

ENDEAVOR CHARTER SCHOOL SECTION 504/ADA

Endeavor Charter School is committed to providing our students with disabilities with the opportunity to participate in, and benefit from, our educational environment. The following is a description of Endeavor's approach for those students with needs under Section 504 of the Rehabilitation Act of 1973 (Section 504) and the Americans with Disabilities Act (ADA).

I. Definitions Applicable to Section 504/ADA policy

The law:

"No otherwise qualified individual with handicaps in the United States shall, solely by reason of her or his handicap, as defined in section 706(8) of this title, 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 or under any program or activity conducted by any Executive agency or by the United States Postal Service." (29 U.S.C. Sec. 794)

Disabled (handicapped) student: This term under Section 504/ADA means a student who:

1. Has a physical or mental impairment that substantially limits one or more major life activities;
2. Has a record of having an impairment that substantially limits one or more major life activities; or
3. Is regarded as having an impairment that substantially limits one or more major life activities.

Please note, as explained in an OCR senior staff memorandum dated August 3, 1992 (19 IDELR 894),

"The use of these prongs of the definition of handicapped person ("has a record of" and "is regarded as having a disability") arises most often in the area of employment and sometimes in the area of post-secondary education. It is rare for these prongs to be used in elementary and secondary student cases as they cannot be the basis upon which the requirement for FAPE is triggered. Logically, since the student is not, in fact, mentally or physically handicapped, there is no need for special education or related aids and services."

Major life activities: This term includes the following: caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, reading, concentrating, thinking, sleeping, eating, lifting, bending, communicating, major bodily functions (e.g.—immune system, normal cell growth, digestive, bowel, bladder functions).

(A)Physical or (B)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, genito-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.

Exclusions:

Section 504/ADA specifically excludes the following physical and/or mental impairments from qualifying a student as disabled: substance abuse disorders resulting from illegal use of drugs, kleptomania, pyromania, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairment, or other sexual disorders/differences. Cultural, environmental, and economic disadvantage are not themselves covered including: homeless, migrant, ESL, poverty, cultural factors, attendance problems, transiency, divorce, death of a family member, military deployments, lack of motivation.

II. NONDISCRIMINATION POLICY IN THE PROVISIONS OF EDUCATIONAL PROGRAMS AND SERVICES TO QUALIFIED STUDENTS WITH DISABILITIES

In compliance with its obligations under both Section 504 and the ADA, Endeavor Charter School does not discriminate against qualified students with disabilities in the provision of its educational programs and activities. The school will make reasonable modifications to its programs and activities to accommodate qualified students with disabilities, unless such modifications would impose an undue burden on the operation of the particular program or on the realities of the school's facilities, or would alter the fundamental nature or purpose of the program.

In addition to its provision of educational services, the school will not discriminate against qualified students with disabilities in its provision of non-educational programs, services and activities such as athletics, transportation, health services, recreational activities, special interest groups or clubs, referrals to other agencies, and employment.

Qualified students with disabilities who are enrolled in Endeavor Charter School will be provided a free appropriate public education. Instruction will be designed to meet the individualized educational needs of these students. The school will seek to assure that the educational services provided to qualified students with disabilities are reasonably calculated to afford such students an equal opportunity to achieve educational benefit as is provided to students without disabilities.

The school's Section 504 Coordinator is: Carolyn Southard, 4879 One World Way, Wake Forest, NC 27587.

A. Least Restrictive Environment

Endeavor Charter School will educate qualified students with disabilities with students without disabilities to the maximum extent appropriate and dependent upon the realities of our facilities. Qualified students with disabilities will be removed from the regular educational environment only when the school determines that educating the student in the regular environment with the use of formalized classroom modifications, supplementary aids and/or services cannot be achieved satisfactorily.

B. Eligibility Determination

The Endeavor Charter School Committee will evaluate any student suspected of qualifying as a disabled student under Section 504/ADA and document the results in writing. The school will request and will keep on file relevant and current diagnostic information provided by the student's parent and/or physician, psychologist, psychiatrist or other professional in order to make needed adjustments or modifications for the student. **Eligibility cannot be determined based solely on this information. All information gathered and presented by the Committee will be considered when making a determination for eligibility.** Students who are eligible for formalized modifications will be reevaluated as conditions warrant.

C. Development of Section 504/ADA Plan

The determination of formalized Section 504/ADA modifications to the student's educational program will be made in writing at a Committee meeting before changes are implemented. **All relevant information gathered and presented by the Committee during this meeting will also be considered before changes are made.**

D. Personnel Training

Endeavor Charter School will provide in-service training and consultation to staff on the education of persons with disabilities, as necessary.

E. Notice to Parent or Guardian of Actions Affecting Identification, Evaluation or Placement

Endeavor Charter School will notify the parent or guardian of a student suspected of being a qualified disabled student of his/her rights to initiate the grievance procedure and/or obtain an impartial hearing if the parent or guardian disagrees with any action regarding identification, evaluation, and/or placement of a student suspected of being disabled under Section 504/ADA. When a referral is made, the parent will be given a copy of the Section 504/ADA, Student's and Parents' Rights document.

The term “Committee” is used to encompass the team that will meet to determine student eligibility for a 504 Plan or continued eligibility/annual review of a 504 plan. The Committee is comprised of the following individuals: 504 coordinator, teacher(s) of the student, and contracted professionals as necessary. Parents and students, where appropriate, shall be given reasonable notice of meetings and the opportunity to be involved in the committee process.

III. SECTION 504/ADA PROCEDURES FOR DEVELOPING PLANS FOR QUALIFIED STUDENTS WITH DISABILITIES

1. Referral

Referrals may be made by parents, teachers or other knowledgeable professionals by a written referral made through the 504 coordinator. **Prior to completing the written referral, school staff are encouraged to contact appropriate Related Services specialist(s) to seek input and guidance regarding the need for referral.** Note: If the student is suspected of having a disability in the area of learning and/or classroom performance, the IDEA procedure for special education is followed.

2. Assessment

School staff or contracted professionals who perform assessments will review existing pertinent information and determine whether additional assessments are needed. If individual evaluation is needed, written parental consent is obtained and a copy of the Section 504/ADA Student’s and Parents’ Rights documents are sent. Evaluations are then performed and the disability documented in writing.

Reevaluations are not required at specific intervals. However, assessments will be updated as needed to insure that eligibility and accommodation planning is based on information that defines the student’s disability accurately and reflects the student’s current strengths and needs. At least every three years appropriate school system staff should determine whether updated evaluations are needed. Copies of evaluations that have been performed by other agencies or professionals will be requested.

Reevaluations at school will be completed by school system staff or contracted professionals who perform evaluations. When a reevaluation is needed, parents will be sent prior notice and a copy of Parents’ Rights if parents’ would like another copy. Reevaluation findings will be documented in writing.

3. Eligibility Determination

Upon completion of evaluations for 504/ADA eligibility, appropriate school system staff will meet and determine whether the child has a physical or mental impairment that **substantially** limits a major life activity at school. If the Committee formed for the purpose of determining eligibility finds that the student has a physical or mental

impairment that substantially limits one or more major life activities, the student shall be found to be an eligible disabled student under Section 504/ADA.

SUBSTANTIAL LIMITATION can be defined as the inability to perform a major life activity or major bodily function when compared to how the average person in the general population performs the same major life activity or major bodily function.

4. Written Notification

The Section 504/ADA Committee shall provide written notification to a student's parents or guardians of any decision by the Section 504/ADA Committee as to eligibility under Section 504/ADA. The Section 504/ADA Student's and Parents' Rights document will be sent to the parents if not sent previously.

5. 504 Plan

For students determined to be eligible under Section 504/ADA, the Committee will develop a Section 504/ADA Plan based on information gained from a variety of sources. If the parent is not present at the meeting, the parent's signature is not required prior to implementation of the plan. One copy of the plan will be given to the parent. One copy will also be located near the student's cumulative record for use by the staff.

6. Review of Plan

The 504 Plan will specify a suggested annual review date determined by the Committee. The Committee will determine eligibility on an annual basis using current information based upon strengths and needs.

IV. SECTION 504/ADA GRIEVANCE PROCEDURE

A "grievance" is a complaint by a student entitled to an education within the district or a parent of such a student. The school has designed this grievance procedure as a means of reaching, at the lowest possible administrative level, a fair and equitable settlement of differences and issues relating to possible discrimination under the Rehabilitation Act of 1973 (Section 504) and/or the Americans with Disabilities Act.

The 504 appeals procedure may be used for any disagreement with respect to actions regarding the identification, evaluation, educational services, or educational program of students who, because of disability, need or are believed to need Section 504 plans and are not eligible under the IDEA, except in the case of long term suspension where the provisions set forth by Endeavor Charter School's Student Behavior Violations policies will be followed. A student, parent, or guardian may initiate the procedure when they believe that a violation, misapplication, or misinterpretation of policy, or state or federal law or regulation has occurred.

Grievance Procedure

STEP I - Concerns and questions: A student, parent, or guardian who has a concern or question about particular Section 504 evaluations, accommodations, or issues should contact the following individual first:

504 Coordinator – Carolyn Southard,
csouthard@endeavorcharter.com, 919-843-0333 ext. 1504

STEP II – Conference with the Director: If the concern or question is not resolved at Step I, the student, parent, or guardian may proceed with the 504 appeals process by making a written request for a conference with the director to discuss the grievance and seek resolution. The request shall fully describe the grievance. The following additional guidelines shall be observed in Step II:

- A. A grievance shall be filed by the parent to the director as soon as possible, but not longer than thirty school days after disclosure of the facts giving rise to the grievance.
- B. The director shall grant the conference within five school days following receipt of the request. The director will state in writing his position on the question to the individual within five school days following the conference.
- C. Only the parent, guardian, or someone acting in loco parentis shall be permitted to join or represent the student in the conference with the director.

STEP III -- Appeal to the Board of Directors: If the grievance is not resolved at Step II, the student, parent, or guardian may appeal the director's decision in writing to the board of directors. The appeal must be made within five school days following receipt of the appeal. A written response shall be made to the student, parent, guardian, and director from the board of directors within ten school days following the review.

STEP IV -- Appeal for a Section 504 Due-Process Hearing: If the grievance is not resolved at Step III, there is a right to appeal to federal court from a decision of the board of directors.

For more information, please contact:
The U.S. Department of Education, Office for Civil Rights:
<http://www2.ed.gov/about/offices/list/ocr/504faq.html>

*****Notice about testing accommodations/modifications appears on the following page*****
NOTICE ABOUT TESTING ACCOMMODATIONS/MODIFICATIONS

The following information was provided by an NCDPI Charter Schools Accountability Consultant in the Testing Policy and Operations/Accountability Services division.

With IEPs/504 plans, Accountability cannot dictate to the IEP/504 plan team what they can or cannot include on the IEP/504 plan. We always want the IEP/504 plan to be individualized and meet the needs of the student. However, the IEP/504 plan team needs to remember the following statements from the *Testing Students with Disabilities* Nov. 2009 document:

- Accommodations are not meant to provide a student with an unfair advantage, but rather an opportunity to demonstrate what he/she can do. (P. C1.08)
- It is vital for students with disabilities to receive accommodations on state-mandated tests that allow them to demonstrate their true abilities; however, students must not receive unnecessary, inappropriate, or unfamiliar accommodations. (P. A1.05)
- It is not appropriate to recommend the use of accommodations during test administrations if the purpose is to potentially enhance student performance beyond providing equal access and opportunity to perform. (P. A1.05)