

Identification and Education Under Section 504

Notice Of Non-Discrimination Under Section 504

NOTICE IS HEREBY GIVEN TO ALL STUDENTS, PARENTS, GUARDIANS, CAREGIVERS, EMPLOYEES, COLLECTIVE BARGAINING UNITS, AND APPLICANTS THAT THE FRESNO UNIFIED SCHOOL DISTRICT ("DISTRICT") DOES NOT DISCRIMINATE ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, SEX, AGE, OR DISABILITY IN THE ADMISSION OR ACCESS TO, OR TREATMENT OR EMPLOYMENT IN, DISTRICT PROGRAMS OR ACTIVITIES.

PLEASE BE ADVISED THAT ALL INQUIRIES, COMPLAINTS, OR GRIEVANCES CONCERNING THE DISTRICT'S COMPLIANCE WITH THE REGULATIONS IMPLEMENTING SECTION 504 OF THE REHABILITATION ACT OF 1973 SHOULD BE DIRECTED TO:

THE ABOVE DISTRICT EMPLOYEE HAS BEEN DESIGNATED BY THE DISTRICT TO COORDINATE ITS EFFORTS TO COMPLY WITH REGULATIONS IMPLEMENTING SECTION 504 OF THE REHABILITATION ACT OF 1973 IN ACCORDANCE WITH 34 C.F.R. SECTION 104.7(a).

34 C.F.R. SECTION 104.8(a)

NOTICE OF PARENT AND STUDENT RIGHTS UNDER SECTION 504

The Rehabilitation Act of 1973, which includes "Section 504," is a nondiscrimination statute enacted by the United States Congress. The purpose of the Act is to prohibit discrimination and to assure that disabled students have educational opportunities and benefits equal to those provided to non-disabled students.

An eligible student under Section 504 is a student who (14) has, (15) has a record of having, or (16) is regarded as having, a physical or mental impairment that substantially limits a major life activity such as learning.

Dual Eligibility: Some students may be eligible for educational services under both Section 504 and the Individuals with Disabilities Education Act ("IDEA").

The enabling regulations for Section 504, as set out in 34 CFR, Part 104, provide parents and/or students with the following rights:

1. You have a right to be informed by the District of your rights under Section 504. (The purpose of this Notice form is to advise you of those rights.) 34 CFR 104.32.
2. Your child has the right to an appropriate education designed to meet his/her individual educational needs as adequately as the needs of non-disabled students are met. 34 CFR 104.33.
3. Your child has the right to free educational services except for those fees that are imposed on non-disabled students or their parents. Insurers and similar third parties are not relieved of an otherwise valid obligation to provide or pay for services provided to a disabled student. 34 CFR 104.33.
4. Your child has right to placement in the least restrictive environment. 34 CFR 104.34.
5. Your child has a right to facilities, services, and activities that are comparable to those provided for non-disabled students. 34 CFR 104.34.
6. Your child has a right to an evaluation prior to an initial Section 504 placement and any subsequent significant change in placement. 34 CFR 104.35.
7. Testing and other evaluation procedures must conform to the requirements of 34 CFR 104.35 as to validation, administration, areas of evaluation, etc. The District shall consider information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior. 34 CFR 104.35.
8. Placement decisions must be made by a group of persons, including persons knowledgeable about your child, the meaning of the evaluation data, the placement options, and the legal requirements for least restrictive environment and comparable facilities. 34 CFR 104.35.
9. If eligible under Section 504, your child has a right to periodic re-evaluations prior to any significant change in placement. 34 CFR 104.35.
10. You have the right to notice prior to any action by the District in regard to the identification, evaluation, or placement of your child. 34 CFR 104.36.
11. You have the right to examine relevant records of your student. 34 CFR 104.36.
12. You have the right to an impartial hearing with respect to the District's action regarding your child's identification, evaluation, or educational placement, with opportunity for parental participation in the hearing and representation by an attorney. 34 CFR 104.36

If you disagree with the identification, evaluation, or placement of a student with disabilities under Section 504, you may initiate the following procedures. We encourage parents to utilize Levels One and Two in an effort to resolve issues informally, but you may go directly to Level Three.

LEVEL ONE: In writing, request a meeting with your child's Section 504 Student Study Team in an attempt to resolve the disagreement. This meeting shall be held within a reasonable period of time after receiving the parents' request.

LEVEL TWO: If disagreement continues, request in writing a meeting with the District Section 504 Coordinator, Tulare and "M" Streets, Fresno, California 93721, (209) 441-3000.

LEVEL THREE: If disagreement continues, or upon initial request, a parent/guardian may request in writing an impartial hearing. The steps involved in initiating and implementing a Section 504 impartial hearing follow:

a. A request in writing for a Section 504 impartial hearing must be filed in the office of the District Section 504 Coordinator, Tulare and "M" Streets, Fresno, California 93721, (209) 441-3000. This request must be generally received by the District within 90 calendar days from the parents' or guardians' receipt of written notice of the decision leading to the request for the impartial hearing. This time frame will be renewed upon a parent's request for and completion of a Student Study Team meeting, and may be extended for good cause or by mutual agreement of the parties.

b. The written request shall contain the following:

(1) The specific nature of the decision(s) made by the District with which the person disagrees.

(2) The specific relief the person seeks.

(3) Any other information the person believes will assist in understanding the request.

c. Within a reasonable period of time following receipt of a written request for hearing, the District Section 504 Coordinator will select an impartial hearing officer.

d. A hearing officer selected by the District must satisfy the following requirements:

(1) Be qualified to review District decisions relating to Section 504.

(2) Not be an employee of, or under contract with, the District or the SELPA of which the District is a member in any capacity other than that of a hearing officer.

(3) Not have any professional or personal involvement that would affect his or her impartiality or objectivity in the matter.

e. Within a reasonable period of time of the selection of the hearing officer, the hearing shall be conducted and a written decision mailed to all 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 special knowledge or training relating to the problems of students who are disabled within the meaning of Section 504.

(2) The right to present evidence, written and oral.

(3) The right to question and cross-examine witnesses.

(4) The right to written findings of fact, conclusions of law, and a decision prepared by the hearing officer.

(5) The right to a written or electronic verbatim record of the hearing prepared at the expense of the individual requesting such record.

(6) The right to prohibit the introduction of evidence at the hearing that has not been disclosed to the other party or parties at least 5 calendar days prior to the hearing except for good cause shown.

(7) Receipt of notice from the other party or parties at least 10 calendar days prior to the hearing that they will utilize the services of an attorney, except for good cause shown.

g. The hearing officer shall render a decision pursuant to the legal standards set forth in 34 C.F.R., Part 104.

h. Either party may seek review of the hearing officer's decision by timely filing with a court of competent jurisdiction.

i. Reimbursement of attorneys' fees, expert witnesses fees, and other costs is available only as authorized by law.

13. On Section 504 matters other than your child's identification, evaluation, and placement, you have a right to file a complaint with the District's Section 504 Coordinator who will investigate the allegations in an effort to reach a prompt and equitable resolution.

14. You also have a right to file a complaint with the Office of Civil Rights. The address of the Regional Office that covers California is:

Office of Civil Rights, U.S. Department of Education, Old Federal Building

50 United Nations Plaza, Room 239

San Francisco, California 94102

(415) 556-7000

EXPULSION OF A SECTION 504 ELIGIBLE STUDENT

No Section 504 student may be expelled for misconduct which is caused by reason of his/her disability, or was the result of an inappropriate placement.

When expulsion is being considered, the Section 504 Student Study Team will convene. The parent/guardian will be given at least 48 hours' notice of the meeting. The Section 504 Student Study Team will determine whether the misconduct was caused by the student's disability or by an inappropriate placement.

If the parent/guardian disagrees with the Team's determination, he/she may appeal that determination under the procedures outlined in Step 12, above.

A parent or guardian's disagreement with the Team's determination or their request for an impartial hearing shall not preclude the District from proceeding with an expulsion if the Team has determined that the student's misconduct was not caused by the student's disability or by an inappropriate placement.

REMINDER: The procedural safeguards outlined in this Notice apply only to students or their parents/guardians making claims under Section 504. Students or their parents/guardians making claims under the IDEA must follow IDEA procedures. A student may be eligible for services under both Section 504 and IDEA.

GRIEVANCE FILING FORM

Date _____

Name _____

School and/or Position _____

Place where you may be reached _____

Address _____

Telephone Number _____

Nature of your grievance. (Please describe the policy or action you believe may be in violation of Section 504. Be specific. Attach any documents relevant to your grievance. Please identify any person(s) you believe may be responsible.)

If others are affected by the possible violation, please give their names and/or positions:

Please describe any corrective action you wish to see taken with regard to the possible violation. You may also provide other information relevant to this grievance.

Signature of Grievant

Signature of Person Receiving Grievance

Date Location

FRESNO UNIFIED SCHOOL DISTRICT

Fresno, California