

Book:	Board Policy
Section:	2000 - Instruction
Title:	Education of Students with Disabilities Under Section 504 Of The Rehabilitation Act Of 1973
Number:	2162
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Legal:	<p><u>Cross Reference</u> 2161 Education of Students with Disabilities 3210 Nondiscrimination</p> <p><u>Legal References:</u> 34 CFR Part 104 Section 504 of the Rehabilitation Act of 1973 45 CFR Part 99 Family Education and Privacy Act PL 101-336 Section 512 Americans With Disabilities Act of 1990 WAC 392-168-120 Amendment</p>
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Policy Detail

It is the intent of the district to ensure that students who are disabled within the definition of Section 504 of the Rehabilitation Act of 1973 are identified, evaluated, and provided with appropriate educational services/accommodation. Students may be disabled under this policy even though they are not eligible for services pursuant to the Individuals with Disabilities Education (IDEA).

Section 504 of the Rehabilitation Act of 1973 is a civil rights law that protects the rights of individuals with disabilities in programs and activities that receive federal financial assistance from the U.S. Department of Education. A child is a "qualified disabled person" under Section 504 if he or she (1) has a physical or mental impairment that substantially limits one or more major life activities (such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working), has a record of such an impairment, or is regarded as having such an impairment; and (2) is between the ages of 3 to 21 years old.

The district shall comply with the federal policies that require free appropriate public education, childfind, equal educational opportunity, confidentiality of information, parent involvement, participation in least restrictive environment, evaluations, placement, reevaluation, programming to meet individual needs,

placement procedures, nonacademic services, preschool and adult education programs, disciplinary exclusion, transportation, procedural requirements, appropriate funding, accessibility, special issues related to drug or alcohol addicted students, special considerations for students having AIDS or HIV infection, and special issues related to ADD/ADHD students.

A. FREE APPROPRIATE PUBLIC EDUCATION. The district shall provide a free appropriate public education (regular or special education and related aids and services) to school age children with disabilities in the district's jurisdiction. Instruction shall be designed to meet the individual needs of the disabled students as adequately as the needs of the non-disabled students are met.

B. EQUAL EDUCATIONAL OPPORTUNITY. The district shall provide students with disabilities an equal opportunity to participate in and benefit from the educational services it provides to non-disabled students. The teachers of disabled students shall meet comparable standards for certification that teachers of non-disabled students meet. Facilities shall be of comparable quality and appropriate materials and equipment shall be available.

C. CONFIDENTIALITY OF INFORMATION. The confidentiality of student records will be maintained throughout the period of time when such records are collected, stored, disclosed, or destroyed by the district, as provided by law.

D. PARENT INVOLVEMENT. The district shall obtain the written consent of parents or guardians before conducting an initial evaluation of a student. The district will notify parents or guardians of the evaluation results and any programming and placement recommendations. The district will notify parents or guardians regarding the placement of a disabled student, of subsequent evaluations of the student, or before a significant change in the student's placement. The district shall notify parents or guardians of their right to review and challenge the district's program and placement decisions if they disagree with them. Section 504 does not give parents the right to participate in a meeting during which their child's program is designed and placement is determined, as does the IDEA, but the practice is recommended.

E. PARTICIPATION IN THE LEAST RESTRICTIVE ENVIRONMENT

1. Academic setting. To the maximum extent appropriate to the needs of disabled students, the district shall educate disabled students with non-disabled students. In order to remove a child from the regular educational environment, the district must demonstrate that education of the student in the regular environment with the use of supplementary aids and services/accommodations cannot be achieved satisfactorily. Whenever the district places a student in a setting other than the regular education environment pursuant to this paragraph, it shall take into account the proximity of the alternate setting to the student's home.

2. Non-academic setting. In providing or arranging for the provision of non-academic and extra-curricular services and activities, including meals, recess periods, and the services and activities set forth in 34 CFR 104.37, the district shall ensure that disabled students participate with non-disabled students in such activities and services to the maximum extent appropriate to the needs of the disabled student in question.

F. EVALUATIONS

1. If student needs or is believed to need special education or related services, the district shall evaluate the student prior to placement and before any subsequent "significant change in that placement."

The evaluation under these circumstances does not necessarily require that standard assessments be administered. However, a review of the student's file to determine if further assessments are needed should occur.

Examples of significant changes in placement include:

- a. Expulsion
- b. Suspensions that exceed 10 consecutive days in a school year
- c. Cumulative short-term suspensions, which create a pattern of exclusion
- d. Transferring a student to home instruction
- e. Graduation from high school
- f. Significantly changing the composition of the student's class

2. The district shall establish policies and procedures for evaluation and placement, which assure those tests and other evaluation materials:

- a. Have been validated and are administered by trained personnel
- b. Are tailored to assess educational need and are not merely based on IQ scores
- c. Reflect aptitude or achievement or whatever else the tests purport to measure and do not reflect the student's impaired sensory, manual, or speaking skills (unless the test is designed to measure these particular deficits)

G. PLACEMENT PROCEDURES. In interpreting evaluation data and in making placement decisions, the district shall (1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior, (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered, (3) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the student, the meaning of the evaluation data, and the placement options, and (4) ensure that the student is educated with his/her non-disabled peers to the maximum extent appropriate.

If the district offers a free appropriate education to a student but the parent chooses to place the child elsewhere, the district is not responsible to pay for the out of district placement.

H. PROGRAMMING TO MEET INDIVIDUAL NEEDS. A documented individualized accommodation plan shall be developed by a knowledgeable team of educational professionals.

I. NON-ACADEMIC SERVICES. The district shall accommodate the needs of disabled students in providing nonacademic and extracurricular services and activities.

1. Counseling Services. In providing personal, academic or vocational counseling, guidance, or placement services to its students, the district shall provide these services without discrimination on the basis of disability. The district shall ensure that qualified students with disabilities are not counseled toward more restrictive career objectives than are non-disabled students with similar interests and abilities.

2. Physical education and athletics. In providing physical education courses and athletics and similar programs and activities to any of its students, the district shall not discriminate on the basis of disability. As the district offers physical education courses and operates or supports interscholastic, club, or intramural athletics, it shall provide an equal opportunity for qualified students with disabilities to participate in these activities. The district may offer to disabled students physical education and athletic activities that are separate or different from those offered to non-disabled students only if separation or differentiation is consistent with the requirements of 34 CFR ò 104.34 and only if no qualified disabled student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

J. PRESCHOOL PROGRAMS. In the operation of preschool education, or day care program or activity, the district shall not, on the basis of disability, exclude otherwise qualified students with disabilities from the program or activity and shall take into account the needs of such persons in determining the aid, benefits, or services to be provided under the program or activity.

K. DISCIPLINARY EXCLUSION

a. Students with disabilities are protected from being improperly excluded from school for disciplinary reasons. Certain disciplinary exclusions of disabled students from school constitute a significant change in the student's educational placement. Such disciplinary exclusions cannot be implemented until the district has satisfied the required change of placement procedures.

b. Qualified disabled students should be recognized as having a disabling condition before discipline is imposed on them, especially before imposing long-term suspension (a suspension of more than ten days duration) or regular expulsion upon a qualified disabled student that could constitute a significant change of placement. The school principal or educational staff person responsible for the imposition of discipline must ensure that a group of qualified professionals determine whether or not the misconduct is a manifestation of the student's disability. For students considered disabled under Section 504, there is no obligation to provide educational services during periods of long-term suspension or expulsion when the student's misconduct has been properly determined not to be the manifestation of a disability.

c. Misconduct that is a manifestation of his or her disability should not result in exclusion from school over ten (10) consecutive school days or for more than twenty (20) nonconsecutive school days in a school year.

Instead, the need for additional evaluation and/or a change of placement should be considered. In this circumstance, the principal or designee responsible for the imposition of discipline, the Section 504 Compliance Officer, and a team of professionals from the school who are knowledgeable about the student will meet to determine if there is a need for further evaluation or a change of program or placement. If further evaluation is recommended, it will be conducted as soon as possible.

d. Students and their parent/guardian shall be notified of the results of the decision regarding the causal relationship of the misconduct and the student's disability and of their right to challenge this decision. Students/parents/guardians objecting to procedures outlined at a. through d. above shall be entitled to exercise their rights under Section 504 to file a grievance or initiate a due process hearing. See M. PROCEDURAL REQUIREMENTS, sub-section 4.c., following.

e. Students who are considered disabled under Section 504 are subject to the same disciplinary processes and results as non-disabled students for misconduct regarding the use, sale, or possession of drugs or alcohol at school. The extra due process requirements and limitations on suspension or expulsion do not apply.

L. TRANSPORTATION. If the district places a student in a program not operated by the district, in order to meet the requirements of this law, the district shall assure that adequate transportation to and from the program is provided at no cost to the parent.

Since the district provides transportation to all its students within a certain geographic area, it shall not discriminate in its provision of transportation to students with disabilities.

M. PROCEDURAL REQUIREMENTS. The district shall ensure compliance with the requirements of Section 504 by doing the following:

1. Provide written assurance of non-discrimination whenever the district receives federal money.

2. Designate an employee to coordinate the district's Section 504 compliance activities.
The Section 504 Coordinator for the district is the director of special services.

3. Provide grievance procedures to resolve complaints of discrimination; students, parents, or employees are entitled to file grievances. (The grievance procedures for the district are set out in the Student Responsibility and Rights (Policy 3200) procedures.)

4. Establish and implement procedural safeguards to be provided to parents or guardians with respect to actions regarding the identification, evaluation, or educational placement of persons who, because of disability, need or are believed to need special instruction or related services, that includes:

a. Notice of their rights

b. An opportunity to examine relevant records

c. An impartial hearing may be initiated by the parents/guardian or the school district, with opportunity for participation by the student's parents or guardian. The student/parent is entitled to have representation by legal counsel.

d. A review procedure

N. APPROPRIATE FUNDING. The district recognizes that the regular education funding of the district is the funding source for serving students who are qualified as disabled under Section 504 only. However, if students are dual identified as Section 504 and IDEA eligible, state and federal special education funds can be used. The district shall not use money appropriated by the IDEA to serve students found disabled under Section 504 but not the IDEA. The district may use the IDEA money to evaluate a student if the district believes that the student may also be eligible under the IDEA.

O. SPECIAL CONSIDERATIONS FOR STUDENTS HAVING AIDS OR HIV INFECTION. Students with Acquired Immune Deficiency Syndrome (AIDS), AIDS Related Complex (ARC), or otherwise infected with Human Immunodeficiency Virus (HIV-infected) may be individuals with disabilities under Section 504. They may qualify as actually having a physical impairment, which substantially limits a major life activity, or may

be regarded as having such a disabling condition. Depending on the nature of the disease and the student's other conditions, the student may also qualify for services under the IDEA.

Placement of the student must be made by a group of persons knowledgeable about the student, the meaning of the evaluation and medical information, and placement options. A public health representative should be on the team. Unless currently presenting a risk of contagion due to the stage of the disease (e.g., a contagious opportunistic infection, open lesions that cannot be covered) or parents and school agree on an alternative, a student with AIDS should remain in the regular classroom.

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