

## APS and Section 504: Parent & Student Rights

The Albuquerque Public Schools (APS) affords certain rights to students with disabilities and their parents as set forth in **Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec.706(8))**. *Section 504 of the Rehabilitation Act* states: “No qualified individual with a disability shall, solely on the basis of his or her disability, be denied participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”

### What is Section 504?

Section 504 is a civil rights statute that provides certain protections to special education and general education students, employees, parents, and community members with disabilities. The Americans with Disabilities Act is an extension of Section 504 into the private sector. Its protections for individuals within APS are essentially the same as Section 504. Students with disabilities who do not qualify for services under the Individuals with Disabilities Education Act of 1990 (IDEA) may have rights if they are eligible under Section 504. A person who has a **physical or mental impairment which substantially limits one or more major life activities**, such as caring for oneself, performing manual tasks, walking, seeing,

hearing, speaking, breathing, learning, or working, **has a disability under 504.**

### Did You Know...

- APS has had an on-going plan for providing district-wide access for persons with disabilities since the 1970's?
- APS provides reasonable accommodations and comparable opportunities to students with disabilities through a 504 Accommodation Plan developed by the 504 Committee based upon a student's educational need(s) and upon the least restrictive environment appropriate to those needs?
- Parents can directly request a 504 eligibility determination conference from their child's school if they feel that their child may qualify for an accommodation plan under 504?
- APS makes all reasonable efforts to identify and serve the students of the district with disabilities, by not denying any student because of his/her disability participation in programs or services, unless it would demonstrably impose an undue hardship on the operations of the program?
- APS conducts Child Find to locate pre-school children, ages three and four, and those who may be school age, but are not enrolled who may be in need of services?

### What Are the Rights of Students Qualified under Section 504?

Those students eligible for services under Section 504 have a right to:

- a free appropriate public education (FAPE) that is individually designed to meet the student's individual needs as adequately as the needs of nonhandicapped persons are met.
- evaluation and periodic reevaluation to determine their needs.
- physical access to facilities provided for their education
- take part in, and to receive benefits from, public education programs with out discrimination because of disability.
- reasonable accommodations/modifications/supplementary aids and services to allow the student an equal opportunity to participate in school and school related activities.
- be educated in facilities comparable to those provided to non-disabled students.

### Who Can Help with Your Questions about Your Child and Section 504?

★ Your school's Principal,  
Counselor or Student Assistance  
Team

★ Rose-Ann McKernan  
872-6870 or mckernan@aps.edu

## What Are the Rights of Parents of Students with a Disability under Section 504?

- The parent or guardian shall be notified in writing of all District decisions concerning the identification, evaluation, or educational placement of the student.
- The parent/guardian has a right to examine relevant educational records.
- The parent/guardian may obtain copies of educational records at a reasonable cost unless the fee would effectively deny him/her the records.
- The parent/guardian may request amendment to his/her child's educational records if there is reasonable cause to believe that they are inaccurate, misleading or otherwise in violation of the privacy rights of the child.
- If a parent/guardian disagrees with a District decision regarding the identification, evaluation, or educational placement of his/her child, he/she may request mediation by writing to District 504 Facilitator.
- If the parent/guardian cannot reach agreement with the District informally, he/she may:
  - 1) request an Impartial Due Process Hearing with opportunity for participation by the parent/guardian and legal counsel.
  - 2) and/or file a written complaint with the Office for Civil Rights.

## APS 504 Process

1. Student is referred to 504 Committee by parent or school staff. Parents are notified of referral.
2. Evaluation information is gathered.
3. 504 Conference is scheduled to determine eligibility.
4. Parents are notified in writing of the 504 Conference.
5. Parent and school staff concerns are documented during the 504 Conference.
6. 504 eligibility is determined by the summarization of evaluation/assessment data provided by school and parents:
  - ↪ Does the committee find that the student has a physical or mental impairment?
  - ↪ If the student has impairment; does the impairment **substantially limit a major life activity?**
  - ↪ Does the committee have sufficient data to determine that the student has a disability under 504?
7. A 504 Accommodation Plan is developed for eligible students.
8. If a student is found to be non-eligible, a referral to the school Student Assistance Team may be appropriate.



# SECTION 504 OF THE REHABILITATION ACT OF 1973

