

**Paterson Public Schools  
Department of Early Childhood and  
Special Programs**

**Paterson Public Schools Section 504  
Procedural Manual**

## Section 504 Procedural Manual

*This procedural manual is one in a series of five sections compiled for Paterson Public Schools (PPS) by Montclair State University's Center for Research and Evaluation on Education and Human Services (MSU/CREEHS). The manual is designed to be used along with comprehensive professional development training on district procedures for pre-classification intervention and referral services (I&RS), Child Study Team (CST) roles and responsibilities, Section 504 Committee procedures, and Bilingual/English as a Second Language (ESL) and Gifted and Talented programs and services.*

*The primary purpose of the manuals is to provide a user-friendly reference on specific procedures, time lines, and policies for PPS Special Programs. The manuals are designed for use by District and School Administrators, as well as members of school-based I&RS teams, Child Study Teams, 504 Committees, and ESL service providers. The sections are presented as "living documents", intended to provide background and support for ongoing professional development within the district, to assure that District and School Administrators and staff are equipped to implement PPS policies and procedures consistently and in accordance with state and federal laws. It is expected that these documents will evolve with ongoing PPS Administrator and staff input.*

*Note: Specific forms and documents referenced in the manual are available in the PPS district office.*

### Mission Statement

Paterson Public Schools will not deny a student the benefits of a "free appropriate public education" (F.A.P.E.) due to a **disability or impairment that "substantially limits one or more major life activities (learning, hearing, speaking, walking, breathing, and caring for oneself)**. There must be a correlation between the student's mental or physical impairment as it relates to the student's inability to access F.A.P.E. The school's section 504 Team will determine eligibility based on the review of current medical documentation/evaluations and any additional information deemed necessary.

**Drafted 2012-2013**

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- Accommodation Plan (3 pages)
- Form Letter A (2 pages; also in Spanish and Arabic)
- Form Letter B (Notice of Section 504 Eligibility Determination Conference) (2 pages; also in Spanish and Arabic)
- Form Letter C (2 pages) (Accommodation Plan Consent)
- Form Letter D (Notice of Section 504 Re-eligibility Determination Conference; also in Spanish and Arabic)

**Statewide Parent Advocacy Network (SPAN)**

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## Part I: Mandated Procedures

### Deciding Whether a Meeting is Warranted

**Recommendations:** A Section 504 determination conference is triggered by a referral from a parent, teacher, or other school professional establishing a reasonable belief that a student may have a disability and requires services to ensure a program which will meet his/her needs “as adequately” as that provided to non-disabled students, the definition of a free and appropriate public education (FAPE) under Section 504.

- A diagnosis on a doctor’s prescription pad citing an impairment (i.e., Attention Deficit Hyperactivity Disorder-ADHD) is sufficient to trigger a determination conference. However, a medical diagnosis is not enough to determine eligibility. The **504 Team** must determine that the cited impairment is substantially limiting a major life activity in the school setting.
- Many circumstances, of which staff will be aware, should trigger a Section 504 determination conference:
  1. disruptive behavior pattern on the part of the student
  2. consideration of grade retention
  3. an ADHD diagnosis
  4. a risk that the student may drop out
  5. chronic health condition signs
  6. frequent absences
  7. consideration of the expulsion of the student or denial of services
  8. a pattern of not benefiting from instruction
  9. a struggle after serious illness, injury or hospital stay
  10. an ineligibility determination under IDEA
  11. a possible addiction

### District Procedures:

- All referrals will be directed to the 504 Team Chair (Principal or VP) for review
- The 504 Team Chair will decide whether a 504 determination conference is warranted
- If a 504 determination conference is warranted, the 504 Team Chair will convene a **504 Team** for the particular case (see below)
- If a 504 determination conference is not warranted, the 504 Team Chair will notify the referral source of this decision with a justification for the decision using **Form Letter A**, along with notice of the parent’s due process rights and the avenues available to appeal the decision.

### Preparing for the Section 504 Determination Conference

**Recommendations:** Section 504’s regulations require that decisions be made by a “group of persons, including persons knowledgeable about the child” (here-in-after, the “**504 Team**”). The school must have a mechanism in place to gather information “from a variety of sources,” to notify the parents in writing regarding the determination conference and to obtain their consent for the initial review of information and determination. The intent of the regulations is to ensure that a complete picture of the student’s functioning is considered by the **504 Team** in making its determinations.

## District Procedures:

### Creating the 504 Team

- The 504 Team Chair (Principal or VP) will determine which staff members are knowledgeable about each individual child referred for a 504 determination conference.
  - a. The 504 Team Chair, classroom teacher, guidance counselor and school nurse will automatically be members of the team
  - b. All staff with possible implementation responsibilities for a specific child's 504 Plan (i.e., physical education teacher) will be included on that child's **504 Team**
  - c. At least one team member must be knowledgeable IN the area of suspected disability
- The 504 Team Chair will e-mail all identified staff members with a time for the initial **504 Team Eligibility Determination Conference** and provide coverage for staff to attend the meeting if it is to be held during school hours. The 504 Team Chair will invite the child's parent(s)/guardian(s) to the initial Eligibility Determination Conference using **Form Letter B**.

### Determining if the Student Has a Disability Making Him/Her Eligible for Section 504 Services

**Recommendations:** At the Section 504 determination conference, the first decision is whether the student has a disability as defined under Section 504, **meaning an impairment, which “substantially limits one or more major life activities” (learning, hearing, speaking, walking, breathing, or caring for oneself)**. In making the determination, the impact on all of these life activities, not just learning, must be considered.

According to the Office for Civil Rights (OCR), which enforces Section 504, whether an impairment “substantially limits” a student's functioning is the school district's decision which is made on a case-by-case basis. While Section 504 does not give any guidance as to the meaning of “substantially limits,” the ADA does. In making the determination, the **504 Team** should consider how this student performs the major life activity in question in comparison to an average student of approximately the same age. If the student is significantly restricted, he/she is disabled under Section 504.

In addition, in the area of employment, the ADA's regulations provide factors which 504 teams may find useful in making the disability determination. These are:

- The nature and severity of the impairment
- The duration or expected duration of the impairment
- The permanent or long-term impact of the impairment

### The OCR has provided the following examples to guide the analysis:

- If a right-handed student broke his left arm and the break is expected to heal normally, without complications, this would probably **NOT** constitute a disability. The reason is that the impairment will heal within a short period of time, and, even during its worst phase, would not prevent the student from attending school or from preparing written assignments.
- If the student broke both legs, recovery is delayed by complications and surgeries, and the entire period of disability will last for many months, the condition would likely be covered. The impairment prevents the student from walking and will not heal within a period of time that is typical for such injuries. Furthermore, the amount of time is sufficiently long to suggest that the students' educational program will be significantly disrupted.<sup>1</sup>

<sup>1</sup>OCR Response to Rahall II, January 19, 1994, reprinted at 21 IDELR 575. LRP Publications

### District Procedures:

- The **504 Team** uses the **Section 504 Eligibility Determination Form** to record all information obtained before and during the determination conference including who will gather each piece of information
- The **504 Team** gathers all available information to develop a complete picture of the student's functioning. This information must include:
  1. aptitude and achievement tests
  2. teacher recommendations and reports on the student's physical condition, social or cultural background and adaptive behavior
- Schools also gather:
  1. grades
  2. observations about behavioral functioning
  3. past and present interventions,
  4. information (i.e., private evaluations) provided by the parents
    - a. Parents have a right to an independent assessment at their own expense, and to provide relevant information that must be considered by the team.
- The review of gathered information, determination of eligibility for 504 services, and the development of the **504 Accommodation Plan will take place within 60 days of the initial referral.**
- If the **504 Team** determines that the student **IS** eligible for services under Section 504, the **504 Team** writes a concise statement indicating that the student is eligible and why. This explanation is documented on the **Section 504 Eligibility Determination Form** and at the beginning of the **504 Accommodation Plan Form**.
- If the **504 Team** determines that the student is **NOT** eligible for services, the **504 Team** writes a concise statement indicating that the student is not eligible and why. This explanation is documented on the **Section 504 Eligibility Determination Form** and sent to the parent(s)/ guardian(s) along with notice of the parent's(s') due process rights and the avenues available to appeal the decision.

### Determining Which Accommodations and Services are Required

**Recommendations:** If a decision is made that the student is an individual with a disability, the **504 Team** must design a program to eliminate discrimination and provide FAPE. The concept is one of providing the student an opportunity to achieve success equal to that of non-disabled peers. This means documenting a program on the **504 Accommodation Plan Form** which specifies accommodations and services to address each and every area where the student is having problems due to his/her impairment. Accommodations and services may include:

- **Physical barrier removal, seating placement, extended time for testing, testing modifications, adjustment of class schedules, rest periods, or use of aides** (tape recorders, calculators, audio-visual equipment, computers, modified textbooks, etc.)
- **Push-in (in-class) or Pull-out services such as class or homework note-taking assistance, oral catheterization, administration of medication such as epi-pens, oral medicine, and inhalers** (no waivers may be required, except for waivers if the medication is administered pursuant to the directions given), **monitoring of blood levels and physical or mental status, positive behavioral supports, consultation, service coordination, tutoring, counseling, and all the related services specifically addressed in IDEA.**
- Services or accommodations required for non-discrimination, meaningful program access, and "as adequate an education" as children without disabilities, such as **access to magnet schools, charter schools or choice programs, before- and after-school programs, clubs, graduation ceremonies, and extracurricular activities.**

### District Procedures:

- Describe the identified challenge(s) using the gathered data and information
- Categorize (i.e., learning, behavior, health, etc.) and prioritize the challenge(s) in order to provide focus for problem solving and to monitor success
- Review prior interventions, taking into consideration the effects of past efforts, reasons for successes and failures, and benefits to the student and others involved
- Brainstorm solutions (Steps described here taken from **Solution Circles**<sup>2</sup>):
  1. set and adhere to time limits
  2. identify the challenges
  3. brainstorm ideas to address and record
  4. clarify the contributions
  5. encourage creative and unique ideas in addition to traditional or familiar ideas
  6. build upon and/or modify ideas
- Analyze/evaluate brainstormed solutions, giving consideration to the general feasibility of the brainstormed ideas: strengths and concerns, success-orientation, and consequences
- Mutually agree upon solutions and measures of success
- Prioritize tasks and identify people to follow through on any steps necessary to implement the actions
- Document on the **504 Accommodation Plan Form**, listing all tasks and personnel necessary to implement the solutions. ***This is to take place within 60 days of the initial determination.***
- The guidance counselor on the **504 Team** will be responsible for typing up the 504 Plan and submitting it to the district guidance office for approval.

### Implementing the 504 Plan

**Recommendations:** Once the Accommodation Plan has been completed it may be implemented as soon as possible.

- The 504 Chair shares a copy of the **504 Accommodation Plan Form** with the parent(s)/guardian(s) and gains consent for its implementation using **Form Letter C**. ***The parent(s)/guardian(s) has/have 15 days to approve of the plan or seek due process. If the parent has not responded within 15 days the 504 Accommodation Plan will be implemented.***
- Once (a) parent(s’)/guardian(s’) consent is granted or 15 days has passed since notification of the plan, the 504 Chair shares a copy of the **504 Accommodation Plan Form** with anyone who has implementation responsibilities

### Reviewing the 504 Plan

**Recommendations:** The **504 Plan** should be reviewed annually and re-determination should be conducted whenever there is a significant change in placement (including cumulative suspensions of more than 10 days in a school year).

### District Procedures:

- The 504 Chair will schedule annual reviews of all **504 Accommodation Plans** prior to each school year
- The 504 Chair must review a student’s **504 Accommodation Plan** eligibility criteria prior to any suspension of 10 days or more to determine if the child’s disability is related to the behavior that triggered disciplinary action. If there is a relationship, than the student may not be suspended unless the behavior is related to drug sales or weapon(s). A **504 Accommodation Plan** does not automatically give a student the right to remain in the current educational placement.
- Requests for amendments to an existing **504 Accommodation Plan** will be directed to the 504 Chair
- The 504 Chair will request consent for redeterminations from parent/guardian using **Form Letter D** if a redetermination is deemed necessary

<sup>2</sup>For more information on this process, contact one of the developers of Solution Circles, Jack Forest, at Inclusion Press International, Toronto, ON, Canada. Phone: 416-658-5363.

- Review of gathered information, determination of eligibility for continuation of 504 services and the development of the new **504 Accommodation Plan** will take place within 60 days of consent for re-determination
- If the **504 Team** determines that the student continues to be eligible for services under Section 504, the **504 Team** writes a concise statement indicating that the student continues to be eligible and why. This explanation is documented on the **Section 504 Eligibility Determination Form** and at the beginning of the new **504 Accommodation Plan Form**. Both forms are sent to the parent(s)/guardian(s).
- If the student continues to be eligible the **504 Team** will follow district procedures (see bullet # 4) to develop a new **504 Accommodation Plan**.
- If the **504 Team** determines that the student is no longer eligible for services, the **504 Team** writes a concise statement indicating that the student is not eligible and why. This explanation is documented on the **Section 504 Eligibility Determination Form** and sent to the parent(s)/guardian(s) along with notice of the parent's due process rights and the avenues available to appeal the decision.

## **Part II: General Prohibitions Against Discrimination Under Section 504 and the American Disabilities Act (ADA)**

*The Paterson Public School district may not, directly or through contracting, licensing, or other arrangement, on the basis of disability—*

- Deny the opportunity to participate in or benefit from an aid, benefit or service which is afforded non-disabled students. (i.e., **refusing to allow any student with an IEP the opportunity to be on the honor roll, denying credit to a student whose absenteeism is related to his/her disability**)
- Fail to afford an opportunity that is equal to that given others to participate in or gain from the aid, benefit, or service. (i.e., **applying a policy that bases interscholastic sports eligibility on the student's receiving passing grades in five subjects without regard to the student's disability**)
- Fail to provide aids, benefits, or services that are as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others. (i.e., **failing to develop a 504 Plan with accommodations to meet each of the eligible student's identified needs, placing a student with a severe hearing impairment in the front row as opposed to providing him and/or her with a more effective service** (for example, an interpreter) based upon the expense
- Provide different or separate aids, benefits or services unless such action is necessary to be as effective as the aids, benefits or services provided to students with disabilities
- Aid or perpetuate discrimination by providing significant assistance to an agency, organization or person that discriminates on the basis of disability. (i.e., **denying responsibility for accommodations in an after-school program run by organization which receives significant assistance from the school**)
- Deny the opportunity to participate as a member of a planning or advisory board strictly because of his/her disability (i.e., **failing to provide an interpreter or other appropriate accommodation to a student on an advisory committee who is deaf**)
- In determining the site or location of a facility, make site selections which effectively exclude or deny students the benefits of or otherwise subjects them to discrimination. (i.e., **allowing students with disabilities to be located in inferior facilities, such as trailers, wings in basements, and unnecessarily restrictive classrooms due to lack of classroom space**)
- Otherwise limit the enjoyment of any right, privilege, advantage or opportunity enjoyed by others.

### **Appendix: Section 504 forms**

All forms are provided in English. In addition, parent-facing forms are also provided in Spanish and Arabic. Chart comparing Section 504 and IDEA (in English) is also found here.

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