

VENTURA COUNTY BOARD OF EDUCATION

ADMINISTRATIVE REGULATION NO. 6164.6

ADOPTED: 09/21/23

CLASSIFICATION: Instruction

SUBJECT: Identification and Education Under Section 504

The County Superintendent designates the following position as the 504 Coordinator for the Ventura County Office of Education (VCOE) to implement the requirements of Section 504 of the federal Rehabilitation Act of 1973: (34 CFR 104.7)

Director of Alternative Education
5189 Verdugo Way
Camarillo, California 93012
(805) 437-1460

DEFINITIONS

For the purpose of implementing Section 504, the following terms and phrases shall have only the meanings specified below:

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 as adequately as the needs of students without disabilities are met, at no cost to the student or the student's parent/guardian except when a fee is specifically authorized by law for all students.

Student with a disability means a student who has a physical or mental impairment which substantially limits one or more major life activities.

Physical impairment means 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, and endocrine.

Mental impairment means any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disability.

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 oneself, 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 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.

REFERRAL, IDENTIFICATION, AND EVALUATION

Any action or decision to be taken by VCOE involving the referral, identification, or evaluation of a student with disabilities 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 to the site administrator or 504 Coordinator for identification as a student with a disability under Section 504.
2. Upon receipt of any such referral, the site administrator, 504 Coordinator, or other qualified individual with expertise in the area of the student's suspected disability 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.

If it is determined that an evaluation is unnecessary, the site administrator or 504 Coordinator shall inform the parents/guardians in writing of this decision and of the procedural safeguards available, as described in the "Procedural Safeguards" section below.

3. If the student needs or is believed to need special education or related services under Section 504, VCOE shall conduct an evaluation of the student prior to the student's initial placement.

Prior to conducting an initial evaluation of a student for eligibility under Section 504, VCOE shall obtain written parent/guardian consent.

VCOE's evaluation procedures shall ensure that the tests and other evaluation materials:

- a. Have been validated 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 designed to provide a single general intelligence quotient.
- c. 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.

SECTION 504 SERVICES PLAN AND PLACEMENT

Services and placement decisions for students with disabilities shall be determined as follows:

1. A multidisciplinary 504 team shall be convened to review the evaluation data in order to make placement decisions.

The 504 team shall consist of a group of persons knowledgeable about the student, the meaning of the evaluation data, and the placement options.

In interpreting evaluation data and making placement decisions, the team shall draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. The team shall also ensure that information obtained from all such sources is documented and carefully considered and that the placement decision is made in conformity with 34 CFR 104.34.

2. If, upon evaluation, a student is determined to be eligible for services under Section 504, the team shall meet to develop a written 504 services plan which shall specify the types of regular or special education services, accommodations, and supplementary aids and services necessary to ensure that the student receives FAPE.
3. The parents/guardians shall be invited to participate in the meeting and shall be given an opportunity to examine all relevant records.

4. If the 504 team determines that no services are necessary for the student, the record of the team's meeting shall reflect whether or not the student has been identified as a person with a disability under Section 504 and shall state the basis for the determination that no special services are presently needed. The student's parent/guardian shall be informed in writing of their rights and procedural safeguards, as described in the "Procedural Safeguards" section below.
5. The student shall be placed in the regular educational environment, unless VCOE can demonstrate that the education of the student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. The student shall be educated with those who are not disabled to the maximum extent appropriate to the student's individual needs.
6. VCOE shall complete the identification, evaluation, and placement process within a reasonable time frame. VCOE shall adhere to this time frame regardless of any extended school breaks or times that school is otherwise not in session.
7. A copy of the student's Section 504 services plan shall be kept in the student's educational record. The student's teacher(s) and any other staff who provide services to the student shall be informed of the plan's requirements.

If a student transfers to another school, the site administrator 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 plan prior to the student's enrollment in the new school.

REVIEW AND REEVALUATION

The 504 team shall monitor the progress of the student and, at least annually, shall review the effectiveness of the student's Section 504 services plan to determine whether the services are appropriate and necessary and whether the student's needs are being met as adequately as the needs of students without disabilities are met. In addition, each student with a disability under Section 504 shall be reevaluated at least once every three years.

A reevaluation of the student's needs shall be conducted before any subsequent significant change in placement.

PROCEDURAL SAFEGUARDS

The County Superintendent or designee shall notify the parents/guardians of students with disabilities of all actions and decisions by VCOE regarding the identification, evaluation, or educational placement of their children. The County Superintendent also shall notify the

parents/guardians of all the procedural safeguards available to them if the parents/guardians disagree with VCOE's action or decision, including an opportunity to examine all relevant records and an impartial hearing in which the parents/guardians shall have the right to participate.

If a parent/guardian disagrees with any VCOE action or decision regarding the identification, evaluation, or educational placement of their child under Section 504, the parent/guardian may request a Section 504 due process hearing within 30 days of that action or decision.

Prior to requesting a Section 504 due process hearing, the parent/guardian may, at the discretion of the parent/guardian, but within 30 days of VCOE's action or decision, request an administrative review of the action or decision. The Coordinator shall designate an appropriate administrator to meet with the parent/guardian to attempt to resolve the issue and the administrative review shall be held within 14 days of receiving the parent/guardian's request. If the parent/guardian is not satisfied with the resolution of the issue, or if the parent/guardian did not request an administrative review, the parent/guardian may request a Section 504 due process hearing.

A Section 504 due process hearing shall be conducted in accordance with the following procedures:

1. The parent/guardian shall submit a written request to the Coordinator within 30 days of receiving VCOE's decision or, if an administrative review is held, within 14 days of the completion of the review. The request for the due process hearing 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 is pertinent to resolving the disagreement
2. Within 30 days of receiving the parent/guardian's request, the County Superintendent or designee and 504 Coordinator shall select an impartial hearing officer. This 30-day deadline may be extended for good cause or by mutual agreement of the parties.
3. Within 45 days of the selection of the hearing officer, the Section 504 due process hearing shall be conducted and a written decision mailed to all parties. This 45-day deadline may be extended for good cause or by mutual agreement of the parties.
4. The parties to the hearing shall be afforded the right to:

- a. Be accompanied and advised by legal counsel and by individuals with special knowledge or training related to the problems of students with disabilities under Section 504.
- b. Present written and oral evidence
- c. Question and cross-examine witnesses
- d. Receive written findings by the hearing officer stating the decision and explaining the reasons for the decision

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

NOTIFICATIONS

The County Superintendent or designee shall ensure that VCOE has taken appropriate steps to notify students and parents/guardians of VCOE's duty under Section 504.

Legal References:

EDUCATION CODE

49423.5	Specialized physical health care services
56043	Special education, timelines
56321	Notice of parental rights; consent of parents

CODE OF REGULATIONS, TITLE 5

3051.12	Health and nursing services
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CODE OF REGULATIONS, TITLE 28

35.101-35.190	Nondiscrimination on the basis of disability in state and local government services
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CODE OF FEDERAL REGULATIONS, TITLE 34

104.1-104.61	Nondiscrimination on the basis of disability
104.3	Definitions
104.32	Location and notification
104.33	Free and appropriate public education
104.34	Educational setting
104.35	Evaluation and placement

104.36 Procedural safeguards
104.37 Nonacademic services
104.7 Designation of responsible employee for Section 504

UNITED STATES CODE, TITLE 29

705 Definitions; Vocational Rehabilitation Act

COURT DECISION

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