

**PARK CITY SCHOOL DISTRICT
SECTION 504 MANUAL**

I. Introduction

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against students and/or employees with disabilities. The purpose of this manual is to inform the user about Section 504 general information, review the District's legal obligations to comply with regulations governing Section 504 and the Americans with Disabilities Act of 1990 and ADA Amendments Act of 2008 (ADA); identify, evaluate, and provide a free appropriate public education (FAPE) to students with disabilities; and ensure that procedural safeguards are available to students and parents whenever a complaint resolution process is needed. The Park City School District expects employees to be knowledgeable about District procedures governing Section 504 activities and parent/student rights. This manual has been written to reflect the Park City School District's commitment to appropriately serving ALL students with disabilities within its jurisdiction, regardless of the nature or severity of the disability.

<p><u>Jennifer Slade</u> is the Section 504 Compliance Officer in the Park City School District. She can be contacted at (435) 645-5600 ext 1438.</p>

II. Overview of Section 504

Section 504 of the Rehabilitation Act of 1973 is a civil rights statute dealing with discrimination based on disability. All programs or activities of the District are covered by Section 504's nondiscrimination obligations, including preschool, elementary, secondary, and adult education programs and activities. No state or federal funding is provided to assist in complying with Section 504. All costs are the obligation of the general school budget. Thus Section 504 is a management responsibility of general education. This manual focuses primarily on Section 504 Subpart D: Requirements for Preschool, Elementary, and Secondary Education.

Section 504 provides that “No otherwise qualified disabled individual in the United States... shall, solely by reason of his or her 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” Title II of the Americans with Disabilities Act extends this provision to all government services, including public education, regardless of whether federal funds are received. Again, this includes all programs or activities of the school district, regardless of whether the specific program or activity is a direct recipient of federal funds.

Those students identified as eligible under Section 504 require accommodation to level the playing field from the general education staff and curriculum. This response generally includes some sort of accommodation to permit the student to participate in the educational program.

III. Definitions, Clarifying Statements

The following terms and definitions are used frequently in reference to the District’s 504 programs.

ACCOMMODATIONS: Adaptations and adjustments made by classroom teacher(s) and other school staff pursuant to a Section 504 Plan to enable students with a disability to access their educational program, but which do not satisfy the definition of “specialized instruction” under the Individuals with Disabilities Education Act.

AMERICANS WITH DISABILITIES ACT of 1990/ADA AMENDMENTS ACT OF 2008 (collectively, ADA): A civil rights law that prohibits discrimination against persons with disabilities in the areas of accessibility, employment, public services, public accommodations, transportation, and communication.

CHILD FIND: Is to identify, locate and evaluate children that might have a disability. 34 CFR 104.32 (a)

EPISODIC/REMISSION: An episodic impairment or impairment in remission may still be a disability if it substantially limits a major life activity when active. (Amendments Act § 4 (a)[codified as amended at 42 U.S.C. §12102])

EXTRACURRICULAR ACTIVITIES: §104.37 (a) General. (1) A recipient to which this subpart applies shall provide non-academic and extracurricular

services and activities in such manner as is necessary to afford handicapped students an equal opportunity for participation in such services and activities.

(2) Non-academic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the recipients, referral to agencies which provide assistance to handicapped persons, and employment of students, including both employment by the recipient and assistance in making available outside employment.

“In considering whether a reasonable modification is legally required, the school district must first engage in an individual inquiry to determine whether the modification is necessary. If the modification is necessary, the school district must allow it unless doing so would constitute a fundamental alteration of the nature of the extracurricular athletic activity. A modification might constitute a fundamental alteration if it alters such an essential aspect of the activity or game that would be unacceptable even if it affected all competitors equally (such as adding an extra base in baseball). Alternatively, a change that has only a peripheral impact on the activity or game itself might nevertheless give a particular player with a disability an unfair advantage over others and for that reason, fundamentally alter the character of the competition. Even if a specific modification would constitute a fundamental alteration, the school district would still be required to determine if other modifications might be available that would permit the student’s participation. (Dear Colleague Letter, January 25, 2013)

FREE APPROPRIATE PUBLIC EDUCATION: 34 CFR 104.33 (c) *Free education*—(1) *General*. For the purpose of this section, the provision of a free education is the provision of educational and related services without cost to the handicapped person or to his or her parents or guardian, except for those fees that are imposed on non-handicapped persons or their parents or guardian. It may consist either of the provision of free services or, if a recipient places a handicapped person or refers such person for aid, benefits, or services not operated or provided by the recipient as its means of carrying out the requirements. The provision of related aids and services that are (1) designed to meet individual educational needs of students with disabilities as adequately as the needs of nondisabled persons are met; and (2) are provided following required procedures.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA): Federal special education law and regulations.

MAJOR LIFE ACTIVITY: Include but are not limited to functions such as walking, breathing, learning, reading, concentrating, thinking, communicating, seeing, speaking, caring for one’s self, working, hearing, eating, sleeping, standing, lifting, bending, and operation of a bodily function. The list of examples

is not exhaustive.

MAJOR BODILY FUNCTIONS: Include but are not limited to functions of the immune system, bowel, brain, endocrine, normal cell growth, respiratory, reproductive, digestive, neurological and circulatory systems. The list of examples is not exhaustive.

MANIFESTATION DETERMINATION: Just like IDEA, a student who is being considered for long term suspension or expulsion due to behavior exhibited has a right to a manifestation determination hearing to determine if the behavior is due to their disability.

MITIGATING MEASURES: The determination of whether an impairment substantially limits a major life activity shall be made without regard to the effects of mitigating measures such as:

- i. Medication; medical supplies, equipment, or appliances; low-vision devices (which do not include ordinary eyeglasses or contact lenses); prosthetics, including limbs and devices; hearing aids and cochlear implants or other implantable hearing devices; mobility devices; or oxygen therapy equipment and supplies;
- ii. Use of assistive technology;
- iii. Reasonable accommodations or auxiliary aids or services; or
- iv. Learned behavioral or adaptive neurological modifications
(42 U.S.C. 12102 (4) (a) (4) (E) (i)).

OFFICE FOR CIVIL RIGHTS (OCR): This federal agency has three primary responsibilities: investigating complaints, conducting compliance reviews, and providing technical assistance. There are 10 regional offices located throughout the United States.

The OCR office representing Utah is located at;
U.S. department of Education
Office of Civil Rights, Region VIII
1244 Speer Boulevard, Suite 310, Denver
Colorado, 80204-3582, (303) 844-5695.

PHYSICAL OR MENTAL IMPAIRMENT: (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 physical disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

QUALIFIED STUDENT: Any student who has a physical or mental impairment that substantially limits one or more major life activities.

SECTION 504: Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability. The law states that no student with disabilities “shall, solely by reason of a 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.”

SUBSTANTIAL LIMITATION (EEOC) Has defined substantially limited as follows:

- i. The term “substantially limits” shall be construed broadly in favor of expansive coverage, to the maximum extent permitted by the terms of the ADA. “substantially limits is not meant to be a demanding standard.
- ii. An impairment is a disability within the meaning of this section if it substantially limits the ability of an individual to perform a major life activity as compared to most people in the general population. (29 C.F.R. 1630.2 (j) May 25, 2011.

TECHNICALLY ELIGIBLE: Under Section 504, a student may have a diagnosis of an impairment that qualifies them to be a student with a disability. The team then has the obligation to evaluate to determine if the student’s disability substantially limits a major life activity and if they need an Accommodation Plan to access their education.

TEMPORARY IMPAIRMENTS: A temporary impairment is an impairment of short duration with limited or no residual effect that does not result in substantial limitation of one or more major life activities/major bodily functions for an extended period of time.

V. Three Laws: How They Relate

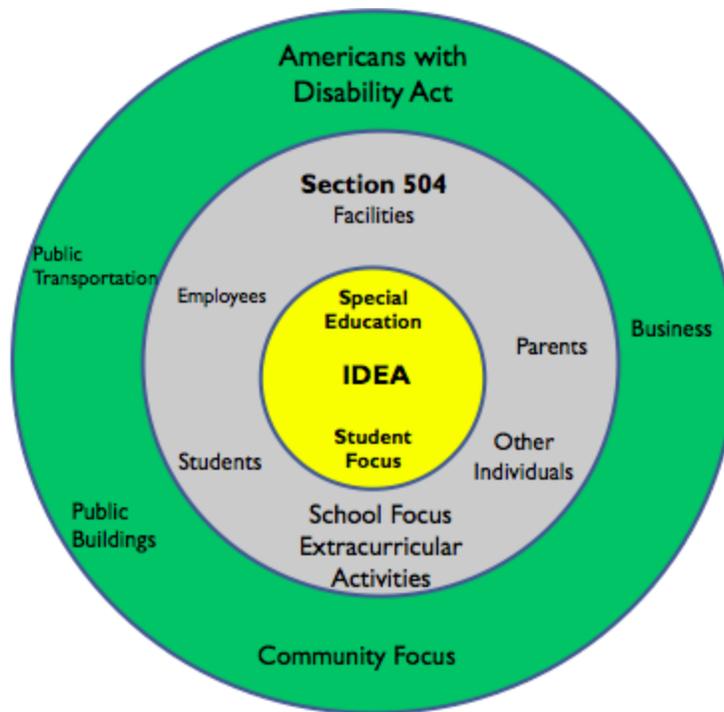
To understand Section 504, it is helpful to see how it relates to other relevant laws.

The American with Disabilities Act (ADA) - The Ada is a federal law which protects the civil rights of **all individuals with impairments in our society**, similar to those provided to individuals on the basis of race, color, sex, national origin, age, and religion. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, State and local government services, and telecommunications. ADA was recently amended in 2009. The Amendments Act amends only the ADA and, through a conforming amendment, Section 504. The Amendments Act does not amend the IDEA, and therefore, does not affect that law’s requirements.

Section 504 - Section 504 is more encompassing. Section 504 could cover students, parents, employees, and other individuals with impairments. The Section 504 definition of an impairment is much broader, including any physical or mental disability that substantially limits one or more major life activities, including, but not limited to learning. **For public schools**, Section 504 covers all students who meet this definition, even if they

are not eligible under the Individuals with Disabilities Act (IDEA). Students who qualify for Section 504 Services do not automatically qualify for special education under IDEA. The identification for Section 504 services must be based upon evaluations and conducted by a team of individuals knowledgeable about the student. Students who qualify for Section 504 may require accommodations through a **Section 504 Plan developed by the school's Section 504 team.**

Individuals with Disabilities Act (IDEA)- this law defines eligible students as those who have certain specific types of disabilities and who, because of those conditions, need special education provided through an **Individualized Education Program (IEP).**



If it is determined that a student is not eligible for “special education” under IDEA, the student should still be referred to the 504 Team for a determination of whether he/she has a disability requiring accommodation under 504.

V. District Procedural Requirements

To be in compliance with Section 504 the school district must comply with the following eight procedural requirements, as set forth in the Code of Federal Regulations (CFRs) implementing Section 504.

A. Procedure One: Written Assurance (34 CFR 104.5(a).)

Whenever a district applies for State or federal monies, it must assure that it does

not discriminate on the basis of race, sex, color, national origin, age, or disability by signing assurance forms.

B. Procedure Two: Section 504 Coordinator (34 CFR 104.7(a))

The general provisions of Section 504, together with other federal nondiscrimination laws, require the designation of a person to coordinate the district's efforts to comply with these laws. Suggested Section 504 Coordinator responsibilities and activities could include some or all of the following responsibilities:

- Ensure nondiscriminatory educational practices
- Establish and monitor a Section 504 referral/identification/review process
- Maintain data on Section 504 referrals
- Conduct staff and parent awareness and training activities concerning Section 504 requirements
- Implement Section 504 grievance procedures for the district
- Monitor the local Section 504 budget
- Consult with the director of special education
- Serve as a liaison with the State Section 504 Coordinator
- Serve as the liaison with the regional Office for Civil Rights

Park City School District's Section 504 Coordinator/Compliance officer is Jennifer Slade, she can be reached at 435-645-5600 ext. 1438

C. Procedure Three: Grievance Procedures (34 CFR 104.7(b))

1. General Information

If any person believes that the District or any of its staff or schools has failed to adhere to the requirements of Section 504 of the Rehabilitation Act of 1973, he/she may initiate a grievance with the District's Section 504 Coordinator. The grievance procedures must explicitly state and make clear to the individual(s) involved that **a complaint can be made to the regional office of U. S. Department of Education's Office for Civil Rights (OCR) without going through the school's grievance procedures.** The grievance procedures are meant to provide for a prompt and equitable resolution of a complaint.

2. District Grievance Procedures

The 504 Coordinator, on request, will provide a copy of the District's grievance procedure and investigate all complaints in accordance with this procedure. The

procedure contains a description of the types of complaints covered by the grievance procedure and a description of the investigative appeals process. The person who believes he/she has been discriminated against based on disability shall discuss the grievance with, and give the completed grievance form to, the Section 504 Coordinator who shall, in turn, investigate and reply to the complainant. Park City grievance procedures are detailed in **Appendix (V) “Grievance Procedures/Complaint Form” and in Appendix (W) “Section 504 Request for Due Process Hearing Form”**

D. Procedure Four: General Notice to Students, Parents, Employees, and Other Individuals (34 CFR 104.8)

The following annual notice must be distributed to students, parents, employees, and other individuals:

<p style="text-align: center;"><u>Section 504 of the 1973 Rehabilitation Act and Americans with Disabilities Act</u></p> <p>NOTICE OF NONDISCRIMINATION</p> <p>Applicants for admission and employment, students, parents, persons with disabilities, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the Park City School District are hereby notified that this school district does not discriminate on the basis of race, sex, color, national origin, age or disability in admission or access to, or treatment or employment in, its programs and activities and provides equal access to the Boy Scouts and other designated youth groups.</p> <p>Any person having inquiries concerning the District’s compliance with the regulations implementing Section 504 or the Americans with Disabilities Act (ADA) is directed to contact Mr. Thomas Van Gorder, Director of Student Services for the Park City School District at (435) 645-5600. Mr. Van Gorder has been designated by the District to serve as the Section 504 coordinator and compliance officer.</p>
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E. Procedure Five: Locate and Identify (Child Find) (34 CFR 104.32(a))

The District shall maintain an ongoing program to find unserved children who

might qualify for special education or Section 504 services. This is known as Child Find. Park City School District's efforts for section 504 Child Find will coincide with child find compliance under the Individuals with Disabilities Education Act (IDEA).

F. Procedure Six: Notice to Parents and Individuals with Disabilities (34 CFR 104.32(b))

The following annual notice must be distributed to students, parents, employees, and other individuals:

<p style="text-align: center;">NOTICE</p> <p style="text-align: center;">Programs for Students with Disabilities under Section 504 of the Rehabilitation Act of 1973 and the Americans with disabilities Act</p> <p>Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act prohibit discrimination against persons with a disability in any program receiving federal financial assistance. Section 504 defines a person with a disability as anyone who...</p> <p>Has a mental or physical impairment which substantially limits one or more major life activities such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, sleeping, standing, lifting, reading, concentrating, thinking, communicating, helping, eating, bending, or operation of a bodily function. (This is not an exhaustive list of major life activities which means even if an activity or function is not listed it can nonetheless be a major life activity.)</p> <p>The District has the responsibility to provide accommodations and services to eligible individuals with disabilities. The district acknowledges its practices regarding its personnel and students. No discrimination against any person with a disability shall knowingly be permitted in any program or practice in the school.</p>

G. Procedure Seven: Parent and Student Rights (“Procedural Safeguards”) under Section 504 (34 CFR 104.36)

Park City School District Parent and Student Rights are located in **Appendix (J)**. These should be provided to parents the first time a student is referred for evaluation or when parents request a 504 accommodations plan.

H. Procedure Eight: Self-Evaluation (34 CFR 104.6(b))

A self-evaluation to determine possible discrimination involving school facilities, programs, activities, and policies is a requirement of both Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. The self-study will be conducted periodically and will be kept on file and available for public inspection.

VI: Procedures for 504 Referral, Evaluation, Eligibility, Placement and Review

A. Referral

The school's Section 504 Coordinator and Response to Intervention Team should ensure that the following process has occurred.

1. Response to Intervention Team

When a student is experiencing difficulty, he or she will be identified by the grade level, Response to Intervention (RtI) Team.

2. General Education Interventions and/or Further Identification

The grade level RtI Team, meets to discuss the concerns. The presenting problem(s) and previous remedies are considered and reviewed. The review/discussion should include all current information, performance data, and recommendations.

The team suggests **research-based intervention strategies** to help correct the difficulties. The primary function of the team is to develop an Intervention Plan, if necessary.

If the team determines during the RtI process that an Intervention Plan is needed, the plan is developed and implemented. If at anytime after implementing the RtI process, the RtI team suspects the student has a disability and does not just need remediation they are to notify parents and make them aware of the district's obligation to evaluate either for Section 504 or IDEA.

3. Parent Referral

At any point during the RtI process (or otherwise), the parent may request a more formal evaluation under IDEA or Section 504. If the student is in the RtI process because

of concerns about a possible disability, the request for IDEA/504 evaluation should be granted.

4. Written Consent for Evaluation

Section 504 regulations require schools to individually evaluate a student before providing the student with a Section 504 plan and to obtain written parental permission before conducting the evaluation. The school notifies the parents, in writing, of the school's reason and intent to conduct an evaluation under Section 504. The notice should include a description of the evaluation and of a copy the procedural safeguards (parents/students rights under Section 504).

B. Evaluation (34 CFR 104.35(b))

Following the District's evaluation procedures, the school evaluates a student suspected of having a qualifying disability under Section 504. Section 504 also requires that if additional testing is necessary, the tests are selected to evaluate the specific areas of educational need and be from a variety of sources. The tests and other evaluation materials must be validated for the specific purpose for which they are used and appropriately administered by trained personnel.

The Section 504 Team should draw from a variety of sources in the identification determination process so that the possibility of error is minimized. The information obtained from all such sources must be documented and all significant factors related to the student's learning process must be considered. These sources and factors may include aptitude and achievement tests, teacher recommendations, parent information, physical condition, social and cultural background, and adaptive behavior.

Like IDEA, Section 504 requires that districts pay for an outside or "independent" evaluation if the parents disagree with the district's evaluation.

C. Eligibility

The Section 504 team meets and analyzes the evaluation data to determine if the student has a mental or physical impairment that substantially limits a major life activity. The determination of what constitutes a substantial limitation must be made on a case-by-case basis with respect to each individual student.

Unlike IDEA, the Section 504 regulations do not explicitly state who makes up a student's 504 Team. However, the regulations do state that placement decisions must be made by a group of persons knowledgeable about the child, the meaning of the evaluation data, and the placement options. NOTE: A nurse must be present if the underlying reason for the necessity of a 504 Plan is medical in nature (e.g., allergies, asthma, diabetes, etc.)

D. Placement

1. Development of Section 504 Accommodation Plan/Services

Factors to be considered for plan/service options by a group of individuals knowledgeable about the student and his/her disability and evaluation are as follows:

- a. Evaluation results
- b. Section 504 identification determination
- c. The student's individual needs
- d. Services and/or accommodations based on needs
- e. Least restrictive environment for services

2. Implementation

Written consent from the parent should be obtained for an initial Section 504 placement and before services can begin.

The Section 504 Team makes decisions regarding the necessary accommodations and/or services to allow for the student's disability. Parents should be part of the Section 504 team and given the opportunity for input regarding the 504 Plan.

The accommodations and/or services are documented on a Section 504 Plan form and implemented.

A Section 504 Case Manager is designated to coordinate the student's plan and ensure that relevant staff are informed about the plan and the actions required to implement it.

E. Review/Re-evaluation

Periodic review/reevaluation is required. Section 504 Plans will be reviewed annually. A plan may be reviewed more than one time per year at the request of the school team or the parent. Students will be re-evaluated every three years. They may be reviewed more than once every three years at the request of the school team or the parent.

VI. NURSING SERVICES PROCEDURES

Pursuant to Section 504, the District is committed to ensuring that students who require nurse health care as part of their Section 504 Plans are able to receive the care as their plan requires. In the event a nurse is required to perform non-delegable nursing tasks, the following procedures will be followed.

This policy is not a guarantee that the District will be able to accommodate all unforeseen circumstances. Emergency situations or other circumstances resulting in the unavailability of a nurse may still occur. However, it is the District's expectation that following these procedures will result in provision of the needed services and appropriately facilitate students' full participation in District programs.

A nurse will be available at all times to provide the required services, barring exceptional and unforeseen circumstances that cannot be avoided after following these procedures

Regular School Day

In the event a nurse will be absent, and where the absence is known and pre-planned, a substitute nurse must be secured. This should be arranged as soon as the absence is known.

In the event of an unforeseen absence, such as may be the result of unanticipated illness, it is still the primary responsibility of the regularly assigned nurse to obtain a substitute. If the severity of the illness or reason for absence makes the assigned nurse unable to engage in efforts to obtain a substitute, the Office of Student Services must be contacted as soon the absence is known. If efforts have been made to contact all substitute nurses, and these efforts have been unsuccessful, the Office of Student Services must be contacted as soon as possible.

In the event a substitute nurse cannot be secured, the District will make reasonable efforts to re-allocate nursing services from other assignments and notify affected parents of the circumstances and steps being taken to provide services.

Contact information for substitute nurses will be distributed to all nurses by the Office of Student Services prior to the start of each school year, and will be updated

throughout the year as staffing changes are made.

Field Trips

Students with disabilities shall not be excluded from participation in District approved and sponsored field trips.

Nursing services will be provided to the extent necessary to ensure equal participation in District approved and sponsored field trips.

Parents are not required to attend field trips for the purposes of providing nursing care included in a student's Section 504 Plan during the field trip. A nurse will be provided, if necessary, regardless of a parent's willingness to attend and provide the services.

It is the school's responsibility (teacher & principal) to inform the regularly assigned school nurse of the planned field trip at least 30 days prior to the date of the planned trip in order to facilitate the required nursing care arrangements.

If the regularly scheduled school nurse is unable to attend the field trip, the school nurse shall be responsible to obtain a substitute nurse.