

AACA: Section 504 of The Rehabilitation Act of 1973 Policy

The Divide County School District #1 prohibits the discrimination against any student with a disability as defined in Section 504 of the Rehabilitation Act of 1973 (“Section 504”) and in policy AAC, Nondiscrimination and Anti-Harassment Policy. The Board designates Elementary/Middle School Principal as the 504 Coordinator to ensure compliance with applicable laws and policy. The 504 Coordinator may be contacted at: 101 2nd St. NE or 605 4th St SE; 701-965-6313.

The Superintendent or designee must provide annual notice to students with disabilities and their parents or guardians of the district’s responsibilities under Section 504. Various methods may be used to provide notice, including but not limited to, websites, handbooks, email, or postings.

Free Appropriate Public Education

The District shall identify, locate, evaluate, and provide a “free appropriate public education” (FAPE) to each qualified student with a disability who is in the district’s jurisdiction, regardless of the nature or severity of the disability. Qualified students are entitled to receive regular or special education and related aids and services that:

1. Are designed to meet individual educational needs of students with disabilities as adequately as the needs of students without disabilities; and
2. Are based upon adherence to procedures that satisfy the requirements pertaining to educational setting, evaluation and placement, and procedural safeguards.

Education and related aids and services shall be at no cost to students with disabilities or their parents or guardians, except those fees that are equally imposed on students without disabilities.

Educational Setting

The District shall educate students with disabilities with non-disabled students to the maximum extent appropriate to the needs of the student with a disability. The District shall place a student with a disability in the regular educational environment unless it is demonstrated by the District that educating the student with a disability in the regular education environment with the use of supplementary aids and services cannot be achieved satisfactorily. Whenever the District places a student in a setting other than the regular educational environment, it shall take into account the proximity of the alternate setting to the student’s home.

The District may place a student with a disability in, or refer such student to, a program not operated by the school district. Nevertheless, the District remains responsible for ensuring that the education offered is appropriate education, as defined in law. The District shall ensure that adequate aid, benefits, or services, e.g., transportation, the cost of room and board, and non-medical care, are provided at no greater cost than would be incurred by the student or their parents or guardian if the student were placed in the aid, benefits, or services operated by the District.

The District may place a student with a disability in a private or out-of-state school, for which the District is required to pay. However, the District is not required to pay for a student’s education in a private or out-of-state school if the District makes FAPE available and the student’s parents choose to place the child in a private or out-of-state school.

Comparable Facilities

The District shall ensure that facilities identified for students with disabilities and the services and activities provided therein are comparable to the other facilities, services, and activities of the District.

Evaluation and Placement

The District shall conduct an initial evaluation in a timely manner prior to placement of any student who needs or is believed to need special education or related services because of disability. The student evaluation, and if necessary medical assessment, must be at no cost to the student's parents or guardians. The District shall make decisions regarding the needs and placement of a student with a disability on an individual basis, rather than on presumptions or stereotypes regarding persons with disabilities or classes of such persons, or based on concerns about the costs of providing the related aids or services.

The Superintendent or designee shall establish standards and procedures to evaluate students who may have a disability and need special education or related services in administrative regulation coded AACAR. Placement decisions shall be made in compliance with educational setting requirements.

The District shall periodically reevaluate students who have been provided special education or related services, and prior to a significant change in placement.

Procedural Safeguards

The District shall develop and implement a system of procedural safeguards for parents or guardians to appeal district actions regarding the identification, evaluation, and educational placement of students with disabilities. Procedural safeguards shall include notice; an opportunity for records review by parents or guardians; an impartial due process hearing, with opportunity for participation by the student's parents or guardians and representation by counsel; and a review procedure.

The Superintendent or designee shall inform and make available to parents or guardians of students with disabilities applicable procedural safeguards and required notifications.

Disputes between parents or guardians and the district regarding the identification, evaluation, or placement of any student with a disability, or regarding the question of financial responsibility for services, shall be resolved in accordance with the processes specified in the herein. The 504 Coordinator must be informed of any Section 504 complaint, even if the complaint was initially filed with another individual or office, or if the investigation will be conducted by another individual or office.

The District may encourage mediation, at their expense, before relying on more formal procedures, such as the local grievance procedure, impartial due process hearing, or complaints to the Office for Civil Rights (OCR). Mediation shall not interfere with any procedural safeguards, including a request for an impartial due process hearing, or filing a complaint with OCR.

Requests for an impartial due process hearing must be filed with the Superintendent of Public Instruction at 600 East Boulevard Avenue, Department 201, Bismarck, ND 58505-0340.

All other complaints concerning Section 504 may be filed using the district's nondiscrimination and anti-harassment grievance procedure (AAC-BR1) or through state or federal law.

Nonacademic Services

The District shall provide nonacademic and extracurricular services and activities, including, but not limited to, meals, recess periods, extracurricular athletics, interscholastic sports, and/or other nonacademic activities, in a manner that provides students with disabilities an equal opportunity for participation. The District may require a level of skill or ability of a student in order to participate in selective or competitive program or activity, so long as the selection or competition criteria are not discriminatory.

Self-Evaluation

The Superintendent or designee shall periodically conduct a self-evaluation of their school facilities, programs, activities, and policies to ensure compliance with Section 504, and develop a transition plan that outlines how the school will eliminate any form of disability discrimination and the timeframe for completion.

The District must retain the self-evaluation, and make it available for public inspection upon request, on the district's website, for at least three years following its completion.

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- AAC, Nondiscrimination and Anti-Harassment Policy
 - AAC-BR1, Discrimination and Harassment Grievance Procedure
 - AACA-AR, Section 504 Evaluation Standards and Procedures
 - AACA-E, Section 504 Notice of Parent/Guardian and Student Rights
 - FDE, Education of Special Education/Disabled Students