

# MODESTO CITY SCHOOLS

## Board Policy

BP 6164.6

### INSTRUCTION

#### Identification And Education Under Section 504

The Governing Board believes that all children, including children with disabilities, should have the opportunity to learn in a safe and nurturing environment. The Superintendent or designee shall work to identify children with disabilities who reside within the jurisdiction of the district in order to ensure that they receive educational and related services required by law.

The Superintendent or designee shall provide qualified students with disabilities with a free appropriate public education (FAPE), as defined under Section 504 of the federal Rehabilitation Act of 1973. Such students shall receive regular or special education and related aids and services designed to meet their individual educational needs as adequately as the needs of students without disabilities are met. (34 CFR 104.33)

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

*(cf. 0430 - Comprehensive Local Plan for Special Education)*

*(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)*

*(cf. 5141.22 - Infectious Diseases) (N/A)*

*(cf. 5141.23 - Asthma Management)*

*(cf. 5141.24 - Specialized Health Care Services) (N/A)*

*(cf. 5141.27 - Food Allergies/Special Dietary Needs)*

*(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))*

*(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)*

In addition, qualified students with disabilities shall be provided an equal opportunity to participate in programs and activities that are integral components of the district's basic education program, including, but not limited to, extracurricular athletics, interscholastic sports, and/or other nonacademic activities. (34 CFR 104.37)

*(cf. 6145 - Extracurricular and Cocurricular Activities)*

*(cf. 6145.2 - Athletic Competition)*

*(cf. 6145.5 - Student Organizations and Equal Access) (N/A)*

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The district's local control and accountability plan shall include goals and specific actions to improve student achievement and other outcomes of students with disabilities. At least annually, the Superintendent or designee shall assess the district's progress in attaining the goals established for students with disabilities and shall report these results to the Board. (Education Code 52052, 52060)

*(cf. 0460 - Local Control and Accountability Plan)*

In providing services to students with disabilities under Section 504, the Superintendent or designee shall ensure district compliance with law, including providing the students and their parents/guardians with applicable procedural safeguards and required notifications. Any dispute as to the identification, evaluation, or placement of any student with a disability shall be resolved in accordance with the processes specified in the "Procedural Safeguards" section of the accompanying administrative regulation.

The Superintendent or designee 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 the district in any other capacity except as hearing officer and shall not have any professional or personal involvement that would affect their impartiality or objectivity in the matter.

**Legal Reference:**

**EDUCATION CODE**

49423.5 Specialized physical health care services  
52052 Accountability; numerically significant student subgroups  
52060-52077 Local control and accountability plan  
56043 Special education, timelines  
56321 Assessment; development of IEP; parental notifications, consent

**CODE OF REGULATIONS, TITLE 5**

3051.12 Health and Nursing Services

**UNITED STATES CODE, TITLE 20**

1232g Family Educational Rights and Privacy Act of 1974

1400-1482 Individuals with Disabilities Education Act

**UNITED STATES CODE, TITLE 29**

705 Definitions; Vocational Rehabilitation Act

794 Rehabilitation Act of 1973, Section 504

**UNITED STATES CODE, TITLE 42**

12101-12213 Americans with Disabilities Act

**CODE OF REGULATIONS, TITLE 28**

35.101-35.190 Nondiscrimination on the basis of disability in state and local government services

## **INSTRUCTION**

### **Identification And Education Under 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

104.32 Location and notification

104.33 Free appropriate public education

104.34 Educational setting

104.35 Evaluation and placement

104.36 Procedural safeguards

104.37 Nonacademic services

104.7 Responsible employee; grievance procedures

#### **COURT DECISIONS**

Christopher S. v. Stanislaus County Office of Education, (2004) 384 F.3d 1205

Management Resources:

#### **CSBA PUBLICATIONS**

Rights of Students with Diabetes Under IDEA and Section 504, Policy Brief, December 2007

#### **CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES**

Legal Advisory on Rights of Students with Diabetes in California's K-12 Public Schools, August 2007

#### **U.S. DEPARTMENT OF EDUCATION OFFICE FOR CIVIL RIGHTS PUBLICATIONS**

Dear Colleague Letter and Resource Guide on Students with ADHD, July 2016

Protecting Students with Disabilities: Frequently Asked Questions About Section 504 and the Education of Children with Disabilities, October 2015

Dear Colleague Letter, January 2013

Dear Colleague Letter and Questions and Answers on ADA Amendments Act of 2008 for Students with Disabilities Attending Public Elementary and Secondary Schools, January 2012

Free Appropriate Public Education for Students with Disabilities: Requirements under Section 504 of the Rehabilitation Act of 1973, September 2007

#### **WEB SITES**

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office for Civil Rights: <http://www2.ed.gov/about/offices/list/ocr>