

MOBERLY SCHOOL DISTRICT'S
SECTION 504/TITLE II 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. . . .

Similarly, Title II of the ADA provides that:

No qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

A disabled person under Section 504/Title II 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/Title II disabilities and/or their parents or legal guardians and to those students who are suspected of having a 504/Title II 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/Title II disability that is not addressed through an IEP.

PARENT AND STUDENT RIGHTS UNDER SECTION 504/TITLE II:

1. Parents/guardian and students have the right to be informed by the School District of their rights under Section 504/Title II. The purpose of these Procedural Safeguards is to advise you of those rights.
 2. A student with a 504/Title II 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. Although a student's disability status must be determined without regard to the ameliorative effect of mitigating measures, the use of mitigating measures remains relevant in evaluating a disabled student's need for special education or related services. If, as a result of a properly conducted evaluation, the district determines that a student does not need special education or related services, the district is not required to provide aids or services. The student is still a person with a disability and remains protected by the general nondiscrimination provisions of Section 504 and Title II. (*Dear Colleague Letter* (OCR Jan. 19, 2012)).
 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 parent(s) or guardian of a child with a disability has 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.
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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 program 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 and participate in 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 hearing 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 AC describes the procedures for filing a grievance and can be requested by visiting the District's website or by contacting the Assistant Superintendent for Special Services.

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 Office for Civil Rights. For a list of regional OCR offices, see www.ed.gov.

The District's Section 504 Coordinator is Allison Archibeque and may be reached at 660-269-2693.
