

## Instruction

BP 6164.6(a)

### IDENTIFICATION AND EDUCATION UNDER SECTION 504

Note: The following policy and accompanying administrative regulation address the identification and education of students who may be eligible for services under the provisions of Section 504 of the federal Rehabilitation Act of 1973 (29 USC 794; 34 CFR 104.1-104.39). Pursuant to 34 CFR 104.33, eligible students are entitled to a free appropriate public education (FAPE) which is designed to meet the student's individual educational needs as adequately as the needs of students without disabilities are met. Enforcement of Section 504 requirements is the responsibility of the U.S. Department of Education's Office for Civil Rights (OCR), which monitors districts' policies, processes, and practices to ensure legal compliance.

A student may be identified as a student with a disability under Section 504 even though he/she is not identified as a child with a disability under the federal Individuals with Disabilities Education Act (IDEA) (20 USC 1400-1482). The identification of students eligible for special education and related services under the IDEA is addressed at BP/AR 6164.4 - Identification and Evaluation of Individuals for Special Education.

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

Note: Section 504 of the Rehabilitation Act of 1973 and its implementing regulations (34 CFR 104.1-104.39) prohibit discrimination on the basis of disability in district programs and activities; see BP 0410 - Nondiscrimination in District Programs and Activities.

The Superintendent or designee shall provide ~~identified~~qualified students with disabilities with a free appropriate public education, (FAPE), 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 without disabilities 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)*

Note: Pursuant to 34 CFR 104.33, as interpreted by OCR in its January 2013 Dear Colleague Letter, a district's responsibility under Section 504 extends to providing students with disabilities equal opportunity to participate in extracurricular athletics and other nonacademic programs or activities that constitute the overall educational program.

**IDENTIFICATION AND EDUCATION UNDER SECTION 504** (continued)

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)*

Note: The following **optional** paragraph may be revised to reflect district practice. Education Code 52060 requires that the district adopt a local control and accountability plan (LCAP) that includes annual goals, aligned with specified state priorities, to be achieved for all students and for each numerically significant subgroup as defined in Education Code 52052. Pursuant to Education Code 52052, students with disabilities are one of the numerically significant subgroups whose needs must be addressed in the LCAP, when there are at least 30 students with disabilities in the district or a school. See BP/AR 0460 - Local Control and Accountability Plan.

The district's local control and accountability plan shall include goals and specific actions to improve student achievement and other outcomes of students with disabilities. At least annually, the Superintendent or designee shall assess the district's progress in attaining the goals established for students with disabilities and shall report these results to the Board. (Education Code 52052, 52060)

*(cf. 0460 - Local Control and Accountability Plan)*

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.

Note: The following **optional** paragraph ensures the availability of hearing officers to conduct impartial hearings to resolve disagreements about the provision of FAPE, pursuant to 34 CFR 104.36.

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: (see next page)*

## **IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)**

### *Legal Reference:*

#### EDUCATION CODE

49423.5 *Specialized physical health care services*

[52052 Numerically significant student subgroups](#)

[52060-52077 Local control and accountability plan](#)

[56043 Special education, timelines](#)

[56321 Assessment; development of IEP; parental notifications, consent](#)

#### 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 Act of 1973, Section 504*

#### UNITED STATES CODE, TITLE 42

12101-12213 *Americans with Disabilities Act*

#### CODE OF REGULATIONS, TITLE 28

[35.101-35.190 Nondiscrimination on the basis of disability in state and local government services](#)

#### 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*

[104.37 Nonacademic services](#)

[104.7 Responsible employee; grievance procedures](#)

#### 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, ~~Nov~~December 2007](#)

#### CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES

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

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

[Dear Colleague Letter; and Resource Guide on Students with ADHD, July 2016](#)

[Protecting Students with Disabilities: Frequently Asked Questions About Section 504 and the Education of Children with Disabilities, October 2015](#)

[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](#)

*Management Resources continued: (see next page)*

**IDENTIFICATION AND EDUCATION UNDER SECTION 504** (continued)

*Management Resources: (continued)*

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>*