

Instruction

Identification and Education Under Section 504

Eligibility: A disabled student eligible for services under Section 504 is one who (a) has a physical or mental impairment that substantially limits one or more major life activities, including learning, (b) has a record of such an impairment, or (c) is regarded as having such an impairment. (Code of Federal Regulations, Title 34, Part 104.3)

Major life activities are functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. Examples of students with such impairments include, but are not limited to:

- 1) Students with a normal ability to learn but who have a mobility impairment
- 2) Students with a normal ability to learn academically but who require occupational or physical therapy in order to function physically
- 3) Students with emotional disabilities manifested by behavior problems which result in exclusion from classes or school

Indications of a possible disability that significantly interferes with learning include, but are not limited to:

- 1) Medical conditions such as severe asthma or heart disease
- 2) Temporary medical condition due to illness or accident
- 3) Poor or failing grades over a lengthy period of time

Referral and Identification Procedures:

- 1) Any student may be referred by a parent/guardian, teacher, other certificated school employee or community agency for consideration of eligibility as a disabled student under Section 504. This referral should be made to the school site principal.
- 2) The school site committee shall promptly consider the referral and determine whether an evaluation under this procedure is appropriate. This determination shall be based on a review of the student's school records (including academic, social, and behavioral records) and the student's needs. Students requiring evaluation shall be referred to appropriate evaluation specialists.
- 3) If a request for evaluation is denied, the school site committee shall inform the parents/guardians of this decision and of their procedural rights as described below.

Accommodation Plan:

- 1) When a student is identified as disabled within the meaning of Section 504, the school site committee shall determine what services are necessary to ensure that the student's individual education needs are met as adequately as the needs of nondisabled students.
- 2) In making this determination, the school site committee shall consider all significant factors relating to the learning process for the student, including his/her adaptive behavior and cultural, and language background. The evaluation may include, but is not limited to, classroom and playground observation, performance-based testing, academic assessment information, and data offered by the parent/guardian.
- 3) The parents/guardians shall be invited to participate in the school site committee meeting where services for the student will be determined and shall be given an opportunity to examine all relevant records.
- 4) The school site committee shall develop a written plan describing the disability and specifying the services needed by the student. A copy of this plan shall be kept in the student's cumulative file. The student's teacher and any other staff who provide services to the student shall be informed of the services necessary for the student, to the extent that they need to be informed in order to provide for the student in the school setting.
- 5) If the school site committee 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.
- 6) The disabled student shall be placed in the regular educational environment unless the District demonstrates that a more restrictive placement is required in order to meet the student's needs. The disabled student shall be educated with those who are not disabled to the maximum extent appropriate to his/her individual needs.
- 7) The parents/guardians shall be notified in writing of the final decision concerning services to be provided, if any, and of the Section 504 procedural safeguards, including the right to an impartial hearing to challenge the decision.
- 8) The District shall complete the identification, evaluation, and placement process within a reasonable time frame.

- 9) The student's plan shall include a schedule for periodic review of the student's needs and indicate that this review may occur sooner at the request of the parent/guardian or school staff.

Review of the Student's Progress:

- 1) The school site committee shall monitor the progress of the disabled student and the effectiveness of the student's plan. The committee shall determine whether the services are appropriate and necessary and whether the disabled student's needs are being met as adequately as the needs of nondisabled students.
- 2) A reevaluation of the student's needs will be conducted before any subsequent significant change in placement.

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 rights to: (Code of Federal Regulations, Title 34, Part 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

Notifications shall also set forth the procedures for requesting a hearing, the name, address, and telephone number of the person with whom the request should be made, and the fact that reimbursement for attorney's fees is available only as authorized by law.

The Superintendent or designee 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.

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

- 1) Within 30 days of receiving the student's accommodation plan, set forth in writing his/her

disagreement and request that the school principal and school site committee 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 20 days of receiving the parent/guardian's request, the Superintendent or designee shall select an impartial hearing officer. This 20 days may be extended for good cause or by mutual agreement of the parties.

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 days may be extended for good cause or by mutual agreement of the parties. The Superintendent or designee shall represent the District at this hearing.

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.