

STOCKTON UNIFIED SCHOOL DISTRICT

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SECTION 504 AMERICANS WITH DISABILITIES ACT HANDBOOK

Guidelines for Implementing:

- **Section 504 of the Rehabilitation Act of 1973 and (504) 34 C.F.R. Part 104**
- and -
- **American with Disabilities Amendments Act and Amendments of 2008 (ADA) 42 USC 12101 effective January 1, 2009 and Final Regulations – May 24, 2011**

For more information contact:

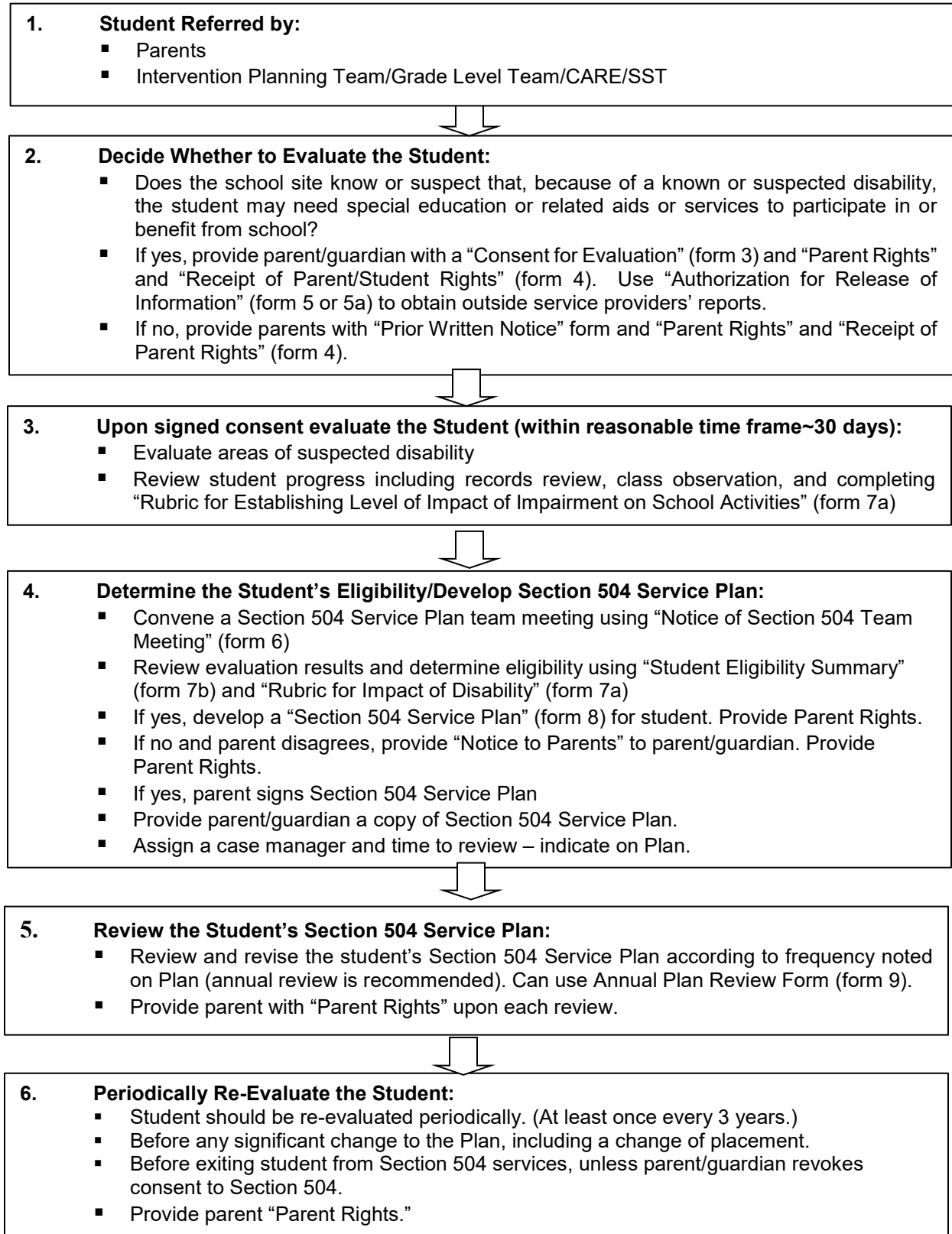
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SECTION 504 PROCESS FLOW CHART



GUIDELINES

Section 504 of the Rehabilitation Act of 1973 (Section 504) is Congress' directive to schools receiving any federal funding to eliminate discrimination based on disability from all aspects of school operation. It states, "*No otherwise qualified individual with a disability..., shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance...*" Because the schools in the Stockton Unified School District are recipients of federal funding, they are required to provide eligible students with disabilities with equal access (both physical and academic) to services, programs, and activities offered by its schools.

In addition, this handbook will assist schools in compliance with The Americans with Disabilities Amendment Act of 2008, which brought ADA and Section 504 into close conformity. Section 504 and ADA are civil rights statutes, which bar discrimination based on disability. At each school, the responsibility for ensuring Section 504 compliance rests with the District, and the individual site administrators.

There are two main purposes to Section 504. The first purpose of Section 504 is to protect students from discrimination. Section 504 states that, "No otherwise qualified individual with a disability..., shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance...." Section 504 assures access to educational services, programs, and activities that is equal to that given to students who do not have disabilities, and assures that qualified individuals with a disability are provided aids, benefits, and services that are effective as that provided to others.

The second purpose of Section 504 is to provide a free appropriate public education ("FAPE") to each qualified person with a disability who is in the school district's jurisdiction, regardless of the nature or severity of the person's disability. Under Section 504, FAPE may consist of either general or special education and referral that are designed to meet the individual educational needs of persons with disabilities as adequately as the needs of non-disabled persons are met. Section 504 also requires that students be educated in the least restrictive environment (LRE) appropriate for the student. Therefore, a school district must:

"[Provide for the education of each [student with a disability] in its jurisdiction with [non-disabled] persons . . . to the maximum extent appropriate to the needs of the [person with a disability]. Stockton Unified School District shall place a [student with a disability] in the regular educational environment . . . unless it is demonstrated by the school district that the education of the [student with a disability] in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily."

The ADA requires the provision of FAPE, however it does not require a written plan. It is the policy of Stockton Unified School District that the provision of FAPE is accomplished

through the creation and implementation of a Section 504 Service Plan. Only those students who satisfy all three of the eligibility criteria described below (see Eligibility section) are eligible for, and are provided, regular or special education and related aids and services under Section 504.

CHILD FIND

“Child find” is the process of locating and identifying students with disabilities. Section 504 requires school districts to annually “undertake” to identify and locate every qualified individual with a disability residing in their jurisdiction who is not receiving a public education. (34 CFR § 104.32). Schools must conduct an evaluation of any student “who, because of handicap, needs or is believed to need special education and related services.” (34 CFR § 104.35(a).).

Any person can refer a student for consideration under Section 504, including parents, guardians and school staff. If the school suspects that a student has a disability and may need specially designed instruction, the school may proceed with an evaluation under the IDEA to rule out special education eligibility before considering the student’s needs under Section 504.

School districts also have an affirmative obligation to identify students with disabilities even when parents do not request 504 supports.

ELIGIBILITY

A student shall be eligible for a Section 504 Service Plan if they satisfy all of the following criteria:

(1) Physical or Mental Impairment

A student must actually have a mental or physical impairment. A physical or mental 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; genito-urinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as intellectual disabilities, organic brain syndrome, emotional, and specific learning disabilities. The law does not limit eligibility to specific diseases or categories of medical conditions.

In addition, an individual is disabled if he/she is substantially limited in a major bodily function. Areas of limitation may include: immune system, cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, reproductive, hemic, lymphatic, musculoskeletal, special sense organs and skin, genito-urinary, and cardiovascular system. If an individual is substantially limited in a major bodily function he/she need not also be limited in a major life activity.

There are certain impairments that will virtually always be found to impose a substantial limitation on a “major life activity” and therefore an individual will essentially always qualify for protection under the ADA. The list includes: deafness, blindness, intellectual disabilities, partially or completely missing limbs, mobility impairments requiring the use of a wheelchair, autism, cancer, cerebral palsy, diabetes, epilepsy, HIV infection, multiple sclerosis, muscular dystrophy, major depression, bipolar disorder, post-traumatic stress disorder, obsessive-compulsive disorder, and schizophrenia.

(2) Substantially Limits

The student’s physical or mental impairment must substantially limit one or more major life activities. Section 504 does not specifically define the term “substantially limits.” It is subject to interpretation on a case-by-case basis. Refer to “*Rubric for establishing level of impact of disability on school activities*” (see page 35). However, in considering limitations, a student may be compared to most students in the general population. An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. The effects of an impairment lasting, or expecting to last less than 6 months can be considered to be “substantially limiting.”

Whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as: medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; or learned behavioral or adaptive neurological modifications. Thus, the ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether impairment substantially limits a major life activity.

(3) Major Life Activities

Major life activities include, but are not limited to, caring for one’s self, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. Learning, reading, concentration, thinking, and communication are often, but not always, the major life activities utilized to determine Section 504 eligibility in the schools.

These lists, however, do not provide every possible major life activity or bodily function; therefore, if an activity or bodily function is not listed in the Amendments Act, it might still be considered a major life activity under Section 504.

REFERRAL

When a student is exhibiting academic, participation, attendance, social and/or behavioral problems the student's school should consider interventions through its CARE team process, the Student Success Team (SST), or other team. This consideration should result in: general education interventions (such as tiered interventions in a Multi-Tiered Systems of Support (MTSS) also known as Response to Instruction and Intervention model(RTII)), a referral to assess for Section 504 eligibility, and/or a referral for a special education evaluation pursuant to the Individuals with Disabilities Education Improvement Act of 2004 (IDEA). If it is determined that the student should go through Section 504 Eligibility Review, copies of all intervention planning and reporting forms should be forwarded to site personnel responsible for developing the Section 504 Evaluation Plan. The parents should be given a copy of the "*Consent for Section 504 Evaluation*" (form 3), a copy of the "*Section 504 Parent and Student Rights*," and a copy of "*Receipt of Rights Under Section 504*" (form 4). Parents also may refer the child for Section 504 consideration at any time. If the student is suspected of having a disability under IDEA, the district should proceed with IDEA evaluation procedures.

Note: MTSS/RTI should not be used to delay a parent request for evaluation unless parent agrees in writing to withdraw his/her request for an evaluation under Section 504 and proceed with MTSS/RTI instead. Similarly, a request for an evaluation may be made at any time and without going through the SST process.

EVALUATION

Stockton Unified School District shall evaluate a student who, because of a disability or suspected disability, needs, or is believed to need, special education or related services before taking any action with respect to the initial placement of the student in general or special education and any subsequent significant change in placement whether the student is suspected of having a disability under 504 or IDEA criteria.

Once the District receives the signed "*Consent for Evaluation*" (form 3) and "*Receipt of Rights*" (form 4), the evaluation begins. There is no timeline in the law as to how quickly the evaluation shall be completed, although the law implies it must be "reasonable."

When selecting tests and other evaluation materials, Stockton Unified School District will ensure that they are: validated for the specific purpose for which they are used; administered by trained personnel in conformance with the instructions provided by their producer; tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

An assessment must be administered in the student's native language. The District may administer and use formal and informal measures as deemed necessary. Evaluation data may draw upon information from a variety of sources, including, but not limited to, observations, testing, reports, district evaluations, medical records, letters from doctors, health care plans, school records, etc.

If Stockton Unified School District requires a medical diagnosis to determine the presence of a disability for Section 504 eligibility, the district must ensure that the student receives the assessment at no cost to the parents. A parent may choose to use his or her own resources to obtain a medical evaluation or arrange with the district for reimbursement for evaluation costs, however in no instance may a parent be required to pay for such an evaluation.

As part of the evaluation process, the district may consider reports from doctors, therapists and others. Use "*Authorization for Release of Information for Section 504 Evaluation*" (form 5 or 5a) for parent consent for exchange of information.

Once the evaluations are completed, the District will schedule a Section 504 Team meeting to review the evaluations and to determine whether the student is eligible for a Service Plan under Section 504. The "*Section 504 Student Eligibility Form*" (form 7b) may be used. There is a rubric (form 7a), which goes with the *Eligibility Form* to determine the level of impact of the disability.

The team will decide whether the student has a physical or mental impairment that substantially limits one or more major life activities.

The team is made up of a group of individuals, including persons knowledgeable about each of the following: the student; the meaning of the evaluation data being reviewed; and available options for accommodations, supports and services. The team will generally include the parent/guardian and at least one of the student's general education teachers, and, may include other teachers, individuals who can interpret the instructional implications of the assessment results, intervention team members, counselors, related service providers, the student, other school staff and administrators, and individuals who have knowledge or special expertise regarding the student. Names of team members will be noted at the top of the Eligibility Form, and areas of knowledge will be checked.

If the team determines that the student is eligible to receive a "free appropriate public education" (FAPE) under Section 504, the team will develop a Section 504 Service Plan. Students who have a "record of such an impairment" or who are "regarded as having an impairment" are eligible under Section 504 and are protected from discrimination under Section 504, even though they are not otherwise entitled to a FAPE and may not require a Section 504 Plan. For example, the District should protect such students from disability-based bullying and harassment and must ensure their access to participation in the District's programs and activities.

SECTION 504 SERVICE PLAN

A Section 504 Service Plan is a written plan that describes the educational accommodations, related aids and services that the Section 504 Team determines the student needs to receive a “free appropriate public education” (FAPE).

The District and school must provide those accommodations, related aids, and services that are needed to provide the student with equal access to District programs, services, and activities comparable to that of non-Section 504 students.

Accommodations are based on and designed to meet individual student needs and disabilities. Specific standardized test accommodations should be detailed and implemented in the classroom on a regular basis.

Section 504 Team members should be aware that the regulations governing Section 504 specify that a “free appropriate public education” (FAPE) “is the provision of regular or *special education* and related aids and services . . .” (34 C.F.R. §104.33(b)(1)). There may be instances where a student who is eligible for a Section 504 Service Plan must be provided with “special education” services (e.g., study skills classes, RSP, occupational therapy, etc.) in order to receive a FAPE. In such cases, the Section 504 Team should consider whether it is appropriate to refer the student for evaluation of eligibility under the IDEA.

The Section 504 regulations do not specify timelines for evaluations or a frequency of review, but note that districts should establish procedures for “periodic” review of plans. Note on the plan how often and by when the plan will be reviewed. In addition, a re-evaluation is required before a “significant change in placement.” A significant change in placement has been defined as “a substantial and fundamental change in the student’s educational program.” Use the “*Consent for Evaluation*” form. Timelines for IDEA evaluation and re-evaluation would meet the requirement.

PROTOCOL FOR MAINTENANCE OF ACCURATE PUPIL RECORDS FOR STUDENTS WITH DISABILITIES

I. Student Records Defined

Student records are records that are directly related to a student and maintained by SUSD. Student records may include:

- The name of the student, the student’s parent or other family member(s)
- The address of the student
- A personal identifier such as the student’s state identification number, student number, or court file number

- A list of personal characteristics or other information that would make it possible to identify the student with a reasonable certainty
- Any item of information directly related to an identifiable student, other than directory information, which is maintained by SUSD or required to be maintained by an employee in the performance of duties whether recorded by handwriting, print, tapes, film, microfilm, and computer or by other means

Examples of student records include but are not limited to:

- Cumulative File
- Test Protocols
- Related Service Providers' Logs
- Discipline Records
- Nurses'/Health Records

II. Maintaining Section 504 Records

Section 504 records, including records relating to Section 504 Plans, for each individual pupil shall be maintained in a central file at the school attended by the pupil, or if the records are maintained in different locations, a notation in the central file as to where such other records may be found is required. The following Section 504 records shall be maintained in each individual pupil's cumulative folder at the pupil's school site:

- A copy of the pupil's current 504 Plan;
- All originals related to 504 documentation for the last three (3) years (e.g., parent consent(s), meeting notice(s), 504 meeting notes);
- Copies of any SUSD evaluation reports less than three (3) years old (e.g., multi-disciplinary, psychoeducational, speech and language, OT, PT, FBA, etc.);
- Mandatory interim records (e.g., medical evaluations, health plans, or outside agency medical reports).

Each student's cumulative file, inclusive of any Section 504 records, shall be transferred in its entirety when a student transfers between school sites.

III. Persons Responsible for Maintaining Section 504 Records

The following individuals are responsible for ensuring the maintenance and accuracy of Section 504 records:

- District 504 Coordinator: Jennifer Robles, (209) 933-7130, ext. 2617
- Site 504 and Special Education Site Managers: Site Administrators
- Site 504 Service Coordinators: Counselor and site-assigned nurse
- Clerical: High School Registrar, K-8 School Support Technicians (SST)

The District 504 Coordinator and Site 504 Managers shall work together to ensure the maintenance and accuracy of Section 504 records and Section 504 compliance:

- During the first week of each month of the school year, the District 504 Coordinator shall distribute “Site 504 Reports” to the Site 504 Manager at each school site, listing all students with 504 Plans by school site, to ensure transitioning students receive those supports indicated in their 504 Plans.
- Site 504 Managers shall review the cumulative files for all incoming students with 504 plans and shall assure maintenance of students’ Section 504 records.
- Such records may include a student’s cumulative folder, principal checkout list, Section 504 meeting notes, resolution of complaints, etc.)
- If a Site 504 Manager discovers missing or inaccurate records in a student’s Section 504 file, he/she shall notify the District 504 Coordinator.
- The District 504 Coordinator will work with the student’s prior school or local educational agency to locate missing or incomplete records or take other actions needed to address any missing or inaccurate records and ensure that supports are put into place at student’s new school site.

IV. Accuracy and Amendment of Records

In addition to the above, a parent or guardian who believes that the information in his/her child’s records is inaccurate, misleading, or violates the student’s privacy or other rights, may request that the school administrator amend the information. Section 504 teams that receive such a request should contact their Director for assistance.

V. Resources

Should you have any additional questions regarding maintenance of Section 504 pupil records, please contact:

- Section 504: Jennifer Robles, (209) 933-7130, ext. 2617

Additional information is available by reference to applicable District policies, administrative regulations, and staff, student, and parent handbooks:

- BP / AR 5022 (Student and Family Privacy Rights)
- BP / AR 5125 (Student Records)
- 2021-2022 District Policies & Procedures Handbook, High School¹
- 2021-2022 District Policies & Procedures Handbook, Elementary School²

¹ <https://www.stocktonusd.net/cms/lib/CA01902791/Centricity/Domain/168/Reference%20Packet%20HS%20-%20ENG%20-%202020.pdf>

² <https://www.stocktonusd.net/cms/lib/CA01902791/Centricity/Domain/168/Reference%20Packet%20K-8%20-%20ENG%20-%202020.pdf>

DISCIPLINE

Administrative Procedure When Considering Disciplinary Action for Students Identified as Students with Disabilities under Section 504 of the Rehabilitation Act

The district has specific responsibilities related to the provision of a “free appropriate public education” (FAPE) to school age individuals with disabilities under Section 504.

Students with disabilities are expected to follow the behavioral expectations/codes of conduct. The behavioral expectations/codes of conduct should be taught, enforced, advocated and monitored with all students so that s/he is aware of what behavior is expected at school. If a student with disabilities is having behavioral problems at school, parents or school personnel may request assessment to determine the function of the student’s behavior and appropriate strategies to teach and support replacement behavior.

Following assessment/evaluation, a 504 team meeting is held to discuss appropriate instruction, behavioral management techniques, and behavioral supports to assist in improving the student’s behavior. Through the 504 process, student behavior, including serious behavior problems, may be addressed in a variety of ways, including the development of goals, conducting functional behavioral assessments, and developing positive behavioral interventions and supports.

SUSPENSION

Federal and State laws generally require schools to be pro-active and to implement interventions at the earliest sign that a student’s behavior is impeding his/her ability to learn. Students who receive 504 services and accommodations may be suspended when other means of correction have failed to bring about proper conduct. Out of school suspension typically has little relationship to the misconduct and does not support behavioral change.

Alternatives to Suspension

Discipline is to be used instructionally and while the use of alternatives to suspension includes the use of consequences, the emphasis must be placed on what the student needs to learn in order to avoid future misconduct. The appropriate means of correction may include: community service, required mini-courses on conflict resolution, and anger management. Change in student behavior is typically supported by a Behavior Intervention Plan.

The student’s teacher of record is used to provide primary opportunities to learn necessary skills proactively. Through proactive school-wide, and classroom behavioral supports, staff can work to structure for student success, teach behavioral expectations, observe and monitor student progress while maintaining positive interactions and correct misbehaviors in a fluent manner. As a system, schools are required to use the Student Assistance Program (SAP) multi-tiered system of supports to match the student to

appropriate interventions and services. Utilizing in-classroom supports such as effective teaching of behavior expectations, through direct instruction or peer modeling and re-teaching when expectations are not met help to emphasize and provide clarity helping students function successfully in the structure the teacher has created.

The use of default behavior interventions, where learning activities can be matched to misconduct helps students relate behaviors to possible alternative outcomes in the future. Reactive strategies such as de-briefing and de-escalating anger and aggression are both excellent ways to change student behavior. The use of restorative practices helps students and staff build an understanding surrounding problem behaviors by examining how behaviors impact all involved and explores how to develop agreements and guide future actions.

Lunchtime or recess loss of privileges, lunch or recess detention or Saturday School may be used to provide consequences to students without loss of instructional time. In-School Suspension alternatives are to be used whenever possible as long as the student with disabilities continues to receive services according to his/her 504.

First Suspension (less than five days of suspension total for the school year)

Whenever a student receiving 504 services and accommodations engages in conduct that results in an out of school suspension, the student and parent must meet with school administration immediately upon the student's return to school to review the incident using restorative principles and to address the concerns regarding the student. The administrator will initiate an immediate referral to the site CARE team.

The CARE team should, at minimum, include a counselor, teacher, administrator, and an individual with knowledge about positive behavior support strategies. The CARE team should evaluate the severity of the misconduct and determine whether:

1. There are interventions that can be used to address the behavior that do not require an 504 team meeting;
2. The team needs to review and modify the implementation of the student's current behavioral supports and interventions; and, if necessary,
3. An 504 team meeting should be held to:
 - a. Review the student's current instructional program.
 - b. Develop or revise a Behavior Intervention Plan to address the behaviors relating to the misconduct.
 - c. Revise the current Behavior Intervention Plan, as needed, to prevent recurrence of the misconduct.

Note: All requirements for parent notification and participation in the IEP/504 meeting must be followed.

Second Suspension (less than five days of suspension total for the school year)

Following misconduct that results in a second suspension, the school administration shall:

1. Immediately schedule an 504 meeting upon the student's return to school to review the student's instructional program, gather and review pertinent information from the CARE Team in addition to considering any assessments that must be done to identify the function of the student's behavior and/or to develop, review, or modify the Behavior Intervention Plan. The 504 is to identify other interventions as appropriate to prevent a recurrence of the misconduct.

Five or More Days of Suspensions

Five or more days of suspension is a serious indicator that the student continues to struggle with behavior that impedes learning. The school administration shall:

1. Immediately schedule an 504 meeting upon the student's return to school to review the student's instructional program, gather and review pertinent information from the CARE Team in addition to considering any assessments that must be done to identify the function of the student's behavior and/or to develop, review, or modify the Behavior Intervention Plan. The 504 is to identify other interventions as appropriate to prevent a recurrence of the misconduct.
2. If the student's suspensions reach **eight (8) cumulative days of suspension**, a 504 team must meet to do the following:
 - a. Discuss a Manifestation Determination regarding the misconduct(s) and the relationship between the misconduct and the student's disability.
 - b. The 504 team considers whether or not an FBA (Functional Behavioral Assessment) or FAA (Functional Analysis Assessment) is necessary. If yes, an assessment plan must be completed and consented to by the parent to conduct the FBA or FAA with the support from 504 team members to collect new data and determine further intervention. If no, the reason must be documented in the 504.
 - c. Review the student's current 504, and any behavioral assessments that have been conducted regarding this student. Determine the need to develop a Behavior Intervention Plan (BIP) or review an existing BIP and its implementation, and make any modifications necessary to determine whether or not it continues to be an appropriate offer of "free appropriate public education" (FAPE).

The maximum number of days a student with disabilities may be suspended **shall not exceed 10 cumulative days** in a school year without 504 team discussion addressing the behavior that impedes his/her learning or that of others. On or after the 11th day, if not before, the student must return to the school site, a 504 meeting is held to determine appropriate services. **The team must consider** whether or not the behavior/pattern of behaviors is a manifestation of the student's disability or an FBA or FAA is necessary.

Informal suspension, whereby a parent is advised to keep a student at home, is prohibited as they are in violation of state and federal law.

Note: Suspension from the school bus **does not constitute suspension from school.** When a student with an 504 that includes transportation is suspended from the school bus, an alternative form of transportation must be provided at no cost to the parent or student.

EXPULSION

Mandatory Recommendation for Expulsion

Administration must immediately suspend and recommend expulsion of a student who commits one of the following offenses, either on school grounds or at an off-campus school sponsored event:

- Possessing, selling or furnishing a firearm. Note: This does not apply to “imitation” firearms.
- Brandishing a knife at another person.
- Unlawfully selling a controlled substance.
- Committing or attempting to commit a sexual assault or committing sexual battery.
- Possessing an explosive.

The governing board shall order a pupil expelled upon finding that the pupil committed one of these acts.

Mandatory Unless Inappropriate Recommendation for Expulsion

Administration must recommend expulsion of a student who commits one of the following offenses unless it believes the expulsion is inappropriate due to the particular circumstance, or that an alternative means of correction would address the conduct:

- Causing serious physical injury to another person, except in self-defense.
- Possession of a knife or other dangerous object.
- Unlawful possession of any controlled substance (except for the first offense of possession of less than one ounce of marijuana, possession of over-the-counter medication for use by the pupil for medical purposes or medication prescribed for the pupil by a physician).
- Robbery or extortion.
- Assault or battery upon a school employee.

The governing board may order a pupil expelled upon finding that the pupil committed one of these acts if it finds that (1) Other means of correction are not feasible or have repeatedly failed to bring about proper conduct; or (2) Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

A. Overview of the Manifestation Determination Process

1. The principal or designee responsible for the manifestation determination 504 process is to ensure all required activities are conducted appropriately and timely.
2. The 504 meeting should be scheduled within the 5-day suspension period, but in any case no later than ten days from the decision to recommend expulsion. Any exceptions require consultation with the Director of Student Support Services/Positive School Climate. **Informal or indefinite suspensions are prohibited.** During the expulsion proceedings, the student is required to have an educational placement that provides appropriate services.
3. Prior to the manifestation determination 504 meeting, the Director of Student Support Services/Positive School Climate and the Executive Director of Special Education/SELPA will discuss and identify appropriate alternative interim placement options, if deemed necessary.
4. At the manifestation determination 504 meeting, District personnel should discuss alternative interim placement options with the student's parents and the IEP/504 team should make a decision regarding an interim placement.

There are three circumstances in which the Director of Student Support Services/Positive School Climate may unilaterally implement a 45 school day alternative interim placement without regard to whether the behavior is determined to be a manifestation of the student's disability (an advisory call should be made to the Executive Director of Special Education/SELPA when considering a unilateral 45 school day placement):

- a. Possession of a weapon at school, on school premises or at a school function.
- b. Knowing possession, use, sale, or solicitation for the sale of illegal drugs while at school, on school premises or at a school function.
- c. Infliction of serious bodily injury upon another person while at school, on school premises or at a school function. Serious bodily injury is defined as an injury that "requires substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of function of a bodily member, organ, or mental faculty" (paragraph (3) of subsection (h) of section 1365 of title 18, United States Code).

B. Expulsion Considerations

A student with a disability who receives 504 service and accommodations and is being considered for expulsion is required to have a Manifestation Determination (pre-

expulsion) 504, and can only be expelled if the alleged misconduct of the student meets the District's criteria for expulsion, and:

1. The conduct in question was not caused by, and did not have a direct and substantial relationship to, the student's disability; and
2. The conduct in question was not the direct result of the District's failure to implement the 504.

To make the above determinations, a Manifestation Determination 504 team meeting must be held. The meeting should be scheduled within the five-day suspension period but, in any case, no later than ten school days after the initiation of the disciplinary action. Any exceptional circumstances which might require the timeline to be extended should be reviewed with the Director of Student Support Services/Positive School Climate.

To prepare for the 504 team meeting, school site personnel must:

1. Gather and review information regarding the alleged misconduct and, to the degree possible, the events that led to the misconduct, including suspension information, office referrals, grades and attendance).
2. Contact the Director of Student Support Services/Positive School Climate to advise them of the actions being taken.
3. Notify the parents of the meeting at least 48 hours in advance. If the parent does not respond to the notification, document all efforts to notify the parents.
4. Gather existing assessments and all relevant information regarding student's present level of performance (health, academic, social emotional, etc.).
5. Review the student's 504, any teacher observations and any relevant information provided by the parent, the BIP and school behavioral data.

The review of records may also include:

- a. Psychological assessments
- b. Social Emotional functioning
- c. Related services provider assessments
- d. Social Adjustment Report
- e. Performance on State or District wide assessments
- f. Periodic assessments
- g. Progress toward grade level/content standards
- h. Student portfolio
- i. Anecdotal records
- j. Other relevant information

6. Review any information provided by the parent before the 504 meeting. During the 504 meeting the steps listed below are to be followed:
 - a. Participants must be informed of the purpose of the meeting and the pre-expulsion (manifestation determination) 504 process.
 - b. The parent (and student) must be informed of their rights, including their right to request a due process hearing if they disagree with the manifestation determination. If a parent requests a due process hearing, the student will not be expelled until the due process matter is resolved.
7. Consider the student's 504, teacher observations, assessment reports and any relevant information provided by the parent, including all known facts leading up to the misconduct. Also consider the student's unique needs (including behavioral needs), implementation of relevant components of the student's 504 (e.g., BIP and other supports); if the student's disability impairs his or her ability to understand the impact and consequences of his or her conduct, and if the student's disability impairs his or her ability to control his or her conduct.
8. Following the review and discussion of information and its relationship to the misconduct, complete the "*Manifestation Determination 504*" Form.
 - a. If the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability.
 - b. If the conduct in question was the direct result of the District's failure to implement the 504.

If the 504 team determines that a. or b. above is applicable to the student, then the conduct is considered a Manifestation of the student's disability and the student shall return to the placement from which the student was removed unless the parent and the school district agree to a change of placement through the 504 process or, a court order is obtained. **Expulsion proceedings may not continue.**

C. Outcomes of the Pre-Expulsion 504 Meeting

1. If the 504 Team determines that the conduct was not a manifestation of the student's disability, then the case may proceed in the expulsion process;
 - a. The 504 team must determine the student's alternative interim educational placement and appropriate services; and
 - b. If during the meeting the 504 team finds inadequacies in the student's 504, then the 504 team should summarize and document their discussion of the deficiencies in the 504, decide upon and document in the 504, and steps to correct the deficiencies.

2. If the 504 team determines that the alleged misconduct is a manifestation of the disability then, expulsion process may not proceed.

- a. The 504 team should discuss and document appropriate steps (including changes to the 504 supports, modifications, services, aids and placement) to address the student's conduct and the student's 504, and the Behavior Intervention Plan, should be amended appropriately.
- b. Requests for further assessments should also be made if the 504 team deems it appropriate.
- c. Contact the Director of Student Support Services/Positive School Climate for guidance on follow-up actions.

To conclude the 504 meeting, complete the rest of the 504 sections as appropriate, including the consent page. If the parent does not sign, document all efforts to obtain the parent's signature, and send the case forward to the Director of Student Support Services/Positive School Climate.

Special Circumstances: There may be circumstances (such as in the case of a firearm violation) which require additional procedures. Those cases should be referred to the Director of Student Support Services/Positive School Climate even though the 504 committee has determined the student cannot be expelled.

D. Appeal of Disciplinary Action through Due Process Proceedings

If the parent disagrees with a decision of the 504 team in a pre-expulsion 504 team meeting, the parent shall be advised to their right to request a due process hearing.

In most instances, the expulsion process will remain in abeyance until the conclusion of the due process proceedings. During the due process hearing and expulsion process, the student remains in the alternative interim educational placement determined by the pre-expulsion 504 team, unless another alternative interim placement is agreed to by the District and the parent.

Pending the due process hearing, the student is to continue to receive the 504 services and accommodations.

Note: The Director of Student Support Services may remove a student to an alternative interim placement due to the possession of a weapon, drugs, or infliction of serious bodily injury, for 45 school-days without regard to whether the behavior is determined to be a manifestation of the student's disability.

E. Follow-Up Actions

1. Notify the Director of Student Support Services/Positive School Climate of the completed Manifestation Determination 504 when referring the student for possible expulsion.
2. When an expulsion recommendation and Manifestation Determination 504 are received by Director of Student Support Services/Positive School Climate, a review of the case will be conducted to identify any procedural and substantive errors. Based on this review, Director of Student Support Services/Positive School Climate may recommend:
 - a. That the expulsion process proceeds;
 - b. That the school take corrective action or reconsider the Manifestation Determination 504 or expulsion referral; or
 - c. That the referring school terminate the expulsion process due to irreversible errors.

INTERIM ALTERNATIVE EDUCATIONAL SETTINGS (IAES)

Director of Student Support Services/Positive School Climate may remove a student to an appropriate interim alternative educational setting (IAES), for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability, in cases where a student carries or possesses a weapon, knowingly possesses or uses illegal drugs, sells or solicits the sale of a controlled substance, or inflicts serious bodily injury upon another person while at school, on school premises, or at a school function.

In such instances, the IAES will be determined by the student's 504 team. If school personnel recommend a change in placement (e.g., suspension, IAES, parent consent or by court order) that would exceed 10 school days, an 504 team meeting is to be held as soon as possible, but no later than within 10 school days, to determine whether the behavior that gave rise to the violation of the school code was a manifestation of the student's disability.

If the 504 team determines that the behavior was not a manifestation of the student's disability, the school may discipline the student in the same manner in which it would discipline students without disabilities. If the discipline involves a change of placement, the new placement will be determined by the 504 team.

If the 504 team determines that the behavior was a manifestation of the student's disability or the expulsion case is heard and not recommended for expulsion, the student will be returned to the placement prior to the disciplinary action unless the District and parents agree to a change in placement, or the District has removed the student to an IAES due to behavior involving a weapon, illegal drugs or infliction of serious bodily injury.

If the behavior does not involve a weapon, illegal drugs or infliction of serious bodily injury, the District may request a hearing if it believes that maintaining the current placement is substantially likely to result in injury to the student or others. In making a determination in such a hearing, a hearing officer may order a change in placement to an appropriate IAES for not more than 45 school days.

If the District removes a student with disabilities from a placement as result of disciplinary action, the District must continue to provide educational services and 504 accommodations and services so as to enable the student to continue to participate in the general education curriculum. The District must also provide, as appropriate, a functional behavior assessment, behavior intervention services and modifications that are designed to address the behavior so that it does not recur.

**Section 504 of the
Rehabilitation Act of 1973
Parent/Guardian Rights and
Procedural Safeguards**

PROCEDURAL SAFEGUARDS

Parents/guardians shall be notified in writing of all district decisions 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)

- a. Examine relevant records
- b. Have an impartial hearing with an opportunity for participation by the parents/guardians and their counsel
- c. Either party may seek review of the hearing officer's decision in a federal court of competent jurisdiction.

Administrative Review

If a parent or guardian disagrees with the identification, evaluation, placement, or accommodation or 504 service plan for the student, they may initiate an administrative review of the disagreement within 30 days of the receipt of the 504 Plan. This disagreement is to be sent to the school site principal. Alternatively, 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 principal will contact the District's 504 Coordinator who will coordinate either an independent internal and/or external review of the disagreement.

A review of the disagreement will be conducted by the school site 504 Team or a meeting with the District's Section 504 Coordinator within 14 days of receiving the parent/guardian disagreement.

If the disagreement continues, the parent/guardian may request in writing that the Superintendent or designee review the plan. This review shall be held within 14 days of receiving the parent/guardian request. The parent/guardian shall be invited to meet with the Superintendent or designee to discuss the review.

Section 504 Due Process Hearing

If the parent/guardian chooses, or if the disagreement continues, the parent/guardian may request in writing a Section 504 due process hearing. A request shall include:

- a. The specific portion of the decision with which the parent/guardian disagrees;
- b. The specific relief the parent/guardian seeks; and
- c. Any other information the parent/guardian believes pertinent.

Within 30 days of receiving the parent/guardian request, the Superintendent or designee shall select an impartial hearing officer. This 30-day period may be extended for good cause or by mutual agreement of the parties.

To ensure impartiality, such impartial hearing 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 involvement that would adversely affect their impartiality or objectivity in the matter.

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 period may be extended for good cause or by mutual agreement of the parties.

Any party to the Section 504 due process hearing shall be afforded the right to:

- a. Be accompanied and advised by counsel and by individuals with special knowledge or training related to the problems of students who are disabled under Section 504;
- b. Present written and oral evidence;
- c. Question and cross-examine witnesses; and receive written findings by the hearing officer.



Section 504 Parent/Guardian Rights

The purpose of this notice is to describe the procedural safeguards provided to the parents of students with disabilities under Section 504. The intent of the law is to keep parents fully informed concerning the District's decisions to identify,

Section 504 of the Rehabilitation Act of 1973 is a federal law prohibiting discrimination against disabled persons who may participate in, or receive benefits from programs receiving federal financial assistance. Under Section 504 (§504), eligible students with disabilities are provided with educational benefits and opportunities equal to those provided to nondisabled students. Students with disabilities have the right to receive a free appropriate public education (FAPE) and to be educated with nondisabled students to the maximum extent appropriate.

Under §504, students are considered disabled if they suffer from a physical or mental impairment that substantially limits one or major life activities. Section 504 also protects students with a record of impairment or, who are regarded as impaired, from discrimination on the basis of disability. Students can be considered disabled, and may receive protections/accommodations under §504, even if they do not qualify for, or receive special education and related services under the Individuals with Disabilities Education Act (IDEA).

Parents of students with disabilities eligible under §504 have the following rights:

1. To receive written notice of the District's intent to identify, evaluate, and/or to provide a §504 Plan for their child
2. To review all relevant records regarding their child and obtain copies at reasonable cost
3. To appeal/disagree with the District's decisions with regard to the identification, evaluation, or §504 Plan accommodations/services, or file a complaint concerning allegations of a violation of §504 policy/procedures, or disability-based discrimination/harassment
4. To request an informal mediation or an impartial hearing if they disagree with their child's identification, evaluation, or §504 Plan, with an opportunity to participate and be represented by an attorney at the parent's expense
5. To review the decision of the impartial hearing officer

Upon request, the District will provide an oral interpreter at §504 Plan meetings for those whose primary language is not English. Upon request, the District will also provide translated versions of §504 related documents. A complaint investigation may be initiated by contacting the Child Welfare and Attendance Office if there is an assertion that adequate interpretation was not provided at a §504 Plan meeting. For further information regarding complaint investigations, refer to the District's policy, Uniform Complaint Procedures (UCP), (5 CCR Section 4622; Administrative Regulation 1312.3), as summarized in the Parent Student Handbook.

For further information, you may contact:

Stockton Unified School District
504 District Coordinator, Jennifer Robles
1144 E. Channel Street #104, Stockton, CA 95205
(209) 933-7130 ext. 2617 or email jrobles@stocktonusd.net



APPENDICES

IDEA AND SECTION 504: A Comparison

Component	IDEA	Section 504
Purpose	To provide federal financial assistance to state and local education agencies to assist them to educate children with disabilities.	To eliminate discrimination on the basis of disability in all programs and activities receiving federal financial assistance.
Who is protected?	All school-age children who fall within one or more of 13 specific categories of disability and who, because of such disability, need special education and related services (i.e., intellectual disability, hard of hearing, speech or language impairment, visual impairment, emotional disturbance, orthopedic impairment, other health impairment, deafness, deaf-blind, multiple disabilities, specific learning disability, autism, or traumatic brain injury).	All school-age children who have a physical or mental impairment that substantially limits a major life activity, have a record of such an impairment or are regarded as having such an impairment. Major life activities include walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself and performing manual tasks, thinking, concentrating, eating, sleeping, lifting, bending, reading, communicating, reaching and interacting with others. Section 504 protects a broader group of students than does the IDEA.
Duty to provide a Free and Appropriate Public Education (FAPE)	Both laws have a FAPE requirement. Section 504 defines FAPE differently than the IDEA.	
FAPE	Requires that FAPE be provided to only those protected students who, because of disability, need special education or related services.	Requires that FAPE be provided to only those protected students who, because of disability, need regular education accommodations, special education or related services.
FAPE	Defines FAPE as special education and related services. "Appropriate education" means a program designed to provide "educational benefit". Related services are provided if required from the student to benefit from specially designated instructional services.	Defines FAPE as regular or special education and related aids and services that are designed to meet the needs of disabled persons as adequately as the needs of nondisabled persons. A student can receive related services under Section 504 even if the student is in regular education full-time and is not provided any special education.

FAPE	Requires a written IEP document with specific content and a required number of specific participants at the IEP meeting.	Does not require a written IEP document, but does require a plan. It is recommended the district document that a group of persons knowledgeable about the student, including the parent, convened and document the plan of services and accommodations.
Special Education vs. Regular Education	A student is protected by the IDEA, if and only if: because of disability, the student needs special education.	A student is protected by Section 504 regardless of whether the student needs special education. Many students protected by Section 504 are in regular education full-time and are not provided any special education.
Funding	Provides additional funding for protected students.	Does not provide additional funds. IDEA funds may not be used to serve students protected only under Section 504.
Procedural Safeguards	Both laws require prior notice to parents or guardians with respect to the identification, evaluation and/or placement of protected students. IDEA procedures will suffice for Section 504 implementation.	
Evaluations	Both laws require that tests and other evaluation materials: <ol style="list-style-type: none"> 1. Be validated for the specific purpose for which they are used; 2. Be administered by trained personnel in conformance with the instructions provided by their producer, 3. Include those tailored to assess specific areas of educational need; and 4. Be selected and administered to assure that the test results accurately reflect whatever factors the tests purport to measure. 	
	Requires informed consent before an initial evaluation is conducted.	Requires informed consent before an initial evaluation is conducted.
	Requires re-evaluations to be conducted at least every 3 years.	Requires periodic re-evaluations. IDEA schedule for re-evaluation will suffice.
	A re-evaluation is not required before a change of placement. However, an IEP team should review current evaluation data, including progress towards goals and objectives when considering a significant change of placement. When data are insufficient to answer questions	Requires re-evaluation periodically and before a significant change in placement.

	regarding the appropriateness of the special education and related services being considered, then a re-evaluation should occur.	
	Provides parents a right to request an independent educational evaluation at district expense if parent disagrees with evaluation obtained by school and hearing officer concurs.	No provision for independent evaluations at district expense. However, Stockton Unified School District must carefully consider any private evaluations presented by parents.
Placement Procedures	When interpreting evaluation data and making placement decisions, both laws require districts to: <ol style="list-style-type: none"> 1. Draw upon information from a variety of sources; 2. Assure that all information is documented and considered; 3. Ensure that the eligibility decision is made by a group of persons including those who are knowledgeable about the child, the meaning of the evaluation data and placement options; and 4. Ensure that the student is educated with his/her non-handicapped peers to the maximum extent appropriate (least restrictive environment). 	
	An IEP meeting is required before any change in placement.	A Section 504 re-evaluation is required before any "significant change" in placement
Grievance Procedure	Does not require a compliance offer. Provides right to a due process hearing on certain issues.	Requires districts with more than 15 employees to, (1) designate an employee to be responsible for assuring district compliance with Section 504, and (2) provide a grievance procedure for parents, students and employees.
Due Process	Both statues require districts to provide impartial hearings for parents or guardians who disagree with the identification, evaluation or placement of a student	
	Contains detailed hearing rights and requirements.	Requires notice, the right to inspect records, the right to participate in a hearing and to be represented by counsel, and a review procedure.
Federal Enforcement	Enforced by the U.S. Office of Special Education Programs. Compliance is monitored by OSPI and the Office of Special Education Programs.	Enforced by the U.S. Office for Civil Rights.
	OSPI and CDE resolve complaints.	OSPI has no monitoring, complaint resolution or funding involvement.