Nondiscrimination and Student Rights

Equal Education Opportunity/§504 Procedural Safeguards

Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act were designed to eliminate discrimination on the basis of disability. To that end, Section 504 provides, in pertinent part, as follows:

> No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or 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 . . .

A disabled person under Section 504 is defined as any person who has a physical or mental impairment that substantially limits one or more major life activities.

Pursuant to Subpart D of the 504 federal regulations, a recipient of federal financial assistance that operates a public elementary or secondary education program must establish and implement, with respect to actions regarding the identification, evaluation, or educational placement of persons who, because of disability, need or are believed to need special instruction or related services, a system of procedural safeguards. The following is a description of the procedural safeguards or rights granted by federal law to students with 504 disabilities and/or their parents or legal guardians and to those students who are suspected of having a 504 disability and/or their parents or legal guardians. Parents/guardian of students who are suspected of or identified with a disability under the Individuals with Disabilities Education Act are provided with copies of the IDEA procedural safeguards unless those students have a separately identified 504 disability that is not addressed through an IEP.

Parent and Student Rights Under Section 504:

1. Parents/guardian and students have the right to be informed by the School District of their rights under Section 504. The purpose of these Procedural Safeguards is to advise you of those rights.

2. A student with a 504 disability has the right to a free appropriate public education. An appropriate education is defined as the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of the disabled person as adequately as the needs of nondisabled persons are met and are based upon adherence to 504 regulatory procedures.

3. The provision of a free education is the provision of educational and related services without cost to the disabled person or to his or her parents or guardian, except for those fees that are imposed on nondisabled persons or their parents or guardian. Funds available from any public or private agency may be used to meet this requirement. Under

the law, insurers and other third parties are not relieved from an otherwise valid obligation to provide or pay for services for a disabled student.

4. A child with a disability has the right to take part in, and receive benefits from, public education programs without discrimination because of his/her disability.

5. The parents(s) or guardian of a child with a disability have the right to receive notice with respect to the identification, evaluation, or placement of the child.

6. A student with a disability has the right to receive services and be educated in facilities that are comparable to those provided to nondisabled students.

7. A student with a disability has the right to have evaluation, education and placement decisions made based on a variety of information sources, and by persons who know the student and are knowledgeable about the evaluation data and placement options. The student also has the right to be periodically reevaluated.

8. A student with a disability has an equal opportunity to participate in nonacademic and extracurricular activities offered by the District.

9. A student with a disability has the right to have transportation provided to and from an alternative placement setting (if the setting is in a program not operated by the District) at no greater cost to the parent/guardian than would be incurred if the student were placed in a programed operated by the District.

10. The parents/guardian of a student with a disability or an eligible student (over the age of 18) have the right to examine all relevant records relating to decisions regarding the student's identification, evaluation and placement.

11. The parents/guardian of a student with a disability or an eligible student and/or the District have the right to request an impartial due process hearing relating to decisions or actions relating to the student's identification, evaluation, program or placement and the parents or guardian have the right to be represented by counsel in such hearings. The parents or guardian or eligible student and/or the District also have the right to a review procedure involving such hearings. The procedures for requesting an impartial due process shearing and the relevant review procedures are described below.

12. The parents/guardian of a student with a disability or an eligible student have the right to file a local grievance with the District for issues unrelated to the identification, evaluation, program or placement of the student. Board Policy 1621 describes the procedures for filing a grievance and can be requested by contacting: Superintendents office at 573-779-3446.

    Persons who believe that the district is discriminating against eligible persons on the basis of disability may also file complaints with the District's Section 504 Coordinator and/or **[the address for the Kansas City Office of OCR is:** OCR, U.S. Department of

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Education, 601 E. 12th St., Kansas City, Missouri 64106. **The Kansas City office's jurisdiction extends to the states of Kansas, Missouri, Nebraska, South Dakota, and Oklahoma. For a list of other regional offices and their coverage area, see www.ed.gov.**

The District's Section 504 Coordinator is Michael Silvy and may be reached at 573-779-3515.

Due Process Appeal Procedures:

This procedure should be used if the parent(s), legal guardian or eligible student intends to challenge actions the District proposes or refuses under 504 regarding the identification, evaluation, program or placement of a student with a disability. The District also has the right to initiate a 504 due process hearing regarding these same matters.

1. If a parent, legal guardian or eligible student intends to challenge the action proposed or refused by the District, the parent/guardian or eligible student must file a written Request for 504 Due Process Hearing within 15 calendar days from the date of the District's written notice of the proposed or refused action. A copy of this form is attached to these Procedural Safeguards. The Request for 504 Due Process hearing should be filed with the District's Section 504 Coordinator.

   If the District intends to initiate a Section 504 due process hearing, the District's Section 504 Coordinator will complete the Request for a 504 Due Process Hearing within the same number of calendar days as specified above.

2. The Request for a 504 Due Process Hearing must state the specific circumstances, including all relevant facts, giving rise to the request for due process; the specific issues to be decided at the impartial due process hearing; and the relief being requested. The District will acknowledge, in writing, all parent/guardian requests for a due process hearing within 15 business days of receipt. If the District initiates the due process hearing, the District will inform the parent or guardian within 15 days of the District's decision to so initiate.

3. The District will, within 15 business days of the District's or parent/guardian's receipt of the Request for a 504 Due Process Hearing, appoint and retain a single impartial hearing officer to hear and decide the due process request. The hearing officer must have knowledge or training in Section 504 and may not be an employee of the District. The hearing officer may not have a personal or professional interest that would conflict with his/her objectivity in the hearing. The District is not required to consult with the parent/guardian or eligible student with respect to the hearing offer appointment.

4. The parties to the hearing have the following rights:

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a. The right to inspect all relevant records, including personally identifiable records of the student;

b. The right to be represented and advised by an attorney;

c. The right to present evidence and confront, cross-examine and compel the attendance of witnesses;

d. The right to obtain a record of the hearing;

e. The right to obtain written findings of fact, conclusions of law, and decision.

5. The parents or guardian have the right to open the hearing to the public; otherwise, it will be closed. The parents or guardian may elect to have the student present at the hearing.

6. The hearing officer must hold the hearing within 30 days of his/her appointment as hearing officer. This timeline may be extended upon the request of the party or parties and by agreement and order of the hearing officer.

7. Each hearing must be conducted at a time and place which is reasonably convenient to the District and the parents or guardian. The District's facilities will be presumed to be a reasonably convenient location but the parents or guardian may challenge this presumption with the hearing officer.

8. The party that requested the due process hearing may not raise issues at the due process hearing that were not addressed in the Request for a 504 Due Process Hearing unless the other party agrees.

9. The hearing officer shall render a final, written decision no later than 20 days following the completion of the hearing. A decision may be rendered after 30 days, if either party requests an extension of this timeframe, and for good cause shown. The decision of the hearing is final and binding, subject to the procedures outlined below.

10. The District is responsible for costs directly attributable to the provision of administration hearings described in these procedures, including compensation of the hearing officer, transcripts or recordings of the hearing, and other related expenses. The District is not responsible for the costs of legal counsel or other representative of the parent/guardian or eligible student or for the costs of producing or reproducing the evidence presented by the parent/guardian or eligible student.

11. Any timelines specified herein may be extended by agreement of the District and parent/guardian or eligible student or by order of the hearing officer.

12. Any party aggrieved by the decision of the impartial hearing officer may appeal that decision to any court of competent jurisdiction.

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