



Student Section 504 Notice of Procedural Safeguards

For Students and
Their Families

October 2021

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What Is the Purpose of This Booklet?

The purpose of this booklet is to inform parents and students who are disabled of their rights under Section 504 of the Rehabilitation Act of 1973 (“Section 504”). Section 504 is a Federal law that prohibits discrimination on the basis of disability in any program or activity receiving Federal financial assistance. The Seattle School District No. 1 (“District”), which receives Federal money, does not discriminate on the basis of disability. Any student and/or parent(s)/guardian(s) who believe their child needs assistance from the District because of a disability under Section 504 can use the procedures described in this pamphlet.

For more detailed information on Section 504, please refer to the Section 504 Handbook.

Here are some definitions that might be helpful as you read through this pamphlet:

1. Section 504

Section 504 of the Rehabilitation Act of 1973 (“Section 504”) is a Federal civil rights law that is designed to eliminate disability discrimination in programs and activities that receive Federal funds. Since all public school districts receive Federal funds, all public school districts must comply with Section 504. Under Section 504, denying a disabled student a free appropriate public education (“FAPE”) constitutes disability discrimination.

2. Students Eligible under Section 504

Any school-aged student who has a mental or physical impairment that substantially limits one or more major life activity qualifies under Section 504. “Physical or mental impairment” means any physiological or psychological disorder or condition. The definition of physical or mental impairment under Section 504 is broad, includes students with life-threatening health conditions (conditions that will put a student in danger of death during the school day if a medication or treatment order and/or a nursing plan are not in place), and is not limited to any specific diseases or categories of medical conditions. Addiction to drugs or alcohol may be a physical or mental impairment that may result in a student being eligible for Section 504. A temporary impairment (with an actual or expected duration of 6 months or less) is a disability under Section 504 if it is severe enough that it substantially limits a major life activity.

A physical or mental impairment *substantially limits* a major life activity for a student if the impairment substantially limits the student’s ability to perform a major life activity as compared to the student’s non-disabled age/grade peers. There is no single formula or scale that measures substantial limitation. An impairment need not prevent, or significantly or severely restrict, a student in performing a major life activity to be considered substantially limiting.

Major life activities include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, eating, sleeping,

standing, lifting, bending, reading, concentrating, thinking, communicating, immune system function, normal cell growth function, digestive function, bowel function, bladder function, neurological function, brain function, respiratory function, circulatory function, endocrine function, and/or reproductive functions. The ability to participate in and benefit from school is a major life activity for a school-aged student. The above list of major life activities is not exhaustive.

Mitigating measures used by a disabled student to manage his or her impairment or lessen the impact of his or her impairment (i.e., medication, medical devices, related aids and/or services, etc.) must be disregarded when determining whether a student's impairment constitutes a disability under Section 504.

Section 504 does apply to pre-school students with disabilities enrolled in a District or Federally funded preschool. The IDEA requires that pre-school students with disabilities be provided FAPE. Pre-school students with disabilities or suspected disabilities most of the time are referred to the Special Education Department.

Students with disabilities pursuant to Section 504 include students who are eligible for Special Education. The difference is that students who are eligible for Special Education are in need of specially designed instruction and/or related services as a result of a disability that is impacting their ability to access education. No student should be on both a Section 504 Plan and an Individualized Education Program ("IEP") at the same time.

3. Free Appropriate Public Education ("FAPE")

FAPE is an education that is designed to meet a disabled student's individual educational needs and is based upon procedures that satisfy Section 504's identification, evaluation, placement, and/or due process requirements. Typically, this includes accommodations and/or related aids that a student needs in order to participate in and benefit from the District's education program.

Under Section 504, FAPE does not include specially designed instruction. Students who are suspected of being in need of specially designed instruction should be referred for a Special Education eligibility evaluation.

4. Related Aids and Services

"Related aids and services" means any service that a disabled student needs to participate in and/or benefit from the District's education program (e.g., if, without a specific related aid and/or service, a disabled student is unable to participate in or benefit from the District's education program, the aid and/or service in question is a necessary related aid or service for the student). Related aids and/or services include but are not limited to:

- School health services
- Counseling services

- Environmental, instructional, and/or behavioral accommodations
 - Transportation services
 - Provision of a modified schedule, grading system, and/or curriculum
5. Parent(s)/Guardian(s) (“Parent(s)/Guardian(s)”)
 "Parent(s)/guardian(s)" means a natural or adoptive parent, a legal guardian, a foster parent, a District-appointed surrogate parent, and/or a person acting in the place of a parent, such as a grandparent or step-parent with whom a student actually lives.
 6. Adult Student (“Adult Student”)
 An Adult Student is a student who is 18 years of age or older who has not been judged incapacitated by a court of law. An adult student assumes and is entitled to exercise all Section 504 rights, duties, and/or responsibilities that were previously held by his/her parent(s)/guardian(s).
 7. School-Based Section 504 Team/Student Intervention Team (“504-SIT”)
 The Student Intervention Team (“504-SIT”) makes decisions regarding the evaluation and/or placement of students under Section 504. The membership of any particular student's Section 504 team will vary depending upon the needs of each student. It is the 504-SIT that forms the core of a student's Section 504 team for the purposes of making initial decisions, but the composition of a 504-SIT is fluid and may change within a school year or between school years as a student’s needs and/or services change. A 504-SIT must consist of at least **two** people and must include persons knowledgeable about the student, can interpret the meaning of the student’s current evaluation data, and have authority to make placement options. It is the 504-SIT that determines the scope of evaluations and if students qualify for Section 504, develops Section 504 Plans, and makes “manifestation determinations” for purposes of disciplinary exclusion from school.
 8. Section 504 Building Coordinator (“Building Coordinator”)
 The Building Coordinator is a certificated staff member at each school who is designated to coordinate all Section 504 activities within the school and is responsible for coordinating all aspects of the Section 504 referral and evaluation process. In most instances, schools will designate staff members such as a school nurse, counselor, psychologist, or administrator to serve as the Building Coordinator.
 9. Section 504 Student Support Services Intervention Team (“S³IT”)
 The Student Supports Services Intervention Team (“S³IT”) is a standing centrally-based multidisciplinary team that addresses Section 504 issues at the District level.

10. Section 504 Program Coordinator (“Program Coordinator”)

The Program Coordinator is a staff member assigned to the General Counsel’s office that oversees the District's compliance with Section 504 and coordinates the District's CIT.

11. Section 504 Grievance Coordinator (“Grievance Coordinator”)

The Grievance Coordinator is a staff member in the Office of Student Civil Rights that oversees the District's compliance with Section 504 and responds to grievances alleging disability discrimination.

What Does Section 504 Require?

Section 504 requires that disabled students be provided FAPE. In order to receive FAPE, students must first be identified as having a disability through an evaluation. Another Federal statute, Individuals with Disabilities Education Act (“IDEA”), requires FAPE be provided to students with one or more of the specific disabilities covered by IDEA. The Section 504 definition of a disability is broader than IDEA and it includes any physical and/or mental impairment that substantially limits one or more major life activity. Thus, some students with disabilities under Section 504 are not covered by IDEA.

If you believe your child (or you, if you are an adult student) has a disability under Section 504 and the child is not already being served under IDEA, you should notify your school’s Building Coordinator. The 504-SIT will make a decision whether to evaluate your child to determine whether he/she has a disability and is eligible for Section 504 services. If your child is eligible, the 504-SIT will create a written plan (Section 504 Plan) describing the services, accommodations, and/or modifications that will be provided. If your child is eligible for services under IDEA, the District will provide such services under the District’s IDEA procedures.

Can I Participate in Meetings About My Child?

Your participation is valuable. You will be given opportunities to participate in any meetings about the identification, evaluation, and/or educational placement of your child, along with other matters relating to your child’s education.

What Rights Do I Have as A Parent (Or Adult Student)?

You, as the parent(s)/guardian(s), have the right to have the District notify you in writing about important decisions that affect your child’s education in a reasonable time before those decisions are put into place. The District will notify parent(s)/guardian(s) of the following:

- Any 504-SIT decisions related to the student’s Section 504 referral.
- Any evaluation results and/or any programming and/or placement recommendations.
- Before initially placing a disabled student.

- Before conducting subsequent evaluations of the student.
- Before implementing a significant change in the student's placement.
- Right to review and/or challenge the District's program and/or placement decisions through a hearing if they disagree with them.

For more detailed information on different parental rights, please refer to the Section 504 Handbook.

Will The District Seek My Consent Before Taking Action?

Under Section 504, the District must obtain consent from a parent(s)/guardian(s) before a student's initial evaluation and before a student is placed on a Section 504 Plan for the first time. This should be done using the Parent Consent for an Evaluation (Form 504-4). If a parent(s)/guardian(s) refuses consent to either initial evaluation or initial placement, the District may, but is not required to, initiate a Section 504 due process hearing to override the refusal to consent. The District must notify a parent(s)/guardian(s) before it re-evaluates or significantly changes a student's placement, but does not need to obtain consent. Consent must be informed, meaning the parent(s)/guardian(s) must be fully informed of all information relevant to the activity for which consent is sought in his or her native language or other mode of communication.

Is My Child Entitled to Summer School?

The District is committed to a positive and productive educational environment free from discrimination in its educational programs, including the summer semester programs offered to all qualified students. Programs are provided when funds are available and they offer an extended learning opportunity to students in grades 1 through 12. The program usually focuses on reading, writing, and/or math. The program is designed to provide students with the skills they need to meet the District's challenging standards and to succeed on State assessments. Generally, when funds allow, the summer semester for elementary, middle, and/or high school students is provided at no cost to the parents. This is different than the high school credit retrieval model. No student can be excluded from the summer semester program just because they have a disability. Further, any student with a disability who has had summer services included by the 504-SIT in a Section 504 Plan as necessary for FAPE will be provided such services, if the summer semester program is offered and available.

Can My Child Attend the School of His or Her Choice?

No student can be excluded from the District's Student Assignment Plan just because they have a disability. Once a Section 504 eligible student is assigned to a school under the Student Assignment Plan, he/she may change assigned schools outside the terms of the Student Assignment Plan, **if and only if**, the student cannot receive the needed services at the assigned school and/or requires a transfer to a school that can offer the student FAPE.

To initiate the Section 504 assignment process, email 504coordinator@seattleschools.org to Request for Assignment Related Accommodation (Form 504-11).

Once a completed Request for Assignment Related Accommodation (Form 504-11) is received by the Program Coordinator, it will be reviewed by the S³IT. The S³IT will make an initial determination of the student's disability and/or eligibility for services and discuss what services, accommodations, and/or modifications may be necessary for the student in the new school setting.

All initial determinations made by the 504-SIT that the student cannot be provided FAPE at the assigned school will be reviewed centrally. Only the S³IT can make a priority assignment at another school in order to provide FAPE to a disabled student.

If the parent(s)/guardian(s) disagrees with the initial determination made by the S³IT regarding eligibility or a requested transfer, the parent(s)/guardian(s) and/or adult student may appeal this decision in the same manner he or she would in any other adverse Section 504 decision.

Can The District Discipline My Child for Behavior Related to His or Her Disability?

Section 504 protects disabled students from being improperly removed from school for misconduct that is related to their disability. As a general rule, Section 504 and IDEA apply to the disciplinary removal of disabled students in a similar manner. Before the District can implement a disciplinary action that constitutes a "significant change in placement," it must evaluate the student to determine whether the student's misconduct was caused by, or had a direct and substantial relationship to, the student's disability or was the direct result of the District's failure to implement the student's Section 504 Plan. This type of evaluation is commonly called a "manifestation determination."

If a disabled student's misconduct is a manifestation of his/her disability, the District cannot implement a disciplinary action that constitutes a significant change in the student's placement. If a disabled student's misconduct is not a manifestation of his or her disability, the District can discipline the student in the same manner that it disciplines non-disabled students for the same misconduct. Under Section 504, unlike IDEA, the District does not have to provide a disabled student educational services during the period of time the student is properly removed from school for disciplinary reasons. However, students must be given the same access to services that are available to non-disabled students who are long-term suspended or expelled, including access to re-entry programs.

For more detailed information on discipline, please refer to the Section 504 Handbook.

Can I Review My Child's Records?

Federal law entitles you to access to your child's educational records. The District has written policies about school records (Policy 3231; Superintendent Procedure 3231SP). These policies are published and available on the District's website at www.seattleschools.org.

You have the right to examine your child's education records and obtain a copy of such records. You also have the right to receive a response to reasonable requests for explanations and/or

interpretations of your child's education records.

You have the right to request the District to amend your child's education records if you believe they are inaccurate, misleading, and/or otherwise in violation of the privacy rights of your child. If the District refuses this request, you have the right to challenge such refusal under the Family Educational Rights and Privacy Act ("FERPA").

If I Disagree with The District's Decisions About My Child, What Can I Do?

Section 504 gives parent(s)/guardian(s) the right to challenge District decisions regarding the identification, evaluation, and/or educational placement of their child. Under Section 504, the District must notify a student's parent(s)/guardian(s) before it takes any action regarding the identification, evaluation, and/or placement of their child and provide the parent(s)/guardian(s) an opportunity to challenge the action if they disagree. "Any action" includes a decision not to evaluate a student and/or denial of placement. The minimum necessary due process rights include: prior notice of any action; a right to inspect records; an impartial hearing with a right to representation by counsel; and/or a review procedure.

Both parent(s)/guardian(s) and individual schools have the following hearing rights:

- Both parties have the right to be accompanied and/or advised by persons with special knowledge or training with respect to the problems of Section 504 students.
- Both parties have the right to be advised and/or represented by an attorney.
- Both parties have the right to present evidence, including the opinions of qualified experts and confront, cross-examine, and/or compel the attendance of school personnel.
- Both parties have the right to prohibit the introduction of any evidence at the hearing that has not been disclosed to the other party at least five (5) school days before the hearing or two (2) school days if the hearing is expedited.
- Both parties have the right to have all evaluations completed and the recommendations contained in those reports at least five (5) school days before the hearing or two (2) school days if the hearing is expedited.
- A hearing officer may bar any party who fails to comply with the five (5) school day rule from introducing relevant evaluations and/or recommendations at the hearing without consent of the other party.
- Both parties have the right to obtain a written decision containing findings of fact, conclusions of law, and/or a decision.
- Parent(s)/guardian(s) who are a party to the hearing have the right to have the student who is the subject present at the hearing.
- There shall be no cost to the parent for the hearing.
- The hearing will be held at the JSCEE, 2445 3rd Avenue South, Seattle, Washington and/or another location as agreed to by all parties. By agreement of both parties, the hearing may be held in the evening.

For more detailed information on hearing rights, please refer to the Section 504 Handbook.

What Can I Do If I Believe My Child Has Been Discriminated Against On the Basis of Disability?

The District prohibits discrimination and/or harassment based on national origin, race, economic status, sex, sexual orientation, pregnancy, marital status, and/or *disability*. Any student parent(s)/guardian(s) who believes they have been discriminated against by or within the District on the basis of disability has the option of using the complaint procedures outlined below.

All allegations, reports, and complaints of disability and other forms of discrimination shall be addressed in accordance with Superintendent Procedure 3210SP.B/5010SP applicable to discrimination complaints generally.

When a complaint involves alleged disability discrimination, all references to "District Compliance Coordinator" appearing in Superintendent Procedure 3210SP.B/5010SP related to the complaint process shall be considered to mean the "District's ADA/Section 504 Grievance Coordinator."

If you have questions, would like a form to assist you in filing a complaint, or believe that someone has been discriminated against in Seattle Public Schools on the basis of disability, please call or write:

ADA/Section 504 Grievance Coordinator
Seattle Public Schools
Office of Student Civil Rights - MS 32-149
P.O. Box 34165
Seattle, WA 98124-1166
Phone: (206) 252-0178 or
Email: accessibility@seattleschools.org

DISABILITY DISCRIMINATION COMPLAINT PROCEDURE

The complaint procedure has two complaint processes: The Informal Complaint Process and the Formal Complaint Process.

Informal Complaint Process

Informal complaints may be made orally, in writing, and may also be made anonymously. Complainants should understand that an anonymous complaint might not be resolved to the complainant's satisfaction due to investigation limitations created by anonymity. All attempts shall be made to keep the identity of the complainant confidential, although confidentiality cannot be guaranteed.

Use of the informal complaint process is not required prior to filing a formal complaint. Informal reports may be made to any staff member and/or Program Coordinator. The complainant should be informed of the right to file informal and/or formal complaints of disability discrimination.

The complainant will be provided an opportunity to explain their allegation of disability discrimination. Informal remedies may include a preliminary investigation. The District and the complainant may identify an agreeable remedy to the dispute during the informal process. Informal complaints may become formal complaints at the request of the complainant or because the District believes the complaint needs to be more thoroughly investigated.

Formal Complaint Process

Anyone may initiate a formal complaint of discrimination even if the informal complaint process was initially utilized. All formal complaints shall be in writing; shall be signed by the complainant; and shall set forth the specific acts, conditions, or circumstances alleged to have occurred that constitute discrimination.

Before the District can proceed, the complaint must have enough information for the District to understand the act(s) of disability discrimination alleged to have occurred, the dates upon which it occurred (or if continuing the duration of such actions), and why the act is believed to be discriminatory on the basis of disability. Complainants are encouraged to send any additional materials and to identify the name(s) and contact information of any witnesses to the incident(s) that may assist in the investigation process.

Additionally, for all formal complaints, the complainant may be required to provide written consent for the District to reveal the complainant and student's identity to conduct the investigation, as well as facts and evidence discovered during the investigation. Although confidentiality cannot be guaranteed, the District will fully implement the complaint policy's prohibiting retaliation against complainants and/or witnesses. Retaliation is a separate and distinct matter under the law, but complaints of retaliation can be initiated by following the same complaint procedure.

Under the formal complaint procedures, a designee of the Superintendent shall receive and investigate all formal, written complaints of disability discrimination. If the complaint should involve the ADA/Section 504 Grievance Coordinator, the Superintendent will designate an impartial investigator to address the allegations.

- The investigation will be adequate to address the allegations raised and will be conducted in an impartial manner, including providing the complainant the opportunity to provide witnesses and/or other information.
- The Superintendent shall respond in writing to the complainant within thirty (30) calendar days after the request for review is received, unless additional time is needed and an explanation is provided to the complainant in writing.
- Corrective measures deemed necessary by the designee and/or Superintendent will be instituted as quickly as possible, but in no event not more than thirty (30) calendar days after the issuance of the Superintendent's response, unless the matter is one that implicates the District's due process obligations owed to its employees or to other students.

If the complaint concerns the ADA/Section 504 Grievance Coordinator, you may contact the Student Civil Rights Compliance Officer at the same mailing address, by email at OSCR@seattleschools.org, or by phone at (206) 252-0306.

For more detailed information on the complaint process, please refer to the Section 504 Handbook and the full discrimination complaint procedure, which can be found here: http://www.seattleschools.org/UserFiles/Servers/Server_543/File/District/Departments/School%20Board/Procedures/Series%203000/3210SP.B.pdf

Where Can I Go If I Don't Want to File a Complaint with The District?

Parent(s)/guardian(s) and adult students also have the right to file a complaint with the Office for Civil Rights ("OCR"), the body that enforces Section 504. OCR's focus is on the process the District follows to identify, evaluate, and/or provide an educational placement to a disabled student and to provide procedural due process to the student's parent(s)/guardian(s).

Except in extraordinary circumstances, OCR does not review the result of individual placement and/or other educational decisions so long as the District complies with the procedural requirements of Section 504 relating to identification and/or location of students with disabilities, evaluation of such students, and/or due process.

Accordingly, OCR generally will not evaluate the content of a Section 504 Plan or an IEP; rather, any disagreement can be resolved through a due process hearing.

OCR will examine procedures by which the District identifies and evaluates students with disabilities and the procedural safeguards that the District provides students. OCR will also examine incidents in that students with disabilities are allegedly subjected to treatment that is different from the treatment to which similarly situated students without disabilities are subjected. Such incidents may involve the unwarranted exclusion of disabled students from educational programs and/or services.

The address of the Regional Office that covers Seattle is:

U.S. Department of Education
Office for Civil Rights
Henry M. Jackson Federal Building
915 Second Avenue, Room 3310
Seattle, Washington 98174-1099
www.ed.gov/OCR
email address: OCR.Seattle@ed.gov