



Section 504 of the Rehabilitation Act of 1973

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Section 504 Overview

Section 504 of the Rehabilitation Act of 1973 is a federal law which prohibits discrimination against persons with disabilities. The law provides:

- No otherwise qualified individual with a disability...shall solely by reason of her of his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance....

29 U. S. C. § 794

Section 504 is based on the principle that students with disabilities shall not be denied access to educational facilities, programs and opportunities on the basis of their disability.

For a student to qualify for Section 504 protection, the student must: **(1) have a mental or physical impairment (2) which substantially limits (3) one or more major life activities.** All three criteria must be met before the student is eligible for Section 504 protection.

Section 504 requires that the School District offer a Free Appropriate Public Education (FAPE) to each eligible student who has a physical or mental impairment that substantially limits a major life activity. Under Section 504, FAPE consists of the provision of regular or special education and related aids and services that are designed to meet the student's individual educational needs as adequately as the needs of non-disabled students, and in accordance with Section 504 requirements pertaining to educational setting, evaluation, placement and procedural safeguards. The FAPE obligation extends to all students described in this paragraph, regardless of the nature or severity of their disability.

Definition of Terms Section 504

Free Appropriate Public Education (FAPE) – A free appropriate public education is the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of disabled persons as adequately as the needs of non-disabled persons are met.

Individual with a disability – An individual with a disability is a person who:

1. Has a physical or mental impairment which substantially limits one or more of such person's major life activities;
2. Has a record of such impairment; or,
3. Is regarded as having such impairment.

Major Life Activities – A major life activity includes, but is not limited to functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. Major life activities also include standing, lifting, bending, reading, concentrating, thinking and communicating. The term also includes the operation of a major bodily function, including but not limited to functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

Physical or mental impairment – a physical or mental impairment is:

1. 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; genitourinary; hemic and lymphatic; skin; and endocrine; or
2. Any mental or psychological disorder such as cognitive impairment, organic brain syndrome, emotional or mental illness and specific learning disabilities.

Substantially Limits – A student who has a physical or mental impairment that substantially limits a major life activity may be found to have a disability under Section 504. This determination is made on a case-by-case basis.

Except for ordinary eye glasses or contact lenses, the effects of mitigating measures (e.g., medications, prosthetics, hearing aids, etc.) may not be considered when assessing whether a student has an impairment that substantially limits a major life activity. To the extent feasible, only the impact the impairment has on a major life activity without mitigating measure may be considered when determining whether the disability substantially limits a major life activity.

If a student has an impairment that is episodic or in remission, the School District must consider whether the impairment, when active, would substantially limit a major life activity. If so, then the student meets the definition of a student with a disability.

Policy of Non-Discrimination

It is the responsibility of the school district and Board of Education to adopt a policy of non-discrimination such that no otherwise qualified student with a disability shall be excluded from participation in, denied the benefits of, or be subjected to discrimination solely on the basis of his/her disability in any program or activity conducted by the school district.

It is the responsibility of the school district and Board of Education to identify, evaluate and provide a free appropriate public education to each qualified student with a disability within its jurisdiction regardless of the nature or severity of the disability.

A grievance procedure must be established for addressing complaints of discrimination on the basis of disability. A description of this procedure and other relevant information may be obtained by contacting the school district's Section 504 Coordinator or office of the Superintendent.

The school district may appoint a designee to serve as the District Section 504 Coordinator. The Building Level Administrator is ultimately responsible for the implementation of plans by the appropriate staff who work with the student.

Child Find

The School District attempts to identify and locate every student residing in the School District who may be a student with a disability under Section 504, regardless of whether he or she is currently receiving a public education. The School District will notify those students and their parents of their rights under Section 504.

The School District may satisfy the Section 504 notification obligation by advertising, by posting notices in places likely to be visited by qualified students with disabilities and their parents, by including notices in School District publications and on its web site, and by directly contacting parents of students the School District believes may be eligible.

The School District will also ensure that the information in its Section 504 notices is written in a manner that would reasonably be easily understandable to a parent. The notices will contain the name and contact information for the School District's Section 504 coordinator.

A parent has a right to refuse to provide consent for evaluation or for services or to not respond to district requests. In these circumstances, the district has the option, but not the obligation, to pursue the Section 504 evaluation by using due process. The district is not relieved of duties to identify, locate, and evaluate all children with disabilities, including those children whose parents revoked services. Child Find is an ongoing process, expectations are that children whose parents revoke consent will be identified, located, and offered an evaluation in the same manner as any other child if the child is suspected of having a disability and being in need of services.

Response to Intervention and Student Study Team Strategies

Many schools are using Response to Intervention (RtI) as a systematic procedure to provide supplemental and individualized instruction to address needs in foundational basic skills. Student progress is closely monitored with adjustments in instructional interventions based on student learning rates. Parents must be informed of the data used to measure student progress, the strategies used with their child, and their rights to request an evaluation at any time.

Some schools utilize a Student Study Team process in which individualized strategies are offered to the parents and teachers of students who are experiencing difficulties in school. Classrooms are naturally multi-tiered and multi-skilled environments. The implementation of personalized strategies helps teachers to be more intentional in the possible instructional and behavioral methodologies and expectations, and, by so doing: (1) Assists teachers with students who present

a wide variety of educational and behavioral needs and; (2) Strengthens educational opportunities within the general education program.

It must be emphasized that the RtI or Student Study Team procedures are not intended to impede any necessary referrals for consideration of eligibility under the Individuals with Disabilities Education Act (IDEA) or Section 504. If, at any time, a teacher, counselor, administrator, or other professional staff member suspects that the student's difficulties are attributable to a disability, the student should be referred for an evaluation. If a parent/guardian at any time requests an evaluation, the School District must either honor that request or notify the parent/guardian of his/her due process rights and the IDEA, or Section 504, as applicable.

Parental Rights

Section 504 guarantees certain rights to parents of students with disabilities. The intent of these procedural protections is to keep the parent/guardian fully informed concerning educational decisions about their child, and to inform the parent/guardian of their rights if they disagree with any of these decisions. At age 18, these rights transfer to the student. The Notification of Parent Rights should be used every time you plan to meet for purposes of Section 504 evaluation, plan development, or change in programs. Use the Parent Invitation to Section 504 Meeting to document your invitation to meetings.

Section 504 Process

The Section 504 Process consists of four steps: (1) Referral; (2) Evaluation; (3) Eligibility Determination; and (4) the Section 504 Plan. For eligible students with a plan, the district must also provide regular reviews of the plan, reviews to support changes in program and/or transitions across grade levels, and conduct re-determination evaluations.

The referral to the school may be made by a parent, staff member, or the student. The school district must conduct a timely evaluation to determine the student's eligibility under Section 504. From the date a referral request is received, a time frame of thirty (30) school days is recommended for completion of the identification, evaluation, and, if necessary, development of a Section 504 Plan for each student who is referred pursuant to the School District's Section 504 policy.

The determination of eligibility is based on the evaluation and is a team decision that includes persons knowledgeable of the student, the evaluation findings, and the meaning of the data. If determined to be eligible, an appropriate plan is developed and implemented. The school district will be responsible for the implementation of the plan and to provide regular review of the appropriateness of the plan. A Section 504 plan may be revised or discontinued at any time. The plan should be reviewed at least annually and updated, as needed, based on changes in student status and the context at school. A Section 504 plan review is also necessary when there is a change in program, building assignment, or staff. A 504 plan may be discontinued with proper notice, evaluation and review.

Referral

A student who, because of a suspected mental or physical impairment, is believed to be in need of accommodations or educational services under Section 504, may be formally referred by a parent, teacher, other certified school employee(s), or the adult aged student himself/herself. The referral process involves proper documentation of the presenting concerns, notice to parents, consent, and notice of procedural safeguards. Parents are to be provided with copies of referral and consent forms and given the opportunity for clarification of terms, timelines, and procedural safeguards.

Evaluation

A determination of Section 504 eligibility (i.e., a physical or mental impairment that substantially limits a major life activity within the school environment) must be based on a multi-source evaluation. The evaluation procedures to be followed may, but need not, include all of those which are followed in evaluating students under the Individuals with Disabilities Education Act (“IDEA”). The nature and extent of the information needed to make a Section 504 eligibility decision is determined on a case-by-case basis by a group of persons knowledgeable about the student and the meaning of evaluation data.

The evaluation process should begin with a thorough review of the student’s educational records. Evaluation standards require that assessments are (1) used for the purposes they were developed; (2) administered by qualified personnel; (3) tailored to assess the specific area of concern and not to provide a global ability score; and (4) selected and administered to ensure the test accurately reflects the student’s abilities rather than reflecting the impairment. The following sources of information may be considered as appropriate evaluation methods:

- Observations of the student
- Standardized tests or other assessments by school staff
- Parent/Student/Teacher interviews
- Behavior rating scales or other checklists
- Pertinent medical information
- Information provided by the parent

If a student is suspected of having a physical impairment and the School District does not already have a current diagnosis documented by a physician, input from a physician may be sought as part of the evaluation process. **Please note that a diagnosis of a physical or mental impairment does not, in and of itself, determine eligibility under Section 504.** As mentioned above, there must also be separate findings that the impairment substantially limits a major life activity.

Medical evaluations are NOT required under Section 504. The school district may NOT require the parent to provide medical information or evaluation. If the evaluation team determines that a medical evaluation is necessary, the district must pay for it. Letter to Veir, 20 IDELR 864 (OCR, 1993).

Eligibility Determination

The eligibility determination should be made by a group of persons knowledgeable about the student, the meaning of the evaluation data and placement options. The school should form a team to conduct the evaluation, determine eligibility, and develop a plan for the eligible student. Appropriate team members may include the classroom teacher, instructional resource teachers and appropriate related services staff, if needed. Use the Parent Invitation to Section 504 meeting, the Notification of Parent Rights, and the Parent Consent for Section 504 Evaluation. Additional considerations are offered to assist the district in making appropriate eligibility determinations.

Substantial Limitation: The Office for Civil Rights (OCR) does not endorse a single formula or scale that measures substantial limitation. See *Protecting Students with Disabilities: Frequently Asked Questions about Section 504 and the Education of Children with Disabilities* (March 2009). The determination must be made on a case by case basis with respect to the individual student. The standard for determining a substantial limitation is broad and typically references access to participate and to fulfill the expectations of the non-disabled students.

Major Life Activities: Some individuals interpret this to mean that a student must have a substantial limitation in the area of learning to be eligible under Section 504 and use this criteria to exclude students from eligibility. This would be an oversimplified understanding of this provision in the law. A student may have a disability that in no way affects their ability to learn, yet they may need extra help of some kind for them to access learning. Letter to McKethan, 23 IDELR 504 (OCR 1995). Physical or mental impairments may substantially limit major life activities other than learning that interfere with the student's ability to access and benefit from the school's programs and activities.

Mitigating Factors: In the past, school districts were allowed to consider a student's use of mitigating measures, such as medications, in determining if the impairment substantially limited a major life activity. Since revisions in the law that occurred in 2009, such factors cannot be considered when making disability determination. The determination of eligibility and the plan must be developed independent of the use of mitigating measures. Consider how the student would access and benefit from instruction were the mitigating factors not available.

Episodic or In Remission Disabilities: An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. A temporary injury or illness of a duration less than six months is not regarded as an impairment that substantially limits a major life activity.

Section 504 Is NOT Interchangeable with IDEA: Section 504 eligibility is NOT automatically bestowed on a student who is referred for a special education evaluation and who is subsequently determined not IDEA eligible. Letter to Veir, 20 IDELR 864 (OCR 1993). Parents may not avoid having a child labeled as special education by "opting" for a Section 504 plan. Letter to McKethan, 25 IDELR 295 (OCR 1996). Similarly, a district

does not have the flexibility to opt to provide Section 504 services when the student is IDEA eligible. *Yankton Sch. Dist. v. Shramm*, 24 IDELR 704 (8th Cir. 1, 1996).

No Automatic Eligibility: A medical diagnosis of an illness does not automatically mean a student can receive services under Section 504. The illness must cause a substantial limitation on the student's ability to learn or another major life activity. See *Protecting Students with Disabilities: Frequently Asked Questions about Section 504 and the Education of Children with Disabilities* (March 2009).

Access NOT Advantage: Section 504 is not designed to improve grades, raise test scores, or reduce homework responsibilities. If a student is only seeking test accommodation, it is likely the student does not need a Section 504 plan.

Prevent Over-Identification: Recognize there are other factors that could adversely affect student learning, such as socioeconomic status, educational disadvantage, poor early instruction, difficult family situation, gang involvement, truancy, or limited English proficiency. Invest in training of staff to learn about Section 504. Explain to staff that it can be a violation to identify a student as a student with a disability when in fact the difficulty stems from other factors.

Prevent Misconceptions Leading to Violations: It is a misconception to assume that general education accommodations supplant the need for Section 504 eligibility or services. Another misconception is that a student must fail in all classes to be eligible. It is important to recognize that a student who continues to struggle, with intervention, may indeed have a substantial limitation. Also, the courses may require additional skills that are impacted by the student's impairment.

Section 504 Plan

Where a student is found to be eligible, a Section 504 Plan will be developed. The building Section 504 Team, which includes the parents, will be responsible for determining the special accommodations and services that are needed to ensure that the student receives a free appropriate education. The Plan will specify how services will be provided and by whom.

The Section 504 Plan shall be signed by the Building Administrator. Prior to implementation, a copy of the Plan shall be provided to the parent(s)/guardian(s), which indicated the School District's intent to implement the plan. Parent must always be provided a copy of the Notification of Parental Rights.

If a Section 504 Plan is developed for a student, only school personnel with implementation responsibilities shall be informed of the existence and particulars of the plan. Staff should be informed on the contents of the plan when the plan is created, revised, and at points of transition, including transfers between buildings, or changes in schedule, staff, or program.

Annual Review

The teacher or other person(s) designated by the Section 504 Team shall monitor the student's progress and the effectiveness of the student's plan. The teacher or other designated person will

meet with the parent(s) at least annually to determine whether the Section 504 Plan continues to be appropriate or whether any changes are thought to be necessary. A Section 504 team meeting will be convened at any time to review the changes in student need or other appropriate concerns.

Reevaluation

A multi-source evaluation should be completed periodically to re-determine eligibility under Section 504 and/or before any significant changes are made in the Section 504 Plan. A school district shall not require outside evaluations or examinations as a condition of eligibility or plan continuance. Medical evaluations are NOT required under Section 504. The school district may NOT require the parent to provide medical information or evaluation. If the evaluation team determines that a medical evaluation is necessary, the district must pay for it. Letter to Veir, 20 IDELR 864 (OCR, 1993)

Service Animals

Effective March 15, 2011, the U.S. Department of Justice now requires public entities, including schools, to modify policies, practices or procedures to permit a qualified individual with a disability to use a service animal on public premises. The individual with a disability shall be permitted to be accompanied by a service animal in all areas of a public entity's facilities where members of the public; participants in services, programs or activities; or invitees (as relevant) are allowed to go. A definition of a service animal is limited to dogs and horses. The provisions of this requirement are not extended to other species of animal.

A dog is service animal if the following criteria are met:

- The dog was individually trained
- To do work or perform tasks
- For the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability

The language regarding the miniature horse as service animal follows:

“A public entity shall make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability.”

Schools may consider four factors when determining their ability to make reasonable modifications in policies, practices, or procedures to permit the use of the service animal. The four factors include:

1. Type, size, and weight;
2. Whether the handler has sufficient control;
3. Whether housebroken; AND
4. Legitimate safety requirements

There are questions the school may and may not ask to establish the reasonableness of the use of the service animal. The school may ask if the animal is required of the disability and what tasks the animal has been trained to perform. The school may not ask about the use of the service animal in obvious contexts (For example, a visually impaired person using a trained leader dog). It is unlawful to ask about the nature or extent of the person's disability. It is also unlawful to require documentation or certification of the animal's training.

Listed below are the types of tasks that may be performed by a service animal:

- Assist blind/visually impaired to navigate
- Alert deaf/hearing impaired to presence of people or sounds
- Pull a wheel chair
- Provide seizure assistance
- Alert to presence of allergens
- Retrieve items (medicine, telephone)
- Provide physical support, balance and stability to individuals with mobility disabilities
- Prevent or interrupt impulsive or destructive behavior of persons with psychiatric and neurological disabilities

A public entity may ask an individual with a disability to remove a service animal from the premises if:

- The animal is out of control and the animal's handler does not take effective action to control it; OR
- The animal is not housebroken
- The animal's presence fundamentally alters the nature of the program, service or activity

Under Section 504, the school is NOT responsible for the care or supervision of the service animal. If a school properly excludes a service animal or miniature horse, the individual with a disability must be given the opportunity to participate in the service, program, or activity without having the service animal on the premises. The school may also ask for payment for damages incurred by the service animal.

Suspension and Expulsion of Students Served Under Section 504

Students who are eligible under Section 504 have certain additional protections when charged with a violation of the Code of Student Conduct which may result in a suspension or expulsion. Similar to suspension or expulsion of a student with a disability under the IDEA, it is necessary to conduct a manifestation determination review for a Section 504 disabled student when:

- The suspension or expulsion will be for more than ten (10) consecutive school days. As is true under IDEA, a suspension/expulsion of more than ten (10) consecutive days

constitutes a significant change in placement and requires the School District to determine if the cause of the behavior is the disability identified in the student's Section 504 plan.

- A series of suspensions that total more than ten (10) school days in a school year may create a pattern of exclusion. If cumulative suspensions/expulsions for a student on a Section 504 Plan total more than ten (10) school days in a school year, it must be determined if a significant placement change has occurred. This decision is made on a case-by-case basis. If a group of short suspensions creates a pattern of exclusion, then this constitutes a change in placement and the School District must conduct a manifestation determination meeting before further suspensions or expulsions occur. The Office for Civil Rights has identified some of the key factors in determining the existence of a pattern of exclusion; these include the length of each suspension, the proximity of one suspension to another, the similar or dissimilar nature of the behavior, and the total amount of time the student is excluded from school.

Section 504 allows a student to be disciplined, without going through the manifestation determination review process, where the student is charged with and found to be currently engaging in the illegal use of drugs or alcohol, in violation of the School Code.

The manifestation determination process will determine if the violation was due to the student's disability. The review must also consider the appropriateness of the student's plan of supports and services under Section 504. Appropriate actions should include consideration for a referral for IDEA evaluation when the manifestation determines the behavior is likely related to the disability. In those situations in which the student committed an infraction leading to state mandated removal from school, the review process must consider the obligations to provide FAPE under IDEA.

In situations in which the manifestation determination process determines the behavior is NOT related to the disability, the student is to be given the same treatment or sanctions as the nondisabled students, consistent with the school district Code of Student Conduct and local district policy. The provisions of FAPE do not apply during the period of discipline or removal from school. The student may apply for reinstatement following the same policy as nondisabled peers.

Complaints and Grievances

A person who believes that he/she has been discriminated against by the School District on the basis of his/her disability may pursue a grievance/complaint through School District's Grievance/Complaint Procedure.

Grievance and Impartial Due Process Procedures must include procedural safeguards notification to parents. A parent may request an impartial due process hearing at any time and should be provided notice of this right. While the school district must also offer a process for addressing complaints and grievances, the parent should not be delayed or denied in their exercise of due process.

The complaint or grievance process is outlined below:

1. The grievance process starts with a meeting at the building level to review concerns and consider possible immediate solutions. The meeting should occur in a reasonable timeframe. The building administrator should meet with parent to discuss concerns and attempt to resolve the issues. Suggested meeting participants may include: Parent, Staff involved with the student's 504 plan, and Building Administrator. The meeting outcomes should be summarized and shared with the parent and District Section 504 Coordinator.
2. If the issue does not reach satisfactory resolution, parent should file a written grievance with the District 504 Coordinator.
3. The District Section 504 Coordinator will investigate the concern and prepare a written summary of findings and recommendations.
4. Upon parent and district review of recommendations, the parent and district, by mutual agreement, may enter a facilitation meeting to reconcile any concerns that cannot be resolved through the recommended course of action.
5. If the issue does not reach satisfactory resolution, the parent may request an impartial due process hearing through the District Section 504 Coordinator or office of the Superintendent.
6. An impartial hearing officer will be appointed by the school district.
7. The impartial hearing officer will conduct an evaluation and make written recommendations.
8. If the due process hearing does not resolve the issue, the parent may file a complaint with the Office of Civil Rights.

Impartial Due Process Hearings

Parents or persons in a parental relationship who disagree with the identification, evaluation, placement or provision of a free appropriate public education for a student with a disability have the right to request an impartial due process hearing. Request for a Section 504 due process hearing must be made to the School District Section 504 Coordinator. Upon receipt of such a request, the necessary arrangements will be made by the School District, including the selection of a hearing officer. A hearing may not be conducted by a person who is an employee of the School District, or by any person having a personal or professional interest which would conflict with his or her objectivity in the hearing. For assistance in identifying an appropriate hearing officer, the district may begin by contacting legal counsel.

Any party to a hearing has the right to:

- Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;

- Present evidence and confront, cross-examine, and compel the attendance of witnesses;
- Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five days before the hearing;
- Request that the hearing officer bar as evidence any evaluation or recommendation completed but not disclosed to the other party at least five business days prior to the hearing;
- Obtain a written or electronic verbatim record of the hearing or obtain alternate forms of the verbatim record to be provided in the parent's native language; and
- Obtain written or electronic findings of fact and decisions.

The School District will adhere to the following timeframes in the event of a request for a due process hearing:

- A hearing will be scheduled not less than fifteen (15) or more than thirty (30) calendar days following receipt of a written request from the parent.
- The Hearing Officer will, not later than thirty (30) calendar days after the hearing, do both of the following:
 - Reach a final decision regarding the matter; and
 - Send a written copy of the decision to each party
- .In the absence of an appeal, the decision of the Hearing Officer will be implemented by the School District within fifteen (15) calendar days of the School District's receipt of the decision.

Appendix A

Forms

Checklist

Parent Rights

Referral

Prior Written Notice

Consent to Evaluate

Invitation for Initial Meeting

Parent Input

Identification Form

Review Evaluation results

Accommodation Plan

Plan Review

Grievance Form

Due process Hearing Request

Manifestation Determination

Piute School District Section 504 Checklist

Student Name: _____

School: _____

Case Manager: _____

Date Completed: _____

Initial 504 Referral:

Referral to 504:

- Referral form obtained from school administrator
- Completed referral form returned to school administrator

Notice and Consent:

- Notice of Parent Rights provided to parents
- Prior Written Notice, Invitation to Parents Initial meeting , Input form, sent to parents
- Consent for Evaluation form sent to parents

Evaluation:

- 504 Identification Form completed
- 504 Accommodation Plan completed

Implementation Meeting:

- Notice of 504 Meeting sent to parents
- Review and sign Accommodation Plan

Documentation:

- Copy of Accommodation Plan provided to parents
- Copy of Accommodation Plan submitted to District 504 Coordinator
- Copy of Accommodation Plan and all other documents kept in school file

Section 504 Annual Review:

- Prior Written Notice sent to parents
- Complete and sign the Section 504 Plan Review Form
- Submit copy of Section 504 Plan Review form to District 504 Coordinator

**Piute School District
Section 504 Referral**

Student: _____ Date: _____

School: _____ Date of Birth: _____

Teacher: _____ Grade: _____

Parent: _____ Phone: _____

Address: _____

Referred by: _____

Position: _____

1. Reason for referral: _____

2. Accommodations and interventions attempted: _____

3. Has the student ever been referred, evaluated, and/or received services from special education? Yes No If yes, explain: _____

4. Referral action: _____

Signature of Section 504 Coordinator

Date

Piute School District
NOTIFICATION OF PARENT RIGHTS
Section 504 of the Rehabilitation Act of 1973

The purpose of this notice is to inform parent and student of the rights granted to them under Section 504. The federal regulations that implement Section 504 are found at Title 34, Part 104 of the Code of Federal Regulations (CFR). They include the following rights:

1. Have the district advise you of your rights under federal law;
2. Have your child take part in, and receive benefits from public education programs without discrimination because of his/her disability;
3. Receive notice with respect to identification, evaluation, or placement of your child;
4. Have your child evaluated by the district prior to determining eligibility under Section 504;
5. To be notified prior to any action (be it a proposal or refusal) regarding the identification, evaluation, or placement of your child;
6. Have evaluation, educational, and plan of services decisions made based upon a variety of information sources, and by persons who know the student, the evaluation data, and placement options;
7. Have periodic review of your child's educational need for Section 504 plan of services;
8. Have your child receive a free appropriate public education. This includes the right to be educated with nondisabled students to the maximum extent appropriate. It also includes the right to have the school district make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities;
9. Have your child educated in facilities and receive services comparable to those provided nondisabled students;
10. Have your child be given an equal opportunity to participate in nonacademic and extracurricular activities offered by the district;
11. Examine all relevant records relating to decisions regarding your child's identification, evaluation, educational program and placement and obtain copies of educational records at a reasonable cost unless the fee would effectively deny you access to the records;
12. Receive a response from the school district to reasonable requests for explanations and interpretations of your child's records;
13. File a local grievance with the District 504 Coordinator;
14. Request an impartial due process hearing related to decisions or actions regarding your child's identification, evaluation, educational program or placement. You and the student may take part in the hearing and have an attorney represent you at your own expense. The impartial Hearing Officer will be selected by the district;
15. Hearing requests must be made to the District Section 504 Coordinator;

Submit a complaint with the Office for Civil Rights

Office for Civil Rights,
Denver Office
U.S. Department of Education
Cesar E. Chavez Memorial Building
1244 Speer Boulevard, Suite 310
Denver, CO 80204-3582
Telephone: (303) 844-5695
Facsimile: (303) 844-4303
Email: OCR.Denver@ed.gov

**Piute School District
Section 504 Prior Written Notice**

Students Name: _____ DOB: _____

School: _____ Student #: _____

Evaluation:

Your child will be evaluated for Section 504 accommodations based on all available evidence. i.e. medical information, state test, teacher evaluation, observations, attendance and any other available information.

Implement Accommodations:

A Section 504 accommodation plan has been developed based on _____ which substantially limits life activities, including access to the school curriculum.

Reevaluation:

Annually each student qualifying for a Section 504 accommodation plan is reevaluated to assess current student needs. Their Section 504 plan will then be revised and changed according to their current needs.

Exited from Section 504:

If student no longer qualifies based on a disability which substantially limits life activities they will be exited from Section 504 status.

LEA Decision to not initiate or change Section 504 status:

LEA will not initiate or change your child's Section 504 at this time.

LEA/Section 504 Monitor's Signature

Parent/ Guardian(s) Signature

Piute School District
Section 504 Consent to Evaluate

Student Name: _____

School: _____ Date: _____

Following a discussion with school personnel acquainted with my child, I authorize the use of a school educational evaluation for my child to determine possible identification for Section 504 accommodations/services. I understand that this evaluation may include administration of the following:

The school is requesting your consent to conduct the following evaluation procedures:

Evaluation Procedures

Person Responsible

I understand that following the evaluation, I will be given the opportunity to meet with appropriate school staff to review the evaluation results and plan next steps for my child's education.

I give written consent to have my child evaluated.

Signed

Parent Name (Printed)

Date

Piute School District Invitation to Parents for Initial Section 504 Meeting

Student: _____ Date: _____

School: _____

Dear Parent or Guardian:

This letter is to inform you that the Section 504 Team at the school has concerns about your child's academic and/or behavioral progress. Prior to this time, the Team may have developed and implemented academic and/or behavioral interventions with your child. They include the following:

Intervention	Duration	Effectiveness

After evaluating the Intervention Plan and/or your child's current performance, we believe that additional information is necessary to fully determine your child's educational needs and whether he/she might need accommodations in the general classroom under Section 504. We would like to meet with you to discuss a possible evaluation under Section 504 in order to ensure that your child is afforded an appropriate education.

We have scheduled a meeting on _____ at _____.

This meeting will be held at _____.

It would be helpful if you could fill out the attached parent input form and bring it to the meeting or send it to your child's teacher if you cannot attend. If you have any questions, cannot attend, or if this meeting time is not convenient for you, please call me at _____. We will discuss your questions or arrange a mutually convenient meeting time. A description of your rights under Section 504 is attached.

Sincerely,

School Section 504 Representative

Attachments: Section 504 Parent Rights, Parent Input Form

Piute School District
Section 504 Meeting Parent Input

Student: _____ Date: _____

School: _____ Grade: _____

Father's Name: _____

Mother's Name: _____

Who has legal authority to make educational decisions for this child? _____

With whom does this student live? _____

Please answer any questions that you think might be helpful to the 504 Team.

What are some of your child's strengths? _____

What does your child do when not in school? _____

Please describe your child's behavior at home? _____

Have there been any important changes within the family during the last 3 years? _____

Do you feel your child is experiencing problems in school? _____

When were you first aware of this problem? _____

What do you think is causing the problem? _____

What time does your child go to bed at night? _____

Does your child usually eat breakfast? _____

What methods of discipline are used with your child at home? _____

What is your child's reaction to discipline? _____

Has your child mentioned any problems with school? If so, how does he/she feel about the problem? _____

Health History

Please describe any serious illnesses, accidents, or hospitalizations. _____

Does your child appear to have any physical health problems, including allergies? _____

Is your child receiving service(s) from another agency? _____

Is your child currently taking medications? If so, please list. _____

Are there any known side effects from the medication? _____

Please tell us anything else that you think would be helpful in planning for your child's success at school.

**Piute School District
Identification Form: Section 504/ADA**

Part One: Documentation of Team Meeting

Name of Student: _____ DOB: _____
Date of 504 Team Meeting: _____ Time: _____
Location: _____

Team Members: (Note: the Team should consist of at least three members of the professional staff. Team Members must be collectively knowledgeable about the student, the meaning of the evaluation data, and the placement options.)

Name:	Title:
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Information that was reviewed and considered:

The following information provided by the parents: (Note: attach copies of any report, recommendation, or evaluation provided by the parents and summarize any verbal input):

_____ Grades:
What school year(s)? _____

_____ Academic testing:
Tests? _____ Year(s)? _____

_____ Teacher recommendations:
What teacher(s)? _____

_____ Behavior records:
What school year(s)? _____

_____ Other testing or evaluation:
Be specific: _____

_____ Medical reports, records, recommendations:
Be specific: _____

_____ Other input:
Be specific: _____

Part Two: Consideration of Major Life Activities

Please check the box or boxes of the MAJOR LIFE ACTIVITY that may be impaired?

<input type="checkbox"/>	Caring for Self	<input type="checkbox"/>	Hearing	<input type="checkbox"/>	Working
<input type="checkbox"/>	Performing Manual Tasks	<input type="checkbox"/>	Speaking	<input type="checkbox"/>	Reading
<input type="checkbox"/>	Walking	<input type="checkbox"/>	Breathing	<input type="checkbox"/>	Concentrating
<input type="checkbox"/>	Seeing	<input type="checkbox"/>	Learning	<input type="checkbox"/>	Thinking
<input type="checkbox"/>	Communicating	<input type="checkbox"/>	Eating	<input type="checkbox"/>	Sleeping
<input type="checkbox"/>	Standing	<input type="checkbox"/>	Lifting	<input type="checkbox"/>	Bending
<input type="checkbox"/>	Other (Be specific)	<input type="checkbox"/>	Other	<input type="checkbox"/>	Other

Note: If the major life activity is LEARNING, READING, CONCENTRATING, THINKING, SPEAKING, OR COMMUNICATING, the Team should CONSIDER referring the student for a Full Individual Evaluation to determine eligibility for special education under the Individuals with Disabilities Education Act (IDEA).

If the Team suspects that the student may need specially designed instruction due to impairment of any of these major life activities, the Team must refer the student for a FIE to determine eligibility under IDEA. In that case, the Team will suspend the meeting until a decision is made about special education eligibility. Go to Part Five.

Part Three: Consideration of Impairment

What data has the Team considered to establish that the student has a PHYSICAL or MENTAL IMPAIRMENT? *Be Specific, and list all sources of data:

*NOTE: If there is no data, or insufficient data, to support the existence of a physical or mental impairment, the school cannot identify the student as an individual with a disability under Section 504/ADA.

Based on the data considered, how long is the impairment expected to affect the student? _____

Based upon a review of the data cited above, does the student have a physical or MENTAL IMPAIRMENT affecting the MAJOR LIFE ACTIVITY to some degree? ____ Yes ____ No

If "YES," proceed.

If "NO," the student can be identified as an individual with a disability under Section 504/ADA. However, if the student has a RECORD of any physical or mental impairment that substantially limits a major life activity, the student will not be subjected to discrimination based on that record. Furthermore, if the student is erroneously REGARDED as having such a physical or mental impairment, the student will not be subjected to discrimination based on that perception. Go to Part Five.

If "YES," what is the nature of the IMPAIRMENT of the MAJOR LIFE ACTIVITY?

Part Four: Consideration of Impairment

Impairments impact major life activities to varying degrees. If the Team determines that the impairment SUBSTANTIALLY LIMITS the student's performance of the MAJOR LIFE ACTIVITY, then the student should be identified as an individual with a disability under Section 504 and the ADA.

If the Team determines that the impairment limits the student to a MILD or MODERATE degree, then the student should not be identified as an individual with a disability under Section 504 and the ADA. However, the Team may proceed to consider non-disability related accommodations or services that would be helpful to the student, if appropriate.

In assessing the impact of the impairment on the student's performance of the major life activity, the Team will disregard the positive effects of mitigating measures that lessen the impact of the impairment. For example, the Team will disregard medications, medical equipment and supplies, hearing aids, auxiliary aids and services, reasonable accommodations, learned adaptations, and behavioral modifications. The effect of ordinary eyeglasses and/or contact lenses will be considered.

Moreover, with regard to impairments that are episodic or in remission, the Team will consider the impact of the impairment when it is active.

Taking all that into account:

Does the student's PHYSICAL or MENTAL IMPAIRMENT substantially limit the student's performance of the MAJOR LIFE ACTIVITY in comparison with how most students in the general population and of the same chronological age perform the major life activity? ____ Yes ____ No

Part Five: Identification

_____ The Team believes that the student may have a physical or mental impairment that substantially limits learning, or another major life activity, in such a way that the student may require the provision of specially designed instruction. Therefore, the student has been referred for a full individual evaluation to determine eligibility for special education services under the Individuals with Disabilities Education Act. If it is determined that the student is eligible under IDEA, the school will provide a free appropriate public education pursuant to an individual education program for the student. If the student is not eligible for services under IDEA, the 504 Team will reconvene and resume consideration of the student.

OR

_____ The Team has determined that the student cannot be identified as an individual with a disability under Section 504/ADA because there is no data, or insufficient data, to establish the existence of a physical or mental impairment.

OR

_____ The Team has determined that the student cannot be identified as an individual with a disability under Section 504/ADA because the student's physical or mental impairment does not substantially limit the student in a major life activity.

OR

_____ The Team has determined that the student has a physical or mental impairment that substantially limits the student's performance of a major life activity. The impairment is:

- A. Active
- B. Episodic
- C. In remission

If, and only if, this section is checked, proceed to Part Six.

Part Six: Consideration of Accommodations and Services

The Team has IDENTIFIED your child as an individual with a disability under Section 504/ADA. This means that you will be entitled to all of the procedural protections provided by Section 504/ADA such as placement in the least restrictive environment, periodic reevaluations, the right to receive notice of certain actions by the school, the right to challenge certain actions of the school through an impartial hearing, and the right to have your child's education individually designed so as to meet his or her needs as well those of non-disabled students. These rights are spelled out in the Notice of Rights and Procedural Protections document that has been provided to you.

In addition, as an individual with a disability under Section 504/ADA your child may need an individual plan of accommodation and/or services. If so, such a plan will be developed by the 504 Team.

_____ The child's disability does not presently impair the student's performance of a major life activity in a way that requires any accommodations or services at this time. However, the Team will reconsider the need for an individualized plan 1) at an annual meeting of the 504 Team and 2) at any other time at your request.

_____ The child's disability is episodic and thus does not require accommodations or services on a daily or regular basis, but it requires consideration of a plan in the event that the disability becomes active. The plan is attached. The Team will reconsider your child's plan 1) at an annual meeting of the 504 Team and 2) at any other time at your request.

_____ The child's disability is active and presently requires accommodations or services in the school setting. The plan is attached. The Team will reconsider your child's plan 1) at an annual meeting of the 504 Team and 2) at any other time at your request.

Piute School District Section 504 Accommodation Plan

Student: _____ Grade: _____ Date: _____

School: _____ Teacher: _____

YES NO The student has received an evaluation.

YES NO The student has a mental or physical impairment that substantially limits one or more of his/her major life activities.

YES NO The impairment substantially affects the student's overall performance at school in regards to:

Breathing	Seeing	Hearing	Doing Manual Tasks
Writing	Walking	Speaking	Caring for Oneself
Reading	Learning	Working	Showing Troubling Behavior
Helping	Sleeping	Standing	Lifting
Concentrating	Thinking	Communicating	Operation of a Bodily Function
Eating	Bending	Other:	

Is this student identified to receive a 504 Accommodation Plan? _____

Describe what evaluation data was used; Describe this student's circumstances and its educational impact in more detail (that is, document the basis for the 504 Plan):

The case manager for this Section 504 Plan will be: _____

Date of Meeting & Initial Plan: _____

Annual Review Scheduled for: _____

List each need in order of priority and describe specifically how it is to be met.

Specific Need (How does the impairment impact the student's education and what is needed to eliminate the restriction?)	Accommodations
	Special Materials or Training Needed – Who, How, and When?
	Who will Implement the Accommodations
	Criteria for Evaluating Success

Specific Need	Accommodations
	Special Materials or Training Needed – Who, How, and When?
	Who will Implement the Accommodations
	Criteria for Evaluating Success

Specific Need	Accommodations
	Special Materials or Training Needed – Who, How, and When?
	Who will Implement the Accommodations
	Criteria for Evaluating Success

Section 504 Plan Team:

Signature: _____ Title: _____ Date: _____

Signature: _____ Title: _____ Date: _____

Signature: _____ Title: _____ Date: _____

Signature: _____ Title: _____ Date: _____

Signature: _____ Title: _____ Date: _____

PARENT/GUARDIAN

I, _____, as this student's parent/guardian, give
 do not give permission for my child to receive the accommodations described.

Signed: _____ Date: _____

Piute School District
Notice of Section 504 Meeting to Review Evaluation Results

Date sent/mailed: _____
Student's Name: _____
School: _____ Grade: _____
Parent's Name: _____
Address: _____
Home Phone: _____ Work Phone: _____

Dear _____:

This letter is to inform you that the Section 504 Team at your child's school would like to meet with you to discuss the results of an evaluation under Section 504. Your insights and contributions will be quite helpful to us in effecting the best decisions possible. If you have not already done so, please fill out and return the Parent Input Form.

Meeting Date: _____ Meeting Time: _____

Location: _____

Please call me at _____ if you have any questions or need to arrange an alternative date.

Sincerely,

School Section 504 Representative

Attachment: Parent Input Form

**Piute School District
Section 504 Prior Written Notice**

Students Name: _____ DOB: _____

School: _____ Student #: _____

Evaluation:

Your child will be evaluated for Section 504 accommodations based on all available evidence. i.e. medical information, state test, teacher evaluation, observations, attendance and any other available information.

Implement Accommodations:

A Section 504 accommodation plan has been developed based on _____ which substantially limits life activities, including access to the school curriculum.

Reevaluation:

Annually each student qualifying for a Section 504 accommodation plan is reevaluated to assess current student needs. Their Section 504 plan will then be revised and changed according to their current needs.

Exited from Section 504:

If student no longer qualifies based on a disability which substantially limits life activities they will be exited from Section 504 status.

LEA Decision to not initiate or change Section 504 status:

LEA will not initiate or change your child's Section 504 at this time.

LEA/Section 504 Monitor's Signature

Parent/ Guardian(s) Signature

Piute School District Section 504 Plan Review

Student Name: _____ Date: _____

Case Manager: _____

Purpose of Meeting: It is necessary to periodically review the student's progress under Section 504 services and make recommendations to continue, modify, or terminate the program(s). (504 plan should be reviewed once each year.)

Discussion of Progress: _____

Recommendation:

- Continue present services with no changes.
- Modify the present Accommodation Plan (see new plan attached).
- Conduct additional evaluations.
- Exit from Section 504 services based upon the following evaluation results/rationale.

Discussion of Recommendations: _____

The following members of the Section 504 Team participated in this review:

Signature(s)

_____ Parent / Guardian	_____ Parent / Guardian
Signature: _____	Title: _____ Date: _____
Signature: _____	Title: _____ Date: _____
Signature: _____	Title: _____ Date: _____
Signature: _____	Title: _____ Date: _____
Signature: _____	Title: _____ Date: _____

**Piute School District
Section 504 Grievance Form**

Student Name: _____

School: _____

Parent Name(s): _____

Address: _____

Phone(s): _____

1. Summary of Grievance – What is the problem? What are the facts? _____

2. How can the problem be solved? _____

3. Who have you spoken to or met with at the school to address this situation? What was the result of this contact? _____

4. Please describe any corrective action you wish to see taken with regard to this grievance. _____

Please attach any additional information or documentation you wish the district to consider. You also have the right to file a complaint with the regional office of the U.S. Department of Education's Office for Civil Rights (OCR) without going through the district's grievance procedures.

Signature of Parent

Date

Received by:

Signature of Section 504 Coordinator

Date

**Piute School District
Section 504
Due Process Hearing Request Form**

Student's Name _____ DOB: ____ / ____ / ____

Address: _____

City / State / Zip: _____

School: _____

Address: _____

City / State / Zip: _____

Phone: _____ Fax: _____

Parent Name: _____

Address: _____

City / State / Zip: _____

Phone: _____ Fax: _____

Problem and Facts: What is the nature of the problem and what are the facts that relate to the problem? (You may list more than one problem).

(Use additional pages if necessary)

Proposed Solution: Describe the actions or services that you believe will resolve the issues based on the information available to you.

(Use additional pages if necessary)

Signature of Individual Submitting Request: _____

Date: _____

Please print name here: _____

Address: _____

City / State / Zip: _____

Phone: _____ Fax: _____

Please Return This Form to the School District's Section 504 Coordinator

**Piute School District
Manifestation Determination**

Student: _____ Date: _____

Section 504/ADA Disability: _____

Student Number: _____

Manifestation Team Members (by Name and Role)

_____	_____
_____	_____
_____	_____
_____	_____

Sources of Information (attachments)

_____ Evaluations _____ Interviews _____ Observations _____ Other

Description of misconduct:

Description of proposed disciplinary actions:

Does the proposed disciplinary action constitute a change of placement?

_____ If NO, proceed with disciplinary action.

_____ If YES, continue with manifestation determination review.

DISCIPLINE OF THE §504 STUDENT

Change of Placement Rule:

A §504 child's removal from the normal placement for more than ten (10) days constitutes a change in placement, which generally is defined as a material and significant alteration in the services provided the child, or in the setting where they are provided.

Pattern of Exclusion Rule:

A child may be removed from his placement for more than ten (10) days over a school if each removal is ten (10) days or less, and if the removals do not indicate a pattern of exclusions.

At some point after a series of removals in a school year totals 10 days, prior to any additional removal the §504 Committee must meet, undertake a §504 evaluation, and determine whether the behavior giving rise to the new disciplinary removal is related to the child's handicapping condition or an inappropriate placement. Should the Committee determine that a link is present, the removal cannot occur. This process is repeated for each proposed removal after the pattern of exclusion has been reached.

A Simplified Method for Understanding Discipline and Manifestation Determination under §504

1. Learn to identify a short-term disciplinary removal under §504.

A short-term removal occurs when a campus administrator removes a child from his normal setting for less than 10 consecutive school days for disciplinary purposes. The most common example is a suspension to the home (in Texas, limited to 3 school days per offense). In-school suspension (ISS) should be considered a short-term removal, unless the “smart ISS” criteria discussed below is met, in which case the removal days may not “count” as disciplinary removal days.

2. Learn to identify a long-term disciplinary removal under §504.

A long-term removal is one of over 10 consecutive school days, usually in the form of a removal to a disciplinary alternative education program (AEP) or expulsion.

3. Do not mix up the rules for long-term and short-term removals – learn and apply the rules separately.

It's easy to get confused if you try to learn and apply the separate rules for long and short-term removals as simultaneous concepts. Rather, learn and apply these rules as two separate sets of rules. This eliminates a lot of mixed-up §504 discipline questions, such as “is it 10 cumulative or 10 consecutive days?” There are really two sets of rules that involve a 10-day timeline, and trying to learn them simultaneously frequently causes confusion.

4. For short-term removals involving §504 students, campuses start the year with 10 “free” removal days at their disposal.

At the start of the school year, imagine the school is given 10 “free” removal days for each §504-eligible student. These days are “free” under §504 because they can be used without the need to convene a §504 committee meetings, without a manifestation determination, and generally, without worrying about any §504 procedure or safeguard. They can be imposed as they would be in the case of a nondisabled student who commits the same disciplinary offenses.

5. Although schools may go over the 10-day total, at a certain point the accumulated removals will constitute a “pattern of exclusion,” which triggers the manifestation requirement.

At a certain point, accumulations of too many short-term removals will become a “pattern of exclusion” (in Office for Civil Rights (OCR) lingo), which is considered an overall long-term removal that first requires a manifestation determination. OCR developed this rule over time, and it was also exported into the IDEA discipline regulations. Whether accumulations of short-term removals after the 10-day mark constitute a “pattern of exclusion” depends on how long each removal is, how close they are to each other, and how many they add up to overall. The rule might be designed vaguely in order to promote caution among school administrators who are considered disciplinary removals.

Generally, it’s good advice for schools to limit forays into the over-10-total-school-days danger zone. And, obviously, the higher the number of removals after the 10-day total is reached, the more precarious the school’s legal position becomes.

6. Before short-term removals add up to 10 total school days, have a §504 meeting to address behavior.

The best preventive measure in §504 disciplinary matters is to convene a §504 meeting *before* short-term removals add up to 10 total days. The §504 committee can decide to develop a BIP, provide regular counseling, evaluate the student further, or make other adjustments to the student’s §504 plan. The idea is to take action before a disciplinary issue becomes a major problem.

7. For long-term removals, proceed to a manifestation determination §504 meeting as soon as you can, and before the removal reaches 10 consecutive school days.

As soon as possible after the campus initiates a long-term disciplinary removal, an §504 committee meeting must be convened to determine if the student’s alleged offense was directly related to their disability. This is called the manifestation determination. In addition, the rule also requires the §504 committee to determine whether the behavior is related to an inappropriate §504 program. The meeting must definitely take place before the long-term removal reaches its 10th consecutive day. The right to a manifestation determination in instances of threat of long-term removal is **the** primordial safeguard of §504 disciplinary procedures. It is a doctrine that was first developed in federal court cases starting in the late-70’s, and later adopted by the Department of Education as policy in the 80’s.

The manifestation determination essentially decides whether the student can be subjected to long-term removal or not. If the §504 committee properly determines that the behavior in question is not related to disability, then the student can be subjected to regular

disciplinary procedures, as in the case of similarly-situated nondisabled student. If the §504 committee determines that the behavior is related to disability, then a long-term removal cannot take place. This, the quality of the manifestation determination is crucial to the long-term removal; §504 members are well-advised to prepare and pre-staff for manifestation determinations.