

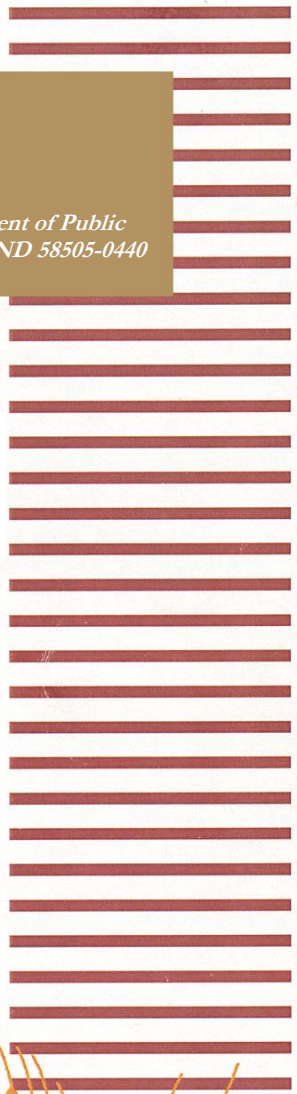
North Dakota

Kirsten Baesler, State Superintendent • North Dakota Department of Public Instruction • 600 East Boulevard Avenue, Dept. 201 Bismarck, ND 58505-0440

**NORTH DAKOTA DEPARTMENT
OF PUBLIC INSTRUCTION**

SECTION 504/ADA

**Guidelines
for Parents
and
Educators**



The purpose of this pamphlet is to provide information and describe the requirements of Section 504 of the Rehabilitation Act of 1973 with respect to preschool, elementary, and secondary schools involving services for eligible children with physical and mental disabilities.

This pamphlet is designed specifically to give parents information to help understand 504 services.

The North Dakota Department of Public Instruction has developed a document entitled Section 504/ADA Guidelines for Educators and Administrators that explains how a student might be eligible for Section 504 services. Information regarding these guidelines is available by calling the North Dakota Department of Public Instruction at 701-328-2277 or <http://www.dpi.state.nd.us>

WHAT IS SECTION 504?

Section 504 is the part of the Vocational Rehabilitation Act of 1973 that applies to individuals with disabilities. It is a law that protects the civil rights of persons 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 and special education (IDEA) are two possible service options for children with disabilities. All

schools should have a Section 504 Coordinator to answer your questions regarding Section 504 services.

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, and restroom stalls were enlarged). With passage of the Vocational Rehabilitation Act of 1973, Congress required that schools 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; a student may require special accommodations, such as modified assignments in order to benefit from his/her education.

HOW DOES SECTION 504 DEFINE ELIGIBILITY?

A student is eligible for accommodations 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 that impacts education.*

“Major life activities” include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. When a condition does not substantially limit a major life activity that impacts education, the student does not qualify for protection under Section 504.

In order to determine eligibility for Section 504 accommodations or services, your child must be evaluated

by a school team of individuals who are familiar with your child 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.

DOES SECTION 504 REQUIRE EVALUATIONS?

Section 504 requires that a school evaluate any student who, because of a disability, needs accommodations that would assist in keeping the child in the general education classroom. An evaluation is also required prior to any significant change in the child's educational placement. Most evaluations under Section 504 only involve gathering or reviewing existing information that has already been collected, such as by a medical doctor.

If the school and/or parent have reason to believe that, because of a disability as defined under Section 504, the school must evaluate the student. If it is determined that a student is disabled under Section 504, the school must develop and implement all needed accommodations agreed by the Section 504 team. The parent should be a member of this team.

STUDENTS WITH SPECIAL HEALTH CARE NEEDS

Many students eligible for Section 504 accommodations have special health care needs; conditions could include 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.

SERVICES

The determination of what accommodations are needed 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 group will review the impact of the disability and how it affects the student's education. The decisions about Section 504 eligibility and services should be documented in the student's file and reviewed periodically.

An appropriate education for students eligible under Section 504 usually consists of education in general classes with accommodations and programs designed to meet their unique needs.

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.

Examples of accommodations include the following:

- 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 is eligible for Section 504 and the accommodations 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 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. 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 falls 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.

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 children 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 THE RESPONSIBILITIES OF 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 determining 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 THE RESPONSIBILITIES OF THE STUDENT?

1. Be involved at Section 504 meetings, when appropriate.
2. Be familiar with your Section 504/ADA 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</u> Type | <u>Section 504</u> A Civil Rights Act | <u>Special Education</u> An Education Act |
|----------------------------|--|--|
| Responsibility | General Education | General/Special Education |
| Funding | School funding | State/federal/local funding |
| Administration | Section 504 Coordinator | Special Education Director |
| Service Tool | Accommodation Plan | Individualized Education Program |
| Disabilities | Any disability, if eligible | 13 qualifying categories |
| Parents | Should be involved in all team meetings | Must be involved in all team meetings |
| Procedural Safeguards | Notice of consent of parents is required. | Parent consent and notice required for initial evaluation, placement, and reevaluation |
| Evaluation and Eligibility | An evaluation is necessary before it can be determined if a child is eligible. | An evaluation is necessary before it can be determined if a child is eligible. |

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 Pathfinder Family Center located 1015 S Broadway St #42 Minot, ND 58701 701-837-7500 (Phone); 701-837-7501 (TDD); 800-245-5840; 701-837-7548 (FAX) info@pathfinder-nd.org
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

Sometimes, even when we do our best, we cannot come to agreement. Every effort must 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 U.S. Department of Education, Office for Civil Rights contact information is as follows:

U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Bldg
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Telephone: 1-800-421-3481
FAX: 202-453-6012; TDD: 800-877-8339
Email: OCR@ed.gov

North Dakota Contact:
Chicago Office
Office for Civil Rights,
U.S. Department of Education
Citigroup Center
500 W. Madison Street, Suite 1475
Chicago, IL 60661-4554
Telephone: 312-730-1560
FAX# 312-730-1576; TDD 800-877-839
Email: OCR.Chicago@ed.gov

**SECTION 504 PARENT/STUDENT RIGHTS IN
IN IDENTIFICATION, EVALUATION,
ELIGIBILITY, AND SERVICES**

The following is a description of the rights granted under Section 504 to parents of children with disabilities. The intent of the law is to keep you fully informed concerning decisions about your child and to inform you of your rights if you disagree with any of these decisions.

You have the right to the following:

1. Have your child take part in and receive benefits from public education programs without discrimination because of his/her disability.
2. Have the school notify you of your rights under Section 504.
3. Receive notice with respect to identification, evaluation, and services for your child.
4. Have your child receive a free appropriate public education. This includes the right to be educated with students without disabilities to the maximum extent appropriate.
5. Have your child educated in facilities and receive services comparable to those provided to students without disabilities.
6. Have your child receive accommodations if he/she is found to be eligible under Section 504.
7. Have your child be given an equal opportunity to participate in nonacademic and extracurricular activities.
8. Have transportation provided to and from an alternative placement setting at no greater cost to you than would be incurred if the student were

- placed in a program operated by the school.
9. Examine all relevant records relating to decisions regarding your child's identification, evaluation, and educational services.
 10. Obtain copies of educational records at a reasonable cost unless the fee would effectively deny you access to the records.
 11. Obtain responses from the school to reasonable requests for explanations and interpretations of your child's records.
 12. Request amendments of your child's educational records if there is reasonable cause to believe that they are inaccurate, misleading, or otherwise in violation of the privacy rights of your child. If the school refuses this request for amendment, it shall notify you within a reasonable time and advise you of the right to a hearing.
 13. File a 504 school grievance if you believe your child has been discriminated against based upon his/her disability.
 14. Request mediation regarding your child's identification, evaluation, education program, or services.
 15. File a complaint with the Office for Civil Rights.

For more information about Section 504, contact Melissa Olson at The North Dakota Department of Public Instruction, 600 East Boulevard Avenue, Dept. 201 Bismarck, ND 58505-0440 or 701-328-2277, melissaolson@nd.gov.

NOTICE OF NONDISCRIMINATION

NORTH DAKOTA DEPARTMENT OF PUBLIC INSTRUCTION

The Department of Public Instruction does not discriminate on the basis of race, color, national origin, sex, disability, or age in its programs and activities.

Robert Marthaller has been designated to handle inquiries regarding nondiscrimination. 600 E Boulevard Avenue, Dept 201, Bismarck, ND 58505-0440, 701-328-2267, rmarthaller@nd.gov.

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.



**NORTH DAKOTA DEPARTMENT OF
PUBLIC INSTRUCTION**

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

Telephone number: _____

Email Address: _____

The school Section 504 Coordinator is:

Telephone number: _____

Email Address: _____



Prepared by
The North Dakota Department of Public Instruction