

# ~~MODESTO CITY SCHOOLS~~

## ~~Administrative Regulation~~

~~AR 6164.6~~

### ~~STUDENTS~~

#### ~~Identification, Evaluation and Education of Students Who are Qualified Disabled Persons as Defined in Section 504 of the Rehabilitation Act of 1973~~

### ~~PROCEDURES~~

#### ~~A. Eligibility~~

~~A disabled student eligible for services under Section 504 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 an impairment, or (c) is regarded as having such an impairment. (Code of Federal Regulations, Title 34, Part 104.3)~~

~~Major life activities are functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. Examples of students with such impairments include, but are not limited to:~~

- ~~1. Students with a normal ability to learn but who have a mobility impairment.~~
- ~~2. Students with a normal ability to learn academically but who require occupational or physical therapy in order to function physically.~~
- ~~3. Students with emotional disabilities manifested by behavior problems which result in exclusion from classes or school.~~

~~Indications of a possible disability that significantly interferes with learning include, but are not limited to:~~

- ~~1. Medical conditions such as severe asthma or heart disease.~~

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- ~~2. Temporary medical conditions due to illness or accident.~~
- ~~3. Poor or failing grades over a lengthy period of time.~~
- ~~4. A student with frequent referrals for behavioral problems.~~

**B. Referral, Identification and Evaluation Procedures**

- ~~1. Any student may be referred by a parent/guardian, teacher, other certificated school employee or community agency for consideration of eligibility as a disabled student under Section 504. This referral should be made to the designated school site 504 Coordinator. The 504 Team will include persons knowledgeable about the Section 504 standards, the student's individual needs and school history, the meaning of the evaluation data, and placement options.~~
- ~~2. The Coordinator will notify the parent of the referral and the scheduled meeting of the team and invite the parent to attend.~~
- ~~3. The Student Success/504 Team shall promptly consider the referral and determine whether an evaluation under this procedure is appropriate. This determination shall be based on a review of the student's school records and the student's needs. The evaluation may include, but not limited to, classroom and playground observations, performance based testing, academic assessment information, and data offered by the parent/ guardian. Students requiring assessment must be evaluated in all suspected areas of disability to determine if the student is a student with a disability under Section 504. Students requiring evaluation shall be referred to appropriate evaluation specialists. Parents must consent to the assessment plan in writing.~~
- ~~4. Assessments will be conducted in the same manner as if the student had been referred under IDEA.~~

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5. ~~The assessors will consider both Individuals with Disabilities Education Act (IDEA) eligibility and whether the child is disabled under Section 504 (e.g. suffers from a mental or physical impairment which substantially interferes with a major life activity such as learning. Whenever there is reason to believe that because of a disability, a student needs regular special education and/or related aids and services (and the student has not been found eligible under IDEA) that student will be evaluated under this policy's administrative regulation. If the District does not assess a student after a parent has requested an assessment, the District shall provide notice of the parent's/guardian's procedural safeguards.~~
6. ~~If a request for evaluation is denied, the school site committee shall inform the parents/guardians of this decision and of their procedural rights as described below.~~

### **C. 504 Education Plan**

1. ~~When a student is identified as disabled within Section 504 guidelines, the Student Success/504 Team shall determine what services are necessary to ensure that the student's individual education needs are met as adequately as the needs of nondisabled students to the extent appropriate to the student's individual needs. Such services include regular or special education and/or related aids and services designated to meet their individual needs.~~
2. ~~In making this determination, the Student Success/504 Team shall consider all significant factors relating to the learning process for the student, including his/her adaptive behavior and cultural and language background.~~

~~The 504 Team will include persons knowledgeable about the Section 504 standards, the student's individual needs and school history, the meaning of the evaluation data, and placement options.~~

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- ~~3. The parent/guardian shall be invited to participate in the Student Success/504 Team meeting where services for the student will be determined. The parent/guardian shall be given an opportunity to examine all relevant records and shall receive notice of the procedural safeguards guaranteed by law.~~
- ~~4. The Student Success/504 Team shall develop a written plan describing the disability and specifying the general or special education services needed by the student. A copy of this plan shall be kept in the student's cumulative file. The student's teacher and any other staff who provide services to the student shall be informed of the services necessary for the student, to the extent that they need to be informed in order to provide for the student in the school setting.~~
- ~~5. If the Student Success/504 Team determines that no services are necessary for the student, the record of the committee's meeting shall reflect the identification of the student as a disabled person under Section 504 and shall state the basis for the decision that no special services are presently needed.~~
- ~~6. The disabled student shall be placed in the regular educational environment unless the district demonstrates that a more restrictive placement is required in order to meet the student's needs. The disabled student shall be educated with those who are not disabled to the maximum extent appropriate to his/her individual needs.~~
- ~~7. The district shall complete the identification, evaluation, and placement process within a reasonable time frame.~~
- ~~8. The student's plan shall 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.~~

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9. ~~The parent/guardian shall be notified in writing of the final decision concerning services to be provided, if any, and of the Section 504 procedural safeguards, including the right to an impartial hearing to challenge the decision.~~

**D. Review of the Student's Progress**

1. ~~The Student Success/504 Team shall monitor the progress of the disabled student and the effectiveness of the student's plan. The committee shall periodically determine whether the services are appropriate and necessary and whether the disabled student's needs are being met as adequately as the needs of nondisabled students.~~
2. ~~A reevaluation of the student's needs will be conducted before any subsequent change in placement.~~

**E. Procedural Safeguards**

1. ~~Parents/guardians shall be notified in writing of all decisions regarding the identification, evaluation or educational placement of students with disabilities or suspected disabilities. Notifications shall include a statement of their rights to:~~
  - a. ~~Examine relevant records.~~
  - b. ~~Have an impartial hearing with an opportunity for participation by the parents/guardians and their counsel.~~
  - c. ~~Seek review in federal court if the parents/guardians disagree with the hearing decision.~~

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- ~~2.—Notifications shall also set forth the procedures for requesting an impartial hearing. Requests shall be made to the Section 504 Coordinator. Notifications shall advise that reimbursement for attorney's fees is available only as authorized by law.~~
- ~~3.—The District 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 any district within this District's SELPA or the County Office of Education in any capacity other than that of hearing officer and shall not have any professional or personal involvement that would affect their impartiality or objectivity in the matter.~~
- ~~4.—If a parent/guardian disagrees with the identification, evaluation or educational placement of a student with disabilities under Section 504, he/she may request a hearing to initiate due process procedures. The parent/guardian shall set forth in writing his/her request for a hearing. A request for hearing should include:
  - ~~a.—The specific decision or action with which the parent/guardian disagrees.~~
  - ~~b.—The changes to the 504 Plan the parent/guardian seeks.~~
  - ~~c.—Any other information the parent/guardian believes is pertinent.~~~~
- ~~5.—Within five calendar days of receiving the parent/guardian's request for hearing, the District may offer the parent/guardian an optional alternative dispute resolution process. However, the timeline for the hearing shall remain in effect unless it is extended by mutual written agreement of the parent/guardian and the District. Alternative dispute resolution options include:
  - ~~a.—Mediation by a neutral third party.~~~~

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- ~~b. Review of the 504 Plan by the Superintendent/designee.~~
- ~~6. Within 10 calendar days of receiving the parent/guardian's request, the Superintendent/designee shall select an impartial hearing officer. The 10 days may be extended for good cause or by mutual agreement of the parent/guardian and the District.~~
- ~~7. Within 35 calendar days of the selection of the hearing officer, the due process hearing shall be conducted. The 35 days may be extended for good cause or by mutual agreement of the parent/guardian and the District.~~
- ~~8. The parent/guardian and the District shall be afforded the rights to:~~
  - ~~a. Be accompanied and advised by counsel and by individuals with special knowledge or training related to the individual needs of students who are qualified as disabled under Section 504.~~
  - ~~b. Present written and oral evidence.~~
  - ~~c. Question and cross-examine witnesses.~~
  - ~~d. Receive written findings by the hearing officer.~~
- ~~9. The hearing officer shall issue a written decision within 10 calendar days of the hearing.~~
- ~~10. If desired, either party may seek a review of the hearing officer's decision by a federal court. The decision shall be implemented unless the decision is stayed, modified, or overturned by a court.~~

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#### 11. Student Suspension/Expulsion

- a. ~~No student disabled under Section 504 or in the process of being evaluated for IDEA or 504 eligibility may be expelled or subjected to other discipline that constitutes a significant change in placement for misconduct which is caused by, or is a manifestation of his/her disability, without parental consent or a court order. Disciplinary action constituting a significant change in placement includes: i) expulsions; and ii) suspensions of more than 10 consecutive school days or a series of shorter suspensions which, when combined, creates a significant pattern of exclusion based on the length of each suspension, the proximity of the suspension to one another, and the total time the student is excluded from school.~~
- b. ~~If an action is contemplated regarding behavior or involving a removal that constitutes a change of placement for a child handicapped under 504 who has engaged in behavior that violated any rule or code of conduct of the LEA that applies to all children, the following must occur:~~
  - (1) ~~Immediately, but in no case later than 5 school days after the date on which the decision to take that action is made, an assessment must be conducted of the relationship between the child's disability and the behavior subject to the disciplinary action.~~
  - (2) ~~Carry out a "Manifestation Determination." The Student Success/504 Team and other qualified personnel may determine that the behavior of the child was not a manifestation of the child's disability only if the team and other qualified personnel—~~
    - (a) ~~First consider, in terms of the behavior subject to disciplinary action, all relevant information, including—~~



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- i. ~~Evaluation and diagnostic results, including the results or other relevant information supplied by the parents of the child;~~
  - ii. ~~Observations of the child; and~~
  - iii. ~~The child's 504 plan and placement; and~~
  - iv. ~~Whether further evaluation is necessary to make this determination.~~
- (b) ~~Then determine that—~~
  - i. ~~In relationship to the behavior subject to disciplinary action, the child's 504 plan and placement were appropriate and the services, supplementary aids, and behavior intervention strategies were provided consistent with the child's 504 Plan and placement.~~
  - ii. ~~The child's disability did not impair the ability of the child to understand the impact and consequences of the behavior subject to disciplinary action; and~~
  - iii. ~~The child's disability did not cause or contribute to the behavior subject to disciplinary action.~~
- e. ~~If the Student Success/504 Team and other qualified personnel determine that any of the standards in paragraph (2) (b) of this section were not met, the behavior must be considered a manifestation of the child's disability and then the child is not subject to this discipline.~~

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~~The 504 Team reconvenes to address the student's disability and an appropriate placement and services.~~

- ~~d. If the parent/guardian disagrees with the team's determination, he/she may appeal that determination under the procedures outlined in the "Procedural Safeguards" section.~~

~~(cf. 5131 Student Conduct Code, K-6)~~

~~(cf. 5132 Student Conduct Code, 7-12)~~

~~(cf. 5132.1 Suspension & Expulsion/Due Process (Pupils with Previously Identified Exceptional Needs))~~