

INDEPENDENT SCHOOL DISTRICT 196
Rosemount-Apple Valley-Eagan Public Schools
Educating our students to reach their full potential

Series 503.6.1AR Adopted July 1995 Revised November 2016

Title Section 504 Process for Students

1. **Designation of Responsible Employee** – The School Board of District 196 has designated the Director of Special Education as the employee responsible to coordinate the district’s efforts to comply with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, and its regulations, 34 C.F.R. 104. The responsible authority for students in kindergarten through grade 12 is the student’s school principal; the responsible authority for other students is the administrator of the program in which the student is enrolled. The Director of Special Education may be reached at 651-423-7629, 3455 153rd Street West, Rosemount, MN 55068-4946.
2. **Intent** – It is the intent of District 196 to protect the civil rights of persons with disabilities who qualify within the definition of Section 504 of the Rehabilitation Act of 1973.
3. **Definitions**
 - 3.1 Students
 - 3.1.1 Students are defined as all learners in the district of any age, including children and/or adults participating in Early Childhood Family Education, Early Childhood Special Education, k-12 classes, cocurricular activities, Community Education classes and Adult Basic Education.
 - 3.1.2 Students may be considered to be disabled under Section 504 even though they do not require services pursuant to the Individuals with Disabilities Education Act (IDEA). All students who are disabled under the IDEA are also considered to be protected under Section 504.
 - 3.2 A person with a disabling condition is anyone who: 1) has a physical or mental impairment that substantially limits one or more major life activities; 2) has a record of such an impairment, or 3) is regarded as having such an impairment.
 - 3.2.1 Physical impairment – 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; hermic and lymphatic, skin and endocrine.
 - 3.2.2 Mental impairment – Any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness and specific learning disabilities.
 - 3.3 504 Team – The student’s principal or designee, the student’s regular classroom teacher and at least one other school employee with knowledge of the student, as determined by the principal or program administrator, as well as the parent, guardian or adult student.
 - 3.4 Evaluation – A process which draws upon information from a variety of sources in the area of concern.
4. **Rights of Parents/Guardians of Students with a Disabling Condition and Adult Students** – The intent of the rights granted in Section 504 of the Rehabilitation Act of 1973 is to keep parents/guardians and adult students fully informed about decisions concerning the student, and to inform parents/guardians and adult students of their rights if they disagree with any of these decisions. A parent/guardian of a student with a disabling condition, or an adult student with a disabling condition, will receive a summary of the following rights:

- 4.1 Your child is entitled to take part in and receive benefits from public education programs or activities without discrimination because of his or her disability. 34 C.F.R. §104.21
- 4.2 Your child is entitled to receive a free appropriate public education regardless of the nature or severity of his or her disability. 34 C.F.R. § 104.33(a)
- 4.3 Your child is entitled to receive regular or special education and related aids and services that are designed to meet his or her individual educational needs as adequately as the needs of students without disabilities. 34 C.F.R. § 104.33(b)
- 4.4 Your child is entitled to receive free educational services except for those fees that are imposed on students without disabilities or their parents. 34 C.F.R. § 104.33(c)
- 4.5 Your child is entitled to be educated with students without disabilities to the maximum extent appropriate to the needs of your child. 34 C.F.R. § 104.34(a)
- 4.6 Your child is entitled to be educated in facilities and receive services and activities comparable to those provided to students without disabilities. 34 C.F.R. § 104.34(b)(c)
- 4.7 Your child is entitled to an evaluation prior to an initial placement and any subsequent significant change in placement. 34 C.F.R. § 104.35(a)
- 4.8 Your child is entitled to be evaluated and tested with procedures in accordance with regulations pertaining to evaluation procedures. 34 C.F.R. §104.34(b)
- 4.9 Your child is entitled to have evaluation data and placement decisions based upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. 34 C.F.R. § 104.35(c)(1)
- 4.10 Your child is entitled to have interpretation of data and placement decisions based on evaluation procedures that ensure information is obtained from a variety of documented and carefully considered sources. 34 C.F.R. § 104.35(b)(c)(2)
- 4.11 Your child is entitled to have placement decisions made by persons knowledgeable about your child, the meaning of evaluation data, and placement options. 34 C.F.R. § 104.35 (c)(3)
- 4.12 Your child is entitled to periodic evaluations. 34 C.F.R. § 104.35(d)
- 4.13 Your child is entitled to an equal opportunity to participate in nonacademic and extracurricular activities offered by the school district. 34 C.F.R. § 104.37
- 4.14 You are entitled to notice prior to any action by the district pertaining to the identification, evaluation, or placement of your child. 34 C.F.R. § 104.36
- 4.15 You are entitled to examine relevant records relating to decisions regarding your child's identification, evaluation, educational program, and placement. 34 C.F.R. § 104.36
- 4.16 You are entitled to request an impartial hearing and an appeal of any decisions or actions taken by the school district regarding your child's identification, evaluation, educational program, or placement. The school district will bear the costs for these due process procedures. You and your child may take part in these proceedings and have an attorney represent you. The following details the procedures:
 - 4.16.1 If you disagree with the identification, evaluation, educational placement, or with the provisions of a free appropriate public education for your child, you may make a request for a hearing to the superintendent or the Section 504 coordinator, indicating the specific reason(s) for the request. Upon receipt of the request, the superintendent shall appoint the hearing officer.

- 4.16.2 The school district may initiate a hearing regarding the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student. The school district shall notify you of the specific reason(s) for the request.
- 4.16.3 The school district shall conduct hearings within twenty (20) instructional days after it receives the request, unless the hearing officer grants an extension, and at a time and place reasonably convenient to you.
- 4.17 You are entitled to request a review (appeal) of the hearing, should you not prevail. The following details the procedure:
 - 4.17.1 You or any party to the hearing may petition to review (appeal) the decision of the hearing officer. The request must specify the objections and be filed with the superintendent and the opposing party within twenty (20) instructional days of the date the hearing officer's decision is received. The school district must appoint an independent appeals officer to conduct an impartial review of the record as a whole. The officer may, at his/her election, conduct the review with or without oral argument. Such review shall be conducted within twenty (20) instructional days of the receipt of the petition to review, unless either party requests an extension of time.
 - 4.17.2 The appeals officer shall ensure that a transcript of the review is prepared and made available to any party upon request.
 - 4.17.3 Any party disagreeing with the decision of the appeals officer may appeal to a civil court with jurisdiction.
 - 4.17.4 A parent/guardian represented by legal counsel during the proceedings of a due process hearing, appeal, or civil action may be entitled to reimbursement of legal fees if the parent ultimately prevails.

5. **Identification Process**

- 5.1 Evaluation Request – A request for evaluation for a student who may be eligible for a 504 plan under Section 504 may be made to the school principal by the student's parent or guardian, the adult student and/or the student's teacher or another knowledgeable staff member. Upon receipt of such a request, the principal or their designee will complete the district's 504 Student Referral form, seeking input from the student's teacher and/or other knowledgeable staff or persons as needed. If it is determined that the student should be referred for a Section 504 evaluation, the principal or designee shall seek consent to evaluate from the student's parent or guardian, or the adult student by sending a copy of the district's Parental Consent to Initial Section 504 Evaluation form, along with a copy of the district's Notice of Procedural Safeguards form.
- 5.2 Evaluation – After receiving written permission for Section 504 evaluation from the student's parent or guardian or the adult student, the district will evaluate the student's needs.
 - 5.2.1 The evaluation will be sufficient to accurately and completely assess the nature and extent of the disability, and how it affects the student's education.
 - 5.2.2 Evaluation data will be gathered by the 504 Team from a variety of sources and may include, but will not be limited to, the following informal and formal data:

5.2.2.1 Informal data such as health information/records, observations, anecdotal records, attendance records, parent information, medical records, records of classroom interventions, discipline records, grades, achievement tests and cumulative record information, and/or

5.2.2.2 Formal data such as valid, non-discriminatory psycho-educational assessments, adaptive behavior instruments and intelligence testing.

5.3 Decision

5.3.1 As a result of the evaluation, the 504 Team will meet with the student's parent or guardian, or the adult student, to review the evaluation and come to one of the following three conclusions:

5.3.1.1 The student is not a qualified individual with a disability under Section 504 and is not eligible for a 504 plan under Section 504, and the parent, guardian or adult student is informed of their rights to appeal the decision;

5.3.1.2 The student is a qualified individual with a disability under Section 504 and is eligible for a 504 plan under Section 504 (the team proceeds to develop Section 504 Plan, as described in section 6 below), or

5.3.1.3 Referral of the student is recommended to the Child Study/IDEA process.

5.3.2 The decisions about Section 504 eligibility and 504 plans will be communicated to the student's parents or guardian, or the adult student, and documented in the student's cumulative file using the district's Section 504 Evaluation and Eligibility Determination form. The Notice of Procedural Safeguards form will be attached.

5.3.3 Students who qualify under Section 504 will be re-evaluated periodically and before a significant change of placement.

6. **504 Plan Procedures**

6.1 If the student is found to have a disabling condition under Section 504 and is in need of regular or special education and related aids and services designed to meet the individual needs of the student as adequately as the needs of students without disabilities are met, the district will develop and implement a 504 plan using the district's Section 504 Plan form.

6.1.1 The determination of what educational program and related aids and services are needed will be made by the 504 Team knowledgeable about the student's needs, based upon a variety of information which may include, but is not limited to, medical reports, teacher observations, daily performance in class, formal and informal assessment data, and parent information.

6.1.2 The 504 Team will consider the nature of the disabling condition, how it affects the student's education and the nature of the educational program and related aids and services needed.

6.2 The Section 504 Plan will be written and a copy will be given to the parent or guardian, or the adult student for review prior to implementation. A copy of the Notice of Procedural Safeguards form will be attached. Staff who will be responsible for implementing any portion(s) of the plan, including, but not limited to instructional, clerical, transportation and/or food services staff, will be informed of their responsibilities under the plan and given a copy of the plan (or relevant portions of the plan). The plan will then be implemented as written.

7. **Record-keeping**

7.1 The decisions about Section 504 eligibility and 504 plans will be documented in the student's cumulative file and reviewed annually.

7.2 When a student moves from one school to another in District 196, the principal of the school the student is leaving will give notice (by completing District Procedure 503.6.1.6P, Section 504 Records Notification or through a similar process) to inform the principal of the student's new school that there are records in the student's cumulative file about the student's Section 504 eligibility and 504 Plan.

8. **Grievance Process** – A parent or guardian of a student or an adult student may use the following process to grieve a decision to deny a Section 504 evaluation or deny a 504 plan, to grieve the program, aids and services offered or to grieve any other alleged violation of Section 504.

8.1 The grievance may be submitted in writing to the appropriate principal or administrator within a reasonable period of time after the alleged violation occurred. The grievant must fully state the facts of the alleged violation and the remedy that is sought.

8.2 The principal or administrator will take the following actions:

8.2.1 Discuss the grievance with the parents/guardians or adult student and with appropriate school and/or district employees;

8.2.2 Prepare a written report of his or her findings of fact and conclusions within 10 school days of receiving the grievance, and

8.2.3 Notify the grievant in writing of the decision by sending the grievant a copy of the written report.

8.3 If the grievant is not satisfied with the resolution of the grievance, the grievant may appeal the report of the principal or administrator to the superintendent or designee, in writing, within five school days of receipt of the report.

8.4 After investigation and within 10 school days of receipt of the appeal, the superintendent or designee shall affirm, reverse or modify the report of the principal or administrator, and notify the grievant in writing of his or her decision.

8.5 If the grievant is not satisfied with the resolution of the grievance, he or she may appeal to the School Board or its designee within five school days of receipt of the superintendent's or designee's decision.

8.6 The School Board or its designee shall schedule a meeting to review the alleged violation and shall give the parties involved at least five school days' notice of the meeting. The board or its designee shall affirm, reverse or modify the decision of the superintendent or designee within 15 school days of receipt of the appeal.

9. **504 Plan Exit**

9.1 The district's 504 Plan Exit form shall be completed and sent to the student's parent or guardian or the adult student for signature when:

9.1.1 The student has been re-evaluated, and

- 9.1.2 After meeting and considering all pertinent information, the 504 team determines the student no longer qualifies to receive a 504 plan, both presently and in the foreseeable future.
- 9.2 If the student's parent or guardian or the adult student does not consent to discontinuation of the Section 504 Plan, the 504 team will meet with the parent, guardian or adult student to attempt to reach a mutually-agreeable resolution.
- 10. **Right to Alternative Appeal Procedures** – This regulation does not deny the right of any individual to pursue other avenues of recourse, which may include the following:
 - 10.1 Requesting a local due process hearing, or
 - 10.2 Appealing to the Office for Civil Rights – Chicago Office, U.S. Department of Education, Citigroup Center, Suite 1475, 500 West Madison Street, Chicago, IL 60661, telephone number 312-730-1560, fax number 312-730-1576, email OCR.Chicago@ed.gov.

References: - Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794
- Public Law 101-476, Individuals with Disabilities Education Act