

San Joaquin County Office of Education

www.sjcoe.org

**SECTION 504/AMERICANS WITH
DISABILITIES ACT
HANDBOOK
APPENDICES**

FOR TRAINING PURPOSES ONLY

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Inappropriate Uses of Section 504 Service Plans

- A parent/guardian and/or doctor presents the school with a disability diagnosis and a Section 504 Service Plan is written without first determining if the disability causes substantial limitation of a major life activity.
- A student is placed on a Section 504 Service Plan solely because the parent/guardian wants the student to have additional time on college qualifying examinations (e.g., ACT, SAT).
- A student is placed on a Section 504 Service Plan because the student has a record of impairment or is regarded as being impaired, but the student does not actually have a disability that substantially limits a major life activity.
- A student fails to qualify for special education and related services under the IDEA, but is automatically provided with a Section 504 Service Plan.
- A student is automatically placed on a Section 504 Service Plan when the student no longer qualifies for special education services under the IDEA without first qualifying based on Section 504 criteria.
- A student is placed on a Section 504 Service Plan as an alternative way to receive special education and related services because the parent/guardian refuses to “label” his/her child by including him/her in a special education program; this may also apply in cases where parent/guardian has revoked consent to special education.

Section 504 Reality Check

Section 504's General Provisions

Myth #1:

"The SST is just the way to special education."

Reality:

It's the way to never get there in the first place and an appropriate group for addressing 504 issues.

The General Existence of 504

Myth #2

"We don't **DO** Section 504 here."

Reality:

Sure we do! Make sure everyone is familiar with Section 504 and systems policies and procedures for addressing the issues.

Myth #3

"Section 504 doesn't really exist."

Reality:

Sure it does!

Myth #4

"Section 504 provides more protections than IDEA."

Reality:

Not really. While the definition of "disability" may be broader than the IDEA's, Section 504's procedural safeguards and requirements related to FAPE are not nearly as extensive. It simply prevents discrimination solely on the basis of disability in the provision of all services, activities, and programs.

Defining Disability

Myth #5

"Sorry. Special services are only for special education students. It's our School System's policy that because he isn't eligible for special education, there's nothing more we can do for him right now."

Reality:

The definition of "disability" under Section 504 is so broad that a student who is not disabled under the IDEA might still be disabled under Section 504 and in need of special services.

Definition of "individual with a disability"

A person is disabled if he/she:

- Has a physical or mental impairment which substantially limits one or more major life activities;
- Has a record of such an impairment; or
- Is regarded as having such an impairment

Definition of “physical or mental impairment”

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 mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Definition of “major life activities”

Includes functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. The ADAAA expanded the list to include eating, standing, lifting, bending, reading, concentrating, thinking, and sleeping.

(Note: List is not exhaustive). Virtually everything could be considered a “major life activity” under Section 504.

Myth #6

She might be in a wheelchair and have a Health Plan to address her diabetes, but she’s not disabled under Section 504 because she’s making all A’s. The major life activity of learning is not limited!

Reality:

Major life activity is not limited to learning when making the disability determination. In this case, walking is a major life activity and student would be protected against discrimination on basis of disability.

Definition of “substantially limits”

Myth #7

“Obviously, she is disabled because she has ADHD. If it weren’t for her ADHD, she’d be making all A’s.”

Reality:

For disability determination purposes, a student is not compared to himself; rather, the student’s performance of the major life activity is compared to “most people” in the general population. The identified physical or mental condition must “substantially limit a major life activity when compared to “most people.”

The role of ameliorative effects of mitigating measures in the disability determination

Myth #8

“He can’t be disabled because ever since he’s been on Ritalin, he’s been making good grades and his behavior is excellent.”

Reality:

The ameliorative effects of mitigating measures, i.e. medication, cannot be considered when making the disability determination. A student can still be found disabled under 504 if he has a “correctable” condition or one that can be resolved through the use of mitigating measures.

Examples of mitigating measures

- Medication/medical supplies
- Equipment or appliances
- Low-vision devices that magnify, enhance, or otherwise augment an image (but not eyeglasses or contacts)
- Prosthetics
- Hearing aids/cochlear implants
- Use of assistive technology
- Reasonable accommodations
- Learned behavioral or adaptive neurological modification; or
- Psychotherapy, behavioral therapy, or PT

Considering mitigating measure when deciding whether a 504 plan is required

Myth

#9

“So, now that we’ve decided that this student is disabled because of his ADHD, we need to put him on a 504 plan.”

Reality:

Not every student with a disability needs a 504 plan! You can consider the effects of mitigating measures when deciding whether a 504 plan is required. His needs may be met as adequately as the needs of nondisabled peers, so would not need a plan. But he is still protected against discrimination.

Students with episodic conditions or a condition in remission

Myth #10:

“She is not disabled anymore because it’s winter and she only has those severe allergy attacks in the spring!”

Reality:

In making the disability determination, an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when it is active. May be times when condition is active that student requires 504 plan.

Students with episodic conditions or a condition in remission

Myth #11

“I heard that her cancer is in remission, so she’s not disabled anymore.”

Reality:

She still may be disabled, even when the cancer is in remission.

Discrimination based upon a “Record of an Impairment”

Myth #12

“Every student who has ever been in special education is automatically covered because the student has a ‘record of’ a disability.”

Reality:

The ‘record of’ portion of the disability definition protects individuals from *discrimination* based upon a recorded past impairment. However, in order to be entitled to a 504 plan, a student must have a *present* impairment that requires the implementation of the 504 plan.

Myth #13

“He can’t be on the basketball team because I just found out that he was treated for cancer in the past.”

Reality:

The “record of” portion of the definition is to prevent discrimination against someone based upon their record of having a disability in the past who may not have one currently.

Discrimination based upon being “Regarded as having an Impairment”

Myth #14

“A student whose doctor has diagnosed ADHD is automatically covered by Section 504 because the parents now regard the student as disabled.”

Reality:

A medical diagnosis, in of itself, does not mean a student has a disability under Section 504. Rather, the school is entitled to propose and conduct its own evaluations to determine whether an *actual existing disability* exists. Just as a school system may not discriminate based upon a record of impairment, it cannot discriminate because it “regards” someone with an impairment in such a way that they are treated differently or excluded from services.

Myth #15

“She did the best job during auditions, but her acne is so bad that I don’t think we can choose her to play Cinderella.”

Reality:

This would be discrimination in the form of treating someone as if she is disabled when she is not, and making a determination that she cannot participate solely on that basis.

Myth #16

“I know they’re not sick yet, but mother just told me that they tested positive for HIV. I’ve got to send those boys home before someone else catches it.”

Reality:

“Regarding” someone as if he has an impairment, whether he does or not, could substantially affect a major life activity if the school system excluded him from a school activity as a result of that regard or attitude. This constitutes discrimination under Section 504 but would not necessitate the development of a Section 504 plan.

Myth #17

“Where a student is referred for a special education evaluation and did not qualify, the student is automatically covered under Section 504.”

Reality:

Finding that a student does not qualify for special education services does not automatically mean that the student is disabled under Section 504. A referral should be made back to the Student Support Team for *consideration* of whether the student’s difficulties are, or could be caused by, a disability under Section 504.

Consequences for violating 504/ADA

Myth #18

“Since Congress does not provide money to comply with Section 504, a School System cannot be punished if it does not comply.”

Reality:

OCR can initiate federal fund termination proceedings if a school system does not comply. In addition, actions (including personal causes of action) for money damages are commonly brought against school personnel for “intentional” or “willful” discrimination under Section 504 and the ADA.

Students who MAY be protected under Section 504

- 1. Students who are disabled under IDEA and are receiving special education services.**

Myth #19

“A student in special education is not covered by 504.”

Reality:

It is hard to imagine the situation where an IDEA eligible student would not be disabled under 504! Thus, student would be protected against discrimination.

- 2. Students who are disabled under Section 504 are not necessarily disabled under the IDEA.**

Myth #20

“Even where a student is failing, if the student has been tested for special education and found ineligible, we can’t provide any special assistance. If we wait a couple of years though, he’ll be so far behind **then** he’ll qualify for special education.”

Reality:

Again, a student could be disabled and in need of special services under Section 504 but not the IDEA.

Conditions which may result in protection under Section 504 (not an exhaustive list)

- Alcoholism/Drug Addiction (former users, successful participants in rehab programs, persons regarded erroneously as current users)
- Diseases
 - HIV positive/AIDS
 - Tuberculosis
 - Hepatitis
- Medical conditions
 - Juvenile rheumatoid arthritis
 - Asthma
 - Severe allergies
 - Diabetes
 - Heart Disease
- Epilepsy
- Sickle cell anemia
- “Clinical depression”
- Chronic fatigue syndrome
- Tourette syndrome
- Pregnancy
- Obesity
- ADHD

Myth #21

“Every student diagnosed with ADHD is disabled and needs a 504 plan.”

Reality:

Absolutely not! Again, a diagnosis of a medical condition is not sufficient, by itself, to constitute a disability under 504.

- Oppositional Defiant Disorder (ODD)/Conduct Disorder/Social Maladjustment
- Students who are physically disabled but not **automatically** in need of special education
 - Cerebral palsy
 - Students who need catheterization or other health-related services

Myth #22

“Every student on a Health Care Plan is disabled under Section 504.”

Reality:

Not every student on a health care plan is disabled under Section 504, and the 504 team still needs to go through the 504 evaluation process of determining whether a physical condition exists that substantially limits a major life activity. Only if the medical condition substantially limits a major life activity is the student disabled.

Myth #23

“He has a health care plan that’s taking care of things, so he’s not disabled.”

Reality:

The fact that a student has a Health Plan is not determinative. The disability determination must be made on a case-by-case basis. Student may still need special education or related services on a 504 plan. When determining whether the student with a peanut allergy has a disability, the school district must evaluate whether the peanut allergy would be substantially limiting without considering amelioration or other measures.

- **Students with temporary disabilities**
 - Broken limbs?
 - Accidental injuries?
- A temporary impairment is not a disability under Section 504 unless its severity is such that it results in a substantial limitation of a major life activity for an extended period of time.

Students who are probably not disabled under Section 504

Myth #24

“Because the student is clearly a slow learner, he is covered under Section 504.”

Reality:

“Slow learning ability” is not a disability. An impairment that meets the definition must be identified.

Others:

- * Students who are not doing well because of environmental, cultural, or economic disadvantage.
- * Students whose primary language is not English.
- * To label a student 504 just to provide extra help may lead to over identification issues.

Myth #25

“When students do not do well on standardized assessments, we should make them 504 students so we can include testing accommodations and modifications.”

Reality:

A student should not be identified as disabled solely for the purpose of providing accommodations for standardized testing. If a student does not need accommodations during the school day to address a disabling condition, a 504 plan would not be appropriate for standardized assessments.

FAPE under Section 504

“Appropriate education” under Section 504 is defined as:

The provision of regular or special education and related services that are designed to meet the individual educational needs of handicapped persons as adequately as the needs of non-handicapped persons are met, i.e. transportation, residential placement.

A school system shall place a handicapped person in the regular educational environment unless it is demonstrated that the education of the person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily.

Requirement for an “IEP” under Section 504 for FAPE delivery

Implementation of an “individualized education program” developed in accordance with the Education of the Handicapped Act (now IDEA) is *one means* of meeting the standard for FAPE. While it is best practice to have something in writing, it is not required by the law.

504 Evaluation Requirements

Pre-placement evaluation. A school system “shall conduct an evaluation of any person who, because of handicap, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in regular or special education and any subsequent significant change in placement.”

Myth #26

“If a parent requests an evaluation under Section 504, the school system must conduct it.”

Reality:

Under the 504 regulations, the duty to evaluate arises when school personnel believe or have reason to believe that the student is disabled and in need of services. When an evaluation is refused, notice must be given to the parent of the refusal along with 504 due process rights.

504 “Placement” Procedures

For evaluation and placement, a school system shall: 1) draw upon information from a variety of sources, 2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered, 3) ensure that the placement

decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options, and 4) ensure that the placement decision is made in the LRE.

Myth #27

“A 504 team meeting cannot be held, unless the parent is in attendance.”

Reality:

It's not required by law but is probably best practice.

504 Re-evaluation Requirement

A school system shall establish procedures for periodic re-evaluation of students who have been provided special education and related services. A re-evaluation procedure consistent with the Education for the Handicapped Act (IDEA) is one means of meeting this requirement.

Myth #28

“A school system is required to do a re-evaluation under 504 every three years, just like it does under IDEA.”

Reality:

Not so, but some districts use the three-year requirement. It seems best practice, however, to do annual reviews of 504 plans. Formal testing may not be required as part of an “evaluation” under Section 504.

Myth #29

“Once a student is on a 504 plan, there is no way to get them off of one.”

Reality:

Clearly, if a teacher or other member of the 504 team no longer sees evidence of a disabling condition in the educational environment, the team can reconvene, conduct a re-evaluation by examining all relevant documentation and other information and suggest “change in placement” in the form of the discontinuation of services. Of course, because this a proposed “change” in placement, parents must be provided notice of the proposed change and a copy of their parent rights under Section 504.

504 Procedural Safeguards

A school system shall establish and implement, with respect to actions regarding the identification, evaluation, or educational placement of persons who, because of handicap, need or are believed to need special instruction or related services, a system of procedural safeguards that includes notice, an opportunity for the parents or guardian of the person to examine relevant records, and impartial hearing with opportunity for participation by the person's parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of [IDEA] is one means of meeting this requirement.

Myth #30

“School systems should use the IDEA rights as the 504 Rights.”

Reality:

Absolutely not. Because the procedural safeguards are much less extensive than those required under the IDEA, it is not suggested that the same rights be used. A very shortened version is appropriate.

Myth #31

“A student cannot be placed on a 504 plan unless the parent consents.”

Reality:

Without citing to any authority, OCR says consent is required. If a student is deemed to be disabled, the school system must provide notice of the determination to the parent, along with a copy of parent rights under Section 504.

Myth #32

“If a parent wants a student dismissed from a 504 plan, the school system must dismiss the student.”

Reality:

Not necessarily. OCR has said that the school district could initiate a 504 due process hearing to resolve it, if the district believes the services should continue.

Participation in Nonacademic and Extracurricular Activities

Myth #33

“Are you serious? That kid has autism...he can't play sports!”

Reality:

In 2013, OCR re-emphasized the right of students with disabilities to participate in athletic programs. Districts should not act on the basis of generalization or stereotypes about particular disabilities. While students with disabilities do not have a right to join a particular team or play in every game, decisions about participation must be based on the same nondiscriminatory criteria applied to all prospective players. In addition, districts have the obligation to offer reasonable modifications so that the students with disabilities may participate. If a particular modification is necessary, the district must offer it unless doing so would fundamentally alter the nature of the activity or give the student with a disability an unfair advantage. Districts should be flexible and creative when developing alternative programs for students with disabilities.

Myth #34

“Accommodations needed so that a student can play football must be included on a Section 504 plan. In fact, the actual activity must be included on the plan.”

Reality:

A section 504 educational plan is to address *educational* services and accommodations, not extracurricular and nonacademic activities, unless those activities are *necessary* for a student to benefit from his/her educational program. Generally, participation in such activities is not an issue of FAPE. It is an issue of equal access and accommodations need to be provided to an “otherwise qualified” student with a disability. All students with disabilities will be provided the equal opportunity to try out for and be judged under

the same criteria as nondisabled students for participation in nonacademic and extracurricular activities.

A school system shall provide non-academic and extracurricular services and activities in such manner as is necessary to afford handicapped students an equal opportunity for participation in such services and activities.

Nonacademic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the recipients, referrals to agencies which provide assistance to handicapped persons, and employment of students, including both employment by the recipient and assistance in making available outside employment.

Some Issues that OCR will Investigate

- Disability Determination

Myth #35

“Even where a student is making all A’s, if the parents have filed a complaint with OCR, we better just go ahead and find him disabled.”

Reality:

OCR will not overrule a decision on disability, as long as correct process was followed.

- Retaliation

Myth #36

“Mrs. Jones, I know you’re concerned about the students in your class, but if you don’t stop putting your concerns in writing, you could lose your job with the school system.”

Reality:

Retaliation on the basis of advocacy is a form of discrimination. This includes parents, family advocates, and school teachers and other staff.

Some Issues that OCR will Investigate

- Residential placement
- Extended School Year
- Comparability
- Length of school day
- Length of bus ride
- Provision of IEPs
- Access to facilities
- Access to programs
 - Extracurriculars
 - After-school programs
- Procedural safeguards/notice of grievance procedures
- LRE

- Provision of related services and supports
- Discipline

Myth #37

“If it would require a one-to-one aide for a student to attend the after school program, he cannot attend.”

Reality:

OCR has indicated that one-to-one aides may be required to allow for such participation. Section 504 applies to noneducational programs such as day care, after-school care, and summer recreation programs. Such programs cannot exclude children with severe disabilities, require the parents to provide their own aides and babysitters, or charge them more for participation.

Myth #38

“There are no special rules of discipline under Section 504 like there are for IDEA students.”

Reality:

Yes, there are. OCR essentially adheres to the same requirements for students who are disabled under 504 (plan or no plan)! Be sure to do manifestation determination if doing a change in placement for disciplinary reasons. Continuation of FAPE is not required. There is no “stay put” requirement while 504 hearing for disciplinary action is taking place.

- Allowing a service animal to accompany a student at school

Myth #39:

“That dog can’t come to school with him!”

Reality:

It can if it is a dog, or miniature horse that meets the definition of a service animal under the ADA. A service animal can be removed if out of control or not housebroken. The Public entity is not responsible for the care or supervision of the service animal. It can only ask if animal is required because of disability and what work or task animal has been trained to perform. It can’t ask for proof of training or licensing.

- Bullying and Disability Harassment

Myth #40

“Middle school girls just bully each other. There’s nothing I can do about it!”

Reality:

Disability harassment is clearly a form of discrimination and is one of the hottest issues today! OCR expects schools to take “effective and appropriate” action when they know or have reason to know that disability harassment is occurring. And schools need to take preventative action to make sure it doesn’t re-occur.

With acknowledged appreciation to Julie J. Weatherly, Esq.

LEGAL REQUIREMENTS FOR IDENTIFICATION OF CHILDREN WITH ADHD

(Excerpted from: Identifying and Treating Attention Deficit Hyperactivity Disorder: A Resource for School and Home, U.S. Department of Education, Office of Special Education Programs 2003)

Section 504 was established to ensure a free appropriate education for all children who have an impairment-physical or mental-that substantially limits one or more major life activities. If it can be demonstrated that a child's ADHD adversely affects his or her learning-a major life activity in the life of a child-the student may qualify for services under Section 504. To be considered eligible for Section 504, a student must be evaluated to ensure that the disability requires special education or related services or supplementary aids and services. Therefore, a child whose ADHD does not interfere with his or her learning process may not be eligible for special education and related services under IDEA or supplementary aids and services under Section 504.

IDEA and Section 504 require schools to provide special education or to make modifications or adaptations for students whose ADHD adversely affects their educational performance. Such adaptations may include curriculum adjustments, alternative classroom organization and management, specialized teaching techniques and study skills, use of behavior management, and increased parent/teacher collaboration. Eligible children with ADHD must be placed in regular education classrooms, to the maximum extent appropriate to their educational needs, with the use of supplementary aids and services if necessary. Of course, the needs of some children with ADHD cannot be met solely within the confines of a regular education classroom, and they may need special education or related aids or services provided in other settings.

Components of a Comprehensive Evaluation
<ul style="list-style-type: none">• Behavioral• Educational• Medical

A diagnosis of ADHD is multifaceted and includes behavioral, medical, and educational data gathering. One component of the diagnosis includes an examination of the child's history through comprehensive interviews with parents, teachers, and health care professionals. Interviewing these individuals determines the child's specific behavior characteristics, when the behavior began, duration of symptoms, whether the child displays the behavior in various settings, and coexisting conditions. The American Academy of Pediatrics (AAP) stresses that since a variety of psychological and developmental disorders frequently coexist in children who are being evaluated for ADHD, a thorough examination for any such coexisting condition should be an integral part of any evaluation (AAP, 2000).

Behavioral Evaluation

Specific questionnaires and rating scales are used to review and quantify the behavioral characteristics of ADHD. The AAP has developed clinical practice guidelines for the diagnosis and evaluation of children with ADHD, and finds that such behavioral rating scales accurately distinguish between children with and without ADHD (AAP, 2000). Conversely, AAP recommends not using broadband rating scales or teacher global questionnaires in the diagnosis of children with ADHD. They suggest using ADHD-Specific rating scales including:

CPRS-R:L-ADHD Index

(Conners Parent Rating Scale-1997

Revised Version: Long Form, ADHD Index Scale)

CTRS-R:L-ADHD Index

(Conners Teacher Rating Scale-I 997

Revised Version: Long Form, ADHD Index Scale)

CPRS-R:L-DSM-IV Symptoms

(Conners Parent Rating Scale-I 997

Revised Version: Long Form, DSM-IV Symptoms Scale)

CTRS-R:L-DSM-IV Symptoms

(Conners Teacher Rating Scale-1997

Revised Version: Long Form, DSM-IV Symptoms Scale)

SSQ-O-I

(Barkley's School Situations Questionnaire-Original Version, Number of Problem Settings Scale)

SSQ-O-II

(Barkley's School Situations Questionnaire-Original Version, Mean Severity Scale)

(Taken from Green, Wong, Atkins, et al. (1999). *Diagnosis of Attention Deficit/Hyperactivity Disorder*. Technical Review 3. Rockville, MD: U.S. Department of Health and Human Services, Agency for Health Care Policy and Research, as cited in AAP, 2000).

As with all psychological tests, child-rating scales have a range of measurement error. Appropriate scales have satisfactory norms for the child's chronological age and ability levels.

Collecting information about the child's ADHD symptoms from several different sources helps ensure that the information is accurate. Appropriate sources of information include the child's parents, teachers, and other diagnosticians such as psychologists, occupational therapists, speech therapists, social workers, and physicians. It is also

important to review both the child's previous medical history as well as his or her school records.

Educational Evaluation

An educational evaluation assesses the extent to which a child's symptoms of ADHD impair his or her academic performance at school. The evaluation involves direct observations of the child in the classroom as well as a review of his or her academic productivity.

Behaviors targeted for classroom observation may include:

- Problems of inattention, such as becoming easily distracted, making careless mistakes, or failing to finish assignments on time;
- Problems of hyperactivity, such as fidgeting, getting out of an assigned seat, running around the classroom excessively or striking out at a peer;
- Problems of impulsivity, such as blurting out answers to the teacher's questions or interrupting the teacher or other students in the class; and
- More challenging behaviors, such as severe aggressive or disruptive behavior.

Classroom observations are used to record how often the child exhibits various ADHD symptoms in the classroom. The frequency with which the child with ADHD exhibits these and other target behaviors are compared to norms for other children of the same age and gender. It is also important to compare the behavior of the child with ADHD to the behaviors of other children in his or her classroom.

It is best to collect this information during two or three different observations across several days. Each observation typically lasts about 20 to 30 minutes.

An educational evaluation also includes an assessment of the child's productivity in completing class work and other academic assignments. It is important to collect information about both the percentage of work completed as well as the accuracy of the work. The productivity of the child with ADHD can be compared to the productivity of other children in the class.

Once the observations and testing are complete, a group of qualified professionals and the parents of the child will review the results and determine if the child has a disability and whether the child needs special education and related services. If the child is recommended for evaluation and determined by the child's IEP team not to meet the eligibility requirements under IDEA, the child may be appropriate for evaluation under Section 504.

Medical Evaluation

The IDEA does not necessarily require a school district to conduct a medical evaluation for the purpose of determining whether a child has ADHD. If a public agency believes a medical evaluation by a licensed physician is needed as part of the evaluation to

determine whether a child suspected of having ADHD meets the eligibility criteria of the OHI category, or any other disability category under Part B, the school district must ensure that this evaluation is conducted at no cost to the parents (OSEP Letter to Michael Williams, May 14, 1994, 21 IDELR 73). It can be assumed that the same standard would apply to eligibility for 504.

San Joaquin County SELPA

WORKSHEET FOR DETERMINATION OF PATTERN OF SUSPENSION RESULTING IN CHANGE OF PLACEMENT (CFR 300.536)

(To be conducted by school personnel, including at least the general education teacher and school administrator)

Student name: _____ D.O.B. _____

1. Suspensions this school year: (Suspension for all or part of a school day count as one day of suspension)

Dates	Reason

Total days: _____

Check any of the following that apply:

- The behaviors resulting in the suspensions were substantially similar to each other
- One or more suspensions were unusually long (causing a disruption to the student's education)
- The suspensions were close enough together to cause a disruption to the student's education

If any of the above are checked, the suspensions are considered to be a pattern resulting in a change of placement. A Manifestation Determination Review must be conducted, prior to suspending student beyond ten cumulative school days.

If not a pattern, note the services needed, if any, to enable the student to participate in the general education curriculum and make progress toward IEP goals, if suspended beyond ten days. (CFR 300.530 (d) (4)) (Requires at least one of the student's teachers). Consider whether any additional assessments are needed.

This pattern analysis must be conducted for every incident in which student becomes subject to suspension.