

**IDENTIFICATION AND EDUCATION UNDER SECTION 504**

The County Superintendent is designated as the Office of Education's 504 Coordinator to implement the requirements of Section 504 of the federal Rehabilitation Act of 1973.

Garry T. Eagles  
Humboldt County Superintendent of Schools  
901 Myrtle Avenue  
Eureka, CA 95503  
(707) 445-7030

**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 and 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 guardian, except when a fee is imposed on nondisabled students.

*Student with a disability* means a student who has a physical or mental impairment that substantially limits one or more major life activities.

*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.

*Mental impairment* means any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

*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, 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.

## Instruction

## Administrative Regulation 6164.6(b)

*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 effect of an impairment.

### I. Referral, Assessment and Accommodation Plan Development Procedures

- A. Referral: Any student believed to have an impairment that substantially limits his/her ability to learn is to be referred to the Principal, or appropriate school site committee for possible assessment of need. Such referral may be initiated by the parent/guardian of the student, the student, teacher, school employee or by a school official.
- B. Composition of the school site committee: The school site committee shall be made up of professionals at the school who are knowledgeable about the student, about evaluation procedures and about educational options. The school's Student Study Team may serve in the capacity of a "school site committee." The parent/guardian of the referred student shall be invited to participate as a member of this committee. When appropriate, the student may be included in the meeting.
- C. Assessment: If the school site committee suspects that a student's learning may be affected by a physical or mental impairment, the committee shall conduct an evaluation which may include, but not be limited to, the student's school records, classroom and/or playground observation, performance based testing, academic assessment, and any additional data offered by the parent/guardian, the student or other authorized representative of the student.
- D. Determination of eligibility: The committee shall review the assessment information and make a determination as to the existence of a physical or mental impairment affecting the student's ability to learn. Prior to conducting an initial evaluation of a student for eligibility under Section 504, the Office of Education shall obtain written parent/guardian consent.

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 and 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.

- 1. *If an impairment is found to exist*: If the impairment is or would be considered a "qualifying indicator" under IDEA, a referral to special

## Instruction

## Administrative Regulation 6164.6(c)

- education services shall be made and the timeline for processing such a referral will begin. If the impairment does not qualify under IDEA, but does qualify under Section 504, the committee shall prepare an accommodation plan.
2. *If an impairment is not found to exist:* If learning is determined to not be affected by a physical or mental impairment, such as when a student's learning is being affected solely by failure to complete assignments, attend school regularly, or due to willful misconduct while in the classroom, etc., the committee shall so state its determination in writing and communicate its decision, and the reasons thereof, to the parent within ten (10) school days of the meeting. The student's parent/guardian shall also be informed in writing of his/her rights and procedural safeguards.
- E. Accommodation plan development: When the school site committee confirms that learning is being impaired, the committee shall formulate an accommodation plan to address the identified needs of the student. A copy of said plan shall be sent to the parent and placed in the student's cumulative file. Such an accommodation plan shall be drafted within a reasonable period, preferably within thirty (30) calendar days of the committee's determination that an impairment under Section 504 exists.
- F. Review of an accommodation plan: The accommodation plan shall include a specific time for review of the student's progress by the committee, at least annually. The date for review shall be determined based upon the type of accommodation provided and the anticipated duration within which there would be an expectation of desired effect. In addition, each student with a disability under Section 504 shall be reevaluated at least every three years.
- G. Modification of the accommodation plan: The accommodation plan may be modified by the school site committee when the accommodation previously undertaken has been inadequate to address the student's need. The parent and student (when appropriate) shall be invited to participate in any plan modification. Written communication to the parent shall be made with copies of any plan changes also placed in the student's cumulative file.
- H. Student Records: 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.

## II. Notification of Parental and Student Rights

Parents/guardians, and students over the age of eighteen, shall be notified in writing of all district decisions regarding the identification, evaluation or reasonable accommodation of students with disabilities under Section 504. Notifications shall include a statement of their right:

- To examine relevant records,
- To have an impartial hearing with an opportunity for participation by the parent/guardian and their counsel, and
- To have a review procedure. (Code of Federal Regulations, Title 34, Part 104.36)

At the time a plan for accommodation has been developed, or when a school site committee determines that a student does not qualify for services under Section 504, the parent/ guardian shall receive a copy of the appeal procedures.

## III. Procedural Safeguards

The Principal or designee shall notify the parents/guardians of students with disabilities of all actions and decisions by the Office of Education 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 Office of Education'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.

## IV. Parent/Guardian Appeals

If a parent/guardian disagrees with the identification, evaluation or reasonable accommodation of a student with disabilities under Section 504, he/she may initiate the following procedures within thirty (30) calendar days of receiving either the student's accommodation plan or the notice of the committee's determination that the student does not qualify under Section 504:

In writing, request a review of the matters-at-dispute by the school principal in an attempt to resolve the disagreement. The written request shall be filed with the school principal's office. The principal shall schedule a meeting with the parent/guardian within fourteen (14) calendar days of receiving the parent/guardian's request unless the timeline is extended by mutual agreement of the parties. Other than legal counsel, either the principal and/or parent/guardian may request the presence of others having specific knowledge of the student at this meeting to facilitate the resolution process. Unless both

## **INSTRUCTION**

## **Administrative Regulation 6164.6(e)**

parties agree otherwise, no more than three (3) additional participants for either party shall be included.

- If the principal-level meeting fails to bring about a resolution of the disagreement, the parent/guardian shall have fourteen (14) calendar days from the date of the meeting to file an appeal with the superintendent. The written request shall be filed with the superintendent's office. The superintendent or designee shall schedule a meeting with the parent/guardian within fourteen (14) calendar days of receiving the request unless the timeline is extended by mutual agreement of the parties. Other than legal counsel, the superintendent/designee and/or parent/ guardian may request the presence of others having specific knowledge of the student at this meeting to facilitate the resolution process. Unless both parties agree otherwise, no more than three (3) additional participants for either party shall be included.
- If the meeting with the superintendent/designee fails to bring about a resolution of the disagreement, the parent/guardian shall have fourteen (14) calendar days from the date of the meeting to request in writing a Section 504 hearing before an impartial hearing officer. The request shall be filed with the superintendent's office. 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; and
  - c. Any other information the parent/guardian believes pertinent.

### **V. Impartial Hearing Procedures**

If a request for an impartial hearing has been timely filed, such hearing shall be held within thirty (30) calendar days of receiving the parent/ guardian's request unless the timeline is extended by mutual agreement of the parties.

The district superintendent or designee shall be responsible for obtaining the services of a qualified impartial hearing officer. Such officer shall not be employed by or under contract with the County Office of Education in any capacity other than that of hearing officer. A "qualified impartial hearing officer" may include, but not be limited to, an attorney-at-law familiar with Section 504, another school district's designated 504 Coordinator, or other person known to be trained in the provisions of Section 504 law and who is also knowledgeable of hearing procedures.

Each party shall be sent a written notice of the time and place of the hearing no less than ten (10) calendar days prior to the hearing.

## **INSTRUCTION**

## **Administrative Regulation 6164.6(f)**

The hearing officer shall be responsible for setting forth the rules for conducting the hearing including, but not limited to: the order of evidence and argument; the length of presentation, testimony, cross-examination and rebuttal to be heard; the number of witnesses allowed by either party; etc. The County and County's counsel, if desired, and the parent/guardian and parent's counsel, if desired, shall be permitted to participate and present issues, evidence, examine witnesses and present argument at the hearing. A transcribable record of the hearing shall be maintained as a permanent record of the district. Such record shall not become part of the student's cumulative file.

Within fourteen (14) calendar days of the hearing, the hearing officer shall notify the parent/guardian and the district of his/her decision in writing. The hearing officer's decision shall be final unless either party seeks a review of this decision by a federal court of competent jurisdiction within the timeframes established by law.

### **VI. Related Costs and Responsible Parties**

The County shall be responsible for providing the hearing officer and the costs associated with conducting the impartial hearing.

Attorney fees, expert witness fees and other costs incurred by the parent/guardian remain the responsibility of the parent/guardian unless specifically authorized and required by law.