



## The Charter Institute at Erskine

### Section 504 of the Rehabilitation Act Education Policies and Procedures

School Year: 2022-2023

School Leader:

<https://erskinecharters.org>

## INTRODUCTION

The purpose of this document is to provide the policies and procedures for services to students of the Rehabilitation Act of 1973, Section 504, Subpart D. Section 504 contains other requirements including building accessibility and employment practices concerning persons with disabilities. This system limits itself to the instructional services to students in Subpart D, Preschool, Elementary, and Secondary Education.

The Institute maintains the role of an authorizer and LEA. Each charter school within the Institute has the autonomy to develop policies and procedures individualized to meet the needs of the school, as long as those policies and procedures are consistent with the school's charter, contract and Institute policies and procedures. All schools must adhere to State and Federal Laws regarding student with disabilities.

Section 504 prohibits discrimination against disabled persons by school districts receiving federal financial assistance. This includes all programs and activities of the school district receiving federal funds, regardless of whether the specific program or activity involved is a direct recipient of federal funds.

All individuals who are disabled under the Individuals with Disabilities Education Act (IDEA) are also protected under Section 504. Their rights, and the necessary services to prevent discrimination, are provided for within the IDEA. However, all individuals who have been determined to be disabled under Section 504 may not be disabled under IDEA. These persons require a response from the general education staff and curriculum. The IDEA defines as eligible only students who have certain specific types of disabilities and who, because of one of those conditions, need special education (specially designed instruction). Section 504 protects the civil rights of all disabled students, defined as those having any physical or mental impairment that substantially limits one or more major life activities (including learning). Section 504 covers all students who meet this definition, even if they do not fall within the IDEA enumerated categories and even if they do not need to be in a special education program.

This document provides The Charter Institute at Erskine's interpretation of various statutory provisions and does not impose any requirements beyond those included in federal regulations and court interpretations. In addition, it does not create or confer any rights for or on any person.

This is a living document and will be updated on a regular basis The Charter Institute at Erskine receives further guidance from the United States Department of Education, Office of Civil Rights, and results of court decisions.

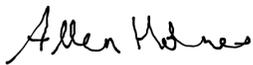
For the additional guidance on Section 504 regulations, please consult the Office of Civil Rights: <https://www.hhs.gov/ocr/index.html>. For questions concerning this document or questions concerning Section 504 Programs please contact The Charter Institute at Erskine's Office of Student Services (803) 849-2462.

The Charter Institute at Erskine does not discriminate on the basis of race, color, national origin, sex, disability, age, religion, or immigrant status in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups. The following persons have been designated to handle the nondiscrimination policies. For questions pertaining to Section 504 contact the Director of Special Education, questions pertaining to Title IX contact the Director of the Charter Institute at Erskine, 1201 Main Street, Suite 300, Columbia, SC 29201, 803-849-2406.

### Assurances

The school has developed, adopted, and implemented policies and procedures that are consistent with all requirements of the Rehabilitation Act of 1973, Americans with Disabilities Act, the Americans with Disabilities Amendments Act, South Carolina State Board of Education regulations, and The Charter Institute at Erskine’s policies and procedures including, but not limited to, the following:

- The school has district-approved policies and procedures.
- If required, service providers (RN, interpreter, etc..) are on staff or under contract and are appropriately credentialed.
- School files are kept confidential, locked, up to date, accessible, and organized with appropriate information stored for the required length of time.
- The school maintains an up-to-date, confidential, and accurate database of students with 504 plans.
- All required information is marked complete and attached in ENRICH in a timely manner.
- All 504 plans are compliant as demonstrated by regular review of 504 plans (transfer, annual, initial evaluation, and/or reevaluations).
- All active 504 plans are reviewed annually.
- All reevaluations have been conducted at least every three years.
- Students receive provision of accommodations and/or services in accordance with their 504 plans and the school maintains documentation of the services/accommodations provided on behalf of the student.
- Faculty and staff are trained on maintaining accurate documentation of accommodations provided on behalf of students
- Evaluations for initial eligibility are comprehensive, conducted by a multidisciplinary team, and contain evidence of previous research-based interventions.
- The school has a means to track the removal of students for disciplinary reasons and alert school staff when a student is approaching 10 days OSS.
- All disciplinary removals of students with 504 plans are done so in accordance with Section 504 of the Rehabilitation Act and have been appropriately documented in Incident Management in PowerSchool.
- All parents have been notified of their Parent Rights at least annually.
- The school uses all forms required by the Institute.
- The school (brick and mortar/virtual) understands it is obligated to serve all students with disabilities under IDEA and Section 504 of the Rehabilitation Act in the same manner as any other public-school district. Budget, staffing availability and administrative convenience do not exempt the site from its legal obligations including, but not limited to students placed on Medical Homebound.
- The school accepts responsibility for all expenses and obligations related to OCR Complaints and Due Process actions.
- The school accurately enters guardian information and appropriate coding into PowerSchool upon student enrollment.



504 Coordinator Signature

Date



School Leader Signature

Date

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## I. FREE APPROPRIATE PUBLIC EDUCATION (FAPE)

In accordance with Section 504 regulations at 34 CFR 104.33, The Charter Institute at Erskine (CIE) ensures that a free appropriate public education (FAPE) is provided to each qualified student enrolled in schools authorized by CIE, regardless of the nature or severity of the disability. “Appropriate Education” is defined as the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of people with disabilities as adequately as the needs of individuals without disabilities are met.

### Parental Choice and Section 504 Plans

Once the eligibility committee has determined that the student is eligible for IDEA services and an IEP, it must offer those services and supports. When a student requires IDEA services, substituting a 504 Plan could represent a denial of FAPE. However, parents have the right to refuse IDEA placement for their child. Neither the Part B regulations nor the Section 504 regulations indicate how a parent's revocation of consent for IDEA services affects a district's obligations under Section 504. However, if there is evidence that the student has new or different needs than those previously identified and addressed in the IEP for which consent was revoked, this would trigger the school's Child Find obligation. Decisions about appropriateness of accommodations are made by the 504 team.

## II. CONFIDENTIALITY

The Charter Institute at Erskine safeguards the confidentiality of personally identifiable information at use, collection, storage, retention, disclosure and destruction stages. At the Charter Institute at Erskine, The Chief of Student Services, along with each individual school's 504 Coordinator, is responsible for maintaining the confidentiality of personally identifiable information (PII). The Family Educational Rights and Privacy Act (FERPA) specifies rights related to educational records. This Act gives the parent/guardian the right to: (1) inspect and review his/her child's educational records; (2) make copies of these records; (3) receive a list of all individuals having access to those records; (4) ask for an explanation of any item in the records; (5) ask for an amendment to any report on the grounds that it is inaccurate, misleading, or violates the child's rights; and (6) receive a hearing on the issue if the school refuses to make the amendment.

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### A. Access Rights

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The Charter Institute at Erskine complies with a request to access records without unnecessary delay and before any meeting regarding a 504 Plan, or any hearing pursuant to South Carolina Board of Education Regulations, and any resolution session pursuant to South Carolina Board of Education Regulations, and in no case more than 45 days.

The Charter Institute at Erskine presumes that a parent has the authority to inspect and review records relative to that parent's child unless The Charter Institute at Erskine has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and divorce. Upon request, The Charter Institute at Erskine provides parents a list of the types and locations of education records collected, maintained, or used by The Charter Institute at Erskine and each of its schools.

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### B. Amendment of Records/Hearing Process

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Parents have the right to request that their child's education records be changed if something is inaccurate, misleading, or in violation of the student's rights of privacy.

If the school does not agree that the education records should be changed, staff must provide an opportunity for a hearing, following the Family Educational Rights and Privacy Act of 1974, August 1974, 20 U.S.C. 1232g (FERPA) requirements. The hearing officer would be the school's hearing officer, not a special education due process hearing officer (34 CFR § 300.618).

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### C. Parental Consent Prior to Disclosure of Records

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The Charter Institute at Erskine obtains parental consent or the consent of an eligible child who has reached the age of majority under South Carolina law, before personally identifiable information is released to parties other than officials of participating agencies in accordance as defined by South Carolina Board of Education Regulations, unless the information is contained in education records and the disclosure is authorized without parental consent under FERPA.

The parent's consent must be in writing, signed, and dated and must:

1. Specify the records to be disclosed;
2. State the purpose of the disclosure; and
3. Identify the party or class of parties to whom the disclosure may be made.

The Charter Institute at Erskine obtains parental consent:

1. To officials in another district or school in connection with the child's enrollment in a nonpublic school; and/or
2. For purposes of billing insurance and/or Medicaid.

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### D. Disciplinary Information and Reports to Law Enforcement

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The Charter Institute at Erskine includes in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmits the statement to the same extent that the disciplinary information is included in, and transmitted with, the records of nondisabled children.

When a child transfers from The Charter Institute at Erskine, the transmission of any of the child's records includes the child's current 504 Plan, most current evaluation/reevaluation, and any statement of current or previous disciplinary action that has been taken against the child.

A statement of disciplinary action shall:

1. Specify the circumstances that resulted in disciplinary action and provide a description of the disciplinary action taken if the disciplinary action was taken because the child.
2. Include any information that is relevant to the safety of the child and other individuals involved with the child.

A statement of disciplinary action may include a description of any other behavior engaged in by the child that required disciplinary action, and a description of the disciplinary action taken.

If The Charter Institute at Erskine or school authorized by the district reports a crime to the appropriate law enforcement officials, The Charter Institute at Erskine transmits copies of the special education and disciplinary records of the child to those officials only to the extent that the transmission is permitted by FERPA and any other applicant. Consistent with Federal Law (34 CFR 300.220 IDEA) The Charter Institute at Erskine assures that all

children, ages three to twenty-one, regardless of the nature or severity of the disability, and who are in need of special education and related services, are identified, located, evaluated, and receive a free appropriate public education (FAPE).

### III. CHILD FIND

In accordance with Section 504 regulations 34 CFR 104.32, The Charter Institute at Erskine assumes responsibility for the location, identification and evaluation of every qualified person with a disability enrolled in any of the schools chartered with The Charter Institute at Erskine and who reside within the State of South Carolina. Child Find procedures utilized for compliance with the IDEA will be utilized for the identification of students with disabilities who may qualify under Section 504 of the Rehabilitation Act of 1973. In addition, when a student is referred under IDEA and found to be not eligible, and when a student is exited from IDEA services for any reason, consideration for Section 504 protections will be initiated.

The Charter Institute at Erskine is a district of choice and is not a district of residence for any child, therefore The Charter Institute at Erskine is not required to locate, identify, or evaluate children who are placed by a parent in a private school or home schooled. If the parents of a child who is home schooled or placed in a private school has questions about special education, the parents should be directed to contact their district of residence office of Special Education.

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#### A. Referral

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A referral should be made anytime it is suspected that a student has a disability that substantially limits a major life activity that will require accommodation or special education in order to receive a free and appropriate public education (FAPE). Referral of students for consideration of Section 504 eligibility can be made by any number of persons, including school staff, teachers, and parents. Individuals will initiate the referral process by contacting the school's Section 504 Coordinator. Consideration should be given to referring students under the following circumstances: (this list is not all-inclusive or compulsory):

- When a student is screened or evaluated and found not to qualify under IDEA; and/or
- **Students with health needs:** When a student returns to school after an illness or injury. When a student has been identified as having specific health needs, is on medication at school, or requires specialized medical procedures or equipment at school, the student may be eligible for services pursuant to Section 504. A student returning from treatment in a medical or rehabilitation or psychiatric facility (except for short-term medical problems) may also be eligible. Schools should not delay a 504 referral, evaluation, or eligibility determination based on the existence of an Individualized Healthcare Plan (IHP).

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#### B. Members of the 504 Team

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Section 504 teams must be comprised of persons knowledgeable about the student. The team must include a person that can interpret the evaluation data and is able to attest to the placement and accommodation options for the student. The multidisciplinary team is required to gather information about the student and determine if they have enough information to make a knowledgeable decision as to whether or not the student has a disability. The parent /student who has reached the age of majority, must be invited to participate with the committee in the 504 process for the determination of eligibility and the development of a possible accommodation plan. The parent may invite others to attend the meeting to include, but not limited to, family members, Health Care Provider (HCP), doctors, therapist, etc. Other team members to consider inviting may include: Nurse, OT, PT, Counselor, Medical Homebound Representative, or other service providers based on student's needs/disability.

Parent attendance / participation at any Section 504 meeting is highly desired. The meeting should occur at a mutually agreed upon time and place. Additionally, there must be documented evidence of multiple and varied attempts to contact the parent to invite them to participate in the 504 Meeting. If the above requirements are met, the Section 504 team may meet in the absence of the parents. Regardless of parent participation method, they must receive copies of the appropriate documentation from the meeting. A follow-up meeting may be scheduled at the parent's request. Parents may request that meetings be rescheduled at a reasonable time for both parents and school staff. Likewise, a parent may participate via telephone or other electronic means. Additionally, student participation, when deemed appropriate and with parental consent, is encouraged. The 504 Coordinator records the attempts to invite the parent to participate in the meeting in Enrich.

A written notice to a parent of a 504 meeting is required. The Meeting Invitation from Enrich is used to:

1. Indicates the purpose, date, time, and location of the meeting and the participants with positions invited to attend the meeting.
2. Informs the parents of their right to have accommodations to participate in the meeting by requesting the meeting to be held via telephone or to have an interpreter, if needed.
3. Informs the parent of their right to have their minor child attend the meeting.

**Describe the school's procedures for notifying the parents/adult student of an upcoming 504 meeting to ensure an opportunity to participate:**

The school uses the following procedure:

1. Before scheduling a meeting, the 504 Coordinator should contact the parent to determine a mutually agreeable time to hold the meeting. This contact will be documented in Enrich by the 504 Coordinator under notice of meetings.
2. A meeting notice is sent home either with the student, via email, or US Mail after the date and time is set.
3. The 504 Coordinator will make a second contact with the parent in an attempt to invite them to the scheduled meeting by sending home a second letter via mail or by calling the parent to remind them of the meeting and the meeting notice will be read to remind them of the purpose and times of the meeting. If there is no answer, an email will be sent with the meeting notice attached (if available) and this second, varied attempt will be documented in Enrich by the 504 Coordinator.

OR

Describe School Procedure:

## IV. ELIGIBILITY

The Charter Institute at Erskine ensures that initial evaluations are conducted and that reevaluations are completed for children who attend a school who has chartered with The Charter Institute at Erskine. The Charter Institute at Erskine uses a referral process to determine whether or not a child is a child with a disability. The Charter Institute at Erskine also provides interventions to assist a child who is performing below grade-level standards. The provision of intervention services is not used to unnecessarily delay a child's evaluation for purposes of determining eligibility for special education services.

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### A. Evaluation

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Parental consent is required prior to conducting the initial evaluation/assessment procedures under Section 504. A parent has the right to refuse an evaluation. If a parent declines consent, the process ends. The evaluation and assessment procedures under Section 504 are less formal and less comprehensive than those under IDEA. Section 504 evaluations are defined as the gathering of data from a variety of sources to allow the 504 teams to make an eligibility determination.

The specific evaluation procedures employed when conducting a 504-eligibility determination are dictated by the type of disability or suspected disability and the type of accommodations that may be needed. Additional tests may or may not be required to make a determination.

A Section 504 evaluation may include, but is not limited to, the following information:

- Classroom and school observations
- Attendance, grades, and discipline records (failing grades are not required)
- Parent, teacher, and/or student interviews
- Review of intervention information
- Teacher anecdotal records
- Behavior checklists/rating scales
- Review of existing records (permanent record, medical records, psychological reports, other educational records)
- Special education records
- Other informal evaluation information including information available from outside agencies
- Consideration of a medical diagnosis from a physician or licensed mental health professional (this alone must not be the sole source of determination)

**Remember:** Section 504 teams cannot require parents to provide medical documentation as a basis for determination of eligibility.

Parents must receive a Section 504 notice of meeting, consent for evaluation, and procedural safeguards in preparation for the eligibility meeting. The time frame for completion of the Section 504 evaluation should be reasonable (i.e., no later than 60 days from receipt of parental permission to evaluate to determination of eligibility). When all necessary information and evaluation data is gathered, the school Section 504 Team Coordinator will convene the multidisciplinary team to consider:

1. Section 504 eligibility based on evaluation results which indicate that the disability substantially limits a major life activity. The term "substantially limits" means that the individual is:

- a) unable to perform a major life activity that the average person in the general population can perform, or
- b) significantly restricted as to the condition, manner, or duration under which a particular major life activity is performed as compared to an average person in the general population.

2. Reasonable accommodations based on eligibility.

The common theme underlying all decisions of eligibility is that the impairment must be substantial and somewhat unique, rather than commonplace, when compared to the general population. The multidisciplinary team will determine eligibility for Section 504 protection, document the eligibility on the Section 504 Eligibility Team Review and develop a 504 Accommodation Plan. The intent of these accommodations is to ensure that the student with a disability has access to a free appropriate public education (FAPE) that is comparable to that education available to non-disabled peers.

The Section 504 team cannot consider the effect of mitigating measures when determining whether an impairment substantially limits a major life activity. However, when conducting an evaluation, it is important to consider that mitigating measures can treat the impairment, thereby **obscuring** the substantial limitations of the impairment. Therefore, it is useful to have evidence showing that an impairment would be substantially limiting **in the absence of** the ameliorative (beneficial) effects of mitigating measures. For example, such evidence could include information about the limitations a person experienced prior to taking medication, or evidence concerning the expected course of a disorder absent mitigating measures (such as a student with a peanut allergy could stop breathing after contact with peanuts). In addition, episodic or inactive conditions must be considered in the active state when determining eligibility.

When determining whether an accommodation plan is needed, the team must consider the student's performance **with** mitigating measures (if they are being used). The possible outcomes from an eligibility determination or reevaluation review are:

1. Eligible with a Plan
2. Eligible without a Plan or
3. Not Eligible.

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## B. Re-Evaluation Meetings

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Students receiving accommodations under Section 504 must be re-evaluated at least every three years, and always before any significant change is made, and as needed. This includes long-term suspensions or expulsion. During the re-evaluation process, the Section 504 team should ask two critical questions:

1. Does the student continue to have a physical or mental impairment as defined by Section 504?
2. Does the impairment continue to substantially limit a major life activity?

In addition, it is important to ask parents for updated and current medical information to assist the team in correctly assessing continued eligibility under Section 504 and in determining if accommodations continue to be required. For those students deemed **“eligible without a plan”**, the team will ask parents for updated and current medical information to assist the team in correctly assessing continued eligibility under Section 504 and in determining if accommodations are required.

**Note:** Section 504 teams cannot require parents to provide medical documentation as a basis for determination of eligibility.

The specific evaluation procedures employed are determined by the type of disability suspected and the type of

services that may be needed. The team can appropriately access existing evaluation data, review school records, obtain observation data, and evaluate effectiveness of educational interventions over time when determining continued eligibility under Section 504. Reevaluation data may include, but are not limited to the following:

- Classroom observations
- Parent interview, student interview and/or teacher interview
- Anecdotal records completed by the teacher
- Behavior checklists/rating scales
- Review of existing data (permanent record, medical records, psychological reports, records, grades, attendance, discipline)
- Additional information that the parents have received from their physician concerning the student's condition
- Additional or updated diagnoses from a physician, licensed mental health professional

The team must review all available information and make a determination as to whether the student is:

1. Eligible with a Plan
2. Eligible without a Plan
3. Not Eligible

## V. 504 ACCOMMODATION PLANS

The Charter Institute at Erskine ensures that a 504 Accommodation Plan is developed and implemented for each child with a disability and determined eligible (under Section 504), who requires accommodations and/or related services and who attends one of the schools that is currently chartered with The Charter Institute at Erskine. As the LEA, The Charter Institute at Erskine is responsible for ensuring that the requirements of South Carolina Board of Education Regulation 43-243 are met.

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### A. Contents of a 504 Accommodation Plan

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In developing each child's 504 Plan, the team considers:

1. The strengths of the child.
2. The concerns of the parents.
3. The results of the initial or most recent evaluation of the child.
4. The results of the child's performance on any state or district-wide assessment programs, as appropriate; and
5. The academic, developmental, and functional needs of the child.

The Charter Institute at Erskine's 504 accommodation plans are developed, reviewed, and revised in the context of the 504 meeting. The Charter Institute at Erskine's 504 Plans includes all the following:

1. Outline of 504 plan dates including initiation, ending, initial evaluation, and re-evaluation;
2. Student's disability and a statement on how the disability substantially limits a major life activity (a minimum of score of 4 is required to be eligible or initially placed to be eligible for a 504 accommodation plan);
3. A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child in the classroom and on state/district-wide assessments
4. Participants in the meeting along with their role;
5. Signatures of all meeting participants (a participant may contribute via phone and noted in the signature section).

Parents/guardians must be provided a copy of the completed 504 Plan at the conclusion of the meeting or within a reasonable time after the meeting is concluded.

Accommodations must be specific, attainable, relevant, measurable, and timely (specified time frame). The plan should also consider accommodations needed for the student to participate in non-academic and extracurricular activities offered by the school. Teachers/staff members involved in carrying out the plan should be involved in its development. Accommodations are those needed to provide students with disabilities the same level of access to the general curriculum/school programs as non-disabled students are provided. That is, accommodations are provided because they are required to level the playing field as a result of the disability, not based solely on parental desire/request or administrative convenience. In addition, teams should also carefully consider whether a requested accommodation improperly changes content or curriculum standards and that there is an actual basis for accommodations that may alter established safety standards.

**Possible accommodations:** As individual students are identified, staff members may need specific training in the area of the identified disability (e.g., training from the school nurse on danger signs of an impending asthma attack, training from a physical therapist on correct positioning of a student who uses a wheelchair at his/her desk, etc.).

**Describe the school's procedures of providing the parent/guardian a copy of the 504 Plan:**

For meeting in which the parent is physically present, every effort will be made to provide a copy of the 504 plan and any related documents at the close of the meeting. If circumstances delay the printing of these documents, the documents will be sent home with the student at the end of the day or emailed to the parent, whichever the parent requests.

OR

After each 504 meeting the 504 Coordinator will complete the following: Finalize the 504 Plan in Enrich, Obtain signatures of all participants, Scan all forms/signature pages into PDF documents and upload into the student's record in Enrich, send a password protected copy of the 504 Plan and any other documents discussed with the Parent/Student through e-mail, if permission is given, and/or via US mail if requested by a parent or permission was not granted to send the 504 Plan electronically within 2 days of the meeting.

OR

Describe School Procedure:

**Describe the school's procedures for ensuring the school staff is knowledgeable of individual student 504 plan contents and accommodation requirements:**

The 504 Coordinator will distribute student 504 Accommodation Plans to all teachers and appropriate staff at the beginning of each school year, when there is a schedule change, and/or when there is a 504 Accommodation Plan update. Each teacher and appropriate staff member will sign the Enrich teacher acknowledgement form and signed document will be uploaded as a PDF into Enrich within 2 days. *(If more than one form is used, combine into one document before uploading.)*

OR

The 504 Coordinator will distribute accommodations to all teachers and appropriate staff at the beginning of the each school year, when there is a schedule change, and/or when there is a 504 accommodation plan update. The 504 Coordinator will use a Google acknowledgement form that replicates the Enrich teacher acknowledgement form to document the receipt of the plans and the required accommodations.

OR

**Describe School Procedure:**

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## **B. Review of a 504 Accommodation Plan**

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Every student that is eligible under Section 504 must have an annual review each calendar year.

### **Eligible with an Accommodation Plan**

At the annual review, the team is responsible for reviewing information gathered from a variety of sources (grades, attendance, discipline, state and district testing, teacher input, medical input, service provider input, parent/student input, etc.) and updating the student's existing accommodation plan.

### **Eligible without an Accommodation Plan**

For those students that were determined to be eligible for protections under Section 504, but did not require a 504 accommodation plan to be developed, the 504 team still must meet annually to review information from a variety of sources (including parent/student input, grades, attendance, discipline, teacher input, medical information, state and district testing information, etc.) to determine whether the Section 504 team needs to develop an accommodation plan and if the student still qualifies for protection under Section 504. The Section 504 Coordinator must document all information reviewed in the conference summary notes. Following the review, copies of the conference summary notes, and any data reviewed must be sent to the parents within 5 school days. The student's eligibility would need to be revisited if it is suspected that the student may require an

accommodation plan, may need to be evaluated for IDEA, or if it is suspected that the student may not continue to be eligible under Section 504. If it is determined that eligibility needs to be revisited, then a reevaluation review meeting must be held within 30 school days.

The Charter Institute at Erskine ensures that the 504 team:

1. Reviews the child's 504 periodically, but not less than annually, to determine whether plan is providing FAPE; and
2. Revises the 504 Plan, as appropriate, to address staff, student, and/or parent concerns in the plan.

**Describe the school process for monitoring annual and re-evaluation review timelines.**

The 504 Coordinator will utilize a spreadsheet to monitor the annual review and reevaluation review due dates by reviewing their caseloads and setting annual/reevaluation meetings prior to the due (expiration) date. The 504 Coordinator will ensure that Enrich documentation is correct and up-to-date.

OR

**Describe School Procedure:**

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### C. 504 Plans and Individual Health Care Plans (IHP)

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Section 59-63-80 of the Code of Laws of South Carolina requires school districts to adopt a policy that students with special health care needs have an individual health care plan (IHP). IHPs are plans written by a registered nurse for meeting the health monitoring and care of a specific student during the school day or at school-sponsored functions. The Nurse works with the student and the student's parent/guardian, health care providers, and teachers to develop the IHP that will meet the student's special health care needs.

The best procedure for determining if a 504 Plan and an IHP are necessary for a student with a medical condition to progress in school, is to ask the following questions:

1. Is it necessary to alter how the curriculum or the instructional program is presented?
2. Is it necessary to alter the student's instructional day?
3. Is it necessary to make exceptions to attendance policies?
4. Is it necessary to make exceptions to discipline procedures?

The IHP should contain all the medical procedures necessary to provide for the medical care of the student. The 504 Plan should address all school and classroom accommodations. Only a 504 Plan can provide for testing accommodations and only the 504 Plan provides for protection under ADA. The rationale for this is that should a medical health provider change the medical treatment, such as but not limited to medication, self-monitoring or

self-medicating, medical monitoring or anything else that only directly impacts the student, the nurse and the parent can make the change without having to hold a 504 team meeting.

In some cases, there are no school or classroom accommodations. In those instances, the 504 Plan may read, “The student will have an IHP which will be followed by school personnel.”

**Examples of IHP documentation may include** medication administration and monitoring; glucose level checks; snacks; and water bottles.

**Examples of school and classroom accommodations in the 504 may include** testing accommodations; seating assignments; notification to parents of classmates of allergy restrictions; reduced assignments; excused absences; making up assignments, tests, etc.

## VI. NOTICE OF PARENT & STUDENTS RIGHTS UNDER SECTION 504

Section 504 is an Act that prohibits discrimination against persons with a disability in any program receiving Federal financial assistance. It assures that persons with disabilities have educational opportunities and benefits equal to those provided to nondisabled students. The act defines a person with a disability as anyone who: (1) has a mental or physical impairment which substantially limits one or more major life activities (such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working); (2) has a record of such impairment; or (3) is regarded as having such an impairment.

In order to fulfill its obligation under Section 504, Charter Institute at Erskine recognizes a responsibility to avoid discrimination in policies and practices regarding its personnel and students. No discrimination against any person with a disability will knowingly be permitted in any of the programs and practices in the school system.

The school district has specific responsibilities under the Act, which include the responsibility to identify, evaluate, and, if the child is determined to be eligible under Section 504, to afford access to appropriate educational accommodations. If the parent or guardian disagrees with the determination made by the professional staff of the school district, he/she has a right to a hearing with an impartial hearing officer.

Parents of a child with a disability are entitled to specific procedural safeguards under Section 504. These safeguards are referred to as Parent Rights. The Charter Institute at Erskine provides parents with a copy of the Notice of Parent Rights at least once a year during the annual review.

In addition, The Charter Institute at Erskine provides parents with a printed copy of this notice in each of the following circumstances:

1. Upon the initial referral or parental request for evaluation;
2. Upon receipt of a grievance;
3. Upon the request of an impartial hearing;
4. Upon a change in placement for disciplinary action; and
5. When requested by the parents or the student who has reached the age of majority.

**The school will use the Notice of Parent Rights which is located within the Enrich program for each student.**

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## A. Parental Consent

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Consent means that the parents:

1. Have been fully informed in the parents' native language or other mode of communication of all information relevant to the activity for which consent is sought.
2. Understand and agree in writing to the carrying out of the activity for which the consent was asked. The consent describes that activity and lists the records (if any) that will be released and to whom they will be released; and
3. Understand that the granting of consent is voluntary and may be revoked at any time.

The Charter Institute at Erskine does not obtain written parental consent when reviewing existing data as part of an evaluation or reevaluation or when administering a test or evaluation that is given to all children, unless consent is required of all parents. If parents refuse to give written consent, The Charter Institute at Erskine may use due process hearing procedures. Section 504 neither prohibits nor requires a school district to initiate a due process hearing to override a parental refusal to consent with respect to the initial provision of special education and related services.

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## B. Transfer of Parental Rights at Age of Majority/Student Notification

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The Charter Institute at Erskine affords rights of privacy to children similar to those afforded to parents, taking into consideration the age of the child and type or severity of disability. The rights of parents regarding education records under FERPA transfer to the child at age 18.

At age 18, for any disabled student, unless the student is incompetent and/or the parent has guardianship, the rights to grant or deny permission or consent regarding any aspect of providing a FAPE and other rights previously held by the parents, including access to the child's confidential educational records, shall transfer to the student.

Once a child reaches the age of majority, The Charter Institute at Erskine sends all required notices to both the student and parent, unless the student has been determined incompetent under state law. The Charter Institute at Erskine will obtain informed written consent, as required by the South Carolina Board of Education regulations, from the student, unless the student has been determined incompetent under state law. Once rights have been transferred to the student, he or she may be able to execute a power of attorney under S. C. Code Ann. § 62-5-501 (Supp. 2008).

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## C. Surrogate Parents

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The Charter Institute at Erskine ensures that the rights of a child are protected. Surrogate parent is a person appointed to act in place of parents when a child's parents or guardians cannot be identified, cannot be located, or when the child is a ward of the state. The surrogate parent may represent the child in all matters relating to the identification, evaluation, and educational placement of the child, and the provision of a free and appropriate public education (FAPE) to the child.

Schools must assign a surrogate parent when:

1. No parent or guardian can be identified.
2. The school, after reasonable efforts, cannot locate a parent.
3. The child is a ward of the state; or

4. The child is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. §11434a(6)).

The 504 Coordinator will ensure that a surrogate parent is assigned and appointed for a child that meets the above criteria within 30 days of determining that a student needs a surrogate. The school will provide each child with a qualified surrogate who can represent the child's interest in the 504 process. The appointment of the surrogate parent must be completed in writing and the school must ensure that surrogate parents meet the necessary qualifications, are properly trained; actively participate in the 504 decision-making process.

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## D. Conflict Resolution

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### SECTION 504 GRIEVANCE PROCEDURES

It is the policy of the Charter Institute at Erskine not to discriminate on the basis of disability. The Charter Institute at Erskine has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). Section 504 of the Rehabilitation Act of 1973 is a Federal civil rights law which prohibits discrimination against persons with disabilities in any program receiving federal funding or financial assistance. Section 504 also prohibits any kind of retaliation against a person who files a 504 grievance.

The Charter Institute at Erskine's 504 Coordinator is responsible for coordination of compliance with all aspects of Section 504 and Title II, not just with regard to the identification, evaluation and placement of students with disabilities. The 504 Coordinator is:

Sarah Love  
 1201 Main Street, Suite 300  
 Columbia, SC 29201  
 803-605-7249  
[slove@erskinecharters.org](mailto:slove@erskinecharters.org)

Any person who believes she or he has been subjected to discrimination on the basis of disability may file a grievance under this procedure. The grievance and the identity of the person filing the grievance and the identity of the person allegedly responsible for the discrimination will not be disclosed except as required by law, policy, as necessary to fully investigate the complaint, or as authorized by the person filing the grievance or his/her parents/guardians. The Charter Institute at Erskine prohibits any kind of retaliation against a person who files a grievance, participates in the investigation of a grievance, or otherwise asserts rights under Section 504.

#### Procedure:

- Grievances should be submitted, in writing, to the principal or school leader ("principal") of the student's school within 10 school days of the complained of action. The principal will meet with the student and/or the parents/guardian ("Complainant") and respond in writing within 10 school days of meeting with the student and/or parent/guardian to discuss the concerns.
- If the principal is unable to resolve the concerns to the satisfaction of the Complainant, the Complainant can appeal to the Charter Institute at Erskine's 504 Coordinator. A complaint to the Coordinator must be in writing, containing the name and address of the person filing it and must be filed within 10 school days of the principal's written decision. The complaint must state the problem or action alleged to be discriminatory and the remedy or relief sought.
- In the event the Complainant believes that an individual other than the 504 Coordinator should handle the complaint (for example, if the 504 Coordinator is the individual about whom the grievance is made), the

Complainant should state this in the complaint, and the Charter Institute at Erskine will designate an alternate staff member to hear the grievance and notify the Complainant.

- The Section 504 Coordinator, or designee, shall conduct an investigation of the complaint. All interested persons shall be provided an opportunity to submit witness testimony and other evidence relevant to the complaint.
- The Section 504 Coordinator, or designee, will maintain the files and records of the Charter Institute at Erskine relating to such grievances.
- The Section 504 Coordinator, or designee, will issue a written decision on the grievance no later than 30 school days after its filing.
- If the Complainant is not satisfied with the decision of the 504 Coordinator, or designee, the Complainant may file an appeal to the Chief of Student Services within 15 school days of receiving the Section 504 Coordinator's, or designee's, decision. *The Chief of Student Services will consider the request and all correspondence and responses from lower administrative levels and will advise the Complainant of the decision whether or not to meet with the Complainant to discuss the complaint within 15 school days of the decision.*
- *Should the Chief of Student Services decide to hear the complaint, the hearing will be informal and non-adversarial and will be scheduled to occur within 30 days unless by mutual agreement, the timeline is extended. The Chief of Student Services will notify the Complainant of the decision in writing in response to the appeal no later than 30 school days after hearing the appeal.*
- The availability and use of this grievance procedure does not prevent a person from filing a complaint of discrimination on the basis of disability with the Office for Civil Rights within the U.S. Department of Education.

Washington DC (Metro)  
Office for Civil Rights (OCR)  
US Department of Education  
400 Maryland Ave. SW  
Washington, DC 20202-1475

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

## VII. BEHAVIOR & DISCIPLINE UNDER SECTION 504

Section 504 authorizes school personnel to implement a short-term disciplinary removal from the current placement, such as an out-of-school suspension for a child with a disability who violates the code of student conduct. When addressing discipline for students with disabilities, it is important that schools comply with applicable legal requirements governing the discipline of a student for misconduct caused by or related to the student's disability. This includes a Manifestation Determination when a student experiences a significant change in placement as a result of disciplinary actions. The Charter Institute at Erskine will consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements, is appropriate for a child with a disability who violates a code of student conduct.

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### A. Special Review Guidelines for Interfering Behaviors

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If a student protected under Section 504 exhibits behaviors that interfere with their learning or the learning of others, then proactive measures must be taken to address the interfering behaviors. These may include

modification of existing accommodations to address behavior; utilization of school resources (counseling, mentor, etc.), and/or conducting an FBA and developing a BIP. The Special Review (SR) process is intended to support school teams with properly identifying and replacing negative behaviors through a proactive approach.

### **Functional Behavioral Assessment (FBA)**

The FBA is a process for developing a useful understanding of how behavior relates to the environment. By knowing the function (or purpose) that the behavior serves for the student, one can develop an intervention that also serves that purpose but does so through positive student behaviors. Intervention strategies may include effective prevention, remediation, or development of alternative behaviors (replacement behaviors).

#### **When should school teams consider engaging in the FBA process?**

Best practice suggests that an FBA should be conducted for a student whenever behavior appears to be significantly interfering with the learning process and well before behaviors reach crisis proportions. Based on [34 C.F.R. 300.519], if a disciplinary action is being considered for a student with a disability that would result in a change of placement (defined as “(a) the removal is for more than 10 consecutive school days; or (b) the child is subjected to a series of removals that constitute a pattern because they cumulate to more than 10 school days in a school year...”), one of the following must have been completed by the Section 504 team either before or not later than 10 days after taking the disciplinary action:

- development of a plan for conducting an FBA and development of interim interventions
- review of the student’s behavioral intervention plan that has already been developed and modification of the plan as necessary to address the student’s behavior.

### **Behavior Intervention Plans (BIP)**

A BIP is a proactive plan that develops, changes, or maintains selected behaviors through the systematic application of behavior change techniques. Section 504 requires districts to develop an individualized BIP for a student with a disability when that student's behavioral difficulties significantly interfere with his/her ability to benefit from their education. Failure to implement a BIP may result in a denial of FAPE. For this reason, it is essential that staff members who will interact with the student are familiar with the interventions and have access to a copy of the plan.

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## **B. Child’s Status During Code of Conduct Violations**

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### **Changes in placement less than 10 consecutive school days**

The Charter Institute at Erskine may remove a child with a disability who violates a code of student conduct from the child's current placement to an appropriate alternative setting, or suspension, for not more than 10 school days.

The Charter Institute at Erskine considers on a case-by-case basis whether a pattern of removals constitutes a change of placement. A change in placement occurs if:

1. The removal is for more than 10 consecutive school days, **or**
2. The child has been subjected to a series of removals that constitute a pattern:
  - a. Because the series of removals total more than 10 school days in a school year;

- b. Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; **and**
- c. Because of such additional factors as the length of each removal, the total amount of time the child has been removed and the proximity of the removals to one another.

The 504 Coordinator and school administrators will utilize a shared spreadsheet to monitor student discipline for Section 504 students that are eligible with and without a plan and those who are in the evaluation process.

OR

Describe school procedure:

### Services during removal from current placement

The Charter Institute at Erskine provides services to a child removed from the child's current placement as follows:

1. If the child has been removed from the child's current placement for 10 school days or less in the school year, services are provided only to the extent that services are provided to a child without disabilities who is similarly removed;
2. After a child with a disability has been removed from the child's current placement for 10 school days in the same year (under circumstances in which the current removal is for not more than 10 consecutive days and is **not** a change in placement), The Charter Institute at Erskine provides services, as determined by school personnel in consultation with at least one of the child's teachers, so as to enable the child to continue to participate in the general education curriculum, although in another setting;
3. If the removal is a change in placement, the Team determines appropriate services; and
4. If a child with a disability is removed from the child's current placement for either more than 10 consecutive days for behavior that is determined **not** to be a manifestation of the child's disability, the school may impose disciplinary sanctions aligned with their processes for nondisabled students.

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### C. Manifestation Determination

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The student can be removed from school for up to a total of 10 school days. Prior to the 11<sup>th</sup> day of removal, the school must conduct a Manifestation Determination Review meeting to review the 504 and Behavior Intervention Plan and determine appropriate education placement prior to the recommendation for any additional days of removal from the general education setting.

Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the school, the parent and relevant members Team members (as determined by the parent and the school district) must review all relevant information in the child's file, including the child's 504 Plan,

any teacher observations and any relevant information provided by the parents to determine if the conduct was a manifestation of the child's disability.

The Charter Institute at Erskine determines that the conduct is a manifestation of the child's disability:

1. If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
2. If the conduct in question was the direct result of the school district's failure to implement the 504 Plan (which may or may not include a behavior intervention plan).

If the relevant members of the 504 team, which includes the parents, determine that the conduct in question was NOT the direct result of the school's failure to implement the 504 plan and not a direct/substantial relationship to the child's disability, the school can resume with the course of action based on their code of conduct policy.

If the relevant members of the 504 team, which includes the parents, determine that the conduct in question was the direct result of the school's failure to implement the 504 Plan, The Charter Institute at Erskine takes immediate steps to remedy those deficiencies and return the child to his/her previous placement.

If the manifestation determination indicates that the conduct was related to the student's disability, the district will:

1. Continue educational services that occurred prior to the infraction, unless the parent and The Charter Institute at Erskine agree to a change of placement.
2. Conduct a reevaluation within 10 days of the MDR to determine if the eligibility and/or placement is appropriate; this may also include conducting a functional behavioral assessment. The team needs to complete the assessment(s) as soon as practical.

**Describe the school's procedures for the following: monitoring in- and out-of-school suspensions, to include the review of suspension/expulsion data; determining when a pattern of removals constitutes a change of placement; and addressing behavior issues using positive behavior interventions:**

If a student approaches his/her 7th day of suspension, the teacher (general or special education teacher) of the student notifies Administration, and the 504 Coordinator. The 504 coordinator will schedule a 504 meeting to review the 504 plan, develop a functional behavior assessment and behavior interventions plan (if necessary). Once the student has been suspended for 10 school days, the school will conduct a manifestation determination meeting, review the 504 plan and behavior intervention and determine appropriate education placement.

OR

**Describe school procedure:**

## IX. Transfers Within the State and From Out-of-State

When a student enrolls into a school within The Charter Institute at Erskine, the individual school must take reasonable steps to promptly obtain the child's records, including the 504 Plan and supporting documents and any other relevant records from the previous district in which the child was enrolled. Regardless of how the parent completes the enrollment information regarding previous 504 eligibility/plan, it is the responsibility of the school to verify whether or not the student had a 504 Plan in the previous district. Since this is a transfer of educational records from the child's previous district to The Charter Institute at Erskine, no parental consent for release of documents is required.

Schools authorized by The Charter Institute at Erskine will not delay in the implementation of the 504 Plan from the transferring district. If a student transfers in with an expired 504 Plan that plan will be implemented until data can be collected and a 504 team convenes to create a new annual plan.

If a student transfers into The Charter Institute at Erskine and persons knowledgeable of the student, previous evaluation data, and placement options determine that the student's 504 Plan is no longer appropriate for the student and additional data is required, the team must consider evaluating the student consistent with the Section 504 procedures at 34 C.F.R. 104.35 and determine which educational program is appropriate for the student.

If a reevaluation is past due on a transfer student, the 504 Team must convene and hold a reevaluation meeting.

If the parent of a student transferring into a charter school does not want their child to continue with a 504 Plan, they may revoke their consent. The parent should submit the request in writing or email and the Revocation of Consent is documented in Enrich. Upload the signed letter and Revocation of Consent into Enrich.

### **Description of how the school's 504 Coordinator is notified when students with 504 Plans enroll:**

The School's Student Enrollment forms explicitly ask if the enrollee has a 504 Accommodation Plan. If it indicates the student does have a 504 Plan, the school registrar forwards that student's information within 24 hours by email or paper copy to the 504 Coordinator. When made aware of a student who has a 504 has enrolled, an e-mail requesting a Student Record Transfer (SRT) code is sent by the 504 Coordinator or register to the student's previous school and/or district within 24 hours. If the sending school does not use Enrich for developing 504 Accommodation Plans, then the school needs to request the 504 Accommodation Plan via email or fax. All information received, and fax requests are dated and filed for when they are both sent and received. If available, the school 504 Coordinator will meet with the parent during enrollment to gather information.

OR

**Describe School Procedure:**