

Instruction

IDENTIFICATION AND EDUCATION UNDER SECTION 504

Definitions

Eligibility for services under Section 504 of the federal Rehabilitation Act of 1973 means a student has any of the following conditions: (34 CFR 104.3)

1. A physical or mental impairment which substantially limits one or more major life activities.
2. Has a record or history of such impairment.
3. Is regarded as having such impairment because he/she:
 - a. Has a physical or mental impairment that does not substantially limit a major life activity but is treated by the District as having such a limitation (e.g., a student who has scarring, a student who walks with a limp).
 - b. Has a physical or mental impairment that substantially limits a major life activity only as a result of the attitudes of others towards such impairment (e.g., a student who has scarring or disfigurement).
 - c. Has no physical or mental impairment but is treated by the District as having such an impairment (e.g., a student who tests positive with the HIV virus but has no physical effects from it).

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.

Instruction

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

District Coordinator for Implementation of Section 504

The District has designated the following individual to coordinate its efforts to comply with the requirements of law, Board Policy, and Administrative Regulation pertaining to the implementation of Section 504: (34 CFR 104.7)

Assistant Superintendent for Human Resources Services and Support
84 East J Street, Chula Vista, CA 91910
(619) 425-9600, x1341

(cf. 1312.3 - Uniform Complaint Procedure)
(cf. 5145.3 - Nondiscrimination)

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 shall promptly convene a meeting of a multidisciplinary 504 team to consider the referral and determine whether an evaluation of the student is appropriate.

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)

The team's 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.

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

If the 504 team determines that an evaluation is unnecessary, it shall inform the parents/guardians of this decision and of the procedural safeguards as described below.

Instruction

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

3. If the team believes 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)

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.
4. 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)

Accommodation Plan and Placement

1. If, upon evaluation, a student is determined to be eligible for services under Section 504, the 504 team shall meet to develop a written accommodation plan which shall specify placement, accommodations, and supplementary aids and services necessary to ensure that the student receives a free appropriate public education.

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

2. If the 504 team determines that no services are necessary for the student, the record of the committee's meeting shall reflect the identification of the student as a disabled person under Section 504 and shall state the basis for the decision that no special services are presently needed.

Instruction

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

3. 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)
4. The District shall complete the identification, evaluation, and placement process within a reasonable time frame.
5. A copy of the student's accommodation plan shall be kept in his/her student record. The student's teacher, and any other staff member who provides services to the student, shall be informed of the plan's requirements.

(cf. 5125 - Student Records; Confidentiality)

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

Review and Reevaluation

1. The 504 team shall monitor the progress of the student and the effectiveness of the student's 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 accommodation 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.
2. Have an impartial hearing with an opportunity for participation by the parents/guardians and their counsel.
3. Have a review procedure.

Instruction

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

Notifications shall also detail the parent/guardian's right to file a grievance with the District over an alleged violation of Section 504 regulation, right to have an evaluation that draws on information from a variety of sources, right to be informed of any proposed actions related to eligibility and plan for services, right to receive all information in the parent/guardian's native language and primary mode of communication, right to periodic reevaluations and an evaluation before any significant change in program/service modifications, right to an impartial hearing if there is a disagreement with the District's proposed action, right to be represented by counsel in the impartial hearing process, and right to appeal the impartial hearing officer's decision.

If a parent/guardian disagrees with the identification, evaluation, or educational placement of his/her child under Section 504, he/she may initiate the following procedures:

1. Within 30 days of receiving the accommodation plan, file a written complaint with the 504 Coordinator detailing his/her disagreement and request that the 504 team review the plan in an attempt to resolve the disagreement. This review shall be held within 14 days of receiving the parent/guardian's request and the parent/guardian shall be invited to attend the meeting at which the review is conducted.
2. If disagreement continues, request in writing that the Superintendent or designee review the plan. This review shall be held within 14 days of receiving the parent/guardian's request, and the parent/guardian shall be invited to meet with the Superintendent or designee to discuss the review.
3. If disagreement continues, request in writing a Section 504 due process hearing. 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.

Instruction

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

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.
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)