



ADMINISTRATIVE PROCEDURE

CATEGORY: **Students, Welfare**

SUBJECT: **Students Eligible for Services Under Section 504 of the Rehabilitation Act of 1973**

A. PURPOSE AND SCOPE

1. To outline procedures governing the identification, evaluation, and provision of a free, appropriate public education (FAPE) to students who are eligible for services under Section 504 of the Rehabilitation Act of 1973. This applies to students who, because of actual disability or disabilities, are eligible for FAPE under Section 504 as the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of non-disabled students. Students eligible for special education services under the Individuals with Disabilities Education Act (IDEA) (20 USC §1400 et seq.) receive discrimination protections under the Americans with Disabilities Act (ADA)/504; FAPE is addressed in Administrative Procedure 4230.

2. **Related Procedures:**

Nondiscrimination on the Basis of Disability	0108
Nondiscrimination on the Basis of Sex in District Programs and Activities	0112
Uniform Complaint Procedure	1700
Individuals with Exceptional Needs	4230
Suspension	6290
Expulsion	6295
Student-to-Student Bullying, Harassment or Intimidation	6381

B. LEGAL AND POLICY BASIS

1. **Reference:** Board policies A-3500, A-3550, F-2520, F-2530, and F-2594; Individuals with Disabilities Education Act (IDEA) 20 USC §1400 et seq.; Americans with Disabilities Act (ADA); Section 504 of the Rehabilitation Act of 1973; 34 Code of Federal Regulations Part 104

C. GENERAL

1. **Originating Office.** Suggestions or questions concerning this procedure should be directed to the ADA/504 Office, Student Services Division.

2. **Definitions:**

a. **Individual with a disability:** Under Section 504 of the Rehabilitation Act of 1973, any person who:

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

b. **Major life activities:** functions such as bending, breathing, caring for one's self, communicating, concentrating, eating, hearing, learning, lifting, operation of major body functions (including, but not limited to, functions of the immune system, normal cell

growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions), performing manual tasks, seeing, sleeping, speaking, standing, thinking, walking, reading, writing, or working. Impairment need not prevent or severely restrict a major life activity to be considered substantially limiting.

- c. **Evaluation:** administration of tests or other evaluation materials, or a review of formal and informal assessment data to determine student eligibility under the meaning of Section 504 of the Rehabilitation Act of 1973 ("Section 504"). The determination of whether an individual has a disability should not demand extensive analysis, should be made without considering the ameliorative effects of medication or other measures, and may not be foreclosed solely on the basis of bottom line measures such as grades. (Ameliorative effect may remain pertinent to determining appropriate related aids and services as well as classroom and instructional accommodations).
 - d. **504 Plan:** A written statement that identifies the accommodations or related aids and services needed by an eligible student and the person who will provide the services or modifications/accommodations.
 - e. **504 Team:** A group of persons knowledgeable about the student and the student's school history, including the student and his/her parent/guardian, that meets and analyzes the evaluation data to determine if the student has a mental or physical impairment, or is perceived to have such an impairment, that substantially impairs or limits a major life activity, including learning, and is in need of special accommodations/services.
 - f. **Free appropriate public education (FAPE):** The provision of general or special education and related aids or services, at no cost to the individual with a disability, or his/her parents/guardians, designed to meet individual education needs.
 - g. **Discriminatory treatment:** Harassment of a person with disabilities by others; denial of the opportunity to participate in a program or activity based on disability; other forms of different treatment based on disability; inaccessibility of district programs or activities.
3. **Intent:**
- a. To identify, evaluate, and provide a free, appropriate public education (FAPE) to each student attending a district school who is an individual with a disability within the meaning of Section 504, regardless of the nature or the severity of the student's disability.
 - b. To ensure that students with disabilities within the meaning of Section 504 are identified, evaluated, and provided with the required free, appropriate education (i.e., general or special education and related aids and services that are designed to meet the needs of each individual with a disability as adequately as the needs of nondisabled persons are met).
4. **Identification and Referral.** Students who, because of disability, need, or are believed to need special accommodations or related aids and services not available through existing programs in order to receive a free, appropriate public education, may be referred to the site

504 coordinator by a parent/guardian, teacher, or other certificated school employee for identification and evaluation of the student's individual education needs.

5. Evaluation.

- a. The 504 Team will conduct an evaluation of the student and the impact of the disability upon his/her educational access. The 504 Team will obtain and review current, complete and reliable information on the student's educational, psychological, medical, and/or social/emotional history and status that is sufficient to:
 - (1) Fully and accurately identify the nature and extent of any disabilities the student may have, and
 - (2) Determine the services, if any that are necessary and appropriate for the student's individual needs.
- b. Evaluation will include consideration of any behaviors that interfere with the regular participation of a student who otherwise meets the criteria for participation in the educational program and/or activities.
- c. The 504 coordinator will notify the student's parent/guardian of the procedural safeguards available to them, including the right to an impartial hearing and review, as described in Section C.9.

6. Plan for Services.

- a. For a student who has been identified as an individual with a disability, and is in need of accommodations or related aids and services, the 504 Team will, within 60 days of referral, determine the services necessary, if any, to ensure that the student receives a free, appropriate public education (FAPE). In making this determination, the 504 Team will consider all available relevant information, drawing upon a variety of sources including, but not limited to, comprehensive assessments conducted by the district professional staff.
- b. Parent/guardian of a student identified as an individual with a disability will be invited to participate in the 504 meeting, where services for the student will be determined, and when requested, will be given an opportunity to examine in advance relevant records concerning their child.
- c. The 504 Team will develop a written plan describing the student's disability and the accommodations or related aids and services needed. The plan will specify how and by whom the accommodations and related aids and services will be provided to the qualified student. District personnel who work with the student will be informed of the plan.
- d. The 504 Team may also determine that a student identified as an individual with a disability under Section 504 does not need accommodations or related aids and services. If such a determination is made, the 504 Team will document the basis for the decision.

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- e. A student identified as an individual with a disability under Section 504 will be placed in the general education environment (including seminar, International Baccalaureate, Advanced Placement, etc.) unless the 504 Team determines that a more restrictive placement is required to meet his/her needs; an individual with a disability will be educated with students without disabilities to the maximum extent appropriate to meet the needs of the student.
 - f. The 504 Team will provide the parent/guardian of each student identified as an individual with a disability with written notice of its final decision concerning the services to be provided to the student.
- 7. Reevaluation of the Student's Progress.**
- a. The 504 Team will annually monitor the progress of the student identified as an individual with a disability to determine the appropriateness of the accommodations and related services.
 - b. Prior to any significant change in the educational placement of a student identified as an individual with a disability, a reevaluation of the student must be conducted.
- 8. Complaints.** Any individual that believes that a school or school representative has inadequately applied the regulations of Section 504 of the Rehabilitation Act of 1973 may submit a complaint.
- a. Complaints about Section 504 identification, evaluation or placement of a student with a disability or suspected disability under Section 504 may be submitted by either:
 - (1) Following the school's grievance plan (i.e., complete a complaint form located in the Section 504 Guidelines for Educators or in the Parent Handbook), or
 - (2) Contacting the Office for Civil Rights, as outlined in Section C.8.f.
 - b. Complaints not resolved at the school site shall be submitted in writing by the complainant to the district's ADA/504 Office within 10 business days. The ADA/504 Office shall further investigate the allegations and reply in writing to the complainant within 60 business days. Within 10 days of receipt of the complaint, the ADA/504 Office may contact the complainant for additional information for inclusion during the investigation.
 - c. To appeal a decision of the district's ADA/504 Office, the complainant may file a complaint with the Office for Civil Rights (OCR) or at any time during the complaint procedure (refer to Section C.8.f.).
 - d. The site administrator should make every attempt to resolve complaints of discriminatory treatment at the site level.
 - e. If the complaint of discrimination based on disability is not resolved at the site, the complainant shall be informed of the right to file a complaint under the District's Uniform Complaint Procedure (Administrative Procedure 1700).

- f. Complainants may also file complaints directly with the Office for Civil Rights (OCR). An OCR complaint must be filed in writing within 180 days after a violation has occurred. The OCR complaint can be submitted in the form of a letter or on the Discrimination Complaint Form (refer to Section E.2.). The complaint will include:
- (1) Complainant's name and address (a telephone number where the complainant may be reached during business hours is helpful, but not required).
 - (2) A general description of the person(s) or class of persons injured by the alleged discriminatory act(s) (names of the injured person[s] are not required).
 - (3) The name and location of the institution that committed the alleged discriminatory act(s).
- g. A complainant shall not be retaliated against for having made a complaint, testifying, assisting, or participating in any manner in an investigation or proceeding.
9. **Procedural Safeguards.**
- a. Parents/guardians shall be notified in writing of all decisions concerning the identification, evaluation, or educational placement of their child made under this procedure. Parents/guardians shall have the right to review relevant records. Records may be reviewed at the school site or at the district office. As part of the notification of any district decision concerning the identification, evaluation or placement of their child, the parents/guardians will be advised of the right to appeal the decision. The notification will include:
- (1) The procedures for filing a request for an impartial hearing.
 - (2) The title of the person to whom they shall make any such request and his/her address and telephone number.
- b. Parents/guardians may appeal decisions made by the district relating to any of the following:
- (1) Identification of the student as an individual with a disability.
 - (2) Evaluation procedures utilized with the student.
 - (3) Educational placement services recommended for the student.
- c. A written appeal must be filed with the district's ADA/504 Office within 30 days of the date the appellant was served notice of the district's decision. The appeal must specify the decision that is being appealed, the relief sought, and any other information the appellant believes will assist in understanding the appeal.
- d. Within 20 calendar days of receipt of a written appeal and request for hearing, the district's ADA/504 Office will identify an impartial hearing officer. A hearing officer identified by the district must meet the following requirements:

- (1) Be qualified to review district decisions relating to Section 504 of the Rehabilitation Act of 1973.
 - (2) Be impartial and unbiased.
 - (3) Not be an employee of, or under contract with, the district in any capacity other than that of a hearing officer in the past three years, or by any cooperative program in which the district participates, or by any other agency or organization that is directly involved in the diagnosis, education, or care of the student, or who in any other way has a professional or personal involvement that would affect his/her objectivity in the case.
- e. Either party to the hearing may request the hearing officer to grant a continuance. The continuance may be granted upon a showing of good cause or by agreement of the parties.
- f. Any party to the hearing shall be afforded the following rights:
- (1) The right to be accompanied and advised by counsel and by individuals with specialized knowledge or training relating to the needs of students who are individuals with disabilities under Section 504.
 - (2) The right to present evidence, including documents and witnesses.
 - (3) The right to question and cross-examine witnesses.
 - (4) The right to written findings of fact, conclusions of law, and decisions prepared by the hearing officer.
- g. Where a State Fair Hearing has been held under the Individuals with Disabilities Education Act (IDEA) concerning issues relevant to the Section 504 due process proceeding, the hearing officer shall, at the request of either party, accept into the record as evidence, copies of the transcript of testimony and documents submitted in the State Fair Hearing. The Section 504 hearing officer shall then provide an opportunity for the submission of additional evidence by the parties that is relevant to a determination of the issues under Section 504. The Section 504 hearing officer's jurisdiction shall be limited to Section 504 issues and shall not extend to a determination of eligibility for special education assessment or placement under IDEA.
- h. If the parent/guardian and the district both agree that the student is not eligible for special education services under the IDEA, neither party is required to exhaust administrative proceedings under the IDEA prior to holding a Section 504 hearing.
- i. Within 45 calendar days of the selection of the hearing officer, excluding the days of any continuance, the hearing on the appeal shall be conducted and a written decision mailed to all parties.
- j. The parties shall abide by the decision of the Section 504 hearing officer unless the decision is appealed to a court of competent jurisdiction and the decision is stayed, revised, or reversed by the court.

D. IMPLEMENTATION

1. **Principal or designee** identifies a site 504 coordinator.
2. **Site 504 coordinator**, upon receipt of referral from parent/guardian, student, or staff member:
 - a. Sends notice of intent to evaluate the student to the parent/guardian, invites the parent/guardian to the 504 Team meeting, and provides information on due process rights.
 - b. Coordinates collection of relevant student data.
3. **504 Team:**
 - a. Together with parent/guardian, reviews all relevant data, including any previous formal evaluation results.
 - b. If necessary, conducts additional formal or informal evaluation.
 - c. Makes determination as to whether student is eligible for services within the meaning of Section 504. If student is determined to be eligible under Section 504, develops a 504 Plan for the student including a description of the proposed accommodations and/or special aids or services.
 - d. Notifies parent/guardian and all concerned parties (e.g., teacher, counselor, nurse) by providing each a copy of determination and the 504 Plan. District staff must sign site log to indicate receipt of copy.
 - e. Sets a date for annual review of student's progress and placement.
4. **Parent/guardian**, upon receipt of determination, may appeal determination by:
 - a. Contacting principal or designee to discuss and resolve concerns.
 - b. Sending written complaint within designated timelines described in Section C.8. to district's ADA/504 Office if concerns are not resolved at the site level after discussion with principal or designee.
5. **District ADA/504 Office:**
 - a. Meets with parent/guardian to discuss complaint.
 - b. If parent/guardian concerns remain unresolved, initiates fair hearing process within designated timeline with an impartial hearing officer as described in Section C.9.
6. **Hearing officer** renders final written decision and notifies parent/guardian and district ADA/504 Office of the decision.
7. **District ADA/504 Office** notifies principal or designee of final decision.

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NO: **6025**

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EFFECTIVE: **8-23-93**

REVISED: **10-14-16**

E. FORMS AND AUXILIARY REFERENCES

1. *Section 504 Parent Handbook*, available from the ADA/504 Office, and on the district website at: <http://www.sandi.net/Page/33223>
2. *Discrimination Complaint Form*, available from the Office for Civil Rights, US Department of Education, United Nations Plaza, San Francisco, CA 94102, and online at: <http://www2.ed.gov/about/offices/list/ocr/complaintintro.html>

F. REPORTS AND RECORDS

1. All relevant student reports and records are to be retained in the student's file.

G. APPROVED BY



General Counsel, Legal Services
As to form and legality

H. ISSUED BY



Chief of Staff