IDENTIFICATION AND EDUCATION UNDER SECTION 504

The following regulations and procedures are intended to implement the legal requirements of the district under Section 504 of the Rehabilitation Act of 1973. Such regulations and procedures shall be applied to those students who are handicapped as defined under Section 504 but do not qualify for services under the Individual with Disabilities Education Act (20 USC 1400 et seq.). Note: Section 504 is a function of general (regular) education and is distinct from special education.

Definition

Pursuant to federal law an individual is entitled to the provisions of Section 504 of the Rehabilitation Act of 1973 if he/she is a qualified handicapped person.

Handicapped person means any person who 1) has a physical or mental impairment, which substantially limits one or more major life activities, 2) has a record of such an impairment, or 3) is regarded as having such an impairment.

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

Has a record of such an impairment means 1) has a physical or mental impairment that does not substantially limit major life activities but that is treated by district as constituting such a limitation; 2) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or 3) has none of the impairments defined above but is treated by a district as having such an impairment.

Example: Examples of students with such impairments may include, but are not limited to students with attention deficit disorder or attention deficit hyperactivity disorder, orthopedic impairments, a temporary medical condition due to accident or illness, emotional disabilities manifest by behavioral problems which result in exclusion form classes or school, or asthma, which significantly impact a major life function such as learning.

Identification and Referral Procedures

Team

A student who qualifies as a *"handicapped person"* as that term is defined at 34 CFR 104.3 shall be referred by a parent/guardian, teacher, other certificated school employee, Student Study Team, Special Education IEP Team or community agency to the Section 504 Team for identification and evaluation of the student's individual needs.

The referral shall be made in writing and given to the Site Principal who shall be responsible for convening the Section 504 Team. Those making an oral request for services will be directed, and assisted, to make the request in writing.

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

The Section 504 Team will evaluate the nature of the student's handicap in light of the provisions of 34 CFR 104.3 and of the criteria in 34 CFR 104.35. No final determination will be made by the Section 504 Team without first inviting the parent/guardian of the student to participate in a meeting concerning the recommendation that the student be identified as a handicapped individual within the meeting of Section 504 as who may require special services, both educational and of a related service nature designed to meet the individual needs of the student. The purpose is to provide the eligible student with a free, appropriate, public education.

The Student Study Team is recognized as a collaborative team of certificated staff which has purposes other than identification of qualified handicapped students under Section 504. However, this team of individuals may convene as the Section 504 Team, provided such Notice has been provided to the parent/guardian.

Evaluation and Service Plan Procedures

The Section 504 Team will have the following responsibilities:

1. The Section 504 Team will consider all relevant information and assessments in order to determine eligibility and program need. Assessments necessary to understand educational needs of student shall be conducted by the professional staff of the district office pursuant to 34 CFR 104.35(b)

2. The Section 504 Team will identify students who are handicapped as defined under Section 504 of the Rehabilitation Act of 1973 and the regulations implementing that Act. (Student may be so identified even though they do not require special education services pursuant to the Individuals with Disabilities Education Act.)

3. When the team determines eligibility, the Section 504 Team will develop a written plan describing the handicap and the education, placement or related services as appropriate. The plan will specify how the regular or modified educational and related aids and services will be provided, and by whom. The team may also determine that no special education or related services are necessary in order for the student to have a free, appropriate public education.

4. The Section 504 Team may refer the student to an IEP team for determination of eligibility under P.L. 105-17. Such special education services will be determined and provided in accordance with an IEP prepared under P.L. 105-17. In the event of such a referral, the Section 504 Team may develop an interim program/placement for the student.

5. The designated district representative shall write a brief report of the Team meeting and complete necessary forms.

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

Team Guidelines

It is anticipated that a handicapped student under Section 504 of the Rehabilitation Act who requires an educational program or services other than, or in addition to, that provided to nonhandicapped students shall be placed in the regular educational environment with the use of the supplementary aids and services. However, if the Team determines that the education of the student in the regular educational environment with the use of supplementary aids services does not provide a free appropriate public education for the student, changes may be made. In infrequent instances, a handicapped student who does not qualify for special education under the criteria of P.L. 105.17, but is qualified under Section 504, may require special education or related aids and services outside of the regular classroom in order to receive an appropriate education. All placements shall be in the appropriate least restrictive environment.

The parent/guardian of the student shall be provided an opportunity to participate in the Section 504 Team meeting to discuss the tentative conclusion of the team. The parent/guardian will be given the opportunity to examine relevant records and be provided with copies at cost, upon request.

The decision of the Section 504 Team shall be in writing with a copy provided to the parent/guardian. If the parent/guardian does not agree with the Team recommendation, the parent/guardian may access the due process provisions and have a hearing on the disputed issues.

If a plan for providing educational and/or related services is developed, all appropriate (certificated and classified) school personnel who work with the student shall be informed of and comply with the plan.

Team Review

The Section 504 Team will monitor the effectiveness of the plan annually to determine whether adjustments in the plan are necessary, and to assure that the agreed upon services are being provided as needed to ensure the handicapped student's needs are met as adequately as the needs of nonhandicapped students.

Prior to any subsequent significant change in placement, an evaluation of the student's needs will be conducted as necessary, and the Section 504 Team shall set forth in writing the changes, as appropriate. When change is proposed as the result of recommended disciplinary action, the Team shall meet to determine the following:

1. Relationship of the behavior (subject of discipline) and handicap, and

2. Appropriateness of the current program and placement.

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

Assessments

The district will be responsible for conducting assessments necessary to understand the educational needs of students determined to be eligible or those referred for eligibility. To this end assessments conducted in relation to a referral to Special Education services may be used. In addition, informal assessments by certificated staff and observations may also be used and relied upon.

Informal observation and assessment by certificated staff shall not require written consent of the parent/guardian. Notice to the parent/guardian shall be provided in advance of all formal testing to be conducted by the district. Consent by the parent/guardian shall be required in advance of any such formal assessment. In the event that the parent/guardian does no consent to the testing the parent/guardian shall be advised of their due process rights. Failure of the parent/guardian to consent to assessment or to access their due process rights, (following a specific 504 referral) shall waive any claim they may have for the provision of Section 504 identification and services for the named student, within the context of that particular referral.

Assessment initiated by a parent/guardian to be conducted outside the district shall be at parent/guardian expense unless authorized in writing by the Superintendent or designee in advance.

Assessments needs shall be determined by the Section 504 Team.

Due Process

Upon referral or at the meeting of the Section 504 Team, the parent/guardian shall be advised of the procedural safeguards. Such notice shall be provided in writing and any questions may be addressed either by the Team, the Section 504 Compliance Officer or the site administrator.

The procedural safeguards shall include the right to an impartial hearing on the following issues:

1. Disagreement about eligibility

2. Disagreement about assessment

3. Disagreement about program and/or placement including related services

4. Disagreement with Team decision regarding discipline (relation of behavior to handicap and/or appropriateness of placement).

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

As part of these procedural safeguards, parents/guardians shall have the following rights:

1. Notice of hearing date and time,

2. The right to examine all relevant records and to receive copies of such records at cost,

3. The right to be represented, or to be accompanied and advised by an individual with special knowledge or training relating to student who qualify as handicapped under Section 504, and

4. The right at hearing to present evidence, confront, cross examine, and compel attendance of school employees as witnesses, the right of a record and to a written determination including findings of fact and conclusions of law.

In addition to the procedures set forth above, and at the sole discretion of the district, an offer of mediation may be made. As part of an offer for mediation, a timeline will be set for resolution of the matter. If the timeline is not met or mediation does not resolve the issue, a hearing will be scheduled and held.

The cost of the mediator, if any, and the hearing officer and related costs shall be paid for by the district. Each party shall pay for their own costs related to representation and presentation of their case.

When a parent/guardian decides to access their procedural rights under this policy, they must file a written request for due process within 14 calendar days of the date of the action or the date of the written notice. A form shall be available from the district. A parent/guardian making an oral request will receive assistance from the district in making a written request. The written notice must be received within the 14 day calendar day period either by the site administrator or the Section 504 Compliance Officer.

The Section 504 Compliance Officer shall then be responsible for arranging for the hearing. Within 20 days of receiving the parent/guardian's request, the Superintendent or designee shall select an impartial hearing officer, unless such time is extended for good cause or by mutual agreement. The hearing officer must be qualified to review district decisions relating to Section 504, and must not be an employee or under contract with the district or SELPA. The hearing shall be held within 45 calendar days after a hearing officer has been retained. The district shall be responsible for notifying the parent/guardian of the date, time, and location of the hearing. Both the district and the parent/guardian are advised to provide written notice of witnesses to be called and to provide copies of documentary evidence to the hearing officer and to the other side at least five calendar days in advance of the hearing.

Continuance for either party may be granted by the hearing officer for good cause.

A record of the hearing shall be maintained. Either party requesting a transcript of the hearing shall pay the cost of such transcription.

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

Within 15 days of submission of the matter to the hearing officer, the hearing officer shall file a written decision including findings of fact and conclusions of law. In the event the hearing officer requires a transcription of the hearing, the matter shall not be considered submitted until the transcript is received by the hearing officer. Issues to be determined by the hearing officer shall be limited to those listed above. The hearing officer shall have no jurisdiction with regard to issues of compliance or attorney fees. An administrative hearing is not required prior to OCR involvement, however persons are encouraged to first bring complaints/concerns to the district 504 Compliance office. Persons with compliance complaints (such as failure to make accommodations noted in a Section 504 Plan,) shall be addressed by the district's uniform complaint procedure.

Technical rules of evidence shall not apply to the hearing, but such evidence shall be factual and meet a standard upon which reasonable persons are accustomed to rely in the conduct of serious affairs.

Discipline of Handicapped Students

The provisions of district policy which relate to discipline of students with exceptional needs shall apply to students determined to be handicapped under Section 504 of the Rehabilitation Act except that there shall be no requirement for a pre-expulsion assessment.

In general, upon a recommendation for expulsion of a qualified handicapped student under Section 504, a Section 504 Team shall be convened to determine if the conduct is related to the student's handicapping condition and if the student is appropriately placed. If the behavior leading to a recommendation for expulsion is determined to be unrelated to the handicap, and if the student is determined to be appropriately placed, the expulsion may proceed. If the behavior is related to the handicap or if the placement is determined not to be appropriate, the expulsion shall not proceed. If the parent/guardian disagrees with the determination of the Team, a hearing request may be made as specified above within five calendar days of the Team meeting. All other provisions relating to due process and applicable timelines shall be followed as set forth above.

In the event of a hearing request and at the discretion of the district, the expulsion may proceed after a determination by the Section 504 Team, but prior to the determination of the hearing officer.

Suspensions of qualified handicapped students shall not exceed beyond 10 consecutive school days and shall be processed in accordance with relevant provisions of the Education Code.