

Notice of Procedural Safeguards and Parent/Student Rights – Section 504 of the Rehabilitation Act

Section 504 of the Rehabilitation Act of 1973 (Section 504) prohibits discrimination on the basis of disability in programs and activities that receive federal funds. In accordance with Section 504, Independent School District No. 742, St. Cloud Area Schools (District) prohibits discrimination on the basis of disability in its programs and activities. The policy of this District is that no otherwise qualified individual with a disability may, on the basis of disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in any program or activity that is provided or sponsored by the District.

Under Section 504, the School District is required to identify, evaluate and, if the student is determined to be eligible under Section 504, provide accommodations and services that afford equal access to educational opportunities in the District's programs and activities. Section 504 defines an individual with a disability as a person who has a physical or mental impairment that substantially limits a major life activity (as compared to the average student). A person who has a record of such impairment, or a person who is regarded as having such impairment, also have various protections under Section 504.

Section 504 provides parents and students with the following rights:

1. **Notice of Rights.** You have the right to receive notice of your rights under Section 504.
2. **Native Language.** You have the right to receive all information in your native language or primary mode of communication.
3. **Full Benefits.** You have the right to have your child take part in and receive benefits from public education programs without discrimination because of your child's disabling condition. This means that your child is entitled to take part in and receive benefits from public education programs or activities without discrimination because of his or her disability. 34 C.F.R. §104.21. The District does not discriminate on the basis of disability, sex, race, color, creed, religion, national origin, marital status, status with regard to public assistance, age, sex, or sexual orientation.
4. **Notice of Evaluation, Program, and Placement.** You have the right to receive notice before the District takes any action pertaining to the identification, evaluation, program, or placement of your child under Section 504, including any significant change to your child's placement. 34 C.F.R. §104.36. Parental consent must be obtained before conducting an initial evaluation and for initial placement. Your child is entitled to an evaluation prior to an initial placement and any subsequent significant change in placement. 34 C.F.R. § 104.35(a).
5. **Evaluation and Reevaluation.** Your child has the right to be evaluated and tested with procedures in accordance with regulations pertaining to the evaluation process. 34 C.F.R. § 104.35(b). Your child is also entitled to periodic reevaluation. 34 C.F.R. § 104.35(d). Following a reevaluation procedure that is consistent with the procedure in the Individuals with Disabilities Education Act is one means of complying with this requirement.
6. **FAPE in LRE.** You have the right to have your child receive a free appropriate public education (FAPE) in the least restrictive environment (LRE) appropriate. This includes the right to have your child be educated with nondisabled students to the maximum extent appropriate; the right to receive free educational services, except for those fees that are imposed on students without disabilities or their parents; the right to receive accommodations that give your child an equal opportunity to participate in school and school-related activities; and the right to receive regular

and/or special education and related aids and services that are designed to meet his or her individual educational needs as adequately as the needs of students without disabilities. 34 C.F.R. § 104.33(b).

7. Comparable Facilities, Services and Activities. If your child is placed in a District facility that is identifiable as being for disabled students, the facility and the services and activities provided therein must be comparable to the other facilities, services, and activities of the District. 34 C.F.R. § 104.34(c).

8. Educational Decisions. You have the right to have decisions related to evaluation, educational programming, and placement be based upon a variety of information sources and on information that is documented and carefully considered. You also have the right to have such decisions be made by persons who are knowledgeable about your child, the meaning of evaluation data, and placement options. 34 C.F.R. § 104.35 (c)(3).

9. Special Education. You have the right to have your child receive special education and related services if your child is found to be eligible under the Individuals with Disabilities Education Act (IDEA).

10. Transportation. You have the right to have transportation provided to and from any alternative placement setting at no greater cost to you than would be incurred if your child were placed in a program operated by the District.

11. Equal Opportunity to Participate. You have the right to have your child be given an equal opportunity to participate in nonacademic and extracurricular services and activities offered by the district. 34 C.F.R. § 104.37.

12. Examination of Records. You have the right to examine all relevant records relating to the District's decisions about the identification, evaluation, educational program, and placement of your child under Section 504. 34 C.F.R. § 104.36. You also have the right to obtain copies of educational records at a reasonable cost unless the cost would effectively deny you access to the records.

13. Interpretation and Amendment of Records. You have the right to ask the District to explain and interpret your child's records. You have the right to ask the District to amend your child's educational records on the ground that they are inaccurate, misleading, or otherwise in violation of the privacy rights of your child. You may request a hearing if the District denies such a request.

14. Grievance. You have the right to file a complaint (also referred to as a "grievance") with the District regarding an alleged violation of Section 504. You also have the right to receive a prompt and equitable resolution of a complaint. Complaints should be submitted to the District's Section 504 Administrative Liaison, Jennifer Lecy, unless the complaint relates to the District's 504 Administrative Liaison, in which case the complaint should be submitted to the Superintendent of Schools. The school encourages the parent, guardian, or eligible student to use the Discrimination, Harassment, and Bullying Report Form, but oral reports will be considered complaints as well. Use of the Report Form is not mandatory. Upon filing a complaint with the District, you will be asked to provide a brief description of the alleged discriminatory action, the date of the alleged action, and the name of the person(s) responsible for the alleged action. The District will then conduct an investigation, unless the matter can be resolved informally. The District's Section 504 Administrative Liaison will maintain the files and the records relating to the complaint, unless the complaint relates to the District's Section 504 Administrative Liaison, in which case, the Superintendent will maintain the files and records. If you wish to appeal the decision of the Section 504 Administrative Liaison, you may submit a signed statement of appeal

to the Superintendent of Schools within ten (10) business days after receipt of the Administrative Liaison's response. If the Superintendent conducted the initial investigation, you may submit a signed statement of appeal to the School Board Chair. The School Board Chair, or a representative, will issue a decision on the appeal within forty days of receiving the appeal.

15. OCR Complaint. You have the right to file a complaint with the Office for Civil Rights (OCR), which is a division of the U.S. Department of Education. The following is the contact information for OCR:

Office for Civil Rights, Chicago Office (Region V)
U.S. Department of Education
500 W. Madison Street Suite 1475
Chicago, Illinois 60661
(312) 730-1560
FAX: (312) 730-1576
TDD: (312) 730-1609
Email: OCR.Chicago@ed.gov

16. Impartial Hearing. You have the right to request an impartial hearing if you disagree with the District's decisions or actions relating to your child's identification, evaluation, educational program, or placement. 34 C.F.R. § 104.36. You and your child may participate in the hearing and have an attorney represent you. Hearing requests must state the specific reason for the request and must be submitted in writing to the District's Section 504 Administrative Liaison. Upon receiving a hearing request, the District will select an impartial hearing officer (IHO). The party requesting the hearing bears the burden of proof at the hearing. The party requesting the hearing may not raise new issues at the hearing that were not addressed in the hearing request or specified in writing in response to an objection to the sufficiency of the hearing request. During the hearing, each party has the right to present evidence and to confront and cross-examine witnesses who are called by the other party to testify. The IHO may impose reasonable limitations on the amount of time that each party has to present its case. The IHO may also prohibit the introduction of any evidence at the hearing that has not been disclosed at least five (5) business days before the hearing, including evaluation data and recommendations based on any evaluation data. After the conclusion of the hearing, the IHO may ask the parties to submit proposed findings, proposed conclusions, and a proposed decision. The IHO will issue a written decision within forty-five (45) calendar days, unless either party requests an extension for good cause.

17. Appeal from Adverse Decision. You have the right to appeal from an adverse decision from the IHO. The District also has the right to appeal from an adverse decision. To appeal, a party must submit a written notice of appeal to the District's Section 504 Administrative Liaison and to the opposing party within twenty (20) calendar days after receiving the adverse decision. The written notice of appeal must specifically state the appealing party's objections to the decision. Upon receiving notice of an appeal, the District will appoint an impartial hearing review officer (HRO) to conduct an impartial review of the records while giving deference to the factual findings and credibility determinations of the impartial hearing officer. The HRO may elect to hear oral argument, to receive appeal briefs, or to make a decision based on the existing record. The HRO will complete the review and issue a written decision within thirty (30) calendar days unless either party requests an extension. Any party disagreeing with the decision of the appeals officer may appeal to a civil court with jurisdiction. This procedure may not be interpreted or applied in a manner that would deny the right of a party to file a formal complaint in federal court or with OCR.

18. Section 504 Administrative Liaison. The person at the school who is responsible for Section 504 compliance is the building principal/designee. The District Section 504 Administrative Liaison may be contacted at the District Administration Office. If you have any questions regarding Section

504, you are encouraged to contact the building principal or Jennifer Lecy, the District Section 504 Administrative Liaison. The following is her contact information:

Jennifer Lecy
Section 504 Administrative Liaison/Student Services Coordinator
1201 2nd Street South
Waite Park, MN 56387
320-370-8061
Jennifer.Lecy@isd742.org

19. **Disclaimer.** This document does not contain or provide legal advice and is not a substitute for legal advice. It contains portions of the Section 504 regulations. For a more complete compilation of the law, see 34 C.F.R. Part 104.