



**BARNSTABLE PUBLIC SCHOOLS  
SECTION 504 HANDBOOK**

**PROCEDURES FOR IDENTIFICATION, EVALUATION,  
AND PLACEMENT UNDER  
SECTION 504**

Gina Hurley Ed. D.  
Director of Student Services  
November, 2015

Dear Parents, Students, and Staff,

The Barnstable Public School District recognizes and supports the right of students to enjoy equality of treatment and access to opportunities in education. Our diverse student population is strengthened by its commitment to embrace all learners, including those with disabilities. Section 504 of the Rehabilitation Act of 1973 ("Section 504") guarantees that students with disabilities have the ability to access a free appropriate public education ("FAPE").

This handbook describes the requirements of Section 504 as it applies to a duty to provide FAPE to students with disabilities. This handbook is designed to assist in understanding what Section 504 is, which students are subject to protections afforded under Section 504, what Section 504 requires in terms of FAPE for eligible students, and how Section 504 should be implemented. This handbook also serves as the district's procedures related to Section 504 for students.

Students, families, and staff all benefit when the requirements set forth under Section 504 are applied uniformly and consistently in every school. If you have a question related to Section 504 that is not addressed in this handbook or if you need further guidance related to a particular student, you should consult with your school-based Section 504 Team Chair. You may also contact the district's Section 504 Program Coordinator, Dr. Gina Hurley at 508-862-4951.

This handbook does not address Section 504 as it relates to employees. Questions about employment-related accommodations should be forwarded to the Human Resources Department (508-862-4692).

Thank you in advance for reviewing this handbook and for your efforts to serve our students.  
Sincerely,

Gina Hurley, Ed. D.  
Director of Student Service  
November, 2015

## I. GENERAL INFORMATION ABOUT SECTION 504

### A. DEFINITIONS

#### 1. Section 504

Section 504 of the Rehabilitation Act of 1973 ("Section 504") is a Federal civil rights law that is designed to eliminate disability discrimination in programs and activities that receive Federal funds. Since all public school districts receive Federal funds, all public school districts must comply with Section 504. Under Section 504, denying a disabled student a free appropriate public education ("FAPE") constitutes disability discrimination.

#### 2. Students Eligible under Section 504

Any school-aged student who has a mental or physical impairment that substantially limits one or more major life activities qualifies under Section 504, although not all of these students will require a Section 504 Plan. "Physical or mental impairment" means any physiological or psychological disorder or condition. The definition of physical or mental impairment under Section 504 is broad, includes students with life-threatening health conditions (conditions that will put a student in danger of death during the school day if a medication or treatment order and/or a nursing plan is not in place), and is not limited to any specific diseases or categories of medical conditions. Addiction to drugs or alcohol may be a physical or mental impairment that may result in a student being eligible for Section 504. A temporary impairment (with an actual or expected duration of 6 months or less) is a disability under Section 504 if it is severe enough that it substantially limits a major life activity.

A physical or mental impairment *substantially limits* a major life activity for a student if the impairment substantially limits the student's ability to perform a major life activity as compared to the student's non-disabled age/grade peers. There is no single formula or scale that measures substantial limitation. An impairment need not prevent, or significantly or severely restrict, a student from performing a major life activity to be considered substantially limiting. Factors for the Section 504 Team to discuss when determining substantial limitation are: (1) the nature and severity of the impairment; (2) the duration or expected duration of the impairment; and (3) the permanent, long-term impact or expected impact of the impairment.

Major life activities include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, communicating, immune system function, normal cell growth function, digestive function, bowel function, bladder function, neurological function, brain function, respiratory function, circulatory function, endocrine function, and/or reproductive functions. The ability to participate in and benefit from school is a major life activity for a school-aged student. The above list of major life activities is not exhaustive.

Mitigating measures used by a disabled student to manage his or her impairment or lessen the impact of his or her impairment (i.e., medication, medical devices, related aids and/or services, etc.) must be disregarded when determining whether a student's impairment constitutes a disability under Section 504. Exceptions to mitigating measures are ordinary eye glasses or contact lenses. Students with disabilities pursuant to Section 504 include students who are eligible for Special Education. The difference is that students who are eligible for Special Education are in need of specially designed instruction as a result of a disability that is impacting their ability to access education.

**An impairment in and of itself is not a disability. In order to be a disability under Section 504, the impairment must substantially limit at least one major life activity.**

#### 3. Free Appropriate Public Education ("FAPE")

FAPE is an education that is designed to meet a disabled student's individual educational needs and is based upon procedures that satisfy Section 504's identification, evaluation, placement, and/or due process requirements. Typically, this includes accommodations and/or related aids that a student needs in order to participate in and benefit from the district's education program. Under Section 504, FAPE does

not include specially designed instruction. Students who are suspected of being in need of specially designed instruction should be referred for a Special Education eligibility evaluation.

#### **4. School-Based Section 504 Team**

The school-based Section 504 Team makes decisions regarding the evaluation and/or placement of students under Section 504. The membership of any particular student's Section 504 Team will vary depending upon the needs of each student. This is the core membership of a student's Section 504 Team for the purposes of making initial decisions, but the composition of a Section 504 Team is fluid and may change within a school year or between school years as a student's needs and/or services change. A Section 504 Team must include persons knowledgeable about the student, be able to interpret the meaning of the student's current evaluation data, and have authority to make placement options. It is the Section 504 Team that determines the scope of evaluations, if students qualify for Section 504, develops the Section 504 Plans, and makes "manifestation determinations" for purposes of disciplinary exclusion from school.

#### **5. Section 504 Team Chair**

Each school within the district has a Section 504 Team Chair who is designated to coordinate all Section 504 activities within the school and is responsible for coordinating all aspects of the Section 504 referral and evaluation process, including completing all required forms within the district's database and all other paperwork. The Section 504 Team Chair works closely with the school-based Section 504 Team, and the district's Section 504 Program Coordinator.

#### **6. Section 504 Program Coordinator (Director of Student Services)**

The district's Section 504 Program Coordinator is the Director of Student Services. The Section 504 Program Coordinator oversees the district's compliance with Section 504, provides all training related to Section 504, and works closely with the school-based Section 504 Team Chair, and principals.

### **B. OVERVIEW OF THE SECTION 504 PROCESSES**

#### **1. Referral**

Parent(s)/guardian(s) and/or school staff can refer a student for a Section 504 meeting if they know or suspect that, due to a disability, the student needs accommodations to participate in or access the district's education program. Any person can refer a student for evaluation under Section 504. Referrals should express the reason for the referral. *A student does not have to have a formal medical diagnosis to be referred for consideration under Section 504.*

The district does not have an obligation under Section 504 to private school students. Parents of children attending private schools who want Section 504 services should contact the private school.

When a student transfers into the district with a current Section 504 Plan the Section 504 Team should meet to review the plan. If the Team agrees with the decision and plan from the other district a Barnstable district Section 504 Plan should be developed. If the Section 504 Team does not agree with the decision and plan from the previous district, the student should be referred for a Section 504 evaluation to determine eligibility and accommodations.

#### **2. Decision to Evaluate**

After receiving a Section 504 referral, the team, including the parent, must decide whether to evaluate the student. Parental consent for the evaluation (see Section 504 forms) must be obtained. Parents must receive a copy of the Section 504 Parental Rights Notification.

#### **Initial Evaluation**

The scope of Section 504 evaluations will be specific to the student and concern. In completing the Section 504 Evaluation, the school must draw upon information from a variety of sources.

Any evaluation should be broad enough to enable the team to determine whether a student has a disability that substantially limits a major life activity and the nature and extent of the student's need for services, accommodations, and/or modifications to receive FAPE. Mitigating measures must be disregarded when

determining eligibility under Section 504.

Staff should encourage families to share any information they have that is relevant to determining if the student is eligible under Section 504 and should obtain authorization to speak with providers using the district's Release of Confidential Information form. While it is very useful to have supporting information from a health care provider to consider as part of the evaluation process, parents cannot be required to provide proof of a diagnosis to determine if a student is subject to Section 504. The district has an obligation to consider educational functioning and needs. Unlike special education regulations there is no entitlement to independent evaluations at public expense under Section 504.

**Eligibility under Section 504 does not necessarily mean services, accommodations, modifications, or related services will be required.**

### **3. Section 504 Plan ("Section 504 Plan")**

A Section 504 Plan is a written plan that describes the educational accommodations and related aids and services that the team determines a disabled student needs to receive FAPE. Section 504 Plans are documented using the Section 504 Plan in the district's database. At the beginning of each school year the Section 504 Team Chair ensures that all teachers of students with Section 504 Plans receive a copy of the 504 Plan, and acknowledge receipt of the plan in writing (Teacher Receipt Form).

A Section 504 Plan must be sufficiently detailed to allow teachers to address the individual needs of the student and outline the specific adjustments, accommodations, and/or other related aids and services to be provided to the student to ensure the ability to access FAPE.

### **4. Annual Review and Periodic Re-evaluation**

Section 504 Plans must be reviewed at least annually and revised if necessary. While there is no set requirement for how frequently a student should be reevaluated pursuant to Section 504, as a general rule students should be reevaluated at least once every 3 years or whenever significant changes in profile are noted. Re-evaluations require parental consent, as described above.

### **5. Record Retention**

A copy of the student's Section 504 Plan is sent to the parent(s)/guardian(s), is held in the district's Section 504 database, and placed in the student's cumulative file.

## **II. DETAILED INFORMATION REGARDING IDENTIFICATION, EVALUATION, AND PLACEMENT PROCEDURES**

### **A. REFERRAL, EVALUATION, AND PLACEMENT PROCEDURES**

#### **1. Referral to the School-Based Team Chair**

Students suspected of having a disability may be referred to the School-Based Team Chair for evaluation, by any source, in writing (or orally by the parent if the parent does not know how to write or has a disability that prevents a written statement). Sources include, but are not limited to, parent(s)/guardian(s), medical personnel, district and/or other public agency personnel, community agencies, civil authorities, and other interested persons. Persons making referrals should make their request in writing. If the referring person is unable to write, staff should document the referral in writing. All referrals received by school personnel will be referred to the School-Based Team Chair. The School-Based Team Chair is responsible for coordinating all aspects of the Section 504 referral and evaluation process.

#### **2. Referral by School-Based Team Chair for Possible Evaluation**

The School-Based Team Chair should set up a 504 team meeting with parties knowledgeable about the student to consider interventions and possible referrals to a Section 504 evaluation. A referral to the Section 504 Team may also be considered in the following circumstances:

- When a student is not responding (based on data) to research-based general education academic and behavioral interventions implemented with fidelity;

- When a student is returning to school after a serious illness or injury or after alcohol and/or drug treatment;
- When a student has a "life threatening health condition;"
- When a student has a temporary impairment that will be substantially limiting for an extended period of time; and/or
- When a student has an impairment that is episodic or in remission that is substantially limiting.

### **3. Consideration of the Referral**

The School-Based Team Chair will coordinate a meeting of the Section 504 team to consider the referral. The team is made up of the School-Based Team Chair, staff members who are knowledgeable about the student, and the parent(s)/guardian(s). The makeup will vary depending on who is referred and the nature of the suspected disability. The team should discuss the referral; collect and examine existing school, medical, and/or other records in the possession of the parent, district, and/or other public agency; and determine whether or not to conduct an evaluation.

### **4. Notice and Consent**

Parent(s)/guardian(s) will be notified of the referral in writing through the district's Section 504 Evaluation Consent Form. Parents will also receive the Section 504 Parent's Rights Notification. Parental consent is required for the evaluation.

### **5. Evaluation**

Each student referred will be evaluated for Section 504 eligibility by the team. The School-Based Team Chair will facilitate the evaluation. Members of the team may include the parent/guardian, school nurse, teacher(s), counselor, school psychologist, principal, assistant principal, and/or any other appropriate school personnel member. In completing the Section 504 Evaluation, the school must draw upon information from a variety of sources which may include the following:

- Reading and math assessments and inventories
- Benchmark assessment data
- Health information
- Academic and behavioral data
- Teacher inventories about the student's academic, behavior, and/or attention profile when compared to the average nondisabled peer
- State assessments, including most recent and previous results
- Reported grades, including most recent and previously reported grades
- Work samples that illustrate the nature and severity of the suspected disability
- Information and documentation provided by parents/guardians regarding medical diagnoses, medication, private therapies, evaluations, etc.

In addition to reviewing the data listed above and other data within the student's educational record, the district may recommend additional assessments.

The determination of whether a student is substantially limited in one or more major life activity will be made without regard to any ameliorative effects of mitigating measures, which include, but are not limited to: medication, medical supplies, equipment, low-vision devices, prosthetics, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy equipment and supplies, assistive technology, reasonable accommodations, auxiliary aids or services, or learned behavior or adaptive neurological modifications. Low vision devices do not include ordinary eyeglasses or contact lenses. The ameliorative effects of ordinary eyeglasses or contact lenses may be considered in determining whether the impairment substantially limits a major life activity.

The Section 504 Team should use assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the student. The team will gather data and information from a variety of sources. Sources of evaluation data may include, among others, formal testing, student grades, health information, parent information, teacher comments, standardized test

scores, and disciplinary referrals. The team will determine the scope of data to be gathered and reviewed. Based on the review, the team will identify what additional information, if any, is needed to fully evaluate the student. If the team determines that additional information is necessary, the team will identify how this information will be obtained and who will have responsibility for obtaining it.

When considering all of the information obtained during the evaluation the team should consider the following:

- What is the nature and severity of the impairment?
- What is the expected duration of the impairment?
- How has the student responded to interventions?
- Does the student consistently need significant changes made to the curriculum?
- Does the student consistently need extended time to complete assignments?
- Does the student demonstrate consistent behavior difficulties?
- Is there a pattern of absences?

After reviewing and carefully considering all information obtained by the team, the team will determine:

- Whether or not the student has a physical or mental impairment; and
- Whether it substantially limits one or more major life activity.

If the answer is yes to both of the above the student is eligible under Section 504 but may not need Section 504 accommodations or services.

#### **What must a school district do for a student who has a disability but does not need any special education or related services?**

As described in the Section 504 regulation, a school district must conduct an evaluation of any individual who, because of a disability, needs or is believed to need special education or related services, and must do so before taking any action with respect to the initial placement of the person in regular or special education or any significant change in placement. If, as a result of a properly conducted evaluation, the school district determines that the student does not need special education or related services, the district is not required to provide aids or services. Neither the Amendments Act nor Section 504 obligates a school district to provide aids or services that the student does not need. The school district must still conduct an evaluation before making a determination. Further, the student is still a person with a disability, and so is protected by Section 504's general nondiscrimination prohibitions and Title II's statutory and regulatory requirements.

For example, suppose a student is diagnosed with severe asthma that 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 service 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. The student is still a person with a disability, however, and therefore remains protected by the general nondiscrimination provisions of Section 504 and Title II.

Students who are disabled under Section 504 and who require accommodations to access the education programs, or special education and/or related services are entitled to Section 504 Plans. If the team determines that the student is eligible under Section 504, the team will propose services, accommodations, and/or modifications to address the student's disability-related needs, if there are any.

#### **a. Temporary and Episodic Impairments**

A temporary impairment (with an actual or expected duration of 6 months or less) is a disability under Section 504 if it is severe enough that it substantially limits a major life activity for a student. The duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity for a student should be the key considerations. An impairment that is episodic or in remission (i.e., cancer, multiple sclerosis, epilepsy) constitutes a disability under Section 504 if it substantially limits a major life

activity for the student when active.

**b. Alcohol Addiction**

A student who is addicted to alcohol, regardless of whether the student is currently using alcohol or is in recovery, may qualify as a disabled student under Section 504 for purposes of FAPE if the student's alcoholism substantially limits the student's ability to perform a major life activity. Such a student may need a modified schedule, school counseling, and/or another type of special education or related aid or service to participate in or benefit from the district's education program.

**c. Drug Addiction**

A student who is drug addicted but is in recovery and is not currently engaging in the illegal use of drugs, may qualify as a disabled student under Section 504 for purposes of FAPE if the student's drug addiction substantially limits the student's ability to perform a major life activity. Such a student may need a modified schedule, school counseling, and/or another type of related aid or service to participate in or benefit from the district's education program. A student who is drug addicted and is currently engaging in the illegal use of drugs, however, is excluded from the definition of a disabled student under Section 504.

Note: The district may take disciplinary action against any student with a disability engaged in the illegal use of drugs or in the use alcohol at school to the same extent that such disciplinary action is taken against non-disabled students.

**6. Plan Development and Plan Implementation**

Once the team has determined that the student is eligible for Section 504 services, accommodations, and/or modifications and has completed the evaluation, the team will meet and determine the appropriate services, accommodations, and/or modifications based on current needs that will be provided to address the student's disability related needs. Students with the same disability may not have the same needs. The parent(s)/guardian(s) are to be invited to participate in the Section 504 Plan development process. The team should gather input from all of the student's teachers. A Section 504 Plan will be written using the district's database program. The Section 504 Plan will be sent to the parent(s)/guardian(s), along with the Parent's Rights Notification.

The Section 504 Plan must address all areas of the student's disability-related educational needs.

In interpreting evaluation data and in making placement decisions, the district will draw upon information from a variety of sources, and document and consider all information presented. To help with the development of the Section 504 Plan the team should consider the following:

- The nature of the student's disability and the major life activity that it limits.
- The basis for determining the disability.
- The educational impact of the disability.
- The difference between an Individual Health Care Plan (services the nurse provides) and a Section 504 Plan (general education services, accommodations, and modifications the district must allocate).
- Necessary accommodations, not simply good teaching practices. Carefully consider the purpose and impact of each accommodation.

**7. Sharing of Information**

Once the student's Section 504 Plan is finalized the School-Based Team Chair shall immediately notify each of the student's teachers about the services, accommodations, and/or modifications. Teachers will sign a Teacher Receipt Form indicating that they have received a copy of the student's Section 504 Plan. Signed copies are to be kept in the student's cumulative file. At the start of each school year the student's teachers will receive a copy of the Section 504 Plan and sign the Teacher Receipt Form. The principal shall ensure that all services, accommodations, and/or modifications are being provided to the student.

**8. Location of Section 504 Plans**

A copy of the student's Section 504 Plan shall be placed in the student's cumulative file and provided to all of the student's teachers.



## **C. ANNUAL SECTION 504 PLAN REVIEW AND PERIODIC RE-EVALUATIONS**

### **1. Annual Section 504 Plan Review**

The period covered by a student's Section 504 Plan is one (1) calendar year. An annual review of each Section 504 student's services, accommodations, and/or modifications by the Section 504 Team shall be completed each school year. Each school must ensure that the annual review process is completed and any necessary evaluations and program changes are done in a timely manner.

If the school or district receives information indicating a student may have disability-related educational needs that, because of a change in circumstances or other factors (including, for example, that a student with a disability has stopped attending school), are not currently being addressed by the student's Section 504 Plan, the school or district staff who have received the information will take prompt and appropriate steps, including scheduling a Section 504 meeting, to consider the information and determine whether a change in the student's Section 504 Plan is needed to address the information.

The Section 504 Team conducting the annual review should include at least one person knowledgeable about the student, the parent, the School-Based Team Chair, and at least one of the student's teachers.

The annual review is not conducted to evaluate whether the student continues to be eligible for Section 504 services and/or accommodations, but rather to determine whether the services and/or accommodations that are currently being provided continue to be appropriate. If additional information is needed to make a determination, the Section 504 Team will seek that information. The Section 504 Team may determine that:

- the plan continues to be appropriate;
- modifications in the plan may be needed; and/or
- the student should be referred for a re-evaluation for eligibility under Section 504.

#### **a. Renewing a Section 504 Plan**

If the Section 504 Team determines that no new services, accommodations, and/or modifications are necessary, the Section 504 Team will renew the Section 504 Plan for another year and update the dates of the plan in the database program. Parent(s)/guardian(s) will be provided a copy of the updated plan and a copy of the Section 504 Parent's Rights Notification.

#### **b. Modify the Section 504 Plan, if Needed**

The Section 504 Team will determine what accommodations and/or modifications, if any, are necessary to the Section 504 Plan. A new Section 504 Plan will be written using the district's database program. The plan will be sent to the parent(s)/guardian(s), along with the Parent's Rights Notification.

#### **c. Conduct a Re-evaluation, if Needed**

The Section 504 Team will conduct the re-evaluation using procedures consistent with the district's initial evaluation and re-evaluation procedures. Consent from the parent(s)/guardian(s) is needed for a re-evaluation. A re-evaluation is needed prior to making any significant changes in a Section 504 student's educational placement. Significant changes in placement include terminating Section 504 eligibility, and/or certain disciplinary removals from school (e.g., long-term suspensions and expulsions).

### **2. Periodic Re-evaluations**

The purpose of the re-evaluation is to determine if the student continues to be qualified for Section 504 services, modifications, and/or accommodations because the student continues to have an impairment that substantially limits a major life activity. The re-evaluation also provides information for decisions about the appropriateness of the Section 504 Plan.

A re-evaluation will be conducted when:

- It has been 3 years since the previous evaluation;
- The student's needs have changed;
- Parent(s)/guardian(s) or staff believe the student is in need of a significant change in placement; and/or
- Significant changes in placement include terminating Section 504 eligibility, and/or certain disciplinary

removals from school (e.g., long-term suspensions and expulsions).

The re-evaluation process follows the same process as an Initial Evaluation. The Section 504 Team will identify and obtain what additional data, if any, is needed to determine:

- Whether the student continues to have a disability;
- Whether the student continues to need services, modifications, and/or accommodations under Section 504

Parent(s)/guardian(s) will be notified of the referral in writing through the 504 Evaluation Consent Form. Parents will also receive the 504 Parent's Rights Notification. Parental consent is required for the re-evaluation.

If the Section 504 Team determines that the student is no longer eligible for services, accommodations, and/or modifications under Section 504, the team will document the reasons for the determination using the Termination of Services plan. The School-Based Team Chair will sign the Termination plan, ensure that the student's teachers are informed of the termination, that the student's Section 504 eligibility status is updated in the district's database program, and that copies are placed in the student's cumulative file. A Termination Plan is also sent to the parents(s)/guardian(s), and to the office of the Director of Student Services.

If the Section 504 Team determines that the student continues to be eligible under Section 504, a new Section 504 Plan will be developed and implemented in a manner consistent with the initial plan development and implementation procedures. There will be no interruption of services, accommodations, and/or modifications while the re-evaluation is being completed. The new signed original plan will be placed in the student's cumulative file, sent to parent(s)/guardian(s), and sent to all teachers using the Teacher Receipt Form.

### **III. DISCIPLINE AND SECTION 504 STUDENTS**

#### **A. GENERAL OVERVIEW**

##### **Disciplining Students with Disabilities**

The Individuals with Disabilities Education Act of 2004 and Section 504 of the Rehabilitation Act of 1973 and related regulations provide eligible students with certain procedural rights and protections in the context of student discipline. If, prior to disciplinary action, a district has knowledge that the student may be a student with a disability, then the district makes all protections available to the student until and unless the student is subsequently determined not to be eligible. A brief overview of the procedural rights and protections is provided below.

In general, if an eligible student has violated the school's disciplinary code, the school may suspend or remove the student from his or her current educational placement for no more than 10 consecutive school days in any school year. If an eligible student possesses, uses, sells or solicits illegal drugs on school grounds or at a school-sponsored event; carries a weapon to school or a school function; or inflicts serious bodily injury upon another person at school or a school-sponsored event, the school district may place the student in an interim alternative educational setting for up to 45 school days.

Any time the school wishes to remove an eligible student from his or her current educational placement for more than 10 consecutive school days in any school year, or if a student is removed for disciplinary reasons for more than a total of 10 days in any school year when a pattern of removal is occurring, this is a "change of placement." A change of placement invokes certain procedural protections under federal law. These include the following:

(a) Prior to any removal that constitutes a change in placement, the school district must convene a Team meeting to develop a plan for conducting a functional behavioral assessment that will be used as the basis for developing specific strategies to address the student's problematic behavior. If a behavioral intervention plan has been previously developed, the Team will review it to make sure it is being implemented appropriately, and will modify it if necessary.

(b) Prior to any disciplinary removal that constitutes a change in placement, the school district

must inform the parent that the law requires that the school district consider whether or not the behavior that forms the basis for your child's disciplinary removal is related to his or her disability. This is called a "manifestation determination." The parent has the right to participate as a member of the group of people making this determination.

The law provides that the school district and the parent, along with relevant Team members, must consider all evaluation information, observational information, the student's 504 and placement; and must determine whether the student's behavior that prompted disciplinary removal was a manifestation of his or her disability. The behavior is considered a manifestation of the student's disability if the conduct in question was caused by, or had a direct and substantial relationship to the student's disability, or was a direct result of the school district's failure to implement the student's Section 504 Plan.

If the manifestation determination decision is that the disciplinary behavior was related to the student's disability, the student may not be removed from the current educational placement (except in the case of weapon or drug possession or use, or serious bodily injury to another) until the 504 Team develops a new IEP or 504 and decides upon a new placement and the parent consents to that new 504 Plan and placement, or a Hearing Officer orders a removal from the current educational placement to another placement.

If the manifestation determination is that the behavior was not related to the student's disability, then the school may suspend or otherwise discipline the student according to the school's code of student conduct. An exception is for any period of removal exceeding 10 days; then the school district must provide the student with educational services that allows the student to continue to make educational progress. The school district must determine the educational services necessary and the manner and location for providing those services.

If a parent disagrees with the Team's decision on the "manifestation determination" or with the decision relating to placement of a student in an interim alternative education setting or any other disciplinary action, the parent has the right to appeal the Team's decision by requesting an expedited due process hearing from the Bureau of Special Education Appeals.

#### **IV. Graduation**

Students with Section 504 Plans that are graduating will have a Summary of Student Performance completed by their school counselor during their senior year. Districts are required to provide the student with a summary of the student's academic achievement and functional performance, which includes recommendations on how to assist the student in meeting his/her desired postsecondary outcomes. The Summary of Student Performance will be placed in the student's cumulative file, and a copy sent to the office of the Director of Student Services.