



Santa Maria Joint Union High School District
SECTION 504 SERVICE PLAN HANDBOOK

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Section 504 Historical Background and Guidelines

Section 504 of the Rehabilitation Act of 1973 ("Section 504") is Congress' directive to schools receiving any federal funding to eliminate discrimination based on disability from all aspects of school operation. It states, *"No otherwise qualified individual with a disability ..., shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance...."* Because school districts are recipients of federal funding, they are required to provide eligible students with disabilities with equal access (both physical and academic) to services, programs, and activities offered by its schools.

The recent passage of the Americans with Disabilities Amendment Act of 2008 ("ADA") brought the ADA and 504 into close conformity. Section 504 and ADA are civil rights statutes which bar discrimination based on disability.

There are two main purposes to Section 504. The first purpose of Section 504 is to protect students from discrimination under federal law. Section 504 accomplishes this by ensuring access to educational services and the learning process that is equal to that given to students without disabilities. All students who have a physical or mental impairment which substantially limits one or more major life activities, or have a record of such impairment, or are regarded as having such impairment, are protected from discrimination under Section 504. Thus, school districts are prohibited from excluding a student with a disability from participation in any district program or activity; denying a student with a disability the benefits of any district program or activity; and subjecting a student with a disability to discrimination solely by reason of her disability.

The second purpose of Section 504 requires school districts to provide a free appropriate public education ("FAPE") to those students who (1) have a physical or mental impairment that (2) substantially limits (3) one or more major life activities. Major life activities have been expanded by the recent revisions to the ADA and now include, but are not limited to, caring for oneself; performing manual tasks; seeing; hearing; eating; sleeping; walking; standing; lifting; bending; speaking; breathing; learning; reading; concentrating; thinking; communicating; working; and major bodily functions including, the function of the immune system; normal cell growth; digestive, bowel; bladder; neurological; brain; respiratory; circulatory; endocrine; and reproductive functions.

The provision of FAPE under Section 504 is accomplished through the creation and implementation of a Section 504 Service Plan. The purpose of a FAPE through a Section 504 Plan is to provide regular or special education and related aids and services that are designed to meet the needs of individuals with disabilities as adequately as the needs of individuals without disabilities are met. Only those students who (1) have a physical or mental impairment that (2) substantially limits (3) one or more major life activities, and require a Section 504 Plan in order to have his/her needs met as adequately as the needs of non-disabled individuals, are eligible for and are provided, regular or special education and related aids and services under Section 504.

Qualified students with disabilities must be provided an equal opportunity to participate in programs and activities that are integral components of the district's basic education program, including, but not limited to, extracurricular athletics, interscholastic sports, and/or other nonacademic activities.

It is important to recognize that ALL students who have a physical or mental impairment which substantially limits one or more major life activities, or have a record of such impairment, or are regarded as having such impairment, are protected from discrimination under Section 504, even if they do not require a FAPE under a Section 504 Plan.

To encourage compliance in the educational setting, Congress has conditioned future receipt of federal funds on school districts' compliance with Section 504 requirements. This is similar to the compliance/funding connection made in regard to other federal statutes that relate to nondiscrimination, such as Title IX (gender equity).

Roles and Responsibilities -- Federal Level

The United States Department of Education is the agency that administers federal funds for education programs, conducts and disseminates education research, focuses national attention on issues and problems in education, enforces federal statutes prohibiting discrimination in any activities receiving federal funds, and ensures equal access to education for every individual.

Within the roles defined above, the United States Department of Education-Office for Civil Rights (OCR), is charged with enforcing Section 504 and other civil rights laws such as Title IX (dealing with gender-based discrimination), Title VI (dealing with race-based discrimination), and Title II of the Americans with Disabilities Act (also dealing with disability-based discrimination). Within the last several years, the OCR has become proactive in assisting school districts in further defining "access" and in enforcing legal compliance. Much of the reason for this is that "access" extends to the provision of a "free appropriate public education" (FAPE), which includes general or special education and related aids and services—and education that is designed to meet the individual educational needs of persons with disabilities as adequately as the needs of persons without disabilities.

Section 504 Definition of Appropriate Education

Section 504 regulations define the provisions of an "appropriate education" as "the provision of regular or special education and related aids and services that

- (i) Are designed to meet individual education needs of handicapped persons as adequately as the needs of non-handicapped persons are met, and
- (ii) Are based upon adherence to procedures that satisfy the requirements of C.F.R. 104.34 (educational setting in the least restrictive environment); C.F.R. 104.35 (evaluation and placement procedures); and C.F.R. 104.36 (procedural safeguards with respect to actions regarding the identification, evaluation, or educational placement of persons who, because of handicap, need or are believed to need special instruction or related services)."
[C.F.R. 104.33]

Definition of Other Section 504 Terms

Assessment -- Refers to the gathering of data from a variety of sources, such as achievement records/scores, grade reports, teacher observation comments, discipline and attendance records, the cumulative record, and/or medical records provided by parents, etc.)

Educational Placement -- Refers to the application of the Section 504 Plan in the general education setting.

Supplementary Aids and Services -- Refers to the actual accommodations determined in the student's Section 504 Plan. Accommodations refer to the special arrangements used in the general education classroom to provide access to the curriculum/program that do not change the course expectations and/or content of the curriculum/program. (Examples of accommodations: sitting in the front of the room, being provided with extended time for testing, providing a student with highlighted critical text, or providing use of a calculator.)

Child Find

School districts are required to make information about Section 504 available to all families residing within its attendance boundaries. School districts may not wait for a parent to request an evaluation. In addition to making information available to families, school personnel are required to identify and refer students who have or are suspected of having a disability which would make him/her eligible for services under Section 504.

As part of the on-going identification and referral process, school districts must undertake to identify and locate every qualified handicapped person residing in the District's attendance boundaries who is not receiving a public education (this includes students in private schools, home school). In addition, school districts must take appropriate steps to notify students with disabilities and their parents or guardians about the district's duties under Section 504. School districts have many options to meet its child find obligations such as, but not limited to, publication in local newspapers, student handbooks, brochures at school sites, and placement of notices likely to be seen by parents of potentially eligible students (such as community centers, supermarkets, pediatrician's offices, etc.).

Eligibility

A student shall be eligible for a Section 504 Services Plan if she/he satisfies all of the following criteria:

First, the student must have a physical or mental impairment.

(1) Physical or Mental Impairment

A physical impairment means: 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.

A mental impairment means any mental or psychological disorder, such as an intellectual disability; organic brain syndrome; emotional or mental illness; and specific learning disabilities. The law does not limit eligibility to specific diseases or categories of medical conditions.

- Examples of physical or mental impairments that may constitute disabling conditions under Section 504, if they substantially limit a major life activity include, but are not limited to, diabetes, communicable disease such as HIV/AIDS; tuberculosis; attention deficit disorder (ADD) or attention deficit hyperactivity disorder (ADHD); chronic asthma and severe allergies; and physical disabilities such as spina bifida or hemophilia.
- There are certain impairments that will virtually always be found to impose a substantial limitation on a major life activity and therefore an individual will almost always qualify for protection under the ADA. The list includes: deafness, blindness, intellectual disabilities, partially or completely missing limbs, mobility impairments requiring the use of a wheelchair, autism, cancer, cerebral palsy, diabetes, epilepsy, HIV infection, multiple sclerosis, muscular dystrophy, major depression, bipolar disorder, post-traumatic stress disorder, obsessive-compulsive disorder, and schizophrenia.

Second, the student's physical or mental impairment must substantially limit at least one major life activity.

(2) Substantially Limits

Section 504 does not specifically define the term "substantially limits." It is subject to interpretation on a case-by-case basis. However, in considering limitations, a student may be compared to most students in the general population. An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. The effects of an impairment lasting, or expecting to last less than 6 months can be considered to be "substantially limiting."

- Examples of episodic impairments could include seasonal allergies; migraines; asthma.
- Examples of impairments in remission could include cancer; hepatitis.

Third, the student's physical or mental impairment must substantially limit at least one of the following major life activities, or bodily functions.*

(3) Major Life Activities

Major life activities include, but are not limited to, caring for one's self, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, working, sitting, reaching and interacting with others. Learning, reading,

concentration, thinking, and communication are typically, but not always, the major life activities utilized to determine Section 504 eligibility in the schools. It is important that *all* major life activities are considered when deciding eligibility.

In addition, an individual is disabled if he/she is substantially limited in a major bodily function. Areas of limitation may include but are not limited to: the function of the immune system, cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, reproductive, hemic, lymphatic, musculoskeletal, special sense organs and skin, genito-urinary, and cardiovascular system. If an individual is substantially limited in a major bodily function he/she need not also be limited in a major life activity.

***Whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures other than ordinary eyeglasses or contact lenses.** Mitigating measures include, but are not limited to: medications, medical supplies, equipment, or appliances, low-vision devices, prosthetics including limbs and devices, hearing aids, cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies; assistive technology; reasonable accommodations or auxiliary aids or services; or learned behavioral or adaptive neurological modifications which an individual may use to eliminate or reduce the effects of an impairment.

A student does not require a medical diagnosis in order to be eligible under Section 504.

Referral

1. School districts must refer for an evaluation any student who, “because of handicap, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in regular or special education” and before making subsequent significant changes to a student’s placement. Students with physical or mental impairments whose needs are addressed through early intervention, response to intervention (“RTI”) or health plans are not excluded from consideration for a possible Section 504 Referral. Parents, school personnel, school administrators (including principal, assistant principal), Student Study Team, or community agency may initiate a referral of a child for a Section 504 evaluation.
2. When a Section 504 Referral has been initiated, a **504 Referral Form** should be quickly forwarded to the appropriate District 504 Coordinator, or other designated staff. Upon receipt of the **504 Referral Form**, the 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.
3. Whether or not a Section 504 evaluation is appropriate shall be based on a review of the student’s school records, including those in academic and nonacademic areas of the school program, and any other documents available to the school district, including but not limited to, discipline records, health records, report cards, progress reports, intervention records, records provided by parents, and privately obtained reports; and, consultation with the student’s teacher(s), other professionals, and the parent/guardian, as appropriate; and, analysis of the student’s needs. **Designated staff shall document the information**

considered when determining whether or not a Section 504 evaluation is appropriate. If unsure whether an assessment is warranted, it is best practice to assess the student.

4. If it is determined that an evaluation is unnecessary, the 504 Coordinator or other designated staff shall inform the parents/guardians in writing of this decision. The writing shall state the basis for the decision, and include sufficient information to allow parents to meaningfully evaluate whether they agree or disagree with the District's decision not to evaluate. The parents shall also be provided with their **Notice of Parent and Student Rights and Procedural Safeguards under Section 504, and Receipt of Rights Under Section 504.**

5. If it is determined that the student should go through a Section 504 evaluation, the student's records, including discipline and health records, Student Study Team records, and copies of all intervention planning and reporting forms should be forwarded to site personnel responsible for developing the **Consent for Evaluation for 504 Eligibility.** The parents should be given the **Consent for Evaluation for 504 Eligibility, Parent Consent for Release of Information,** and a copy of the **Notice of Parent and Student Rights and Procedural Safeguards under Section 504, and Receipt of Rights under Section 504.**

Evaluation

1. School districts shall utilize qualified evaluators chosen by the District to evaluate a student who, because of a disability or suspected disability, needs, or is believed to need, special education or related services, before taking any action with respect to the initial placement of the student in general or special education and any subsequent significant change in placement. Once the District receives the parent's signed **Consent for Evaluation for 504 Eligibility,** the evaluation begins.

2. The District shall gather evaluation data and information from a variety of sources, including but not limited to, efforts of early intervention services, aptitude and achievement testing, teacher recommendations, student's historical and current physical and mental condition, teacher input, parent input, discipline records, health records/plans, observational data, curriculum based assessments, student's treating doctor(s) if appropriate, and any other information shared by parents. If the student was previously IDEA eligible, but was dismissed from special education, that information should also be considered.

3. When selecting tests and other evaluation materials, the District will ensure that they are:

a. Validated for the specific purpose for which they are used and administered by trained personnel in conformance with the instructions provided by their producer;

b. Tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient;

c. Are selected and administered to ensure that when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect

the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure); and

d. Administered in the student's native language.

4. The District may administer and use formal and informal measures as deemed necessary. If a medical evaluation is necessary to determine the presence of a disability, the District must ensure that the student receives the assessment at no cost to the parents. A parent may choose to use his or her own resources to obtain a medical evaluation or arrange with the District for reimbursement for evaluation costs, however in no instance may a parent be required to pay for such an evaluation.

a. As part of the evaluation process, the District should consider reports, if any, from the student's doctors, therapists, etcetera, if it is appropriate to do so, and they are made available. Provide parents with the **Parent Consent for Release of Information** to obtain these records and exchange information.

5. There is no timeline in the law as to how quickly the evaluation shall be completed although the law implies it must be "reasonable." It is best practice to adhere to a 60 day timeline.

6. Once the evaluations are completed, the District schedules a Section 504 team meeting to review the evaluations and to determine whether the student meets Section 504 eligibility criteria and requires services on a 504 Services Plan. Parents shall be invited to attend the 504 team meeting.

Section 504 Services Plan and Placement:

1. A multi-disciplinary 504 team shall convene to review the evaluation data and decide whether the student has a physical or mental impairment that substantially limits one or more major life activities.

2. The parents/guardians shall be invited to participate in the Section 504 team meeting and shall be given an opportunity to examine all relevant records. The District shall send parents/guardians and all invited team members a **Notification of Meeting for 504 Eligibility**.

3. The team is made up of a group of individuals, including persons knowledgeable about each of the following: (1) the student; (2) the meaning of the evaluation data being reviewed; and (3) available options for placement, accommodations, supports and services. The other team members generally include at least one of the student's general education teachers, and may include other teachers, individuals who can interpret the instructional implications of the assessment results, intervention team members, counselors, related service providers, the student, other school staff and administrators, and individuals who have knowledge or special expertise regarding the student.

4. The Section 504 team determines whether the student has a physical or mental impairment that substantially limits one or more major life activities. 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, observations of the student, and adaptive behavior. **The team shall also ensure that information obtained from all such sources is documented and carefully considered. The team shall document the sources of information considered and their determination on the Section 504 Eligibility Summary.**

5. The team must make decisions regarding student's eligibility consistent with the amended ADA, including appropriate consideration of mitigating measures, recognition of the changes to the major life activities, appropriate consideration of impairments that are episodic or in remission, and whether the student's impairment imposes a substantial limitation.

6. If the 504 team decides that the student is eligible for services under section 504, the team must determine what regular and/or special education services, accommodations and supplementary aids and services the student needs in order to receive FAPE under Section 504.

7. The team develops a written **Section 504 Plan** which must specify the types of regular or special education services, the frequency, duration and location of those services, the accommodations, and/or and supplementary aids the student requires. The student shall be placed in the regular educational environment, unless the education of the student in the regular education 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.

8. The 504 team shall note on the **Section 504 Plan** that the plan will be reviewed at least annually or more frequently if needed.

9. At the conclusion of the 504 team meeting, provide the parent with a copy of the **Section 504 Plan**, as well as the **Section 504 Parent and Student Rights and Procedural Safeguards**, and **Receipt of Rights under Section 504**.

10. A copy of the student's **Section 504 Plan** shall be kept in his/her student record. The student's teacher(s) and any other staff who may provide services to the student or implement the student's 504 Services Plan shall be informed of the plan's requirements (e.g., administration, school nurse, classified, and/or certificated employees).

11. The parent/guardian needs to consent in writing to the student's **Section 504 Services Plan** prior to the initial implementation of the plan. The parent does not need to consent on the date of the Section 504 team meeting. Parents may consent at a later time, so long as the student remains eligible for Section 504 services.

12. If the parent does not consent to the **Section 504 Services Plan**, document the parent's lack of consent on the Services Plan, and the services detailed on the 504 Services Plan will not be provided to the student. Provide the parent with a copy of the **Section 504 Services Plan**, **Section 504 Eligibility Summary**, as well as their **Section 504 Parent and Student Rights and Procedural Safeguards**. Keep a copy of the Services Plan to serve as documentation of the District's FAPE offer.

13. If a student transfers to another school within the district, the principal or designee at the school from which the student is transferring shall ensure that the principal or designee at the new school receives a copy of the plan prior to the student's enrollment in the new school.

Review and Reevaluation

1. There is no specific frequency of review for a **Section 504 Plan**. However, school districts shall establish procedures that provide for "periodic" review of plans. The Santa Maria Joint Union High School District requires that all **Section 504 Plans** be reviewed at least annually. (See Board Policy BP 6164.6/AR 6164.6)

2. The 504 team shall monitor the student's progress and, at least annually, shall review the effectiveness of the student's **Section 504 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 District will schedule a 504 Team meeting and send an invitation to the parents/guardians for this annual review.

3. A Section 504 reevaluation is required at least once every three years, earlier if requested and/or referred, and before a "significant change in placement."

a. Examples of a significant change in placement triggering a reevaluation include, but are not limited to, expulsions, suspensions that exceed 10 school days within a school year, removal from a fully integrated curriculum to a resource room, home instruction, independent study, or continuation school.

b. If a full re-evaluation is required, provide parents with the **Consent for Evaluation for 504 Eligibility, Consent for Release of Information for 504 Evaluation**, and the **Notice of Parent and Student Rights and Procedural Safeguards under Section 504**. The District will schedule a 504 Team meeting and send an invitation to the parents/guardians. If the student remains eligible, the team shall revise the student's **Section 504 Plan** as appropriate.

Students Not Eligible for a Section 504 Services Plan

If the 504 team determines that no services are necessary for the student, the **Section 504 Plan** shall reflect whether or not the student has been identified as a disabled person under Section 504. It shall also state the basis for the determination that no special services are presently needed. The student's parent/guardian shall be permitted to examine all relevant records and must be provided with **Section 504 Parent and Student Rights and Procedural Safeguards**, and a copy of the **Section 504 Plan and Eligibility Summary** which documents team's findings of ineligibility.

Inappropriate Uses of 504 Service Plans

- A parent/guardian and/or doctor presents the school with a disability diagnosis and a Section 504 Plan is written without first conducting its own evaluation to determine whether the student has a physical or mental impairment that substantially limits a major life activity.
- A student is placed on a Section 504 Plan solely because the parent/guardian wants the student to have additional time on college qualifying examinations (e.g., ACT, SAT).
- A student is placed on a Section 504 Plan because the student has a record of impairment or is regarded as being impaired, but the student has not been evaluated to determine whether she/he has a physical or mental impairment that substantially limits a major life activity.
- A student fails to qualify for special education and related services under the IDEA, but is automatically provided with a Section 504 Plan.
- A student is placed on a Section 504 Plan as an alternative way to receive special education and related services because the parent/guardian refuses to consent to his/her IEP or “label” his/her child by including him/her in a special education program.
- A student is automatically placed on a Section 504 Plan after the parent/guardian has revoked consent to special education without first qualifying the student based on Section 504 criteria.

Discipline

1. Should the District initiate a disciplinary removal of the Section 504 eligible student from his/her educational placement for a term of more than ten (10) consecutive school days, the Section 504 team must first conduct an evaluation and a manifestation determination prior to the removal. The District shall schedule a Section 504 team meeting for this purpose and invite the parents/guardians to the meeting.
2. If the student has been removed from the educational environment in a series of short removals over the course of the school year that exceeds ten (10) total days, it may constitute a pattern of exclusion that will trigger the District’s obligation to conduct an evaluation and manifestation determination. Things to consider in determining whether or not a pattern exists are the length of the suspensions, their proximity to each other, and the reason for the suspensions.
 - a. If there is no pattern, the student may be suspended beyond ten (10) days in the school year, as would any student without a disability.
 - b. If there is a pattern, the District shall conduct an evaluation and manifestation determination meeting prior to the tenth cumulative day of removal. The District shall schedule a Section 504 team meeting for this purpose and invite the parents/guardians to the meeting.

3. At the Section 504 team meeting, the team's evaluation shall include a review of the student's educational and other records available to the District, including teacher input, parent input, observations of the student, and records provided by the parents/guardians, if any. The 504 team shall determine based upon a review of the student's records, whether the student's behavior was a manifestation of his/her disability by answering both of these questions:

a. Was the conduct in question caused by, or have a direct and substantial relationship to, the student's disability; and,

b. Was the conduct in question the direct result of the school's failure to implement the student's Section 504 Services Plan?

4. If the team answers yes to either question, the alleged misconduct shall be determined to be a manifestation of the student's disability. If the student's behavior is determined to be a manifestation of his or her disability, the 504 team develops a positive behavior support plan for the student. If a positive behavior support plan has already been developed, the 504 team will review the plan and modify it as necessary to address the behavior in question.

5. However, if the team answers no to both questions, the alleged misconduct shall be not be a manifestation of the student's disability and the District may take disciplinary action against the student, such as continuing to suspend or recommending for expulsion, in the same manner as it would with a child without disabilities.

6. A manifestation determination and evaluation shall be conducted for a student with a 504 plan being considered for expulsion. The District shall schedule a Section 504 team meeting for this purpose and invite the parents/guardians to the meeting.

SANTA MARIA JOINT UNION HIGH SCHOOL DISTRICT

SECTION 504 DUE PROCESS AND GRIEVANCE PROCEDURES

1. If you disagree with any action of the District with regard to your child's identification, evaluation, or placement under Section 504, you have the right to an impartial due process hearing. Prior to requesting a due process hearing, parent/guardians may first initiate the following procedures. Parents do not have to initiate these procedures and may instead initiate a due process hearing.
2. Within thirty (30) days of the parent/guardian's receipt of the student's accommodation plan, the parent shall set forth in writing his/her disagreement with the student's accommodation plan and request that the school site principal and Section 504 school site committee review the plan in an attempt to resolve the disagreement.
3. The school site principal and Section 504 committee shall review the plan within fourteen (14) days of receiving the parent/guardian's request. The parent/guardian shall be invited to attend the meeting at which the review is conducted.
4. The District shall provide parent with written notice of its decision and explanation after reviewing the student's accommodation plan and parent's disagreement.
5. If the parent disagrees with the decision of the Section 504 committee, parent may request in writing that the Superintendent or his/her designee review the plan. The Superintendent or his/her designee shall conduct this review within fourteen (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.
6. The Superintendent or his/her designee shall provide parent with written notice of its decision and explanation after reviewing the student's accommodation plan and parent's disagreement.
7. If the disagreement continues, or if parent desires to initiate a Section 504 due process hearing, the following applies:
 - a. The request for a Section 504 due process hearing shall be in writing;
 - b. The request shall include the specific nature of the decision with which the parent/guardian disagrees;
 - c. The specific relief the parent/guardian seeks;
 - d. Any other information the parent/guardian believes is pertinent.
8. Within thirty (30) days of receiving a written request for a Section 504 due process hearing, the Superintendent or designee shall select an impartial hearing officer. These 30 days may be extended for good cause or by mutual agreement of the parties.

9. A hearing officer selected by the District must satisfy the following requirements:

- Be qualified to review District decisions relating to Section 504
- Not be an employee of, or under contract with, the District or the SELPA of which the District is a member in any capacity other than that of a Hearing Officer
- Not have any professional or personal involvement that would affect his or her impartiality or objectivity in the matter.

10. 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. These 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.

11. Any party to the hearing shall be afforded the right to:

- 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.
- The right to present evidence, written and oral.
- The right to question and cross-examine witnesses.
- The right to receive written findings of fact, conclusions of law, and decision prepared by the hearing officer.
- The right to a written or electronic verbatim record of the hearing prepared at the expense of the individual requesting such record.
- The right to prohibit the introduction of evidence at the hearing that has not been disclosed to the other party or parties at least five (5) school days prior to the hearing, except for good cause shown.
- Receipt of notice from the other party or parties at least ten (10) school days prior to the hearing that they will utilize the services of an attorney, except for good cause shown.

12. If desired, either party may seek a review of the hearing officer's decision by a federal court of competent jurisdiction.

13. Reimbursement of attorneys' fees, expert witness fees, and other costs are available only as authorized by law.

Santa Maria Joint Union High School District

Instruction

BP 6164.6(a)

Identification and Education under Section 504

The Governing Board believes that all children, including children with disabilities, should have an opportunity to learn in a safe and nurturing environment. The district shall work to identify children with disabilities who reside within its jurisdiction in order to ensure that they receive educational and related services required by law.

Students may be identified as disabled under Section 504 even though they do not require services pursuant to the federal Individuals with Disabilities Education Act (IDEA) (20 USC 1400-1482). The identification of students eligible for services under IDEA is addressed at BP/AR 6164.4 - Identification and Evaluation of Individuals for Special Education.

The Superintendent or designee shall provide identified students with disabilities with a free appropriate public education, as defined under Section 504 of the federal Rehabilitation Act of 1973. Such students shall receive regular or special education and related aids and services designed to meet their individual educational needs as adequately as the needs of nondisabled students are met. (34 CFR 104.33)

- (cf. 0410 - Nondiscrimination in District Programs and Activities)
- (cf. 0430 - Comprehensive Local Plan for Special Education)
- (cf. 5141.21 - Administering Medication and Monitoring Health Conditions)
- (cf. 5141.22 - Infectious Diseases)
- (cf. 5141.23 - Asthma Management)
- (cf. 5141.24 - Specialized Health Care Services)
- (cf. 5141.27 - Food Allergies/Special Dietary Needs)
- (cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))
- (cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

In addition, qualified students with disabilities shall be provided an equal opportunity to participate in programs and activities that are integral components of the district's basic education program, including, but not limited to, extracurricular athletics, interscholastic sports, and/or other nonacademic activities. (34 CFR 104.37)

- (cf. 6145 - Extracurricular and Cocurricular Activities)
- (cf. 6145.2 - Athletic Competition)
- (cf. 6145.5 - Student Organizations and Equal Access)

In providing services to students with disabilities under Section 504, the Superintendent or designee shall ensure district compliance with law, including providing the students and their parents/guardians with applicable procedural safeguards and required notifications. Any dispute as to the identification, evaluation, or placement of any student with a disability shall be resolved in accordance with the processes specified in the "Procedural Safeguards" section of the accompanying administrative regulation.

Identification and Education under Section 504

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 other capacity except as hearing officer and shall not have any professional or personal involvement that would affect their impartiality or objectivity in the matter.

Legal Reference:**EDUCATION CODE**

49423.5 Specialized physical health care services

CODE OF REGULATIONS, TITLE 5

3051.12 Health and Nursing Services

UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act of 1974

1400-1482 Individuals with Disabilities Education Act

UNITED STATES CODE, TITLE 29

705 Definitions; Vocational Rehabilitation Act

794 Rehabilitation Acts of 1973, Section 504

UNITED STATES CODE, TITLE 42

12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 34

104.1-104.61 Nondiscrimination on the basis of handicap, especially:

104.1 Purpose to effectuate Section 504 of the Rehabilitation Act of 1973

104.3 Definitions

104.32 Location and notification

104.33 Free appropriate public education

104.34 Educational setting

104.35 Evaluation and placement

104.36 Procedural safeguards

COURT DECISIONS

Christopher S. v. Stanislaus County Office of Education, (2004) 384 F.3d 1205

Management Resources:**CSBA PUBLICATIONS**

Rights of Students with Diabetes under IDEA and Section 504, Policy Brief, November 2007

CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES

Legal Advisory on Rights of Students with Diabetes in California's K-12 Public Schools, August 2007

Identification and Education under Section 504

U.S. DEPARTMENT OF EDUCATION OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Dear Colleague Letter; January 2013

Dear Colleague Letter and Questions and Answers on ADA Amendments Act of 2008 for Students with Disabilities Attending Public Elementary and Secondary Schools; January 2012

Free Appropriate Public Education for Students with Disabilities: Requirements under Section 504 of the Rehabilitation Act of 1973, September 2007

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office for Civil Rights: <http://www2.ed.gov/about/offices/list/ocr>

(10/95 11/07) 4/13

Santa Maria Joint Union High School District

Instruction

AR 6164.6(a)

Identification and Education under Section 504

The Superintendent designates the following position as the district's 504 Coordinator to implement the requirements of Section 504 of the federal Rehabilitation Act of 1973: (34 CFR 104.7)

(Director of Special Education
2560 Skyway Drive, Santa Maria, CA 93455
(805-922-4573)

Definitions

For the purpose of implementing Section 504 of the Rehabilitation Act of 1973, the following terms and phrases shall have only the meanings specified below:

Free appropriate public education (FAPE) means the provision of regular or special education and related aids and services designed to meet the individual educational needs of a student with disabilities as adequately as the needs of nondisabled students are met, without cost to the student or his/her parent/guardian, except when a fee is imposed on nondisabled students. (34 CFR 104.33)

(cf. 3260 - Fees and Charges)

Student with a disability means a student who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment. According to OCR, a district is required to provide FAPE only to those students whose impairment currently limits a major life activity. (34 CFR 104.3)

Examples of physical or mental impairments that may constitute disabling conditions under Section 504 if they substantially limit a major life activity may include, but are not limited to, diabetes; communicable diseases such as HIV/AIDS; tuberculosis; attention deficit disorder (ADD) or attention deficit hyperactivity disorder (ADHD); chronic asthma and severe allergies; physical disabilities such as spina bifida or hemophilia; and temporary disabilities depending on the anticipated length of disability, the seriousness of the illness/injury, and the needs of the student (e.g., students injured in accidents or suffering short-term illnesses). In the event that these conditions fall within the disabilities categories specified in the Individuals with Disabilities Education Act (IDEA), then the student may need to be considered for services under that law; see BP/AR 6164.4 - Identification and Evaluation of Individuals for Special Education.

Identification and Education under Section 504

Physical impairment means 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. (34 CFR 104.3)

Mental impairment means any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. (34 CFR 104.3)

Substantially limits major life activities means limiting a person's ability to perform functions such as caring for himself/herself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. **Major life activities** also includes 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. **Substantially limits** shall be determined without regard to the ameliorative effects of mitigating measures other than ordinary eyeglasses or contact lenses. Mitigating measures include, but are not limited to, medications, prosthetic devices, assistive devices, learned behavioral, or adaptive neurological modifications which an individual may use to eliminate or reduce the effects of an impairment. (42 USC 12102; 34 CFR 104.3)

Referral, Identification, and Evaluation

Any action or decision to be taken by the district involving the referral, identification, or evaluation of a student with disabilities shall be in accordance with the following procedures:

1. A parent/guardian, teacher, 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.

(cf. 6164.5 - Student Success Teams)

2. 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.

Identification and Education under Section 504

If it is determined that an evaluation is unnecessary, the principal or 504 Coordinator shall inform the parents/guardians in writing of this decision and of the procedural safeguards available, as described in the "Procedural Safeguards" section below.

3. If it is determined that the 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 his/her initial placement. (34 CFR 104.35)

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

The district's evaluation procedures shall ensure that the 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 merely designed to provide a single general intelligence quotient
- c. Reflect the student's aptitude or achievement or whatever else the tests purport to measure rather than his/her impaired sensory, manual, or speaking skills, except where those skills are the factors that the tests purport to measure

Section 504 Services Plan and Placement

Services and placement decisions for students with disabilities shall be determined as follows:

1. A multi-disciplinary 504 team shall be convened to review the evaluation data in order to make placement decisions.

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)

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)

Identification and Education under Section 504

2. If, upon evaluation, a student is determined to be eligible for services under Section 504, the team shall meet to develop a written 504 services plan which shall specify the types of regular or special education services, accommodations, and supplementary aids and services necessary to ensure that the student receives FAPE.

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

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

(cf. 5141.22 - Infectious Diseases)

(cf. 5141.23 - Asthma Management)

(cf. 5141.24 - Specialized Health Care Services)

(cf. 5141.26 - Tuberculosis Testing)

(cf. 5141.27 - Food Allergies/Special Dietary Needs)

3. If the 504 team determines that no services are necessary for the student, the record of the team's meeting shall reflect whether or not the student has been identified as a disabled person under Section 504 and shall state the basis for the determination that no special services are presently needed. The student's parent/guardian shall be informed in writing of his/her rights and procedural safeguards, as described in the "Procedural Safeguards" section below.
4. 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)
5. The district shall complete the identification, evaluation, and placement process within a reasonable time frame.
6. A copy of the student's Section 504 services plan shall be kept in his/her student record. The student's teacher(s) and any other staff who provide services to the student shall be informed of the plan's requirements.

If a student transfers to another school within the district, the principal or designee at the school from which the student is transferring shall ensure that the principal or designee at the new school receives a copy of the plan prior to the student's enrollment in the new school.

(cf. 5125 - Student Records)

Identification and Education under Section 504**Review and Reevaluation**

The 504 team shall monitor the progress of the student and, at least annually, shall review the effectiveness of the student's Section 504 services 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. In addition, each student with a disability under Section 504 shall be reevaluated at least once every three years.

A reevaluation of the student's needs shall be conducted before any subsequent significant change in placement. Examples of actions that might constitute a “significant change in placement” triggering a reevaluation include, but are not limited to, expulsions, suspensions that exceed 10 school days within a school year, or removal from a fully integrated curriculum to a resource room, home instruction, independent study, or continuation school. (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

The Superintendent or designee shall notify the parents/guardians of students with disabilities of all actions and decisions by the district regarding the identification, evaluation, or educational placement of their children. He/she also shall notify the parents/guardians of all the procedural safeguards available to them if they disagree with the district's action or decision, including an opportunity to examine all relevant records and an impartial hearing in which they shall have the right to participate. (34 CFR 104.36)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

If a parent/guardian disagrees with any district action or decision regarding the identification, evaluation, or educational placement of his/her child under Section 504, he/she may request a Section 504 due process hearing within 30 days of that action or decision.

Prior to requesting a Section 504 due process hearing, the parent/guardian may, at his/her discretion, but within 30 days of the district's action or decision, request an administrative review of the action or decision. The Coordinator shall designate an appropriate administrator to meet with the parent/guardian to attempt to resolve the issue and the administrative review shall be held within 14 days of receiving the parent/guardian's request. If the parent/guardian is not satisfied with the resolution of the issue, he/she may request a Section 504 due process hearing.

Identification and Education under Section 504**Section 504 due process hearing shall be conducted in accordance with the following procedures:**

1. The parent/guardian shall submit a written request to the Coordinator within 30 days of receiving the district's decision or, if an administrative review is held, within 14 days of the completion of the review. The request for the due process hearing shall include:
 - a. The specific nature of the decision with which he/she disagrees
 - b. The specific relief he/she seeks
 - c. Any other information he/she believes is pertinent to resolving the disagreement
2. 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.
3. 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.
4. The parties to the hearing shall be afforded the right to:
 - a. Be accompanied and advised by counsel and by individuals with special knowledge or training related to the problems of students with disabilities under Section 504
 - b. Present written and oral evidence
 - c. Question and cross-examine witnesses
 - d. Receive written findings by the hearing officer stating the decision and explaining the reasons for the decision

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)

(cf. 5145.6 - Parental Notifications) (11/07 3/09) 4/13)

SANTA MARIA JOINT UNION HIGH SCHOOL DISTRICT

NOTICE OF PARENT AND STUDENT RIGHTS AND PROCEDURAL SAFEGUARDS UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973

Section 504 of the Rehabilitation Act of 1973, commonly referred to as “Section 504” is a federal law passed by the United States Congress with the purpose of prohibiting discrimination against disabled persons who may participate in, or receive benefits from, programs receiving federal financial assistance. In the public schools, Section 504 applies to ensure that eligible disabled students are provided with educational benefits and opportunities equal to those provided to non-disabled students.

Under Section 504, a student is considered “disabled” if she or he has a physical or mental impairment that substantially limits one or more major life activities. Section 504 also protects students with a record of an impairment, or who are regarded as having an impairment, from discrimination on the basis of disability.

The purpose of this notice is to inform parents and students of the rights granted under Section 504. The federal regulations that implement Section 504 are found at Title 34, Part 104 of the Code of Federal Regulations (“CFR”) and entitle eligible students and their parents, to the following rights:

You have a right to be informed about your rights under Section 504 (34, Part 104 of the Code of Federal Regulations (“CFR”) and entitle eligible students and their parents, to the following rights:

1. You have a right to be informed about your rights under Section 504. (34 CFR 104.32). The District must provide you with written notice of your rights under Section 504 (this document represents written notice of rights as required under Section 504). If you need further explanation or clarification of any of the rights described in this Notice, contact the District’s Section 504 coordinator or designated staff and they will assist you in understanding your rights.
2. Under Section 504, your child has the right to an appropriate education designed to meet his or educational needs as adequately as the needs of non-disabled students are met. (34 CFR 104.33). You have the right to refuse consent for services at any time.
3. Your child has the right to free educational services, with the exception of costs also paid by the parents of non-disabled students. Insurance companies and other similar third parties are not relieved of any existing obligation to provide or pay for services to a student that becomes eligible for services under Section 504. (34 CFR 104.33).
4. Your child has the right to be educated with children who are not disabled to the maximum extent appropriate. Your child will be placed in regular classes, unless

your child's educational needs cannot be adequately met in the regular classroom, even with the use of supplementary aids and services. (34 CFR 104.34).

5. Your child has the right to services, facilities, and activities comparable to those provided to non-disabled students. (34 CFR 104.34).
6. The Santa Maria Joint Union High School District shall evaluate your child before determining his or her appropriate educational program of services under Section 504, and also before a subsequent significant change in placement. (34 CFR 104.35). You have the right to refuse to consent to an evaluation under Section 504.
7. If formal assessments are used as part of an evaluation, procedures used to administer assessments and other instruments must comply with the requirements of Section 504 regarding test validity, proper method of administration, and appropriate test selection. (34 CFR 104.35). The District will appropriately consider information from a variety of sources in making its determinations, including, for example: aptitude and achievement tests, teacher recommendations, reports of physical/mental condition, adaptive behavior, health records, discipline records, report cards, progress notes, observational information, statewide testing, and information provided by parents, among others. (34 CFR 104.35).
8. Placement decisions regarding your child shall be made by a group of persons (a Section 504 team) knowledgeable about your child, the meaning of evaluation data, available options for placement, accommodations, supports and services, and the requirement that to the maximum extent appropriate, disabled children should be educated with non-disabled children. (34 CFR 104.35).
9. If your child is eligible under Section, he or she has a right to period re-evaluations. A reevaluation must take place at least every three years. (34 CFR 104.35). Re-evaluations may occur more frequently, if appropriate.
10. You have the right to be notified by the District prior to any action regarding the identification, evaluation, or placement of your children. (34 CFR 104.36).
11. You have the right to examine relevant documents and records regarding your child (generally documents relating to the identification, evaluation and placement of your child under Section 504). (34 CFR 104.36).
12. You have the right to an impartial due process hearing if you wish to contest any action of the District with regard to your child's identification, evaluation, or placement under Section. (34 CFR 104.36). You have the right to participate at the hearing, and to be represented by an attorney if you wish to hire one. Reimbursement for attorneys' fees is available only as authorized by law. The request for a due process hearing under Section 504 must be in writing and provided to the school site principal and the Section 504 school site committee within thirty (30) days of parent's receipt of their student's accommodation plan. See the District's Board Policy BP 6164.6/AR 6164.6 for additional information.
13. You have the right to present a grievance or complaint through the District's local grievance process. See the District's Board Policy BP 6164.6/AR 6164.6. The

District will investigate your complaint, take into account the nature of the complaint and all necessary factors, and respond appropriately to you, in writing, within a reasonable time. Parents may contact the District's Section 504 coordinator for more information about the District's grievance process:

Frances Evans, Director of Student Services and Special Education
2560 Skyway Drive, Santa Maria CA 93455 (805) 922-4573 x 4221

14. You also have the right to file a complaint with the Office of Civil Rights ("OCR") of the Department of Education. Additional information regarding OCR's complaint process is available at: <http://www2.ed.gov/about/offices/list/ocr/docs/howto.html>. The address of the OCR Regional Office that covers the Santa Maria Joint Union High School District is:

Office for Civil Rights
U.S. Department of Health and Human Services
90 7th Street, Suite 4-100
San Francisco, CA 94103