Section 504 Procedural Handbook

Elite Academic Academy

www.eliteacademic.com

*Please note that this document may be updated periodically.

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Overview of Section 504

Section 504 of the Rehabilitation Act of 1973 ("Section 504") is Congress' directive to schools receiving any federal funding to eliminate discrimination based on disability from all aspects of school operation. It 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 under any program or activity receiving Federal financial assistance.*…." Because the Elite Academic Academy ("Elite"), as a tuition-free charter school is a recipient of federal funding, it is required to provide eligible disabled students with equal access (both physical and academic) to services, programs, and activities offered by its schools.

Section 504 is a civil rights statute and not a special education statute. The responsibility for ensuring Section 504 compliance rests with Elite's Section 504 Designee, Academy Directors, General Education Teachers, and the Chief Academic Officer.

There are two main purposes to Section 504. The first purpose of Section 504 is to protect students from discrimination under federal law. Section 504 assures access to educational services and the learning process that is equal to that given to students who do not have disabilities. All students who have a physical or mental impairment which substantially limits one or more major life activities, have a record of such an impairment, or are regarded as having such an impairment, are protected from discrimination under Section 504.

The second purpose of Section 504 is to provide a free appropriate public education ("FAPE") to those students who satisfy all three criteria: (1) actually have a physical or mental impairment; (2) that substantially limits; and (3) one or more

major life activities. The provision of FAPE is accomplished through the creation and implementation of a Section 504 Service Plan.

The purpose of this Section 504 Service Plan Handbook is to provide guidance to Elite staff, its students and their parents/guardians in deciding whether students may be, or are, eligible for FAPE in the form of a Section 504 Service Plan. For information regarding a student's right to be protected from discrimination, including grievance procedures. If you have any questions please contact Elite's compliance officer.

Frequently Asked Questions About Section 504 FAPE and Section 504 Service Plans

What Criteria Are Used To Determine Whether A Student Is Eligible For Section 504 FAPE?

A student shall be eligible for FAPE under Section 504 if he/she satisfies all of the following criteria:

(1) Physical or Mental Impairment

A student must actually have a mental or physical impairment, such as a life-threatening health condition, that will put a student in danger during the school day if a medication and/or treatment is/are not provided. The definition is broad, as the law does not limit eligibility to specific diseases or categories of medical conditions. However, the applicable regulations define a physical or mental impairment as any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive system; or any mental or psychological disorder, such as an intellectual disability, organic brain syndrome, emotional, and specific learning disabilities.

(2) Substantially Limits

The student's physical or mental impairment must substantially limit one or more major life activities. Section 504 does not specifically define the term "substantially limits," nor is there a single formula that measures a substantial limitation. It is subject to interpretation on a case-by-case basis. Nevertheless, 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 does not need to prevent, or significantly or

severely restrict a student in performing a major life activity to be considered substantially limited.

Compare a student to his/her non-disabled age/grade peers to determine whether an impairment substantially limits a major life activity for the student. Generally, a student with a physical or mental impairment who is able to participate in, or benefit from, an education program, (e.g. attend school, advance from grade to grade, and meet the standards of independence and social responsibility expected of his/her age) without the provision of special education or related aids or services, is not a disabled student under Section 504 for purposes of FAPE.

There are now a set of conditions that "virtually always" will be considered substantially limiting: deafness, blindness, an intellectual disability, partially or completely missing limbs or mobility impairments requiring the use of a wheelchair, autism, cancer, cerebral palsy, diabetes, epilepsy, HIV, multiple sclerosis, muscular dystrophy, major depressive disorder, bipolar disorder, post-traumatic stress disorder, obsessive compulsive disorder, and schizophrenia.

(3) Major Life Activities

Major life activities include, but are not limited to, caring for one's self, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

Reading, seeing, walking, concentrating, thinking, and communicating are major life activities in addition to learning that are commonly used to determine Section 504 eligibility in the school setting. Some examples are: a student with a visual impairment who cannot read regular print with glasses is substantially limited in the major life activity of seeing; a student with an orthopedic impairment who cannot walk is substantially limited in the major life activity of walking; and a student with ulcerative

colitis is substantially limited in the operation of a major bodily function, the digestive system. Therefore, 504 teams cannot simply consider how an impairment affects a student's ability to learn.

How Are Mitigation Measures Taken Into Consideration When Determining Eligibility And Section 504 FAPE?

The determination as to whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as: 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, use of assistive technology, reasonable accommodations or auxiliary aids or services, or learned behavioral or adaptive neurological modifications. However, 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.

Although the Section 504 Team may not consider the ameliorative effects of mitigating measures when making a disability determination, these measures remain relevant in evaluating the need of a student with a disability for special education or related services. *Once the Section 504 Service Plan Team determines that a student has a disability, that student's use of mitigating measures could still be relevant in determining his/her need for special education or related services under Section 504*.

What Is A FAPE?

FAPE is the provision of general or special education and related services that are designed to meet the individual educational needs of persons with disabilities as adequately as the needs of nondisabled persons are met, and that are provided without cost (except for fees imposed on nondisabled students and their parents). *Thus, a school's obligation to provide FAPE extends to students with disabilities who do not need special education but require a related service*. For example, if a student with a disability is unable to self-administer a

needed medication, the school may be required to administer the medication if that service is necessary to meet the student's educational needs as adequately as the needs of nondisabled students are met.

An appropriate education may consist of general education classes with or without related aids or services, enrichment classes, special education (e.g., resource specialist program or non-public placement or agency services), or a combination of such services. The definition of related aids and services under Section 504 is broad and includes any service that a student needs to participate in and benefit from a school's education program. Some examples are: counseling services, social skills, speech services, occupational therapy services, orientation and mobility services, health services, nursing support, behavioral support, environmental and/or instructional supports and accommodations, and transportation.

Can A Temporary Impairment Be Considered A Disability For Which A Student Would Be Entitled To FAPE Under Section 504?

A temporary impairment can be a disability under Section 504 if it is severe enough that it substantially limits a major life activity for a student for an extended period of time. The ADAA defines a transitory impairment as "an impairment with an actual or expected duration of six months or less." The duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity for a student should be the key considerations. *The issue of whether a temporary impairment is substantial enough to be a disability must be resolved on a case-by-case basis*. For example, though pregnancy is not considered a disability under Section 504, the Section 504 Service Plan Team may determine that a pregnant student, who cannot attend school for several months due to pregnancy-related complications, is disabled under Section 504 for purposes of FAPE.

When Is An Impairment That Is Episodic Or In Remission Considered A Disability For Which A Student Would Be Entitled To FAPE Under Section 504?

An impairment that is episodic or in remission (e.g., cancer, bipolar disorder, epilepsy, allergies, etc.) is a disability if it would substantially limit a major life activity when active.

For example, if it is foreseeable that a student's illness would require home/hospital instruction on an intermittent basis (e.g., during chemotherapy treatments), then student may have a Section 504 plan that provides home/hospital instruction when he/she is undergoing such treatment.

Can Drug Addiction Be A Disability Under Section 504 For Purposes Of FAPE?

A student who is drug addicted but is in recovery and is not currently engaging in the illegal use of drugs, may qualify as a disabled student under Section 504 for purposes of FAPE if the student's drug addiction substantially limits the student's ability to perform a major life activity. Such a student may need a modified schedule, school counseling, or another type of special education or related aid or service to participate in or benefit from his/her educational program. A student who is drug addicted and is currently engaging in the illegal use of drugs, however, is excluded from the definition of a disabled student under Section 504. A school is under no obligation to evaluate such currently drug addicted student under Section 504 for the disabling condition of addiction regardless of the educational impact the drug addiction is having on the student. Thus, a school may treat such a student in the same manner as it treats non-disabled students. *A school should be aware, however, of circumstances in which a child's drug abuse may be attributed to his or her underlying disability. A school is responsible for assessing and addressing environmental issues and internal distress of a student with a disability that may be contributing to the use of controlled substances*.

Can Alcoholism Be A Disability Under Section 504 For Purposes Of FAPE?

A student who is addicted to alcohol, regardless of whether the student is currently using alcohol or is in recovery, may qualify as a disabled student under Section 504 for purposes of FAPE if the student's alcoholism substantially limits the student's ability to perform a major life activity. Such a student may need a modified schedule, school counseling, or another type of special education or related aid or service to participate in or benefit from his/her educational program. However, a school may take disciplinary action against students with disabilities using alcohol to the same extent as students without disabilities.

Can A School Require A Parent To Provide A Medical Diagnosis Before It Will Initiate An Evaluation Of A Student Under Section 504?

No. Under Section 504, a school must evaluate a student if it knows or suspects that the student, because of a disability, needs special education or related aids or services to participate in or benefit from its education program, regardless of whether the student has a medical diagnosis. *A school may be obligated to provide a student with medical diagnostic services, as a related service, if the school believes that it needs a medical diagnosis to determine whether a student has a medical condition*.

Does A Student With A Medical Diagnosis Automatically Qualify As A Disabled Student Under Section 504 For Purposes Of FAPE?

Not every medical diagnosis will substantially limit a student's ability to perform a major life activity. As explained above, there are a set of conditions that "virtually always" be considered substantially limiting. If a medical diagnosis does substantially limit a student's ability to perform a major life activity, the student may qualify as a disabled student under Section 504 for purposes of FAPE. Such a student, in addition to a Section 504 Services Plan, may *also* need an individual health care plan or another type of special education or related aid or service to participate in or benefit from a school's education program.

How Is A Section 504 Service Plan Referral Made?

When a student is exhibiting academic, attendance, social and/or behavioral problems the school may convene a Student Success Team ("SST") meeting. The purpose of the SST is to investigate the needs of the student. This preliminary investigation may result in one of three outcomes: general education interventions (such as Response to Intervention, also known as RTI), a referral to review Section 504 Service Plan eligibility, and/or a referral for a special education evaluation pursuant to the Individuals with Disabilities Education Improvement Act of 2004 ("IDEA"). If it is determined that the student should go through Section 504 Service Plan Eligibility Review, then a Section 504 Service Plan Referral Form must be submitted to the Academy Director.

A parent/guardian may also directly initiate a Section 504 Service Plan referral without going through the SST process. The individual making the referral should complete the Section 504 Service Plan Student Referral Form and forward it to the Academy Director.

When Should A Student Be Assessed?

There are no specific circumstances that trigger the obligation to conduct an evaluation, the decision to conduct an evaluation is governed by the individual circumstances in each case. For example, consider a student who has Attention-Deficit/Hyperactivity Disorder ("ADHD") but is not receiving special education or related services, and is achieving good grades in academically rigorous classes. Staff should not assume that this student's academic success necessarily means that the student is not substantially limited in a major life activity, and therefore is not a child with a disability. *Thus, grades alone are an insufficient basis upon which to determine whether a student has a disability. Grades are just one consideration and do not provide information on how much effort or how many outside resources are required for the student to achieve those grades*.

Consider conducting an initial evaluation or reevaluation under Section 504 when a student is/has:

- Marked decline in grades
- Refusing supports and/or services
- Not responding to general education interventions (e.g., SST, RTI, counseling, etc.)
- Failing to achieve passing grades
- Failing to advance from grade to grade
- Chronically absent from school
- Returning to school after a serious illness or injury, either from a hospital or home/hospital instruction
- Returning to school after alcohol or drug treatment
- A life-threatening health condition
- A temporary impairment that will be substantially limiting for an extended period of time

- An impairment that is episodic or in remission that is substantially limiting when active
- Taking new medication or has stopped taking medication
- Experiencing negative social, emotional and/or behavioral issues at school
- Attempted suicide
- Engaged is serious disciplinary misconduct

What Is The Section 504 Service Plan Evaluation Process?

A school shall evaluate a student who, because of a disability *needs, or is believed to need, special instruction or related services,* before taking any action with respect to the initial placement of the student in general or special education and any subsequent significant change in placement.

When selecting tests and other evaluation materials, school staff must ensure that what has been selected are: validated for the specific purpose for which they are used; administered by trained personnel in conformance with the instructions provided by the test publisher; tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

A school may administer and use formal and informal measures as deemed necessary. A school must obtain informed and written consent from the parent/guardian before the student is initially evaluated, but written consent may not be required for reassessments. If the parent/guardian refuses to consent to an initial evaluation, a school may use the Section 504 due process hearing procedures to override the lack of consent.

Once the evaluations are completed, the school will schedule a Section 504 Service Plan meeting to review the evaluations and the student's Section 504 Service Plan Team will determine whether the student is eligible for a Service Plan under Section 504.

What Is A "Significant Change In Placement" Under Section 504 That Would Trigger A Reevaluation?

A "significant change in placement" means a significant change in the type or amount of educational or related aids or services that the school provides to a student with a disability. For example: initiating or terminating a service; graduation; significantly increasing or decreasing the amount of a service or placement; and disciplinary actions that exclude a student from school for more than 10 consecutive school days in a school year; and disciplinary actions that create a pattern of exclusion from school (e.g., cumulative short-term suspensions that are each 10 school days or fewer in duration that create a pattern of exclusion due to the length of each suspension, the proximity in time of the suspensions, the total amount of time the student was excluded from school, and the similarities of the behaviors that led to the suspensions). Note that the reevaluation must adhere to Section 504 placement procedures, including that the reevaluation must draw upon information from a variety of sources; ensure documentation and consideration of information obtained from all sources; and the placement decision should be made by a group of persons who are knowledgeable about the student, the meaning of the student's evaluation data, and placement options.

What Is The Process For Deciding Whether A Student Is Eligible For 504 FAPE?

At the Section 504 Service Plan initial team meeting, the team will decide whether the student is eligible for a FAPE under Section 504 by deciding whether the student has a physical or mental impairment that substantially limits one or more major life activities. If the team determines that the student is eligible to receive a FAPE under Section 504, the team will develop a Section 504 Service Plan.

The Section 504 Service Plan Team is comprised of a group of individuals, including persons knowledgeable about the student, the meaning of the evaluation data being reviewed, and

placement options. The Section 504 Service Plan Team will generally include the parent/guardian and at least one of the student's general education teachers; and, may include: other teachers, individuals who can interpret the instructional implications of the assessment results, SST members, counselors, related service providers, the student, other school staff and administrators, and individuals who have knowledge or special expertise regarding the student.

The Section 504 Service Plan Team, in deciding whether a student is eligible for a Section 504 Service Plan, will collect and carefully interpret evaluation data and in a making decisions, the team will draw upon information from a variety of sources, including, but not limited to: observations, testing, reports, work samples, the school's assessments, private evaluations, medical records, letters from doctors, health care plans, school records, discipline records, school administration, school counselors, teachers and paraprofessionals that work with the student, the parent, and when appropriate, the student. The information obtained from all such sources should be documented and all significant factors related to the student's learning process must be considered. *Though, the team cannot rely on presumptions and stereotypes regarding persons with disabilities or classes of such persons*.

What Is And Is Not A Section 504 Service Plan?

A Section 504 plan is a written plan that describes the educational and related aids and services that the team determines the student needs to receive a FAPE. It may change more than annually depending on the student's needs. For a student whose only disability is a life-threatening health condition, an individual health care may be attached to his/her 504 plan. *Importantly and as explained below, an individual health care plan cannot replace a Section 504 Service Plan*.

Is An Individual Health Care Plan Sufficient To Comply With The FAPE Requirements As Described In The Section 504 Regulation?

An individual health care plan ("IHCP") is a detailed description of a student's health services, regardless if he/she is eligible for a Section 504 Services Plan. Generally, an IHCP

is developed by a school nurse in collaboration with the student's health care providers, and only focuses on health care services a student may need during the school day, such as medication or the management of diabetes at school.

A Section 504 Service Plan is developed after the 504 team determines a student is eligible for Section 504 FAPE. This plan, developed by the Section 504 team, details the accommodations, aids, services or supports a student with a disability may require during school. Unlike an IHCP, only a Section 504 Services Plan affords protections to students who are eligible for Section 504 FAPE.

It is common for students to require both a Section 504 Services Plan and an IHCP. For example, a student with asthma may have an IHCP describing the medication and nursing support he/she requires during an asthma attack. That same student can also have a Section 504 plan describing the accommodations the student is entitled to if he/she misses school due to asthma. Therefore, even though a student's health issues can be addressed with an IHCP, the school can still be required to assess the student under Section 504 and determine whether he/she is eligible for a Section 504 Services Plan.

How Often Should A Section 504 Service Plan Be Reviewed?

The Section 504 Service Plan should be reviewed on an annual basis, at which time the parent/guardian should receive a copy of the school's notice of parent/guardian rights and procedural safeguards. Further, a re-evaluation of the student should occur at least every three years and before any significant change in placement, including exiting the student from a Section 504 Service Plan and graduation.

What Should A School Do If A Student Is Found Not Eligible For Section 504 FAPE?

The school must inform the student's parent/guardian of its decision and provide him/her with a copy of the parent/guardian's procedural safeguards and rights. *Compliance with the procedural safeguards of the IDEA is one means of meeting this requirement, but staff is encouraged to use the Section 504 procedural safeguards*. Even though a school does not believe that a student needs special education or related services, it must still consider

whether the student is entitled to a reasonable modification of policies, practices, or procedures. The extent of a school's obligation to make reasonable modifications is fact-dependent and requires a case-by-case analysis.

What Must A School Do For A Student Who Has A Disability But Does Not Need Any Special Education Or Related Services?

A school must conduct an evaluation of any individual who, because of a disability, *needs or is believed to need*, special education or related services, and must do so before taking any action with respect to the initial placement of the student in general or special education or any significant change in placement. If, following a properly conducted evaluation the school determines that the student does not need special education or related services, the school is not required to provide aids or services. Neither the Americans with Disabilities Act nor Section 504 obligates a school to provide aids or services that the student does not need, *but* the school must still conduct an evaluation before making that determination. Further, the student is still a person with a disability, and thus is protected by Section 504's general nondiscrimination provisions even though he/she is not entitled to a Section 504 Service Plan.

For example, a student is diagnosed with severe asthma that substantially limits the major life activity of breathing and the function of the respiratory system. However, based on the evaluation, the student does not need any special education or related service as a result of the disability. This student fully participates in her school's regular physical education program and in extracurricular sports; she does not need help administering her medicine; and she does not require any modifications to the school's policies, practices, or procedures. So, while the school is not obligated to provide the student with any additional services, she is still a person with a disability, and therefore remains protected from discrimination.

Does The School Continue To Have A Duty To A Student Even When A Section 504 Plan Has Been Declined?

Case law has shown that a school may continue to have an obligation to protect the student from disability discrimination, including a duty to continue offering any accommodations or services necessary to ensure the student has an opportunity to receive FAPE, even though his/her parent/guardian has not consented to a Section 504 Services Plan.

Can The School Refuse To Allow Disabled Students To Participate In Accelerated Classes And Programs Solely Because The Student Has A Disability Or Needs Special Education Or Related Aids Or Services?

If a school provides accelerated classes and programs (e.g., advanced placement or International Baccalaureate classes), the school cannot categorically deny admission to a student based on disability or deny admission to a disabled student solely because the student needs special education or related aids or services. The school must provide disabled students an equal opportunity to meet any appropriate minimum eligibility criteria for admission, consistent with the purpose of its accelerated classes and programs and Section 504.

In addition, once the school admits a disabled student to an accelerated class or program, it must provide the student with the related aids or services that the student needs to participate in and benefit from the classes or programs. For example, if a student's IEP or Section Service 504 Plan provides for Braille materials in order to participate in general education classes and he or she enrolls in an accelerated or advanced history class, then he/she must be provided Braille materials for that class. The same would be true for other needed supports and accommodations such as extended time on tests or the use of a computer to take notes if they do not fundamentally alter the nature of the service, program or activity.

Are There Situations When It Is Inappropriate To Offer A Section 504 Service Plan?

Eligibility for a Section 504 Service Plan is decided by evaluating the student and determining if the student has a physical or mental impairment that substantially limits one

or more major life activities. If any of the three criteria is not met, then a Section 504 Service Plan will not be developed for the student.

Some common misuses of a Section 504 Service Plan are listed below:

- A parent/guardian or doctor presents the school with a disability diagnosis and a Section 504 Service Plan is written without first determining, through the assessment process, if the disability causes substantial limitation of a major life activity.
- A student is placed on a Section 504 Service Plan because the student has a record of impairment or is regarded as being impaired, but the student does not actually have a disability that substantially limits a major life activity.
- A student fails to qualify for special education and related services under the IDEA but is automatically provided with a Section 504 Service Plan.
- A student is automatically placed on a Section 504 Service Plan when the student no longer qualifies for special education services under the IDEA without first qualifying based on Section 504 criteria and procedures.
- A student is placed on a Section 504 Service Plan as an alternative way to receive special education and related services because the parent/guardian refuses to "label" his/her child by including him/her in a special education program; this may also apply in cases where parent/guardian has revoked consent to special education.

Does The School Need To Develop A Section 504 Service Plan For Every Student Who Has A Disability?

The school does not need to develop a Section 504 Service Plan for every student who has a disability. The school is only obligated to develop a Section 504 Service Plan for those students who, because of disability, need accommodations or some other type of related aids or services, to participate in or benefit from the school's education program.

Are Preschool And Adult Education Students Entitled To A FAPE Under Section 504?

Preschool and adult education students, while not entitled to Section 504 FAPE, are entitled to be protected from discrimination. Thus, schools are not required to provide a Section 504 FAPE to disabled preschool students and is only required to consider the nature of the student's disability and to provide the student with an equal educational opportunity.

Are There Any Special Rules Regarding Discipline And Students With Section 504 Service Plans?

In disciplinary situations, students who have a Section 504 Service Plan may be suspended or placed in an alternative interim setting to the same extent these options are used for children without disabilities. School personnel may also consider any unique circumstances on a case-by-case basis when determining whether a change in placement (in this context a disciplinary removal) is appropriate for a child with a disability who violates a code of student conduct. This change of placement may be to an appropriate interim alternative education setting, another setting, or suspension for not more than ten (10) school days.

When a student with a disability is removed from his/her current placement in the same school year for more than ten (10) cumulative school days that amounts to a change of placement or more than ten (10) consecutive school days, the student is entitled to a manifestation determination meeting within ten (10) school days of the school's decision to change the student's placement. The student's parent/guardian must be invited to participate as a member of this manifestation determination meeting. At this meeting, the team will determine (based upon a review of all relevant information in the student's cumulative and Section 504 Service Plan files, the student's Section 504 Service Plan, any teacher observations, and any relevant information provided by the parent/guardian) whether the student's alleged behavior was a manifestation of his/her disability by answering the inquiry required by the IDEA. Presently, the questions are:

- Whether the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; or,
- Whether the conduct in question was the direct result of the school's failure to implement the student's current Section 504 Service Plan.

If the team answers yes to either question, the alleged misconduct shall be determined to be a manifestation of the student's disability and the school may not take disciplinary action against the student. However, if the team answers no to both questions, the alleged misconduct shall be determined not to be a manifestation of the student's disability and the school may take disciplinary action against the student, such as expulsion, in the same manner as it would with a child without disabilities.

If the student's behavior is determined to be a manifestation of his or her disability, then the school must conduct a functional behavior assessment and implement a behavioral intervention plan ("BIP") for the student. If a BIP has already been developed, then the school will review the plan and modify it as necessary to address the behavior in question. However, regardless of whether a student's behavior was a manifestation of the student's disability, the school may determine, following an assessment, that a change of placement is appropriate for the student. The school may proceed with this change of placement following notice to the parents; written consent is not required for a change of placement pursuant to Section 504.

Board Policy

Subject: Identification and Education under Section 504
Effective Date: October 29, 2026
Approved By: Board of Directors

The Governing Board of Elite Academic Academy recognizes the need to identify and evaluate students with disabilities in order to provide them with a free appropriate public education (FAPE). Under Section 504 of the Rehabilitation Act of 1973 (Section 504) individuals with a physical or mental impairment that substantially limits one or more major life activities are eligible to receive regular or special education and related aids and services that are designed to meet the needs of disabled students as adequately as the needs of non-disabled students. In addition to providing a FAPE to students with disabilities under Section 504, Elite will not discriminate against students with a physical or mental impairment which substantially limits one or more major life activities, have a record of such impairment, or those being regarded as having impairment.

The Chief Executive Officer shall designate a 504 Designee to establish and implement: evaluation procedures to be used whenever there is reason to believe that a student, because of a disability, needs or is believed to need special instruction or related services; a system of procedural safeguards that includes notice, an opportunity for the parent/guardian of the student to examine relevant records, an impartial hearing with the opportunity for participation by the student's parent/guardian and representation by counsel, and a review procedure.

When an evaluation is conducted to determine whether a student is eligible under Section 504, a Section 504 multi-disciplinary team comprised of knowledgeable persons shall meet to consider the evaluation results and to determine the student's eligibility under Section 504. The student's parent/guardian shall be invited to participate in this meeting.

If the student is found to have a disability that qualifies him/her for a FAPE under Section 504, then the Section 504 multi-disciplinary team members shall develop a written Section 504 service plan for the student. Upon reviewing the nature of the disability and how it impacts the student's education, the members shall determine what general and/or special education services, related aids, supplemental aids and services, accommodations and/or modifications, are needed in order to provide the student with a FAPE. The student shall be educated with non-disabled students to the maximum extent appropriate.

The Section 504 multi-disciplinary team shall provide the parent/guardian with a copy of the Section 504 service plan. If the Section 504 multi-disciplinary team determines that the student is not eligible under Section 504, the parent/guardian shall receive a copy of the Section 504 multi-disciplinary team meeting notes stating the basis for this decision. Parent/guardian shall also receive a copy of the procedural safeguards guaranteed under Section 504.

Section 504 of the Rehabilitation Act of 1973

Referral, Identification, and Education Procedures

PURPOSE

It is the intent of Elite Academic Academy ("Elite") to locate, identify, evaluate and provide a free appropriate public education ("FAPE") under Section 504 of the Rehabilitation Act of 1973 ("Section 504") to each student with a disability enrolled in the Charter School. Further, Elite will provide general education and any related aids and/or services that are designed to meet the needs of each disabled student as adequately as the needs of non-disabled students. In addition to providing a FAPE to students with disabilities under Section 504, Elite will not discriminate against students with a physical or mental impairment which substantially limits one or more major life activities, have a record of such impairment, or those being regarded as having an impairment. Protections for these students are provided for elsewhere under District Board Policies and Regulations, state, and federal law.

Students who are identified as eligible for special education and related services under the criteria set forth in the Individuals with Disabilities Education Improvement Act of 2004 ("IDEA") are not addressed under this policy, as the needs of such students are provided for elsewhere under District Board Policies and Regulations, state and federal law, and Special Education Local Plan Area ("SELPA") procedures.

DEFINITIONS AND ELIGIBILITY

1. A student with a disability is one who:
    a. Has a physical or mental impairment that substantially limits one or more major life activities.
    b. Has a record of such an impairment
    c. Is regarded as having such an impairment.

**However, only students qualifying under subdivision (a) (i.e., those with an actual physical or mental impairment that substantially limits one or more major life activities) are entitled to a FAPE and a Section 504 Service Plan under Section 504.*

2. A physical or mental impairment means:
    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; genito-urinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional, and specific learning disabilities.
    b. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. The law does not limit eligibility to specific diseases or categories of medical conditions.

3. The term substantially limits shall be interpreted consistently with the findings and purpose of the Amendments to the Americans with Disabilities Amendment Act ("ADAA") that went into effect on January 1, 2009.
    a. 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.
    b. Whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as:

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; use of assistive technology; reasonable accommodations or auxiliary aids or services; or learned behavioral or adaptive neurological modifications. Thus, 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.

4. Major life activities include, but are not limited to, caring for one's self, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. Learning, reading, concentration, thinking, and communication are typically, but not always, the major life activities utilized to determine Section 504 eligibility in the schools.

LOCATION AND NOTIFICATION PROCEDURES

1. Elite shall annually undertake reasonable measures to locate and identify every qualified disabled student and to notify those students and their parent/guardian of the right to a FAPE under Section 504.

2. Location and notification procedures may include the Elite annual notice, personal contacts, posting of notices, newspaper advertisements, press releases, and communications with public and private community agencies.

3. When a student is identified, he or she should be referred to the school's Section 504 Designee, following the procedures set forth below.

IDENTIFICATION AND REFERRAL PROCEDURES

1. Any student may be referred, in writing, by parent, guardian, teacher, counselor, related service provider, other school staff, and/or community agency to the school's Section 504 Designee.

2. Based upon a review of relevant and available information regarding the referred student or based upon a meeting of the school site's multi-disciplinary team or Section 504 Service Plan team, a determination shall be made whether an evaluation under Section 504 is appropriate. Elite shall evaluate any student who, because of disability, needs, or is believed to need, regular or special education or related aids and services

3. If the request for evaluation is denied, Elite will inform the parent/guardian of the decision through prior written notice in writing and provide him/her with a copy of his/her parent/guardian rights and procedural safeguards under Section 504.

4. If Elite determines an evaluation under Section 504 is appropriate, the team will forward a letter and/or an assessment plan requesting consent for evaluation of the student to the parent/guardian, along with a copy of the notice of parent/guardian rights and procedural safeguards under Section 504.

EVALUATION, ELIGIBILITY, AND PLACEMENT DETERMINATIONS

1. The evaluation of students suspected of having a disability under Section 504 will be carried out by qualified evaluators selected by Elite.

2. Elite may administer and use formal and/or informal measures as deemed necessary. If the team is going to conduct formal assessment and/or observations in order to determine eligibility, then the team must obtain informed and written consent from the parent/guardian before the student is evaluated.

3. Additionally, if the student's Section 504 Service Plan team determines that a medical examination is necessary for a Section 504 determination, Elite is responsible for the costs of the examination.

4. Once the evaluations are completed, Elite will schedule a Section 504 meeting to consider the results of the evaluations. The student's Section 504 Service Plan team will determine whether the student is eligible under Section 504 by deciding whether the student has a physical or mental impairment that substantially limits one or more major life activities. A Section 504 Service Plan team meeting shall be convened within a reasonable time period following the receipt of the parent/guardian's consent to assess.

5. The Section 504 Service Plan team is made up of a group of individuals. The team will generally consist of the student's parent/guardian, the teacher of record, other teachers, individuals who can interpret the instructional implications of the assessment results, RTI multi-disciplinary team members, counselors, related service providers, the student, other school staff and administrators, individuals who have knowledge or special expertise regarding the student. The determination of whether an individual has knowledge or special expertise regarding the pupil shall be made by the party who invites the individual to be a member of the Section 504 Service Plan team.

6. The Section 504 Service Plan team, in deciding whether a student is eligible for a Section 504 Service Plan, will collect and carefully interpret evaluation data. In making a placement decision, the team will draw upon information from a variety of sources, including, but not limited to, observations, testing, reports, Elite evaluations, medical records, letters from doctors, health care plans, school records, school administration, school counselors, teachers and paraprofessionals that work with the student, the parent/guardian, and when appropriate, the student.

7. No final determination of whether the student will or will not be identified as a disabled student within the meaning of Section 504 will be made without first inviting the parent/guardian of the student to participate in a Section 504 Service Plan team meeting concerning such determination. The parent/guardian will receive reasonable notice of all Section 504 Service Plan team meetings.

8. If the Section 504 Service Plan team finds the student ineligible under Section 504, this decision shall be documented in writing, at which time the parent/guardian shall be notified of his/her parent/guardian rights and procedural safeguards under Section 504, including the right to an impartial hearing.

9. For students who are determined, through the evaluation process, to be eligible under Section 504, the Section 504 Service Plan team shall develop a Section 504 Service Plan.

10. The Section 504 Service Plan will describe the nature of the student's disability, the basis for the determination and how the disability substantially affects a major life activity. The 504 service plan will include any reasonable related aids and services, accommodations and/or modifications that are needed in order to provide the student with a FAPE.

11. A copy of the plan shall be maintained in the student's cumulative file. All school staff who work with the student shall be informed of the elements of the student's Section 504 Service Plan.

12. A student with a disability shall be placed in a regular education environment of Elite unless the Section 504 Service Plan team determines that his/her education in such a placement cannot be achieved satisfactorily with the use of supplementary aides and services. The student with a disability shall be educated with non-disabled students to the maximum extent appropriate.

13. The parent/guardian shall be notified in writing of the final decision concerning the placement, services, and accommodations and/or modifications to be provided (if any), and of his/her parent/guardian rights and procedural safeguards pursuant to Section 504, including the right to an impartial hearing.

REVIEW OF STUDENT PROGRESS

1. The Section 504 Service Plan team will meet at least annually to review the progress of students with disabilities and the effectiveness of the student's Section 504 Service Plan to determine whether services are appropriate, and that the needs of students with disabilities are being met as adequately as the needs of nondisabled students.

2. Should a parent/guardian request a Section 504 meeting, Elite will convene one within a reasonable time period of the receipt of the request.

3. Prior to any subsequent significant change in placement, a reevaluation of the student's needs will be conducted. The parent/guardian will receive reasonable prior written notice of any meeting convened to propose a significant change in placement.

4. The Section 504 Service Plan team may also determine that the student no longer has a mental or physical impairment that substantially limits a major life activity. If

the Section 504 Service Plan team so determines, the record of the Section 504 Service Plan team meeting will state the basis for the team's decision.

DISCIPLINE

In disciplinary situations, students who have a Section 504 Service Plan may be suspended or placed in an alternative interim setting to the same extent these options would be used for children without disabilities. School personnel may also consider any unique circumstances on a case-by-case basis when determining whether a change in placement (in this context a disciplinary removal) is appropriate for a child with a disability who violates a code of student conduct. This change of placement may be to an appropriate interim alternative education setting, another setting, or suspension for not more than ten (10) consecutive school days. Additionally, removals of not more than ten (10) consecutive school days in the same school year for separate incidents of misconduct may be determined appropriate.

If a child with a disability will have been removed from his or her current placement for ten (10) school days in the same school year, during any subsequent days of removal, the child is entitled to a manifestation determination meeting. The meeting will be scheduled within ten (10) school days of an administrator's decision to change the student's placement. The child's parent/guardian must be invited to participate as a member of this manifestation determination meeting. At this meeting, the team will determine (based upon a review of all relevant information in the student's cumulative and Section 504 Service Plan files, the Student's Section 504 Service Plan, any teacher observations, and any relevant information provided by the parent/guardian) whether the student's alleged behavior was a manifestation of his/her disability by answering the inquiry required by the IDEA. As of the 2008-2009 school year, the questions are:

- Whether the conduct in question was caused by, or had a direct and substantial relationship to the student's disability; or,
- Whether the conduct in question was the direct result of Elite's failure to implement the student's current Section 504 Service Plan.

If the team answers yes to either question, the alleged misconduct shall be determined to be a manifestation of the student's disability. However, if the team answers no to both questions, the alleged misconduct shall be determined not to be a manifestation of the student's disability and Elite may take disciplinary action against the student, such as expulsion, in the same manner as it would with a child without disabilities. If the student's behavior is determined to be a manifestation of his or her disability, Elite must conduct a functional behavior assessment, and implement a behavioral support plan for the student. In this situation, if a behavioral support plan has already been developed, Elite will review the plan and modify it as necessary to address the behavior in question. However, regardless of whether a student's behavior was a manifestation of the student's disability, Elite may determine, following assessment, that a change of placement is appropriate for the student. Elite may proceed with this change of placement following notice to the parents; consent is not required for a change of placement pursuant to Section 504.

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:

    a. Examine relevant records. Upon parent/guardian request, records may be reviewed. Copies of student records may be obtained within five (5) business days of the request pursuant to Elite policies.

    b. Have an impartial mediation hearing with opportunity for participation by the parent/guardian and his/her counsel.

    c. Seek a due process hearing if the parent/guardian disagrees with the mediation hearing decision.

2. Notifications shall also set forth the procedure for requesting an impartial hearing. Requests shall be made to the Elite Section 504 Designee.

3. If a parent/guardian disagrees with the identification, evaluation or placement of a student with disabilities under Section 504, he/she may initiate the following procedures. The parent/guardian is encouraged to utilize Levels One and Two, but he/she may proceed directly to Level Three if he/she so chooses.

    a. **LEVEL ONE:** In writing, the parent/guardian may request a meeting with the Section 504 Service Plan team in an attempt to resolve the disagreement. This meeting shall be held within ten (10) school days after receiving the parent/guardian's request. This time frame may be extended by mutual agreement of the parties.

b. **LEVEL TWO:** If disagreement continues, the parent/guardian may request, in writing, a meeting with the Elite Section 504 Designee. This meeting shall be held within a reasonable period of time after receiving the parent/guardian's request. At the request of either Elite or the parent/guardian, and on mutual agreement of the parties, the parties may pursue dispute resolution through mediation. If the parties agree to mediation, a time line will be set for the convening of the mediation. Elite shall choose an impartial mediator.

c. **LEVEL THREE:** If the disagreement is not resolved, or upon initial receipt of a due process complaint, a due process hearing may be requested by the student's parent/guardian ("Section 504 due process hearing"). The proceedings will be presided over and decided by an impartial hearing officer.

Impartial hearing officer means a person selected by Elite to preside at a due process hearing to assure that proper procedures are followed and to assure the protection of the rights of both parties. To ensure impartiality of the hearing officer, the hearing officer shall not be employed by or under contract with Elite 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.

1. The steps involved in initiating and implementing a Section 504 impartial due process hearing are as follows:

    a. The parent/guardian shall have the right to an impartial hearing with an opportunity for participation by the parent/guardian and representation by counsel.
    b. A request in writing for a Section 504 due process complaint hearing must be sent to Elite's Chief Executive Officer and 504 Designee.
    c. A request for a Section 504 due process hearing must be in writing and received by Elite within ninety (90) days from the time the parent/guardian received written notice of the decision leading to the request for such hearing. Upon receipt of such a request from the parent/guardian, Elite may

schedule a Section 504 Service Plan team meeting, and make relevant personnel available within a reasonable time period.

d. A request for a Section 504 due process hearing shall contain the following:
    i. A statement requesting a hearing.
    ii. The specific nature of the decision(s) made by Elite Academic Academy Section 504 Service Plan team with which the parent/guardian disagrees.
    iii. The specific relief the parent/guardian seeks.
    iv. Any other information the parent/guardian believes will assist in understanding the request.
e. Within a reasonable time following receipt of a written request for hearing, the Elite Section 504 Designee will select an impartial hearing officer.
f. A hearing officer selected by Elite must satisfy the following requirements:
    i. Be qualified to review Elite's decisions relating to Section 504.
    ii. Not be an employee of, or under contract with, Elite 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 involvement that would affect his or her impartiality or objectivity in the matter.
g. 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 as well as the name of the hearing officer. This notice shall be accompanied by a copy of the Elite notice of parent/guardian rights and procedural safeguards pursuant to Section 504.
h. 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.
i. 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 students 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 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 a decision prepared by the hearing officer.
vii. The right to a written or electronic verbatim record of the hearing prepared at the expense of the individual requesting such record.

j. The parent/guardian involved in the hearing will be given the right to:
   i. Have the student present at the hearing;
   ii. Open the hearing to the public, but not the press, should they so choose; and
   iii. Have an opportunity to participate in the impartial hearing.
k. The hearing officer shall render a decision pursuant to the legal standards set forth in 34 Code of Federal Regulations part 104 and related law.
l. Either party may seek review of the hearing officer's decision by timely filing with a court of competent jurisdiction.
m. The cost of the hearing officer shall be borne by Elite. Reimbursement of attorneys' fees, expert witness fees, and other costs is available only as authorized by law.
n. All written correspondence shall be provided in English and/or translated into the primary language of the home at the request of the parent/guardian. If translation of written correspondence is requested, Elite shall provide said translation within a reasonable time period of the receipt of parent/guardian's request for translation of written correspondence.

SECTION 504 PROCESS FLOW CHART

1. **Refer the Student:**
   - Any student may be referred, in writing, by parent, guardian, teacher, counselor, related service provider, other school staff, and/or community agency to the school's Section 504 coordinator.

2. **Decide Whether to Evaluate the Student:**
   - Does the school site know or suspect that the student has a disability which substantially limits one or more major life activities
   - If yes, provide parent/ guardian with Notice of Parent/Guardian Rights and Procedural Safeguards.
   - If no, provide parents with Prior Written Notice and Notice of Parent/Guardian Rights and Procedural Safeguards.

3. **Evaluate the Student:**
   - Evaluate the specific areas of the student's educational needs.

4. **Determine the Student's Eligibility/Develop 504 Service Plan:**
   - Convene a Section 504 Service Plan team meeting to review evaluation results and determine eligibility.
   - Provide parents Notice of Parent/Guardian Rights and Procedural Safeguards.
   - If yes, develop and implement a Section 504 Service Plan for student.
   - Provide Parent/Guardian a copy of 504 service plan.
   - If no and Parent/Guardian disagrees, provide Prior Written Notice to parent/guardian.

5. **Annually Review the Student's Section 504 Service Plan:**
   - Reassess, if necessary, with parent/guardian consent.
   - Review and revise the student's Section 504 Service Plan.
   - Provide parent Notice of Parent/Guardian Rights and Procedural Safeguards.

6. **Periodically Re-Evaluate the Student:**
   - At least every three years.
   - Before any significant change in placement.
     - Including exiting student from Section 504 services, unless parent/guardian revokes consent to Section 504.
   - Provide parent Notice of Parent/Guardian Rights and Procedural Safeguards.