

MEMORANDUM

August 14, 2023

TO: All Parents/Guardians

FROM: Matt Marshall, Director of Student Services

RE: Cotati-Rohnert Park Unified School District, Statement of Non-Discrimination and Section 504

The District is sending this memorandum to ensure compliance as well as to remind ourselves about our desires to strongly provide a safe school environment that allows all students equal access to and opportunities in the district's academic, extracurricular, and other educational support programs, services, and activities. The Board prohibits, at any district school or school activity, unlawful discrimination, including discriminatory harassment, intimidation, and bullying, targeted at any student by anyone, based on the student's actual or perceived race, color, ancestry, nationality, national origin, immigration status, ethnic group identification, ethnicity, age, religion, marital status, pregnancy, parental status, physical or mental disability, medical condition, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or association with a person or group with one or more of these actual or perceived characteristics. This policy shall apply to all acts related to school activity or to school attendance occurring within a district school, and to acts which occur off campus or outside of school-related or school-sponsored activities but which may have an impact or create a hostile environment at school.

Title II of the Americans with Disabilities Act, Amendments Act (Title II) and Section 504 of the Rehabilitation Act of 1973 (“Section 504”), school districts are required to identify students with disabilities and ensure that they receive educational and related services required by law. To fulfill this obligation, the Cotati-Rohnert Park Unified School District (“District”) administrators and staff must identify and refer for evaluation any student who has a condition that may qualify as a disability. The District must then determine the student’s eligibility for special education and related services, and develop an appropriate placement and accommodations. This memorandum describes the District’s legal obligations, policies, and procedures for the identification, evaluation, and placement of students under Title II and Section 504.

I. District’s Obligation Under Section 504

AR 6164.6 informs parents/guardians of their right to request a Section 504 evaluation for students who may be suspected of having a disability. Parents/guardians have the right to request an evaluation pursuant to Section 504 even if a student has not been found eligible for special education under the Individuals with Disabilities Education Act.

AR 6164.6 also informs parents/guardians of their right to request review of District decisions regarding the identification, evaluation, or placement of a student. If a parent/guardian disagrees with a District decision, they may request review through the District’s due process hearing procedure that includes an impartial due process hearing. Parents/guardians who participate in an impartial due process hearing have the right to be accompanied and advised by legal counsel and by individuals with special knowledge or training related to students with disabilities under Section 504, and to request review of the impartial due process hearing.

The District's procedural safeguards (included within AR 6164.6) further inform parents/guardians of their right to examine relevant records, receive notice of the District's actions regarding the identification, evaluation, and/or placement of a student and receive notice of District procedural safeguards.

Section 504 requires the District to provide to all qualified students with disabilities a free appropriate public education ("FAPE"). (34 C.F.R. § 104.33(a).) An "appropriate education" includes regular and/or special education and related aids and services designed to meet the individual needs of the student with a disability as adequately as non-disabled students' needs are met. (34 C.F.R. § 104.33(b).) Additionally, Section 504 requires that students are educated in the least restrictive environment. (34 C.F.R. § 104.34.)

To provide a FAPE, the District must identify and evaluate students with disabilities and determine whether they require special education or related services. (34 C.F.R. § 104.35.) If special education or related services are necessary to meet a student's educational needs, the District must develop a plan including an appropriate placement, services, and/or accommodations. (34 C.F.R. § 104.33(b).)

II. Role of Section 504 Coordinator

Each school site has a designated Section 504 Coordinator who is assigned to address questions, concerns, and all matters pertaining to Section 504. The Section 504 Coordinator is responsible for, but not limited to, the logistical umbrella of the site's Section 504 program. The logistical umbrella, with support and actions from the student's Section 504 Team includes the processes, evaluation, eligibility, appropriate accommodations/modifications, implementation, practices, and reevaluation/annual review so that the intent of Section 504, protecting the civil rights of individuals with disabilities, is maintained.

The District also maintains a Section 504 Compliance Coordinator who is available to provide assistance and information. The District 504 Compliance Coordinator, together with the site Section 504 Coordinator, work on resource development, background information, policies and procedures, and all related protocols.

III. Identification of Students With Disabilities

a. Definition of Disability

Under Title II and Section 504, a student is generally considered to have a disability, and potentially eligible to receive a FAPE, if he or she has a physical or mental impairment which substantially limits one or more major life activities. (34 C.F.R. § 104.3(j); see also 28 C.F.R. § 35.108(a).)

A physical or mental impairment means: 1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems; or 2) any mental or psychological disorder. (28 C.F.R. § 35.108(b); 34 C.F.R. § 104.3(j)(2)(i).) Examples of physical or mental impairments that may constitute disabling conditions include, but are not limited to, diabetes; heart disease; intellectual disability; specific learning disability; emotional or mental illness; HIV/AIDS; drug or alcohol addiction; tuberculosis; and attention deficit disorder (ADD or ADHD). (28 C.F.R. § 35.108(b).)

Under Title II, major life activities include, but are not limited to, self-care, performing manual tasks, seeing, hearing, eating, sleeping, walking, sitting, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, writing, communicating, interacting with others, working, and the operations of major bodily functions. (28 C.F.R. § 35.108(c)(1).) Similarly, under Section 504, major life activities include, but are not limited to, caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. (34 C.F.R. § 104.3j)(2)(ii).)

An impairment is considered "substantially limiting" when it impedes a person's ability to perform an activity as compared to most people in the general population. The "substantially limiting" standard is construed broadly and requires only a basic showing of limitation; it does not require the impairment to significantly or severely restrict the individual from performing the activity. (28 C.F.R. § 35.108(d).) Factors to consider in determining whether a student's impairment may be "substantially limiting" include:

1. The nature and severity of the impairment;
2. The duration or expected duration of the impairment; and
3. The permanent, long-term impact or expected impact of the impairment.

(See, e.g., *Snowflake (AZ) Unified School District* (1998) 102 LRP 38676.)

District staff should be aware of students' mental and physical impairments, and consider whether such impairments substantially limit any major life activity, so as to qualify as a disability under Section 504 and/or Title II.

b. Referral for Evaluation for Special Education Services

The District's procedure for identifying students with disabilities utilizes referrals from parents/guardians, teachers, appropriate professionals, and others. Referrals must be made according to the following procedures:

1. Any student may be referred for consideration of eligibility as a disabled student under Section 504.
2. Referrals may be made by individuals with knowledge of the student's needs and/or educational programming, including teachers, other staff members, parents, student success teams, community agency, etc.
3. Referrals may be made to the Principal or 504 Coordinator at any time.

Examples

Although it will depend on the specific circumstances for each student, some academic and behavior concerns possibly triggering a duty to refer a student for evaluation may include:

- Decline in grades and/or work completion;
- Information that the student is or may be diagnosed with impairments or conditions such as ADD/ADHD, diabetes, anxiety, depression, specific learning disability, etc.;
- Change in attendance habits;
- Inability to meet grade-level standards;
- Inability to participate in class activities and required curriculum;
- Exhibition of maladaptive and/or antisocial behaviors; and
- Inconsistent attitude and/or demeanor.

If a staff member suspects a student may have a disability and may need special education or related services, he or she must refer the student for an evaluation. Prior to making the referral, a staff member may consider resources of the regular education program, and utilize them where appropriate. However, the referral should not be unduly delayed by attempts at utilizing general education resources. For example, although the Student Study Team ("SST") process may be followed to attempt general education interventions where appropriate, SST members should be aware that information gathered during the SST meeting could trigger an immediate obligation to refer a student for an evaluation.

Upon receipt of a referral for evaluation, the Principal or 504 Coordinator must promptly convene a meeting of a multidisciplinary 504 team to consider the referral and determine whether an evaluation of the student is appropriate. A 504 team consists of a group of individuals knowledgeable about the student, the meaning of the evaluation data, and the placement options. (34 C.F.R. § 104.35(c).) The team's determination should 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.

c. Initial Evaluation for Special Education Services

If the 504 team finds that a student needs or is believed to need special education and/or related services under Section 504, the District must conduct an evaluation of the student prior to initial placement and before any significant change in placement. (34 C.F.R. § 104.35(a).) If the 504 team determines that an evaluation is unnecessary, it must inform the parents/guardians of this decision and of the procedural safeguards as described below.

Upon receipt of a determination that an evaluation is appropriate, the evaluation process will be completed within a reasonable timeframe. The District will ensure that in conducting evaluations:

- Tests and evaluation materials are validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the test producer's instructions;
- Tests and evaluation materials include those tailored to assess specific areas of educational need and not merely those designated to provide a single intelligence quotient; and
- Tests are selected and administered so as best to ensure that the results accurately reflect the student's aptitude or achievement level, or other factors the tests purports to measure, rather than reflecting any impaired sensory manual, or speaking skills, as applicable. (34 C.F.R. § 104.35(b).)

Because an appropriate evaluation is necessary to the determination of a student's placement, Student Success Team meetings may not be used in lieu of conducting an evaluation.

d. Eligibility Determination

Upon completion of the evaluation, the District must convene a Section 504 eligibility meeting to determine whether the student is a student with disability and, if so, his/her educational needs.

The meeting should include persons knowledgeable about the student, including parent/guardians, teachers, members of the assessment team, the Section 504 coordinator, the school psychologist, the school nurse, and any other appropriate individuals. (34 C.F.R. § 104.35(c).) As described above, to determine whether the student is eligible for special education or related services under Section 504, the team should determine whether results of the evaluation demonstrate that the student's impairment limits a major life activity. Importantly, "learning" is not the only major life activity to consider. Under Section 504, a student may qualify as disabled even if his or her disability does not limit learning.

IV. Response to a Student with a Disability

a. Placement

If a student is determined to be eligible for services under Section 504, the team will meet to develop a written accommodation plan specifying placement, accommodations, and supplementary aids and services necessary to ensure that the student receives a FAPE. The parents/guardians are entitled to participate in the meeting and are provided an opportunity to examine all relevant records. A copy of the student's accommodation plan should be kept in his/her student record. The student's teachers, and any other staff who provide services to the student, shall be informed of the plan's requirements. The written 504 Plan should include the following:

1. A description of the identified disability that substantially limits a major life activity;
2. A description of how the disability needs to be addressed in relation to the educational setting and extracurricular activities;
3. The special education, related services, or accommodations designed by the team to address the student's needs; and
4. Names of individuals responsible for ensuring the accommodations are implemented.

The student should be placed in the regular educational environment unless the District can demonstrate

that the use of supplementary aids and services will be insufficient to allow the student to succeed in that environment. If the team determines the regular educational environment to be inappropriate, it should determine what alternative placement is the least restrictive environment, and place the student with students who are not disabled to the maximum extent appropriate to his/her individual needs. (34 C.F.R. § 104.34.)

If a student is determined eligible, special education and related services may potentially include special education provided in or outside of the general education classroom; related services such as speech-language therapy, occupational therapy, physical therapy, adapted physical education, or counseling/guidance services; and/or various accommodations or modifications, including but not limited to shortened assignments, extra time on tests, preferential seating, etc.

If the 504 team determines that a student is eligible under Section 504, however, no services are necessary for the student, the record of the meeting should reflect that the student was identified as a disabled person under Section 504, but that no Section 504 plan was created as no accommodations or services are necessary, and state the basis for the decision that no accommodations or services are presently needed. Additionally, the District should maintain clear documentation showing its determination of eligibility and services was based on an analysis of the student's unique needs and utilized information from a variety of sources.

b. Procedural Safeguards

Under Section 504, the Superintendent or designee must ensure District compliance with law, including providing the students and their parents/guardians with applicable procedural safeguards and required notifications. (34 C.F.R. § 104.7.) Information regarding the Section 504 Procedural Safeguards must also be provided to parents when the District has made any determination regarding: (1) whether to evaluate a student, (2) whether a student is eligible under Section 504, and (3) what services will be provided to a disabled student under Section 504. The District's procedural safeguards (included within AR 6164.6) further inform parents/guardians of their right to examine relevant records, receive notice of the District's actions regarding the identification, evaluation, and/or placement of a student and receive notice of District procedural safeguards.

District has designated the following individuals to coordinate its efforts to comply with the requirements of law, Board policy, and administrative regulation pertaining to the implementation of Section 504:

Section 504 (All Students):

Matt Marshall

7165 Burton Ave.

Rohnert Park, CA 95492

(707) 792-4540

Matthew_Marshall@crpusd.org

Section 504 (All Employees):

Jennifer Hansen, Director of Human Resources

7165 Burton Ave.

Rohnert Park, CA 95492

(707) 792-4720

Jennifer_Hansen@crpusd.org

Regulation 6164.6: Identification And Education Under Section 504

Status: ADOPTED

| Last Revised Date: 06/12/2018 **| Last Reviewed Date:** 06/12/2018

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)

Matt Marshall
7165 Burton Avenue
Rohnert Park, CA 94928
(707) 792 - 4540

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 disabilities as adequately as the needs of students without disabilities are met, at no cost to the student or his/her parent/guardian except when a fee is specifically authorized by law for all 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. (28 CFR 35.108)

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, genitourinary, immune, hemic, lymphatic, skin, and endocrine. (28 CFR 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. (28 CFR 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 himself/herself, 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. (42 USC 12102; 28 CFR 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, student success team, or community agency may refer a student to the principal or 504 Coordinator for identification as a student with a disability under Section 504.
2. Upon receipt of any such referral, the principal, 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 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. (34 CFR 104.35)

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

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 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. (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)

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.

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 his/her individual needs. (34 CFR 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 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.

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. (34 CFR 104.35)

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. He/she also 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. (34 CFR 104.36)

If a parent/guardian disagrees with 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 within 30 days of that action or decision.

Prior to requesting a Section 504 due process hearing, the parent/guardian may, at his/her 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, he/she 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 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 he/she disagrees
 - b. The specific relief he/she seeks
 - c. Any other information 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.
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 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)
