

CLASSIFICATION: Instruction**ADOPTED:** 6/22/07**REVISED:** 11/19/12**SUBJECT:** Identification, Evaluation, and
Education Under Section 504**PAGE:** 1 of 12

Section 504 of the federal Rehabilitation Act of 1973 (Section 504) prohibits discrimination on the basis of an individual's disability in programs or activities that receive federal funding. The County Superintendent of Schools acknowledges his/her responsibility to provide a free, appropriate public education (FAPE) to students in the schools and programs operated by the County Superintendent of Schools who are eligible for services under Section 504. FAPE consists of the provision of regular or special education and related aids and services designed to meet a student's individual needs to the same extent as the needs of students without disabilities are met.

Under state and federal law, the County Superintendent of Schools has an obligation to undertake to identify and locate qualified students with disabilities. This administrative regulation establishes procedures for the identification, evaluation, and provision of FAPE to Section 504-eligible students and the procedural rights and safeguards for students and their parents/guardians.

The executive director, Juvenile Court and Community Schools, shall be responsible for implementation of the requirements of Section 504 and this administrative regulation for the identification, evaluation and provision of FAPE to Section 504-eligible students. He/she shall also ensure the designation of a Section 504 coordinator in the schools and programs operated by the County Superintendent of Schools.

The assistant superintendent, Student Services and Programs, is designated as the Section 504 compliance officer responsible for implementation of grievance procedures for the investigation and resolution of complaints alleging noncompliance with Section 504.

IDENTIFICATION

Upon initial enrollment and at the beginning of each year thereafter, the County Superintendent of Schools or designee shall notify parents/guardians in writing of their right to request an evaluation to determine a student's eligibility for services under Section 504. For the purposes of this administrative regulation, the term "parent/guardian" shall also include any agency or individual holding the right to make

CLASSIFICATION: Instruction**ADOPTED:** 6/22/07**REVISED:** 11/19/12**SUBJECT:** Identification, Evaluation, and
Education Under Section 504**PAGE:** 2 of 12

educational decisions for the student and may include the student him/herself when the student has been granted that right in accordance with law.

Referral

Any student who, because of a disability or a suspected disability, needs or is believed to need special accommodations or related aids and services not available through existing programs in order to receive FAPE may be referred by a parent/guardian, teacher or other school employee, or a community agency to the designated Section 504 coordinator for consideration of Section 504 eligibility.

Eligibility

A student may be eligible for services under Section 504 if he/she has a physical or mental impairment that substantially limits one or more major life activities.

Physical or mental impairment means:

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

Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, and communicating.

Examples of physical or mental impairments that may constitute disabling conditions under Section 504 if they substantially limit a major life activity include:

CLASSIFICATION: Instruction

ADOPTED: 6/22/07

REVISED: 11/19/12

SUBJECT: Identification, Evaluation, and
Education Under Section 504

PAGE: 3 of 12

1. Medical conditions such as chronic asthma, severe allergies, diabetes, heart disease, obesity, seizure disorder, attention deficit disorder (ADD), and attention deficit hyperactivity disorder (ADHD)
2. Communicable disease such as HIV/AIDS or asymptomatic carriers of the AIDS virus, and tuberculosis
3. Temporary impairment that is severe enough to result in a substantial limitation of one or more major life activities for an actual or expected duration of six months or more
4. Impairments that are episodic or in remission, if they substantially limit a major life activity when active
5. Recovering from alcohol or other drug addictions and not a current user

EVALUATION

Upon receipt of a referral to determine a student's eligibility for services under Section 504, the Section 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 not indicated, the Section 504 coordinator shall inform the parent/guardian in writing of this decision and of the procedural rights and safeguards presented in this administrative regulation.

If it is determined that a student needs or is believed to need special education or related services under Section 504, an evaluation of the student shall be conducted. Written notice to a student's parent/guardian and written consent of the parent/guardian are required prior to conducting a Section 504 evaluation.

CLASSIFICATION: Instruction**ADOPTED:** 6/22/07**REVISED:** 11/19/12**SUBJECT:** Identification, Evaluation, and
Education Under Section 504**PAGE:** 4 of 12

Tests and other evaluation materials used in a Section 504 evaluation shall:

1. Be properly administered by an individual qualified to perform this function
2. Have been validated for the specific purpose for which they are used
3. Include tests and evaluation materials designed to assess specific areas of educational need rather than providing a single general intelligence quotient
4. Be selected and administered so as to ensure that, when administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect whatever the test purports to measure, such as aptitude or achievement level, rather than reflecting the student's impairment, unless specifically designed to measure that impairment
5. Be administered in the student's native language or mode of communication, unless it is clearly not feasible to do so
6. Not be racially, culturally, or sexually biased or discriminatory

Multidisciplinary Team

To evaluate a student's eligibility for services under Section 504, the Section 504 coordinator shall convene a multidisciplinary team of professionals (team) who are knowledgeable about the student's needs and school history, the meaning of evaluation data, and reasonable accommodations. The team shall promptly consider the referral to determine whether the student has a physical or mental impairment that substantially limits one or more major life activities.

The student's parent/guardian shall be invited to participate in the meeting at which the Section 504 evaluation is conducted and services are determined. The student, whenever appropriate, shall also attend this meeting. The student's parent/guardian shall be given an opportunity to examine all relevant records and may request that the meeting be conducted with an interpreter.

CLASSIFICATION: Instruction**ADOPTED:** 6/22/07**REVISED:** 11/19/12**SUBJECT:** Identification, Evaluation, and
Education Under Section 504**PAGE:** 5 of 12

When evaluating a student for Section 504 eligibility, the team shall consider the impact of any impairment on the student's education, particularly any factors that interfere with the participation of the student in the regular educational program. When interpreting evaluation data and making placement decisions, the multidisciplinary team shall draw upon information from a variety of sources. All information must be documented and all significant factors related to the student's learning process carefully considered.

The evaluation shall include a review of the student's school records, including academic, social, behavioral, and health records; the student's physical condition, social or cultural background, and adaptive behavior; teacher recommendations; and the results of tests and other evaluation materials administered to evaluate the student's aptitude, achievement, specific area(s) of educational need, and/or disability, as appropriate. A physician's diagnosis or results of an outside, independent evaluation may be considered but are not required.

The team shall not consider the ameliorative effects of any mitigating measures the student is using to correct or reduce the effects of a mental or physical impairment. Mitigating measures include, but are not limited to: medications; medical supplies, equipment or appliances; assistive devices and technologies; reasonable accommodations or auxiliary aids; and learned behavioral or adaptive neurological modifications. Ordinary eyeglasses and contact lenses shall not be regarded as mitigating measures.

If the team determines that a student does not have a mental or physical impairment that substantially limits one or more major life activities, the record of the team's meeting shall reflect the failure of the student to qualify under Section 504 and shall state the basis for the decision. A copy of the record shall be placed in the student's cumulative file.

If the team determines that a student has a mental or physical impairment that substantially limits one or more major life activities, the team shall identify an appropriate educational placement for the student and develop a written Section 504 accommodation plan.

CLASSIFICATION: Instruction**ADOPTED:** 6/22/07**REVISED:** 11/19/12**SUBJECT:** Identification, Evaluation, and
Education Under Section 504**PAGE:** 6 of 12

The student's parent/guardian shall be notified in writing of the decision and of his/her right to appeal the decision through the Section 504 grievance procedures presented in this administrative regulation.

PROVISION OF A FREE, APPROPRIATE PUBLIC EDUCATION

A disabled student shall be educated with those who are not disabled to the maximum extent appropriate to his/her individual needs. The student shall be placed in the regular educational environment unless a more restrictive placement is required to meet the individual needs of the student. An appropriate educational placement for a student with a disability under Section 504 may consist of education in regular classrooms, education in regular classes with supplementary services, and/or special education and related services.

An otherwise qualified disabled student shall be afforded an opportunity for participation in nonacademic and extracurricular activities and services, such as athletics, special interest groups or clubs, transportation, and counseling services, equal to that provided to students who are not disabled.

Section 504 Accommodation Plan

The team shall develop a written Section 504 accommodation plan that describes the student's disability and specifies appropriate accommodations and/or related aids and services. Whenever possible, the student's teacher and any other staff who are knowledgeable about and provide services to the student shall participate in the development of the accommodation plan.

A copy of a student's accommodation plan shall be kept in his/her cumulative file. The student's teacher and other staff who will provide accommodations or services to the student shall be provided copies of the plan and, in accordance with federal law, shall implement the plan as developed by the team. A copy of the accommodation plan shall be provided to the student's parent/guardian and shall be in his/her primary language, if requested.

CLASSIFICATION: Instruction**ADOPTED:** 6/22/07**REVISED:** 11/19/12**SUBJECT:** Identification, Evaluation, and
Education Under Section 504**PAGE:** 7 of 12

If a student transfers to another school or program, the Section 504 coordinator shall ensure that a copy of the accommodation plan is provided to the new school or program.

The Section 504 accommodation plan shall include a schedule for review of the student's needs at least annually. The team shall monitor the progress of the student to determine whether the accommodations and/or aids and services are appropriate and necessary and whether the student is being provided an opportunity for participation in the learning process equal to that offered to students without disabilities.

Prior to any significant change in the educational placement of the student, a reevaluation shall be conducted. Exclusion from the educational program for more than ten school days, transfer from one type of program to another, and terminating or significantly reducing a related service are among the circumstances that constitute a significant change in placement.

A student's eligibility under Section 504 shall be re-evaluated at least once every three years. If the team determines, based on a reevaluation, that a student's mental or physical impairment no longer substantially limits a major life activity, the student is no longer eligible for services under Section 504. However, the student may still be protected under Section 504 for purposes of discipline and issues of discrimination.

The team shall document the findings of all reviews and reevaluations and make modifications to the accommodation plan as necessary. Copies of the findings of all reviews and reevaluations shall be retained in the student's cumulative file.

Discipline

A disabled student shall be subject to the same rules of conduct and disciplinary actions as all other students, including the possibility of suspension or expulsion on any grounds specified in Education Code section 48900 et seq.

CLASSIFICATION: Instruction**ADOPTED:** 6/22/07**REVISED:** 11/19/12**SUBJECT:** Identification, Evaluation, and
Education Under Section 504**PAGE:** 8 of 12

Suspension for more than 10 consecutive school days or expulsion constitute a significant change in educational placement and shall require a prior reevaluation of the student. A series of suspensions for 10 days cumulatively may also constitute a significant change in placement, depending upon the length of each suspension, the proximity of the suspensions to one another, and the total amount of time the student is excluded from school. The determination as to whether a disciplinary action constitutes a significant change in placement shall be made by the multidisciplinary team on a case-by-case basis.

A disabled student may be suspended for more than 10 consecutive school days or expelled without a prior reevaluation when the student commits one or more of the following acts while at school, going to or from school, or at a school-related function: carries or possesses a weapon, knowingly possesses or uses illegal drugs, sells or solicits the sale of a controlled substance, or inflicts serious bodily injury upon another person.

In re-evaluating a student prior to a proposed suspension for more than 10 consecutive school days or expulsion, the team must determine, using Section 504 evaluation procedures, whether there is a nexus between the misconduct in question and the student's disability. The team must consider all relevant information, including any psychological evaluation data related to behavior, and the information must be recent enough to afford an understanding of the student's current behavior. The student's parent/guardian shall be notified of the proposed disciplinary action and shall be invited to participate in the team meeting at which the determination is made. Other school staff may also be included in the meeting.

If the team determines that the misconduct was caused by the student's disability or was a result of a failure of the student to receive specified accommodations and/or aids and services, the student may not be expelled or suspended for more than 10 consecutive school days. The team shall determine whether the student's current educational placement is appropriate and must take immediate steps either to implement necessary modifications to the accommodation plan or to remedy deficiencies in providing accommodations and/or aids and services, as appropriate.

CLASSIFICATION: Instruction**ADOPTED:** 6/22/07**REVISED:** 11/19/12**SUBJECT:** Identification, Evaluation, and
Education Under Section 504**PAGE:** 9 of 12

If the team determines that the misconduct is not caused by the student's disability or a failure to receive specified accommodations and/or aids and services, the student may be disciplined to the same extent as students without disabilities.

Documentation of the team's determination shall be placed in the student's cumulative file. The student's parent/guardian shall receive written notice of the team's determination and of his/her right to appeal the decision through Section 504 grievance procedures. The student may be removed from the current educational placement during the appeal process.

Procedures for readmission following a suspension or expulsion of a student with a disability shall be the same as those used for all students.

PROCEDURAL RIGHTS AND SAFEGUARDS

Notification

The Section 504 coordinator shall notify parents/guardians in writing of all decisions regarding the identification, evaluation, and educational placement of students with disabilities or suspected disabilities. All notifications shall advise parents/guardians of their rights under federal law, including their rights to examine educational records and to appeal a decision through specified grievance procedures. The notification shall inform parents/guardians of their right to request an impartial hearing, with an opportunity for participation by parents/guardians and their counsel or advocate, if a disagreement cannot be resolved through other grievance procedures and shall present the procedure for requesting the hearing and the title, address, and telephone number of the Section 504 compliance officer to whom the request must be submitted. Notifications shall be in the parent/guardian's native language or primary mode of communication.

CLASSIFICATION: Instruction**ADOPTED:** 6/22/07**REVISED:** 11/19/12**SUBJECT:** Identification, Evaluation, and
Education Under Section 504**PAGE:** 10 of 12

Grievance Procedures

If a parent/guardian disagrees with a decision regarding the identification, evaluation, or educational placement of a student under Section 504, he/she is encouraged to meet informally with the Section 504 coordinator to discuss the disagreement. If the disagreement continues, the parent/guardian may initiate the following procedures:

1. Within 20 school days of notification of the team's decision, submit in writing his/her disagreement and request that the principal/site administrator review the decision in an attempt to resolve the disagreement. This review shall be held within 20 school 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 the disagreement continues, request in writing a meeting with the executive director, Juvenile Court and Community Schools, or designee to review the team's decision. This review shall be held within 20 school days of receiving the parent/guardian's request.
3. If the disagreement continues, submit a written request to the Section 504 compliance officer to appeal the decision at an impartial hearing. The request must specify the decision that is being appealed, the relief the parent/guardian seeks, and any other information the parent/guardian believes is pertinent.
 - a. Within 20 school days of receiving a hearing request, the Section 504 compliance officer shall select an impartial hearing officer. This time period may be extended for good cause or by mutual agreement of the parties.
 - b. Within 45 school days of the selection of the impartial hearing officer, the hearing shall be conducted and a written decision mailed to all parties. This time period may be extended for good cause or by mutual agreement of the parties. Any party to the hearing shall have the right to be accompanied by legal counsel and/or by individuals with special knowledge or training related to Section 504-eligible students, to present written and oral evidence, to question and cross-examine witnesses, and to receive written findings of the hearing officer.

CLASSIFICATION: Instruction

ADOPTED: 6/22/07

REVISED: 11/19/12

SUBJECT: Identification, Evaluation, and
Education Under Section 504

PAGE: 11 of 12

If the disagreement is not resolved through the impartial hearing, the parent/guardian has the right to submit a complaint within 60 days for review by the U.S. Department of Education Office of Civil Rights (OCR).

Discrimination and Retaliation Prohibited

No Section 504-eligible student, by reason of his/her disability, shall be subjected to discrimination or denied the right to participate in or have access to benefits and services available under Section 504. Complaints alleging discrimination may be filed with the Section 504 compliance officer. If the complaint is not satisfactorily resolved at the local level, a complaint may be filed with OCR.

Retaliation against individuals who have asserted their rights under Section 504, filed a grievance, or assisted in an investigation or hearing is prohibited. Retaliatory conduct includes intimidation, coercion, threats or interference with an individual's enjoyment of his/her rights.

SAN DIEGO COUNTY OFFICE OF EDUCATION

**ADMINISTRATIVE
REGULATION NO. 6157**

CLASSIFICATION: Instruction

ADOPTED: 6/22/07

REVISED: 11/19/12

SUBJECT: Identification, Evaluation, and
Education Under Section 504

PAGE: 12 of 12

Board Policies: 1312, 5144, 6157

Administrative Regulations: 1312.3, 5131, 5141, 5144, 6146

Legal Reference: Education Code

48900 et seq., 49060 - 49063, 49423.5, 56301

Penal Code

245, 626.9, 626.10

United States Code, Title 18

930, 1365

United States Code, Title 20

1232g, 1415(k), 8921

United States Code, Title 21

812(c)

United States Code, Title 29

701 - 795(a) Rehabilitation Act

794 - Rehabilitation Act of 1973, Section 504

Code of Federal Regulations, Title 28

35.134(b)

Code of Federal Regulations, Title 34

104.1 - 104.61, 105.1 - 105.42, 300.530 - 300.537

Code of Federal Regulations, Title 45

84.1 et seq.

Management Resources: San Diego County Office of Education Pupil Services Web site:

www.sdcoe.net/ssp/support/?loc=ps_504&m=1

U.S. Department of Education Office of Civil Rights Complaint Process:

www.ed.gov/about/offices/list/ocr/complaintprocess.html