

**DIGHTON-REHOBOTH REGIONAL SCHOOL DISTRICT
MANUAL OF SECTION 504 PROCEDURES AND GUIDELINES**

I. SECTION 504 STATEMENT

It is the obligation of the Dighton-Rehoboth Regional School District (“District”) to provide a free and appropriate public education (“FAPE”) to each qualified student with a disability within its jurisdiction, regardless of the nature or severity of the student’s disability. *See* 34 C.F.R. § 104.33(a). The District is committed to identifying and evaluating students with disabilities according to the definition provided in Section 504 of the Rehabilitation Act of 1973 (“Section 504”) and providing the appropriate regular or special education and related aids and services (“aids and services”) to ensure that the educational needs of students with disabilities are met as adequately as the needs of students who are not disabled are met. *See* 34 C.F.R. § 104.33(b). In any instance where this Manual of Section 504 Procedures and Guidelines may conflict with the District’s Amended Regional Agreement, this Manual of Section 504 Procedures and Guidelines shall control.

II. OVERVIEW OF SECTION 504

Section 504 is civil rights legislation designed to prevent any form of discrimination based on disability. The U.S. Department of Education’s Office of Civil Rights (“OCR”) enforces Section 504 in schools.

Section 504 states, in relevant part:

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....

As that language indicates, the application of Section 504 is not limited to schools or to students. Section 504 and its implementing Regulation (34 C.F.R 104) do contain provisions specific to school districts, however, as discussed in more detail herein.

Although Section 504 is similar to the Individuals with Disabilities Education Act (“IDEA”) in that they both seek to ensure that students with disabilities receive FAPE, Section 504 is more broadly applicable than the IDEA. All students who are on an Individualized Education Plan (“IEP”) under the IDEA are also entitled to the protections of Section 504. In those cases, meeting the requirements of the IDEA also satisfies the requirements of Section 504; therefore, the District typically will not conduct a separate process for Section 504 purposes for students on IEPs. Conversely, a student may be eligible for aids and services under Section 504 even if he or she is not eligible for an IEP.

III. KEY DEFINITIONS

The regulation implementing Section 504, codified at 34 C.F.R Part 104, defines the key terms stated herein as follows:

- **Person with a Disability¹ or Student with a Disability:** “any person [student] who “(i) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment.” 34 C.F.R. § 104.3.
- **Physical or Mental Impairment²:** “(A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin; and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.” 34 C.F.R. § 104.3.

¹ The statute and regulations use the terms “handicapped person” and “handicap(ped).” This Manual instead uses the terms “disability” and “disabled” throughout. The terms should be considered synonymous for the purposes of this Manual.

² Note that 28 C.F.R. § 35.108 (b)(1) and (2) supplement this 34 C.F.R. Part 104 definition of “Physical or Mental Impairment.”

- **Major Life Activities**³: “functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.” 34 C.F.R. § 104.3 (non-exhaustive list).
- **Has a Record of Such an Impairment**: “has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.” 34 C.F.R. 104.3.
- **Is Regarded as Having an Impairment**: “(A) has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation; (B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (C) has none of the impairments defined in paragraph (j)(2)(i) of this section but is treated by a recipient as having such an impairment.” 34 C.F.R. 104.3.
- **Qualified Student with a Disability**: “With respect to public preschool[,] elementary, secondary, or adult educational services, a [person with a disability] (i) of an age during which non[disabled] persons are provided such services, (ii) of any age during which it is mandatory under state law to provide such services to [people with disabilities], or (iii) to whom a state is required to provide a free appropriate public education under section 612 of the Education of the Handicapped Act.” 34 C.F.R. 104.3.

Other Key Definitions Include:

- **FAPE**: Although FAPE is used in the context of both the special education laws and Section 504, for purposes of Section 504 (and this Manual), FAPE means “the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of non-disabled students are met and are based on adherence to procedures governing educational setting, evaluation and placement, and procedural safeguards.” *See* U.S. Department of Education, Office for Civil Rights, *Parent and Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools* (December, 2016), p. 10, available at <https://www2.ed.gov/about/offices/list/ocr/docs/504-resource-guide-201612.pdf>. (“OCR 504 Guide”). Implementation of an appropriate IEP is one way, but not the only way, of meeting this standard relative to Section 504 protections. *See* 34 C.F.R. 104.33.
- **Section 504 Team**: The Section 504 Team consists of persons knowledgeable about the student and his or her needs, the meaning of the evaluation data, and the placement and program options. There are no specific individuals required to be on the Section 504 Team. While parents⁴ may be invited to participate in the Team meetings, neither the parents nor the student are required members of the Section 504 Team. The District considers it best practice to include the parents in Section 504 evaluation and

³ Note that 28 C.F.R. § 35.108(c)(1) supplements this 34 C.F.R. Part 104 definition of “Major Life Activities.”

⁴ All references to parent(s) in this document includes parents, guardians, and students who are 18 or older.

placement/program meetings, when possible. A student's Section 504 Team, and/or IEP Team if applicable, make(s) determinations and recommendations to parents regarding the student's aids and services.

IV. SECTION 504 DISTRICT COORDINATOR

The District has designated its Director of Special Education and Student Services to serve as the District's Section 504 District Coordinator. The District's Section 504 District Coordinator can be reached as follows:

Kristin Donahue
Director of Special Education and Student Services / Section 504 Coordinator
Dighton-Rehoboth Regional School District
2700 Regional Road
North Dighton, MA 02764
Tel: 508-252-5000
Fax: 508-252-5023

The Section 504 District Coordinator is responsible for ensuring nondiscriminatory educational practices; establishing, monitoring, and overseeing the Section 504 identification, evaluation, and placement processes; reviewing all Section 504 plans and providing all required notices under Section 504; conducting appropriate staff and community trainings; maintaining data on Section 504 referrals and plans; implementing Section 504 grievance procedures for the District; monitoring the District's Section 504 budget, if any; and serving as a liaison with any state or federal Section 504 Coordinators. It shall be the Section 504 District Coordinator's responsibility to obtain the necessary skills and training for the position and to keep school based Section 504 Coordinators up to date on the requirements of Section 504.

V. NOTICES

The Section 504 District Coordinator shall distribute the following or similar notices before the start of each new school year:

- General Notice of Nondiscrimination (Attachment A);
- Notices of Facilities and Program Accessibility (Attachment B);
- Child Find Notice (Attachment C).

The Section 504 District Coordinator shall ensure that each of these notices (or similar) is posted in a prominent place (or prominent places) in each of the District's facilities, including the central office. He or she also shall send a copy of each notice (or similar) to all faculty and staff and shall publish these notices (or similar) in each student handbook. The Section 504 District Coordinator, or his or her designee, shall also be responsible for drafting and distributing any individual notices to parents and students, as discussed in more detail below.

VI. PROCEDURE FOR REFERRING, EVALUATING⁵, AND PROVIDING FAPE TO STUDENTS WITH DISABILITIES

The District is responsible for evaluating students with disabilities who may need regular or special education related aids and services to ensure that they receive FAPE. The procedures by which the District may satisfy its obligations under Section 504 are discussed below. This section does not address "child find" or the requirements for the provision of FAPE to students served under the IDEA or Massachusetts special education laws and regulations. A checklist of the steps for identification, referral, evaluation, and implementation under Section 504 is attached as Attachment F.

A. Identification for Referral

1. Referral

The District is responsible for identifying and referring for evaluation any students who, because of one or more disabilities, need or are believed to be in need of special education or related services under Section 504, before taking any action with respect to initial placement or any significant change in placement. 34 C.F.R. § 104.35(a). If a student is identified as having or is believed to have a disability, but is determined to be ineligible for an IEP, that student should

⁵ For the purposes of the District's Section 504 compliance and this Manual, the terms "evaluation," "evaluate" and "evaluating" shall mean the careful consideration of a student's disability/ies and need(s) under Section 504. See explanatory discussion pgs. 5-14.

be referred for an evaluation under Section 504 to determine if the disability impacts major life activities.

Teachers, staff, counselors, administrators, or other certified employees should refer any students whom they suspect may have a disability for evaluation under Section 504. All referrals shall be made directly to the Section 504 District Coordinator, who will convene a Section 504 Team. If a parent or guardian informs school staff of any medical diagnoses or physical or mental impairments that may substantially limit major life activities, that employee shall refer the matter to the Section 504 District Coordinator. The Section 504 District Coordinator should ask the parent or guardian for any documentation about the diagnosis or impairment. School staff should refer a student for a Section 504 evaluation if they suspect the student has a disability, even if the parent or guardian does not specifically request an evaluation and/or does not have any documentation of any disability.

Another time to consider a Section 504 referral is when a student returns from a long-term absence or has faced a serious illness or injury. Although a student with a minor or transitory impairment (transitory being defined as having an actual or expected duration of 6 months or less) generally does not qualify as having an impairment that substantially limits a major life activity, and thus does not qualify for Section 504 services (*see* discussion on page 13, below; *see* 42 U.S.C. § 12102, (1)(C) and (3)(B)), changes in a student's circumstances, including but not limited to changes in medical status, grades, discipline issues or social interactions, may render him or her eligible for such services. A student with a temporary impairment could be eligible for Section 504 services if the impairment substantially limits a major life activity, constituting a disability.

2. Consideration of Referral

The Section 504 Team shall consider every referral and, based upon a review of student records, including academic, social, and behavioral records, test results, and any other information deemed relevant, shall determine whether the student should be evaluated under Section 504. The question for the Section 504 Team is whether the student, because of a disability (meaning a physical or mental impairment that substantially limits one or more major life activities), needs or appears to need aids or services under Section 504. If the answer is yes, then the student should be referred for evaluation relative to Section 504, with the parents' consent. If the answer is no, then the parents should be notified of that decision, in writing, with a brief statement of the reasons, and shall be provided with a copy of the Section 504 Parents' Rights Notice (Attachment E or similar).

3. Obtaining Consent

If the Section 504 Team decides that the student should be evaluated, then the Section 504 District Coordinator should ask the parents for consent to evaluate the student. A model consent form is attached as Attachment D. The District shall provide a copy of the Section 504 Parents' Rights Notice (Attachment E, or similar) along with the consent form. The District may not perform an initial evaluation unless and until the parent(s) consent. It is OCR's interpretation that Section 504 requires informed parental consent for the initial evaluation, but that, if a parent refuses to consent to an initial evaluation when a district suspects a disability, a district may use due process hearing procedures to seek to override the parents' denial of consent relative to an initial evaluation.⁶ See OCR 504 Guide, *supra*, p. 19. If a referral is based on information from sources outside of the District (e.g., doctor's diagnoses, outside evaluations), the District should

⁶ It is OCR's position that a district may not use due process hearing procedures to override parents' denial of consent relative to the initial provision of services, however, as discussed on pg. 14 below.

seek copies of any relevant documents and/or consent to exchange information with the appropriate individuals.

B. SECTION 504 EVALUATION

Section 504 requires the District to individually evaluate a student before classifying him or her as a student with a disability. The District must evaluate any student who, because of a disability, needs or is believed to need aids or services to access his or her education. The District must evaluate any student who, because of a disability, needs or is believed to need aids or services, before taking any action with respect to the student's initial placement, or a significant change in placement. For the purposes of this Manual, "evaluation" means the process whereby various sources of information are considered by the Section 504 Team to determine whether a student qualifies as a student with a disability for the purposes of Section 504. If testing is conducted, it must be in accordance with 34 C.F.R. § 104.35(b) requirements, as discussed below. Note that parental consent is required before any evaluation, and that evaluation is a prerequisite to any placement or programming changes.

1. Purposes of Evaluations

The District shall evaluate students to determine if a student (1) has, has a record of, or is regarded as having, (2) a physical or mental impairment which (3) substantially limits one or more major life activities. All three of those criteria must be met for a student to meet the definition of a student with a disability under Section 504.

While all students determined to have a disability under Section 504 are entitled to Section 504 protections, a student with a disability under Section 504 may or may not qualify for Section 504 aids or services. For example, a student whose disability is treated effectively with medication alone may not require any aids or services, although the District would need to reevaluate the student if there are any changes to the student's condition or the use of medication

is discontinued. All students with disabilities are entitled to Section 504 protections, however, such as protection from harassment or discrimination. Students with Section 504 disabilities may be placed anywhere along the following continuum, as appropriate for their needs: regular education, regular education with supplementary aids or services, or special education and related aids or services.

If the District has determined that a student qualifies as a student with a disability under Section 504, then the purpose of the evaluation will be to determine the nature of the student's disability, the impact of the disability on the student's education (which is comprised of more than just formal instructional time, and includes lunchtime, recess, social opportunities, etc.), and what regular or special education and related aids and services may be appropriate.

2. Evaluation Procedure

Section 504 requires that the District establish standards and procedures for the evaluation and placement of any student who, because of a disability, needs or is believed to need special education or related services. The evaluation procedures must ensure that students are not misclassified, unnecessarily labelled as having a disability, or incorrectly placed, based on inappropriate selection, administration, or interpretation of evaluation materials. Specifically, regulations require that the District's policies and standards ensure that:

- (1) Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer;
- (2) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and
- (3) Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the

student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

34 C.F.R. § 104.35(b).

3. Sufficiency of Information

The Section 504 Team determines when it has a sufficient amount of information to evaluate the student. In interpreting evaluation data and making educational decisions, the District must:

- (1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;
- (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered;
- (3) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and
- (4) ensure that the placement decision is made in conformity with 104.34 [which requires that a student with a disability is educated and participates in nonacademic and extracurricular activities with non-disabled students to the maximum extent appropriate to meet the student's individual needs].

34 CFR 104.35. As these requirements indicate, the District is not obligated to obtain any specific types of data and need not perform any assessments on its own if the Section 504 Team determines that there is sufficient information from which the Team can determine whether the student has a disability and if so, what regular or special education and related services are needed to provide FAPE. The information may come from the District or from outside sources.

The District may use the same procedures to identify students eligible for regular or special education and related services under Section 504 as they use to identify students who are eligible for special education and related services under the IDEA. If the District performed assessments or gathered information in connection with the IDEA process but determined that a student is not eligible for an IEP, the District may use the same information in connection with the Section 504 evaluation.

A medical diagnosis alone is not sufficient to meet the evaluation requirements. Medical diagnoses may be considered among other sources. As noted above, the District must draw from a variety of resources, including, for example, assessments, teacher reports, physical condition, adaptive behavior, and social and cultural background. It is within the Section 504 Team's discretion, based on a student's individual circumstances, to determine how much weight to give to each piece of information.

There are no specific illnesses, disorders, or impairments that automatically qualify a student for Section 504 aids or services. The District must undertake an independent evaluation of whether a particular student has, has a record of having, or is regarded as having a physical or mental impairment that substantially limits one of more major life activities. The Section 504 Team shall make the final decision regarding whether a student is eligible for aids or services under Section 504. The District encourages the inclusion of parents during the evaluation process.

4. Consideration of Mitigating Measures

Pursuant to the American With Disabilities Act Amendments Act of 2008 ("ADAAA"), in determining whether a student has a physical or mental impairment that substantially limits a major life activity, the District may not consider the ameliorating effects of any mitigating

measures that the student is employing. The ADAAA does not specifically define “mitigating measures,” but Congress provides a non-exhaustive list of examples, including:

(I) 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, or oxygen therapy equipment and supplies;

(II) use of assistive technology;

(III) reasonable accommodations or auxiliary aids or services; or

(IV) learned behavioral or adaptive neurological modifications.

42 U.S.C. § 12102(4)(E).

If a student has a disability that is well managed through medication, a device, or some other technology, the District may not consider that mitigating measure in its evaluation of whether the student has a disability under Section 504. The District may, however, consider mitigating measures in deciding whether and to what extent the student needs aids or services under Section 504. The need to reevaluate a student would likely be triggered if he or she were to cease using a mitigating measure, or if the measure appeared to become ineffective.

The one exception to the prohibition on considering mitigating measures is for “ordinary eyeglasses or contact lenses,” which the ADAAA defines as “lenses that are intended to fully correct visual acuity or eliminate refractive error.” *Id.* Thus, the District may consider the ameliorative effects of ordinary eyeglasses or contact lenses for the purpose of Section 504 disability evaluations.

5. Drug/Alcohol Use, Allergies, Diabetes, ADHD;
Temporary or Episodic Impairments

As noted, no impairments or conditions automatically qualify a student for aids or services under Section 504. The District must evaluate each student independently.

Students with severe allergies, diabetes, and ADHD *may* qualify for aids or services under Section 504, if the Section 504 Team determines that the physical or mental impairment (the allergy, diabetes, or ADHD) substantially limits a major life activity (eating, breathing, renal function, learning, concentrating, reading, or thinking, for example).

Current users of illegal drugs are excluded from protection under Section 504, but there are some exceptions for former drug users who are in rehabilitation programs. Current users of alcohol may be protected under Section 504 if that impairment substantially limits a major life activity. Nonetheless, Section 504 permits school districts to take the same disciplinary action against students with disabilities using illegal drugs or alcohol as would be taken against students without disabilities. *See* U.S. Department of Education, Office for Civil Rights, *Protecting Students with Disabilities*, available at <http://www2.ed.gov/about/offices/list/ocr/504faq.html> (last modified 10/16/15) (“OCR FAQs”), at FAQs 15-16.

A temporary impairment (*See* OCR FAQs at 33) does not constitute a disability under Section 504 unless it is severe enough to result in a substantial limitation on one or more major life activities for an extended period of time. Pursuant to the ADAAA, impairments that are episodic or in remission may be considered a disability under Section 504 if the impairment would substantially limit a major life activity when active. 42 U.S.C. § 12102(4)(D).

6. Students with a Record of a Disability or Regarded as Disabled

Although having a record of a disability or being regarded as disabled is sufficient to satisfy the first prong of the definition of student with a disability under Section 504, and may trigger the District’s obligation to refer or evaluate a student, a student is not entitled to aids or services under Section 504 unless he or she actually has a physical or mental impairment that substantially limits a major life activity. Thus, the District should not implement Section 504

plans for students who have a record of or appear to have a disability if they do not, in fact, have a disability.

C. THE SECTION 504 PLAN

Once a student has been identified as Section 504-eligible, the Section 504 Team must decide what regular or special education and related aids and services are appropriate. *See* 34 C.F.R. § 104.33(b).

1. The Section 504 Plan or Placement

The Section 504 Team must follow the same 34 CFR 104.35 guidelines as with the evaluation decision, and must:

- (1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;
- (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered;
- (3) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and
- (4) ensure that the placement decision is made in conformity with 104.34 [which requires that a student with a disability is educated and participates in nonacademic and extracurricular activities with non-disabled students to the maximum extent appropriate to meet the student's individual needs].

The Section 504 plan must be individually tailored to the specific student's needs and must contain the necessary regular or special education and related aids and services to provide the student with FAPE in the least restrictive environment. A copy of the Section 504 plan should be maintained in the student's record and provided to each of his or her teachers, any

relevant aides, and District service providers. All District staff and service providers, including regular education teachers, must implement Section 504 plans when the plans relate to students for whom they are responsible. The Section 504 plan should be kept confidential.

There are no requirements for the form of the Section 504 plan, but a plan should include, at a minimum, the evaluation data considered, a description of the student's disability and how it substantially limits one or more major life activities in and around school, and proposed regular or special education and related aids and services. The plan also may include references to meetings and a statement of parent, student, or District concerns. A model Section 504 Plan is attached as Attachment K.

2. Parental Consent

Prior to implementing the plan, the Section 504 Team should obtain parental consent. If the parents refuse to consent, the District should not implement the plan. Section 504 neither requires districts to initiate nor prohibits districts from initiating a due process hearing to override parents' refusal to consent to the initial provision of special education and related services. OCR has noted, however, that the IDEA no longer permits districts to initiate a due process hearing to override parents' refusal to consent to the initial provision of special education services. *See* OCR FAQs, *supra*, at FAQ 44. If the parents refuse to consent, the District should reconvene the Section 504 Team, with the parents, to discuss a resolution.

Section 504 does not require that parents be included in Section 504 Team meetings. Nonetheless, because the Team is required to draw upon a variety of information, because parents must consent to the evaluation relative to a Section 504 plan, and because parents have the right to challenge decisions relating to the identification, evaluation and placement of students, in most cases parents should be encouraged to attend Section 504 meetings.

If parents continue to refuse to consent, the Section 504 Coordinator shall consult with District legal counsel.

3. Transfer Students on Section 504 Plans

If a student on a Section 504 plan transfers into the District, the Section 504 Coordinator shall timely convene a Team of individuals knowledgeable about the student, the meaning of the evaluation data and placement options to review that student's Section 504 plan and supporting documentation, to determine whether the plan is appropriate. If that team determines that the Section 504 plan is appropriate, the District is required to implement the plan. If the Team determines that the plan is not appropriate, the District must evaluate the student as it would any other student referred for evaluation. The District may, but is not required to, honor the old Section 504 plan during the evaluation process. The District may not delay an evaluation if on notice that a student needs or may need aids or services.

4. Discipline

Students eligible for Section 504 plans are subject to the same disciplinary standards and actions as students who do not have disabilities, as long as the student's behavior is not a manifestation of his or her disability or a result of the District's failure to implement the Section 504 Plan.

If the District wishes to suspend a student with a disability for more than 10 consecutive school days (which OCR considers a significant change in placement), or a series of suspensions in excess of ten (10) school days that constitutes a pattern of exclusion, the Section 504 Team must conduct a manifestation determination to determine if the conduct was a manifestation of the student's disability. To make that determination, the Section 504 Team must have available to it information that competent professionals would require, such as psychological evaluation

data related to disability and behavior. The relevant information available to the Team must be sufficient to afford an understanding of the student's disability and current behavior.⁷

Disciplinary removal constituting a significant change in placement cannot be imposed unless the Team determines that the student's problematic behavior is not a manifestation of the student's disability. If it is determined that the behavior is a manifestation of the student's disability, the Team must continue its evaluation to determine whether the student's current educational placement is appropriate. Parents are entitled to notice of the results of the manifestation determination and of the procedural safeguards available to them to challenge the determination, and may be included in the Team as appropriate. If the Team determines that the student's placement is not being properly implemented, or that aids or services deemed necessary by the Team are not being provided, and that the failure to properly implement or provide led to the incident, the student may not be disciplined. In such a case, the disciplinary process must cease, and the Section 504 Team should review the Section 504 Plan to determine if any modifications are necessary. If the Section 504 Team determines that the student's conduct is not a manifestation of the student's disability or a result of a failure to implement the Section 504 plan, the student shall be subject to the same discipline as any non-disabled student who engaged in the same violation.

If the District wishes to impose a suspension of fewer than ten (10) consecutive days, it may follow its typical short-term suspension procedures. If, however, a student on a Section 504 plan accumulates shorter suspension/expulsions that total ten (10) or more days, the Section 504 Team must determine if a significant change in placement has occurred on a case-by-case basis. The Section 504 Team should consider the length and proximity of each exclusion, the nature of

⁷ If the Section 504 Team determines that it does not have sufficient information to make these determinations, additional information must be acquired and considered.

the behavior, and the total amount of time the student has been removed from his educational program. If the shorter expulsions indicate a pattern of behavior, then the Section 504 Team should conduct a manifestation determination.

D. REEVALUATION

Section 504 and implementing regulations require “periodic” reevaluation of a student entitled to Section 504 services, but neither defines “periodic.” A three-year reevaluation period akin to the three year period for reevaluation required under the IDEA shall satisfy the Section 504 reevaluation requirement, unless a change in the student’s needs change, triggering an earlier obligation to reevaluate.

A reconsideration of 504 needs must also be conducted prior to a significant change in placement, including exclusion from the educational program for more than 10 days, transfer from one type of program to another, or a significant reduction or termination of services.

Once a student becomes eligible for aids or services under Section 504, the student remains eligible for those aids and services as long as he or she qualifies as a student with a disability. If, upon reevaluation, the Section 504 Team determines that the student no longer has a physical or mental impairment that substantially limits one or more major life activities, the student is no longer eligible for aids or services under Section 504. In that case, the Section 504 Coordinator shall send to the parents a Notice of Termination of Section 504 Services (Attachment L, or similar).

VII. PROCEDURAL SAFEGUARDS/APPEALS

If parents dispute the Section 504 Team’s decision(s) regarding referral, evaluation, placement, or provision of aids or services, they should be referred to the Section 504 District Coordinator. The Section 504 District Coordinator should work with the parents in an attempt to resolve the dispute. Parents have the opportunity to seek review of the District’s decisions by an

impartial hearing officer or by court action. Please reference the Section 504 Parents' Rights Notice, attached as Attachment E, for more details regarding parental rights.

VIII. QUESTIONS

Please refer all questions regarding the District's Section 504 procedures to the Section 504 District Coordinator.

ATTACHMENT A – MODEL NOTICE OF NON-DISCRIMINATION

The Dighton-Rehoboth Regional School District does not discriminate against students, parents, employees or the general public on the basis of race, color, ancestry, national origin, sex, sexual orientation, gender identity/expression, disability, genetics, religion, age, marital or family status, military status, income, or age in admission or access to, or treatment or employment in, its programs and activities.

The District has designated the following individual to address questions or concerns concerning the District’s non-discrimination policies with respect to programs or activities:

Kristin Donahue
Director of Special Education and Student Services / Section 504 Coordinator
Dighton-Rehoboth Regional School District
2700 Regional Road
North Dighton, MA 02764
Tel: 508-252-5000
Fax: 508-252-5023

Any person having inquiries concerning the District’s compliance with the regulations implementing any of those provisions is directed to contact the individual identified above.

ATTACHMENT B – MODEL NOTICE, FACILITIES & PROGRAM ACCESSIBILITY

The Dighton-Rehoboth Regional School District shall ensure that no qualified person with a disability is denied benefits of, excluded from participation in, or otherwise subjected to discrimination because of any inaccessibility to employment, programs or any activities of the Dighton-Rehoboth Regional School District. The District is committed to ensuring that all interested persons, inclusive of persons with impaired vision and/or hearing, can obtain information regarding its facilities, programs, services and activities. As such, the District shall:

- (a) ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities;
- (b) provide signage at *all inaccessible entrances* to each of its facilities, directing users to an accessible entrance or to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each accessible entrance of a facility.

For additional information regarding facilities, programs, services and activities that are accessible to persons with disabilities, please contact the Principal of your neighborhood school
or

Kristin Donahue
Director of Special Education and Student Services / Section 504 Coordinator
Dighton-Rehoboth Regional School District
2700 Regional Road
North Dighton, MA 02764
Tel: 508-252-5000
Fax: 508-252-5023

ATTACHMENT C – MODEL CHILD FIND NOTICE

It is the responsibility of the Dighton-Rehoboth Regional School District to identify any child who is a resident of Dighton or Rehoboth, or who attends a public or private school in Dighton or Rehoboth, who may have a disability (a physical or mental impairment that substantially limits a major life activity). It is also the responsibility of the Dighton-Rehoboth Regional School District to evaluate any identified students for the purpose of determining whether they may be eligible for aids or services under Section 504 of the Rehabilitation Act of 1973, the Individuals with Disabilities Education Act, M.G.L. c. 71B or 603 CMR 28. If you suspect that your child may have a disability, you may request that an evaluation be conducted by the Dighton-Rehoboth Regional School District, at no cost. Please contact the Principal of your neighborhood school or

Kristin Donahue
Director of Special Education and Student Services / Section 504 Coordinator
Dighton-Rehoboth Regional School District
2700 Regional Road
North Dighton, MA 02764
Tel: 508-252-5000
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to request an evaluation. The Dighton-Rehoboth Regional School District shall provide a free appropriate public education to all students residing in the District, regardless of the nature or severity of a student's disability.

ATTACHMENT D – MODEL SECTION 504 EVALUATION CONSENT FORM

[To be sent to parent by Section 504 Coordinator]

Dear [Parent]:

The Dighton-Rehoboth Regional School District seeks your consent to conduct an evaluation of your child, [Name], pursuant to Section 504 of the Rehabilitation Act of 1973 (“Section 504”). We need your consent to evaluate your child and consider his or her eligibility for regular or special education and related aids and services under Section 504.

Information about the proposed evaluation is below. Also enclosed for your information is a document entitled “Section 504 Parents’ Rights.” Kindly review that document before signing this consent form. Please feel free to contact Section 504 Coordinator Kristin Donahue, Dighton Rehoboth Regional School District’s Director of Special Education and Student Services, at 508-252-5000 with any questions.

Information on the Proposed Evaluation:

The District wishes to evaluate your child for the following reasons: [State with specificity.]

The District proposes the following assessments. Please mark an “x” in the “yes” box if you consent to an assessment. Please mark an “x” in the “no” box if you do not consent to an assessment.

Recommended Assessment

Parental Consent
Yes No

	Yes	No

Please check one of the two boxes below:

- I hereby consent to the Dighton-Rehoboth Regional School District performing a Section 504 evaluation that will consist of the assessments that I have check above as approved.

- I do not consent to the Dighton-Rehoboth Regional School District performing a Section 504 evaluation on my child. I have reviewed the Section 504 Parents’ Rights information that was provided with this consent form. I understand my rights and actions proposed by the Dighton-Rehoboth Regional School District.

If your child has been assessed by an individual or individuals outside of the Dighton-Rehoboth Regional School District and you consent to the Section 504 Team discussing your child's records with such individual(s), please complete the following section:

- I hereby authorize the Dighton-Rehoboth Regional School District to contact the following individuals and obtain the specified records from those individuals.

Name of Contact	Address	Records

Enclosed are two copies of this consent form. Please sign and date the copies and return one copy to _____ as soon as possible. Please retain the other copy for your records. If you have any additional documentation that you would like the Section 504 Team to consider, please include that information, as well.

Please note that the District cannot perform the evaluations until you have provided written consent.

Signature of Parent/Guardian Date

ATTACHMENT E – MODEL SECTION 504 PARENTS’ RIGHTS NOTICE

Section 504 of the Rehabilitation Act of 1973, commonly referred to as “Section 504,” is a federal civil rights statute that prohibits discrimination against individuals with disabilities. Section 504 also requires that students with disabilities have educational opportunities and benefits equal to those provided to non-disabled students.

A student who (a) has, (b) has a record of having, or (c) is regarded as having, a physical or mental impairment that substantially limits one or more major life activities, such as learning, self-care, walking, seeing, hearing, speaking, breathing, working, performing manual tasks, reading, thinking, concentrating, sleeping, eating, and other major life activities, may be eligible for aids or services under Section 504.

This document provides an overview of the rights of parents/guardians and students under Section 504. Section 504 provides the following rights to students and parents:

1. Students with disabilities have the right to participate in public education programs without discrimination based on their disabilities.
2. Students with disabilities have the right to an appropriate education designed to meet their individual educational needs as adequately as the needs of non-disabled students are met.
3. Students with disabilities have the right to a free and appropriate public education (FAPE) in the least restrictive environment, which includes being educated with students who do not have disabilities to the maximum extent possible, and the provision of regular or special education and related aids and services designed to meet the individual needs of the student with disabilities as adequately as the needs of students without disabilities are met. If it is determined that a student requires an alternative placement, then he or she has the right to transportation to that alternative placement at no greater cost to the parents/guardians or student than would be incurred if the student were placed in a program operated by the District.
4. Students with disabilities have the right to an equal opportunity to participate in academic, non-academic and extracurricular activities. Facilities, activities and services (including non-academic and extra-curricular activities) shall be comparable to those provided for non-disabled students.

5. Students who may have a disability have the right to an evaluation prior to any initial placement, including not being found to be Section 504 eligible, and prior to any subsequent significant change in placement.
6. Parents/guardians and students have the right to have identification, referral, evaluation, placement and aids/services decisions be based on a variety of information sources and made by a group of people knowledgeable about the student, the meaning of the evaluation data, and the placement and aids/services options.
7. Parents/guardians have the right to receive notice of their rights under Section 504 from the District. This document provides that notice.
8. Parents/guardians have the right to notice prior to any action by the District in regard to the identification, referral, evaluation, or placement of, or the provision of aids/services to, their children.
9. Parents/guardians have the right to examine all relevant records related to the identification, referral, evaluation, and placement of, and the educational program and aids/services provided for, their children.
10. Parents/guardians and students have the right to an impartial hearing if they disagree with the District's actions regarding their child's identification, evaluation, or educational placement. The parents/guardians and student have the right to participate in that hearing and be represented by an attorney (at private expense). Parents/guardians and students who disagree with the decision of the impartial hearing officer, have the right to a review of that decision by a court of competent jurisdiction.
11. Parents/guardians and students have the right to file a complaint with the Office for Civil Rights. The contact information for the Regional Office with jurisdiction in Massachusetts is:

U.S. Department of Education
Office for Civil Rights
5 Post Office Square, 8th Floor
Boston, MA 02109
Tel.: (617) 289-0111
Fax: (617) 289-0150

ATTACHMENT F – SECTION 504 CHECKLIST

- Section 504 District Coordinator ensures proper notices are posted in all District facilities. (Attachments A, B, and C).
- Student is identified or referred for Section 504 evaluation.
- Section 504 Coordinator is notified. (Attachment G).
- Section 504 Coordinator convenes Section 504 Team.
- Section 504 Team conducts student record review and discusses the referral and whether to evaluate the student and/or request additional documentation.
- Section 504 Team notifies parents/guardians of intent to evaluate, requests consent for evaluation, and requests relevant information from parents/guardians, providing parents/guardians with notice of procedural safeguards. (Attachments D and E). District must obtain/consider any information not provided by parents/guardians that the Team deems necessary for decision-making, in addition to any relevant information provided by parents/guardians.
- Obtain consent to evaluate from parents/guardians. (If parents/guardians do not consent, stop the process now and consult District counsel.)
- Obtain information from parents/guardians and/or consent to share information with outside service providers.
- Notice sent to parents/guardians to attend meeting to discuss evaluation.
- Evaluation of student, including assessments if needed/required. (Attachment H).
- Notice sent to parents/guardians to attend meeting to discuss eligibility determinations.
- Meeting to discuss eligibility determination.
- If student is found eligible, Section 504 plan drafted (Attachment K) and forwarded to parents, along with notice of eligibility decision (Attachment I) and parents'/guardians' rights notice (Attachment E).
- If student is found ineligible, notice of non-eligibility (Attachment J) and parents'/guardians' rights notice (Attachment E) sent to parents/guardians.
- Parent/Guardian signs Section 504 plan. (If parents/guardians do not consent, do not implement the plan and contact District counsel.)
- Section 504 plan distributed to appropriate staff and kept in student record.
- Periodic re-evaluation.
- If a student is found no longer eligible for aids or services following re-evaluation, termination notice sent to parents/guardians. (Attachment L).

ATTACHMENT G – MODEL REFERRAL, SECTION 504 PLAN

To be completed by teachers, nurses, counselors, or other staff who suspect that a student may have a physical or mental impairment that substantially limits one or more major life activities. Please return to Section 504 District Coordinator Kristin Donahue. Form may also be completed by the Section 504 District Coordinator based on information provided by a parent, guardian, or provider.

Student Name: _____ SASID: _____

DOB: _____ School: _____ Grade: _____

Parent(s)/Guardian(s): _____

Address: _____

Telephone: _____ Email: _____

Previously evaluated under the IDEA? ___ yes ___ no

1. What is the physical or mental impairment that may be substantially limiting the students' major life activity? _____

2. What is the major life activity that may be substantially limited? _____

3. How is the major life activity being substantially limited? _____

4. On what information do you base your responses to questions 1-3?

Name and position of person making referral: _____

Signature of person making referral: _____ Date: _____

Section 504 Coordinator's Signature: _____ Date: _____

_____ concentrating _____ thinking _____ major bodily function(s) (specify): _____
_____ other (specify): _____

3. The term “substantially limits” means that the student is:

substantially limited in his or her ability to perform a major life activity as compared to most people in the general population. An impairment need not prevent, or significantly or severely restrict, the student from performing a major life activity in order to constitute a substantial limitation.

Not every impairment will constitute a disability within the meaning of this section.

Place an “X” on the following scale to indicate the specific degree that the impairment (in #1) limits the major life activity (in #2):

For an “X” at “3” or above, fill in specific information evaluated by the Section 504 Team that justifies the rating:

- 5 _____ Extremely
- 4 _____ Significantly
- 3 _____ Substantially
- 2 _____ Mildly
- 1 _____ Negligibly

_____ The Section 504 Team’s determination is less than “3”; the student may not be eligible for Section 504 protections. Provide notice to parents of their procedural rights, including an impartial hearing.

OR

_____ The Section 504 Team’s determination was a “3” or above. The Team should determine and list on the Section 504 Plan the regular or special education and related aids and services that are necessary for the student for his/her individual educational needs to be met as adequately as the needs of students without disabilities are met.

ATTACHMENT I – MODEL NOTICE OF SECTION 504 ELIGIBILITY

[To be used if a student is eligible for Section 504 services.]

Dear [Parent or Guardian]

A team of professionals met on [date] to discuss the eligibility of your child [name] for regular or special education and related aids or services under Section 504 of the Rehabilitation Act of 1973 (“Section 504”). Based on the information available at that meeting, the Section 504 Team determined that your child is a qualified student with a disability who is entitled to aids or services under Section 504. Accordingly, the Section 504 Team has developed the enclosed Section 504 Plan to meet your child’s educational needs.

Please review the enclosed Section 504 Plan. If you agree with it, please sign, date, and return a copy of the document to [contact person and address] as soon as possible. The enclosed Plan will not be implemented until the District receives your consent.

If you disagree with the contents of the Section 504 Plan, please notify the Section 504 District Coordinator.

Kristin Donahue
Director of Special Education and Student Services / Section 504 Coordinator
Dighton-Rehoboth Regional School District
2700 Regional Road
North Dighton, MA 02764
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Fax: 508-252-5023

If you desire, you may request that the Section 504 Team reconvene to discuss your concerns.

Also enclosed for your review is a copy of the District’s Notice of Parental Rights.

Please feel free to contact me with any questions or concerns or if you wish to schedule a meeting.

Signature of School District Representative

Date

ATTACHMENT J – MODEL NOTICE OF SECTION 504 NON-ELIGIBILITY

[To be used if a student is not eligible for Section 504 services.]

Dear [Parent or Guardian]:

A team of professionals met on [date] to discuss the eligibility of your child [name] for regular or special education and related aids or services under Section 504 of the Rehabilitation Act of 1973 (“Section 504”). Based on the information available at that meeting, the Section 504 Team determined that your child is not a qualified student with a disability and, therefore, he/she is not entitled to aids or services under Section 504.

If you have additional information you would like the Section 504 Team to consider or if you disagree with this decision, please notify the Section 504 District Coordinator.

Kristin Donahue
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If you desire, you may request that the Section 504 Team reconvene to discuss your concerns.

Enclosed for your review is a copy of the District’s Notice of Parental Rights.

Please feel free to contact me with any questions or concerns or if you wish to schedule a meeting.

Signature of School District Representative

Date

ATTACHMENT K – MODEL SECTION 504 PLAN

Student Name: _____ SASID: _____

DOB: _____ School: _____ Grade: _____

Parent(s)/Guardian(s): _____

Address: _____

Telephone: _____ Email: _____

District Contact Person: _____ Position: _____

Telephone: _____ Email: _____

Proposed Date for Re-evaluation: _____

Describe the mental or physical impairment(s): _____

Describe how the mental or physical impairment(s) affect one or more major life activities:

Describe in detail the regular or special education and related aids and services to be provided:

What information was considered in the development of this plan? _____

Is there any additional information that may be relevant to the provision of aids or services under Section 504 that is not otherwise incorporated in this document?

Signature of School District Representative

Date

I hereby consent to this Section 504 Plan as developed.

Signature of parent, guardian, or student (if 18 years or older)

If the parent(s), guardian(s) or student (if 18 years or older) does not agree with any statements in this document or does not consent to this plan as developed, please contact:

**Kristin Donahue
Director of Special Education and Student Services / Section 504 Coordinator
Dighton-Rehoboth Regional School District
2700 Regional Road
North Dighton, MA 02764
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ATTACHMENT L – MODEL NOTICE OF TERMINATION, SECTION 504 SERVICES

[To be sent to parent by 504 Coordinator]

Dear [Parent/Guardian]:

The Dighton-Rehoboth Regional School District recently re-evaluated your child [NAME] and determined that he/she is no longer eligible for aids or services under Section 504 of the Rehabilitation Act of 1973 (“Section 504”). The reason for this determination is:

[Outline the process used to reach the decision (e.g., the student was re-evaluated and there was a re-evaluation meeting, which the parents likely attended), which component(s) are no longer met (e.g., is there no longer an impairment or does it no longer substantially limit one or more major life activities), and which documents were considered.]

Should you disagree with this decision, you have the right to request a Section 504 review meeting. If you have any questions or would like the Section 504 Team to reconsider this termination decision, please contact Section 504 District Coordinator Kristin Donahue.

Kristin Donahue
Director of Special Education and Student Services / Section 504 Coordinator
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Also enclosed for your review is a copy of the District’s Parents’ Rights Notice.

[Signature of Section 504 Coordinator]

Date