

School District's Duty Under Section 504

The Bismarck School District shall provide a free appropriate public education to each qualified person with a disability in the district's jurisdiction, regardless of the nature or severity of the person's disability.

The provision of an appropriate education is the provision of regular or special education and related aids and services that:

1. Are designed to meet individual educational needs of persons with a disability as adequately as the needs of persons without a disability are met; and
2. Are based upon adherence to procedures that satisfy the requirements of a free education, educational setting, and evaluation and placement as detailed below.

The District may place a person with a disability or refer such a person for aid, benefits, or services other than those that the District operates or provides as its means of carrying out the requirements of this law. If so, the District remains responsible for ensuring that the requirements contained in law are met with respect to any person with a disability so placed or referred.

Free Education

The provision of a free education is the provision of educational and related services without cost to the person with a disability or to his or her parents or guardian, except for those fees that are imposed on persons without a disability or their parents or guardian. It may consist either of the provision of free services or, if the District places a person with a disability or refers such person for aid, benefits, or services not operated or provided by the District, payment for the costs of the aid, benefits, or services.

Transportation: If the District places a person with a disability or refers such person for aid, benefits, or services not operated or provided by the District, the District shall ensure that adequate transportation to and from the aid, benefits, or services is provided at no greater cost than would be incurred by the person or his or her parents or guardian if the person were placed in the aid, benefits, or services operated by the District.

Placement of persons with a disability by parents: If the District has made available, in conformance with the requirements under law, a free appropriate public education to a person with a disability and the person's parents or guardian choose to place the person in a private school, the District is not required to pay for the person's education in the private school. Disagreements between a parent or guardian and the District regarding whether the District has made a free appropriate public education available or otherwise regarding the question of financial responsibility are subject to the due process procedures of 34 C.F.R. 104.36.

Educational Setting

Academic setting: The District shall educate or provide for the education of, each qualified person with a disability in its jurisdiction with persons who are not disabled to the maximum extent appropriate to the needs of the person with the disability. The District shall place a person with a disability in the regular educational environment unless it is demonstrated by the District that the education of the person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. Whenever the District places a person in a setting other than the regular educational environment, it shall take into account the proximity of the alternate setting to the person's home.

Nonacademic settings: In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities, the District shall ensure that persons who have a disability and who have met eligibility criteria established for that activity participate with persons who do not have a disability in such activities and services to the maximum extent appropriate to the needs of the person with a disability in question.

Comparable facilities: If the District operates a facility that is identifiable as being for persons with a disability, the District shall ensure that the facility and the services and activities provided therein are comparable to the other facilities, services, and activities of the District.

Evaluation and Placement

Pre-placement evaluation: The District shall conduct an evaluation of any person who, because of disability, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in regular or special education and any subsequent significant change in placement.

Evaluation procedures: The District shall establish standards and procedures for the evaluation and placement of persons who, because of disability, need or are believed to need special education or related services, which ensure that:

1. Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer;
2. Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and
3. Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

Placement procedures: In interpreting evaluation data and in making placement decisions, the District shall:

1. Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;
2. Establish procedures to ensure that information obtained from all such sources is documented and carefully considered;
3. Ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options, and (4) ensure that the placement decision is made in compliance with educational setting requirements.

Reevaluation: The District shall establish procedures, in accordance with evaluation procedures above, for periodic reevaluation of students who have been provided special education and related services.

Procedural Safeguards

The District shall 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 that includes notice, an opportunity for the parents or guardian of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parents or guardian and representation by counsel, and a review procedure.

Nonacademic Services

The District shall provide non-academic and extracurricular services and activities in such manner as is necessary to afford students with a disability an equal opportunity for participation in such services and activities.

Nonacademic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the District, referrals to agencies which provide assistance to persons with a disability, and employment of students, including both employment by the District and assistance in making available outside employment.

1. Counseling services: If the District provides personal, academic, or vocational counseling, guidance, or placement services to its students, it shall provide these services without discrimination on the basis of disability. The District shall ensure that qualified students with disabilities are not counseled toward more restrictive career objectives than are students with similar interests and abilities who have no disability.

2. Physical education and athletics: In providing physical education courses and athletics and similar aid, benefits, or services to any of its students, the District may not discriminate on the basis of disability. If the District offers physical education courses or operates or sponsors interscholastic, club, or intramural athletics, it shall provide to qualified students with a disability an equal opportunity for participation.

The District may offer to students who have a disability physical education and athletic activities that are separate or different from those offered to students without a disability only if separation or differentiation is consistent with the educational setting requirements (see p. 2) and only if no qualified student with a disability is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

End of Bismarck Public School District Exhibit AACA-E

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