FLORIDA STATE UNIVERSITY SCHOOLS

POLICY MANUAL

STUDENTS

CHAPTER 5.0

5.51
SECTION 504/ADA PROHIBITION AGAINST DISCRIMINATION BASED ON DISABILITY RELATED TO THE EDUCATION OF STUDENTS WITH DISABILITIES

I. Pursuant to Section 504 of the Rehabilitation Act of 1973 ("Section 504"), the Americans with Disabilities Act of 1990, as amended ("ADA"), and the implementing regulations (collectively known as "Section 504/ADA"), no otherwise qualified individual with a disability shall, solely by reason of his/her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. The School Board does not discriminate in admission or access to, or participation in, or treatment, its educational programs or activities for students. As such, the Board's policies and practices will not discriminate against students with disabilities, and will make accessible to qualified individuals with disabilities its facilities, programs, and activities. No discrimination will be knowingly permitted against any individual with a disability on the sole basis of that disability in any of the programs, activities, policies, and/or practices in the district.

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II. Definitions

A. **A student with a disability-** As used in this policy and the implementing administrative procedures, "a student with a disability" means a student who has, had a record of, or is regarded as having, a physical or mental impairment that substantially limits one or more major life activities. Major life activities are functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, eating, sleeping, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. An impairment that is episodic in nature or in remission is considered a disability if it would substantially limit a major life activity when active.

B. **Major life activities-** Major life activities also include the operation of a major bodily function, including, but not limited to, functions of the immune system,

normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

III. The determination of whether an impairment substantially limits a major life activity:

A. must be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, equipment or appliances, low-vision devices (not including ordinary eyeglasses or contact lenses), prosthetics (including limbs and devices), hearing aids and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy equipment or supplies, assistive technology, reasonable accommodations or auxiliary aids or services, or learned behavioral or adaptive neurological modifications.

IV.

A. Notwithstanding the preceding, for purposes of programs and activities, providing educational services, FSUS Leon may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student who is an individual with a disability and who currently is engaging in the illegal use of drugs or in the use of alcohol to the same extent that such disciplinary action is taken against students who are not individuals with disabilities.

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V. Compliance Officer(s)

A. The Program Specialist for Section 504 is FSUS Leon's Section 504 Compliance Officer. The 504 Program Specialist is responsible for coordinating FSUS Leon's efforts to comply with and fulfill its responsibilities under Section 504 and Title II of the Americans with Disabilities Act ("ADA") and under this policy. A copy of the Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as amended, including copies of their implementing regulations, may be accessed on FSUS Leon's website.

B. The 504 Program Specialist will oversee the investigation of any complaints of discrimination of a student based on disability, which may be filed pursuant to the Board's adopted grievance procedure, and will attempt to resolve the grievances.

C. The Board will provide for the prompt and equitable resolution of complaints alleging violations of Section 504/ADA.

D. The 504 Program Specialist in conjunction with building principals will also oversee the training of employees in FSUS Leon so that all employees understand student rights and employee responsibilities under Section 504 and the ADA, and are informed of the Board's policies, administrative procedures and practices with respect to fully implementing and complying with the requirements of Section 504/ADA.

VI. Education of Students with Disabilities

A. The Board is committed to identifying, evaluating, and providing a free appropriate public education (FAPE) to students within its jurisdiction who are disabled within the definition of Section 504, regardless of the nature or severity of their disabilities.

B. Such education will be provided to these individuals with persons who are not disabled to the maximum extent appropriate. Generally, FSUS Leon will place a person with a disability in the regular educational environment unless it is demonstrated that the education of the person in the regular environment even with the use of supplementary aids and services cannot be achieved satisfactorily. In accordance with Section 3.03 of the FSUS Charter, when a 504 team determines that a student's needs cannot be fully met, the student shall be withdrawn from FSUS and re-enrolled in their home zone school that can provide the appropriate programs and services.

C. FSUS Leon will not discriminate against otherwise qualified students with disabilities (i.e., students who otherwise meet eligibility criteria – e.g., age - for participation in the educational program and/or activities) in the provision of its educational programs and activities. FSU Leon further will provide a free appropriate public education to qualified students with disabilities. Said education shall entail the provision of regular or special education and related aides and services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of non-disabled students are met. This includes providing academic and non-academic services to students with disabilities in the same setting as their non-disabled peers to the maximum extent appropriate.

In addition to its provision of educational services, the Board will not discriminate against otherwise qualified students with disabilities in its provision of non-educational academic and extra-curricular services and activities such as counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by FSUS Leon, referrals to other agencies that provide assistance to persons with disabilities, and employment of students, and will provide students with disabilities an equal opportunity to participate in such services and activities. Qualified students with disabilities will be afforded accommodations/modifications/interventions to FSU Leon's non-academic and extra-curricular services and activities, unless such accommodations/modifications/interventions would impose an undue financial burden or would alter the fundamental nature or purpose of the service or activity.

A determination that a particular accommodation/modification/intervention would constitute an undue burden must be made by the Director or his/her designee after considering all resources available for use in the funding and operation of the service or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. In the event the Director or his/her designee determines that an undue burden would result, FSU Leon will take any other action that would not result in such burden but would still allow, to the maximum extent possible, individuals with disabilities to receive the benefits of the FSU Leon's non-academic and extra-curricular services and activities on an equal basis as individuals without disabilities.

D. With respect to public preschool, elementary and secondary educational services, a qualified person with a disability means a disabled person:

1. who is of an age during which nondisabled persons are provided educational services;

2. who is of any age during which it is mandatory under Florida law to provide educational services to disabled persons; or

3. to whom the State is required to provide a free appropriate public education pursuant to the Individuals with Disabilities Education Improvement Act (IDEIA).

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VII. Eligibility and Need for a Section 504 Plan

A. An appropriate education may include regular or special education and related aids and services to accommodate the unique needs of students with disabilities. For disabled students who are not eligible for specially designed instruction under IDEA, the related aids and services (including accommodations/modifications/interventions) they need in order to have their needs met as adequately as the needs of nondisabled students are met, shall be delineated, along with their placement, in a Section 504 Plan.

VIII. Referral

A. Referrals may be made by anyone (e.g., parents, teachers, or other knowledgeable professionals). Referrals shall be made to the 504 contact at each school level.

B. Generally, a staff member should refer a student for an evaluation under Section 504 if they suspect that the student not only has a mental or physical impairment but also suspects that an impairment substantially limits one or more major life activities. Upon referral, the 504 team will follow the process that leads to an eligibility or ineligibility determination of Section 504.

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IX. Evaluation

A. Before any action is taken with respect to providing Section 504 accommodations for a student with a disability, an evaluation shall be conducted or assessment information reviewed to determine if the student is disabled under Section 504. Parents will be afforded the opportunity to meaningfully participate and provide input in the evaluation process. The assessment information may include, but will not be limited to, medical reports that document a physical/mental impairment, aptitude and achievement test scores, teacher observations, behavioral observations, and other data including information on social or cultural background and adaptive behavior. The information obtained from all such sources shall be documented and carefully considered.

X. Reevaluations

A. Reevaluations are not required at specific intervals; however, assessments will be updated so that eligibility and accommodation planning, as appropriate is based on information that accurately defines the student's disability and reflects

the student's current strengths and needs. Periodically, reevaluations and/or Plan reviews will be conducted as warranted. Appropriate school staff should determine whether updated evaluations are needed. A reevaluation will be completed prior to a significant change in placement. When a reevaluation is needed, parents will be contacted and provided a Notice of Rights for Disabled Students and their Parents Under Section 504 of the Rehabilitation Act of 1973.

B. Consistent with initial evaluations, parents will be afforded the opportunity to meaningfully participate and provide input in the reevaluation process for the team to review and consider.

XI. Section 504 Plan

A. If a student is identified as disabled pursuant to Section 504, and the 504 Team determines the student requires accommodations/modifications/interventions in order to receive FAPE and to access FSU Leon's programs and activities on an equal basis to students without disabilities, the 504 Team will develop and complete the Section 504 Plan in the Student Information System. The Plan will specify the accommodations/modifications/interventions necessary so that the student's needs are met as adequately as the needs of nondisabled students. The purpose of the Section 504 Plan is to provide the student with equal access to school activities, to remove barriers to educational opportunity, and provide level footing with nondisabled peers.

B. The 504 Team will include persons knowledgeable about the student. If appropriate, the team will develop a Plan for the student. A copy of the Plan will be accessible on FSU Leon's Student Information System. Parents, as part of the team, will be full participants in the Plan development process and provided a copy of the final Plan. If the parents do not attend the meeting to develop a Section 504 Plan, FSU Leon will make reasonable efforts to obtain parental input prior to finalizing the plan. Parents or the adult student will be provided with a copy of the Notice of Rights for Disabled Students and their Parents Under Section 504 of the Rehabilitation Act of 1973.

XII. Parents' Options If They Disagree with the District's Identification, Evaluation, and/or Placement of Their Child

A. The parents may challenge FSU Leon's actions regarding identification, evaluation or placement of their child by filing a request for an impartial due process hearing. Alternatively, the parents may file an internal complaint. If the

parents elect the former, the Board must provide a due process hearing before an impartial hearing officer ("IHO") that is not employed by FSU Leon. In addition, parents also have the right to file for court proceedings in a court of competent jurisdiction.

B. The parents may also file a complaint with the Office for Civil Rights, US Department of Education through their online portal.

XIV. Procedural Safeguards and Due process

A. The Board will provide for the prompt and equitable resolution of complaints alleging violations of Section 504/ADA. The Board will further establish and implement a system of procedural safeguards in accordance with Section 504 including the right to an impartial due process hearing.

XV. Facilities

A. No qualified person with a disability will, because FSUS Leon's facilities are inaccessible to or unusable by persons with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which Section 504/ADA applies.

B. For facilities constructed or altered after June 3, 1977, FSU Leon will comply with applicable accessibility standards. For those existing facilities constructed prior to June 3, 1977, the is committed to operating its programs and activities so that they are readily accessible to persons with disabilities. This includes, but is not limited to, providing accommodations to parents with disabilities who desire access to their child's educational program or meetings pertinent thereto. Programs and activities will be designed and scheduled so that the location and nature of the facility or area will not deny a student with a disability the opportunity to participate on the same basis as students without disabilities.

XVI. Mobility Devices

A. The Board shall permit the use of power-driven mobility devices by individuals with mobility disabilities, unless it can be demonstrated that the class of power-driven mobility devices cannot be operated in accordance with legitimate safety requirements that the Board has adopted pursuant to Section 35.130(h) of Section 504/ADA.

B. A public entity shall not ask an individual using a wheelchair or other power-driven mobility device questions about the nature and extent of the individual's disability. A public entity may ask a person using another power-drive mobility device to provide a credible assurance that the mobility device is required because of the person's disability.

XVII. Training

A. The Board will provide in-service training and consultation to staff on the education of persons with disabilities, as necessary and appropriate.

XVIII. Prohibition Against Retaliation

A. The Board will not discriminate against, coerce, intimidate, threaten, or interfere with any individual because the person opposed any act or practice made unlawful by Section 504 or the Americans with Disabilities Act ("ADA"), or because that individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under Section 504 or the ADA, or because that individual exercised, enjoyed, aided, or encouraged any other person in the exercise or enjoyment of any right granted or protected by Section 504 or the ADA.

STATUTORY AUTHORITY: 1001.41, 1001.42, F.S.

LAW(S) IMPLEMENTED: **42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, 29 U.S.C. 794, Section 504 Rehabilitation Act of 1973, as amended, 29 C.F.R. Part 1630 34 C.F.R. Part 104**

STATE BOARD OF EDUCATION RULE(S): 6A-6.0251, 6A-6.0252, 6A-6.0253

STATE DEPARTMENT OF HEALTH RULE(S): 64F-6.004

HISTORY:

ADOPTED:

REVSION DATE(S):

FORMERLY: