

*North Dakota Department of Public Instruction
Dr. Wayne G. Sanstead, State Superintendent*



SECTION 504

SUBPART D

Guidelines

for Parents and

Educators

2010

CIVIL RIGHTS STATEMENT: *In accordance with all regulations, guidelines and standards adopted by the US Department of Education, the US Department of Agriculture and the ND Human Rights Act, the ND Department of Public Instruction prohibits discrimination on the basis of age, gender, race, color, religion, national origin, status with regard to marriage or public assistance, disability or political beliefs. All divisions of the Department of Public Instruction will insure that no one is denied participation in, or denied the benefits of, or subjected to discrimination under any department program or activity.*

Equal education opportunity is a priority of the ND Department of Public Instruction.

A *Parent and Educator Primer to Section 504* provides general information and describes the requirements of Section 504 of the Rehabilitation Act of 1973—Subpart D with respect to preschool, elementary, and secondary school involving services for identified children with physical and mental disabilities.

This pamphlet is designed specifically to give parents and educators information to help understand 504 services/ accommodations under Subpart D of the regulations.

WHAT IS SECTION 504?

Section 504 is the part of the Vocational Rehabilitation Act of 1973 that applies to individuals with disabilities. **Section 504 is a nondiscrimination law, prohibiting discrimination based solely on a person’s disability.**

REQUIREMENT

Section 504 requires that no person with a disability can be excluded from or denied benefits of any program receiving federal financial assistance; this includes education.

SECTION 504 COORDINATOR

All schools should have a Section 504 Coordinator to answer questions regarding Section 504 issues.

HISTORICAL BACKGROUND

For many years, schools thought their main obligation was ensuring physical access to public buildings (e.g., ramps were installed, curbs were cut, elevators were added to multilevel buildings, restroom stalls were enlarged). With passage of the Vocational Rehabilitation Act of 1973, Congress required that schools and other

agencies make their programs and activities accessible and usable to all individuals with disabilities.

Within the last several years, the Office for Civil Rights (OCR) has become active in assisting schools in further defining “access.” The definition of access means more than physical access; an identified student may require special accommodations, such as modified assignments in order to benefit from his/her education.

HOW ARE STUDENTS IDENTIFIED FOR ACCOMMODATIONS?

A student is identified for accommodations/services under Section 504 *if the student has a mental or physical impairment that substantially limits one or more of a student's major life activities.* This is determined through an evaluation, and the decision is made by a school Section 504 team, including the parents.

“Major life activities” include but are not limited to functions such as walking, breathing, learning, reading, concentrating, thinking, communicating, seeing, speaking, caring for one’s self, working, helping, eating, sleeping, standing, lifting, bending, and operation of a bodily function.

In order to determine if a student is identified for Section 504 accommodations or services, the student must be evaluated by a school team of individuals who are familiar with the student and knowledgeable about the disability. Parents should provide input as part of the evaluation. The results will be shared at a team meeting in which you are involved. In making the determination of whether a student has a physical or mental impairment that substantially limits a major life activity, schools must

not consider the effects of mitigating measures. For example, medication and hearing aids.

DOES SECTION 504 REQUIRE EVALUATIONS?

Section 504 requires that a school evaluate any student who, because of a disability, might need services and/or accommodations. An evaluation is also required prior to any significant change in the student's educational placement. It is important to also conduct a re-evaluation periodically.

If it is determined that a student is disabled under Section 504, the school must develop and implement all needed accommodations/services agreed by the Section 504 committee. The parent should be a member of this committee.

STUDENTS WITH SPECIAL HEALTH CARE NEEDS

Many students identified for Section 504 accommodations have special health care needs; conditions could include, but are not limited to, asthma, Tourette syndrome, attention deficit disorder (ADHD), heart malfunctions, communicable diseases, urinary conditions, blood disorders, chronic fatigue syndrome, school phobia, respiratory conditions, epilepsy, cancer, birth defects, or tuberculosis. These students might need an Individualized Health Care Plan and/or Emergency Plan, which will be the Section 504 plan.

ACCOMMODATIONS/SERVICES

The determination of what services and accommodations are needed is based upon an evaluation and must be made by a group of persons knowledgeable about the student and also about the disability. This usually involves the

school principal, classroom teacher(s), and other educators working with your child. *The parent should be included in the process.* The decisions about Section 504 identification and services should be documented in the student's file and reviewed periodically.

WHAT DOES MAKING ACCOMMODATIONS MEAN?

Accommodations are made by the classroom teacher(s) and other school staff to help students benefit from their educational program. A written plan will be developed outlining accommodations/services.

EXAMPLES OF ACCOMMODATIONS

Allow extra time to complete assignments and tests.

- Modify assignments and tests.
- Provide an extra set of textbooks for home.
- Adjust student seating.
- Use study guides and organizing tools.
- Provide a peer tutor/helper.
- Provide school counseling.
- Have the student use an organizer—train in organizational skills.
- Provide preferential seating.
- Modify recess/PE/transportation.

Example

The following is an example of a student who has been identified for Section 504 and the accommodations/services provided by the school:

A student has been diagnosed as having asthma. The doctor has advised the student not to participate in physical activity outdoors. The disability substantially limits the major life function of breathing. The school is required to make accommodations in the education program.

Possible Accommodations

- Modified activity level for recess, physical education, etc.
- Use of air purifier
- Avoidance of allergens
- As necessary, medication administration
- Access to water, gum, etc.
- Curriculum considerations (science class, PE, etc.)
- Time of year—bus transportation in winter
- Health care and emergency plan

The school should develop a written Section 504 plan describing the accommodations/services. Service decisions must be based on evaluation information and student needs.



WHAT ARE THE SCHOOL RESPONSIBILITIES UNDER SECTION 504?

It must be emphasized that Section 504 should fall under the management responsibility of the general education program. The school staff and parents need to work in collaboration to help guarantee that the student is provided with the necessary accommodations/services.

To be in compliance with Section 504, schools must do the following:

1. Provide written assurance of nondiscrimination.
2. Designate a 504 Coordinator.
3. Provide grievance procedures to resolve complaints.
4. Provide notice of nondiscrimination in admission or access to its programs or activities. Notice must be included in a student/parent handbook.
5. Identify and locate annually all qualified students with disabilities who are not receiving a public education.
6. Notify annually persons with disabilities and their parents or guardians of the school's responsibilities under Section 504.
7. Provide parents or guardians with procedural safeguards.
8. Conduct a self-evaluation of school policies, programs, and practices to make sure discrimination is not occurring.

**WHAT ARE SOME SUGGESTED
RESPONSIBILITIES OF THE PARENTS?**

1. Share your concerns with the school early before they become major problems.
2. Be involved in Section 504 meetings concerning your child.
3. Assist in developing appropriate accommodations for your child.
4. Encourage your child to cooperate with school staff and do his/her best.
5. Collaborate with other agencies, such as vocational rehabilitation, when appropriate.
6. Use mediation or the school grievance procedure as options if a difference cannot be resolved with the school.

**WHAT ARE SOME SUGGESTED
RESPONSIBILITIES OF THE STUDENT?**

1. Be involved at Section 504 meetings, when appropriate.
2. Be familiar with your Section 504 rights at postsecondary programs before graduating from high school.
3. Cooperate and put forth maximum effort at school.

**WHAT IS THE ROLE OF THE
SECTION 504 COORDINATOR?**

The role of the Section 504 Coordinator is to assist the school in meeting requirements under Section 504 of the Rehabilitation Act of 1973.

The Coordinator will provide resources and help educators and administrators regarding their responsibilities under Section 504. In addition, the

Coordinator will assist in creating an ongoing program that will support accommodating students' needs. *If you have questions regarding Section 504, call the school Section 504 Coordinator.*

WHAT ARE SOME DIFFERENCES BETWEEN SPECIAL EDUCATION AND SECTION 504?

<u>Issue Type</u>	<u>Section 504</u> Civil Rights	<u>Special Education</u> Education
Responsibility	General Education	General/Special Education
Funding	School funding	State/federal/local funding
Administration	Section 504 Coordinator Coordinator	Special Education Director
Service Tool	Accommodation Plan	Individualized Education Program
Disabilities	Could include any physical or mental disability that substantially limits a major life activity.	13 qualifying categories
Parents	Should be involved in all team meetings	Must be involved in all team meetings
Consent	Notice of consent of parents is required.	Parent consent and notice required for initial evaluation, placement, and reevaluation
Evaluation and Identification	An evaluation is necessary before accommodations/ services can be provided.	An evaluation is necessary before it can be determined if a child is eligible.
Team	Section 504 Team, including parents	IEP Team, including parents

WHAT IS THE ROLE OF THE OFFICE FOR CIVIL RIGHTS?

The U.S. Department of Education maintains Regional Civil Rights Offices to enforce Section 504 and other civil rights laws. All parents have the right to directly contact the Office for Civil Rights if they believe their child is being discriminated against based on a disability. Most differences with schools can be resolved before contacting the Office for Civil Rights. It is suggested you follow the procedures outlined below:

1. First, try to resolve your differences at the teacher or school level. Set-up a meeting to discuss your concerns.
2. If unsuccessful, set up a meeting with the school's Section 504 Coordinator.
3. If unsuccessful, call the State Parent Center.
4. Ask for mediation. This is a free service for parents. A neutral individual will work with you and the school to help resolve your differences.
5. If unsuccessful and you believe your child has been discriminated against, ask the Section 504 Coordinator how to file a grievance.
6. A parent can file for a due process hearing if all other attempts to resolve the issue have failed.

OFFICE FOR CIVIL RIGHTS COMPLAINT PROCESS

Every effort should be used to resolve the difference at the school level, including requesting free mediation services. If all else fails, you have the right to file a complaint with the Office for Civil Rights.

An individual person or an organization may file a complaint with the Office for Civil Rights of the U.S. Department of Education. An OCR complaint must be

filed, in writing, within 180 days after the violation has occurred.

Anyone wishing to file a formal complaint with OCR should submit in writing the following information in a letter or use the Discrimination Complaint Form available from OCR regional offices:

- Your name and address (a telephone number where you may be reached during business hours is helpful but not required)
- A general description of the person(s) or class of persons injured by the alleged discriminatory act(s) (names of the injured person(s) are not required)
- The name and location of the school that committed the alleged discriminatory act(s)
- A description of the alleged discriminatory act(s) in sufficient detail to enable OCR to understand what occurred, when it occurred, and the basis for the alleged discrimination (race, color, national origin, sex, disability, or age)

A school may not retaliate against any person who has made a complaint, testified, assisted, or participated in any manner in an investigation or proceeding.

The OCR Office for North Dakota is located at:

**Chicago Office
Office for Civil Rights
U.S. Department of Education
Citigroup Center
500 W. Madison Street, Suite 1475
Chicago, IL 60661**

**Telephone: 312-730-1560
FAX: 312-730-1576; TDD: 877-521-2172
Email: OCR.Chicago@ed.gov**



The person in your school who is responsible for ensuring compliance with Section 504 is

Telephone number _____

The school Section 504 Coordinator is _____

Telephone number _____

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Notice of Nondiscrimination
North Dakota Department of Public Instruction

The Department of Public Instruction does not discriminate on the basis of race, color, religion, sex, national origin, disability, age, sex (wages) or genetics in its programs and activities. For inquiries regarding nondiscrimination policies, contact Robert Marthaller, Assistant Superintendent, Department of Public Instruction, 600 East Boulevard Avenue, Dept. 201, Bismarck, ND 58505-0440, Phone: 701-328-2267.