



SECTION 504 HANDBOOK

2020-2021

The Barbers Hill I.S.D. District 504 Plan was developed collaboratively by

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Board Policy

It is the policy of the Board of Education of Barbers Hill ISD to provide equal opportunities to all individuals with-in its jurisdiction or geographic boundaries. *Education Code 1.002(a)*

No officer or employee of the District shall, when acting or purporting to act in an official capacity, refuse to permit any student to participate in any school program because of the student's race, religion, color, sex, or national origin. *Civ. Prac. & Rem. Code 106.001*

(FB Legal)

Mission Statement

The mission of the Barbers Hill ISD Section 504 program is to comply with the Title 34 Education, Subtitle B, Regulations of the Office of the Department of Education, Chapter 1 – Office for Civil Rights, Department of Education, Part 104 – Nondiscrimination on the Basis of Handicap in Programs or Activities Receiving Federal Financial Assistance, commonly known as Section 504.

District Section 504 Coordinator

Marilyn Ropp
281-576-2221, Extension 1343

Campus Section 504 Coordinators

Campus	Counselor/ Campus Coordinator	Grade	Phone	Ext.
Pre K Center	Cheryl Abshier	Pre K	281-576-2221	2220
Early Childhood Center	Carla Vaughn	Kg, 1 st	281-576-2221	3121
Elementary School North	Haley McWilliams	2 nd , 3 rd , 4 th	281-576-2221	2804
	Nikki Juarez	5 th	281-576-2221	2905
Middle School North	Nikki Juarez	6 th	281-576-2221	2905
	Christina Peterson	7 th , 8 th	281-576-2221	1405
Elementary School South	Lori Meador	3 rd , 5 th	281-576-2221	1502
	Annika Rodriguez	2 nd , 4 th	281-576-2221	2390
Middle School South	Nikki Hollingsworth	6 th	281-576-2221	2485
	Sarah Stone	7 th , 8 th	281-576-2221	1225
High School	Janci Alfaro	9 th Grade	281-576-2221	1365
	Tiffany Guy	10 th Grade	281-576-2221	1262
	Miki White	11 th Grade	281-576-2221	1276
	Leah Veazey	12 th Grade	281-576-2221	1277

Campus Section 504 Counseling Clerks

Campus	Staff	Position	Phone	Extension
Early Childhood Center	Leta Chapman	Counseling Clerk	281-576-2221	3118
Elementary School North	Karli Carr	Counseling Clerk	281-576-2221	2900
Elementary School South	Tara Menard	Counseling Clerk	281-576-2221	2899
Middle School North	Tanya Gutierrez	Counseling Clerk	281-576-2221	1495
Middle School South	Krissy Robbins	Counseling Clerk	281-576-2221	1527
High School	Christy Fowler	Counseling Clerk	281-576-2221	1879

Section 504

Rehabilitation Act of 1973

Purpose of Section 504.

Section 504 of the Rehabilitation Act of 1973 was designed to eliminate discrimination on the basis of a handicapping condition in any program or activity that receives Federal financial assistance. Section 504 states that

“No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives Federal financial assistance.” [29 U.S.C. §794(a), 34 C.F.R. §104.4(a)].

Section 504

Foundation Concepts

<u>Term</u>	<u>Definition</u>
<i>Child Find</i>	Pursuant to Section 504 of the Rehabilitation Act of 1973, the District has a duty to identify, refer, evaluate and if eligible, provide a free, appropriate public education to disabled students.
<i>Disability</i>	Physical or mental impairment that substantially limits one or more major life activities.
<i>Free and Appropriate Public Education FAPE:</i>	Free Appropriate Public Education. Refers to the provision of regular or special education and related aids and services that are designed to meet individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met and is based upon adherence to procedures that satisfy the Section 504 requirements pertaining to educational setting, evaluation and placement, and procedural safeguards
<i>Handicapped Person:</i>	A person (i) who has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment.
<i>Has a record of such an impairment:</i>	Means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
<i>Individual Education Plan (IEP)</i>	Individual Education Plan.
<i>Is regarded as having an impairment:</i>	Means (A) has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation; (B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (C) has none of the impairments defined above but is treated by a recipient as having such an impairment.
<i>Least Restrictive Environment (LRE):</i>	Refers to the concept that children with disabilities should be educated to the maximum extent possible with children who are not disabled while meeting all their learning needs and physical requirements. The type of setting is stipulated in a child's Individual Education Plan (IEP).

<i>Major life activities:</i>	Functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
<i>Physical or mental impairment:</i>	Means (A) 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 (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
<i>Procedural Safeguards:</i>	A system of parental notice, access to records, and the right to seek enforcement of §504 rights through a local grievance process, Office for Civil Rights (OCR) complaint, of §504 due process hearing request, including the right to a review of the due process decision.
<i>Reevaluation:</i>	Periodic review of an eligible student's eligibility status and §504 services plan, to occur at least every three years, but preferably on an annual basis.
<i>Section 504 Committee:</i>	Group of persons that includes persons who are knowledgeable about the child, knowledgeable about the evaluation data used, and knowledgeable about placement options (options for accommodations and/or services).
<i>Section 504 Service Plan:</i>	Plan of coordinated accommodations and/or services that enable the eligible student to receive a FAPE under §504, formerly referred to as an Accommodation Plan.
<i>Section 504:</i>	Refers to Section 504 of the Rehabilitation Act of 1973.
<i>Substantially limits:</i>	In the Americans with Disabilities Act (ADA) the disability must be <i>substantial</i> when compared to the <i>average</i> student in the general population.
<i>"Technical" 504 Student</i>	Student who has a physical/mental impairment that substantially limits one or more major life activities (including bodily functions) and is, therefore, eligible under Section 504, but who does not need a Section 504 Services Plan.

Comparison of IDEA (SPED) and Section 504

	IDEA	Section 504
Purpose	Is a federal statute whose purpose is to ensure a free and appropriate education services for children with disabilities who fall within one of the specific disability categories as defined by the law.	Is a broad civil rights law which protects the rights of individuals with disabilities in any agency, school or institution receiving federal funds to provide persons with disabilities to the greatest extent possible, an opportunity to fully participate with their peers.
Who is Protected	Covers eligible students ages 3-21 whose disability adversely affects the child's educational performance and/or ability to benefit from general education.	Covers all persons with a disability from discrimination in educational settings based solely on their disability. Section 504 defines a person with a disability as: <ul style="list-style-type: none"> • Having a physical or mental impairment which limits one or more major life activity; • Have a record of such an impairment; or • Are regarded as having an impairment.
Services	Provides individual supplemental educational services and supports in addition to what is provided to students in the general curriculum to ensure that the child has access to and benefits from the general curriculum. This is provided free of charge to the parent.	Requires schools to eliminate barriers that would prevent the student from participating fully in the programs and services offered in the general curriculum.
Requirements for delivering Services	Requires a written Individualized Education Plan (IEP) documentation with specific content addressing the disability	Does not require a written IEP but does require a documented plan. "Appropriate Education" means comparable <i>(See next page)</i>

	IDEA	Section 504
<p>Requirements for delivering Services <i>(continued)</i></p>	<p>directly and specifying educational services to be delivered, mandating transition planning for students 16 and over, as well as a Behavior Intervention Plan (BIP) for any child with a disability that has a behavioral issue.</p> <p>"Appropriate Education" is defined as a program reasonably calculated to provide "educational benefit" to the student.</p> <p>Related services are provided as required for the student to benefit from the educational process and are aligned with specially designed instruction (e.g., counseling, speech, transportation, occupational and physical therapy, etc.)</p>	<p>to the one provided to general education students.</p> <ul style="list-style-type: none"> Section 504 requires that reasonable accommodations be made for the child with a disability. Requires the school to provide reasonable accommodations, supports and auxiliary aides to allow the child to participate in the general curriculum.
<p>Funding</p>	<p>Provides additional funding to states for eligible students</p>	<p>Does not provide additional funds.</p> <p>Additionally, IDEA funds may not be used to serve children found eligible under section 504 only.</p>
<p>Evaluation Procedures</p>	<p>A full Multi-Factored Evaluation (MFE) is required, using a variety of assessment tools and strategies to gather relevant functional and developmental information, including information provided by the parent that may assist the team in determining whether the child has a disability and how it affects the child's educational program. Multiple assessment tools must be used to assess the child in all areas of the suspected disability. Written consent is necessary by parent or guardian before an initial evaluation is conducted</p> <p>Requires a reevaluation every three years by IEP team to determine if services are still needed to address student disability unless the parent</p>	<p>Evaluation draws on information from a variety of sources in the area of concern. A decision is made by persons knowledgeable about the student, evaluation data, and available educational placement options. Notice of evaluation must be provided to the parent and consent for evaluation is required before completing an evaluation.</p> <p>Requires yearly reevaluations or periodic review.</p>

	and other members of the IEP team agree it is not necessary. Reevaluation is not required before a change of placement.	
Independent Evaluation	Allows parents to request an Independent Educational Evaluation (IEE) at the school district's expense if parent /guardian disagrees with the evaluation obtained by the school district. The Independent Evaluator must meet the same criteria as the district requires for their employees and must be approved by all parties.	Does not allow independent evaluations at the district's expense or the ability to request an independent educational evaluation.
Procedural Safeguards	Requires written notice to parent/guardian prior to identification, evaluation and/or placement of child. Changes of services or placement must have written notice before any change can take place. Requires due process rights to be followed at all times and manifestation determination hearing for discipline procedures. For any child with behavioral concerns a Functional Behavior Assessment (FBA) must be completed and a Behavior Intervention Plan (BIP) written to assist student in learning appropriate behaviors and providing supports to enable student to be successful in their learning community.	Does not require written notice. Requires notice before a "significant change" in placement - requires due process rights if referred for formal evaluation under IDEA, and the team determines not to evaluate.
Placement Decisions	Requires district and schools to use information from a variety of sources. Consider all documented information and use a team approach to make eligibility decisions. Team members are identified under IDEA and must be knowledgeable about the child, evaluation data, and the continuum of placements and services available. Requires that student receives a free and appropriate education with his/her non-disabled peers in the least restricted environment. IEP meeting is required before any change in placement or services is	Requires district and schools to use information from a variety of sources. Consider all documented information. Use a team approach to make eligibility decisions, with team members being knowledgeable about the child, evaluation data, and the continuum of placements and services available. The student must receive a free and appropriate education with his/her non-disabled peers. Students are served in general education with accommodations. A Manifestation Determination Review (MDR) is required when removing a student from the regular setting for more

	<p>made. Students are eligible for a full continuum of placement options including regular education with related services as needed.</p>	<p>than 10 days due to a disciplinary action.</p>
<p>Due Process</p>	<p>Requires district to provide resolution sessions and due process hearings for parents/guardians who disagree with identification, evaluation, implementation of IEP or students Least Restricted Environment (LRE) placement.</p>	<p>Requires districts to provide a grievance procedure for parents, and students who disagree with identification, evaluation, implementation of IEP or students Least Restricted Environment (LRE) placement. A grievance procedure must be provided to parents and employees to follow and a 504 coordinator identified in the district to assist individuals as needed.</p> <p>Due process hearing not required before Office of Civil Rights (OCR) involvement or court action unless student is also covered by IDEA. Compensatory damages possible.</p>

Operational Framework

1. Child Find.

- As part of the on-going identification and referral process, the District will make reasonable efforts to identify and locate every qualified disabled student residing within the District who is not receiving a public education.
- The District shall inform the parents or guardians of these potentially eligible students (who may be attending private or home-schools) of the District's duties under 504.
- As part of the Child Find effort the District shall annually publish the Child Find Notice in local newspapers, student handbooks, and/or place the notice in locations likely to be seen by parents of eligible students.
- Additionally, every teacher within the District should have information regarding the District's overall early intervention process, understand how to initiate a 504 Referral, and know how to identify students who should be referred.

2. Referral and Consent for Evaluation.

- When a student is referred for a 504 Evaluation, the Campus Coordinator should notify the parent (if the referral was made by someone other than the parent) and give the parent the Notice of Parent Rights and have them sign that they have received the Parent Rights and sign consent for the evaluation. Consent must be received prior to collecting data for the Section 504 evaluation.
- The Campus Coordinator should give the parent a "Parent Input for Section 504 Evaluation" form to be completed.
- If the parent does not sign the consent form for 504 evaluation, the Campus Coordinator should remind the parent at least once each semester of the District's continued desire to conduct an evaluation under 504.
- A 504 evaluation may not be completed without consent of the parent/guardian.

3. Evaluation.

- When the consent is received from the parent, the Campus Coordinator should:
 - a. Gather evaluation data and coordinate/direct the completion of the various Input Documents.
 - The evaluation data consists of information from a variety of sources, including efforts and results of early intervention activities, aptitude and achievement testing, teacher recommendations, student's historical and current physical and mental condition (including data on conditions in remission and episodic conditions), social or cultural background, adaptive behavior, and mitigating measures;
 - The Teacher Input form to be completed by one or more teachers, and
 - The Parent Input form with information about the student's activities/behaviors at home, and any other data the parent would like the 504 Committee to consider.
 - Should current special education data exist (an evaluation upon which a student was either dismissed from special education or upon which a finding of no IDEA eligibility was made), that data should also be considered.
 - b. Ensure that, should formalized testing be considered by the 504 Committee as evaluation data, the tests have been validated for the specific purpose for which they are used and are administered by trained personnel in accordance with the instructions provided by the tests' creators; and include those tailored to assess specific areas of educational need and are not merely designed to provide a single intelligence quotient;

- c. Determine who will be in the group of knowledgeable people (including persons with knowledge of the Child, the meaning of the evaluation data and the placement options).
- d. Schedule a 504 Evaluation by the Committee.
- e. Give the Parents notice of the time and place of the evaluation meeting, inviting the Parent to attend. Written notice, while not required, is preferred.
- At the 504 Evaluation, the Committee should:
 - Collect information from a variety of sources, including, but not limited to, efforts and results of early intervention activities, aptitude and achievement testing, teacher recommendations, physical condition, social or cultural background, adaptive behavior and the Parent and Teacher/Administrator input forms;
 - Ensure that all information reviewed in the evaluation is documented and carefully considered, and that Section 504 decisions are made consistently with the Americans with Disabilities Act Amendments Act of 2008, including appropriate consideration of mitigating measure, recognition of changes made to major life activities, the appropriate consideration of impairments that are episodic or in remission, and Congressional declarations on the definition of substantial limitation.
 - Complete the Section 504 Evaluation form.
 - If the Student is determined to be eligible and is determined to need accommodations, aids or services from the school, the Committee moves on to the Section 504 Student Services Plan to develop appropriate services and accommodations.
 - If no eligibility is found, the Parents are so informed in writing.
- Should the Parent refuse consent to the provision of Section 504 services, their decision should be documented in the Committee meeting deliberations.
- Section 504 services detailed on the Services Plan will not be provided to the Student, but the completed Plan will serve as documentation of the District's offer of FAPE to the Student.
- At the conclusion of the Evaluation/Placement meeting, the Campus Coordinator will provide the parent with a copy of the 504 Plan documents.

4. Records.

- Original, signed Section 504 records, including any evaluation data, shall be kept in a separate 504 folder under the control of the Campus Section 504 Coordinator. The campus folders will be the "Official" District Section 504 student folders. These folders will be routinely and randomly audited by the District Section 504 Coordinator.
- A copy of the 504 Plan will be kept in a separate 504 folder under the control of the District Section 504 Coordinator.
- The District and its personnel will maintain the confidentiality of 504 records as required by the Family Educational Rights and Privacy Act (FERPA).
- A reference to the records and their location will be placed in the cumulative folder to ensure that the campus with responsibility for the student is aware of its 504 obligations to the eligible student and that personnel and third-party contractors who have a duty to implement the plan have access to necessary records, including the plan itself.

5. Free Appropriate Public Education (FAPE).

- No eligible student may be excluded by the District from receiving a public elementary or secondary education. When considering the educational placement for eligible students, the 504 Committee will ensure that the services provided are:
 - a. **Appropriate.**

The 504 services are designed to meet the individual needs of the eligible student as adequately as the needs of nondisabled students, and are based upon adherence to the regulatory procedures relating to educational setting, evaluation and placement, and procedural safeguards. The Committee may place an eligible student in a program that the District does not operate in order to satisfy this requirement, but in so doing, the District remains responsible for ensuring that the requirements of 504 are met.
 - b. **Free.**

An eligible student's educational program provided under 504 is provided without cost to the parent of the eligible student, regardless of where those services are provided or by whom. Should the 504 Committee determine that placement in a program not operated by the District is required for the eligible student to receive FAPE, the District shall ensure that adequate transportation is provided to and from the program at no greater cost than would be incurred by the eligible student or his or her parents or guardians if the student were placed in the program operated by the District. The only costs of educational services that may be assessed the eligible student are those borne by nondisabled students and their parents (such as tickets to athletic events, purchases of yearbooks, gym clothes, etc.). When the District has made available a FAPE as required by 504, and the eligible student or his or her parents or guardians choose to place the student in a private school, the District is not required to pay for the eligible student's education in the private school.

6. Parental Rights to Refuse Consent & Revoke Consent for Section 504 Services.

- The District recognizes the Parent's right to refuse consent for initial Section 504 Services as well as to revoke consent for continued Section 504 Services at any time.
- The Parent may exercise the right to refuse consent or revoke consent by requesting a 504 Committee meeting and informing the Committee of their decision. The decision will be documented in the deliberations of the meeting.
- In the absence of a parent's direct refusal of 504 services for their child, the District will assume that the Parent consents to 504 Services. *See, for example, Tyler (TX) ISD, 56 IDELR 24 (OCR 2010) (no parent signature required by the Section 504 regulations in order to implement a 504 Services Plan).*
- Following either a refusal to consent or revocation of consent, the Parent may consent to 504 Services at any time (as long as the Student remains eligible for 504 Services) by contacting the 504 Campus Coordinator to schedule a Section 504 meeting.

7. Least Restrictive Environment (LRE).

- The 504 Committee shall create a placement for the eligible student that ensures the provision of educational services with persons who are not disabled to the maximum extent possible appropriate to the needs of the eligible student.
- The 504 Committee will presume that the regular classroom is the appropriate placement, unless it is demonstrated that the eligible student's education in the regular classroom with the use of supplementary aids and services cannot be achieved satisfactorily.

- Should the Committee place an eligible student in a setting other than the regular classroom, it shall take into account the proximity of the alternative setting to the eligible student's home.

8. Non-Academic Services & Extracurricular Activities.

- The District shall ensure that the provision of nonacademic and extracurricular services and activities (such as meals, recess, 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) are provided so that:
 - a. Eligible students are afforded an equal opportunity to participate in such service and activities.
 - b. Eligible students participate with nondisabled students to the maximum extent appropriate to the needs of the eligible student.

Counseling.

- Should the District provide personal, academic, or vocational counseling, guidance, or placement services to its students, those services shall be provided without discrimination on the basis of disability. The District shall ensure that disabled students are not counseled toward more restrictive career objectives than are nondisabled students with similar interests and abilities.

Physical education and athletics.

- In providing physical education courses and athletics and similar programs and activities to any of its students, the District will not discriminate on the basis of disability. Disabled students shall have equal opportunity to participate in the District's physical education courses, as well as interscholastic, club, or intramural athletics operated or sponsored by the District. The District will offer disabled students physical education and athletic activities that are separate or different from those offered to nondisabled students only if separation or differentiation is consistent with the requirements of LRE and only if no qualified disabled student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

Accommodations to Extracurricular Athletics.

- In its December 2013 guidance letter on extracurricular athletics, OCR announced that decisions with respect to modifications, aids and services required for Section 504 students to participate in extracurricular athletics need not be determined in a Section 504 meeting or by a Section 504 Committee.
- The "Accommodations in Extracurricular Athletics" form serves to describe the OCR-approved process, and to document the accommodations to be provided.

Comparable Facilities.

If the District operates a facility that is identifiable as being for disabled students, the District will ensure that the facility and the services and activities provided there are comparable to the other facilities, services and activities of the District.

9. Implementation of the Section 504 Services Plan.

- The Campus Coordinator should ensure that the student's 504 Service Plan is delivered to each teacher, campus administration, and any other employee or third-party contractor who has responsibility to implement the plan.
- Monitoring of Services Plan implementation should be accomplished through
 - TTESS appraisals and walkthroughs (Campus Administrator), and
 - Periodic checks of the student's academic, behavioral and social progress by the Campus Coordinator

10. Re-Evaluation.

- At least every three years, the 504 Committee should meet to conduct a periodic re-evaluation of students on Section 504 Service Plans as well as those students who are eligible under Section 504 but not in need of a Section 504 Services Plan at this time.
- Re-evaluation should also occur prior to any significant change of placement and whenever necessary to ensure the continued provision of FAPE.
- It is also the District's practice to conduct annual reviews when no periodic re-evaluation is required.
- Prior to a re-evaluation, the District will provide the parents with notice of the time and place of the re-evaluation meeting, inviting the parent.
- Written notice to the parent is preferred, and can be accomplished utilizing the Notice of Section 504 Meeting form.
- If the student remains eligible and in need of a Service Plan, the 504 Committee should focus on the student's changing needs due to the effects of different classroom subject matter, school demands and other factors.
- Should the 504 Committee determine that the student is no longer eligible, the Committee should dismiss the student from 504.
- The parent shall be given a copy of the 504 Committee meeting documents.

11. Discipline.

The following disciplinary provisions apply to students who are in receipt of a Section 504 Service Plan, together with students who are eligible under Section 504 as students with a physical or mental impairment that substantially limits one or more major life activities, but who are not in need of a Section 504 Service Plan at this time (either because the impairment is in remission or because the students have no need for a Service Plan due to the positive effects of mitigating measures currently in place).

- Should the District initiate a disciplinary removal of the eligible student from his educational placement for a term of more than ten consecutive school days, the 504 Committee must first conduct an evaluation, which includes manifestation determination, and provide the parent/guardian with another copy of the Notice of Rights.
- Prior to the evaluation, the Campus Coordinator shall give the parents notice of the time and place of the evaluation meeting, inviting the parent to attend.
- Written notice is preferred, and can be accomplished utilizing the Notice of Section 504 Meeting form.
- The Committee's evaluation should determine:
 - (1) Was the conduct in question caused by, or directly and substantially related to the student's disabilities; and
 - (2) Was the conduct in question the direct result of the school's failure to implement the student's 504 plan?
- If a link is found, a disciplinary removal of longer than ten consecutive school days cannot occur.

- Removals for less than ten days can be effected without 504 Committee approval, subject to the “pattern of exclusion” rule.
- A series of short removals (including teacher removals under §37.002 of the Education Code) over the course of the school year that exceeds ten total days may constitute a pattern of exclusion that triggers applicable procedural safeguards (a manifestation determination evaluation and a right to due process).
- The parent/guardian must be provided with another copy of the Notice of Rights.
- The Committee will meet to conduct an evaluation prior to the tenth cumulative day of removals during a school year, to determine:
 - (1) Was the conduct in question caused by, or directly and substantially related to the student’s disabilities? and
 - (2) Was the conduct in question the direct result of the school’s failure to implement the student’s 504 plan?
- Prior to the evaluation, the Campus Coordinator shall give the parents notice of the time and place of the evaluation meeting, inviting the parent to attend.
- Written notice is preferred, and can be accomplished utilizing the Notice of Section 504 Meeting form.
- If at the evaluation meeting a link is determined, the disciplinary removal cannot occur.
- *An eligible student who currently is engaging in the illegal use of drugs or in the use of alcohol may be removed from his educational placement for a drug or alcohol offense to the same extent that such disciplinary action is taken against nondisabled students.*
 - *Further, no 504 Evaluation is required prior to the removal and no §504 due process hearing is available.*

12. Interaction with Special Education.

- Each student referred and evaluated for special education who does not qualify and each student dismissed from special education may be recommended for a 504 evaluation and possible 504 eligibility. This recommendation may be made by a member of the Special Services Department.
- If at any time the 504 Committee determines that the disabled student needs special education or related aids and services in order to receive educational benefit, a special education referral should be considered.
- District procedures for referring a student for a Special Education evaluation will be followed.
- With respect to students who are no longer served by special education due to parents’ revocation of consent for continued special education services, recommendation for Section 504 evaluation will be determined on a case-by-case basis. This recommendation may be made by a member of the Special Services Department.
- If the decision to NOT EVALUATE is made, the Notice of Section 504 Rights should be provided to the parents, along with a written explanation as to why the student will not be evaluated.
- Should the parents refuse consent for a 504 evaluation, the school will document such refusal.

13. Interaction with Texas Dyslexia Law.

- In accordance with State Board of Education Rule and the Revised Procedures Concerning Dyslexia (The Dyslexia Handbook, Revised 2018), prior to testing a student individually for Dyslexia and/or prior to providing a student with dyslexia services, the District must refer and evaluate under Section 504.

- The provision of dyslexia instructional services to a 504-eligible student may only be accomplished by a properly constituted 504 Committee.
- If at any time the 504 Committee determines that the disabled student needs special education and related services in order to receive educational benefit, a special education referral should be considered. .
- Should a student already be special education eligible, a dyslexia evaluation for that student must occur under the direction of the student's ARD Committee.

14. Interaction with regular education Early Intervention efforts.

- In an effort to meet the needs of struggling students as early as possible, and to reduce the misidentification of students in both Section 504 and special education, the District uses an early intervention process, referred to as Response to Intervention (RTI).
- This campus-based process is designed to assist students struggling for any number of reasons (family issues, lack of motivation, poverty, etc.) and in any number of ways (academically, socially, behaviorally) by providing, appropriate to the student's needs, differentiated instruction, as well as additional regular education intervention programs, services and opportunities that may vary from campus to campus.
- Data from these efforts is shared with the parent, and will become part of any Section 504 or special education evaluation.
- These efforts are available to all students, including students with disabilities.

15. Mitigating Measures and Development of Section 504 Plans.

- Pursuant to the ADAAA, the determination of 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.
- 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.
- Section 504 Services plans, however, shall not be developed unless needed, at the time, in order for the student to have his needs met as adequately as those of nondisabled students. Should need develop, the Section 504 Committee shall develop an appropriate Services Plan.

16. Procedural Protections.

- The District will ensure that a system of procedural safeguards is in place with respect to actions regarding the identification, evaluation, and educational placement of disabled students.
- The system shall include notice, an opportunity for the parent or guardian of the disabled student to examine relevant records, an impartial hearing with opportunity for participation by the student's parent or guardian and representation by counsel, and a review procedure.
- The impartial hearing is governed by the District's Procedures for 504 Due Process Hearings.
- Should the parent disagree with the identification, evaluation, or placement decision of a 504 Committee or the decision of a 504 hearing officer, the parent may appeal to state or federal court.

- Any person may also file a grievance through the District's local grievance process.
- Information on the grievance process can be obtained from the District's 504 Coordinator.
- These protections apply regardless of whether the eligible student currently receives a Section 504 Services Plan.

17. Parent Language.

- If the District determines that the dominant language of the parent is Spanish, the District will ensure effective notice in Spanish and services necessary to provide the parent an opportunity for effective participation in the 504 process.
- If the District determines that the dominant language of the parent is not English or Spanish, the District will make a good faith effort to accomplish notice and provide an opportunity for effective parent participation in the 504 process through other means.

18. Duty to Not Discriminate.

- The District shall ensure that no qualified disabled person shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any District program or activity.
- These protections apply regardless of whether the eligible student currently receives a Section 504 Services Plan.

19. Retaliation prohibited.

- No District officer, employee, or contractor shall retaliate against any person because of his or her exercise of rights under Section 504.

20. Disability-based harassment.

- The District will promptly investigate all claims of disability-based harassment and take reasonable action to stop future recurrence.
- Where evidence of disability-based harassment is found pursuant to an investigation, and the District believes that the harassment has adversely impacted upon the ability of a disabled student to have equal access to the District's programs or activities, or the disabled student's entitlement to a free, appropriate public education, a 504 Committee meeting will be called to consider the impact of the harassment and determine whether changes to the student's Services Plan are required.

21. Timelines.

- The Section 504 duties and responsibilities of the District will be completed within a reasonable time.
- Per OCR guidance, the reasonable time requirement is satisfied by the District's compliance with analogous state IDEA timelines.

Barbers Hill Independent School District

Section 504 Due Process Hearing Procedures

Right to Due Process.

- In the event a parent or guardian [hereinafter “parent”] wishes to contest an action or omission on the part of the District with regard to the identification, evaluation, or placement of a disabled child under 504 of the Rehabilitation Act of 1973 [“504”], the parent has a right to an impartial hearing before an impartial hearing officer.
- Omissions on the part of the District with regard to a disabled child might include, for example, the District’s failure to identify a child eligible for services under 504.
 - Thus, a child’s identification as eligible for services under 504 is not an absolute prerequisite to the right to due process.

Parent Participation & Representation.

- A parent has the right to participate, speak, and present information at the due process hearing, and to be represented by legal counsel or any other type of advocate or representative of their choice at their expense.
- If a parent is to be represented by a licensed attorney at the due process hearing, he or she must inform the District’s 504 Coordinator and the appointed hearing officer of that fact in writing at least seven (7) calendar days prior to the hearing date.
- Failure to notify the District’s 504 Coordinator and the appointed hearing officer of that fact in writing shall constitute good cause for a continuance of the hearing date. (See *“Continuances” below*).

Initiation of Due Process Procedures.

- A parent who wishes to challenge a District’s action or omission with regard to the identification, evaluation, or placement of a disabled child must submit a written Request for a Due Process Hearing to the District’s 504 Coordinator.
 - Such a written request must make clear that the parent is seeking a due process hearing under 504 before an impartial 504 Hearing Officer.
 - If an intent to seek a due process hearing under 504 is not clear from the face of a Request, the District’s 504 Coordinator may contact the parent to clarify the Request and ascertain whether the parent wishes to initiate a 504 due process hearing.
 - The Coordinator may also assist the parent in clarifying any questions regarding due process rights under 504.
 - The reasonable time involved in ascertaining whether an ambiguous or unclear Request seeks a due process hearing under 504 shall follow the time lines set forth in these procedures (meaning that such time will not count toward the time line days specified in these procedures).
 - If after such communication, the District is still unsure whether the parent is requesting a due process hearing under 504, the District shall initiate due process procedures, and the appointed Hearing Officer will hold a pre-hearing conference to decide whether the parent is seeking a due process hearing under 504, and whether the Hearing Officer has jurisdiction to entertain the claims and issues raised by the parent. (See *“Pre-Hearing Conferences” below*).

Appointment of a Hearing Officer.

- Within fifteen (15) days of the date of receipt of a clear Request for a Due Process Hearing, the District will appoint an impartial Hearing Officer to preside over the hearing and issue a decision.

- The Hearing Officer will be hired by the District as an independent contractor at no expense to the parent.
- The Hearing Officer shall not be a current employee of the District, and shall not be related to any member of the District's Board of Trustees to a degree prohibited under the Texas Nepotism Statute.
- The Hearing Officer need not be an attorney, but shall be familiar with the requirements of 504 and the District's Hearing Procedures under 504.
- The District's choice of an impartial Hearing Officer is final and may not be made an issue at the due process hearing, since such an issue would not relate to the identification, evaluation, or placement of a disabled child under 504.
- If a parent disputes the impartiality of the appointed Hearing Officer, he or she may raise such issue in a review of the Hearing Officer's opinion by a court of competent jurisdiction (See "*Review Procedure*" below), or in a complaint to the appropriate Office for Civil Rights regional office (See "*Complaints to the Office for Civil Rights (OCR)*" below).

Scheduling of Hearing.

- The appointed Hearing Officer shall issue an Order Setting Hearing Date to the parent and the District's 504 Coordinator in writing at his or her earliest opportunity.
- Such Order shall set a date for a hearing to be held within fifteen (15) days of the date of issuance of the Hearing Officer's Order.
- The Order shall also set forth a mutually agreeable time and place for the hearing.

Pre-Hearing Conference.

- The Hearing Officer may also order a Pre-Hearing Conference at which the parent or his or her representative will state and clarify the issues to be addressed at the hearing.
- The Pre-Hearing Conference can also serve to resolve preliminary matters, clarify jurisdictional issues, and answer the parties' questions regarding the hearing process.

Dismissals.

- If, after the Pre-Hearing Conference, the Hearing Officer finds that the parent, as a matter of law, alleges and raises no factual claims or legal issues that come within his or her jurisdiction as a 504 Hearing Officer, he or she may dismiss the hearing and issue an order to that effect explaining the bases for such finding.

Continuances.

Upon a showing of good cause, the Hearing Officer, at his or her discretion, may grant a continuance of the hearing date and set a new hearing date by issuing a written Amended Order Setting Hearing.

Conduct of Hearing.

- The hearing shall be conducted in an informal, non-adversarial manner.
- The parties shall address the Hearing Officer by name (i.e. Mr. or Ms.).
- The hearing shall be closed or open to the public, at the parent's request.
- The parties are free to provide the Hearing Officer with information or opinion as to the validity and weight to be given the information presented to him or her.
- Neither the Federal nor Texas Rules of Evidence or Civil Procedure, however, will apply. The Hearing Officer is not required to entertain any legal evidentiary objections to the

admissibility, authenticity, or probative value of either oral testimony or documentary exhibits offered at the hearing.

- In the exercise of his or her discretion, however, the Hearing Officer may reasonably limit testimony and introduction of documentary exhibits for reasons of relevance. (*See also "Submission of Documentary Exhibits" below*).

Recording.

- Instead of a formal written transcript produced by a court reporter, the entire due process hearing will be tape-recorded.
- The parent may obtain a copy of the tape recording at his or her request.
- In order for an accurate recording to be made, the parties and witnesses shall introduce themselves at the beginning of their presentations.
- If a parent proceeds to a review of the due process hearing decision to a court of competent jurisdiction (*See "Review Procedure" below*), the District will prepare a written transcript of the hearing tape recording to be offered to the court as an exhibit.

Witnesses.

- Witnesses will present their information in narrative form, without the traditional question and answer format of legal proceedings.
- Cross-examination of witnesses will not be allowed, but a party may request that the Hearing Officer, at his or her discretion, ask a witness a certain question.

Format for Presentations.

- The parent will present its case first, by making an opening statement which outlines the parent's position on all issues, presenting personally, calling additional witnesses, and making a closing argument.
- All of the preceding may be done either personally or through counsel, except for personal presentations or statements.
- At the end of the District's presentation, the Parent may offer a short response to the District's case.
- The above format is not required, but may be helpful in organizing the presentation of the case to the Hearing Officer.

Submission of Documentary Exhibits.

- As part of their presentations, the parties may submit any reports, evaluations, correspondence, notes, or any other documents that may support their positions and that the Hearing Officer will admit at his or her discretion.
- Each separate documentary exhibit submitted to the Hearing Officer by either party must be marked numerically (i.e., Parent 1, Parent 2; District 1, District 2, etc.).
- The Hearing Officer may, in the exercise of his or her discretion, reasonably limit the number of documents to be submitted for his or her review, as well as the number of witnesses and the length and/or scope of their presentations or statements.

Written Closing, Arguments or Briefs.

- The parties may submit, at the Hearing Officer's discretion, a written Closing Argument summarizing and characterizing the information presented at the hearing, and providing legal authority in support of their position.
- Time lines for the submission of Closing Arguments shall be set by the Hearing Officer at the conclusion of the hearing.

Closing of Hearing.

- At the conclusion of all presentations, the Hearing Officer will close the hearing and set a date for the issuance of the written decision.
- The Hearing Officer may make an oral ruling at the conclusion of the hearing or take the case under advisement, but must in all cases issue a written opinion addressing and ruling on all issues raised by the Petitioner and indicating what corrective action, if any, the District must take.
- Formal findings of fact and conclusions of law, however, are not required.
- Any issue or claim raised by the parent that is left unaddressed by the Hearing Officer in his or her decision will be deemed to have been denied to the parent.
- The decision must be issued to both parties within fifteen (15) days after the hearing.

Decision Time line.

- A decision must be issued within forty-five (45) days after the date the Request for a Due Process Hearing is received by the district.

Remedies and Relief.

- The Hearing Officer must confine his or her orders and rulings to those matters that involve identification, evaluation, or placement of children under 504 and to the provisions of the regulations implementing 504.
- If a parent has raised issues or claims outside of the areas of identification, evaluation, or placement, that are not within the Hearing Officer's jurisdiction, the Hearing Officer will make appropriate findings to that effect either in the written decision, or at any time prior to the issuance of a decision (for example, at a Pre-Hearing Conference).
- A Hearing Officer may not award attorneys' fees as a part of relief granted to a parent.

Review Procedure.

- If not satisfied by the decision of the Hearing Officer, a parent may seek review of the hearing decision in a court of competent jurisdiction, generally the closest federal district court.

Complaints to the Office for Civil Rights (OCR).

- At any time, a parent may file a complaint with OCR if he or she believes that the District has violated any provision or regulation of 504.
- The filing of a complaint does not affect the hearing process or the time lines set forth above.
- OCR addresses 504 complaints separately and independently of the local hearing process, in accordance with the guidelines set forth in OCR's Complaint Resolution Manual.

“Technical” Section 504 Students

A “technical” 504 student is a student who has a physical/mental impairment that substantially limits one or more major life activities (including bodily functions) but who does **not** currently need a Section 504 Service Plan. These students have the same rights as other 504-eligible students, including:

- The right to non-discrimination
- The right to periodic review/reevaluation
- Protection from excessive short-term removals (suspensions)
- Manifestation Determination Reviews, when appropriate
- The right to due process as defined by the Office of Civil Rights (OCR)

Section 504 Service Plans

The Section 504 Committee Service Plan will include:

- Evaluation information reviewed
- Determination of eligibility and if eligible, the impairment and area of substantial limitation
- The accommodations/services that are needed by the student during regular instruction.
- The accommodations/services that are needed by the student when taking formal assessments, including state testing.
- Whether or not the student needs a behavior plan.

Discipline and the 504 Student

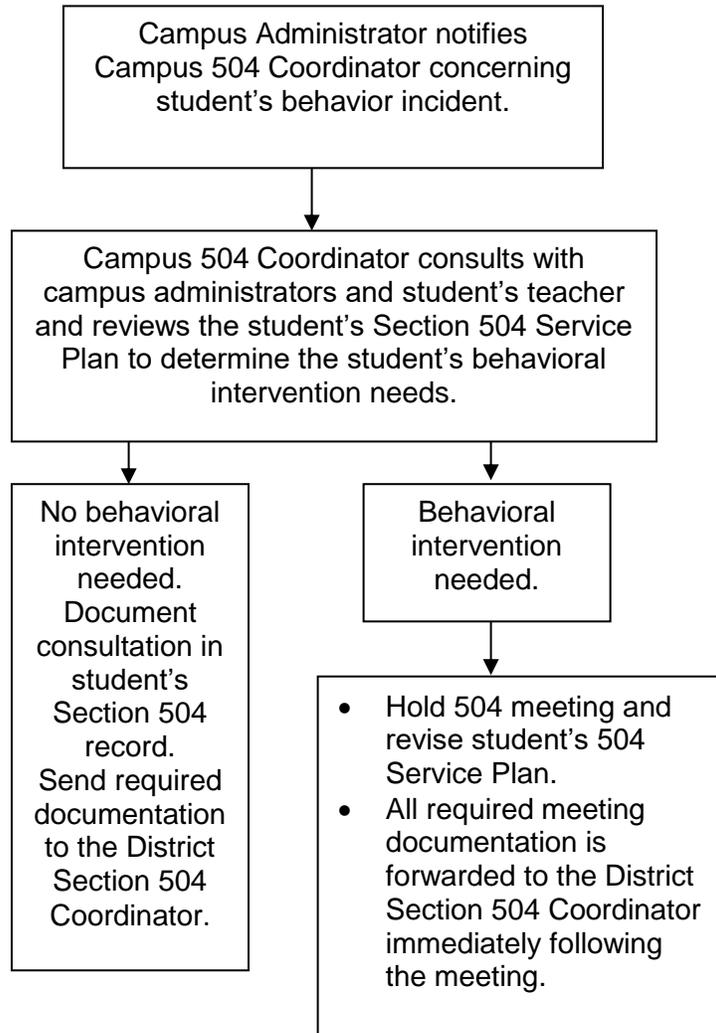
Disciplining a 504-eligible student is not an issue until the student has been/will be suspended for a cumulative total of 10 days in one school year.

According to the 2006 IDEA regulations, a “school day” is defined as “any day, including a partial day, that children are in attendance at school for instructional purposes.” With that in mind, when a student is sent home for the remainder of the day (a partial day), that will count as a full day against the 10-day limit.

The best preventive measure in 504 discipline matters is to convene a 504 meeting before the removals add up to 10 total days. The committee can decide whether more information is needed, develop a behavior intervention plan (BIP), or make other adjustments to the student’s Section 504 Service Plan.

Addressing Behavioral Concerns Proactively

After the 5th Day of Suspension:



Discipline and the 504 Student

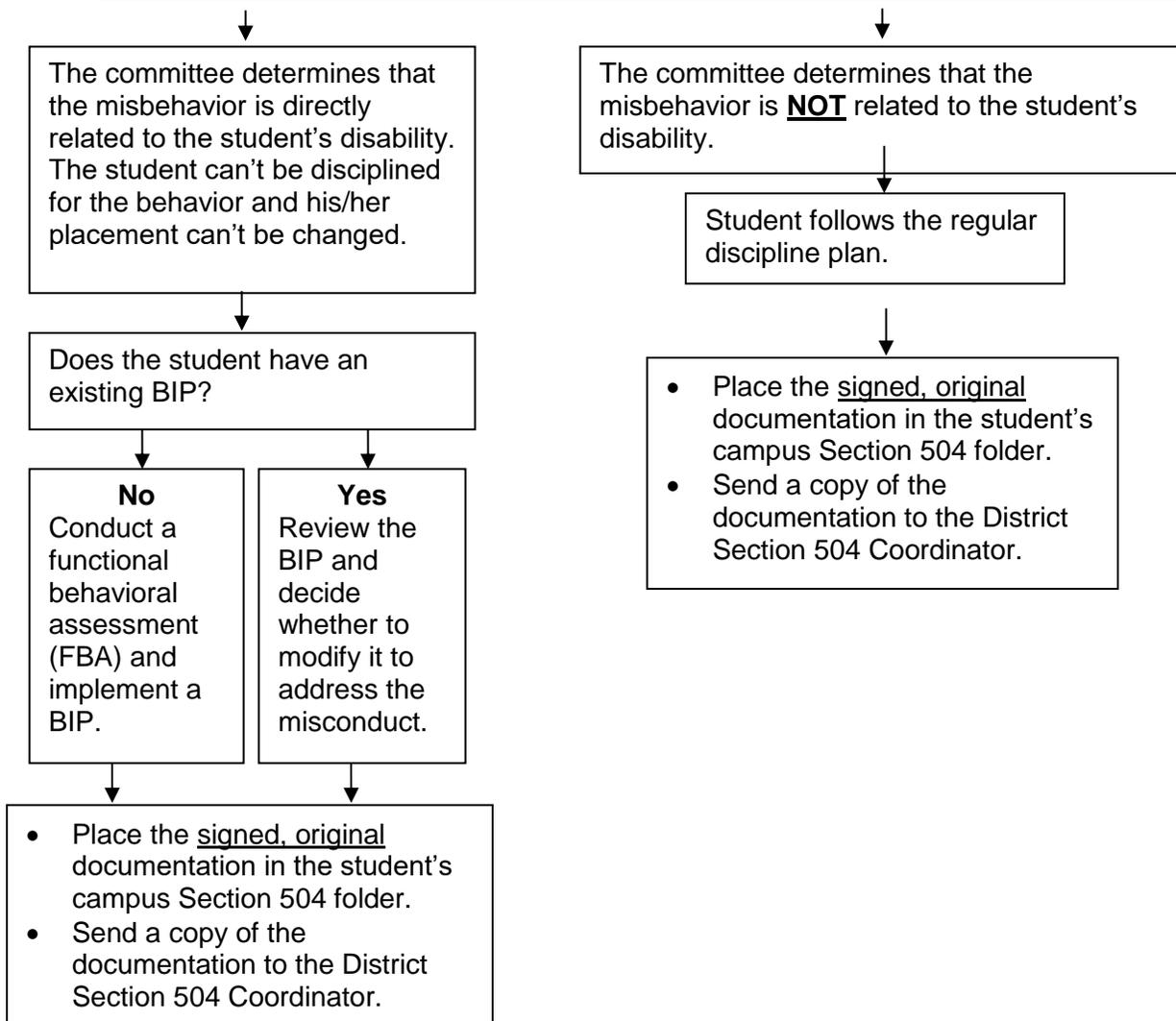
(continued)

The 504 Committee meets to determine if the misbehavior is related to the student's disability. Consider:

- Evaluation and diagnostic results, including results provided by the student's parents;
- Other relevant information provided by the student's parents;
- Observations of the student; and
- The student's 504 Service Plan

The committee will ask:

- Did the disability cause, or have a direct and substantial relationship to, the misconduct?
- Did the district's failure to implement the 504 Service Plan cause the misconduct?



Resources

Title 34 Education; Subtitle B Regulation of the Offices of the Department of Education; Chapter 1 – Office For Civil Rights, Department of Education; Part 104 – Nondiscrimination on the Basis of Handicap in Programs or Activities Receiving Federal Financial Assistance.

<http://www2.ed.gov/policy/rights/reg/ocr/edlite-34cfr104.html#S1>

Norlin, John W., and Amy Slater. *Quick Tips for Sound Section 504 Programs*. Horsham, PA: LRP Publications, 2009. Print.

Proceedings of 14th Annual Southwest Section 504 Conference, Doubletree Hotel, Austin, Texas. Print

"Section 504 and IDEA Comparison Chart." 24 Feb. 2009. Web. 28 Nov. 2010. <<http://www.nclد.org/>>.

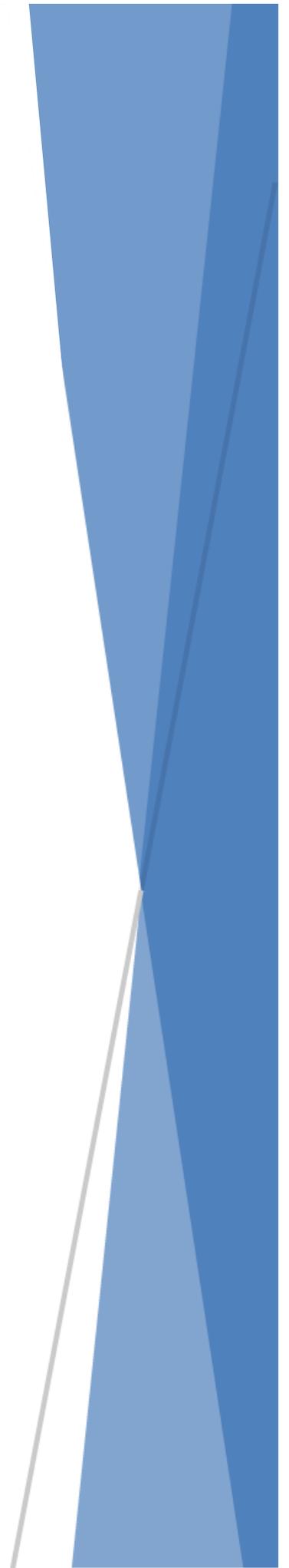
The Dyslexia Handbook Revised 2007, Updated 2010. Austin: Texas Education Agency, 2010. Print.

"Office for Civil Rights: What's New." *U.S. Department of Education*. 27 Mar. 2009. Web. 27 Nov. 2010. <<http://www2.ed.gov/about/offices/list/ocr/whatsnew.html>>.

Norlin, John W. *Short-term Suspensions and Patterns of Disciplinary Removal: Making Sense of IDEA and Section 504 Rules*. Horsham, PA: LRP Publications, 2009. Print.



Frequently Asked Questions



Frequently Asked Questions

1. How does a dyslexia assessment fit with Section 504?

Under Texas law, you cannot receive dyslexia instruction without going through a 504 evaluation.

2. Reading is now listed as a “major life activity.” What does this mean?

A dyslexia impairment may now make the student 504-eligible. It will be difficult to find dyslexic students who are not 504-eligible.

3. How does RTI work with Section 504?

The OCR (Office of Civil Rights) would look positively on early intervention, but if the interventions aren't successful, it may be a disability and therefore 504-eligible (at least a “technical” 504).

4. If a student no longer needs services, does the 504-eligibility “go away”?

Eligibility and the need for services are two separate components and must be treated separately. The student may be a “technical” 504 student if the impairment still exists.

5. What is the receiving school district's responsibility under Section 504 toward a student with a Section 504 plan who transfers from another district?

If a student with a disability transfers to a district from another school district with a Section 504 plan, the receiving district should review the plan and supporting documentation. If a group of persons at the receiving school district, including persons knowledgeable about the meaning of the evaluation data and knowledgeable about the placement options determines that the plan is appropriate, the district is required to implement the plan. If the district determines that the plan is inappropriate, the district is to evaluate the student consistent with the Section 504 procedures at 34 C.F.R. 104.35 and determine which educational program is appropriate for the student. There is no Section 504 bar to the receiving school district honoring the previous IEP during the interim period. Information about IDEA requirements when a student transfers is available from the Office of Special Education and Rehabilitative Services at <http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CQaCorner%2C3%2C>

6. Once a student is identified as eligible for services under Section 504, is that student always entitled to such services?

Yes, as long as the student remains eligible. The protections of Section 504 extend only to individuals who meet the regulatory definition of a person with a disability. If a recipient school district re-evaluates a student in accordance with the Section 504 regulatory provision at 34 C.F.R. 104.35 and determines that the student's mental or physical impairment no longer substantially limits his/her ability to learn or any other major life activity, the student is no longer eligible for services under Section 504.

7. Are current illegal users of drugs excluded from protection under Section 504?

Generally, yes. Section 504 excludes from the definition of a student with a disability, and from Section 504 protection, any student who is currently engaging in the illegal use of drugs when a covered entity acts on the basis of such use. (There are exceptions for persons in rehabilitation programs who are no longer engaging in the illegal use of drugs).

8. A student diagnosed with ADHD is currently successful. Does he have to be 504?

Focus on the evaluation efforts on students that you suspect have a disability (see North Royalton Ohio case). If a parent requests it, evaluation must be done.

9. A parent mentions, in passing, that their child has a diagnosis and takes medication. How do we answer?

This could, potentially, put things in a different light. Thank the parent for the information and ask if they would provide the school with information, as their child is potentially eligible for Section 504, the Campus Coordinator would like to look at that, along with other information (such as discipline records, grade reports, etc.), to determine eligibility.

10. Will all 504 students get an MDR?

Yes, unless they are a current drug user.

11. Are current users of alcohol excluded from protection under Section 504?

No. Section 504's definition of a student with a disability does not exclude users of alcohol. However, Section 504 allows schools to take disciplinary action against students with disabilities using drugs or alcohol to the same extent as students without disabilities.

12. Can a medical diagnosis suffice as an evaluation for the purpose of providing FAPE?

No. A physician's medical diagnosis may be considered among other sources in evaluating a student with an impairment or believed to have an impairment which substantially limits a major life activity. Other sources to be considered, along with the medical diagnosis, include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior. As noted in FAQ 22, the Section 504 regulations require school districts to draw upon a variety of sources in interpreting evaluation data and making placement decisions.

13. What should a recipient school district do if a parent refuses to consent to an initial evaluation under the Individuals with Disabilities Education Act (IDEA), but demands a Section 504 plan for a student without further evaluation?

A school district must evaluate a student prior to providing services under Section 504. Section 504 requires informed parental permission for initial evaluations. If a parent refuses consent for an initial evaluation and a recipient school district suspects a student has a disability, the IDEA and Section 504 provide that school districts may use due process hearing procedures to seek to override the parents' denial of consent.

14. Is an impairment that is episodic or in remission a disability under Section 504?

Yes, under certain circumstances. In the Amendments Act (see FAQ 1), Congress clarified that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. A student with such an impairment is entitled to a free appropriate public education under Section 504.

15. If a student is eligible for services under both the IDEA and Section 504, must a school district develop both an individualized education program (IEP) under the IDEA and a Section 504 plan under Section 504?

No. If a student is eligible under IDEA, he or she must have an IEP. Under the Section 504 regulations, one way to meet Section 504 requirements for a free appropriate public education is to implement an IEP.

Notice of Rights for Disabled Students and their Parents Under §504 of the Rehabilitation Act of 1973

The Rehabilitation Act of 1973, commonly known in the schools as “Section 504,” is a federal law passed by the United States Congress with the purpose of prohibiting discrimination against disabled persons who may participate in, or receive benefits from, programs receiving federal financial assistance. In the public schools specifically, §504 applies to ensure that eligible disabled students are provided with educational benefits and opportunities equal to those provided to non-disabled students.

Under §504, a student is considered “disabled” if he or she suffers from a physical or mental impairment that substantially limits one or more of their major life activities, such as learning, walking, seeing, hearing, breathing, working, and performing manual tasks. Section 504 also applies to students with a record of having a substantially-limiting impairment, or who are regarded as being disabled even if they are truly not disabled. Students can be considered disabled, and can receive services under §504, even if they do not qualify for, or receive, special education services.

The purpose of this Notice is to inform parents and students of the rights granted them under §504. The federal regulations that implement §504 are found at Title 34, Part 104 of the Code of Federal Regulations (CFR) and entitle eligible student and their parents, to the following rights:

1. You have a right to be informed about your rights under §504. [34 CFR 104.32] The School District must provide you with written notice of your rights under §504 (this document represents written notice of rights as required under §504). If you need further explanation or clarification of any of the rights described in this Notice, contact appropriate staff persons at the District’s §504 Office and they will assist you in understanding your rights.
2. Under §504, your child has the right to an appropriate education designed to meet his or her educational needs as adequately as the needs of non-disabled students are met. [34 CFR 104.33]. You have the right to refuse consent for services at any time.
3. Your child has the right to free educational services, with the exception of certain costs normally also paid by the parents of non-disabled students. Insurance companies and other similar third parties are not relieved of any existing obligation to provide or pay for services to a student that becomes eligible for services under §504. [34 CFR 104.33].
4. To the maximum extent appropriate, your child has the right to be educated with children who are not disabled. Your child will be placed and educated in regular classes, unless the District demonstrates that his or her educational needs cannot be adequately met in the regular classroom, even with the use of supplementary aids and services. [34 CFR 104.34].
5. Your child has the right to services, facilities, and activities comparable to those provided to non-disabled students. [34 CFR 104.34].
6. The School District must undertake an evaluation of your child prior to determining his or her appropriate educational placement or program of services under §504, and also before every subsequent significant change in placement. [34 CFR 104.35]. You have the right to refuse consent for initial evaluation.
7. If formal assessment instruments are used as part of an evaluation, procedures used to administer assessments and other instruments must comply with the requirements of §504 regarding test validity, proper method of administration, and appropriate test selection. [34 CFR 104.35]. The District will appropriately consider information from a variety of sources in making its determinations, including, for example: aptitude and achievement tests, teacher recommendations, reports of physical condition, social and cultural background, adaptive behavior, health records, report cards, progress notes, parent observations, statewide assessment scores, and mitigating measures, among others. [34 CFR 104.35].

8. Placement decisions regarding your child must be made by a group of persons (a §504 committee) knowledgeable about your child, the meaning of the evaluation data, possible placement options, and the requirement that to the maximum extent appropriate, disabled children should be educated with non-disabled children. [34 CFR 104.35].
9. If your child is eligible under §504, he or she has a right to periodic reevaluations. A reevaluation must take place at least every three years. [34 CFR 104.35].
10. You have the right to be notified by the District prior to any action regarding the identification, evaluation, or placement of your child. [34 CFR 104.36]
11. You have the right to examine relevant documents and records regarding your child (generally documents relating to identification, evaluation, and placement of your child under §504). [34 CFR 104.36].
12. You have the right to an impartial due process hearing if you wish to contest any action of the District with regard to your child's identification, evaluation, or placement under §504. [34 CFR 104.36]. You have the right to participate personally at the hearing, and to be represented by an attorney, if you wish to hire one.
13. If you wish to contest an action taken by the §504 Committee by means of an impartial due process hearing, you must submit a Notice of Appeal or a Request for Hearing to the District's §504 Coordinator at the address below. In Texas, you must submit the required notice or request in writing within one year of the action or omission giving rise to your complaint. Failure to make a timely request will result in the loss of your opportunity to pursue a due process hearing on that action or omission.

A date will be set for the hearing and an impartial hearing officer will be appointed. You will then be notified in writing of the hearing date, time, and place.

Marilyn Ropp
District Section 504 Coordinator
P. O. Box 1108
Mont Belvieu, Texas 77580
Telephone 281-576-2221 Ext. 1343

14. If you disagree with the decision of the hearing officer, you have a right to seek a review of the decision by making a written request to the District's Section 504 Coordinator, and/or you may seek relief in state or federal court as allowed by law.
15. You also have a right to present a grievance or complaint through the District's local grievance process. The District will investigate the situation, take into account the nature of the complaint and all necessary factors, and respond appropriately to you within a reasonable time. Parents may contact the District's Section 504 Coordinator for more information about the District's grievance process.
16. You also have a right to file a complaint with the Office for Civil Rights (OCR) of the Department of Education. The address of the OCR Regional Office that covers this school district is:

Director, Office for Civil Rights, Region VI
1999 Bryan Street, Suite 1620, Dallas, Texas 75201-6810, Tel. 214-661-9600