

SECTION 504/ADA
NOTICE OF PARENT/STUDENT RIGHTS IN IDENTIFICATION,
EVALUATION AND PLACEMENT OF INDIVIDUALS WITH DISABILITIES

In compliance with the procedural requirements of Section 504 of the Rehabilitation Act of 1973, hereinafter Section 504, the following Notice of Parent/Student rights in Identification, Evaluation, and Placement shall be utilized in the St. Cloud Area School District 742.

This document is provided to ensure that you are aware of the regulations regarding the identification, evaluation or placement under Section 504 that may pertain to your child. The person at the school who is responsible for Section 504/ADA compliance is the building principal. The District Section 504 Administrative Liaison may be contacted at the District Administration Office, 1000 44th Avenue North suite 100, St. Cloud, MN 56303-2037 or by phone at (320) 202-6800. As the parents/guardians, you may also meet with the superintendent or a designee and/or the local school board to resolve any objections to the evaluation or educational placement of your child.

Section 504 is enforced by the U.S. Department of Education, Office for Civil Rights (OCR). If you need information about Section 504, the contact information is as follows:

Office for Civil Rights, Chicago Office (Region V)
U.S. Department of Education
500 W. Madison Street Suite 1475
Chicago, Illinois 60661
(312) 730-1560
FAX: (312) 730-1576
TDD: (312) 730-1609
Email: OCR.Chicago@ed.gov

The following is a description of some of the rights granted by the federal law pertaining to students with disabilities who are subject to identification, evaluation, or placement under Section 504. (See 34 C.F.R. § 104 for a full compilation of regulations).

1. Your child is entitled to take part in, and receive benefits from public education programs without discrimination because of his/her disability. 34 C.F.R. § 104.21
2. Your child is entitled to receive a free appropriate public education regardless of the nature or severity of is or her disability. 34 C.F.R. § 104.33(a)
3. Your child is entitled to receive education and related aids that are designed to meet his or her individual needs as adequately as the needs of students without disabilities 34 C.F.R. § 104.33(b)
4. Your child is entitled to receive free educational services except for those fees that are imposed on students without disabilities or their parents. 34 C.F.R. § 104.33(c)
5. Your child is entitled to be educated with students without disabilities to the maximum extent appropriate to the needs of your child. 34 C.F.R. § 104.34(a)
6. Your child is entitled to be educated in facilities and receive services comparable to those provided to students without disabilities. 34 C.F.R. § 104.33(c)
7. Your child is entitled to an evaluation prior to an initial placement and any subsequent significant change in placement. 34 C.F.R. § 104.35(a)
8. Your child is entitled to be evaluated and tested with procedures in accordance with regulations pertaining to evaluation procedures. 34 C.F.R. § 104.34(b)
9. Your child is entitled to have evaluation data and placement decisions based upon a variety of information sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. 34 C.F.R. § 104.35(c)(1)
10. Your child is entitled to have an interpretation of data and placement decisions based on evaluation procedures that ensure information is obtained from a variety of documented and carefully considered sources. 34 C.F.R. § 104.35(b)(c)(2)
11. Your child is entitled to have placement decisions made by persons knowledgeable about your child, the meaning of evaluation data, and placement options. 34 C.F.R. § 104.35(c)(3)
12. Your child is entitled to periodic evaluations. 34 C.F.R. § 104.35(d)
13. Your child is entitled to be given an equal opportunity to participate in nonacademic and extracurricular activities offered by the district. 34 C.F.R. § 104.37
14. You are entitled to notice prior to any action by the district with respect to identification, evaluation, or placement of your child. 34 C.F.R. § 104.36

15. You are entitled to examine all relevant records relating to decisions regarding your child's identification, evaluation, educational program, and placement. 34 C.F.R. § 104.66
16. You have the right to file a local grievance, without fear of reprisal, if you believe there has been a violation of Section 504/ADA. Any such grievance must be filed in writing within a reasonable period of time after the alleged violation occurred. The grievant must fully state the facts of the alleged violation and the remedy that is being sought.
 - a. STEP ONE: The grievance should be submitted to the Building Section 504 Coordinator, who will investigate the circumstances of the alleged violation. The Building Section 504 Coordinator will provide a written report of his/her findings of fact and conclusions within ten (10) school days to the grievant and District Section 504 Administrative Liaison Coordinator.
 - b. STEP TWO: If the grievance has not been resolved to the satisfaction of the grievant, she/he may appeal to the District Section 504 Administrative Liaison within five (5) school days of receipt of the report. The District Section 504 Administrative Liaison will conduct an investigation and within ten (10) school days of receipt of the appeal, s/he will affirm, reverse, or modify the report of the building Section 504 Coordinator.
 - c. STEP THREE: If the grievance has not been resolved in Step Two to the satisfaction of the grievant, she/he may appeal to the superintendent of Schools within five (5) school days of receipt of the District Section 504 Administrative Liaison's report. The Superintendent will conduct an investigation to review the alleged violation. S/he will affirm, reverse, or modify the report issued by the District Section 504 Administrative Liaison within fifteen (15) school days of receipt of the appeal.
 - d. STEP FOUR: If the grievance has not been resolved in Step Three to the satisfaction of the grievant, and the action is in regard to the identification, evaluation, or educational placement of the student with a disability, s/he may request an impartial due process hearing officer and follow state and federal rules for due process hearings.

EXTENSION OF TIME LIMITS: Any time limits set by these procedures may be extended by mutual consent of the parties involved.

This procedure provides written assurance that complaints may be made without fear of reprisal. The grievant may file a complaint with community, state, or federal agencies. Organizations and agencies which the parent may contact to obtain assistance with evaluation/placement questions include, but are not limited to, the following:

Federal:

Chicago Office for Civil Rights
U.S. Department of Education
500 W. Madison Street Suite 1475
Chicago, Illinois 60661
Telephone: 312-730-1560
FAX: 312-730-1576
TDD: 312-730-1609
Email: OCR.Chicago@ed.gov

State:

Minnesota Department of Education
Compliance and Assistance
1500 Highway 36 West
Roseville, MN 55113
651-582-8200

Organization:

PACER Center, Inc.
8161 Normandale Blvd.
Minneapolis, MN 55437
Voice: (952) 838-9000, TTY: (952) 838-0190,
Toll-free in Greater Minnesota: (800) 537-2237
Fax: (952) 838-0199
Website: pacer@pacer.org, www.pacer.org

17. You are entitled to request an impartial hearing and appeal of any decisions or actions taken by the school district regarding your child's identification, evaluation, educational program or placement. The

school district will bear the costs for these due process procedures. You and your child may take part in the hearing and have an attorney represent you. The following details the procedures:

- a. If you disagree with the identification, evaluation, educational placement, or with the provisions of a free appropriate public education for your child, you may make a request for a hearing of the superintendent or the Section 504 coordinator, indicating the specific reason(s) for the request. Upon receipt of the request, the superintendent shall appoint the hearing officer.
- b. The school district may initiate a hearing regarding the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student. The school district shall notify you of the specific reason(s) for the request.
- c. The school district shall conduct hearings within twenty (20) instructional days after it receives the request, unless the hearing officer grants an extension, and at a time and place reasonably convenient to you.

18. You are entitled to request a review (appeal) of the hearing, should you not prevail. The following details the procedure:

- a. You or any party to the hearing may petition to review (appeal) the decision of the hearing officer. The request must specify the objections and be filed with the superintendent and the opposing party within twenty (20) instructional days of the date the hearing officer's decision is received. The school district must appoint an independent appeals officer to conduct an impartial review of the record as a whole. The officer may, at his/her election, conduct the review with or without oral argument. Such review shall be conducted within twenty (20) instructional days of the receipt of the petition to review, unless either party requests an extension of time.
- b. The appeals officer shall ensure that a transcript of the review is prepared and made available to any party upon request.
- c. Any party disagreeing with the decision of the appeals officer may appeal to a civil court with jurisdiction.
- d. A parent/guardian represented by legal counsel during the proceedings of a due process hearing, appeal, or civil action may be entitled to reimbursement of legal fees if the parent ultimately prevails.

This procedure does not deny the right of the grievant to file a formal complaint in federal court with the U.S. Department of Education. Changes in the law, including timelines for filing a complaint, may affect your rights.

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This document is not to be a substitute for legal advice. It contains portions of the Section 504 regulations. For a complete compilation of the law, see 34 C.F.R. § 104.