



Section 504 of the Rehabilitation Act of 1973 Notice of Parent/Guardian Rights and Procedural Safeguards

This is a notice of your rights under Section 504 of the Rehabilitation Act of 1973 (Section 504). Section 504 provides that "[n]o otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance . . ." Section 504 requires the Manteca Unified School District to provide a "free appropriate public education" (FAPE) to each qualified student with a disability who is in the school district's jurisdiction, regardless of the nature or severity of the disability. Under Section 504, FAPE consists of the provision of regular or special education and related aids and services designed to meet the students' individual educational needs as adequately as the needs of nondisabled students are met.

DEFINITIONS AND ELIGIBILITY

1. A student with a disability is one who:

- a. Has a physical or mental impairment that substantially limits one or more major life activities;
- b. Has a record of such an impairment; or
- c. Is regarded as having such an impairment.

However, only students qualifying under subdivision (a) are entitled to a Section 504 Service Plan under Section 504.

2. A physical or mental impairment means: any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as intellectual disabilities, organic brain syndrome, emotional or mental illness, and specific learning disabilities. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. The law does not limit eligibility to specific diseases or categories of medical conditions.

3. The term "substantially limits" shall be interpreted consistently with the findings and purpose of the Amendments to the Americans with Disabilities Act (ADA) that went into effect on January 1, 2009, and final regulations on May 24, 2011. 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.

Whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as: medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids



and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; or earned behavioral or adaptive neurological modifications.

4. 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. Section 504 also provides a non-exhaustive list of examples of "major bodily functions" that are major life activities such as the functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

LOCATION AND NOTIFICATION PROCEDURES

1. The District shall annually undertake reasonable measures to locate and identify every qualified disabled student residing within the District's jurisdiction and to notify those students and their parent/guardian of the right to a FAPE under Section 504.
2. Location and notification procedures may include the District's annual notice, personal contacts, posting of notices, and communications with public and private community agencies.

IDENTIFICATION AND REFERRAL PROCEDURES

1. Any student may be referred, by parent, guardian, teacher, counselor, related service provider, other school staff, and/or community agency.
2. Based upon a review of relevant and available information regarding the student referred the District shall determine whether an evaluation under Section 504 is appropriate. The District shall evaluate any student who is suspected of having a disability within the meaning of Section 504.
3. If the request for Section 504 evaluation is denied, the District will inform the parent/guardian of the decision in writing, including a copy of Section 504 parent/guardian rights and procedural safeguards.
4. If the District determines a Section 504 evaluation is appropriate, the team will forward a Section 504 evaluation plan requesting consent for evaluation of the student to the parent/guardian, including a copy of the District's notice of parent/guardian rights and procedural safeguards.

EVALUATION, ELIGIBILITY AND PLACEMENT DETERMINATIONS

1. The evaluation of students suspected of having a disability under Section 504 will be carried out by qualified evaluators selected by the District, free of charge to parent/guardian.
2. When selecting tests and other evaluation materials, the District will ensure that they are: validated for the specific purpose for which they are used; administered by trained personnel in conformance with the instructions provided by their producer; tailored to assess specific areas of educational need and not merely those which are designed to



provide a single general intelligence quotient; and administered so as best to 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 or 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).

3. The District may administer and use formal and informal measures as deemed necessary. If the team is going to conduct formal evaluation, interviews and/or observations in order to determine eligibility, then the team must obtain informed and written consent from the parent/guardian before the student is evaluated.
4. Once the evaluation is completed, the District will schedule a Section 504 meeting to consider the results of the evaluation; and the student's Section 504 team will determine whether the student is eligible under Section 504 by deciding whether the student has a physical or mental impairment that substantially limits one or more major life activities at school. A Section 504 team meeting shall be convened within a reasonable time period of receiving the parent/guardian's consent for evaluation.
5. The Section 504 team is made up of a group of individuals, including persons knowledgeable about the student, the meaning of the evaluation data being considered, and placement options. The team will generally include the student's parent/guardian, the Site Section 504 Chairperson, and at least one of the student's general education teachers. The team may also include: other teachers, an individual who can interpret the instructional implications of the evaluation results, counselor, related service provider(s), the student, other school staff, and/or individuals who have knowledge or special expertise regarding the student.
6. No final determination of whether the student will or will not be identified as a student with a disability within the meaning of Section 504 will be made without first inviting the parent/guardian of the student to participate in a Section 504 team meeting concerning such determination. The parent/guardian will receive reasonable notice of all Section 504 team meetings.
7. If the Section 504 team finds the student ineligible under Section 504, this decision shall be documented in notes of the Section 504 team meeting.
8. For students who are determined to be eligible under Section 504 the team shall develop a Section 504 Service Plan.
9. The Section 504 Service Plan will describe the regular or special education and related aids and services, including accommodations and/or modifications that are designed to meet the individual needs of the student as adequately as the needs of a nondisabled student.
10. The parent/guardian must consent to the student's initial Section 504 Service Plan prior to the implementation of the plan; however, they do not need to consent to future changes in services in order for those changes to take place. Parents also have the right to revoke consent to eligibility for a Section 504 Service Plan at any time. Revoking consent shall serve to exit the student from a Section 504 Service Plan. Students who are eligible under Section 504 do not have a right to "stay put" in cases when a dispute arise.



11. A student with a Section 504 Service Plan shall be educated in the least restrictive environment, which is with non-disabled students to the maximum extent appropriate.
12. The parent/guardian shall be provided with a copy of each Section 504 Service Plan developed for the student.

REVIEW OF STUDENT PROGRESS

1. The Section 504 team will meet annually and when needed to review the progress of the student with a disability and the effectiveness of the student's Section 504 Service Plan to determine whether the Service Plan is appropriate and that the needs of the student with a disability are being met as adequately as the needs of nondisabled students.
2. Should a parent/guardian request a Section 504 team meeting, the District will convene one within a reasonable time of the receipt of the request.
3. Eligible students will be re-evaluated periodically to determine their continued eligibility and need for accommodations and services. Additionally, prior to any significant change in placement, including exit from a Section 504 Service Plan and possibly due to removals for a violation of a code of student conduct as discussed in the "discipline" section below, a re-evaluation of the student's needs will be conducted. The parent/guardian will receive reasonable notice of any Section 504 team meeting convened to propose a significant change in placement.
4. The Section 504 team may also determine that the student no longer qualifies for or needs a Section 504 Service Plan. If the Section 504 team so determines, the record of the Section 504 team meeting will state the basis for the team's decision.

DISCIPLINE

1. Students who have a Section 504 Service Plan may be suspended expelled or placed in an alternative interim setting, to the same extent these options would be used for students without disabilities for up to ten (10) school days, per school year. School personnel may consider any unique circumstances on a case-by-case basis when determining whether a disciplinary removal is appropriate for a student with a Section 504 Service Plan who violates a code of student conduct.
2. When a student with a Section 504 Service Plan is removed from his or her current placement for a violation of a code of student conduct for more than ten (10) cumulative school days in the same school year, during any subsequent removal, the student is entitled to a manifestation determination within ten (10) school days of the District's decision.
3. The student's parent/guardian must be invited to participate as a member of this manifestation determination meeting. This meeting shall also include all relevant members of the student's Section 504 team. At this meeting, the team will determine (based upon a review of all relevant information in the student's file, including the student's Section 504 Service Plan, any teacher observations, and any relevant information provided by the parent/guardian):
 - a. Whether the conduct in question was caused by, or had a direct and substantial relationship to the student's disability; or,



- b. Whether the conduct in question was the direct result of the District's failure to implement the students' Section 504 Service Plan.
4. If the manifestation determination team answers "yes" to either question, the alleged misconduct shall be determined to be a manifestation of the student's disability and the District may not take disciplinary action against the student. If the behavior is a manifestation of the student's disability, the team needs to determine if the Section 504 Service Plan should be revised and make the necessary changes.
5. If the manifestation determination team answers "no" to both questions, the alleged misconduct shall be determined not to be a manifestation of the student's disability and the District may take disciplinary action against the student in the same manner as it would with a student without disabilities.
6. Regardless of whether the student's behavior was a manifestation of his or her disability or not, the manifestation determination team must conduct a functional behavior assessment, unless the District has conducted one previously. The team must also develop a behavior intervention plan or, if one has already been developed, review and modify, as necessary, the behavior intervention plan to address the behavior in question so that it does not recur.

PROCEDURAL SAFEGUARDS

1. The parent/guardian shall be provided with a copy of these parent/guardian rights and procedural safeguards with each proposal to evaluate the student, at each meeting of the Section 504 team (including a manifestation determination), upon a change of placement for a violation of a code of student conduct, with each written notice addressing a refused or proposed action related to the parent/guardian procedural rights and safeguards, and with the notification of the date, etc. related to a Section 504 due process hearing described at Level Four below.
2. The parent/guardian shall be notified in writing of all actions regarding the identification, evaluation, or educational placement pursuant to Section 504. This written notification may be provided through the Section 504 Service Plan and/or Service Plan notes and need not always be a separate form of writing.
3. All written correspondence to parent/guardian shall be provided in English and/or translated into the primary language of the home at the request of the parent/guardian. If translation of written correspondence is requested, the District shall provide said translation within a reasonable time period of the receipt of parent/guardian's request.
4. The parent/guardian has the right to examine the student's relevant records in accordance with District Board Policy and Administrative Regulation 5125.
5. If a parent/guardian disagrees with the identification, evaluation, or educational placement of a student with a disability under Section 504, he or she may initiate the following procedures. The parent/guardian is encouraged to utilize Levels One, Two, and Three, but he/she may proceed directly to Level Four if he or she so chooses. A request for the procedures described herein shall be provided to: District Section 504 Administrator, Manteca Unified School District, P.O. Box 32, Manteca, CA 95336; Phone: (209) 858-0837; Fax: (209) 858-7530.



6. The District's Section 504 dispute resolution process is as follows:
- a. If the parent/guardian wishes to participate in a Level One through Level Three dispute resolution process, he/she must provide the District with a written request for a Level One or Level Three dispute resolution process within ninety (90) calendar days of the event (e.g., a Section 504 team meeting) with which the parent/guardian disagrees.
 - i. **LEVEL ONE:** In writing, the parent/guardian may request a meeting with the Section 504 team in an attempt to resolve the disagreement. This meeting shall be held within a reasonable time period after receiving the parent/guardian's request.
 - ii. **LEVEL TWO:** If the disagreement continues, within ten (10) calendar days of the Level One meeting, the parent/guardian may request, in writing, a meeting with the District Section 504 Administrator for Manteca Unified School District. This meeting shall be held within a reasonable period of time after receiving the parent/guardian's request.
 - iii. **LEVEL THREE:** Within ten (10) calendar days of the Level Two meeting or, if the parent/guardian wishes to skip Level One and Level Two and proceed directly to Level Three within ninety (90) calendar days of the event with which the parent/guardian or District disagrees, the District or the parent/guardian may request, in writing, to pursue dispute resolution through mediation. Mediation shall be voluntary. If both parties agree to mediation, the mediation shall be held within a reasonable period of time after receiving the request. The District shall choose the neutral mediator; and, the cost of the mediator, if any, shall be paid by the District.
 - iv. **LEVEL FOUR:** If the disagreement is not resolved through Level One through Level Three above, or if parent/guardian chooses to proceed directly to Level Four, the parent/guardian may request a Section 504 due process hearing by an impartial hearing officer within one hundred eighty (180) calendar days of the event (e.g., a Section 504 team meeting) with which the parent/guardian disagrees. The District shall choose the impartial hearing officer and the cost of the hearing officer, if any, shall be paid by the District.
 - The steps involved in initiating a Section 504 due process hearing are as follows:
 - Submit a request in writing for a Section 504 due process hearing to the District's Section 504 Administrator, Manteca Unified School District, P.O. Box 32, Manteca, CA 95336; Phone: (209) 858-0837; Fax: (209) 858-7530.
 - The request shall include:
 - A statement requesting a Section 504 due process hearing.
 - The specific nature of the decision(s) made by the Section 504 team with which the parent/guardian disagrees.
 - The specific relief the parent/guardian seeks through the Section 504 due process hearing.



- Any other information the parent/guardian believes will assist in understanding the reason(s) for the due process hearing request.
- v. Within a reasonable time following the District's receipt of a written request for hearing, the District will select the impartial hearing officer and inform parent/guardian in writing of the hearing date, time, place; name of the hearing officer; due process hearing timelines; and notice of parent/guardian rights and procedural safeguards. The due process hearing shall take place at least twenty (20) calendar days from the date the parent/guardian is provided with notification of this information.
- vi. Within thirty (30) calendar days of the completion of the Section 504 due process hearing, the hearing office shall issue a written decision to the District and parent/guardian. This decision shall include findings of fact, conclusions of law, and a decision. This timeframe may be extended by mutual agreement of both parties.
 - Either party may seek review of the hearing officer's decision by timely filing an appeal with a court of competent jurisdiction.
- vii. Both the parent/guardian and District shall have the following rights at a Section 504 due process hearing:
 - The right to participate in the due process hearing.
 - The right to be accompanied and represented by legal counsel. However, if an advocate or other non-attorney representative is working with the parent/guardian, this individual may only advise the parent/guardian at the due process hearing and may not represent the parent/guardian. This includes that the advocate or other non-attorney representative may not interact with the hearing officer and/or question witnesses.
 - The right to receive of notice from the other party, at least ten (10) calendar days prior to the hearing, that they will utilize the services of an attorney. Without a showing of good cause, failure to meet this timeline will result in legal counsel being barred from the due process hearing.
 - The right to receive evidence to be utilized at the due process hearing at least five (5) calendar days prior to hearing. Without a showing of good cause, failure to submit evidence to the other party in accordance with this timeline will result in the evidence being barred from the due process hearing.
 - The right to present evidence, written and oral, during the due process hearing.
 - The right to produce outside expert testimony during the due process hearing.
 - The right to a written or electronic verbatim record of the hearing prepared at the expense of the party requesting such record. For this purpose, the hearing officer shall audio-record the Section 504 due process hearing.



MANTECA UNIFIED SCHOOL DISTRICT

| Department of Health Services

- In cases where an interpreter is needed, one shall be provided by the District. This interpreter may be a District employee.
 - The parent/guardian involved in the hearing will be given the right to:
 - Have the student present at the hearing; and,
 - Open the hearing to the public, but not the press.
 - Reimbursement of parent/guardian attorneys' fees, expert witness fees, and other costs are available only as authorized by law.
7. Parents/guardians have the right to file a complaint regarding an alleged violation of Section 504 with the United States Department of Education's Office for Civil Rights (OCR). Additional information regarding OCR's complaint process is available at: <http://www2.ed.gov/about/offices/list/ocr/docs/howto.html>.
8. For information regarding a student's right to be protected from discrimination, including grievance procedures, please refer to District Board Policy 0410, Non-Discrimination in District Programs and Activities.
9. The school Section 504 Site Chairperson is _____. Should the parent/guardian have any concerns or questions about his/her parent/guardian rights and procedural safeguards pursuant to Section 504, the parent/guardian may contact this individual at _____. If an issue cannot be resolved at the school site level and should the parent/guardian wish to discuss the matter further, the parent/guardian may contact the District Section 504 Administrator at Manteca Unified School District, P.O. Box 32, Manteca, CA 95336 or call (209) 858-0837.

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