

## **FACTS FOR PARENTS REGARDING SECTION 504**

### **What is Section 505 of the Rehabilitation Act of 1973?**

Section 504 is civil rights legislation that prohibits discrimination against persons with a disability in any program receiving federal financial assistance. This legislation defines a person with a disability as anyone who:

Has a mental or physical impairment which substantially limits one or more major life activity (major life activities include: caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working);

Has a record of such impairment; or

Is regarded as having such an impairment.

### **Morgan Hill Unified School District Schools and Section 504**

The Morgan Hill Unified School District recognizes its responsibility to avoid discrimination in policies and practices regarding its personnel and students. No discrimination against any individual with a disability will knowingly be permitted in any of the programs and practices in the school system.

The school district has specific responsibilities under the legislation that include the responsibility to identify, evaluate, and if the child is determined to be eligible under section 504, to afford access to a free appropriate public education.

If a parent or guardian disagrees with a decision regarding the identification, evaluation, or placement made by the professional staff of the site Student Success/504 Team, he/she has a right to file a complaint. The various methods for filing a complaint are discussed in the following section of this handbook.

### **Referral Process**

Students who are experiencing difficulties in school are sometimes referred for evaluation and possible special education placement or considerations. As a parent, you can initiate the referral process if you feel your son or daughter's progress in school is substantially limited by impairment. First discuss your concern with the teacher(s) or school administrator for further consideration and review.

Some students do not meet the requirements for special education certification; however, they do have a disability that is significantly affecting their school performance. These special needs students are referred for consideration of program accommodations or special aids and services under Section 504. A referral to determine student eligibility can

be made by a parent, school administrator, counselor, teacher, and other professionals knowledgeable about your child. Older students may refer themselves.

If you make a referral for consideration of a 504 for your son or daughter, a Student Success Team (SST) at school will accept the referral and begin the process to determine eligibility. A 504 Plan is referred to as an Individualized Service Plan (ISP).

The SST/504 Team generally consists of the following participants:

1. Parents
2. Site SST/504 Coordinator
3. Teacher(s)
4. Counselor
5. Administrator
6. Nurse
7. Resource specialist
8. Other professionals knowledgeable about your child

If the student is an English learner, the SST/504 Team will include a teacher or another person knowledgeable about second language acquisition. The SST/504 Team may need to be extended to include the school psychologist or other professionals with knowledge of assessment instruments.

If a parent or guardian disagrees with the determination regarding the identification or evaluation or replacement made by the professional staff of the site Student Success Team, he/she has a right to file a complaint. (See *How to File a Complaint with the School* on page 33.)

### **Referral Guidelines for the Student Success Team/504**

The SST/504 processes referrals using the following guidelines:

**Parent Notification:** Provide written notification of referral to parents; invite parents to the SST/504 meeting.

**Evaluation:** Conduct an evaluation of the student, using a variety of data and both formal and informal.

**Decisions/Recommendations:** Determine if the student meets the requirements for Section 504 eligibility.

**Plan Development:** Develop an Individualized Service Plan (ISP) with accommodations, aids and services.

**Placement implementation:** Provide parents and service providers with a copy of the student's ISP.

Monitor/Re-evaluation: Review of the ISP yearly by SSTI504 Team and revise as needed.

Each school has a designated site SSTi504 Coordinator who generally chairs SSTI504 meetings and provides appropriate staff with a copy of the student's 504iISP. If you have questions about this process, contact the SST coordinator at your son or daughter's school.

### **Facilities Modification Needs**

There are some overlapping requirements under Section 504 and the Americans with Disabilities Act (ADA) passed in 1990 with respect to access to buildings and program/activities conducted in certain locations that may not afford equal access or use by persons with certain disabilities.

The district has a designated 504/ADA committee, which receives referrals from school sites when there is a perceived need for modification of facilities or for additional aids to facilitate access to a building or program/activity.

Your concerns in this area should be directed to the school administrator. District staff in the Special Education Department is generally aware of the student's current needs. They will make recommendations to the site administrator if the student will be enrolling in a school where facilities may need to be modified or classes may need to be relocated.

### **Parental Rights Afforded by Section 504 of the Rehabilitation Act of 1973**

The following section describes student and parental rights granted by federal law. The intent of the law is to keep you fully informed concerning decisions about your child and to inform you of your right if you disagree with any of these decisions.

#### **Parental Rights**

You have the right to:

Have your child take part in and receive benefits from public education programs without discrimination based on a disability.

Have the school advise you of your rights under federal law.

Receive notice with respect to identification, evaluation, program, or placement of your child,

Be involved before the initial evaluation and placement for services for your child.

Written consent is not required; however, encouraging your involvement and support before the initial evaluation and placement for services is a priority.

Have your child receive a free appropriate public education that is the provision of related aid and/or specialized services, including the services of special educators and related professionals when the student does not otherwise qualify for special education.

Related aids or services must be designed to meet the individual educational needs of your child as adequately as the needs of students without disabilities are met. This includes the right to be educated with non-disabled students and the opportunity to participate in school and school-related activities to the maximum extent appropriate.

Have your child educated in facilities and receive services comparable to those provided to students without disabilities.

Have your child evaluated for eligibility under Individuals with Disabilities Education Act (IDEA), and if found eligible, receive special education and related services.

Have identification, evaluation, and educational placement decisions made based upon variety of information sources, and by individuals who know the student, disability, evaluation data, and placement options.

Give your child an equal opportunity to participate in non-academic and extracurricular activities offered by the school.

Examine all relevant records relating to decisions regarding your child's identification, evaluation: educational program and placement.

File a complaint with the school if you feel your child is being discriminated against because of his/her disability.

Request the assistance of a mediator to help resolve issues with the school.

Request a due process hearing to help resolve issues with the school. (See page 34.)

File a formal complaint with the regional Office for Civil Rights. (See page 35.)

## **More Facts for Parents Regarding Section 504**

### **Parent Involvement**

In concert with the Board of Education Parent Involvement Policy, your involvement in your student's success and academic achievement is essential. Therefore, collaborating with school personnel to guarantee that your student will be provided with accommodations, related aids and/or specialized services will ensure the receipt of a free appropriate public education (FAPE). The Student Success Team (SST) will encourage

your involvement in the 504 Individualized Service Plan (ISP) as you do have a right to make suggestions regarding accommodations, aids and services.

### **Equal Access to Curriculum**

Preschool, Elementary, Middle Level/ Junior High, Secondary and the Adult education programs must take into account the needs of qualified persons with disabilities in determining the aids, benefits or services to be provided under these programs or activities. The school must provide a free appropriate public education to students with disabilities. An appropriate education under section 504/ADA requires that instruction must be designed to meet the needs of those students without disabilities

### **Alternative Education**

California law authorizes all school districts to provide for alternative schools. The Education Code defines this as a school or separate class group within a school that meets the academic and personal needs of students through varied and innovative instruction options. The school/programs are offered throughout the district, K-12. A student with a 504/ISP, transitioning from general education to alternative education, will continue to have a 504/ISP

### **Diploma Bound**

All students with 504ASPs are considered diploma bound unless determined otherwise by the SST/504 Team and set forth in the ISP.

### **Zero Tolerance**

The Board of Education has adopted a Zero Tolerance Policy on weapons, violent acts and repeated fighting. This policy applies to middle level/junior high and high school students. Secondary students who violate this policy will be suspended and removed from district schools (expulsion).

If a student with an ISP is suspended with a proposed expulsion, a manifestation hearing must be held at the school within five (5) days of the occurrence of the behavior that initiated the suspension. You must be informed of the suspension and decisions made in this regard by the school.

The Board of Education and the district have also adopted a Substance Abuse Policy which recommends expulsion within the first incident of furnishing or selling and the third violation involving use and/or possession of any dangerous or prohibited substance, other than tobacco. Upon the fourth (4th) violation of the policy involving tobacco, the student will be suspended for five (5) days with the recommendation for expulsion. A manifestation hearing does not need to be held if the student's disability is based solely upon being an alcoholic or drug addict and the penalty to all students breaking this rule is expulsion.