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OVERVIEW
UNDERSTANDING SPECIAL EDUCATION POLICIES AND PROCEDURES

The Individuals with Disabilities Act, the Federal law governing special education, requires participating states to have policies and procedures to ensure that:

“A free appropriate public education is available to children with disabilities residing in the State between the ages of three and 21, inclusive, including children with disabilities who have been suspended or expelled from school”

California law declares that:

“All individuals with disabilities with exceptional needs have a right to participate in free appropriate public education and that special education instruction and services for these persons are needed in order to ensure them of the right to an appropriate educational opportunity to meet their unique needs”

Since it is the commitment and obligation of the SCHOOL and its staff to ensure that students with disabilities have available to them a free appropriate public education (FAPE), the following questions and answers are designed to help the user understand FAPE and the over-arching logic of special education policies and procedures.

THE SPECIAL EDUCATION PROCESS

Since the needs of each student with a disability are unique, special education policies and procedures set forth a process to determine a child’s FAPE. The following are the key steps in the process:

1. Written request for a special education assessment is made by a parent or school staff member.
2. Special education assessment plan is developed.
3. Parent is provided the special education assessment plan within 15 calendar days of receipt of request.
4. Parent approves, signs, and returns the assessment plan.
5. Assessments are conducted and reports are prepared.
6. IEP meeting is scheduled and team members notified no later than 10 calendar days prior to the scheduled date of the meeting.
7. IEP meeting is held within 60 calendar days of receipt of signed special education assessment plan.
8. IEP is implemented immediately.
9. Parent is provided reports on student’s progress as often as parents of general education peers are provided reports on student progress.
10. IEP meeting is held to review its appropriateness within one year of the previous IEP meeting.

THE SPECIAL EDUCATION PROCESS
SEARCH AND SERVE

SCHOOL RESPONSIBILITIES

• All schools are required to have procedures in place for identifying children who have or are suspected of having a disability and needing special education and related services. These procedures are commonly referred to as “search and serve” or “child find.”
• The school’s responsibilities for search and serve apply to the families and students attending and enrolling in the school. The District also has responsibilities for search and serve activities directed at the families of children below school age and students in private schools.

• Students with disabilities, requiring special services, enrolling in the school are identified and promptly provided the appropriate services.

• There is a process in place, understood by all staff members, for referring students who may require special services.

IDENTIFYING AND SERVING STUDENTS ENROLLING IN THE SCHOOL

All schools are responsible for having procedures in place to identify and promptly serve students, who require or may need special services, when they enroll in the school. Five questions are critical to ask:

1. Did the student receive special education services at his/her previous school?
2. Did the student have an Individualized Education Program (IEP) at his/her previous school?
3. Did the student have a Section 504 Plan at his/her previous school?
4. Does the student have difficulties that interfere with his/her ability to go to school or learn?
5. Has this student been identified for Gifted and Talented Educational services (GATE)?

Office personnel have the responsibility to assist parents, if necessary, answer the questions and ensure that all questions are answered.

Note: If the student is transferring from another school district, promptly obtain the IEP and any other records from the previous district.

Note: If a student has begun the assessment process in another school district and then transfers to Oxford Day Academy (ODA), ODA and the other district are responsible for expeditiously coordinating and completing the evaluation.

Note: If a student transfers to ODA with an IEP from another school district in California, ODA will provide comparable services in consultation with the parents pending an ODA review IEP. ODA will hold a review IEP within 30 days of the student’s enrollment to determine recommendations for special education services. If a student transfers into ODA from another state, ODA will provide comparable services, in consultation with the parents, until a new evaluation is conducted, if necessary, and a new IEP is developed. If a new evaluation is necessary to determine eligibility based on California eligibility criteria for special education, it will be considered an initial evaluation.

Review the IEP and provide the student the programs and services specified.

Note: If the IEP is out of date or no longer appropriate, still implement it but hold an IEP meeting as soon as possible (within thirty days).

Review the IEP and provide the student the programs and services specified if the student enrolled with an IEP from another school district. Hold an IEP review meeting within thirty days.

Implement a student’s existing 504 plan, if available, or hold a meeting to develop a 504 plan.

Take the specified actions when the parents have indicated that the student has difficulties that interfere with his/her ability to go to school or learn.

Enter all appropriate information into SIS for students who have an existing IEP.
**REFERRING STUDENTS FOR A SPECIAL EDUCATION ASSESSMENT**

Any person who believes that a student has or may have a disability and requires special education and related services may make a formal request for a special education assessment. The request must be in writing.

Once a written request for a special education assessment has been received, the administrator/designee has 15 days to develop and provide the parents with a special education assessment plan.

**Note:** A request for a special education assessment may be denied under certain circumstances.

The administrator/designee may discuss with the requestor accommodations or modifications that can be made in the general education program to assist the student progress in the general education curriculum. A meeting of the Student Success Team, involving the requestor, can be utilized to design the accommodations or modifications. The requestor may agree to postpone their request for a special education assessment until the accommodations or modifications have been implemented and the results evaluated.

**Note:** If they do not agree, the assessment plan must be completed and provided to the parents within 15 days from the day that the formal request was received.

If a request for a special education assessment is made by a parent/guardian, the administrator/designee must do the following:

- A Special Education Assessment Plan must be developed and provided to the parent within 15 calendar days of receipt of the written request.
- When appropriate, discuss with the parent accommodations or modifications that can be made to the general education program (see above) and whether they want to delay the assessment until the modifications have been implemented and evaluated. If a parent agrees to postpone the assessment, assist them in putting their decision in writing. Be sure it is signed and dated.

**Note:** If the parent/guardian does not agree, the assessment plan must still be developed and provided to the parent within 15 calendar days.

If a request for a special education assessment is made by a staff member the administrator/designee must do the following:

- They must list the prior accommodations or modifications that have been taken to help the student. If no accommodations or modifications have been attempted and outcomes documented, advise the staff member that a request for an assessment cannot be made at this time and assist them in developing and implementing appropriate actions/modifications. However, if some accommodations or modifications have been attempted, discuss if warranted, others that might be implemented. If the staff member still wants to request a special education assessment for the student, assist them in completing the request.
- Inform the parent/guardian that a request for a special education assessment has been made and that they will receive a Special Education Assessment Plan for their review and approval.
- Ensure that the assessment plan is completed and provided to the parent/guardian within 15 calendar days of receipt of the written request.
DEVELOPING A SPECIAL EDUCATION ASSESSMENT PLAN

DEVELOPING THE ASSESSMENT PLAN

Before a student can be assessed for eligibility for special education or reassessed while receiving special education and related services, an assessment plan must be developed and provided to the parents for their approval.

Note: If the student has reached age 18, and has not been judged incompetent under State law, they assume all rights, roles, responsibilities, and communication, previously afforded their parents, including receipt and approval of the assessment plan.

The special education assessment plan describes:

• The reason(s) for the assessment.
• The assessment areas that will be assessed.
• The types of assessments that will be included.
• The types of staff who will conduct the assessments.

A special education assessment plan is to be developed and provided to the parents:

• Within 15 calendar days from the date of receipt of a written request for an initial special education assessment.
• Within 15 calendar days from the date of receipt of a written request for an assessment of a student currently receiving special education and related services.
• Prior to conducting a reassessment of a student receiving special education and related services.
• When a change in a student’s eligibility for special education or related services is being considered.
• A special education assessment plan may be needed when a change in the student’s special education or related services is being considered.

Note: The assessment plan provided to the parents must be in the language of the home.

The special education assessment plan should be developed in cooperation with the student’s teacher(s), general and special education, and other appropriate staff, depending upon the student’s disability or suspected area of disability, such as:

• The school psychologist
• Related services personnel
• The school nurse

Persons developing a special education assessment plan should use information from:

• The written request for a special education assessment.
• The parent, including the Student Information Questionnaire.
• School records, including teacher interviews and observations, student work samples, and other knowledge gathered through a process that reviews the student’s achievement.
• The Student Success Team recommendations, including accommodations and modifications.
• Independent assessments provided by the parent.

Legally, the assessment plan must provide for:
• Assessing the student in all areas of suspected disability.
• Selecting and administering tests and other assessment materials that are not racially, culturally, or linguistically discriminatory.
• Administering tests and other assessment materials in the language and form most likely to yield accurate information on what the student knows and can do academically, developmentally and functionally unless it is not feasible to provide or administer.
• Selecting and administering tests and other assessment materials to assess an English Language Learner that measure the extent to which the student has a disability and needs special education, rather than measuring the student’s English language skills.
• Selecting tests and other assessment materials that assess specific areas of educational need and are not designed to provide a single intelligence quotient.
• Using a variety of assessment tools and strategies to gather relevant functional and developmental information about the student.
• Using information provided by the parent/guardian.
• Obtaining information about how the student is involved and progressing in the general curriculum.

Note: An assessment plan does not need to be developed when administering assessments that are generally administered to students in the class, school, or District.

COMPLETING THE SPECIAL EDUCATION ASSESSMENT PLAN

The IEP case manager will be responsible for developing the Assessment Plan, assigning assessors to provide the assessments once the plan is approved by the parent, and monitoring that it is completed on time.

Be sure to:

• Identify the appropriate reason(s) for the assessment.
• Identify the appropriate assessment areas, types of assessments, and the persons who may be conducting the assessments.
• Identify any accommodations in test administration that may be necessary.
• If an interpreter will assist in the assessment, include the reason(s).
• Include the date the plan was provided to the parent and the manner in which it was delivered.
• Print and retain a copy.

Note: If English is not the primary language of the home, develop a copy of the plan in the language of the home and provide it to the parent.

NEXT STEPS

When the parent/guardian returns the signed assessment plan, the administrator/designee must immediately do the following:

• Enter the date the signed assessment plan was received. The IEP meeting is due 60 calendar days from receipt of the signed assessment plan.
• Provide all assessors a copy of the assessment plan, the proposed date of the IEP meeting, and when their assessment reports are due.

Note: The administrator/designee is responsible for ensuring that all assessments are conducted, reports completed, and an IEP meeting is held within the 60 day timeline.
If the parent/guardian does not return a signed special education assessment plan within a reasonable amount of time, the administrator/designee may do the following:

- Contact the parents to determine if they received the plan and intend to sign and return it.

**Note:** Document any contacts made with the parents regarding signing the plan.

Provide the parents with information to answer questions they may have.

If appropriate, revise the plan to accommodate concerns the parents may have.

If the parents refuse to sign the assessment plan, place a copy in the cumulative folder, and notify the personnel identified on the plan of the parent’s decision. If it was an initial assessment the District may, but is not required to pursue the evaluation. The District must document its reasonable efforts to obtain consent. If it was a reassessment and attempts to obtain parental consent have been documented, the assessment may be conducted without a signed assessment plan.

**Note:** If the student is a ward of the state and not residing with the parents, reasonable efforts shall be made to obtain consent. No consent is required if the parent cannot be found, parental rights have been terminated or a Court has appointed an individual with educational authority. In these situations, unless the Court has appointed an individual with educational authority, the District is responsible for assigning a Surrogate Parent.

**INITIAL ASSESSMENT, REASSESSMENT, AND INDEPENDENT EDUCATIONAL EVALUATION**

**CONDUCTING AN INITIAL ASSESSMENT**

Conducting a complete initial special education assessment of a student, consistent with their assessment plan, is an essential part of the special education process. The assessment should be directed to the following purposes:

To provide the IEP team with the information it will need to determine whether the child has a disability and requires special education and related services.

- To provide the IEP team with information regarding the child’s present levels of educational performance.
- To provide the IEP team with information that will inform its decisions regarding the instructional and other needs of the child and the accommodations, modifications, and services that may be required.

To conduct special education assessments that comply with Federal and State policies, the following must be adhered to:

- Assessment instruments are selected and administered so that they are not racially, sexually, or culturally discriminatory.
- **Note:** The use of intelligence tests for African-American students is prohibited in California. Not only may they not be administered by school districts, but findings from intelligence tests administered elsewhere may not be considered or contained in the records of African-American students.
Assessments must be conducted in the language and form most likely to yield accurate information on what the student knows and can do academically, developmentally and functionally unless the assessment plan indicates why it is not feasible to provide or administer.

**Note:** If the assessor cannot communicate in the student’s primary language or mode of communication an interpreter may be used.

For students with Limited English Proficiency the assessment instruments are selected and administered in a manner that ensures that the assessment measures what is intended rather than the student’s English language skills.

For students with sensory, motor, or speaking impairments the assessment instruments are selected and administered in a manner that ensures that the assessment measures what is intended rather than the student’s sensory, motor, or speaking skills.

Assessment tools and strategies are selected to provide information on the student’s specific areas of educational need.

Assessment instruments have been validated for the purposes for which they are going to be used.

Assessments are only conducted by qualified professionals as specified in the instructions provided by the producers of the assessment.

No single measure or assessment is used as the sole criterion for determining whether a student has a disability and for determining an appropriate educational program for the student.

The assessment covers all areas related to the student’s suspected disability including if appropriate:

- Health and development, including vision and hearing
- Note: Findings from vision and hearing screenings must be from screenings conducted within the previous 12 months.
- General ability
- Academic performance
- Language function
- Motor abilities
- Social and emotional status
- Self-help, including orientation and mobility
- Career and vocational abilities and interests
- **Note:** If an initial Individual Transition Plan (ITP) is being developed the student’s post school interests and preferences must be assessed.
- The assessment is sufficiently comprehensive to identify all of the student’s special education and related services needs whether or not they are commonly linked to the disability category in which the student may be identified.
- A variety of assessment tools and strategies are utilized to gather relevant developmental, academic and functional information about the student, including information provided by the parent.
- The assessment includes obtaining information related to enabling the student to be involved in and progress in the general curriculum or for a preschool child to participate in appropriate activities.

A student cannot be determined to be a student with a disability if the determining factor is a lack of appropriate instruction in reading, including the essential components of reading instruction, lack of instruction in math, or limited English proficiency. Essential components of reading instruction means explicit and systemic instruction in:

- Phonemic awareness
- Phonics
- Vocabulary development
- Reading fluency, including oral reading skills
- Reading comprehension strategies
- For a student suspected of having a learning disability, the assessment includes observing the academic performance of the student in a general education setting by an IEP team member other than the student’s regular teacher.

For a student suspected of having a learning disability the assessment must provide information for the IEP team to determine:

- If a severe discrepancy exists between achievement and intellectual ability in one or more of the following areas:
  - Oral expression
  - Listening comprehension
  - Written expression
  - Basic reading skill
  - Reading fluency skill
  - Reading comprehension
  - Mathematics calculation
  - Mathematics reasoning
  - If the discrepancy is due to a disorder in one or more of the basic psychological processes including:
    - Attention
    - Auditory processing
    - Visual processing
    - Sensory motor skill
    - Cognitive abilities including: association; conceptualization; and expression
- That the severe discrepancy is not primarily the result of:
  - A visual, hearing, or motor impairment
  - Mental retardation
  - Emotional disturbance
  - Environmental, cultural, or economic disadvantage
  - Limited English proficiency
  - Lack of appropriate instruction in reading or math

For a child who is visually impaired, the assessment must also provide information for the IEP team on the most appropriate medium or media, including Braille, for reading.

**Note:** For a student who is functionally blind, an assessment of Braille skills is required.

For a student age fourteen and older, an assessment of their transition services needs, including their preferences and interests, must be conducted.

**COMPLETING THE INITIAL ASSESSMENT REPORT**

When the assessments are completed a report must be written. While there may be more than one assessment report, the content of the reports must include all of the elements listed below. Since the report is designed for the purpose of providing IEP team members with the information they need to make informed decisions concerning the student, it should be written, to the degree professionally appropriate, in a style understandable by the team members.
Reports should be completed well enough in advance of the IEP meeting so that:

- Copies can be made for distribution to team members at the IEP meeting.
- **Note:** Parents who have requested to receive a copy of the assessments prior to the IEP meeting must be provided a copy of the report at least four days prior to the meeting.
- They can be translated into the parent’s primary language upon written request from the parent, unless clearly not feasible to do so.
- They can be reviewed and discussed by staff members to develop an understanding of the student and his/her needs.

**CONTENT OF THE INITIAL ASSESSMENT REPORT**

The report:

1. Contains student information such as:
   1. Name
   2. Student identification number
   3. Date of birth
   4. Chronological age
   5. Primary language or mode of communication
   6. Race or ethnicity
   7. Gender
   8. Covers all of the elements listed above under “Conducting an Initial Assessment”.
10. Cites the assessments that were utilized, states that assessment instruments selected and administered were not racially, sexually, or culturally discriminatory, and were considered valid and reliable for the evaluation, includes dates given and who administered them.
    a. **Note:** If an assessment was administered under conditions not consistent with those specified in the instructions provided by the producer, it must be so indicated in the report and how it may have compromised the validity of the assessment.
11. Indicates when an interpreter was used in administering the assessment(s) and whether that compromised the validity of the assessment(s).
12. Includes, when appropriate, the findings from previous assessments including independent educational evaluations provided by the parent(s).
13. Indicates whether the assessments were a valid indicator of the student’s skills and aptitudes.
14. Provides evidence of whether the student has a disability and may require special education and related services.
15. Describes the relevant behavior of the student, observed in an appropriate setting, and the relationship of that behavior to the student’s academic and social functioning.
16. Describes relevant health, developmental, and medical findings.
17. Cites the student’s performance on State and District wide assessments.
18. For a student suspected of having a learning disability, provides evidence regarding whether there is a significant discrepancy between achievement and ability that cannot be corrected without special education and related services.
19. A determination concerning the effects of environmental, cultural, or economic disadvantage when appropriate.
20. For a student with a low incidence disability, the need for specialized services, materials, and equipment.

21. The name, title, and signature of the person who wrote the report and the date the report was completed.

WHEN TO CONDUCT A REASSESSMENT

Once a student has been identified by an IEP team as having a disability and needing special education, it is required that the student be reassessed, unless the parent and the District agree that it is unnecessary, at the following times:

- Every three years (triennially)
- At any time at the request of the parent(s) or District staff except it shall not occur more frequently than once a year unless the parent and district agree.

Generally, the purpose of a reassessment is to address one or more of the following concerns:

- That the student may no longer have a disability.
- That the student may have an additional or different disability.
- That the student is not adequately progressing in achieving the goals and objectives set forth in his/her IEP.
- That the student’s current special education and related services may no longer be appropriate.
- That the student may no longer need special education and related services.

HOW TO DETERMINE IF A REASSESSMENT IS WARRANTED

The determination to conduct or not to conduct a reassessment that meets all the elements of an initial assessment must be made by the IEP team. In most cases this should take place at the annual IEP meeting prior to the time that a triennial assessment would be due. In determining the scope of the reassessment the IEP team must:

- Review existing assessment data, current classroom-based assessments and observations and teacher and related services providers’ observations
- Decide what assessments are or are not necessary to determine one or more of the purposes for reassessment.

For example, it may not be necessary to conduct a reassessment to determine if a student who is deaf is still deaf. However, a reassessment might still be warranted if there is a belief that there has been a change in their hearing ability that might affect the services the student requires. Similarly, there would be little value in repeating an assessment to determine cognitive abilities for a student with profound mental retardation unless there is an indication that the student’s cognitive functioning has significantly improved. Further, it would not be warranted to repeat an assessment that is no longer relevant to the student’s current educational needs.

Note: A reassessment will be conducted if either the parent or the teacher requests that it be done.

Note: If the team concludes that no reassessment is warranted, the parent(s) must be informed of their right to request the assessment, which must be conducted if the parent(s) so requests.

Identify with input from the student’s parent(s) what additional data, if any, are needed to determine whether the student continues to have a disability; the present levels of performance and educational needs of the student; whether the student continues to need special education and related services; and whether any modifications to the special education and related services are needed.
At least seventy-five (75) days prior to the triennial IEP review, the administrator/designee must prepare a Special Education Assessment Plan indicating the assessments to be conducted and provide it to the parent(s). The re-evaluation and the IEP meeting must be conducted within sixty days after the District’s receipt of the signed assessment plan indicating the parent’s consent. The assessment results will then be considered at the IEP meeting.

If a parent or staff member requests a reassessment at a time off the cycle of an annual IEP review and it is believed to be warranted, a Special Education Assessment Plan must be prepared and provided to the parent(s). If there are questions as to whether it is warranted, an IEP meeting can be held to consider the request, or the views of the IEP team members can be solicited without a meeting. If it is recommended to not conduct the reassessment, the parent(s) must be informed of this decision in writing. If they disagree with this decision, they shall be informed of their Due Process rights.

**CONTENT OF THE REASSESSMENT REPORT**
The Reassessment Report must include:

- A review of existing data about the student.
- A summary of the student’s current classroom-based assessments.
- A summary of observations from the general and special education teacher(s) and related services providers.
- A summary of the present levels of performance and educational needs of the student.
- Results of any State or District-wide assessments that the student has participated in, including a description of accommodations or modifications for the student in test administration.
- A summary of the results of additional assessments conducted to produce information that would assist in reviewing the current IEP.
- A review of progress toward previous goals.

**INDEPENDENT EDUCATIONAL EVALUATION**

An Independent Educational Evaluation (IEE) is an evaluation conducted by a qualified examiner, who is not employed by Oxford Day Academy. Parents have the right, at anytime, to obtain an IEE and have its findings considered by an IEP team. No more than one IEE at public expense may be provided annually in each area.

**Note:** If the assessment conducted by the District included or permitted in-class observation of the student, an equivalent opportunity is to be made available to the individual retained by the parent to conduct an independent educational evaluation. If the District assessment in the area of concern was conducted more than one year previous to parent disagreement, the District has a right to conduct another assessment. The District will not cover costs exceeding rates that are reasonable and customary for the community for each identified assessment.

**Considering an IEE**

As noted above an IEE report, provided by a parent, must be considered by an IEP team, if it was conducted by a qualified professional. To facilitate careful consideration, parents should be encouraged to provide the report in advance of the meeting so it can be reviewed by District personnel qualified in the area of the evaluation. It is often helpful to have the person(s) conducting the review attend the IEP meeting.

**Note:** California policy requires that an IEE pertaining to the provision of related services or designated instruction and services must be reviewed by qualified District personnel in the designated area and that their
recommendations must be reviewed and discussed with the parent(s) and appropriate IEP team members prior to the IEP meeting.

**Independent Educational Evaluation at Public Expense**

If a parent disagrees with the District’s assessment of the student, they have the right to request an IEE at public expense. Public expense means that Oxford Day Academy pays for the full cost of the evaluation or evaluation components, up to the limits established by the District or ensure that the evaluation or evaluation components are otherwise provided at no cost to the parent. Parents may only request one publicly funded evaluation for each evaluation completed by the District. The parents must request the IEE within one calendar year of the date that the results of the school evaluation were shared with parent(s) at the IEP meeting. The District does not have an obligation to reimburse parents for privately obtained evaluations, obtained prior to the date that the District’s evaluation is completed and discussed at an IEP meeting. The District is not obligated to reimburse the parent(s) for privately obtained evaluations if the parent(s) disagree with the District’s evaluation and independently seek a private evaluation without first notifying the District.

To avoid conflict of interest, and in order to ensure the appropriateness of an IEE and its recommendations, the District may, in its discretion, not fund an IEE by an evaluator who provides ongoing service(s) or is sought to provide service(s) to the student for whom the IEE is requested. Likewise, the District may, in its discretion, not fund services through the evaluator whose IEE the District agrees to fund.

If a request for an Independent Educational Evaluation at public expense is requested, it is important that the following be done:

- If the request for an IEE is made at an IEP meeting, ask the parent which of the areas of assessment they disagree with and why. Then document on page 10 of the IEP that there has been a disagreement with the assessment(s), the area(s) of disagreement, the reason(s), and that an IEE at public expense has been requested. Parents are not required to explain why they disagree.
- If the request for an IEE is made outside of an IEP meeting, inform the parent that the request must be in writing and indicate the assessment(s) with which they disagree. Tell them that it would be helpful in considering their request to know why they disagree with the assessment(s).
- Advise the parent that if the District disagrees with their request for an IEE at public expense, because it believes that its assessment was appropriate, that the District will initiate a due process hearing to determine if an IEE at public expense is required.
- Advise the parent that if the District or a hearing officer determines that an IEE is required that they will be informed of the criteria and procedures for securing the IEE at public expense. The District will not pay for an IEE performed prior to a determination that it is required or for an IEE that is not consistent with District criteria and procedures.
- Advise the parent that if an IEE at public expense is not required, they may obtain an IEE at their own expense and have it considered. If the parent intends to obtain an IEE at their own expense, inform them that in order for the IEE report to be considered, it must have been conducted by a qualified examiner.
- Forward the request for an IEE at public expense to your Administrator and include the written request and or the student’s IEP and a copy of the assessment report(s) that the parent disagrees with.

If the school does not agree with the assessor selected by the parent, the District must initiate a due process hearing.
Once the assessor has been agreed upon, the school will provide the parent and the designated assessor with IEE requirements and an assessment plan will be developed. The parent should be encouraged to participate in the development of the assessment plan. Within 15 calendar days of the decision of obtaining an IEE, the parents will be sent the assessment plan for their review and consent.

**COMPLETING THE IEP MEETING**

If the parent at an IEP meeting disagrees with the assessment and indicates that they will obtain an IEE on their own or requests an IEE at public expense, it is important that every effort be made to complete the IEP meeting. Document on the IEP, as described above, the parent’s request and inform the parent that another IEP meeting will be held to consider the IEE report once it is available. Also advise the parent that they may invite the professional(s) who conducted the IEE to attend the IEP meeting.

If a parent plans to obtain an IEE or requests an IEE at public expense prior to an IEP meeting, do not extend the date for the IEP meeting beyond the legally required timeline. Inform the parent that the IEP meeting must be held within required timelines and that another IEP meeting will be held, at their request, to consider the IEE report.

The independent evaluator will attend the IEP meeting by phone or in person at which time the evaluation will be discussed. Independent evaluators must agree to release their assessment information and results to the IEP team prior to receipt of payment for services. The District will pay the independent examiner to attend the IEP team meeting as part of the evaluation responsibilities, which also includes a classroom visitation and interviews with parent(s) and staff.

**GETTING READY FOR AN INDIVIDUALIZED EDUCATION PROGRAM (IEP) MEETING**

**INTRODUCTION**

The Individualized Education Program (IEP) is a written document that is the school’s offer of a free appropriate public education (FAPE) and is developed and agreed to by a team, at a meeting, that documents:

- Whether the student is eligible for special education and related services.
- The student’s present levels of educational performance and educational needs.
- The goals and objectives the student is to achieve.
- The special education, related services, accommodations, and modifications the student needs and will receive.
- The appropriate placement for the student.
- How the student’s progress will be assessed and reported.

IEPs that meet legal requirements and address student needs are the cornerstone of an effective special education program.

The IEP is:

- An agreement, that the student will receive what is specified in the IEP.
- A communication vehicle enabling parents, professionals and, if appropriate, the student as equal participants to make joint informed decisions.
• A compliance tool enabling school districts and State and Federal agencies to determine whether a student is receiving a free appropriate public education by assessing whether the IEP meets legal requirements and whether the student is receiving what is documented on the IEP.
• A student-centered management tool used to ensure that a student is provided needed special education and related services.
• A commitment of resources necessary to enable the student to receive needed special education and related services.

The IEP is not:
• A guarantee that a student will achieve the goals and objectives set forth in their IEP.
• A vehicle for specifying the methodologies teachers and other professionals will use with the student.

WHEN MUST AN IEP MEETING BE HELD

An IEP Team must meet whenever any of the following occurs:

• A student has been assessed pursuant to an assessment plan. This includes initial assessments, triennial assessments, or other assessments.
• At least annually, to review the student’s progress and eligibility and make necessary revisions.
• A student demonstrates a lack of anticipated progress.
• The parent or District staff member requests a meeting to review the IEP. Note: IEP meetings must be held as frequently as they are requested. There is no legal limit to the number of IEP meetings that may be requested.
• There is a proposal to change the student’s eligibility, services, or placement. Note: If there is a belief that the IEP team will consider exiting the student from special education services because the student no longer has a disability or require special education services, an assessment of the student is required. See Part II, Chapter 2, Developing a Special Education Assessment Plan.
• There is student misconduct that results in a second suspension.
• The student reaches eight cumulative days of suspension.
• If suspensions continue, on day 11, when the student must return to the school site and an IEP meeting is held to determine appropriate services.

When a student with an IEP transfers into the school from another school district. IEP meetings must be held within the following timelines:

• 60 calendar days from receiving the signed assessment plan from the parent.
  • Note: The 60 calendar days does not include days between the student’s regular school sessions or terms, or days of school vacation in excess of five school days. If a signed assessment plan is received within 20 days of the end of the regular school year, the IEP must be held within 30 days after the beginning of the subsequent regular school year. If the signed assessment plan is received during the student’s school vacation the IEP meeting must be held within 60 days of the date that school reconvenes.
• 30 calendar days from the time that a parent or teacher requests a meeting to review the IEP.
  • Note: The 30 calendar days do not include days between the student’s school sessions or terms or days of school vacation in excess of five school days.
• Within one calendar year from the date of the previous IEP meeting.
• 30 calendar days from the enrollment of a student with an IEP from another school district.
For students age 14, or younger at the discretion of the IEP team, the IEP meeting must also include the
development of an Individual Transition Plan (ITP). An ITP must be developed prior to the student’s
fourteenth birthday, to ensure that an ITP is in place when he/she reaches age fourteen.

In extraordinary circumstances the date of an IEP meeting may be extended if the parent agrees in writing to
the extension. Any correspondence to the parent seeking a timeline extension must be in the parent’s primary
language, unless it is clearly not feasible to do so.

**MEMBERS OF THE IEP TEAM**
The following persons are required at IEP team meetings:

- One or both parents of the student. The term parent means:
  - A person having legal custody of a child.
  - A person acting in place of a parent, such as a grandparent or stepparent with whom the child lives.
  - An individual designated by the parent to represent the interests of the student.

Note: In such cases the school should attempt to obtain the designation in writing from the parent including
the scope of the representation such as the representative’s participation in the IEP meeting, whether he/she is
authorized to sign the IEP and whether the representation is limited to one or more IEP meetings. If it
cannot be obtained in writing, document the reason why and the means by which the designation was
obtained.

- A foster parent if the natural parents’ authority to make decisions has been limited by court order
  and the foster parent has an ongoing, long term parental relationship with the child, is willing to
  assume the role of parent in educational decision making and has no interest that would conflict with
  the interest of the child.
- The student, if age 18 or older, for whom no guardian or conservator has been appointed.

Note: While the student’s parents must also receive notice of the meeting, the roles and responsibilities of
parents described in this policy revert to the student.

- A surrogate parent appointed for a student who is a ward of the State or for a student whose parent
  is unknown or whose whereabouts cannot be determined.

Note: If the parent chooses not to attend, or after a reasonable number of invitations to the meeting they do
not respond, the IEP meeting can be held without the parent’s attendance.

- An administrator or administrative designee. The administrator/administrative designee must:
  - Be qualified to provide or supervise the provision of special education.
  - Be knowledgeable about the general curriculum and linguistically appropriate goals, objectives and programs.
  - Be knowledgeable about the availability of the resources of the District, including program options available to address the needs of the student.
  - Have the authority to commit District resources and be able to ensure (by such means as administratively directing, coordinating, monitoring, reporting on, etc.) that the delivery of services that are described in the student’s IEP will actually be provided.
- At least one special education teacher or special education provider of the student.

Note: If the only special education service the student is or may be receiving is language and speech related
services, the speech-language pathologist may be the special education provider.
**Note:** At an initial IEP meeting, the special education teacher should be the special education teacher who may be serving the student or a special education teacher with the appropriate qualifications.

- At least one general education teacher of the student, if the student is or may be participating in general education.
- A person knowledgeable about the assessment procedures used to assess the student, familiar with the results of the assessment and qualified to interpret the instructional implications of the results. This may be one of the teachers listed above. Psychologists and related services providers participating in IEP meetings may not serve as administrative designee or act as chair of the IEP meeting.

**Note:** A member of the IEP team is not required to attend in whole or in part if the parent and District agree that attendance is not necessary because the member’s area of the curriculum or related services is not being modified or discussed. If the area of the curriculum or related services is to be modified or discussed, the member can be excused from attending if the parent and District agree, and written input is provided to the parent and the District prior to the meeting. Parental agreement must be in writing.

When appropriate, the following persons must also attend the IEP meeting:

- The student.

**Note:** The student must be invited if a transition plan is being developed or reviewed at an IEP meeting. If the student is not going to attend the IEP meeting, document the reason on page 1 of the ITP. If the student is a minor, it is up to the parent to decide if the student will attend the meeting.

- At the discretion of the parent and/or the District, other individuals who have knowledge or special expertise concerning the student, including related services personnel, as appropriate.

For a student who is being considered for eligibility as a student with learning disabilities:

- One person qualified to conduct individual diagnostic examinations of students, such as a school psychologist, speech-language therapist, or reading teacher.
- At least one person, other than the student’s general education teacher, who observed the student’s academic performance in the general classroom setting, for example a special education teacher, psychologist, administrator, or another general education teacher.
- When a transition plan is being developed for a student age 16, or younger at the discretion of the IEP team, representatives of the agencies, other than the District, that are likely to provide or pay for the provision of transition services are to be invited.

**Note:** With the consent of an adult student or the parents, an agency may be invited regarding transition planning. If the student is on an inter-district permit, a representative from their district of residence must be invited.

For a student who is being considered for dual placement (placement in a nonpublic and public school):

- Representative(s) from the nonpublic school and the public school where the student will be dually enrolled, including general education teachers, special education teachers and administrators.
- A representative from the student’s school of residence if the public school in which the student will be dually enrolled is not the school of residence.
- Representatives from County Mental Health or other agencies as appropriate. The IDEA and California law permit school districts to utilize state certified non-public schools and agency
providers (NPS/NPA providers) to meet the requirements of federal and state special education laws in serving students with disabilities. IEP teams should be aware that NPS/NPA providers may attend IEP team meetings, and as collaborative participants in the IEP meetings, provide feedback on student progress and offer services recommendations in their area of service and expertise.

- District staff that have responsibilities for behavior intervention, as appropriate.
- For a student who has been placed in a group home by a juvenile court, a representative of the group home must be invited.

It is expected that IEP team members will participate in the meeting to its completion and not attend to other duties during the meeting. However, general education teachers are required to participate, at a minimum, in the following:

- Positive behavioral interventions and strategies
- Present levels of performance
- Supplementary aids and services
- Goals and objectives that will be implemented in the general education classroom.
- Program and curricular modifications
- Supports for school personnel
- Instructional interventions and strategies

SCHEDULING THE IEP MEETING

Since it is essential that IEP team members are available and prepared for the meeting and that meetings are held within required timelines, effective scheduling is important. In most schools the vast majority of IEP meetings held each year are annual reviews.

In many schools IEP meetings tend to cluster at the beginning or end of the school year, making school wide planning even more important. Annual IEP reviews that also include an assessment of the student require longer range scheduling, since assessment plans must be prepared, assessments conducted and reports written before the IEP meeting can be held. Since the amount of time needed for an effective IEP meeting will vary depending on the needs of the student, be sure to schedule an appropriate period of time to discuss and resolve all relevant issues. Scheduling of IEP meetings back to back for short periods is not considered to be reasonable.

Note: Administrators should verify the availability of all staff (including itinerant Related Services providers) required to attend before scheduling the meeting.

While schools must provide parents a written notification of the IEP meeting (see below), efforts should be made to schedule or reschedule the IEP meeting at an agreeable time and location to facilitate their participation. All such efforts must be documented. In order to encourage parent participation, school staff must explore alternative types of participation, such as individual or conference calls, if a parent is unable to attend a meeting.

NOTIFYING PARTICIPANTS OF THE IEP MEETING

Parents must receive written notification of their child’s IEP meeting at least 10 calendar days prior to the meeting. The notice must be in the parent’s primary language.

Be sure to:

- Check the purpose(s) of the IEP meeting.
- Check the individuals who are being invited to participate.
• Specify a contact person to whom the parent can direct questions.
• When appropriate and feasible, make a copy of the notification form for the parents in their primary language.
• Notify staff at least 10 calendar days prior to the meeting. Students attending IEP meetings must receive a copy of the notification. **Reminder:** If an ITP is being developed the student must be invited to participate. If an ITP is being developed for a student that involves the participation of representatives from outside agencies, be sure that they are notified of the meeting.
• Record the date the form was sent to the parents.
• Record attempts to convince the parents to participate in the IEP meeting. The District must show an effort to arrange a mutually agreed upon time and place for the IEP meeting. An IEP meeting can be held via video or audio conferencing or other alternative means.
  o Documentation should include:
  o Detailed records of telephone calls made or attempted and the results of those calls.
  o Copies of correspondence sent to the parents and any responses received.
  o Detailed records of visits made to the parents’ home or place of employment and the results of those visits.
  o Written or verbal confirmation provided by the parents that they do not wish to attend the IEP meeting, such as a logged telephone call or personal conversation with date, a logged record of a visit to home or place of employment with date, or an email message or fax. In this case, the District does not need to provide evidence of additional recorded attempts to convince the parents that they should attend the IEP meeting.
• When the signed form is returned, enter the date received on the bottom of the form.
• If after a reasonable number of documented efforts (at least 3), the parent does not respond to the notice, the IEP meeting may be held without the parent’s participation.
• If the parents have requested on the form that the meeting be rescheduled, try to find a mutually agreeable date and then send them a notification form with a new date.

**PREPARING FOR AN IEP MEETING**

To ensure that an effective efficient meeting is achieved the following actions prior to the IEP meeting will be of assistance:

• Be sure that all staff participating in the IEP meeting received the Notification and are able to attend.

Clarify the roles and responsibilities of staff, including that they:

• Arrive at the IEP meeting on time and prepared.
• Remain at the IEP meeting as long as is required.
• Remain attentive to the proceedings throughout the duration of the IEP meeting.
• Not delegate their responsibility to another staff member unless that person is in a position to assume responsibility.
• Ensure that the cultural and linguistic needs of parents and students are addressed.
• Review the assessment plan to ensure that all assessment reports have been completed and translated (unless clearly not feasible to do so), and a copy of the report has been provided to the parents if they requested a copy. Prepare copies of the assessment reports for the meeting.

**Note:** If the parent requested a copy of the assessment report it must be forwarded to them at least 4 days prior to the meeting.
• Review the signed Notification to determine if independent educational evaluation reports that were to be submitted prior to the IEP meeting have been received. If not contact the parents or evaluator(s) to remind them to provide the report(s) in time for the meeting. Make necessary copies.

• Have staff review assessment reports including independent educational evaluations, if they are available prior to the meeting.

**Note:** It is appropriate for staff to come prepared to IEP meetings with findings and recommendations related to components of the IEP. These may or may not be written on an IEP form and may be revised during discussion at the IEP meeting. It must, however, be made clear to parents at the onset of the meeting that such findings and recommendations are provided for review and discussion. At no time should a complete draft IEP be prepared prior to the meeting.

• Have staff summarize information on the student’s present level of educational performance, including:
  - Report cards
  - Class tests
  - Standards-referenced assessments, such as performance-based assessments and curriculum-based assessments
  - Anecdotal records
  - Behavioral reports
  - Checklists and other teacher evaluations
  - All assessment reports
  - Reports from providers of transition services
  - Performance on State and District wide assessments
  - Observations from parents, including how the student applies what he/she has learned at school in the home and community.
  - Comments from the student

• Have staff review the student’s current IEP/ITP, unless it is an initial IEP meeting, to determine the progress the student has made in meeting IEP/ITP goals and objectives and prepare recommended changes.

**Note:** While decisions at an IEP meeting are to be based on input from all participants, participants may come prepared with draft recommendations for team consideration.

• Have staff review the student’s current accommodations, modifications, services and placement and develop recommendations for consideration at the IEP meeting.

• If the IEP meeting is the annual review prior to the three year review, staff, including those staff who may have responsibility for conducting the three-year reassessment, should discuss whether the student is appropriately identified, is achieving IEP goals and objectives and functioning appropriately within the school setting, in order to make a recommendation as to whether a reevaluation may be necessary.

• If the student will be participating in the IEP meeting, have the school staff responsible for the delivery of special education services provide the student with instruction on his/her role, rights and procedural safeguards.

**Note:** At least one year before the student turns 18 he/she must be notified that he/she will be assuming the rights, roles, responsibilities, and communication previously held by his/her parents.

Encourage parents to prepare for the IEP meeting by:
• Reviewing their child’s current IEP.
• Visiting their child’s current placement.
• Reviewing reports of their child’s progress.
• Preparing observations of their child’s performance at home and in the community.
• Meeting with their child’s teacher(s).
• Noting progress they are pleased with or concerned about.
• Determine if the parent has requested any accommodations at the meeting and arrange that they be provided.
• Determine if an interpreter is required. If required, arrange for an interpreter to be present.
• Make arrangements for any equipment (including someone knowledgeable about its operation), materials, forms etc. that may be needed at the meeting.
• **Note:** Parents intending to audio tape record the meeting must give notice to the administrator/designee at least 24 hours prior to the meeting. If District staff want to audio tape record the meeting, parents must be notified in writing at least 24 hours prior to the meeting and informed that they have the right to refuse to have the meeting recorded. Any recording made by the District is subject to the Federal Family Educational Rights and Privacy Act (FERPA) and thus subject to confidentiality requirements.

Determine who will be responsible for writing the IEP during the meeting.

Prepare an agenda for the meeting.

Determine who will chair the IEP meeting. This will usually be the administrator/designee or it may be another member of the IEP team. It may not be the psychologist or related services provider. The selection should be the individual who is most capable of facilitating a productive meeting.

**CONDUCTING AN INDIVIDUALIZED EDUCATION PROGRAM (IEP) MEETING**

**OVERVIEW**

The manner in which an IEP meeting is conducted will often determine its effectiveness. The process should ensure that:

- The focus is on the student.
- All participants are viewed as having important contributions.
- Communication is in a style and manner that is both understandable and respectful.
- The needs of the student guide the decisions made at the meeting.
- The decisions made can and will be implemented.
- Policy requirements are met.
- The following steps should help facilitate an effective meeting.
- Begin the meeting on time.

The actual content of a meeting is beyond the scope of this document, but IEP meetings should address topics such as:

- **DETERMINING ELIGIBILITY**
- Review **PRESENT LEVELS OF PERFORMANCE**
• Review And/Or Develop ANNUAL GOALS AND OBJECTIVES
• Determine STANDARDS, ACCOMMODATIONS AND MODIFICATIONS
• Determine PARTICIPATION IN STATE AND DISTRICT WIDE ASSESSMENTS
• Determine SERVICES AND SUPPORTS
• Review And Determine PLACEMENT IN THE LEAST RESTRICTIVE ENVIRONMENT
• Review TRANSPORTATION Needs, If Any
• Make An OFFER OF A FREE APPROPRIATE PUBLIC EDUCATION

COMPLETING THE MEETING

Provide team members an opportunity to ask any final questions or concerns not previously addressed.

Document follow-up actions necessary, the person responsible for each action, their position and the date by which the action will be completed. If the IEP meeting was recessed to resolve a matter, such as the location of a placement, determine who will be responsible for expeditiously finding a solution and reconvening the IEP meeting. If the parent did not attend the IEP meeting, document the certificated person who will be responsible for discussing the IEP with the parent.

Complete the IEP and ask the parent to sign and date their consent. If the parent does not consent, clarify which elements of the IEP they agree to and those with which they disagree. Schools and parents are encouraged to work out disagreements during and after IEP team meetings whenever possible. If it is believed that an agreement can be reached at the school site level, decide what steps will be taken to reach an agreement such as:

• Having additional persons with special expertise join the team.
• Taking time to review the options individually.
• Exchanging written information to clarify and/or elaborate on IEP team discussions.
• Having the parent visit a class or program.

Document the elements of agreement and disagreement, the steps that will be taken by the school and/or parent to resolve the disagreement as part of the IEP process, and a date for reconvening the IEP team meeting. Adjourn the IEP team meeting and reconvene the meeting at the specified date.

If the parent’s concerns cannot be resolved through the IEP process, inform the parent of the various dispute resolution options available in the District, i.e., Informal Dispute Resolution (“IDR”), Mediation Only, and Formal Due Process.

Have all team members participating in the meeting print and sign their names on the IEP.

RESOLVING DISAGREEMENTS

OVERVIEW

There are two categories of IEP disagreements that may arise between parents and the District. The first is disagreements over what is appropriate for the student. These are usually disagreements pertaining to:

• How the student should be assessed and/or the results of assessments.
• What should be in the IEP (e.g., what placement or services the student should receive).
Schools are encouraged to resolve disagreements regarding the content of IEPs at IEP team meetings and at the school site level whenever possible. If a school cannot resolve a disagreement over what is appropriate for the student, there are three dispute resolution processes that a parent may choose:

- Informal Dispute Resolution (IDR)
- Mediation Only
- Due Process Proceedings

The second type of disagreement is a dispute over whether the District has complied with State and Federal special education laws and regulations. Such as:

- Whether the District has followed the procedural requirements (timelines, notification requirements, etc.) in state and federal laws and regulations for assessments, IEPs or record requests.
- Whether District procedures are being implemented appropriately.
- Whether a student is receiving the services specified in his or her IEP. There are three methods for resolving matters relating to compliance. They are:
  - Internal District Complaint Procedures.
  - California Department of Education (CDE) Complaint Procedures.
  - Office of Civil Rights (OCR) complaint procedure.

### PROCEDURES FOR RESOLVING DISAGreements OVER WHAT IS APPROPRIATE FOR THE STUDENT

At the conclusion of an IEP meeting, if the parent disagrees with the IEP or raises concerns over what is appropriate for the student, clarify with the parent the areas of agreement and disagreement. Whenever possible, attempt to work out the disagreement within the IEP process. If it is believed that an agreement can be reached, decide what steps will be taken to reach an agreement. Document the elements of agreement and disagreement, the steps that will be taken by the school and/or parent to resolve the disagreement as part of the IEP process, and a date for reconvening the IEP team meeting. Adjourn the IEP team meeting and reconvene the meeting at the specified date.

If a parent’s concerns over what is appropriate for the student cannot be resolved through the IEP process, inform the parent of the various dispute resolution options available in the District, i.e., Informal Dispute Resolution (“IDR”), Mediation Only, and Due Process Proceedings.

### Informal Dispute Resolution

The District’s Informal Dispute Resolution (IDR) process is an optional process where parents identify their issues and concerns and the District attempts to work with the parent to quickly and informally resolve the issues and concerns identified. The process is completed within 20 business days in most cases. A parent does not have to go through the IDR process before initiating Due Process Proceedings. However, the IDR process is often a better process for resolving disputes because it is faster and less formal than Mediation Only and Due Process proceedings.

### Mediation Only

Mediation Only is an optional state-administered process that parents may choose where a mediator assigned by the California Office of Administrative Hearings (OAH) assists a parent and the school district in discussing possible resolutions to their disagreement. The State-assigned mediators are trained in the mediation process, are not employees of the school district, and do not have a personal or professional interest in the dispute. At a mediation conference, the mediator facilitates communication between the parent...
and the school district so that all perspectives are clarified. The mediator may also suggest options for resolving the dispute. No attorneys or advocates may participate in the mediation. In addition, communications exchanged in a mediation conference are confidential and may not be used in any subsequent due process hearing or civil proceeding. The goal of the mediation is to reach an agreement on how to resolve the dispute. If the parties reach an agreement, it will be documented in a settlement agreement and provided to the parent and District for approval and execution. Once it is executed, a mediation settlement agreement is enforceable under State and Federal law. If an agreement cannot be reached through the Mediation Only process either party may request a due process hearing to resolve the disagreement.

Instruct the parent that Mediation Only is initiated by sending a completed Mediation Only Request Form by mail or fax to:

Office of Administrative Hearings Attn: Special Education Division 2349 Gateway Oaks Drive, Suite 200
Sacramento, CA 95833-4231
(916) 263-0880
(916) 263-0890 fax

After OAH receives a Mediation Only request, it will schedule a mediation date and time with the parent and the District's Due Process Department. A Due Process Specialist will represent the District at the mediation. In most cases, the Due Process Specialist will obtain information from the administrator/designee and other IEP team members prior to the mediation. Attorneys and advocates do not participate in mediations held in the Mediation Only process.

If a resolution is reached at mediation, the settlement agreement will be sent to the school site. If the agreement alters eligibility, placement or services, an IEP team meeting must be held by the school site within 30 calendar days to document the terms of the agreement.

Due Process Proceedings

Due Process Proceedings are the most formal option for resolving a disagreement regarding an IEP. Due Process Proceedings include among other things, a resolution period, an optional pre-hearing mediation, and a formal hearing with documentary evidence, witness testimony and arguments presented by each side. Special education laws and regulations set forth specific procedures and timelines that apply to Due Process Proceedings.

Due process hearings are frequently stressful, time consuming, and costly for both sides. While school District personnel should never counsel a parent against requesting a due process hearing, it is important to advise parents of the various options for resolving disagreements, what each option entails and that utilizing an informal dispute resolution process or mediation does not preclude the parent from requesting a due process hearing at a later date.

If a parent chooses to initiate due process proceedings:

Provide the parent with a Request for Mediation and Due Process Hearing Form. This complaint form is also available online at www.oah.dgs.ca.gov.

1. Initiation of Due Process Proceedings/Complaint Procedures

To initiate due process proceedings the parent must submit a completed Due Process Hearing Form or a written due process complaint notice that contains the following information: (1) the name of the child,
(2) the address of the residence of the child, (3) the name of the school the child is attending, (4) a description of the nature of the problem, and (5) a proposed resolution to the problem to the extent known and available at the time. The complaint notice is to be submitted to the school of attendance, with copies sent by mail or facsimile to:

NAME: Oxford Day Academy

ADDRESS: 1001 Beech St., East Palo Alto, CA 94303

FAX: and to:

Office of Administrative Hearings Attn: Special Education Division 2349 Gateway Oaks Drive, Suite 200 Sacramento, CA 95833-4231

(916) 263-0880

(916) 263-0890 fax

Within 15 days of receipt of the complaint notice, the District may file an objection to the complaint notice on grounds that the complaint notice does not contain the information required by law. If an objection is filed, the Hearing Office must render a decision on the sufficiency of the notice within 5 days, and notify both parties of the determination.

A parent may amend his or her complaint notice only if: (1) the District consents in writing to such an amendment and is given the opportunity to resolve the amended issues in a resolution session (i.e., the resolution periods starts over); or (2) the hearing officer grants permission to an amendment no later that 5 days before the hearing occurs.

2. Mandatory Resolution Period

The Individuals with Disabilities Education Improvement Act of 2004 (IDEIA), mandates a 30 day resolution period prior to the commencement of a due process hearing. This resolution period is intended to give parents and schools expanded opportunities to resolve disagreements in positive and constructive ways. The resolution period includes the following procedures:

Within 10 days of receipt of the Due Process complaint the District must respond to the complaint in writing. This response is to be developed by the school with assistance of counsel. The response will include, among other things, an explanation of why the District proposed or refused to take the action raised in the complaint notice.

Within 15 days of the District’s receipt of the complaint notice, a resolution session will be scheduled unless the parent and the District agree in writing to waive the meeting or agree to use the mediation process instead. The resolution session will be held at the school site and will include, at a minimum, the parent, a District representative who has decision-making authority, and relevant members of the IEP team as determined by the parent and the District. The District may not have an attorney present unless the parents have an attorney present.

If a resolution is reached at the resolution session, the parties will execute a legally binding written settlement agreement that is enforceable in a court of law. Either party may void the agreement within three business days of the date on which it was signed. If the agreement is not voided within three business days, the agreement is binding and enforceable in State or federal court.
If a complaint is not resolved to the satisfaction of the parents within 30 days of the date the District received the complaint notice, a due process hearing may occur and all of the applicable timelines for a due process hearing shall commence.

3. Hearing and Pre-hearing Procedures

Usually, the parties (parent, District and OAH) agree to a mutually convenient hearing date. Sometimes the hearing date is assigned by OAH. Prior to the hearing, the parent and the District may participate in a pre-hearing mediation or settlement conference. At a pre-hearing mediation or settlement conference, OAH provides an administrative law judge or mediator to assist the parties in reaching an agreement to resolve the case. A parent may be represented by an attorney or advocate at a pre-hearing mediation or settlement conference. An attorney will represent the District at the mediation or settlement conference. The attorney will obtain information about disagreement and the IEP from the administrator/designee and other IEP team members prior to the mediation or settlement conference.

If a resolution is reached at mediation or at a settlement conference, the settlement agreement will be sent to the school site. If the agreement alters eligibility, placement or services, an IEP team meeting must be held by the school site within 30 calendar days to document the terms of the agreement. If resolution is not reached, the matter will proceed to a due process hearing.

Due process hearings are conducted by administrative law judges (or hearing officers) from OAH. Procedurally, the hearing is very much like a trial. Each side presents arguments and documents and witnesses testify and are cross-examined. In addition, hearing officers may question witnesses, have experts discuss issues with each other, visit placement sites, call witnesses and/or order independent educational evaluations. The role of a hearing officer is to determine what is appropriate for the student, consistent with State and Federal law.

The due process hearing must be held and a written decision mailed to all parties within forty-five (45) days of the expiration of the 30 day resolution period, unless the hearing officer grants an extension of time at the request of one or all of the parties. In Due Process Proceedings, both the parent and the District have the following rights:

- A fair and impartial administrative hearing conducted by a person who is knowledgeable of the laws governing special education and administrative hearings;
- Be informed of the other party's issues and proposed resolution(s) at least ten (10) calendar days prior to the hearing;
- Receive notice of attorney representation from the other party at least ten (10) days prior to the hearing;
- Receive from the other party a copy of all documents to be used by the other party at hearing and a list of witnesses, indicating their general area of testimony, at least five (5) business days before the hearing;
- Be accompanied and advised by an attorney and/or individuals who have knowledge about children with disabilities;
- Present evidence, written arguments, and oral arguments;
- Confront, cross-examine, and require witnesses to be present;
- Receive a written, or at your option, electronic findings of fact and decisions.

In addition, a parent has the right to request that the hearing be open or closed to the public, have your child present at the hearing, and have an interpreter provided.
After a hearing is concluded the hearing officer will render a decision. Decisions of hearing officers are binding on all parties, but may be appealed by any party to a State or Federal Court within ninety (90) days of the final decision. If a parent prevails, he or she may be awarded reasonable attorneys’ fees either by agreement with the District or by a court. If the District prevails, a court may award the District its attorneys’ fees against the parent’s attorney if the due process complaint is found to be frivolous, unreasonable or without foundation. A court may also award the District its attorneys’ fees against the parent or the parent’s attorney if the due process complaint was presented or maintained for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

Except for certain alternative educational placements permitted by law, during the due process proceedings the student will remain in his or her current IEP placement, and will receive the services in his or her last agreed upon and implemented IEP, unless the parent and the District agree to some other arrangement. If the disagreement involves an application for initial admission to public school, the student, with the parent’s consent, will be placed in the public school program until the completion of all proceedings.

PROCEDURES FOR RESOLVING DISAGREEMENTS ON MATTERS OF COMPLIANCE

If a parent believes that the District is not in compliance with State and Federal laws and regulations, such as failure to implement the IEP, adhere to timelines, or appropriate conduct of an IEP meeting, he/she may file a complaint with the District or the California Department of Education. Note: If a parent files a request for due process and a complaint, the due process request will be considered first and then the complaint.

Internal (District) Complaint Procedures

The internal complaint procedure is a District process used to resolve complaints without involving the State.

In accordance with the internal complaint procedure, the District must:

- Identify persons responsible for processing complaints.
- Protect complainants against retaliation.
- Ensure confidentiality.
- Provide the complainant with any assistance needed to prepare the written complaint.
- Acknowledge receipt of the complaint in writing.
- Prepare a written report of the investigative finding.
- Inform the complainant in writing of the right to appeal the decision to the California Department of Education.

If a parent/guardian or other individual believes that the school has violated Federal or State laws or regulations governing special education programs, she/he may file a complaint with:

CONTACT

ADDRESS

Once the complaint is received:

The District has sixty (60) days to investigate and resolve the complaint unless the complainant agrees to an extension of the timelines.

Within five (5) days of receipt, the District office/division acknowledges receipt of the complaint and reviews it to determine whether it meets the criteria for filing and to refer it to the proper agency.
The complainant must receive a copy of District policy and appeal procedures.

The complaint must be filed within six (6) months of the alleged violation. The complainant must be notified if a complaint is denied due to exceeding the time limits. The complainant may file for an extension of time in which to file the complaint with the State Superintendent of Public Instruction.

The District and complainant may participate in mediation to resolve the complaint prior to a formal investigation. However, the complainant may terminate the mediation process and proceed directly to an investigation if s/he so chooses.

A complaint is resolved in the following manner:

- The complainant and/or the complainant's representative and the District's representative present information to the investigator relative to the complaint.
- Witnesses to the alleged violation or others who can provide relevant information concerning the alleged violation may give statements.
- Documents that may provide relevant information are reviewed.
- A written report of the investigative findings and corrective actions, if appropriate, suggested resolutions and a rationale for the findings is provided.
- The party filing the complaint will receive a written decision regarding the complaint.

If she/he disagrees with the resolution of the complaint, an appeal of the decision may be made within fifteen (15) days of receiving the District's decision to the California Department of Education.

The appeal must be in writing and include a copy of the original complaint and the District's decision.

In addition to the right to appeal, the complainant may also pursue civil law remedies including injunctions, restraining orders, or other court orders.

**California Department of Education Complaint Procedures**

A special education complaint may be filed directly with the California Department of Education (CDE). Procedures for filing a CDE complaint are as follows:

A written and signed complaint is sent to:

Procedural Safeguards Referral Service Special Education Division
California Department of Education 1430 N. Street, Suite 2401
Sacramento, CA 95814-5901

The State informs the District upon receipt of the complaint. The District has ten (10) days to resolve the complaint locally and report back to the California Department of Education.

If the District does not locally resolve the complaint within the ten (10) day period, the California Department of Education begins an investigation on the eleventh (11) day. The District, however, continues its investigation and attempts to resolve the issue locally.

The California Department of Education (CDE) must resolve the complaint within sixty (60) days.

The CDE will review all relevant information and make an independent determination about the alleged violations.
An on-site investigation may be conducted if necessary and a written decision to the complainant will be issued that addresses each allegation.

The CDE provides procedures for the effective implementation of final decisions, including technical assistance, negotiations, and corrective actions.

Thirty (30) days after the time line for corrective action, the CDE contacts the complainant to confirm that the complaint has been resolved.

If a State complaint is also the subject of a due process hearing or contains issues which are part of a hearing, the State may set aside any part of the complaint that is related to the hearing until the conclusion of the hearing.

If a complaint involves an issue that was previously decided in a hearing, the hearing decision is binding and the State need not proceed with an investigation.

Additional information regarding the filing of a State complaint may be accessed by calling the Procedural Safeguards Referral Service at 1-800-926-0648.

**California Department of Education Interventions**
The California Department of Education will directly intervene without waiting for District action if one of the following conditions exists:

- The complaint involves a violation of the Individuals with Disabilities Education Act (IDEA).
- The complainant alleges that a child is not receiving the special education or related services specified in his/her IEP.
- The complainant alleges that the District failed or refused to comply with Federal/State due process procedures, or failed or refused to implement a due process hearing order.
- The complainant alleges that the District failed or refused to implement the final decision resulting from its local investigation or local mediation procedures.
- A public agency, other than the school district, fails or refuses to comply with a law or regulation relating to the provision of a free, appropriate public education to individuals with disabilities.
- The complainant alleges, and the CDE verifies, that the District failed to comply with the Uniform Complaint Procedure.
- The complainant alleges and the CDE verifies, or the CDE has information, that no action has been taken by the District within 10 days of the date the complaint was filed locally.
- The District refuses to respond to the CDE’s request for information regarding a complaint.
- The complainant alleges and the facts indicate that the complainant will suffer an immediate loss of some benefit such as employment or education if the CDE does not intervene.
- The complainant requests anonymity and presents clear and convincing evidence, and the CDE verifies that she/he would be in danger of retaliation if a complaint were filed with the District, or the complainant has been retaliated against in past or present complaints.

**Resolution of California Department of Education Interventions**
The California Department of Education uses the following procedures to resolve the complaint:

- Mediates the dispute within 30 days unless the District and the complainant agree to an extension.
- Conducts an on-site investigation if either the District or complainant waives the mediation process or the mediation fails to resolve the issues.
• Develops an investigation report which includes the CDE’s conclusions, the right to appeal, and, if applicable, recommended and/or corrective actions and corrective action timelines.
• Mails the investigation report to the District and the complainant within 60 days from the date of receipt of the request for direct State intervention or an appeal of a District decision.

*California Department of Education Appeals*

If a complainant disagrees with a decision rendered by the California Department of Education, she/he may appeal the decision. Appeals should be sent to:

California Department of Education Legal Division – Fifth Floor

1430 N. Street

Sacramento, CA  95814
SECTION 504
POLICY AND PROCEDURES
MANUAL
SECTION 504 POLICY AND PROCEDURES MANUAL
(Incorporating the ADA Amendments 2008)

This manual is designed to provide policy and procedures to assist in determining Section 504 eligibility.

Section 504 Policy

It is the intent of Oxford Day Academy to ensure that students who are disabled within the definition of Section 504 of the Rehabilitation Act of 1973 are identified, evaluated and provided with appropriate educational services. Students may be considered disabled under this policy even though they do not require services pursuant to the Individuals with Disabilities Education Act (Exceptional Student Education). Under Section 504 due process rights are guaranteed.

The Head of School/Principal is the site coordinator of Section 504 and is responsible for monitoring compliance of all Section 504 requirements. For questions related to Section 504, you may contact: Dr. Irene St. Roseman between the hours of 8:00 AM and 4:00 PM, Monday through Friday at: 1001 Beech St., East Palo Alto, CA 94603. PHONE.

OVERVIEW

DEFINITION

Section 504 of the Rehabilitation Act of 1973 (Public Law 93-112, amended as Public Law 93-516)

Section 504 is a civil rights law that prohibits discrimination against qualified individuals with disabilities in public and private programs and activities that receive financial assistance from the federal government. To be eligible for protection under Section 504 a student must have a physical or mental impairment that substantially limit at least one major life activity. A major life activity includes walking, seeing, hearing, speaking, breathing, learning, reading, writing, performing math calculations, working, caring for oneself and performing manual tasks. A physical or mental impairment also include any physiological disorder, cosmetic disfigurement or anatomical loss affection one or more of the following body systems: neurological; musculoskeletal; special sense organs, respiratory. Section 504 guarantees qualified disabled students a free and appropriate public education (FAPE). Compliance for Section 504 is overseen by the U.S. Department of Education Office for Civil Rights (OCR).

WHOM DOES SECTION 504 PROTECT?

There are three prongs to consider when determining whether a person is disabled. A person is considered disabled if he/she:

Prong 1: Has a physical or mental impairment which substantially limits one or more major life activities. Major life activities include but are not limited to walking, standing, seeing, hearing, breathing, learning, reading, concentrating, communicating, and performing manual tasks. This list of major life activities is not exclusive.

Prong 2: Has a record of such an impairment, or
Prong 3: Is regarded as having an impairment.1

WHAT AGES DOES SECTION 504 COVER?

“With respect to public preschool, elementary, secondary, or adult educational services, a disabled person is qualified for protection under Section 504 if he or she is (i) of an age during which nondisabled persons are provided with such services; or (ii) of any age during which it is mandatory under state law to provide such services to a disabled person within the public-school system.” [34CFR 104.3 (k) (2)]

PURPOSE OF SECTION 504 AT SCHOOL: “LEVELING THE PLAYING FIELD”

The goal of Section 504 is to “level the playing field” ensuring that students with a disability have the opportunity to participate in and access the general education curriculum and extracurricular activities to the same extent as average, non-disabled, peer.

The law prohibits the discrimination (e.g. denial of participation or enjoyment of the benefits offered by public school programs) because of a child’s disability. For nondiscrimination to occur, students with a Section 504 Plan must receive appropriate accommodations that level the playing field and ensure equal access to the general education curriculum. Accommodations provided have a direct relationship to evaluation data demonstrating disability-related need so that over-or-under accommodating does not occur, as the goal is to “level the playing field.” A student with a disability, who is covered solely under Section 504, and not IDEA, is entitled to appropriate accommodations, aids, benefits and services to ensure FAPE. If evaluation data reveal that a student is eligible for a Section 504 Accommodation Plan, “placement” on a Section 504 Plan typically means that instruction will continue in the regular education classroom with individually planned accommodations. Furthermore, there is generally no modification of curriculum for Section 504 students.

GENERAL GUIDELINES

The Office of Civil Rights (OCR) has stated that the decision of whether a particular impairment substantially limits a major life activity for a child is a determination that is to be made by a school district not OCR.

Measuring learning success is a difficult task. OCR establishes that the standard for substantial limitation of a student’s ability to learn by inference, opining that “by definition, a person who is succeeding in regular education does not have a disability which substantially limits the ability to learn.”

Teams should determine eligibility based on current performance and avoid basing decisions on the prediction of future problems such as transition from one academic setting to another (i.e. elementary to middle school or middle to high school).

Teams should focus on equity not advantage. Teams should not focus on one indicator such as semester grades to determine if a student is substantially limited in the major life activity of learning. Rather, teams should consider, 1

1 A person who falls under the second or third prong of the definition is protected by Section 504 only when negative action is taken based on the fact that he/she has a “record of” or is “regarded as” disabled. These prongs are meant to reach situations where individuals either never were or are not currently disabled, but are treated by others as if they were. It is the negative action taken based on the perception or the record that entitles a person to protection against discrimination on the basis of the assumptions of others.
among other things, standardized test scores from state mandated assessments (i.e. FCAT, FAIR, FOCUS) and national norm referenced tests to evaluate the student’s academic performance level.

When faced with students who are performing in the average range on standardized tests, but earning failing grades, the team may need to further investigate the reasons behind the student’s failing grades and consider appropriate interventions. As an example, if a student has failing grades due to poor attendance, the team should develop interventions to address the student’s poor attendance prior to consideration of eligibility for a Section 504 Accommodation Plan.

Teams should be careful to assess whether a student truly has a qualifying disability. Recognize “other factors” that could adversely affect student learning, such as low socioeconomic status, educational disadvantage, poor early instruction, difficult family situation, gang involvement, truancy, and limited English proficiency. Section 504 is not intended to address these types of problems.

PROCEDURES

REFERRAL: TYPE 1 ELIGIBILITY CONSIDERATION

Type 1 “Clearly” physical issues and/or temporary physical issues which primarily affect caring for oneself, or another major life activity, and not noticeably affecting learning.

A parent, guardian, teacher and/or other member of the school staff may raise their concern about a student’s unique need for support. In order to respond adequately to the needs of students, the first step should be a meeting between the students’ parents and the teacher.

Section 504 Plans may be developed for students with a disability, when there is sufficient medical documentation indicating that there is a need for such services.

Type 1 Students with medical disorders (e.g. diabetes, seizure disorder, allergies, epilepsy, asthma, orthopedic impairment, etc.) typically will fall under this category and a Health Care Plan may be developed as part of the 504 Plan to sufficiently address their physical needs. If the medical disorder is suspected of impairing a student’s ability to learn, staff should follow the problem solving/response to intervention process.

Reminder: accommodations and services provided must be related to the identified disability.

REFERRAL: TYPE 2 ELIGIBILITY CONSIDERATION

Type 2 A pattern of student performance which may indicate the presence of a physical or mental impairment that substantially limits learning or equal access to the school environment that has not been successfully responsive to regular education strategies and interventions using the Problem Solving/Response to Intervention (PS/RtI) model.

Under Type 2, if interventions do not result in sufficient success compared with an average student, a Section 504 evaluation is considered in order to provide sufficient information to the Team to make an eligibility determination. To refer for a Section 504 evaluation, district personnel must have reason to believe that a student is having problems that substantially affect the student’s overall learning or other life activities at school when compared with that of an average student. The district has the obligation to attempt to address these types of problems through documented school-based interventions prior to conducting an evaluation. These intervention procedures will apply to circumstances involving an identified physical or mental impairment, as well as those where there is a suspicion of an impairment.
Schools have the responsibility to address the needs of struggling learners pursuant to Florida law. Students may have academic, behavior and/or attendance difficulties for a variety of reasons, many of which may be unrelated to a disability. A PS/RtI process will help to differentiate students who require more direct instruction from those with a disability substantially limiting their learning. PS/RtI is a fluid process that evaluates the impact of intervention strategies and modifies them as needed based on the identified problem.

**Evaluation**

Schools must conduct Section 504 evaluations for students suspected of having a disability, following the established policies and procedures noted in the referral section. The Section 504 evaluation must take place prior to a Section 504 eligibility decision. The evaluation goal is to provide sufficient information to the eligibility team from a variety of sources so that the possibility of error in classification is minimized. At the same time, the goal of the evaluation activities is to provide information describing the needs of the student (e.g. Does the suspected disability impact the student’s successful access to the school education program and its activities compared to an average student?). This information will allow the Eligibility Team to determine appropriate eligibility and may form the basis for an appropriate accommodation plan.

Evaluation under Section 504 may not require formal testing to determine eligibility. Common information/data for a Section 504 evaluation might include the student file, student’s grades, disciplinary referrals, health information, communication surveys, parent information, standardized test scores, a review of student’s record and work sample, direct observation in school, norm-referenced rating scales, prescriptive assessment results, and interviews with the student, parent, and school personnel.

For Type 1 referrals, informal evaluation procedures will generally be the most common. If medical information is needed, it is requested of the parent. If the parent cannot provide such medical data and the team deems such medical data as necessary, the school district will facilitate obtaining the medical data.
For Type 2 referrals, prescriptive assessment may be necessary to determine if the areas of concern are having a significant impact on the student’s learning and which have not been sufficiently responsive within the PS/RtI process.

**Eligibility**

For the purpose of determining whether a student is eligible and/or in need of Section 504 Accommodation Plan, using a problem-solving method will facilitate the identification of the severity and the impact of the disability on a major life activity. Under 34 CFR Section 104.35, a district has the obligation to evaluate students who need or are believed to need specialized education or related services because of a disability. In most circumstances, the obligation to evaluate and/or analyze a student’s performance for problems related to a suspected disability is triggered by the parent’s or classroom teacher’s concern that the student has not sufficiently responded to intervention.

The Office of Civil Rights (OCR) states that the decision of whether a particular impairment substantially limits a major life activity for a student is a determination that should be made by the school’s Eligibility Team. The determination of substantial limitation must be made on a case-by-case basis with respect to each individual student. The ADA Amendments Act of 2008 states that the determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measure, such as medication, low-vision devices, hearing aids and mobility devices, with the exclusion of ordinary eyeglasses and contact lenses.

School districts must no longer consider the current use of “mitigating measures” by a student in determining whether the student has a disability under Section 504 based on the ADA Amendment Act of 2008. Mitigating measures are devices or practices that a person uses to correct or reduce the effects of that person’s mental or physical impairment.

*Initial Eligibility*

What steps should be taken in determining an initial eligibility for a Section 504 Plan?

Remember: The Eligibility Team process determines all initial eligibility and dismissal decisions for Section 504.

Eligibility team membership may consist of:

- School Counselor
- Administrator
- ESE Liaison (if appropriate)
- School Psychologist
- School Social Worker
- Teachers(s)
- Parent

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2 School Counselor (or Principal’s designee) is generally the facilitator for this meeting.
Determine additional committee members (including those who are knowledgeable about the student’s academic progress and functioning in the academic setting, those who are knowledgeable about the assessment procedures, etc.).

Prior to the Eligibility meeting:
1. Send notice of meeting to parent/guardian
2. Collect or request available documentation relative to the impairment

Type 1 (Students with physical issues)

Health Care Plan
Medical records
Other relevant information

Type 2 (Students displaying difficulties with major life activities which include, but are not limited to, learning, thinking, concentrating, reading, vision, hearing, depression, attention, etc.)

PS/RtI portfolio
Prescriptive assessments
Norm referenced behavior rating scales
Other relevant information

Collect current student performance data and information.

School nurse should be consulted to represent the medical needs of the student if appropriate.

At the meeting:
1. Review available information regarding the student’s current functioning and any additional relevant data.
2. Use the problem-solving model to identify the negative impact on performance (Gap Analysis) and its causal relationship to the impairment.
3. Determine if there is an impairment that is having a direct and substantial negative impact on the student’s academic performance as compared to the average student in the general population or is preventing the student from having equal access to the school environment and/or activities.

Guidelines for Determining Substantial Limitations

- The determination of substantial limitation must be made on a case-by-case basis with respect to each individual student.
- Consider a student’s response to interventions. Make data driven decisions when determining eligibility. If a student is responding to intervention, then he or she may not meet the substantial limitation requirement for a Section 504 Accommodation Plan.
- Students are only eligible under Section 504 if their disability prevents them from benefiting from the school’s programs and activities as compared to the average student in the general population.
- The ADA Amendment Act (2008) states that for eligibility determination, whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as medication, low-vision devices, hearing aids, and mobility devices, with the exclusion of ordinary eyeglasses and contact lenses. There is no basis for an accommodation plan if a student’s physical or mental impairment currently does not substantially limit a major life activity.
This means some students who are eligible under Section 504 will need to be monitored and will not have an actual written accommodation plan. In such cases, review the specific procedures below.

**Eligibility Determination**
If the student has both an impairment and evidence that it is having a direct and substantial negative impact on the student’s academic performance or preventing the student from having equal access to the school environment and/or activities:

- Complete the appropriate 504 forms (Eligibility Form, Accommodation Plan, and if necessary Test Accommodation Sheet) and distribute as indicated.
- Give parent/guardian a copy along with *Notice to Parents - Rights Afforded By Section 504 of the Rehabilitation Act of 1973.*

If the student has an impairment, yet there is no evidence that it is currently having a direct and substantial negative impact on the student’s academic performance or preventing the student from having equal access to the school environment and/or activities (for example, a student who has an impairment which is being successfully alleviated by mitigating measures):

- Complete the 504 Eligibility Form documenting the impairment.
- In this situation, students would not have a written Accommodation Plan but should be monitored to ensure that the impairment does not substantially impact their academic performance or prevent them from having equal access to the school environment and/or activities. The Eligibility Team should determine the appropriate frequency and method for monitoring the student’s progress (which is most often facilitated through quarterly progress reports). If a pattern of declining performance develops, the Eligibility Team should review the relevant data and consider implementing the PS/RtI process.
- Give parent/guardian a copy along with *Notice to Parents - Rights Afforded By Section 504 of the Rehabilitation Act of 1973.*

If an impairment is episodic or in remission, it should be considered a disability if it would substantially limit a major life activity when active (i.e. sickle cell anemia, cancer, depression, etc.). In such cases:

- Complete the 504 Eligibility Form documenting the impairment.
- If there is no evidence that it is currently having a direct and substantial negative impact on the student’s academic performance or preventing the student from having equal access to the school environment and/or activities the student would not have a written Accommodation Plan but should be monitored.
- If there is evidence of a direct, current, and substantial impact an Accommodation Plan should be written.
- Give parent/guardian a copy along with *Notice to Parents - Rights Afforded By Section 504 of the Rehabilitation Act of 1973.*

If the student has no evidence of an impairment:

- Complete the *Informed Refusal To Take A Specific Action Regarding Section 504 of the Rehabilitation Act of 1973* form and distribute as indicated.
- Give parent/guardian a copy along with *Notice to Parents - Rights Afforded By Section 504 of the Rehabilitation Act of 1973.*
After the meeting:
1. Ensure that the student’s current teachers (and significant stakeholders, as appropriate) are aware of the meeting outcomes and, if necessary, provided with a copy of the 504 Plan and/or Test Accommodations).
2. If the student is found eligible, make the appropriate entries on the electronic student record keeping system.
3. Please file original documents (e.g., Eligibility Team notes, 504 Plan, Documentation of impairment, etc.) in the student records.

Common Errors in Identification, Eligibility Decisions, and Compliance Issues
- Basing eligibility solely on a medical diagnosis with no substantial impairment
- Ignoring the need to establish a direct link between the physical/mental impairment and the appropriate (and needed) accommodations.
- Ignoring the substantial limitation requirement relative to the “average” person in the general population
- Failing to monitor and review when necessary
- Failure to recognize and address “other factors” that could adversely affect a student’s learning prior to considering Section 504 eligibility
- Developing a Section 504 Plan to solely improve average grades, raise high-stake test scores, provide additional test time when unwarranted, or reduce homework responsibilities
- Basing eligibility on predictions of future student performance or anticipation of future needs Over identification by providing Accommodation Plans for students who do not have a qualifying disability
- Failing to provide copies and an explanation of Accommodation Plan to everyone responsible for implementation.

ACCOMMODATION PLAN

Accommodation Plans are one of the keys to delivering effective education programs for qualified students with a disability. These involve a wide range of strategies and supports that accommodate students with limitation(s) resulting from their disability. The goal of accommodations is to “level the playing field” ensuring that students with a disability have the opportunity to participate and access the general education curriculum and extracurricular activities to the same extent as an average, non-disabled peer. In accordance with Section 504 guidelines, the school is required to provide necessary services and related aides. Throughout this manual, these services and related aides will be referenced as “reasonable accommodations”. Accommodations a student will receive are individualized. Furthermore, they have a direct relationship to data that demonstrates the disability-related need. It is critical that appropriate data be collected to determine student needs:

- Accommodations must be based on information and data used in the evaluation and eligibility determination process.
- The plan should indicate how, where, and by whom the accommodations will be provided.
- The plan may include accommodations for the school building or classroom, extracurricular activities, administrative adjustments, academic and instructional accommodations, and/or testing accommodations.
- The same types of accommodations should be provided for both classroom assignments and assessments. Accommodations for testing, both classroom and standardized, must be addressed when developing the plan and these testing accommodations specified in the plan. Any approved
standardized testing accommodations (i.e., FCAT, College Board, ACT, etc.) must also be consistent with what is outlined in the test administration manual.

- Students with only a Section 504 Plan are not eligible for an FCAT waiver for the purposes of meeting high school graduation requirements. Consideration for an FCAT waiver can only be made if the student has a disability documented on an Individual Education Plan (IEP) under the Individual with Disabilities Education Improvement Act.

- Types of accommodations:

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<tr>
<th>CLASSROOM ACCOMMODATIONS</th>
<th>TESTING ACCOMMODATIONS</th>
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<td>Instruction</td>
<td>Changes to Presentation Format</td>
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<tr>
<td>Organization/Management</td>
<td>Change to Test Procedures</td>
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<tr>
<td>Environmental</td>
<td>Change to Response Mode</td>
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<tr>
<td>Materials/Equipment</td>
<td>Change in Setting</td>
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504 REVIEW PROCEDURES

The annual review meeting should be conducted on or before the anniversary date of the preceding plan (original or review). The review sheet is designed to be used for subsequent years following the original eligibility. If significant changes occur (e.g. change of schools, expulsion, serial suspensions that exceed ten days in a school year, and/or significant change in the delivery of educational accommodations), the development of a new plan should be considered.

Prior to the meeting:

1. Send notice of meeting to parent/guardian (see forms section)
2. Determine the appropriate team members. If necessary, the school nurse should be consulted to represent the medical needs of the student.
3. Collect or request school performance data necessary to determine the student’s continued need for a Section 504 Plan/Accommodations.

At the meeting:

1. Review pertinent information regarding the impairment and the student’s academic progress and functioning in the academic setting.
2. Determine if the student continues to be in need of Section 504 Accommodations. If the team determines that the student no longer needs accommodations, remember to consider the effects that the accommodations may have had on his or her academic performance. For example, if a student’s “average functioning” is directly related to the accommodations provided by the Section 504 Accommodation Plan, then the student should continue to receive these accommodations.

If YES:

- Complete the appropriate 504 review form

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3 To be eligible for accommodations on standardized students must also require and use testing accommodations in the classroom setting.
• Distribute the 504 review form and Accommodation Plan to appropriate stakeholders as necessary
• Give parent/guardian a copy along with Notice to Parents - Rights Afforded By Section 504 of the Rehabilitation Act of 1973.

If **NO**:  
1. Complete the appropriate 504 review form  
3. Monitor student progress and if a pattern of declining performance develops, the appropriate team (i.e., PLC or School Wide Support Team, Eligibility) should review the relevant data and consider the PS/RtI process.

After the meeting:

1. Notify the parent/guardian (if not present). Send parent/guardian a copy along with Notice to Parents - Rights Afforded By Section 504 of the Rehabilitation Act of 1973.  
2. Ensure that the student’s current teachers (and significant stakeholders, as appropriate) are aware of the meeting outcomes and provided with a copy of the 504 Plan and Test Accommodations.  
3. Please file original documents (504 Plan, Documentation of impairment, etc.) in the student records.  
4. If the student is found to no longer be in need of an accommodation plan, make the appropriate entries in the student record keeping system.

**DISMISSAL**

Dismissals from Section 504 eligibility should be considered when a student no longer has an identified impairment.

**SECTION 504 TRANSFER PROCEDURES**

After reviewing the existing 504 Plan, determine if the plan can be implemented as written or if an immediate team meeting is necessary to discuss the appropriateness of the accommodations.

When reviewing the available student information, determine if the documentation of the impairment appears sufficient; provide appropriate accommodations from the existing plan and collect relevant information for use in the review meeting. If the documentation of the impairment is not sufficient, appropriate prescriptive assessment(s) should be considered and utilized in determining need for interventions/accommodations or dismissal.

A review meeting needs to be conducted with parent involvement within the first nine weeks of enrollment. The team should be composed of those who are knowledgeable about the student’s academic progress and functioning in the academic setting. If an impairment is present but there is no evidence of current substantial limitation affecting learning or equal access to the learning environment, eligibility should be documented and monitoring initiated.

**TEMPORARY IMPAIRMENT**

If a temporary impairment is physical (e.g. broken dominant hand) and will substantially limit a major life activity (e.g. performing manual tasks) Section 504 eligibility can be established and a Section 504 Accommodation Plan can be written. During the eligibility meeting, a date for review and possible dismissal should be established based upon the estimated length of the temporary impairment.
DISCIPLINE/MANIFESTATION DETERMINATION

When disciplinary situations occur, it is important to note that students who have a Section 504 Plan may be suspended or placed in an alternative interim setting to the same extent these options would be used for children without disabilities. The school may also consider any unique circumstances on a case-by-case basis when determining whether a change in placement is appropriate for a child with a disability who violates a code of student conduct.

Discipline practices for a student with a disability should be determined on a case-by-case basis. Under each circumstance, it is important that students with disabilities should not be discriminated against nor should they be punished for behavior that was caused by or was a “manifestation” of their disability.

A manifestation determination must be conducted when a Section 504 eligible student commits a violation (or violations) which results in excess of 10 cumulative days of suspension (including in-school suspension if student is removed from the educational program and/or there’s failure to provide services as specified in the student’s accommodation plan) or when expulsion is being considered.

At this meeting, the team (including the parents/guardians, those who are knowledgeable about the, and those who are knowledgeable about the assessment procedures):

- Review student’s academic progress and functioning in the educational setting, student records, and any additional pertinent data.
- Will determine if the student’s misconduct was a manifestation of his/her disability. The Team decision is documented on the Manifestation Determination form.
- File original Manifestation Determination form in the student records and provide copies to parent/guardian and other appropriate staff.
- Provide parents with a copy of the Notice to Parents - Rights Afforded By Section 504 of the Rehabilitation Act of 1973 and Procedural Safeguards For Section 504.

If it is determined that the misconduct is related to the disability, a review meeting needs to be conducted with parent involvement to consider if the Section 504 Accommodation Plan should be modified and/or additional assessments are needed.

If it is determined that the misconduct is not related to the disability, the school may initiate normal disciplinary procedures.

DRUG AND ALCOHOL OFFENSE

For a student with a disability who is currently engaged in the illegal use of drugs or alcohol, a school district may take any disciplinary measure pertaining to the use or possession of illegal drugs or use of alcohol as is taken for students without disabilities. No manifestation determination or due process procedures are required. However, a student with a disability who is not currently engaged in the illegal use of drugs or alcohol who commits a drug/alcohol offense, such as possession, sale, or distribution of drugs or alcohol, is afforded Section 504 and ADA protection, including the right to an evaluation of whether the behavior is related to the disability and the right to due process.
PROCEDURAL SAFEGUARDS FOR SECTION 504

GENERAL INFORMATION

Established procedural safeguards with respect to actions regarding the identification, evaluation, or educational placement of students with a disability shall include the following as indicated under Section 504 [34 CFR 104.36]:

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

Schools must annually do the following:

- Identify and locate all children in the district's jurisdiction who are eligible under Section 504 and are not receiving a public education [34 CFR 104.32 (a)]
- Notify students with disabilities and their parents or guardians of the district's responsibility under Section 504 [34 CFR 104.32(b)]

PROVISION OF NOTICE

To be in compliance with Section 504’s notice provision, educational institutions must provide public notification of their policies of nondiscrimination, identify the person who coordinates compliance within the institution, and adopt grievance procedures.

Procedural safeguards are established to ensure that parents and guardians are fully informed concerning decisions involving their child and to inform them of their rights. These safeguards include the following:

- Taking part in and receiving benefits from public education programs without discrimination because of disability [34 CFR 104.33 (a)]
- Receiving notice of rights under this federal law (34 CFR 104.36)
- Receiving notice with respect to identification, evaluation, or placement (34 CFR 104.36)
- Receiving a free appropriate public education with non-disabled students to the maximum extent appropriate [34 CFR 104.34(a)] (it also includes the right to have the school district make reasonable accommodations to allow an equal opportunity to participate in school and school-related activities [34 CFR 104.33(b)])
- Being educated in facilities and receiving services comparable to those provided to non-disabled students [34 CFR 104.34(c)]
- Having the right to an appropriate education designed to meet individual educational needs as adequately as the needs of non-disabled students [34 CFR 104.34(a)]
- Having evaluation, educational, and placement decisions made based on a variety of information sources and by a group of persons, including persons who know the student, the evaluation data, and placement options [34 CFR 104.35(c)]
- Having transportation provided to and from an alternative placement setting at no greater cost than would be incurred if the student were placed in a program operated by the district [34 CFR 104.33(c)]
- Having the right to an equal opportunity to participate in nonacademic and extracurricular activities offered by the district [34 CFR 104.34(b)]
• Examining all relevant records relating to decisions regarding your child’s identification, evaluation, educational program, and placement [34 CFR 104.36]
• Requesting an impartial due process hearing and/or mediation related to decisions or actions regarding identification, evaluation, educational program, or placement [34 CFR 104.36]
• Filing a local grievance with respect to alleged disability discrimination with the district’s designated 504 contact [34 CFR 104.36]

**PROCEDURAL SAFEGUARDS**

1. The parent/guardian shall be notified in writing of all actions regarding the identification, evaluation, and educational placement of a student who, because of a disability, needs or is believed to need, special instruction or related services pursuant to Section 504. Notifications will include a statement of parent/guardian rights to:
   - Examine relevant records. Upon parent/guardian request, records may be reviewed at the school site or at the school. Copies of student records may be obtained within five (5) business days of the request pursuant to LEA policies.
   - Have an impartial hearing with opportunity for participation by the parent/guardian and his/her counsel.
   - Seek review in federal court if the parent/guardian disagrees with the hearing decision.

2. Notifications shall also set forth the procedure for requesting an impartial hearing. Requests shall be made to:

3. If a parent/guardian disagrees with the identification, evaluation or placement of the student with disabilities under Section 504, he/she may initiate the following procedures or they may proceed to final step:

   **Step 1:** In writing, the parent/guardian may request a meeting with the Section 504 Plan Team, in an attempt to resolve the disagreement. The meeting shall be held with ten (10) school days after receiving the parent/guardian’s request.

   **Step 2:** If disagreement continues, the parent/guardian may request, in writing a meeting the LEA Section 504 Coordinator, (ADDRESS). This meeting shall be held within a reasonable period of time after receiving the request.

   **Step 3:** If the disagreement is not resolved, or upon initial request, a due process hearing may be requested by the parent/guardian. The proceedings will be presided over and decided by an impartial hearing officer. **Impartial hearing office** means a person selected by the LEA to preside at the due process hearing to assure that proper procedures are followed and to assure the protection of the rights of both parties. The hearing officer shall not be employed by or under contract with the LEA in any capacity at the time of the due process hearing, nor shall the hearing officer have any professional or personal involvement that would affect his or her objectivity or impartiality.

   A request for a Section 504 due process hearing must be in writing and received by the LEA within ninety (90) days from the time the parent/guardian received written notice of the decision leading to the request for such hearing.

   A Section 504 hearing request should contain the following:

   **I. A statement requesting a hearing.**
II. The specific nature of the decision(s) made by the LEA and Section 504 Team with which the parent/guardian disagrees.

III. The specific relief the parent/guardian seeks.
   A. Within a reasonable time, following receipt of a written request for a hearing, the LEA’s Section 504 Administrator will select an impartial hearing officer.
   B. A hearing officer selected by the LEA must satisfy the following requirements:
      I. Be qualified to review the LEA decisions relating to Section 504.
      II. Not be an employee of, or under contract with, the LEA in any capacity other than that of a hearing officer at the time of the due process hearing.
      III. Not have any professional or personal involvement6 that would affect his or her impartiality or objectivity in the matter.
   C. Hearing notifications shall be given to the parent/guardian at least twenty (20) calendar days prior to the date set for the hearing. The notice shall contain a statement regarding the time and place for the hearing and the name of the hearing officer.
   D. Within sixty (60) calendar days of receipt of the parent/guardian’s request for a Section 504 due process hearing, the hearing shall be conducted. Within ninety (90) calendars of the receipt of the parent/guardian’s request a written decision shall be mailed to all parties. This time frame may be extended by mutual agreement of the parties.
   E. A party to the hearing shall be afforded the following rights:
      I. The right to be accompanied and advised by counsel and by individuals with special knowledge or training relating to the problems of the student(s) who have a disability within the meaning of Section 504.
      II. Receipt of notice from the other party or parties, at least ten (10) calendar days prior to the hearing that they will utilize the services of an attorney, except for good cause shown.
      III. The right to prohibit the introduction of evidence at the hearing that has not been disclosed to the other party or parties at least five (5) calendar days prior to the hearing except for good cause shown.
      IV. The right to present evidence, written and oral.
      V. The right to produce outside expert testimony.
      VI. The right to written findings of fact, conclusions of law, and decision prepared by the hearing office.
      VII. The right to a written or electronic verbatim record of the hearing prepared at the expense of the individual requesting such record.

In case where foreign language translation is necessary, a translator shall be provided by the LEA. This translator may be a current employee of the LEA.
GRIEVANCE AND HEARING PROCEDURE

Parents who have a complaint relating to the identification, eligibility, evaluation or educational placement of their child may request mediation. Mediation is not a federal or state parental right under Section 504. If mediation is requested, both parties must agree to enter into the mediation and neither party waives the right of due process.

In addition, any parent may file a Section 504 Due Process Request form with the school. The school will convene a due process hearing within fifteen (15) days, not including school holidays or days when school is closed.

The United States Department of Education, Office of Civil Rights (OCR) is responsible for enforcing Section 504. OCR investigates complaints and will attempt to informally settle the complaint. In addition, OCR conducts periodic compliance reviews and provides technical assistance. There are twelve regional offices located throughout the nation. For information go to: http://www.hhs.gov/ocr

DUE PROCESS STANDARDS TO HANDLE GRIEVANCE QUESTIONS

Section 504 regulations direct school districts to adopt grievance procedures that incorporate due process standards and provide “prompt and equitable resolution” of any complaints regarding pure discrimination. What precisely is required is up to the school district. 504 regulations provide no assistance to school districts, but best practice is typically found to be the use of the district’s formal grievance procedure for other complaints of discrimination. With respect to such procedures, the OCR provided some guidance in Hayward (CA) Unified School School, 23 IDELR 107 (OCR 1995). The OCR stated a compliant grievance procedure should include the following:

- Reasonable time frames
- The opportunity to present evidence
- Notification of the findings
- An appeal process
SECTION 504 DUE PROCESS REQUEST

Directions: This form should be completed by individuals who wish to request a Section 504 Due Process Hearing and/or Section 504 Mediation. Please complete, sign, and submit a copy of this form to the Director of Human Resources.

I ________________________, the undersigned, do hereby request a:

Print Name

☐ Section 504 Due Process Hearing;

☐ Section 504 Mediation;

☐ Section 504 Due Process Hearing pending the outcome of the Mediation.

Please use the space below to write a description of the issue(s) of your complaint. You may attach an additional sheet of paper if more space is needed.

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

Please use the space below to write a proposed resolution of the problem or issues. You may attach an additional sheet of paper if more space is needed.

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

Student Information:

Date of Request: ____________________________

Last Name: ________________ First Name: ________________ Middle Initial: _____

Date of Birth: __________ Student Grade: __________ Student’s Address: __________________________

Home Phone Number: ________________ Alternate Phone Number: ________________

Complaint submitted by: ________________ Relationship to student: ________________
OXFORD DAY ACADEMY
SECTION 504 POLICY AND
PROCEDURES MANUAL
(Incorporating the ADA Amendments 2008)

This manual is designed to provide policy and procedures to assist in determining Section 504 eligibility.

Section 504 Policy

It is the intent of the School to ensure that students who are disabled within the definition of Section 504 of the Rehabilitation Act of 1973 are identified, evaluated and provided with appropriate educational services. Students may be considered disabled under this policy even though they do not require services pursuant to the Individuals with Disabilities Education Act (Exceptional Student Education). Under Section 504 due process rights are guaranteed.

The Principal is the site coordinator of Section 504 and is responsible for monitoring compliance of all Section 504 requirements. For questions related to Section 504, you may contact Dr. Irene St. Roseman between the hours of 8:00 AM and 4:00 PM, Monday through Friday at: 1001 Beech Street, East Palo Alto, CA 94303 or at (510) 316 - 8505.

I. Overview

A. Definition

Section 504 of the Rehabilitation Act of 1973 (Public Law 93-112, amended as Public Law 93-516)

Section 504 is a civil rights law that prohibits discrimination against qualified individuals with disabilities in public and private programs and activities that receive financial assistance from the federal government. Section 504 guarantees qualified disabled students a free and appropriate public education (FAPE). Compliance for Section 504 is overseen by the U.S. Department of Education Office for Civil Rights (OCR).

B. Whom Does Section 504 Protect?

There are three prongs to consider when determining whether or not a person is disabled. A person is considered disabled if he/she:

Prong 1: Has a physical or mental impairment which substantially limits one or more major life activities. Major life activities include but are not limited to walking, standing, seeing, hearing, breathing, learning, reading, concentrating, communicating, and performing manual tasks. This list of major life activities is not exclusive.

Prong 2: Has a record of such an impairment, or
Prong 3: Is regarded as having an impairment.¹

C. What Ages Does Section 504 Cover?

“With respect to public preschool, elementary, secondary, or adult educational services, a disabled person is qualified for protection under Section 504 if he or she is (i) of an age during which nondisabled persons are provided with such services; or (ii) of any age during which it is mandatory under state law to provide such services to a disabled person within the public school system.” [34CFR 104.3 (k) (2)]

D. Purpose of Section 504 At School: “Leveling the Playing Field”

The goal of Section 504 is to “level the playing field” ensuring that students with a disability have the opportunity to participate in and access the general education curriculum and extracurricular activities to the same extent as an average, non-disabled, peer. The law prohibits the discrimination (e.g. denial of participation or enjoyment of the benefits offered by public school programs) because of a child’s disability. For nondiscrimination to occur, students with a Section 504 Plan must receive appropriate accommodations that level the playing field and ensure equal access to the general education curriculum. Accommodations provided have a direct relationship to evaluation data demonstrating disability-related need so that over-or-under accommodating does not occur, as the goal is to “level the playing field.” A student with a disability, who is covered solely under Section 504, and not IDEA, is entitled to appropriate accommodations, aids, benefits and services to ensure FAPE. If evaluation data reveal that a student is eligible for a Section 504 Accommodation Plan, “placement” on a Section 504 Plan typically means that instruction will continue in the regular education classroom with individually planned accommodations. Furthermore, there is generally no modification of curriculum for Section 504 students.

II. General Guidelines

The Office of Civil Rights (OCR) has stated that the decision of whether a particular impairment substantially limits a major life activity for a child is a determination that is to be made by a school district not OCR.

Measuring learning success is a difficult task. OCR establishes that the standard for substantial limitation of a student’s ability to learn by inference, opining that “by definition, a person who is succeeding in regular education does not have a disability which substantially limits the ability to learn.”

Teams should determine eligibility based on current performance and avoid basing decisions on the prediction of future problems such as transition from one academic setting to another (i.e. elementary to middle school or middle to high school).

Teams should focus on equity not advantage. Teams should not focus on one indicator such as semester grades to determine if a student is substantially limited in the major life activity of

¹ A person who falls under the second or third prong of the definition is protected by Section 504 only when negative action is taken based on the fact that he/she has a “record of” or is “regarded as” disabled. These prongs are meant to reach situations where individuals either never were or are not currently disabled, but are treated by others as if they were. It is the negative action taken based on the perception or the record that entitles a person to protection against discrimination on the basis of the assumptions of others.
learning. Rather, teams should compare student performance to local (district), state, and national averages. Teams should consider, among other things, standardized test scores from state mandated assessments (i.e. FCAT, FAIR, FOCUS) and national norm referenced tests to evaluate the student’s academic performance level.

When faced with students who are performing in the average range on standardized tests, but earning failing grades, the team may need to further investigate the reasons behind the student’s failing grades and consider appropriate interventions. As an example, if a student has failing grades due to poor attendance, the team should develop interventions to address the student’s poor attendance prior to consideration of eligibility for a Section 504 Accommodation Plan.

Teams should be careful to assess whether a student truly has a qualifying disability. Recognize “other factors” that could adversely affect student learning, such as low socioeconomic status, educational disadvantage, poor early instruction, difficult family situation, gang involvement, truancy, and limited English proficiency. Section 504 is not intended to address these types of problems.

III. Procedures

A. Referral: **Type 1** Eligibility Consideration

**Type 1** “Clearly” physical issues and/or temporary physical issues which primarily affect caring for oneself, or another major life activity, and not noticeably affecting learning.

A parent, guardian, teacher and/or other member of the school staff may raise their concern about a student’s unique need for support. In order to respond adequately to the needs of students, the first step should be a meeting between the students’ parents and the teacher. Section 504 Plans may be developed for students with a disability, when there is sufficient medical documentation indicating that there is a need for such services.

**Type 1** Students with medical disorders (e.g. diabetes, seizure disorder, allergies, epilepsy, asthma, orthopedic impairment, etc.) typically will fall under this category and a Health Care Plan may be developed as part of the 504 Plan to sufficiently address their physical needs. If the medical disorder is suspected of impairing a student’s ability to learn, staff should follow the problem solving/response to intervention process.

Reminder: accommodations and services provided must be related to the identified disability.

B. Referral: **Type 2** Eligibility Consideration

Type 2 A pattern of student performance which may indicate the presence of a physical or mental impairment that substantially limits learning or equal access to the school environment that has not been successfully responsive to regular education strategies and interventions using the Problem Solving/Response to Intervention (PS/RtI) model.

Under Type 2, if interventions do not result in sufficient success compared with an average student, a Section 504 evaluation is considered in order to provide sufficient information to the Team to make an eligibility determination. To refer for a Section 504 evaluation, district personnel must have reason to believe that a student is having problems that substantially affect the student’s overall learning or other life activities at school when compared with that of an average student. The district has the obligation to attempt to address these types of problems through documented school-based interventions prior to conducting an evaluation. These intervention procedures will apply to circumstances involving an identified physical or
mental impairment, as well as those where there is a suspicion of an impairment.

C. Collaborative Problem Solving

Schools have the responsibility to address the needs of struggling learners pursuant to Florida law. Students may have academic, behavior and/or attendance difficulties for a variety of reasons, many of which may be unrelated to a disability. A PS/RtI process will help to differentiate students who require more direct instruction from those with a disability substantially limiting their learning. PS/RtI is a fluid process that evaluates the impact of intervention strategies and modifies them as needed based on the identified problem.

D. Evaluation

Schools must conduct Section 504 evaluations for students suspected of having a disability, following the established policies and procedures noted in the referral section. The Section 504 evaluation must take place prior to a Section 504 eligibility decision. The evaluation goal is to provide sufficient information to the eligibility team from a variety of sources so that the possibility of error in classification is minimized. At the same time, the goal of the evaluation activities is to provide information describing the needs of the student (e.g. Does the suspected disability impact the student’s successful access to the school education program and its activities compared to an average student?). This information will allow the Eligibility Team to determine appropriate eligibility and may form the basis for an appropriate accommodation plan.

Evaluation under Section 504 may not require formal testing to determine eligibility. Common information/data for a Section 504 evaluation might include the student file, student’s grades, disciplinary referrals, health information, communication surveys, parent information, standardized test scores, a review of student’s record and work sample, direct observation in school, norm-referenced rating scales, prescriptive assessment results, and interviews with the student, parent, and school personnel.

For Type 1 referrals, informal evaluation procedures will generally be the most common. If medical information is needed, it is requested of the parent. If the parent cannot provide such
medical data and the team deems such medical data as necessary, the school district will facilitate obtaining the medical data.

For Type 2 referrals, prescriptive assessment may be necessary to determine if the areas of concern are having a significant impact on the student’s learning and which have not been sufficiently responsive within the PS/RtI process.

E. Eligibility

For the purpose of determining whether a student is eligible and/or in need of Section 504 Accommodation Plan, using a problem-solving method will facilitate the identification of the severity and the impact of the disability on a major life activity. Under 34 CFR Section 104.35, a district has the obligation to evaluate students who need or are believed to need specialized education or related services because of a disability. In most circumstances, the obligation to evaluate and/or analyze a student’s performance for problems related to a suspected disability is triggered by the parent’s or classroom teacher’s concern that the student has not sufficiently responded to intervention.

The Office of Civil Rights (OCR) states that the decision of whether a particular impairment substantially limits a major life activity for a student is a determination that should be made by the school’s Eligibility Team. The determination of substantial limitation must be made on a case-by-case basis with respect to each individual student. The ADA Amendments Act of 2008 states that the determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measure, such as medication, low-vision devices, hearing aids and mobility devices, with the exclusion of ordinary eyeglasses and contact lenses.

School districts must no longer consider the current use of “mitigating measures” by a student in determining whether the student has a disability under Section 504 based on the ADA Amendment Act of 2008. Mitigating measures are devices or practices that a person uses to correct or reduce the effects of that person's mental or physical impairment.

Initial Eligibility

What steps should be taken in determining an initial eligibility for a Section 504 Plan?

Remember: The Eligibility Team process determines all initial eligibility and dismissal decisions for Section 504.

Eligibility team membership may consist of:

- School Counselor\(^2\)
- Administrator
- ESE Liaison (if appropriate)
- School Psychologist
- School Social Worker
- Teachers(s)
- Parent

Determine additional committee members (including those who are knowledgeable about the

\(^2\) School Counselor (or Principal's designee) is generally the facilitator for this meeting.
student's academic progress and functioning in the academic setting, those who are knowledgeable about the assessment procedures, etc.

**Prior to the Eligibility meeting:**

1. Send notice of meeting to parent/guardian
2. Collect or request available documentation relative to the impairment

**Type 1.** (Students with physical issues) Health Care Plan
- Medical records
- Other relevant information

**Type 2.** (Students displaying difficulties with major life activities which include, but are not limited to, learning, thinking, concentrating, reading, vision, hearing, depression, attention, etc.)
- PS/RtI portfolio
- Prescriptive assessments
- Norm referenced behavior rating scales
- Other relevant information
- Collect current student performance data and information.

School nurse should be consulted to represent the medical needs of the student if appropriate.

**At the meeting:**

1. Review available information regarding the student's current functioning and any additional relevant data.
2. Use the problem solving model to identify the negative impact on performance (Gap Analysis) and its causal relationship to the impairment.
3. Determine if there is an impairment that is having a direct and substantial negative impact on the student’s academic performance as compared to the average student in the general population or is preventing the student from having equal access to the school environment and/or activities.

**Guidelines for Determining Substantial Limitations**

- The determination of substantial limitation must be made on a case-by-case basis with respect to each individual student.
- Consider a student's response to interventions. Make data driven decisions when determining eligibility. If a student is responding to intervention, then he or she may not meet the substantial limitation requirement for a Section 504 Accommodation Plan.
- Students are only eligible under Section 504 if their disability prevents them from benefiting from the school’s programs and activities as compared to the average student in the general population.
- The ADA Amendment Act (2008) states that for eligibility determination, whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as medication, low-vision devices, hearing aids, and mobility devices, with the exclusion of ordinary eyeglasses and contact
lenses. There is no basis for an accommodation plan if a student’s physical or mental impairment currently does not substantially limit a major life activity. This means some students who are eligible under Section 504 will need to be monitored and will not have an actual written accommodation plan. In such cases, review the specific procedures below.

**Eligibility Determination**

If the student has both an impairment and evidence that it is having a direct and substantial negative impact on the student’s academic performance or preventing the student from having equal access to the school environment and/or activities:

- Complete the appropriate 504 forms (Eligibility Form, Accommodation Plan, and if necessary Test Accommodation Sheet) and distribute as indicated.
- Give parent/guardian a copy along with *Notice to Parents - Rights Afforded By Section 504 of the Rehabilitation Act of 1973.*

If the student has an impairment, yet there is no evidence that it is currently having a direct and substantial negative impact on the student’s academic performance or preventing the student from having equal access to the school environment and/or activities (for example, a student who has an impairment which is being successfully alleviated by mitigating measures):

- Complete the 504 Eligibility Form documenting the impairment.
- In this situation, students would not have a written Accommodation Plan but should be monitored to ensure that the impairment does not substantially impact their academic performance or prevent them from having equal access to the school environment and/or activities. The Eligibility Team should determine the appropriate frequency and method for monitoring the student’s progress (which is most often facilitated through quarterly progress reports). If a pattern of declining performance develops, the Eligibility Team should review the relevant data and consider implementing the PS/RtI process.
- Give parent/guardian a copy along with *Notice to Parents - Rights Afforded By Section 504 of the Rehabilitation Act of 1973.*

If an impairment is episodic or in remission, it should be considered a disability if it would substantially limit a major life activity when active (i.e. sickle cell anemia, cancer, depression, etc.). In such cases:

- Complete the 504 Eligibility Form documenting the impairment.
- If there is no evidence that it is currently having a direct and substantial negative impact on the student’s academic performance or preventing the student from having equal access to the school environment and/or activities the student would *not* have a written Accommodation Plan but should be monitored.
- If there is evidence of a direct, current, and substantial impact an Accommodation Plan should be written.
- Give parent/guardian a copy along with *Notice to Parents - Rights Afforded By Section 504 of the Rehabilitation Act of 1973.*

If the student has no evidence of an impairment:

- Complete the *Informed Refusal To Take A Specific Action Regarding Section 504 of the Rehabilitation Act of 1973* form and distribute as indicated.
• Give parent/guardian a copy along with Notice to Parents - Rights Afforded By Section 504 of the Rehabilitation Act of 1973.

After the meeting:

1. Ensure that the student’s current teachers (and significant stakeholders, as appropriate) are aware of the meeting outcomes and, if necessary, provided with a copy of the 504 Plan and/or Test Accommodations).

2. If the student is found eligible, make the appropriate entries on the electronic student record keeping system.

3. Please file original documents (e.g., Eligibility Team notes, 504 Plan, Documentation of impairment, etc.) in the student records.

Common Errors in Identification, Eligibility Decisions, and Compliance Issues

• Basing eligibility solely on a medical diagnosis with no substantial impairment
• Ignoring the need to establish a direct link between the physical/mental impairment and the appropriate (and needed) accommodations.
• Ignoring the substantial limitation requirement relative to the “average” person in the general population
• Failing to monitor and review when necessary
• Failure to recognize and address “other factors” that could adversely affect a student’s learning prior to considering Section 504 eligibility
• Developing a Section 504 Plan to solely improve average grades, raise high-stake test scores, provide additional test time when unwarranted, or reduce homework responsibilities
• Basing eligibility on predictions of future student performance or anticipation of future needs Over identification by providing Accommodation Plans for students who do not have a qualifying disability
• Failing to provide copies and an explanation of Accommodation Plan to everyone responsible for implementation.

F. Accommodation Plan

Accommodation Plans are one of the keys to delivering effective education programs for qualified students with a disability. These involve a wide range of strategies and supports that accommodate students with limitation(s) resulting from their disability. The goal of accommodations is to “level the playing field” ensuring that students with a disability have the opportunity to participate and access the general education curriculum and extracurricular activities to the same extent as an average, non-disabled peer. In accordance with Section 504 guidelines, the school is required to provide necessary services and related aides. Throughout this manual, these services and related aides will be referenced as “reasonable accommodations”. Accommodations a student will receive are individualized. Furthermore, they have a direct relationship to data that demonstrates the disability-related need. It is critical that appropriate data be collected to determine student needs:

• Accommodations must be based on information and data used in the evaluation and eligibility determination process.
• The plan should indicate how, where, and by whom the accommodations will be provided.
• The plan may include accommodations for the school building or classroom, extracurricular activities, administrative adjustments, academic and instructional accommodations, and/or testing accommodations.
• The same types of accommodations should be provided for both classroom assignments and assessments. Accommodations for testing, both classroom and standardized, must be addressed when developing the plan and these testing accommodations specified in the plan. Any approved standardized testing accommodations (i.e., FCAT, College Board, ACT, etc.) must also be consistent with what is outlined in the test administration manual.
• Students with only a Section 504 Plan are not eligible for an FCAT waiver for the purposes of meeting high school graduation requirements. Consideration for an FCAT waiver can only be made if the student has a disability documented on an Individual Education Plan (IEP) under the Individual with Disabilities Education Improvement Act.
• Types of accommodations:

<table>
<thead>
<tr>
<th>CLASSROOM ACCOMMODATIONS</th>
<th>TESTING ACCOMMODATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Instruction</td>
<td>Changes to Presentation Format</td>
</tr>
<tr>
<td>Organization/Management</td>
<td>Change to Test Procedures</td>
</tr>
<tr>
<td>Environmental</td>
<td>Change to Response Mode</td>
</tr>
<tr>
<td>Materials/Equipment</td>
<td>Change in Setting</td>
</tr>
</tbody>
</table>

G.504 Review Procedures

The annual review meeting should be conducted on or before the anniversary date of the preceding plan (original or review). The review sheet is designed to be used for subsequent years following the original eligibility. If significant changes occur (e.g. change of schools, expulsion, serial suspensions that exceed ten days in a school year, and/or significant change in the delivery of educational accommodations), the development of a new plan should be considered.

Prior to the meeting:

1. Send notice of meeting to parent/guardian (see forms section)
2. Determine the appropriate team members. If necessary, the school nurse should be consulted to represent the medical needs of the student.
3. Collect or request school performance data necessary to determine the student’s continued need for a Section 504 Plan/Accommodations.

3 To be eligible for accommodations on standardized students must also require and use testing accommodations in the classroom setting.
At the meeting:

1. Review pertinent information regarding the impairment and the student’s academic progress and functioning in the academic setting.

2. Determine if the student continues to be in need of Section 504 Accommodations. If the team determines that the student no longer needs accommodations, remember to consider the effects that the accommodations may have had on his or her academic performance. For example, if a student’s “average functioning” is directly related to the accommodations provided by the Section 504 Accommodation Plan, then the student should continue to receive these accommodations.

If YES:

- Complete the appropriate 504 review form
- Distribute the 504 review form and Accommodation Plan to appropriate stakeholders as necessary
- Give parent/guardian a copy along with Notice to Parents - Rights Afforded By Section 504 of the Rehabilitation Act of 1973.

If NO:

1. Complete the appropriate 504 review form
3. Monitor student progress and if a pattern of declining performance develops, the appropriate team (i.e., PLC or School Wide Support Team, Eligibility) should review the relevant data and consider the PS/RtI process.

After the meeting:

1. Notify the parent/guardian (if not present). Send parent/guardian a copy along with Notice to Parents - Rights Afforded By Section 504 of the Rehabilitation Act of 1973.
2. Ensure that the student’s current teachers (and significant stakeholders, as appropriate) are aware of the meeting outcomes and provided with a copy of the 504 Plan and Test Accommodations.
3. Please file original documents (504 Plan, Documentation of impairment, etc.) in the student records.
4. If the student is found to no longer be in need of an accommodation plan, make the appropriate entries in the student record keeping system.

H. Dismissal

Dismissals from Section 504 eligibility should be considered when a student no longer has an identified impairment.

I. Section 504 Transfer Procedures

After reviewing the existing 504 Plan, determine if the plan can be implemented as written or if an immediate team meeting is necessary to discuss the appropriateness of the accommodations.

When reviewing the available student information, determine if the documentation of the
impairment appears sufficient; provide appropriate accommodations from the existing plan and collect relevant information for use in the review meeting. If the documentation of the impairment is not sufficient, appropriate prescriptive assessment(s) should be considered and utilized in determining need for interventions/accommodations or dismissal.

A review meeting needs to be conducted with parent involvement within the first nine weeks of enrollment. The team should be composed of those who are knowledgeable about the student’s academic progress and functioning in the academic setting. If an impairment is present but there is no evidence of current substantial limitation affecting learning or equal access to the learning environment, eligibility should be documented and monitoring initiated.

**J. Temporary Impairment**

If a temporary impairment is physical (e.g. broken dominant hand) and will substantially limit a major life activity (e.g. performing manual tasks) Section 504 eligibility can be established and a Section 504 Accommodation Plan can be written. During the eligibility meeting, a date for review and possible dismissal should be established based upon the estimated length of the temporary impairment.

**K. Discipline/Manifestation Determination**

Discipline practices for a student with a disability should be determined on a case-by-case basis. Under each circumstance, it is important that students with disabilities should not be discriminated against nor should they be punished for behavior that was caused by or was a “manifestation” of their disability.

A manifestation determination must be conducted when a Section 504 eligible student commits a violation (or violations) which results in excess of 10 cumulative days of suspension (including in-school suspension if student is removed from the educational program and/or there’s failure to provide services as specified in the student’s accommodation plan) or when expulsion is being considered.

At this meeting, the team (including the parents/guardians, those who are knowledgeable about the, and those who are knowledgeable about the assessment procedures):

- Review student’s academic progress and functioning in the educational setting, student records, and any additional pertinent data.
- Will determine if the student’s misconduct was a manifestation of his/her disability. The Team decision is documented on the Manifestation Determination form.
- File original Manifestation Determination form in the student records and provide copies to parent/guardian and other appropriate staff.
- Provide parents with a copy of the Notice to Parents - Rights Afforded By Section 504 of the Rehabilitation Act of 1973 and Procedural Safeguards For Section 504.

If it is determined that the misconduct is related to the disability, a review meeting needs to be conducted with parent involvement to consider if the Section 504 Accommodation Plan should be modified and/or additional assessments are needed.

If it is determined that the misconduct is not related to the disability, the school may initiate normal disciplinary procedures.

**L. Drug and Alcohol Offense**

For a student with a disability who is currently engaged in the illegal use of drugs or alcohol, a
school district may take any disciplinary measure pertaining to the use or possession of illegal 
drugs or use of alcohol as is taken for students without disabilities. No manifestation 
determination or due process procedures are required. However, a student with a disability who 
is not currently engaged in the illegal use of drugs or alcohol who commits a drug/alcohol 
offense, such as possession, sale, or distribution of drugs or alcohol, is afforded Section 504 
and ADA protection, including the right to an evaluation of whether the behavior is related to the 
disability and the right to due process.

IV. PROCEDURAL SAFEGUARDS FOR SECTION 504

A. General Information

Established procedural safeguards with respect to actions regarding the identification, 
evaluation, or educational placement of students with a disability shall include the following as 
indicated under Section 504 [34 CFR 104.36]:

- Notice
- An opportunity for the parents or guardian to examine relevant records
- An impartial hearing with the opportunity for participation by the student's parents or 
guardian and representation by counsel
- A review procedure

Schools must annually do the following:

- Identify and locate all children in the district's jurisdiction who are eligible under Section 
  504 and are not receiving a public education [34 CFR 104.32 (a)]
- Notify students with disabilities and their parents or guardians of the district's 
  responsibility under Section 504 [34 CFR 104.32(b)]

B. Provision of Notice

To be in compliance with Section 504’s notice provision, educational institutions must provide 
public notification of their policies of nondiscrimination, identify the person who coordinates 
compliance within the institution, and adopt grievance procedures.

Procedural safeguards are established to insure that parents and guardians are fully informed 
concerning decisions involving their child and to inform them of their rights. These safeguards 
include the following:

- Taking part in and receiving benefits from public education programs without 
discrimination because of disability [34 CFR 104.33 (a)]
- Receiving notice of rights under this federal law (34 CFR 104.36)
- Receiving notice with respect to identification, evaluation, or placement (34 CFR 104.36)
- Receiving a free appropriate public education with non-disabled students to the 
  maximum extent appropriate [34 CFR 104.34(a)] (it also includes the right to have the 
  school district make reasonable accommodations to allow an equal opportunity to 
  participate in school and school-related activities [34 CFR 104.33(b)])
- Being educated in facilities and receiving services comparable to those provided to non-
  disabled students [34 CFR 104.34(c)]
• Having the right to an appropriate education designed to meet individual educational needs as adequately as the needs of non-disabled students [34 CFR 104.34(a)]

• Having evaluation, educational, and placement decisions made based on a variety of information sources and by a group of persons, including persons who know the student, the evaluation data, and placement options [34 CFR 104.35(c)]

• Having transportation provided to and from an alternative placement setting at no greater cost than would be incurred if the student were placed in a program operated by the district [34 CFR 104.33(c)]

• Having the right to an equal opportunity to participate in nonacademic and extracurricular activities offered by the district [34 CFR 104.34(b)]

• Examining all relevant records relating to decisions regarding your child's identification, evaluation, educational program, and placement [34 CFR 104.36]

• Requesting an impartial due process hearing and/or mediation related to decisions or actions regarding identification, evaluation, educational program, or placement [34 CFR 104.36]

• Filing a local grievance with respect to alleged disability discrimination with the district’s designated 504 contact [34 CFR 104.36]

C. Grievance and Hearing Procedure

Parents who have a complaint relating to the identification, eligibility, evaluation or educational placement of their child may request mediation. Mediation is not a federal or state parental right under Section 504. If mediation is requested, both parties must agree to enter into the mediation and neither party waives the right of due process.

In addition, any parent may file a Section 504 Due Process Request form with the school. The school will convene a due process hearing within fifteen (15) days, not including school holidays or days when school is closed.

The United States Department of Education, Office of Civil Rights (OCR) is responsible for enforcing Section 504. OCR investigates complaints and will attempt to informally settle the complaint. In addition, OCR conducts periodic compliance reviews and provides technical assistance. There are twelve regional offices located throughout the nation. For information go to: http://www.hhs.gov/ocr

D. Due Process Standards to Handle Grievance Questions

Section 504 regulations direct school districts to adopt grievance procedures that incorporate due process standards and provide “prompt and equitable resolution” of any complaints regarding pure discrimination. What precisely is required is up to the school district. 504 regulations provide no assistance to school districts, but best practice is typically found to be the use of the district’s formal grievance procedure for other complaints of discrimination. With respect to such procedures, the OCR provided some guidance in Hayward (CA) Unified School School, 23 IDELR 107 (OCR 1995). The OCR stated a compliant grievance procedure should include the following:

• Reasonable time frames

• The opportunity to present evidence
V. Section 504 Due Process Request

Directions: This form should be completed by individuals who wish to request a Section 504 Due Process Hearing and/or Section 504 Mediation. Please complete, sign, and submit a copy of this form to the Director of Human Resources.

I ______________________, the undersigned, do hereby request a:

☐ Section 504 Due Process Hearing;
☐ Section 504 Mediation;
☐ Section 504 Due Process Hearing pending the outcome of the Mediation.

Please use the space below to write a description of the issue(s) of your complaint. You may attach an additional sheet of paper if more space is needed.

____________________________________________________________________
____________________________________________________________________
____________________________________________________________________

Please use the space below to write a proposed resolution of the problem or issues. You may attach an additional sheet of paper if more space is needed.

____________________________________________________________________
____________________________________________________________________
____________________________________________________________________

Student Information:

Date of Request:____________________

Last Name:____________   First Name:____________   Middle Initial: _____

Date of Birth:_______  Student Grade:__________  Student’s Address: __________________________

Home Phone Number:____________  Alternate Phone Number: ______________

Complaint submitted by:______________  Relationship to student: ______________
IEP Teacher Input Form

Your student, ____________________________, is scheduled for an IEP on _______________. You play a vital role as an IEP team member. Your input and observations are required in order for this IEP to be accurate. Please bring student work samples to the IEP meeting as they provide accurate and reliable data. If you cannot attend the meeting, please attach the data to this sheet for the case manager to discuss on your behalf. Please return this form to Ms. Bennett no later than 3 days before the scheduled date above. Thank you!

**Academic and Functional Performance:** (i.e. Academic examples - describe classroom habits, ability to complete work, stays on task;)

**Student’s Strengths, Preferences, and Interests:** (i.e. likes to read, strong math skills, leadership qualities)
Behavioral Performance: (i.e. does behavior prevent learning of self and/or other students – if yes, describe)

Date and list most recent assessment scores of any form:

Math: ______________________ Date_____________ Score__________
(assessment)

English: ____________________ Date_____________ Score__________
(assessment)

Science: ____________________ Date_____________ Score__________
(assessment)

Any additional comments:
STUDENT SUPPORT TEAM &
504 Manual
What is the Student Support Team?

The Student Support Team (SST) is a joint effort of regular education and special education to identify and plan alternative instructional strategies for children prior to or in lieu of a special education referral. Each building level team is comprised of such persons as administrator, classroom teacher, requesting teacher, special education teacher, counselor, school psychologist, special education resource person, school social worker or central office personnel. Parental involvement is also a critical part of the Student Support Team process.

This interdisciplinary group which plans for interventions in a student’s education program shall engage in a six-step process to include: (1) identification of needs, (2) assessment, if necessary, (3) academic and/or behavior plan, (4) implementation, (5) follow-up and support, and (6) continuous monitoring and evaluation.

Students who are experiencing difficulties, in a number of areas, benefit from the activities of the Student Support Team. This includes students who are experiencing a lack of progress as well as those students who are in need of a more challenging academic program. At any time during this process, if the team has sufficient evidence that the student has a disability, the team should determine whether an evaluation or 504 Plan is necessary. For students with obvious severe disabilities and/or crisis and for whom delay of referral to special education or other supplemental or support services would be detrimental to the student, the SST may bypass implementation of alternative strategies prior to referral. The reason(s) for bypassing this process must be clearly documented.
Functions of the Student Support Team

The committee discusses, develops and implements research based interventions for teachers/staff. The Student Support Team is an intervention process for teachers and parents that provides an avenue for student success.

The Student Support Team strives to continuously:

- **PROVIDE** professional collaboration and cooperation;
- **ALLOW** professional dialogue;
- **ANALYZE** the problem/concern;
- **PROVIDE** research based interventions;
- **REVIEW/DISCUSS** academic, emotional, behavioral, medical or adjustment problems the student may experience;
- **DEVELOP** a written academic and/or behavior intervention plan;
- **DETERMINE** appropriateness of Section 504 accommodations;
- **ALLOW** parental & community involvement;
- **DETERMINE** the necessary intervention services;
- **OBSERVE** and document the success of the strategies and the student’s performance;
- **DETERMINE** if changes in the student’s academic and/or behavior intervention plan are necessary;
- **OBTAIN** appropriate resource assistance; and
- **FACILITATE** SUCCESS!!!!

Goals of the Student Support Team

The goal of the Student Support Team is to strengthen and support the individual student by developing and implementing an intervention using strategies that are school-based or community-based depending on the availability of resources most likely to enhance the student’s success.

Most importantly, the interventions involve school personnel, families, and/or individuals from the community in the intervention plan. The SST then manages the fulfillment of those interventions identified in the joint decision-making 6 Step process and may make changes to the intervention plan as often as necessary depending on the progress of the student.
Which student should be referred for SST?

- Student candidates who have serious difficulties in academics and/or behavior;
- Student candidates for administrative placement or retention (must be referred no later than the second week of February);
- Students previously referred to Special Education but found ineligible for services; and
- Students from Special Education who no longer need or are ineligible for services.

What is the parental involvement in the SST meetings held on their child?

- Parents should be invited to all SST meetings held on their child (*an invitation must go home and a copy must be placed in the student’s cumulative folder*).

What should be brought to the SST meeting?

- State Assessment Results;
- Permanent Record Folder;
- Current grades, Discipline report, Attendance report
- Analyzed Work Samples;
- Parent conference notes & contact information;
- Anecdotal records;
- Medical information including but not limited to vision & hearing test;
- Parent Consent for SST Screening;
- Intervention tracking and progress monitoring data.

Who provides instructional support to the SST?

- Classroom Teacher(s) who works with the student;
- Subject Area Specialist;
- Special Education Teacher (as needed);
- Speech/Language Pathologist (as needed);
- School Psychologist (as needed);
- School Administrator;
- Building Level SST Coordinator (school counselor);
- Social Worker (as needed);
- ELD Teacher (as needed);
- Intervention Paraprofessional/aide
- Student, if appropriate;
- Other appropriate personnel.
Can the SST ever be waived?

Yes, school personnel and parents/guardians may determine that there is a reasonable cause to bypass the SST process for an individual student. Documentation in the student’s record shall clearly justify such action, including whether the parent or guardian agreed with such a decision. In cases where immediate referral is sought, the SST shall still determine what interim strategies, interventions, and modifications shall be attempted for the student.

What happens to SST case once it is closed?

- The SST plan will be sent with the permanent record; and
- For students found eligible for Special Education, the SST folder becomes the Special Education folder.

During the implementation of interventions, the student’s progress is observed and documented. It is vital that all team members, especially the implementers, acknowledge the fact that remediation usually takes time to be effective. If possible, involve the student in monitoring his/her progress.

Before a recommendation for retention is made, a student must receive the benefit of the Student Support Team process. The Student Support Team should provide information to assist in the retention decision. A referral to the SST must be made no later than the second week of February for all students recommended for retention.
<table>
<thead>
<tr>
<th>Activity</th>
<th>Building Level Supervisor (Head of School)</th>
<th>School Level Coordinator (counselor)</th>
<th>Subject Area Specialist</th>
<th>Parent</th>
<th>Referring Teacher</th>
<th>Others</th>
</tr>
</thead>
<tbody>
<tr>
<td>Notify School Level Coordinator (counselor)</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Notify Building Level Supervisor (principal)</td>
<td></td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Provide School Level Coordinator (counselor) with SST Forms</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Provide Teacher with SST Forms</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Initial Referral Checklist</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Notify &amp; Schedule Initial &amp; Follow Up Meetings</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Gather Work Samples</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X Other teachers</td>
<td></td>
</tr>
<tr>
<td>Review Information (meeting)</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Develop Intervention Plan (meeting)</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Implement Intervention Plan (IAP)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X Other teachers</td>
<td></td>
</tr>
<tr>
<td>Progress Monitoring Data &amp; Graph</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Complete Behavior Checklist</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td>X Other teachers</td>
<td></td>
</tr>
<tr>
<td>Monitor Implementation of Intervention</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X Other teachers</td>
<td></td>
</tr>
<tr>
<td>Maintain &amp; Monitor School Level SST Data</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td>X Assistant Superintendent &amp; SpEd Director</td>
<td></td>
</tr>
<tr>
<td>Obtain Parental Consent for Special Education Evaluation IF NEEDED</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X SpEd Lead Teacher</td>
<td></td>
</tr>
<tr>
<td>Submit Referral Package to School Psychologist &amp; SpEd Lead Teacher</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td>X SpEd Lead Teacher</td>
<td></td>
</tr>
</tbody>
</table>
SST Procedures

Referring a student

1. Referring Teacher or parent notifies building level SST Coordinator (counselor) that a student is experiencing unresolved problems in school.
2. Building level SST Coordinator (counselor) provides referring teacher with the following documents to complete:
   - SST Referral;
   - Consent for SST Screening
3. The referring teacher completes above forms prior to meeting.
4. The referring teacher discusses the case with the building level SST coordinator (counselor) and submits all SST forms to the building level SST coordinator. Building level SST coordinator ensures referring teacher concerns have been communicated with parent(s) prior to referral.
5. If forms are complete, the building level SST coordinator (counselor) establishes the SST file on the student (if forms are not complete, the building level coordinator returns forms to the referring teacher for completion/correction);
6. Referring teacher sends SST meeting invite home to parent(s). Parent(s) should receive a 10 (calendar) day notice of meetings. A copy of notification should be placed in the child’s SST file.
7. The referring teacher sends school level invitation within 10 calendar days (minimum 3 team members). This invite may be in the form of a calendar invite.

School level specialist may include:

- Classroom Teacher(s) who works with the student;
- Subject Area Specialist;
- Special Education Teacher (as needed);
- Speech/Language Pathologist (as needed);
- School Psychologist (as needed);
- School Administrator;
- Building Level SST Coordinator (school counselor);
- Social Worker (as needed);
- ELD Teacher (as needed);
- Intervention Paraprofessional/aide
- Student, if appropriate;
- Other appropriate personnel.
Waiving the SST Process

Exceptions may be made in circumstances where immediate evaluation and/or placement in special education is required due to a significant disability that precludes access to instruction. The exception noted should be an infrequent and rare occurrence. The circumstances evidencing the need for the school’s use of the exception and whether the parent or guardian agree with such a decision must be clearly documented in the student’s record and in the special education eligibility.

Initial SST meeting

1. The building level SST coordinator (counselor) or designee serves as the recorder for all meetings. Refrain from making diagnoses or judgment statements in SST paperwork. The student’s problems should be clearly defined in objective language.
2. Referring teacher reviews information from SST Referral Form:
3. Team develops Individual Academic Intervention Plan using research based interventions specifically related to student’s problem (plan should be written at meeting).
4. If not previously returned, obtain Parental Consent for SST Screening sent to parent/guardian or request if parent/guardian is present.
5. A copy of students’ SST Intervention Plan (IAIP) must be provided to teacher(s) and parent(s).
6. Referring teacher should schedule date for follow up meeting (8-12 weeks).

Implementing the Individual Academic Intervention Plan

1. Interventions implemented in the classroom immediately following the development of the (IAIP). 8-12 weeks per intervention; if not successful, at 4 weeks may change intervention but cycle begins over. Teacher(s) is responsible for intervention tracking and progress monitoring data: graph with aim line and trend line showing – plotting over time.
2. Referring teacher sends follow up meeting reminder letter to parent and all SST members. Copy of follow up invite is to be placed in student’s SST file.
Follow up SST Meeting

1. The building level SST coordinator or designee serves as the recorder.
2. Review IAIP tracking forms and discuss whether student is on track to reach goal. 8-12 weeks per intervention; if not successful, at 4 weeks may change intervention but cycle begins over. Teacher(s) is responsible for intervention tracking and progress monitoring data: graph with aim line and trend line showing – plotting over time.
3. Discuss results of hearing and vision screenings.
4. Review new information and work samples.
5. Use the Cycle of Inquiry Process to determine next steps.
6. Referring teacher schedules follow up meeting (8-12 weeks).
7. Referring teacher provides copy of the Individual Academic Intervention Plan (IAIP) to appropriate individuals.

Dismissing Student from SST

1. SST Coordinator documents intervention goal has been met on IAIP.
2. Teachers have no further academic concerns.
3. SST makes decision to stop SST for the student, document in plan.
4. SST folder is purged with student’s permanent folder.

Supervision and Monitoring

- District leaders in collaboration with Head of School will ensure that SST is using the data-driven problem-solving process by providing ongoing professional development on the: organization of paperwork, clear definitions of roles and responsibilities, processes, procedures and legal aspects of SST.
- SST Coordinator will monitor the students being referred to SST by collaborating with the referring teacher upon consideration of referral using the referral checklist.
- Head of School will complete quarterly SST compliance checks using the Checklist for Compliance form.
- District leaders will monitor SST procedure compliance by conducting two random audits per school each year of randomly selected SST files.
- Director of Special Education will monitor success of the SST process by monitoring placement rate for initial referrals to special education, i.e., high percentage of referrals to special education being found eligible.
Referring Student for Special Education Evaluation

In most cases a SST recommendation for SST screening and/or psychological evaluation will not occur prior to the development, implementation and monitoring of research-based interventions to address the specific concerns presented about a student. However, it is important to remember that at any point, SST must proceed in a manner that addresses the presenting needs of the student in an educationally sound manner. All referrals must begin with the SST and be documented in the SST intervention plans. SST plans must be implemented until an initial Individual Education Plan is written.

1. SST will collaborate with the SpEd lead teacher when considering referral to special education.

2. SST Coordinator submits the SST folder with required documentation as outlined on the Assessment Plan to the SpEd lead teacher. This form must accompany the referral packet.

3. SpEd lead teacher will explain Parental Rights to parent or guardian through Procedural Safeguards.

4. SpEd lead teacher will add student to SEIS.

5. SpEd lead teacher will obtain signatures on the Consent for Evaluation (SEIS). Date that signed Consent for Evaluation is received by school personnel is the date that starts the timeline.

6. SpEd lead teacher will upload the SST plans to the doc tab in SEIS. Title of attachment should be “SST”.

7. SpEd lead teacher will add the referring teacher, school psychologist and/or speech language pathologist (as appropriate) as a team member in SEIS and will notify each via email regarding the request for an evaluation (administrators have access to all students in SEIS).

8. SpEd lead teacher, school psychologist and/or the speech language pathologist are responsible for monitoring the timeline using the SEIS day counter on the timeline page. Referring teacher (general ed) should also monitor the timeline by checking SEIS profile page.

Timeline: The initial evaluation must be completed within 60 academic calendar days from the date the parents sign permission for the evaluation. When permission is given for the initial evaluation and less than 30 days of school are left in the school year, the school still has 60 days to complete the evaluation. The 60-day count stops when the teachers finish for the school year and starts again when they return for the new school year. It is important to note that when school is closed for more than 5
days for holidays or other breaks, those days and the weekends before and after do not count in the 60 days allowed for the initial evaluation.

9. Building level administrators and the Director of SpEd will monitor timelines monthly using SEIS reports as well as the administrative dashboard.

10. Speech and Language Pathologist, and School Psychologist will maintain a referral log in order to monitor compliance of timelines. The referral log is to be submitted to the SpEd Director on the 15th of each month.

11. SpEd lead teacher will be responsible for inputting SST information into the eligibility report in SEIS.

12. School Psychologist will complete a psychological evaluation (if required) and will be responsible for interpreting and inputting the results into the eligibility report in SEIS.

13. Speech Language Pathologist will conduct a speech evaluation (if required) for articulation, language and/or voice. The SLP will be responsible for interpreting and inputting the results into the eligibility report in SEIS.

14. Tier 3 interventions must continue until eligibility is determined.

15. SpEd lead teacher in coordination with the SLP, school psychologist, and parent/guardian will establish a data/time/location for the initial eligibility meeting. Meeting must take place within 60 days of school personnel obtaining the signed Parental Consent for Special Education Evaluation.
Re: Individuals with Disabilities Education Act (IDEA, 2004)

IDEA is the federal legislation which governs special education and related services, particularly funding and eligibility. Although the Student Support Team process is not mandated by IDEA, SST members must have some general knowledge about the requirements of the law in order to make informed decisions when considering referrals to special education. However, Response to Intervention is referenced as one option in the eligibility determination process for students with specific learning disabilities. In addition, the regulation outlines several exclusionary factors that must be considered before determining that a child has a disability: 1) Lack of appropriate instruction in reading, including the essential components of reading instruction as defined in section 1208(3) of ESEA; 2) Lack of appropriate instruction in mathematics; and/or 3) Limited English proficiency. RTI and SST practices help ensure that children suspected of having a disability have indeed had access to appropriate instruction. It is important to note that it is not up to SST members to judge whether a student would or would not qualify for a category as a factor in their decision to refer. That is for the IDEA eligibility team to answer after a comprehensive, individualized evaluation by a multidisciplinary evaluation team. The role of the SST is to answer a basic question regarding a student with learning or behavior difficulties. That is, can this difficulty be resolved in a reasonable time with proven interventions in the regular classroom? Federal regulations for IDEA require that, in order to be referred for a special education evaluation, not only must 1) a disability be suspected as the source of the student's problem, but also 2) the student's identified difficulties must be judged to be unable to be resolved without a special education program.
Overview of Section 504 of the Rehabilitation Act of 1973

Congress prohibited discrimination against persons with disabilities in the Rehabilitation Act of 1973, in a segment most often referred to simply as "Section 504." This is a broadly worded prohibition that covers both children and adults. The principles enumerated in this section were later expanded and served as the basis for the 1990 Americans with Disabilities Act (ADA). Additionally, the ADA Amendments Act of 2008 also amended some definitions of Section 504. Section 504 of the Rehabilitation Act is a federal civil rights law and prohibits discrimination by school districts receiving federal financial assistance against persons with disabilities. Included in the U.S. Department of Education regulations for Section 504 is the requirement that students with disabilities be provided with a free appropriate public education (FAPE). These regulations require identification, evaluation, provision of appropriate services, and procedural safeguards in every public school in the U.S.

Section 504 prohibits discrimination against individuals whose physical or mental impairment substantially limits one or more major life activities, including:

- Caring for one’s self
- Performing manual tasks
- Walking
- Seeing
- Hearing
- Speaking
- Breathing
- Working
- Learning

"Physical or mental impairment" was defined to mean:

(A) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; muscular-skeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genitourinary; 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." (34CFR 104, p336-337)

Further, the ADA Amendments Act of 2008 clarified that:

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

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as-
(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; 
(II) reasonable accommodations or auxiliary aids or services; or 
(IV) learned behavioral or adaptive neurological modifications. 
(ii) The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity. 
(iii) As used in this subparagraph-
(I) the term 'ordinary eyeglasses or contact lenses' means lenses that are intended to fully correct visual acuity or eliminate refractive error; and
11) the term 'low-vision devices' means devices that magnify, enhance, or otherwise augment a visual image. 

ADA Amendments Act Sec. 4

Examples of impairments which may entitle an individual to 504 protections include:

• diseases such as AIDS, tuberculosis, or hepatitis B;  
• medical conditions such as chronic asthma, diabetes, heart disease, juvenile arthritis, or seizure disorder; physical disabilities such as cerebral palsy or muscular dystrophy; 
• Attention deficit disorder with or without hyperactivity; 
• alcohol/drug addicted students (does not protect individuals who are currently using drugs or alcohol); • students with temporary disabilities; and 
• students with pregnancy related complications. 

It is important to remember that the presence of one of these conditions in itself does not qualify an individual for 504 protections. The impairment must also cause a substantial limitation of a major life activity. 

Importantly, the federal regulations for Section 504 went further by prohibiting discrimination against any person who "has a record of such an impairment" or who "is regarded as having such an impairment." In so many words, this refers to persons who are treated as if they have the impairment, even if they no longer do, or never did. These phrases were defined in the same regulations as follows: 

Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities." (emphasis added) 

Is regarded as having an impairment means (A) has a physical or mental impairment that does not substantially limit major life activities but that is treated by a [funding] 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 an
impairment; or (C) has none of the impairments defined in... this section but is treated by a [funding] recipient as having such an impairment." (emphasis added)

It is important to note that the second and third prongs of Section 504 (has a record of or is regarded as having an impairment) do not guarantee accommodations to the individual. These prongs simply afford the individual with protection from discrimination.

Eligibility and Evaluation

IDEA is an education law that offers supplemental funding for services to students with very specific educational disabilities. IDEA defines as eligible only those students who have specified types of educational disabilities and who, because of one or more of those conditions, need special education and related services. Section 504, however, protects all qualified students with disabilities, defined as those persons having a physical or mental impairment which substantially limits one or more major life activities. Section 504 covers all students who meet this definition, even if they do not fall with the IDEA categories and even if they do not need specially designed instruction.

An example of a student who may be protected under Section 504, but who may not be eligible under IDEA, is one who has juvenile arthritis (or any other crippling joint disease) but who does not require special education in order to receive FAPE. This student may be disabled because of a health impairment that substantially limits a major life activity (lack of physical strength). This student may have limited strength, and may not be able to carry a heavy backpack full of books home each night. In order to fully access the regular education program, the district may determine that it is necessary to provide an extra set of books for the student to keep at home during the school year. This would constitute a 504 accommodation.

If a school district has reason to believe a student may have a disability as defined under Section 504 and may require special accommodations in the general education setting, the district must evaluate the student. If the student is determined to be eligible under Section 504, the district must develop and implement a plan for the delivery of all services. For example, in the case of the student with juvenile arthritis, the evaluation might consist of medical documentation of the diagnosed disability and a statement of the impact of the disability on physical strength, with observations of functioning in the school setting.

Services

The determination of the services needed must be made in accordance with evaluation data by a group of persons knowledgeable about the student. The team should review the nature and presence of the disability, how it affects the student's access to the educational process, whether accommodations are needed to prevent discrimination, and they must make decisions about the provision of those accommodations. The decisions about 504 eligibility and services must be documented in the student's file and, if services are provided, eligibility and the plan for services should be reviewed periodically (as determined by the team).
For a student with juvenile arthritis who has difficulty writing, Section 504 services might be the provision of a typing course and the use of a typewriter/word processor to improve writing speed and legibility, or to provide a less painful means of writing. For a student with sickle cell anemia, perhaps a modified class schedule is needed to accommodate the student's stamina. Other examples of 504 accommodations might be administration and monitoring of medication, assistance in agency referrals, use of a student journal of assignments, increased parent communication, or an increase in number of excused absences for health reasons.

**Parent Notice**

It should be noted, under Section 504, that the parent or guardian must be provided with notice of actions affecting the identification, evaluation and placement of the student. While there is no requirement that the parent has the right to participate in making these decisions, most districts do invite the parent/guardian to meetings where these decisions are being made. Parents are entitled to an impartial due process hearing if they disagree with district decisions in these areas.

**Summary**

It is important to remember that some students who have physical or mental impairments which substantially limit their ability to participate in the educational program are entitled to rights under Section 504/ADA, even though they may not fall into IDEA categories and are not eligible for services under the law.

Section 504 is **not** an aspect of special education. Rather, it is a civil rights law and therefore is the responsibility of the comprehensive general education system. As such, superintendents and building administrators are responsible for its administration within districts. Funds from IDEA may not be used for the express purpose of meeting only the Section 504 requirements.
SST RESOURCES

TBD
**page 3 left intentionally blank**
STANDARD AGREEMENT OR MEMORANDUM OF UNDERSTANDING

SECTION I: To be completed by Program
Program: El Dorado Charter SELPA
Program Director Name: David M. Toston

*If expenses exceed $5,000: Deputy/Associate Superintendent: __________________________ authorizes contract

Signature: __________________________ Date: April 2, 2018

Description of Services: Participation Agreement for Membership in The El Dorado Charter SELPA

Dates of Service: Start: __________ End: __________ This is an ongoing agreement, starting April 2, 2018

Vendor Information:
Vendor: Oxford Day Academy
Address: 1001 Beech Street
East Palo Alto, CA 94303-2005

Vendor Contact: Mallory Dwinal
Phone: 650-260-3152
E-mail: mdwinal@oxforddayacademy.org

Contract Elements – Contract Language and Exhibits:
Language Required in All Agreements:
1. Clear definition of services to be provided ✔
2. Beginning and ending dates of service (not to exceed single fiscal year, if possible) ✔
3. Amount of charge for agreement:
   a. Total amount $________
   b. Terms of payment and when payments are to be made

Additional Contract Language for Most Agreements:
1. Independent Contractor: ___
2. Mutual Indemnity/Insurance: ___
   a. Certificate of insurance required

Separate Exhibits for Vendors Working with/around Students:
1. Background Check/Fingerprinting
2. Mandated Reporter: ___
3. TB Clearance: ___

Additional Information:
1. Secure Program Authorizations prior to each payment? Yes ___ No ___
2. If supplemental information from program will be submitted to Accounts Payable/Accounts Receivable prior to payment/billing, please note instructions: __________________________

Designated Program Accountant:

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Non-Financial

Income Total

Expense Total
SECTION II: To be completed by Accountant

1. Verify that Section I elements are included in agreement: ✓
2. Audit account codes: ✓
3. Verify budget: N/A
4. County Office Transfer? No ✓ Yes ___ If Yes, skip to Section III below.
5. Complete instruction to Accounts Payable/Accounts Receivable

Accounts Payable
Payment Due Date(s): [ ] Monthly [ ] Quarterly [ ] Semi-Annually [ ] Annually [ ] Other: N/A
Payment Terms: ________________________________
Secure Program Authorizations prior to each payment? Yes ___ No ___

Accounts Receivable
Accounts Receivable to invoice? Yes ___ No ___
Invoice Terms: N/A

Signature: ________________________________ Date: 9/9/18

SECTION III: To be completed by Director of Internal Business

Signature: ________________________________ Date: 4/10/18

SECTION IV: To be completed by Legal if applicable

1. Review: ___
2. Revise as necessary: ___
3. Sign/Approve as to form: ___
4. Forward to Business Services: ___

Signature: ________________________________ Date: ___

SECTION V: To be completed by Business Services Program Assistant

Vendor: W-9 Requested: ___ Received: ___ N/A ______
Vendor Certificate of Insurance Requested: ___ Received: ___ N/A ______
EDCOE Certificate of Insurance Requested: ___ Received: ___ N/A ______
Vendor Mandated Reporter Certificate(s): Requested: ___ Received: ___ N/A ______
Vendor Background Check: Requested: ___ Received: ___ N/A ______
Vendor TB Clearance: Requested: ___ Received: ___ N/A ______

Routing Dates:
To Deputy Supt (if applicable): N/A
To Accounting: 4/3/18
To Director Internal: 4/9/18
To Deputy Supt: 4/11/18
To Vendor: 4/12/18
Distributed: 4/13/18
Copy for Admin: ___

Fully executed agreement received:
- Scan final copy for storage in database, email as appropriate.
- File original agreement in master standard agreement file/binder.

Revised 12/2018
Good afternoon,

Attached for your records is a fully executed copy of your updated Charter SELPA Participation Agreement with the El Dorado County Office of Education.

If you have any questions, please contact me at 530-295-2325.

Thank you,

Nisa Lyons
Program Assistant
Business Services
El Dorado County Office of Education
AGREEMENT FOR PARTICIPATION
EL DORADO CHARTER SELPA

This Agreement for Participation ("Agreement") is entered into by and between the El Dorado Charter SELPA ("SELPA"), the El Dorado County Office of Education ("EDCOE"), and Oxford Day Academy ("LEA"), a California public charter school, collectively referred to as the "Parties."

RECITALS

WHEREAS, each special educational local plan area is required to administer local plans submitted pursuant to Education Code section 56205 et seq., administer the allocation of funds pursuant to Education Code section 56836 et seq., and ensure that it has in effect policies, procedures, and programs that are consistent with state laws, regulations, and policies governing certain aspects of special education;

WHEREAS, a charter school that is deemed a local educational agency for purposes of special education is required to participate in an approved local plan pursuant to Education Code section 56195.1(f);

WHEREAS, LEA is a charter school that is deemed a local educational agency for purposes of special education pursuant to Education Code section 47641 and is responsible for complying with all provisions of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) and implementing regulations as they relate to local educational agencies;

WHEREAS, the SELPA as authorized by the California State Board of Education serves as the special educational local plan area for California charter schools deemed local educational agencies pursuant to Education Code section 47641 that have successfully completed the SELPA membership process and have signed this Agreement for Participation ("Agreement");

WHEREAS, EDCOE is designated in the local plan as the "responsible local agency" for the SELPA, which means the administrative entity, the duties of which shall include, but are not limited to, receiving and distributing state and federal special education funds pursuant to the allocation plan, providing administrative support, and coordinating implementation of the plan;

WHEREAS, the actions and decisions of the parties are guided by the values of:

1. Commitment – maintaining high standards for performance in student achievement, operations, governance and finance;
2. Integrity – adherence to moral and ethical principles in all aspects of the work;
3. Fairness – impartial and just treatment of all stakeholders;
4. Partnership – collaborative decision making and accountability;
5. Knowledge – understanding of charter school law and practice; and
6. Transparency- access to the information, decisions, and actions of the organization;

WHEREAS, the purpose of this agreement is to set forth the various responsibilities of LEA, EDCOE, and SELPA to ensure that all charter pupils with exceptional needs within the SELPA receive appropriate special education programs.

NOW, THEREFORE, IT IS HEREBY AGREED between the parties hereto as follows:

1. **SHARED COMMITMENTS**
   1.1. **Resource Allocation.** Parties shall demonstrate commitment to the promises set forth in this Agreement by allocating appropriate resources.
   1.2. **Standard of Conduct.** Parties, at all times, shall conduct themselves in such a manner as to act in the best interests of all other SELPA members. LEA shall not engage in any
activity or enterprise which would tend to injure or expose the SELPA or any of its members to any significant risk of harm or injury of any kind.

1.3. **Compliance.** All parties to this agreement shall identify and comply with applicable laws, regulations, policies, procedures and generally accepted standards. Each party will address any identified compliance gaps in a responsible and timely fashion.

1.4. **Continual Improvement.** Parties are expected to continually improve by setting performance objectives, executing plans and taking necessary corrective actions for deficiencies identified by any and all internal and/or external assessments.

1.5. **Accuracy of Business Records.** Parties shall ensure that any and all financial books and records conform to generally accepted accounting principles and state reporting requirements. Records must be accurate in all material respects. Records must be legible, transparent, and reflect actual transactions and payments and be open to inspection by the other party upon a reasonable request.

1.6. **Accuracy of Student Records.** Parties shall ensure that any and all student records conform to prescribed formats. Records must be legible, transparent, reflect actual transactions and payments, and be accurate in all material respects. Records must be open to inspection and review by other parties with legitimate educational interest upon a request.

1.7. **Documentation.** Parties shall maintain documentation necessary to demonstrate compliance with this Agreement and compliance with applicable state and federal statutes and regulations.

1.8. **Local and Allocation Plans.** Parties agree to the provisions of the Local and Allocation Plans as updated and approved by the CEO Council.

1.9. **Provision of Free and Appropriate Public Education.** The LEA is solely responsible for the provision of special education programs and services to eligible students enrolled in the LEA. The Parties understand and agree that the SELPA or EDCOE shall have no responsibility for the operation of any direct educational program service of any kind, that the SELPA has no duty or authority to provide FAPE to individual students, and that the SELPA has no duty or authority to make decisions regarding the educational programming of students enrolled in the LEA.

2. **LEA RESPONSIBILITIES**

2.1 **Programs and Services.** The LEA is solely and exclusive responsible for the following mandated activities in order to operate its special education programs and services for students enrolled in the LEA. As such, the LEA shall:

2.1.1. Select, employ, compensate, and determine the duties of, or establish appropriate contracts for the provision of, special education teachers, instructional aides, and other personnel as required to conduct the program specified in the Local Plan, and in compliance with state and federal mandates.

2.1.2. Conduct and/or contract those programs operated by the LEA in conformance with the Local Plan and the state and federal mandates.

2.1.3. Organize and administer the activities of the IEP teams, including the selection of the LEA staff and who will serve as members of the IEP team in conformance with Education Code Section 56341 and in compliance with the Local Plan.
2.1.4. Develop and implement program objectives and the evaluation of the program effectiveness.

2.1.5. Communicate with the parents and/or legal guardians of students in conformance with laws, regulations and the provisions of the Local Plan.

2.1.6. Provide for the documentation and reporting of assessment procedures used for the placement of individuals and the security thereof.

2.1.7. Provide for the continuous review of placements and the assessment procedures employed to insure their effectiveness and applicability, and insure the continued implementation and compliance with eligibility criteria.

2.1.8. Provide for the integration of students with disabilities into the general education school programs and provide for evaluating the results of such integration according to specifications of the Local Plan.

2.1.9. Conduct the review of individual placements requested by the parents and/or legal guardians of the student in accordance with the Local Plan.

2.1.10. Prepare and submit all required reports, including reports on student enrollment, program expenditures, and program evaluation.

2.2. Fiscal Responsibilities. Receive and expend special education funding in accordance with the Charter SELPA Allocation Plan.

2.3. Restricted Funds. As a condition of membership and participation in the SELPA, LEA warrants and represents that at no time during the term of this Agreement and LEA’s membership and participation in the SELPA shall the LEA, directly or indirectly, provide special education funding for the benefit of a for-profit entity. All funding provided through the Charter SELPA shall be treated as a restricted funding source to be expended only for special education or special education services. Nothing contained herein shall be interpreted as prohibiting any LEA from expending funds to contract with a state-certified nonpublic agency/school for the benefit of children served, in accordance with the approved master contract and individual services agreements as provided for in federal and state law.

2.4. Audit Report. Annually provide the SELPA with the LEA’s annual, independent financial audit report, on or before December 20th each year, unless an extension has been granted by the State Controller’s Office, in which case an extension will be granted to the charter as well. LEA further agrees to provide SELPA copies of any and all State Controller’s Office communications regarding audit report corrective actions and a corrected audit report, if applicable. Should an LEA be the subject of an investigation by any federal, state, or local agency, including but not limited to the Fiscal Crisis Management and Assistance Team (“FCMAT”) arising out of or related to allegations of fiscal mismanagement, failure to meet generally accepted accounting principles, or any violation of a provision of law, the LEA shall immediately notify SELPA and provide the SELPA with a copy of any written correspondence related thereto.

2.5. Membership Responsibilities. Adhere to governance structure within SELPA Local Plan and Policies including designating appropriate representatives to serve on required councils and committees; ensure appropriate LEA representatives attend and participate in SELPA governance meetings as set forth in the Local Plan, Policies and Procedures.

2.6. Management Decisions. Consistent with this Agreement, LEA shall have full and exclusive authority and responsibility for classifying employment positions within their
LEA. The managerial prerogatives of any participating LEA member shall not be infringed upon by any other participating LEA member except upon mutual consent of an affected LEA member(s), or unless as otherwise set forth. LEA shall not undertake to independently act on behalf of the SELPA or any of its members without express written authorization of the SELPA.

2.7. Participation. Ensure appropriate LEA representatives attend and participate in SELPA governance meetings and committees as set forth in the Local Plan, Policies and Procedures.

2.8. Reporting Requirements. Submit all required federal, state and SELPA reports and data requests in the prescribed format and at the specified due date. Upon written request by the SELPA, LEA shall provide any requested information, documents, writings, or information of any sort without delay, except as otherwise prohibited by law.

2.9. Indemnification and Hold Harmless. To the fullest extent allowed by law, LEA agrees to defend, indemnify, and hold harmless the SELPA and its individual other members, EDCOE, the El Dorado County Superintendent of Schools, and each of their respective directors, officers, agents, employees, and volunteers (the Indemnified Parties), from any claim or demand, damages, losses or expenses (including, without limitation, reasonable attorney fees) that arise in any manner from an actual or alleged failure by LEA to fulfill one or more of the LEA member’s obligations except to the extent that such suit arises from the SELPA, EDCOE, or the El Dorado County Superintendent of Schools’ negligence.

3. SELPA DUTIES AND RESPONSIBILITIES

3.1 Services. In order to accomplish the goals set forth in the Local Plan, SELPA shall provide the following services and activities for the LEA:

3.1.1. Receive, compile, and submit required enrollment reports and compute all special education apportionments; receive data from LEA to compile and submit budgets for the programs and monitor the fiscal aspects of the program conducted, and receive the special education apportionments as authorized by applicable law.

3.1.2. Maintain SELPA policies and procedures for referring and placing individuals with exceptional needs who are enrolled in the LEA, including the methods and procedures for communication with the parents and/or guardians of the students according to SELPA Local Plan, Policies and Procedures.

3.1.3. Coordinate the organization and maintenance of the Special Education Community Advisory Committee (“CAC”) to coordinate the implementation of the Local Plan and provide for the attendance of designated members of the SELPA’s staff at all regularly scheduled CAC meetings as required by law.

3.1.4. Coordinate community resources with those provided by LEA and SELPA, including providing such contractual agreements as may be required.


3.1.6. Provide alternative dispute resolution supports and services.

3.1.7. Develop interagency referral and placement procedures.

3.1.8. Provide regular personnel development training sessions for LEA staff responsible for administering or delivering special education programs and services.
3.1.9. Provide the method and forms to enable the LEA to report to the SELPA on student enrollment and program expenditures. Establish and maintain a pupil information system.

3.1.10. Provide reasonable and appropriate technical assistance and information to the LEA upon request from LEA administration, including but not limited to:

1. Evidenced Based Practices;
2. Program Development and Improvement;
3. Individual cases;
4. State complaints;
5. Requests for due process mediation and hearing; and
6. Appropriate programs and services for specific pupils.

3.1.11. Perform other services reasonable and necessary to the administration and coordination of the Local Plan.

3.2. Governance. Organize and maintain the governance structure of the Local Plan including various committees and councils to monitor the operations of the SELPA and make recommendations for necessary revisions, including, but not limited to, the Local Plan, Allocation Plan and Policies.

3.3. Data Reporting. Establish and maintain methods, timelines and forms to submit required federal, state and SELPA reports.

3.4. Public Meetings. Schedule public meetings for purposes of governance activities and adopting the Annual Service Plan and Budget Plan.

3.5. Fiscal Responsibilities. Receive, distribute, and oversee the expenditure of special education funds in accordance with federal and state regulations and the SELPA Allocation Plan.

3.6. Indemnification and Hold Harmless. The SELPA shall be held harmless and indemnify EDCOE and the El Dorado County Superintendent of Schools for any costs of any kind or nature arising out of or related to this agreement other than as specifically contemplated herein, except to the extent that such cost arises from EDCOE and the El Dorado County Superintendent of Schools' negligence.

4. EDCOE DUTIES AND RESPONSIBILITIES

4.1. The Parties understand that EDCOE is designated in the Local Plan as the "responsible local agency" for the SELPA. EDCOE shall receive and distribute state and federal special education funds pursuant to the Allocation Plan, provide administrative support, and coordinate implementation of the Local Plan in accordance with state and federal law.

4.2. EDCOE shall not be responsible for any LEA or SELPA obligations or duties of any kind or nature except as explicitly set forth in this agreement.

5. TERMINATION OF THIS AGREEMENT AND PARTICIPATION IN SELPA

5.1. LEA may terminate this Agreement and participation in the SELPA in its sole discretion at the end of the fiscal year next occurring after having provided prior written notice to the SELPA, as follows:
5.1.1. Prior initial written notice of intended termination to the SELPA at least twelve (12) months and one (1) day in advance of date of termination; and

5.1.2. Final written notice of termination to the SELPA no more than six (6) months after the LEA's initial notice of intended termination.

5.2. The SELPA may initiate and complete termination of this Agreement and LEA's participation in the SELPA in its sole discretion in accordance with the process and standards in SELPA Policies. The SELPA will provide prior written notice to the LEA at least twelve (12) months as follows:

5.2.1. Prior initial written notice of intended termination to the LEA at least twelve (12) months and one (1) day in advance of date of termination, and

5.2.2. Final written notice of termination to the LEA no more than six (6) months after the SELPA's initial notice of intended termination.

5.3. Specifically the timeline and process above does not preclude the SELPA from initiating and completing the termination process in less than 12 months or by June 30 of the year immediately preceding the summary termination, if the member demonstrates:

5.3.1. Egregious disregard of state and federal requirements to provide services to students; and/or

5.3.2. Demonstrated systemic and material issues that would cause the SELPA to make a finding of "going concern" based on leadership, programmatic and/or fiscal solvency that would cause SELPA to reasonably believe the SELPA may be harmed by the continued membership of the LEA.

The standards and timeline as determined by the SELPA shall, at a minimum, provide the LEA a reasonable opportunity for prior written notice and an opportunity to be heard by the Membership Appeals Committee.

6. DISPUTE RESOLUTION

Should a dispute arise relating to the responsibility for service provision, governance activities, the distribution of funding, if a party believes that an action taken by the CEO Council will create an undue hardship, or that the action taken exceeds the authority granted to the CEO Council within the Local Plan and/or state or federal statute, the aggrieved party may request a review of the action with the appropriate governing body or CDE as appropriate.

7. MUTUAL REPRESENTATIONS

7.1. Authority and Capacity. The Parties have the authority and capacity to enter into this agreement.

7.2. Full Disclosure. All information heretofore furnished by the Parties for purposes of or in connection with this Agreement or any transaction contemplated hereby or thereby is true and accurate in all material respects on the date as of which such information is stated.

7.3. No Conflicts. Neither party is under any restriction or obligation that may affect the performance of its obligations under this agreement.

7.4. Enforceability. This Agreement constitutes a legal, valid, and binding obligation, enforceable against the Parties according to its terms.
8. **RESERVATION OF RIGHTS**
   The Parties hereto agree that nothing contained in this Agreement or otherwise shall be deemed to have waived or modified any of their rights or remedies under the law.

This agreement is entered into for the 2017-18 year and, absent a new agreement or termination, continues each year thereafter.

Executed on this 6th day of March, 2016.

In accordance with SELPA policy, [Oxford Day Academy],

[INSERT Charter LEA Name]

certifies that this agreement has been approved by the appropriate local board(s).

**LEA**

3/6/2016
Date

Signature of CEO of Charter LEA

Mallory Dwinell, CEO

[PRINT CEO Name, Title]

**EL DORADO COUNTY OFFICE OF EDUCATION**

4/11/2018
Date

Ed Mahansala, Ed.D., Superintendent
El Dorado County Office of Education

4/2/2018
Date

David M. Toston, Associate Superintendent
SELPA Programs
El Dorado County Office of Education
Lesson Request Form

Week of: ________________________ Teacher: ________________________

Subject: ___________________________ Unit: ___________________________

1. Please list the learning objectives of this lesson

☐

☐

☐

2. What specific parts of the lesson will need to be re-taught? Please explain below.

3. Please attach any supplemental lesson plans that will be useful when re-teaching this lesson.
What day of the week would you like the lesson to be re-taught? _________________________
Morning Check-In

1. How many hours did you sleep last night?

2. What did you eat for dinner last night?

Circle:

<table>
<thead>
<tr>
<th>I'm anxious (nervous)</th>
<th>I'm angry</th>
<th>I'm sad</th>
<th>I'm irritated</th>
<th>I'm sleepy</th>
<th>I really need to move around.</th>
</tr>
</thead>
<tbody>
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<td>1 2 3 4</td>
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</tbody>
</table>


3. Anything else you want me to know?