

# **Section 504 Handbook**

Revised May 2010

**Section 504 District Coordinator**

Various documents from school districts, especially Fairbanks North Star Borough School District, state agencies, organizations, and individuals have been used to create this Section 504 Manual.

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## Introduction

### Section 504

Section 504 is an anti-discrimination, civil rights statute, which is part of the Rehabilitation Act of 1973 that prohibits discrimination based upon disability. It is a federal law designed to protect the rights of individuals with disabilities in programs and activities that receive Federal financial assistance from the U.S. Department of Education. Section 504 provides: “No otherwise qualified individual with a disability in the United States... shall, solely by reason of her or his disability, be excluded from the participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance....”

Section 504 requires school districts to provide a free appropriate public education (FAPE) to qualified students in their jurisdictions who have a physical or mental impairment that substantially limits one or more major life activities. The Americans with Disabilities Act Amendments of 2008 broadens the interpretation of disability and provides that the determination of whether an impairment substantially limits a major life activity must be made without regard to the ameliorative effects of mitigating measures.

The school district has specific responsibilities under these acts, which include the responsibility to identify, evaluate, and if the child is determined to be eligible under Section 504, to afford appropriate educational services through a written accommodation plan.

The school district must also provide notice and due process. If the parent/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.

As a public school, \_\_\_\_\_ is responsible for and strives to provide students with disabilities the same opportunity to succeed in school as provided to those students without disabilities by providing reasonable adaptations and modifications for instructional purposes.

**For those students with disabilities eligible under the IDEA, these policies and procedures shall apply only to the extent that the procedural safeguards of IDEA do not apply.**

## **Terms and Definitions**

Section 504 states that, “No **otherwise qualified individual with a disability** in the United States, as defined in section 706(8) of this title, shall, solely by reason of her or his 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....” (29 USC Section 794)

**Otherwise Qualified** means of an age at which it is mandatory under state law to provide preschool, elementary, secondary or adult education to individuals with disabilities.

**Individual with Disabilities** is any person who:

1. Has a **physical or mental impairment** which **substantially limits** one or more **major life activities**.
2. Has a record of such an impairment.
3. Is regarded as having such impairment.

**Physical Impairment** is 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; genito-urinary; hemic and lymphatic; skin; and endocrine. This definition includes such diseases and conditions as orthopedic, visual, speech and hearing impediments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; attention deficit disorder (ADD); attention deficit hyperactivity disorder (ADHD); acquired immune deficiency syndrome (AIDS); and human immune deficiency virus (HIV+).

**Mental Impairment** is any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities.

NOTE: A physical or mental impairment should be documented by a statement from a physician, psychiatrist, psychologist, or other licensed professional in the field of the disability.

**Substantially limits means that one is unable to perform a major life activity that the average person can perform and/or one is significantly restricted as to the condition, manner, or duration under which an individual can perform a particular major life activity as compared to how an average person can perform that major life activity. The district must make a Section 504 determination based upon the student’s disability as it presents itself without the mitigating measures.**

**Major life activities** include caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, and communicating, and working.

For students, a major life activity is learning. Therefore, when it is suspected that learning is limited, it must be determined that the suspected impairment is preventing that student from learning the required curriculum for his or her grade. If the student is learning and passing, the suspected impairment probably does not rise to the level of a significant limitation on learning.

**Record of having** means having a history of an impairment, i.e. former placement in special education program, diagnosed as ADD or with a mental illness, having had cancer or being a student in recovery. Misclassified student are also included, i.e. a limited English proficient student mistakenly determined to have a mental disability.

**Regarded as having** means a doctor and/or parent/guardian regards the student as impaired, and therefore, limited.

Being regarded by someone as handicapped/disabled is NOT sufficient to trigger the requirements for Section 504. It is the building intervention team's obligation upon receiving this information to determine if there is reason to believe that this child, because of an actual handicap, may need regular classroom accommodations or special education and related services.

It is rare for the second and third prongs to be used with elementary and secondary students. A student who falls under the second or third prong of the definition is protected by Section 504 only when negative action is taken based on the fact that the student has a record of or is regarded as handicapped. The Office of Civil Rights has clarified that these individuals are not entitled to FAPE under Section 504, which means that a Section 504 plan is not necessary. Under the Amendments Act, a student who is being regarded as having a disability is not entitled to reasonable accommodations or the reasonable modification of policies, practices or procedures.

**Discrimination** includes:

1. Denying a student with a disability the opportunity to participate in or benefit from an aid, benefit or service which is afforded nondisabled students, i.e., honor roll, class credit.
2. Failing to afford the student with a disability an opportunity in or benefit from the aid, benefit or service that is equal to that afforded others, i.e., sports eligibility.
3. Failing to provide different or separate aids, benefits or services that are as effective as those provided to nondisabled students, i.e., placing a student with a hearing impairment in the front row instead of providing an interpreter.

**Equally effective** means equivalent, as opposed to identical. Moreover, to be equally effective, an aid, benefit, or service need not produce equal results; it must merely afford an equal opportunity to achieve a free appropriate public education. There are no guaranteed results, only an opportunity to learn on a level playing field.

**Program or activity** includes all programs and activities of the school district, including extracurricular, non-academic, transportation, field trips, recreational athletics, employment opportunities, counseling and referrals and recreational activities.

**Free appropriate public education** under Section 504 is regular or special education and related aids, benefits, or services that are designed to meet the individual educational needs of the student with disabilities.

## Consideration of Section 504 Evaluation

The following list delineates some conditions when students might be considered for a Section 504 evaluation to determine the need for educational accommodations in the general education setting.

- The student has a record of a physical or mental disability.
- The student is suspected of having a physical or mental disability.
- The student is referred for an evaluation, but it is determined that an evaluation under IDEA will not be conducted.
- The student is evaluated and found not to qualify for Special Education services under IDEA.
- The student exhibits a chronic health condition.
- The student has returned to school after serious injury or illness; transient conditions lasting less than six months are not eligible.
- A new building or remodeling is being considered which may impact the student due to his/her disability or suspected disability.

In addition to the existence of a disability or a suspected disability, the team must consider the following:

- Does the physical or mental disability limit one or more major life functions in the school setting?
- Does the student require accommodations or adaptations?

## 504 Process: Step by Step Procedures

### Referral

1. A concern is raised about a student. A teacher, administrator, counselor, or parent observes a student whose performance in a major life activity, such as learning, is substantially limited by a physical or mental disability. When concerns are raised, the building administrator has the responsibilities charged with child find.
2. The student is referred to the Building Intervention Team, **Referral for Section 504 Evaluation** is completed.
3. The Building Intervention Team screens the referral, completes a review of the student's file, and consults with teachers, parents/guardians, professionals, and the student. The Building Intervention Team must decide whether the referred student should be evaluated and considered for a 504 Plan.

If no:

- a. Provide screening results to referral source with accompanying recommendations/instruction/interventions.
- b. Provide written notice to parent/guardian that student does not qualify.
- c. Provide notice to parent/guardian of procedural rights.

If yes:

- a. Determine additional areas, if any, to be evaluated, and the persons responsible for conducting the assessment.
- b. Obtain **Consent for Section 504 Evaluation** from parents for evaluation.

### Evaluation

1. The persons responsible for conducting the identified assessments, evaluates the nature of the student's disability and the impact of the disability upon the student's education.
  - a. A variety of sources shall be used by the 504 Evaluation team to assess whether or not a student is disabled under Section 504. Information used by the team may come from interviews with the child and parents, rating scales, observational data, adaptive behavior assessments, teacher records, social and cultural background data, criterion referenced measures, medical reports, record review, standardized measures, etc.
  - b. The evaluation process will typically be less formal and less extensive than a Full and Individual Evaluation as required by IDEA.



2. At the completion of the evaluation and within a reasonable time frame, the 504 Building Monitor will convene a multi-disciplinary conference for the student; the **Parent/Guardian Notification of Section 504 Conference** form will be sent to all participants.

### Eligibility

1. Final determination of eligibility under Section 504 will be made at the Section 504 conference. The **Section 504 Evaluation Summary** form will be completed; additional evaluation information will be attached.
2. The Section 504 evaluation participants make a subjective determination after receiving the objective evaluation information. In order to determine that a student is eligible under Section 504, the evaluation team must conclude that:
  - a. The student has a mental or physical disability
  - b. That substantially limits a major life activity
  - c. And is in need of accommodations or adaptations in the educational setting.
    1. The determination of a substantial limitation is made on a case-by-case basis with respect to each individual student. The Section 504 writes an eligibility statement that clearly states the reasoning leading to the eligibility conclusion.

If no:

- a. Consider other referral sources or options for the student and/or school.
- b. Provide written notice to parent that student does not qualify and notice of due process rights.
- c. Maintain documentation about the decision, which includes:
  - i. The names of the persons on the team and their positions that reflect that they are knowledgeable about the child.
  - ii. The evaluation data and its interpretation relied upon.
  - iii. Placement options considered.

If yes:

- a. A professional team develops a Section 504 Accommodation Plan.

### Service Plan

1. Following the determination of eligibility for a **Section 504 Accommodation Plan**, such a plan shall be developed, which includes:
  - a. Student name, grade, birth date, and meeting date.
  - b. Description of the basis for the determination of the disability.
  - c. The educational impact of the student's disability.
  - d. The student's current level of academic and/or behavioral performance.

- e. Accommodations that directly relate to the documented areas of concern.
    - i. Accommodations in the categories of environmental, instructional, behavioral, social, discipline, and assessments may be considered.
  - f. The person(s) responsible for implementing the accommodations.
  - g. The criteria used to determine the effectiveness of the accommodations.
  - h. The date services will begin.
  - i. The date of the next Section 504 review
  - j. The name of the person(s) responsible for monitoring the plan.
  - k. The names/contact information of the student's Section 504 Team.
2. The Building Monitor, or other designated individual, distributes Accommodation Plan to parents/guardians and appropriate school staff. This individual also monitors the implementation of the plan, provides any necessary training, and assesses the effectiveness of the accommodations.
  3. The Building Monitor will notify the parents/guardian of the procedural rights.

### **Review**

1. The team should periodically review the Student Accommodation Plan; best practice suggests an annual review. A more frequent review may be requested. The student's eligibility of a 504 Plan should be evaluated at least every three years or more frequently, if necessary.
  2. The review should address:
    - a. The need for additional evaluation information.
    - b. Whether the student continues to have a qualified disability.
    - c. The effectiveness of the accommodations.
    - d. Revisions to the Accommodation Plan, as needed.
  3. A review is required prior to a significant change of placement, specifically when a student is excluded from the educational program for more than 10 days. A **Section 504 Manifestation Determination** must be completed in order to investigate a possible relationship between the disability and the behavior.
-







2. \_\_\_\_\_ The student **has** a physical or mental disability which **does not** substantially limit one or more major life functions in the school setting.

Basis for making determination of eligibility: \_\_\_\_\_

Other referral sources of options: \_\_\_\_\_

3. \_\_\_\_\_ The student **has** a physical or mental disability which substantially limits one or more major life functions in the school setting.

The disability, \_\_\_\_\_, affects the following major life function(s):

\_\_\_\_\_ .  
performing manual tasks, walking, seeing, hearing, speaking, breathing, eating, sleeping, reading, concentrating, thinking, communicating, learning, other

Because of the identified impairment, the student **does need** accommodations or adaptations in the school setting in the following areas: \_\_\_\_\_

\_\_\_\_\_ .  
academics, accessibility, career/vocational counseling, non-academics, specialized health care, behavior, transportation, discipline, other

Despite the identified impairment, the student **does not need** accommodations or adaptations in the school setting because: \_\_\_\_\_

### Documentation of Participation in Evaluation Meeting

The following persons, as indicated by their signatures, have participated in the determination of eligibility:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

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Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

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## Section 504 Student Accommodation Plan

**Date of Meeting:** \_\_\_\_/\_\_\_\_/\_\_\_\_

**Name:** \_\_\_\_\_ **Date of Birth:** \_\_\_\_/\_\_\_\_/\_\_\_\_ **Grade:** \_\_\_\_\_

**I.** Describe the basis for the determination of the disability (medical records, documentation, etc.):

**II.** Describe the student's disability and the effects on the major life function(s) in the school setting:

**III.** Describe the student's current level of academic and behavioral performance:

**IV.** List the accommodations necessary for the student's educational program, and the person responsible for providing the accommodations:

ACCOMMODATIONS

PERSON RESPONSIBLE

**V.** List the criteria which will be used to determine effectiveness of accommodations:

**VI.** Date services will begin:

**VII.** Date of next review:

**VIII.** Plan will be monitored by:

**IX:** Educational Team/Contact Info:

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## Section 504 Cumulative Folder Insert

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Name: \_\_\_\_\_

School: \_\_\_\_\_ Grade: \_\_\_\_\_

A Section 504 Folder has been developed for the above name student. This indicates that a Section 504 Referral was made and an evaluation and service plan may have been completed.

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## Parent's Rights Under 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. \_\_\_\_\_ Community Unit School District does not discriminate on the basis of disability and will make every effort to coordinate efforts to comply with Section 504.

### **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 conditions.
2. Have the school district advise you of your rights under federal law.
3. Receive notice with respect to identification, evaluation, or placement of your child.
4. Have your child receive a free appropriate public education. This includes the right to be educated with nonhandicapped students to the maximum extent appropriate. It also includes the right to have the school district make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities.
5. Have your child receive special education and related services if he/she is found to be eligible under the Individuals with Education Act (IDEA) or Section 504 of the Rehabilitation Act.
6. Have your child educated in facilities and receive services comparable to those provided to handicapped students.
7. Have evaluation, educational, and placement decisions made based upon a variety of information sources, and by persons who know the students, the evaluation data, and placement options.
8. Have transportation provided to and from an alternative placement setting at no great cost to you than would be incurred if the student were placed in a program operated by the district.
9. Have your child be given an equal opportunity to participate in nonacademic and extracurricular activities offered by the district.
10. Examine all relevant records related to decisions regarding your child's identification, evaluation, educational program, and placement.
11. Obtain copies of education records at a reasonable cost unless the fee would effectively deny you access to the records.
12. A response from the school district to reasonable request for explanations and interpretations of your child's needs.
13. Request amendment of your child's educational records if there is reasonable cause to believe that they are inaccurate, misleading, or otherwise in violation of the privacy rights of your child. If the school district refuses this request for amendment, it shall notify you within a reasonable time, and advise you of the right to a hearing.

14. Request mediation or an impartial due process hearing related to decisions or actions regarding your child's identification, evaluation, educational program or placement. You and the student may take part in the hearing and have an attorney represent you. Hearing request must be made to \_\_\_\_\_, District Special Education Coordinator.

15. Ask for payment of reasonable attorney fees if you are successful on your claim.

16. File a local grievance.

The person in \_\_\_\_\_ Community Unit School District is responsible for assuring that the district complies with Section 504 is:

**Section 504 District Coordinator**

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Name	Title
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## Section 504 Grievance Procedures

The district has an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by regulations implementing Section 504 of the Rehabilitation Act of 1973. Section 504 states, “No otherwise qualified individual with a disability in the United States... shall, solely by reason of her or his disability, be excluded from the participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance...”

Individual student, or parent/guardian on behalf of the student, who feel they have been discriminated against and have not been able to receive relief at the level of the alleged violation (with 504 Building Monitor and/or Building Administrator) may have a formal hearing on a complaint. Complaints should address their correspondence to:

### Section 504 District Coordinator

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**Name**

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**Location**

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**Telephone**

It is assumed that most complaints will be dealt with directly by the persons involved without resorting to the procedures described below. However, should that not be possible, a formal, written complaint may be filed.

1. A complaint should be filed in writing, containing the following information:
  - a. Name, address, and phone number of person making the complaint.
  - b. Whether the person represents an individual or a group.
  - c. Whether the person making the complaint has discussed the problem with the building monitor and/or building administrator.
  - d. A summary of the complaint and suggest solution.
2. A complaint should be filed within ten (10) days after the complaintant becomes aware of the alleged violation.
3. An investigation, as appropriate, shall follow a filing of a complaint. A thorough investigation shall be conducted by the Section 504 District Coordinator. The coordinator shall afford all interested persons and/or their representatives an opportunity to submit evidence relevant to a complaint.
4. A written determination as to the validity of the complaint and a description of the resolution, if any, shall be issued by the District Section 504 Coordinator; a copy will be forwarded to the complaintant and Superintendent of Schools no later than ten school days following the hearing.

5. Upon receipt of the written description regarding the validity of the complaint and description of the resolution, the complainant may request an impartial hearing. A hearing with the opportunity for participation by the person's parents/guardian and representation by counsel shall be conducted upon request.

6. The District Section 504 Coordinator shall maintain the files and records of any complaints filed within the District.

7. The right of a person to a prompt and equitable resolution of the complaint filed hereunder will not be impaired by the person's pursuit of other remedies, such as the filing of Section 504 complaint with the responsible person, department, or agency. Utilization of the grievance procedure is not a prerequisite to the pursuit of other remedies.

This procedure shall be construed to protect the substantive rights of interested persons, to meet appropriate due process standards, and to assure that Community Unit School District #7 complies with Section 504 and implementing regulations.

## Section 504 Due Process Hearing Procedure

An impartial due process hearing will be utilized to resolve differences involving the education of a Section 504 qualified student with a disability when such differences cannot be resolved by means of less formal procedure. In this instance, due process is defined as an opportunity to present objections and reasons for the objections to the decision and/or procedures of the school district regarding application of Section 504. A Section 504 due process hearing may be called at the request of the district or a parent, guardian, or surrogate of an affected student. The proceedings will be presided over and decided by an impartial hearing officer. Impartial hearing officer means a person selected to preside at a due process hearing to assure that the proper procedures are followed and to assure the protections of the rights of both parties.

1. The party requesting a hearing shall do so in writing. The request shall specify the reason(s) the hearing is being requested, and submitted to the Superintendent. Parents or district may initiate a due process hearing on a matter related to eligibility and related procedures, procedural safeguards, or provision of a free and appropriate public education.
2. Within five calendar days of the receipt of the request for the hearing, the district may request a list of impartial 504 hearing officers from the State Board of Education or may appoint a hearing officer at their discretion.
3. The district shall notify the requesting party of the appointment of the hearing officer within five calendar days.
4. The hearing shall be scheduled by the hearing officer within 15 calendar days.
5. The district and the parents shall have the right to present evidence and testimony relevant to the issue. The parties shall have the right to be represented at the hearing by legal counsel.
6. The hearing officer shall limit his/her decision to the issue or issues presented by the requesting party in their written request for the hearing. However, the parties may have the opportunity, at the discretion of the hearing officer, to amend their written request at any time. The hearing officer's decision must be written and shall include a summary of the evidence and testimony, and the reasons for the decision. The decision is to be based solely on the hearing officer's interpretation of the meaning or application of Section 504 of the Rehabilitation Act of 1973, as applies to the evidence and testimony presented. Any relief to be awarded by the hearing officer shall be limited to the individual student who is the subject of the hearing.
7. The hearing officer's decision will be made within a reasonable period of time following the conclusion of the hearing; ten calendar days shall be a reasonable time. The hearing officer shall send a copy of the decision to the parent/guardian and school district. Notification will include a statement that either party may appeal the decision within thirty days.
8. The decision of the hearing officer is binding on all parties concerned; it is subject only to judicial review.
9. The hearing will be provided at no cost to the parents/guardian.

## Sample Accommodations and Adaptations

<b>Physical Arrangement of Room</b>		
	<b>Lesson Presentation</b>	Allow student to tape lectures/lessons for replay
		Emphasize multi-sensory teaching
Pair students to check work		
Provide peer note taker		
Provide visual cues		
Provide written outline or other written materials		
Utilize graphic organizers/study guides		
Other:		
<b>Materials</b>	Allow use of calculator	
	Provide taped text	
	Provide visual aides	
	Use highlighted or underlined reading materials	
	Other:	
<b>Testing</b>	Allow extra time for exam	
	Allow alternate setting for exams	





