

Identification and Education Under Section 504

The Solano County Office of Education (SCOE) recognizes the need to identify and evaluate children with disabilities in order to provide them with the services required by law.

SCOE shall provide a free appropriate public education to students who reside within the county and who are classified as disabled 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)

Definitions

Eligibility for services under Section 504 of the federal Rehabilitation Act of 1973 means a student has any of the following conditions: (34 CFR 104.3)

1. A physical or mental impairment which substantially limits one or more major life activities
2. Has a record or history of such impairment
3. Is regarded as having such impairment because s/he:
 - a. Has a physical or mental impairment that does not substantially limit a major life activity but is treated by SCOE as having such a limitation (e.g., a student who has scarring, a student who walks with a limp)
 - b. Has a physical or mental impairment that substantially limits a major life activity only as a result of the attitudes of others towards such impairment (e.g., a student who has scarring or disfigurement)
 - c. Has no physical or mental impairment but is treated by SCOE as having such an impairment (e.g., a student who tests positive with the HIV virus but has no physical effects from it)

Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Physical or mental impairment means any of the following:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin; and endocrine
2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities

District Coordinator for Implementation of Section 504

SCOE has designated the following individual to coordinate its efforts to comply with the requirements of law, SCOE policy, and administrative regulation pertaining to the implementation of Section 504: (34 CFR 104.7)

Senior Director, Special Education
Irene Larsen Center
1707 California Drive, Vacaville, CA 95687
(707) 452-0295

Policy 6164.4 (Continued)

Referral, Identification, and Evaluation

1. Any student may be referred by a parent/guardian, teacher, other school employee, student success team, or community agency for consideration of eligibility as a disabled student under Section 504. This referral may be made to the principal or 504 Coordinator.
2. Upon receipt of a referral for eligibility, the principal shall promptly convene a meeting of a multi-disciplinary 504 team to consider the referral and determine whether an evaluation of the student is appropriate.

The 504 team shall consist of a group of persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. (34 CFR 104.35)

The team's determination shall be based on a review of the student's school records, including 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.

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

If the 504 team determines that an evaluation is unnecessary, it shall inform the parents/guardians of this decision and of the procedural safeguards as described below.

3. If the team believes that a student needs or is believed to need special education or related services under Section 504, SCOE shall conduct an evaluation of the student prior to initial placement and before any significant change in placement. (34 CFR 104.35)

SCOE's evaluation procedures shall ensure that tests and other evaluation materials: (34 CFR 104.35)

- 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 based solely on a single IQ score
 - c. Reflect aptitude or achievement or whatever else the tests purport to measure and do not reflect the student's impaired sensory, manual, or speaking skills unless the test is designed to measure these particular deficits
4. 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. (34 CFR 104.35)

Accommodation Plan and Placement

1. If, upon evaluation, a student is determined to be eligible for services under Section 504, the 504 team shall meet to develop a written accommodation plan which shall specify placement, accommodations, and supplementary aids and services necessary to ensure that the student receives a free appropriate public education.

The parents/guardians shall be invited to participate in the meeting and shall be given an opportunity to examine all relevant records.

Policy 6164.4 (Continued)

2. If the 504 team determines that no services are necessary for the student, the record of the committee's meeting shall reflect the identification of the student as a disabled person under Section 504 and shall state the basis for the decision that no special services are presently needed.
3. The student shall be placed in the regular educational environment, unless the Special Education Local Plan Area (SELPA) 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 his/her individual needs. (34 CFR 104.34)
4. SELPA shall complete the identification, evaluation, and placement process within a reasonable time frame.
5. A copy of the student's accommodation plan shall be kept in his/her student record. The student's teacher, and any other staff who provide services to the student, shall be informed of the plan's requirements.

Review and Reevaluation

1. The 504 team shall monitor the progress of the student and the effectiveness of the student's 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 nondisabled students. The team shall review the student's accommodation plan annually. In addition, the student's eligibility under Section 504 shall be reevaluated at least once every three years.
2. A reevaluation of the student's needs shall be conducted before any subsequent significant change in placement. (34 CFR 104.35)

Procedural Safeguards

Parents/guardians shall be notified in writing of all SELPA decisions regarding the identification, evaluation, or educational placement of students with disabilities or suspected disabilities. Notifications shall include a statement of their right 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

Notifications shall also detail the parent/guardian's right to file a grievance over an alleged violation of Section 504 regulation; right to have an evaluation that draws on information from a variety of sources; right to be informed of any proposed actions related to eligibility and plan for services; right to receive all information in the parent/guardian's native language and primary mode of communication; right to periodic reevaluations and an evaluation before any significant change in program/service modifications; right to an impartial hearing if there is a disagreement with SCOE's proposed action; right to be represented by counsel in the impartial hearing process; and right to appeal the impartial hearing officer's decision.

If a parent/guardian disagrees with the identification, evaluation, or educational placement of his/her child under Section 504, s/he may initiate the following procedures:

1. Within 30 days of receiving the accommodation plan, file a written complaint with the 504 Coordinator detailing his/her disagreement and request that the 504 team review the plan in an attempt to resolve the disagreement. This review shall be held within 14 days

Policy 6164.4 (Continued)

of receiving the parent/guardian's request and the parent/guardian shall be invited to attend the meeting at which the review is conducted.

2. If disagreement continues, 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 30 days of receiving the parent/guardian's request, the 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.

The 504 Coordinator 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 SCOE 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.

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.

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 related to the problems of students who are qualified as disabled 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.

Notifications

The Superintendent or designee shall ensure that SELPA has taken appropriate steps to notify students and parents/guardians of its duty under Section 504. (34 CFR 104.32)

Previously Identified Special Education Students

Upon entrance into the school program at the Juvenile Detention Facility (JDF) and residential facilities, each student will be interviewed by SCOE intake staff. At that time, each student will be asked the following questions to attempt to identify if the student has been assessed to determine if the student needs such services:

1. Do you have or have you ever had an IEP?
2. Have you ever received special education services?

Policy 6164.4 (Continued)

3. In your school program, have you ever been taken from the classroom to receive special services like speech therapy, special physical education, or extra help?
4. Have you ever been in a special day class?
5. Have you ever been assigned to Resource Services or the Resource Room for a given period each day or week?
6. Have you ever been assigned to special classes which have fewer students in them than regular classes?

Should the answer to any of the above questions be in the affirmative, then the questioner will ask follow-up questions to determine more about the nature of the services and where and when such services were provided. If it is determined that a student has received special education services or that a student may have received special education services, then contact, as outlined below, will be made with the school setting in which such services were delivered.

Each student not identified upon intake as being special education shall be asked the same set of questions by the Chapter I Facilitator at the time of initial assessment for the JDF program. If it is determined that a student has received special education services or may have received special education services, then contact, as outlined below, will be made with the school setting in which such services were delivered.

Each student not identified upon intake or at the time of initial assessment as being special education shall be asked the same set of questions by the assigned classroom teacher or the instructional aide between three days and one week after entrance into the classroom setting. If it is determined that a student has received special education services or may have received special education services, then contact, as outlined below, will be made with the school setting in which such services were delivered.

Obtaining Records

Upon identification by JDF school staff member that a student is believed to have been receiving or to have received special education services, an assigned member of the staff shall telephone the special education department of the student's prior district. The staff member shall request that, if the student is currently certified as a special education student, a copy of the student's current IEP and copies of the most recent assessments be forwarded to SCOE. If the student does not have a current IEP, the staff member shall request that the record of the student's last IEP team meeting, including copies of any assessments which led to the determination that the student no longer qualified for special education, be forwarded to SCOE.

The requested special education records for each student shall be sent to the principal/designee at JDF.

IEP Implementation

IEPs and other records shall be immediately forwarded from the county or district to the program where they shall be reviewed immediately by an individual holding special education credentials who is knowledgeable about JDF. The student, to the extent possible, shall be placed by the principal/designee in a comparable instructional program to that specified in the IEP. If there are provisions within the IEP for which no comparable program exists, then the principal/designee, based upon the recommendation of the special education teacher, shall schedule an IEP team meeting.

Policy 6164.4 (Continued)

The IEP team shall include:

1. JDF principal/designee
2. JDF residential facilities teacher
3. A representative from the special education department of the district of residence or SCOE, if such district is within Solano County. If the district is outside of Solano County, then such representative shall be invited, but the meeting may be held without him/her should they be unable to attend.
4. The parent/guardian
5. The student, if appropriate
6. Other individuals who may assist in the development of the IEP, as appropriate

The IEP team shall review the student's needs and determine which services shall be provided to address them. The following continuum of services shall be examined, with preference being given to those that provide the least restrictive environment in which the student can be successful:

1. Serving the student in the JDF residential facilities class with individualized instruction.
2. Serving the student in the JDF class with individualized instruction and Chapter I services.
3. As stated above, in conjunction with consultation between the JDF teacher and district/county special education personnel, as appropriate.
4. As stated above, in conjunction with provision of direct services by a learning disabilities teacher in the classroom.
5. As stated above, in conjunction with designated instructional services at least in the areas of speech and language and of counseling provided by special education personnel in the classroom, if specified in the IEP.
6. As stated above, in conjunction with provision of direct services by a learning disabilities teacher in a pullout program.
7. As stated above, in conjunction with designated instructional services at least in the areas of speech and language and of counseling provided by special education personnel in a pullout program, if specified in the IEP.

If additional modifications to the existing IEP are needed, regular SELPA procedures shall be followed to make such modifications.

Staff In-Service Training

All JDF staff will receive specialized training in the screening of students to determine if they might be in need of special education. Such training will be provided by the SELPA special education experts and will include specialized examples for the identification of such students in their performance and behavior in the more restricted Juvenile Court/Community Schools environment.

Screening

Informal screening and identification will occur by the regular classroom teacher and aide. When it becomes apparent to these adults that the student is not progressing and is exhibiting unusual behavior, learning disabilities, speech and language delays, poor motor development,

Policy 6164.4 (Continued)

or any other problem significantly different than the other students in the class, the adults shall note such behavior and move to consultation.

Consultation

The regular staff shall talk with other staff members about the student identified as not progressing. Based upon ideas of the classroom teacher, as well as other educators, a variety of interventions shall be used to assist the student in making better progress. These may include: instructional interventions, program modifications, supplementary programs, and document modifications. Documentation of each intervention and its effect shall be maintained. If the student is not showing positive effects from the interventions after 15 days, a referral will be made.

Referral and Assessment

A referral shall be completed, signed by the principal/designee, and forwarded to the district of residence special education office or SCOE. It will be reviewed by an assessment team appointed by the appropriate director of special education or his/her designee. If the student is new to Solano County, SCOE will conduct the assessments. A designated team member will contact the referring agent to discuss the referral. Upon receipt of the referral, the district of resident/SCOE will mail a Parent Notification or Referral for Special Education Services form to the parent indicating that the parent may request an assessment planning meeting. During assessment planning, a written assessment plan will be developed to be presented to the parent. The foregoing shall occur within 15 days of the referral for assessment. The parent will have at least 15 days from the receipt of this assessment plan to arrive at a decision. If no consent is received within the 15-day period, a due process hearing may be initiated. Upon receipt of permission to assess, the assessment may begin. Upon completion of the assessment, the IEP team will be convened.

IEP Meeting

At the IEP meeting, the team will review the results of the assessments, share information regarding the student's current educational status, determine the student's area(s) of educational need and handicap, and develop an annual education plan for the student which specifies annual goals and objectives and procedures for integration with non-disabled peers, as appropriate. In addition, possible education options will be reviewed and parental consent for the IEP will be obtained. If such cannot be obtained, a due process hearing may be initiated.

Recordkeeping

Student records are maintained at the JDF for each student who enters the facility and is provided with educational services. To these existing files, both electronic and handwritten, shall be added all information related to special education services and/or the referral/assessment process which is obtained or generated while the student is in JDF.

Each of the steps will be traced on a special summary sheet to provide an overview of student status rapidly and in summary form.

Continuation of Special Education Services

Should any student who has been provided special education services reenter JDF, special education services shall immediately be recommended for that student, as reflected in the IEP or the modified IEP that is on file.

Policy 6164.4 (Continued)

Continuation of the Identification, Referral, Assessment, Instruction Planning, Implementation, and Review Process

Should any student for whom the identification, referral, assessment, instructional planning, implementation, and review process has been initiated as it relates to special education needs or services reenter JDF, such processes shall be continued from the last step taken, as reflected by the records.

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

794 Rehabilitation Act of 1973, 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

104.33 Free appropriate public education

104.35 Evaluation and placement

104.36 Procedural safeguards

COURT DECISIONS

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

Policy Cross-Reference:

0410 Nondiscrimination in District Programs and Activities

0430 Comprehensive Local Plan for Special Education

1312.3 Uniform Complaint Procedures

5125 Student Records

5141.21 Administering Medication and Monitoring Health Conditions

5141.24 Specialized Health Care Services

5144.1 Suspension and Expulsion/Due Process

5144.2 Suspension and Expulsion/Due Process: Students with Disabilities

5145.3 Nondiscrimination/Harassment

5145.6 Parental Notifications

6164.4 Identification and Evaluation of Individuals for Special Education