



# **CENTER #58 SCHOOL DISTRICT**

## **SECTION 504 PROCESS AND FORMS MANUAL**

**May 2016**

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## INTRODUCTION

Section 504 of the Rehabilitation Act of 1973 is a civil rights statute which provides that: “No otherwise qualified individual with handicaps in the United States...shall, solely by reason of his/her handicap, 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 or activity conducted by any Executive agency or by the United States Postal Service.” This short paragraph has far reaching implication for all school districts receiving federal funds.

In the last several years the Office for Civil Rights has stepped up its enforcement of Section 504 and many parents are requesting the Office for Civil Rights to resolve Section 504 violations. Advocacy organizations and the legal system are now focusing on Section 504's requirements to ensure that public schools provide a full range of special accommodations and services necessary for students with disabilities to participate in and benefit from public education programs and activities.

## WHAT IS SECTION 504?

<p>Section 504 prohibits discrimination against students based upon their disability</p>	<p>Section 504 is a part of the <u>Rehabilitation Act of 1973</u>. This law prohibits discrimination against all persons with disabilities, both student and employees, by agencies such as school districts receiving federal financial assistance.</p> <p>This law contains requirements including accessibility and employment practices concerning all persons with disabilities. Subpart A of Section 504 outlines eligibility criteria while Subpart D more directly addresses the needs of students with disabilities in an educational setting. Subpart D of Section 504 furnishes school districts an appropriate process for providing a free and appropriate public education (FAPE) for all students with disabilities within the preschool, elementary and secondary level.</p>
<p>There are three ways a student is protected against discrimination under Section 504</p>	<p>There are three ways a student may be protected against discrimination under Section 504. The student:</p> <ol style="list-style-type: none"> <li>1. Has a mental or physical impairment which <b>substantially limits one or more major life activity</b>. (The term does not cover students disadvantaged by cultural, environmental, or economic factors). For these students, a 504 plan is typically developed to provide the student with accommodations or modifications that enable the student to have the equal access to educational services as non-disabled students.</li> <li>2. Has a record or history of such an impairment. Examples would be a student with a history of a mental or emotional illness, or a student who had cancer but is now recovered. Section 504 prohibits discrimination against such students based upon their history of being disabled, even if they are no longer disabled.</li> <li>3. Is regarded as having such an impairment. For example, a student with a limp may be regarded by the staff as having a physical impairment even though the disability does not appear to substantially limit major life activities, or a student may be regarded as having an impairment by the staff because the student tests positive for the HIV virus, even though there are no physical manifestations of disease. Section 504 prohibits discrimination against such students based upon the attitudes that others have about their perceived disabilities.</li> </ol>
<p>What are “Major Life Activities?”</p>	<p>Major life activities include, but are not limited to, functions such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. The disability need only substantially limit one of these activities in order for a student to be eligible for modifications, accommodations, and services.</p>
<p>Who determines eligibility?</p>	<p>It is the responsibility of school districts to evaluate students who might meet any of the above criteria for a disability. If the evaluation is initiated by the parent and completed outside the district, such evaluation information may be considered by the district in its effort to determine eligibility.</p>

**CENTER SCHOOL DISTRICT'S  
PROHIBITION AGAINST DISCRIMINATION, HARASSMENT AND RETALIATION  
Policy AC**

**General Rule**

The Center School District #58 Board of Education is committed to maintaining a workplace and educational environment that is free from discrimination and harassment in admission or access to, or treatment or employment in, its programs, services, activities and facilities. In accordance with law, the district strictly prohibits discrimination and harassment against employees, students or others on the basis of race, color, religion, sex, national origin, ancestry, disability, age, genetic information or any other characteristic protected by law. The Center School District #58 is an equal opportunity employer. The District provides equal access to the Boy Scouts and other designated youth groups.

The Board also prohibits:

1. Retaliatory actions including, but not limited to, acts of intimidation, threats, coercion or discrimination against those who:
  - a) Make complaints of prohibited discrimination or harassment.
  - b) Report prohibited discrimination or harassment.
  - c) Participate in an investigation, formal proceeding or informal resolution, whether conducted internally or outside the district, concerning prohibited discrimination or harassment.
2. Aiding, abetting, inciting, compelling or coercing discrimination, harassment or retaliatory actions.
3. Discrimination, harassment or retaliation against any person because of such person's association with a person protected from discrimination or harassment in accordance with this policy.

All employees, students and visitors must immediately report to the district for investigation any incident or behavior that could constitute discrimination, harassment or retaliation in accordance with this policy. If discrimination, harassment or retaliation that occurs off district property and that is unrelated to the district's activities negatively impacts the school environment, the district will investigate and address the behavior in accordance with this policy, as allowed by law.

**Additional Prohibited Behavior**

Behavior that is not unlawful or does not rise to the level of illegal discrimination, harassment or retaliation might still be unacceptable for the workplace or the educational environment.

## **Boy Scouts of America Equal Access Act**

As required by law, the district will provide equal access to district facilities and related benefits and services and will not discriminate against any group officially affiliated with the Boy Scouts of America, the Girl Scouts of the United States of America or any other youth group designated in applicable federal law.

### **Interim Measures**

When a report is made or the district otherwise learns of potential discrimination, harassment or retaliation, the district will take immediate action to protect the alleged victim, including implementing interim measures. For example, the district may alter a class seating arrangement, provide additional supervision for a student or suspend an employee pending an investigation. The district will take immediate steps to prevent retaliation against the alleged victim, any person associated with the alleged victim, or any witnesses or participants in the investigation. These steps may include, but are not limited to, notifying students, employees and others that they are protected from retaliation, ensuring that they know how to report future complaints, and initiating follow-up contact with the complainant to determine if any additional acts of discrimination, harassment or retaliation have occurred.

### **Consequences and Remedies**

If the district determines that discrimination, harassment or retaliation have occurred, the district will take prompt, effective and appropriate action to address the behavior, prevent its recurrence and remedy its effects.

Employees who violate this policy will be disciplined, up to and including employment termination. Students who violate this policy will be disciplined, which may include suspension or expulsion. Patrons, contractors, visitors or others who violate this policy may be prohibited from school grounds or otherwise restricted while on school grounds. The superintendent or designee will contact law enforcement or seek a court order to enforce this policy when necessary or when actions may constitute criminal behavior.

Students, employees and others will not be disciplined for speech in circumstances where it is protected by law.

In accordance with law and district policy, any person suspected of abusing or neglecting a child will be reported to the Children's Division (CD) of the Department of Social Services.

Remedies provided by the district will attempt to minimize the burden on the victim. Such remedies may include, but are not limited to: providing additional resources such as counseling, providing access to community services, assisting the victim in filing criminal charges when applicable, moving the perpetrator to a different class or school, providing an escort between classes, or allowing the victim to retake or withdraw from a class. The district may provide

additional training to students and employees, make periodic assessments to make sure behavior complies with district policy, or perform a climate check to assess the environment in the district.

## **Definitions**

*Compliance Officer* – The individual responsible for implementing this policy, including the acting compliance officer when he or she is performing duties of the compliance officer.

*Discrimination* – Conferring benefits upon, refusing or denying benefits to, or providing differential treatment to a person or class of persons in violation of law based on race, color, religion, sex, national origin, ancestry, disability, age, genetic information or any other characteristic protected by law, or based on a belief that such a characteristic exists.

*Grievance* – A verbal or written report (also known as a complaint) of discrimination, harassment or retaliation made to the compliance officer.

*Harassment* – A form of discrimination, as defined above, that occurs when the school or work environment becomes permeated with intimidation, ridicule or insult that is sufficiently severe or pervasive enough that it unreasonably alters the employment or educational environment.

Behaviors that could constitute illegal harassment include, but are not limited to, the following acts if based on race, color, religion, sex, national origin, ancestry, disability, age, genetic information or any other characteristic protected by law or based on a belief that such a characteristic exists: graffiti; display of written material, pictures or electronic images; name calling, teasing or taunting; insults, derogatory remarks or slurs; jokes; gestures; threatening, intimidating or hostile acts; physical acts of aggression, assault or violence; theft; or damage to property.

*Sexual Harassment* – A form of discrimination, as defined above, on the basis of sex. Sexual harassment is unwelcome conduct or communication that occurs when a) benefits or decisions are implicitly or explicitly conditioned upon submission to, or punishment is applied for refusing to comply with, unwelcome sexual advances, requests for sexual favors or other unwelcome verbal, nonverbal or physical conduct of a sexual nature; or b) the school or work environment becomes permeated with intimidation, ridicule or insult that is based on sex or is sexual in nature and that is sufficiently severe or pervasive enough to alter the conditions of participation in the district's programs and activities or the conditions of employment. Sexual harassment may occur between members of the same or opposite sex. The district presumes a student cannot consent to behavior of a sexual nature with an adult regardless of the circumstance.

Behaviors that could constitute sexual harassment include, but are not limited to:

1. Sexual advances and requests or pressure of any kind for sexual favors, activities or contact.

2. Conditioning grades, promotions, rewards or privileges on submission to sexual favors, activities or contact.
3. Punishing or reprimanding persons who refuse to comply with sexual requests, activities or contact.
4. Graffiti, name calling, slurs, jokes, gestures or communications of a sexual nature or based on sex.
5. Physical contact or touching of a sexual nature, including touching of intimate parts and sexually motivated or inappropriate patting, pinching or rubbing.
6. Comments about an individual's body, sexual activity or sexual attractiveness.
7. Physical sexual acts of aggression, assault or violence, including criminal offenses (such as rape, sexual assault or battery, and sexually motivated stalking) against a person's will or when a person is not capable of giving consent due to the person's age, intellectual disability or use of drugs or alcohol.
8. Gender-based harassment and acts of verbal, nonverbal, written, graphic or physical conduct based on sex or sex stereotyping, but not involving conduct of a sexual nature.

*Working Days* – Days on which the district's business offices are open.

### **Compliance Officer**

The Board designates the following individual to act as the district's compliance officer:

Director of Human Resources/Student Services  
8701 Holmes Road  
Kansas City, MO 64131  
Phone: 816-349-3300  
Fax: 816-349-3431

In the event the compliance officer is unavailable or is the subject of a report that would otherwise be made to the compliance officer, reports should instead be directed to the acting compliance officer:

Superintendent  
8701 Holmes Road  
Kansas City, MO, 64131  
Phone: 816-349-3300  
Fax: 816-349-3431



The compliance officer or acting compliance officer will:

1. Coordinate district compliance with this policy and the law.
2. Receive all grievances regarding discrimination, harassment and retaliation in the Center School District #58.
3. Serve as the district's designated Title IX, Section 504 and Americans with Disabilities Act (ADA) coordinator, as well as the contact person for compliance with other discrimination laws.
4. Investigate or assign persons to investigate grievances; monitor the status of grievances to ensure that additional discrimination, harassment and retaliation do not occur; and recommend consequences.
5. Review all evidence brought in disciplinary matters to determine whether additional remedies are available, such as separating students in the school environment.
6. Determine whether district employees with knowledge of discrimination, harassment or retaliation failed to carry out their reporting duties and recommend disciplinary action, if necessary.
7. Communicate regularly with the district's law enforcement unit to determine whether any reported crimes constitute potential discrimination, harassment or retaliation.
8. Oversee discrimination, harassment or retaliation grievances, including identifying and addressing any patterns or systemic problems and reporting such problems and patterns to the superintendent or the Board.
9. Seek legal advice when necessary to enforce this policy.
10. Report to the superintendent and the Board aggregate information regarding the number and frequency of grievances and compliance with this policy.
11. Make recommendations regarding changing this policy or the implementation of this policy.
12. Coordinate and institute training programs for district staff and supervisors as necessary to meet the goals of this policy, including instruction in recognizing behavior that constitutes discrimination, harassment and retaliation.
13. Perform other duties as assigned by the superintendent.

## **Public Notice**

The superintendent or designee will publicize the district's policy prohibiting discrimination, harassment and retaliation and disseminate information on how to report discrimination, harassment and retaliation. Notification of the district's policy will be posted in a public area of each building used for instruction or employment or open to the public. Information will also be distributed annually to employees, parents/guardians and students as well as to newly enrolled students and newly hired employees. District bulletins, catalogs, application forms, recruitment material and the district's website will include a statement that the Center School District #58 does not discriminate in its programs, services, activities, facilities or with regard to employment. The district will provide information in alternative formats when necessary to accommodate persons with disabilities.

## **Reporting**

Students, employees and others may attempt to resolve minor issues by addressing concerns directly to the person alleged to have violated this policy, but they are not expected or required to do so. Any attempts to voluntarily resolve a grievance will not delay the investigation once a report has been made to the district.

Unless the concern is otherwise voluntarily resolved, all persons must report incidents that might constitute discrimination, harassment or retaliation directly to the compliance officer or acting compliance officer. All district employees will instruct all persons seeking to make a grievance to communicate directly with the compliance officer. Even if the potential victim of discrimination, harassment or retaliation does not file a grievance, district employees are required to report to the compliance officer any observations or other information regarding actions prohibited by this policy. If a verbal grievance is made, the person will be asked to submit a written complaint to the compliance officer or acting compliance officer. If a person refuses or is unable to submit a written complaint, the compliance officer will summarize the verbal complaint in writing. A grievance is not needed for the district to take action upon finding a violation of law, district policy or district expectations.

Even if a grievance is not directly filed, if the compliance officer otherwise learns about possible discrimination, harassment or retaliation, including violence, the district will conduct a prompt, impartial, adequate, reliable and thorough investigation to determine whether unlawful conduct occurred and will implement the appropriate interim measures if necessary.

## **Student-on-Student Harassment**

Building-level administrators are in a unique position to identify and address discrimination, harassment and retaliation between students, particularly when behaviors are reported through the normal disciplinary process and not through a grievance. The administrator has the ability to immediately discipline a student for prohibited behavior in accordance with the district's discipline policy. The administrator will report all incidents of discrimination, harassment and retaliation to the compliance officer and will direct the parent/guardian and student to the compliance officer for further assistance. The compliance officer may determine that the incident has been appropriately addressed or recommend additional action. When a grievance is filed, the investigation and complaint process detailed below will be used.

### **Investigation**

The district will immediately investigate all grievances. All persons are required to cooperate fully in the investigation. The district compliance officer or other designated investigator may utilize an attorney or other professionals to conduct the investigation.

In determining whether alleged conduct constitutes discrimination, harassment or retaliation, the district will consider the surrounding circumstances, the nature of the behavior, the relationships between the parties involved, past incidents, the context in which the alleged incidents occurred and all other relevant information. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all of the facts and surrounding circumstances. If, after investigation, school officials determine that it is more likely than not (the preponderance of the evidence standard) that discrimination, harassment or other prohibited behavior has occurred, the district will take prompt and appropriate remedial action.

### **Grievance Process Overview**

1. If a person designated to hear a grievance or appeal is the subject of the grievance, the compliance officer may designate an alternative person to hear the grievance, or the next highest step in the grievance process will be used. For example, if the grievance involves the superintendent, the compliance officer may designate someone outside the district to hear the grievance in lieu of the superintendent, or the grievance may be heard directly by the Board.

2. An extension of the investigation and reporting deadlines may be warranted if extenuating circumstances exist as determined by the district's compliance officer. The person filing the complaint will be notified when deadlines are extended. If more than twice the allotted time has expired without a response, the appeal may be taken to the next level.

3. Failure of the person filing the grievance to appeal within the timelines given will be considered acceptance of the findings and remedial action taken.

4. The district will investigate all grievances, even if an outside enforcing agency such as the Office for Civil Rights or law enforcement is also investigating a complaint arising from the same circumstances.

5. The district will only share information regarding an individually identifiable student or employee with the person filing the grievance or other persons if allowed by law and in accordance with Board policy.

6. Upon receiving notice of a grievance, district administrators or supervisors, after consultation with the compliance officer, will implement interim measures as described in this policy if necessary to prevent further potential discrimination, harassment or retaliation during the pending investigation.

### **Grievance Process**

1. Level I – A grievance is filed with the district’s compliance officer. The compliance officer may, at his or her discretion, assign a school principal or other appropriate supervisor to conduct the investigation when appropriate.

Regardless of who investigates the grievance, an investigation will commence immediately, but no later than five working days after the compliance officer receives the grievance. The compliance officer or designee shall conduct a prompt, impartial, adequate, reliable and thorough investigation, including the opportunity for the person filing the grievance and other parties involved to identify witnesses and provide information and other evidence. The compliance officer or designee will evaluate all relevant information and documentation relating to the grievance.

Within 30 working days of receiving the grievance, the compliance officer will complete a written report that summarizes the facts and makes conclusions on whether the facts constitute a violation of this policy based on the appropriate legal standards. If a violation of this policy is found, the compliance officer will recommend corrective action to the superintendent to address the discrimination, harassment or retaliation; prevent recurrence; and remedy its effects. If someone other than the compliance officer conducts the investigation, the compliance officer or acting compliance officer will review and sign the report provided that the compliance officer or acting compliance officer is not the subject of the grievance. The person who filed the grievance, the victim if someone other than the victim filed the grievance, and any alleged perpetrator will be notified in writing, within five working days of the completion of the report, in accordance with law and district policy, regarding whether the district’s compliance officer or designee determined that district policy was violated.

2. Level II – Within five working days after receiving the Level I decision, the person filing the grievance, the victim if someone other than the victim filed the grievance, or any alleged perpetrator may appeal the compliance officer’s decision to the superintendent by notifying the superintendent in writing. The superintendent may, at his or her discretion, designate another person (other than the compliance officer) to review the matter when appropriate.

The superintendent's review need not include a re-investigation of the matter, such as interviewing witnesses previously interviewed by the compliance officer. The nature and extent of the superintendent's review is left to the discretion of the superintendent, based upon his or her judgment as to the seriousness of the underlying complaint, the depth of the compliance officer's investigation, and any specific flaws in the compliance officer's investigation or conclusions identified by the person appealing.

Within ten working days, the superintendent will complete a written decision on the appeal, stating whether a violation of this policy is found and, if so, stating what corrective actions will be implemented. If someone other than the superintendent conducts the appeal, the superintendent will review and sign the report before it is given to the person appealing. A copy of the appeal and decision will be given to the compliance officer or acting compliance officer. The person who initially filed the grievance, the victim if someone other than the victim filed the grievance, and any alleged perpetrator will be notified in writing, within five working days of the superintendent's decision, regarding whether the superintendent or designee determined that district policy was violated.

3. Level III – Within five working days after receiving the Level II decision, the person filing the grievance, the victim if someone other than the victim filed the grievance, or any alleged perpetrator may appeal the superintendent's decision to the Board by notifying the Board secretary in writing. The person filing the grievance and the alleged perpetrator will be allowed to address the Board, and the Board may call for the presence of such other persons deemed necessary. The Board will issue a decision within 30 working days for implementation by the administration. The Board secretary will give the compliance officer or acting compliance officer a copy of the appeal and decision. The person who filed the grievance, the victim if someone other than the victim filed the grievance, and the alleged perpetrator will be notified in writing, within five working days of the Board's decision, in accordance with law and district policy, regarding whether the Board determined that district policy was violated. The decision of the Board is final.

### **Confidentiality and Records**

To the extent permitted by law and in accordance with Board policy, the district will keep confidential the identity of the person filing a grievance and any grievance or other document that is generated or received pertaining to grievances. Information may be disclosed if necessary to further the investigation, appeal or resolution of a grievance, or if necessary to carry out disciplinary measures. The district will disclose information to the district's attorney, law enforcement, the CD and others when necessary to enforce this policy or when required by law. In implementing this policy, the district will comply with state and federal laws regarding the confidentiality of student and employee records. Information regarding any resulting employee or student disciplinary action will be maintained and released in the same manner as any other disciplinary record. The district will keep any documentation created in investigating the complaint including, but not limited to, documentation considered when making any conclusions,

in accordance with the Missouri Secretary of State's retention manuals and as advised by the district's attorney.

### **Training**

The district will provide training to employees on identifying and reporting acts that may constitute discrimination, harassment or retaliation. The district will instruct employees to make all complaints to the district's compliance officer or acting compliance officer and will provide current contact information for these persons. The district will inform employees of the consequences of violating this policy and the remedies the district may use to rectify policy violations. All employees will have access to the district's current policy, required notices and complaint forms. The district will provide additional training to any person responsible for investigating potential discrimination, harassment or retaliation.

The district will provide information to parents/guardians and students regarding this policy and will provide age-appropriate instruction to students.

### **Limitations**

Nothing in this policy shall be construed as creating a cause of action. Neither the proscriptions of, nor actions taken under, this policy shall on that basis estop the Board from fully arguing for or against the existence of any fact and the scope or meaning of any law in any forum.

## Center School District Section 504/ADA Procedure

The purpose of this procedure is to assist district personnel in complying with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504) and the Americans with Disabilities Act (ADA). In general, students with disabilities who qualify under Section 504 also qualify under the ADA, and this procedure is designed to identify those students in need of accommodation and provide them necessary accommodations.

### Definitions

*504 Evaluation* – A process where the 504 team determines whether a student has a disability and needs a 504 plan in accordance with Section 504. A 504 evaluation must draw on information from a variety of sources in the area or areas of concern. An evaluation must be conducted before the 504 team makes an educational placement or makes a significant change in the placement of a student. Evaluation may be based on existing information and observation or may include more formal assessment, including the administration of tests and other specialized evaluation instruments.

*504 Plan or Accommodation Plan* – A written document developed by the 504 team specifying accommodations necessary to provide a free and appropriate public education to a student with disabilities in accordance with law.

*504 Team* – A multidisciplinary group consisting of two or more persons who have knowledge of the student, the meaning of the evaluation data and the placement options. This group could include school employees, necessary professionals, the parent, or others who have knowledge of the student. The 504 team decides eligibility, the accommodations necessary to provide a student with disabilities a free and appropriate public education, and the placement of the student.

*Long-Term Suspension* – Suspensions in excess of ten consecutive school days, or suspensions in excess of ten school days cumulatively in a school year where a pattern of suspension is created. In determining whether a series of suspensions has resulted in a significant change in placement, the district should consider the length of each suspension, the proximity of the suspensions to each other and the total amount of time the student is excluded from school.

*Mental Impairment* – Any mental or psychological disorder, such as emotional or mental illness. Examples of “emotional or mental illness[es]” include major depression, bipolar disorder, anxiety disorders (which include panic disorder, obsessive compulsive disorder, and post-traumatic stress disorder), schizophrenia, and personality disorders.

*Major Life Activities* – Include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. Major life activities also include the operation of major bodily functions including, but not limited to, the functions of the

immune and reproductive systems; normal cell growth; digestive, bowel, bladder, neurological, brain, respiratory, circulatory and endocrine systems; and other major bodily functions.

*Parent* – For the purposes of this procedure and related forms, a biological parent, guardian or person acting as a parent in the absence of a biological parent or guardian. A student who is 18 and otherwise competent assumes the rights of the parent.

*Students with Disabilities* – For the purposes of this procedure, students who have a physical or mental impairment that substantially limits one or more major life activities.

*Substantially Limited* – Unable to perform a major life activity that the average person in the general population can perform, or significantly restricted as to the condition, manner or duration under which an individual can perform a particular major life activity as compared to the condition, manner or duration under which the average person in the general population can perform that same major life activity. In determining whether a student is substantially limited in a major life activity:

1. The district will interpret “substantially limited” broadly.
2. Determinations about whether a disability that is episodic or currently in remission would substantially limit a major life activity will be made as if the disability were currently active.
3. Except for ordinary glasses and contacts, the district will not consider the ameliorative effects of mitigating measures such as medications, medical supplies, equipment or appliances, low-vision devices, assistive technology, auxiliary aids or services, learned behavioral or adaptive neurological modifications, prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices or oxygen therapy when determining whether a disability substantially limits a major life activity.

## **General**

The district does not discriminate against persons with disabilities, nor against those who have a record of such an impairment or are regarded as having such an impairment. The district seeks to identify, evaluate and provide free and appropriate educational services to all qualified students with disabilities within the definitions of Section 504 and the ADA. No qualified student with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any district program, including nonacademic services and extracurricular activities.

The district provides a free appropriate public education (FAPE) to each qualified student with a disability in the district’s jurisdiction. An appropriate education is the provision of regular or special education and related aids and services that are designed to meet individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met, and complies with applicable federal regulations.



The district will educate or will provide for the education of, each qualified student with a disability in its jurisdiction with students without disabilities to the maximum extent appropriate to the needs of the student with a disability. The district will place a student with a disability in the regular educational environment unless education of the disabled student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily.

The district will ensure that students with disabilities participate with students without disabilities in nonacademic and extracurricular services and activities to the maximum extent appropriate to the needs of the student with a disability. Nonacademic and extracurricular services and activities include, but are not limited to, meals, recess periods, counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the district, referrals to agencies which provide assistance to students with disabilities, and employment of students.

This procedure will not be applied to students with disabilities who are eligible for services under the Individuals with Disabilities Education Act (IDEA). Those students will receive services in accordance with the IDEA, regulations interpreting the IDEA, the Missouri State Plan, and district policies and procedures implementing the IDEA.

### **Compliance Officer**

The district's compliance officer designated in policy AC is also the district's 504 and ADA compliance officer.

### **Identification**

The district will take measures to identify and locate every student with disabilities and take steps to notify the students and their parents of the district's obligations to provide the student education and accommodations, if necessary. The district will annually undertake to identify and locate every qualified child with a disability residing in the district's jurisdiction who is not receiving a public education and take appropriate steps to notify children with disabilities and their parents or guardians of the district's duties under Section 504 and Title II in the district's child find publications, including newspaper notices, letters, flyers, and brochures.

District staff will contact the district's compliance officer or designee immediately when:

1. Due to a student's medical condition or impairment, a parent asks for a change of schedule, change of facilities or other accommodation that is not routinely provided to students.
2. A parent notifies the district that a student has a medical condition or impairment that could require accommodation.
3. Based on a student's medical condition or impairment, a teacher, nurse or other employee recommends an accommodation that may be necessary for the student to participate in the district's programs.

Examples of situations in which school personnel may reasonably conclude that a student needs or is believed to need special education or related aids and services include (a) when a teacher, based on observation of or work with the student, expresses the view that an evaluation is needed, or (b) when the parent of a student has requested an evaluation.

### **Evaluation**

The district will conduct an evaluation of any student who, because of a disability, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the student in regular or special education and any subsequent significant change in placement.

Once notified and provided information that a student may have a physical or mental impairment that could qualify as a disability, the compliance officer will organize a Section 504 team. The compliance officer or designee will contact the parent and the classroom teacher(s) for additional information for the 504 team to consider and will provide the parent and/or student a copy of the notice of parent and student rights under Section 504 and notice of evaluation. The compliance officer or designee will obtain written consent for any additional formal assessment. If the parent refuses to consent, the district may request a due process hearing as described below.

The 504 team will meet to examine the existing information and determine whether additional information or testing is necessary and, if so, what information should be obtained before making a decision. The compliance officer or designee will assist the 504 team in obtaining additional information. The compliance officer or designee is responsible for ensuring that:

1. Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer.
2. Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.
3. 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, achievement level or whatever other 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).

### **Eligibility**

The 504 team will decide if the student is eligible for accommodations under the law. To be eligible as a student with a disability, the student must have a physical or mental impairment that substantially limits one or more major life activities. Not all students with medical impairments

are eligible as disabled under the law. In interpreting evaluation data, determining eligibility, and making placement decisions, the 504 team shall:

1. Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. Grades alone are an insufficient basis upon which to determine whether a student has a disability and grades may not be the determinative factor in deciding whether a student with a disability needs special education or related aids or services. Grades are just one consideration and do not provide information on how much effort or how many outside resources are required for the student to achieve those grades.

2. Establish procedures to ensure that information obtained from all such sources is documented and carefully considered.

3. Ensure that the placement decision is made by a group of persons, including persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. A parent(s) or guardian is a required participant if he or she is a person knowledgeable about the student.

4. Ensure that the placement decision is made in a timely manner, and in the least restrictive environment.

5. Make a placement decision that complies with the law.

When making a determination, the 504 team will consider the effect the impairment has on the student's performance in comparison with children at the same age or grade in the general population. The 504 team will not consider mitigating measures except for ordinary eyeglasses or contacts. An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. The District shall construe disability in favor of broad coverage of individuals under Section 504 and Title II.

Once the 504 team determines whether the student is eligible, the district will notify the parents of the decision in writing and will document the reasons for the decision. If the 504 team determines that the student has a disability as defined in law, the 504 team will determine educational placement.

### **Educational Placement**

The 504 team will decide the educational placement necessary to provide a free and appropriate education. The accommodations or services determined necessary by the 504 team and the details regarding those accommodations will be recorded in the 504 plan, provided to the parents in writing and maintained by the district. Information regarding the 504 plan will be provided to all district staff as necessary to ensure that the accommodations are provided to the student. Accommodations will include, but are not limited to, the following:

1. *Academic Setting* – Students with disabilities must be educated to the maximum extent with students who do not have disabilities, unless it is demonstrated by the district that an appropriate education cannot be achieved in the regular environment with the use of supplementary aids and services. This may require modifications to desks, seating arrangements, methods of communication or flexibility to leave the room.

2. *Nonacademic Setting* – Students with disabilities will have the same opportunity to participate in nonacademic activities and services (including meals, recess periods, counseling opportunities and other services) as students without disabilities and will participate in those activities and services with students without disabilities to the maximum extent appropriate.

3. *Facilities Accommodation* – The district must provide facilities to students with disabilities that are comparable to the facilities provided to students without disabilities. Students must have access to restroom facilities, cafeterias, playgrounds and classrooms. When the 504 team places a student in a setting other than the regular educational environment, it must take into account the proximity of the alternate setting to the student’s home.

4. *Transportation* – Students with disabilities will be provided appropriate transportation at no greater cost than students without disabilities.

### **Extracurricular and Nonacademic Services**

The district shall provide nonacademic and extracurricular services and activities in such a manner as is necessary to afford students with disabilities an equal opportunity for participation in such services and activities. These services may include, but are not limited to: personal, academic or vocational counseling; athletics; transportation; health services; recreational activities, special interest groups or clubs; referrals to agencies; and employment of students, including employment by the district or assistance in outside employment. Students with disabilities may participate in physical education and athletic activities to the same extent as students without disabilities. The district may offer students with disabilities physical education and athletic activities that are separate or different from those offered to students without disabilities when necessary; however, no qualified student with a disability will be denied the opportunity to compete for teams or to participate in courses that are not separate or different.

### **Preschool, Summer School and Adult Education**

The district will not exclude qualified students with disabilities from preschool, summer school or adult education and will take into account the needs of the students in determining the aids, benefits or services to be provided.

### **Re-Evaluation**

A student with disabilities receiving accommodations under this procedure will be re-evaluated at least every three years and before making any significant change in placement. The compliance officer will provide the parent and/or student a copy of the notice of parent and student rights

under Section 504 at the time of the re-evaluation. The scope and extent of the re-evaluation will be determined by the 504 team. The compliance officer or designee will obtain written consent for formal assessment for a re-evaluation unless the district takes reasonable measures to obtain consent from the parent and the parent does not respond. If the parent refuses to consent, the district may request a due process hearing as described below.

### **Access to Records**

Parents will have an opportunity to examine all relevant records, including personally identifiable education records, in accordance with law and as outlined in Board policy and district administrative procedures.

### **Parental Involvement**

The district will involve parents throughout the accommodation process. The compliance officer or designee will provide notice to parents before conducting an initial evaluation of a student. The parents will be invited to participate in the eligibility determination meeting and any meeting during which their child's program is designed and placement is determined. A student's parent or guardian is a required member of the 504/Title II multidisciplinary team for the student if the parent or guardian is knowledgeable about the student.

### **Disciplining Students with Disabilities**

Students who qualify for accommodation under Section 504 cannot receive a long-term suspension or be expelled for behavior that is a manifestation of the disability. Before a student may serve a long-term suspension, the 504 team must meet and review the behavior subject to disciplinary action, along with current information regarding the disability, to determine whether the student's actions were a manifestation of the disability. If the behavior was not a manifestation of the student's disability, the student may be suspended and will only receive educational services to the extent that educational services are provided to students without disabilities during a suspension. If the behavior was a manifestation of the disability, the district cannot suspend the student, and the 504 team must determine whether the current educational placement is appropriate. The district will provide students and their parents a copy of the district's notice of parent and student rights under Section 504 at the time any long-term suspension is imposed.

### **Grievance Procedures**

All complaints alleging discrimination, violation of law or failure to follow district policies or procedures regarding the education or accommodation of students with disabilities will be made to the compliance officer and will be investigated immediately. The district will use the grievance procedure outlined in policy AC. Complaints may be made at any time to the U.S. Department of Education, Office for Civil Rights.

### **Impartial Due Process Hearing**

In the event the parent or district wishes to contest an action with regard to the identification, evaluation or placement of a student with a disability under law, either party may initiate a due process hearing. The district may do so by notifying the parent in writing. The parent may do so by notifying the district's compliance officer in writing. The request for a due process hearing must include a detailed statement as to the nature of the dispute. Both parties will have the opportunity to participate in the hearing and to be represented by counsel.

The district will immediately secure the services of an impartial hearing officer. The hearing officer will set a date for the hearing and may request additional clarification from either party as to the nature of the dispute. The hearing officer has the authority and the responsibility to create reasonable rules governing the hearing to ensure that relevant information is presented, but that a decision is made as expeditiously as possible. The hearing officer will provide each party a copy of the written decision within 15 calendar days after completion of the hearing. The decision is binding on both parties unless determined otherwise by a court of competent jurisdiction.

**Center School District**  
**Parent and Teacher Guide to Section 504 of the Rehabilitation Act**

**What is Section 504?**

Section 504 of the Rehabilitation Act is a civil rights act prohibiting discrimination based on disability. It was enacted to eliminate barriers that exclude persons with disabilities. Section 504 applies to all agencies that receive federal funds, including public schools, federal agencies, and places of public accommodation. In the Center School District, all staff and administrators have the responsibility of insuring that all students with disabilities are identified, evaluated and provided with needed accommodations and services, resulting in a free appropriate public education (FAPE). Section 504 is enforced by the U.S. Department of Education, Office for Civil Rights.

Public school districts have the duty to provide FAPE to all qualified disabled students. For purposes of Section 504, a FAPE is an educational program that is (a) designed to meet individual educational needs for disabled students as adequately as the needs of nondisabled students are met, (b) provided at no cost to the parent or student, and (c) provided in an environment that affords the maximum appropriate exposure to non-disabled students. Additionally, the program must meet the procedural requirements of federal regulations.

**What's the difference between IDEA and Section 504?**

The biggest difference between these two laws is that IDEA requires school districts to provide a particular outcome to disabled students (educational benefit) using special educational services, whereas Section 504 requires only that school districts provide disabled students with equal access (to the maximum extent appropriate) to its existing programs. IDEA applies only where a disabled student requires special education services.

A Section 504 Plan typically includes only accommodations and modifications to provide a disabled student with equal access to the school's services. While an Individual Educational Plan under IDEA also includes accommodations and modifications, it must also include specific educational goals for the student to achieve. Because an IEP must already include accommodations and modifications to address the student's disability, a student will not have both an IEP and a Section 504 Plan.

Unlike services offered through IDEA, school districts receive no additional federal or state funding under the Section 504 mandate.

**Who is a student with a disability under 504?**

Section 504 protects an individual who has, had, or is perceived as having a physical or mental impairment which substantially limits one or more major life activities, which include but are not limited to caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking,

standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, working, or operation of a major bodily function.

Section 504 does not specifically list qualifying disabilities although it does list examples. These include: diseases and conditions involving orthopedic, visual, speech, and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; mental retardation; emotional illness; drug addiction; and alcoholism. HIV/AIDS, learning disabilities, ADD/ADHD, cystic fibrosis, severe allergies and asthma, among others, have also been recognized. In all cases the focus is on the extent to which the impairment substantially limits a major life activity when compared to an average individual in the general population. Some students with these disabilities may be covered by IDEA if they meet certain eligibility criteria under that law.

### **Identification of Students Eligible under Section 504**

If, as a parent, your child has a chronic condition or you suspect he/she may have a disability, you should inform your child's teacher, principal or the district's 504 coordinator. Following the referral, the school Student Services Team will convene to implement the eligibility process. If a child is experiencing chronic problems at school, if interventions which have been implemented have been unsuccessful, and a disability is suspected, the school has an obligation to refer the child for an evaluation. The 504 team will request permission to evaluate your child for 504 eligibility.

### **What is an evaluation under Section 504?**

For purposes of Section 504, an evaluation requires reviewing information from a variety of sources to determine if a student is disabled, and whether the disability substantially limits one or more major life activities. This typically includes teacher reports, grades, aptitude and achievement tests, standardized test scores, attendance and discipline reports, and information from parents and medical providers. The 504 Team must include individuals who are knowledgeable about the child, the type of disability, the evaluative data being reviewed, and accommodation options.

Teachers play an important role in this process. Teachers should always participate in any meetings where a 504 Plan may be developed and be prepared to supply pertinent data and anecdotal information about the child. Because Section 504 does not provide a definitive "list" of qualifying conditions, school personnel must use their collective, professional judgment to make a determination.

If the 504 Team determines that there is insufficient information to make an eligibility determination, the team may request that information; however, the team may not refuse to find a student eligible merely because, for example, a parent refuses to provide a particular piece of information, such as a medical diagnosis. This means that if the team has enough information to make an eligibility determination without a medical diagnosis, it must make that



determination. But if the team legitimately cannot determine whether a student is disabled without a medical diagnosis, it may request or arrange for a medical examination of the student.

By the same token, a doctor's letter stating that a student has a disability and requires certain accommodations or modifications is not necessarily enough, standing alone, to justify a finding that a student is eligible. The 504 Team must draw upon information from a variety of sources in making its decision, and the medical opinion is merely one piece of information to be considered.

If the 504 Team believes the student may be eligible for services under IDEA, a referral for a Special Education evaluation is made.

### **How are accommodations and services (504 Plans) developed?**

If a student is found to have a disability under Section 504, the team will make an individualized determination of the student's educational needs and an accommodation plan will be developed. Section 504 mandates services and placements in the least restrictive environment and most accommodations are provided in the regular classroom. The 504 Plan will identify the individual(s) responsible for implementing accommodations. Eligibility status and 504 plans are generally reviewed annually.

### **What are some examples of accommodations?**

Accommodations are "adjustments" that are designed to minimize the impact of a disability and meet the unique needs of the student. There is no "list" of approved accommodations. They are determined individually for each child. Examples might include preferential seating to minimize distractions for children with attention/concentration difficulties; assisting a student with diabetes in monitoring his/her blood sugar levels; providing extra time or a quiet setting for exams; providing extensions on assignments; or providing curriculum and increased communication with parents for children who cannot attend school regularly due to chronic health problems.

### **When is a 504 Plan inappropriate?**

- When a student does not qualify for Section 504 services.
- When a plan is created only to support a request for testing accommodations for state assessments (MAP) or college entrance exams (SAT, ACT).

### **What are a teacher's responsibilities when a student has a 504 Plan?**

Teachers are responsible for implementing *all* designated accommodations and modifications identified on a student's plan. Teachers do not have the discretion to decline or refuse to implement any component of a 504 Plan. Only the student's 504 Team may modify the accommodations. Any changes must be based on the student's disability and its impact on major life activities.

When a teacher has a concern about the nature of a student's plan, or believes the plan should be modified, he/she should discuss it with the school's 504 coordinator. Teachers should always maintain documentation which demonstrates compliance with a student's 504 Plan.

**What is the teacher's role during the annual review process?**

Input from teachers is especially important during the annual review process. Teachers can provide the team with critical information to help determine whether a student continues to need a 504 plan. Does an impairment continue to substantially limit a student's academic performance? Were accommodations utilized by the student? Were accommodations effective? Does the plan need to be changed? Are there other factors, such as poor attendance or failure to turn in assignments, which are affecting the student's academic success?

**What if the student's condition is not active, e.g., a disease that is in remission?**

The student must be evaluated as if the condition is active, and the 504 Plan should reflect the accommodations and modifications that are believed to be necessary should the condition be active.

**What if the student's condition is being ameliorated by "mitigating measures," such as hearing aids, medication, etc. (other than eyeglasses or contact lenses)?**

The student must be evaluated as if the mitigating measures are not in use, and the 504 Plan should reflect the accommodations and modifications that would be needed if the mitigating measures are not being used, e.g., the student's hearing aid stops working, or the student forgets to take his or her medication. However, the accommodations and modifications must be provided only if the mitigating measures are not in use, and the plan should reflect this contingency.

**What rights do parents and students have under Section 504?**

A complete listing of parent and student rights is on the following page.

**Who is my school contact for information about Section 504?**

A Section 504 coordinator has been assigned at each school to address questions and concerns about Section 504. There is also a district 504 coordinator who is available to provide assistance and information. Additional background information, policies and procedures, and all related forms are available to staff.

Questions, complaints, or requests for additional information should be forwarded to:

Director of Human Resources/Student Services  
8701 Holmes Road  
Kansas City, MO 64131  
(816) 349-3300

## Notice of Parent and Student Rights under Section 504

An eligible student under Section 504 is a student who (a) has, (b) has a record of having, or (c) is regarded as having, a physical or mental impairment which substantially limits a major life activity such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, working, or operation of a major bodily function.

The enabling regulation for Section 504 as set out in 34 C.F.R. Part 104 provides parents and/or students with the following rights:

You have a right to be informed by the school district of your rights under Section 504. (The purpose of this Notice is to advise you of those rights.) 34 C.F.R. 104.32.

Your child has the right to an appropriate education designed to meet his/her individual educational needs as adequately as the needs of nondisabled students are met. 34 C.F.R. 104.33.

Your child has the right to free educational services except for those fees that are imposed on nondisabled students or their parents. Insurers and similar third parties are not relieved from an otherwise valid obligation to provide or pay for services provided to a disabled student. 34 C.F.R. 104.33.

Your child has a right to placement in the least restrictive environment. 34 C.F.R. 104.34.

Your child has a right to facilities, services, and activities that are comparable to those provided for nondisabled students. 34 C.F.R. 104.34.

Your child has a right to an evaluation prior to an initial Section 504 placement and any subsequent significant change in placement.

Testing and other evaluation procedures must conform with the requirements of 34 C.F.R. 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 recommendation, physical condition, social and cultural background, adaptive behavior, physical or medical reports, student grades, progress reports, parent observations and anecdotal reports.

Placement decisions must be made by a group of persons (i.e., the Section 504 Team), 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 C.F.R. 104.35.

If eligible under Section 504, your child has a right to periodic reevaluations, generally every three years. 34 C.F.R. 104.35.

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 C.F.R. 104.36.

You have the right to examine relevant records. 34 C.F.R. 104.36.

You have the right to an impartial hearing with respect to the district's actions regarding your child's identification, evaluation, or educational placement, with opportunity for parental participation in the hearing and representation by an attorney. 34 C.F.R. 104.36.

If you wish to challenge the decisions of Section 504 Team in regard to your child's identification, evaluation, or educational placement, you should file a written Notice of Appeal with the district's Section 504 Coordinator within 10 calendar days from the time you received written notice of the Section 504 Team's action(s). A hearing will be scheduled before an impartial hearing officer and you will be notified in writing of the date, time, and place for the hearing.

If you disagree with the decision of the impartial hearing officer, you have a right to a review of that decision by a court of competent jurisdiction. 34 C.F.R. 104.36.

On Section 504 matters other than your child's identification, evaluation, and placement you have a right to file a grievance with the district's Section 504 Coordinator (or designee), who will investigate the allegations to the extent warranted by the nature of the complaint in an effort to reach a prompt and equitable resolution.

The district may not intimidate, threaten, coerce, discriminate, or retaliate against you or your child for the purpose of interfering with any right or privilege secured by Section 504.

You also have a right to file a complaint with the United States Department of Education, Office of Civil Rights at 1010 Walnut Street, Suite 320, Kansas City, MO 64106; Telephone (816) 268-0550; Fax (816) 823-1404; TTY (877) 521-2172; Email [OCR.KansasCity@ed.gov](mailto:OCR.KansasCity@ed.gov).

The district's Section 504 Coordinator is the Director of Human Resources/Student Services; 8701 Holmes Road, Kansas City, MO 64131, Telephone (816) 349-3300.

## REFERENCES

Americans With Disabilities Amendments Act of 2008

Americans With Disabilities of 1989

Individuals With Disabilities Education Act of 1990

Section 504 of the Rehabilitation Act of 1973

Student Access – Section 504 of the Rehabilitation Act of 1973, Missouri Department of Elementary and Secondary Education, January 1993

US Department of Education Statement on ADD, Missouri Department of Elementary and Secondary Education, January 1993