

IDENTIFICATION, EVALUATION AND EDUCATION OF STUDENTS WHO ARE QUALIFIED DISABLED PERSONS WITHIN THE MEANING OF SECTION 504 OF THE REHABILITATION ACT OF 1973

Purpose

It is the intent of the Murrieta Valley Unified School District to provide a free appropriate public education to each student within its jurisdiction who is a qualified disabled person within the meaning of Section 504 of the Rehabilitation Act of 1973 ("Section 504"), regardless of the nature or the severity of the student's disability.

It is the further intent of the district to ensure that students who are disabled within the meaning of Section 504 are identified, evaluated, and provided with the required appropriate education, i.e., regular or special education and related aids and services that are designed to meet the needs of each disabled person as adequately as the needs of nondisabled persons are met.

Under Section 504, a disabled individual is one who (a) has a physical or mental impairment that substantially limits one or more major life activities, including learning; (b) has a record of such impairment; or (c) is regarded as having such impairment. [34 C.F.R. Section 104.3 0)]. A qualified person with a disability means, with respect to public preschool, elementary, secondary, or adult educational services, a disabled person of an age during which non-disabled persons are provided such services, of any age during which it is mandatory under state law to provide such services to disabled persons, or to whom a state is required to provide a free appropriate public education under the Education for All Handicapped Children Act (now Individuals with Disabilities Education Act (IDEA) [34 C.F.R. Section 104.3 (k) (2)].

Students who, because of a disability or disabilities, need or are believed to need special education or related aids are addressed under this policy. Students who are identified as individuals with exceptional needs according to the IDEA eligibility criteria are covered under a separate policy which meets the standards of state law and IDEA.

Identification and Referral Procedures

1. Students who, because of disability, need or are believed to need special education or related aids and services in order to receive a free appropriate public education may be referred by a parent, guardian, teacher, or other certificated school employee or community agency to a team (504 Team). This team at the election of the district may or may not be made up of the same persons as an IEP Team or a school based intervention student study team (SST), but will act as the 504 Team to make determinations regarding the identification and evaluation of the student's individual education needs under the standards of Section 504.

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2. The 504 Team will be composed of persons knowledgeable about the student, the student's school history, the student's individual needs, the meaning of evaluation data, the options for placement and services. The Director of Pupil Services will monitor the composition of the 504 Team(s) to ensure that qualified personnel participate.
3. The 504 Team 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. In those cases where additional assessment is required to make such a determination, the additional tests or observations will be agreed upon and will be conducted. If a request for evaluation is denied, the 504 Team will inform the parents or guardian of this decision and of the procedural rights as described below in Section F.

Evaluation

Evaluation of qualified disabled students within the meaning of Section 504 and formulation of a plan for services will be carried out by the 504 Team according to the following procedures:

1. The 504 Team will evaluate the nature of the student's disability and the impact of the disability 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 or grade level) for participation in the educational program and/or activities. The evaluation will comply with the requirements set forth in 34 C.F.R. Section 104.35 (a) and (b).
2. No final determination of whether the student will or will not be identified as a qualified disabled person within the meaning of Section 504 will be made by the 504 Team without first inviting the student's parents or guardian to participate in a meeting concerning such determination.
3. A final decision will be made by the 504 Team in writing. The 504 Team will notify the student's parents or guardian of the procedural safeguards available to them, including the right to an impartial hearing and review, as described below in Section F.

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Plan for Services

1. For students who have been identified as disabled within the meaning of Section 504 and in need of special education or related aids and services, the 504 Team will determine the placement or aids and services necessary to ensure that the students receive a free, appropriate education. In making this determination, the SST will 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, pursuant to 34 C.F.R. Section 104.35 (b) and (c).
2. The parents or guardian of a qualified disabled student will be invited to participate in the 504 Team meeting where services for the student will be determined and will be given an opportunity to examine in advance all relevant records concerning the student.
3. For each identified qualified disabled student, the 504 Team will develop a written plan describing the student's disability and the special education or related aids and services needed. The plan will specify how the special education and related aids and services will be provided to the qualified disabled student, and by whom.
4. The 504 Team may also determine that a student identified as a qualified disabled person within the meaning of Section 504 does not need special education or related aids and services. If such a determination is made, the 504 Team will document the basis for the decision that no special services are needed.
5. In all cases, a qualified disabled student within the meaning of Section 504 will be placed in the district's regular educational environment with the use of supplementary aids and services unless the district demonstrates that a more restrictive placement is required in order to meet the individual educational needs of the student.
6. Qualified disabled students will be educated with non-disabled students to the maximum extent appropriate to the needs of the qualified disabled student.
7. The 504 Team will provide the parents or guardian of each qualified disabled student written notice of its final decision concerning the services to be provided to the student.

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8. If a plan for providing related services to a qualified disabled student is developed, all district personnel who work with the student will be informed of the plan.
9. The district will complete the identification, evaluation and placement process within a reasonable time frame.

Review of the Student's Progress

1. The 504 Team will monitor the progress of the qualified disabled student and the effectiveness of the plan annually to determine whether the special education or related aids and services are appropriate and necessary and to assure that the agreed to plan is being implemented.
2. Prior to any significant change in the educational placement of qualified disabled student, the district will conduct a comprehensive reevaluation of the student's needs.

Procedural Safeguards

1. The parents or guardian shall be notified in writing of all district decisions concerning the identification, evaluation, or educational placement of their child made under this policy. The advisement will set forth the procedures for filing a request for a Section 504 due process hearing; the title of the person with whom they shall make any such request and the address and phone number; and the fact that reimbursement for attorney's fees is available only as authorized by law.
2. The parents or guardians of a qualified disabled student have the right to review relevant records. Records may be reviewed at the school site or at the district office.
3. A parent or guardian may appeal decisions relating to any of the following:
 - a. Identification of the student as a qualified disabled individual pursuant to 34 C.F.R. Section 104.3 0)
 - b. Evaluation procedures utilized with the student pursuant to 34 C.F.R. Section 104.35.
 - c. Educational placement/services recommended for the student in accordance with 34 C.F.R. Section 104.35.

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4. The appeal process is an impartial hearing (Section 504 due process hearing). An appeal/ request for hearing is to be filed in the office of Pupil Services and will identify the district decision with which the parent disagrees.
 - a. Within 20 calendar days of receipt of a written appeal or request for hearing, the Director of Pupil Services will select an impartial Section 504 Hearing Officer in each case for which a hearing has been requested.
 - b. Within 45 calendar days of the selection of the 504 Hearing Officer, the hearing on the appeal shall be conducted and a written decision mailed to all parties.
 - c. Any Section 504 Hearing Officer selected by the district must satisfy the following requirements:
 - (1) Be qualified to review district decisions relating to Section 504 of the Rehabilitation Act.
 - (2) Be impartial, i.e., not employed by or under contract with the district in any capacity other than that of a hearing officer in the last three years, or by any cooperative program in which the district participates, e.g., the SELPA of which the district is a member, or by any other agency or organization that is directly involved in the diagnosis, education or care of the student, and additionally shall not be a person who has a personal involvement that would affect his/her objectivity in this case.
 - d. Any party to the hearing shall be afforded the following rights:
 - (1) The right to be accompanied and advised by counsel and/or by individuals with special knowledge or training relating to the problems of students who are qualified disabled individuals within the meaning of Section 504.
 - (2) The right to present evidence, through documents and/or testimony.
 - (3) The right to question and cross-examine witnesses.
 - (4) The right to written findings of fact, conclusions of law and decisions prepared by the Section 504 Hearing Officer.

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- e. In instances where a hearing already 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.
- f. The Section 504 Hearing Officer shall render a decision de nova pursuant to the legal standards set forth in 34 C.F.R. Part 104 and court decisions interpreting those provisions.
- g. Either party may seek review of the decision of the Section 504 Hearing Officer. The parties shall abide by the decision of the Section 504 hearing officer unless the decision is stayed, modified or overturned by a court of competent jurisdiction.

Regulation
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MURRIETA VALLEY USD
Murrieta, California