

~~Preston School District No. 201 has the responsibility to identify, evaluate, and provide appropriate educational services to eligible students attending this district's schools who have a physical or mental impairment that substantially limits one or more major life activities so that they may receive a free appropriate public education (FAPE) as required by Section 504 of the Rehabilitation Act of 1973.~~

~~An impartial hearing procedure is available to students and their parent/guardian to resolve differences dealing with educational services available under Section 504 when such differences cannot be resolved by means of a less formal procedure~~

~~The hearing procedures set forth in this policy apply to the identification, evaluation, or educational placement of a student who is identified as having a disability pursuant to Section 504.~~

### **HEARING PROCEDURES**

~~Within twenty (20) calendar days of the parent/guardian's receipt of notice of the 504 team's decision, a Section 504 impartial hearing may be requested by the parent/guardian of the affected student on matters directly related to the school district's decisions or actions regarding the following:~~

- ~~1. The identification of the student as disabled or eligibility of the student for services under Section 504.~~
- ~~2. The evaluation procedures utilized with the student, including a decision not to evaluate a student.~~
- ~~3. The educational placement and/or related aids and services recommended for or provided to the student, including any change in placement as a result of disciplinary action.~~

~~In the event a hearing has been held, or is pending, pursuant to the provisions of the Individuals with Disabilities Education Act (IDEA) on any of the issues currently being alleged by the parent/guardian, no hearing officer will be appointed and no hearing will be held on like issues pursuant to this policy. An IDEA hearing that is resolved by a decision or dismissed with prejudice shall resolve any like issues for which a Section 504 hearing has been requested.~~

~~All requests for a Section 504 hearing under this policy must:~~

- ~~1. Be submitted in writing and addressed to the district's Section 504 Compliance Officer.~~
- ~~2. Describe the specific nature of the dispute.~~

3. ~~State the proposed specific relief or remedy requested.~~
4. ~~Provide any other information the parent/guardian believes is important to understanding the dispute.~~

~~If the request does not include all of the required information, it may be returned to the grievant within ten (10) school days of receipt by the Section 504 Compliance Officer with a request to provide the missing information within five (5) school days from the date of receipt. The remaining procedures will be suspended and the timelines will not run until the additional information is received.~~

~~The Section 504 Compliance Officer will select an impartial hearing officer within fifteen (15) calendar days of receipt of the request for a Section 504 hearing. The selected hearing officer will:~~

1. ~~Be qualified to review school district decisions relating to Section 504.~~
2. ~~Be impartial and unbiased.~~
3. ~~Not be an employee of the school district.~~

~~The hearing procedure will be presided over and decided by the appointed impartial hearing officer, but shall be limited as follows:~~

1. ~~The hearing is limited to facts within two (2) years of the date the parent/guardian knew or should have known about the alleged actions or facts that form the basis of their claims.~~
2. ~~The hearing officer's procedures will conform to the standard of "fundamental fairness." The Administrative Procedures Act (APA) and IDEA procedures shall not apply to the hearings.~~
3. ~~The issues of the hearing will be limited to those specifically raised in the written request for hearing.~~
4. ~~The party requesting the due process hearing shall carry the burden of proving the claims asserted.~~

~~The selected hearing officer will notify the parties in writing of the date of the hearing. The parent/guardian and the school district will be given at least ten (10) calendar days notice of the date of the hearing. The notice from the appointed hearing officer will contain:~~

1. ~~\_\_\_\_\_ A statement of the time, place, and nature of the hearing.~~
2. ~~\_\_\_\_\_ A statement of the legal authority and jurisdiction under which the hearing is being held.~~
3. ~~\_\_\_\_\_ A statement of the availability of relevant records for examination.~~
4. ~~\_\_\_\_\_ A concise statement of the issues in dispute.~~
5. ~~\_\_\_\_\_ A statement setting forth the right of the student's parent/guardian to participate in the hearing procedure.~~
6. ~~\_\_\_\_\_ A statement of the right to be represented by counsel at the expense of each respective party.~~

~~All written correspondence will be provided in English and/or in the parent/guardian's primary language.~~

~~The hearing will be conducted and a written decision will be mailed by the hearing officer to all parties within forty-five (45) calendar days from the date of the hearing assignment. However, either party to the hearing may request a continuance. The continuance may be granted by the hearing officer upon a showing of good cause. Any continuance(s) granted by the hearing officer will extend the time for rendering a final hearing decision for a period equal to the length of the continuance(s).~~

~~The appointed hearing officer will preside at the hearing and will conduct the hearing proceedings in a manner that allows all parties the following rights:~~

1. ~~\_\_\_\_\_ The right to be represented by counsel at the expense of each respective party.~~
2. ~~\_\_\_\_\_ The right to present evidence and oral arguments.~~
3. ~~\_\_\_\_\_ The right to examine witnesses.~~
4. ~~\_\_\_\_\_ The right to an electronic verbatim record of the hearing.~~
5. ~~\_\_\_\_\_ The right to written findings of fact and a decision on the matter.~~

~~The parent/guardian involved in the hearing process has the right to:~~

1. ~~\_\_\_\_\_ Have the student present at the hearing.~~

~~2. A closed hearing, unless the parent/guardian elects to open the hearing to the public.~~

~~In cases where there are language differences, an interpreter will be provided by the school district.~~

~~The appointed hearing officer will review all relevant facts presented at the hearing and will determine whether the decisions regarding the child's identification, evaluation, educational program, or placement were appropriate. The hearing officer will have the authority to uphold, reverse, or modify the school district's decisions or actions with regard to:~~

- ~~1. The identification of the student as disabled, or eligibility of the student for services under Section 504.~~
- ~~2. The evaluation procedures utilized with the student, including a decision not to evaluate a student.~~
- ~~3. The educational placement and/or related aids and services recommended for or provided to the student.~~

#### **~~DECISION OF THE HEARING OFFICER~~**

~~A copy of the hearing officer's findings of fact and decision will be delivered to the school district and the parent/guardian within sixty (60) calendar days from the date of the assignment of the hearing officer, unless a continuance is granted.~~

~~The decision of the hearing officer is binding on all parties concerned and the aggrieved party has the right to request a review of the hearing officer's decision.~~

#### **~~RECORD OF THE HEARING~~**

~~An electronic verbatim recording of the Section 504 hearing will be on file at the school district's administration office and will be available for review upon request by the parent/guardian.~~

#### **~~REVIEW PROCEDURE~~**

~~An aggrieved party may petition for review of the hearing officer's decision. A request for review must:~~

- ~~1. Be made in writing and addressed to the Section 504 Compliance Officer, including a copy for the opposing party.~~

2. ~~Contain specific objections to the findings of fact and/or conclusions of law believed to be erroneous.~~
3. ~~Be filed within fifteen (15) calendar days of receipt of the hearing officer's decision.~~

~~The Section 504 Compliance Officer shall determine whether the petition for review contains all of the required information with ten (10) calendar days from its receipt. If it is determined the petition does not contain all of the required information, the petition will be returned, and the party petitioning for review will have an additional five (5) school days in which to remedy the defect.~~

~~Upon filing of a petition to review the hearing officer's decision, the district shall appoint a Review Officer who does not have a direct interest in the outcome of the decision and is knowledgeable about Section 504 education matters. The impartial Review Officer shall not hear additional evidence except in the case of a showing of extraordinary circumstances necessitating an additional hearing, but shall be limited to review the evidence and the record of the hearing conducted by the hearing officer and the objections of the appealing party. The Review Officer shall render a decision within sixty (60) calendar days following the request for review as to whether the hearing officer's decision shall stand or shall be overturned.~~

~~If a hearing and/or oral argument are determined necessary by the Review Officer in order to conduct a review of the proceedings, the Review Officer shall give reasonable notice to both parties of the date, time, and location of the hearing. Whether a hearing and/or oral argument are necessary shall be left solely to the discretion of the Review Officer and neither party shall have the right to request a hearing and/or argument. The parties may be represented by counsel at any hearing requested by the Review Officer, at the expense of the respective parties.~~

~~The written decision of the Review Officer shall be based solely on the evidence presented and the applicable law, and shall contain reasons for the decision. The decision of the Review Officer shall be the final decision.~~

~~In addition to requesting a hearing, a parent/guardian may file a complaint with the Office for Civil Rights, 915 2<sup>nd</sup> Avenue, Room 3310, Seattle, WA 98174-1099.~~

~~The person in Preston School District No. 201 who is responsible for assuring that the district complies with Section 504 is:~~

~~Brady Garner  
Preston School District No.201-  
105 E 2<sup>nd</sup> S  
Preston, ID 93263  
Phone: (208) 852-0283  
Fax: (208) 852-3976  
Email: [brady.garner@psd201.org](mailto:brady.garner@psd201.org)~~

It is the policy of Preston Joint School District not to discriminate on the basis of disability. Preston Joint School District has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) of the U.S. Department of Health and Human Services regulations implementing the Act. Section 504 prohibits discrimination on the basis of disability in any program or activity receiving Federal financial assistance. The Law and Regulations may be examined in the office of Dr. Brady Garner, who has been designated as the LEA's Section 504 Coordinator to oversee the efforts of Preston Joint School District in complying with Section 504.

Any staff, student, parent/guardian, or patron (or parent/guardian on behalf of a minor child) who believes she or he has been subjected to discrimination on the basis of disability may file a grievance under this procedure. It is against the law for Preston Joint School District to retaliate against anyone who files a grievance or cooperates in the investigation of a grievance.

### PROCEDURE

- Grievances must be submitted to the Section 504 Coordinator in writing, containing the name and address of the person filing it. The complaint must state the problem or action alleged to be discriminatory and the remedy or relief sought.
- The Section 504 Coordinator (or designee) shall conduct an investigation of the complaint. This investigation may be informal, but it must be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint. The Section 504 Coordinator will maintain the files and records of Preston Joint School District relating to such grievances.
- The Section 504 Coordinator will issue a written decision on the grievance no later than 30 days after its filing.
- The person filing the grievance may appeal the decision of the Section 504 Coordinator by writing to the Section 504 Coordinator within 15 days of receiving the Section 504 Coordinator's decision. The Section 504 Coordinator shall issue a written decision in response to the appeal no later than 30 days after its filing.
- The availability and use of this grievance procedure does not prevent a person from filing a complaint of discrimination on the basis of disability with the U. S. Department of Health and Human Services, Office for Civil Rights.

Preston Joint School District will make appropriate arrangements to ensure that disabled persons are provided other accommodations, if needed, to participate in this grievance process. The Section 504 Coordinator will be responsible for such arrangements.

Preston Joint School District will take steps to prevent the recurrence of any discrimination and to correct its discriminatory effects on the complainant and others, if appropriate

## Parents Rights Under Section 504

You have the right to be informed by the school district of your rights under Section 504. This is a notice of you and your child's rights under Section 504 and the rights you have if you disagree with the school district's decisions.

### WHAT IS SECTION 504?

Section 504 of the Rehabilitation Act of 1973, commonly called "Section 504," is a federal law that protects students from discrimination based on disability. Section 504 assures that students with disabilities have educational opportunities and benefits equal to those provided to students without disabilities. To be eligible, a student must have a physical or mental impairment that substantially limits one or more major life activity.

### YOUR CHILD'S EDUCATION

Your child has the right to:

- Receive a free and appropriate public education.
- Participate in and benefit from the district's educational programs without discrimination.
- Be provided an equal opportunity to participate in the district's nonacademic and extracurricular activities.
- Be educated with students who do not have disabilities to the maximum extent appropriate.
- Be educated in facilities and receive services that are comparable to those provided to students without disabilities.
- Receive accommodations and/or related aids and services to allow your child an equal opportunity to participate in school activities.
- Receive educational and related aids and services without cost, except for those fees imposed on the parents of children without disabilities.

Receive special education services if needed.

### YOUR CHILD'S EDUCATIONAL RECORDS

You have the right to:

- Review your child's educational records and to receive copies at a reasonable cost. You will not be charged if the cost would keep you from reviewing the records.
- Ask the district to change your child's education records if you believe that they are wrong, misleading, or are otherwise in violation of your child's privacy rights. If the district refuses this request, you have the right to challenge the refusal by requesting an impartial hearing.
- A response to your reasonable requests for explanations and interpretations of your child's education records.

### THE SECTION 504 PROCESS

Your child has the right to an evaluation before the school determines if he or she is eligible under Section 504. You have the right to:

- Receive notice before the district takes any action regarding the identification, evaluation, and placement of your child.
- Have evaluation and placement decisions made by a group of persons, often called a "504 team", including persons who know your child, the meaning of the evaluation information, and the placement options available.
- Have evaluation decisions based on a variety of sources, such as aptitude and achievement tests, teacher recommendations, physical conditions, medical records, and parental observations.
- Refuse consent for the initial evaluation and initial placement of your child.

If your child is eligible under Section 504, your child has a right to periodic re-evaluations, including re-evaluations before any significant change is made in your child's placement.

### IF YOU DISAGREE WITH THE DISTRICT'S DECISION

If you disagree with the district's decisions regarding your child's identification, evaluation, educational program, or placement under Section 504, you may request mediation or an impartial due process hearing. You and your child have the right to take part in the hearing and have an attorney represent you. Hearing requests and other concerns can be made to your district's Section 504 Coordinator:



Dr. Brady Garner

105 E 2nd S

Preston Joint School District

208-852-0283, brady.garner@psd201.org

You have the right to file a complaint of discrimination with the U.S. Department of Education's Office for Civil Rights (OCR), or to file a complaint in federal court. Generally, an OCR complaint may be filed within 180 calendar days of the act that you believe was discriminatory. The regional office is located at 915 Second Ave, Room 3310, Seattle, WA 98174-1099. Phone: 206-607-1600/TDD: 206-607-1647 Website: [www.ed.gov/OCR](http://www.ed.gov/OCR)



**LEGAL REFERENCE:**

Section 504 of the Rehabilitation Act of 1973

29 USC Chapter 16

34 CFR Part 104.36

**ADOPTED: February 15, 2017**

**AMENDED:**

Section 504 does not set forth any timelines for the hearing or review process. The timelines set forth in this policy are suggestions and may be modified so long as the timelines are reasonable.