

Fresno Unified School District

Section 504 Grievance Filing Form

NOTICE IS HEREBY GIVEN TO ALL STUDENTS, PARENTS, GUARDIANS, CAREGIVERS, EMPLOYEES, COLLECTIVE BARGAINING UNITS, AND APPLICANTS THAT THE FRESNO UNIFIED SCHOOL DISTRICT ("DISTRICT") DOES NOT DISCRIMINATE ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, SEX, AGE, OR DISABILITY IN THE ADMISSION OR ACCESS TO, OR TREATMENT OR EMPLOYMENT IN, DISTRICT PROGRAMS OR ACTIVITIES.

PLEASE BE ADVISED THAT ALL INQUIRIES, COMPLAINTS, OR GRIEVANCES CONCERNING THE DISTRICT'S COMPLIANCE WITH THE REGULATIONS IMPLEMENTING SECTION 504 OF THE REHABILITATION ACT OF 1973 SHOULD BE DIRECTED TO:

Sean Virnig, PhD
504 Coordinator
1301 M Street
Fresno, CA 93721
(559) 457-3220
504@fresnounified.org

THE ABOVE DISTRICT EMPLOYEE HAS BEEN DESIGNATED BY THE DISTRICT TO COORDINATE ITS EFFORTS TO COMPLY WITH REGULATIONS IMPLEMENTING SECTION 504 OF THE REHABILITATION ACT OF 1973 IN ACCORDANCE WITH 34 C.F.R. SECTION 104.7(a) and 34 C.F.R. SECTION 104.8(a).

NOTICE OF PARENT AND STUDENT RIGHTS UNDER SECTION 504

The Rehabilitation Act of 1973, which includes "Section 504," is a nondiscrimination statute enacted by the United States Congress. The purpose of the Act is to prohibit discrimination and to assure that disabled students have educational opportunities and benefits equal to those provided to non-disabled students.

An eligible student under Section 504 is a student who (a) has, (b) has a record of having, or (c) is regarded as having a physical or mental impairment which substantially limits a major life activity such as learning, self-care, walking, seeing, hearing, speaking, breathing, working, and performing manual tasks. *Dual Eligibility:* Many students will be eligible for educational services under both Section 504 and the Individuals with Disabilities Act (IDEA). Students who are eligible under the IDEA have many specific rights that are not available to students who are eligible solely under § 504. A Notice of Procedural Safeguards under the IDEA is available at <http://www.cde.ca.gov/sp/se/qa/pseng.asp>

It is the purpose of this Notice form to set out the rights assured by 504 to those disabled students who do not qualify under the IDEA.

Federal laws and regulations provide parent(s)/guardian(s) and students with the following rights:

1. Parents/Guardians/Students have the right to be informed by the school district of their rights under Section 504 and the Americans with Disabilities Act. (The purpose of this Notice form is to advise you of those rights.)
2. Have your child take part in and receive benefits from public education programs without discrimination because of their disabling condition.
3. Your child has the right to a free, appropriate education designed to meet his or her individual

needs as adequately as the needs of non-disabled students are met. This includes the rights to be educated with non-disabled students to the maximum extent appropriate. It also includes the right to have the district make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities.

4. Your child has the right to free educational services except for those fees that are imposed on non-disabled students or their parents. Insurers and similar third parties are not relieved from an otherwise valid obligation to provide or pay for services provided to disabled students.

5. Your child has a right to facilities, services, and activities that are comparable to those provided for non-disabled students.

6. Your child has a right to an evaluation prior to an initial 504 placement and any subsequent significant change in placement. Parent/guardian signed written consent shall be obtained prior to the initial evaluation of a student.

7. Your child has the right to an equal opportunity to participate in nonacademic or extracurricular activities offered by the school.

8. Testing and other evaluation procedures must conform to the requirements of 34 CFR 104.35 as to validation, administration, areas of evaluation, etc. The district shall consider information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior, physical or medical reports, student grades, progress reports, parent observations, anecdotal reports, and Student Study Team referrals, as appropriate.

9. Placement decisions must be made by a group of persons (i.e., the Section 504 Team) including persons knowledgeable about your child, the meaning of evaluation data, the placement options, and the legal requirements for least restrictive environment and comparable facilities.

10. If eligible under 504, your child has a right to periodic reevaluations, generally every three years.

11. You have the right to notice prior to any action by the district in regard to the identification, evaluation, or placement of your child.

12. You have the right to examine relevant records.

If you disagree with the identification, evaluation, or placement of a student with disabilities under Section 504, you may initiate the following procedures. You are encouraged to utilize Levels One and Two, but you may proceed directly to Level Three if you so choose.

LEVEL ONE: In writing, request a meeting with the Section 504 Student Study Team in an attempt to resolve the disagreement. This meeting shall be held within a reasonable period of time after receiving the parents/guardians' request.

LEVEL TWO: If disagreement continues, request in writing a meeting with the district's Section 504 Coordinator, 1301 M Street, Fresno, California 93721, (559) 457-3220, 504@fresnounified.org. This meeting shall be held within a reasonable period of time after receiving the parents/guardians' request.

LEVEL THREE: If disagreement continues following the meetings at Levels One and Two, or if a

parent/guardian chooses to proceed directly to Level Three, a parent/guardian may request in writing an impartial hearing.

The parents/guardians shall have the right to an impartial hearing (“Section 504 Due Process Hearing”). Section 504 Due Process Hearing shall be conducted in accordance with the following procedures:

1. A request in writing for a Section 504 impartial hearing must be filed in the office of the district’s Section 504 Coordinator, 1301 M Street, Fresno, California 93721, (559) 457- 3220, 504@fresnounified.org.
2. A request for an impartial hearing must be in writing and generally received by the district within 180 calendar days from the time the parents/guardians received written notice of the decision leading to the request for the impartial hearing. This timeframe may be extended for good cause or by mutual agreement of the parties. A parent/guardian or student making an oral request for an impartial hearing will be assisted by the district in making a written request.
3. A request for an impartial hearing shall contain the following:
 - a. The specific nature of the decision(s) made by the district with which the person disagrees.
 - b. The specific relief the person seeks.
 - c. Any other information the person believes will assist in understanding the request.
4. Within 30 days following receipt of a written request for hearing, the district’s Section 504 Coordinator will select an impartial hearing office. This 30-day deadline may be extended for good cause or by mutual agreement of the parties.
5. A hearing officer selected by the district must satisfy the following requirements:
 - a. Be qualified to review district decisions relating to Section 504.
 - b. Not be an employee of, or under contract with, the district or the SELPA (Special Education Local Plan Area) of which the district is a member in any capacity other than that of a hearing officer.
 - c. Not have any professional or personal involvement that would affect his or her impartiality or objectivity in the matter.
6. Within 45 days of the selection of the hearing officer, the Section 504 Due Process Hearing shall be conducted, and a written decision mailed to all parties. This 45-day deadline may be extended for good cause or by mutual agreement of the parties.
7. Any party to the hearing shall be afforded the following rights:
 - a. The right to be accompanied and advised by counsel and by individuals with special knowledge or training relating to the problems of students who are disabled within the meaning of Section 504.
 - b. The right to present evidence, written and oral.
 - c. The right to written findings of fact, conclusions of law, and a decision prepared by the hearing officer.
 - d. The right to a written or electronic verbatim record of the hearing prepared at the expense of the individual requesting such record.
 - e. The right to prohibit the introduction of evidence at the hearing that has not been disclosed to the other party or parties at least 10 calendar days prior to the hearing except for good cause shown.
 - f. Receipt of notice from the other party or parties at least 10 calendar days prior to the hearing

that they will utilize the services of an attorney, except for good cause shown.

g. The hearing officer shall render a decision pursuant to the legal standards set forth in 34 CFR 104.

h. Either party may seek review of the hearing officer's decision by timely filing with a court of competent jurisdiction.

i. Reimbursement of attorneys' fees, expert witnesses' fees, and other costs is available only as authorized by law.

On Section 504 matters other than your child's identification, evaluation, and placement, you have a right to file complaint with the district's Section 504 Coordinator who will investigate the allegation an effort to reach a prompt and equitable resolution.

You also have a right to file a complaint with the Office of Civil Rights. The address of the Regional Office that covers California is:

San Francisco Office
Office for Civil Rights, U.S. Department of Education
50 United Nations Plaza
Mail Box 1200, Room 1545
San Francisco, California 94102
(415) 486-5555

EXPLUSION OF A SECTION 504 ELIGIBLE STUDENT

No Section 504 student may be expelled for misconduct which is caused by reason of their disability or was the result of an inappropriate placement.

Before implementing an expulsion, the Section 504 Student Study Team must conduct a manifestation determination meeting for the student to determine whether the misconduct in question is cause by, or has a direct and substantial relationship to, the student's disability and whether the misconduct was a result of an inappropriate 504 Plan or its lack of proper implementation. The manifestation determination meeting shall be conducted in accordance with District AR 6164.6 – Identification and Education Under Section 504 of The Rehabilitation Act of 1973.

A parent or guardian's disagreement with the Team's determination or their request for an impartial hearing shall not preclude the district from proceeding with an expulsion if the Team has determined that the student's misconduct was not caused by the student's disability or by an inappropriate placement.

REMINDER: The procedural safeguards outlined in this Notice apply only to students or their parents/guardians making claims under Section 504. Students or their parents/guardians making claims under the IDEA must follow IDEA procedures. A student may be eligible for services under both Section 504 and IDEA.

GRIEVANCE FILING FORM

Date

Name

School Site

Position If Applicable

Mailing Address

Email Address

Telephone Number

Fax Number

Nature of your grievance. Please describe the policy or action you believe may be in violation of Section 504. Be specific. Attach any documents relevant to your grievance. Please identify any person(s) you believe may be responsible.

If others are affected by the possible violation, please give their names and/or positions.

Please describe any corrective action you wish to see taken with regard to the possible violation. You may also provide other information relevant to this grievance.

Signature of Grievant

Signature of Person Receiving Grievance

Date

Location

Fresno Unified School District prohibits discrimination, harassment (including sexual harassment), intimidation, and bullying based on actual or perceived race, color, ethnicity, national origin, immigration status, ancestry, age (40 and above), religious creed, religion, political belief or affiliation, gender, gender identity, gender expression, genetic information, mental or physical disability, sex, sexual orientation, marital status, pregnancy or parental status, childbirth, breastfeeding/lactation status, medical condition, military and veteran status, or association with a person or a group with one or more of these actual or perceived characteristics or any other basis protected by law or regulation, in its educational program(s) or employment.

FRESNO UNIFIED SCHOOL DISTRICT
Fresno, California
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