 evaluation by utilizing Section 504 Impartial Hearing procedures, although the District **is not** mandated to do so. School personnel should consult with school related service providers regarding whether or not written parental consent is needed for any specific individualized assessments that may be contemplated for use in the evaluation process. A Section 504 evaluation for a student is conducted by members of the SIPP Team according to the following procedures:

**1. Initiating an Evaluation**

Within a reasonable period of time after the parents have been notified of the proposed evaluation (i.e., between 10 – 15 school days after mailing the notice is recommended), the evaluation will be initiated.

**2. Scope of the Evaluation**

A Section 504 evaluation is not required to be a comprehensive psycho-educational evaluation, such as those required in special education. However, the assessment must be sufficient to determine the following: (a) the nature and extent of the impairment(s) presented by the student, (b) the nature and extent of the educationally-related needs presented by the student, and (c) whether the student requires accommodations, aids, or services in order to successfully access, participate in, and derive benefits from the general education program. If necessary, the assessment must include educational or medical assessments at no cost to the parents when impairments with possible educational impact are suspected and the information obtained during the evaluation process is not sufficient.

**3. Medical Diagnosis**

A medical diagnosis of an illness does not automatically mean a student can receive services under Section 504. The illness must cause a substantial limitation on the student's ability to learn or another major life activity. A diagnosis in and of itself is not a disability. A physician's medical diagnosis may be considered among other sources. 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. Section 504 regulations require school districts to draw upon a variety of sources in interpreting evaluation data and making decisions.

**4. Outside Independent Evaluation**

The results of an outside independent evaluation may be one of many sources to consider. Multi-disciplinary teams must draw from a variety of sources in the evaluation process so that the possibility of error is minimized. All significant factors related to the student's learning process must be considered. The weight of the information is determined by the committee, given the student's individual circumstances.



The Section 504 regulatory provision at 34 C.F.R.104.35 (c)(3) requires that school districts ensure that the determination that a student is eligible be made by a group of persons, including persons knowledgeable about the meaning of the evaluation data and knowledgeable about the service options.

**C. Determination of Section 504 Needs**

Within a reasonable period of time after the parents have been notified of the proposed evaluation (i.e., within 45 school days of parent notice when written parental consent is not needed, or within 45 school days of securing written parental consent when required), the evaluation will be completed and the student's need for Section 504 support will be determined. The determination of whether a student qualifies for services under Section 504 must be made by a multidisciplinary team, typically, members of the Student Intervention Program (SIPP) Team and the parents. The team must include persons knowledgeable about the student, the meaning of the evaluation data, and the placement options available to student. In determining Section 504 needs, the SIPP Team must document and carefully consider all relevant, available information and draw upon a variety of sources of information, including any input provided by individual SIPP Team members and the parents. (See Subsection E.1, page 19, concerning the coordination of parental notice, scheduling, decision-making, and documentation by combining Section 504 eligibility determination and accommodation plan development meetings.)

**1. Courses of Action**

Determination by the SIPP Team of a student's need for Section 504 support will result in one of the following courses of action and documentation:

- (a) **Requires Section 504 Support.** If the SIPP Team determines that a student has a physical or mental impairment that substantially limits his/her ability to access, participate in, or otherwise derive educational benefits from the general education program, then the student will be identified as having a disability-related need for reasonable accommodations under Section 504 and an appropriate accommodation plan will be developed.
- (b) **Does Not Require Section 504 Support.** The SIPP Team may determine that a student does not have a disability, as defined under Section 504. Or, the SIPP Team may determine that a student has an impairment, but that impairment does not substantially limit his/her ability to access, participate in, or otherwise derive benefits from the general education program. Documentation of the SIPP Team decision will include identification of whether the student manifests a physical or mental impairment and the reason(s) why special accommodations and services under Section 504 are not needed (e.g., the student is succeeding academically without the need

for or receipt of special accommodations; the student responds academically and behaviorally to standard classroom practices).

- (c) **Special Education Referral.** If the SIPP Team believes that the nature of a student's impairment adversely affects his/her education to an extent that it may constitute a disability under the Individuals with Disabilities Education Act (IDEA), then the student will be referred to the special education multidisciplinary team for additional assessment, as needed, and consideration of other educational options, which may include special education. In such cases, the SIPP Team must consider and may elect to provide the student with Section 504 support, pending the outcome of a referral for a special education evaluation, provided that the student presents a physical or mental impairment which substantially limits one or more of the student's major life activities.

Regardless of which specific outcome is identified, the parents must be provided with a copy of the eligibility determination and offered their procedural safeguard rights at the conclusion of the meeting. If the parent has chosen not to participate in the meeting, or to participate via a telephone conference with the SIPP Team, this information must be sent to the parent via the U.S. mail within 7 calendar days of the conclusion of the meeting. Notice of intent/refusal to implement actions must be sent to the parent within 7 calendar days of the conclusion of the meeting.

- **Forms/Documentation - "Section 504 Evaluation Summary and Accommodation Plan"** (English: 504.1 and Spanish: 504.1s) with **504 Eligibility Determination Worksheet (504.1a)**; **"Explanation of Procedural Safeguards Available to Parents of Children with Disabilities"**; **"Parent Notice of Section 504 Action"** (Sections A, B, C, and D as appropriate, for English: 504.5 and Spanish: 504.5s).

#### **D. Review of Independent Educational Evaluation Reports**

A parent may submit to the Student Intervention Planning Program (SIPP) Team an independent educational evaluation report for consideration. The SIPP Team is responsible for reconvening within a reasonable period of time (i.e., within 10-15 school days of receipt) for the purpose of reviewing the independent evaluation report, using the following guidelines. For an identified Section 504 student, follow Accommodation Plan Development and Review procedures (see Subsection E, page 19), including parent notification of a planning meeting and procedural safeguard rights. For a student who has not been previously identified as a Section 504 student, follow Section 504 Identification and Referral procedures (Subsection A, page 14). Depending upon the particular needs of the student and the circumstances for the independent evaluation, the site administrator, or designee should notify the Student Support Services Division for additional assistance.

**1. Standards**

The SIPP Team must consider the conditions under which the independent evaluation was completed (e.g., areas of suspected disability, sources of information, types of diagnostic instruments utilized, qualifications of the diagnostician, etc.).

**2. Results**

The SIPP Team must examine the findings and recommendations from the report in relation to the student's educational needs.

**3. Implications**

The SIPP Team must determine the relevance of the information for decisions pertaining to the identification of student needs under Section 504, including the possible need for the provision of reasonable accommodations for the student.

A SIPP Team is not required to implement specific recommendations stemming from an out-of-district evaluation. However, the SIPP Team is required to document and consider carefully any independent evaluation(s) provided by parents or other public agencies for a student with disabilities or suspected disabilities. Upon re-examination of a student's educationally-related needs in light of independent educational evaluation results and all other relevant sources of information, the SIPP Team may determine by consensus that Section 504 referral procedures are applicable, a special education referral is applicable, or changes need to be made in current Section 504 support for the student.

- **Forms/Documentation** – For identified Section 504 students: **Parent Notification Letter"** (English: 504.3 and Spanish: 504.3s); **"Explanation of Procedural Safeguards Available to Parents of Children with Disabilities."** For new referrals: **"Section 504 Referral"** (504.2).

**E. Accommodation Plan Development and Review**

The determination of what accommodations a qualified student needs under Section 504 to derive educational benefits from the general education program must be made by a multidisciplinary team, typically, members of the Student Intervention Planning Program (SIPP) Team and the parents. The team must include persons knowledgeable about the student, the meaning of the evaluation data, and the placement options available to the student. Follow-up steps by the SIPP Team include parent notification, scheduling for a planning meeting, development of an appropriate Section 504 Accommodation Plan, implementation of the plan, and periodic review of student progress.

**1. Parent Notification of Section 504 Needs and Rights**

The SIPP Team's determination of Section 504 needs (see Subsection C, page 16) is typically made in conjunction with a proposed planning meeting (see subsection E.2 below). Unless there are exceptional

circumstances (e.g., scheduling restrictions relative to an impending student break), reasonable accommodations must be identified within 30 calendar days of determining that a student requires Section 504 services in order to access, participate in, or otherwise derive educational benefits from the general education program. In those situations where Section 504 eligibility, accommodations, and placement decisions will be made for a student at a single meeting, the parents should be notified and invited to actively participate in Section 504 eligibility determination and when needed, the development of an appropriate accommodation plan. As part of the notification process, the parents must be afforded a copy of their procedural safeguard rights. In those situations where Section 504 accommodation plan development and placement decisions will be made at a meeting that is separate from an eligibility determination meeting, then parent notification requirements must be followed for both meetings.

- **Forms/Documentation - "Section 504 Notification Letter"** (English: 504.3 and Spanish: 504.3s); **"Explanation of Procedural Safeguards Available to Parents of Children with Disabilities"**.

## 2. **Planning Meeting**

With parent participation, when possible, the SIPP Team will conduct a planning meeting wherein alternative intervention strategies will be considered and when needed, a written plan will be developed describing the reasonable accommodations and services to be provided to the student. This written plan, called a "Section 504 Accommodation Plan," must specify what accommodations and/or support services will be provided, how they will be provided, and by whom (i.e., by position or title).

### (a) **Supplemental Supports and Services**

The SIPP Team should consider supplemental supports and services **including assistive technology equipment and/or services, transportation, health and developmental services, and other supportive services** for those students with disabilities who are eligible under Section 504 and require such services to ensure access to and participation in, or to otherwise derive educational benefits from their educational program. The SIPP Team is responsible for identifying and evaluating the individual student's needs for such services. When those needs are identified, the site based personnel are responsible for providing the appropriate equipment and/or services deemed necessary to provide reasonable accommodations to meet the student's disability-related educational needs and these services **must be provided without undue delay**. Site based personnel may seek assistance, if necessary, from special education personnel by contacting Student Support Services at 792-3255.

A copy of the "Evaluation Summary and Accommodation Plan" form must be provided to the parents, along with a copy of their Section 504

procedural safeguard rights, at the conclusion of the planning meeting. If the parent has chosen not to participate in the planning meeting, or to participate via a telephone conference with the SIPP Team, this information must be sent to the parents via the U.S. mail within 7 calendar days of the conclusion of the planning meeting. Parent notice of Section 504 action must be sent to the parent within 7 calendar days of the conclusion of the meeting.

Parents are entitled to notification of actions refused by the district that pertain to educational placement and the provision of accommodations and services. This written notice must be provided to the parents within 7 calendar days of the conclusion of the planning meeting.

- **Forms/Documentation - "Section 504 Evaluation Summary and Accommodation Plan"** (English: 504.1 and Spanish: 504.1s) with **504 Eligibility Determination Worksheet (504.1a)** "**Explanation of Procedural Safeguards Available to Parents of Children with Disabilities**" For outstanding disagreements between the district and parents: "**Parent Notice of Section 504 Action**" (English: 504.5 and Spanish: 504.5s).

### **3. Implementation of the Accommodation Plan**

When a Section 504 Accommodation Plan has been developed for a student, all school personnel who work with the student on a consistent basis must be informed of and given a copy of the accommodation plan (i.e., distribute copies). **The accommodation plan must be implemented as written by appropriate school personnel.** Ultimate responsibility for ensuring the implementation of a Section 504 Accommodation Plan rests with the site-based administration for a given school.

### **4. Review of Student Progress/Plan Revisions**

The SIPP Team must monitor the progress of a student receiving Section 504 support. For initial accommodation plans, it is suggested that the SIPP Team review (informally or formally, with documentation) student progress within 6 to 9 weeks of initial implementation in order to determine the student's response to the plan, determine whether any formal revisions to the plan are needed and if so, to revise the plan accordingly.

At least annually (i.e., within a 12 month period after development), the SIPP Team must formally review the student's educational progress relative to implementation of the student's permanent (i.e., annual) Section 504 Accommodation Plan. Parents must be notified of the need for student progress and plan review, offered an opportunity to participate, and provided with a copy of their Section 504 procedural safeguard rights. As part of the review, the SIPP Team must determine whether the student continues to require Section 504 support. If continued Section 504 support is required, then the SIPP Team must also determine whether the

accommodations and services identified in the student's current accommodation plan remain reasonable, appropriate and necessary for the student. Any necessary revisions must be made. **In those cases where continuation of Section 504 support is required, the SIPP Team must write a new accommodation plan for the upcoming twelve (12) month period.**

- **Forms/Documentation - "Parent Notification Letter"** (English: 504.3 and Spanish: 504.3s); **"Section 504 Evaluation Summary and Accommodation Plan"** (English: 504.1 and Spanish: 504.1s) with **504 Eligibility Determination Worksheet (504.1a); "Explanation of Procedural Safeguards Available to Parents of Children with Disabilities"**

#### **5. Reevaluation Requirements**

Prior to making any significant changes in a student's accommodation plan or educational placement, a Section 504 reevaluation must be conducted to determine the student's educational needs (see Section 504 Evaluation procedures, Subsection B, page 15). Parents must be notified of the need for reevaluation and any proposed changes in the educational programming for a student. Parents must also be provided with a copy of their procedural safeguard rights. As a function of reviewing and discussing reevaluation results in the subsequent planning meeting, if significant changes are endorsed by the SIPP Team, then a new accommodation plan must be written.

- **Forms/Documentation - "Follow-up Parent Notification Letter"** (English: 504.4 and Spanish: 504.4s); **"Parent Notice of Section 504 Action"** (English: 504.5 and Spanish: 504.5s); **"Section 504 Evaluation Summary and Accommodation Plan"** (English: 504.1 and Spanish: 504.1s) with **504 Eligibility Determination Worksheet (504.1a); "Explanation of Procedural Safeguards Available to Parents of Children with Disabilities"**.

#### **6. Reconvening the SIPP Team**

During the course of the school year, any SIPP Team member or the parent may request a planning meeting to review student progress relative to implementation of the student's accommodation plan. The SIPP Team may also reconvene outside of annual planning meetings to review the status of a student's impairment(s) and/or need for continued Section 504 support.

- **Forms/Documentation - "Follow-up Parent Notification Letter"** (English: 504.4 and Spanish: 504.4s); **"Section 504 Evaluation Summary and Accommodation Plan"** (English: 504.1 and Spanish: 504.1s) with **504 Eligibility Determination Worksheet (504.1a);**

**"Explanation of Procedural Safeguards Available to Parents of Children with Disabilities".**

**F. Out-of-District Transfers**

When a student moves to the McFarland Unified School District from another school district and has an accommodation plan from the previous district, it is important to identify what educational programming was provided to the student to determine appropriate follow-up in this district.

If a student has recently received, or is suspected of having recently received, special education programming or services out-of-district, then special education rather than Section 504 procedures are appropriate. Notify your site administrator (or designee) in order to initiate special education procedures. Similarly, if a student has recently been hospitalized for emotional or medical problems, then a referral for assistance can be made to the Student Intervention Planning Program (SIPP) Team.

**Interim Section 504 Procedures for Out-of-District Students**

If a student has recently received, or is suspected of having recently received, Section 504 support out-of-district, then a referral for Section 504 services must be initiated. Pending the completion of an evaluation and final determination of the student's need for an annual Section 504 Accommodation Plan, interim Section 504 services may need to be implemented for the student.

**1. Initiate the Multidisciplinary SIPP Team Process**

If a student is suspected of having recently received Section 504 services out-of-district (e.g., via parent reports), then school personnel must first determine whether the student had a current accommodation plan at his or her previous school. In some instances, a student may arrive with his or her records, including the most recent evaluation(s) and accommodation plan. In other cases, a student's records must be requested and obtained from the previous school. In such cases, during the student's first week of enrollment in this district, the site administrator (or designee) should initiate a Section 504 referral and contact the student's previous school in order to obtain the most recent evaluation(s), accommodation plan, and other records relevant to the student's educational needs. These records should be obtained and forwarded to the school's SIPP Team (or another, equivalent school-based multidisciplinary team) as soon as possible for decision-making purposes.

- **Forms/Documentation - "Section 504 Referral" (504.2).**

**2. Determine Need for Interim Section 504 Services**

- (a) Interim Section 504 services required where accommodation plan is available or previous services are confirmed.**

**Interim Section 504 services are required whenever it can be confirmed that a student was receiving Section 504 support out-of-district via a current accommodation plan.** An out-of-district Section 504 Accommodation Plan may be considered current if it was developed within the past 12 months, and there is no indication that it has been formally terminated since its development. Receipt of the prior accommodation plan, or if the plan is not immediately available, information from two relevant sources (e.g., parent reports, other school records, contact with the previous school) may serve to confirm the student’s need for interim Section 504 services.

If the student’s need for interim Section 504 services can be confirmed, then the SIPP Team should convene a planning meeting, with the parents when possible, and without undue delay determine: (a) whether the student has an identified physical or mental impairment; (b) whether the student’s out-of-district accommodations are consistent with federal and district Section 504 standards, appropriate and sufficient, and can be implemented as written in this district; and (c) whether additional evaluation components need to be completed. Parents must be notified of Section 504 planning meetings. Parents must also be given a copy of their Section 504 procedural safeguard rights with written notice.

**At the planning meeting, the SIPP Team must identify the Section 504 services to be implemented for the student on an interim basis.** The SIPP Team may decide to implement an out-of-district accommodation plan, as written, in its entirety. In such cases, a MUSD “Evaluation Summary and Accommodation Plan” form should be completed in order to identify timelines for implementation and SIPP Team decision making as well as to clarify that the out-of-district accommodation plan will be implemented in its entirety (i.e., the district form is used as a cover sheet and attached to the out-of-district accommodation plan). In contrast, if the SIPP Team determines that immediate modifications need to be made to an out-of-district accommodation plan, then a MUSD “Evaluation Summary and Accommodation Plan” form should be completed in detail to specify what reasonable accommodations and/or support services will be provided and by whom as well as the timelines for implementation and subsequent SIPP Team decision making.

At the conclusion of the planning meeting, the parents should receive a copy of this “interim” Section 504 Accommodation Plan and be offered a copy of their procedural safeguard rights under Section 504.

- **Forms/Documentation – “Section 504 Referral” (504.2); “Follow-up Parent Notification Letter” (English: 504.4 and Spanish: 504.4s); “Explanation of Procedural Safeguards Available to Parents of**



**Children with Disabilities”;** **“Section 504 Evaluation Summary and Accommodation Plan”** (504.1; complete documentation in top section and define the accommodations in the bottom section as an **“Interim Section 504 Accommodation Plan”**). If a district evaluation is needed, document via **“Parent Notice of Section 504 Action”** (English: 504.5 and Spanish: 504.5s).

(b) **Section 504 Referral if Accommodation Plan is not available or previous services cannot be confirmed.**

In contrast, **if school personnel cannot secure a current out-of-district accommodation plan, or otherwise confirm the student’s need for interim Section 504 services, then the outstanding Section 504 referral should be considered an initial referral** and the SIPP Team should convene a meeting, without undue delay, to consider all relevant, available information and determine whether a Section 504 evaluation needs to be completed. Parents must receive notification of proposed and/or refused actions resulting from a Section 504 referral and be given a copy of their Section 504 procedural safeguard rights with written notice.

- **Forms/Documentation – Section 504 Referral (504.2); Parent Notice of Section 504 Action (English: 504.5 and Spanish: 504.5s); Explanation of Procedural Safeguards Available to Parents of Children with Disabilities.**

3. **Determine Need for an Annual Accommodation Plan**

When a student has been receiving interim Section 504 services, the SIPP Team must reconvene, with the parents when possible, within 30 calendar days of the student’s enrollment in order to review all relevant, available information, complete any necessary evaluations, and determine the student’s need for continuation of Section 504 support via an “annual” Section 504 Accommodation Plan. Parents must be notified of Section 504 planning meetings. Parents must also be given a copy of their Section 504 procedural safeguard rights with the written notice.

(a) **Annual Section 504 Accommodation Plan required.**

At the conclusion of the 30-day interim period, upon reconvening, if the SIPP Team determines that the student requires continued Section 504 support in order to receive an appropriate education, then an annual Section 504 Accommodation Plan must be developed. The SIPP Team must also decide whether to adopt the interim accommodation plan as written or to modify it based on the identified educational needs of the student. **In either case, a new “Evaluation Summary and Accommodation Plan” form with 504 Eligibility Determination Worksheet should be completed to specify what reasonable accommodations and/or support services will be provided and by**

**whom, as well as the appropriate timeline for implementation.** At the conclusion of the planning meeting, the parents must receive a copy of the annual Section 504 Accommodation Plan and a copy of their Section 504 procedural safeguard rights.

In contrast, at the conclusion of the 30-day interim period, upon reconvening, if the SIPP Team determines that the student does not require continued Section 504 support, then Section 504 services would be formally terminated for the student and documented. At the conclusion of the planning meeting, the parents must receive a copy of the “Evaluation Summary and Accommodation Plan” form, wherein the top section of the form documents the student’s lack of need for continued Section 504 support, as well as a copy of their Section 504 procedural safeguard rights.

- **Forms/Documentation – “Follow-up Parent Notification Letter”** (English: 504.4 and Spanish: 504.4s); **“Explanation of Procedural Safeguards Available to Parents of Children with Disabilities”**; **“Section 504 Evaluation Summary and Accommodation Plan** (English: 504.1 and Spanish: 504.1s) with **504 Eligibility Determination Worksheet** (504.1a).

If the parents object to any actions proposed or refused by the district pertaining to the identification, evaluation, or educational placement of the student, or the provision of a free appropriate public education to the student, in relation to interim or annual Section 504 procedures, parent must be provided with written notice of the district’s intentions. School personnel should contact the site administrator (or designee) for assistance. In such cases, Student Support services may also be contacted for additional assistance.

- **Forms/Documentation – “Parent Notice of Section 504 Action”** (English: 504.5 and Spanish: 504.5s); **“Explanation of Procedural Safeguards Available to Parents of Children with Disabilities”**).

## **G. Discipline Reviews**

The following policies and procedures must be followed in response to serious discipline infractions demonstrated by a student who is receiving, or suspected of needing, Section 504 support.

### **1. Review Requirements**

Before a student who is receiving Section 504 support via an accommodation plan accumulates 10 suspension days in a given school year, or in response to any other serious discipline infraction committed by the student, the Student Intervention Planning Program (SIPP) Team must reconvene to determine whether the identified problem is related to the student’s educational disability and whether any changes are needed in the

student's Section 504 Accommodation Plan. In making these decisions, the SIPP Team should consider all relevant, available information and draw upon a variety of sources of information, including any recent or current input provided by staff members and the parents. Parent notification of the Section 504 planning meeting and their procedural safeguard rights is required. **A formal determination of related versus unrelated must be made by the SIPP Team and documented on a Manifestation Determination form. (Appendix G)**

(a) **Behavior Review: Related to Disability.** If the SIPP Team determines that a serious discipline infraction is related to the student's educational disability, then no long-term disciplinary measures may be taken by the school in relation to the infraction. In these situations, the determination (related) must be documented on a new Section 504 Evaluation Summary and Accommodation Plan form, with all accommodations reviewed and revised as appropriate.

(b) **Behavior Review: Unrelated to Disability.** If the SIPP Team determines that a serious discipline infraction is not related to the student's educational disability, then disciplinary measures may be taken by the school administration to an extent equal to that taken for non-disabled students in the general education program under similar circumstances.

In these situations, the determination (related) must be documented on a new Section 504 Evaluation Summary and Accommodation Plan form, a re-evaluation must be considered, and the student's the student's accommodation plan must be reviewed and revised as appropriate.

- **Forms/Documentation – “Follow-up Parent Notification Letter”** (English: 504.4 and Spanish: 504.4s); **“Explanation of Procedural Safeguards Available to Parents of Children with Disabilities”**; **“Section 504 Evaluation Summary and Accommodation Plan”** (English: 504.1 and Spanish: 504.1s) with **504 Eligibility Determination Worksheet** (504.1a). For notice of proposed or refused actions, **“Parent Notice of Section 504 Action”** (English: 504.5 and Spanish: 504.5s).

## 2. **Alternative Education Programs and Expulsion**

If the student has been receiving Section 504 support via an accommodation plan immediately prior to a serious discipline infraction, then the SIPP Team must consider the need for a Section 504 reevaluation and document whether the student's behavior was related to the student's disability **before** a referral to an alternative education program **or** a referral for expulsion may be processed. **Expedited placement** in an

alternative education program may occur in limited circumstances, namely, drug/alcohol or weapon offenses.

In contrast, if the student is only suspected of needing Section 504 support (e.g., an open Section 504 referral; parent reports, subsequent to the student's disciplinary infraction, that the student may have disability-related needs), then the SIPP Team must review the student's records and consider the student's need for a Section 504 evaluation. Depending upon the specific circumstances (i.e., when the school became aware of the student's identified or suspected disability and possible need for Section 504 support; the type of identified or suspected disability involved; the type of discipline infraction involved), a Section 504 evaluation and determination of relatedness may be required before the discipline referral will be processed. School personnel should contact their site administrator (or designee) for assistance. The district 504 Coordinator may be contacted for additional assistance.

If the SIPP Team determines that a serious discipline infraction is not related to a student's educational disability, then disciplinary measures may be taken by the school administration to an extent equal to that taken for non-disabled students in the general education program under similar circumstances. However, the final decision of whether the student will be referred for placement in an alternative educational program or expulsion is made by the school administration, not the SIPP Team. The district 504 Coordinator may be contacted for additional assistance.

## **H. Alternative Instructional Services, Settings, and Supports**

The majority of students with disabilities who require Section 504 support will receive instruction in the regular classroom on a continuous basis. However, on occasion, alternative instructional services, settings and/or supports may be needed to ensure continuity in educational programming for the student.

### **1. Alternative Educational Options**

Alternative Educational Options refers to instruction that may be provided in the home or a variety of settings **pending resolution of disciplinary proceedings** against the student. In a limited number of circumstances, it may be advantageous and appropriate to continue instruction via alternative arrangements (e.g., an interim placement pending the completion of an evaluation; an interim placement in relation to serious discipline infractions that are a manifestation of the student's disability). For example, when a behavior under disciplinary review has been found to be disability-related, continued educational services are warranted.

### **2. Homebound**

Homebound refers to a program of instruction for school age students who are unable to attend classes due to injury, illness, or mental disorders and

**confinement in the hospital or home is expected to be at least 15 consecutive school days.** The student must be a resident in the district and be under the care of a licensed physician/health care provider for medical disabilities or a licensed psychiatrist/psychologist for mental disabilities.

- **Forms/Documentation – “Section 504 Evaluation Summary and Accommodation Plan”** (English: 504.1 and Spanish: 504.1s) with **504 Eligibility Determination Worksheet** (504.1a).

### **3. Home Schooling**

In contrast to Alternative Educational Options and Homebound Services which are district-sponsored alternatives to regular classroom instruction, “Home Schooling” refers the instruction of those students who, at the discretion of the parents, are educated in the home environment as a voluntary alternative to enrollment in the McFarland Unified School District. Students with disabilities who are home schooled typically hold no entitlements to access general education programming or Section 504 support via the district.

#### **I. Extracurricular Activities Exceptions**

Student participation in extracurricular activities and athletics in secondary schools is governed by policies and procedures established by the California Interscholastic Federation (CIF). For students who require exceptions for activities eligibility, or reasonable accommodations for successful participation due to physical or mental impairment, the CIF offers an appeals process through the section office. This process can be accessed through the Athletic Director at McFarland High School by submission of a student’s 504 Accommodation Plan and the medical documentation for the disability.

The Student Intervention Planning Program (SIPP) Team is responsible for determining whether a student who is receiving Section 504 support requires exceptions or accommodations for participation in extracurricular activities. If appropriate, such exceptions or accommodations must be identified early enough to ensure completion of the appeals process. Such exceptions or accommodations must be identified in the student's accommodation plan **one full semester prior to anticipated participation** in the extracurricular activity or athletic program.

- **Forms/Documentation – “Section 504 Evaluation Summary and Accommodation Plan”** (English: 504.1 and Spanish: 504.1s) with **504 Eligibility Determination Worksheet** (504.1a).

#### **J. Standardized Testing Accommodations**

Student participation in state-sponsored standardized testing programs (i.e., California Standards Test, California High School Exit Examination) is governed by policies and procedures established by the California Department of Education

(CDE). The CDE permits testing accommodations under the following circumstances: (a) the student has been determined in need of Section 504 support (b) the recommended accommodations are related to the student's educational disability and are justified, and (c) the recommended accommodations do not significantly change the nature, content, or integrity of the tests. The CDE publishes criteria for standardized test administration, as well as a listing of permissible accommodations for students with warranted disability-related accommodation needs.

The Student Intervention Planning Program (SIPP) Team determines whether a student who is receiving Section 504 support requires accommodations for standardized tests. If such accommodations are deemed reasonable and appropriate by the SIPP Team in relation to CDE guidelines, then the accommodations must be written into the student's Section 504 Accommodation Plan. **Accommodations that are not listed as permissible by the CDE should not be written into an accommodation plan.**

- **Forms/Documentation – “Section 504 Evaluation Summary and Accommodation Plan”** (English: 504.1 and Spanish: 504.1s) with **504 Eligibility Determination Worksheet (504.1a)**; **“Matrix of Test Variations, Accommodations, and Modifications”** (See link in appendix H)

## **K. Section 504 Educational Records**

Educational records are those records, files, documents, and other materials which contain information directly related to a student and are maintained by an educational agency or by a person acting for the agency. A record of actions taken by the Student Intervention Planning Program (SIPP) Team relative to Section 504 support must be maintained in the student's cumulative file.

### **1. Maintaining Section 504 Records**

For a student receiving Section 504 support, minimally, the student's cumulative file must contain copies of the following forms of documentation, as they are developed: (a) parent notice of Section 504 actions, (b) parent notice of Section 504 planning meetings, and (c) actual accommodation plans for the student. These educational records should be self-contained in a separate folder (504.10) and maintained within the student's cumulative file at the school. This folder contains a status record (inside cover) that enables ongoing documentation of actions taken by staff pursuant to Section 504 procedures.

- **Forms/Documentation - "Reasonable Accommodations Provided in Accordance with Section 504"** (504.10).

**2. Access to Section 504 Records**

All educational records established in relation to the identification, evaluation, or educational placement of a student pursuant to Section 504 and maintained by the school are confidential student records (see forms identified in Subsection K.1 above). Access to or dissemination of these records is subject to the provisions of the Family Educational Rights and Privacy Act (FERPA) of 1974 as well as district policies and regulations pertaining to students' educational records.

For district employees, access to a student's Section 504 educational records is restricted to those licensed and administrative staff having **legitimate educational interests** (e.g., teachers and other licensed staff members responsible for the development and implementation of a student's accommodation plan; administrative supervisors). Parents have the right to inspect educational records for their respective children and to request copies of maintained educational records for their respective children. **The district is responsible for providing parents with the opportunity to access and inspect educational records within a reasonable period of time after such a request has been made** (i.e., prior to meetings addressing identification, evaluation, or educational placement issues, but in no case more than 45 calendar days after the request has been made). For dissemination of educational records to any outside agency, individual, or institution, written consent from the parent may be required. School personnel should contact their site administrator (or designee) for assistance.

- **Forms/Documentation – “Authorization to Release Confidential Information”**

**L. Tracking Procedures**

School-based tracking activities must be initiated after a student has been determined in need of Section 504 support and the Section 504 Accommodation Plan has been developed.

**1. Notification/Encoding Responsibilities**

Upon development of an initial Accommodation Plan for a student, the Section 504 Building Facilitator must submit to the **Director, Student Support Services** one copy each of the Student Contact Log and the Section 504 Accommodation Plan. The Building Facilitator must also notify the School Registrar, who in turn identifies Section 504 support for the student in the student information system, Infinite Campus.

**2. Ongoing Tracking**

Following annual review of a student's Section 504 Accommodation Plan, or significant revisions to an accommodation plan resulting from other planning meetings, the Section 504 Building Facilitator must again submit

to the **Director, Student Support Services** one copy each of the Student Contact Log and the student's new Accommodation Plan.

- **Forms/Documentation - "Section 504 Student Contact Log" 504.8) and "Section 504 Evaluation Summary and Accommodation Plan" (English: 504.1 and Spanish: 504.1s) with 504 Eligibility Determination Worksheet (504.1a).**

### **3. Student Transfers within District**

For a student who has a current accommodation plan and who is transferring to another school in the district, the Section 504 Building Facilitator from the sending school should contact the building facilitator at the receiving school to report the transfer and discuss case status information. Whenever possible, written notification should be attached to the outside of the student's cumulative file when the file is sent to the new school to further enable identification of the student's need for Section 504 support.

## **M. Section 504 Exiting Procedures**

A student may only be exited from Section 504 support under the following circumstances: (a) a temporary impairment, which had educational implications for the student (e.g., injuries sustained in an accident), is no longer present, (b) the student's disability no longer substantially limits his/her major life activities, or (c) the student has been identified as eligible for receiving special education and related services. Sufficient documentation is required to complete the exiting process.

### **1. Removal from Section 504 Support**

Parental notification, re-evaluation requirements, the scheduling of a planning meeting, and procedural safeguard rights apply to a determination by a Student Intervention Planning Program (SIPP) Team that a student is no longer in need of Section 504 support. Removal from Section 504 support must be documented in the top section of a new "Section 504 Evaluation Summary and Accommodation Plan" form. This documentation must identify the reason(s) why special accommodations and services under Section 504 are no longer needed (e.g., a temporary impairment is no longer present; an impairment no longer has a significant educational impact for the student). At the conclusion of the planning meeting, the parents should receive a copy of the "Evaluation Summary and Accommodation Plan" form and be offered a copy of their procedural safeguard rights under Section 504.

- **Forms/Documentation – "Follow-up Parent Notification Letter" (English: (504.4 and Spanish: 504.4s); "Explanation of Procedural Safeguards Available to Parents of Children with Disabilities"; "Section 504 Evaluation Summary and Accommodation Plan" (English: 504.1 and Spanish: 504.1s) with 504 Eligibility**



**Determination Worksheet** (504.1a). For outstanding disagreements between the district and parents pertaining to the identification, evaluation, or educational placement of the student: "**Parent Notice of Section 504 Action**" (English:504.5 and Spanish: 504.5s).

**2. Tracking Closure**

The Section 504 Building Facilitator must submit to the **Director, Student Support Services** one copy each of the Student Contact Log and the "Section 504 Evaluation Summary and Accommodation Plan" form, both of which identify the student's removal from Section 504 support. The building facilitator must also notify the school's registrar, who in turn is responsible for changing the student's coding in the McFarland Unified School District student information system on Infinite Campus.

- **Forms/Documentation - "Section 504 Contact Log"** (504.8)

## **VI. PROCEDURAL SAFEGUARDS FOR SECTION 504**

### **A. Parent Rights**

Pursuant to Section 504 of the Rehabilitation Act of 1973, parents, guardians or students 18 years of age or older, must be provided with their Section 504 procedural safeguard rights whenever the district take actions or refuses to take actions regarding the identification, evaluation, or educational placement of students with disabilities or suspected disabilities who may need Section 504 services. These rights include:

- 1. Right to receive written notice of any proposed actions related to the identification, evaluation, or educational placement of the student.**
- 2. Right to examine all relevant educational records.**
- 3. If there is a disagreement with the district's proposed actions or refusal to act under Section 504, the right to initiate dispute resolution procedures, including the right to:**
  - a) a grievance process;**
  - b) request an Impartial Hearing, including the opportunity for participation by the student's parents or legal guardians and representation by counsel; and**
  - c) a review process.**

Parents who have questions regarding their procedural safeguard rights or who wish to examine student records, receive notification in their native language, request an evaluation, or initiate dispute resolution procedures should contact the site administrator (i.e., School Principal or designee). The Educational Services Division may be contacted for additional assistance.

### **B. Section 504 Dispute Resolution Procedures**

If a Parent or **student eighteen years or older (hereafter "complainant")** disagrees with any decision pertaining to the identification, evaluation, or educational placement of the student with disabilities under Section 504, the **complainant** has the right to exercise the following McFarland Unified School District Dispute Resolution Procedures, which must be initiated within thirty (30) calendar days **of the district action** or the **complainant** receiving written notice of a proposed or refused action by the school team.

**Please note: Although a complainant should always be encouraged to attempt to resolve any concerns by other dispute alternatives, a complainant's request to initiate a voluntary grievance review under the district's Dispute Resolution Procedures regarding any team decision pertaining to the identification, evaluation, or educational placement of a student with disabilities under Section 504 is optional and is not required prior to initiating a request for Impartial Hearing to resolve**

**these types of disputes. Once a complainant initiates a request for an Impartial Hearing to resolve issues regarding the identification, evaluation, or educational placement of a student with disabilities, proceed to Step 3 in these procedures.**

**1. Step 1: Voluntary Grievance Review at the Building Level.**

File a written complaint with the site 504 Facilitator and/or Principal detailing disagreement and request that the 504 team review the plan in an attempt to resolve the disagreement.

The Principal will conduct a thorough investigation of the concerns raised by the parent/guardian within ten (10) school days of the Principal's receipt of the request. The Principal will consult with the complainant as well as appropriate District personnel (i.e., relevant school-based staff members and related services personnel; Educational Services; and other administrative staff, as needed). The scheduling of a meeting between the Principal and the complainant for problem solving purposes is recommended, but not required. At the request of the Principal, the Section 504 Coordinator will review proposed corrective actions to resolve the concerns to ensure the District's compliance with federal, state, and District standards.

Following this investigation, the requested meeting shall be held within 14 days of receiving the parent/guardian's written request and complaint. The parent/guardian shall be invited to attend the meeting at which the review is conducted. The requested meeting will be held within 14 days of receiving the parent/guardian's request, and the parent/guardian shall be invited to meet with the Superintendent or designee to discuss the review. Proceedings of the meeting must be in writing and contain recommendations for resolving any outstanding Section 504 concerns.

Copies of the written response, which may include a plan for corrective action, will be distributed, at a minimum, as follows: complainant, Principal, Director, Student Support Services, Building 504 Facilitator, and the student's Section 504 file.

If the Principal's written response is satisfactory to the complainant, no further action is necessary. The Principal will ensure prompt implementation of any corrective actions within the time frame prescribed in the plan for corrective action formally promised to the complainant, as identified in the Principal's response.

A request for Step 1 Voluntary Grievance Review must be made before Step 2 of these Section 504 Dispute Resolution Procedures may be initiated. However, if the Building Principal is involved in the issue for which voluntary grievance review has been sought, Step 1 of the voluntary

grievance review may be bypassed and the complainant may proceed to Step 2 of these Procedures.

**2. Step 2: Review by the Superintendent.**

If the complainant is not satisfied with the 504 team's resolution of the concerns, within ten (10) school days of the meeting to review concerns and proposed resolution, the complainant may make a written request for review by the Superintendent of any outstanding concerns regarding Section 504 decisions relating to the identification, evaluation, or educational placement of the student to review the plan. This written request must be submitted directly to the Superintendent and include: (a) the specific nature of the outstanding concerns, including any decisions made by the school team pertaining to Section 504 identification, evaluation or educational programming with which the complainant disagrees; (b) a request that the Superintendent, or his/her designee, conduct a review of the matter; and (c) the specific relief sought by the complainant.

Upon receipt of the request for review, the Superintendent, or his/her designee, will conduct a thorough review of the parent concerns.

The Superintendent, or his/her designee, as part of the review, will consult with the complainant, the Director, Student Support Services, and any other appropriate personnel (i.e., the Principal; other school-based or department administrative staff, as needed). The requested meeting will be held within 14 days of receiving the parent/guardian's request, and the parent/guardian shall be invited to meet with the Superintendent or designee to discuss the review. Proceedings of the meeting must be in writing and contain recommendations for resolving any outstanding Section 504 concerns.

Copies of the written response, which may include a plan for corrective action, will be distributed, at a minimum, as follows: complainant, Principal, Student Support Services, and the student's Section 504 records.

If this meeting and written plan resolves the concerns raised by the complainant, no further action is necessary. The Superintendent, or his/her designee, will ensure prompt implementation of any corrective action within the time frame prescribed by the plan of corrective action formally promised to the complainant, as identified in the written plan.

**3. Step 3: Impartial Hearing Request.**

If the disagreement continues and the complainant has concerns about Section 504 decisions regarding identification, evaluation, or educational placement issues for a student with disabilities which have not been resolved via the voluntary grievance review, where applicable, the complainant may submit a written request to the McFarland Unified School District Superintendent for a due process hearing.

**As noted above, although complainants are always encouraged to attempt to resolve concerns by other dispute alternatives, a complainant's request for a grievance review under Steps 1 and 2, above, is optional and is not required before requesting an Impartial Hearing for resolution of identification, evaluation, and educational placement disputes which relate to the student with disabilities.**

A written request for an Impartial Hearing must be made to the MUSD Superintendent within fifteen (15) school days of the receipt of the written resolution to the Step 2 voluntary grievance review or within fifteen (15) school days of the District action that resulted in the Section 504 identification, evaluation, or educational placement dispute.

Such a request must include: (a) the specific nature of the decision with which the parent/guardian disagrees, (b) the specific relief the parent/guardian seeks, and (c) any other information the parent/guardian believes pertinent.

Within 30 days of receiving the parent/guardian's request, the Superintendent or designee and Director, Student Support Services shall select an impartial hearing officer. This 30-day deadline may be extended for good cause or by mutual agreement of the parties.

The District shall maintain a list of impartial hearing officers who are qualified and willing to conduct Section 504 hearings. To ensure impartiality, such officers shall not be employed by or under contract with the district in any capacity other than that of hearing officer and shall not have any professional or personal involvement that would affect their impartiality or objectivity in the matter.

Within 45 days of the selection of the hearing officer, the Section 504 due process hearing shall be conducted and a written decision mailed to all parties. This 45-day deadline may be extended for good cause or by mutual agreement of the parties.

Any party to the hearing shall be afforded the right to:

1. Be accompanied and advised by counsel and by individuals with

special knowledge or training related to the problems of students who are qualified as disabled under Section 504

2. Present written and oral evidence
3. Question and cross-examine witnesses
4. Receive written findings by the hearing officer

*Prior to hearing, the parties may continue to attempt to resolve the dispute by mediation and/or written agreement. If the matter is not resolved prior to hearing, the parent/guardian, District representatives, and their respective counsel will proceed with the scheduled Section 504 Impartial Hearing. All parties agree to abide by the written decision and order of the Hearing Officer, unless the Decision is appealed.*

Copies of the mediation agreement, written settlement agreement, or Hearing Officer's Decision and Order will be distributed, at a minimum, as follows: parent/guardian, Principal, Superintendent, Director, Student Support Services, and the student's Section 504 records.

If desired, either party may seek a review of the hearing officer's decision by a federal court of competent jurisdiction.

### **C. Corrective Action Procedures**

In circumstances where it has been determined that certain actions must be taken to achieve compliance with Section 504 requirements as a result of the grievance process, the following steps must be followed:

#### **1. Corrective Action Review**

The Director, Student Support Services will have five (5) school days from the date of receipt to review any corrective action submitted by the Principal and/or Superintendent, or his/her designee, and to provide comments in order to ensure District compliance with federal, state, and District standards.

#### **2. Implementation**

Once reviewed and finalized, the plan for corrective action must be implemented pursuant to the Superintendent's authority, with support for the monitoring of the implementation provided through the Student Support Services Department. A copy of the corrective action will be provided by the Principal or Superintendent, or his/her designee, to the Building Facilitator and placed in the student's Section 504 folder, as appropriate.

**3. Failure to Comply**

In circumstances where the plan for corrective action has not been implemented within prescribed time frames as written and this failure to implement has been brought to the attention of the Director, Student Support Services, the Superintendent will be notified by the Director, Student Support Services, and the matter will be monitored by the Director, Student Support Services, or designee until the required corrective action has been achieved.

If any outstanding issues regarding implementation persist after further monitoring, the Director, Student Support Services, will submit the matter to the Superintendent for review. The Superintendent will review the matter with the particular site Principal, in consultation with the Director, Student Support Services, and ensure prompt implementation of prescribed plan for corrective action.