



## Identification, Evaluation and Education under Section 504

The Governing Board of the California Montessori Project (“CMP”) recognizes the need to identify and evaluate students with disabilities in order to provide them with a free, appropriate public education 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.” This policy and the related administrative regulation has been developed to ensure the implementation of Section 504 of the Rehabilitation Act of 1973 (“Section 504”), and its implementing regulations as amended, which pertains to public schools. The intent is to ensure that all students with disabilities, who are eligible under Section 504, are identified and evaluated and have access to a free, appropriate public education (FAPE).

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Under Section 504, individuals with physical or mental impairments that substantially limit one or more major life activities, including learning, are entitled to receive regular or special education and/or related aids and services designed to meet their individual needs as adequately as the needs of nondisabled students are met. Students may be disabled and entitled to services under Section 504 even though they are not eligible for services pursuant to the Individuals with Disabilities in Education Act (“IDEIA”).

The Principal shall ensure that these procedures are implemented and followed. Whenever there is reason to believe that, because of a disability, a student needs a Section 504 plan, (and the student has not been found eligible under IDEIA) that student will be evaluated under this policy’s administrative regulation.

A Section 504 Team will be convened to determine the student’s need for regular or special education and/or related aids and services. The 504 Team will include persons knowledgeable about the Section 504 standards, the student’s individual needs and school history, the meaning of evaluation data, and placement options. The student’s parent/guardian shall be invited to participate in this 504 Team and shall receive notice of procedural safeguards. CMP shall periodically review the student’s progress and placement.

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## Identification, Evaluation, and Education under Section 504

### A. Definitions

1. **Academic Setting** – the regular, educational environment operated by the California Montessori Project (“CMP”).
2. **Individual with a Disability under Section 504** – An individual who:
  - a. has a physical or mental impairment that substantially limits one or more major life activities;
  - b. has a record of such an impairment; or
  - c. is regarded as having such an impairment.
3. **Evaluation** - procedures used to determine whether a student has a disability as defined within, and the nature and extent of the services that the student needs. The term means procedures used selectively with an individual student and does not include basic tests administered to, or procedures used with, all students in a school, grade or class.
4. **504 Plan** - a plan developed to ensure that a [student](#) who has a disability identified under the law and is attending an elementary or secondary educational institution receives accommodations that will ensure their academic success and access to the learning environment.
5. **Free Appropriate Public Education (“FAPE”)** - the provision of regular or special education and related aids and services that are designed to meet the individual needs of persons with disabilities as adequately as the needs of persons without disabilities are met.
6. **Major Life Activities** - Functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
7. **Physical or 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; genitor-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.

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8. **504 Coordinator** – A Section 504 Coordinator oversees the CMP Network. The Site Principal or Dean of Students shall serve as the Section 504 Site Coordinator. The parents/guardians may request a Section 504 due process hearing from, or direct any questions or concerns to the CMP Section 504 Coordinator.

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B. Referral, Assessment, and Evaluation Procedures

1. CMP will evaluate any student who, because of disability, needs or is believed to need regular or special education related aids and services.
2. A student may be referred by anyone, including a parent/guardian, teacher, other school employee or community agency, for consideration as to whether the student qualifies as a student with disabilities under Section 504. 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 should be made to the Section 504 Site Coordinator who will convene a 504 Team. Any requests made to another CMP employee will be forwarded to the Section 504 Site Coordinator.
3. CMP has the responsibility to ensure that students with disabilities are evaluated. Therefore, it is important that students who are or may be disabled are referred to the CMP Section 504 Coordinator so that the assessment process is initiated.
4. The 504 Team convened by the Section 504 Site Coordinator will be composed of the student's parents/guardians and other persons knowledgeable about the student (such as the student's regular education teachers), the student's school history, the student's individual needs (such as a person knowledgeable about the student's disabling condition), the meaning of evaluation data, the options for placement and services, and the legal requirements for least restrictive environment and comparable facilities.
5. The 504 Team shall promptly consider the referral and determine what assessments are needed in all suspected areas of disability to evaluate whether the student is a student with a disability under Section 504 and what special needs the student may have. The decision regarding what assessments shall be undertaken shall be based on a review of the student's school records (including academic, social-emotional, and behavioral records), any relevant medical records, and the student's needs. Students requiring assessment shall be provided appropriate assessments administered by qualified assessment specialists.
6. The 504 Team will consider the following information in its evaluation of the student:
  - a. Tests and other evaluation materials that have been validated for the specific purpose for which they are used and are administered by trained personnel;

- b. Tests and other evaluation materials including those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and
  - c. Tests are selected and administered so as to best 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 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).
7. The evaluation of the student must be sufficient for the 504 Team to accurately and completely describe: (a) the nature and extent of the disabilities; (b) the student's special needs; (c) the impact upon the student's education; and (d) what regular or special education, 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.
8. The parents/guardians shall be given an opportunity in advance of 504 Team meetings to examine assessment results and all other relevant records when possible.
9. If a request for evaluation is denied, the 504 Team shall inform the parents/guardians in writing of this decision and provide them a copy of their procedural safeguards as described below.

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C. 504 Plan

- 1. When a student is identified as disabled as defined by Section 504, the 504 Team shall determine what, if any, services are needed to ensure that the student receives a free, appropriate public education ("FAPE").
- 2. The 504 Team responsible for making the placement decision shall include the parents/guardians and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options.
- 3. For each identified disabled student, the 504 Team will develop a 504 Plan describing the student's disability and the related aids and services needed. The Plan will specify how the related aids and services will be provided to the disabled student and by whom. The 504 Plan will also identify the person responsible for ensuring that all the components of the Plan are implemented.

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4. The student's teacher and any other staff who are to provide services to the student or who are to make accommodations in the classroom for the student shall be informed of the related aids or accommodations 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 process and/or the provision of services and accommodations.
5. The disabled student shall be placed in the regular education environment unless it is demonstrated that the student's needs cannot be met in the regular education environment with supplementary aids, supports, and services. The disabled student shall be educated with students who are not disabled to the maximum extent appropriate to his/her individual needs.
6. The referral, assessment, evaluation and placement process will be completed within a reasonable time. It is generally not reasonable to exceed 60 school days in completing this process.
7. The parents/guardians shall be notified in writing of the final decision concerning the student's identification as a person with disabilities, the educational program and services to be provided, if any, and of the Section 504 procedural safeguards, as described below, including the right to an impartial hearing to challenge the decision.
8. If the 504 Team determines that the student is disabled but that no special services are necessary for the student, the 504 Plan shall reflect the identification of the student as a disabled person under Section 504 and shall state the basis for the decision that no special services are presently needed.
9. The 504 Plan shall include a schedule for annual review of the student's needs, and indicate that this review may occur more frequently at the request of the parent/guardian or school staff.
10. The Charter School shall immediately implement a current 504 Plan, when the student enrolls at the Charter School. Within thirty (30) days of starting school, the Charter School shall schedule a 504 Team meeting to review the existing 504 Plan. The Charter School shall request a copy of the prior 504 Plan from both the prior school and the parent/guardian.

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D. Review of the Student's Progress

1. The 504 Team shall monitor the progress of the disabled student and the effectiveness of the student's 504 Plan. According to the review schedule documented in the student's 504 Plan, the 504 Team shall annually determine whether the services and accommodations are appropriate.
2. A reevaluation of the student's needs shall be conducted before any subsequent

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significant change in placement.

E. Procedural Safeguards

1. Parents/guardians shall be notified in writing of all decisions regarding the identification, evaluation or educational placement of students with disabilities or suspected disabilities. Notifications shall include a statement of their rights to:

- Examine relevant records.
- Have an impartial hearing with an opportunity for participation by the parents/guardians and their counsel.
- Have the right to file a Uniform Complaint pursuant to school policy.
- Seek review in federal court if the parents/guardians disagree with the hearing decision.

2. Notifications shall also set forth the procedures for requesting an impartial hearing. Requests shall be made to CMP 504 Coordinator. Notifications shall advise that reimbursement for attorney’s fees is available only as authorized by law.

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3. The CMP Section 504 Coordinator shall maintain a list of impartial hearing officers who are qualified and willing to conduct Section 504 hearings. To ensure impartiality, such officers shall not be employed by or under contract with any district within CMP’s SELPA or the County Office of Education in any capacity other than that of hearing officer and shall not have any professional or personal involvement that would affect their impartiality or objectivity in the matter.

4. If a parent/guardian disagrees with the identification, evaluation or educational placement of a student with disabilities under Section 504, they may request a hearing to initiate due process procedures. The parent/guardian shall set forth in writing their request for a hearing. A request for hearing should include:

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- The specific decision or action with which the parent/guardian disagrees.
- The changes to the 504 Plan the parent/guardian seeks.
- Any other information the parent/guardian believes is pertinent.

5. Within five (5) calendar days of receiving the parent/guardian’s request for a hearing, CMP may offer the parent/guardian an optional alternative dispute resolution process. However, the timeline for the hearing shall remain in effect unless it is extended by mutual written agreement of the parent/guardian and CMP. Alternative dispute resolution options include:



- Mediation by a neutral third party.
  - Review of the 504 Plan by the CMP Section 504 Coordinator.
6. Within ten (10) calendar days of receiving the parent/guardian’s request, CMP Section 504 Coordinator shall select an impartial hearing officer. This 10 day period may be extended for good cause or by mutual agreement of the parent/guardian and CMP.
  7. Within thirty-five (35) calendar days of the selection of the hearing officer, the due process hearing shall be conducted. This thirty-five (35) day period may be extended for good cause or by mutual agreement of the parent/guardian and CMP.
  8. The parent/guardian and CMP shall be afforded the rights to:
    - Be accompanied and advised by counsel and by individuals with special knowledge or training related to the individual needs of students who are qualified as disabled under Section 504.
    - Present written and oral evidence.
    - Question and cross-examine witnesses.
    - Receive written findings by the hearing officer.
  9. The hearing officer shall issue a written decision within ten (10) calendar days of the hearing.
  10. If desired, either party may seek a review of the hearing officer’s decision by a federal court. The decision shall be implemented unless the decision is stayed, modified or overturned by a court.

F. Suspension and Expulsion, special procedures for Students with Disabilities

The Charter School shall follow the suspension and expulsion policy and procedures as set forth in the charter. A pupil identified as an individual with disabilities or for whom the Charter School has a basis of knowledge of a suspected disability pursuant to the Individuals with Disabilities Education Improvement Act (“IDEA”) or who is qualified for services under Section 504 of the Rehabilitation Act of 1973 (“Section 504”) is subject to the same grounds for disciplinary action, including suspension and expulsion, and is accorded the same due process procedures applicable to regular education pupils except when federal and state law mandates additional or different procedures. the Charter School will follow the IDEA, Section 504, and all applicable federal and state laws when imposing any form of discipline on a pupil identified as an individual with disabilities or

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for whom the Charter School has a basis of knowledge of a suspected disability or who is otherwise qualified for such services or protections in according due process to such pupils. The following procedures shall be followed when a student with a disability is considered for suspension or expulsion. These procedures will be updated if there is a change in the law.

1. **Notification of SELPA**

The Charter School shall immediately notify the SELPA, and coordinate the procedures in this policy with the SELPA for the discipline of any student with a disability or student who the Charter School or SELPA would be deemed to have knowledge that the student had a disability.

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2. **Services During Suspension**

Students suspended for more than ten (10) school days in a school year shall continue to receive services so as to enable the student to continue to participate in the general education curriculum, although in another setting, (which could constitute a change of placement and the student's IEP would reflect this change), and to progress toward meeting the goals set out in the child's IEP/504 Plan; and receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur. These services may be provided in an interim alternative educational setting.

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3. **Procedural Safeguards/Manifestation Determination**

Within ten (10) school days of a recommendation for expulsion or any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the Charter School, the parent, and relevant members of the IEP/504 Team shall review all relevant information in the student's file, including the child's IEP/504 Plan, any teacher observations, and any relevant information provided by the parents to determine:

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- If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
- If the conduct in question was the direct result of the local educational agency's failure to implement the IEP/504 Plan.

If the Charter School, the parent, and relevant members of the IEP/504 Team determine that either of the above is applicable for the child, the conduct shall be determined to be a manifestation of the child's disability.

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If the Charter School, the parent, and relevant members of the IEP/504 Team make the determination that the conduct was a manifestation of the child's disability, the IEP/504 Team shall:



- Conduct a functional behavioral assessment and implement a behavioral intervention plan for such child, provided that the Charter School had not conducted such assessment prior to such determination before the behavior that resulted in a change in placement;
- If a behavioral intervention plan has been developed, review the behavioral intervention plan and if the child already has such a behavioral intervention plan, and modify it, as necessary, to address the behavior; and
- Return the child to the placement from which the child was removed, unless the parent/guardian and the Charter School agree to a change of placement as part of the modification of the behavioral intervention plan.

If the Charter School, the parent/guardian, and relevant members of the IEP/504 Team determine that the behavior was not a manifestation of the student's disability and that the conduct in question was not a direct result of the failure to implement the IEP/504 Plan, then the Charter School may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to students without disabilities.

#### 4. Due Process Appeals

The parent/guardian of a child with a disability who disagrees with any decision regarding placement, or the manifestation determination, or the Charter School believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others, may request an expedited administrative hearing through the Special Education Unit of the Office of Administrative Hearings or by utilizing the dispute provisions of the 504 Policy and Procedures.

When an appeal relating to the placement of the student or the manifestation determination has been requested by either the parent/guardian or the Charter school, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer in accordance with state and federal law, including 20 U.S.C. Section 1415(k), until the expiration of the forty-five (45) day time period provided for in an interim alternative educational setting unless the parent/guardian and the Charter School agree otherwise.

In accordance with 20 U.S.C. Section 1415(k)(3), if a parent/guardian disagrees with any decision regarding placement, or the manifestation determination, or if the Charter School believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others, the parent/guardian or Charter School may request a hearing.

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In such an appeal, a hearing officer may: (1) return a child with a disability to the placement from which the child was removed; or (2) order a change in placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of such child is substantially likely to result in injury to the child or to others.

5. Special Circumstances

Charter School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a child with a disability who violates a code of student conduct.

The Principal or designee may remove a student to an interim alternative educational setting for not more than forty-five (45) school days without regard to whether the behavior is determined to be a manifestation of the student's disability in cases where a student:

- Carries or possesses a weapon, as defined in 18 U.S.C. Section 930, to or at school, on school premises, or to or at a school function;
- Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function; or
- Has inflicted serious bodily injury, as defined by 20 U.S.C. Section 1415(k)(7)(D), upon a person while at school, on school premises, or at a school function.

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6. Interim Alternative Educational Setting

The student's interim alternative educational setting shall be determined by the student's IEP/504 team.

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7. Procedures for Students Not Yet Eligible for Special Education Services

A student who has not been identified as an individual with disabilities pursuant to IDEJA and who has violated the School's disciplinary procedures may assert the procedural safeguards granted under this administrative regulation only if the Charter School had knowledge that the student was disabled before the behavior occurred.

The Charter School shall be deemed to have knowledge that the student had a disability if one of the following conditions exists:

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- The parent/guardian has expressed concern in writing, or orally if the parent/guardian does not know how to write or has a disability that prevents a written statement, to Charter School supervisory or administrative personnel, or to one of the child’s teachers, that the student is in need of special education or related services.
- The parent/[guardian](#) has requested an evaluation of the child.
- The child’s teacher, or other Charter School personnel, has expressed specific concerns about a pattern of behavior demonstrated by the child, directly to the director of special education or to other Charter School supervisory personnel.

If the Charter School knew or should have known the student had a disability under any of the three (3) circumstances described above, the student may assert any of the protections available to ~~IDEIA~~[IDEIA](#)-eligible children with disabilities, including the right to stay-put.

If the Charter School had no basis for knowledge of the student’s disability, it shall proceed with the proposed discipline. The Charter School shall conduct an expedited evaluation if requested by the parents; however the student shall remain in the education placement determined by the Charter School pending the results of the evaluation.

The Charter School shall not be deemed to have knowledge of that the student had a disability if the parent/[guardian](#) has not allowed an evaluation, refused services, or if the student has been evaluated and determined to not be eligible.

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**Parent/Student Rights in Identification, Evaluation, Accommodation, and Placement**  
(Section 504 of the Rehabilitation Act of 1973)

The following is a description of the rights granted by federal law to students with disabilities. The intent of the law is to keep you fully informed concerning decisions about your child and to inform you of your rights if you disagree with any of these decisions. Please keep this explanation for future reference. If you have any questions, please contact the CMP 504 Coordinator:

Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ email: \_\_\_\_\_

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You have the right to:

1. Have your child take part in and receive benefits from public education programs without discrimination because of his/her disabling condition.
2. Has California Montessori Project ("CMP") advise you of your rights under federal law.
3. Receive notice with respect to Section 504 identification, evaluation and/or placement of your child.
4. Have your child receive a free appropriate public education. This includes the right to be educated with non-disabled students to the maximum extent appropriate. It also includes the right to have CMP make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities.
5. Have your child educated in facilities and receive services comparable to those provided to non-disabled students.
6. Have your child receive exceptional education and related services if he/she is found to be eligible under the Individuals with Disabilities Education Improvement Act (IDEIA) of 2004 [20 U.S.C. Chapter 33, P.L. 101-4761].
7. Have an evaluation, educational recommendation, and placement decision developed by a team of persons who are knowledgeable of the student, the assessment data, and any placement options.
8. Have your child be given an equal opportunity to participate in non-academic and extracurricular activities offered by CMP.
9. Examine all relevant records relating to decisions regarding your child's Section 504 identification, evaluation, educational program, and placement.
10. Obtain copies of educational records at a reasonable cost unless the fee would effectively deny you access to the records.
11. Obtain a response from CMP to reasonable requests for explanations and interpretations of your child's records.
12. Request amendment of your child's educational records if there is reasonable cause to believe they are inaccurate, misleading or otherwise in violation of the privacy rights of your child. If CMP refuses this request for amendment, CMP shall notify you within a reasonable time and advise you of your right to an impartial hearing.
13. Request mediation or file a grievance in accordance with CMP's Section 504 mediation grievance and hearing procedures.
14. Request an impartial hearing regarding the Section 504 identification, evaluation, or placement of your child. You and the student may take part in the hearing and have an attorney

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represent you.

15. File a formal complaint pursuant to the Uniform Complaint Policy and Procedures.
16. File a formal complaint with the U.S. Department of Education.

Office for Civil Rights,  
Region IX 50 Beale Street, Suite 7200  
San Francisco, CA 94105  
(415) 486-5555

Please contact the CMP 504 Coordinator with any questions regarding the information contained herein.

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