

# **GUSD**

## **Board Policy**

### **Identification And Education Under Section 504**

BP 6164.6

#### **Instruction**

\*\*\*Note: The following policy and accompanying administrative regulation address the identification and education of students who may be eligible for services under the provisions of Section 504 of the federal Rehabilitation Act of 1973 (29 USC 794). Pursuant to 34 CFR 104.33, eligible students are entitled to a free appropriate public education (FAPE) which is designed to meet the student's individual educational needs as adequately as the needs of nondisabled students are met. Enforcement of Section 504 requirements is the responsibility of the U.S. Department of Education's Office for Civil Rights (OCR), which monitors districts' policies, processes, and practices to ensure legal compliance.\*\*\*

\*\*\*Note: Students may be identified as disabled under Section 504 even though they do not require services pursuant to the federal Individuals with Disabilities Education Act (IDEA) (20 USC 1400-1482). The identification of students eligible for services under IDEA is addressed at BP/AR 6164.4 - Identification and Evaluation of Individuals for Special Education.\*\*\*

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

\*\*\*Note: Section 504 of the Rehabilitation Act of 1973 and its implementing regulations (34 CFR 104.1-104.39) prohibit discrimination on the basis of disability in district programs and activities. see BP 0410 - Nondiscrimination in District Programs and Activities.\*\*\*

The Superintendent or designee shall provide identified students with disabilities with a free appropriate public education, 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 nondisabled students 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)  
(cf. 5141.23 - Asthma Management)  
(cf. 5141.24 - Specialized Health Care Services)  
(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)

\*\*\*Note: Pursuant to 34 CFR 104.33, as interpreted by OCR in its January 2013 Dear Colleague Letter, a district's responsibility under Section 504 requirements extends to providing students with disabilities equal opportunity to participate in extracurricular athletics and other nonacademic programs or activities that constitute the overall educational program.\*\*\*

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)

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.

\*\*\*Note: The following optional paragraph ensures the availability of hearing officers to conduct impartial hearings to resolve disagreements about the provision of FAPE, pursuant to 34 CFR 104.36.\*\*\*

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

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 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

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,  
November 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; 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>

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