

(SECTION 504 OF THE REHABILITATION ACT OF 1973)

Responsibilities of the District to Students with Disabilities under Section 504 of the Rehabilitation Act of 1973.

Section 504 prohibits discrimination against persons with disabilities, including both students and staff members, by school districts receiving federal financial assistance. Included in the U.S. Department of Education regulations for Section 504 is the requirement that students with disabilities be provided with free appropriate public education (FAPE). The regulations pertaining to FAPE are published at 34 Code of Federal Regulations, Part 104, Subpart D.) These regulations require identification, evaluation, the provision of appropriate services, and procedural safeguards.

With respect to most students with disabilities, many aspects of the Section 504 regulations concerning FAPE parallel the requirements of the Individuals with Disabilities Education Act (IDEA) (formerly the Education of the Handicapped Act) and Arizona law. In those areas, by fulfilling our responsibilities under the IDEA and state law we are also meeting the standards of the Section 504 regulations.

However, in some other respects the requirements of the laws are different. There are some students who are not eligible for IDEA services but who nevertheless are eligible under Section 504, and to whom the District may therefore have responsibilities.

The IDEA defines as eligible only students who have certain specified types of impairments and who, because of one of those conditions, need special education. Section 504, on the other hand, protects all students with disabilities, defined as those having *any* physical or mental impairment that substantially limits one or more major life activities (including learning). *Section 504 covers all students who meet this definition, even if they do not fall within the IDEA-enumerated categories and even if they do not need to be in a special education program.*

An example of a student who is protected by Section 504 but who may not be covered by the IDEA is one who has juvenile arthritis but who has no mental impairments. Such a student has a health impairment but may not be covered by the IDEA if the student does not need placement in a special education program. However, the student is disabled for purposes of Section 504. A similar example might be a student with acquired immune deficiency syndrome (AIDS). Students with attention deficit/hyperactivity (ADD/H) or emotional disorders are another example. Such students may not meet the criteria for IDEA categories such as learning disabled or severely emotionally

disturbed. However, if their disorders or conditions substantially limit their ability to function at school, they are disabled within the meaning of Section 504.

If the District has reason to believe that, because of a disability as defined under Section 504, a student needs *either* special education and related services *or* related services in the *regular* setting in order to participate in the school program, the District must evaluate the student; if the student is determined to be disabled under Section 504, the District must develop and implement a plan for the delivery of any needed services. Again, these steps must be taken even though the student is not covered by IDEA special education provisions and procedures.

What is required for the Section 504 evaluation and placement process is determined by the type of disability believed to be present, and the type of services the student may need. The evaluation must be sufficient to accurately and completely assess the nature and extent of the disability, and the recommended services. Evaluations more limited than a full special education evaluation may be adequate in some circumstances. For example, in the case of the student with juvenile arthritis, the evaluation might consist of the school nurse meeting with the parent and reviewing the student's current medical records.

In the cases of ADD/H students, current psychoeducational evaluations may be used if such evaluations assessed the ADD/H issue. In other cases, additional testing may be necessary.

The determination of what services are needed must be made by a group of persons knowledgeable about the student. The group should review the nature of the disability, how it affects the student's education, whether special services are needed, and if so what those services are. The decisions about Section 504 eligibility and services must be documented in the student's file and reviewed periodically.

For the juvenile arthritic student, Section 504 services might be the provision of a typing course and use of a typewriter/word processor to improve writing speed or to provide a less painful means of writing. For the AIDS student, Section 504 services might be the administration and monitoring of medication, or a class schedule modified to address the student's stamina. For an ADD/H student, services might include modifications in the regular classroom, special assistance from an aide, a behavior plan, counseling, and/or the monitoring of medication

It should also be noted that, under Section 504, the parents or guardian must be provided with notice of actions affecting the identification, evaluation, or placement of the student and are entitled to an impartial hearing if they disagree with District decisions in these areas. For disabilities covered only by Section 504 and not the IDEA, a Section 504 hearing will have to be made available that is separate from the IDEA hearing process.

In summary, it is important to keep in mind that some students who have physical or mental conditions that limit their ability to participate in the education program are entitled to rights under Section 504 even though they may not fall into IDEA categories and may not be covered by that law.

504 plans are coordinated by the student's guidance counselor at their individual school. If a parent believes that their child has a physical or mental impairment that substantially limits one or more major life activity they should contact the guidance counselor for assistance in the consideration and development of a 504 Plan.

Additional information can be found in TUHSD Governing Board Policy Manual under IHBA, IHBA-RA, IHBA-RB,