Section 504 of the Rehabilitation Act of 1973

Bismarck Public Schools 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. The Board designates the Human Resources Director as the 504 Coordinator to ensure compliance with applicable laws and policy. The 504 Coordinator may be contacted at 701-323-4000 or 128 Soo Line Drive, Bismarck, ND 58501.

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.

Qualified Student Determination

Section 504 covers qualified students with disabilities who are determined to have a physical or mental impairment that substantially limits one or more major life activities; have a record of such an impairment. Qualified students who have an impairment that substantially limits a major life activity must be provided a "free appropriate public education" (FAPE) as defined under Section 504. Determinations regarding a "qualified student" are made based on individual inquiry in accordance with Section 504 regulations. Qualified students remain eligible for Section 504 protections for as long as their impairment substantially limits their ability to learn or any other major life activity.

Establishing a Section 504 Team

The District may request supporting documentation from a treating provider for a Section 504 evaluation as identified under this policy and accompanying regulations. Providing documentation is not a precondition for evaluation, but documentation may be informative in the evaluation and placement processes. In identifying, evaluating, and placing qualified students, the Section 504 Coordinator may convene a team of individuals who are knowledgeable about the student, which may include, but is not limited to, the Coordinator, administrator(s), teacher(s), school specialists, other relevant staff, parents/guardians, and, if appropriate, the qualified student. Following the eligibility determination, the 504 team shall convene to develop a Section 504 plan, or other appropriate individualized program or plan as outlined under this policy.

Section 504 Plan

The Section 504 team may develop a Section 504 plan, or other appropriate individualized program or plan, focused on providing accommodations a qualified student needs to receive FAPE in accordance with Section 504. District employees must implement the provisions of a student's Section 504 or other plan when the plan governs the employee's treatment of students for whom they are responsible. The 504 team may provide teachers and staff with support and strategies for helping qualified students and for implementing 504 and other plans.

If a student with a disability transfers to the District from another school district with a Section 504 plan, the District will review the plan and supporting documentation. If the District's 504 team, including persons knowledgeable about the meaning of the evaluation data and knowledgeable about the placement options, determines the qualified student's incoming plan is appropriate, the District will implement the plan. If the District determines the plan is inappropriate, the District will evaluate the student consistent with Section 504 procedures and the district's policies and regulations and determine which educational program is appropriate for the student. If a transferring student has an individualized education program (IEP) in place, the District will implement the IEP during the interim period when additional evaluation may occur in accordance with Section 504 and/or the IDEA.

Free Appropriate Public Education (FAPE)

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. The District will implement the individualized education program (IEP) of a student who also qualifies under the Individuals with Education Act (IDEA) when providing the education and related aid required for the student in compliance Section 504. The District may also place or refer a qualified student for aid, benefits, or services other than those the District operates or provides as the district's means of carrying out FAPE.

Educational Setting

1. Academic 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 consider 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.

2. Nonacademic Settings

In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and other services and activities covered under law (e.g., counseling services, recreational activities, transportation, special interest groups or clubs, student employment, etc.), the District shall ensure that qualified students with disabilities participate with non-disabled students in such activities and services to the maximum extent appropriate to the needs of the qualified student in question.

3. 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.

Child Find Obligations – Evaluation and Placement

Section 504 imposes "child find" obligations on the District to identify and locate every qualified student with a disability residing in the district's jurisdiction who is not receiving a public education. The District must also evaluate students with known or suspected disabilities who may need special education or related services.

To this extent, the District shall conduct an initial evaluation (with parental consent at the time of 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 AACA-AR. Placement decisions shall be made in compliance with educational setting requirements. The District is ultimately responsible for providing accommodations and placements in accordance with Section 504 requirements. Parent input will be considered during the 504 team meeting and 504 planning processes.

The District shall periodically re-evaluate students who are provided special education or related services, and prior to a significant change in placement as defined under Section 504.

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 District will also obtain parent or guardian consent for initial evaluations. However, if the District suspects a student needs, or is believed to need, accommodations or services under Section 504 and parental/guardian consent is withheld, the District may use due process hearing procedures to override the parental/guardian denial of consent for initial evaluation.

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-AR) or through state or federal law.

Non-Academic Services

The District shall provide non-academic 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.

Complementary Documents

- AAC, Nondiscrimination and Anti-Harassment
- AAC-AR1, 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

Legal References

- 20 U.S.C. § 1400 et esq., Individuals with Disabilities Education Act
- 29 USC § 794, Nondiscrimination Under Federal Grants and Programs
- 34 C.F.R. § 300.101, Free Appropriate Public Education
- 43 C.F.R. Part 104, Section 504 of the Rehabilitation Act of 1973
- NDCC § 15.1-32, Special Education

End of Bismarck Public School District Administrative Policy AACA Adopted: 7/15/2015
Revised: 7/1/2026