Information Sheet – 1/19/16 - Board of Trustees Meeting

TO: Board of Trustees Item: 8.1

FR: Grace Merritt

RE: Second Reading – Policy Revision

BP/AR 6164.6 - Identification and Education Under Section 504

Policy updated to reflect **NEW GUIDANCE** from the U.S. Department of Education's Office for Civil Rights (OCR) clarifying districts' responsibility to provide opportunities for students with disabilities to participate in extracurricular athletic and other nonacademic programs or activities that constitute the overall educational program. Policy also adds new material re: compliance with procedural safeguards and required notifications and contains paragraph formerly in AR re: maintenance of a list of impartial hearing officers qualified to conduct Section 504 hearings. *CSBA Sample and current policy attached. Changes too numerous to redline.*

Regulation updated to reflect OCR guidance which clarifies the extent to which the Americans with Disabilities Act (ADA) affects the definitions of "disability" and "substantially limits" for Section 504 purposes. Regulation also adds the designation of a district employee to serve as the district's Section 504 Coordinator, updates definitions of key terms to ensure consistency with federal law (ADA Amendment Act of 2008), and streamlines the section on "Procedural Safeguards." *Redline regulation attached.*

INSTRUCTION

Identification And Education Under Section 504 BP 6164.6

Note: The following policy and accompanying administrative regulation address the identification and education of students who may be eligible for services under the provisions of Section 504 of the federal Rehabilitation Act of 1973 (29 USC 794). Pursuant to 34 CFR 104.33, eligible students are entitled to a free appropriate public education (FAPE) which is designed to meet the student's individual educational needs as adequately as the needs of nondisabled students are met. Enforcement of Section 504 requirements is the responsibility of the U.S. Department of Education's Office for Civil Rights (OCR), which monitors districts' policies, processes, and practices to ensure legal compliance.

Note: Students may be identified as disabled under Section 504 even though they do not require services pursuant to the federal Individuals with Disabilities Education Act (IDEA) (20 USC 1400-1482). The identification of students eligible for services under IDEA is addressed at BP/AR 6164.4 - Identification and Evaluation of Individuals for Special Education.

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.

Note: Section 504 of the Rehabilitation Act of 1973 and its implementing regulations (34 CFR 104.1-104.39) prohibit discrimination on the basis of disability in district programs and activities. see BP 0410 - Nondiscrimination in District Programs and Activities.

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. (34 CFR 104.33)

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 0430 - Comprehensive Local Plan for Special Education)
(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)
(cf. 5141.22 - Infectious Diseases)
(cf. 5141.23 - Asthma Management)
(cf. 5141.24 - Specialized Health Care Services)
(cf. 5141.27 - Food Allergies/Special Dietary Needs)
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))
(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

Note: Pursuant to 34 CFR 104.33, as interpreted by OCR in its January 2013 Dear Colleague Letter, a district's responsibility under Section 504 requirements extends to providing students with disabilities equal opportunity to participate in extracurricular athletics and other nonacademic programs or activities that constitute the overall educational program.

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. (34 CFR 104.37)

(cf. 6145 - Extracurricular and Cocurricular Activities)
(cf. 6145.2 - Athletic Competition)
(cf. 6145.5 - 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.

Note: The following optional paragraph ensures the availability of hearing officers to conduct impartial hearings to resolve disagreements about the provision of FAPE, pursuant to 34 CFR 104.36.

The Superintendent or designee 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 the district in any other capacity except as hearing officer and shall not have any professional or personal involvement that would affect their impartiality or objectivity in the matter.

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
705 Definitions; Vocational Rehabilitation Act
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
104.32 Location and notification
104.33 Free appropriate public education
104.34 Educational setting
104.35 Evaluation and placement
104.36 Procedural safeguards
COURT DECISIONS
Christopher S. v. Stanislaus County Office of Education, (2004) 384 F.3d 1205

Management Resources:
CSBA PUBLICATIONS
Rights of Students with Diabetes Under IDEA and Section 504, Policy Brief, November 2007
CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES
Legal Advisory on Rights of Students with Diabetes in California's K-12 Public Schools, August 2007
U.S. DEPARTMENT OF EDUCATION OFFICE FOR CIVIL RIGHTS PUBLICATIONS
Dear Colleague Letter; January 2013
Dear Colleague Letter and Questions and Answers on ADA Amendments Act of 2008 for Students with Disabilities Attending Public Elementary and Secondary Schools; January 2012
Free Appropriate Public Education for Students with Disabilities: Requirements under Section 504 of the Rehabilitation Act of 1973, September 2007
WEB SITES
CSBA: http://www.csba.org
California Department of Education: http://www.cde.ca.gov
U.S. Department of Education, Office for Civil Rights: http://www2.ed.gov/about/offices/list/ocr

IDENTIFICATION AND EDUCATION UNDER SECTION 504

The Board of Trustees recognizes the need to identify and evaluate students with disabilities in order to provide them with educational opportunities. Such individuals may require a modified educational plan under Section 504 of the federal Rehabilitation Act of 1973 (29 USC 794).

The Superintendent or designee shall establish procedures whereby parents/guardians or staff may request screening and evaluation for any student they believe to have a disability that significantly impairs his/her learning.

A student Study Team (SST) of knowledgeable professionals shall meet to evaluate the student's eligibility under Section 504, and the student's parent/guardian shall be invited to participate. The evaluation may include, but is not limited to, classroom and playground observation, school history, performance-based testing, academic assessment information, medical history, disciplinary history, and data offered by the parent/guardian.

If the student is found to have a defined handicap that significantly interferes with one or more of his/her major life activities, including learning, he/she shall be eligible for a Section 504 accommodation plan, and the SST shall develop a written educational plan for the student. This plan shall specify the modifications which will be made in the regular education program or the Special Education program in order to ensure the student a free appropriate education; it shall also include a schedule for periodic review of the student's needs and indicate that this review may occur sooner at the request of the parent/guardian or school staff. A handicapped student requiring special interventions shall be placed in the regular educational environment unless such placement would be inappropriate.

The SST shall provide the parent/guardian with a written copy of the Section 504 accommodation plan. If the SST determines that no Section 504 plan is needed, the parent/guardian shall receive a record of the proceedings stating the basis for this decision. Parents/guardians shall also receive a copy of the procedural safeguards guaranteed under 34 CFR 104.36.

A student eligible for a Section 504 plan may be disciplined in accordance with state and federal law.

Legal Reference: (see next page)

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued

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 et seq. Rehabilitation Act of 1973
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

Identification And Education Under Section 504

Note: Section 504 of the federal Rehabilitation Act of 1973 (29 USC 794) prohibits discrimination on the basis of disability. Pursuant to 34 CFR 104.7, the district is required to designate the person(s) responsible for the overall implementation of the requirements of Section 504, as specified below.

Note: The U.S. Department of Education Office for Civil Rights (OCR), which is responsible for enforcing the provisions of Section 504 and also for receiving and handling complaints from parents/guardians, students, and advocates has issued guidance on Section 504 requirements. In its Dear Colleague Letter issued in January 2012, and the attached Questions and Answers on ADA Amendments Act of 2008 for Students with Disabilities Attending Public Elementary and Secondary Schools, OCR clarifies the extent to which 29 USC 705, which was amended by the Americans with Disabilities Amendments Act (ADA) of 2008, affects the definition of "disability" and "substantially limits" for Section 504 purposes. In addition, in January 2013, OCR issued another Dear Colleague Letter to clarify districts' obligations under Section 504, particularly as they relate to providing students with disabilities an opportunity to participate in extracurricular athletics and other nonacademic activities that are a part of the overall education program.

Note: The following optional administrative regulation focuses on district procedures for identifying and evaluating students who are eligible to receive FAPE and is consistent with OCR guidance.

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

_____
Director of Human Resources and Curriculum
1219 Whispering Wind Drive
209-836-3388

Definitions
Note: The following definitions are consistent with 42 USC 12101-12213, the Americans with Disabilities Act Amendment Act of 2008.

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) ~~under Section 504 of the Rehabilitation Act of 1973~~ means the provision of ~~either~~ regular or special education and related aids and services~~,~~ designed to meet the ~~student's~~ 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)
(cf. 3260 - Fees and Charges)

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

Note: Pursuant to 34 CFR 104.3, a student is considered disabled when he/she has a physical or mental impairment that substantially limits a major life activity, has a record of such impairment, or is regarded as having such impairment. According to OCR, a district is required to provide FAPE only to those students whose impairment currently limits a major life activity. However, Section 504 requires districts to protect a student who has a record of, or is regarded as having, such an impairment from discriminatory treatment. For example, it would be discriminatory and thus illegal to prohibit a student who has a record of bone cancer, but is currently in remission, from trying out for the basketball team based on his/her history of cancer.

~~Eligibility to receive FAPE under Section 504~~ 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.~~33~~3)

Note: Examples of physical or mental impairments that may constitute disabling conditions under Section 504 if they substantially limit a major life activity may include, but are not limited to, diabetes; communicable diseases such as HIV/AIDS; tuberculosis; attention deficit disorder (ADD) or attention deficit hyperactivity disorder (ADHD); chronic asthma and severe allergies; physical disabilities such as spina bifida or hemophilia; and temporary disabilities depending on the anticipated length of disability, the seriousness of the illness/injury, and the needs of the student (e.g., students injured in accidents or suffering short-term illnesses). In the event that these conditions fall within the disabilities categories specified in the Individuals with Disabilities Education Act (IDEA), then the student may need to be considered for services under that law; see BP/AR 6164.4 - Identification and Evaluation of Individuals for Special Education.

~~Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. (34 CFR 104.3)~~

Physical ~~or mental~~ impairment means ~~any of the following: (34 CFR 104.3)~~

~~1.~~ any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; ~~musculosketal~~musculoskeletal, special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin; and endocrine. (34 CFR 104.3)

~~2.~~ 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)

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

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 includes 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

Note: 34 CFR 104.35 requires the district to conduct an evaluation of any student who needs or is believed to need special education or related services under Section 504. However, the law does not require a specific procedure for referral of a student for the evaluation. Items #1-2 below provide such a procedure and should be modified to reflect district practice.

~~1.~~ Any action or decision to be taken by the district involving the referral, identification, or evaluation of a student ~~may be referred by~~ with disabilities shall be in accordance with the following procedures:

1. A parent/guardian, teacher, other school employee, student success team, or community agency ~~for consideration of eligibility as a disabled~~ may refer a student ~~under Section 504. This referral may be made to~~ to the principal or 504 Coordinator~~.~~ for identification as a student with a disability under Section 504.

(cf. 6164.5 - Student Success Teams)

2. Upon receipt of ~~a~~any such referral ~~for eligibility~~, the principal ~~or~~, 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 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 it is determined that ~~a~~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 his/her initial placement ~~and before any significant change in placement~~. (34 CFR 104.35)

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

Note: OCR has interpreted Section 504 to require districts to obtain parental permission for initial evaluations. Although the law is silent on the form of parental consent, it is recommended that the district obtain such consent in writing. The following paragraph should be modified to reflect district practice.

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

Note: 34 CFR 104.35 requires that the district's evaluation and placement procedures include the elements specified in items #a-c below.

The district's evaluation procedures shall ensure that the 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~~merely designed to provide a single ~~IQ score~~general intelligence quotient

c. Reflect the student's aptitude or achievement or whatever else the tests purport to measure ~~and do not reflect the student's~~ rather than his/her impaired sensory, manual, or speaking skills ~~unless~~, except where those skills are the ~~test is designed~~factors that the tests purport to measure ~~these particular deficits~~

Section 504 Services Plan and Placement

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

1. A multi-disciplinary 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. (34 CFR 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 34 CFR

104.34. (34 CFR 104.35)

Note: While there is no specific requirement that a Section 504 services plan (sometimes called an accommodation plan) be in writing, it is strongly recommended that the district develop a written plan for each student detailing the regular and/or special education and related services that the student will be provided in order to ensure that the student is receiving FAPE in accordance with 34 CFR 104.33.

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. 5141.21 - Administering Medication and Monitoring Health Conditions)
(cf. 5141.22 - Infectious Diseases)
(cf. 5141.23 - Asthma Management)
(cf. 5141.24 - Specialized Health Care Services)
(cf. 5141.26 - Tuberculosis Testing)
(cf. 5141.27 - Food Allergies/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 disabled person under Section 504 and shall state the basis for the ~~decision~~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 his/her individual needs. (34 CFR 104.34)

Note: The law does not specify a time frame for completion of the evaluation and placement process, but OCR requires completion within "a reasonable amount of time." Generally, compliance with the timelines in IDEA will be considered "reasonable" and thus in compliance with Section 504. However, Section 504 does not provide for an automatic suspension of the timelines during extended breaks or when schools are not in session. For timelines under IDEA, see AR 6164.4 - Identification and Evaluation of Individuals for Special Education.

5. The district shall complete the identification, evaluation, and placement process within a reasonable time frame.

6. A copy of the student's Section 504 services plan shall be kept in his/her 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. 5125 - Student Records)

Review and Reevaluation

Note: 34 CFR 104.35 requires a district to establish procedures for the periodic reevaluation of a student who has been identified as needing services under Section 504. A reevaluation procedure consistent with the IDEA is one means of meeting this requirement. The following section should be modified to reflect district practice.

~~1.~~ 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 nondisabled students. ~~The team shall review the student's plan annually.~~ In addition, ~~the student's eligibility~~each student with a disability under Section 504 shall be reevaluated at least once every three years.

Note: As part of its responsibilities pursuant to 34 CFR 104.35, the district is required to reevaluate a student's needs before a significant change in his/her placement. Examples of actions that might constitute a "significant change in placement" triggering a reevaluation include, but are not limited to, expulsions, suspensions that exceed 10 school days within a school year, or removal from a fully integrated curriculum to a resource room, home instruction, independent study, or continuation school.

~~2.~~ A reevaluation of the student's needs shall be conducted before any subsequent significant change in placement. (34 CFR 104.35)

(cf. 5144.1 - Suspension and Expulsion/Due Process)
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

Procedural Safeguards

Note: 34 CFR 104.36 requires districts to adopt a system of procedural safeguards which must include the rights of parents/guardians to receive notice, examine relevant records, have an impartial hearing in which they would have an opportunity to participate and be represented by legal counsel, and a process for review of the hearing and decision as detailed in the following section.

Note: Timelines suggested in this section should be revised to reflect district practice; however, OCR requires that the due process hearing procedures be completed within a "reasonably prompt time frame."

~~Parents/guardians~~The Superintendent or designee shall ~~be notified in writing~~notify the parents/guardians of students with disabilities of all ~~district~~actions and decisions by the district 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~~ children. He/she also ~~detail the parent/guardian's right to file a grievance with the district over an alleged violation~~ shall notify the parents/guardians of ~~Section 504; have an evaluation that draws on information from a variety of sources; be informed of any proposed actions related to eligibility and plan for services; receive~~ all ~~information in~~ the ~~parent/guardian's native language and primary mode of communication; periodic reevaluations and an evaluation before any significant change in program/service modifications; an impartial hearing~~procedural safeguards available to them if ~~there is a disagreement~~they disagree with the district's ~~proposed~~ action~~; be represented by counsel in the impartial hearing process; and appeal the impartial hearing officer's~~ or decision~~.~~, including an opportunity to examine all relevant records and an impartial hearing in which they shall have the right to participate. (34 CFR 104.36)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

Note: 34 CFR 104.36 requires that the district's procedural safeguards for Section 504 include an impartial hearing to resolve disagreements about the provision of FAPE. This Section 504 due process hearing is separate from the due process hearing procedures under IDEA and from the district's uniform complaint procedures, which are used to resolve complaints regarding discriminatory treatment (e.g., harassment or accessibility issues). See BP/AR 1312.3 - Uniform Complaint Procedures.

If a parent/guardian disagrees with ~~decisions~~any district action or decision regarding the identification, evaluation, or educational placement of his/her child under Section 504, he/she may request a Section 504 due process hearing ~~in accordance with the following procedures:~~ within 30 days of that action or decision.

Note: According to OCR, the parent/guardian cannot be required to participate in an administrative review prior to exercising his/her right to a Section 504 due process hearing. Districts with questions should consult legal counsel, as appropriate.

~~1.~~ Prior to requesting a Section 504 due process hearing, the parent/guardian may, at his/her discretion, but within 30 days ~~after receipt~~ of the district's action or decision ~~with which the parent/guardian disagrees, the parent/guardian may~~, request an administrative review of the action or decision. The ~~504~~ Coordinator shall designate an appropriate administrator to meet with the parent/guardian to attempt to resolve the issue~~. This~~ 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, he/she may request a Section 504 due process hearing.

~~2. If the parent/guardian chooses not to request an administrative review or if the review does not resolve the issue, the parent/guardian may request in writing a~~ Section 504 due process hearing~~. The parent/guardian's request for a hearing~~ shall be ~~made~~conducted in accordance with the following procedures:

1. The parent/guardian shall submit a written request to the 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 ~~administrative~~ review. The request for the due process hearing shall include:

a. The specific nature of the decision with which ~~the parent/guardian~~he/she disagrees

b. The specific relief ~~the parent/guardian~~he/she seeks

c. Any other information ~~the parent/guardian~~he/she 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.

~~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 the district 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.~~

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.

~~Any party~~4. The parties to the hearing shall be afforded the right to:

~~1~~a. 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~~with disabilities under Section 504

~~2~~b. Present written and oral evidence

~~3~~c. Question and cross-examine witnesses

~~4~~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 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)