

## **BERKELEY USD**

### **AR 6164.6 Instruction**

#### **Identification and Education Under Section 504**

##### Definitions

For the purpose of implementing Section 504 of the Rehabilitation Act of 1973, 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 disabilities as adequately as the needs of nondisabled students are met, without cost to the student or his/her parent/guardian, except when a fee is imposed on nondisabled students. (34 CFR 104.33)

Student with a disability means a student who has a physical or mental impairment which substantially limits one or more major life activities. (34 CFR 104.3)

Physical impairment means 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, genitourinary; hemic and lymphatic; skin; and endocrine. (34 CFR 104.3)

Mental impairment means any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. (34 CFR 104.3)

Substantially limits major life activities means limiting a person's ability to perform functions such as caring for himself/herself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. Major life activities also include major bodily functions such as functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. Substantially limits shall be determined without regard to the ameliorative effects of mitigating measures other than ordinary eyeglasses or contact lenses. Mitigating measures include, but are not limited to, medications, prosthetic devices, assistive devices, learned behavioral, or adaptive neurological modifications which an individual may use to eliminate or reduce the effects of an impairment. (42 USC 12102; 34 CFR 104.3)

##### 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, student success team, foster parent, group home provider, or community agency may refer a student to the school site Section 504

Coordinator for consideration of eligibility as a disabled student under Section 504.

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.

## Review and Reevaluation

The Section 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 nondisabled students. 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. (34 CFR 104.35) A significant change of placement may occur when there is an exclusion from the educational program of more than 10 school days, a series of short-term exclusions (each 10 school days or fewer) from the educational program if the short-term exclusions total more than 10 school days and create a pattern of removal, and transferring a student from one type of program to another, or terminating or significantly changing a related service.

(cf. 5144.1 - Suspension and Expulsion/Due Process)

## Procedural Safeguards

- b. The specific relief he/she seeks
  - c. Any other information he/she believes is pertinent to resolving the disagreement
2. Within 30 days (excluding when school is not in session) of receiving the parent/guardian's request, the Superintendent or designee and District Section 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 30 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 30-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:

.

2020 Bonar Street, # 116  
Berkeley, CA 94702  
510.486.9338  
[nondiscrimination@berkeley.net](mailto:nondiscrimination@berkeley.net)

#### 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. (34 CFR 104.32)

(cf. 5145.6 - Parental Notifications)

Regulation BERKELEY UNIFIED SCHOOL DISTRICT, adopted: June 2021