

# **Nelsonville-York City School District**

## **Section 504 Manual: Policy, Procedures, and Forms**

**2013-2014**

## **Introduction**

The purpose of this manual is to inform the user about Section 504 general information; review the District's legal obligations to comply with regulations governing Section 504, the American's with Disabilities Act (ADA) of 1992, and the ADA Amendments Act of 2008; identify, evaluate, and provide a free appropriate public education (FAPE) to students with disabilities; and insure that procedural safeguards are available to students and parents whenever a complaint resolution process is needed. The District expects employees to be knowledgeable about District procedures governing Section 504 activities, grievance procedures for resolving Section 504 complaints, and parent and student rights.

This manual is divided into four sections:

- I.** Section 504 Policy and Overview
- II.** Section 504 Compliance Process Flowchart
- III.** The District's Section 504 Procedures
- IV.** The District's Section 504 Forms

# **I. Section 504 Policy and Overview**

## **A. Section 504 of the Rehabilitation Act of 1973**

Section 504 of the Rehabilitation Act of 1973 has is a civil rights statute aimed at preventing discrimination based on disability.

“Handicapped Individuals” will hereafter be referred to as “individuals with disabilities” to be consistent with current educational terminology.

Included in the U.S. Department of Education regulations for Section 504 (34 C.F.R. Chapter 104) is the requirement that students with disabilities be provided with a free appropriate public education (FAPE), regardless of the nature or severity of the student’s handicap. FAPE consists of the provision of regular or special education and related aids and services designed to meet the student’s individual needs as adequately as the needs of non-disabled students’ needs are met.

## **B. Impact of Section 504**

If a school district receives any federal financial assistance, all of their programs and activities are covered under Section 504 requirements.

Many aspects of the Section 504 regulations concerning FAPE parallel the requirements of the Individuals with Disabilities Education Act (IDEA, reauthorized 2004, IDIEA). These regulations require identification, evaluation, provision of appropriate services and procedural safeguards. However, in some respects the requirements of the two laws are different. There may be some students who are not eligible for IDEA services, but who are deemed disabled under Section 504. Students, who qualify for Section 504 but not IDEA, may be provided a 504 Plan.

## **C. Conditions for Eligibility**

Section 504 applies to students with disabilities who attend schools receiving Federal financial assistance. To be protected under Section 504, a student must be determined to:

- 1) Have a physical or mental impairment that substantially limits one or more major life activities. Major life activities include:
  - Caring for oneself
  - Performing manual tasks
  - Walking
  - Seeing
  - Hearing
  - Speaking
  - Breathing
  - Learning

- Working
- Eating
- Sleeping
- Standing
- Lifting
- Bending
- Speaking
- Reading
- Concentrating
- Thinking
- Communicating
- Operation of a major bodily function

2) Has a record of such impairment or

3) Is regarded as having such impairment.

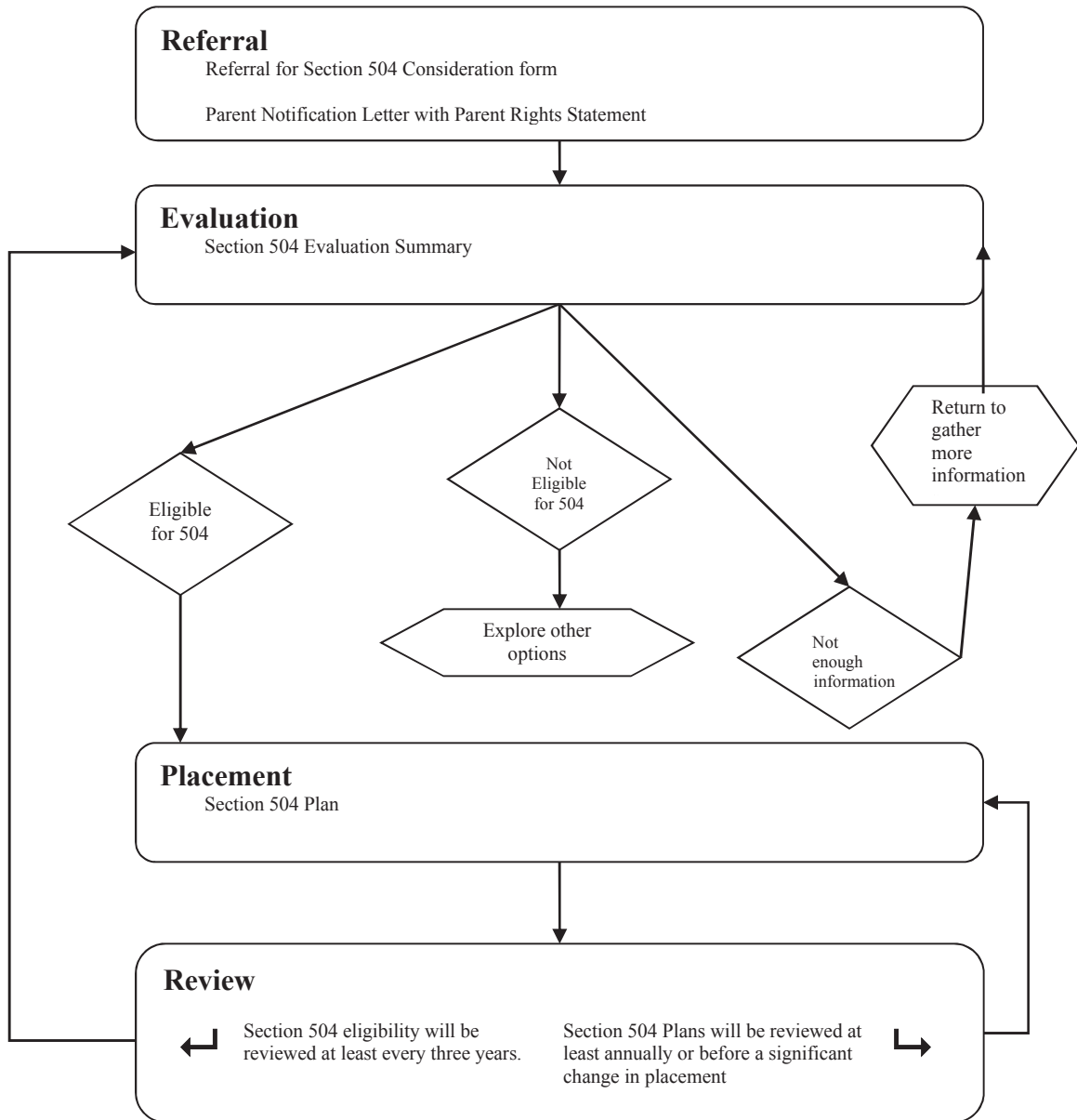
When a condition does not substantially limit a major life activity, the individual *is not eligible for services under Section 504*.

**D. School District Section 504 Coordinator**

The individual identified below shall be responsible for coordinating the District's efforts to comply with Section 504 policy and procedure:

Director of Special Programs  
4 Buckeye Drive  
Nelsonville, Ohio 45764  
(740) 753-1674

## II. Section 504 Compliance Process Flowchart



### **III. The District's Section 504 Procedures**

#### **A. Referral for Section 504 Consideration**

A student may be referred for Section 504 consideration by a parent, student, teacher, administrator, counselor, etc. The 504 referral may also be the outcome of a building intervention team meeting. All referrals should be documented on the District's *Section 504 Consideration* form.

The *Section 504 Consideration* form should explain the basis of why a *504 Plan* is being considered. Existing documentation may be attached. Please refer to the "District's Section 504 Forms" for a sample *Section 504 Consideration* and *504 Plan*. The *Section 504 Consideration* form should be submitted the student's Nelsonville-York building principal to begin the process.

#### **B. Case Manager**

When a 504 referral is received by the school, a school staff member will be assigned to be the case manager. It is the case manager's responsibility to ensure that the 504 compliance process is followed. The case manager will be the school contact for the parent should there be any questions. Typically, the case manager will be the assistant principal at the elementary level and the counselor at the secondary level.

#### **C. Parent Notification Letter and Parent Rights Statement**

Upon receipt of a 504 referral, the case manager will send a *Parent Notification Letter* with *Parent Rights Statement*. The letter will inform the parents of the intent to evaluate, seek their consent to evaluate, and either invite them to an evaluation meeting or notify them that a meeting will be scheduled. Please refer to the "District's Section 504 Forms" for a sample *Parent Notification Letter* and *Parent Rights Statement*. The letter should be customized for each particular student.

#### **D. Section 504 Evaluation Team**

The Section 504 evaluation team will typically consist of the following: Parent, Student (if appropriate), Case Manager, School Administrator, Counselor and Teacher. Other staff who are knowledgeable about the student, the disability, or the assessments used to determine eligibility may be included on the evaluation team (e.g. School Psychologist, Special Education Teacher, ESL Teacher, Occupational/Physical/Speech/language therapists, School Nurse, Gifted and Talented representative, instructional aide, etc.).

#### **E. Evaluation and Placement Procedures for Students who Transfer into the District**

When the District is informed by a new student and/or parent of a new student who has transferred into the District, that the student has a *Section 504 Plan* from his/her previous educational agency, the District shall convene a Section 504 evaluation team within a reasonable

period of time (typically no more than 10 school days) to consider whether the District will reevaluate and then determine the student's educational placement/develop a new *Section 504 Plan* the student, or alternatively, adopt and implement the previous educational agency's *Section 504 Plan*, to the extent that such plan is consistent with Section 504's implementing regulations and the applicable provisions of this Manual. In the event that the Section 504 evaluation team determines that it is necessary and/or appropriate to reevaluate the student and then determine the his/her educational placement and develop a new *Section 504 Plan*, then during the time that the reevaluation and subsequent plan development is pending, District may either: (1) elect to implement the previous educational agency's *Section 504 Plan*; or (2) elect to place the student in the general education program/setting.

#### **F. Section 504 Evaluation Summary**

The evaluation team will complete the *Section 504 Evaluation Summary*. Please refer to the "District's Section 504 Forms" for a sample *Section 504 Evaluation Summary*. In this evaluation, the team will review the existing information, discuss the educational implications, and answer three (3) questions regarding eligibility.

#### **G. Section 504 Eligibility Questions**

1. Is there a documented physical or mental impairment?
2. Does the impairment substantially limit one or more major life activities?
3. Is student eligible for 504?

#### **H. Eligibility Determinations**

To be eligible for services under Section 504, a person must meet the definition of an individual with a disability under this law. This definition is broader than that of IDEA (Individuals with Disabilities Education Act). Therefore, students who do not meet the IDEA definition may still be considered as "individuals with disabilities" under Section 504.

Who is a "qualified individual with a disability?"

Under Section 504, an individual with a disability includes anyone who:

- has physical or mental impairment which substantially limits one or more major life activities;
- has a record of such impairment; or
- is regarded or perceived as having such impairment.

A "physical or mental impairment" means:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal;

- special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genital-urinary; hemic and lymphatic; skin; and endocrine; or
2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and learning disabilities.

Whether a student is disabled must be made without considering any mitigating measures used by the student.

Having a “record of impairment” means that one has a history of, or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities.

Students who are already identified under IDEA meet the Section 504 definition of an individual with a disability and are therefore also eligible under Section 504.

A student, who does not meet the criteria for special education under IDEA, may still be an individual with a disability who is protected by 504 and its regulations. Examples include students with asthma or juvenile arthritis who may not require special education services, but would require a modified physical education program, or individuals with communicable diseases, severe allergies, diabetes, behavior disorders, or temporary handicapping conditions.

Students who have exited from special education are eligible for protection under Section 504 because they have a “record” of a disability. A *Section 504 Plan* could provide them the support they may need in regular education.

The outcome of the evaluation team meeting can be one of the following:

1. If student is eligible for Section 504, then proceed with the development of a *Section 504 Plan*.
2. If student is not eligible for Section 504, then discuss other possible options to address the student’s needs.
3. If not enough information is available, make a plan for further assessment and return to another evaluation team meeting.

#### **I. Section 504 Plan**

Upon determining eligibility for a *Section 504 Plan*, the evaluation team can begin developing the plan. The Plan will contain a narrative that identifies the student’s disability and resulting needs. The *Section 504 Plan* will set the proposed date for implementation and review.

Students with disabilities shall be educated with peers without disabilities to the maximum extent appropriate to meet their needs.



## **J. Reevaluation Procedures**

With respect to any student identified with a disability under Section 504, a reevaluation may occur periodically, as conditions warrant, and before any significant change in placement, which shall include those that arise in the disciplinary context.

## **K. Nonacademic Services and Activities**

Section 504 and the ADA both require that disabled students be afforded equal opportunities to participate in extracurricular and other nonacademic services and activities. Nonacademic and extracurricular services and activities may include counseling services, transportation, physical recreational athletics, health services, recreational activities, special interest groups or clubs, and other activities sponsored by the District.

## **L. Review**

The date of the review should be no later than one year of implementation. The *Section 504 Plan* may be reviewed prior to the planned date if modifications are needed, or before a significant change of placement. The evaluation team members will sign the *Section 504 Plan* and begin implementation.

## **M. Other Occasions to Consider a Possible Section 504 Disability**

District staff should consider the possibility of a disability and possible need for Section 504 protection:

- When retention is considered for any student
- When a student shows a pattern of not benefiting from the instruction being provided
- When a student returns to school after a serious illness or injury
- When a student is evaluated and is found not to qualify for special education services under the IDEA
- When a student exhibits a chronic health condition
- When a student is identified as “at risk” or exhibits the potential for dropping out of school
- When substance abuse has been an issue
- When a disability of any kind is suspected

Section 504 disabilities may also result from communicable diseases (H.I.V., tuberculosis); medical conditions (asthma, allergies, diabetes, heart disease); temporary medical conditions due to accident or illness; attention deficit disorder; borderline intellectual capacity; Tourette’s syndrome; or behavioral difficulties. Students suspected of a disability under Section 504 should be referred for further assessment. Students suspected of being disabled under IDEA should be referred and evaluated according to the District’s special education procedures.

## **N. Resolving Section 504 Disagreements/Grievance Procedures**

In the event a parent disagrees with and wishes to challenge the actions of the District regarding evaluation, identification and/or placement of their child, the District shall provide due process for resolving the dispute.

Parents objecting to the results of a District evaluation may choose to obtain a second opinion evaluation at their own expense. The District will consider second opinion evaluation reports provided.

## **1. Grievance Procedure -**

A "grievance" is a complaint by a student and/or parent. This grievance procedure may be used for any disagreement with respect to actions regarding the identification, evaluation, educational services or educational program of students who, because of disability, need or are believed to need Section 504 Plans and are not eligible under the IDEA, except in the case of disciplinary actions where the provisions of the Student Code of Conduct apply. A student and/or parent may initiate the procedure when s/he/they believe that a violation, misapplication or misinterpretation of Section 504 has occurred.

The parent may examine relevant records prior to the conference described below and may choose to be represented by counsel.

Step 1 - Principal/Building 504 Officer Conference: A student or parent may initiate a grievance by making a written request for a conference with the building principal or Building 504 Officer to discuss the complaint and seek resolution. The request shall fully describe the grievance (i.e., it must set out the circumstances giving rise to the dispute and how the child is adversely affected), and be filed as soon as possible, but not longer than thirty (30) calendar days after disclosure of the facts giving rise to the grievance. The principal shall conduct the conference within five (5) school days following receipt of the request. The principal will state in writing his/her decision to the individual within five (5) school days following the conference.

Step 2 - Appeal to the District's Section 504 Compliance Officer: If the grievance is not resolved satisfactorily at Step 1, the student or parent may appeal the principal's decision in writing to the District's Section 504 Compliance Officer. The appeal must be made within five (5) school days following receipt of the principal's decision. The Compliance Officer will review the case, may conduct an informal hearing, and will notify all parties in writing of his/her decision within ten (10) school days of receiving the appeal.

Step 3 - Further Appeal: If the grievance is not resolved satisfactorily at Step 2, the student or parent may appeal for an independent due process hearing (see below) or may take the matter directly to the U.S. Department of Education's Office for Civil Rights. A request for a due process hearing must be made within ten (10) school days following receipt of the Compliance Officer's

response in Step 2. The request for due process should be made in writing to the Compliance Officer.

## **2. Due Process Hearing -**

- a. When a request for a due process hearing is received, the aggrieved party will have the opportunity to receive a hearing conducted by an impartial hearing officer ("IHO") (i.e., by a person not employed by the Board of Education, not involved in the education or care of the child, and not having a personal or professional interest that would conflict with his/her objectivity in the hearing).
- b. The District will maintain a list of trained IHOs that may include IDEA hearing officers, attorneys, and Directors of Special Education outside the District. The District's Section 504 Compliance Officer will appoint an IHO from that list, and the costs of the hearing shall be borne by the District. The appointment of an IHO will be made within fifteen (15) school days after the request for a due process hearing is received.
- c. A party to such a due process hearing shall have:
  - i. the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;
  - ii. the right to present evidence, and confront, cross-examine and compel the attendance of witnesses;
  - iii. the right to a written or electronic verbatim record of such hearing; and
  - iv. the right to written findings of fact and decisions.
- d. The IHO shall conduct the due process hearing within a reasonable period of time (i.e., not to exceed ninety (90) calendar days of the request for such a hearing, unless this time-frame is mutually waived by the parties or is determined by the IHO to be impossible to comply with due to extenuating circumstances).
- e. The IHO will give the parent and/or student written notice of the date, time and place of the hearing. Notice will be given no less than twenty-one (21) calendar days prior to the date of the hearing, unless otherwise agreed to by the parent and/or student.
- f. The IHO shall conduct the hearing in a manner that will afford all parties a full and fair opportunity to present evidence and to otherwise be heard.

The parent and/or student may be represented by another person of his/her choice, including an attorney.

- g. The IHO shall make a full and complete record of the proceedings.
- h. The IHO shall render a decision in writing to the parties within thirty (30) calendar days following the conclusion of the hearing. The decision will be based solely on the testimony and demonstrative evidence presented at the hearing and will include a summary of the evidence (i.e., findings of fact) and the reason for the decision.

The notification shall include a statement that either party may appeal the decision.

- i. Appeal of the IHO's decision may be made to a Federal court of competent jurisdiction.

#### **IV. The District's Section 504 Forms**

## Section 504 Compliance Checklist

Student Name \_\_\_\_\_ Student ID \_\_\_\_\_

Grade \_\_\_\_\_ DOB \_\_\_\_\_ School \_\_\_\_\_

Teacher(s) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

School Nurse \_\_\_\_\_ Case Manager \_\_\_\_\_

Record date each step of the 504 process is completed.

### 1. Referral

Referral for Section 504 Consideration form \_\_\_\_\_

Parent Notification Letter with Parent Rights Statement \_\_\_\_\_

### 2. Evaluation

Section 504 Evaluation Summary \_\_\_\_\_

### 3. Placement

Section 504 Plan \_\_\_\_\_

### 4. Review

*Section 504 Plans should be reviewed at least annually and eligibility should be reviewed at least every three years. Record the date of each review below. Mark if it is a plan review or an eligibility review.*

Plan Review \_\_\_\_\_ Eligibility Review \_\_\_\_\_ Date: \_\_\_\_\_

Plan Review \_\_\_\_\_ Eligibility Review \_\_\_\_\_ Date: \_\_\_\_\_

Plan Review \_\_\_\_\_ Eligibility Review \_\_\_\_\_ Date: \_\_\_\_\_

Plan Review \_\_\_\_\_ Eligibility Review \_\_\_\_\_ Date: \_\_\_\_\_

**Referral for Section 504 Consideration**

Student Name \_\_\_\_\_ Student ID \_\_\_\_\_

Grade \_\_\_\_\_ DOB \_\_\_\_\_ School \_\_\_\_\_

Teacher(s) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

School Nurse \_\_\_\_\_ Case Manager \_\_\_\_\_

Date of Referral \_\_\_\_\_ Referral initiated by: \_\_\_\_\_

(School, Parent, other,)

Reason for Referral: (Why is the 504 being considered?)

Parent consent for evaluation?  Yes  No

Parent Signature: \_\_\_\_\_

Referral Reviewed \_\_\_\_\_ Case Manager Assigned \_\_\_\_\_

Parent Notification Letter with Parent Rights Statement sent: \_\_\_\_\_

Section 504 Evaluation Meeting Scheduled: \_\_\_\_\_

Case Manager: Name: \_\_\_\_\_ Signature: \_\_\_\_\_

**Parent Notice of Intent to Determine Eligibility**  
(School Letterhead)

(Date)

(Parent Name and Address):

RE: (student Name)

Dear

Your child's needs are being reviewed to determine eligibility for educational services under Section 504 of the Rehabilitation Act of 1973. Attached you will find a copy of the referral form and information regarding your rights in this process as defined by Section 504. Please sign the referral form indicating your consent and return to school.

If your child is eligible under Section 504, a plan will be developed to assure appropriate public education services. The plan will be developed by you and school personnel knowledgeable about your child and the particular school setting.

- I will be contacting you in the near future to arrange a meeting to discuss the results of the review of your child's needs and, if appropriate, to discuss the implementation of a plan.
- You are invited to attend an evaluation team meeting where we will discuss the needed information to determine eligibility. Please confirm whether or not you are able to meet at the following date, time, and location.

Date:

Time:

Location:

If you have questions, please feel free to contact me at school.

Sincerely,

Special Programs Director  
740-753-1674



## **Section 504 – Notice of Parents’ Rights**

Section 504 of the Rehabilitation Act of 1973 is a nondiscrimination statute prohibiting discrimination against persons solely on the basis of handicap, including students, staff members, or other participants in the educational programs, employment, or other activities of school districts receiving Federal financial assistance. Individual or parent (guardian) rights under Section 504 include the following:

- Right to have your child participate in public education programs without discrimination because of his/her disability;
- Right to be informed of your rights under federal law;
- Right to receive notice with respect to identification and evaluation to determine the eligibility of the individual (student) for necessary to provide access to educational programs;
- Right to have your child educated in facilities and to receive services comparable to those provided to non-disabled students;
- Right to be informed of any proposed action related to determination of eligibility, development of a plan for services, and educational placement of your child;
- Right to examine all relevant educational records;
- Right to receive all information in the parent's or guardian's native language and primary mode of communication;
- Right to periodic reevaluations and an evaluation before any significant change in program or service modification; and
- Right to request a hearing before an impartial hearing officer if there is disagreement with the decisions reached by school personnel regarding your child’s identification, evaluation, educational program (i.e., accommodations necessary for access to educational programming and/or facilities), or placement.

You may contact the District’s Section 504 Coordinator with additional questions.

Director of Special Programs  
4 Buckeye Drive  
Nelsonville, Ohio 45764  
(740) 753-1674

### Section 504 Evaluation Summary

Student Name \_\_\_\_\_ Student ID \_\_\_\_\_

Grade \_\_\_\_\_ DOB \_\_\_\_\_ School \_\_\_\_\_

Teacher(s) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

School Nurse \_\_\_\_\_ Case Manager \_\_\_\_\_

Date of Referral \_\_\_\_\_ Referral initiated by: \_\_\_\_\_  
 (School, Parent, other,)

Evaluation Meeting Date: \_\_\_\_\_

Evaluation Summary:

Evaluation Component: Test, Observation, report, etc.	Results or summary of findings

**Section 504 Evaluation Summary (Page 2)**

Educational implications:

Team Determinations

- a.** Is there a documented physical or mental impairment?       Yes    No

If yes, list the documented impairment \_\_\_\_\_

- b.** Does the impairment substantially limit a major life activity?       Yes    No

If yes, mark which major life activity/activities is/are limited and describe the limitation(s) briefly.

Describe:

- c.** Is student eligible for 504?       Yes    No

If yes, proceed to develop a Section 504 Plan.

If no, return to building intervention team to gather more information or consider other options.

Evaluation Team Participants:

Signature	Role	Signature	Role

**Section 504 Plan**

Student Name \_\_\_\_\_ Student ID \_\_\_\_\_

Grade \_\_\_\_\_ DOB \_\_\_\_\_ School \_\_\_\_\_

Teacher(s) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

School Nurse \_\_\_\_\_ Case Manager \_\_\_\_\_

Meeting Date \_\_\_\_\_

**Background information**

(This narrative describes present levels, disability, and the needs of the student.)

Area of educational impact	Accommodation/Service	Person and/or Role Responsible	Additional Comments

Implementation Date \_\_\_\_\_ Review Date \_\_\_\_\_

**Participants**

Signature	Role	Signature	Role