

## **Oroville Union High School District**

### **Section 504 Basic Information**

1. Section 504 is a Civil Rights Act which prohibits discrimination against individuals with disabilities who attend schools funded with public dollars. It is enforced by the US Department of Education, Office for Civil Rights (OCR).
2. To become eligible for services under Section 504, a student must be determined, as a result of evaluation, to have a physical or mental impairment that substantially limits one or major life activities.
3. Students who have a record of such impairment or are regarded as having an impairment are protected from discrimination under Section 504 but generally do not receive services. If a student has been subjected to an act prohibited under Title II of the ADA or Section 504 (for example, denied equal access to educational programs) because of an actual or perceived physical or mental impairment, he or she is entitled to protection.
4. A physical or mental impairment is described as any physiological disorder or condition, cosmetic disfigurement, or anatomic loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin and endocrine or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. Physical or mental impairment includes, but is not limited to, contagious and noncontagious diseases and conditions such as the following: orthopedic, visual, speech, and hearing impairments, and cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, dyslexia and other specific learning disabilities, Attention Deficit Hyperactivity Disorder, Human Immunodeficiency Virus infection (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.
5. Section 504 defines major life activities as function such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, eating, sleeping, walking, standing, lifting, bending, reading, concentrating, thinking, and communicating. In addition, major bodily functions such as functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions are considered major life activities. This list is not exhaustive.
6. For educational purposes, a student does not need impairments in the area of learning to be eligible for a 504 plan. For example, a student with a mobility impairment who cannot walk is substantially impaired in the major life activity of walking, and would need to be evaluated to determine whether the student needs special education or related services. A student's academic success alone is not sufficient to determine whether a student has a disability. The school will consider all areas of need, including behavior, socialization and academics.
7. Section 504 regulations do not define the word substantially. The OCR directs schools to make the decision of whether a particular impairment substantially limits a major life activity for a student on an individual basis. Whether a physical or mental impairment substantially limits a major life activity should be considered broadly and should not require extensive analysis. In most cases, the application of these rules should quickly lead away from the question whether a student has a disability and toward the school district's actions and obligations to ensure equal educational opportunities. For example, a school district should not need or require extensive documentation or analysis to determine that a child with diabetes, epilepsy, bipolar disorder, or autism has a disability under Section 504.

8. An impairment that is periodic or in remission is a disability if it would substantially limit a major life activity when it is in an active phase. The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures. Mitigating measures include medications, assistive devices, or learned behavior or other adaptive modifications that a student may use to eliminate or reduce the effects of an impairment. For example, a student who takes allergy shots to manage an allergy would be covered under Section 504 if, without the shots, the allergy would substantially limit a major life activity. However, the ameliorative effects of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity. Ordinary eyeglasses or contact lenses are lenses that are intended to fully correct visual acuity or to eliminate refractive error.
9. A parent/guardian, teacher, or 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 and may request an evaluation. 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.
10. Schools are required to evaluate when a student, because of a disability, needs or is believed to need special education or related services, before taking any action with respect to the initial placement in regular or special education of such a student or before any significant change in placement; when a student is referred to the child study team but is determined to be not eligible for services under IDEA; when it is determined that a special education evaluation is not warranted; when a student shows a pattern of not benefiting from the instruction provided; when a student returns to school after a serious injury or illness or when the student exhibits a chronic health condition.
11. Section 504 does not provide for an absolute right to an evaluation on demand. If a school district rejects a parent's request based on its belief that the child is not eligible, it must inform the parent in writing of their right to challenge the district's decision to not evaluation (OCR 19 IDELR 1127).
12. School must formally evaluate students before determining their eligibility for services and deciding which services are appropriate. As a general rule, evaluation procedures are similar to those set out in IDEA, however, school districts may have a different evaluation process for Section 504. Section 504 requires that information from a variety of resources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior, be considered and documented prior to placement.
13. Students who are eligible under Section 504 must be provided a Free Appropriate Public Education. Regulations require that decisions regarding eligibility, programs, related services, and accommodations be made by a group of professionals knowledgeable about the student, the meaning of the evaluation data and the placement options. Members of the team should include a general education teacher, a nurse, a counselor, and the parent. Other specialists shall be included as appropriate depending on the nature of the disability.
14. ADD/ADHD is a recognized impairment that can be the basis of eligibility for Section 504 or IDEA. A physician's diagnosis should be considered as one piece of evidence when evaluating the child.
15. Depending on the nature and severity of the condition, a student with an impairment who does not meet the standards for eligibility under IDEA may or may not fit within the Section 504 definition.

16. Students who are eligible for special education programs and related services under IDEA meet the definition of eligibility under Section 504. IDEA eligible students are entitled to additional protections and services offered under Section 504, such as the right to accessible facilities.
17. An IEP is not required under Section 504 but best practice indicates that the district produce a written document to memorialize the agreed upon services and accommodations, typically called an accommodation plan or a Section 504 services plan.
18. Modifications typically identified as appropriate under Section 504 include, but are not limited to, modifying pacing, modifying the classroom environment, modifying the presentation of the subject matter, adjustments to grading or assignments and modifying testing techniques. Even if a school district does not believe that a student needs special education or related services, it must still consider whether the student is entitled to a modification of policies, practices, or procedures.
19. Section 504 students can be eligible for related services, such as physical therapy, psychological counseling, and medical diagnostic services, or transportation, as determined to be needed by the evaluation team. All students protected under Section 504 of the Rehabilitation Act are entitled to a Free and Appropriate Public Education.
20. A Teacher can NOT refuse to provide a service that school district agrees to provide as identified in the Section 504 Accommodation Plan. Teachers who refuse to perform an accommodation may find themselves can be held liable for compensatory damages and punitive damages for refusing to provide accommodations (See Doe v. Withes lawsuit).
21. All Schools who receive any federal financial assistance must comply with Section 504 of the Rehabilitation Act. Under Section 504, schools must make all programs and activities accessible for students with disabilities. Whether an entire building must be accessible is determined by both ADA and Section 504 (and other state laws).
22. There are no federal funds associated with serving Section 504 students.
23. Parents may file a written grievance, if dissatisfied, with the district's 504 Coordinator, request an impartial due process hearing or file a complaint with the US Office for Civil Rights.

If you have questions or need additional information, please contact our Section 504 Coordinator, Jon Wood at [jwood@ouhsd.net](mailto:jwood@ouhsd.net) or (530) 538-2300, extension 1104.