



PATAULA CHARTER  
ACADEMY/SPRING CREEK  
CHARTER ACADEMY  
SECTION 504 MANUAL

Reviewed July 2024

# **Introduction**

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against students on the basis of their disability.

The purpose of the manual is to inform District employees and parents about Section 504 and the District's procedures to comply with the requirements for Section 504. This manual reflects the District's commitment to serve ALL children.

The District expects employees to be knowledgeable about District procedures governing Section 504 activities, grievance procedures for resolving Section 504 complaints, and parent and student rights. If you have any questions pertaining to Section 504, please contact the 504 Coordinator.

Brandi Adams  
District 504 Coordinator

Pataula Charter Academy:  
Casey Cleveland/School 504 Coordinator

Spring Creek Charter Academy:  
Julie Bellflower/School 504 Coordinator

# **Section 504 Background Information**

## **What is Section 504?**

The Rehabilitation Act of 1973, commonly referred to as “Section 504”, is a federal statute that prohibits discrimination against persons on the basis of their disability by institutions, such as Pataula Charter/Spring Creek Charter Academy. It states:

*No otherwise qualified individual with a disability 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.*

Section 504’s purpose is, among other things, to assure that students with disabilities have educational opportunities and benefits equal to those provided to students without disabilities. Responsibilities of school districts under Section 504 include Child Find, Evaluation, Free Appropriate Public Education, Placement, and Procedural Safeguards. An eligible student under Section 504 is a student who has a physical or mental impairment that substantially limits a major life activity. If a student is covered by Section 504, Pataula Charter/Spring Creek Charter Academy must provide free appropriate public education (FAPE), including accommodations as are necessary to ensure that the student has equal access to services, programs and activities offered by our school.

## **How does Section 504 differ from IDEA?**

A student who qualifies for special education services under the Individuals with Disabilities Education Act (IDEA) is, in all cases, a qualified student with disabilities under Section 504. The converse, however, is not true: a qualified student with disabilities under Section 504 is not qualified in all cases to receive special education services and the protections of IDEA. In other words, some students with disabilities may qualify for protections under Section 504 but do not qualify for special education services under IDEA.

If a student with disabilities is receiving special education services in accordance with IDEA, the District’s obligations to provide FAPE have been met, but the student is still entitled to the non-discrimination protection under Section 504. However, if a student is determined ineligible under IDEA, the Section 504 team may consider whether the student qualifies for the protections of Section 504.

This manual will focus solely on Section 504. Any questions regarding IDEA should be directed to the Special Education Department.

# Identifying Students for Section 504 Eligibility

## ADA Amendments Act

When Congress amended the Americans with Disabilities Act in 2008, the intent was to ensure a broad scope of protections under the ADA and to shift the analysis away from whether the individual had a disability to the District's obligation to ensure equal educational opportunities.

## What criteria are used to determine 504 eligibility?

For a student to qualify for Section 504 protections, the student must meet three criteria: (1) have a mental or physical impairment, (2) which substantially limits, (3) one or more major life activities. Simply having a condition or disability does not automatically qualify a student for Section 504 protections. The condition must present a barrier to the student's ability to access the same educational opportunities as those afforded a student without disabilities. It is important to understand that all three criteria must be met before the student is eligible for Section 504 protection. Additional detail on each of the three criteria follows.

### Mental or physical impairment

This criterion includes any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems. Mental or psychological disorders are also covered. Section 504, in contrast to IDEA, does not limit eligibility to specific diseases or categories of medical conditions. Environmental, cultural, and economic disadvantages are not covered unless the student who has any of these characteristics also has a physical or mental impairment.

### Substantially Limits

Section 504 does not specifically define the term "substantially limits", however the term shall be interpreted consistently with the finding and purposes of the ADA Amendment Act of 2018. 42 U.S.C 12102(4)(a)(4)(B). The basis for evaluating this criterion is the impact the impairment has on one or more of a student's major life activities. A student's impairment is a substantial limitation if the student's "important life activities are restricted to the conditions, manner, or duration under which they can be performed in comparison to most people". Further, an impairment does not need to prevent or severely or significantly restrict a major life activity to be considered substantially limiting. 29 C.F.R. 1630.2(j)(1)(ii).

The Section 504 Team will consider the nature and severity of the disability as well as how long the disability is expected to last. OCR has indicated that temporary impairments are not a disability under Section 504 unless the severity of the impairment will result in a substantial

limitation for an extended period of time. However, an impairment that is episodic or in remission is considered a disability if it would substantially limit a major life activity when it is in an active phase.

As of January 1, 2009, school districts, in determining whether a student has a physical or mental impairment that substantially limits that student in a major life activity, must not consider the ameliorating effects of any mitigating measures that student is using. This is a change from prior law.

Congress did not define the term “mitigating measures” but rather provided a non-exhaustive list of “mitigating measure.” The mitigating measures are as follows: medication, medical supplies, equipment or appliances, low-vision devices (not including ordinary eye glasses or contact lenses), prosthesis (including limbs and devices), hearing aids, and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy equipment and supplies, use of assistive technology, reasonable accommodations or auxiliary aids or services, and learned behavioral or adaptive neurological modifications.

### **Major Life Activities**

Major life activities include, but are not limited to, caring for oneself, performing manual tasks, walking, hearing, seeing, speaking, breathing, learning and working. Effective January 1, 2009, Congress provided additional examples of general activities that are major life activities: eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, and communicating.

42 U.S.C. 12102(4)(a)(2)(A)

### **How is a Section 504 evaluation request made?**

Any parent or guardian, teacher, or staff member who believes that a student may have a qualifying disability may request a Section 504 evaluation. The person requesting the evaluation should reach out to the school 504 Coordinator to setup an evaluation meeting.

### **What is the process for reviewing Section 504 eligibility?**

Upon notice of the Section 504 Referral, the 504 Coordinator must send to the parents/guardians the Parent Notice for Consideration for Section 504 Protections and Parents Rights and Safeguards under Section 504.

The 504 Coordinator then schedules a Section 504 meeting to review the referral. The 504 Coordinator sends the Parent and Teacher Invitation and input forms through Infinite Campus to complete electronically.

The Section 504 Team must include individuals knowledgeable about the needs of the student and the evaluation data being reviewed. This team should include the parent or guardian of the

student, teachers, counselors, other school staff members, and staff members of community agencies, if applicable and with the consent of the parent/guardian. The parent/guardian, as well as the student, should be included in this process whenever possible. The team's role is to review the nature of the student's impairment and determine how it affects educational access.

During the meeting, the 504 Coordinator will facilitate a review of existing data, completing the Section 504 Eligibility Determination to determine the nature of the student's disability and what, if any, additional data is needed. Information that might be considered includes grades, attendance reports, behavior plans, review requests, cumulative file information, psychological evaluations, medical information, observations, and standardized testing information. This review of data will assist the Section 504 Team in determining if further assessments need to be conducted or if a decision on eligibility may be made. The team must ensure that information obtained from all sources is documented and carefully considered.

If the Section 504 team determines that additional data is necessary before an eligibility determination can be made, the team must develop an assessment plan and obtain parental consent for further assessment.

If the Section 504 team determines that there is sufficient data to make an eligibility determination, the team must complete the Section 504 Eligibility Determination in Infinite Campus, which asks the team a series of questions to determine if there is an impairment that substantially limits a major life activity. Once the team determines that the student is eligible for Section 504 protections, the team must consider whether the student requires a Section 504 Plan in order for his/her education needs to be met as adequately as his/her non-disabled peers.

The Section 504 team may make the following determinations:

- The student is not eligible for Section 504 protections
- The student is eligible for Section 504 protections and requires a Section 504 Plan
- The student is eligible for Section 504 protections but does not require a Section 504 Plan because the impairment is in remission.
- The student is eligible for Section 504 protections but does not require a Section 504 Plan because the student's needs are being met due to mitigating measures.
- The student is no longer eligible for Section 504 protections
- The student is no longer eligible for Section 504 protections because he/she is now eligible under the IDEA.

Following the eligibility determination, the 504 Coordinator will provide the parent/guardian access through the Infinite Campus Parent Portal Eligibility Determination, which documents the decision made by the Section 504 team.

If the Section 504 team determines that the student is eligible and requires a Section 504 Plan, the team will create the plan that addresses all areas of need and the appropriate instructional and testing accommodations.

Following the meeting, teachers will also be able to access this information in Infinite Campus.

All students qualifying for a Section 504 plan will have an electronic file in Infinite Campus.

### **When is it not appropriate to offer a Section 504 Accommodation Plan?**

Eligibility under Section 504 is always decided by evaluating and determining that all three criteria are met. The student must have a mental or physical impairment. That mental or physical impairment must be substantially limiting. The impairment must substantially limit one or more major life activities. If any of the three criteria are not met, the 504 team should NOT create a formal 504 Plan for the student.

Keep in mind while a 504 Plan might not be appropriate, an informal intervention plan, MTSS, may be appropriate. In the event that the 504 Team determines that the student is not eligible to receive a 504 plan this information will be determined at the Eligibility Determination meeting.

### **Can a medical diagnosis suffice as an evaluation for the purpose of providing FAPE?**

No. A physician's medical diagnosis may be considered among other sources in evaluating a student with an impairment or believed to have an impairment which substantially limits a major life activity. Other sources to be considered, along with the medical diagnosis, include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior. The Section 504 regulations require school districts to draw upon a variety of sources in interpreting evaluation data and making placement decisions.

### **Does a medical diagnosis of an illness automatically mean a student can receive services under Section 504?**

No. A medical diagnosis of an illness does not automatically mean a student can receive services under Section 504. The illness must cause a substantial limitation to a major life activity. For example, a student who has a physical or mental impairment would not be considered in need of services under Section 504 if the impairment does not in any way limit a major life activity, or only results in some minor limitation in that regard.

## **How should a school district handle an outside evaluation? Does all data brought to a Section 504 team need to be considered and given equal weight?**

The results of an outside evaluation provided by a parent will be one of a variety of sources to consider. The Section 504 Team must draw from a variety of sources in the evaluation process so that the possibility of error is minimized. These sources and factors include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior, among others. Information from all sources must be documented and considered by knowledgeable committee members. The weight to be given to the various types of information considered will be determined by the Section 504 Team.

## **Who in the evaluation process makes the ultimate decision regarding a student's eligibility for services under Section 504?**

The Section 504 regulatory provision at 34 C.F.R.104.34 (c)(3) provides that a student's eligibility for Section 504 must be made by a group of persons, including persons knowledgeable about the meaning of the evaluation data and knowledgeable about the placement options.

## **Once a student is identified as eligible for services under Section 504, is there an annual or triennial review requirement? If so, what is the appropriate process to be used? Or is it appropriate to keep the Section 504 Plan in place indefinitely after a student has been identified?**

Section 504 requires "periodic" re-evaluation of the student. This may be conducted in accordance with the IDEA regulations, which require re-evaluation at three-year intervals (unless the parent and public agency agree that re-evaluation is unnecessary) or more frequently if conditions warrant, or if the child's parent or teacher requests a re-evaluation, but not more than once a year (unless the parent and public agency agree otherwise).

Pataula Charter/Spring Creek Charter Academy will have annual reviews and consider the need for re-evaluation every three years.

## **How should the school district view a temporary impairment?**

A temporary impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period of time. The issue of whether a temporary impairment is substantial enough to be a disability must be resolved on a case-by-case basis, taking into consideration both the duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity of the affected individual.



In the Amendment Act, Congress clarified that an individual is not “regarded as” an individual with a disability if the impairment is transitory and minor. A transitory impairment is an impairment with an actual or expected duration of six months or less. However, impairments that are episodic or in remission are considered disabilities if they substantially limit a major life activity.

## **Design and Implementation of a Section 504 Plan**

### **Where will accommodations be provided for students and what are some examples of possible accommodations?**

Section 504 requires that a student with a disability be educated with students without disabilities to the maximum extent appropriate for the student. As with IDEA, this is considered educating the student in the least restrictive environment. Implementation of most Section 504 plans occurs within the general education classroom.

Accommodations are generally those minor adjustments to things like seating arrangements, lesson presentation, assignments, and other facets of the learning experience that provide the student with equal access to learning opportunities. An example could be moving the student to a position in the room that best supports his or her ability to attend to schoolwork.

Accommodations might involve the use of special visual aids, large print, or using video recording. Allowing a student additional time to complete a specific kind of task is also an accommodation. Countless accommodations exist that can support a student’s equal access to educational opportunities. It is the job of the Section 504 Team to identify the accommodations that will provide the student with educational access.

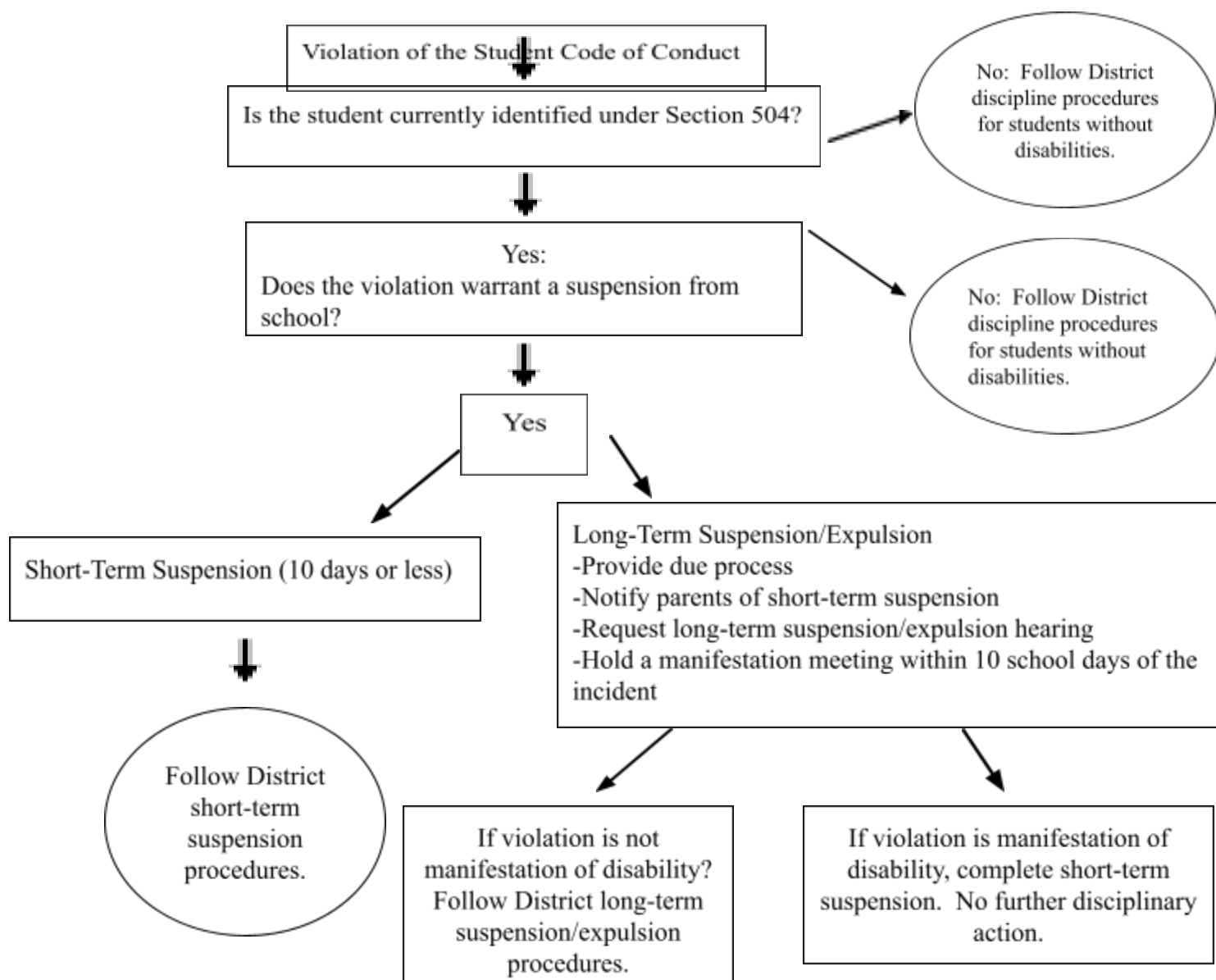
### **How are Section 504 accommodations and related services documented and reviewed?**

If the Section 504 Team determines that a student has a qualifying disability, the team’s second responsibility is to identify the student’s needs and services and/or accommodations the student will receive. Documentation of the plan’s details should be completed in Infinite Campus. The plan sets forth the accommodations that a student needs in order to have equal access to the learning process, or to other programs, activities, and services.

# Disciplining 504 Students with Disabilities

## What is the discipline process for a 504 student with disabilities?

Section 504 students with disabilities are subject to the same disciplinary action as students without disabilities, provided that the student's behavior is not a manifestation of his or her qualifying disability. A 504 Team must conduct a manifestation determination whenever a student with disabilities is subject to out-of-school suspension for 10 consecutive school days or more, or if multiple short-term suspensions would result in a significant change in placement. If the 504 Team concludes that the violation is a manifestation of the student's qualifying disability, the discipline process must end and the 504 Team should review the 504 Plan to determine if changes are appropriate. If the violation is not a manifestation, the student is subject to the same disciplinary action that any student without disabilities would receive for the same violation.



## **Must a school make a manifestation determination when considering the long-term suspension or expulsion of a student with a Section 504 Plan?**

Yes. Similar to suspension or expulsion of a student having a disability under IDEA, it is necessary to conduct a manifestation determination for a Section 504 students with disabilities when:

-The suspension or expulsion will be for more than 10 consecutive school days. Like IDEA, a suspension/expulsion of more than 10 consecutive days constitutes a significant change in placement and requires schools to determine if the cause of the behavior is the disability identified in the student's 504 Plan.

-A series of suspensions that total more than 10 days may also trigger the manifestation determination requirement of Section 504. If cumulative suspensions/expulsions for a student on a 504 Plan total more than 10 days, it must be determined if a significant placement change has occurred. This is done on a case-by-case basis. If a group of short suspensions creates a pattern of exclusion, then this constitutes a change in placement and the school must conduct a manifestation determination meeting before further suspensions or expulsions occur. OCR has identified some of the key factors in determining patterns of exclusion: the length of each suspension, the proximity of one suspension to another, the nature of the behavior, and the total amount of time the student is excluded from school.

## **Who makes the manifestation determination for a student on a Section 504 Plan and what information is included in this process?**

The manifestation determination should be made by a Section 504 Team that consists of persons who have knowledge of the student and the meaning of the information that will be reviewed. When possible, the members of the Section 504 Team should be the same members who designed the student's Section 504 Plan. School officials responsible for school disciplinary procedures, such as the school principal or assistant principal, cannot make the determination. However, such administrators may present pertinent student information to the Section 504 Team and participate in the decision making process.

The Section 504 Team must have available information that competent professionals would require when making a manifestation determination. Such information might include attendance and academic records, psychological evaluation data, behavior plans, discipline records, and staff observations. The information should be current enough to afford an understanding of the behavior that is the subject of the manifestation determination.

The manifestation determination should begin with the Section 504 Team deciding if the conduct in question was the direct result of the District's failure to implement the Section 504 Plan. If so,

the school should not take any further disciplinary actions. The Section 504 Team should review and update the Section 504 Plan, if appropriate.

If the student's Section 504 Plan had been properly implemented, the Section 504 Team will next consider if the behavior is the result of the student's disability. This inquiry is resolved by considering the relationship between the student's disability and his or her behavior. The team must decide whether the conduct in question was: (1) Caused by, or had a direct and substantial relationship to, the student's disability; or (2) A direct result of the District's failure to implement the student's Section 504 Plan.

If the Section 504 Team answers in the affirmative, then the behavior is a manifestation of the student's disability and no disciplinary action can be taken past the 10 days.

If the Section 504 Team determines that the behavior is not a manifestation of the disability, the District may impose whatever long-term suspension or expulsion it would impose under the same circumstances if a student without disabilities was the offender. **The District has no obligation to continue to provide educational services to a 504 student during the period of a long-term suspension or expulsion.**

The 504 Team must conclude its work by completing a Section 504 Manifestation Determination Review in Infinite Campus.

### **How does a school proceed with drug/alcohol violations by a student on a Section 504 Plan?**

A student who is currently engaged in the illegal use of drugs/alcohol is not considered a student with a disability, and is, therefore, not entitled to protection under Section 504. Section 504 allows school districts to take disciplinary action pertaining to the use or possession of illegal drugs/alcohol against a Section 504 student who is currently engaging in the illegal use of drugs/alcohol to the same extent such discipline is taken against students without disabilities.

A student with a history of drug/alcohol abuse who has been successfully rehabilitated, or is participating in a drug rehabilitation program and is not currently engaging in the illegal use of drugs, is covered by Section 504.

While the discipline of a student is allowed with no services provided to a student when drug/alcohol violations occur, this does not mean the student's physical or mental impairment no longer exists. Upon completion of the disciplinary action, the Section 504 Team should reconvene to revisit eligibility and the Section 504 Accommodation Plan to determine if any revisions should be made.

## **504 Procedural Safeguards and Parent/Student Rights**

### **Must schools secure parental consent before conducting an evaluation meeting?**

Schools must include parents in the evaluation process and provide a written meeting notice prior to the evaluation meeting using the Parent and Student Invitation: Section 504 Meeting.

Although Section 504 does not require obtaining parent consent prior to conducting a Section 504 evaluation, OCR has issued several opinions indicating the districts do so. The 504 Coordinator should use the Section 504 Eligibility Form which contains a section allowing for acquiring parent consent for collecting additional data and for placement, if the student is eligible, on a Section 504 Student Accommodation Plan.

### **Are schools required to provide parents with a list of parent/student rights under Section 504 before conducting and initial student review?**

Yes. The District is required to establish and implement procedural safeguards that include:

- Notice to the parent explaining any evaluation or placement decisions.
- An opportunity for parents to review relevant records.
- An impartial hearing with opportunity for participation by the student's parent or guardian with representation by counsel.
- An appeal procedure to review the hearing decision.

These procedural safeguards have been addressed by creating Section 504 evaluation procedures and a set of forms that guide the evaluation team through the eligibility determination and placement process.

A notice concerning Parent's Rights and Safeguards Under Section 504 must be included with the Parent Notice for Consideration for Section 504 Protections form given to the parent/guardian prior to the 504 evaluation meeting. Likewise, the Parent's Rights and Safeguards Under Section 504 must be provided to the parent(s)/guardian(s) upon the eligibility determination made by the Section 504 team.

## **Working to Address Concerns and Complaints**

### **Section 504 Grievance Procedure**

When a student, parent, or community member has a complaint or grievance against the District based on Section 504, the District will follow the "Complaint Policy-Students and Parents" set forth by the Governing Board.