



## **Special Education and Section 504 Guidelines: Identification, Evaluation, Determination** Millennium Charter Academy

### **INTRODUCTION**

Millennium Charter Academy (MCA) recognizes the need to identify and evaluate students with disabilities in order to provide them with a free, appropriate public education (FAPE) and its legal responsibility to ensure that “no qualified person with a disability shall, solely by reason of their 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.” Under Section 504 of the Rehabilitation Act, FAPE is the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of non-disabled students are met and are based on adherence to procedures governing educational setting, evaluation and placement, and procedural safeguards. Key features of FAPE include the evaluation and placement procedures that guard against misclassification or inappropriate placement of students, periodic reevaluation of students who have been provided special education or related services and prior to a significant change in placement, provision of regular or special education and related aids and services that are designed so that the individual educational needs of students with disabilities are met as adequately as the needs of non-disabled students are met, education of students with disabilities with non-disabled students—to the maximum extent that this arrangement is appropriate for the needs of students with disabilities, and a system of procedural safeguards that include notice, an opportunity for parents to review their child’s records, an impartial due process hearing, and a review procedure.

### **IDENTIFICATION**

#### *Referral*

A student may be referred by anyone, including a parent, guardian, teacher, or other school employee for consideration as a student qualifying with a disability under IDEA or Section 504 of the Rehabilitation Act of 1973. Requests for evaluation shall be made in writing, and a copy of said request will remain in the student’s file regardless of the final determination. This referral shall be made to the 504 Coordinator, who will convene the Student Services Team (SST). Any requests made to another MCA employee will be forwarded to the 504 Coordinator. Under Section 504, the school must conduct an evaluation in a timely manner of any student who needs or is believed to need special education or related services because of a disability. When the school is aware of a student’s disability or has reason to suspect a student has a disability, and the student needs or is believed to need special education or related services, it would be a violation of Section 504 if the school delays or denies the evaluation. The school must evaluate a student if it has reason to believe the student has a disability, and the student needs special education or related services as a result of that disability, even if the student only exhibits behavioral (and not academic) challenges. The school shall annually: (a) Undertake to identify and locate every qualified person with a disability residing in the recipient’s jurisdiction who is not receiving a public education; and (b) Take appropriate steps to notify persons with a disability and their parents or guardians of the recipient’s duty under this subpart.

#### *Screening for IDEA*

In the case of a student who may qualify under the Individual with Disabilities Education Act, the Exceptional Children (EC) Program Director shall convene promptly the SST, consisting of the referring source, at least one general education teacher, the division director, or designee, one member who is knowledgeable about alternative interventions and about procedures required to access programs and services that are available to assist with children’s educational needs, an LEA representative, and others as needed. The SST shall review the reason for the referral and review the student’s record and any other performance evidence or data that may be used to make recommendations for educational and/or behavioral needs. The SST may determine that:

- the referral for special education evaluation is not needed for the student, noting that the child is performing adequately;
- further evaluations are not needed and the child meets the eligibility requirements for one of the fourteen disability categories described in the NC Policies Governing Services for Children with Disabilities.
- refer the child for a special education evaluation.



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If the team decided not to refer the student for a special education evaluation, the SST shall provide the referring source and the parents with prior written notice indicating that the request for a special education evaluation was refused, the reasons for the decision, a description of other options the team considered and reasons why they were not accepted, a description of the evaluation information (each evaluation procedure, assessment, record or report) used to make the decision, and any other factors that were relevant to the team's decision, as well as the parents' right to appeal the decision through a due process hearing. The parents will be given a copy of the Parent Rights and Responsibilities in Special Education: Notice of Procedural Safeguards.

Once the referral for a special education evaluation is made by the SST, prior written notice indicating that the child has been referred for an evaluation and the purpose of the evaluation along with the Parent Rights and Responsibilities in Special Education: Notice of Procedural Safeguards will be provided to the parents. The EC Program Director or designee also shall inform the parents of the procedures used to determine what evaluation data is needed and request any evaluation information that the parent may have on the child.

### *Screening for Section 504*

In the case of a student who may qualify under Section 504 of the Rehabilitation Act of 1973, the 504 Coordinator will convene promptly the SST to determine the student's need for regular or special education and/or related aids and services.

The SST shall be composed of the 504 Coordinator or designee, the student's parents, and regular education teachers. Others knowledgeable about the following shall be added as needed: the student's school history, the student's personal needs, the meaning of evaluation data, the options for placement and services, and the legal requirements for the least restrictive environment.

In determining a student's needs, the SST will draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. The school shall establish procedures to ensure that information obtained from all such sources is documented and carefully considered, ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options, and ensure that the placement decision is made in conformity with Title 34 Code of Federal Regulations, section 104.34.

The school shall also establish procedures to ensure that (1) Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer; (2) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and (3) Tests are selected 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).

Other information that the school must also consider is a medical diagnosis or the results of a medical assessment obtained by the school. If the school determines, based on the facts and circumstances of the individual case, that a medical assessment is necessary to conduct a Section 504 individual evaluation in order to determine whether a child has a disability under Section 504 and needs special education or related services because of a disability, the school must ensure that the student receives this assessment at no cost to the student's parents. If the school believes a medical assessment is necessary and the parent volunteers to pay for a private assessment, the district must make it clear that the parent has a choice and can choose to accept a school-furnished assessment at no cost to the parent. Informed parental consent is required for the initial evaluation. If a parent refuses consent for an initial evaluation and a recipient school suspects a student



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has a disability, school districts are allowed to use due process hearing procedures to seek to override the parents' denial of consent. Parental participation is urged when considering any change in the student's Section 504 provision of FAPE, including location of services.

The student's parent/guardian shall receive notice of procedural safeguards guaranteed by law. The 504 Coordinator or designee invites the parents to attend the SST meeting early enough to ensure the parents have an opportunity to participate. If parents cannot attend the meeting in person, MCA will consider alternative ways for the parents to participate (conference call, video call, etc.).

Following this review, the Section 504 Team may:

- determine that an evaluation for special education services and/or accommodations under the Rehabilitation Act of 1973 is not warranted at this time.
- determine that there is a need to consider special education services under IDEA and/or
- determine that there is a need to consider qualification under Section 504.

### **DETERMINATION and PLACEMENT**

If the student, due to disability, is found to require regular or special education and/or related aids and services under IDEA or Section 504, the engaged team shall develop the appropriate plan (e.g., an Individual Education Plan or a Section 504 plan) for the provision of such services and/or accommodations to the student. The student shall be educated with nondisabled students to the maximum extent appropriate to the student's individual needs. The student's parent/guardian shall be provided a copy of the plan and shall receive notice of procedural safeguards guaranteed by law.

#### *Initial Qualification (IDEA)*

*Under IDEA, a child with a disability means a child evaluated as having autism, deaf-blindness, deafness, developmental delay (applicable only to children ages three through seven), hearing impairment, intellectual disability, multiple disabilities, orthopedic impairment, other health impairment, serious emotional disability, specific learning disability, speech or language impairment, traumatic brain injury, or visual impairment (including blindness), and by who, by reason of the disability, needs special education and related services. If it is determined, through an appropriate evaluation, that a child has of the disabilities identified above, but only needs a related service and not special education, the child is not a child with a disability under IDEA. If the only service required by the child is speech language, it is considered special education rather than a related service and the child would be determined to be a child with a disability under IDEA.*

The IEP team for each child with a disability includes the parent(s) of the child, not less than one regular education teacher of the child, not less than one special education teacher of the child, and a representative of MCA. When appropriate the child with a disability may also be a part of the IEP team. The evaluation of the student must be sufficient for the IEP Team to describe accurately and completely: (a) the nature and extent of the disabilities; (b) the student's special needs; (c) the impact on the student's education; and (d) what regular or special education and/or related aids and services are appropriate to ensure that the student receives a free appropriate public education. All significant factors relating to the learning process for that student, including adaptive behavior and cultural and language background, must be considered. The evaluation may include but is not limited to, classroom and playground observation, performance-based testing, academic assessment information, and data offered by the student's teachers and parent/guardian.

A full and individualized evaluation of a child's needs must be conducted before any action is taken with respect to the initial placement of a student with a disability in a special education program. The eligibility of children must be determined by using multiple sources of data and must not be dependent upon single test scores. Evaluation procedures may include, but are not limited to, observations, interviews, progress monitoring data, behavior checklist, structured interactions, play assessment, adaptive and developmental scales, criterion-referenced and norm referenced instruments, clinical judgment, and tests of basic concepts



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or other techniques and procedures as deemed appropriate by the professional(s) conducting the evaluations. When eligibility for a specific learning disability is being determined, evaluation data must include progress monitoring data. The determination of needed screenings and evaluations are based upon the unique needs of the student and not solely on the requirements for the suspected disability category. Parental consent will be obtained before any evaluation is initiated. Evaluations must be conducted, eligibility determined, and for an eligible child, the IEP must be developed, and placement completed within 90 days of receipt of a written referral.

### *Initial Qualification (Section 504)*

In determining a student's qualification under Section 504 of the Rehabilitation Act of 1973, the 504 Team considers whether or not a student has a physical or mental impairment that substantially limits one or more major life activities, such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, 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, sense organs and skin, normal cell growth, digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, hemic, lymphatic, and musculoskeletal functions.

The evaluation of the student must be sufficient for the 504 Team to describe accurately and completely: (a) the nature and extent of the disabilities; (b) the student's special needs; (c) the impact on the student's education; and (d) what regular or special education and/or related aids and services are appropriate to ensure that the student receives a free appropriate public education. All significant factors relating to the learning process for that student, including adaptive behavior and cultural and language background, must be considered. The evaluation may include but is not limited to, classroom and playground observation, performance-based testing, academic assessment information, and data offered by the student's teachers and parent/guardian.

For each identified eligible student, the 504 Team shall develop a 504 Plan describing the student's disability and the regular or special education and/or related aids and services needed. The Plan will specify how the special education and/or related aids and services will be provided to the eligible student and by whom. The 504 Plan will also identify the person responsible for ensuring that all the components of the Plan are implemented.

The student's teacher and any other staff who are to provide services to the student or who are to make modifications in the classroom for the student shall be informed of the services or modifications necessary for the student and, if appropriate, provided a copy of the 504 Plan.

A copy of this plan shall be kept in the student's cumulative file in a manner that limits access to those persons involved in the 504 processes and/or the provision of services and modifications. The parents shall be notified in writing of the final decision concerning the student's identification as a person with disabilities, the educational program, services to be provided, if any, and of the Section 504 procedural safeguards, including the right to an impartial hearing to challenge the decision.

If the 504 Team determines that the student has a disability but that no special services are necessary for the student, the 504 Plan shall reflect the identification of the student as a person with a disability under Section 504 and shall state the basis for the decision that no special services are presently needed. MCA shall immediately implement a student's prior 504 Plan when a student enrolls at the academy. Within thirty (30) calendar days of starting school, MCA shall schedule a 504 Team meeting to review the existing 504 Plan.

Students who are identified as having a disability and needing special education and/or related aids and services are entitled to special education and a broad range of supplemental and related aids and services, as



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needed, such as tutors, aides, assistive technology, psychological and counseling services, speech, or occupational therapy.

Students with disabilities must be educated with students who do not have disabilities to the maximum extent appropriate to the needs of the student with a disability. In addition, the school must place students with disabilities in the regular education environment unless the school demonstrates that educating the student with a disability in the regular education environment with the use of supplementary aids and services cannot be achieved satisfactorily.

### *Individualized Education Plan (IEP)*

If the student, due to disability, is found to require special education and/or related aids and services under IDEA the school in consort with the student's parents shall develop an Individualized Education Plan (IEP) for the provision of such services and/or accommodations as needed. The student shall be educated with nondisabled students to the maximum extent appropriate to the student's individual needs. The student's parents shall be provided a copy of the IEP and shall receive notice of Parent Rights and Responsibilities in Special Education: Notice of Procedural Safeguards

### *Section 504 Plan*

If the student, due to disability, is found to require regular or special education and/or related aids and services under Section 504, the Section 504 Team shall develop a 504 plan for the provision of such services to the student. The student shall be educated with nondisabled students to the maximum extent appropriate to the student's individual needs. The student's parent/guardian shall be provided a copy of the 504 plan and shall receive notice of procedural safeguards guaranteed by law.

### *Individual Education Plan (IEP) Reevaluation*

Annually, or more frequently, if necessary, the student's IEP Team shall conduct an annual review of the student's IEP. Every third year, the IEP team shall conduct a reevaluation for each child with a disability under IDEA.

### *Section 504 Reevaluation*

The 504 Team shall monitor the progress of the eligible student and the effectiveness of the student's 504 Plan. According to the review schedule set out in the student's 504 Plan, the 504 Team shall annually determine whether the services and modifications are appropriate. The review may be more frequent if needed. A reevaluation of the student's needs shall be conducted before any subsequent significant change in placement.

Upon completion of assessments, the knowledgeable committee will reconvene and consider continued qualification under Section 504.

### *Section 504 Coordinator Contact Info and Non-Discrimination Statement*

Millennium Charter Academy does not discriminate on the basis of race, color, national origin, sex, disability, or age in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups. The following person has been designated to handle inquiries regarding Section 504 and the non-discrimination policies:

Name and Title

Jarrid Looney, Upper School Director/Section 504 Coordinator

Office Address

500 Old Springs Rd., Mt. Airy, NC 27030

Office Phone Number

336-789-7570