

# **501.01 Section 504 and Title II Procedures**

Friday, August 11, 2023

## **Section 504 and Title II Procedures**

The following procedures describe the steps that the school district will generally follow in implementing Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act. If any procedure described herein conflicts with or is inconsistent with state or federal laws or regulations, the law or regulation will control. Nothing in the following procedures creates any enforceable right, educational entitlement or procedural protection that is separate from or in addition to the rights provided by state and federal law and regulation.

### **Definition of Child with a Physical or Mental Impairment.**

Students with disabilities shall be entitled to protections provided by Section 504. A student with a disability is defined a student with a physical or mental impairments that substantially limits the student in a major life activity.

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as: (1) medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies; (2) use of assistive technology; (3) reasonable accommodations or auxiliary aids or services; or (4) learned behavioral or adaptive neurological modifications. The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

The definition of disability shall be construed in favor of broad coverage of individuals under Section 504 and Title II, to the maximum extent permitted by the terms of those laws.

### **Child Find Process**

To identify, locate and evaluate children residing within the geographic boundaries of the school district who may qualify for special education (including homeless children and wards of the State), the school district will take the following practical steps:

- a) announce in mailings sent to families with school-aged children at least annually that the school district will identify and verify children at no charge for possible disabilities;
- b) include information about the identification and verification of children for possible disabilities at no charge in mailings sent to patrons, homeless shelters, and Health and Human Service offices located in the school district at least annually; and
- c) accept referrals for evaluation directly from parents, school personnel, and other state and regional agencies.

### **Free Appropriate Public Education (FAPE)**

The District shall provide a FAPE to each qualified student with a disability in the District's jurisdiction. An appropriate education is the provision of regular or special education and related aids and services that are designed to meet individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met, and complies with applicable federal regulations.

### **Educational Services for Children with Disabilities**

The District shall educate, or shall provide for the education of, each qualified student with a disability in its jurisdiction with students without disabilities to the maximum extent appropriate to the needs of the student with a disability. The

District shall place a student with a disability in the regular educational environment unless it is demonstrated by the District that the education of the student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily.

The District shall ensure that students with disabilities participate with students without disabilities in nonacademic and extracurricular services and activities to the maximum extent appropriate to the needs of the student with a disability.

Nonacademic and extracurricular services and activities include, but are not limited to, meals, recess periods, counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the District, referrals to agencies which provide assistance to students with disabilities, and employment of students.

### **Evaluation and Placement**

The District shall conduct an evaluation of any student who, because of a disability, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the student in regular or special education and any subsequent significant change in placement. The District shall ensure that:

- Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer.
- Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient.
- Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

The District shall ensure the following actions are taken when interpreting evaluation data and making placement decisions:

- Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior.
- Share evaluation data and information with each student's Section 504 team; follow the district's evaluation worksheet and establish other procedures as needed to ensure that information obtained from all such sources is documented and carefully considered by the team; and comply with all state and federal record laws applicable to such evaluation data and information.
- Ensure that the placement decision is made by a group of persons, including persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. A parent(s) or guardian is a required participant if he or she is a person knowledgeable about the student.

Placement decisions will be made in a timely manner in accordance with the requirements of state and federal law, in the least restrictive environment to meet the individual education needs of the student.

### **Reevaluation**

The District shall ensure that students with disabilities who have been provided special education or related services are periodically reevaluated.

### **Functional Behavioral Analyses and Behavior Intervention Plans**

Before the school district will change the educational placement of a student with a disability for disciplinary reasons, the school district will conduct a functional behavioral assessment (FBA) and, when appropriate, will develop a behavior intervention plan (BIP) based on information in the FBA. The FBA will be conducted by qualified professionals and team members, including parents, who are knowledgeable about the student and the student's behaviors. Once a BIP is implemented all staff will continue to apply it with fidelity until and unless the BIP is modified or discontinued by the student's educational team. The team will review the student's behavior progress at meetings scheduled by the 504 coordinator at appropriate and periodic intervals, depending on the needs and behaviors of the student.

### **Procedural Safeguards**

The school district uses a document entitled “NOTICE OF PARENT / STUDENT RIGHTS UNDER SECTION 504” to provide procedural safeguards and notice of parental and student rights when required by applicable law, including during the identification, consent, evaluation, and educational placement of eligible students.

### **District 504 Coordinator**

The school district’s designated Section 504 coordinator is the Superintendent of Schools. The Superintendent can be reached at the district’s central office P.O. Box 5, Harrisburg, NE 69345; by phone at (308) 436-5263; or by e-mail at [click to show address](#).