

**IDENTIFICATION AND EDUCATION UNDER SECTION 504**

The Governing Board recognizes the need to identify and evaluate residents with handicaps in order to provide them with appropriate educational opportunities. Such individuals may require reasonable accommodation under Section 504 of the federal Rehabilitation Act of 1973.

The Superintendent or designee shall establish procedures whereby parents/guardians or staff may request screening and evaluation for any student they believe to have a handicap that significantly impairs his/her learning.

A school site committee of knowledgeable professionals shall meet to evaluate the student's eligibility under Section 504, and the student's parent/guardian shall be invited to participate on this committee. 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.

If the student is found to have a defined handicap that significantly interferes with his/her learning, he/she shall be eligible for reasonable accommodation under Section 504, and the school site committee shall develop a written accommodation plan for the student. This plan shall specify the modifications which will be made in the regular educational program in order to ensure the student a free appropriate education; it shall also 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.

The school site committee shall provide the parent/guardian with a written copy of the accommodation plan. If the committee determines that no accommodation is needed, the parent/guardian shall receive a record of the proceedings stating the basis for this decision. Parents/guardians shall also receive a copy of the procedural safeguards guaranteed under the Code of Federal Regulations, Title 34, Part 104.36.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

**Legal Reference:**

UNITED STATES CODE, TITLE 20  
1232G Family Educational Rights and Privacy Act of 1974  
1400 et seq. Individuals with Disabilities Education Act  
UNITED STATES CODE, TITLE 29  
701 et seq. Rehabilitation Act of 1973  
794 Rehabilitation Act of 1973, Section 504  
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  
104.35 Evaluation and placement  
104.36 Procedural safeguards  
Southeastern Community College v. Davis (1970) 442 U.S. 397; 99 Supreme Court 2361

**IDENTIFICATION, EVALUATION AND EDUCATION OF STUDENTS WHO ARE QUALIFIED HANDICAPPED PERSONS AS DEFINED IN SECTION 504 OF THE REHABILITATION ACT OF 1973****Purpose**

The intent of the District is to ensure that students who are handicapped within the meaning of Section 504 of the Rehabilitation Act of 1973 are identified, evaluated, and provided with the required appropriate education, i.e., regular or special education.

**Identification and Referral Procedures**

1. Students who, because of handicap, need or are believed to need special education or related services in order to receive a free appropriate public education may be referred by a parent/guardian, teacher, other certificated school employee, or community agency to the Student Study Team (SST) for identification and review of the student's individual education needs.
2. The SST will be composed of persons knowledgeable about the student, the student's school history, the student's individual needs, the meaning of evaluation data, and the placement options. The school site principal will monitor the composition of the SST to ensure that qualified personnel participate.
3. The SST will promptly consider the referral and, based upon a review of the student's existing records, including academic, social and behavioral records, make a decision as to whether an evaluation under this procedure is appropriate. If a request for evaluation is denied, the SST will inform the parents/guardians of this decision and of procedural rights.

**Evaluation**

Evaluation of the student and formulation of a plan of services will be carried out by the SST according to the following procedures.

1. The SST will evaluate the nature of the student's handicap and the impact of the handicap upon the student's education. This evaluation will include consideration of any behaviors that interfere with regular participation of a student who otherwise meets the criteria (such as age) for participation in the educational program and/or activities.
2. No final determination of whether the student will or will not be identified as a handicapped individual within the meaning of Section 504 will be made by the SST without first inviting the parent/guardian of the student to participate in a meeting concerning such determination.
3. A final decision will be made by the SST in writing and the parents/guardians of the student shall be notified of the Section 504 procedural safeguards available to them, including the right to an impartial hearing and review, as described in Procedural Safeguards.

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**Plan for Services**

1. For students who have been identified as handicapped within the meaning of Section 504 and in need of special services, the SST shall be responsible for determining what special services are needed to ensure that the student receives a free appropriate education.
2. In making this determination, the SST shall consider all available relevant information, drawing upon a variety of sources including but not limited to comprehensive assessments conducted by the District's professional staff.
3. The parent/guardian shall be invited to participate in SST meetings where services for the student will be determined, and shall be given an opportunity to examine in advance all relevant records.
4. The SST will develop a written plan describing the handicap and the special education or related services needed. The plan will specify how the services will be provided, and by whom.
5. The team may also determine that no special services are appropriate. If so, the record of the SST proceedings will reflect the identification of the student as a handicapped person and state the basis for the decision that no special services are presently needed.
6. In all cases, a handicapped student requiring special services shall be placed in the regular educational environment of the District unless the District demonstrates that such placement cannot be achieved satisfactorily. Handicapped students shall be educated with those who are not handicapped to the maximum extent appropriate to the individual need of the student.
7. The Student Study Team shall notify the parents/guardians in writing of its final decision concerning the services to be provided.
8. If a plan for providing related services is developed, all school personnel who work with the student shall be informed of the plan.

**Review of Student's Progress**

The Student Study Team will monitor the progress of the handicapped student and the effectiveness of the plan annually. This review will be used to determine whether special services are appropriate and necessary; to assure that the agreed to services are appropriate and necessary; and to assure these services are being provided as needed so that the handicapped student's needs are met as adequately as the needs of nonhandicapped students.

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Prior to any subsequent change in placement, a comprehensive reevaluation of the student's needs will be conducted.

**Procedural Safeguards**

1. The parents/guardians shall be notified in writing of all District decisions concerning the identification, evaluation, or educational placement of students made under this policy.
2. As to such District decisions, parents/guardians shall have the right to an impartial hearing ("Section 504 due process hearing"), with opportunity for participation by the parents/guardians and their counsel.
3. In the notification of any District decision concerning identification, evaluation or placement, the parents/guardians will be advised of:
  - (a) the date on or before which they must file a request for Section 504 due process hearing, which date will not be less than 30 days after the notice of the right to file,
  - (b) the title of the person with whom they shall make any such request and his or her address and phone number,
  - (c) the procedures the District will utilize to conduct the hearing, and
  - (d) the fact that reimbursement for attorney's fees is available only as authorized by law.
4. The District shall maintain a list of hearing officers who are qualified and willing to conduct Section 504 hearings. The District will designate a hearing officer from the list in each case for which a hearing has been requested.
5. Each hearing officer on the District list must be impartial, i.e., not employed or under contract with the District in any capacity other than that of a hearing officer.
6. In instances where a state fair hearing has been held under the IDEA concerning issues relevant to the Section 504 proceeding, the Section 504 Hearing Officer shall, at the request of either party, accept into the record as evidence copies of the transcript of testimony and documents submitted in the state fair hearing. The Hearing Officer shall then provide opportunity for the submission of additional evidence by the parties that is relevant to a determination of the issues under Section 504. The Section 504 Hearing Officer's jurisdiction shall be limited to Section 504 issues and shall not extend to a determination of eligibility for special education or special education assessment or placement under the IDEA.

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7. The Section 504 Hearing Officer shall render a decision de novo pursuant to the legal standards set forth in Section 504, 34 Code of Federal Regulations, Part 104, and court decisions interpreting those provisions. The parents/guardians shall be notified in writing of the decision. Either party may seek review of the decision of the Section 504 Hearing Officer by a federal court of competent jurisdiction.
8. The parties shall abide by the decision of the Section 504 Hearing Officer unless the decision is appealed to a federal court of competent jurisdiction and the decision is stayed by the court.

**Uniform Complaint Procedures**

The Board of Trustees recognizes that the District has primary responsibility for ensuring that it complies with state and federal laws and regulations governing educational programs. The District shall investigate and seek to resolve complaints at the local level. The Board of Trustees encourages the resolution of complaints early and informally whenever possible.

The District shall follow uniform complaint procedures when addressing complaints alleging unlawful discrimination or failure to comply with state or federal law in adult basic education, consolidated categorical aid programs, migrant education, vocational education, child care and development programs, child nutrition programs and special education programs.

The Board prohibits retaliation in any form for the filing of a complaint, the reporting of instances of discrimination, or for participation in complaint procedures. Such participation shall not in any way affect the status, grades, or work assignments of the complainant.

The Board acknowledges and respects student and employee rights to privacy. Discrimination complaints shall be investigated in a manner that protects the confidentiality of the parties and the facts. This includes keeping the identity of the complainant confidential except to the extent necessary to carry out the investigation or proceedings, as determined by the Compliance Officer on a case-by-case basis.

The Compliance Officer shall ensure that employees designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible. Such employees may have access to legal counsel as determined by the Compliance Officer.

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The Board of Trustees encourages open communications among the home, school, and the community. A positive partnership among students, parents, teachers, community, and administrative and support staff is essential to the educational process. Open and on-going communication among all parties minimizes the opportunity for problems to develop.

In the event that concerns are received about compliance with state and federal laws and regulations governing educational programs, the following process shall be followed:

1. The concerned person shall attempt to resolve his/her concern through oral communication with local level designees.
2. If the concern is not resolved, the principal (or designee) may schedule conferences with various school personnel in an attempt to resolve the concern.
3. If the concern is not resolved at the above levels, it becomes a complaint and shall be made in writing by the complainant and given to the District's Compliance Officer.

**Allegations not authorized by the Uniform Complaint Procedures**

- Child Abuse - Refer to Department of Social Services or Local Law Enforcement Agency
- Child Development (Health and Safety Issues) - Refer to Department of Social Services or Local Law Enforcement Agency
- Discrimination in the Child Nutrition Program or Federal Offenses of Gender Equity - Refer to United States Office of Civil Rights
- Employment Discrimination - Refer to State Department of Fair Employment and Housing
- Fraud - Refer to California State Department of Education Directors or Legal Counsel

**IDENTIFICATION, EVALUATION AND EDUCATION OF STUDENTS WHO ARE QUALIFIED HANDICAPPED PERSONS AS DEFINED IN SECTION 504 OF THE REHABILITATION ACT OF 1973 (continued)**

**Compliance Officer(s)**

The Board of Trustees designates the following compliance officer(s) to receive and investigate complaints and ensure District compliance with law:

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(Title or Position)

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(Address)

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(Telephone Number)

**Notifications**

The compliance officer shall meet the notification requirements of the Code of Regulations, Title 5, Section 4622, including the annual dissemination of district complaint procedures and information about available appeals, civil law remedies, and conditions under which a complaint may be taken directly to the California Department of Education.

**Procedures**

The following procedures shall be used to address all complaints which allege that the District has violated federal or state laws or regulations governing educational programs. Compliance officer(s) shall maintain a record of each complaint and subsequent related actions, including all information required for compliance with the Code of Regulations, Title 5, Section 4632.

The District will use its uniform complaint procedures when addressing all program complaints regarding sex equity.

Investigations of discrimination complaints shall be conducted in a manner that protects confidentiality of the parties and the facts. (Title 5, Section 4630)

All parties involved in allegations shall be notified when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made.

**Step 1: Filing of Complaint**

Any individual, public agency or organization may file a written complaint of alleged noncompliance.

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The complaint shall be presented to the compliance officer, who will then give it to the appropriate investigating staff. The compliance officer will maintain a log of complaints received, providing each with a code number and a date stamp.

If a complainant is unable to put a complaint in writing due to conditions such as illiteracy or other handicaps, District staff shall help him/her to file the complaint. (Title 5, Section 4600)

Complaints alleging unlawful discrimination may be filed by a person who alleges that he/she personally suffered unlawful discrimination or by a person who believes that an individual or any specific class of individuals has been subjected to unlawful discrimination. The complaint must be initiated no later than six months from the date when the alleged discrimination occurred or when the complaint first obtained knowledge of the facts of the alleged discrimination. (Title 5, Section 4630)

**Step 2: Investigation of Complaint**

The compliance officer shall hold an investigative meeting within ten days of receiving the complaint. This meeting shall provide an opportunity for the complainant and/or his/her representative and the District's representatives to present information relevant to the complaint. Parties to the dispute may discuss the complaint and question each other or each other's witnesses. (Title 5, Section 4631)

To ensure that all pertinent facts are made available, the compliance officer and the complainant may ask other individuals to attend this meeting and provide additional information.

**Step 3: Response**

Within 30 days of receiving the complaint, the compliance office shall prepare and send to the complainant a written report of the District's investigation and decision, as described in Step 5 below. If the complainant is dissatisfied with the compliance officer's decision, he/she may, within five days, file his/her complaint in writing with the Board of Trustees. The Board may consider the matter at its next regular Board meeting or at a special Board meeting convened in order to meet the 60-day time limit within which the complaint must be answered. The Board may decide not to hear the complaint, in which case the compliance officer's decision is final.

If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 days of the District's initially receiving the complaint or within the time period that has been specified in a written agreement with the complainant.



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**Step 4: Final Written Decision**

The report of the District's decision shall be written in English and in the language of the complainant whenever feasible or required by law. If it is not feasible to write the report in the complainant's primary language, the District will arrange a meeting at which a community member will interpret it for the complainant.

This report shall include:

1. The findings and disposition of the complaint, including corrective action, if any.
2. The rationale for the above disposition.
3. Notice of the complainant's right to appeal the decision to the California Department of Education, and procedures to be followed for initiating such an appeal.

**Appeals to the California Department of Education**

If dissatisfied with the District's decision, the complainant may appeal in writing to the California Department of Education within 15 days of receiving the District's decision. For good cause, the Superintendent of Public Instruction may grant an extension for filing appeals.

When appealing to the California Department of Education, the complainant must specify the reason(s) for appealing the District's decision and must include a copy of the locally filed complaint and the District's decision. (Title 5, Section 4652)

**FLOW CHART OF THE UNIFORM COMPLAINT PROCESS**

