

Regulation 6164.6: Identification And Education Under Section 504

Status: ADOPTED

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12/01/2016

The Superintendent designates the following position as the district's 504 Coordinator to implement the requirements of Section 504 of the federal Rehabilitation Act of 1973: (34 CFR 104.7)

Special Education Coordinator

(position title)

12400 Caliente Creek Rd.

(address)

661.867.2301

(telephone number)

Definitions

For the purpose of implementing Section 504, the following terms and phrases shall have only the meanings specified below:

Free appropriate public education (FAPE) means the provision of regular or special education and related aids and services designed to meet the individual educational needs of a student with disabilities as adequately as the needs of students without disabilities are met, at no cost to the student or his/her parent/guardian except when a fee is specifically authorized by law for all students. (34 CFR 104.33)

Student with a disability means a student who has a physical or mental impairment which substantially limits one or more major life activities. (28 CFR 35.108)

Physical impairment means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, hemic, lymphatic, skin, and endocrine. (28 CFR 35.108)

Mental impairment means any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disability. (28 CFR 35.108)

Substantially limits major life activities means limiting a person's ability to perform functions, as compared to most people in the general population, such as caring for himself/herself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, writing, communicating, and working. Major

life activities also includes major bodily functions such as functions of the immune system, special sense organs and skin, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions, as well as the operation of an individual organ within a body system. The determination of whether an impairment substantially limits a student's major life activities shall be made without regard to the ameliorative effects of mitigating measures other than ordinary eyeglasses or contact lenses. Mitigating measures are measures that an individual may use to eliminate or reduce the effects of an impairment, including, but not limited to, medications, medical supplies or equipment, prosthetic devices, assistive devices, reasonable modifications or auxiliary aids or services, learned behavioral or adaptive neurological modifications, psychotherapy, behavioral therapy, or physical therapy. (42 USC 12102; 28 CFR 35.108)

Referral, Identification, and Evaluation

Any action or decision to be taken by the district involving the referral, identification, or evaluation of a student with disabilities shall be in accordance with the following procedures:

1. A parent/guardian, teacher, other school employee, student success team, or community agency may refer a student to the principal or 504 Coordinator for identification as a student with a disability under Section 504.
2. Upon receipt of any such referral, the principal, 504 Coordinator, or other qualified individual with expertise in the area of the student's suspected disability shall consider the referral and determine whether an evaluation is appropriate. This determination shall be based on a review of the student's school records, including those in academic and nonacademic areas of the school program; consultation with the student's teacher(s), other professionals, and the parent/guardian, as appropriate; and analysis of the student's needs.

If it is determined that an evaluation is unnecessary, the principal or 504 Coordinator shall inform the parents/guardians in writing of this decision and of the procedural safeguards available, as described in the "Procedural Safeguards" section below.

3. If the student needs or is believed to need special education or related services under Section 504, the district shall conduct an evaluation of the student prior to his/her initial placement. (34 CFR 104.35)

Prior to conducting an initial evaluation of a student for eligibility under Section 504, the district shall obtain written parent/guardian consent.

The district's evaluation procedures shall ensure that the tests and other evaluation materials: (34 CFR 104.35)

- a. Have been validated and are administered by trained personnel in conformance with the instruction provided by the test publishers
- b. Are tailored to assess specific areas of educational need and are not merely designed to provide a single general intelligence quotient
- c. Reflect the student's aptitude or achievement or whatever else the tests purport to measure rather than his/her impaired sensory, manual, or speaking skills, except where those skills are the factors that the tests purport to measure

Section 504 Services Plan and Placement

Services and placement decisions for students with disabilities shall be determined as follows:

1. A multidisciplinary 504 team shall be convened to review the evaluation data in order to make placement decisions.

The 504 team shall consist of a group of persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. (34 CFR 104.35)

In interpreting evaluation data and making placement decisions, the team shall draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. The team shall also ensure that information obtained from all such sources is documented and carefully considered and that the placement decision is made in conformity with 34 CFR 104.34. (34 CFR 104.35)

2. If, upon evaluation, a student is determined to be eligible for services under Section 504, the team shall meet to develop a written 504 services plan which shall specify the types of regular or special education services, accommodations, and supplementary aids and services necessary to ensure that the student receives FAPE.

The parents/guardians shall be invited to participate in the meeting and shall be given an opportunity to examine all relevant records.

3. If the 504 team determines that no services are necessary for the student, the record of the team's meeting shall reflect whether or not the student has been identified as a person with a disability under Section 504 and shall state the basis for the determination that no special services are presently needed. The student's parent/guardian shall be informed in writing of his/her rights and procedural safeguards, as described in the "Procedural Safeguards" section below.
4. The student shall be placed in the regular educational environment, unless the district can demonstrate that the education of the student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. The student shall be educated with those who are not disabled to the maximum extent appropriate to his/her individual needs. (34 CFR 104.34)
5. The district shall complete the identification, evaluation, and placement process within a reasonable time frame. The district shall adhere to this time frame regardless of any extended school breaks or times that school is otherwise not in session.
6. A copy of the student's Section 504 services plan shall be kept in his/her student record. The student's teacher(s) and any other staff who provide services to the student shall be informed of the plan's requirements.

If a student transfers to another school within the district, the principal or designee at the school from which the student is transferring shall ensure that the principal or designee at the new school receives a copy of the plan prior to the student's enrollment in the new school.

Review and Reevaluation

The 504 team shall monitor the progress of the student and, at least annually, shall review the effectiveness of the student's Section 504 services plan to determine whether the services are appropriate and necessary and whether the student's needs are being met as adequately as the needs of students without disabilities are met. In addition, each student with a disability under Section 504 shall be reevaluated at least once every three years.

A reevaluation of the student's needs shall be conducted before any subsequent significant change in placement. (34 CFR 104.35)

Procedural Safeguards

The Superintendent or designee shall notify the parents/guardians of students with disabilities of all actions and decisions by the district regarding the identification, evaluation, or educational placement of their children. He/she also shall notify the parents/guardians of all the procedural safeguards available to them if they disagree with the district's action or decision, including an opportunity to examine all relevant records and an impartial hearing in which they shall have the right to participate. (34 CFR 104.36)

If a parent/guardian disagrees with any district action or decision regarding the identification, evaluation, or educational placement of his/her child under Section 504, he/she may request a Section 504 due process hearing within 30 days of that action or decision.

Prior to requesting a Section 504 due process hearing, the parent/guardian may, at his/her discretion, but within 30 days of the district's action or decision, request an administrative review of the action or decision. The Coordinator shall designate an appropriate administrator to meet with the parent/guardian to attempt to resolve the issue and the administrative review shall be held within 14 days of receiving the parent/guardian's request. If the parent/guardian is not satisfied with the resolution of the issue, or if the parent/guardian did not request an administrative review, he/she may request a Section 504 due process hearing.

A Section 504 due process hearing shall be conducted in accordance with the following procedures:

1. The parent/guardian shall submit a written request to the Coordinator within 30 days of receiving the district's decision or, if an administrative review is held, within 14 days of the completion of the review. The request for the due process hearing shall include:
 - a. The specific nature of the decision with which he/she disagrees
 - b. The specific relief he/she seeks
 - c. Any other information he/she believes is pertinent to resolving the disagreement
2. Within 30 days of receiving the parent/guardian's request, the Superintendent or designee and 504 Coordinator shall select an impartial hearing officer. This 30-day deadline may be extended for good cause or by mutual agreement of the parties.

3. Within 45 days of the selection of the hearing officer, the Section 504 due process hearing shall be conducted and a written decision mailed to all parties. This 45-day deadline may be extended for good cause or by mutual agreement of the parties.
4. The parties to the hearing shall be afforded the right to:
 - a. Be accompanied and advised by legal counsel and by individuals with special knowledge or training related to the problems of students with disabilities under Section 504
 - b. Present written and oral evidence
 - c. Question and cross-examine witnesses
 - d. Receive written findings by the hearing officer stating the decision and explaining the reasons for the decision

If desired, either party may seek a review of the hearing officer's decision by a federal court of competent jurisdiction.

Notifications

The Superintendent or designee shall ensure that the district has taken appropriate steps to notify students and parents/guardians of the district's duty under Section 504. (34 CFR 104.32)

Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State	Description
5 CCR 3051.12	<u>Health and nursing services</u>
Ed. Code 49423.5	<u>Specialized physical health care services</u>
Ed. Code 52052	<u>Accountability; numerically significant student subgroups</u>
Ed. Code 52060-52077	<u>Local control and accountability plan</u>
Ed. Code 56043	<u>Special education; timelines</u>
Ed. Code 56321	<u>Notice of parental rights; consent of parents</u>
Federal	Description
20 USC 1232g	<u>Family Educational Rights and Privacy Act (FERPA) of 1974</u>
20 USC 1400-1482	<u>Individuals with Disabilities Education Act</u>
28 CFR 35.101-35.190	Americans with Disabilities Act

29 USC 705	Definitions; Vocational Rehabilitation Act
29 USC 794	Rehabilitation Act of 1973; Section 504
34 CFR 104.1	Purpose to effectuate Section 504 of the Rehabilitation Act of 1973
34 CFR 104.1-104.61	Nondiscrimination on the basis of disability
34 CFR 104.3	Definitions
34 CFR 104.32	Location and notification
34 CFR 104.33	Free appropriate public education
34 CFR 104.34	Educational setting
34 CFR 104.35	Evaluation and placement
34 CFR 104.36	Procedural safeguards
34 CFR 104.37	Nonacademic services
34 CFR 104.7	Section 504; Designation of responsible employee and adoption of grievances procedures
42 USC 12101-12213	Americans with Disabilities Act

Management Resources

	Description
California Department of Education Legal Advisory	Legal Advisory on Rights of Students with Diabetes in California's K-12 Public Schools, August 2007
Court Decision	Christopher S. v. Stanislaus County Office of Education (2004) 384 F.3d 1205
CSBA Publication	Rights of Students with Diabetes Under IDEA and Section 504, Policy Brief, December 2007
U.S Dept of Ed Office for Civil Rights Publication	Protecting Students with Disabilities: Frequently Asked Questions About Section 504 and the Education of Children with Disabilities, October 2015
U.S Dept of Ed Office for Civil Rights Publication	Dear Colleague Letter, January 2013
U.S Dept of Ed Office for Civil Rights Publication	Free Appropriate Public Education for Students with Disabilities: Requirements under Section 504 of the Rehabilitation Act of 1973, September 2007
U.S Dept of Ed Office for Civil Rights Publication	Dear Colleague Letter and Resource Guide on Students with ADHD, July 2016
U.S DOE, Office for Civil Rights Publication	Dear Colleague Ltr & Questions & Answers on ADA Amendments Act of 2008 for Students with Disabilities

	Attending Public Elem & Secondary Schools, 2012
U.S. DOE Office for Civil Rights Publication	Guidance to America's Schools: Bullying of Students with Disabilities, October 2014
Website	CSBA District and County Office of Education Legal Services
Website	California Department of Education
Website	CSBA
Website	U.S. Department of Education, Office for Civil Rights

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
0430	Comprehensive Local Plan For Special Education
0430	Comprehensive Local Plan For Special Education
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
3541	Transportation Routes And Services
3541.2	Transportation For Students With Disabilities
3555	Nutrition Program Compliance
3555-E(1)	Nutrition Program Compliance
4112.23	Special Education Staff
5113.11	Attendance Supervision
5116.1	Intradistrict Open Enrollment
5116.1	Intradistrict Open Enrollment
5125	Student Records
5125	Student Records
5141.21	Administering Medication And Monitoring Health Conditions
5141.21	Administering Medication And Monitoring Health Conditions
5141.22	Infectious Diseases

5141.22	<u>Infectious Diseases</u>
5141.23	<u>Asthma Management</u>
5141.23	<u>Asthma Management</u>
5141.24	<u>Specialized Health Care Services</u>
5141.26	<u>Tuberculosis Testing</u>
5141.27	<u>Food Allergies/Special Dietary Needs</u>
5141.27	<u>Food Allergies/Special Dietary Needs</u>
5144.1	<u>Suspension And Expulsion/Due Process</u>
5144.1	<u>Suspension And Expulsion/Due Process</u>
5144.2	<u>Suspension And Expulsion/Due Process (Students With Disabilities)</u>
5145.6	<u>Parent/Guardian Notifications</u>
5145.6-E(1)	<u>Parent/Guardian Notifications</u>
5145.71	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
5145.71-E(1)	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
5148	<u>Child Care And Development</u>
5148	<u>Child Care And Development</u>
6000	<u>Concepts And Roles</u>
6112	<u>School Day</u>
6112	<u>School Day</u>
6120	<u>Response To Instruction And Intervention</u>
6141	<u>Curriculum Development And Evaluation</u>
6141	<u>Curriculum Development And Evaluation</u>
6142.7	<u>Physical Education And Activity</u>
6142.7	<u>Physical Education And Activity</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145.2	<u>Athletic Competition</u>

6145.2	<u>Athletic Competition</u>
6145.5	<u>Student Organizations And Equal Access</u>
6145.5	<u>Student Organizations And Equal Access</u>
6159	<u>Individualized Education Program</u>
6159	<u>Individualized Education Program</u>
6159.1	<u>Procedural Safeguards And Complaints For Special Education</u>
6159.1	<u>Procedural Safeguards And Complaints For Special Education</u>
6162.51	<u>State Academic Achievement Tests</u>
6162.51	<u>State Academic Achievement Tests</u>
6163.2	<u>Animals At School</u>
6163.2	<u>Animals At School</u>
6164.4	<u>Identification And Evaluation Of Individuals For Special Education</u>
6164.4	<u>Identification And Evaluation Of Individuals For Special Education</u>
6164.5	<u>Student Success Teams</u>
6164.5	<u>Student Success Teams</u>
6173.1	<u>Education For Foster Youth</u>
6173.1	<u>Education For Foster Youth</u>
6173.2	<u>Education Of Children Of Military Families</u>
6173.2	<u>Education Of Children Of Military Families</u>
6174	<u>Education For English Learners</u>
6174	<u>Education For English Learners</u>
6185	<u>Community Day School</u>
6185	<u>Community Day School</u>
9000	<u>Role Of The Board</u>