



SECTION III: INSTRUCTION

POLICY 3060

EDUCATIONAL SERVICES FOR STUDENTS

UNDER SECTION 504 AND TITLE II OF THE AMERICANS WITH DISABILITIES ACT

The District recognizes its responsibilities to children who are or may be qualified persons with disabilities under Section 504 of the Rehabilitation Act of 1973 ("Section 504") and Title II of the Americans with Disabilities Act ("Title II"). In an effort to ensure that District employees understand and implement the requirements of Section 504 and Title II, the Board of Education adopts the following policy.

Qualified Individual with a Disability

All qualified persons with disabilities within the jurisdiction of the Broken Arrow Public Schools are entitled to a free appropriate public education ("FAPE"), regardless of the nature or severity of the person's disability. Section 504 and Title II define a person with a disability as any person who;

1. has a physical or mental impairment that substantially limits one or more major life activities
2. has a record of such an impairment or
3. is regarded as having such an impairment

The definition of disability shall be construed in favor of broad coverage of individuals, to the maximum extent permitted by Section 504 and Title II.

The term "physical or mental impairment" means

1. 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, genitourinary; hemic and lymphatic; skin; and endocrine; or
2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The phrase "physical or mental impairment" includes, but is not limited to, such contagious and non-contagious diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

The term "major life activities" includes, but is not limited to, functions such as 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. A "major life activity" also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions.

An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. Also, an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.



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Mitigating Measures

The determination of whether impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as:

1. 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;
2. Use of assistive technology;
3. Reasonable accommodations or auxiliary aids or services; or
4. Learned behavioral or adaptive neurological modifications.

The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

For purposes of this policy, a "qualified person with a disability" is a person with a disability who is;

1. of an age during which it is mandatory under Oklahoma law to provide such services to persons with disabilities;
2. of an age during which persons without disabilities are provided such services; or
3. A person for whom a state is required to provide a Free Appropriate Public Education (FAPE) under the Individuals with Disabilities Education Act.

Appropriate Education

An appropriate education may comprise education in regular classes, education in regular classes with the use of related aids and services, or special education and related services in separate classrooms for all or portions of the school day. Special education may include specially designed instruction in classrooms, at home, or in private or public institutions and may be accompanied by related services such as speech therapy, occupational and physical therapy, psychological counseling and medical diagnostic services necessary to the child's education.

An appropriate education in the District will include:

1. Regular or special education and related aids and services designed to meet the individual education needs of students with disabilities as adequately as the needs of nondisabled students are met;
2. The education of each student with a disability with nondisabled students, to the maximum extent appropriate to the needs of the student with a disability;
3. Evaluation and placement procedures established to guard against misclassification or inappropriate placement of students, and a periodic reevaluation of students who have been provided special education or related services; and



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4. Establishment of due process procedures that enable parents and guardians to receive required notices, review their child's records and challenge identification, evaluation and placement decisions, and that provide for an impartial hearing with the opportunity for participation by parents and representation by counsel, and a review procedure.

The District will design education programs for students with disabilities to meet their individual needs to the same extent that the needs of nondisabled students are met. The District will provide the quality of education services to students with disabilities that equal the quality of services provided to nondisabled students. The District will provide teachers for students with disabilities who are trained in the instruction of individuals with disabilities. The District will provide comparable facilities for students with disabilities and make appropriate materials and equipment available. The District will not exclude students with disabilities from participating in nonacademic services and extracurricular activities on the basis of disability. The District will provide persons with disabilities an opportunity to participate in nonacademic services that is equal to that provided to persons without disabilities. These services may include physical education and recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the District, and referrals to agencies that provide assistance to persons with disabilities and employment of students.

Educational Setting

The District will place students with and without disabilities in the same setting, to the maximum extent appropriate to the educational needs of the students with disabilities. The District shall place students in the regular education environment unless the District demonstrates that the education of the student in the regular education environment with the use of supplementary aids and services cannot be achieved satisfactorily. Students with disabilities will participate with nondisabled students in both academic and nonacademic services, including meals, recess and physical education, to the maximum extent appropriate to their individual needs.

As necessary, the District will provide specific supplementary aids and services for students with disabilities to ensure an appropriate education setting. Supplementary aids may include, but are not limited to, interpreters for students who are deaf, readers for students who are blind, and equipment to make physical accommodations for students with mobility impairments. Students with disabilities requiring instructional materials in accessible formats will receive appropriate materials.

If the District places an individual with disabilities in another school, the District will take into account the proximity of the other school to the student's home.

Evaluation and Placement

The District will make evaluation and placement decisions in accordance with appropriate procedures required by law. The District will conduct an individual evaluation before any action is taken with respect to the initial placement of a child who has a disability or before any significant change in that placement. Evaluation may include review of existing information, information provided by a parent or guardian, school records, student observations and formal or informal assessment. In the event of formal assessment, the District will use tests and other evaluation materials that have been validated for the specific purpose for which they are used. The tests and



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other evaluation materials will include those tailored to assess the student's specific areas of educational need, not merely those designed to provide a single general intelligence quotient (IQ) score. Trained personnel will administer the tests and other evaluation materials in conformance with the instructions provided by their producer. The District will select and administer tests 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, unless those skills are the factors the test purports to measure. In interpreting evaluation data and making placement decisions, the District will draw upon information from a variety of sources, including but not limited to aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background and adaptive behavior. A multidisciplinary group, including persons knowledgeable about the child, the meaning of the evaluation data and the placement options, will document and consider carefully information obtained from all such sources in making eligibility and placement decisions.

The multidisciplinary group will consider reevaluation at least every three years for each student for whom the District is providing a FAPE or more frequently if conditions warrant or if the child's parent or teacher requests a reevaluation.

Section 504/Title II Plan

When the multidisciplinary group determines that a student is eligible for educational services under Section 504 and Title II, it will prepare a plan documenting how the District will provide FAPE for that student. The plan will identify the educational services, related services and supplementary aids and services needed to meet the student's individual educational needs, the person(s) responsible for implementing each component of the plan, the starting and ending dates for each component and a date, no less than annually, on which to review the plan.

The District will provide appropriate education and related aids and services free of charge to students with disabilities and their parents or guardians, except for fees equally imposed on nondisabled persons or their parents or guardians.

If the District is unable to provide a FAPE itself, it may place a person with a disability in, or refer the person to, a program other than the one the District operates. However, the District will remain responsible for ensuring that the education offered to the student is appropriate, as defined by law, and for coverage of financial obligations associated with the placement. The District will ensure that adequate transportation is provided to and from any program in which it places the student that is not operated by the District, at no greater personal or family cost than would be incurred if the student were placed in the District's program.

Procedural Safeguards

The District will employ procedural safeguards regarding the identification, evaluation or educational placement of persons who, because of disability, need or are believed to need special instruction or related services. District personnel will notify parents or guardians of any evaluation or placement actions and parents or guardians will be allowed to examine the student's records. The District will provide parents or guardians with a copy of its *Section 504 of the Rehabilitation Act of*



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1973/Title II of the Americans with Disabilities Act Information and Procedural Safeguards form annually at the student's Section 504 plan meeting and when the District

1. seeks parent or guardian consent for Section 504 evaluation or reevaluation,
2. receives a complaint from the parent or guardian alleging failure to comply with Section 504 or Title II requirements,
3. receives a request from the parent or guardian for a copy of the *Procedural Safeguards* form, and
4. Takes any action with respect to the identification, evaluation, or educational placement of the student.

The District will provide an impartial hearing by an objective, neutral hearing officer that will allow parents or guardians to challenge identification, evaluation and placement procedures and decisions. If parents or guardians disagree with the District's decisions, they will be afforded an impartial hearing, with an opportunity for their participation and for representation by counsel. The District will make available an impartial administrative review procedure by an objective, neutral review officer to parents or guardians who want to challenge the hearing decision. If the parent or guardian wants to challenge the administrative review decision, he or she may file an action in state or federal court.

Retaliation

The District also prohibits retaliation, intimidation, threats, or coercion of any person for opposing discrimination or for participating in the District's discrimination complaint process or making a complaint, testifying, assisting, appealing, or participating in any other discrimination complaint proceeding or hearing. The District will take steps to prevent the alleged perpetrator or anyone else at the District from retaliating against the alleged victim or any person who acts to oppose discrimination or participates in the complaint process. These steps include notifying students and employees that they are protected from retaliation, making sure that victims know how to report future problems and making follow-up inquiries to see if there have been any new incidents. If retaliation occurs, the District will take strong responsive action.

Persons with complaints or concerns about the application of this policy should contact:

1. The Deputy Superintendent should be contacted for all student issues except those related to Title II of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973 at 918-259-5700 or at 701 South Main Street, Broken Arrow, OK 74012; and
2. The Executive Director of Special Services should be contacted for all student issues related to Title II of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973 at 918-259-5700 or at 701 South Main Street, Broken Arrow, OK 74012.

Source: *Broken Arrow Board of Education policy adoption, July 13, 2009.*
Broken Arrow Board of Education policy revision, October 13, 2014.
Broken Arrow Board of Education policy revision, November 4, 2019.



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Broken Arrow Board of Education policy revision, May 9, 2022.