
CLOVIS UNIFIED SCHOOL DISTRICT

INSTRUCTION

Alternative/Specialized Programs

IDENTIFICATION, EVALUATION, AND EDUCATION OF STUDENTS UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973

A. Section 504 Coordinator

The Superintendent designates the following position as the District's Section 504 Coordinator to implement the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504): (34 CFR 104.7)

Wendy J. Karsevar
Districtwide Section 504 Coordinator
1680 David E. Cook Way
Clovis, CA 93611
(559) 327-9385
WendyKarsevar@cusd.com

In addition to the District Section 504 Coordinator, each school site has one or more Section 504 Site Coordinators.

B. Definitions

As used throughout this administrative regulation, the following terms and phrases shall have the meanings specified below:

1. *Free appropriate public education (FAPE)* means the provision of regular or special education and related aids and services designed to meet the individual educational needs of a student with a disability(ies) as adequately as the needs of students without disabilities are met, at no cost to the student or his/her parent/guardian except when a fee is specifically authorized by law for all students. The “free education” may consist either of the provision of free services or of payment by the District for the costs of the aid, benefits, or services. Nothing in Section 504 shall be construed to relieve an insurer or similar third party from an otherwise valid obligation to provide or pay for services provided to a student with a disability. (34 CFR 104.33)
2. *Student with a disability* means a student who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. (28 CFR 35.108; 34 CFR 104.3)
3. *Physical or mental impairment* means (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, immune, hemic, lymphatic, skin,

CLOVIS UNIFIED SCHOOL DISTRICT

and endocrine; or (B) any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disability. (28 CFR 35.108; 34 CFR 104.3) Physical or mental impairment includes but is not limited to contagious and noncontagious diseases and conditions such as the following: orthopedic, visual, speech, and hearing impairments, and cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, dyslexia and other specific learning disabilities, Attention Deficit Hyperactivity Disorder, Human Immunodeficiency Virus infection (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism. Physical or mental impairment does not include homosexuality or bisexuality. (28 CFR 35.108)

4. *Substantially limits major life activities* means limiting a person's ability to perform functions, as compared to most people in the general population, such as caring for himself/herself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, writing, communicating, and working. Major life activities also includes major bodily functions such as functions of the immune system, special sense organs and skin, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions, as well as the operation of an individual organ within a body system. The term “substantially limits” shall be construed broadly in favor of expansive coverage, to the maximum extent permitted by law. (28 CFR 35.108; 34 CFR 104.3)

The determination of whether an impairment substantially limits a student's major life activities shall be made without regard to the ameliorative effects of mitigating measures other than ordinary eyeglasses or contact lenses. Mitigating measures are measures that an individual may use to eliminate or reduce the effects of an impairment, including, but not limited to, medications, medical supplies or equipment, prosthetic devices, assistive devices, reasonable modifications or auxiliary aids or services, learned behavioral or adaptive neurological modifications, psychotherapy, behavioral therapy, or physical therapy. (28 CFR 35.108)

C. Referral, Identification, and Evaluation Procedures

The District shall conduct an evaluation of any student who, because of disability, needs or is believed to need special education and related services under Section 504. (34 CFR 104.35)

Additionally, the District annually shall: (34 CFR 104.32)

1. Undertake to identify and locate every student with a disability residing in the District who is not receiving a public education; and
2. Take appropriate steps to notify students with disabilities and their parents or guardians of this duty.

CLOVIS UNIFIED SCHOOL DISTRICT

Any action to be taken or decision to be made by the District involving the referral, identification, or evaluation of a student with a disability(ies) shall be in accordance with the following procedures:

1. A parent/guardian, teacher, other school employee, student success team, or community agency may refer a student for evaluation to determine if the student is a student with a disability under Section 504 and needs a Section 504 Plan.
2. The Section 504 Site Coordinator or the District Section 504 Coordinator shall consider the referral and determine whether an evaluation is appropriate. This determination shall be based on a review of the student's school records, including those in academic and nonacademic areas of the school program; consultation with the student's teacher(s), other professionals, and the parent/guardian, as appropriate; and analysis of the student's needs.
3. If it is determined that an evaluation is unnecessary, the District shall notify the parent/guardian in writing of this decision and of their procedural safeguards, as described in the "Procedural Safeguards" section below.
4. If the student needs or is believed to need special education and related services under Section 504, the District shall conduct an evaluation of the student within 60 days (not counting days between the student's regular school sessions or terms or days of school vacation in excess of five school days) from the date of receipt of written parental consent unless the parent agrees in writing to an extension before taking any action with respect to the initial placement of the person in regular or special education. (34 CFR 104.35; 34 CFR 300.301).
5. Prior to conducting an initial evaluation of a student for eligibility under Section 504, the District shall obtain written parent/guardian consent.
6. The District's evaluation procedures shall ensure that the tests and other evaluation materials: (34 CFR 104.35)
 - a. Have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instruction provided by the test publishers.
 - b. Are tailored to assess specific areas of educational need and are not merely those which are designed to provide a single general intelligence quotient.
 - c. Have been selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement or whatever else the tests purport to measure rather than his/her impaired sensory, manual, or speaking skills, except where those skills are the factors that the tests purport to measure.

CLOVIS UNIFIED SCHOOL DISTRICT

7. No final determination of whether the student will or will not be identified as a disabled student within the meaning of Section 504 will be made by the 504 Team without first inviting the parent/guardian of the student to participate in the meeting concerning such determination.

D. Section 504 Plan and Placement

The District shall provide a FAPE to each student with a disability who meets Section 504 eligibility requirements regardless of the nature or severity of the student's disability and who attends a public school in the District's jurisdiction. Implementation of an Individualized Education Program (IEP) developed in accordance with the Individuals with Disabilities Education Improvement Act (IDEA) is one means of providing a FAPE. (34 CFR 104.33)

1. The District shall convene a 504 Team consisting of a group of persons knowledgeable about the student, the meaning of the evaluation data, and the placement options to review the evaluation results, determine if the student is a student with a disability (ies) under Section 504, and if so, determine whether the student needs a 504 Plan. (34 CFR 104.35)
 - a. The determination of whether an impairment substantially limits one or more of a student's major life activities shall be made without regard to the ameliorative effects of mitigating measures other than ordinary eyeglasses or contact lenses. (28 CFR 35.108)
 - b. The determination of whether a student who has a physical or mental impairment that substantially limits one or more major life activities needs a 504 Plan shall take into account the ameliorative effects of mitigating measures.
2. If the student is a student with a disability(ies) who needs a 504 Plan, the 504 Team will determine what regular or special education and related services are necessary to provide the student with a FAPE.
3. In interpreting evaluation data and making placement decisions, the District shall: (34 CFR 104.34, 104.35)
 - a. Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior.
 - b. Establish procedures to ensure that information obtained from all such sources is documented and carefully considered.
 - c. Ensure that the placement decision is made by the 504 Team.

CLOVIS UNIFIED SCHOOL DISTRICT

- d. Place a student with a disability in the regular educational environment unless it is demonstrated that the education of the person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily.
4. Based on the evaluation results, the 504 Team may determine that the student is disabled, but the student does not need a 504 Plan. In that case, the record of the 504 Team meeting shall document this determination including the reason(s) the student does not need a 504 Plan.
5. A final decision about eligibility and the need for a 504 Plan will be made by the 504 Team in writing, and the parent/guardian of the student shall be notified of the Section 504 procedural safeguards available to them, including the right to an impartial hearing. (34 CFR 104.35, 104.36)
6. For a student determined to meet eligibility requirements and need a 504 Plan, the 504 Team will develop a 504 Plan describing the nature of the student's disability and the major life activity(ies) it limits; the educational impact of the disability(ies); any necessary regular or special education and related aids and services, accommodations and/or modifications; and placement in the least restrictive environment. The plan will specify how the special education, related aids and services, accommodations, and/or modifications will be provided, and by whom. On-going documentation shall be maintained by the student's teacher(s) and others responsible for implementing the 504 Plan.
7. The 504 Team shall determine placement so that the student with a disability is educated with students who are not disabled to the maximum extent appropriate to the needs of the student with a disability.
 - a. Whenever the District places a student with a disability in a setting other than the regular educational environment, the District shall take into account the proximity of the alternate setting to the student's home.
 - b. In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals and recess periods, the District shall ensure that students with disabilities participate with students without disabilities in such activities and services to the maximum extent appropriate to the needs of the student with a disability in question.

Nonacademic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the District, referrals to agencies which provide assistance to students with disabilities, and employment of students, including both employment by the District and assistance in making available outside employment.

- c. If the District operates a facility that is identifiable as being for students with disabilities, the District shall ensure that the facility and the services and activities provided therein are comparable to the other facilities, services, and activities of the District.

**CLOVIS UNIFIED
SCHOOL DISTRICT**

8. The District may place or refer a student with a disability for aids, benefits, or services other than those it operates and provides as a means of providing the student with a FAPE, but the District remains responsible for provision of a FAPE. The District shall ensure that adequate transportation to and from the aid, benefits, or services is provided at no greater cost than would be incurred by the student or his or her parent/guardian if the person were placed in the aid, benefits, or services operated by the District. (34 CFR 104.33)
9. If the District has made available a FAPE for the student but the student's parent/guardian chooses to place the student in a private school, the District is not required to pay for the student's education in the private school. Disagreements between a parent/guardian and the District regarding whether the District has made a FAPE available or otherwise regarding the question of financial responsibility are subject to the due process procedures set forth in the "Procedural Safeguards" section below. (34 CFR 104.33)
10. The District shall complete the identification, evaluation, and placement process within a reasonable time frame.
11. The student's parent/guardian will be asked to sign their attendance at the 504 Team meeting.
12. A copy of the 504 Plan shall be maintained in the student's cumulative file. District employees responsible for implementing the 504 Plan shall be provided a copy.
13. If a student transfers to another school within the District, the principal or designee at the school from which the student is transferring shall ensure that the principal or designee at the new school receives a copy of the 504 plan prior to or simultaneous with the student's enrollment in the new school.

E. Review and Reevaluation

1. The 504 Team will monitor the progress of the student and the effectiveness of the student's 504 Plan. The District will convene the 504 Team at least annually to determine whether the 504 Plan remains appropriate and necessary and whether the needs of the student with a disability are being met as adequately as the needs of students without disabilities are met.
2. Each student with a disability shall be evaluated at least once every three years. (34 CFR 104.35)
3. Prior to any significant change in placement, the District shall conduct a reevaluation of the student. (34 CFR 104.35) A "significant change in placement" occurs when a student with a disability is excluded from his or her educational program for more than 10 days. A significant change in placement resulting from the imposition of disciplinary measures resulting in exclusion for more than 10 days (including a pattern of short disciplinary removals that total more than 10 cumulative days in a school year) will warrant application of manifestation determination procedures. Please refer to Administrative Regulation No. 5144 - Discipline, for

**CLOVIS UNIFIED
SCHOOL DISTRICT**

further information including manifestation determination requirements prior to making a disciplinary removal that constitutes a significant change in placement.

F. Procedural Safeguards

The District shall establish and implement a system of procedural safeguards that includes notice, an opportunity for the student's parent/guardian to examine relevant records, an impartial hearing with opportunity for participation by the person's parent/guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards requirements of the IDEA is one means of meeting this requirement. (34 CFR 104.36)

1. The District shall provide written notice to a parent/guardian of a student who needs or is believed to need special education and related services of decisions concerning the identification, evaluation, or educational placement of the student. The notice shall inform the parent/guardian of (a) the date on or before which he or she may file a request for a Section 504 due process hearing, (b) the person to whom the request for a due process hearing shall be made, (c) the rights afforded at the due process hearing, and (d) the fact that reimbursement of attorney's fees, expert witness fees, and other costs is available only as authorized by law.
2. The parent/guardian has the right to review student records regarding his/her child during regular school hours. Records may be reviewed at the school site or at the District Office. Copies of student records may be obtained pursuant to State law. (Education Code 49065, 49069.7)
3. If a parent/guardian disagrees with any District action or decision regarding the identification, evaluation, or educational placement of his/her child, he/she may request an impartial due process hearing.
4. A request for a Section 504 due process hearing must be filed in the office of the District 504 Coordinator, 1680 David E. Cook Way, Clovis, CA 93611-0573(559) 327-9385, within 30 calendar days of the date of notification to the parent/guardian of the District's decision.
5. A request for a due process hearing must be in writing. A parent/guardian making an oral request will be assisted by the District in making a written request. A request for a due process hearing shall contain the following:
 - a. The specific nature of the decision(s) made by the District with which the person disagrees.
 - b. The specific relief the person seeks.
 - c. Any other information the person believes will assist in understanding the request.

CLOVIS UNIFIED SCHOOL DISTRICT

6. Within 20 calendar days of receipt of a timely written request for a due process hearing, the District Section 504 Coordinator will select an impartial hearing officer unless such time is extended for good cause or by mutual agreement of the parties.
7. A hearing officer selected by the District must satisfy the following requirements:
 - a. Be qualified to review District decisions relating to Section 504.
 - b. Not be an employee of, or under contract with, the District or the SELPA in any capacity other than that of a hearing officer.
 - c. Not have any professional or personal involvement in the matter that is the subject of the due process hearing that would affect his or her impartiality or objectivity in the matter.
8. Within 45 calendar days of the selection of the hearing officer, the due process hearing shall be conducted and a written decision mailed to all parties, unless such time is extended for good cause or by mutual agreement of the parties.
9. Any party to the hearing shall be afforded the following rights:
 - a. The right to be accompanied and advised by counsel and by individuals with special knowledge or training relating to the problems of students with disabilities. Except for good cause shown, a party shall give at least 10 calendar days notice prior to the due process hearing that the party will be represented by an advocate or an attorney.
 - b. The right to present written and oral evidence.
 - c. The right to question and cross-examine witnesses.
 - d. The right to written findings of fact, conclusions of law, and a decision prepared by the hearing officer.
 - e. The right to a written or electronic verbatim record of the hearing prepared at the expense of the individual requesting such record.
 - f. The right to prohibit the introduction of evidence at the hearing that has not been disclosed to the other party or parties at least 5 calendar days prior to the hearing, except for good cause shown.
10. Either party may seek review of the hearing officer's decision by a court of competent jurisdiction.

Adopted: 03/1994

Reviewed: 12/05/2005, 04/10/2007, 08/20/2008, 07/27/2009

**CLOVIS UNIFIED
SCHOOL DISTRICT**

Amended: 03/24/2004, 04/27/2011, 06/22/2021 (AR 2109 renumbered as AR 6164.6),
02/04/2022

Doc# 46385-6 (02/2022, 12/2016)