

Instruction

IDENTIFICATION AND EDUCATION UNDER SECTION 504

Definitions

Free appropriate public education (FAPE) under Section 504 of the Rehabilitation Act of 1973 means the provision of either regular or special education and related aids and services, designed to meet the student's individual educational needs as adequately as the needs of nondisabled students are met. (34 CFR 104.33)

Eligibility to receive FAPE under Section 504 means a student has a physical or mental impairment which substantially limits one or more major life activities. (34 CFR 104.33)

Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. (34 CFR 104.3)

Physical or mental impairment means any of the following: (34 CFR 104.3)

1. 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, genito-urinary; hemic and lymphatic; skin; and endocrine.
2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Referral, Identification, and Evaluation

1. Any student may be referred by a parent/guardian, teacher, other school employee, student success team, or community agency for consideration of eligibility as a disabled student under Section 504. This referral may be made to the principal or 504 Coordinator.

(cf. 6164.5 - Student Success Teams)

2. Upon receipt of a referral for eligibility, the principal or 504 Coordinator 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 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, as described in the "Procedural Safeguards" section below.

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3. If it is determined that a 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 initial placement and before any significant change in 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 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 based solely on a single IQ score.
- c. Reflect aptitude or achievement or whatever else the tests purport to measure and do not reflect the student's impaired sensory, manual, or speaking skills unless the test is designed to measure these particular deficits.

Section 504 Services Plan and Placement

1. A multi-disciplinary 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.

(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)

3. If the 504 team determines that no services are necessary for the student, the record of the team's

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meeting shall reflect whether or not the student has been identified as a disabled person under Section 504 and shall state the basis for the decision 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.
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.

(cf. 5125 - Student Records)

Review and Reevaluation

1. The 504 team shall monitor the progress of the student and 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 nondisabled students. The team shall review the student's plan annually. In addition, the student's eligibility under Section 504 shall be reevaluated at least once every three years.
2. A reevaluation of the student's needs shall be conducted before any subsequent significant change in placement. (34 CFR 104.35)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

Procedural Safeguards

Parents/guardians shall be notified in writing of all district decisions regarding the identification, evaluation, or educational placement of students with disabilities or suspected disabilities. Notifications shall include a statement of their right to: (34 CFR 104.36)

1. Examine relevant records.

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2. Have an impartial hearing with an opportunity for participation by the parents/guardians and their counsel.
3. Have a review procedure.

If a parent/guardian disagrees with decisions regarding the identification, evaluation, or educational placement of his/her child under Section 504, he/she may request a Section 504 due process hearing in accordance with the following procedures:

1. Within 30 days after receipt of the district's decision with which the parent/guardian disagrees, the parent/guardian may request an administrative review of the decision.

The 504 Coordinator shall designate an appropriate administrator to meet with the parent/guardian to attempt to resolve the issue. This review shall be held within 14 days of receiving the parent/guardian's request.

2. If the parent/guardian chooses not to request an administrative review or if the review does not resolve the issue, the parent/guardian may request in writing a Section 504 due process hearing. The parent/guardian's request for a hearing shall be made within 30 days of receiving the district's decision or within 14 days of completion of the administrative review. The request shall include:
 - a. The specific nature of the decision with which the parent/guardian disagrees.
 - b. The specific relief the parent/guardian seeks
 - c. Any other information the parent/guardian believes pertinent.

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.

The 504 Coordinator 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 the district 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.

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.

Any party to the hearing shall be afforded the right to:

1. Be accompanied and advised by counsel and by individuals with special knowledge or training related to the problems of students who are qualified as disabled under Section 504.

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2. Present written and oral evidence.
3. Question and cross-examine witnesses.
4. Receive written findings by the hearing officer.

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)

(cf. 5145.6 - Parental Notifications)

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FRUITVALE SCHOOL DISTRICT, Bakersfield, CA