Section 504 Compliance & Homebound Programs
General Information for Parents/Guardians

PROCEDURES AND FORMS
FOR IDENTIFICATION, EVALUATION, AND PLACEMENT
UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973

November 2019
**Introduction**

Section 504 of the Rehabilitation Act of 1973, with its subsequent amendments, is a federal civil rights law that prohibits discrimination against students with disabilities. Section 504 regulations require school districts to provide appropriate education to students with disabilities. This Guidebook provides assistance with the implementation of Section 504 by Charlotte-Mecklenburg Schools.

Most forms are available in Spanish. Please contact the CMS Section 504 Department at 980-343-0001 if other translations are needed.

The information in this Guidebook includes the changes resulting from the Americans with Disabilities Act Amendments Act of 2008 and reflects the Charlotte-Mecklenburg Schools’ ongoing commitment to educating ALL children in accordance with the CMS Board of Education’s vision and mission.

<table>
<thead>
<tr>
<th>This Guidebook was prepared by:</th>
<th>Charlotte-Mecklenburg Schools Section 504 Compliance &amp; Homebound Program Department (980-343-0001)</th>
</tr>
</thead>
</table>
| Contact Information:          | Benjamin Bender  
Rachel Long  
Amy Cook  
Harriett Ford  
Jennifer Blair  
Linda Powell  
Manager, Section 504  
Specialist, Section 504/Homebound Program  
Specialist, Section 504/Homebound Program  
Specialist, Section 504/Homebound Program  
Specialist, Section 504/Homebound Program  
Program Assistant  
Section 504/Homebound Program  
| 980-343-0589  
980-343-0071  
980-343-0005  
980-343-0072  
980-343-0070  
980-343-0069  |

In compliance with Federal Law, Charlotte-Mecklenburg Schools administers all education programs, employment activities, and admissions without discrimination against any person on the basis of gender, race, color, religion, national origin, age, or disability. Inquiries regarding compliance with Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs or activities, may be referred to the District’s Title IX Coordinator at titleixcoordinator@cms.k12.nc.us or at http://www.cms.k12.nc.us/titleix, or to the Department for Civil Rights, United States Department of Education.
Table of Contents

The Law ................................................................................................................................. 7
What is Section 504? ........................................................................................................... 7
Relationship between Section 504 and the ADAAA .......................................................... 7
Section 504/ADAAA and the Individuals with Disabilities Education Act (IDEA) ............. 8
Responsibilities of CMS Under Section 504 ...................................................................... 8
Locate and Identify .............................................................................................................. 8
Conduct Child Find ............................................................................................................ 8
Individualized Health Care Plan (IHP) and Emergency Action Plan (EAP) ......................... 9
Determine Eligibility Under Section 504 .......................................................................... 10
Definition of Evaluation under Section 504 ..................................................................... 10
Physical or Mental Impairments ......................................................................................... 10
Substantial Limitation ....................................................................................................... 10
Mitigating Measures ......................................................................................................... 11
Impairments that are Episodic, in Remission, or Transitory ............................................... 11
Episodic Impairments ....................................................................................................... 11
Impairments in Remission ............................................................................................... 11
Transitory/Temporary Impairments .................................................................................. 11
Student Services Plans ..................................................................................................... 12
Students Who Meet Eligibility, but Do Not Need a Section 504 Plan .............................. 12
District-wide Information ................................................................................................ 12
Notice of Non-discrimination ............................................................................................ 12
Bullying/Harassment ......................................................................................................... 13
Non-academic Services ..................................................................................................... 13
Otherwise Qualified .......................................................................................................... 13
Inclusion (FAPE) ............................................................................................................... 13
Transfer Students .............................................................................................................. 14
Student is New to CMS .................................................................................................... 14
Student Re-enrolls in CMS .............................................................................................. 14
Student is a Within System Transfer ............................................................................. 14
Service Animals ................................................................................................................. 14
Use of Service Animals by Students with Disabilities ....................................................... 14
Section 504 Process Steps ................................................................................................. 16
Related Services: Physical Therapy, Occupational Therapy, and Audiology ...................... 19
Nursing Care .................................................................................................................... 19
Hospital/Homebound Eligibility ....................................................................................... 21
Hospital/Homebound Placement Procedures: Requirements for Parents ......................... 21
Roles and Responsibilities: Hospital/Homebound ............................................................ 22

RE: 11/15/2019 bb
The Law

What is Section 504?

“No otherwise qualified individual with a disability in the United States... shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance...”

29 U.S.C. § 794(a)

Section 504 of the Rehabilitation Act of 1973 with its amendments is a civil rights statute that prohibits discrimination against individuals with disabilities. This law is enforced by the Office for Civil Rights (OCR) and the Equal Employment Opportunities Commission (EEOC). Both agencies enforce Title II of the Americans with Disabilities Act of 1990 (ADA) reauthorized as the Americans with Disabilities Act Amendments Act (ADAAA) of 2008. The reauthorization extends the prohibition against discrimination to the full range of state or local government services (including public schools), programs, or activities regardless of whether they receive federal funding or not. Under Section 504, denying a student with a disability a Free Appropriate Public Education (FAPE) constitutes disability discrimination.

Section 504 covers students with diagnosed, certified, or classified impairments, who attend public and private schools that receive federal funding. A student is “disabled” under the Section 504 regulations if the student meets any one of the three prongs of eligibility listed in 34 CFR 104.3(j)(1). To be protected under Section 504, a student must be determined to:

1) Have a physical or mental impairment that substantially limits a major life activity (or bodily function), or
2) Have a record of such impairment, or
3) Be regarded as having such impairment

The ADAAA (2008) did not change the actual language of the three prongs, but it did change how the various phrases used in the three prongs are understood. Congress provided, as part of its rules of construction in the ADAAA, that “The definition of disability in this Act shall be construed in favor of broad coverage of individuals under this Act, to the maximum extent permitted by the terms of this Act.” This statement should guide the school’s Section 504 Team’s evaluation of the potentially eligible student. The school’s Section 504 Team is defined as a group of persons knowledgeable about the student, the meaning of the evaluation data, and the placement options (34 CFR §104.35(c)).

Section 504 requires that school districts provide FAPE to students in their jurisdiction who meet the definition of an individual with a disability under Section 504. All students are entitled to FAPE in North Carolina.

Relationship between Section 504 and the ADAAA

The Americans with Disabilities Act (ADA), enacted in 1990, amended in 2008 as the Americans with Disabilities Act Amendments Act (ADAAA) and the Rehabilitation Act of 1973 (Section 504) are civil rights laws that protect individuals with disabilities from discrimination. The primary difference is that while Section 504 applies only to organizations that receive federal funding, the ADAAA applies to a much broader population. However, as of January 1, 2009, whatever applies to the ADAAA applies to Section 504, as well.

Virtually every violation of Section 504 is also a violation of the ADAAA in the educational arena. If a complainant alleges that the District has violated one statute, OCR and the EEOC will likely investigate for violations of the other statute.
Section 504/ADAAA and the Individuals with Disabilities Education Act (IDEA)

Eligibility for protections and services under Section 504 is not the same as eligibility under IDEA. Section 504 has a much broader definition of a disability. Section 504 provides protection from discrimination for students with disabilities in a general education setting who do not need specially designed instruction. Students covered under IDEA with an Individualized Education Program (IEP) do not need a separate Section 504 plan, because students who are covered under IDEA must have an IEP that addresses both the special education needs and any accommodations that would be provided under Section 504. The District has no flexibility or discretion to provide services and accommodations under Section 504 when a student is IDEA-eligible.

Relationship between Section 504 and IDEA

Responsibilities of CMS Under Section 504

Under Section 504, school districts have a responsibility to locate, identify, evaluate, and place individuals who are, or are believed to be, in need of special education and related aids and services due to a physical or mental impairment. School districts are required to establish and implement procedural safeguards. These safeguards include: Notice, an opportunity for parents to review relevant records, an impartial hearing with the opportunity for participation by the student’s parents or guardian, representation by counsel, and a review procedure.

Locate and Identify

Conduct Child Find

Charlotte-Mecklenburg Schools shall endeavor to locate and identify every individual within the district, who is not receiving a free appropriate public education due to a physical or mental impairment. District and school-based Section 504 staff engage in ongoing child find activities. Activities may include, but are not limited to, presenting information at parent and school staff meetings, posting information in CMS schools and district offices, and reviewing student information upon registration and/or when medical needs arise.

In addition to district-based initiatives, individual schools employ school-based procedures to assist in the identification of students with a suspected disability. Teachers and other staff are obligated to notify the school-based Section 504 coordinator if they suspect that a student may benefit from an evaluation to determine if additional support may be needed. School-based procedures may include a review of student absences, academic progress, incident reports due to ongoing behaviors, students who have health concerns, and students who have been exited from Exceptional Children (EC) programs.
**Individualized Health Care Plan (IHP) and Emergency Action Plan (EAP)**

Parents and school staff must be aware of the relationship between Section 504 and an Individualized Health Care Plan (IHP) or Emergency Action Plan (EAP), and other similar plans such as asthma, seizures, and diabetic care. These plans are developed by the school nurse in collaboration with parents and relevant school staff. For students who have an IHP or EAP but no Section 504 Student Services Plan, schools are to consider whether students with either of these plans might be eligible under Section 504. Students with IHPs or EAPs should be considered for Section 504 eligibility. At the 504 meeting, it is important to include the school nurse and, at times, the school psychologist. These individuals bring a unique insight into the needs of these students and their medical or mental health condition.

1. If a student is currently covered under Section 504 and later presents the need for an IHP/EAP, the IHP/EAP should be developed under Section 504 regulations for evaluation and placement, and the parent/guardian is provided with a copy of the procedural safeguards under Section 504.

2. If a student has an IHP/EAP but has not been evaluated for eligibility under Section 504, parents should be offered a Section 504 meeting to determine eligibility. Based on a variety of data sources, if a student with an IHP/EAP is suspected of having a physical or mental impairment that is substantially limiting a major life activity or bodily function, then the student must be evaluated in accordance with Section 504 regulations.

3. In determining whether a student is or might be eligible under Section 504, it is inappropriate to limit the major life activities to learning or academic needs. A substantial limitation in any major life activity or major bodily function caused by a physical or mental impairment results in Section 504 coverage. This is a Section 504 Team decision and should not be made unilaterally.

   **Example:** A student with an IHP for asthma is referred for a Section 504 evaluation. The school district refuses to hold an evaluation review, because the student is proficient in reading and math. This would violate Section 504’s evaluation regulations.

4. The decision about whether a student with an IHP/EAP is eligible under Section 504 is determined without regard to the positive effects of mitigating measures used by the student (the only exception to this is ordinary eyeglasses or contact lenses). If a student would be substantially limited in a major life activity or major bodily function without the use of a mitigating measure, the student is eligible under Section 504, no matter how well the mitigating measure(s) work(s).

   **Example:** A student with an IHP who uses a hearing aid is referred for a Section 504 evaluation. The evaluation team considers the student’s limitations without the use of the hearing aid. The evaluation team’s approach is correct, as they did not consider how the student performs with the use of the hearing aid.

5. Remember that the United States Department of Education (DOE) considers health plans to be mitigating measures. In determining whether a student with an IHP/EAP is eligible under Section 504, the Section 504 evaluation team must determine the student’s limitations without the benefit of the IHP/EAP.

   **Example:** A student has an IHP for a severe nut allergy. The student has had several exposures to allergens requiring use of the IHP’s strategies during the school year. The Section 504 evaluation team considers whether the student’s limitations without regard to the IHP are substantially limiting. The Section 504 evaluation team’s approach is correct.

6. It is important to determine on an individual basis whether a student with an IHP/EAP has a physical or mental impairment that substantially limits a student in a major life activity or major bodily function. It is incorrect to conclude that a student is Section 504-eligible simply based on a diagnosis. There is no impairment that automatically warrants Section 504 eligibility without linkage to a substantial limitation of a major life activity or bodily function.

   **Example:** A student has a medication administration plan for prescriptions to address asthma. School officials say, “Asthma? Say no more. This student is eligible under Section 504. Let’s write a plan.” This action is a violation, because it neglects the individual analysis of the student’s impairment and the degree of impact on the major life activity or major bodily function.
Determine Eligibility Under Section 504

Definition of Evaluation under Section 504

When considering an individual’s eligibility, the term “evaluation” as it applies to Section 504 means “to review information from a variety of sources and, if needed, obtain any additional information.” Evaluation, in this sense, does not necessarily mean that an individual must undergo testing to determine if the individual meets eligibility criteria. Based on the review of information, the school’s Section 504 Team must address these questions:

1. Does the individual have a physical or mental impairment?
2. Does the impairment affect a major life activity or major bodily function?
3. To what degree does the impairment limit a major life activity or major bodily function?
4. Does the individual need accommodations, services, or supports to access the benefits of public education as adequately as the needs of his/her non-disabled peers?

Physical or Mental Impairments

As stated previously, under Section 504 a student is “disabled” if the student meets any one of the three prongs of eligibility listed in 34 CFR 104.3(j)(1).

1) Has a physical or mental impairment that substantially limits a major life activity or major bodily function, or
2) Has a record of such impairment, or
3) Is regarded as having such impairment

Section 504 defines physical or mental impairment as:

(A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following bodily systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine;

or

(B) any mental or psychological disorder, such as mental retardation [intellectual disability], organic brain syndrome, emotional or mental illness, and specific learning disabilities

Section 504 does not define specific impairments or set forth an exhaustive list of specific diseases or categories that may constitute physical or mental impairments. The definition of physical or mental impairment under Section 504 is broad, including students with life-threatening health conditions that will put a student in danger of death during the school day if medication or treatments are not in place. Simply having a condition or impairment does not automatically guarantee that an individual is eligible under Section 504.

Substantial Limitation

A student’s physical or mental impairment is considered substantially limiting if a student is unable to perform, or is significantly restricted in performing, a major life activity as compared to the average student or peer. There is no single formula or scale that measures substantial limitation. An impairment need not prevent or significantly or severely restrict a student in performing a major life activity to be considered substantially limiting. Title II provides three factors for teams to consider when determining whether the impairment substantially limits a major life activity or major bodily function:

1. Nature and severity of the impairment;
2. Duration or expected duration of the impairment; AND
3. Permanent, long-term impact or expected impact of the impairment.
The determination of whether a student has a physical or mental impairment that substantially limits a major life activity or major bodily function must be made by the Section 504 Team. The ADAAA (2008) expanded the definition of substantial limitation to ensure it reaches a broad spectrum of individuals without the consideration of mitigating measures, such as medications and surgical interventions. Eyeglasses and corrective lenses are an exception to this rule (i.e., Section 504 Teams may consider the positive effects of a student’s eyeglasses when making eligibility determination). School Section 504 Teams need to be careful when reviewing student information to include all areas of impact and not limit discussion to just learning.

**Mitigating Measures**

As mentioned above, mitigating measures may be used by a student to manage his or her impairment or lessen the impact of his or her impairment. Mitigating measures must be disregarded when determining eligibility under Section 504. In other words, when determining eligibility, the benefits of a mitigating measure must not be considered, and the student must be viewed as if that measure was not available.

Once determined eligible, the Section 504 Team must decide if a student needs accommodations or supports to receive an equal educational opportunity. If a Section 504 Student Services Plan is warranted, the benefits of a mitigating measure may be considered when writing a student’s service plan.

**Impairments that are Episodic, in Remission, or Transitory**

**Episodic Impairments**

Some students have physical or mental impairments that can vary in frequency and limitation. Conditions such as seasonal allergies or asthma, migraines, sickle cell disease, and rheumatoid arthritis are good examples of impairments that may be substantially limiting at times (in hot weather, when the student is stressed, when irritants or trigger factors are present) and have little impact at other times. Schools commonly qualify students under Section 504 if their condition, though not constant, episodically rises to the level of substantial limitation of a major life activity. Students should not be denied eligibility simply because the disability, at the time eligibility is determined, is not substantially limiting, especially when the school knows from past experience that substantial limitation will likely occur. School Section 504 Teams should look carefully at the range of data over a period of time and not just the student’s current level of performance. The timing of the evaluation should not function to preclude eligibility for students whose impairments are episodic and who are not substantially limited at the time of evaluation.

**Impairments in Remission**

The ADAAA language on impairments in remission is the same as episodic impairments: “An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.” An example is a student who had cancer that is now in remission. The student would be eligible if the cancer was substantially limiting when it was active in the past.

**Transitory/Temporary Impairments**

A transitory impairment is an impairment with an actual or expected duration of six (6) months or less. The issue of whether a transitory impairment is substantial enough to be a disability must be resolved on a case-by-case basis, taking into consideration both the expected duration of the impairment and the extent to which it actually limits a major life activity. In most cases, basic informal accommodations may be implemented without a full Section 504 Student Services Plan. Contact the Section 504 Department (980-343-0001) for further information and guidance.

In CMS, school teams should meet and determine if a student’s impairment meets the criteria for a transitory impairment. If the impairment is considered transitory/temporary, services and accommodations are provided through general education and may not require the student to be eligible under Section 504.
Student Services Plans

“Section 504 provides the individual the opportunity to create their desired outcome without discrimination.”

Dave Richards, 2015

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

(http://www2.ed.gov/about/offices/list/ocr/504faq.html); (34CFR104.33)

Eligible Section 504 students may receive accommodations such as preferential seating, unlimited restroom usage, assistance with medication, and test accommodation provisions such as extended time or testing in a small group. The Section 504 Team determines the need for accommodations and which accommodations may benefit the student. Each decision must be made on a case-by-case basis. Accommodations/supports/services should assist the student with having equal access to the general education curriculum and not provide an undue advantage for the student. Accommodations/supports/services can be changed or modified as the student’s needs change.

Students Who Meet Eligibility, but Do Not Need a Section 504 Plan

If, as a result of a properly conducted evaluation, the school district determines that the student does not need special education and related aids and services, the district is not required to provide aids or services. “Neither the ... [ADA] nor Section 504 obligates a school district to provide aids or services that the student does not need.” However, the school district must still conduct an evaluation before making a determination.

Example: Suppose a student is diagnosed with severe asthma. Asthma is a disability, because it substantially limits the major life activity of breathing and the function of the respiratory system. However, based on the evaluation, the student does not need any special education or related aids and services as a result of the disability. This student fully participates in her school’s regular physical education program and in extracurricular sports, she does not need help administering her medicine, and she does not require any modifications to the school’s policies, practices, or procedures. The school district is not obligated to provide the student with any additional services. Therefore, this student would be eligible under Section 504 but would not need a Student Services Plan. (Source: U.S. Department of Education, Office for Civil Rights (OCR), Questions and Answers on the ADA Amendments Act of 2008 for Students with Disabilities Attending Public Elementary and Secondary Schools, Questions 9 and 11.)

If at any time a student needs support, the Section 504 Team must reconvene, discuss eligibility, and, if warranted, develop a plan.

District-wide Information

Notice of Non-discrimination

The Charlotte-Mecklenburg Schools shall take steps to notify participants, employees, and applicants of district responsibilities under Section 504. The following notice shall appear in student/parent handbooks, teacher’s handbooks, non-certified personnel handbooks, and published personnel recruiting materials:

“In compliance with Federal Law, Charlotte-Mecklenburg Schools administers all education programs, employment activities, and admissions without discrimination against any person on the basis of gender, race, color, religion, national origin, age, or disability. Inquiries regarding compliance with Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs or activities, may be referred to the District’s Title IX Coordinator at titleixcoordinator@cms.k12.nc.us or at http://www.cms.k12.nc.us/titleix, or to the Office for Civil Rights, United States Department of Education.”
**Bullying/Harassment**

Anyone involved, witnessing, or aware of bullying and/or harassment should report the incident using the on-line anonymous bullying platform located on every individual school website, as well as the main CMS web page. The report can be made anonymously, or the reporter can leave their name and contact information. Retaliation for making a report is strictly prohibited under the CMS Bullying Policy JICK. For more information, please contact John Concelman at john.concelman@cms.k12.nc.us or the Section 504 Help Desk @ 980-343-0001.

**Non-academic Services**

Qualified students with a disability shall be provided an equal opportunity to engage in counseling services, physical recreation, athletics, transportation, special interest clubs, etc.

For example, qualified students with a disability shall:

- Automatically **not** be counseled towards certain career objectives more than non-disabled students with similar abilities.
- Have an equal opportunity to participate in physical education courses and athletics. Although qualified disabled students may participate in separate activities for the disabled, no qualified disabled student shall be denied the opportunity to compete (i.e., tryout) for membership on a team or to participate in courses that are not separate or different.

**Otherwise Qualified**

If a person with a disability wants to participate in an activity in which the individual is not otherwise qualified to participate, disallowing participation does not constitute discrimination.

*Example:* A 16-year-old boy with attention-deficit/hyperactivity disorder (ADHD) tries out for the basketball team, but he cannot dribble, shoot, or pass. As a result, the coach does not allow the boy to play on the team. This disallowance is not discrimination, under Section 504 because the boy is not otherwise qualified to be on the team.

Finally, in addition to satisfying the definition of an individual with a disability, a student with a disability must also be qualified for the protections of Section 504 in order to be covered under the law. For students with disabilities at the elementary and secondary levels, being qualified under Section 504 is based primarily on whether the person is a certain age. Specifically, a student with a disability is a qualified individual with a disability if the student is of an age at which: (1) students without disabilities are provided elementary and secondary educational services; or (2) it is mandatory under State law to provide elementary and secondary educational services to students with disabilities.

A student with a disability is also a qualified individual with a disability if he or she is a student to whom a State is required to provide a free appropriate public education under the IDEA, a special education law that addresses the rights of students with disabilities. (34 C.F.R. § 104.3(l)(2)

**Inclusion (FAPE)**

Section 504, like the IDEA, requires that students with disabilities be educated with their non-disabled peers to the maximum extent appropriate while meeting the needs of students with disabilities. Schools should always place students with disabilities with their non-disabled peers, unless the school can demonstrate that the student's education program cannot be achieved satisfactorily, with or without supplementary aids and services in the general education setting. This mandate also applies to extracurricular activities such as field trips. Failure to adhere to the above guidelines violates the school’s requirement to provide students with FAPE.
Transfer Students

Student is New to CMS
If a student with a disability transfers to CMS from another school district with a Section 504 plan, the Section 504 Team should immediately review the student’s current plan from the previous school/district and implement any accommodations/supports/services to the best of their ability while waiting to re-evaluate the student. CMS must review the plan and supporting documentation within a reasonable time upon the student’s entry (recommended time frame is within 45 school days). Upon evaluation, if the Section 504 Team determines that the student’s mental or physical impairment no longer substantially limits a major life activity or major bodily function, then the student is no longer eligible for services under Section 504.

Student Re-enrolls in CMS
A student who re-enrolls in CMS must also be re-evaluated to determine if the student continues to meet eligibility requirements. The Section 504 Team may accept the student’s previous plan on a temporary basis if it was updated within the past year while waiting to re-evaluate the student. If the student’s Section 504 plan is outdated or the student was exited or ineligible under Section 504 prior to withdrawal from CMS, the Section 504 Team would begin the referral process for eligibility determination.

Student is a Within System Transfer
When a student moves from one CMS school to another CMS school, the sending school’s Section 504 coordinator/case manager or principal designee should contact the receiving school’s Section 504 coordinator to provide notification of the incoming student and their Section 504 status.

Service Animals

Use of Service Animals by Students with Disabilities
Title II of the Americans with Disabilities Act (ADA) and its regulations require government entities, including public schools, to make reasonable modifications to programs and services to allow access for persons with disabilities. A “service animal,” as defined by the ADA, means any dog (or miniature horse) that is individually trained to work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Title II provides that a school may exclude a service animal if “the animal would fundamentally alter the nature of the service, program, or activity.”

Examples of work or tasks include, but are not limited to: Assisting an individual who is blind or who has low vision with navigation; alerting an individual who is deaf or hard of hearing to the presence of people or sounds; pulling a wheelchair; assisting an individual during a seizure; alerting individuals to the presence of allergens; retrieving items; providing physical support and assistance with balance and stability to individuals with mobility impairments; and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors.

The above policy does not refer to Therapy Animals. Contact the Section 504 Department for further information on using your service animal.
Process Steps for the Identification, Evaluation, and Placement of Students under Section 504

Step 1: Refer
Step 2: Prepare
Step 3: Determine Section 504 Eligibility
Step 4: Develop a Section 504 Student Services Plan
Step 5: Implement the Section 504 Student Services Plan
Step 6: Monitor Student Progress
Section 504 Process Steps

When a concern about a student is presented, the Referral Information form is completed with the assistance of the school §504 Coordinator. The concern may address behavioral, medical, physical, and/or emotional well-being that is limiting the child’s ability to function at school. Be sure any medical reports are included, especially if the referral is for OT, PT or Audiology. All referrals for Related Services must have a parent signature before processing.

If referred to §504, the parent/guardian must sign Notice and Consent for Initial Section 504 Evaluation and then receives a copy of the Parent/Guardian-Student Rights & Procedural Safeguards before any evaluation is initiated.

Related Service referrals must be reviewed by the Related Service provider for the area of concern. During this time, collect information from a variety of documented sources to use for eligibility determination and plan, if needed. When all information is collected, the §504 Evaluation meeting is scheduled, and the Notice of Section 504 Meeting form (along with procedural safeguards) is sent. Be sure to consider inviting the school psychologist, school nurse, and any related service provider when sending meeting notifications.
Section 504 Process Steps

The §504 team meets to determine if the student meets eligibility under §504 and if a Student Services Plan is needed. In determining if a student is eligible, the §504 team must review information from multiple sources and decide if there is enough information to determine eligibility. If the §504 team determines the student is eligible, then the team must determine if services and supports are needed. If services are needed, a student services plan is created. If services are not needed, the team will not create a plan. However, the student will receive protection under §504 and continual periodic reviews and monitoring. If a student is deemed not eligible, the parent is provided with a copy of the procedural safeguards and the process is complete.

Once a student is identified as being eligible under §504, a decision is made regarding the type and the extent of services the student needs. The plan is written to address the areas where the student has a substantial limitation with reasonable and appropriate accommodations. A behavioral intervention plan may be needed for students with behavioral difficulties and must be completed as soon as possible. Remember to include accommodations that fit the needs of the student currently. Plans are developed for what a student needs and to provide accessibility at the same level of adequacy as non-disabled peers. Be cautious not to provide accommodations that may give the student an undue advantage.
Section 504 Process Steps

Applicable school staff are notified and presented copies of a student’s services under §504, i.e., the Section 504 Student Services Plan. Training of need-to-know staff is completed. School staff must implement services/supports on a student’s plan. If a service or support appears not to be benefitting a student, a meeting must be held to determine if that service/support needs to be removed or replaced.

Progress monitoring, review meetings, and 3-year re-evaluations are conducted to determine if the student continues to meet eligibility and needs support. If a student’s needs change, the plan must be revised to reflect the current needs of the student. School staff or the student’s parent/guardian may request a meeting at any time.

In addition to initial eligibility and review meetings, other meetings may include Exit and Graduation Reviews, Hospital/Homebound placement, and Manifestation Determination Review (MDR) meetings.
Related Services: Physical Therapy, Occupational Therapy, and Audiology
Section 504 requires that related services be provided for students with disabilities if these services are essential to meet the student’s educational needs. A related service can be provided under Section 504 to children who do not receive any other special education services or interventions.

CMS related services consist of physical therapy, occupational therapy, and audiology services.

Nursing Care
Nursing care is provided to Section 504 students with severe medical conditions. A comprehensive health evaluation must be conducted prior to the provision of nursing care. This evaluation is conducted through a collaboration between CMS and the Mecklenburg County Health Department. Please note this process typically takes 3-4 weeks.
Hospital/Homebound Procedures
Program Overview

The intent of Hospital/Homebound placement is to continue the education of students with severe medical issues or illnesses that prevent them from receiving instruction in the school setting. Hospital/Homebound procedures are designed to allow a student to receive instruction while recovering at home or undergoing medical treatment.

After determining if a student is eligible for Hospital/Homebound placement, the school team creates a service plan to support the student during their absence. When designing a Hospital/Homebound plan, consideration is given to the student’s academic needs, length of absence, health concerns, and their ability to receive instruction.

Students enrolled in the Exceptional Children (EC) program must go through the Hospital/Homebound process specifically for special education students. During this process, the student’s general education academic course is discussed and, if needed, addressed in the student’s Individual Education Program (IEP).

Hospital/Homebound Eligibility

To be eligible for Hospital/Homebound placement, the student must meet the following criteria:

1. Be enrolled in CMS and reside in Mecklenburg County
2. Be expected to be confined at home or hospital bedside for a minimum of four weeks. The weeks need not be consecutive.
3. Have a medical diagnosis from the student’s treating health care provider which prevents full-time school attendance
4. The confinement must be for medical/mental health reasons only
5. Have current documentation from their current treating health care services provider documenting the reason(s) for school absence and the anticipated date of return to school

Hospital/Homebound Placement Procedures: Requirements for Parents

Completion of the Recommendation for Hospital/Homebound Placement-Treating Health Care Services Provider Form by the child’s treating health care services provider. This form is available on the CMS website for parents or by calling the Section 504 Department at 980-343-0001.

The Recommendation for Hospital/Homebound Placement-Treating Health Care Services Provider Form must be returned directly to the Section 504 Department.

Fax: 980-343-3777 – Attention: Section 504 Homebound
Email: priority504@cms.k12.nc.us
and copy
Email: lindaj.powell@cms.k12.nc.us
Roles and Responsibilities: Hospital/Homebound

**School Section 504 Coordinator or Case Manager**
- Coordinates with parent to schedule a Section 504 hospital/homebound eligibility meeting
- Invites the assigned District Section 504 Specialist to all hospital/homebound meetings; the District Specialist must attend all initial hospital/homebound meetings and must be invited to all hospital/homebound review meetings
- Contacts health care services provider submitting the request if additional information/clarity is needed in order to make a determination
- With the Section 504 team, determines if the student is eligible for and in need of hospital/homebound placement

**School Site**
- Provides student with all books and assignments
- Provides any technology needed to access the curriculum and/or complete assignments
  - Be sure to include valid passwords for student and hospital/homebound teacher
- Grading and awarding of credits is the responsibility of the student’s assigned subject-matter teacher(s)
- Makes necessary arrangements for all state testing; submit testing waivers if needed

**District Section 504 Specialist**
- Attends hospital/homebound meetings to support school-based teams and decision-making
- Assists with Section 504 Team’s adherence to procedures for eligibility and Section 504 plan development
- Provides a copy of the homebound meeting paperwork to the Section 504/Homebound Programs Office
- Provides guidance and assistance to school-based staff regarding the implementation of hospital/homebound procedures
- Ensures that Section 504 accommodations, aids, and services are provided according to the student’s plan

**District Section 504 Hospital/Homebound Administrative Assistant**
- Compiles Homebound Instructional folder with the following information:
  - Contact information
  - Schedules
  - 504 documents
  - Instructional log
- Reviews:
  - Teacher Weekly Summary
  - HB Student Summary Report
  - Returned instructional folder
- Processes timesheets for extended employment teachers
- Assigns teacher(s)
  - If a district hospital/homebound teacher is not available, the home school is responsible for assisting the Section 504 Department with securing one
**Hospital/Homebound Teacher**
- Contacts the student’s parent/guardian upon receiving notification about student assignment to establish a schedule to meet with the student
- Requests assignments and materials from the student's teacher(s)
- Provides the student with assigned instruction
- Returns completed assignments to the student’s teachers for grading
- Attends Section 504 Team meetings

**Parent/Guardian**
- Parent/guardian or a designated adult (18+ years of age) must be present when the homebound teacher is in the home during instructional sessions, regardless of the student’s age
- Informs and updates Section 504 Coordinator at their child’s school about the student’s medical condition
- Monitors instructional sessions
- Signs the homebound teacher’s log at the time of service
- Contacts the child’s homebound teacher if an instructional session needs to be rescheduled (within 24 hours before the session when possible)
- Attends Section 504 meetings as the student’s health allows
- Obtains and returns Recommend**ation for Hospital/Homebound Placement-Treating Health Care Services Provider Form** for extension requests
- Completes Hospital/Homebound survey upon completion of service

**Student**
- Is prepared for instruction when homebound teacher arrives
- Has questions and assignments ready for review
- Completes assignments between homebound instructional sessions
- Sends completed work to teacher at school, if requested
- Informs homebound teacher about any issues with course work
- Puts forth good effort as medical condition allows
- Is expected to work independently on assignments between homebound sessions
  - Middle and high school students should be working at least one hour a day for every subject they have been assigned; honors level classes may require more time.

**Pregnant Students Who are Identified as a Student with a Disability**

Under state law and CMS Board Policy JIE, pregnant students may receive homebound services to the extent necessary, as determined by the student’s Section 504 team. If a student has an at-risk pregnancy, she may be eligible for homebound services for four or more weeks prior to the estimated delivery date and two additional weeks after a normal vaginal delivery. If the student’s delivery is complicated, she may receive the amount of homebound services that the physician prescribes. If the student has an uneventful pregnancy and then delivers by C-Section, the student may receive four or more weeks of homebound services after delivery as verified by the treating health care services provider.
Accommodations and Testing Guidelines
Accommodations

Overview

The purpose of student services plans under Section 504 is to provide equal educational opportunity and access for students with disabilities. Accommodations must be reasonable and allow students with disabilities to have equal access to their learning environment, manage a medical condition, participate in class activities, and demonstrate their level of mastery of concepts without being impeded by their disability. Accommodations that include an instructional component should be written so that the integrity of the course content is maintained. Accommodations needed to manage a medical condition should allow the student opportunities to take care of his/her condition.

All accommodations must be reasonable and not provide an undue advantage for the student, and they should not pose an undue hardship on the institution.

Once the Section 504 Team identifies a student as eligible, appropriate accommodations and supports are written into a student’s Section 504 Student Services Plan. These accommodations must be implemented by all staff who interact with the student. Modifications of a student’s accommodations require a Section 504 Team meeting and a collective team decision.

If a student refuses to use a documented accommodation, the teacher must complete the Notification of Refusal to Use Section 504 Accommodations form and implement the follow-up procedures explained on the form. If a student consistently refuses to use an accommodation (i.e., equipment provided by CMS), notify the school-level Section 504 coordinator to schedule a meeting to determine if there is a need for this accommodation.

If a student refuses to use a medical or health-related accommodation (i.e., reporting to the health room to receive prescribed medication), notify the school nurse and parent/guardian immediately, as well as complete the Notification of Refusal to Use Section 504 Accommodations form.

Each student’s Section 504 Student Services Plan must be developed individually. While there are accommodations that are commonly used to address and manage certain specific conditions, each student’s individual needs must be considered when choosing the appropriate accommodations. Selecting and monitoring the effectiveness of accommodations should be an ongoing process. Changes to a student’s Section 504 Student Services Plan should only be made at a Section 504 meeting with multi-disciplinary input from students, parents, and educators. Chosen accommodations must address the student’s specific areas of need as related to the student’s disability. Consider if there is a documented deficit for the accommodations or supports that are chosen.

Accommodations listed on a student’s Section 504 Student Services Plan must be routinely monitored for effectiveness. Progress monitoring should be completed each quarter, using the Teacher Input form. Any accommodations that are not effective should be revised or eliminated from the student’s Section 504 Student Services Plan through a Section 504 Team meeting.

Testing

For a testing accommodation to be used for state-mandated tests, the accommodation should be “routinely used” in the classroom. Best practice, according to the Testing Students with Disabilities publication (2018), suggests that testing accommodations be in place and documented at least 30 school days prior to any state-mandated testing. Testing accommodations should not be developed for state testing if there is no documented need for these supports.

Testing accommodations should in no way alter the content of the assessment or interfere with the integrity of the test construct. Section 504 Coordinators should regularly consult with the school’s testing coordinator for updates and new information.

School assignments and tests completed with accommodations should be graded the same way as those completed without accommodations. Accommodations are meant to provide equal and ready access to the testing materials and are not meant to provide an undue advantage for the student.
Discipline and Section 504 Students
**Discipline and Section 504 Students**

**Manifestation Determination Review (MDR)**

**General Overview**
Section 504 protects students with disabilities from being improperly removed from school for misconduct that is related to or caused by their disability. Before CMS implements a disciplinary action that constitutes a "significant change in placement," the school-based Section 504 Team must convene to review and discuss the misconduct. During this process, Section 504 Teams consider the student’s documented disability(ies), as well as the details of the specific incident, to determine whether the misconduct was caused by, or had a direct and substantial relationship to, the student’s disability. In addition, the Team determines whether the misconduct was the direct result of the District’s (school’s) failure to implement the student’s Section 504 Student Services Plan. This type of evaluation is commonly called a Manifestation Determination Review (MDR).

If a student’s misconduct is determined to be a manifestation of his/her disability, CMS is legally prohibited from implementing a disciplinary action that constitutes a significant change in the student’s placement. If a disabled student’s misconduct is determined NOT to be a manifestation of his/her disability, CMS may legally discipline the student in the same manner as students without disabilities.

Under Section 504, the District is not required to provide a student with disabilities educational services during the period of time they are properly removed from school for disciplinary reasons. However, students must be provided the same access to services that are available to non-disabled students, who are long-term suspended or expelled, including access to re-entry programs.

Overall, a Manifestation Determination Review is held:
- When a school plans to give a student an out-of-school suspension (OSS) that may be fewer than ten (10) days, but when combined with previous suspension days in the current school year, would exceed ten (10) days of OSS.
- When a school wishes to request a Discipline Team Meeting (DTM), regardless of whether the student has accrued or exceeded ten (10) OSS days. DTMs can only be requested when associated with a suspension of 10 days.

**Significant Change in Placement**
A significant change in placement is defined as a significant change in the type or amount of educational or related aids or services that CMS provides to a student with disabilities. A significant change in placement may include, but is not limited to:

- terminating eligibility under Section 504
- initiating or terminating a related service or hospital/homebound services
- disciplinary actions that exclude a student from school for more than 10 consecutive school days in a school year
- disciplinary actions that create a pattern of exclusion from school
Manifestation Determination Review Meeting

A Manifestation Determination Review meeting is needed when a student’s placement may be significantly changed by disciplinary action as a result of his/her misconduct. Usually, a short-term OSS of ten (10) days or less does not constitute a significant change in the student’s placement. Therefore, a MDR is not necessary when a student’s suspension is deemed a short-term suspension, as placement would not constitute a significant change.

A Manifestation Determination Review (MDR) meeting is essentially an evaluation that answers two questions:

1. Was the conduct in question caused by, or directly and substantially related to, the student’s disability?

To answer this question, the Section 504 Team must consult several sources of evaluation data (diagnosis, current Section 504 plan, BIP, attendance, reports, observations, etc.) which are related to the student’s behavior and disability. The data must be recent enough to afford an understanding of the student’s current behavioral functioning

- A student’s misconduct is a manifestation of his/her disability if the conduct in question “is caused by the disability” or the conduct in question “has a direct and substantial relationship to the disability.”

- A student’s conduct in question is not a manifestation of the student’s disability if the conduct in question has only a weak relationship to the student’s disability.

2. Was the conduct in question the direct result of the school’s (District’s) failure to implement the Section 504 Student Services Plan, if there was such failure?

The Section 504 Team must review the student’s current Section 504 Student Services Plan to determine its appropriateness and if all accommodations were implemented with fidelity. If it is determined the accommodations were not implemented with fidelity, a new Section 504 Student Services Plan should be developed immediately and the misconduct in question for this manifestation would be considered a “failure to implement” the Section 504 Plan.

If a formal Behavioral Intervention Plan (BIP) has been developed for the student, it is considered part of the Section 504 Student Services Plan. Therefore, failure to implement and regularly review a student’s BIP may result in a “failure to implement the Section 504 plan.”

CMS Discipline and Reassignment Final Regulations

Terms Defined

Weapon

“Weapon” is a device, instrument, material, or substance (animate or inanimate), which is used for, or is readily capable of, causing death or serious bodily injury; such term does not include a pocket knife with a blade less than 2-1/2 inches in length.

Illegal Drug

"Controlled substance" means a drug or other substance identified under Schedules I, II, III, IV, or V in Section202(c) of the Controlled Substances Act. This refers to any prescription drug or a drug that has not obtained medical approval.

"Illegal drug” means a controlled substance; however, this does not include a controlled substance that is legally possessed or used under the supervision of a licensed health care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law (i.e., drugs without prescription).
Serious Bodily Injury

“Serious bodily injury” is an injury that results in:
- a substantial risk of death
- extreme physical pain
- protracted and obvious disfigurement, and/or
- protracted loss or impairment of the function of a bodily organ and/or mental faculty

If a student eligible under Section 504 carries a weapon to school or to a school-sponsored event or function, possesses, uses, sells, or solicits illegal drugs on school grounds or at a school-sponsored event or function, or inflicts serious bodily injury upon another person at school or a school-sponsored event or school function, CMS may place the student in an alternative educational setting for up to 45 school days for the safety of self or others.

However, a Manifestation Determination Review must be scheduled during that time to review the student’s Section 504 Student Services Plan, discuss the need for a FBA and a BIP, and determine if the behavior was a manifestation of the student’s disability.

According to the Office for Civil Rights (OCR), when an offense includes possession, use, sale, or solicitation of illegal drugs on school grounds or at a school-sponsored event or function, the school may discipline the student in the same manner as a non-disabled peer. However, in CMS, the Section 504 Team must meet to discuss if the offense falls under this criterion or if the student’s rights are still in place. If there is evidence that the student met this criterion, no MDR would be needed. This meeting must be documented on the SuccessEd platform.

Appeal Rights and Placement during Appeals

If a parent disagrees with the results of the MDR, the parent may follow the CMS Section 504 Grievance process described in this Guidebook. If a parent disagrees with the result of the DTM, the parent must follow the procedures outlined in the Student Code of Conduct.
Procedural Safeguards under Section 504
Procedural Safeguards

School districts are required to establish and implement procedural safeguards with respect to actions regarding the identification, evaluation, and educational placement of a student with a disability. Procedural safeguards include:

- Notice
- An opportunity for parents to review relevant records
- An impartial hearing with opportunity for participation by the student’s parent(s) or guardian(s), and representation by counsel
- A review procedure

Notice

School districts are charged with the ongoing duty to notify individuals of the District’s policy to not discriminate based on a disability. Notification may include, but is not limited to, posters, brochures, handouts in school packets, and community publications. Included in these notifications is how and who to contact for more information or to report a violation.

Notice of rights under Child Find also includes individual notice to parent/guardians of students where there is suspicion of a disability. Parents have the right to be notified by the district of any action regarding the identification, evaluation, or placement of a student. Parents of students who have accrued absences, have health-related needs, behavior concerns, or have difficulty accessing the school campus should be contacted to discuss concerns. If a school is considering Section 504 eligibility, a parent/guardian must always receive written notice prior to any meeting to discuss the student’s educational supports or change of placement. To not provide written notice to a parent/guardian may constitute a procedural violation.

Opportunity to Review Records

Under Section 504 and the Family Educational Rights and Privacy Act (FERPA), parents have the right to review relevant records of their child. CMS Policy Code: JRA Student Records has information concerning this procedure.

A Review Procedure

Districts are required to provide a review procedure to ensure a Section 504 due process hearing was conducted correctly in line with the District’s procedures. This request must be made within 30 calendar days after the hearing officer renders the findings on the complaint.
Notice of Rights & Procedural Safeguards for Disabled Students and their Parents Under §504 of the Rehabilitation Act of 1973

The Rehabilitation Act of 1973, commonly known in the schools as "Section 504," is a federal law passed by the United States Congress with the purpose of prohibiting discrimination against disabled persons who may participate in, or receive benefits from, programs receiving federal financial assistance. In the public schools specifically, §504 applies to ensure that eligible disabled students are provided with educational benefits and opportunities equal to those provided to non-disabled students.

Under §504, a student is considered "disabled" if he or she suffers from a physical or mental impairment that substantially limits one or more major life activities. Section 504 also protects students with a record of an impairment, or who are regarded as having an impairment from discrimination on the basis of disability. Students can be considered disabled, and can receive services under §504, including regular or special education and related aids and services, even if they do not qualify for, or receive, special education services under the IDEA.

The purpose of this Notice is to inform parents and students of the rights granted them under §504. The federal regulations that implement §504 are found at Title 34, Part 104 of the Code of Federal Regulations (CFR) and entitle eligible student and their parents, to the following rights:

1. You have a right to be informed about your rights under §504. [34 CFR 104.32] The School District must provide you with written notice of your rights under §504 (this document represents written notice of rights as required under §504). If you need further explanation or clarification of any of the rights described in this Notice, contact appropriate staff persons at the District’s §504 Office and they will assist you in understanding your rights.

2. Under §504, your child has the right to an appropriate education designed to meet his or her educational needs as adequately as the needs of non-disabled students are met. [34 CFR 104.33]. You have the right to refuse consent for services at any time.

3. Your child has the right to free educational services, with the exception of certain costs normally also paid by the parents of non-disabled students. Insurance companies and other similar third parties are not relieved of any existing obligation to provide or pay for services to a student that becomes eligible for services under §504. [34 CFR 104.33].

4. To the maximum extent appropriate, your child has the right to be educated with children who are not disabled. Your child will be placed and educated in regular classes, unless the District demonstrates that his or her educational needs cannot be adequately met in the regular classroom, even with the use of supplementary aids and services. [34 CFR 104.34].

5. Your child has the right to services, facilities, and activities comparable to those provided to non-disabled students. [34 CFR 104.34].

6. The School District must undertake an evaluation of your child prior to determining his or her appropriate educational placement or program of services under §504, and before every subsequent significant change in placement. [34 CFR 104.35]. You have the right to refuse consent for initial evaluation.

7. If formal assessment instruments are used as part of an evaluation, procedures used to administer assessments and other instruments must comply with the requirements of §504 regarding test validity, proper method of administration, and appropriate test selection. [34 CFR104.35]. The District will appropriately consider information from a variety of sources in making its determinations, including, for example: aptitude and achievement tests, teacher recommendations, reports of physical condition, social and cultural background, adaptive behavior, health records, report cards, progress notes, parent observations, statewide assessment scores, and mitigating measures, among others. [34 CFR 104.35].

8. Placement decisions regarding your child must be made by a group of persons (a §504 committee) knowledgeable about your child, the meaning of the evaluation data, possible placement options, and the requirement that to the maximum extent appropriate, disabled children should be educated with non-disabled children. [34 CFR 104.35].
9. If your child is eligible under §504, he or she has a right to periodic reevaluations. A reevaluation must take place at least every three years. [34 CFR 104.35].

10. You have the right to be notified by the District prior to any action regarding the identification, evaluation, or placement of your child. [34 CFR 104.36]

11. You have the right to examine relevant documents and records regarding your child (generally documents relating to identification, evaluation, and placement of your child under §504). [34 CFR 104.36].

12. You have the right to an impartial due process hearing if you wish to contest any action of the District with regard to your child’s identification, evaluation, or placement under §504. [34 CFR 104.36]. You have the right to participate personally at the hearing, and to be represented by an attorney if you wish to hire one.

13. If you wish to contest an action taken by the §504 Committee by means of an impartial due process hearing, you must submit the required notice or request in writing to the District’s §504 Coordinator at the address below of the action or omission giving rise to your complaint.

Failure to make a timely request will result in the loss of your opportunity to pursue a due process hearing on that action or omission.

A date will be set for the hearing and an impartial hearing officer will be appointed. You will then be notified in writing of the hearing date, time, and place.

Benjamin J. Bender, MS., SSP.
Manager, Section 504 Compliance
District Coordinator for Section 504
Charlotte Mecklenburg Schools
4421 Stuart Andrew Blvd.
Charlotte, NC 28217
FAX: 980-343-3777
Section 504 Help Desk: 980-343-0001
benjaminj.bender@cms.k12.nc.us

14. If you disagree with the decision of the hearing officer, you have a right to seek a review of the decision by making a written request to the District's Section 504 Coordinator, and/or you may seek relief in state or federal court as allowed by law.

15. You also have a right to present a grievance or complaint through the District’s grievance process. The District will investigate the situation, take into account the nature of the complaint and all necessary factors, and respond appropriately to you within a reasonable time. Parents may contact the District’s Section 504 Coordinator for more information about the District’s grievance process.

16. You also have a right to file a complaint with the Office for Civil Rights (OCR) of the Department of Education. The address of the OCR Regional Office that covers this school district is:

Director, Office for Civil Rights, Region U.S. Department of Education
400 Maryland Avenue, SW, Washington, DC 20202-1475
Telephone: (202) 453 - 6020
Telephone 2: (202) 453 - 6021
CMS Grievance Procedure

CMS has a written grievance (complaint) procedure providing for prompt and equitable resolution of complaints. The grievance procedure is intended to address identification, evaluation, or placement issues and/or claims of harassment, disparate treatment, and lack of accessible facilities.

As part of an informal approach to complaint resolutions, CMS wants parents, guardians, and students to have the opportunity to make concerns known and for CMS to have the opportunity to respond and resolve concerns within a reasonable time. Only the parent, legal custodian, or person acting in loco parentis for a student may attend and/or represent the student at this conference. This conference is not intended to be adversarial in nature.

Filing a discrimination complaint is a protected activity. Retaliation against any individual because he or she reported Section 504 violation(s), or made a complaint, testified, assisted, or participated in Section 504 investigations, proceedings or hearings, is prohibited. Coercion, intimidation, threats, or interference with anyone, because he or she exercised Section 504 rights or helped or encouraged someone else to do so is prohibited.

CMS will make appropriate arrangements to ensure that disabled persons are provided other accommodations, if needed, to participate in this grievance process. Such arrangements may include, but are not limited to, providing interpreters for the deaf, providing taped cassettes of material for the blind, or assuring a barrier-free location for the proceedings. The Section 504 Program Manager will be responsible for such arrangements.

The internal grievance process is optional and not required to request an impartial due process hearing or file a complaint with the Office for Civil Rights (OCR).

The procedure for filing an internal grievance within CMS is listed on the next page. Contact the Section 504 Compliance Department office for a copy of the grievance form.
CMS Grievance Procedure - Level 1

1. An individual or parent/guardian with a complaint is encouraged to first discuss the concern with the principal at the student’s school within 30 calendar days after the action or omission that gives rise to the complaint.

2. If a complaint is initially received by the Section 504 Department, the parent/guardian will be referred back to the school principal to discuss the complaint.

3. The principal schedules a meeting within ten (10) school days with the parent/guardian to discuss the concern and determine a resolution.

4. If the parent/guardian accepts the proposed resolution made by the school, the process is complete.

5. If the parent/guardian rejects the proposed resolution from the principal or there was a lack of timely response after filing a complaint to the principal or designee, the parent/guardian contacts the Section 504 Department (Information below). The parent/guardian is provided with a *Grievance Discrimination Complaint Section 504* form. This form may also be found in the Appendix of this Handbook or on the CMS Website (www.wearecms.com). This form must be submitted to the District office within ten (10) days of meeting with the principal or designee. If a timely response was not made by the school, submit the form as soon as possible.

   Benjamin J. Bender, MS., SSP.
   Manager, Section 504 Compliance
   District Coordinator for Section 504
   Charlotte Mecklenburg Schools
   4421 Stuart Andrew Blvd.
   Charlotte, NC 28217
   FAX: 980-343-3777
   Section 504 Help Desk: 980-343-0001
   benjaminj.bender@cms.k12.nc.us

6. If the principal or designee does not respond to the original concern within ten (10) school days, the complaint may automatically be elevated to the CMS Grievance Procedure – Level 2.

CMS Grievance Procedure - Level 2

1. The District Section 504 Department will investigate all written grievances and attempt to resolve the complaint. After the investigation, the Section 504 Department will notify the principal, learning community superintendent or designee, and parent/guardians of the findings. The findings of fact and proposed resolution are presented to the parent/guardian in writing through the Section 504 Department.

2. If the parent/guardian accepts the proposed resolution made by the district, the process is complete, and the accepted resolution may not be appealed.

3. If the parent/guardian rejects the proposed resolution at the district level, the parent/guardian may choose to request an impartial hearing. The request for an impartial hearing must be made within 10 calendar days of the date of the response to the District Section 504 Department.

4. The parent/guardian may file a complaint with the Office for Civil Rights at any time during this process.
Guidelines for Section 504 Due Process Hearings

Selection of a Hearing Officer
The District Section 504 Coordinator, (In CMS: Manager, Section 504 Compliance & Homebound Programs) shall select a hearing officer for the adjudication of the dispute. The parent will be notified of the time, date and location for this hearing.

Failure to Request a Hearing
A request for a hearing must be made within thirty (30) calendar days of the knowledge of the concern in question or within 10 calendar days of the date of district response to a grievance.

Procedures Governing the Due Process Hearing
- All hearing procedures will be held before the hearing officer.
- The individual or parent/guardian (or his/her representative) shall have the opportunity to examine, before the start of the proceedings, all relevant materials.
- The individual or parent/guardian shall have the right to secure assistance, at their expense; including, but not be limited to, attorneys, health professionals, or any other person beneficial to the presentation of the case. If the individual or parent/guardian has secured the assistance of an attorney, the parent/guardian must notify CMS Section 504 Department immediately. Failure to do so may delay proceedings.
- The hearing shall be held in private.
- The individual or parent/guardian has the right to present all pertinent evidence.
- The decision of the hearing officer shall only be based on facts presented at the time of the hearing and relevant to the concern on file with the Section 504 Department.

Failure to Appear for the Hearing
If the Charlotte-Mecklenburg Schools (CMS) representative or the individual or parent/guardian (or his/her representative) fails to show, the hearing officer may postpone the hearing for up to five (5) days or find against the party who failed to show. This determination does not affect the individual’s or parent/guardian’s or the District’s rights to pursue any other legal process available.

Procedures for Obtaining a Transcript of the Hearing
A transcript of the grievance hearing may be arranged prior to the grievance hearing date at the request of either party. The party requesting the transcript is responsible for the expense of this procedure.

Decision of the Hearing Officer
The hearing officer must issue a written decision of the hearing within ten (10) business days and furnish a copy to all parties. A copy must be kept on file with the Section 504 Department. An additional copy of the decision with all names deleted shall be kept on file for future reference. If the individual or parent/guardian disagrees with the hearing officer’s decision, it is their right to pursue legal counsel or file a complaint with the Office for Civil Rights (OCR). The hearing officer will not address issues where monetary compensation is being requested.

An individual or parent/guardian may request a review of the due process hearing by contacting the Section 504 Department within 10 calendar days of the hearing officer’s decision.
Appendices

Information List

- Section 504 District Team: Contact Information
- Charlotte-Mecklenburg Schools Board of Education Policy
- Section 504 Parent Handbook Glossary
- Concussion Information
- Protecting Students with Disabilities: Frequently Asked Questions about Section 504 and the Education of Children with Disabilities
- Grievance Discrimination Complaint - Section 504
- Recommendation for Hospital/Homebound Placement-Treating Health Care Services Provider Form
# Section 504 District Team: Contact Information

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Email</th>
<th>Desk Phone</th>
<th>CMS Cell Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Benjamin Bender</td>
<td>Section 504 Program Manager</td>
<td><a href="mailto:benjaminj.bender@cms.k12.nc.us">benjaminj.bender@cms.k12.nc.us</a></td>
<td>(Desk) 980-343-0589</td>
<td>(CMS Cell) 980-219-0320</td>
</tr>
<tr>
<td>Linda Powell</td>
<td>Program Assistant</td>
<td><a href="mailto:lindaj.powell@cms.k12.nc.us">lindaj.powell@cms.k12.nc.us</a></td>
<td>(Desk) 980-343-0069</td>
<td></td>
</tr>
<tr>
<td>Vacant</td>
<td>Specialist</td>
<td></td>
<td>(Desk) 980-343-0071</td>
<td>(CMS Cell) 980-579-6819</td>
</tr>
<tr>
<td>Harriett Ford</td>
<td>Specialist</td>
<td><a href="mailto:harriett.ford@cms.k12.nc.us">harriett.ford@cms.k12.nc.us</a></td>
<td>(Desk) 980-343-0072</td>
<td>(CMS Cell) 980-579-6818</td>
</tr>
<tr>
<td>Jennifer Blair</td>
<td>Specialist</td>
<td><a href="mailto:jenniferl.blair@cms.k12.nc.us">jenniferl.blair@cms.k12.nc.us</a></td>
<td>(Desk) 980-343-0070</td>
<td>(CMS Cell) 980-579-6820</td>
</tr>
<tr>
<td>Amy Cook</td>
<td>Specialist</td>
<td><a href="mailto:amy.cook@cms.k12.nc.us">amy.cook@cms.k12.nc.us</a></td>
<td>(Desk) 980-343-0005</td>
<td>(CMS Cell) 980-579-6821</td>
</tr>
</tbody>
</table>
Charlotte-Mecklenburg Schools Board of Education Policy

Board of Education Policy

Policy Code: IHBA Special Education/Programs for Handicapped/Disabled/Exceptional Students

It is the policy of the Charlotte-Mecklenburg Schools (CMS) to comply with applicable federal and state laws relating to the education of children with special needs, including the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973 and its applicable amendments, and the Americans with Disabilities Act (1990) and its amendments of 2008 (ADAAA). Information regarding procedures for compliance will be made available to the public at each school, the CMS office of Federal and State Compliance, the Pre-K-12 Student Support Services Office and in the office of the Exceptional Children Program.

Date of Adoption: 5/9/88
Legal Reference: 20 U.S.C. Section 1400 et seq., 29 U.S.C. Section 794 (a)
Previous CMS Policy #: 6170

Policy Code: JKDA-R Suspension and/or Placement in an Interim Alternative Educational Setting of Disabled Students Section VII. Section 504 of the Rehabilitation Act of 1973

A. Section 504 of the Rehabilitation Act of 1973 is a non-discrimination statute that prohibits discrimination and is designed to assure that disabled students have educational opportunities and benefits equal to those provided to non-disabled students.
   - An eligible student under Section 504 is a student who (1) has, (2) has a record of having, or (3) is regarded as having a physical or mental impairment that substantially limits a major life activity such as learning.
   - It is the policy of the Charlotte-Mecklenburg Board of Education not to discriminate on the basis of disabilities in its educational programs, activities, or employment practices as required by the Act.

B. The regulations for implementing Section 504 provide parents and/or students the following rights:
   - You have the right to be informed of your rights under Section 504, which is the purpose of this notice.
   - Section 504 requires the school system to locate, evaluate, and determine if a student is a qualified individual requiring accommodations and modifications necessary to provide access to educational programs.
   - You have the right to receive notice within a reasonable time before CMS identifies, evaluates, or changes your child’s placement.
   - You have a right to periodic reevaluation and to evaluation before significant changes in placement.
   - You have the opportunity to review relevant educational records under the Family Educational Rights and Privacy Act. The requirements are described in the Board’s policy manual on file at the Education Center.
   - You have a right to request an informal conference with the principal and the intervention team if you disagree with the decisions reached by the school regarding identification, evaluation, educational program or placement. If your concerns are not resolved, you may request a hearing before an impartial hearing officer by notifying the Board’s Section 504 Specialist in writing.
   - You have the right to be represented by counsel in the impartial hearing process and to appeal the impartial hearing officer’s decision.

Date of Adoption: 9/10/91
Revised: 11/13/0, 10/12/091
Legal Reference: 20 U.S.C. Section1400 et seq., 29 U.S.C. Section794 (a)
Previous CMS Policy #: 5114A
Cross-Reference: ADD, IHBA, JICA, JICG, JICH, JICI, JJ, JK, JKA, JKD
Section 504 Handbook Glossary

Americans with Disabilities Act (ADA) - A comprehensive, federal civil rights law that prohibits discrimination on the basis of disabilities in employment, state and local government programs and activities, public accommodations, transportation, and telecommunications.

Behavioral Intervention Plan (BIP) - The Behavioral Intervention Plan is a detailed, comprehensive plan developed to help a student reduce inappropriate behavior. A BIP should include a description of the appropriate behaviors that the student needs to learn (i.e., replacement behaviors), a description of the inappropriate behaviors that the student needs to reduce or stop, a list of positive reinforcements that will be provided to the student when he/she exhibits the stated appropriate behavior(s), and a list of negative consequences that will occur when the student exhibits inappropriate behavior. A BIP is often used in conjunction with a contract system or management system. It is important to follow a BIP strictly and consistently, and to involve students and teachers in its development. Prior to developing a BIP, a school team conducts a Functional Behavioral Assessment (FBA) to gather data to determine what supports a student needs. If the student falls under Section 504, it is required that a student have an active BIP prior to a Discipline Team Meeting (DTM) or when the student is suspended beyond 10 days during the current school year. For every subsequent suspension, it is required that the BIP be reviewed and amended if necessary or that a new BIP be developed. It is recommended that a BIP be developed when a pattern of behavior is apparent or when a student has 3 to 5 days of out-of-school suspension.

Child Find – The affirmative, ongoing duty to identify, locate, and evaluate all children with disabilities residing in a state, regardless of disability.

Discipline Team Meeting (DTM) – Except for serious violations of the Code of Student Conduct for which the superintendent may recommend that the student be expelled or for which the Superintendent is seriously considering imposing a long-term suspension rather than a disciplinary reassignment, a Discipline Team Meeting (DTM), which consists of the principal/designee, the learning community administrator, the parent/guardian and the student, will be convened at the school within 10 school days of the first day of suspension. The purpose of this meeting is for the team to review the investigation completed by the school, the principal’s recommended consequences, the due process procedures afforded, and any information provided by the student and the parent/guardian. There is no right for representative counsel to attend the DTM. During the DTM, the community administrator may recommend additional consequences. At this point, the community superintendent will make a preliminary decision about the disciplinary consequence. Parents are informed in writing of the community superintendent’s decision.

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

Evaluation – A data-gathering process based on a variety of sources, including efforts and results of early intervention activities, aptitude and achievement testing, teacher recommendations, student’s historical and current physical and mental condition (including data on conditions in remission and episodic conditions), social or cultural background, adaptive behavior, and mitigating measures; the Teacher Input form to be completed by one or more teachers, and the Parent Input form with information about the student’s activities/behaviors at home, health and medical reports if available, and any other data the parent would like the Section 504 Team to consider. Should special education data exist (i.e., an evaluation upon which a student was either dismissed from special education or upon which a finding of no IDEA eligibility was made), that data should also be considered.

Free Appropriate Public Education (FAPE) – A term used in the elementary and secondary school context; for purposes of Section 504, FAPE refers to the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of disabled persons as adequately as the needs of non-disabled persons are met. FAPE is based upon adherence to procedures that satisfy the Section 504 requirements pertaining to educational setting, evaluation and placement, and procedural safeguards.

Functional Behavior Assessment (FBA) - An evaluation method of identifying factors that may predict and maintain problematic behavior. An FBA may include conducting interviews with parents, teachers, and others, observations of the student, and a functional analysis which addresses areas that impact behavior. An FBA considers factors such as the purpose, rewards,
consequences, antecedents and events and settings associated with the behavior. The results of an FBA should be used to develop a Behavior Intervention Plan, which helps teams and teachers to understand why a particular behavior occurs, to predict when a behavior is likely to occur, to identify ways to prevent the behavior, and to design ways to respond to the problematic behavior when it does occur. An FBA is recommended when a pattern of behavior is apparent or when a student has 3 to 5 days of out-of-school suspension.

**Individual with a disability** – Per Section 504, an individual with a disability is a person who:

1. Has a physical or mental impairment which substantially limits one or more of such person’s major life activities;
2. Has a record of such impairment; or,
3. Is regarded as having such impairment.

If a student has an impairment that is episodic or in remission, the School District must consider whether the impairment, when active, would substantially limit a major life activity. If so, then the student meets the definition of a student with a disability.

**Individuals with Disabilities Education Improvement Act, 2004 (IDEIA)** - Federal legislation that ensures students with a disability are provided with a free appropriate public education that is tailored to their individual needs. In order to be eligible, a student must:

- Have a disability and, as a result of that disability...
- Need special education in order to make progress in school

**Major life activity/major bodily function** – A major life activity includes, but is not limited to, functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. Major life activities also include standing, lifting, bending, reading, concentrating, thinking and communicating. The term also includes the operation of a major bodily function including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

**Manifestation Determination Review (MDR)** – A Section 504 Team decision determining whether a student’s inappropriate behavior was: a) caused by, or had a direct and substantial relationship to, the child’s disability, or b) was the direct result of the failure of the Local Educational Agency (LEA) to implement the Section 504 plan. This term also refers to the process and/or Section 504 Team meeting where this decision is made. A manifestation determination is required whenever a student is suspended beyond the 10th day, including any subsequent suspensions, long-term suspension of 10 days or more, a series of short term suspensions that constitute a change of placement, and an offense involving possession or use of an illegal drug, selling or soliciting the sale of a controlled substance, possession of a weapon, or an incident where a student inflicted serious bodily injury on another person while at school, on school premises, or at a school function under the jurisdiction of the LEA.

**Mitigating measure** – Any technique, method, or intervention that improves an individual’s functioning in one or more areas. Some examples of mitigating measures include medication, therapy, tutoring, and/or prosthetic aids. Except for ordinary eye glasses or contact lenses, the effects of mitigating measures may not be considered when assessing whether a student has an impairment that substantially limits a major life activity. To the extent feasible, only the impact the impairment has on a major life activity without mitigating measure may be considered when determining whether the disability substantially limits a major life activity.

**Physical or mental impairment** – A physical or mental impairment is:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or
2. Any mental or psychological disorder such as cognitive impairment, emotional or mental illness and specific learning disabilities.
Placement – A term used in the elementary and secondary school context; refers to a general and/or special educational program in which a student receives educational and/or related services.

Record of – An individual has a record of a disability if the individual has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

Regarded as – An individual meets the “regarded as” standard if he or she is subjected to a prohibited action because of an actual or perceived physical or mental impairment, whether or not that impairment substantially limits, or is perceived to substantially limit, a major life activity. Individuals covered only under this provision are not entitled to reasonable accommodations.

Related service – A term used in the elementary and secondary school context to refer to developmental, corrective, and other supportive services, including psychological, counseling, and medical diagnostic services (e.g., physical therapy, occupational therapy, audiology services, and transportation).

Section 504 – The provision of the Rehabilitation Act of 1973 prohibiting discrimination against qualified individuals with disabilities in federally funded programs and activities.

Substantially limits – The Section 504 regulations do not provide a definition for this term. However, according to case law, “substantially limits” means unable to perform or significantly restricted in performing a major life activity as compared to the average student or peer.

Treating Physician’s Medical Report or Other Health Services Provider Report - A written report submitted to the Section 504 Team from a student’s doctor or other health services provider describing the student’s medical diagnosis, as well as other relevant medical information. This list of providers includes but is not limited to: A medical doctor/physician, physician’s assistant, licensed psychologist, licensed psychological associate, licensed professional counselor, licensed professional counselor associate, or a licensed clinical social worker. The physician’s or health services provider’s report can also be completed on a CMS form provided to the parent and/or physician to complete. This report alone cannot be the sole basis for Section 504 eligibility – other sources of information must also be considered when determining Section 504 eligibility.
Concussion Information

A link to the North Carolina Brain Injury Advisory Council’s Returning to School after a Concussion: Parent Information brochure is as follows:

- Parent Information Brochure (pdf, 390kb)
- Parent Information Brochure [Spanish] (pdf, 388kb)

If a student in your school experiences a concussion, please call the Section 504 Help Desk at 980-343-0001.

Protecting Students With Disabilities: Frequently Asked Questions About Section 504 and the Education of Children With Disabilities

This document can also be accessed at https://www2.ed.gov/about/offices/list/ocr/504faq.html.

Protecting Students with Disabilities

Frequently Asked Questions about Section 504 and the Education of Children with Disabilities

- Introduction
- Interrelationship of IDEA and Section 504
- Protected Students
- Evaluation
- Placement
- Procedural Safeguards
- Terminology

This document is a revised version of a document originally developed by the Chicago Office of the Office for Civil Rights (OCR) in the U.S. Department of Education (ED) to clarify the requirements of Section 504 of the Rehabilitation Act of 1973, as amended (Section 504) in the area of public elementary and secondary education. The primary purpose of these revisions is to incorporate information about the Americans with Disabilities Act Amendments Act of 2008 (Amendments Act), effective January 1, 2009, which amended the Americans with Disabilities Act of 1990 (ADA) and included a conforming amendment to the Rehabilitation Act of 1973 that affects the meaning of disability in Section 504. The Amendments Act broadens the interpretation of disability. The Amendments Act does not require ED to amend its Section 504 regulations. ED’s Section 504 regulations as currently written are valid and OCR is enforcing them consistent with the Amendments Act. In addition, OCR is currently evaluating the impact of the Amendments Act on OCR’s enforcement responsibilities under Section 504 and Title II of the ADA, including whether any changes in regulations, guidance, or other publications are appropriate. The revisions to this Frequently Asked Questions document do not address the effects, if any, on Section 504 and Title II of the amendments to the regulations implementing the Individuals with Disabilities Education Act (IDEA) that were published in the Federal Register at 73 Fed. Reg. 73006 (December 1, 2008).

INTRODUCTION

An important responsibility of the Office for Civil Rights (OCR) is to eliminate discrimination on the basis of disability against students with disabilities. OCR receives numerous complaints and inquiries in the area of elementary and secondary education involving
Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 (Section 504). Most of these concern identification of students who are protected by Section 504 and the means to obtain an appropriate education for such students.

Section 504 is a federal law designed to protect the rights of individuals with disabilities in programs and activities that receive Federal financial assistance from the U.S. Department of Education (ED). Section 504 provides: "No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance . . . ."

OCR enforces Section 504 in programs and activities that receive Federal financial assistance from ED. Recipients of this Federal financial assistance include public school districts, institutions of higher education, and other state and local education agencies. The regulations implementing Section 504 in the context of educational institutions appear at 34 C.F.R. Part 104.

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

This resource document clarifies pertinent requirements of Section 504.

For additional information, please contact the Office for Civil Rights.

INTERRELATIONSHIP OF IDEA AND SECTION 504

1. What is the jurisdiction of the Office for Civil Rights (OCR), the Office of Special Education and Rehabilitative Services (OSERS) and state departments of education/instruction regarding educational services to students with disabilities?

OCR, a component of the U.S. Department of Education, enforces Section 504 of the Rehabilitation Act of 1973, as amended, (Section 504) a civil rights statute which prohibits discrimination against individuals with disabilities. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), which extends this prohibition against discrimination to the full range of state and local government services, programs, and activities (including public schools) regardless of whether they receive any Federal financial assistance. The Americans with Disabilities Act Amendments Act of 2008 (Amendments Act), effective January 1, 2009, amended the Americans with Disabilities Act of 1990 (ADA) and included a conforming amendment to the Rehabilitation Act of 1973 (Rehabilitation Act) that affects the meaning of disability in Section 504. The standards adopted by the ADA were designed not to restrict the rights or remedies available under Section 504. The Title II regulations applicable to free appropriate public education issues do not provide greater protection than applicable Section 504 regulations. This guidance focuses primarily on Section 504.

Section 504 prohibits discrimination on the basis of disability in programs or activities that receive Federal financial assistance from the U.S. Department of Education. Title II prohibits discrimination on the basis of disability by state and local governments. The Office of Special Education and Rehabilitative Services (OSERS), also a component of the U.S. Department of Education, administers the Individuals with Disabilities Education Act (IDEA), a statute which funds special education programs. Each state educational agency is responsible for administering IDEA within the state and distributing the funds for special education programs. IDEA is a grant statute and attaches many specific conditions to the receipt of Federal IDEA funds. Section 504 and the ADA are antidiscrimination laws and do not provide any type of funding.

2. How does OCR get involved in disability issues within a school district?

OCR receives complaints from parents, students or advocates, conducts agency initiated compliance reviews, and provides technical assistance to school districts, parents or advocates.

3. Where can a school district, parent, or student get information on Section 504 or find out information about OCR's interpretation of Section 504 and Title II?
OCR provides technical assistance to school districts, parents, and students upon request. Additionally, regulations and publicly issued policy guidance is available on OCR’s website, at [http://www.ed.gov/policy/rights/guid/ocr/disability.html](http://www.ed.gov/policy/rights/guid/ocr/disability.html).

4. **What services are available for students with disabilities under Section 504?**

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

5. **Does OCR examine individual placement or other educational decisions for students with disabilities?**

Except in extraordinary circumstances, OCR does not review the result of individual placement or other educational decisions so long as the school district complies with the procedural requirements of Section 504 relating to identification and location of students with disabilities, evaluation of such students, and due process. Accordingly, OCR generally will not evaluate the content of a Section 504 plan or of an individualized education program (IEP); rather, any disagreement can be resolved through a due process hearing. The hearing would be conducted under Section 504 or the IDEA, whichever is applicable.

OCR will examine procedures by which school districts identify and evaluate students with disabilities and the procedural safeguards which those school districts provide students. OCR will also examine incidents in which students with disabilities are allegedly subjected to treatment which is different from the treatment to which similarly situated students without disabilities are subjected. Such incidents may involve the unwarranted exclusion of disabled students from educational programs and services.

6. **What protections does OCR provide against retaliation?**

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

7. **Does OCR mediate complaints?**

OCR does not engage in formal mediation. However, OCR may offer to facilitate mediation, referred to as “Early Complaint Resolution,” to resolve a complaint filed under Section 504. This approach brings the parties together so that they may discuss possible resolution of the complaint immediately. If both parties are willing to utilize this approach, OCR will work with the parties to facilitate resolution by providing each an understanding of pertinent legal standards and possible remedies. An agreement reached between the parties is not monitored by OCR.

8. **What does noncompliance with Section 504 mean?**

A school district is out of compliance when it is violating any provision of the Section 504 statute or regulations.

9. **What sanctions can OCR impose on a school district that is out of compliance?**

OCR initially attempts to bring the school district into voluntary compliance through negotiation of a corrective action agreement. If OCR is unable to achieve voluntary compliance, OCR will initiate enforcement action. OCR may: (1) initiate administrative proceedings to terminate Department of Education financial assistance to the recipient; or (2) refer the case to the Department of Justice for judicial proceedings.

10. **Who has ultimate authority to enforce Section 504?**

In the educational context, OCR has been given administrative authority to enforce Section 504. Section 504 is a Federal statute that may be enforced through the Department’s administrative process or through the Federal court system. In addition, a person may at
any time file a private lawsuit against a school district. The Section 504 regulations do not contain a requirement that a person file a complaint with OCR and exhaust his or her administrative remedies before filing a private lawsuit.

STUDENTS PROTECTED UNDER SECTION 504

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

11. What is a physical or mental impairment that substantially limits a major life activity?

The determination of whether a student has a physical or mental impairment that substantially limits a major life activity must be made on the basis of an individual inquiry. The Section 504 regulatory provision at 34 C.F.R. 104.3(j)(2)(i) defines a physical or mental impairment as any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. 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.

Major life activities, as defined in the Section 504 regulations at 34 C.F.R. 104.3(j)(2)(ii), include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. This list is not exhaustive. Other functions can be major life activities for purposes of Section 504. In the Amendments Act (see FAQ 1), 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.

12. Does the meaning of the phrase "qualified student with a disability" differ on the basis of a student's educational level, i.e., elementary and secondary versus postsecondary?

Yes. At the elementary and secondary educational level, a "qualified student with a disability" is a student with a disability who is: of an age at which students without disabilities are provided elementary and secondary educational services; of an age at which it is mandatory under state law to provide elementary and secondary educational services to students with disabilities; or a student to whom a state is required to provide a free appropriate public education under the Individuals with Disabilities Education Act (IDEA).

At the postsecondary educational level, a qualified student with a disability is a student with a disability who meets the academic and technical standards requisite for admission or participation in the institution's educational program or activity.

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

Yes. Public elementary and secondary recipients are required to provide a free appropriate public education to qualified students with disabilities. Such an education consists of regular or special education and related aids and services designed to meet the individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met.
At the postsecondary level, the recipient is required to provide students with appropriate academic adjustments and auxiliary aids and services that are necessary to afford an individual with a disability an equal opportunity to participate in a school's program. Recipients are not required to make adjustments or provide aids or services that would result in a fundamental alteration of a recipient's program or impose an undue burden.

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

Yes, as long as the student remains eligible. The protections of Section 504 extend only to individuals who meet the regulatory definition of a person with a disability. If a recipient school district re-evaluates a student in accordance with the Section 504 regulatory provision at 34 C.F.R. 104.35 and determines that the student's mental or physical impairment no longer substantially limits his/her ability to learn or any other major life activity, the student is no longer eligible for services under Section 504.

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

Generally, yes. Section 504 excludes from the definition of a student with a disability, and from Section 504 protection, any student who is currently engaging in the illegal use of drugs when a covered entity acts on the basis of such use. (There are exceptions for persons in rehabilitation programs who are no longer engaging in the illegal use of drugs).

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

No. Section 504's definition of a student with a disability does not exclude users of alcohol. However, Section 504 allows schools to take disciplinary action against students with disabilities using drugs or alcohol to the same extent as students without disabilities.

EVALUATION

At the elementary and secondary school level, determining whether a child is a qualified disabled student under Section 504 begins with the evaluation process. Section 504 requires the use of evaluation procedures that ensure that children are not misclassified, unnecessarily labeled as having a disability, or incorrectly placed, based on inappropriate selection, administration, or interpretation of evaluation materials.

17. What is an appropriate evaluation under Section 504?

Recipient school districts must establish standards and procedures for initial evaluations and periodic re-evaluations of students who need or are believed to need special education and/or related services because of disability. The Section 504 regulatory provision at 34 C.F.R. 104.35(b) requires school districts to individually evaluate a student before classifying the student as having a disability or providing the student with special education. Tests used for this purpose must be selected and administered so as best to ensure that the test results accurately reflect the student's aptitude or achievement or other factor being measured rather than reflect the student's disability, except where those are the factors being measured. Section 504 also requires that tests and other evaluation materials include those tailored to evaluate the specific areas of educational need and not merely those designed to provide a single intelligence quotient. The tests and other evaluation materials must be validated for the specific purpose for which they are used and appropriately administered by trained personnel.

18. How much is enough information to document that a student has a disability?

At the elementary and secondary education level, the amount of information required is determined by the multi-disciplinary committee gathered to evaluate the student. The committee should include persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. The committee members must determine if they have enough information to make a knowledgeable decision as to whether or not the student has a disability. The Section 504 regulatory provision at 34 C.F.R. 104.35(c) requires that school districts draw from a variety of sources in the evaluation process so that the possibility of error is minimized. The information obtained from all such sources must be documented and all significant factors related to the student’s learning process must be considered. These sources and factors may include aptitude and achievement tests, teacher
recommendations, physical condition, social and cultural background, and adaptive behavior. In evaluating a student suspected of having a disability, it is unacceptable to rely on presumptions and stereotypes regarding persons with disabilities or classes of such persons. Compliance with the IDEA regarding the group of persons present when an evaluation or placement decision is made is satisfactory under Section 504.

19. What process should a school district use to identify students eligible for services under Section 504? Is it the same process as that employed in identifying students eligible for services under the IDEA?

School districts may use the same process to evaluate the needs of students under Section 504 as they use to evaluate the needs of students under the IDEA. If school districts choose to adopt a separate process for evaluating the needs of students under Section 504, they must follow the requirements for evaluation specified in the Section 504 regulatory provision at 34 C.F.R. 104.35.

20. May school districts consider "mitigating measures" used by a student in determining whether the student has a disability under Section 504?

No. As of January 1, 2009, school districts, in determining whether a student has a physical or mental impairment that substantially limits that student in a major life activity, must not consider the ameliorating effects of any mitigating measures that student is using. This is a change from prior law. Before January 1, 2009, school districts had to consider a student’s use of mitigating measures in determining whether that student had a physical or mental impairment that substantially limited that student in a major life activity. In the Amendments Act (see FAQ 1), however, Congress specified that the ameliorative effects of mitigating measures must not be considered in determining if a person is an individual with a disability.

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

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

21. Does OCR endorse a single formula or scale that measures substantial limitation?

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

22. Are there any impairments which automatically mean that a student has a disability under Section 504?

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

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

No. A physician's medical diagnosis may be considered among other sources in evaluating a student with an impairment or believed to have an impairment which substantially limits a major life activity. Other sources to be considered, along with the medical diagnosis, include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior. As noted in FAQ 22, the Section 504 regulations require school districts to draw upon a variety of sources in interpreting evaluation data and making placement decisions.

24. Does a medical diagnosis of an illness automatically mean a student can receive services under Section 504?
No. A medical diagnosis of an illness does not 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. For example, a student who has a physical or mental impairment would not be considered a student in need of services under Section 504 if the impairment does not in any way limit the student's ability to learn or other major life activity, or only results in some minor limitation in that regard.

25. How should a recipient school district handle an outside independent evaluation? Do all data brought to a multi-disciplinary committee need to be considered and given equal weight?

The results of an outside independent evaluation may be one of many sources to consider. Multi-disciplinary committees 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 subject student's learning process must be considered. These sources and factors include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior, among others. Information from all sources must be documented and considered by knowledgeable committee members. The weight of the information is determined by the committee given the student's individual circumstances.

26. What should a recipient school district do if a parent refuses to consent to an initial evaluation under the Individuals with Disabilities Education Act (IDEA), but demands a Section 504 plan for a student without further evaluation?

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

27. Who in the evaluation process makes the ultimate decision regarding a student's eligibility for services under Section 504?

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 for special education and/or related aids and services be made by a group of persons, including persons knowledgeable about the meaning of the evaluation data and knowledgeable about the placement options. If a parent disagrees with the determination, he or she may request a due process hearing.

28. Once a student is identified as eligible for services under Section 504, is there an annual or triennial review requirement? If so, what is the appropriate process to be used? Or is it appropriate to keep the same Section 504 plan in place indefinitely after a student has been identified?

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

29. Is a Section 504 re-evaluation similar to an IDEA re-evaluation? How often should it be done?

Yes. Section 504 specifies that re-evaluations in accordance with the IDEA is one means of compliance with Section 504. The Section 504 regulations require that re-evaluations be conducted periodically. Section 504 also requires a school district to conduct a re-evaluation prior to a significant change of placement. OCR considers an exclusion from the educational program of more than 10 school days a significant change of placement. OCR would also consider transferring a student from one type of program to another or terminating or significantly reducing a related service a significant change in placement.

30. What is reasonable justification for referring a student for evaluation for services under Section 504?

School districts may always use regular education intervention strategies to assist students with difficulties in school. Section 504 requires recipient school districts to refer a student for an evaluation for possible special education or related aids and services or modification to regular education if the student, because of disability, needs or is believed to need such services.
31. A student is receiving services that the school district maintains are necessary under Section 504 in order to provide the student with an appropriate education. The student’s parent no longer wants the student to receive those services. If the parent wishes to withdraw the student from a Section 504 plan, what can the school district do to ensure continuation of services?

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

32. A student has a disability referenced in the IDEA, but does not require special education services. Is such a student eligible for services under Section 504?

The student may be eligible for services under Section 504. The school district must determine whether the student has an impairment which substantially limits his or her ability to learn or another major life activity and, if so, make an individualized determination of the child's educational needs for regular or special education or related aids or services. For example, such a student may receive adjustments in the regular classroom.

33. How should a recipient school district view a temporary impairment?

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

In the Amendments Act (see FAQ 1), Congress clarified that an individual is not “regarded as” an individual with a disability if the impairment is transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

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

Yes, under certain circumstances. In the Amendments Act (see FAQ 1), Congress clarified that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. A student with such an impairment is entitled to a free appropriate public education under Section 504.

PLACEMENT

Once a student is identified as being eligible for regular or special education and related aids or services, a decision must be made regarding the type of services the student needs.

35. If a student is eligible for services under both the IDEA and Section 504, must a school district develop both an individualized education program (IEP) under the IDEA and a Section 504 plan under Section 504?

No. If a student is eligible under IDEA, he or she must have an IEP. Under the Section 504 regulations, one way to meet Section 504 requirements for a free appropriate public education is to implement an IEP.

36. Must a school district develop a Section 504 plan for a student who either "has a record of disability" or is "regarded as disabled"?

No. In public elementary and secondary schools, unless a student actually has an impairment that substantially limits a major life activity, the mere fact that a student has a "record of" or is "regarded as" disabled is insufficient, in itself, to trigger those Section 504 protections that require the provision of a free appropriate public education (FAPE). This is consistent with the Amendments Act (see FAQ 1), in which Congress clarified that an individual who meets the definition of disability solely by virtue of being "regarded
as” disabled is not entitled to reasonable accommodations or the reasonable modification of policies, practices or procedures. The phrases "has a record of disability" and "is regarded as disabled" are meant to reach the situation in which a student either does not currently have or never had a disability, but is treated by others as such.

As noted in FAQ 34, in the Amendments Act (see FAQ 1), Congress clarified that an individual is not “regarded as” an individual with a disability if the impairment is transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

37. What is the receiving school district's responsibility under Section 504 toward a student with a Section 504 plan who transfers from another district?

If a student with a disability transfers to a district from another school district with a Section 504 plan, the receiving district should review the plan and supporting documentation. If a group of persons at the receiving school district, including persons knowledgeable about the meaning of the evaluation data and knowledgeable about the placement options determines that the plan is appropriate, the district is required to implement the plan. If the district determines that the plan is inappropriate, the district is to evaluate the student consistent with the Section 504 procedures at 34 C.F.R. 104.35 and determine which educational program is appropriate for the student. There is no Section 504 bar to the receiving school district honoring the previous IEP during the interim period. Information about IDEA requirements when a student transfers is available from the Office of Special Education and Rehabilitative Services at http://idea.ed.gov/explore/view/p/%2Cro%2Cdynamic%2CQaCorner%2C3%2C

40. What are the responsibilities of regular education teachers with respect to implementation of Section 504 plans? What are the consequences if the district fails to implement the plans?

Regular education teachers must implement the provisions of Section 504 plans when those plans govern the teachers' treatment of students for whom they are responsible. If the teachers fail to implement the plans, such failure can cause the school district to be in noncompliance with Section 504.

41. What is the difference between a regular education intervention plan and a Section 504 plan?

A regular education intervention plan is appropriate for a student who does not have a disability or is not suspected of having a disability but may be facing challenges in school. School districts vary in how they address performance problems of regular education students. Some districts employ teams at individual schools, commonly referred to as "building teams." These teams are designed to provide regular education classroom teachers with instructional support and strategies for helping students in need of assistance. These teams are typically composed of regular and special education teachers who provide ideas to classroom teachers on methods for helping students experiencing academic or behavioral problems. The team usually records its ideas in a written regular education intervention plan. The team meets with an affected student's classroom teacher(s) and recommends strategies to address the student's problems within the regular education environment. The team then follows the responsible teacher(s) to determine whether the student's performance or behavior has improved. In addition to building teams, districts may utilize other regular education intervention methods, including before-school and after-school programs, tutoring programs, and mentoring programs.

PROCEDURAL SAFEGUARDS

Public elementary and secondary schools must employ procedural safeguards regarding the identification, evaluation, or educational placement of persons who, because of disability, need or are believed to need special instruction or related services.

42. Must a recipient school district obtain parental consent prior to conducting an initial evaluation?

Yes. OCR has interpreted Section 504 to require districts to obtain parental permission for initial evaluations. If a district suspects a student needs or is believed to need special instruction or related services and parental consent is withheld, the IDEA and Section 504 provide that districts may use due process hearing procedures to seek to override the parents' denial of consent for an initial evaluation.
43. If so, in what form is consent required?

Section 504 is silent on the form of parental consent required. OCR has accepted written consent as compliance. IDEA as well as many state laws also require written consent prior to initiating an evaluation.

44. What can a recipient school district do if a parent withholds consent for a student to secure services under Section 504 after a student is determined eligible for services?

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

45. What procedural safeguards are required under Section 504?

Recipient school districts are required to establish and implement procedural safeguards that include notice, an opportunity for parents to review relevant records, an impartial hearing with opportunity for participation by the student's parents or guardian, representation by counsel and a review procedure.

46. What is a recipient school district's responsibility under Section 504 to provide information to parents and students about its evaluation and placement process?

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

47. Is there a mediation requirement under Section 504?

No.

TERMINOLOGY

The following terms may be confusing and/or are frequently used incorrectly in the elementary and secondary school context.

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

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

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

**Reasonable accommodation**: a term used in the employment context to refer to modifications or adjustments employers make to a job application process, the work environment, the manner or circumstances under which the position held or desired is customarily performed, or that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment; this
term is sometimes used incorrectly to refer to related aids and services in the elementary and secondary school context or to refer to academic adjustments, reasonable modifications, and auxiliary aids and services in the postsecondary school context

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

**Related services**: a term used in the elementary and secondary school context to refer to developmental, corrective, and other supportive services, including psychological, counseling and medical diagnostic services and transportation
Any student, parent, and/or guardian who thinks there has been an incident of discrimination within Charlotte-Mecklenburg Schools (CMS) based upon disability has the option of using CMS grievance process. All complaints must be in writing and should be submitted within 30 calendar days of knowledge of the alleged incident to:

Benjamin Bender
Manager, District Section 504
4421 Stuart Andrew Blvd.
Charlotte, NC 28217
Courier #835(A)
Phone: 980-343-0589 Help Desk: 980-343-0001 Fax: 980-343-3777
benjaminj.bender@cms.k12.nc.us

Complainant:

Student: ____________________________________________
Parent(s)/Guardian(s): _________________________________________
Address: ____________________________________________
Street, City, Zip: ____________________________________________
Telephone: ____________________________________________

Fully describe the discrimination based upon disability that you believe is occurring.

School or department where you believe discrimination is occurring: ________________________________
Individual(s) involved in incident: ________________________________

1. Describe your complaint. Include:
   a) the specific incident or activity that is viewed as discrimination;
   b) the individuals involved;
   c) dates, times, and/or locations involved;
   d) the disability that forms the basis of the complaint

2. Identify any attempts you have made to discuss or resolve this issue with CMS staff, including the names of staff members, the dates of any discussions, and/or the results of those discussions.

3. Please provide your suggestions about how this issue could be resolved.
The below named student and his/her parent, legal guardian, or surrogate parent have requested that the school district provide the student with educational services in the homebound setting. In order for the District to assess this request, the parents are required to submit medical documentation from the student’s treating health care services provider of the student’s inability to attend school and subsequent recommendation for homebound services. This recommendation is only one part of the information reviewed at a Section 504 or IEP meeting and does not result in an automatic homebound placement. Placement of a student on hospital/homebound is the most restrictive placement and will be discussed by the school team. If a student is determined to be eligible under Section 504, the team will develop a plan to provide needed instruction and support for this student. If the student is not eligible under Section 504 for homebound placement, the school team will develop a plan of support. If the student has a current IEP, this form will be sent to the EC department at the student’s school for processing.

Your recommendation and the information shared below will be considered for the student’s placement as it is reviewed by the Section 504 or IEP Team. A District representative may contact you to discuss your recommendations and/or strategies to maintain the student in the school environment or to request additional information.

SECTION I – SCHOOL CONTACT INFORMATION:
Please return this completed form to the individual below:

<table>
<thead>
<tr>
<th>School Section 504 Coordinator:</th>
<th>Section 504 Coordinator Email:</th>
</tr>
</thead>
<tbody>
<tr>
<td>School:</td>
<td>School Phone Number:</td>
</tr>
<tr>
<td></td>
<td>School Fax Number:</td>
</tr>
</tbody>
</table>

SECTION II – STUDENT INFORMATION: (To be completed by school personnel)

<table>
<thead>
<tr>
<th>Student’s Name:</th>
<th>Date of Birth:</th>
<th>Age:</th>
<th>Grade:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parent/Guardian Name:</td>
<td>Parent/Guardian Phone Number:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Section 504 Disabling Condition:

Reason for Recommendation:

- [ ] Initial request hospital/homebound services
- [ ] Recommendation for extension of hospital/homebound services

SECTION III – RELEASE: (To be completed by parent, legal guardian, surrogate parent, or student, if eighteen or older)

I authorize the release of written and/or verbal medical, educational, or mental health information between school officials and the treating health care services provider listed in Section III:

_________________________ / __________/ ______
Signature of Parent/Legal Guardian/Surrogate Parent (or student if eighteen or older) Date
NOTE: Please clearly, fully and legibly complete Section IV as indicated.

SECTION IV – MEDICAL INFORMATION: (To be completed by the treating health care services provider)

1. Diagnosis of the medical or mental health condition: (Attach additional information if needed)

2. Is the condition contagious?  ☐ Yes ☐ No

   If yes, please explain precautions that can be taken by staff who may work with the student:

3. Prognosis and Treatment:

4. Is it your opinion that the medical condition prevents the student from physically attending school?

   ☐ Yes  Please provide more information in support of your opinion.

   ☐ No   This student should not be recommended for Hospital/Homebound Placement. Please explain.

5. Is the student able to attend school on a part-time or partial basis?

   ☐ Yes  Explain and provide details for the school team to consider.

   ☐ No   The student is not able to attend school at this time.

6. If the student is placed on hospital/homebound, please identify any medical or mental health barriers the student may face with completing assignments at home or an alternative site.

7. What is the amount of time you estimate the student’s medical condition will limit this student’s ability to attend school?

   • Hospital/Homebound placement begins: _______/_______/_______
   • If student was absent prior to the submission of this request and the absence was due to the current medical/mental health issue, list the first date of absence: _______/_______/_______
   • Anticipated date of return: _______/_______/_______

(All date must be within current school year. Do not leave blank.)
It is my recommendation that the above student cannot attend school because of illness, accident, or complications from pregnancy, even with the aid of transportation but may profit from instruction given in the home or hospital.

Printed Name: ______________________________   Health Care Services Provider’s Signature: _____________________________

Date: _______/_________/_________   Phone: ___________________________   Fax: ___________________________

Name of Practice/Institution: ____________________________________________________________

Address: ____________________________________________________________________________

Email: ______________________________________________________________________________

Form must be returned directly to the CMS §504 Department by the health care services provider.

Email: lindaj.powell@cms.k12.nc.us
or
FAX: 980-343-3777 – Attention: Section 504 Homebound

SECTION VII: To be completed by Physician or Hospital Contact:

Date sent to CMS 504 Hospital/Homebound Coordinator: _______/_______/_______

Name of Individual: _________________________________________________________________

Notes:

SECTION VIII: To be completed by CMS Section 504 Department:

Date received from CMS 504 Hospital/Homebound Coordinator: _______/_______/_______

Notes:

In compliance with federal law, Charlotte-Mecklenburg Schools administers all education programs, employment activities and admissions without discrimination against any person based on gender, race, color, religion, national origin, age or disability.