



Section 504

Policy and Procedures

Manual

Updated October, 2022

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Notice of Nondiscrimination Policy

It is the policy of the Neenah Joint School District that no person shall, on the basis of color, sex, race, religion, national origin, ancestry, creed, sexual orientation, pregnancy, marital or parental status, or physical, mental, emotional or learning disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity, and in employment.

All career and technical education programs follow the District's policies of nondiscrimination on the basis of color, sex, race, religion, national origin, ancestry, creed, sexual orientation, pregnancy, marital or parental status, or physical, mental, emotional or learning disability. In addition, arrangements can be made to ensure that the lack of English language skills is not a barrier to admission or participation.

Any questions concerning Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex, and inquiries to Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of handicap, should be directed to:

Human Resources Director
Neenah Joint School District
410 S. Commercial Street
Neenah, WI 54956
(920) 751-6800

Section 504 Procedures

1. Any forms or records generated through the 504 process are considered to be confidential and treated as such.
2. A parent, school staff or student may refer a child for a Section 504 evaluation. If a staff member suspects that a child may have a disability under Section 504, a referral is required.
3. If a staff member believes the student has the potential to be eligible for services under special education the student would be evaluated using the special education process. If not found eligible under IDEA, eligibility under Section 504 would then be considered.
4. The parent, staff member or student completes the **Section 504 Referral** form and submits it to the Section 504 Evaluation Manager, School Psychologist. If a student is currently enrolled in a private school setting, responsibilities related to a 504 evaluation rests with the student's resident district not the district where they are receiving instruction. Parents may request a referral and staff completes the referral form.
5. The Section 504 Evaluation Manager will:
 - Appoint appropriate members to the Section 504 Team.
 - The 504 Team must include individuals knowledgeable about the student and the results of appropriate evaluations. (For examples, the child's classroom teacher, school psychologist and where appropriate reading specialist, building principal or related service provider.)
6. The Section 504 Evaluation Manager will:
 - Notify the parents/guardians of the referral in writing using the **Notice of Section 504 Referral** form. Notify parent/guardians of due process rights using the **Section 504 Parent/Student Rights** form.
 - Contact parents/guardians and team members to determine whether additional tests are necessary.
 - Complete **Section 504 Consent for Evaluation (testing or not)** and send to the parents/guardians.
7. The Section 504 Evaluation Manager will contact the parent/guardians to establish a mutually agreeable time and date for the Section 504 Team meeting to determine eligibility.

The Section 504 Evaluation Manager will complete and send the **Invitation to Section 504 Meeting** form to the parents/guardians and to all members of the Section 504 Team. The Section 504 Team will meet to determine eligibility (and if the child is eligible, develop a Section 504 Plan and placement) within a reasonable period of time (generally within 60-90 days) after receiving parent consent for the evaluation, or if no additional tests are necessary, after providing the parent with notice that no additional tests are necessary.

8. The Section 504 Team, including the parents, convenes to determine whether the student has a disability under Section 504. The team will use the **Section 504: Determination of Eligibility** form to document the discussion that occurs during this meeting; as well as the eligibility determination.
9. If the child is not eligible for Section 504, the Section 504 Evaluation Manager will complete the **Section 504 Notice of Non-Eligibility**. They will send a copy of the **Section 504 Notice of Non-Eligibility** and **Section 504 Evaluation: Determination of Eligibility** form to the Pupil Services Office. The Pupil Services Office will send a copy of the **Section 504 Evaluation: Determination of Eligibility** form to the parents/guardians and place a copy of this form in the student's Pupil Services File as well as electronic record.
10. If the child is Section 504 eligible, the Section 504 Team will determine the appropriate accommodations and educational placement in the **Section 504 Plan** and complete the **Parent Consent for Initial Placement** form. The Section 504 Evaluation Manager will send a copy of the **Section 504: Determination of Eligibility**, **Section 504 Plan** and the **Parent Consent for Initial Placement** forms to the Pupil Services Office. The Pupil Services Office will send a copy of all of these forms to the parents/guardians along with placing a copy of this form in the student's Pupil Services file and the student's electronic record. The Pupil Services Office will email a copy of the student's plan to the 504 Case Manager (School Counselor) and 504 Building Coordinator (designated Building Administrator). **The Section 504 Case Manager will then take over managing the implementation of the 504 Plan.** The 504 Building Coordinator will ensure that all appropriate staff are aware of the 504 Plan and implementation responsibilities.
11. The Section 504 Team will review the Section 504 Plan as necessary, but at least once per calendar year. The Section 504 Case Manager will send parents the **Invitation to Section 504 Meeting** in advance of any Section 504 meeting.
12. During the annual review of a Section 504 Plan, the Team must also determine the appropriate educational placement for the student and complete the **Notice of Continuing Section 504 Placement** form. The Section 504 Case Manager will send a copy of the **Invitation to Section 504 Meeting**, updated **Section 504 Plan** and the **Notice of Continuing Section 504 Placement** form to the Pupil Services Office. The Pupil Services Office will send the Section 504 Plan, rights, and placement to the parent/guardian. The 504 Case Manager will confirm that the updated 504 Plan and Placement are accessible in the student's electronic record. The Pupil Services Office will also place a copy of the Section 504 Plan and placement in the student's file and send an email to appropriate staff. The 504 Building Coordinator will ensure that all appropriate staff are aware of the 504 Plan and implementation responsibilities.
13. Periodically, the 504 Evaluation Manager will initiate a re-evaluation to determine whether or not the student continues to be eligible for services under a 504 Plan (recommended every 3 years). This begins the evaluation process as stated above.
14. The files for all transfer students will be reviewed following district procedures. If a Section 504 Plan exists, the District will adopt the sending school district's Section 504 Plan, initiate a re-evaluation, or convene a Section 504 Team to develop its own Section 504 Accommodation Plan.
15. If a parent/guardian requests information regarding a Section 504 due process hearing, staff should direct the parent/guardian to the **Director of Pupil Services** for additional information.

You may contact the Director of Pupil Services by calling 920-751-6800 x10130. The staff member receiving the request should immediately forward the request to the Director of Pupil Services.

16. If any staff member, parent, student or community member has questions regarding these procedures, please contact the building School Psychologist.

Section 504 Eligibility Decision Making Guidance

Freedom from discrimination on the basis of disabilities means that students with disabilities may not be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination solely on the basis of disability. All students found eligible under Section 504 are protected under the broad nondiscrimination requirements of this law; but not all will also be eligible for a Section 504 Plan. These are two separate determinations, with the latter being based upon the degree of impact of the impairment within the school environment.

Federal laws and regulations require that all decisions related to Section 504 be made by a group of people and that eligibility and accommodation decisions are based on a preponderance of information from a variety of sources. The Section 504 team meets and considers evaluation data to determine if the individual has a mental or physical impairment that substantially limits one or more of the major life functions or major bodily functions.

The first decision the Section 504 team must make is if a mental or physical impairment is present. A **mental or physical impairment** is defined as 1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems; neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genitourinary; hemic and lymphatic; skin; and endocrine; or 2) any mental or physical disorder, such as cognitive disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; cognitive disability; emotional illness; drug addiction; and alcoholism. The following are not impairments: current drug use, pyromania, voyeurism, kleptomania, compulsive gambling, transvestitism, incarceration, pedophilia, sexual disorders, age, and sick building syndrome. Other conditions that are not impairments include pregnancy, lactose intolerance, homosexuality, bisexuality, gender identity, etc. Without such impairment the student is not disabled under Section 504.

Secondly the impairment must affect one or more **major life activities or major bodily functions**. Major life activities or major bodily functions are functions such as 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. Now included are major bodily functions including, but not limited to, functions of the immune system, bowel, brain, endocrine, normal cell growth, respiratory, reproductive, digestive, neurological, circulatory systems. The list of examples is not exhaustive. Other functions may be considered major life activities. **Mitigating measures** are not considered when determining if a student is eligible. As of January 1, 2009, school districts, in determining whether a student has a physical or mental impairment that substantially limits that student in a major life activity, must not consider the ameliorating effects of any mitigating measures that student is using. The only exception to this is the ameliorative effects of the mitigating measures of ordinary eyeglasses and contact lenses shall be considered in determining if an impairment substantially limits a major life activity.

Third, the impairment must **substantially limit** the major life activity or major bodily function. “Substantially limited” is not defined by the Office of Civil Rights (OCR) or the Section 504 regulations. The OCR defers to the school district to define the term substantially limits. Many schools look to Title II of the ADA for a definition of the term. A person with a substantial limitation in the performance of a major life activity is substantially limited in the performance of a major life activity as compared to most people in the general population. The Section 504 team should keep in mind that an impairment need not prevent, or severely or significantly restrict a major life activity to be considered a substantial limitation. Section 504 teams will use multiple evaluation data from a variety of sources to determine whether the student is substantially limited in one or more major life activities or major bodily functions.

The definition of a student with a disability does not include conditions, but only mental and physical impairments. This means that if a student’s learning and behavioral problems are attributable to cultural, environmental, or economic disadvantage rather than to a mental or physical impairment, the student is not eligible. Section 504 does not cover environmental, cultural, or economic disadvantage which could include such conditions as: homelessness, migrant issues, EEL student, poverty, attendance, transiency, divorce, death in the family, military deployment and lack of motivation. This is not an exhaustive list of conditions.

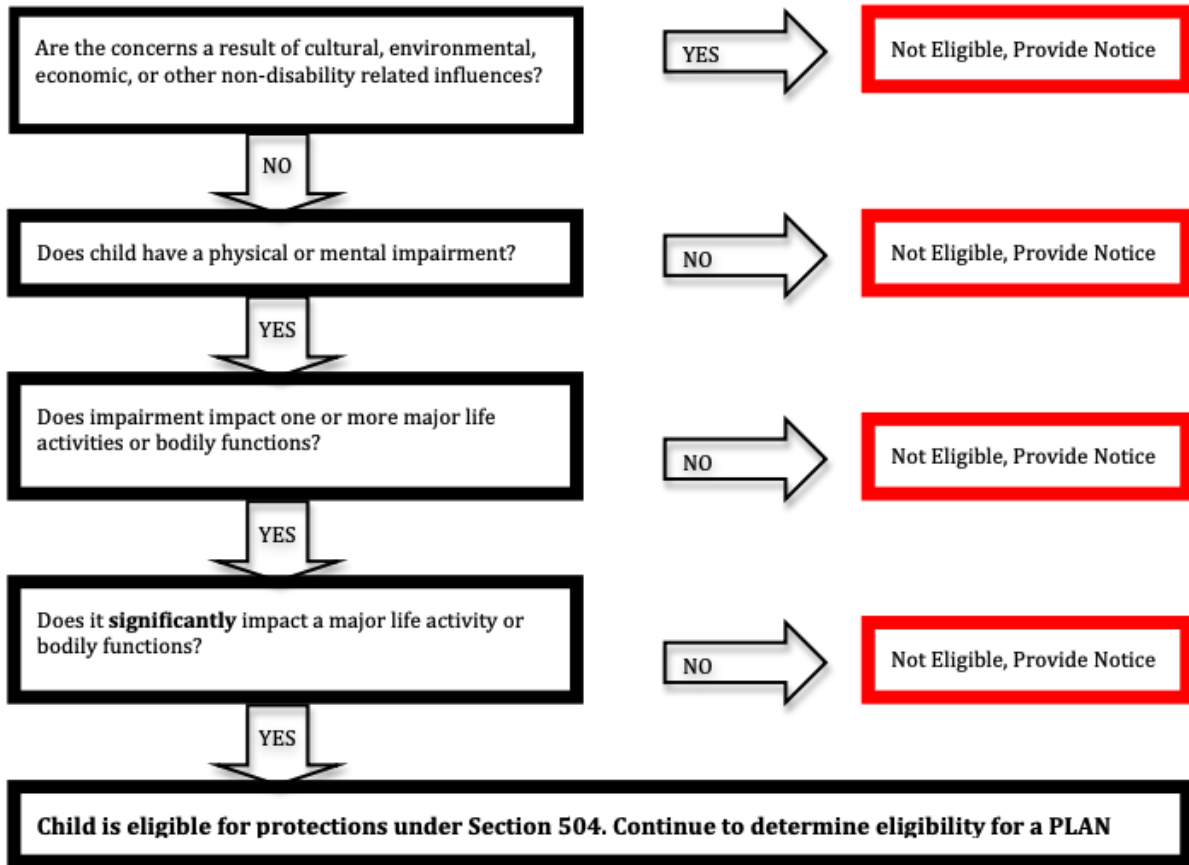
The Section 504 team determines whether or not the impairment is temporary, episodic, intermittent or in remission. Impairments described by these terms may be substantially limiting and must be determined on a case by case basis. If it is determined that a temporary, episodic, intermittent or in remission impairment is substantially limiting the student is eligible.

The Section 504 team will choose from three eligibility options based on a preponderance of the evaluation information.

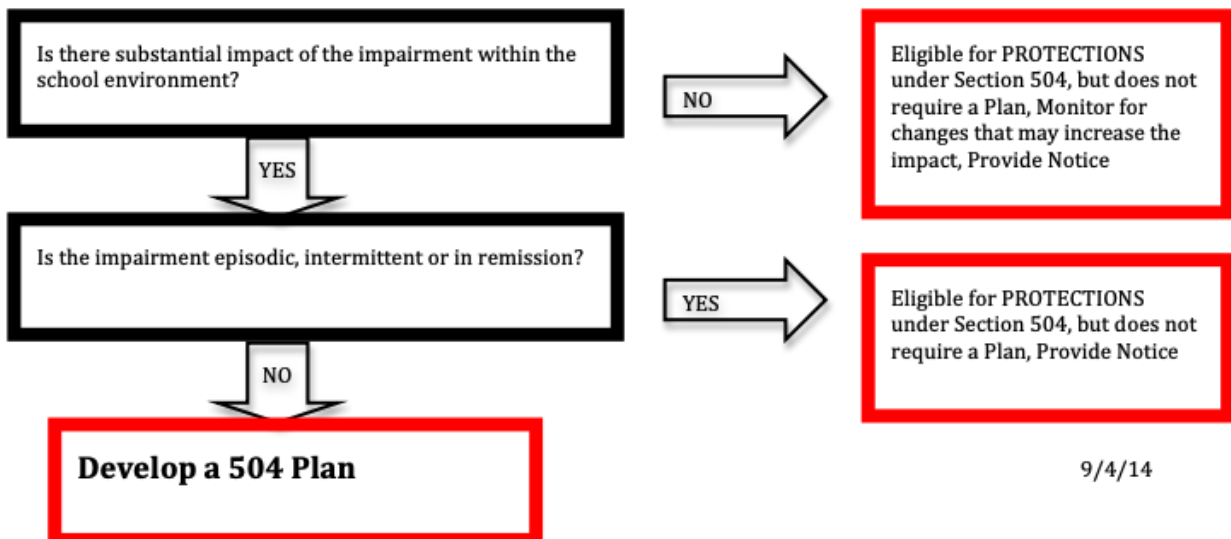
1. The student is not Section 504 eligible and, consequently, is not eligible for a Section 504 Accommodation Plan.
2. The student is eligible under Section 504, but a Section 504 Accommodation Plan is not required.
3. The student is eligible under Section 504, and eligible for a Section 504 Accommodation Plan.

Section 504 Eligibility Decision Making Flow Chart

Determination of Eligibility for Protection Under Section 504



Determination for Eligibility for a Section 504 Plan



9/4/14

Section 504 and Discipline

Section 504 of the Rehabilitation Act of 1973 also provides students with protections from discrimination related to discipline for violations of the district's code of conduct; in some ways similar to IDEA (special education). The type of code of conduct violation will determine if the student is subject to a short term sanction such as an in-school or out-of-school suspension or a long term sanction such as expulsion.

- Expulsions or suspensions of 10 days or more are considered a change of placement and are subject to Section 504's procedural requirements, such as making a determination if the student's misconduct is related to his/her disability ("Manifestation Determination"). Some exceptions do exist regarding a district's obligation to conduct a Manifestation Determination (see *Alcohol/Drug Offense* discussion, below).

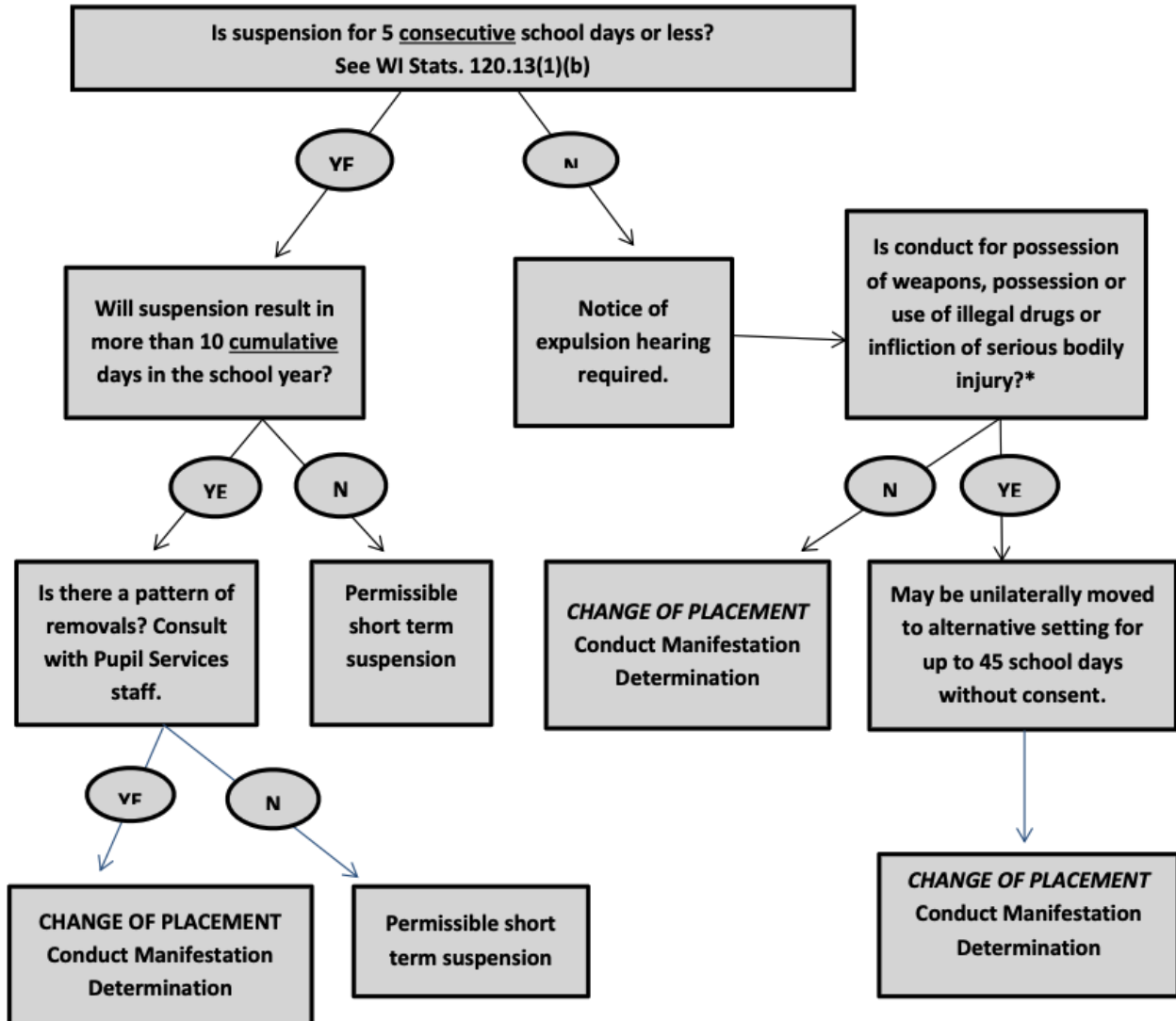
Disciplinary Issues Related to Drugs/Alcohol:

The following section addresses a topic that is complicated in nature and case specific. The information contained in this section is intended to provide the reader with a general awareness and increased sensitivity to the topic of disciplining students for drugs and alcohol possession and/or use and identifying the specific exclusions allowed in Section 504. Disciplinary action should be evaluated carefully and assessed with a full understanding of OCR's most recent guidance. It is recommended that, in complex cases, the reader consult with the building's school psychologist or the district's Director of Pupil Services.

Key Points:

- **Section 504 protections are not extended to an individual who is currently engaging in the illegal use of drugs when a school acts on the basis of such use.**
- **Section 504 does not, however, exclude an individual who has successfully completed or is currently participating in a drug rehab program.**
- **Section 504 allows for the provision of disciplinary action against a disabled student for conduct related to the use or possession of illegal drugs or alcohol (without a manifestation determination) if:**
 - **Student is engaging in the illegal use of drugs; or**
 - **Student is engaging in the use of alcohol.**

Discipline Flowchart



***Local determination. IDEA 2004 (20 USC 1415(k)(1)(G)(i-iii) and 34 C.F.R. 300.530(g) allows for Interim Alternative Education Setting under these three conditions. At this time, guidance from OCR does not establish clear link/ability to all three IDEA exceptions. Use of IAES option for possession of weapons is consistent under the Gun-Free Schools Act. Other violations (drugs/serious bodily injury) should be assessed with guidance from Director of Pupil Services and/or legal counsel.**

Parent/Student Rights

The following summarizes the rights that Section 504 of the Rehabilitation Act grants to students with disabilities and their parents. If your child is identified as a child with a disability under Section 504, you and your child have the following rights:

1. The District must allow your child to take part in, and receive benefits from, public education programs without discrimination based on his/her disability.
2. The District must inform you of your rights under Section 504. Specifically, the District must provide you with written notice of your rights under Section 504.
3. You have a right to receive notice regarding identification, evaluation or placement of your child.
4. The District must evaluate your child before determining his or her appropriate educational placement or program of services under Section 504, and before every subsequent significant change in placement. If your child is eligible for services under Section 504, he or she has a right to periodic evaluations to determine if his/her educational needs have changed.
5. The District must provide a free appropriate public education to your child. This means that the District must provide your child with an appropriate education designed to meet his or her educational needs to the same extent as nondisabled students. This includes the right to be educated with non-disabled students to the maximum extent appropriate. It also includes the right to have the District make reasonable accommodations that allow your child an equal opportunity to participate in school and school-related activities.
6. The District must educate your child in facilities and provide services comparable to those it provides to non-disabled students.
7. Persons who are knowledgeable about your child, the evaluation data, and placement options must make all placement decisions regarding your child. Placement decisions must also be based on a variety of information sources.
8. The District must provide transportation to and from any alternative placement settings at no greater cost to you than would be incurred if your child were placed in a program operated by the District.
9. Your child must have an equal opportunity to participate in nonacademic and extracurricular activities offered by the District.
10. You have the right to examine all relevant records relating to decisions regarding your child's identification, evaluation, educational program and placement.
11. You have the right to request mediation or an impartial due process hearing related to decisions or actions regarding your child's identification, evaluation, educational program or placement. You and your child may participate in the hearing and have an attorney represent you.
12. If you disagree with the hearing officer's decision, you have a right to seek review of the decision.
13. You have a right to request payment of reasonable attorneys' fees if your claim is successful.

14. You also have a right to file a complaint with the Office of Civil Rights (OCR) of the Department of Education at any time. The OCR office for WI is located at the Chicago office: Office of Civil Rights, US Department of Education, John C. Kluczynski Federal Bldg, 230 S. Dearborn St. 37th Floor, Chicago, IL 60604, (312) 730-1560, or email OCR.Chicago@ed.gov.

Any questions concerning Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex, and inquiries to Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of handicap, should be directed to:

Designation of Responsible Employee –
Human Resources Director
Neenah Joint School District
410 S. Commercial Street Neenah, WI 54956
(920) 751-6800

Section 504 Procedural Checklist:

Evaluation Process

(Evaluation Manager, School Psychologist)

- Request for an evaluation under Section 504 is made by completing the **Section 504 Referral Form**. Building Section 504 Evaluation Manager notified. Date received: _____.
- Section 504 Referral** is filed and attached to student’s electronic file.
- Section 504 Evaluation Manager will appoint team. Section 504 team:

Name	Role

- Notice of Section 504 Referral Form** and **Parental Rights** sent to parents.
Date sent: _____
- Complete and send **Section 504 Consent for Evaluation**.
- Date received: _____ (Begins timeline based on date consent received)
- Schedule and complete **Invitation to Section 504 Meeting**.
- Complete **Section 504: Determination of Eligibility**
 - Student is eligible for a Section 504 Individual Accommodation Plan. Complete Section 504 Plan.
 - Student is not eligible for a Section 504 Plan, complete Section 504 **Notice of Non-Eligibility**. Send Notice and Determination of Eligibility to Pupil Services Office. PS Office sends to parents, files, and attaches electronically.
- Section 504 Plan** developed.
- Obtain **Parent Consent for Initial Placement**.
- Send copy of **Determination of Eligibility, Plan and Consent** to Pupil Services Office. Pupil Services Office sends copy to parents, files, and attaches electronically.

Section 504 Procedural Checklist:

Annual Review

(Case Manager, School Counselor)

Annual review of 504 plan. Date of last plan_____

Schedule annual review 2-4 weeks prior to above due date

Include:

Parents

Necessary staff

- Classroom Teacher
- Nurse?
- Interventionists?
- Principal?
- Other?

Send out **Invitation to Section 504 Meeting**.

During meeting determine appropriate education placement and complete/update **Section 504 Plan**. Complete **Notice of Continuing Section 504 Placement**.

Send electronic copy of Invitation, updated Plan, and Notice of Placement to Pupil Services Office.

Pupil Services Office sends **Plan, Rights, and Placement** to parents, files, and sends a copy of the plan to all people involved in the meeting (until said time where we can get them uploaded into IC).

***Any changes in schedule/teacher during the year of the plan need to be sent a copy of the plan by the counselor.