

AR 6164.6 Identification and Education under Section 504

Definitions

A 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. (34 CFR 104.3)

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

1. Students with mobility impairments who have normal learning abilities.
2. Students whose physical functions depend on occupational or physical therapy, but who have normal academic learning abilities.
3. Students with emotional disabilities manifested by behavior problems that result in exclusion from classes or school

Indications of a Possible Disability

1. Medical conditions such as severe asthma or heart disease.
2. Temporary medical condition due to illness or accident.
3. Poor or failing grades over a lengthy period of time.

Referral and Identification 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 school site principal.
2. The school site committee 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 (including academic, social and behavioral records) and the student's needs. Students requiring evaluation shall be referred to appropriate evaluation specialists.
3. 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.

Accommodation Plan

1. When a student is identified as disabled within the meaning of Section 504, the school site committee 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.
2. In making this determination, the school site committee shall consider all significant factors relating to the learning process for the student, including his/her adaptive behavior and cultural and language background. 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.

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3. The parents/guardians shall be invited to participate in the school site committee meeting where services for the student will be determined and shall be given an opportunity to examine all relevant records.
4. The school site committee shall develop a written plan describing the disability and specifying the 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 school site committee determines that the student needs no special services, the committee meeting record shall identify the student as a disabled person under Section 504 and shall state the basis for the decision that no special services are needed.
6. The disabled student shall be placed in the general educational environment unless the district determines that a more restrictive placement is required to meet the student's needs. The disabled student shall be educated nondisabled students to the maximum extent appropriate to his/her individual needs.
7. The parents/guardians 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.
8. The district shall complete the identification, evaluation and placement process within a reasonable time.
9. 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.

Review of the Student's Progress

1. The school site committee 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 significant change in placement.

Procedural Safeguards

Parents/guardians shall be notified in writing of all district decisions regarding the identification, evaluation or educational placement of students with disabilities or suspected disabilities. Notifications shall include a statement of their rights to: (34 CFR 104.36)

1. Examine relevant records.
2. Have an impartial hearing with an opportunity for participation by the parents/guardians and their counsel.
3. Have a review procedure.

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Notifications shall set forth the procedures for requesting a hearing, identify the name, address and telephone number of the person to whom the request should be made, and state that reimbursement for attorney's fees is available only if authorized by law.

The Superintendent or designee shall maintain a list of impartial hearing officers qualified to conduct Section 504 hearings. To ensure impartiality, such officers shall not be employed by or under contract with the district 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.

If a parent/guardian disagrees with the identification, evaluation or educational placement of a student with disabilities under Section 504, he/she may initiate the following procedures:

1. Within 30 days of receiving the student's accommodation plan, provide a written explanation of his/her disagreement and request that the school principal and school site committee review the plan to resolve the disagreement. This review shall be held within 14 days of receiving the parent/guardian's request, and the parent/guardian shall be invited to attend.
2. If the disagreement is not resolved, request in writing that the Superintendent or designee review the plan. This review shall be held within 14 days of receiving the parent/guardian's request, and the parent/guardian shall be invited to meet with the Superintendent or designee to discuss the review.
3. If disagreement continues, request in writing a Section 504 due process hearing. The request shall include:
 - a. The specific nature of the decision with which the parent/guardian disagrees.
 - b. The specific relief the parent/guardian seeks.
 - c. Any other information the parent/guardian believes pertinent.

Within 20 days of receiving the parent/guardian's request, the Superintendent or designee shall select an impartial hearing officer. The 20 day period may be extended for good cause or by mutual agreement of the parties.

Within 45 days of the hearing officer selections, the Section 504 due process hearing shall be conducted and a written decision mailed to all parties. The 45 day period may be extended for good cause or by mutual agreement of the parties. The Superintendent or designee shall represent the district at this hearing.

Any party to the hearing shall be afforded the right to:

1. Be accompanied and advised by counsel and by individuals with special knowledge or training regarding students eligible for services under Section 504.
2. Present written and oral evidence.
3. Question and cross-examine witnesses.
4. Receive written findings by the hearing officer.

If desired, either party may seek a review of the hearing officer's decision by a federal court of competent jurisdiction.

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