

**The Americans with Disabilities Act,  
Section 504 Accommodation Plans,  
And Public Schools**



Growing Possibilities...

**SECTION 504 HANDBOOK**

*General Information for Parents and Students*

**In compliance with federal law, Union County Public Schools administers all educational programs, employment activities and admissions without discrimination against any person on the basis of gender, race color, religion, national origin, age, or disability.**

**2018-2019**

## **MESSAGE FROM THE DISTRICT SECTION 504 COORDINATOR**

The Union County Public School System adheres to Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA) as amended. These major federal legislative acts are designed to protect the civil rights of individuals with disabilities. Their intent is to prevent any form of discrimination based on disabilities. Section 504 Accommodation Plans do not guarantee success for students with disabilities; it guarantees an equal opportunity for success.

The purpose of this handbook is to provide parents and school personnel with an overview of Section 504 and the ADA, and specific, practical guidelines for schools to use when working with children who are eligible for protections and services under Section 504 and the ADA.

Dr. Wendy Gravely  
District Administrator for Section 504

**\*For Section 504 and/or ADA issues related to employment within UCPS, please contact Dr. Chris Barnes, Superintendent for Human Resources.**

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# **NOTICE OF PARENT AND STUDENT RIGHTS/ PROCEDURAL SAFEGUARDS**

## **UNDER SECTION 504 REHABILITATION ACT OF 1973**

Section 504 of the Rehabilitation Act of 1973 is a non-discrimination statute barring discrimination on the basis of one's disability. Section 504 states: *No otherwise qualified individual with a disability shall solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination any program or activity receiving Federal financial assistance.* School districts are required to establish and implement procedural safeguards that include notice, an opportunity for parents to review relevant records, an impartial hearing with opportunity for participation by the student's parents or guardian, representation by counsel and a review process. Under Section 504, a person is considered disabled if s/he suffers from a physical or mental impairment that substantially limits one or more major life activities, including but not limited to learning, walking, breathing, eating, working, and seeing.

The purpose of this notice is to inform parents and students of their entitlement to the following rights under Section 504:

1. You have a right to be informed by the school district of your rights under Section 504. (The purpose of this document is to advise you of those rights.)
2. Your child has the right to a free appropriate public education designed to meet his/her individual educational needs as adequately as the needs of non-disabled students are met.
3. Your child has the right to free educational services except for those fees that are imposed on non-disabled students or their parents.
4. Your child has a right to be educated with children who are not disabled, to the maximum extent appropriate.
5. Your child has a right to facilities, services, and activities that are comparable to those provided for non-disabled students. This right includes your child's right to be given an equal opportunity to participate in nonacademic and extracurricular activities offered by the district.
6. Your child has a right to an evaluation prior to an initial Section 504 placement and any subsequent significant change in placement. You also have the right to request such an evaluation. Any student who needs, or is believed to need, accommodations and/or related services under Section 504 must be referred to the Section 504 Committee for evaluation.
7. You have the right to receive notice and offer consent with respect to decisions regarding formal identification, evaluation, and placement of your child.
8. Evaluation and placement decisions must be made by a group of persons (i.e., the Section 504 Committee), including persons knowledgeable about your child, the meaning of the evaluation data, the placement options, and the legal requirements for least restrictive environment and comparable facilities.

9. If eligible under Section 504, your child has a right to periodic formal or informal re-evaluations, occurring at minimum every three years.
10. You have the right to notice prior to any action by the district in regard to the identification, evaluation, or placement of your child.
11. You have the right to examine relevant records and documents regarding your child.
12. You have the right to file a grievance if you believe that your child is being discriminated against on the basis of a disability. You may file a grievance with the district's Section 504 Coordinator (or designee), who will investigate the allegations to the extent warranted by the nature of the complaint in an effort to reach a prompt and equitable resolution. Please also see UCPS Board Policy 4-7. The Section 504 Coordinator for the Union County Public Schools is:

Dr. Wendy Gravely  
Union County Public Schools  
400 North Church Street  
Monroe, NC 28112  
Phone: 704.296.6389

13. If you disagree with the Section 504 Coordinator's resolution of your grievance, you have a right to file an appeal of the Section 504 Coordinator's decision with the Superintendent or his or her designee. The appeal must be made in writing within 15 business days of receiving the District Section 504 Coordinator's response to the Chief Academic Officer. The request should be mailed to:

Dr. Brad Breedlove  
Union County Public Schools  
400 North Church Street  
Monroe, NC 28112  
Phone: 704.296.1003

14. If you disagree with the response issued by the Superintendent or Superintendent's designee, you have the right to file an appeal, in accordance with the Union County Public Schools Board of Education Policy 4-7 AG (B), to the Board of Education.
15. You have the right to an impartial due process hearing before an impartial Hearing Officer if you wish to challenge an action or omission with regard to your child's **identification, evaluation, or educational placement** under Section 504. You and your child have the right to participate, speak, and present information at the hearing, and you have the right to be represented by counsel, or any other type of advocate or representative at your expense. The written request for an impartial due process hearing may be made on a form provided by Union County Public Schools for that purpose and submitted to the Chief Academic Officer. The Superintendent's designee is:

Dr. Brad Breedlove  
Union County Public Schools  
400 North Church Street  
Monroe, NC 28112  
Phone: 704.296.1003

16. You also have a right to file a complaint with the Office for Civil Rights, U.S. Department of Education:

400 Maryland Avenue, SW  
Washington, D.C. 20202-1475  
Telephone: 202-453-6020  
FAX: 202-453-6021; TDD: 877-521-2172  
Email: [OCR.DC@ed.gov](mailto:OCR.DC@ed.gov)

In compliance with federal law, Union County Public School system administers all educational programs, employment activities, and admissions without discrimination because of race, religion, national or ethnic origin, color, age, military service, disability, or gender, except where exemption is appropriate and allowed by law.

## **SECTION 504 GRIEVANCE PROCEDURES**

Union County Public Schools (UCPS) acknowledges the dignity and worth of all students and employees and strives to create a safe, orderly, caring, and inviting school environment to facilitate student learning and achievement. UCPS does not tolerate any form of harassment, discrimination, and/or retaliation on the basis of disability, race, color, national origin, sex, and age in educational or employment activities. To that end, UCPS has adopted internal grievance procedures to provide for prompt and equitable resolution of complaints by students, employees, and third parties.

Specifically, UCPS does not tolerate harassment, discrimination, and/or retaliation on the basis of disability in accordance with Title II of the Americans with Disabilities Act (“ADA”) and Section 504 of the Rehabilitation Act of 1973. UCPS has adopted an internal grievance procedure to provide for prompt and equitable resolution of complaints of any action prohibited by Section 504. All grievances will be promptly, thoroughly, and impartially investigated. The Law and Regulations may be examined in the office of Dr. Wendy Gravely, District Administrator for Section 504 & Compliance, (704) 296-6389, who has been designated to coordinate the efforts of UCPS to comply with Section 504.

Any person who believes that she or he has been subjected to harassment, discrimination, and/or retaliation on the basis of disability may file a grievance under this procedure. It is against the law and thereby prohibited for any UCPS employee to retaliate against anyone who files a grievance or who cooperates in the investigation of a grievance.

### **Grievance Steps**

#### **Resolution Step 1**

- A. Grievances should be first lodged with the school principal. The grievance should include a written explanation of the concern and should be filed within thirty (30) school days after disclosure of the facts giving rise to the grievance. For a grievance submitted after 30 days that claims discrimination, retaliation, or harassment of a student based on disability, the District Section 504 Coordinator shall determine whether the grievance will be investigated after considering factors such as the reason for the delay; the extent of the delay; the effect of the delay on the ability of the school system to investigate and respond to the complaint; and whether the investigation of the complaint is necessary to meet any legal obligations. However, parents/students should recognize that delays in filing a grievance may significantly impair the ability of the school system to investigate and respond effectively to such complaints. Grievance forms are accessible on the UCPS Section 504 website at <https://www.ucps.k12.nc.us/Page/5584>. The Grievant’s confidentiality shall be maintained, other than as necessary to conduct the investigation into the allegations of harassment, discrimination, and/or retaliation.
- B. The written grievance shall name the employee(s) against whom the grievance is filed and shall set forth the facts, specific laws, regulations, policies, procedures or physical conditions involved. After receiving the grievance, the principal will notify the District Section 504 Coordinator that a grievance has been filed. A meeting will take place at a mutually agreed-upon time within five (5) working days after receipt of the grievance (see UCPS Policy 3-10 for definition of “days”). Each party may have one (1) representative at this meeting. The principal shall provide the Grievant with a written response within four (4) working days after the meeting, which will include, if discrimination is founded, the

appropriate corrective and remedial action that the principal intends to take. The principal will send a copy to the District Section 504 Coordinator.

- C. In the event the principal determines at the outset that a Step 1 review is inappropriate, the grievance procedure may originate at Step 2.

### **Resolution Step 2**

- A. If the grievance is not resolved at Step 1, then the Grievant may refer the grievance to the UCPS Section 504 Coordinator four (4) working days after receipt of the written report of the Step 1 decision. The Section 504 Coordinator is Dr. Wendy Gravely, District Administrator for Section 504 & Compliance, Union County Public Schools, 400 North Church Street, Monroe, NC 28112.
- B. The District Section 504 Coordinator will review the Step 1 resolution, and may promptly, thoroughly, and impartially conduct any additional investigation of the grievance as needed to address the alleged concerns. This investigation may be informal, but it must afford all interested persons an opportunity to submit evidence relevant to the grievance. The Section 504 Coordinator will issue a written decision on the grievance to the Grievant and the school no later than thirty (30) working days of receiving the request. The report will state relevant findings of fact, conclusions and the reasons supporting them. If the investigation revealed discriminatory conduct, the written response will address the appropriate corrective and remedial action to address the discrimination.

### **Resolution Step 3—Appeal (see UCPS BOE Policy 4-18)**

- A. If the grievance is not resolved at Step 2, the grievant may submit an appeal of the decision to the Superintendent or his/her designee. The appeal must be made in writing within fifteen (15) calendar days of receiving the District Section 504 Coordinator's response. The Superintendent or his/her designee will conduct any investigation of the facts necessary and respond to the appeal in writing within ten (10) calendar days of receiving the appeal. If the investigation revealed discriminatory conduct, the written response will address the appropriate corrective and remedial action to address the discrimination. In responding, the Superintendent or his/her designee will not disclose information about other students or employees that is considered confidential by law. The Superintendent's designee is: Dr. Brad Breedlove, Chief Academic Officer, Union County Public Schools, 400 North Church Street, Monroe, NC 28112.
- B. If the matter is not resolved at the Superintendent's level, an appeal of the decision may be made to the Board of Education within fifteen (15) calendar days of receiving the Superintendent's decision (see UCPS BOE Policy 4-7 AG (B)). The appeal should be made in writing and submitted to the Superintendent. The Board will hold a hearing pursuant to Board Policy 4-7 AG (B).

### **Office of Civil Rights**

The availability and use of this grievance procedure does not prevent a person from filing a complaint of discrimination on the basis of disability with the U. S. Department of Health and Human Services, Office for Civil Rights. The office is located at 400 Maryland Avenue, SW, Washington, D.C. 20202-1475 Telephone: 202-453-6020; FAX: 202-453-6021; TDD: 877-521-2172 Email: [OCR.DC@ed.gov](mailto:OCR.DC@ed.gov)



UCPS will make appropriate arrangements to ensure that persons with disabilities are provided other accommodations, if needed, to participate in this grievance process. Such arrangements may include, but are not limited to, providing interpreters for the deaf, providing taped cassettes of material for the blind, or assuring a barrier-free location for the proceedings. The Section 504 Coordinator will be responsible for such arrangements.

**SECTION 504 GRIEVANCE FORM**

You have the right to file a grievance if you believe that your child is being harassed, discriminated against, and/or retaliated against on the basis of a disability. You may file a grievance of complaint first with your school principal. If the grievance is not resolved at that time, or, if filing a grievance with the school principal involves a conflict of interest, then you may file a grievance with the District Section 504 Coordinator. The District Section 504 Coordinator will then investigate the allegations to the extent warranted by the nature of the grievance in an effort to reach a prompt and equitable resolution. Please also see Policies 3-10, 4-7, and 4-7 AG (B).

The Section 504 Coordinator for the Union County Public Schools is:  
Dr. Wendy Gravely  
400 North Church Street  
Monroe, NC 28112  
Phone: 704.296.6389 Fax: 704.282.2073

Student Name: \_\_\_\_\_ School: \_\_\_\_\_

Parent/Guardian Name(s) \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number(s) \_\_\_\_\_

1. Summary of Grievance – What is the problem? What are the facts? (additional paper may be used)

\_\_\_\_\_  
\_\_\_\_\_

2. What are your proposed resolutions?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Who have you spoken to or met with at the school to address this situation? \_\_\_\_\_

What was the result of this contact? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Please attach any additional information or documentation you wish the district to consider. You also have the right to file a complaint with the regional office of the U. S. Department of Education’s Office for Civil Rights (OCR) without going through the district’s grievance procedures.

Signature of Parent: \_\_\_\_\_ Date: \_\_\_\_\_

Received by: \_\_\_\_\_ Date: \_\_\_\_\_

## **WHAT IS THE SECTION 504 OF THE REHABILITATION ACT OF 1973?**

Section 504 of the Rehabilitation Act is major federal legislation that applies to entities, like school districts, that receive federal funding. It is civil rights legislation to protect qualified persons with disabilities from any form of discrimination based on disabilities.

### **DETERMINING ELIGIBILITY**

To consider a student for eligibility under Section 504 the following question must be answered:

**“Does the student have a physical or mental impairment that substantially limits a major life activity or major bodily function?”**

**Under Section 504, a person is considered to have a disability if that person (29 U.S.C. Sec. 706 (8) :**

- (1) has physical or mental impairment which substantially limits one or more such person’s major life activities or bodily functions
- (2) has a record of such impairment, or
- (3) is regarded as having such an impairment.

### **Physical or Mental Impairment**

- (a) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitor-urinary; hemic and lymphatic; skin and endocrine; or
- (b) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

### **Major Life Activities**

Caring for one’s self, performing manual tasks, walking, breathing, seeing, hearing, speaking, learning, working, reading, concentrating, thinking, sleeping, eating, lifting, bending and communicating.

### **Major Bodily Functions:**

The immune system, normal cell growth, digestive, bowel, and bladder functions, respiratory function, circulatory function, endocrine function, reproductive function, brain and neurological function.

The regulation does not set forth an exhaustive list of specific diseases or categories that may constitute physical or mental impairments. The definition of physical or mental impairment under section 504 is broad, including students with life-threatening health conditions that will put a student in danger of death during the school day, if medication or treatments are not in place.

If a student does not have a physical or mental impairment, the student does not meet the definition as being disabled under Section 504. ***Section 504 does not guarantee success for students with disabilities; it guarantees an equal opportunity for success.***

## **Record of or Regarded as:**

- (a) Requires discrimination as a result of having a record of such a disability.
- (b) Requires discrimination as a result of being regarded as having such an impairment.

## **Substantial Limitation**

A physical or mental impairment substantially limits a major life activity if the student's ability to perform a major life activity or major body function is decreased as compared to the student's non-disabled age/grade peers. There is no single formula or scale that measures substantial limitation. Impairment need not prevent, or significantly or severely restrict a student in performing a major life activity to be considered substantially limiting. Title II provides three (3) factors to consider when determining whether or not the disability substantially limits a major life activity or major bodily function:

1. **Nature and severity** of the impairment;
2. **Duration** or **expected duration** of the impairment; **AND**
3. **Permanent, long-term impact** or **expected impact** of the impairment.

The determination of whether a student has a physical or mental impairment that substantially limits a major life activity or major body function must be made by the Section 504 team. Section 504 regulations do not define the term "substantial" and therefore have left this interpretation to school districts. For the most part, "substantial" means a student is limited in the performance of a major life activity when compared to how students in the general population perform the same activity. School Section 504 teams, therefore, use data from a variety of sources to make decisions regarding a student's substantial limitation as it relates to eligibility under Section 504.

Section 504 teams must be sure that a student's disability is based on a mental or physical impairment and not a condition such as environmental, cultural, or economic disadvantage. Conditions such as homelessness, limited English ability, attendance, lack of motivation, transiency, or lack of educational opportunity, are not conditions which have as a basis a mental or physical impairment. A condition may trigger an impairment, but the impairment is the basis for the disability and is documented through a medical/other health-related diagnosis.

## **Mitigating Measures**

Mitigating measures are defined as actions or procedures that may be used by a disabled student to manage the impairment or lessen the impact of the impairment. Mitigating measures include medication, medical devices, related aids, and/or services. Mitigating measures must be disregarded when determining a student's eligibility under Section 504. However, the mitigating measures or supports may be considered when writing a student's accommodation/support plan as this information is useful to know what accommodations work and may be helpful for this student.

## **Impairments that are Episodic or in Remission**

The ADA/AA declares that "An impairment that is episodic or in remission is a disability only if it would substantially limit a major life activity when active." Students who have an impairment that may be considered episodic or in remission may be determined eligible under Section 504 as a student with a disability, but may not need an active Section 504 plan at this time. School teams should monitor these students to activate a plan if the student's condition becomes active and substantially limits the student's functioning.

## **Episodic Impairments**

Some students have physical or mental impairments that vary in severity. Conditions such as seasonal allergies or asthma, migraines, rheumatoid arthritis, and cystic fibrosis are good examples of impairments that may be substantially limiting at times (in hot or cold weather, when the student is stressed, when irritants or trigger factors are present) and have little impact at other times. Schools commonly qualify students under Section 504 if their condition, though not constant, episodically rises to the level of substantial limitation of a major life activity. Students should not be denied eligibility simply because the disability, at the moment of evaluation, is not substantially limiting, especially when the school knows from past experience that substantial limitation will likely occur. School Section 504 teams should look carefully at the range of data over a period of time and not just the student's current level of performance. The timing of the evaluation should not function to preclude eligibility for students whose impairments are episodic and who are not substantially limited at the time of evaluation.

## **Impairments in Remission**

The ADA language on impairments in remission is the same as episodic impairments: "An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active." An example is a student who had cancer that is now in remission. The student would be eligible if the cancer substantially limited the student when it was active in the past. However, this student may not need an accommodation plan, but may need to be monitored for a period of time. If the cancer returns, a plan must be developed immediately.

## **Temporary Impairments**

A temporary impairment is an impairment of a short duration (usually 6 months or less) or there is no residual effect to major bodily functions or life activities. The issue of whether a temporary impairment is substantial enough to be a disability must be resolved on a case-by-case basis, taking into consideration both the expected duration of the impairment and the extent to which the impairment limits a major life activity or bodily function. Section 504 eligibility determination meetings must occur and the team makes the determination if the impairment is temporary or not. Contact the District Section 504 office for further information.

## **Related Services: Occupational Therapy, Physical Therapy, Audiology, & Transportation**

Section 504 requires that related services be provided for students with disabilities if these services are essential to meet the student's educational needs. A related service can be provided under Section 504 to children who do not receive any other special education services or interventions. The UCPS related services consist of physical therapy, occupational therapy, and audiology services. Related services staff must be contacted to assist in evaluating a student before services are provided. The school-level Section 504 coordinator will be contacted by the related services staff to schedule the evaluation. Students who receive a related service must receive progress monitoring to determine the effectiveness of the accommodations provided. Monitoring must be completed each quarter and reported to the student's parent or guardian.

Equipment assigned to a student must be maintained and kept in working order. Equipment that is not in working order may compromise the implementation of a student's Section 504 plan. When a problem is noted with any equipment, notify the District Section 504 office or the related service provider immediately.

## **Notification of Refusal to Use Section 504 Accommodations**

If a student refuses to use an accommodation or assigned equipment as stipulated in the student's Section 504 plan, the **Notification of Refusal to Use Section 504 Accommodations** form must be completed by following all procedures followed as outlined on the document. In addition, the student's refusal shall be documented, as

well as the staff's attempts to provide the student with the accommodation/service, and the student's parents will be contacted. If the student does not respond to the interventions, staff will speak with parents and other teachers to find out the reason for the student's refusal. A Section 504 Team meeting will be convened if there is no response to the interventions and attempts to provide the accommodation/service.

**SECTION 504/ADAAA COMPARED TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)**

Eligibility for protections and services under Section 504 is not the same as eligibility for IDEA. Section 504 has a much broader definition of what constitutes a disability. Under IDEA, students must need specialized instruction and related services and meet various criteria for the program of suspected disability. Specialized instruction is provided to the student via an Individualized Education Plan (IEP). Section 504, however, is an anti-discrimination statute that prevents schools from discriminating against students who are otherwise qualified to participate in school activities but are precluded from participating to the same extent as a nondisabled person on the basis of disability. These students are likely to be in a general education setting and would not need specialized instruction to meet their needs. However, they may need limited support with medication, accommodations for testing and/or class work, or for behavior support. Some individuals may be eligible for protections under Section 504, yet may not require specific accommodations or supports due to mitigating measures such as medication or therapy. **(Keep in mind that a student who is eligible under IDEA may also be eligible under Section 504).**

	<b>IEP</b>	<b>SECTION 504</b>
<b>DEFINITION</b>	Individualized Education Program: student program or curriculum that is essentially different from what peers utilize – fundamentally a special education program at its core.	Section 504 of the Rehabilitation Act of 1973: equal opportunity for those students with disabilities – fundamentally a general education program at its core with supports extended to access it.
<b>PURPOSE</b>	Specialized instruction with modification of actual program or curriculum materials.	Accommodations for accessing standard program or curriculum materials.
<b>ELIGIBILITY</b>	Only under specified disability categories: Autism, Emotional, Specific Learning Disability, Sensory (Hearing, Vision, Deaf- Blind), etc.	Less discriminatory – available to students with physical or mental impairment substantially limiting at least one major life activity, have a record of such impairment or regarded as having such an impairment.
<b>OVERSIGHT</b>	Individuals with Disabilities Education Act (IDEA) – Education Law—Office of Special Education Programs (OSEP)	Americans with Disabilities Act (ADA); Section 504 of the Rehabilitation Act of 1973 – Civil Rights Law—Office for Civil Rights (OCR)
<b>CONTENTS</b>	Disability listing, vision statement, progress impact, short-term goals, accommodations/modifications, behavior and/or social skills plan if applicable, summer services, transport needs, placement recommendation.	Plan objectives, definitions, care and self-care details, resource access, health/medical monitoring, emergency planning, testing and classroom dynamics, communication and notification instructions, additional contact details.
<b>FUNDING</b>	Federal funding	No federal funding

<b>RECIPROcity</b>	A student covered under IDEA on an IEP is automatically covered under ADA's Section 504.	A student covered under ADA's Section 504 is not necessarily covered by education law under IDEA.
<b>TESTING</b>	Standardized testing accommodations available.	Standardized testing accommodations available.
<b>TRACKING</b>	Progress reporting	No progress reporting

## **Students Who Are Receiving Services Under Exceptional Children Education (EC)**

Once a student is eligible under the IDEA, the IEP team is responsible for the whole child (although still entitled to the Section 504 protections against discrimination and equal access. Students covered under IDEA with an Individualized Education Plan (IEP) do not need a separate Section 504 Plan, as provisions covered under Section 504 are included under IDEA.

### **SECTION 504 AND FOOD ALLERGIES**

According to the USDA, "when in the licensed physician's assessment, food allergies may result in severe, life-threatening (anaphylactic) reactions, the child's condition would meet the definition of 'disability'."

The Americans with Disabilities Act (ADA) recommends that parents of children with food allergy create, in collaboration with their school, a written plan that addresses the student's medical needs, emergency procedures in the event of a reaction, and the accommodations to prevent the student from encountering the specific allergen(s). The plans can be developed by the Section 504 Team as a Section 504 Plan, which is available under a federal civil rights law, **Section 504 of the Rehabilitation Act of 1973**. **Section 504** applies to any school that receives federal money (i.e., all public schools and many private schools), and applies to a variety of health conditions, including a life-threatening food allergy. The U.S. Department of Education's Office for Civil Rights lists allergy as an example of a **hidden disability** for the purpose of Section 504, and also **further explains** how a food allergy, for many children, would be considered a disability under 504.

What is more, the USDA states in its **guidelines** for accommodating students with special dietary concerns that when a physician diagnoses a food allergy as potentially causing life-threatening reactions, the child's condition meets the definition of a disability under Section 504.

The Office for Civil Rights has also published an informative **Q & A** on Section 504 and recent amendments to the Americans with Disabilities Act, and food allergy is addressed in Questions 4 and 13. Section 504 allows you to create, in collaboration with the school, a 504 Plan, which is a written management plan outlining how the school will address the individual needs of your child, and allow your child to participate safely and equally alongside his/her peers during all normal facets of the school day.

To begin the 504 process, you need to contact the school's Section 504 Coordinator. The Section 504 Coordinator will help assemble a 504 team that will determine if your child qualifies for protection under Section 504. Typically, a 504 team includes key members of the school staff such as the school nurse, teachers, food service personnel, coaches, counselors, and other individuals with knowledge of the child.

In making their determination, the 504 team will rely on medical information. As a result, you may be asked to obtain specific medical information or medical recommendations from your child's allergist and/or pediatrician for the team to review.

Once the 504 team finds your child eligible, the team will create an accommodation plan (or 504 Plan), which may include a number of components such as an Individual Healthcare Plan (IHP) and a **Food Allergy & Anaphylaxis Emergency Care Plan**.

Written management plans such as 504 Plans have become increasingly more common over the past decade, especially for children with food allergy and diabetes. These written plans can include or incorporate by reference multiple components (IHP, Food Allergy & Anaphylaxis Emergency Care Plan, Cafeteria Procedures, a Transportation Plan, and a Staff Education Plan).

If you experience difficulty with your school concerning a 504 Plan, you may file a grievance with the district's Section 504 Coordinator (or designee), who will investigate the allegations to the extent warranted by the nature of the complaint in an effort to reach a prompt and equitable resolution. Please also see UCPS Board Policy 4-7.

## **ADDITIONAL INFORMATION**

### **Transfer Students**

A student with an active Section 504 plan who enrolls in UCPS from outside the district must be reevaluated within a reasonable time, but no later than 45 days. UCPS accepts the student's current plan on a temporary basis. At the evaluation meeting, scheduled within 45 days, the Section 504 team determines if the student continues to meet eligibility under Section 504. If the student is determined to be eligible, a new accommodation plan, if needed, is written for use at the UCPS school. If the student is determined to no longer be eligible for services under Section 504, the team monitors the student for any further needs.

A student who reenrolls in UCPS must also be reevaluated to determine if the student continues to meet eligibility requirements. Once again, the Section 504 team may accept the student's former plan on a temporary basis while waiting to reevaluate the student. If the student was exited from a Section 504 plan prior to withdrawal from UCPS the Section 504 team would begin the process for eligibility determination only if a new referral is initiated.

### **Otherwise Qualified**

If a person with a disability wants to participate in an activity in which the individual is not otherwise qualified to participate, disallowing participation may not constitute discrimination.

*Example: A 16-year-old student with attention deficit hyperactivity disorder (ADHD) tries out for the basketball team but cannot dribble, shoot, or pass; therefore, the student does not have the basic skills to play basketball. As a result, the coach does not select the student to play on the team. This is not discrimination under Section 504, because the student is not otherwise qualified to be on the team.*

If this student was not allowed to try out for the team based solely on his/her disability of ADHD, or based solely on a disability, that is discrimination and is a violation of the law under Section 504.

*Example: A 16-year-old student with attention deficit hyperactivity disorder (ADHD) tries out for the basketball team and demonstrates the required skills to play basketball. After reviewing the student's file, the coach does not select the student to play on the team because he has ADHD. This is discrimination under Section 504, because the student is otherwise qualified to be on the team. The student met all requirements to be on the team, but was denied access only because of their ADHD diagnosis.*



## **Inclusion**

Section 504, like the IDEA, requires that students with disabilities be educated with their non-disabled peers to the maximum extent appropriate while meeting the needs of students with disabilities. Schools should always place students with disabilities with their non-disabled peers, unless the school can demonstrate that the student's education cannot be achieved satisfactorily, with or without supplementary aids and services, in the general education setting. This mandate also applies to extracurricular activities such as field trips. Failure to adhere to the above guidelines violates the schools' requirement to provide students with a Free Appropriate Public Education (FAPE).

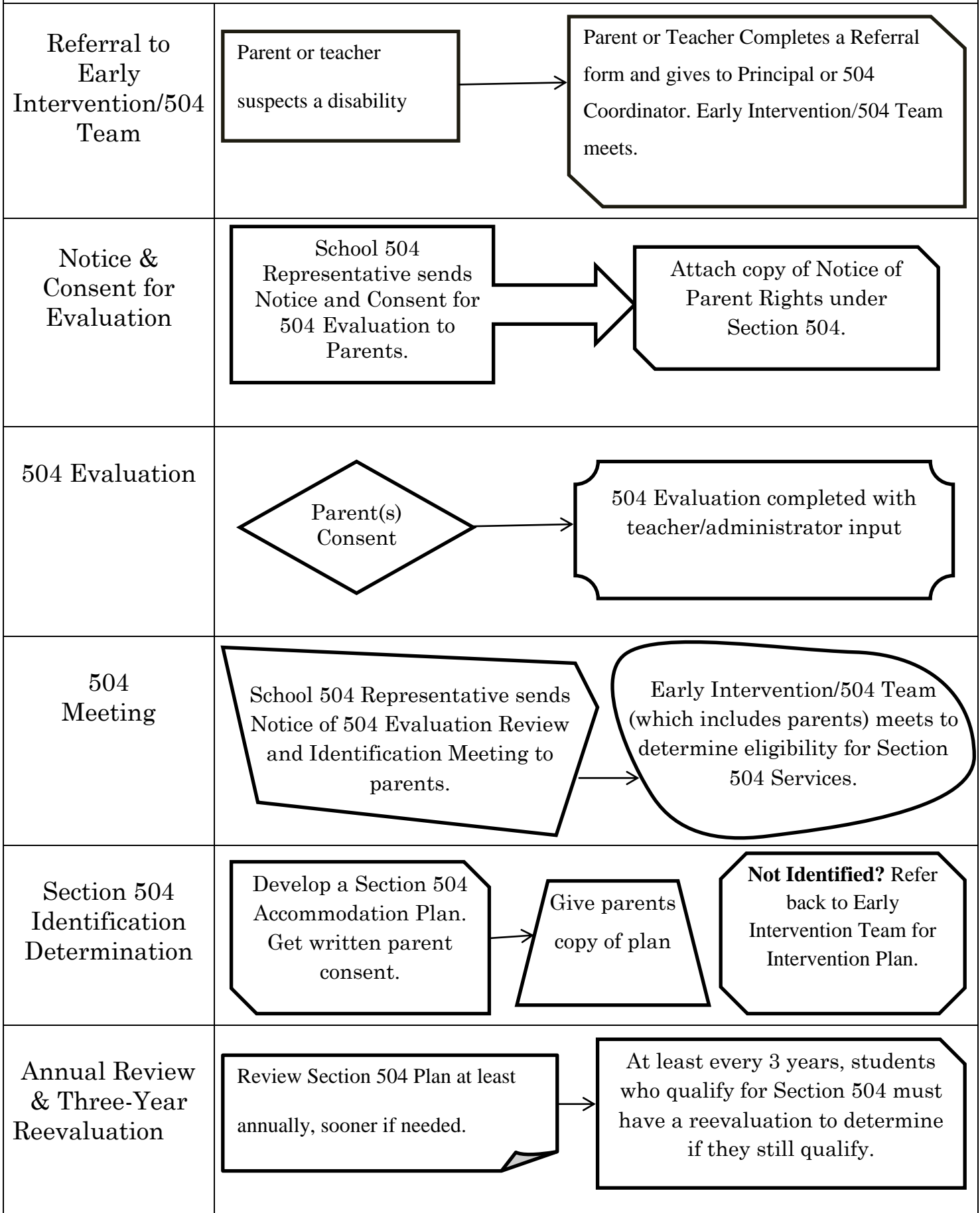
## **DISCIPLINE AND SECTION 504 STUDENTS**

Section 504 requires the implementation of certain procedural safeguards prior to a change in placement (a long term suspension or a series of short term suspensions which result in a change in placement). Once a proposed disciplinary consequence has resulted in a change in placement, the Section 504 team will convene to hold a Manifestation Determination Review meeting to consider the causal link between the conduct and the disabling condition.

However, unlike the disciplinary procedures enumerated under the Individuals with Disabilities Education Act (IDEA), the following applies to students eligible under Section 504:

- There is no requirement under Section 504 that educational services be provided during a long term suspension even when the cumulative number of days exceeds ten in one school year;
- Students currently engaged in the illegal use of drugs are not eligible under Section 504 unless they are enrolled in or have completed a supervised drug rehabilitation program and are no longer using (students who are alcoholics may be covered individuals under both Section 504 and ADA; and
- The ADA, in amending Section 504, states that school districts “may take disciplinary action pertaining to the use or possession of drugs or alcohol against any student with a disability who is currently engaging in the illegal use of drugs or in the use of alcohol to the same extent that such action may be taken against non-disabled student.”

# GENERAL OVERVIEW OF SECTION 504 PROCESS



## **DISTRICT-WIDE INFORMATION**

### **Notice of Non-Discrimination**

Union County Public Schools shall take steps to notify participants, employees, and applicants of district responsibilities under Section 504. The following notice shall appear in student/parent handbooks, teacher's handbooks, non-certified personnel handbooks and published personnel recruiting materials: "In compliance with Federal Law, Union County Public Schools administers all education programs, employment activities and admissions without discrimination against any person on the basis of gender, race, color, religion, national origin, age or disability."

### **Child-Find Activities**

Union County Public Schools (UCPS) shall endeavor to locate and identify every qualified disabled person within the district who is not receiving a public education. The Section 504 staff will collaborate with the UCPS Federal and State Compliance Department to engage in child-find activities and communication annually. Activities may include but not limited to presenting information at parent meetings at school sites and within the community, school staff meetings, posting information in the school office, and reviewing student information upon registration.

### **Non-Academic Services**

Qualified disabled students shall be provided an equal opportunity to engage in counseling services, physical recreation, athletics, transportation, special interest clubs, etc.

For example, qualified disabled students shall:

- **not** automatically be counseled towards certain career objectives more than non-disabled students with similar abilities.
- **have** an equal opportunity to participate in physical education courses and athletics. Although qualified disabled students may participate in separate activities for the disabled, no qualified disabled student shall be denied the opportunity to compete (i.e. tryout) for membership on a team or to participate in courses that are not separate or different.