

# Willis ISD

## Section 504 Handbook



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*Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against students and/or employees with disabilities. This guide provides information on Section 504 and the obligations of the Willis ISD School District*

*Produced by:*

**Willis ISD  
Special Programs  
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*Developed*

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WILLIS ISD  
SECTION 504 HANDBOOK

**INTRODUCTION**

The Rehabilitation Act, passed in 1973, a federal statute which included is what has become known as Section 504. This legislation guarantees anti-discrimination protection for persons identified as having a disability. Eligibility for Section 504 includes any person who has a physical or mental impairment which substantially limits one or more life activities, has a record of such impairment, or is regarded as having such impairment.

Section 504 regulations at 34 CFR 104 (j)(2)(i) define the term “physical or mental impairment,” as set forth below:

- (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 (intellectual disabilities), organic brain syndrome, emotional or mental illness, and specific learning disabilities.

The definition is not exhaustive. Also, note that the definition does not define specific diseases. Nor is the regulation intended to limit the range of diseases or medical conditions that might come into play.

Because special education students have a record of an identified disability, those special education students who are dismissed from the program either because they no longer exhibit an educational need or because they no longer exhibit a disabling condition may be evaluation by the Section 504 Committee to determine eligibility for services under Section 504.

Services that can be provided for Section 504 eligible students include classroom accommodations, health plans, behavior plans, and other related services. The campus section 504 Committee determines eligibility, need, and services to be provided. Parents and students should be informed of due process rights as these services are considered.

Requests for referral for consideration of eligibility under Section 504 can be made by parents, students, or school personnel. Determination of eligibility, need, and services must be made by a group of three or more knowledgeable persons who are familiar with the needs of the student, potential interventions and/or strategies for remediating student performance, and available resources.

## **Determine Eligibility under Section 504**

### **Definition of Evaluation under Section 504**

When considering an individual's eligibility, the term "evaluation" as it applies to Section 504 means "to review information from a variety of sources and, if needed, obtain any additional information." Evaluation, in this sense, does not necessarily mean that an individual must undergo testing in order to determine if the individual meets eligibility criteria. In order to determine if a student is eligible, the school Section 504 team reviews and considers information from a variety of sources. Based on the review, the school Section 504 team must address these questions:

1. Does the individual have a physical or mental impairment?
2. Does the impairment affect a major bodily function or life activity?
3. To what degree does the impairment limit a major life activity or major bodily function?
4. Does the individual need accommodations, services, or supports to access the benefits of public education at a level similar to his/her non-disabled peers?

### **RED FLAGS: WHEN SCHOOL STAFF SHOULD CONSIDER THE EXISTENCE OF A DISABILITY AND POSSIBLE SECTION 504 PROTECTION**

- When a disability of any kind is known or suspected.
- When a parent frequently expresses concern about the student's performance.
- When frequent disciplinary actions are required.
- When retention is being considered.
- When a student is suffering from a serious illness or injury.
- When a student return to school after a serious illness or injury.
- When a student shows a pattern of not benefiting from teacher instruction or interventions.
- When a student does not qualify for special education services.
- When a student is removed from special education due to a lack of educational need.
- When a student exhibits a chronic health condition.
- When a student has been identified by a physician as having attention deficit disorder (ADD), attention deficit hyperactivity disorder (ADHD), depression, or any psychological illness.
- When former substance abuse causes a disability

It should be noted that a referral for a Section 504 evaluation does not necessarily mean that the student is eligible for services or accommodations under Section 504. The student must meet the criteria for Section 504 eligibility in order to receive services under Section 504. Some students may be technically eligible (they have a physical or mental impairment that substantially limits one or more major life activities but do not require a Section 504 Plan.)

## **.SOURCES OF EVALUATION DATA THAT MAY BE USED TO DETERMINE SECTION 504 PLACEMENT**

- Formal/Informal
- Psycho-Educational Assessment (if IDEA referral)
- Achievement Tests
- Health Information
- Observations
- Anecdotal Records
- Attendance Records
- State and Local Assessments
- Portfolio
- Parent Information
- Medical Records
- Results of Classroom Interventions and Rtl data
- Adaptive Behavior
- Discipline Records
- Outside Evaluations
- Grades
- Intelligence Testing

\*Required –Adaptive Behavior includes the age-appropriate behaviors necessary for people to live independently and to function safely and appropriately in daily life. Adaptive behaviors include real life skills such as grooming, dressing, safety, safe food handling, school rules, ability to work, money management, cleaning, making friends, social skills, and personal responsibility.

Adaptive behavior assessments are used in evaluation of students with learning disabilities to determine what behavior strengths and weaknesses should be addressed to improve the learner's possibility for success in school and life. It is not uncommon for learning disabled students to require specially designed instruction to learn adaptive behaviors.

Adaptive behavior is usually assessed using questionnaires completed by parents, teachers, social workers, students (when possible and appropriate), or adult learners. Adaptive behavior can also be assessed based on observations of the child's actual performance of a specific skill.

# A COMPARISON OF IDEA (SPECIAL EDUCATION) AND SECTION 504

## Special Education and Section 504 Comparison

	Special Education	Section 504
<b>Purpose &amp; Funding</b>	IDEA was created specifically for public schools. It focused on two problems encountered by students with disabilities: exclusion from school & inappropriate services. Some federal funding is provided to participating states.	Not focused specifically on public schools, but on disability discrimination by recipients of federal funds. Uses a civil rights approach to require equal opportunity between disabled and nondisabled students. No federal funding for civil rights statutes.
<b>Eligibility</b>	Student must be both disabled (having an impairment that meets one of the categories of disability established by federal law and further defined by state law) AND in need of special education and related services.	Student must be both "qualified" & have a physical or mental impairment that substantially limits one or more major life activities; a record of such impairment or be regarded as having such an impairment.
<b>Impairments Covered</b>	The impairment must fit one of the 13 IDEA-recognized disabling conditions. <ul style="list-style-type: none"> <li>● Autism,</li> <li>● Deaf-blindness</li> <li>● Hearing Impairment</li> <li>● Intellectual Disability</li> <li>● Multiple Disabilities</li> <li>● Orthopedic Impairment</li> <li>● Other Health Impairment</li> <li>● Emotional Disturbance</li> <li>● Learning Disability</li> <li>● Speech Language Impairment</li> <li>● Traumatic Brain Injury</li> <li>● Visual Impairment</li> <li>● Developmental Delay</li> </ul>	Specific physical or mental impairments are not listed in the regulations, "because of the difficulty of ensuring the comprehensiveness of any such list." Appendix A to 504 Regulations.  <u>Physical or Mental Impairment</u> 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; genitourinary; 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." 34 C.F.R. §104.3(j)(2)(i).
<b>Number of eligible students</b>	In IDEA 2004, Congress determined that there were too many students eligible under the IDEA, requiring a new approach to Learning Disability (LD) eligibility and encouraging Response to Intervention (RTI) activities.	In the ADA of 2008, Congress directed that there were insufficient numbers of eligible individuals. Congress declared that the eligibility language should be construed more broadly, favoring eligibility.
<b>Benefits of Eligibility</b>	FAPE, including special education & related services, annual IEPs, together with a host of procedural safeguards AND Section 504's nondiscrimination protection.	Nondiscrimination protection, a few procedural safeguards + <i>some eligible</i> students get the Section 504 FAPE.
<b>Free and Appropriate Public Education (FAPE) &amp; Least Restrictive Environment (LRE)</b>	By definition, the IDEA-eligible student must be in need of special education. All eligible students receive FAPE. The IDEA FAPE is a near-entitlement to educational benefit that will vary depending on the needs and abilities of the individual child.  The offer of FAPE is recorded in the IEP, which will include "Specially designed instruction" together appropriate with intensive related services, accommodations, and supplementary aids/services (potentially in special settings).  Students must be educated to the maximum extent appropriate with his/her nondisabled peers.	Not all eligible 504 students are entitled to FAPE. Eligible students must have a current impairments and need for services to receive FAPE.  The Section 504 FAPE requires the school to meet the educational needs of the student with disability as adequately as it meets the needs of his nondisabled peers. The offer of FAPE is recorded in the 504 Plan, which will include accommodations, related services, and adaptations to school policy/practice/procedure as necessary to provided FAPE.  Students must be educated to the maximum extent appropriate with his/her nondisabled peers.
<b>Evaluations &amp; Reevaluations</b>	Precede initial placement. More focused on assessment data and instruments, but utilizes cumulative folder data as well. Re-evaluation is required every three years; together with annual reviews. IDEA also allows for independent evaluations at public expense.	Precede initial placement and significant changes of placement. Common sources are grades, test scores, disciplinary referrals, parent input, and other data from a variety of sources. Re-evaluation is required every three years. No right to an independent evaluation at public expense.
<b>Decision-making</b>	The ARD Committee, with members to include the parent, and several others designated by regulation, student need and parent invitation.	A group of people knowledgeable about the child, the meaning of the evaluation data & placement options. This group is sometime referred to as the "504 Committee."
<b>Procedural Safeguards</b>	Nine pages of single-spaced regulations in subpart E, together with a few other regulations addressing a broad range of protections for the student's IDEA FAPE.	Notice, opportunity to examine relevant records, an impartial hearing, and a review procedure. §104.36

For further information about Section 504 or Special Education, please contact Region 4 Education Service Center at 713.744.6386.



## General Operational Guidelines for Section 504

**1. Child Find.** As part of the on-going identification and referral process, Willis ISD will make reasonable efforts to identify and locate every qualified disabled student residing within Willis ISD who is not receiving a public education. (Students in school can become a "child find" issue if either parents or staff members suspect the child has a disability or, for example, that child is kept in RTI for several years with little or no progress.) Willis ISD shall inform the parents or guardians of these potentially eligible students (who may be attending private or homeschools) of Willis ISD duties under Section 504. As part of the Child Find effort Willis ISD 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 (such as supermarkets, pediatrician's offices, etc.). Additionally, every teacher within Willis ISD should have information regarding Willis ISD's overall early intervention process, understand how to initiate a Section 504 Referral and know how to identify students who should be referred.

**2. Referral.** When a Section 504 referral has been initiated, the Section 504 Referral Form [hereinafter, "Referral Form"] should be quickly forwarded to the Campus Section 504 Coordinator [hereinafter "Coordinator"]. The Referral Form is designed to be filled in by the person initiating the referral, but may be supplemented as necessary by the Coordinator, utilizing information from the student's cumulative folder or other sources. From that basic information, the Coordinator will determine whether a Section 504 Evaluation is necessary. If no Section 504 Evaluation is required, the Coordinator shall forward the Parent Rights form to the parents, with a note explaining why the Referral did not lead to a Section 504 Evaluation at this time.

**3. Consent for Evaluation.** If a Section 504 Evaluation is necessary, the Coordinator should send to the parent Notice of Parent Rights under Section 504 [hereinafter, "Parent Rights"], together with a Notice and Consent for Initial Evaluation under 504 Form [hereinafter, "Notice and Consent"], and a Parent Input for Section 504 Evaluation Form [hereinafter, "Parent Input"]. If no parental consent is received for Section 504 Evaluation, the Coordinator should remind the parent every year of the District's continued desire to conduct an Evaluation under Section 504.

**4. Evaluation.** When the consent is received from the parent, the 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 Committee to review. 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 Section 504 Committee as evaluation data, the tests:

- 1) 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;
- 2) Include those tailored to assess specific areas of educational need and are not merely designed to provide a single intelligence quotient;
- 3) Are selected and administered to ensure that when a test is administered to a student with impaired sensory, manual, or speaking skills, the tests results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

c. Determine who will be in the group of knowledgeable people [hereinafter, the "Section 504 Committee"] (including persons with knowledge of the child, the meaning of the evaluation data and the placement options).

d. Schedule a Section 504 Evaluation by the Committee.

e. Give the parents' notice of the time and place of the evaluation meeting, inviting the parent to attend if that is the District's policy. Written notice, while not required, is preferred, and can be accomplished utilizing the Notice of Section 504 meeting form.

At the Section 504 Evaluation, the Committee should:

1. Draw upon 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;
2. 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 (as provided in paragraph 15 of these Operational Guidelines), 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.
3. Complete the Section 504 Evaluation form. If the student is determined to be eligible [hereinafter, "eligible student"], the Committee moves on to the Section 504 Student

Services Plan [hereinafter, “Services Plan”] form to develop accommodations. If no eligibility is found, the parents are so informed in writing.

At the conclusion of the Evaluation/Placement meeting, the Coordinator provides notice to the parent (Notice of Section 504 Evaluation Results form) of the 504 Committee’s findings, and copies of the completed Evaluation form and the Services Plan (if eligible).

**5. Records.** Section 504 records, including any evaluation data, shall be kept in eSTAR under the control of the Coordinator. Regardless of location, Willis ISD will maintain the confidentiality of Section 504 records as required by the Family Educational Rights and Privacy Act (FERPA). Where Section 504 records are kept separately from the cumulative folder, 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 Section 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.

**6. Free Appropriate Public Education (FAPE).** No eligible student may be excluded by Willis ISD from receiving a public elementary or secondary education. When considering the educational placement for eligible students, the Committee will ensure that the services provided are:

- a. **Appropriate.** The Section 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 Willis ISD does not operate in order to satisfy this requirement, but in so doing, Willis ISD remains responsible for ensuring that the requirements of Section 504 are met.
- b. **Free.** An eligible student’s educational program provided under Section 504 is provided without cost to the parent of the eligible student, regardless of where those services are provided or by whom. Should the Committee determine that placement in a program not operated by Willis ISD is required for the eligible student to receive FAPE, Willis ISD 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 Willis ISD. 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 Willis ISD has made available a FAPE as required by Section 504, and the eligible student or his or her parents or guardians choose to place the student in a private school, Willis ISD is not required to pay for the eligible student’s education in the private school.

**7. Parental Rights to Refuse Consent & Revoke Consent for Section 504 Services.** Willis ISD 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 completing, signing and returning the refusal to consent form to the Campus 504 Coordinator. In the absence of the form, written refusal or revocation, Willis ISD will assume that the Parent consents to Section 504 services. 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 Coordinator to schedule a Section 504 meeting.

**8. Least Restrictive Environment (LRE).** The 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 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.

**9. Non-Academic Services & Extracurricular Activities.** Willis ISD 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 Willis ISD 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. Willis ISD 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, Willis ISD 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. Willis ISD 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.

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

**10. Implementation of the Section 504 Services Plan** The 504 Coordinator should ensure that the student's Services 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 the TTESS (or other teacher appraisal process), through walkthroughs, and informal checks of the student's academic, behavioral and social progress by the Coordinator and other appropriate personnel.

**11. Re-Evaluation.** At least every three years, the 504 Committee should meet to conduct a re-evaluation of students on Section 504 Services Plans as well as those students who are eligible under Section 504 (technically eligible) 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 reevaluation, Willis ISD will provide the parents with notice of the time and place of the re-evaluation meeting, inviting the parent to attend. Written notice, while not required, is preferred, and can be accomplished utilizing the Notice of Section 504 Meeting form. If the student remains eligible and in need of a Services Plan, the 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 Committee determine that the student is no longer eligible, the Committee should dismiss the student from 504. The parent shall be given notice of the results of the re-evaluation.

**12. Discipline.** The following disciplinary provisions apply to students who are in receipt of a Section 504 Services 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 Services 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, *considering various sources of data recent enough to afford an understanding of the behavior and disability*, which includes a manifestation determination. Prior to the evaluation, the Coordinator shall provide the parents with another copy of the Notice of Rights and give the

parents notice of the time and place of the evaluation meeting, inviting the parent to attend if that is the district's policy.

Written notice, while not required, 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 Section 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 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 Coordinator shall 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, 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 non-disabled students. Further, no Section 504 Evaluation is required prior to the removal and no 504 due process hearing is available.

**13. Interaction with Special Education.** Each student referred and evaluated for special education who does not qualify and each student dismissed from special education shall be evaluated for possible Section 504 eligibility on a case-by-case basis. 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 initiated.

With respect to students who are no longer served by special education due to parents' revocation of consent for continued special education services, the school will determine on a case-by-case basis, whether the student should be referred to Section 504 for evaluation, and provide Notice of Section 504 Rights should the student not be referred. The school should make reasonable efforts to explain to the parents the Section 504 process and potential protections in these situations. Should the parents refuse consent for a Section 504 evaluation, the school will document such refusal.

**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, Willis ISD uses an early intervention process, referred to as Response to Intervention (RtI). This simple, 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. Should regular education, together with these early intervention efforts be insufficient to meet the needs of the struggling student, or there are grounds to suspect that the student has a physical or mental impairment, Willis ISD should consider seeking parental consent for an evaluation under Section 504 or special education, as appropriate to the student. Further, students with physical or mental impairments whose needs are addressed through early intervention, RtI, or health plans will not be excluded from consideration for possible Section 504 referral, even when current interventions, services or health plans successfully address their impairment-related needs.

For students who are Section 504-eligible and who continue to receive early interventions/RtI services under local district procedures, the roles of the Section 504 Committee, with respect to those services are as follows. The 504 Committee will assist in explaining to the parents the role of early interventions/RtI services and the informal decision making required to make changes to the interventions within each RtI tier. The 504 Committee, by means of an appropriate evaluation, shall make the determination with respect to the tier of intervention in which a 504-eligible student is placed, and shall describe to the parent the range of interventions that might be provided in that tier at the discretion of instructional staff. The selection of interventions within the tier shall be made pursuant to local policy and procedure. The 504 Committee will observe student progress and review early interventions/RtI data as appropriate, and shall determine when a change in tier is required. The 504 Committee remains responsible for all determinations necessary for the provision of a FAPE under Section 504.

**15. Mitigating Measures and Development of Section 504 Plans.** Pursuant to the ADA, 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 to develop, the Section 504 Committee shall develop an appropriate Services Plan. Further, students with physical or mental impairments whose needs are addressed through early intervention, Rtl or health plans will not be excluded from consideration for possible Section 504 referral even when current interventions, services or health plans successfully address their impairment-related issues.

**16. Procedural Protections.** The following protections apply regardless of whether the eligible student currently receives a Section 504 Services Plan. Willis ISD 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 Willis ISD's Procedures for Section 504 Due Process Hearings. Should the parent disagree with the identification, evaluation, or placement decision of a Section 504 Committee or the decision of a Section 504 hearing officer, the parent may seek relief in state or federal court as allowed by law and/or access to review the procedure.

Upon request, the Director of Special Programs shall provide a review procedure to ensure that the Section 504 due process hearing was properly conducted pursuant to the requirements of the Section 504 procedural safeguards and Willis ISD's Section 504 due process hearing procedures. The Parent has 30 calendar days from the date that the due process hearing officer issues a decision to request a review. The request should be in writing, and should include a brief description of the basis of the request. The request for review is made directly to the Director of Special Programs. Within 15 days of the receipt of a request for review, The Director of Special Programs shall issue a decision in writing. The decision should be based on a review of the written request, the hearing officer's decision, the District's Procedures for Section 504 Due Process Hearings, any additional information provided by the Parent, and any additional information deemed relevant by the Section 504 Coordinator.

**Local Grievance Policy.** Willis ISD School Board has adopted policies specifically addressing grievances with respect to discrimination and harassment on the basis of disability. Please visit policies FFH (Local) and FNG (Legal and Local) posted on the Willis ISD website.

**17. Parent Language.** If Willis ISD 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 Section 504 process. If Willis ISD determines that the dominant language of the parent is not English or Spanish, Willis ISD 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.** Willis ISD 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 Willis ISD program or activity. These protections apply regardless of whether the eligible student currently receives a Section 504 Services Plan.

**19. Retaliation prohibited.** No Willis ISD officer, employee, or contractor shall retaliate against any person because of his or her exercise of rights under Section 504.

**20. Disability-based harassment.** Willis ISD will promptly investigate all claims of disability-based harassment and bullying of students with disabilities and take prompt and effective action to end the harassments and prevent it from recurring, and, as appropriate, remedy the effects of the harassment on the student. Where evidence of disability-based harassment or bullying is found pursuant to an investigation, and Willis ISD believes that the harassment or bullying has adversely impacted upon the ability of a disabled student to have equal access to Willis ISD's programs or activities, or the disabled student's entitlement to a free, appropriate public education, a Section 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.** Unless otherwise specified in the Section 504 Hearing Procedures, the Section 504 duties and responsibilities of Willis ISD will be completed within a reasonable time. Per OCR guidance, the reasonable time requirement is satisfied by Willis ISD's compliance with analogous state IDEA timelines. When the student's physical or mental impairment and needs are readily ascertainable, Willis ISD recognizes that full use of the time allowed under IDEA timelines is unreasonable, and the Section 504 evaluation should be completed more quickly.

**22. Notice of Parent Rights Under Section 504.** A copy of the Notice of Rights should be provided to the Parent, and the provision of the Notice of Rights documented: (1) at the consent for initial evaluation for Section 504 is sought; (2) if the school declines a parental request for Section 504 Evaluation; (3) at any time after the Notice of Rights is revised; (4) when the student reaches the age of majority (notice to the adult student); (5) meeting is refused by the school; and (7) at any time upon Parent request. When the notice is provided outside of an evaluation meeting, the campus should document the delivery of rights to the Parent or adult student in the student's file.

**23. Temporary Impairments.** "A temporary impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period of time. The issue of whether a temporary impairment is substantial enough to be a disability must be resolved on a case-by-case basis, taking into consideration, both the duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity of the affected individual. Impairments causing limitations that last, or are expected to last, for six or fewer months may still be substantially limiting, and thus, an individual analysis of each case is required."

**24. Transfer of Rights to the Adult Student.** Upon reaching the age of 18 the Section 504 rights previously held by the student's parents transfer fully to the now-adult student,

**25. Use of the terms "Parent" and "Surrogate".** The term "parent" is used to identify the parents of the student, as well as surrogates (individuals acting in the place of parents but not to be confused with the highly technical "surrogate" of the IDEA world) and adult students (upon reaching the age of majority, acquire rights normally afforded to parents). The word "parent" is used broadly, without specific reference to surrogates or adults students for clarity of reading, but with the understanding that surrogates and adults students are included in the term.

## **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 nondisabled 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 Section 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 Section 504. The federal regulations that implement Section 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 Section 504. [34 CFR 104.32] The School District must provide you with written notice of your rights under Section 504 (this document represents written notice of rights as required under Section 504). If you need further explanation or clarification of any of the rights described in this Notice, contact your Campus Section 504 Coordinator and he/she will assist you in understanding your rights.
- 2.** Under Section 504, your child has the right to an appropriate education designed to meet his or her educational needs as adequately as the needs of nondisabled students are met. [34 CFR 104.33].
- 3.** Your child has the right to free educational services, with the exception of certain costs normally also paid by the parents of nondisabled 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 Section 504. [34CFR 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 nondisabled 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 Section 504, and also before every subsequent significant change in placement. [34 CFR 104.35].
- 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 Section 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, and scores on STAAR tests, and mitigating measures, among others. [34 CFR 104.35].
- 8.** Placement decisions regarding your child must be made by a group of persons (a Section 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 nondisabled children. [34 CFR 104.35].
- 9.** If your child is eligible for services under Section 504, he or she has a right to periodic evaluations to determine if there has been a change in educational need. Generally, an evaluation will 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 Section 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 Section 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 Section 504 Coordinator at the address below. 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.

Debbie Walker, Willis ISD,  
Director of Special Programs  
612 North Campbell, Willis, TX 77378  
936-856-1222

**14.** If you disagree with the decision of the hearing officer, you have a right to seek a review of that decision before a court of competent jurisdiction (normally, your closest federal district court).

**15.** You also have a right to present a grievance or complaint to the Director of Special Programs, who 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.

**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  
1301 Young Street, Suite 1169  
Dallas, TX 75202,  
Tel. (214) 767-4056

**Aviso a Padres de Estudiantes Incapacitados  
de sus Derechos Legales bajo la Sección 504 del  
Decreto de Rehabilitación de 1973**

El Decreto de Rehabilitación de 1973, conocido generalmente como la “Sección 504,” es una ley federal legislada por el Congreso de los Estados Unidos. El propósito de esta ley es de prohibir discriminación contra estudiantes incapacitados y asegurar que tengan oportunidades y beneficios educativos tan adecuados como los de estudiantes sin incapacidades.

Bajo la Sección 504, un estudiante es considerado incapacitado si padece de un impedimento o condición física o mental que limita substancialmente una de sus actividades vitales, como la de aprender, caminar, ver, oír, hablar, respirar, trabajar y desempeñar tareas manuales. La ley también protege a estudiantes que han tenido un impedimento o condición física o mental substancial en el pasado, o que son considerados incapacitados aunque realmente no lo son. Estudiantes pueden ser considerados incapacitados bajo la Sección 504 y pueden recibir asistencia educativa bajo esa ley aunque no reciban educación especial.

El propósito de este Aviso es de explicarle los derechos legales garantizados bajo la Sección 504 a estudiantes incapacitados y a sus padres. Los reglamentos federales que dan efecto a la Sección 504 (los cuales se encuentran en el Título 34, Parte 104 del Código Federal de Reglamentos, o CFR) otorgan a los padres de familia y a estudiantes incapacitados los siguientes derechos:

- 1.** Usted tiene derecho a ser informado de sus derechos bajo la Sección 504. [34 CFR 104.32]. El distrito escolar debe darle información escrita sobre sus derechos (este Aviso precisamente sirve para informarle de sus derechos). Si necesita que le expliquen o clarifiquen cualquier de los siguientes derechos, los dirigentes apropiados del distrito escolar le ayudarán a resolver sus preguntas.
- 2.** Bajo la Sección 504, su hijo/a tiene derecho a una educación apropiada diseñada para satisfacer sus necesidades educativas individuales tan adecuadamente como las de estudiantes sin incapacidades. [34 CFR104.33].
- 3.** Su hijo/a tiene derecho a servicios educativos gratuitos, con la excepción de gastos que normalmente se les cobran también a estudiantes sin incapacidades (o a sus padres). Compañías de seguros, y otras terceras personas similares, no son libres de sus obligaciones normales para proporcionar o pagar por servicios para un estudiante considerado incapacitado bajo la Sección 504. [34 CFR 104.33]. El recibir asistencia educativa bajo la Sección 504 no disminuye su derecho a recibir otra asistencia pública o privada de cualquier tipo.

- 4.** Su hijo/a tiene derecho a ser colocado en el ambiente educativo que permita máximo contacto y relaciones con estudiantes sin incapacidades. [34 CFR 104.34]. A menos que sus necesidades educativas no puedan ser satisfechas ahí, su hijo/a será colocado en clases regulares.
- 5.** Su hijo/a tiene derecho a equipo, clases, edificios, servicios y actividades comparables a las que son proporcionadas a estudiantes sin incapacidades. [34 CFR 104.34].
- 6.** Su hijo/a tiene derecho a una evaluación antes de determinar una colocación educativa o programa de asistencia bajo la Sección 504, y también antes de cualquier cambio importante en colocación subsecuente. [34 CFR 104.35].
- 7.** Procedimientos utilizados para administrar pruebas y otras evaluaciones educativas deben cumplir con los requisitos de la Sección 504 en cuanto a la validez de las pruebas, su forma de administración, y las áreas necesarias de evaluación. [34 CFR 104.35]. El distrito considerará apropiadamente información de diversas fuentes y orígenes, incluyendo, por ejemplo: pruebas de aptitudes y aprovechamiento, recomendaciones de maestros, reportes de condición física, antecedentes sociales y culturales, análisis de comportamiento adaptado, reportes médicos, calificaciones, reportes de progreso, observaciones de los padres, anécdotas de maestros, calificaciones en los exámenes estatales, y medidas aliviantes, entre otras. [34 CFR 104.35].
- 8.** Las decisiones de colocación educativa deben realizarse por un grupo de personas (llamado el comité 504) que conocen la situación de su hijo/a, el significado de los resultados de las evaluaciones, las opciones de colocación, y la obligación legal de asegurar el ambiente educativo que permita el máximo contacto con estudiantes no incapacitados. [34 CFR 104.35].
- 9.** Si es considerado incapacitado bajo la Sección 504, su hijo/a tendrá derecho a que se le den nuevas pruebas y evaluaciones a ciertos tiempos, para determinar si sus necesidades educativas han cambiado. Generalmente evaluaciones educativas se pondrán al corriente para cada niño incapacitado por lo menos cada tres años. [34 CFR 104.35.]
- 10.** Usted tiene derecho a que el distrito escolar le avise antes de tomar cualquier acción en relación a la identificación, evaluación o colocación educativa de su hijo/a. [34 CFR 104.36].
- 11.** Usted tiene derecho a examinar archivos y documentos relacionados a la educación de su hijo/a (normalmente archivos y documentos con relación a la identificación, evaluación o colocación educativa de su hijo/a). [34 CFR 104.36].
- 12.** Usted tiene derecho a una audiencia imparcial si no está de acuerdo con las acciones del distrito en relación a la identificación, evaluación, o colocación educativa de su hijo/a. Usted tiene la oportunidad de participar personalmente en tal audiencia y de ser representada por un abogado, si desea contratarlo. [34CFR 104.36].

**13.** Si desea protestar o disputar las acciones del Comité 504 del distrito a través de una audiencia imparcial, debe presentar un Aviso de Apelación escrito ante el Coordinador 504 del distrito, en la siguiente dirección. Se fijará una fecha para una audiencia ante un oficial imparcial, y serán notificados por escrito de la fecha, hora, y lugar de la audiencia.

Debbie Walker, Willis ISD,  
Director of Special Programs  
612 North Campbell, Willis, TX 77378  
936-856-1222

**14.** Si usted está en desacuerdo con la decisión final del oficial imparcial de audiencia, tiene derecho a apelar esa decisión a una corte de jurisdicción adecuada; normalmente, la corte federal local. [34 CFR 104.36].

**15.** También tiene el derecho de presentar una queja local al Director de programas especiales, quien investigará la situación, considerará los temas de la queja y todo factor necesario, y responderá apropiadamente a usted en un plazo de tiempo razonable.

**16.** Usted también tiene el derecho a presentar una queja ante la Oficina de Derechos Civiles de el Departamento de Educación de los Estados Unidos. La dirección de la Oficina Regional a la cual pertenece a este distrito es:

Director, Office for Civil Rights, Region VI  
1301 Young Street, Suite 1169  
Dallas, TX 75202, Tel. (214) 767-4056

## QUICK GUIDE

### Procedures for Serving Students with Disabilities under Section 504

#### 1. CONCERN

***A parent or school personnel brings a concern to the Response To Intervention Team(Rtl).***

The district must find students who may qualify for services under Section 504. This is accomplished by informing school personnel of the characteristics of disabilities, their effects, and the procedures for making referrals.

Each school in the district has a Rtl Team. Any teacher, counselor or other school personnel, or a student's parent, may bring a concern to the school's team, including concerns about students with possible disabilities. Parents are invited to participate in 504 meetings.

***The Response to Intervention Team (Rtl) meets to act on the concern.***

The Rtl meets to reviews the concern, along with any accompanying evaluations, reports or other written materials.

If the Rtl determines there is a significant possibility that the student would qualify as disabled under the Individuals with Disabilities Education Act (IDEA) or Section 504, the Rtl will make a referral to the special education or 504 team, as appropriate, for consideration of a formal evaluation, and forward all relevant documentation.

***504 vs. special education referral.***

In cases where the student may qualify under one of the IDEA disability categories, the student should go through the special education "child find" process. If the concerns are *solely* related to medical or health issues (with no or negligible impact on behavior or learning), the referral may go directly to the 504 team.

#### 2. EVALUATION, ELIGIBILITY, AND 504 PLAN

***All 504 decision-making must be by a knowledgeable team.***

The 504 team must include:

Someone who is knowledgeable about the student;

Someone who is knowledgeable about the evaluation data; and

Someone who is knowledgeable about the accommodations/placement options.

Typically the team includes a principal or assistant principal, a school counselor and the student's teacher, along with the parent. The team composition will vary according to the concern/needs of the student. For a child with health concerns, the team should include a school nurse. The 504 coordinator for the building determines the appropriate individuals to comprise the team in a specific situation. **When it appears the student will need supports that will require an allocation of district resources, the Director of Special Programs must be consulted before the meeting and may need to attend the meeting.**

***The 504 team reviews current information and evaluates as needed.***

The 504 team considers the student's need for a 504 evaluation and what new assessment is needed, if any. An evaluation should be conducted if there is information

indicating that the student has a mental or physical impairment that is affecting a major life activity (such as learning, concentrating, thinking, speaking, breathing, sleeping, other bodily functions, walking, hearing, seeing, etc.).

The evaluation process begins with a review of existing information (*Section 504 Review Committee Referral*). If there is an indication that the student has a mental or physical impairment that may substantially limit a major life activity, Section 504 eligibility should be considered. The Section 504 team begins by reviewing the evaluation results along with the student's files, current teacher report of classroom performance, and other information from the parents.

If, after reviewing this information, the 504 team concludes that further evaluation is needed, the team gets written parental consent on the *Notice Consent to Evaluate* form (located in print section of eSTAR). Once the parent gives written consent, the 504 team completes the evaluation that should include both the *Parent Input* and *Teacher Input* forms from eSTAR.

If the parent does not attend the 504 meeting, the *Notice/Consent* may be sent home. If it is not returned, concerted efforts should be made to obtain it and efforts documented in eSTAR *Parent Contact Log*. No initial individual evaluation may occur without written consent.

If the team suspects that the student has a medical or physical impairment, the team may ask the parent to provide consent for disclosure to discuss medical needs with the doctor (form located in print section of eSTAR and called *Consent for Disclosure of Confidential Information*). If the team suspects a physical or mental impairment and the parent does not have access to a physician or health care provider, the district has a responsibility to assist the parent to obtain this information if needed to determine whether the student is eligible under Section 504. Please contact the Director of Special Programs in this circumstance.

If the 504 team does not suspect a disability after a careful team review of all existing information about the student, the 504 coordinator gives the parents *Notice of Section 504 Eligibility* form of that decision, along with a copy of the Section 504 Notice of Parent/Student Rights in Identification, Evaluation, and Placement.

***The 504 team determines disability and need for a 504 plan.***

The 504 Campus Coordinator arranges a meeting time with the parent to share the evaluation data and determine eligibility/non-eligibility. The 504 Campus Coordinator should send a written meeting notice (located in eSTAR and called *504 Meeting Notice*) to the parent as a reminder of the meeting time and location.

The Section 504 team meets to review the evaluation results and to complete the *Section 504 Eligibility* Form. This may be done at the first meeting if no additional assessment is needed to determine eligibility and need for a 504 plan.

Based on the information from the evaluation and any information from the parents, the 504 team decides:

1. Whether the student has a disability under Section 504, and  
Whether, as a result of that disability, the student needs a 504 Student Accommodation Plan.

***The 504 team develops a Section 504 Plan.***

If the student needs a 504 Plan, the team develops the plan for the student on eSTAR. *Please note: A student can meet eligibility as a 504 student but does not need a plan – these students are referred to as technically eligible.* The district’s expectation is for the 504 plan to be completed in the meeting and a copy given to the parent at the end of the meeting or within a few days of the meeting.

**Steps to 504 Accommodation Plan:**

- Gather appropriate 504 team.
- Review student’s educational history, prior evaluations and present status.
- Review any new evaluations.
- Review what prompted 504 considerations at the present time.
- Determine whether student has a mental or physical impairment under Section 504.
- 
- **If yes**, determine whether impairment substantially limits a major life activity.

*Major life activities include hearing, seeing, breathing, learning, walking, speaking, thinking, concentrating, reading, bodily functions (neurological, respiratory, endocrine, bowel/bladder, etc.)*

*A substantial limitation means that the student is restricted as to the condition, manner or duration in performing the major life activity as compared to an average student.*

*Do not consider medication or assistive devices when determining whether there is a substantial limitation.*

- **If yes**, determine whether student needs accommodations, services or supports to access the benefits of public education at a level similar to the average student. *(May consider medication or assistive devices when determining whether accommodations, services or supports are needed.)* **If yes**, develop a 504 Accommodation Plan.

***Give parents a copy of the 504 documents.***

The school’s 504 coordinator gives the parents a copy of *Section 504 Plan*, and the *Section 504 Parent/Student Rights*.

**3. eSTAR FILE**

All 504 documents for a student must be completed and all necessary documents uploaded in to eSTAR and archived after each meeting.

**4. ACCOMMODATION DISTRIBUTION**

The 504 Campus Coordinator uploads the student’s accommodations electronically (uploaded in Eduphoria program). The 504 Campus Coordinator is responsible for informing the student’s teachers about the accommodations on the student’s 504 plan and how to access it in Eduphoria.

## **5. ARCHIVE AND CHANGE STUDENT STATUS IN eSTAR.**

The 504 Campus Coordinator will change the student's status in eSTAR to *504 Currently Served* and will let the registrar know that the student should be changed in PEIMS to indicate 504. After the meeting has been completed, the document should be Archived in eSTAR.

## **6. THREE YEAR RE-EVALUATION**

Each student's Section 504 Plan must be re-evaluated every three years and before any significant change in placement or circumstances. The 504 plan must be reviewed **ANNUALLY**. As part of this reevaluation, the 504 team should address, as appropriate:

- The need for additional evaluation information;
- The student's continued eligibility under Section 504; and
- The content of the Section 504 Plan.
- Expulsion; suspension of more than 10 days in a row or more than 10 days in a school year if the removals are a "pattern" (Manifestation Determination Review)
- Transition to junior high or high school;
- Moving a student to an alternative education setting *to address needs arising from a disability*.

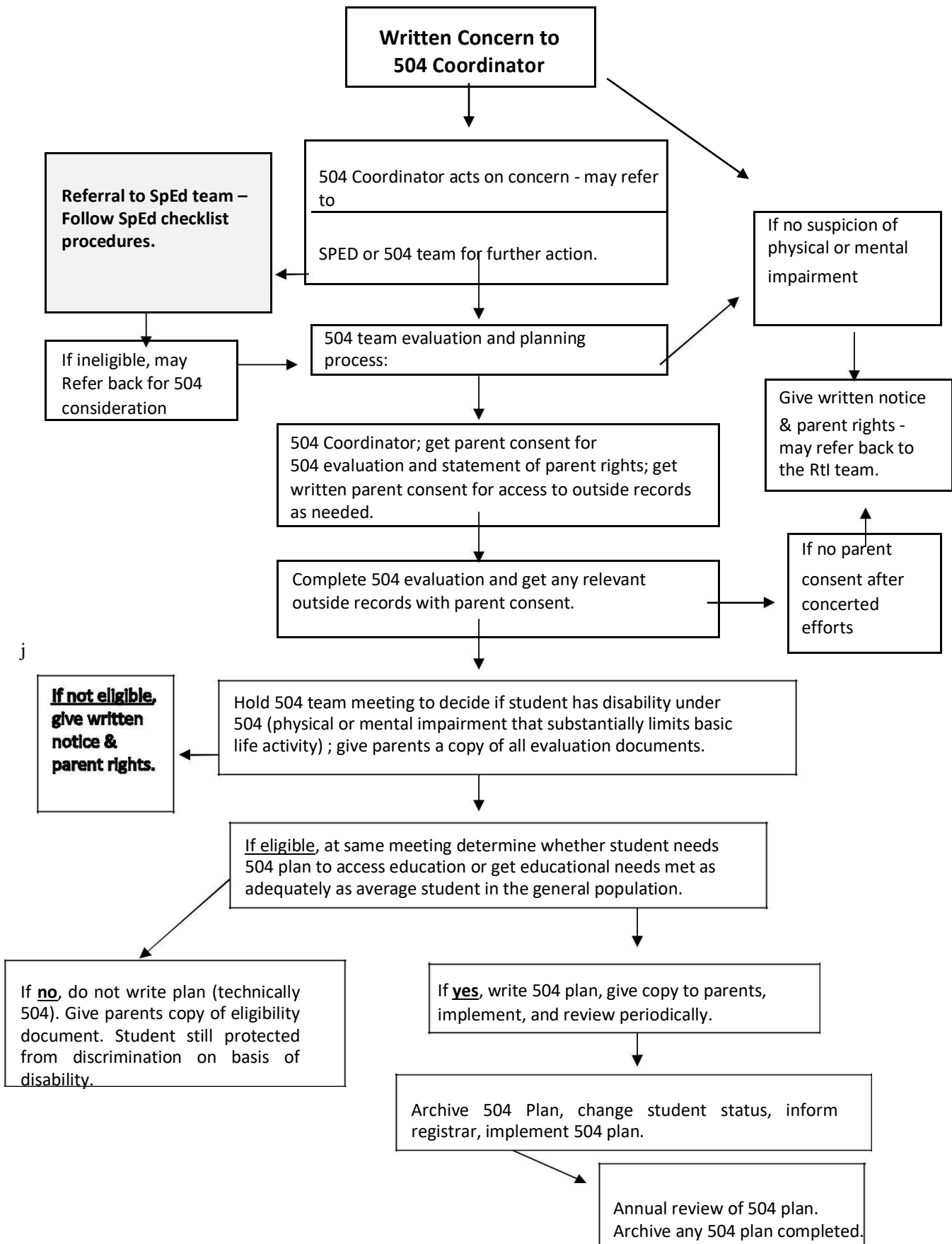
A reevaluation under Section 504 does not require consent but does require notice. However, Texas law requires parent consent before conducting a test, including behavior checklists.

## **7. AMENDMENTS**

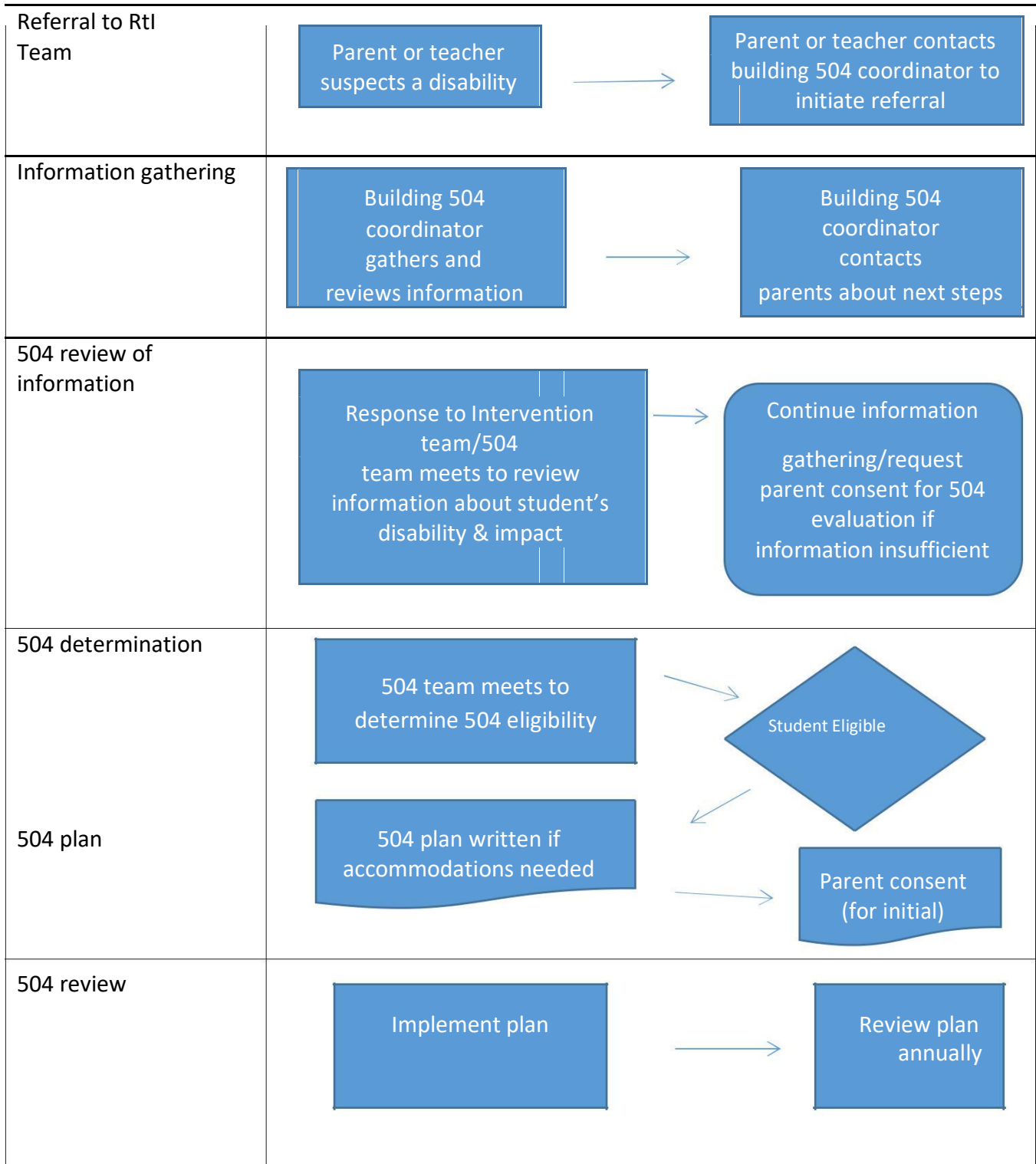
Amendments can be completed during the year on the 504 plan by completing the 504 Amendment screen in eSTAR. Parents **MUST** be contacted prior to the amendment and agree to it (documented to *Amendment Screen* and *Parent Contact Log*). Once it is completed, a copy **MUST** be given to the parent/adult student.

**Section 504 plans/Amendments must always be archived in eSTAR immediately and a parent must receive a copy in a timely manner.**

## Program/Building Section 504 Process Flow Chart



## General Overview of Section 504 Process



## WISD Section 504 Roles and Responsibilities

**Role of Building 504 Coordinator** – *coordinates 504 services in the school or program and coordinates 504 process for individual students*

- Periodically compares and checks eSTAR and Teams to report for accuracy.
- Participates in district-wide training on Section 504 implementation.
- Acts as contact person in school when questions arise about 504 issues.
- Ensures that staff are using current Section 504 forms and following current procedures. Coordinates transition of 504 students transferring into and out of the school.
- Schedules meetings & sends notices, including periodic reviews as indicated on plan. Gathers necessary information for meetings.
- Completes 504 paperwork in eSTAR.
- Provides copies of documents to parents.
- Maintains and uploads all 504 information to eSTAR and Eduphoria.
- Provides information to all teachers that need to know about 504 plan contents, including when the student's schedule or classes change.
- Verifies implementation of 504 plan and is available to problem-solve when issues or concerns arise.
- Schedules periodic 504 review at least annually or sooner if needed and before any significant change in placement.
- Primary contact for student and family concerns of 504 students.

## 504 Meeting Checklists

### Before the Meeting:

- Contact parents new to the 504 process to explain the purpose of the meeting and identify any questions and concerns.
- Schedule meeting with participants, including parents.
- Send meeting notice reminding parent of date, time and location of meeting.
- Gather pertinent information to be shared at the meeting: updates from teachers, assessment reports, medical/health information, and add additional agenda items to agenda as needed
- Arrange for any necessary interpreters or accommodations for meeting participants.
- Complete portions of the Section 504 Eligibility Determination Report that can be completed before the meeting
- Bring all current information to the meeting.

### During the Meeting:

- Introduce participants and their roles.
- Identify minute-taker for meeting.
- Lead group through agenda – do time-checks as needed.
- Complete Section 504 Eligibility Determination Report (if new to 504).
- Complete Section 504 Student Accommodation Plan (if needed), or revise as needed.
- Provide copies of all documents to parents or inform them of how they will get a copy.
- Provide Statement of Parent Rights to parent (keep signed copy and upload to Eduphoria).
- Review plan and minutes

### After the Meeting:

- Archive 504 plan.
- Provide a hard copy to parent in person or by email or mail.
- Upload 504 accommodations, BAP, etc. in Eduphoria. After 24 hours, check to make sure all staff have opened and reviewed. If not, send a second notice to them.
- Provide Registrar with any changes in Student Status (if needed).
- Update Student Status in eSTAR (if needed).
- Be sure all teachers know and understand their responsibilities under the 504 plan.
- Schedule check-ins to monitor implementation of plan.
- Keep log of contacts related to implementation of plan (Use *Parent Contact Log* in eSTAR for parent contact).
- Calendar annual review date, and at least one month earlier to begin “before meeting” review process.

## **Meeting Planner: Who to Invite?**

### **When should the parent be invited?**

A parent, guardian, or person in parental relationship to the student should always be invited.

### **When should a general education teacher be included?**

When the student is participating in general education.

### **When should the school nurse be included?**

- When there are medical or health issues involved.
- When the parent is asking for health related accommodations at school.
- When the team will be reviewing reports from a medical doctor or other health practitioner.

### **When should the school psychologist be included?**

- When the school psychologist was involved in a recent evaluation of the student.
- When the school psychologist's expertise is necessary for the team to make appropriate decisions for the student.

### **When should the building administrator be included?**

- When the parent is asking for unusual accommodations that raise concerns or fiscal considerations.
- When safety issues are involved.

### **When should a motor team (OT or PT) representative be included?**

- When the student has a motor impairment and will likely need accommodations or supports for the motor impairment.
- When the OT or PT recently evaluated the student and identified motor needs.
- When the parent has requested motor team services or adaptations

### **When should the Director of Special Programs be contacted?**

- When it appears that the student will need supports that will require allocation of district resources.
- When the team believes that using a district facilitator will help resolve or prevent conflict.
- When a team wants training, coaching or feedback on the 504 meeting process.

## AGENDA FOR SECTION 504 MEETING

1. Introductions
  - a. Student information
  - b. Introduce all Participants
  - c. Purpose of the Meeting
    - i. Initial Section 504 Meeting
    - ii. Transfer Section 504 Meeting
    - iii. Annual Section 504 Meeting
    - iv. Brief Section 504 Meeting
  - d. Verify that appropriate membership is convened;  
Section 504 Meeting  
*The Section 504 Meeting must include persons with knowledge of each of the following areas (1) the student, (2) the meaning of the evaluation data, and (3) the placement options.*
  - e. Ensure that parent received Notice of Meeting.
  - f. Ensure that parent received Notice of Parent and Student Rights Under Section 504.
  - g. Ensure that an interpreter is not required.
2. Review of Section 504 Evaluation Data
3. Determination of Eligibility for Section 504 Services
4. Develop Section 504 Accommodations and Support Plan (if needed)
5. Determine BAP (if needed)
6. Determine State Assessment Accommodations (if needed)
7. Determine Student Responsibilities
8. Determine Parent/Guardian Responsibilities
9. Review Minutes
10. Adjourn

## 504 Evaluation Guidelines

The student's 504 team decides what assessments are needed to determine whether a student has a disability under Section 504. See table below for recommended evaluation procedures. Students who are suspected of having a disability under the IDEA should be evaluated for special education eligibility before consideration of a disability under Section 504.

Suspected Condition	Evaluation for Disability Determination
Health condition, e.g. asthma, cancer, epilepsy, diabetes, hepatitis, etc.	<i>Medical Statement</i> including a diagnosis of the condition by a physician licensed by the State Board of Medical Examiners.
Chronic physical conditions, such as cerebral palsy, spina bifida, hearing or vision impairments	<p><i>Medical Statement</i> including a diagnosis of the condition by a physician licensed by the State Board of Medical Examiners.</p> <p>AND</p> <p>An <i>evaluation</i> conducted by the school district.</p> <p>(Rule out Other Health Impairment, Orthopedic Impairment, Vision Impairment, or Hearing Impairment, if suspected.)</p>
Psychological conditions, such as ADD/ADHD, depression, obsessive-compulsive disorder, post-traumatic stress disorder, etc.	<p><i>Medical Statement</i> including a diagnosis of the condition by a psychiatrist or other physician licensed by the State Board of Medical Examiners.</p> <p>AND</p> <p>As needed, an evaluation by a school psychologist including a review of information submitted by the parent and new measures, as needed, such as behavior rating scales, structured observations, and interviews.</p> <p>Rule out Emotional Disturbance or Other Health Impairment, if suspected.</p>
Learning disorder	<p>Individual assessments as needed.</p> <p>Rule out Specific Learning Disabilities, if suspected.</p>

## **Section 504 and Students with Attention Deficit Hyperactivity Disorder/Attention Deficit Disorder**

Special services for children with ADHD/ADD may be obtained under Section 504, a civil rights law that prohibits discrimination against individuals with disabilities. Section 504 requires schools to provide children who have disabilities with a free and appropriate public education. Section 504 identifies a qualified person as anyone with a physical or mental impairment that substantially limits one or more major life activities, such as learning. This means that children who do not require special education are still guaranteed access to related services under Section 504 if the child is deemed to have an impairment that "substantially limits one or more major life activities" such as learning, and the school must try to adapt instructional methods to the needs of children with ADHD/ADD.

As learning is considered a major life activity, children diagnosed with ADHD are entitled to the protections of Section 504 if the disability is substantially limiting their ability to learn. It is up to the local school district to make the determination of whether this condition is met and children who are not eligible for special education may still be guaranteed access to related services if they meet the Section 504 eligibility criteria.

If the child is eligible under Section 504, the school district must develop a Section 504 plan. This plan would include accommodations/adaptations that are designed to meet the child's educational needs and may include things such as the following:

- reducing the length of homework assignments;
- allowing the child extra time on tests;
- simplifying instructions about assignments;
- providing specific assistance with planning and organizational skills;
- using behavioral management techniques in the classroom;
- use of tape recorders
- computer-aided instructions

Is a student who has received a medical diagnosis of ADD or ADHD automatically eligible for Section 504 services?

No, *In Frequently Asked Questions About Section 504, OCR stated as follows:*

### **23. Are there any impairments which automatically mean that a student has a disability under Section 504?**

No, An impairment in and of itself is not a disability. The impairment must substantially limit one or more major life activities in order to be considered a disability under Section 504.

**24. 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...The Section 504 regulations require school districts to draw upon a variety of sources in interpreting evaluation data and making placement decisions.

**25. Does a medical diagnosis of an illness automatically mean a student can receive services under Section 504?**

No. A medical diagnosis of an illness does not automatically mean a student can receive services under Section 504. The illness must cause a substantial limitation on the student's ability to learn or another major life activity. For example, a student who has a physical or mental impairment would not be considered a student in need of services under Section 504 if the impairment does not in any way limit the student's ability to learn or other major life activity, or only results in some limitation in that regard.

## SECTION 504: A-Z TOPICAL GUIDE

### Accessibility

Facilities constructed prior to June 3, 1977, need not necessarily be made accessible so long as the program or activity, viewed in its entirety, is readily accessible to all persons with disabilities (including parents and the community). However, the student must be afforded an equal opportunity to enjoy the full range of services offered by the district. If a district modifies one of these buildings, it must make the modification accessible, to the maximum extent feasible. Buildings constructed after June 3, 1977, and January 26, 1992, must meet the full accessibility regulations in existence at that time. Buildings which began construction on or after January 26, 1992, must meet the ADA regulations for new construction. Contact the District 504 Coordinator for more information.

### Accommodation Plan vs Modification

The purpose of a Section 504 Student Accommodation Plan is to “level the playing field” for the student.

Students with disabilities under Section 504 who **typically would** need a 504 Student Accommodation Plan include, for example:

- a. Students who have documented, frequent, repeated seizures or asthma attacks (even with medication) that prevent them from accessing the curriculum sufficiently to keep up with the class.
- b. Students who have to leave class frequently to receive treatment, and who develop academic deficits or are unable to complete work.
- c. Students whose medication makes it very difficult for them to remain alert or concentrate.
- d. Students with a disability under Section 504 who need an individual health management plan to be safe at school, on field trips, etc.
- e. Students whose health needs are so severe that, if they do not receive appropriate 504 accommodations, they will die or be seriously impaired by lack of treatment. This includes students with severe food allergies or diabetes.
- f. Students who need physical accommodations, extra time, or assistive devices to access the curriculum or educational environment.
- g. Students who are unable to attend school regularly due to the effects of the disability.

- h. Students who have a learning disorder and need accommodations to access their education but don't need specially designed instruction so are not eligible for special education services under the IDEA.

Students who **typically would not** need a 504 Student Accommodation Plan include, for example:

- a. Students whose only need is medication administered similarly to other students who take medication at school.
- b. Students whose conditions do not require individualization beyond *standard* first aid or emergency procedures.
- c. Students who do not require an ongoing individualized plan in order to attend, access or participate in school safely.
- d. Students who can access the school environment and instruction with accommodations that are available to all students.
- e. Students who can access their education with a personal assistive device, such as a hearing aid, glasses, or wheelchair, without other accommodations.
- f. Students whose conditions are effectively managed by taking medication outside of school who do not need accommodations to access school or instruction.
- g. Students who have a temporary condition such as a broken arm or mononucleosis, whose needs can be met for a short period of time with standard accommodations.

If the team decides that a student with a disability under Section 504 does NOT need a 504 plan of accommodation, the team should annually review this decision; the student may need a plan at some point in the future due to changing circumstances. Referred to as technically eligible.

### **Accommodations vs. Modifications**

504 plans are about providing access to general education. 504 plans should not result in a modification of state standards.

- a. An “**accommodation**” changes *how* something is done but does not change the learning standard for the student. Students with accommodations are expected to meet learning targets for the class. Typical accommodations include:
  - Preferential seating;
  - Visual prompts, visual schedules, visual formats; Braille or large print materials;

- Access to keyboard, calculator, voice-activated writing program; Frequent breaks, motor breaks, sensory diet, etc.;
  - Extra time on tests or assignments, assignments shortened to demonstrate learning objectives;
  - Daily check in/checkout.
- b. A “**modification**” changes the *what*. Students with modified coursework are not expected to meet learning targets for the class. Typical modifications include:
- Alternate curriculum that is below grade level expectations (*different learning objectives*);
  - Alternate assignments that are below grade level expectations (*different learning objectives*);
  - Grading based on effort (*different learning objectives*).

An accommodation should only be included in a 504 plan if it is necessary for the student to access his or her education. The purpose of an accommodation is to “level the playing field”, i.e. to ameliorate the impact of the student’s disability.

The test is not what might be “beneficial” but what is demonstrated to be necessary (in reference to an average student in the general population – see Disability Definition below.) Almost every accommodation results in the student being treated differently than other students, so only those that are necessary are justified (to be considered least restrictive). At least yearly, the accommodations must be reviewed to determine what is still needed. This review process should include input from the student, parent and teacher(s). Accommodations should be as specific as possible so there is limited interpretation.

### **Accommodation vs. Specially Designed Instruction**

An accommodation changes how something is done. It might require very brief instruction to the student. For example, if the accommodation is “access to noise-cancelling headphones” for a student with ADHD or a sensory integration disorder who needs this to be able to focus in a noisy room, the teacher would need to instruct the student on where to find the headphones, when they can be used, how to put them away, and who to go to if there is a problem.

Specially-designed instruction is ongoing instruction to teach a specific skill or skill set that is typically not a part of the general curriculum at the student’s grade level. This could include academic instruction, social skills instruction, executive functioning instruction, communication skills, motor skills, etc.

Section 504 is primarily about providing access to general education. Students with disabilities who need specially designed instruction should be considered for special education eligibility.

## **Child Find**

Response to Intervention should be implemented and every good faith effort made to address the student needs without resorting to unnecessary labeling. If a student is not making progress with interventions attempted and documented through Rtl, then at Tier III, the appropriate referral may be to the Section 504 Committee. Remember, each case is individual; there are no formulas. The purpose of the Rtl is to gather a group of knowledgeable professionals to assess and determine each individual's needs.

Factors that *may* indicate a need, *at Tier III* in the RTI process, to refer a student for a 504 evaluation are listed below as examples:

- When a parent continues to express concern about the student's performance or behavior.
- When a student receives multiple in-house suspensions due to behavior.
- When retention occurs or is being considered.
- When a student shows a pattern of not benefiting from interventions even though they are varied over time.

However, OCR has clarified that RTI cannot be used to delay an evaluation that is required by 504. The schools duty to evaluate begins upon receiving information that triggers a suspicion or reason to believe a student has a disability and because of that disability needs or is believed to need special education or related services. This means that at times there is no need to go through the Rtl Process or even gain the same data that would typically be needed for a 504 eligibility determination. Examples of factors that *may* indicate an immediate need to refer a student for a 504 evaluation are:

- When an objective disability, protected by law, of any kind is known or suspected as creating a need for special education or related services.
- Upon notice that a student is suffering from a severe injury, serious illness or chronic health condition *that will substantially limit one or more major life activities.*
- When a student returns to school after a serious illness or injury and *will be substantially limited in one or more major life activities.*
- When former substance abuse causes a disability *that substantially limits one or more major life activities.*
- When a student has been identified as giving attention deficit disorder through a medical diagnosis and the condition *substantially limits one or more major life activities.*

## **Disability Definition**

A student is considered disabled under Section 504 if the student:

- a. Has a physical or mental impairment/disability which substantially limits one or more major life activities (see the following list). *The term does not cover children disadvantaged by cultural, environmental or economic factors;*
- b. Has a record or history of such an impairment; or

c. Is regarded as having such an impairment.

Examples of physical or mental impairments include:

- Health conditions such as asthma, allergies, diabetes, epilepsy; Communicable diseases such as AIDS, tuberculosis, hepatitis;
- Psychological conditions such as Attention Deficit/Hyperactivity Disorder (AD/HD), depression, obsessive-compulsive disorder; and
- Physical disabilities such as spina bifida, hemophilia, juvenile rheumatoid arthritis, cerebral palsy, hearing or vision impairments.

The disabling condition need only substantially limit one major life activity in order for the student to be considered to have a disability under Section 504.

Temporary disabilities may be considered an impairment depending on the anticipated length of the condition, the seriousness of the illness/injury, and the impact on the student's education or access to school.

### ***Major Life Activities***

Major life activities are activities that the average person in the general population can perform with little or no difficulty. Major life activities include (but are not limited to) functions such as: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. Major life activities also include major bodily functions, including: functions of the immune system; normal cell growth; digestive, bowel and bladder functioning; neurological and brain functioning; and respiratory, circulatory, endocrine, and reproductive functioning. Major life activities do not include activities that require special skill or ability such as playing a sport, speaking another language or playing a musical instrument.

Major life activities do not include splinter skills within a major life activity.

Examples:

- Phonemic awareness is a specific skill within the major life activity of reading. A student who has an impairment in phonemic awareness but who is meeting benchmarks in reading would not meet the requirement for a substantial limitation in a major life activity in reading. So while they may have an impairment in phonemic awareness, they are still meeting grade level standards in reading commensurate with peers.
- A student who struggles with algebra would not meet the requirement for a substantial limitation in learning if the student's learning in other areas is not also impaired.
- A student with average visual acuity who has a deficit in a specific type of ocular functioning (as indicated on a functional vision assessment) would not have a substantial limitation in the major life activity of vision if the student has adequate vision to navigate school and community settings.

- A student who has anxiety about public speaking does not have a substantial limitation in the area of speaking if they are able to communicate verbally in a range of settings (home, school, community).

This is true even if a splinter skill is a learning target within a learning standard. Not being able to meet a specific learning standard is not a basis for finding that student has a disability.

### ***Substantial Limitation***

A substantial limitation generally means that the student is restricted as to the conditions, manner or duration under which the student can perform the activity in comparison to most people. Examples:

- A student with **asthma** is substantially limited in the major life activity of *breathing* if the asthma (without medication) restricts the student’s manner of breathing or conditions related to breathing in comparison to most people.
- A student with **severe allergies** is substantially limited in the major life activities of *breathing* or *digestion* if the allergies (without medication) restrict the student’s manner of breathing or digestion (or conditions for breathing or digestion) in comparison to most people.
- A student with **diabetes** is substantially limited in the major life activity of *functioning of the endocrine system* if the diabetes (without medication) restricts the student’s endocrine functioning in comparison to most people.
- A student with a **hearing impairment** is substantially limited in the major life activity of *hearing*, if the student’s hearing (without hearing aids or other assistive devices or accommodations) is restricted as to the conditions in which the student can hear in comparison to most people.
- A student with **AD/HD** is substantially limited in the major life activity of *concentrating or thinking* if the student’s AD/HD (without medication or accommodations) restricts the student’s ability to concentrate for the duration expected of most people of the student’s age or impairs the student’s thinking unless certain explicit conditions are present that are not typically present in the school setting.

### **Comparison Group for making the determination of “substantial limitation”**

In determining whether a student has a substantial limitation, the point of comparison is to an average student in the general population, not to the student’s ability, the expectations of family or community, or the specific class or school. “Average student in the general population” is a broader norm group reference. On many standardized assessments, students are considered to be in the average range with a Standard Score of 85 or above, or at the 16%tile or above. This should not be interpreted as a cut score, but as a frame of reference for considering evaluation information.

## **Episodic Conditions**

Some conditions, such as seizures, allergies, and irritable bowel syndrome, are episodic. The 504 team should consider these conditions as being active when making a disability determination. The same is true for conditions that may be in remission such as leukemia.

## **Mitigating Measures and Development of Section 504 Plans**

Pursuant to the ADA, 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 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. Further, students with physical or mental impairments whose needs are addressed through early intervention, Rtl, or health plans will not be excluded from consideration for possible Section 504 referral, even when current interventions, services or health plans successfully address their impairment-related needs.

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## **Discipline Protections**

Students with disabilities under Section 504 have discipline protections that are similar to those for special education students. See *the Section 504 Manifestation Determination form and Directions*. Like with all students, a 504 student who is engaging in behavior that is resulting in suspensions (or expulsion) should be considered for a functional behavior assessment/behavior accommodation plan.

### **504 Provisions that are Similar to IDEA:**

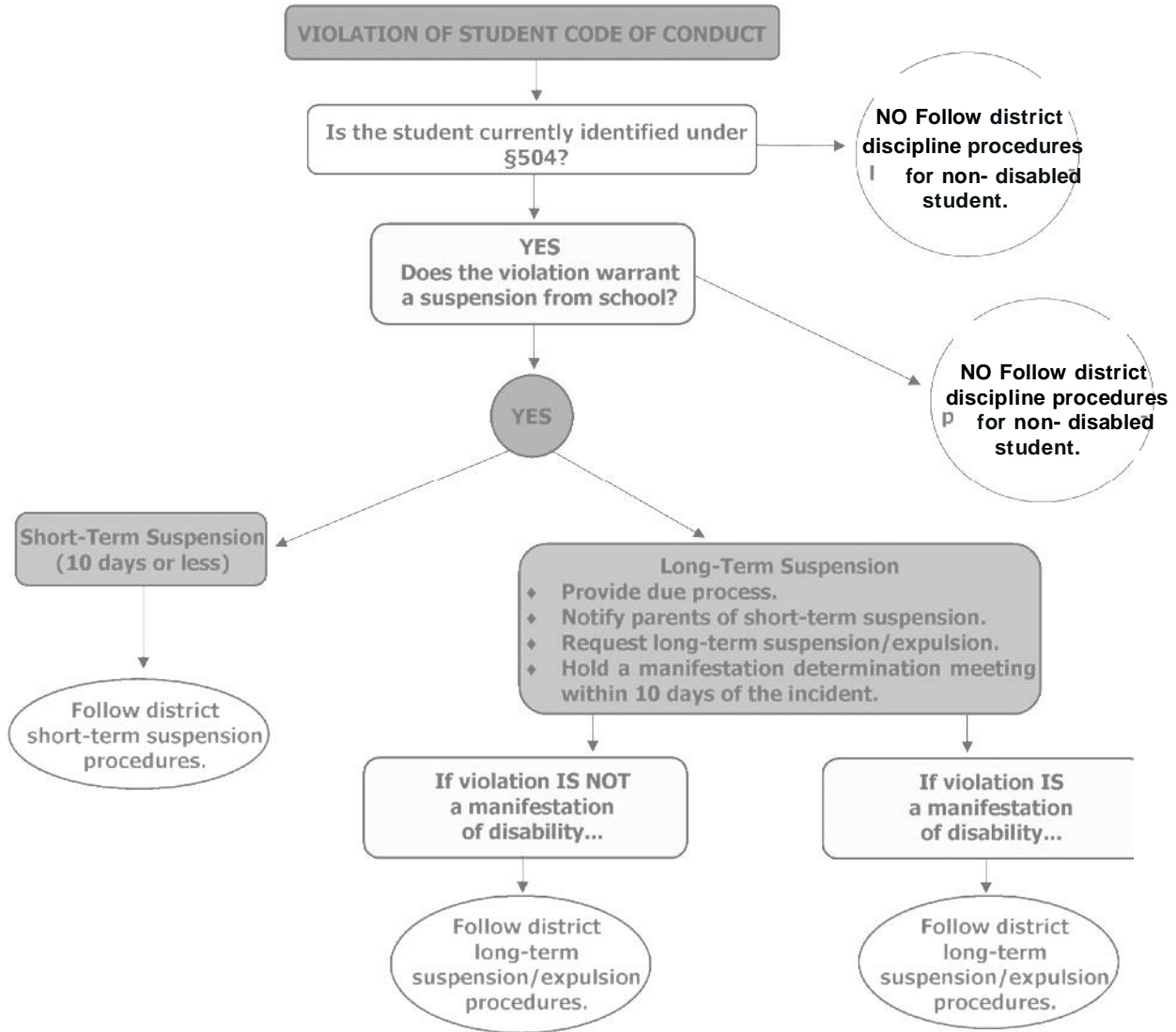
- a. Section 504 students may not be expelled for conduct that is a manifestation of their disability. This means that a 504 manifestation determination (in eSTAR) meeting **MUST** be completed before the student is expelled, and if the behavior is related, the student may not be expelled.
- b. Section 504 students may not be suspended for more than 10 cumulative days in a school year for conduct that is a manifestation of their disability. This means that a 504 manifestation determination meeting **MUST** be completed before the student reaches “day 11”, and if the behavior is related, the student may not be suspended.
- c. Like special education, there is an exception for suspensions that are “not a pattern”. “Pattern” is determined based on a consideration of how many days the student has already been suspended, how close together the suspensions are, and how long each suspension was for.

### **504 Provisions that are Different from IDEA:**

- a. Section 504 does not provide for immediate removals of up to 45 school days for serious bodily injury or for drug or weapon violations.
- b. Section 504 does not require interim alternative educational services unless such services are provided for nondisabled students under the same circumstances.
- c. Section 504 discipline protections do not apply to 504 students (so a manifestation determination meeting is not required) if:
  - the student uses or possesses illegal drugs or alcohol in violation of school policy;
  - the student is “currently engaging in the illegal use of drugs or in the use of alcohol”; and
  - the discipline is the same type of discipline that would apply to nondisabled students under the circumstance.“*Currently engaging*” does not require that the specific violation be one of “use” but does require a credible basis for a belief that the student use is a current and ongoing problem.

Examples of credible evidence include: a student’s confession, a drug-alcohol evaluation, a juvenile report, etc.

## DISCIPLINE FLOWCHART



## **Discrimination**

Section 504 prohibits disability-based discrimination. Discrimination may potentially result from actions or a failure to act. Here are some examples of circumstances that could be considered discrimination:

- Not providing transportation to a student with asthma who lives six blocks from a school but cannot walk to school due to the asthma;
- Refusing to provide OT, PT or speech therapy consultation for a Section 504 student who needs it for educational purposes solely because the student is not IDEA eligible;
- Excluding a student because he has a disability.
- Only providing summer school or after school care for non-disabled students;
- Requiring the parent of a student with a mobility impairment to provide transportation to extracurricular activities when transportation is provided to non-disabled students;
- Shortening a school day for students in a special class because of transportation scheduling problems;
- Not providing an interpreter for a parent with a hearing impairment for school initiated activities (contact Special Services in interpreter is needed).
- Expelling a student with a disability for misconduct that is a manifestation of the student's disability.
- Not fully investigating and resolving complaints of disability harassment;
- Excluding a student with a disability from a field trip or other school function on the basis of disability;
- Not fully implementing a student's 504 plan.

## **Enforcement**

Each recipient of federal funds has a responsibility to ensure the provisions of Section 504 and the ADA are implemented in the recipient's district. Every 504 coordinator, building principal, school administrator and employee has a responsibility to understand and implement the protections of Section 504 with consistency and integrity. The District Special Programs Director for WISD has a responsibility to provide training and supports to assist the district in its implementation of this important federal law.

The U.S. Department of Education's Office for Civil Rights (OCR) is responsible for enforcing the provisions of Section 504 and the ADA as applied to publicly funded educational institutions. If an individual files a complaint against a school district, OCR will investigate the complaint under both Section 504 and the ADA. An aggrieved party may also file a court action.

## Evaluation

A school district must evaluate a student under Section 504 if the team suspects that the student has a mental or physical impairment that substantially limits a major life activity.

A 504 evaluation requires the same type of protections as a special education evaluation. These rules are designed to ensure that the evaluation is unbiased and fair to the individual.

### Evaluation Standards

Evaluation procedures must meet these criteria:

- Be validated for the specific purpose for which they are being used. Be tailored to assess educational need, not just IQ or another non-educational characteristic.
- Reflect aptitude or achievement, or whatever the test is supposed to measure, rather than the student's impaired sensory, manual or speaking skills, unless it is a test of those particular skills. Must have a variety of sources for identification.

### ***Parent refusal of consent to evaluate***

If a parent refuses consent for a 504 evaluation, ask the parent to check the box on the consent form stating that "consent to evaluate is denied." If the parent refuses to indicate this on the form, write a statement and upload into Eduphoria documenting the parent's refusal with your signature and date.

Document all attempts you make to get parent consent (parent contact log – Eduphoria). Give the parents a copy of the document stating they have refused evaluation, along with a copy of the Parent Rights statement. Please consult Director of Special Programs if you are in this situation.

If a parent refuses consent for a 504 evaluation that is necessary to determine whether the student has a disability under Section 504, the district cannot develop an appropriate 504 plan and the student would continue to be treated as a nondisabled student.

### **Exiting from a 504 Plan**

A student should be exited from a 504 plan if: (a) the student no longer has a qualifying impairment; or (b) the student no longer needs accommodations to access the general education program or facilities. The decision should be made by a team based on current data and/or current medical statements. The school must give written notice to the parent that the student is being exited from a 504 plan, along with the copy of parent

rights under Section 504. Student may continue to be eligible for 504 as a technically eligible student but not need a plan.

A student may also be exited from a 504 plan if a parent/adult student revokes consent for the 504 plan. The school should also give written notice under this circumstance, but no 504 meeting is required. If parent request revocation, contact the Director of Special Programs to provide notice.

Last, a student is exited from a 504 plan if the student becomes eligible for special education and the parent gives consent for special education services. In this circumstance, the student's accommodations are incorporated into the student's IEP.

### **Health Plan vs. 504 Plan**

Does every student with an individual health protocol need a 504 plan? Not always. A 504 plan is required for students who have a mental or physical impairment that "substantially limits" a major life activity and who, on that basis, need accommodations in the educational environment or during school functions to access their education.

Some students may have individual health plan for conditions that are not substantially limiting, such as allergies or asthma that are minor in intensity/impact. These students would not meet the "substantially limiting" criteria.

Some students may have health plan that require standard procedures that are not "individualized", such as implementation of standard medication administration protocols or standard first aid or standard epi-pen procedures. Implementation of these standard procedures would not be considered individual accommodations that would indicate the need for a 504 plan. If a plan is "Individualized," and student requires 504, the health plan should be included in the 504 plan.

### **Homebound Instruction**

A student with disabilities under Section 504 must be educated with nondisabled students "to the maximum extent appropriate" to the needs of the disabled student. A student should only be removed from a regular education setting if the education of that student in a regular education setting with supplementary aids and services cannot be achieved satisfactorily.

A 504 team may determine that a student with disabilities needs home instruction for medical reasons to access education. Home instruction is usually a short-term placement. **The Director of Special Programs must be consulted before the 504 meeting if homebound instruction is under consideration.**

**Homebound instruction should only be used in very limited circumstances when the student's disability prevents him/her from attending school.**

In most situations, the attending school 504 Coordinator continues as Case Manager for the student and the attending school teachers continue to provide instructional materials for the student while home instruction is implemented. Please consult with the Director of Special Programs as soon as possible in this situation.

When a parent or school request homebound instruction, the 504 Campus Coordinator will:

1. Contact the Special Programs office (x1222) of potential homebound student.
  2. Get consent from parent to talk to doctor (in eSTAR under print *Consent for Disclosure of Confidential Information*).
  3. Contact doctor and provide *Physician Homebound Need Evaluation Referral* (in eSTAR under print option).
  4. After receiving completed referral from Physician contact Special Programs office (x1222).
- The request for homebound must be from a medical doctor (not nurse practitioner).
  - A homebound request requires the 504 to CONSIDER homebound but does not require the district to provide homebound.
  - WISD creates a transition plan back to school in 504 meeting in a homebound placement meeting.
  - WISD will review homebound every 9 weeks in 504 to determine if it is continued or needs to be adjusted.
  - Homebound must be initiated each school year with new *Physician Homebound Need Evaluation Referral* completed.
  - Homebound is a TEMPORARY setting is not meant as a long term educational setting.

### **IEP Refusal/Revocation and Request for 504 Plan**

Sometimes a parent may revoke consent (or refuse consent) for special education services (IEP) and request a 504 plan instead. On a case-by-case basis, the team may consider whether the student is eligible for a Section 504 plan. This means that the team would review all the information and determine whether the student meets 504 eligibility criteria. If yes, the team would then determine whether the student needs a plan of accommodations to access their education. If so, a 504 plan is written for the student. If the student is unsuccessful with the 504 plan, the 504 team should meet to review the plan.

## **Private School Students**

School districts are not responsible for writing 504 plans for private school students.

Only private schools that receive federal funds are covered by Section 504. Each private school that receives federal funds is considered a “recipient” and has its own responsibility for compliance under Section 504. Parents of private school children who want 504 services should contact the private school.

## **Resolving Conflicts**

At a 504 meeting, parents and staff discuss and try to come to consensus on the 504 eligibility and 504 plan for a student. If, after good faith discussion, there is a disagreement, the district makes the final decision about a student’s eligibility, need for a 504 Student Accommodation Plan, and accommodations to be provided. In difficult situations, team could decide to get more information and hold a second meeting. The 504 Campus Coordinator should contact the Director of Special Programs for guidance in these circumstances. The Director of Special Programs may assist the team by facilitating team meetings.

Parents may file a complaint with the district, which may be appealed to the Texas Department of Education (TEA). Parents may also request a due process hearing with TEA, or file a complaint with the US Department of Education’s Office for Civil Rights.

## **Student Records (Section 504)**

Section 504 records are maintained and archived in each student’s eSTAR file.

It is essential to maintain documentation for each 504 student identified on each campus. The functions of the 504 Campus Coordinator is to maintain the file for the 504 student on the campus. The 504 file is to be maintained so that each person who is responsible under the Accommodation Plan knows his or her responsibility to the student.

The role of the campus administration is to ensure that the 504 plan developed by the committee is being implemented. To ensure that implantation is occurring on a daily basis by each responsible individual, the administrator responsible for the student (Campus Principal) should routinely check each grading period and gather the appropriate documentation. Failure to gather such documentation can result in the likelihood that such documentation will not be implemented or maintained. Regular education teachers must implement the provisions of 504 plans when those plans govern the teachers' treatment of students for whom they are responsible. If the teachers fail to implement the plans, such failure can cause the school district to be in noncompliance with 504.

A school district is out of compliance when it is violating any provision of the 504 statute or regulations. OCR initially attempts to bring the school district into voluntary compliance through

negotiation of a corrective action agreement. If OCR is unable to achieve voluntary compliance, OCR will initiate enforcement action. OCR may: (1) initiate administrative proceedings to terminate Department of Education financial assistance to the recipient; or (2) refer the case to the Department of Justice for judicial proceedings.

### **Temporary Medical Conditions**

A temporary medical condition is an illness or injury that is expected to last more than 2 weeks but not more than six months.

<b>Examples of temporary medical condition</b>	<b>Examples that are NOT temporary medical condition</b>
Broken bones Recovery from surgery Extended illnesses such as mono	Colds, flu, Strep throat etc. Strains & sprains Anxiety and other mental health conditions

**For temporary medical conditions, who determines what accommodations are needed?** A school team, including school nurse, in consultation with outside medical provider (with parent consent).

### **What happens if temporary medical condition lasts longer than expected?**

Temporary supports will not be provided beyond six months. Students should be referred for 504 or special education consideration at any point the team suspects that the student has a chronic condition that is likely to require accommodations, supports or services for an extended period of time.

**What is the expectation for students who are out of school for illnesses or injuries that are not considered temporary medical conditions?** The expectation is that schools will make homework available for pick up by the family and that teachers will help the student with catch up once the student returns to school.

### **Transfer Students**

When a student transfers to WISD, the district may or may not have enough information from the parent or transferring district to properly develop a 504 accommodations plan for the student. If it is suspected that the student has a disability either from parent information, student records, or student report, the 504 Committee should meet to review the student's 504 Plan from a previous district, if available, and determine if additional or new evaluation data is needed. Transfer meetings should take place during the first few days after the district has been notified of the student's eligibility at a previous district.

Parents/guardians should be notified of the meeting through the Notice of 504 Meeting form. The Notice should be provided at least one week ahead of the meeting date if possible. The parent should fill out the Parent Input Form for 504 Evaluation. After this form has been placed in the student's 504 folder, it will only need to be completed annually. Parents may object to the annual paperwork, but it is necessary to determine what changes have occurred or provide new or additional information at each annual review. A committee may request that a parent complete a new form anytime substantial information changes occur.

At the transfer meeting, the Committee should rely upon the 504 Meeting Summary and Accommodation Plan to guide the Committee through the meeting. If a student with a disability transfers to WISD from another school district with a 504 plan, the receiving district should review the plan and supporting documentation. If a group of persons in WISD, 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, WISD is to evaluate the student and determine which educational program is appropriate for the student. If the student does not have enough information or a copy of the plan and supporting documents but the district suspects or is notified the student is eligible, the Committee should develop a temporary plan until the district's evaluation is complete. The Committee should focus on the student's changing needs due to the effects of different classroom, subject matter, school demands, and transfer to another district and other factors in the immediate future. Once the evaluation data is completed the Committee should reconvene to develop a new plan with the current evaluation material. Should the Committee determine, through the reevaluation of data, that the student is no longer eligible, the Committee should dismiss the student from 504. If the student is dismissed, the Notice of 504 Evaluation Results should be provided to the parent/guardian. The parent/guardian should always receive a copy of the 504 Meeting Summary and Accommodation Plan.

### **Transportation**

Section 504 requires transportation be provided for students with a disability who need special transportation to access their education for disability-related reasons.

To be eligible for special transportation, the student's disability must limit the student's ability to get to/from school with regular transportation or an existing bus stop. The student's 504 plan must indicate that the student needs special transportation to access his or her education. The 504 team should consider short-term impairments on a case-by-case basis to determine whether the condition substantially limits a major life activity.

## **PROCEDURE FOR PROCESSING SECTION 504 TRANSPORTATION REQUESTS:**

1. Based on parent or staff member request, 504 team determines if special transportation is necessary. School nurse gathers information for team regarding any medically related transportation needs. (School nurse will get written parent consent from the parent before contacting any medical provider of the student.) Building administrator will participate as part of 504 team when a 504 transportation decision is made.
2. Principal requests Transportation.
3. 504 Campus Coordinator provided Transportation with the following:
  - Anticipated duration for transportation; and
  - Any special needs, such as wheelchair accessibility. The 504 Plan **MUST** include the transportation supplement. Transportation supplement needs to be sent to transportation department after 504 meeting.

Questions may be directed to the Transportation Office at 936-856-1220.

## 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 Willis ISD with regard to the identification, evaluation, or placement of a disabled child under Section 504 of the Rehabilitation Act of 1973 [“Section 504”], the parent has a right to an impartial hearing before an impartial hearing officer. Omissions on the part of Willis ISD with regard to a disabled child might include, for example, Willis ISD’s failure to identify a child eligible for services under Section 504. Thus, a child’s identification as eligible for services under Section 504 is not an absolute prerequisite to the right to due process.

The parent must exercise the right to an impartial hearing by providing the written request for hearing (described below) within the state-law timeline for a special education due process hearing under the IDEA. In Texas, the application of this rule means that requests for a Section 504 due process hearing must be made in writing within one year of Willis ISD’s action or omission.

**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 Director of Special Programs 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 Director of Special Programs 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 Director of Special Programs. Such a written request must make clear that the parent is seeking a due process hearing under Section 504 before an impartial Section 504 Hearing Officer. The written request may be made on a form provided by Willis ISD for that purpose. If an intent to seek a due process hearing under Section 504 is not clear from the face of a Request, the Director of Special Programs may contact the parent to clarify the Request and ascertain whether the parent wishes to initiate a Section 504 due process hearing. The Coordinator may also assist the parent in clarifying any questions regarding due process rights under Section 504. The reasonable time involved in ascertaining whether an ambiguous or unclear Request seeks a due process hearing under Section 504 shall toll 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, Willis ISD is still unsure whether the parent is requesting a due process hearing under Section 504, Willis ISD 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 Section 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, Willis ISD will appoint an impartial Hearing Officer to preside over the hearing and issue a decision. The Hearing Officer will be hired by Willis ISD as an independent contractor at no expense to the parent. The Hearing Officer shall not be a current employee of Willis ISD, 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 Section 504 and Willis ISD’s Hearing Procedures under Section 504. Willis ISD’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 Section 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 Director of Special Programs 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 Section 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), Willis ISD 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 Willis ISD’s presentation, the Parent may offer a short response to Willis ISD’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, Willis ISD 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 Section 504 and to the provisions of the regulations implementing Section 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.** Upon request, the Director of Special Programs shall provide a review procedure to ensure that the Section 504 due process hearing was properly conducted pursuant to the requirements of the Section 504 procedural safeguards and Willis ISD's Section 504 due process hearing procedures. The Parent has 30 calendar days from the date that the due process hearing officer issues a decision to request a review. The request should be in writing, and should include a brief description of the basis of the request. The request for review is made directly to the Director of Special Programs. Within 15 days of the receipt of a request for review, the Director of Special Programs shall issue a decision in writing. The decision should be based on a review of the written request, the hearing officer's decision, Willis ISD's Procedures for Section 504 Due Process Hearings, any additional information provided by the Parent, and any additional information deemed relevant by the Section 504 Coordinator.

**Access to Courts.** A parent may seek relief available under Section 504 and the ADA in a state or federal court of competent jurisdiction.

**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 Willis ISD has violated any provision or regulation of Section 504. The filing of a complaint does not affect the hearing process or the time lines set forth above. OCR addresses Section 504 complaints separately and independently of the local hearing process, in accordance with the guidelines set forth in OCR's Complaint Resolution Manual.