

SECTION 504 POLICY

The Board of Directors of Pathways Academy Adult Education (“PAAE” or the “Charter School”) recognizes the need to identify and evaluate students with disabilities in order to provide them with a free, appropriate public education and its legal responsibility to ensure that “no qualified person 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.” This policy and the related administrative regulation has been developed to ensure the implementation of Section 504 of the Rehabilitation Act of 1973 (“Section 504”), and its implementing regulations as amended, which pertains to public schools. The intent is to ensure that all students with disabilities, who are eligible under Section 504, are identified and evaluated and have access to a free, appropriate public education (“FAPE”).

Under Section 504, individuals with physical or mental impairments that substantially limits one or more major life activities, including learning, are entitled to receive regular or special education and/or related aids and services designed to meet their individual needs as adequately as the needs of nondisabled students are met within the school model. Major Life Activities include functions such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working, as well as the operation of a major bodily functions, including functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. Students may be disabled and entitled to services under Section 504 even though they are not eligible for services pursuant to the Individuals with Disabilities Education Act Improvement Act of 2004 (“IDEA ”).

The School’s Executive Director or designee shall ensure that this policy and set of procedures is implemented and followed. Whenever there is reason to believe that, because of a disability, a student needs regular or special education and/or related aids and services (and the student has not been found eligible under IDEA) that student will be evaluated under this policy’s corresponding procedures.

A Section 504 Team will be convened to determine the student’s need for regular or special education and/or related aids and services. The 504 Team will include persons knowledgeable about the Section 504 standards, the student’s individual needs and school history, the meaning of evaluation data, and placement options. The adult student or parent/guardian of a minor student shall be invited to participate in this 504 Team and shall receive notice of procedural

SECTION 504 POLICY

safeguards guaranteed by law.

If PAAE does not assess a student after the adult student or parent/guardian of a minor student has requested an assessment, the School shall provide notice of the adult student's or parent/guardian of a minor student's procedural safeguards. PAAE shall not retaliate in any way against the adult student, parents/guardians of minor students, or students who exercise any rights under the procedural safeguards and/or Section 504.

If the student, due to disability, is found to require aids and services under Section 504, the Section 504 Team shall develop a 504 plan. The student shall be educated with nondisabled students to the maximum extent appropriate to the student's individual needs. The adult student or parent/guardian of a minor student shall be provided a copy of the 504 plan and shall receive notice of procedural safeguards guaranteed by law. PAAE shall periodically review the student's progress and placement.

PAAE does not discriminate on the basis of disability or any other characteristic protected under law. PAAE will implement this policy through its corresponding procedures.

B. SECTION 504 PROCEDURES**A. Definitions**

1. **Academic Setting** – the regular, educational environment operated by PAAE
2. **Individual with a Disability under Section 504** – An individual who:
 - a. has a physical or mental impairment that substantially limits one or more major life activities;
 - b. has a record of such an impairment; or
 - c. is regarded as having such an impairment.
3. **Evaluation** – procedures used to determine whether a student has a disability as defined within these Procedures, and the nature and extent of the accommodations/services that the student needs. The term means procedures used selectively with an individual student and does not include basic tests administered to, or procedures used with all students in a school, grade, or class.

SECTION 504 POLICY

4. **504 Plan** – is a plan developed to identify and document the student’s needs for regular or special education and related aids and services for participation in educational programs, activities, and school–sponsored events.
5. **Free Appropriate Public Education (“FAPE”)** – the provision of regular or special education and related aids and services that are designed to meet the individual needs of persons with disabilities as adequately as the needs of persons without disabilities are met.
6. **Major Life Activities** - Functions such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working. A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, special sense organs and skin, normal cell growth, digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions.
7. **Physical or Mental Impairment** –
 - a. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory; including speech organs; cardiovascular; reproductive; digestive; genitor-urinary; hemic and lymphatic; skin; and endocrine; or
 - b. Any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
8. **504 Coordinator** – The Intervention Coordinator shall serve as the PAAE’s Section 504 Coordinator. The adult student or parent/guardian of a minor student may request a Section 504 due process hearing from, or direct any questions or concerns to the Section 504 Coordinator, Ericka Walters, at

SECTION 504 POLICY

ewalters@pathwaysacademy.education.

9. **Has a record of such an impairment** - means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
10. **Is regarded as having an impairment** -
 - a. An individual meets the requirement of 'being regarded as having such an impairment' if the individual establishes that he or she has been subjected to an action prohibited under this Act because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.
 - b. Being regarded as having an impairment shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

B. Referral, Assessment and Evaluation Procedures

1. PAAE will evaluate any student who, because of disability, needs or is believed to need regular or special education and/or related aids and services.
2. A student may be referred by anyone, including a parent/guardian, teacher, other school employee or community agency, for consideration as to whether the student qualifies as a student with disabilities under Section 504. Requests for evaluation shall be made in writing, and a copy of said request will remain in the student's file regardless of the final determination. This referral should be made to the Section 504 Coordinator who will convene a 504 Team. Any requests made to another School employee will be forwarded to the Section 504 Coordinator.
3. PAAE has the responsibility to ensure that students with disabilities are evaluated.
4. The 504 Team convened by the Section 504 Coordinator will be composed of the parents/guardians of a minor student and/or other persons knowledgeable about the student (such as the student's regular education teachers), the student's school history, the student's individual needs (such as a person knowledgeable about the student's disabling condition), the meaning of evaluation data, the options for accommodations/services, and the legal requirements for least restrictive

SECTION 504 POLICY

environment

5. The 504 Team shall promptly consider the referral and determine what assessments are needed in all suspected areas of disability to evaluate whether the student is a student with a disability under Section 504 and what special needs the student may have. The decision regarding what assessments shall be undertaken shall be based on a review of the student's school records (including academic, social and behavioral records), any relevant medical records, and the student's needs. Students requiring assessment shall be provided appropriate assessments administered by qualified assessment specialists.
6. The 504 Team will consider the following information in its evaluation of the student:
 - a. Tests and other evaluation materials that have been validated for the specific purpose for which they are used and are administered by trained personnel;
 - b. Tests and other evaluation materials including those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient;
 - c. Tests are selected and administered so as to best 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 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.)
7. The evaluation of the student must be sufficient for the 504 Team to accurately and completely describe: (a) the nature and extent of the disabilities; (b) the student's special needs; (c) the impact upon the student's education; and (d) what regular or special education and/or related aids and services are appropriate to ensure that the student receives a free appropriate public education. All significant factors relating to the learning process for that student, including adaptive behavior and cultural and language background, must be considered. The evaluation may include, but is not limited to, performance-based testing, academic assessment information, and data offered by the student's teachers

SECTION 504 POLICY

and/or parent/guardian of a minor student.

8. Mitigating measures cannot be considered when evaluating whether or not a student has a substantially limiting impairment. Mitigating measures could include medications, prosthetic devices, assistive devices, or learned behavioral or adaptive neurological modifications a student uses to eliminate or reduce the effects of an impairment.
9. The adult student or parents/guardians of a minor student shall be given an opportunity in advance of 504 Team meetings to examine assessment results and all other relevant records.
10. If a request for evaluation is denied, the 504 Team shall inform the adult student or parents/guardians of a minor student in writing of this decision and of their procedural rights as described below.

C. 504 Plan

1. When a student is identified as disabled within the meaning of Section 504, the 504 Team shall determine what, if any, services are needed to ensure that the student receives a free, appropriate public education (“FAPE”).
2. The 504 Team responsible for making decisions shall include the parents/guardians of a minor student and/or other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options.
3. For each identified disabled student, the 504 Team will develop a 504 Plan describing the student’s disability and the regular or special education and/or related aids and services needed. The Plan will specify how the special education and/or related aids and services will be provided to the disabled student and by whom. The 504 Plan will also identify the person responsible for ensuring that all the components of the Plan are implemented.
4. The student’s teacher and any other staff who are to provide services to the student or who are to make modifications in the classroom for the student shall be informed of the services or modifications necessary for the student and, if appropriate, provided a copy of the 504 Plan. A copy of this plan shall be kept in

SECTION 504 POLICY

the student's cumulative file in a manner that limits access to those persons involved in the 504 process and/or the provision of services and modifications.

5. The disabled student shall be placed in the regular education environment unless it is demonstrated that the student's needs cannot be met. The disabled student shall be educated with students who are not disabled to the maximum extent appropriate to his/her individual needs.
6. The referral, assessment, evaluation and placement process will be completed within a reasonable time.
7. The adult student or parents/guardians of a minor student shall be notified in writing of the final decision concerning the student's identification as a person with disabilities, the educational program and services to be provided, if any, and of the Section 504 procedural safeguards, as described below, including the right to an impartial hearing to challenge the decision.
8. If the 504 Team determines that the student is disabled but that no special services are necessary for the student, the 504 Plan shall reflect this decision.
9. The 504 Plan shall include a schedule for annual review of the student's needs, and indicate that this review may occur more frequently at the request of the adult student, parent/guardian of a minor student, or school staff.
10. PAAE shall immediately implement a student's prior 504 Plan within the school model, when a student enrolls at the School. Within thirty (30) days of starting school, PAAE shall schedule a 504 Team meeting to review the existing 504 Plan. PAAE may request a copy of the prior 504 plan from both the prior school and the adult student or parent/guardian of a minor student.

D. Review of the Student's Progress

1. The 504 Team shall monitor the progress of the disabled student and the effectiveness of the student's 504 Plan. According to the review schedule set out in the student's 504 Plan, the 504 Team shall annually determine whether the services and modifications are appropriate.
2. A reevaluation of the student's needs shall be conducted before any subsequent significant change in placement.

SECTION 504 POLICY**E. Procedural Safeguards**

1. Adult students or parents/guardians of a minor student shall be notified in writing of all decisions regarding the identification, evaluation or educational placement of students with disabilities or suspected disabilities. Notifications shall include a statement of their rights to:
 - a. Examine relevant records
 - b. Have an impartial hearing with an opportunity for participation by the adult student or parents/guardians of a minor student and their counsel
 - c. Have the right to file a Uniform Complaint pursuant to school policy
 - d. Seek review in federal court if the adult student or parents/guardians of a minor student disagree with the hearing decision.
2. Notifications shall also set forth the procedures for requesting an impartial hearing. Requests shall be made to the following:

Ericka Walters, ewalters@pathwaysacademy.education, (858) 373-8593

Notifications shall also advise that reimbursement for attorney's fees is available only as authorized by law.

3. The Executive Director or designee shall maintain a list of impartial hearing officers who are qualified and willing to conduct Section 504 hearings. To ensure impartiality, such officers shall not be employed by or under contract with PAAE or any district within the Warner Unified School District, San Diego County Office of Education, Acton-Agua Dulce Unified School District or the Los Angeles County Office of Education in any capacity other than that of hearing officer and shall not have any professional or personal involvement that would affect their impartiality or objectivity in the matter.
4. If an adult student or parent/guardian of a minor student disagrees with the identification, evaluation or educational placement of a student with disabilities under Section 504, he/she may request a hearing to initiate due process procedures. The adult student or parent/guardian of a minor student shall set forth

SECTION 504 POLICY

in writing his/her request for a hearing. A request for hearing should include:

- a. The specific decision or action with which the adult student or parent/guardian of a minor student disagrees.
 - b. The changes to the 504 Plan the adult student or parent/guardian of a minor student seeks.
 - c. Any other information the adult student or parent/guardian of a minor student believes is pertinent.
5. Within five (5) calendar days of receiving the adult student's or parent/guardian of a minor student's request for a hearing, PAAE may offer the adult student or parent/guardian of a minor student an optional alternative dispute resolution process. However, the timeline for the hearing shall remain in effect unless it is extended by mutual written agreement of the adult student or parent/guardian of a minor student and PAAE. Alternative dispute resolution options include:
- a. Mediation by a neutral third party.
 - b. Review of the 504 Plan by the Executive Director or designee.
6. Within ten (10) calendar days of receiving adult student's or the parent/guardian of a minor student's request, the Executive Director or designee shall select an impartial hearing officer. These 10 days may be extended for good cause or by mutual agreement of the adult student or parent/guardian of a minor student and Executive Director.
7. Within thirty-five (35) calendar days of the selection of the hearing officer, the due process hearing shall be conducted. These thirty-five (35) days may be extended for good cause or by mutual agreement of the adult student or parent/guardian of a minor student and Executive Director.
8. The adult student or parent/guardian of a minor student and PAAE shall be afforded the rights to:

SECTION 504 POLICY

- a. Be accompanied and advised by counsel and by individuals with special knowledge or training related to the individual needs of students who are qualified as disabled under Section 504.
 - b. Present written and oral evidence.
 - c. Question and cross-examine witnesses.
 - d. Receive written findings by the hearing officer.
9. The hearing officer shall issue a written decision within ten (10) calendar days of the hearing.
 10. If desired, either party may seek a review of the hearing officer's decision by a federal court. The decision shall be implemented unless the decision is stayed, modified or overturned by a court.
 11. PAAE shall not retaliate in any way against adult students, parents/guardians of minor students, or students who exercise any rights under the procedural safeguards and/or Section 504.

F. Suspension and Expulsion, Special Procedures for Students with Disabilities

PAAE shall follow the suspension and expulsion policy and procedures as set forth in the charter. A pupil who is qualified for services under Section 504 of the Rehabilitation Act of 1973 is subject to the same grounds for disciplinary action, including suspension and expulsion, and is accorded the same due process procedures applicable to regular education pupils except when federal and state law mandates additional or different procedures. PAAE will follow Section 504 and all applicable federal and state laws when imposing any form of discipline on a pupil identified as an individual with disabilities or for whom PAAE has a basis of knowledge of a suspected disability or who is otherwise qualified for such services or protections in due process to such pupils. The following procedures shall be followed when a student with a disability is considered for suspension or expulsion. These procedures will be updated if there is a change in the law.

SECTION 504 POLICY1. Services During Suspension

Students suspended for more than ten (10) school days in a school year shall continue to receive services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's 504 Plan; and receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur. These services may be provided in an interim alternative educational setting.

2. Procedural Safeguards/Manifestation Determination

Within ten (10) school days of a recommendation for expulsion or any decision to change the placement of a child with a disability because of a violation of a code of student conduct, PAAE, the adult student or parent/guardian of a minor student, and relevant members of the 504 Team shall review all relevant information in the student's file, including the child's 504 Plan, any teacher observations, and any relevant information provided by the adult student or parent/guardian of minor students to determine:

- a. If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
- b. If the conduct in question was the direct result of the local educational agency's failure to implement the 504 Plan.

If PAAE, the adult student or parent/guardian of a minor student, and relevant members of the 504 Team determine that either of the above is applicable for the child, the conduct shall be determined to be a manifestation of the child's disability.

If PAAE, the adult student or parent/guardian of a minor student, and relevant members of the 504 Team make the determination that the conduct was a manifestation of the child's disability, the 504 Team shall:

SECTION 504 POLICY

- a. Conduct a functional behavioral assessment and implement a behavioral intervention plan for such child, provided that PAAE had not conducted such assessment prior to such determination before the behavior that resulted in a change in placement;
- b. If a behavioral intervention plan has been developed, review the behavioral intervention plan if the child already has such a behavioral intervention plan, and modify it, as necessary, to address the behavior; and
- c. Return the child to the placement from which the child was removed, unless the adult student or parent/guardian of a minor student and PAAE agree to a change of placement as part of the modification of the behavioral intervention plan.

If PAAE, the adult student or parent/guardian of a minor student, and relevant members of the 504 team determine that the behavior was not a manifestation of the student's disability and that the conduct in question was not a result of the failure to implement the 504 Plan, then PAAE may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to students without disabilities.

3. Appeals

The adult student or parent/guardian of a minor student with a disability under a 504 Plan who disagrees with any decision regarding placement, or the manifestation determination, or PAAE believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others, may request to utilize the appeal process outlined in the Procedural Safeguards section of these Procedures.

When an appeal relating to the placement of the student or the manifestation determination has been requested by either the adult student, or parent/guardian of a minor student, or PAAE, the hearing officer shall determine whether the student shall remain in the interim alternative educational setting pending the decision of

SECTION 504 POLICY

the hearing officer or until the expiration of the forty-five (45) day time period provided for in an interim alternative educational setting, whichever occurs first, unless the adult student, or parent/guardian of a minor student, and PAAE agree otherwise.

4. Special Circumstances

PAAE personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a child with a disability who violates a code of student conduct.

The Executive Director or designee may remove a student to an interim alternative educational setting for not more than forty-five (45) days without regard to whether the behavior is determined to be a manifestation of the student's disability in cases where a student:

- a. Carries or possesses a weapon, as defined in 18 U.S.C. § 930, to, or at school, on school premises, or to or at a school function;
- b. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function; or
- c. Has inflicted serious bodily injury, as defined by 20 U.S.C. § 1415(k)(7)(D), upon a person while at school, on school premises, or at a school function.

5. Interim Alternative Educational Setting

The student's interim alternative educational setting shall be determined by the student's 504 Team.

6. Procedures for Students Not Yet Eligible for Special Education Services

A student who has not been identified as an individual with disabilities pursuant to the IDEA 2004 and who has violated PAAE's disciplinary procedures may

SECTION 504 POLICY

assert the procedural safeguards granted under these Procedures only if PAAE had knowledge that the student was disabled before the behavior occurred.

PAAE shall be deemed to have knowledge that the student had a disability if one of the following conditions exists:

- a. The adult student, or parent/guardian of a minor student, has expressed concern in writing, or orally if the adult student, or parent/guardian of a minor student, does not know how to write or has a disability that prevents a written statement, to PAAE supervisory or administrative personnel, or to one of the child's teachers, that the student is in need of special education or related services.
- b. The adult student, or parent/guardian of a minor student, has requested an evaluation of the child.
- c. The child's teacher, or other PAAE personnel, has expressed specific concerns about a pattern of behavior demonstrated by the child, directly to the director of special education or to other PAAE supervisory personnel.

If PAAE knew or should have known the student had a disability under any of the three (3) circumstances described above, the student may assert any of the protections available to IDEA 2004-eligible children with disabilities, including the right to stay-put.

If PAAE had no basis for knowledge of the student's disability, it shall proceed with the proposed discipline. PAAE shall conduct an expedited evaluation if requested by the adult student, or parent/guardian of a minor student; however, the student shall remain in the education placement determined by PAAE pending the results of the evaluation.

PAAE shall not be deemed to have knowledge that the student had a disability if the adult student, or parent/guardian of a minor student, has not allowed an evaluation, refused services, or if the student has been evaluated and determined to not be eligible.

SECTION 504 POLICY**C. PARENT/STUDENT RIGHTS IN IDENTIFICATION, EVALUATION, ACCOMMODATION AND PLACEMENT**

The following is a description of the rights granted by federal law to students with disabilities. The intent of the law is to keep you fully informed concerning decisions about the student and to inform you of your rights if you disagree with any of these decisions. Please keep this explanation for future reference.

You, the adult student or parent/guardian of a minor student, have the right to:

1. Take part in and receive benefits from public education programs without discrimination because of his/her disabling condition.
2. Have PAAE advise you of your rights under federal law.
3. Receive notice with respect to Section 504 identification, evaluation and/or placement.
4. Receive a free appropriate public education. This includes the right to be educated with non-disabled students to the maximum extent appropriate. It also includes the right to have PAAE make reasonable accommodations to allow an equal opportunity to participate in school and school-related activities.
5. Be educated in facilities and receive services comparable to those provided to non-disabled students.
6. Receive special education and related services if he/she is found to be eligible under the Individuals with Disabilities Education Improvement Act (IDEA 2004).
7. Have an evaluation, educational recommendation, and placement decision developed by a team of persons who are knowledgeable of the student, the assessment data, and any placement options. This includes the right to an evaluation before the initial placement of the student and before any subsequent significant change in placement.
8. Be given an equal opportunity to participate in non-academic and extracurricular activities offered by PAAE .
9. Examine all relevant records relating to decisions regarding your child's Section 504 identification, evaluation, educational program, and placement.

SECTION 504 POLICY

10. Obtain copies of educational records at a reasonable cost unless the fee would effectively deny you access to the records.
11. Obtain a response from PAAE to reasonable requests for explanations and interpretations of student records.
12. Request an amendment of educational records if there is reasonable cause to believe they are inaccurate, misleading or otherwise in violation of the privacy rights of the student. If PAAE refuses this request for amendment, PAAE shall notify you within a reasonable time and advise you of your right to an impartial hearing.
13. Request mediation or file a grievance in accordance with PAAE's Section 504 mediation grievance and hearing procedures, outlined above.
14. Request an impartial hearing regarding Section 504 identification, evaluation, or placement. The adult student, or parent/guardian of a minor student, may take part in the hearing and have an attorney represent them.
15. File a formal complaint pursuant to PAAE's Uniform Complaint Policy and Procedures. Please ask the Executive Director for a copy of the School's Uniform Complaint Policy and Procedures, if you need one.
16. File a formal complaint with the U.S. Department of Education.

Office for Civil Rights, U.S. Department of Education
San Francisco Office
50 United Nations Plaza
San Francisco, CA 94102
(415) 486-5555 PHONE
(415) 486-5570 FAX
Email: OCR.SanFrancisco@ed.gov

17. Be free from any retaliation from PAAE for exercising any of these rights.

Please contact Ericka Walters, 504 Coordinator, c/o Pathways Academy Adult Education, 100 E. San Marcos Blvd. Suite 305, San Marcos, CA, (858) 373-8593 with any questions regarding the information contained herein.