

PIPER

SECTION 504 HANDBOOK

PIPER UNIFIED SCHOOL DISTRICT #203

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SECTION 504 – GUIDELINES FOR PARENTS

INTRODUCTION

Section 504 of the Rehabilitation Act ("Section 504") is a federal civil rights law (not an education law) passed by the U.S. Congress in 1973 that prohibits entities receiving federal financial assistance from discriminating against individuals on the basis of disability. In addition, the law requires that public elementary and secondary schools provide a free and appropriate public education ("FAPE"), which may include accommodations and related services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of a nondisabled student are met and are based upon adherence to evaluation, placement and procedural safeguard requirements.

The U.S. Department of Education Office for Civil Rights ("OCR") enforces the law. Both the education and legal systems have increasingly focused attention on Section 504 requirements to ensure that education systems do not discriminate on the basis of a disability and do provide qualified disabled students equal access to public education programs and activities.

For specific details regarding referral, eligibility and equal access the district programs and activities, parents are encouraged and invited to contact the school principal who serves as the Section 504 representative for the school their child attends.

This handbook is intended to be utilized by parents as a resource regarding the provisions of Section 504 and school district policies (included in Appendix A) regarding equal access for disabled students. It contains general information and is not intended to address all unique and specific circumstances a student or parent may encounter or to constitute legal advice and should not be relied upon as such.

SECTION 504 DISABILITY DEFINED

Under Section 504 an individual is disabled if he/she

(1) ***has*** a physical or mental impairment which substantially limits one or more major life activity, **OR**

(2) has ***a record*** of a physical or mental impairment that substantially limits one or more major life activity, **OR**

(3) is ***regarded as having*** a physical or mental impairment that substantially limits one or more major life activity.

Students are not entitled to reasonable accommodations or modifications to policies, practices and procedures or the provision of related services simply because they have a record of a disability or are regarded as having an impairment that substantially limits a major life activity. Unless a student actually has an impairment that substantially limits a major life activity, the mere fact that a student has a "record of" or is "regarded as" disabled is insufficient, in itself, to trigger those Section 504 protections that require the provision of a FAPE.

To further define these terms:

A **"physical or mental impairment"** is either:

a) a 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, **or**

b) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

In determining whether a student's impairment **"substantially limits"** a major life activity, the student's ability to perform a major life activity is compared to the ability of most people in the general population to perform that major life activity. Specific factors to consider include, but are not limited to the:

- condition under which the student performs the major life activity;
- manner in which the student performs the major life activity;
- duration of time it takes the student to perform the major life activity;
- duration for which the student can perform the major life activity;
- difficulty, effort, or time required to perform a major life activity;
- pain experienced when performing a major life activity;
- way an impairment affects the operation of a major bodily function; and
- negative impact of any mitigating measures, such as negative side effects of medication or burdens associated with following a particular treatment regimen.

"Major life activities" include, but are not limited to: caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, communicating, and "the operation of a major bodily

function, including but not limited to, the function of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions."

Mitigating Measures

"Mitigating measures" are devices or practices that a person uses to correct or reduce the effect of a person's mental or physical impairment. Examples of mitigating measures include, but are not limited to, medication, prosthetics, hearing aids, cochlear implants, mobility devices and assistive technology. The law requires that the ameliorative effects of mitigating measures (except glasses and contacts) not be considered by schools in determining whether an impairment substantially limits a major life activity. As noted above, however, the negative impact of any mitigating measures is a consideration in determining whether impairment substantially limits a major life activity.

EVALUATION FOR ELIGIBILITY DETERMINATION

Section 504 regulations, at 34 C.F.R.104.35 (b), require school districts to individually evaluate a student before classifying the student as having a disability or before providing the student a 504 Accommodation Plan ("504 Plan") outlining changes to policies, practices or procedures or the provision of related services that are needed for the student to gain equal access to the district's programs and activities. The Piper School District has established standards and procedures consistent with Section 504 regulations for initial evaluation and periodic re-evaluation of students who need or are believed to need a 504 Plan as a result of their disability. *See* Appendix B.

At the elementary and secondary level, a 504 Team determines whether a Piper student: (1) has a disability, as that term is defined by Section 504; and (2) is eligible for a
504 Plan. The student's 504 Team should include persons knowledgeable about the student, a person who can interpret the meaning of the evaluation data, and a person who can identify options for accommodations, modifications and/or related services. Section 504 regulations do not specify who should comprise the team, but the Piper District has identified the following suggested team members: the principal, the student's teacher(s), a staff member with knowledge of evaluation data, the parent, the student when appropriate, and others as deemed appropriate.

The 504 Team must decide whether they have sufficient information in hand – including any preexisting assessment data – to make decisions. If the 504 Team determines that additional information needs to be collected through evaluation, the procedures used in that evaluation must ensure that:

- children are not misclassified;
- children are not unnecessarily labeled as having a disability;

- evaluation procedures are appropriately selected, administered, and interpreted; and
- children are not incorrectly placed.

Parental consent is required for an initial 504 evaluation.

The 504 Team must first determine whether the student has an impairment that substantially limits a major life activity. However, not every student who has a physical or mental impairment that substantially limits a major life activity will qualify for and need accommodations under Section 504. The actual presence of an identified disability is not sufficient, in and of itself, to qualify a student as eligible for a 504 Plan. The 504 Team also must determine whether the student needs changes to the district's policies, practices or procedures or the provision of related services in order to provide him or her with equal access to its programs and activities. If so, the student qualifies for a 504 Plan.

NON-DISTRICT EVALUATIONS

Some students who are referred for eligibility determination under Section 504 may have medical reports and accommodation recommendations from private sources. The 504 Team may utilize that information in the decision-making process. In these instances, the school members of the 504 Team may request consent from the parent to obtain copies of medical reports/accommodation recommendations and/or to speak to those diagnosing or treating the medical conditions and/or making the accommodation recommendations.

In making an eligibility determination, the 504 Team is required to consider all relevant information from a variety of sources but is not obligated to adopt the evaluation or recommendations made by other agencies or individuals. While a physician's medical diagnosis may be considered among other information in evaluating a student suspected of having a disability, a medical diagnosis alone does not suffice for the purposes of Section 504 eligibility determination. A student is eligible for a 504 Plan when the student's medical condition substantially limits a major life activity and there is a need for changes to the district's policies, practices or procedures or the provision of related services to gain equal access to the district's programs and activities.

EVALUATION AT PARENTAL REQUEST

The district is not obligated to conduct an evaluation upon parent request if the 504 Team determines that there is no reason to suspect that the student might be eligible for support under Section 504. The district is required to evaluate a student only when it has reason to believe the student may need a Section 504 Plan or otherwise be eligible for special education or related services. If a 504 Team determines that a student will not be evaluated, the district will send written notice of that decision to the parent.

INDEPENDENT EDUCATIONAL EVALUATION ("IEE")

A parent does not have the right to obtain a 504 IEE of a student at public expense. The 504 Team will, however, consider any outside evaluations obtained at parent expense.

RE-EVALUATION

Section 504 requires re-evaluation of student needs periodically. This may be conducted in accordance with regulations governing the Individuals with Disabilities Education Act ("IDEA"), which require re-evaluation at three-year intervals (unless the parent and public agency agree that re-evaluation is unnecessary) or more frequently if conditions warrant, or if the child's parent or teacher requests a re-evaluation, but not more than once a year (unless the parent and public agency agree otherwise). In addition, dismissing a student from a 504 Plan requires a re-evaluation, except upon graduation.

The 504 Team determines the amount of information required for the re-evaluation. The team must determine if they have enough information to make a knowledgeable decision as to whether the student has an impairment that continues to present a substantial limitation and whether the student needs changes to the district's policies, practices and procedures or the provision of related services in order to gain equal access to the district's programs and activities. The re-evaluation process can be simplified and may be limited to existing data and discussion of the student's disability and its impact in the school setting, if no additional data is needed to determine appropriate revisions to the student's 504 Plan. It is the district's practice to obtain parent consent to re-evaluate a student.

IDEA ELIGIBILITY

If the 504 Team suspects that a student may be eligible for special education services under one or more of the IDEA disability categories, a referral will be made for the student to be evaluated for special education. If eligible for special education, an Individual Education Plan ("IEP") will be developed for the student by an IEP Team. If a student is both disabled – as defined under Section 504 – and gifted – as defined by Kansas law – an IEP team will develop an IEP for special education services and a 504 Team will develop a 504 Plan for accommodations and related services related to the Section 504 disability.

504 PLANS FOR STUDENTS

Support and services to be provided to a student under Section 504 are documented in a 504 Plan. In developing that 504 Plan the 504 Team must ensure that the student is educated in the least restrictive environment. The 504 Plan should include changes to the district's policies,

practices or procedures (*i.e.* accommodations/modifications) and/or the provision of related services that the team has determined the student needs in order to gain equal access to the district's programs and activities.

PRIVATE SCHOOL/HOME SCHOOLED STUDENTS

Section 504 does not require a public school to provide services in private or home school settings. *See* 34 CFR 104.333(c)(4). If the district has offered to provide the student an appropriate education in the public-school setting, the district is not responsible for the provision of educational services to students enrolled in a non-public school program based on the personal choice of the parent.

TRANSFER STUDENTS

When a student with a 504 Plan transfers from another district, a 504 Team will review the plan and supporting documentation. If the 504 Team determines the 504 Plan is appropriate, it will be implemented. If the 504 Team determines that the 504 Plan does not appear to be appropriate, the district will request consent for a 504 evaluation and will convene a 504 Team meeting to determine any revisions required to meet the student's needs.

PROCEDURAL SAFEGUARDS

Under Section 504, the rights of the parent and student are protected by a system of procedural safeguards that include:

- notice of meetings/parent participation;
- prior written notice of evaluations, eligibility, and programmatic action proposed;
- opportunity to examine relevant records;
- notice of parent and student rights/procedural safeguards; and
- review procedures.

NOTICE OF MEETING AND PARENT PARTICIPATION

While Section 504 does not specify the degree of parent participation required, the district believes it to be best practice to involve parents in the 504 process. In order to encourage parent participation, the district will provide parents reasonable notice of 504 Team meetings and will offer the opportunity to participate in these meetings.

Decisions regarding a student's eligibility and/or 504 Plan are made by the student's 504 Team, which includes the parents as equal members. The decision-making process used by the student's

504 Team is consensus building. A consensus decision involves building agreement by the whole group on a course of action. Although individual members (based on their own unique experiences and expertise) may believe that other choices may be better for one reason or another, a consensus is built when all members come together on the final choices.

Since decisions are made by consensus of the 504 Team, reports and recommendations from individuals or groups (including physicians, therapists, and other health professionals)
are fully considered by the team, but cannot take the place of 504 Team decision making. If consensus cannot be achieved, the final decisions are made by the principal.

PRIOR WRITTEN NOTICE OF EVALUATIONS, ELIGIBILITY AND PROGRAMMATIC ACTION PROPOSED

The district provides prior written notice of evaluations and requests parent consent. The district also provides prior written notice concerning whether the student is eligible for a 504 Plan. Finally, the district provides prior written notice and requests parent consent for the initial 504 Plan and any subsequent changes to the 504 Plan.

EXAMINATION OF RELEVANT RECORDS

Under Section 504, parents have the right to examine all relevant records relating to decisions regarding their child. In the Piper School District, student records related to Section 504 are maintained by the student's school building administrator. If parents wish to examine their child's records, they should contact the building principal and schedule an appointment for this purpose. A member of the school staff will be available to assist the parent and to answer questions as they review records.

Parents may request copies of records in their child's file, with the exception of records that may not be duplicated due to copyright infringement laws. The school may charge a reasonable fee for copies of student records unless the fee would effectively deny the parent access to the records.

NOTICE OF PARENT AND STUDENT RIGHTS/PROCEDURAL SAFEGUARDS

A copy of the district's Section 504 Notice of Parent and Student Rights/Procedural Safeguards the district provides parents is in Appendix C. A copy will be made available to the parents of eligible students at least one time each year. Parents will also be given a copy of Notice of Parent and Student Rights/Procedural Safeguards when:

- a parent requests an evaluation of a student or the district proposes to conduct such an evaluation;
- parents file an appeal of the 504 Team's decision (see page 9);

- a 504 Team conducts a manifestation determination (see page 11); and
- a copy of Notice of Parent and Student Rights/Procedural Safeguards is requested by a parent.

REVIEW PROCEDURES

Two review procedures are available to parents. The first is an impartial due process hearing, with respect to actions relating to the identification, evaluation or placement of their student. The Request for Due Process Hearing form is to be completed and sent to the Piper School District Section 504 Coordinator at 3130 N. 122nd Street, Kansas City, KS 66109

A hearing will be scheduled as soon as practicable, on a date established by the hearing officer. The student is entitled to have his or her parents or guardians participate in the hearing and to be represented by counsel at his/her own expense.

If either the district or the student is not satisfied with the hearing officer's decision, there is a right to appeal to federal court.

The second is a grievance procedure, which is intended to address issues not eligible for the impartial due process hearing that cannot be resolved at the building level it should be sent to the Piper School District Section 504 Coordinator at 3130 N. 122nd Street, Kansas City, KS 66109 within five (5) school days of the decision being appealed. The review by the Section 504 Coordinator may include a meeting with the student and/or parent(s), meetings with schools staff, as appropriate, and a review of the file and supporting documentation. Based on this review, the Section 504 Coordinator will make a determination in writing to grant or deny the appeal. The determination will be issued promptly and is final.

The grievance procedure may also be used to address identification, evaluation or placement issues, if parents desire. If the grievance process is elected to address any of these issues, parents retain their right to an impartial due process hearing. The impartial due process hearing procedure will not be considered an appeal of the Assistant Superintendent's determination of the grievance. Issues relating to the identification, evaluation or placement can be presented to the hearing officer, even if not raised in the grievance procedure.

THE RELATIONSHIP BETWEEN SECTION 504 AND IDEA

When comparing the relationship between Section 504 and the IDEA, it is recognized that there are similarities. For the purpose of providing information regarding the relationship, the following are the most salient differences. The list is not exhaustive.

1. All individuals who receive special education and related services under IDEA are also protected by Section 504. However, not all individuals defined as disabled under Section 504 qualify for special education under IDEA.

2. The IDEA includes thirteen (13) specific disability categories: Autism, Deaf/Blind, Developmental Disabilities, Early Childhood Disabilities, Emotional Disturbance, Hearing Impaired, Learning Disabilities, Mental Retardation, Other Health Impaired, Orthopedic Impairment, Speech/Language, Traumatic Brain Injury, and Visual Impairment. Special education eligibility under the IDEA is defined by the existence of one or more of these ***disabilities*** that result in the ***need*** for special education (specially designed instruction) and/or related services.
The Section 504 definition of a disability is much broader than the IDEA definition. A student may have a physical or mental condition that substantially limits a major life activity creating a significant limitation to access and participate in the district's programs and activities but not to the extent that establishes a need for "specially designed" instruction. The student would not, therefore, be eligible under IDEA.

3. The IDEA is a special education law requiring specially designed instruction. Section 504 is a civil rights law prohibiting discrimination based on disability.

4. The district receives some federal funds to provide IDEA services to students. The district does not receive federal funds to provide changes to policies, practices, procedures or the provision of related services that a 504 Team deems necessary for a student to gain equal access to the district's programs and activities.

5. The IDEA requires an IEP for eligible students. The IEP identifies goals for which the student will receive specially designed instruction from special education certified personnel. Section 504 requires a 504 Plan for eligible students. The 504 Plan contains changes to policies, practices or procedures (*i.e.* accommodations) or identifies related services that the student needs to gain equal access to the district's programs and activities.

6. Section 504 rights are not as detailed as under IDEA.

7. IDEA allows independent education evaluations at public expense; Section 504 does not.

DISCIPLINE

Under Section 504, students with a 504 Plan cannot be suspended or expelled from school for more than 10 consecutive school days (or a pattern cumulating to 10 school days) for misconduct that

was a manifestation of the student's disability. Whether or not the student's behavior was a manifestation of his/her disability is determined at a meeting of the 504 Team with the provision of at least 24 hours verbal or written notice of the meeting to the parent. If a student's misconduct is not a manifestation of his/her disability, the district may discipline the student as it would a general education student. Unlike the IDEA, students with a 504 Plan are not entitled to continued services during the term of their suspension or expulsion if the misconduct was determined not to be a manifestation of their disability.

COMPLAINTS OF DISCRIMINATION/HARASSMENT

Anyone who believes that the district has discriminated against or harassed a student with a disability may take the following steps to resolve their concerns:

- contact the building principal--many problems can be solved by an informal meeting with the building principal, who may also invite building members of the 504 Team to participate.
- submit a complaint to the district's Section 504 Coordinator, pursuant to Board Policy JCE

The complaint should be submitted to the district's Piper School District Section 504 Coordinator at 3130 N. 122nd Street, Kansas City, KS 66109 or by telephone, 913-721-2088.

The Section 504 Coordinator will conduct an impartial investigation of the complaint and reply in writing to the parent within ten (10) school days. If discrimination or harassment has occurred, the district will take prompt remedial action to prevent its reoccurrence and correct any discriminatory effects of the harassment on the complainant and others.

Retaliation against any individual filing a complaint or participating in the investigation of a complaint is prohibited.

Contact the OCR

At any time in the process, parents may file a complaint by contacting the United States Department of Education Office for Civil Rights, One Petticoat Lane, 1010 Walnut Street, Suite 320, Kansas City, MO 64106, Telephone: (816) 268-0550. Please keep in mind that although a parent may file a complaint with the Office of Civil Rights at any time, resolving the differences at a local level may be quicker and more productive.

Appendix A – Board Policies Board Policy JCE:

Complaints

The district is committed to maintaining a working and learning environment free from discrimination, insult, intimidation, or harassment due to race, color, religion, sex, age, national origin, or disability. Any incident of discrimination including acts of discriminatory harassment shall promptly be reported for investigation and corrective action by the building principal or the District's 504 Coordinator. Any student who engages in discriminatory conduct shall be subject to disciplinary action, up to and including expulsion from school.

Discrimination and discriminatory harassment against any student on the basis of race, color, national origin, sex, disability, or religion in the admission or access to, or treatment in the district's programs and activities is prohibited. The District's 504 Coordinator, who may be reached at 3130 N. 122nd Street Kansas City, KS 66109 or at 913-721-2088, has been designated to coordinate compliance with nondiscrimination requirements contained in Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and The Americans with Disabilities Act of 1990.

Complaints About Discrimination, Harassment, or Bullying

Any student who believes that he or she has been discriminated against, harassed, or bullied may file a complaint with the building principal, another administrator, the guidance counselor, or another certified staff member. Any school employee who receives a complaint of discrimination, harassment, or bullying from a student shall inform the student of the employee's obligation to report the complaint and any proposed resolution of the complaint to the building principal. If the building principal is the alleged harasser, the report shall be made to the district's 504 Coordinator. Any student complaint of discrimination shall be resolved under the district's discrimination complaint procedures.

Employees violating this policy will face discipline up to and including termination.

Any person, who believes that he or she has been subject to unlawful discrimination or disability harassment, may utilize the applicable complaint and resolution procedures set forth in Policy JCE, Policy JGECA or Policy KN.

Board Policy IDACC: Accommodations for Students

In accordance with the provisions of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act, the district is committed to providing students with disabilities the opportunity to participate in and benefit from its programs and activities. Accordingly, the district will make reasonable modifications to its programs and activities to accommodate otherwise qualified students with disabilities, unless such modifications would impose an undue burden on the operation of the particular program or activity or would fundamentally alter the nature or purpose

of the program or activity.

Appendix B – Standards and Procedures

I. Procedure for 504 Evaluation

- Requests for a 504 evaluation should be made to the student's teacher or principal. A 504 Team will be developed to evaluate the student to determine whether he or she is eligible for a 504 Plan.
- The district will respond to a request for a 504 evaluation within a reasonable time, not to exceed 15 school days. This response will seek written consent for the evaluation, if not already given, identify the members of the 504 Team and may request additional information the 504 Team needs to evaluate the student's eligibility for a 504 Plan.
- 504 Teams will complete evaluations within 60 school days of the date parent consent is given, unless more time is needed and written notice is given to the parent or student requesting evaluation. The written notice must identify the reason more time is needed.
- If the student was first evaluated to determine eligibility for special education, the 504 evaluation will be completed in an expedited manner, within 30 school days of the date the student was determined not to be eligible for special education or the date consent for the 504 evaluation is given, whichever is later, unless more time is needed and written notice is given to the parent or student requesting evaluation. The written notice must identify the reason more time is needed.
- Parents or students may review student records at any time before, during, or after a 504 evaluation.

II. Notice of Eligibility

- The 504 Team will notify the parent or student in writing whether the student is eligible for a 504 Plan.
- If eligible, the 504 Team will develop a 504 Plan for the student.

III. 504 Plans

- The District will obtain consent before implementing a student's 504 Plan.
- The 504 Team will review the student's 504 Plan at least annually, at a time to be determined by the 504 Team. Any necessary modifications to the 504 Plan will be discussed and made during this review meeting with the parent or student.

Appendix C – Notice of Parent and Student Rights/Procedural Safeguards (Section 504 of the Rehabilitation Act of 1973)

The following is a description of the rights granted by Section 504 of the Rehabilitation Act of 1973 for students with disabilities. The intent of the law is to keep you fully informed concerning decisions about your student and to inform you of your rights if you disagree with any of these decisions. Please keep this explanation for future reference.

DISABLED STUDENTS HAVE THE RIGHT TO:

- take part in and receive benefits from the school district's programs and activities without discrimination because of a disability.
- receive a free and appropriate public education, which may include the provision of specific accommodations (*i.e.* modification of the district's polices and/or procedures), related services and/or specially designed instruction if required to meet individual educational needs as adequately as the needs of nondisabled students are met.
- be educated with nondisabled students to the maximum extent appropriate and in facilities which are comparable to those provided to students without disabilities.
- have evaluations, educational, and placement decisions made based upon a variety of information sources, and by persons who know the student, the evaluation data, and placement options.
- have transportation provided to and from an alternate placement setting at no greater cost to the student's parents than would be incurred if the student were placed in a program operated by the district.

PARENTS OF DISABLED STUDENTS HAVE THE RIGHT TO:

- have notice of their rights under federal law.
- receive notice with respect to identification, evaluations, or placement of their student.
- examine all relevant records relating to decisions or actions regarding their student's identification, evaluations, services and/or placement.
- file a complaint related to decisions or actions by the district:

  Kansas Office for Civil Rights
  U.S. Department of Education
  One Petticoat Lane
  1010 Walnut Street, Suite 320
  Kansas City, MO 64106
  Telephone: (816) 268-0550
  Email: ocr.kansascity@ed.gov
- request an impartial due process hearing regarding their student's identification,



evaluations, educational program or placement. The parent and the student may take part in the hearing and have an attorney represent them, at their cost. Hearing requests must be made to the district ADA/Section 504 Coordinator listed below.

- file a grievance to address issues not eligible for an impartial due process hearing which cannot be resolved at the building level. The grievance procedure may also be used to address identification, evaluation or placement issues, if parents desire. The Grievance Form is to be completed and sent to the Section 504 Coordinator within five (5) school days of the decision being appealed. The review by the Section 504 Coordinator may include a meeting with the student and/or parent(s), meetings with schools staff, as appropriate, and a review of the file and supporting documentation. Based on this review, the Section 504 Coordinator will make a determination in writing to grant or deny the appeal. The determination will be issued promptly. Section 504 prohibits retaliation because an individual has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing section 504.