

11/03

Section 504 of the Rehabilitation of 1973 A Resource Guide For Parents

INTRODUCTION

The Clark County School District (CCSD) recognizes the particular importance of parental involvement in the education process, and strives to work with parents of all students. The CCSD is committed to identifying every qualified disabled student that resides in the school district that is not currently receiving a free appropriate public education. The CCSD provides yearly notice to disabled persons and their parents or guardians of the district's duty to provide a free appropriate public education.

This Section 504 Guide For Parents is a document developed by the Student Support Services Division for parents and those who care for children. Its purpose is to outline the educational rights of disabled children who attend school within Clark County School District and who are entitled to a free and appropriate public education (FAPE) under Section 504 of the Rehabilitation Act of 1973 ("Section 504"). The CCSD has prepared this handbook to serve as a reference guide for parents of disabled children so that they can have a clear understanding of the District's processes and procedures under Section 504.

This Guide for Parents is not a replacement for the Explanation of Procedural Safeguards notice that the Clark County School District is required to provide to parents when decisions are made regarding the identification, evaluation, or placement of students who are disabled, or are suspected of being disabled under Section 504.

Because this Guide for Parents is designed to address FAPE issues only, it does not provide specific information regarding other aspects of the Section 504, such as disability discrimination and harassment, the District's employment practices, access to district facilities, or post-secondary education issues.

Issues regarding allegations of student discrimination, harassment, or retaliation, which are prohibited by Section 504 and which are not related to FAPE, may be addressed by utilizing the complaint/grievance process outlined in CCSD Regulation 5141.2 or Regulation 1213.1(Public Concern) and/or by contacting the school principal or Region Superintendent. Copies of which can be obtained upon request from your child's school or on the District's website at www.ccsd.net. Concerns regarding facility access may be addressed by contacting the school principal or the CCSD Diversity and Affirmative Action Programs Department. If you have other questions that are not addressed by this Guide for Parents, please feel free to contact your child's school principal or the District's Office of Compliance and Monitoring Office, Student Support Services Division at (702) 799-1023.

Section 504 Overview

Section 504 of the Rehabilitation Act of 1973 provides:

No otherwise qualified individual with disabilities in the United States shall, solely by reason of her or his disability, as defined in Section 706(8) of this title, be excluded from the participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance or under any program or activity conducted by any executive agency.....

Section 504 was enacted to “eliminate discrimination on the basis of disabilities in any program or activity receiving Federal financial assistance.” This includes all programs or activities of a school district, regardless of whether the specific program or activity involved is a direct recipient of federal funds. It is a civil rights or equal opportunity law.

The implementing regulations of Section 504 require that public elementary and secondary schools identify, evaluate, and provide a free appropriate public education (FAPE) to students that are known or suspected of qualifying as disabled students. Section 504 regulations also require that parents of students known or suspected of qualifying as disabled students be provided with notice of procedural safeguards that apply to a school district’s actions regarding disabled students.

Under Section 504, FAPE is defined as the provision of regular or special education and related aids and services that (1) are designed to meet the individual educational needs of a person with a disability as adequately as the needs of a person without a disability are met, and (2) are based upon the requirements of Section 504 or the Individual with Disabilities Education Act (“IDEA”), another federal law relating to the provision of special education.

Section 504 and the IDEA

Like Section 504, the IDEA also requires that public school districts provide disabled students with a FAPE, but there are significant differences between IDEA and Section 504. The IDEA is commonly referred to as “special education,” but students who qualify under Section 504 do not always need or qualify for “special education” under IDEA. The disabled students, commonly referred to as “Section 504-only” students, may have their disability-related needs met primarily by regular education programs with the provision of accommodations or related aids and services. If a student qualifies for “special education” services under the IDEA, s/he is considered to qualify as disabled under Section 504. Consequently all IDEA eligible students are entitled to the protections of Section 504. In

contrast, not all students who are determined to be entitled to the protections of Section 504 will meet the eligibility requirements for disabilities under the IDEA.

INSERT GRAPH

The IDEA defines as eligible for special education only those students who have certain types of disabilities that meet the IDEA eligibility criterion, and who because of one or more of those disabilities require special education and related services (i.e., specially designed instruction and support services). The IDEA disability categories include: developmentally delayed, serious emotional disturbance, speech and language impairments, orthopedic impairment, other health impairment, specific learning disability, mental retardation, multiple disabilities, deafness, hearing impairment, visually impaired/blindness, autism, traumatic brain injury.

In contrast, Section 504 protects those students who have a physical or mental impairment that substantially limits (permanently or temporarily) one or more major life activities, which include caring for one's self, performing manual tasks, seeing, hearing, speaking, breathing, learning and working. Generally the most important consideration for school children is whether the child's impairment substantially limits the ability to learn. Section 504 is intended to protect all students with identified impairments that require educational accommodations, including those students who do not meet eligibility criteria under the IDEA and state law.

Who is qualified for FAPE under Section 504?

To "qualify" as a disabled student for FAPE purposes, a student may: (1) be eligible for "special education under IDEA" or (2) meet Section 504 eligibility criterion (i.e.: a "Section 504 only" disabled student).

As stated above, students who qualify for "special education" under IDEA also qualify as disabled students under Section 504. The CCSD has specific procedures for qualifying students for "special education" under IDEA, and those procedures differ from the CCSD's Section 504 procedures. In addition, the Section 504 federal regulations specifically provide that implementing an Individual Education Program ("IEP") developed in accordance with IDEA is one way of meeting Section 504's requirements. Thus, if a disabled student is qualified for "special education under IDEA" and an IEP is appropriately developed and implemented, it is not necessary to also identify, evaluate, and provide individualized services under Section 504. Therefore, this manual will provide an overview of the CCSD's Section 504 procedures which apply to students who are known or suspected to be disabled under Section 504-only.

Who is qualified for FAPE under Section 504-only?

The following information pertains to students who are eligible as “Section 504-only” students. To be entitled to public elementary, secondary, or adult educational services under Section 504, a disabled person must be attending school or eligible to attend public school in the State of Nevada. In addition to attending or being eligible to attend public school, the school age person “qualifies as a disabled person” and is entitled to a free appropriate public education (FAPE) under Section 504-only, if s/he has “a physical or mental impairment that substantially limits on one or more life activities” and has not been identified as disabled under the IDEA.

Section 504 Definitions:

What is a “Physical Impairment”?

“Physical impairment” includes any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; genitor-urinary, hermic and lymphatic; skin; and endocrine; reproductive.

What is a “Mental Impairment”?

“Mental impairment” includes any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

What is a “Major Life Activity”?

“Major life activities” include walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself, and performing manual tasks. This list is not exhaustive and the activity need not be related to learning to qualify under Section 504.

What does “Substantially Limits” Mean?

The term “substantially limits” means significantly restricted as to the condition, manner, or duration under which a student can perform a particular major life activity as compared to the average student population.

PROCESS OF REFERRAL FOR SECTION 504 FAPE SERVICES

Identification and Referral of Students with Known or Suspected Disabilities

Who should be referred?

Any student who has or is suspected of having a physical or mental impairment and who needs, and is believed to need educational and related aids and services in order to receive a free appropriate public education, should be referred for consideration under Section 504.

Who may make referrals?

A referral may be initiated by anyone, including parents or legal guardians, teachers, or other licensed school employees.

How does a person make a referral?

A verbal or written referral for identification and possible evaluation purposes should be made to any of the following: the student's school principal, site administrator or a designee (e.g., 504 building liaison), or the School Team composed of individuals with knowledge of the student and the presenting concerns. Written referrals are preferred. The referral should include the student's name, grade, school, and the names of Parents and contact information. The referral should explain the reason for the referral including information pertaining to the identified or suspected disabilities and the student's difficulties associated with educational performance.

Who is on the Identification Team?

The Team will have collective knowledge about the student, the known or suspected disabling condition, and the concerns that prompted the referral. The Team is typically composed of the student's general education teacher(s) and, as deemed appropriate, specialists on staff (for example, a counselor or chapter program teacher). The Team may also include special education personnel, such as a school nurse, school psychologist, speech pathologist, or special education teacher, as deemed appropriate for the individual student. This team may be the school's designated Student Intervention Team (SIP) that includes members similar to that described above. At the discretion of the site-based administrator, the Team may also include the Parents.

What about disabled students who transfer to the CCSD?

Parents of disabled students should notify the CCSD if his/her child had been evaluated and was receiving an individual education program under Section 504 or the IDEA in his/her prior school district, and should not rely on the prior district to convey this information. In either case, once notified, the CCSD will request relevant records and proceed with evaluating the child to determine what services are necessary to meet the disabled student's needs in the CCSD. While CCSD's evaluation and placement determinations are pending, the District may: (1) implement the prior district's Section 504 education plan or IDEA individual education plan for the child; (2) in consultation with the parents, work out an interim placement and plan pending the CCSD evaluation and placement determinations under Section 504 or the IDEA, if applicable; or (3) place the child in regular education until the evaluation process are completed and provide parental notice of procedural safeguard rights.

What is the next step after a student is referred for identification and possible evaluation?

Within a reasonable time after the site administrator's/designee's receipt of the referral (i.e., within 30 calendar days), relevant information will be gathered (such as educational, health/medical, and behavioral records) and the School Team will meet to make a decision as to whether a Section 504 evaluation is determined to be necessary and what will be the nature and scope of the evaluation.

When are parents notified of about whether an evaluation has been recommended?

If the Team determines that an evaluation is recommended, the Parents must be notified, in their native language, of the outcome of the Team's decision, within a reasonable amount of time (i.e.: within seven (7) calendar days after the Team has met the determination). A copy of the Section 504 procedural safeguards rights must be provided with this parental notification.

If the Team has determined that an evaluation under Section 504 was not necessary, the parental notification must include the reason for the Team's decision. If the Team determined that an evaluation was necessary, the Team will ask the parent to provide written consent for the initial evaluation, if the evaluation involves individualized testing of the student. Written consent is not required if individualized assessments are not required, however, the school Team is encouraged to obtain such consent. The designated CCSD form for this notification is CCF – 504.5.

Evaluation Process

Once a student is identified as needing an evaluation and parental consent is obtained, if necessary, an evaluation will be conducted by the school Team within a reasonable period of time (i.e. within forty-five (45) school days of the parental notice when written consent is not needed or within forty-five school days of securing written consent, if it is required.) The evaluation is conducted to determine whether or not the student qualifies as a disabled student entitled to FAPE under Section 504.

Evaluations under Section 504 must be provided at no cost to the parents and may include individual educational or medical assessments when impairments with possible educational impact are suspected and information obtained during the initial review process is not sufficient. CCSD may ask Parents to provide information about previously conducted assessments and may request written parental permission to request medical, health, psychological, and other records. In certain instances, a Section 504 evaluation may require assessments that are not typically conducted by district staff. If current assessment information is not already available and the assessment is necessary in order to complete the

evaluation process, the CCSD must conduct the assessment at no cost to the parent. However, under Section 504, the CCSD is permitted to use funds from other public or private agencies to conduct necessary assessments, so long as it is at no cost to the Parents.

Who participates in the evaluation?

The evaluation is conducted by the school Team who has collective knowledge about the student, the evaluation data, and the placement options. The Team is typically composed of the same persons who participated in the initial referral review process, but may also include, as appropriate, other persons who participated in assessments conducted in the evaluation process, such as a school nurse, school psychologist, or speech pathologist. At the discretion of the site-based administrator, the Team may also include the Parents.

What is the nature and scope of the evaluation process?

First, evaluation team obtains information from the Parents, the student's teacher, and available educational information at the school. The nature and scope of the evaluation information necessary is determined by the Team during the evaluation process on a case-by-case basis depending on the nature or type of known or suspected disability, the amount of current evaluation information already available about the student and his/her disabling condition, and the nature and type of services the student may need. Each Section 504 evaluation must be sufficient to determine the nature and extent of the disability; the nature and extent of the educationally related needs of the student; and whether the student requires educational aids and services in order to successfully access, participate in, and derive benefit from the education setting. The evaluation, however; may be more limited than what is generally required when a student is referred for an evaluation under the IDEA.

Section 504 evaluations must be tailored to assess specific areas of educational need. Evaluations should draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. If individual testing or assessments are needed, they will be selected and administered 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 what the test is supposed to measure). Individual tests and other evaluation materials which are utilized will be validated for the specific purpose for which they are used and will be administered by trained personnel in conformance with the instructions provided by the test developers.

The information obtained is then documented and carefully considered by the evaluation Team to determine whether or not the student qualifies as a disabled student entitled to FAPE under Section 504. If, on the other hand, the evaluation Team determines that the needs of the student warrant a more extensive evaluation for IDEA eligibility and services, the Team should obtain the appropriate parent authorization for evaluation and refer the student for an IDEA evaluation and review via the IDEA process.

Section 504 Determinations and 504 Plan Development

After the evaluation information is obtained and documented, the evaluation Team must reconvene, carefully consider all of the information, and determine whether or not the team believes the student has “(1) a physical or mental impairment that (2) substantially limits a major life activity.” This Section 504 determination must be concluded within forty-five school days.

In making this Section 504 determination, Parents should be aware that although Section 504 covers all students who meet this definition, although some students may not be eligible for special education under the provisions of the IDEA. Having a physical or mental impairment does not, in and of itself, constitute a “disability” for the purposes of Section 504, unless its severity is such that it results in substantial limitation to one or more of the student’s major life activities. For example, a student diagnosed with Attention Deficit-Hyperactivity Disorder (ADHD) does not automatically qualify for FAPE under Section 504; each qualification determination must be made on a case-by-case basis and the student’s ADHD must also substantially limit a major life activity of the student.

When are parents notified of the meeting to discuss the evaluation and the Section 504 determination?

Within a reasonable amount of time (i.e.: 30 school days) after the Team completes the evaluation, the Parents must be notified, in their native language, that the evaluation has been completed and that they are invited to a meeting to discuss the evaluation results at a specified date and time. This notification must also include a copy of the Section 504 procedural safeguards rights.

Parent Notification

If the Parents choose not to participate in the meeting, in person or via telephone conference, the Team determination must be sent to the Parents via the U.S. mail within seven (7) calendar days of the conclusion of the meeting and must include a copy of the Section 504 procedural safeguard rights.

What is the Section 504 Plan Development Process?

Once the Team has determined that the student qualifies as a disabled student under Section 504, then an appropriate individual accommodation plan will be developed and implemented for the disabled student to ensure that a free

appropriate public education (FAPE) is being offered to the student by the CCSD. This Plan is developed and reviewed on a yearly basis. As stated previously, implementation of an Individual Education Program (IEP) under IDEA is one means of meeting Section 504's FAPE requirement. However, for disabled students that only qualify under Section 504, and not IDEA, the Team will consider the individual disabled student's evaluation information and determine on a case-by-case basis what the disabled student needs by developing a "Section 504 Accommodation Plan."

When is the "Section 504 Plan" developed?

The Team may develop the "Section 504 Accommodation Plan" at the same meeting at which the evaluation determination is made, or they may re-convene at another meeting within a reasonable time (i.e.: within 30 school days) from the evaluation determination to consider what educational and related aids and services the student may need to address their disability-related needs in the education setting.

If the meeting to develop the Section 504 Accommodation Plan is scheduled at another date and time, the Parents must be notified, in their native language, of the date and time of the scheduled meeting and the notification must also include a copy of the Section 504 procedural safeguard rights.

What is a "Section 504 Accommodation Plan"?

A "Section 504 Accommodation Plan" specifies the educational, supplemental, related aids and supplemental support services that are needed to ensure that the individual educational needs of a disabled student are met as adequately as the needs of non-disabled students. The "Section 504 Accommodation Plan" must consider the disabled student's needs during the entire school day, in both academic settings and nonacademic settings, and should address transportation needs, as necessary.

When developing the Plan, the Team should keep in mind that each disabled student should be educated with non-disabled students in the academic and nonacademic settings to the maximum extent appropriate to the needs of the individual disabled student. In addition, consideration should be given to student placement in the regular educational environment with the use of supplementary aids and services, unless it is determined that a disabled student's education cannot be achieved satisfactorily in the regular education environment.

For those disabled students who have identified behavior that interferes or impedes his or her learning, the Team, in developing the Plan should consider strategies, including positive behavioral interventions, strategies, and supports, to address the behavioral concerns.

The Team should also determine whether the student, who is receiving 504 supports, and is otherwise qualified to participate in athletics or extracurricular activities, requires exceptions or reasonable accommodations for successful participation in these activities, and the Plan must include those exceptions and reasonable accommodations.

At the conclusion of the meeting, the Parents should be provided with a copy of the “Plan” and provided a copy of their Section 504 procedural safeguard rights. If the Parents choose not to participate in the meeting, in person or via telephone conference, the “Plan” must be sent to the Parents via U.S. mail within seven (7) calendar days of the conclusion of the meeting. A copy of the Section 504 procedural safeguards also should be included.

What if the parent disagrees with the Evaluation results and Section 504 determination?

If the Parents disagree with the Team’s evaluation results or the determination regarding Section 504, the Parents must be provided with the Section 504 procedural safeguard rights. The Parents may discuss their concerns with the Site Administrator or his or her designee; file a local grievance; or, as described in the parent’s rights notice, request an impartial due process hearing under Section 504. Parents should be aware that unlike the IDEA, Section 504 does not provide for Independent Educational Evaluations (IEE) at public expense.

Annual Review of “Section 504 Accommodation Plan” and Re-evaluation

When should a student’s “Section 504 Accommodation Plan” be reviewed?

The “Section 504 Accommodation Plan” should be reviewed at a Team meeting any time a change in the student’s program is being contemplated, at the request of the parent/guardian or any Team member, or at least annually (i.e. within a 12 month period after the current plan was developed).

If a “significant change in placement” is being contemplated, then a re-evaluation should be conducted before the Team’s “Section 504 Accommodation Plan” review meeting. (Both “re-evaluation” and “significant change in placement” are discussed below).

Who and what are involved in the review meeting?

Parents must be notified, in their native language, of the date and time of the scheduled review meeting and offered an opportunity to participate with the Team. This notification must also include a copy of the Section 504 procedural safeguard rights. At the review meeting, the Team will review and discuss the student’s evaluation information, if appropriate, and the student’s progress under the current

Plan. The Team will then determine whether the current “Section 504 Accommodation Plan” will be modified or amended. The new “Section 504 Accommodation Plan” which is developed and documented at this meeting will be implemented subsequent to the review meeting. At the conclusion of the meeting, the Parents will be provided a copy of the new “Section 504 Plan” and a copy of the Section 504 procedural safeguard rights.

If the Parents choose not to participate in the review meeting, in person or via telephone conference, the new “Plan” must be sent to the Parents via U.S. mail within seven (7) calendar days of the conclusion of the meeting. A copy of the Section 504 procedural safeguards also should be included.

Re-evaluation Process

What is a Re-evaluation and when should it occur?

A Section 504 student re-evaluation is required to be conducted periodically and is similar to the initial evaluation, in process and scope (see the process described above). A re-evaluation is required whenever there is a proposed “significant change in placement” for the student, there has been a parent or Team request for a re-evaluation, or it has been some length of time since the last evaluation (i.e. three years). Within a reasonable amount of time (i.e.: 7 calendar days) after the Team has met and determined that a re-evaluation is necessary, the Parents must be notified, in their native language, that a re-evaluation is necessary and must be provided with a copy of their Section 504 procedural safeguards rights.

During the re-evaluation, the school Team should gather current information regarding the student from the Parents and school staff and determine whether there have been any changes in the student’s disabling condition(s) due to age, maturity, increasing/decreasing severity, medication adjustments, or changes in the student’s physical or mental health, learning, or behavior that may be attributable to the disability. The nature and scope of the re-evaluation is determined by the Team during the evaluation process on a case-by-case basis. If additional individual assessments of the student are required, parent consent for these assessments must be obtained.

If, during this re-evaluation process, the Team determines that the needs of the student warrant referral for an evaluation for IDEA eligibility and services, the Team should obtain the appropriate parent authorization for evaluation and refer the student for an IDEA evaluation and review process.

What is a “significant change in placement”?

A “significant change in placement” is a placement that changes the nature, type, or duration of the educational program and related aids and services that a disabled student is receiving under his/her current Section 504 Accommodation Plan. A

minor change in the student's program or services, such as a new teacher or moving to a different classroom or building, does not trigger a re-evaluation; the change must be significant and must relate to the individual disabled child's program or services.

Significant changes in placement occur either because the disabled student's needs have changed or because the CCSD is contemplating disciplining a disabled student by removing the student from his or her current educational placement for disciplinary actions.

Disciplining Disabled Students

Disciplinary action against a disabled student who has engaged in behavior that violates any CCSD rule of code of conduct that applies to all children would be considered a "significantly change in placement" if:

The removal is for more than 10 consecutive school days; or

The child is subjected to a series of removals that constitute a pattern because they cumulate to more than 10 school days in a school year, and because of factors such as the length of each removal, the total amount of time the child is removed, and the proximity of the removals to one another.

If disciplinary action that would be a "significantly change in placement" is contemplated, the school Team conducts what is called a "manifestation determination review". The "manifestation determination review" considers the relationship between the child's disability and the behavior subject to the disciplinary action. The purpose of the review is to ensure that disabled students are not disciplined for behavior that is a result of the student's disability or an inappropriate placement.

When is the Parent/Guardian notified of impending disciplinary action that may be a "significant change in placement"?

On the date on which a decision is made to discipline a disabled student by significantly changing his/her placement, the parents are to be notified of the decision to take disciplinary action, that a manifestation determination review meeting is to be scheduled, and the parents/guardian are to be provided notice of their Section 504 procedural safeguards rights.

Who participates in the "manifestation determination review" and when is it held?

The student's Team, any other qualified personnel, and the parents may participate in the "manifestation determination review." The "manifestation review" meeting must be held, immediately, if possible, but in no case later than 10 school days

after the date on which the decision is made to discipline a disabled student by significantly changing his/her placement. This manifestation meeting may be held at the same time the Team meets to review and re-evaluate the student and his Section 504 plan. It may also be held after the re-evaluation is conducted, but no later than 10 school days after the decision is made to discipline the student.

How is a “manifestation determination review” conducted?

The purpose of the review is to determine the relationship between the child's disability and the behavior subject to the disciplinary action. Under Section 504, if the disabled student's behavior was not related to his or her disability, the disabled student may be disciplined in the same manner as non-disabled students.

The student's Team must consider, in terms of the behavior subject to disciplinary action, all relevant information, including: (i) evaluation and diagnostic results, including the results or other relevant information supplied by the parents of the child; (ii) observations of the child; and (iii) the child's “Section 504 Plan” and placement.

Then, the Team will consider whether, behavior subject to disciplinary action, is related to the student's educational disability by considering whether, in relationship to the behavior subject to disciplinary action:

The student's Section 504 Accommodation Plan and placement were appropriate and behavior intervention strategies were provided consistent with the student's “Plan” and placement.

The disability did not impair the student's ability to understand the impact and consequences of the behavior subject to disciplinary action; and

The disability did not impair the student's ability to control the behavior subject to disciplinary action.

If it is determined that the student's Section 504 Accommodation Plan and placement were appropriate and the behavior intervention strategies were consistent with the student's “Plan” and placement and it is determined that the disability did not impair their ability to understand and control the behavior, then the Team may determine that the behavior is not a manifestation of the student's disability and disciplinary measures may be taken by the school administration to an extent equal to that taken for non-disabled students in the general education program under similar circumstances.

If it is determined that the student's Section 504 Accommodation Plan and placement were not appropriate and the behavior intervention strategies were not consistent with the student's “Plan” and placement disability did impair their

ability to understand and control the behavior, then the Team may determine that the behavior is a manifestation of the student's disability and the student may not be excluded from his or her current placement as a disciplinary action.

How are parents to be notified of outcome of “manifestation determination review”?

After the “manifestation determination review” is conducted and documented, the Parents will be provided with notice of the determination and provided a copy of the Section 504 procedural safeguard rights. If, as a result of the “manifestation determination review” meeting it is determined that “Section 504 Plan” review meeting is needed, the Parents will be provided with notice of the meeting, will be invited to participate, and will be provided a copy of the Section 504 procedural safeguard rights.

What if the parent disagrees with the Team's decision regarding the “manifestation determination review”?

If the parent disagrees with the Team's determination, the Parents must be provided with the Section 504 procedural safeguard rights. The Parents may discuss their concerns with the Site Administrator or his or her designee; file a local grievance; or, as described in the parent's rights notice, request an impartial due process hearing under Section 504.

Procedural Safeguards for Section 504/Parent Rights

Parents must be provided with their Section 504 parent rights whenever the district proposes to evaluate a student, determine Section 504 support needs, develop an accommodation plan, or significantly change the student's educational placement. Parents' procedural safeguards under Section 504, include the following:

The right to receive written notice of any proposed actions related to the identification, evaluation, or educational placement of the student.

The right to examine all relevant educational records.

The right to initiate dispute resolution procedures if the parent disagrees with district decisions regarding the identification, evaluation, and/or placement under Section 504. The dispute resolutions available are:

a grievance process; or

an impartial hearing, which includes an opportunity for participation by parents or guardians and representation by counsel, and a review/appeal process.

Dispute Resolution Procedures

What are “dispute resolution procedures”?

“Dispute resolution procedures” are the procedures available when a Parent disagrees with any decision by CCSD pertaining to the identification, evaluation, or education placement of the student known or suspected of being disabled under Section 504. Under Section 504, there are two dispute resolution procedures available: (1) a grievance process and (2) an impartial hearing. Both procedures are described below.

As previously mentioned, issues regarding student discrimination, harassment, or retaliation which are prohibited by Section 504, and which are not related to FAPE, may be addressed by utilizing the complaint/grievance process outlined in CCSD Regulation 5141.2 or 1213.1 (Public Concern), copies of which can be obtained upon request from your child’s school or on the District’s website, at www.ccsd.net.

Is there a time limit or other requirements for using a “dispute resolution procedure”?

Yes. Under the dispute resolution procedures, the parent must initiate one of the following dispute resolutions procedures within thirty calendar (30) days of the district’s action or the Parent receiving written notice of a proposed or refused action by the school Team, whichever is later.

Grievance and impartial hearing requests must specify which process they are requesting and must be in writing, unless the parent does not speak English or does not know how to write. Parents who do not speak English or do not know how to write should contact the site administrator for an interpreter or other assistance necessary to request the grievance process or an impartial hearing.

What is the grievance process?

The grievance process is a voluntary process that may be used by parents that have concerns regarding Section 504 decisions relating to the identification, evaluation, or educational placement of a known or suspected disabled student. This voluntary grievance process applies to issues relating to FAPE.

Step 1 of the Voluntary Grievance process takes place at the Building Level. A Parent may submit their written grievance/concerns regarding Section 504 decisions relating to the identification, evaluation or educational placement of the student to the Principal requesting that the Principal conduct an investigation into the parent’s concerns. The request must identify the specific issues of concern and should propose resolutions.

The Principal will respond to the parent's grievance/concerns in writing within 20 school days of receipt of the grievance/concern, unless the parent agrees to an extension of time within which to be provided a response. The Principal's response will provide appropriate recommendations for resolving the concern's identified in the parent's grievance/concern, if necessary. In some cases, the Principal may meet with the parent and/or staff to find out more about the concerns, before making a final determination and/or proposing a resolution and in those situations, the time for providing a written response may, upon agreement with the parent, be extended.

If the parent is satisfied with the Principal's written response, the grievance is resolved. If the parent is not satisfied with the Principal's written response to the grievance the parent may go to Step 2 of the Voluntary grievance process and request a review of the Principal's determination and/or proposed resolution.

Step 2 of the Voluntary Grievance process involves a review by the Region Superintendent. If the Parent is not satisfied at Step 1, the Parent must make a written request for review by the appropriate Region Superintendent within ten (10) school days of receipt of the Principal's determination and/or proposed resolution of the concerns. This written request must be submitted directly to the Region Superintendent, and must describe: (a) the specific nature of the parent's disagreement; (b) a request that the Region Superintendent, or his/her designee, conduct a review of the matter, and (c) the specific relief sought by the Parent.

The Region Superintendent will respond to the parent's grievance in writing within 15 school days of receipt of the grievance, unless the parent agrees to an extension of time within which to be provided a response. The Region Superintendent will conduct a thorough review of the parent's concerns and provide a written response and make recommendations for resolving any outstanding Section 504 concerns, if necessary. In some cases, the Region Superintendent may meet with the parent and/or staff to find out more about the concerns, before making a determination and/or proposing a resolution.

What is an "impartial hearing"?

An "impartial hearing" is commonly referred to as a "due process" hearing, and is available only for concerns about Section 504 decisions regarding identification, evaluation, or educational placement for a student known or suspected of being disabled.

A request for an Impartial Hearing must be made in writing to the CCSD Superintendent within thirty (30) school days of receipt of the Region Superintendent's written response under Step 2 of the voluntary grievance process or within (30) school days of the District action that resulted in the Section 504

identification, evaluation, or educational placement dispute. Such a request must specify that an impartial hearing is being requested and must include: (a) the specific nature of the Parent's Section 504 concerns, (b) the specific relief sought by the Parent, and (c) any other information the Parent believes is important to understand the dispute.

The processing of the Parent's request for a Section 504 Impartial Hearing is the responsibility of the District's Office of Compliance and Monitoring (OCM). Once the request is received by the Superintendent, it will be forwarded to the OCM who will assign a third-party as an impartial Section 504 Hearing Officer to conduct the hearing and issue a decision.

The impartial hearing will be conducted and a written decision will be issued by the Hearing Officer within forty-five (45) calendar days of the Superintendent's receipt of the Parent's written request for a hearing, unless an extension is requested by either party and is granted by the Hearing Officer. All parties agree to abide by the written decision and order of the Hearing Officer, unless the decision is timely appealed.

A request for an appeal of the decision of the impartial Section 504 Hearing Officer must be made to the Superintendent of the Clark County School District no later than thirty (30) calendar days after the impartial Hearing Officer's decision was issued. The appeal request must be in writing and must contain the reason for the appeal and the desired outcome.

The Superintendent is required to provide a final decision regarding the appeal within (15) school days, unless the remaining dispute is resolved by agreement of the parties.

Do parents have to use the grievance process before requesting an impartial hearing?

No. Parents are encouraged to use the grievance process if complaints or concerns cannot be resolved informally, but the grievance process is optional and is not required before requesting an impartial hearing for resolution of identification, evaluation, and educational placement disputes which relate to the student with disabilities.

What if a student is covered by both IDEA and Section 504?

If the student is a special education student under the IDEA, the parent should request a special education due process hearing under the IDEA regulations, and no request for a hearing under Section 504 is required. The Section 504 regulations specifically state that compliance with the procedural safeguards of the

IDEA (which include the due process hearing requirements) is one way of meeting the Section 504 requirements for an impartial hearing.

Who should people contact for more information?

Persons who have additional questions regarding Section 504 or parents who wish to examine student records, receive notification in their native language, request an evaluation, file a grievance, or request an impartial hearing should contact the site administration (i.e., School Principal or designee). The Office of Compliance and Monitoring, Student Support Services Division, may also be contacted for additional information at (702) 799-1023 *or via mail at Student Support Services Division, c/o 2832 E. Flamingo Rd., Las Vegas, Nevada 89121.*