

Book	BCSD Board Policies
Section	0300 General Control
Title	IDENTIFICATION AND EDUCATION UNDER SECTION 504
Number	0300.41
Status	Active
Legal	
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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.

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 (Title 34, Code of Federal Regulations, Section 104.33).

(cf. BP 300.63 – Nondiscrimination in District Programs and Activities)
 (cf. BP 603.01 – Specialized Health Care Service)
 (cf. BP 603.02 – Administering Medication and Monitoring Health Conditions)
 (cf. BP 603.09 – Students - Infectious Diseases)
 (cf. BP 606.01 – Comprehensive Local Plan for Special Education)
 (cf. BP 606.06 – Suspension and Expulsion/Due Process [Students with Disabilities])
 (cf. BP 606.12 – Identification and Evaluation of Individuals for Special Education)

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 (Title 34, Code of Federal Regulations, Section 104.37).

(cf. BP 400.35 – Extracurricular and Cocurricular Activities)
 (cf. BP 605.08 – 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.

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 -1487 Individuals with Disabilities Education Act

UNITED STATES CODE, TITLE 29

701 - 797b Rehabilitation Act of 1973
 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
104.33 Free appropriate public education
104.35 Evaluation and placement
104.36 Procedural safeguards

Policy Adopted April 25, 1995

Revised April 10, 2001

Revision Adopted May 26, 2015

Administrative Regulations

The Superintendent designates the following position as the District's Section 504 Coordinator to address complaints related to discrimination, harassment, intimidation, and bullying based on actual or perceived disability, and the implementation of the requirements of Section 504 of the federal Rehabilitation Act of 1973: (Title 34 Code of Federal Regulations Section 104.7)

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Any person interested in obtaining more information regarding Section 504 may contact their school principal or designee, the School Health Coordinator, the Executive Director of Instructional Support Services, the District's 504 Coordinator, or can visit the District's Section 504 informational webpage located at www.bcasd.com in the "Parents" section.

Definitions

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 disabilities 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 (Title 34, Code of Federal Regulations, Section 104.33).

(cf. BP 604.04 – Fees and Charges)

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 (Title 28, Code of Federal Regulations, Section 35.108).

Mental impairment means any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disability (Title 28, Code of Federal Regulations, Section 35.108).

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 (Title 42, United States Code, Section 12102; Title 28, Code of Federal Regulations, Section 35.108).

Referral, Identification, and Evaluation

Any action or decision to be taken by the District 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, team for student success, or community agency may refer a student to the principal or designee, School Health Coordinator, or 504 Coordinator for identification as a student with a disability under Section 504.
(cf. BP 603.16 – Team for Student Success)
2. Upon receipt of any such referral, the principal or designee, School Health Coordinator, 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 principal or designee School Health Coordinator, 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, the District shall conduct an evaluation of the student prior to the student's initial placement (Title 34, Code of Federal Regulations, Section 104.35).

The District's evaluation procedures shall ensure that the tests and other evaluation materials: (Title 34, Code of Federal Regulations, Section 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 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 the student's 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 (Title 34, Code of Federal Regulations, Section 104.35).

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 Title 34, Code of Federal Regulations, Section 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.
The parents/guardians shall be invited to participate in the meeting and shall be given an opportunity to examine all relevant records.

(cf. BP 603.01 – Specialized Health Care Services)
(cf. BP 603.02 – Administering Medication and Monitoring Health Conditions)
(cf. BP 603.09 – Infectious Diseases)
(cf. BP 603.20 – Tuberculosis Testing)
(cf. BP 1000.09 – Food Allergies and Special Dietary Needs)

3. 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 his/her rights and procedural safeguards, as described in the "Procedural Safeguards" section below.
4. The student shall be placed in the regular educational environment, unless the District 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 (Title 34, Code of Federal Regulations, Section 104.34).
5. The District shall complete the identification, evaluation, and placement process within a reasonable time frame. The District shall adhere to this time frame regardless of any extended school breaks or times that school is otherwise not in session.
6. A copy of the student's Section 504 services plan shall be kept in the student 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 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 plan prior to the student's enrollment in the new school.

(cf. BP 602.12 – Intradistrict Attendance)
(cf. BP 605.07 – Pupil Records)

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 (Title 34, Code of Federal Regulations, Section 104.35).

(cf. BP 601.04 – Suspension and Expulsion/Due Process)
(cf. BP 606.06 – Suspension and Expulsion/Due Process [Students with Disabilities])

Procedural Safeguards

The Superintendent or designee shall notify the parents/guardians of students with disabilities of all actions and decisions by the District regarding the identification, evaluation, or educational placement of their children. The Superintendent or designee shall notify the parents/guardians of all the procedural safeguards available to them if they disagree with the District's action or decision, including an opportunity to examine all relevant records and an impartial hearing in which they shall have the right to participate (Title 34, Code of Federal Regulations, Section 104.36).

(cf. BP 606.04 – Procedural Safeguards and Complaints for Special Education)

If a parent/guardian disagrees with any District 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 parent/guardian's discretion, but within 30 days of the district'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 Section 504 Coordinator within 30 days of receiving the District'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 parent/guardian believes is pertinent to resolving the disagreement
2. 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.
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.

Nondiscrimination

The Board has designated the following position identified below as the employee responsible for coordinating the District's efforts to comply with state and federal civil rights laws, including Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, and the Age Discrimination Act of 1975, and to answer inquiries regarding the District's

nondiscrimination policies. The individual(s) shall also serve as the compliance officer(s) specified in AR 605.03 – Uniform Complaint Procedures as the responsible employee to handle complaints regarding unlawful discrimination, including discriminatory harassment, intimidation, or bullying (Education Code Section 234.1; Title 5, California Code of Regulations, Section 4621). The Coordinator for nondiscrimination/compliance officer may be contacted at:

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(cf. BP 300.13 – Complaints Concerning District Employees)
(cf. BP 300.63 – Nondiscrimination in District Programs and Activities)
(cf. BP 601.14 – Nondiscrimination/Harassment)
(cf. BP 605.03 – Uniform Complaint Procedures)

Notifications

The Superintendent or designee shall ensure that the District has taken appropriate steps to notify students and parents/guardians of the District's duty under Section 504 (Title 34, Code of Federal Regulations, Section 104.32).

(cf. BP 300.56 – Parental Notifications)

Adopted April 25, 1995
Revised April 10, 2001
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