

## **BERKELEY USD**

### **BP 6164.6 Instruction**

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

The Board of Education 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. (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. 5144.1 - Suspension and Expulsion/Due Process (Students with Disabilities))

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 Co-curricular Activities)

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.

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>

Policy BERKELEY UNIFIED SCHOOL DISTRICT, adopted: March 2021