Dallas County Schools

BOARD OF EDUCATION

Selma, Alabama

Serving Students with

Disabilities Under

SECTION 504

A Reference Manual

2015

DALLAS COUNTY BOARD OF EDUCATION

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SERVING STUDENTS WITH DISABILITIES UNDER SECTION 504: A REFERENCE MANUAL

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PART I

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PART I

OVERVIEW OF SECTION 504 OF THE REHABILITATION ACT OF 1973

Introduction

Section 504 of the Rehabilitation Act of 1973 (Section 504) is a civil rights statute that prohibits discrimination/harassment on the basis of a disability in any program or activity receiving federal financial assistance. In particular, Section 504 provides that:

> No otherwise qualified individual with a disability in the United States...shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance....

29 U.S.C. § 794(a) (1973).

The Section 504 regulations require a school district to provide a "free appropriate public education" (FAPE) to each qualified student with a disability who is in the school district's jurisdiction, regardless of the nature or severity of the disability. FAPE consists of education, related aids/services, and accommodations designed to meet the student's individual needs. Section 504 requires a school district to provide to students with disabilities appropriate educational services designed to meet the individual needs of such students to the same extent as the needs of students without disabilities are met.

The determination of whether a student has a physical or mental impairment that substantially limits a major life activity must be made on the basis of an individual inquiry. The Section 504 regulations define a physical or mental impairment as any physiological or psychological 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; lymphatic; skin; and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The regulations do not set forth an exhaustive list of specific diseases and conditions that may constitute physical or mental impairments because of the difficulty of ensuring the comprehensiveness of such a list.

Major life activities, for purposes of Section 504 eligibility, include functions such as caring for one's self, performing manual tasks, reading, concentrating, thinking, communicating, walking, seeing, hearing, speaking, breathing, learning, and working. This list is not exhaustive. Other functions can be major life activities for purposes of Section 504.

The protections of Section 504 extend to individuals who satisfy the eligibility requirements of Section 504. At the elementary and secondary school level, determining whether a child is a qualified disabled student under Section 504 begins with the evaluation process.

Section 504 requires the use of evaluation procedures that ensure that children are not misclassified; unnecessarily labeled as having a disability; or incorrectly placed, based on inappropriate selection, administration, or interpretation of evaluation materials. If a school district re-evaluates a student in accordance with the Section 504 regulation at 34 C.F.R. 104.35 and determines that the student's mental or physical impairment no longer substantially limits his/her ability to learn or any other major life activity, the student is no longer eligible for services under Section 504.

Public elementary and secondary schools must employ procedural safeguards regarding the identification, evaluation, or educational placement of persons, who because of disability, need or are believed to need special instruction or related services.

Definitions to Assist in Understanding Section 504

The United States Department of Education under 34 Code of Federal Regulations (C.F.R.) §104.3 provides the following definitions to assist in understanding Section 504:

A. **"Qualified disabled person"** with respect to a public preschool, elementary, secondary, or adult education services means an individual with a disability who is a resident of the school district and who is (i) of an age during which nonhandicapped persons are provided such services, (ii) of any age during which it is mandatory under state law to provide such services to handicapped persons, or (iii) an individual to whom a state is required to provide a free appropriate public education under the Individuals with Disabilities Education Act.

B. **"Individual with a disability"** means any person who:

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

Environmental, cultural, and economic disadvantages are not considered disabilities under Section 504. Furthermore, sexual orientation and gender identity are also not considered to be disabilities. However, if a person who has any of these characteristics also has a physical or mental disability, the person may be included within the definition of an individual with a disability.

C. **"Physical or mental impairment"** means:

- 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; skin; and endocrine; or

- Any mental or psychological disorder, such as mental retardation; emotional/behavioral conditions; and mental illness.

D. **"Major life activities"** means functions such as caring for one's self, performing manual tasks, reading, concentrating, thinking, communicating, walking, seeing, hearing, speaking, breathing, learning, and working. For example, an individual with paralyzed legs is substantially limited in the major life activity of walking since the individual's impairment makes him/her unable to walk.

E. **"Has a record of such an impairment"** means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

F. **"Is regarded as having an impairment"** means:

- Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a school district as constituting such a limitation;
- Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others towards such an impairment; or
- Has none of the impairments defined in (j)(2)(i) of this section but is treated by school district as having such an impairment.

G. **"Substantial Limitation"** refers to the extent that a disability impacts the student at school. In determining whether a student has a physical or mental impairment that substantially limits a major life activity, school districts must not consider ameliorating effects of any mitigating measures that a student is using. However, the ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining if an impairment substantially limits a major life activity. An impairment that is episodic or in remission under Section 504 does not preclude eligibility if the impairment would substantially limit a major life activity when active.

H. **"Educational Placement**" (in the Section 504 context) refers to the general education classroom with the use of supplementary/related aids and services.

I. **"Supplementary/Related Aids and Services"** are generally accommodations in a student's Section 504 Plan. An accommodation is a change in the educational setting, materials, and/or strategies that does not significantly alter the content of the curriculum or level of expectation for a student's performance but which allows the student to access the general education curriculum. Examples of accommodations include seating the student in front of the room, providing extended time for testing, and providing a student with a highlighted critical text.

PART II

Process and Procedures

PART II

SECTION 504 PROCESS AND PROCEDURES

A. Child Find

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

B. Pre-Section 504 Referral

A parent/guardian, teachers, and other certified school employees will initiate the process of intervention for any student suspected of having a disability that substantially limits the performance of a major life activity. The process often begins with a referral to the school's designated Response to Intervention ("RTI") program.

1. RTI offers effective strategies for strengthening educational opportunities and servicing students with special needs who might otherwise experience difficulties in school. RTI strategies are often encouraged before Section 504 referrals are initiated. RTI strategies are particularly important since many helpful interventions and services can be made during RTI procedures.

2. After the classroom teacher implements RTI and the student continues to experience limitations in one or more of the major life activities, and needs, or is believed to need, special education or related services, the classroom teacher submits the data collected during the RTI to designated individuals at the school, then the student should be referred for Section 504 evaluation.

3. Following its review of the RTI data collecting, the school may suggest additional interventions, refer the student to the Building Level Section 504 Coordinator, or refer the student to Special Education.

C. Referral or Request for a Section 504 Evaluation

An individual (parent/guardian/school staff member) may make a Section 504 referral for a student by completing a "Referral Form". (Form A). Examples of circumstances that may

merit a Section 504 referral include when a student:

- is receiving discipline infractions or suspensions over an extended period of time which are excessive or repetitive;
- is being considered for retention;
- is exhibiting poor academic performance;
- is returning to school after a serious illness or injury;
- has received a written diagnosis by an outside agency as having a disability;
- is referred to an IDEA IEP Team for special education evaluation and does not qualify for an evaluation;
- is evaluated under IDEA and is found not eligible for special education services;
- is exhibiting a chronic health problem; substantially limiting a major life activity;
- is identified as having had substance abuse issues, but is not currently "using" addictive substances;
- or is not successful with pre-referral intervention strategies.

Upon the District's receipt of a Section 504 referral, the parent/guardian will be provided a notice of a Section 504 referral meeting (Form B) as well as the "Parent/Guardian Procedural Safeguards" (Form C). At the initial 504 referral meeting, a decision will be made by the Team as to whether to proceed with a full Section 504 evaluation. If the referral is not deemed appropriate, the parent/guardian will be provided a copy of the "Section 504 Team Decision Regarding Referral or Eligibility". (Form H).

In facilitating a Section 504 referral, the *local school* will:

- Provide notice of the referral meeting. (Form B)
- Provide a copy of the parent/guardian procedural safeguards. (Form C)
- Select the Section 504 referral Team members.
- Obtain consent from parent/guardian for evaluation.
- Consult with referral Team as to what testing or additional records may be needed.
- Provide the parent/guardian with Notice of Intent of Section 504 Team Decision Regarding Referral or Eligibility if the referral for evaluation is not appropriate. (Form H)

D. Evaluation/Placement Process

If a student is accepted for an evaluation, the evaluation must be completed in a timely manner. The District will undertake an evaluation of the student prior to determining his or her appropriate placement or program of services under Section 504, and also before any significant change of placement. An evaluation will also be conducted prior to any discipline, change of placement for students who have or are suspected of having a disability. Absent unusual circumstances, the District will complete the evaluation process within 60 calendar days.

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. The District will appropriately consider information from a variety of sources in making its determination, 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, scores on tests, and mitigating measures, among others.

In facilitating a Section 504 evaluation, the *local school* will:

- Provide notice of the eligibility determination meeting. (Form B).
- Provide a copy of the parent/guardian procedural safeguards. (Form C).
- Provide teacher(s) with the Section 504 observation form. (Form E).
- Provide the parent with the Parent Input Form for Section 504 evaluation. (Form F).
- Select the Section 504 Team members.
- Gather documentation necessary to complete "Section 504 Initial Evaluation/ Determination Documentation." (Form G).
- Provide the parent/guardian with "Notice of Intent of Section 504 Team Decision Regarding Evaluation" if the student does not qualify for Section 504. (Form H).

If the Team determines that the student meets the federal definition of disabled under Section 504, a Section 504 Plan shall be developed. (Form I). This plan may be developed at the time of the eligibility meeting or at another meeting. Absent unusual circumstances, the plan should be developed within 30 calendar days after the eligibility meeting. The local school shall ensure that a copy of the plan is provided to the student's teachers and service providers. (Form K). Documentation of receipt of the plan shall be obtained.

If the Team determines that the student does not meet the federal definition of disabled under Section 504, the Team shall refer the student back for identification of needed classroom intervention strategies as stated in the District's RTI plan. The parent/guardian should also be provided a copy of the "Notice of Intent Regarding Section 504 Team Decision Regarding Evaluation" (Form M) and the "Parent/Guardian Procedural Safeguards under Section 504 of the Rehabilitation Act of 1973." (Form C).

E. Discipline Procedures for Student Under a Section 504 Plan

A student who has a Section 504 Plan may not be subjected to a disciplinary change in placement for more than 10 school days unless the Section 504 Team first determines that the behavior giving rise to the discipline was not substantially related to the student's disabling condition or due to an inappropriate implementation of the plan. This process is carried out in an evaluation of behavior, including a manifestation determination/evaluation. (Form L). Suspensions for less than 10 school days may be effectuated without holding a Section 504 Team Meeting. However, a series of short suspensions over the course of the school year that would amount to a total of more than 10 school days may require that a Section 504 manifestation determination meeting be held.

When making the manifestation determination, a Section 504 Team, must meet to address

the following:

- Was the misconduct caused by, or directly and substantially related to, the student's disability?
- Was the misconduct a direct result of the District's failure to implement the Section 504 Plan?

If the Section 504 Team determines that there is no substantial relationship between the conduct and the student's disability and that the Section 504 Plan was properly implemented, the school may proceed to discipline the student in the same manner as it would a non-disabled student.

If the Section 504 Team determines that there is a substantial link between the conduct and the student's disability or that the Section 504 Plan was not properly implemented, the Section 504 Team must review and/or revise the Section 504 Plan to address the student's conduct. In such a situation, the student's placement would not be changed without consent of the parent/guardian of the student. An agreed upon change of placement may occur as a result of disciplinary infractions involving drugs, weapons, or behavior that has substantially injured or endangered the safety of the student or others. Notice of the Section 504 Team's decision regarding the manifestation determination will be provided to the parent. (Form M).

Note: A student who is currently using illegal drugs or alcohol, and is to be disciplined by the school for such behavior loses the procedural protections provided by Section 504, including the right to a manifestation determination review prior to a change in placement for disciplinary reasons. This would hold true even if the disabling condition could be related to the misconduct.

F. Transfer Students

In the case of a Section 504 eligible student transferring into the school system, a Section 504 Team will assemble within 10 school days of the student's enrollment to determine if the current Section 504 plan is appropriate and can be implemented as written. The Section 504 Team may revise the student's current Section 504 and/or request further evaluation and/or information. If further evaluation or information is requested, the student will be provided an interim Section 504 plan. Following the implementation of an interim Section 504 plan, the Section 504 Team should generally meet within sixty (60) calendar days so as to review eligibility and the current Section 504 plan.

G. Complaint Procedures

When a parent/guardian disagree with the Section 504 Team's decisions regarding their child's identification, evaluation, educational program, or placement, they have the right to challenge the decisions by filing a grievance, requesting a mediation meeting, or requesting an impartial due process hearing. (Form N). A parent/Guardian or a student who is disabled may also file a civil rights complaint with the Office for Civil Rights (OCR) if they believe they are being retaliated against because of their efforts to obtain an appropriate education for the student.

In the event the parent/guardian's complaint is found credible, the District will take steps to prevent recurrence of any discrimination and to correct discriminatory effects on the complainant and others, if appropriate.

1. **Section 504 Grievance**

If a parent/guardian believes their Section 504 rights or their child's Section 504 rights are being violated, they may file a grievance with the Section 504 Compliance Coordinator. The Dallas County Board of Education's Compliance Coordinator Felicia King-Thomas. Address: 429 Lauderdale Street Telephone: 334-876-4473.

2. **Impartial Due Process Hearing**-An impartial due process hearing will be utilized to resolve differences between the parent and the District when such differences cannot be resolved by means of a less formal procedure. In this instance, due process is defined as an opportunity to present objections and reasons for the objections to the decision and/or procedures of a Team regarding an issue under ADA/Section 504. An ADA/Section 504 due process hearing may be called at the request of the District or by the parent of an affected student. The proceedings will be presided over and decided by an impartial hearing officer. Impartial hearing officer means a person selected to preside at a due process hearing to assure that proper procedures are followed and to assure the protection of the rights of both parties.

Definitions - In all related hearing matters the following definitions shall apply:

a. "Days" means calendar days.

b. "Placement plan" means the program by which the decision concerning the educational placement of the student is decided.

c. "A parent" means a parent or legal custodian. In the event of a divorce, a parent means the custodial parent.

A parent or the District may initiate a due process hearing on a matter related to (1) eligibility and related procedures, (2) procedural safeguards, and/or (3) whether student is receiving an educational opportunity commensurate with the non-disabled students.

Requests by a parent for due process hearing must be submitted in writing within thirty (30) days of the notice of the action appealed from. Hearing notifications to the parent shall be given at least ten (10) days prior to the date set for the hearing. The notice shall contain:

a. A statement of time, place, and nature of the hearing.

b. A short and plain statement of the matters asserted.

c. A statement of the right to be represented by counsel.

Hearing Procedures - The hearing officer shall provide at the hearing and shall conduct the proceedings in an impartial manner to the end that all parties involved have an opportunity to:

a. Present their evidence.

b. Produce outside expert testimony and be represented by legal counsel.

A parent involved in the hearing will be given the right to have the student present at the hearing.

The hearing officer shall review relevant facts and render a decision on the issue presented for review.

Decision of the Hearing Officer - A copy of the hearing officer's decision shall be delivered to the District and the parent, within thirty (30) days following completion of the hearing. The hearing shall begin no later than sixty (60) days after receipt of the request for a hearing unless extended by agreement by the parent and the District.

Record of Hearing – A recording of the ADA/Section 504 due process hearing shall be maintained at the District office for at least six (6) months after the hearing and will be available for review upon request to the a parent.

Appeal - If the Parent/Guardian is not satisfied by the decision of the Hearing Officer, a Parent/Guardian may seek review of the hearing decision within thirty (30) days of the date of the Hearing Officer's decision. The request for the review should be made in a court of competent jurisdiction, generally the closest U.S. District Court.

3. Section 504 Mediation

Mediation is a less formal and less adversarial method of resolving disputes than a due process hearing. During mediation, a parent/guardian and school representatives voluntarily meet with an impartial mediator to resolve disagreements with the school's decisions or actions regarding identification, evaluation, educational program, or placement of the student. Any agreements reached between the school and the parent/guardian during the mediation process will be set forth in a written mediation agreement. A parent/guardian may request mediation by writing or by calling the Dallas County Board of Education's 504 Compliance Coordinator, Felicia Y. King-Thomas. Address: 429 Lauderdale Street/Selma, AL. Telephone: 334-876-4473.

4. Office of Civil Rights Complaint

A parent may file a formal complaint with the Office of Civil Rights (OCR) if they believe their child is being discriminated against on the basis of his/her disability. A Section 504 due process hearing is not required prior to filing an OCR complaint. The address of the Office of Civil Rights is Office for Civil Rights, 61 Forsyth Street, SW, Suite 19T10, Atlanta, Georgia 3030.

PART III

Section 504 Forms

Dallas County Board of Education
Section 504 of the Rehabilitation Act

Referral Form
(*Attach additional pages if needed*)
FORM A

This completed form should be returned to the local school Section 504 Coordinator.

Student's Name:	**Age:**	**Date of Birth:**
Address:	**Parent/Guardian:**	
Grade:	**Person Initiating Referral:**	

Please answer the following questions:

1. Reason for referral:

2. Which of the following major life activities do you believe is limited (check ALL that apply):

☐ Performing manual tasks	☐ Speaking	☐ Reading
☐ Walking	☐ Breathing	☐ Concentrating
☐ Seeing	☐ Learning	☐ Thinking
☐ Hearing	☐ Working	☐ Communicating
☐ Other:		

3. Describe the student's physical or mental impairment(s):

4. Describe interventions/strategies used to address difficulties:

_____ _____

Signature of Person Initiating Referral **Date**

_____ _____

Date received by school **Received by**

_____Dallas County_____ Board of Education
Section 504 of the Rehabilitation Act

Notice of Proposed Section 504 Meeting
FORM B

Date: _____

To the Parent(s) or Guardian(s) of: _____ Grade: _____

Date of Meeting: _____ Time: _____ Location: _____

The purpose of the meeting is to:

☐ Determine if referral requires evaluation	☐ To develop or review a Section 504 Plan
☐ Discuss the need for additional data collection	☐ Manifestation Determination meeting
☐ Determine initial or continued eligibility	☐ Other:

The following people will be invited to the meeting:

☐ Local Section 504 Coordinator	☐ Parent
☐ Administrator	☐ Student
☐ General Education Teacher	☐ Other:

Please bring the following information or records with you to the meeting:

_____
Signature of 504 Coordinator or Designee

Enclosure: Parent/Guardian Procedural Safeguards Under Section 504 of the Rehabilitation Act of 1973.

*Please check one of the following boxes, sign, date, and return the form to _____, Section 504 Coordinator, before _____ (date).

☐ I will be able to meet with you.
☐ I cannot meet at the time and date indicated. Please contact me to arrange another time.
☐ I do not want to attend this meeting. I will contact you if I want more information.

_____ _____
Parent/Guardian Signature **Date**

Dallas County Board of Education
Section 504 of the Rehabilitation Act

Parent/Guardian Procedural Safeguards Under Section 504 of the Rehabilitation Act of 1973 FORM C

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, Section 504 applies to ensure that eligible disabled students are provided with educational benefits and opportunities equal to those provided to non-disabled students.

Under Section 504, a student is considered "disabled" if he or she suffers from a physical or mental impairment that substantially limits one or more major life activities. Section 504 also protects students with a record of impairment, or, who are regarded as having an impairment, from discrimination on the basis of disability. Students can be considered disabled, and can receive services under Section 504, including regular or special education and related aids and services, even if they do not qualify for, or receive, special education services under the IDEA.

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 students 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 appropriate staff persons at the District's Section 504 Office and they 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 non-disabled students are met. [34 CFR 104.33]. You have the right to refuse consent for services at any time.

3. Your child has the right to free educational services, with the exception of certain costs normally also paid by the parents of non-disabled students. Insurance companies and other similar third parties are not relieved of any existing obligation to provide or pay for services to a student that becomes eligible for services under Section 504. [34 CFR 104.33].

4. To the maximum extent appropriate, your child has the right to be educated with children who are not disabled. Your child will be placed and educated in regular classes, unless the District demonstrates that his or her educational needs cannot be adequately met in the regular classroom, even with the use of supplementary aids and services. [34 CFR 104.34].

5. Your child has the right to services, facilities, and activities comparable to those provided to non-disabled students. [34 CFR 104.34].

6. The School District must undertake an evaluation of your child prior to determining his or appropriate educational placement or program of services under Section 504, and also before every subsequent significant change in placement. [34 CFR 104.35]. You have the right to refuse consent for initial evaluation.

7. If formal assessment instruments are used as part of an evaluation, procedures used to administer assessments and other instruments must comply with the requirements of 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, statewide assessment scores, and mitigating measures, among others. [34 CFR 104.35].

8. Placement decision 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 non-disabled children. [34 CFR 104.35].

9. If your child is eligible under Section 504, he or she has a right to periodic reevaluations. A reevaluation must take place at lease 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 Section 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. You must submit the required notice or request in writing within 30 calendar days of the action or omission giving rise to your complaint. Failure to make a timely request will result in the loss of your opportunity to pursue a due process hearing on that action or omission. A date will be set for the hearing and an impartial hearing officer will be appointed. You will then be notified in writing of the hearing date, time, and place.

14. If you disagree with the decision of the hearing officer, you have a right to seek a review of the decision by making a written request to the District's Section 504 Coordinator, and/or you may seek relief in state or federal court as allowed by law.

15. You also have the right to present a grievance or complaint through the District's local grievance process. The District will investigate the situation, take into account the nature of the complaint and all necessary factors, and respond appropriately to you within a reasonable time. Parents may contact the District's Section 504 Coordinator for more information about the District's grievance process.

16. You also have a right to file a complaint with the Office for Civil Rights (OCR) of the Department of Education. The address of the OCR Regional Office that covers this school district is: **United States Department of Education**, **U.S. Department of Education, Region IV**, **61 Forsyth Street SW, Ste. 19T10**, **Atlanta, GA 30303. Telephone: (800) 368-1019**

_____ _____

Parent/Guardian **Date**

_____Dallas County_____ Board of Education
Section 504 of the Rehabilitation Act

Notice and Consent for Section 504 Evaluation/Reevaluation
FORM D

Date Sent:	**Student's Name:**
School:	**Grade:**
Parent/Guardian:	

☐ Your child, _____, has been referred for evaluation to determine if he/she is eligible to receive reasonable accommodations and/or related services.

☐ Your child, _____, has been referred for reevaluation to determine if he/she continues to be eligible to receive reasonable accommodations and/or related services.

Additional information is necessary to determine your child's educational needs and whether he/she might be eligible for assistance under Section 504.

In many cases, the Section 504 evaluation may simply consist of the Section 504 Committee reviewing and interpreting existing school records, including anecdotal evidence, observations, prior testing, grades, standardized test scores, and other data in order to determine if your child qualifies for accommodations in the regular classroom. In addition to reviewing the data described above, the District desires to conduct the following assessments:

☐ Vision	☐ Behavior
☐ Hearing	☐ Classroom Performance
☐ Academic Achievement	
☐ Other:	

Please review the enclosed document entitled "Notice of Parent Rights," which informs you of your rights under Section 504. If you CONSENT to the evaluation, please check the "consent" statement, sign and return one copy of this letter. If you REFUSE consent, please check the "refuse consent" statement, sign and return one copy of this letter. Keep the other copy of this letter and the Notice of Parent Rights for future reference.

Please call _____, Section 504 Coordinator, at _____if you have any questions.

As the parent/legal guardian of the above referenced student, I have received notice of my Section 504 parent rights, and I understand that this is ***not*** an offer of a Special Education evaluation.

_____ I hereby CONSENT to an evaluation under Section 504.

_____ I hereby REFUSE CONSENT to an evaluation under Section 504.

_____ _____

Parent/Guardian Signature **Date**

_____Dallas County_____ Board of Education
Section 504 of the Rehabilitation Act

Teacher Input Form
FORM E

Form E (Teacher Input Form) is being used to:

☐ Determine Initial Eligibility ☐ Determine Continued Eligibility ☐ Update Current 504 Plan

Student Name:	**School:**	**Grade:**
Teacher's Name:	**Subject Matter:**	**Date:**

Please complete the following teacher observation information and return this form within five (5) days to enable the Section 504 Team to conduct a Section 504 evaluation for the above-named student.

Teacher Observations
Based on your knowledge and observation, please rate this student's performance in the following areas as compared to his or her non-disabled peers. For each skill, mark: 1=Poor 2=Below Average 3=Average 4=Above Average 5=Superior N=Not Observed

	1	2	3	4	5	N		1	2	3	4	5	N
Reading Skills	☐	☐	☐	☐	☐	☐	Tests	☐	☐	☐	☐	☐	☐
Math Skills	☐	☐	☐	☐	☐	☐	Follows Oral Directions	☐	☐	☐	☐	☐	☐
Written Expression	☐	☐	☐	☐	☐	☐	Follows Written Directions	☐	☐	☐	☐	☐	☐
Spelling	☐	☐	☐	☐	☐	☐	Organizational skills	☐	☐	☐	☐	☐	☐
Classroom Work	☐	☐	☐	☐	☐	☐	Attention Span	☐	☐	☐	☐	☐	☐
Homework	☐	☐	☐	☐	☐	☐	Timeliness to Class						

Pre-Referral Actions Taken		**Results**
☐	Sent Reports Home	
☐	Talked with Counselor	
☐	Rearranged Seating	
☐	Preferential/Isolated Seating	
☐	Ignored Behavior	
☐	Referred to Administrator	
☐	Contracts	
☐	Assignment Notebook	
☐	Tutoring	
☐	Alternative Assignments	
☐	Additional Time for Assignments	
☐	Small Group Instruction	
☐	Cooperative Learning	
☐	Peer Tutoring	
☐	Parent Conference	
☐	Other	

Behavioral Characteristics
Check observed behavioral characteristics which might adversely affect this student's learning.

Shyness	☐	Needs Constant Encouragement	☐
Rejected by Peers	☐	Quarrelsome	☐
Irritable	☐	Anxious	☐
Distractible	☐	Aggressive	☐
Moody	☐	Disruptive	☐
Daydreams	☐	Withdrawn	☐

Emotional/Behavioral/Social Characteristics

Rate this student's behavior in relation to other students of the same AGE. For each behavior, mark: 1=Poor 2=Below Average 3=Average 4=Above Average 5=Superior N=Not Observed

	1	2	3	4	5	N
Generally cooperates or complies with teacher requests	☐	☐	☐	☐	☐	☐
Adapts to new situations without getting upset	☐	☐	☐	☐	☐	☐
Accepts responsibility for own actions	☐	☐	☐	☐	☐	☐
Makes and keeps friends at school	☐	☐	☐	☐	☐	☐
Works cooperatively with others	☐	☐	☐	☐	☐	☐
Has an even, usually happy disposition	☐	☐	☐	☐	☐	☐
Appropriate attention and concentration	☐	☐	☐	☐	☐	☐
Compliance with teacher directives	☐	☐	☐	☐	☐	☐
Brings necessary materials to class	☐	☐	☐	☐	☐	☐
Fidgets, squirms, or seems restless	☐	☐	☐	☐	☐	☐
Completes tasks on time	☐	☐	☐	☐	☐	☐
Stays on task, is easily redirected	☐	☐	☐	☐	☐	☐
Remains seated	☐	☐	☐	☐	☐	☐
Takes turns, wait for turns	☐	☐	☐	☐	☐	☐

Other Observations	
Student meets standards of personal independence expected of chronological age/culture group	Yes ☐ No ☐
Student meets standards of social responsibility expected of chronological age/culture group	Yes ☐ No ☐

Discipline	
Is discipline an area of concern?	Yes ☐ No ☐
If yes, please explain:	

Additional Comments or Input from Teacher:

_____Dallas County____ Board of Education
Section 504 of the Rehabilitation Act

Parent Input for Section 504 Evaluation
FORM F

This information requested will greatly assist the Section 504 Committee in evaluation of your child. If you have additional information that you want the Committee to consider (and that is not requested here) please feel free to attach additional pages. Disregard any question that makes you uncomfortable. If you would prefer to provide this information by phone, please contact _____, Section 504 Coordinator at _____.

Student Name:	**Date of Birth:**
Address:	Phone:
School:	Grade:

General Information		
Mother's Name:		
Occupation:	Level of Education:	
Father's Name:		
Occupation:	Level of Education:	
With whom does the child live?	Relationship to child:	
Other children in the home (attach additional pages if necessary):		
Name	Age	Relationship

Other adults in the student's home	Relationship to Student

Do any family members have learning problems? If yes, please explain:

Compared to other children in the family, this child's development was: (check one)

Slower	☐	About the same	☐	Faster	☐

At what age, in months, was the student able to do the following:

Sat without support	☐	Crawled	☐	Walked without support	☐
Used spoon fairly well	☐	First word	☐	Reasonably well toilet-trained	☐

The Student's Friends & Activities								
Does the student prefer to play/socialize with	☐	Girls	☐	Boys	☐	No preference		
Does the student have friends his/her own age?					☐	Yes	☐	No
Does the student have friends who are younger than the student?					☐	Yes	☐	No
Does the student have friends who are older than the student?					☐	Yes	☐	No

The Student at Home							
Please check each item available for the student's use at home:							
Computer	☐	Books	☐	Tape Recorder	☐	CD Player	☐
Video games	☐	Television	☐	Educational Toys	☐	Radio	☐

What kinds of activities does your family do together? (Read, play games, camp, etc.)

Have there been any important changes within the family during the last three years (For example, changes, moves, births, deaths, serious illnesses, separations, divorce, etc.)

With whom in the family is the student particularly close?

Has the student ever been separated from the family due to family problems, health reasons, etc.? If yes, please explain.

How did the student react to the separation?

Describe the student's behavior at home with peers, siblings, neighbors, and parents. (For example, is the student generally well-behaved? Social? Affectionate? Withdrawn?

What methods of discipline are used with this student at home? (For example, spanking, extra chores, early bedtimes, taking away of privileges; is he/she given rewards for good behavior?)

How does the student react to discipline?

Who usually disciplines the student at home?

The primary language in the home is:

How long has the student lived in the United States?

What time does the student go to bed at night? Does the student eat breakfast?

What does the student do when not in school? (Please list the student's common indoor and outdoor activities.)

Does your student have a part-time job after school or on weekends? If yes, please provide the average number of hours worked per week.

The Student at School				
Has your student talked to you about difficulties or problems at school? Please explain:				
Do you think your student is having difficulties in school?	☐	Yes	☐	No
If you think your student is having difficulties, please explain your concerns.				
What do you think is causing the student's difficulties at school? When did you first notice the difficulties?				
If you have discussed these concerns with the school, please indicate when and with whom you shared your concerns:				
If your student qualifies for Section 504, what services or accommodations do you think are necessary so that the student can participate and benefit from school?				

Childhood & Medical History				
Has your student ever had the following?	Never	Began at age?	Ended at age?	Still has problem
Frequent fevers	☐			☐
Frequent earaches	☐			☐
Frequent vomiting	☐			☐
Thumb sucking	☐			☐
Nightmares	☐			☐
Sleepwalking	☐			☐
Head banging	☐			☐
Rocking of body	☐			☐
Teeth grinding	☐			☐
Bedwetting	☐			☐
Fingernail biting	☐			☐
Temper tantrums	☐			☐
Run away from home	☐			☐
Lost consciousness	☐			☐
Convulsions	☐			☐

Current Medical Treatment & Medication

Doctor's reports, letters and diagnoses can be very helpful to the 504 Committee. Please attach the student's medical records so that the Committee can have a more complete picture of your child. If you would prefer, you may give the District written consent to seek those records from your doctors directly.

Please notify _____, Section 504 Coordinator, at _____to obtain the necessary form.

Please identify any medical problem for which your student is currently receiving medical care:

Does your student appear to have any other physical health problems for which the student is not currently receiving medical care?

Please list all medications currently taken by your student (over the counter and prescription).

Please describe any side effects the student experiences from these medications.

Please identify any medication(s) taken by your student for over one (1) year:

Please describe any hospital stays by your student, including the date, reason for the stay, the duration, and the result of treatment.

Does your child have a medical condition or illness with symptoms that are sometimes more serious than other times? ☐ Yes ☐ No If yes, please answer the following questions:

1) What is the name of the condition or illness?

2) When and how often is the condition or illness a problem for your child?

3) How does the condition or illness affect your child when the symptoms are most serious? (Are there things that he cannot do or things that are more difficult because of the condition or illness?)

Did your child used to have a serious medical condition or illness that has gone away? If yes, please answer the following questions:

1. What is the name of the condition or illness that your child used to have?

2. When did your child suffer from the condition or illness?

3. How did the condition or illness affect your child when the symptoms were most serious? (Were there things that he/she could not do or things that were more difficult because of the condition or illness?)

4. Is the condition or illness likely to return?

Is there any other information about your student or family that you would like the Section 504 Committee to consider when evaluating your student for Section 504 eligibility? If so, please provide it here.

_____ _____

Signature of Parent **Date**

Dallas County Board of Education
Section 504 of the Rehabilitation Act

Section 504 Evaluation/Eligibility Determination and Documentation
Form G

Student:		**Date of Birth**	
School:		**Grade:**	
Today's Date:	Initial Evaluation ☐	Periodic Reevaluation ☐	
For Initial Referral Only:	Referred By:	Date of Referral:	

A Section 504 Evaluation Meeting has been scheduled for:	(Day/Date)	(Time)
Notice of Proposed Meeting Notice:	Sent:	Received From Parent:

The following items have been provided to the parent/guardian:

	Date Sent	Sent By
Notice of Section 504 Meeting		
Notice of Section 504 Intent to Evaluate/Reevaluate		
Parent/Guardian Procedural Safeguards under Section 504 of the Rehabilitation Act of 1973		

Parent/guardian has responded to Section 504 Meeting notice:
☐ Will attend ☐ Will not attend ☐ No Response

Reason for Section 504 Meeting:
☐ Initial Section 504 Evaluation ☐ Re-evaluation ☐ 504 Manifestation Determination

DATA COLLECTION

TEACHER OBSERVATION: (See attached Section 504 Teacher Observation Form)

ACHIEVEMENT DATA: List Most Recent Achievement Test Scores, State or Local Assessments, Scores, etc. (if available)

Date of Assessment	Type of Assessment	Scores/Percentiles

This student's test scores:

☐ have stayed about the same each year
☐ have become worse each year
☐ have suddenly dropped
☐ data not available

Current Grades

Subject	Grade

This student's grades:

☐ have become better each year
☐ have stayed about the same each year
☐ have become lower each year
☐ sudden drop in grades
☐ data not available

Compared with most of the other students in this school, this student's grades:

☐ are better
☐ are about the same
☐ are worse
☐ data not available

Has this student been retained? ☐ Yes ☐ No If yes, at which grade level(s): _____

DISCIPLINE HISTORY (see attachment)

HOME LANGUAGE SURVEY: **English Language Learner:** Yes ☐ No ☐

Home Language Survey:		**English Language Learner:** Yes ☐ No ☐	
Student's language is:		Home language is:	
If yes, is this student's language contributing to the student's lack of achievement in school? Yes ☐ No ☐			

VISION AND HEARING EVALUATIONS (if available):

	Vision	Hearing
Screening Date		
Screening Results		

PHYSICAL/MENTAL IMPAIRMENT:

YES **NO**

☐ ☐ **Is there a documentation of a physical or mental impairment? If YES, explain and attach:**

☐ ☐ **Is the student currently on medication at home or at school? If YES, explain:**

☐ ☐ **Is there a physical impairment that requires specialized accessibility within the school environment? If YES, explain:**

ATTENDANCE:

School Year	Grade Level	Days Present	Days Absent Excused	Days Absent Unexcused	Number of School Changes	Early Warning Referral

Section 504 Committee Membership:
By regulation, the Section 504 Committee is a group of knowledgeable people. Within the group, each required type of knowledge must be present. List each member attending and check the areas of knowledge each provides (attach an additional sheet if necessary). Each required area of knowledge must be present on the committee.

Name	Position/Title	Knowledge of…
		☐ The Child ☐ The meaning of the evaluation data ☐ The placement options
		☐ The Child ☐ The meaning of the evaluation data ☐ The placement options
		☐ The Child ☐ The meaning of the evaluation data ☐ The placement options
		☐ The Child ☐ The meaning of the evaluation data ☐ The placement options
		☐ The Child ☐ The meaning of the evaluation data ☐ The placement options

Section 504 Eligibility Determination
As directed by Congress in the ADAA, the Section 504 Committee understands that the definition of disability "shall be construed in favor of broad coverage of individuals under this Act, to the maximum extent permitted by the terms of this Act."

1. Does the student have a physical or mental impairment? If so, please identify the impairment(s) below. *Notes: (1) This is an educational determination only and not a medical diagnosis for purposes of treatment. (2) Impairments that are episodic, in remission, or mitigated should also be listed. (3) OCR guidance indicates that in "virtually every case," diabetes, epilepsy, bipolar disorder, and autism will result in eligibility under Section 504. Extensive documentation or analysis should not be required for these impairments.*	**Eligibility Question #1**			
	Yes	☐	No	☐
If you answered "yes" to Question 1, identify the impairment(s) here.				

2. Does the physical or mental impairment affect one or more major life activities (including major bodily functions)? If so, identify the major life activity or major bodily function by checking the appropriate box or boxes. *Note: For an impairment that is episodic, in remission, or mitigated, identify the activity or function affected when the disability was present or active.*

Eligibility Question #2

Yes	☐	No	☐

Major Life Activities include, but are not limited to:

Caring for oneself	☐	Lifting	☐	Reading	☐	Circulatory function	☐
Performing manual tasks	☐	Bending	☐	Concentrating	☐	Communicating	☐
Seeing	☐	Speaking	☐	Thinking	☐	Working	☐
Hearing	☐	Breathing	☐	Functions of immune system	☐	Digestive function	☐
Eating	☐	Bowel function	☐	Normal cell growth	☐	Other:	☐
Sleeping	☐	Bladder function	☐	Reproductive function	☐	Other:	☐
Walking	☐	Neurological function	☐	Endocrine function	☐	Other:	☐
Standing	☐	Learning	☐	Respiratory function	☐	Other	☐

Other:

3. Does the physical or mental impairment *substantially limit* a major life activity? *Notes: (1) "Substantially limits" does not mean "significantly restricted." (2) This question asks whether the person evaluated is substantially limited in performing a major life activity as compared to the "average student" of the same grade or age or as compared to "most students" of the same grade or age. (3) The ADAAA requires that when making this determination, the Committee should not consider the ameliorative (helpful or positive) effects of mitigating measures (except for ordinary eyeglasses or contact lenses). (4) The fact that the impairment is episodic (the impact of the impairment is sometimes substantially limiting, but not always), or in remission, does not preclude eligibility if the impairment would substantially limit a major life activity when active.*

If Eligibility Question #3 is answered "no," explain why the student is not substantially limited and describe how the committee addressed the positive impact of mitigating measures (what measures are used by/for the student and what was their impact?):

Eligibility Question #3

Yes	☐	No	☐

Section 504 Plan & Placement (completed only if each of the three preceding questions were answered "yes"). **Does the student need a Section 504 Plan in order for his/her educational needs to be met as adequately as those of non-disabled peers?** *Notes: (1) If the student's needs are so extreme as to require special education and related services, a referral to special education should be considered. (2) If the student's impairment is in remission, and creates no need for services or accommodations, the student is not in need of a Section 504 Plan. (3) If the student's needs are currently addressed by mitigating measures with no need for additional services or accommodations, and the mitigating measures are provided or implemented by the student, with no action required by the school, the student is not in need of a Section 504 Plan.* If the Plan and Placement question is answered "no," explain why the student does not need a Section 504 Plan:	**Plan & Placement Question**			
	Yes	☐	No	☐

Analyzing the Results of the Committee's Answers

1. If all four questions are answered "Yes", the student is eligible for both the nondiscrimination and FAPE (Section 504 Plan) protections of Section 504. The Section 504 Committee will create a Section 504 Plan for this Student.

2. If only the first three questions are answered "Yes", the Student is eligible for the nondiscrimination protections of Section 504, together with manifestation determination, procedural safeguards, and periodic reevaluation or more often as needed. The Section 504 Committee will not create a Section 504 Plan at this time as the Student's needs are currently being met as adequately as his nondisabled peers. Should a need develop, the Section 504 Committee shall re-convene and develop an appropriate Section 504 Plan.

3. If any of the first three answers is "NO", the Student is not eligible for Section 504 nondiscrimination protection and is not eligible for a Section 504 Plan.

Section 504 Committee's Decision The Section 504 Committee's analysis of the eligibility criteria as applied to the evaluation data indicates that at this time (check the appropriate box or boxes):	
Not Section 504 Eligible. The student is not eligible under Section 504.	☐
Section 504 Eligible + Plan. The student is eligible under Section 504, and will receive a Section 504 Plan that governs the provision of a free appropriate public education to the student. The student will receive manifestation determination, procedural safeguards, periodic reevaluation or more often as needed, as well as the nondiscrimination protections of Section 504.	☐
Section 504 Eligible + No Plan (In Remission). The student is eligible under Section 504, but will not require a Section 504 Plan because the physical or mental impairment is in remission, and there is no current need for services. The student will receive manifestation determination, procedural safeguards, periodic reevaluation or more often as needed, as well as the nondiscrimination protections of Section 504. Should the need for a Plan develop, the Section 504 Committee shall reconvene and develop an appropriate Section 504 Plan.	☐
Section 504 Eligible + No Plan (Mitigating Measures). The student is eligible under Section 504, but will not require a Section 504 Plan because the student's needs are met as adequately as his nondisabled peers due to the positive effect of mitigating measures currently in use. The student will receive manifestation determination, procedural safeguards, periodic reevaluation or more often as needed, as well as the nondiscrimination protections of Section 504. Should the need for a Plan develop, the Section 504 Committee shall reconvene and develop an appropriate Section 504 Plan. This result applies when the mitigating measures are neither provided by no implemented by the School.	☐
Section 504 Eligible + No Implemented Plan (Refusal/Revocation of Consent for Services). The Student is eligible under Section 504, but will not be served under a Section 504 Plan at this time because the Student's Parent has either refused consent for initial Section 504 Services or has revoked consent for continued Section 504 Services. The Committee will complete the Section 504 Plan, but the Plan will not be implemented due to the Parent's refusal to consent or revocation of consent. The Student will receive manifestation determination, procedural safeguards, periodic reevaluation or more often as needed, as well as the nondiscrimination protections of Section 504. Should the Parent desire Section 504 Services for the Student, the Parent will notify the Section 504 Coordinator to convene a Section 504 Meeting.	☐
Continued Section 504 Eligibility. The Student remains eligible under Section 504, and will receive an updated Section 504 Plan that governs the provision of a free appropriate public education to the student. The Student will receive manifestation determination, procedural safeguards, periodic reevaluation or more often as needed, as well as the nondiscrimination protections of Section 504. (For use with Reevaluation).	☐
Dismissal from Section 504. The Student is no longer eligible for Section 504 and is exited from the program. The Student will now receive regular education without Section 504 services. The Student will receive the nondiscrimination protections of Section 504 as a student with a record of impairment, together with procedural safeguards, but will not receive manifestation determination, or periodic reevaluation.	☐
General Education Homebound. As part of the Section 504 evaluation, the Committee considered your Student's eligibility for homebound services. The Student ☐ is ☐ is not eligible for General Education Homebound Services.	☐

Other (please describe):

Signatures below indicate Attendance at the 504 Meeting AND each person should check if they are in "Agreement" or "Non-agreement" with the eligibility determination. If they are in "Non-agreement", he/she should document the reason of non-agreement.

Signature	Position	Date	Agreement	Non-Agreement

Parents/guardians have the right to appeal the District's decisions with regard to the identification, evaluation, or accommodations of the student under Section 504. Such appeals must be put in writing and sent to the following:

Felicia Y. King-Thomas
Section 504 Coordinator
Dallas County Board of Education
Address: 429 Lauderdale Street/Selma, AL 36701
Phone: 334-876-4473

within 30 school days of receiving notice of the decision. Please consult the attached "Parent/Guardian Procedural Safeguards under Section 504 of the Rehabilitation Act of 1973" form for other appeal options.

Dallas County Board of Education
Section 504 of the Rehabilitation Act

Section 504 Team Decision Regarding Referral or Eligibility
FORM H

School Name:	

Date:	

To:	

Parent(s)/Guardian(s)

RE: The Section 504 Team Meeting held on:	For your child:

☐ The Section 504 Team met to determine whether the Section 504 referral for your child is appropriate.

☐ The Team determined to not proceed with a Section 504 evaluation.

☐ The Team determined to proceed with a Section 504 evaluation.

☐ The Section 504 Team met to evaluate your child to determine if he/she has a mental/physical impairment that substantially limits a major life activity. The attached "Section 504 Evaluation/Eligibility Determination Documentation" summarizes the result of the evaluation meeting. The decision of the Section 504 Team as to your child is that he/she is:

☐ Eligible under Section 504 ☐ Not Eligible under Section 504

***ATTACHMENT: "Parent/Guardian Procedural Safeguards under Section 504 of the Rehabilitation Act of 1973" (Form C)**

Dallas County Board of Education
Section 504 of the Rehabilitation Act

Section 504 Plan
Form I

Student Name:	**Date of Birth:**
School:	**Grade:**
Indicate here the student's mental/physical impairment and major life activity impaired.	

Type of meeting generating initial Plan or changes to Section 504 Services Plan			
☐	Initial Evaluation	☐	Manifestation Determination Evaluation
☐	Annual Review/As Needed Review	☐	Periodic Re-Evaluation (every three years)
☐	Other:		

Areas of Educational Impact:

☐ This Plan **WILL BE** implemented, beginning on:

And will continue until:

☐ This Plan **WILL NOT** be implemented due to the parent's refusal of consent for initial Section 504 services or revocation of consent for continued Section 504 services received on (date).

Required Services & Accommodations (by course). The below checklist may be used to assist in documenting the student's placement under Section 504. While checklist forms are convenient, they are also subject to confusion. Eligibility for a Plan does not mean that every service or accommodation listed on this checklist is appropriate for every student. Individual needs determined during evaluation should guide services decisions.

As the descriptions used here are brief, **please use the notes and explanation space on the next page to ensure appropriate understanding and implementation of items checked.** Note also that the following items are not the only services or accommodations available under Section 504. Attach additional pages if necessary.	**List courses from student's schedule and indicate services and accommodations required for each class.**							
Oral Testing	☐	☐	☐	☐	☐	☐	☐	☐
Oral Response	☐	☐	☐	☐	☐	☐	☐	☐
Other Testing Accommodation	☐	☐	☐	☐	☐	☐	☐	☐

Taped Texts	☐	☐	☐	☐	☐	☐	☐	☐
Taped Lecture	☐	☐	☐	☐	☐	☐	☐	☐
Note-Taking Assistance	☐	☐	☐	☐	☐	☐	☐	☐
Extended Time (by %)	☐	☐	☐	☐	☐	☐	☐	☐
Shortened Assignment (by %)	☐	☐	☐	☐	☐	☐	☐	☐
Peer Assistance/Tutoring	☐	☐	☐	☐	☐	☐	☐	☐
Reduced Paper/Pencil Tasks	☐	☐	☐	☐	☐	☐	☐	☐
Use of Calculator	☐	☐	☐	☐	☐	☐	☐	☐
Preferential Seating	☐	☐	☐	☐	☐	☐	☐	☐
Assignment Notebook	☐	☐	☐	☐	☐	☐	☐	☐
Organizational Strategies	☐	☐	☐	☐	☐	☐	☐	☐
Re-Teach Difficult Concepts	☐	☐	☐	☐	☐	☐	☐	☐
Use of Manipulatives	☐	☐	☐	☐	☐	☐	☐	☐
Team Teaching	☐	☐	☐	☐	☐	☐	☐	☐
Supplemental Materials	☐	☐	☐	☐	☐	☐	☐	☐
Cooling-Off Period	☐	☐	☐	☐	☐	☐	☐	☐
Progress Reports ( )	☐	☐	☐	☐	☐	☐	☐	☐
Technology	☐	☐	☐	☐	☐	☐	☐	☐

Does the student need a behavior plan? Yes ☐ No ☐ (If yes, Form J must be completed and attached)
Does the student require reasonable modification of District policies, practices, or procedures? Yes ☐ No ☐ (If yes, please explain below in the notes and explanation section)
Does the student receive health plan services? Yes ☐ No ☐ (If yes, please attach the student's health plan)
Accommodations required on the statewide assessment:
Related services: (provide details in additional notes and explanation section)

Tutorials	☐	Counseling	☐	Transportation	☐	Other:	☐

Signatures below indicate Attendance at the 504 Meeting AND each person should check if they are in "Agreement" or "Non-agreement" with the Section 504 Plan. If they are in "Non-agreement", he/she should document the reason of non-agreement.

Signature	Position	Date	Agreement	Non-Agreement

I provide consent for my child to be identified as a Section 504 eligible student and to receive Section 504 services as indicated.

Parent/Guardian **Date**

Dallas County Board of Education
Section 504 of the Rehabilitation Act

Section 504 Behavior Intervention Plan
FORM J

(Complete this form only if Behavior Intervention Plan is needed)

Student		**Date of Birth**	
School		**Grade**	

The behavior intervention outlined below will begin for the above-named student as of	

Behavior(s) of the student that are targeted for intervention:

Types of appropriate behavioral interventions for the student:

- ☐ Set clearly defined limits
- ☐ Seat student near teacher
- ☐ Use predetermined signaling device to cue student that a specified behavior is desired
- ☐ Supervision during unstructured time
- ☐ Reduce distracting stimuli
- ☐ Use praise to reinforce appropriate behaviors
- ☐ Assign peers to work with student
- ☐ Give frequent reminder of rules
- ☐ Use journal of daily or weekly behaviors
- ☐ Prompt student to go to a quiet area in class where noise and activity are not allowed
- ☐ Provide student with a consistent routine (daily or weekly schedule of events)

☐ Other Intervention(s) Specify:

Should a behavioral contract with the student be provided? ☐ YES ☐ NO
If so, specify below the type of behavior expected and the type of reinforcement to be used:

Does the 504 Team agree with the system of positive behavior supports for desired behaviors and consequences for opposite behaviors provided? ☐ YES ☐ NO

Desired Behavior	Rewards/Affirmations for Desired Behavior	Consequences for Undesirable Behavior	Personnel Responsible

Specify the form of communication to be used to advise parent(s)/guardian(s) of progress or lack of progress made: ☐ Daily Tracking Form ☐ Weekly Tracking Form ☐ Notes Home ☐ Phone Calls ☐ Parent Conference

Dallas County Board of Education
Section 504 of the Rehabilitation Act

Acknowledgement of Receipt of Section 504 Plan
FORM K

DATE:	

TO:	

FROM:	

(School Section 504 Designee)

Attached is a copy of the Section 504 plan to be implemented as a result of the Section 504 Team's decisions regarding the following student:

Student:		**Date of Birth:**	
School:		**Grade:**	

It is imperative that the accommodations written in the Section 504 plan be fully implemented so that the District is in compliance with Section 504, a federal law that establishes protections for students with disabilities.

Failure to comply with Section 504 law requiring rights of a student with disabilities may result in an investigation and ruling by the United States Department of Education, Office of Civil Rights (OCR). Such a ruling could result in the loss of all District federal funds as well as personal civil rights suits against District employees who fail to comply with the law.

Acknowledgement of Receipt of Section 504 Plan – To Be Signed by All Service Providers

_____ _____
Signature Date

_____ _____
Signature Date

_____ _____
Signature Date

_____ _____
Signature Date

_____ _____
Signature Date

Dallas County Board of Education
Section 504 of the Rehabilitation Act

Section 504 Manifestation Determination/Evaluation
FORM L

(To be used before any significant change in placement made for disciplinary reasons for a student eligible under a Section 504 Plan.)

Date of Section 504 Manifestation Determination Meeting	

Student:		**Date of Birth:**	
School:		**Grade:**	

Describe the specific misbehavior/actions of the student that are the basis for considering a change in placement for disciplinary reasons.

Evaluation Data Considered from a Variety of Sources
The Committee reviewed and carefully considered data gathered from a variety of sources, including the Referral Document. (Please check each type of data reviewed by the Committee, or attach copies of the data.)

Parent Input	☐	Student Work Portfolio	☐
Teacher/Administrator Input & Recommendations	☐	Special Education Records (specify)	☐
Aptitude and Achievement Tests	☐	Social or Cultural Background	☐
Other Tests	☐	Disciplinary Records/Referrals	☐
Early Intervention Data	☐	Mitigating Measures	☐
Grade Reports	☐	Adaptive Behavior	☐
School Health Information	☐	Disciplinary Records/Referrals	☐
Medical Evaluation/Diagnoses/Physical Condition	☐	Witness Statements	☐
Other	☐	Other	☐

NOTE: If information from a conversation or other data in unwritten form was considered, please document that oral data relied upon by attaching written notes summarizing the conversation.)

1. Yes ☐ No ☐ Was the misconduct caused by, or directly and substantially related to, the child's disability?

2. Yes ☐ No ☐ Was the misconduct a direct result of the District's failure to implement the Section 504 Plan?

If the answer to <u>either</u> of these two questions is YES, then the determination is that the disciplinary behavior is a manifestation of the child's disability. On the other hand, if the answer to <u>both</u> is NO, then the disciplinary behavior is not a manifestation of the child's disability.

☐ The Section 504 Team has determined that the behavior being considered for disciplinary action ***is not a manifestation of*** **the student's mental/physical disability** and the student may be disciplined in the same manner other non-disabled students.

☐ The Section 504 Team has determined that the behavior being considered for disciplinary action ***is a manifestation of the*** **student's mental/physical disability** and, as a result, the student's behavior will be addressed in the following manner:

ATTACHMENT: "Parent/Guardian Procedural Safeguards under Section 504 of the Rehabilitation Act of 1973" (FORM C)

Signatures below indicate Attendance at the 504 Meeting AND each person should check if they are in "Agreement" or "Non-agreement" with the decision of the team. If they are in "Non-agreement", he/she should document the reason of non-agreement.

Signature	Position	Date	Agreement	Non-Agreement

_____Dallas County_____ Board of Education
Section 504 of the Rehabilitation Act

Notice of Intent Regarding Section 504 Services
FORM M

The Section 504 Team considered a request to initiate or change the following checked item(s) regarding the educational program for:

Student's Name: _____

☐ Identification/Eligibility	☐ Evaluation	☐ Placement
☐ Section 504 Plan	☐ Other:	☐ Other:

DECISION
If action is required by the education agency regarding this decision, it will be implemented immediately or without unnecessary delay after the date of this letter.
BASIS FOR DECISION
DESCRIPTION OF OTHER OPTIONS CONSIDERED AND WHY THE OPTIONS WERE REJECTED

THE FOLLOWING EVALUATION PROCEDURES, ASSESSMENTS, RECORDS, AND/OR REPORTS WERE USED IN MAKING THE DECISION			
☐ Vision	☐ Observation	☐ Grades	☐ Medical Records
☐ Hearing	☐ Speech	☐ Developmental Scales	☐ Other Agency Information
☐ Intellectual	☐ Language	☐ Work Samples	☐ State Assessments
☐ Achievement	☐ Motor	☐ Discipline Records	☐ Other: _____
☐ Behavior	☐ Interview	☐ Attendance Reports	☐ Other: _____

You are fully protected under the rights addressed in your copy of the *Parental Procedural Safeguards Under Section 504 Rights* document. If you want another copy of your rights, have any questions, or wish to arrange a conference, please contact:

_____ _____
Name **Telephone**

_____ _____
Signature of Section 504 Coordinator **Date Provide/Sent**

Dallas County Board of Education
Section 504 of the Rehabilitation Act

Section 504 Complaint Form
FORM N

Last Name		**First Name/MI**			
Street Address/Apt. #					
City		**State**		**Zip Code**	
Home Phone	( )- -	**Message/Work Phone**	( )- -		
Concerning:	**Student:**	**School:**			
Relationship to Student:					

Please check below – This complaint concerns allegations of:

- ☐ A violation of Section 504 policy/procedure.
- ☐ A disagreement with the District's Section 504 decisions to identify, evaluate, and/or to make accommodations for a student (within 30 days of receiving the decision notice).
- ☐ Disability-based discrimination/harassment.

1. Please give facts about the complaint. Provide details such as names of those involved, dates whether witnesses were present, etc., that might be helpful to the complaint investigator.

2. Please supply copies of any written documents that may be relevant to/supportive of your complaint.
I have attached supporting documents: ☐ Yes ☐ No

3. Please state the resolution you are seeking

.

4. Have you discussed with or brought your complaint to any District personnel? If you have, to whom did you take your complaint, and what was the result?

.

*I certify that the above is true and correct:

_____ _____

Signature **Date**

For office use only:	Date received:		Initial:	

Attach additional sheets for details if needed. Mail or deliver complaint/documents to:

Name:

Section 504 Coordinator

Dallas County Board of Education

Address: 429 Lauderdale Street/Selma, AL 36701

Phone: 334-876-4473

PART IV

Frequently Asked Questions About Section 504

PART IV

Frequently Asked Questions About Section 504

INTRODUCTION

An important responsibility of the Office for Civil Rights (OCR) is to eliminate discrimination on the basis of disability against students with disabilities. OCR receives numerous complaints and inquiries in the area of elementary and secondary education involving Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 (Section 504). Most of these concern identification of students who are protected by Section 504 and the means to obtain an appropriate education for such students.

Section 504 is a federal law designed to protect the rights of individuals with disabilities in programs and activities that receive Federal financial assistance from the U.S. Department of Education (ED). Section 504 provides: "No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. . ."

OCR enforces Section 504 in programs and activities that receive Federal financial assistance from ED. Recipients of this Federal financial assistance include public school districts, institutions of higher education, and other state and local education agencies. The regulations implementing Section 504 in the context of educational institutions appear at 34 C.F.R. Part 104.

The Section 504 regulations require a school district to provide a "free appropriate public education" (FAPE) to each qualified student with a disability who is in the school district's jurisdiction, regardless of the nature or severity of the disability. Under Section 504, FAPE consists of the provision of regular or special education and related aids and services designed to meet the student's individual educational needs as adequately as the needs of nondisabled students are met.

This resource document clarifies pertinent requirements of Section 504.

For additional information, please contact the Office for Civil Rights.

INTERRELATIONSHIP OF IDEA AND SECTION 504

1. What is the jurisdiction of the Office for Civil Rights (OCR), the Office of Special Education and Rehabilitative Services (OSERS) and state departments of education/instruction regarding educational services to students with disabilities?

OCR, a component of the U.S. Department of Education, enforces Section 504 of the Rehabilitation Act of 1973, as amended, (Section 504) a civil rights statute which prohibits discrimination against individuals with disabilities. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), which extends this prohibition against discrimination to the full range of state and local government services, programs, and activities (including public schools) regardless of whether they receive any Federal financial assistance. The Americans with Disabilities Act Amendments Act of 2008 (Amendments Act), effective January 1, 2009, amended the Americans with Disabilities Act of 1990 (ADA) and included a conforming amendment to the Rehabilitation Act of 1973 (Rehabilitation Act) that affects the meaning of disability in Section 504. The standards adopted by the ADA were designed not to restrict the rights or remedies available under Section 504. The Title II regulations applicable to free appropriate public education issues do not provide greater protection than applicable Section 504 regulations. This guidance focuses primarily on Section 504.

Section 504 prohibits discrimination on the basis of disability in programs or activities that receive Federal financial assistance from the U.S. Department of Education. Title II prohibits discrimination on the basis of disability by state and local governments. The Office of Special Education and Rehabilitative Services (OSERS), also a component of the U.S. Department of Education, administers the Individuals with Disabilities Education Act (IDEA), a statute which funds special education programs. Each state educational agency is responsible for administering IDEA within the state and distributing the funds for special education programs. IDEA is a grant statute and attaches many specific conditions to the receipt of Federal IDEA funds. Section 504 and the ADA are antidiscrimination laws and do not provide any type of funding.

2. How does OCR get involved in disability issues within a school district?

OCR receives complaints from a parent, students or advocates, conducts agency initiated compliance reviews, and provides technical assistance to school districts, a parent or advocates.

3. Where can a school district, parent, or student get information on Section 504 or find out information about OCR's interpretation of Section 504 and Title II?

OCR provides technical assistance to school districts, a parent, and students upon request. Additionally, regulations and publicly issued policy guidance is available on OCR's website, at http://www.ed.gov/policy/rights/guid/ocr/disability.html.

4. What services are available for students with disabilities under Section 504?

Section 504 requires recipients to provide to students with disabilities appropriate educational services designed to meet the individual needs of such students to the same extent as the needs of students without disabilities are met. An appropriate education for a student with a disability under the Section 504 regulations could consist of education in

regular classrooms, education in regular classes with supplementary services, and/or special education and related services.

5. Does OCR examine individual placement or other educational decisions for students with disabilities?

Except in extraordinary circumstances, OCR does not review the result of individual placement or other educational decisions so long as the school district complies with the procedural requirements of Section 504 relating to identification and location of students with disabilities, evaluation of such students, and due process. Accordingly, OCR generally will not evaluate the content of a Section 504 plan or of an individualized education program (IEP); rather, any disagreement can be resolved through a due process hearing. The hearing would be conducted under Section 504 or the IDEA, whichever is applicable.

OCR will examine procedures by which school districts identify and evaluate students with disabilities and the procedural safeguards which those school districts provide students. OCR will also examine incidents in which students with disabilities are allegedly subjected to treatment which is different from the treatment to which similarly situated students without disabilities are subjected. Such incidents may involve the unwarranted exclusion of disabled students from educational programs and services.

6. What protections does OCR provide against retaliation?

Retaliatory acts are prohibited. A recipient is prohibited from intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Section 504.

7. Does OCR mediate complaints?

OCR does not engage in formal mediation. However, OCR may offer to facilitate mediation, referred to as "Early Complaint Resolution," to resolve a complaint filed under Section 504. This approach brings the parties together so that they may discuss possible resolution of the complaint immediately. If both parties are willing to utilize this approach, OCR will work with the parties to facilitate resolution by providing each an understanding of pertinent legal standards and possible remedies. An agreement reached between the parties is not monitored by OCR.

8. What are the appeal rights with OCR?

OCR is committed to a high quality resolution of every case. OCR affords the complainant an opportunity to appeal OCR's letters of finding(s) issued pursuant to Section 303(a) of the *Case Processing Manual*, and to request reconsideration of administrative closures or dismissals. The appeal/reconsideration process provides an opportunity for complainants to bring information to OCR's attention that would change OCR's decision. The complainant may send an appeal to the Deputy Assistant's Secretary for Enforcement within 60 days of the date of OCR's letter of finding(s). The

complainant must explain why he or she believes the factual information was incomplete, the analysis of the facts was incorrect, and/or the appropriate legal standard was not applied, and how this would change OCR's determination in the case.

9. What does noncompliance with Section 504 mean?

A school district is out of compliance when it is violating any provision of the Section 504 statute or regulations.

10. What sanctions can OCR impose on a school district that is out of compliance?

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.

11. Who has ultimate authority to enforce Section 504?

In the educational context, OCR has been given administrative authority to enforce Section 504. Section 504 is a Federal statute that may be enforced through the Departments administrative process or through the Federal court system. In addition, a person may at any time file a private lawsuit against a school district. The Section 504 regulations do not contain a requirement that a person file a complaint with OCR and exhaust his or her administrative remedies before filing a private lawsuit.

STUDENTS PROTECTED UNDER SECTION 504

Section 504 covers qualified students with disabilities who attend schools receiving Federal financial assistance. To be protected under Section 504, a student must be determined to: (1) have a physical or mental impairment that substantially limits one or more major life activities; or (2) have a record of such an impairment; or (3) be regarded as having such an impairment. Section 504 requires that school districts provide a free appropriate public education (FAPE) to qualified students in their jurisdictions who have a physical or mental impairment that substantially limits one or more major life activities.

12. What is a physical or mental impairment that substantially limits a major life activity?

The determination of whether a student has a physical or mental impairment that substantially limits a major life activity must be made on the basis of an individual inquiry. The Section 504 regulatory provision at 34 C.F.R. 104.3(j)(2)(i) defines a physical or mental impairment as any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs;

cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The regulatory provision does not set forth an exhaustive list of specific diseases and conditions that may constitute physical or mental impairments because of the difficulty of ensuring the comprehensiveness of such a list.

Major life activities, as defined in the Section 504 regulations at 34 C.F.R. 104.3(j)(2)(ii), include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. This list is not exhaustive. Other functions can be major life activities for purposes of Section 504. In the Amendments Act (see FAQ 1), Congress provided additional examples of general activities that are major life activities, including eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, and communicating. Congress also provided a non-exhaustive list of examples of "major bodily functions" that are major life activities, such as the functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. The Section 504 regulatory provision, though not as comprehensive as the Amendments Act, is still valid — the Section 504 regulatory provision's list of examples of major life activities is not exclusive, and an activity or function not specifically listed in the Section 504 regulatory provision can nonetheless be a major life activity.

13. Does the meaning of the phrase "qualified student with a disability" differ on the basis of a student's educational level, i.e., elementary and secondary versus postsecondary?

Yes. At the elementary and secondary educational level, a "qualified student with a disability" is a student with a disability who is: of an age at which students without disabilities are provided elementary and secondary educational services; of an age at which it is mandatory under state law to provide elementary and secondary educational services to students with disabilities; or a student to whom a state is required to provide a free appropriate public education under the Individuals with Disabilities Education Act (IDEA).

At the postsecondary educational level, a qualified student with a disability is a student with a disability who meets the academic and technical standards requisite for admission or participation in the institution's educational program or activity.

14. Does the nature of services to which a student is entitled under Section 504 differ by educational level?

Yes. Public elementary and secondary recipients are required to provide a free appropriate public education to qualified students with disabilities. Such an education consists of regular or special education and related aids and services designed to meet the individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met.

At the postsecondary level, the recipient is required to provide students with appropriate academic adjustments and auxiliary aids and services that are necessary to afford an individual with a disability an equal opportunity to participate in a school's program. Recipients are not required to make adjustments or provide aids or services that would result in a fundamental alteration of a recipient's program or impose an undue burden.

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

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

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

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

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

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

EVALUATION

At the elementary and secondary school level, determining whether a child is a qualified disabled student under Section 504 begins with the evaluation process. Section 504 requires the use of evaluation procedures that ensure that children are not misclassified, unnecessarily labeled as having a disability, or incorrectly placed, based on inappropriate selection, administration, or interpretation of evaluation materials.

18. What is an appropriate evaluation under Section 504?

Recipient school districts must establish standards and procedures for initial evaluations and periodic re-evaluations of students who need or are believed to need special education and/or related services because of disability. The Section 504 regulatory provision at 34 C.F.R. 104.35 (b) requires school districts to individually

evaluate a student before classifying the student as having a disability or providing the student with special education. Tests used for this purpose must be selected and administered so as best to ensure that the test results accurately reflect the student's aptitude or achievement or other factor being measured rather than reflect the student's disability, except where those are the factors being measured. Section 504 also requires that tests and other evaluation materials include those tailored to evaluate the specific areas of educational need and not merely those designed to provide a single intelligence quotient. The tests and other evaluation materials must be validated for the specific purpose for which they are used and appropriately administered by trained personnel.

19. How much is enough information to document that a student has a disability?

At the elementary and secondary education level, the amount of information required is determined by the multi-disciplinary Team gathered to evaluate the student. The Team should include persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. The Team members must determine if they have enough information to make a knowledgeable decision as to whether or not the student has a disability. The Section 504 regulatory provision at 34 C.F.R. 10435(c) requires that school districts draw from a variety of sources in the evaluation process so that the possibility of error is minimized. The information obtained from all such sources must be documented and all significant factors related to the student's learning process must be considered. These sources and factors may include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior. In evaluating a student suspected of having a disability, it is unacceptable to rely on presumptions and stereotypes regarding persons with disabilities or classes of such persons. Compliance with the IDEA regarding the group of persons present when an evaluation or placement decision is made is satisfactory under Section 504.

20. What process should a school district use to identify students eligible for services under Section 504? Is it the same process as that employed in identifying students eligible for services under the IDEA?

School districts may use the same process to evaluate the needs of students under Section 504 as they use to evaluate the needs of students under the IDEA. If school districts choose to adopt a separate process for evaluating the needs of students under Section 504, they must follow the requirements for evaluation specified in the Section 504 regulatory provision at 34 C.F.R. 104.35. 21.

21. May school districts consider "mitigating measures" used by a student in determining whether the student has a disability under Section 504?

No. As of January 1, 2009, school districts, in determining whether a student has a physical or mental impairment that substantially limits that student in a major life activity, must not consider the ameliorating effects of any mitigating measures that student is using. This is a change from prior law. Before January 1, 2009, school districts

had to consider a student's use of mitigating measures in determining whether that student had a physical or mental impairment that substantially limited that student in a major life activity. In the Amendments Act (see FAQ 1), however, Congress specified that the ameliorative effects of mitigating measures must not be considered in determining if a person is an individual with a disability.

Congress did not define the term "mitigating measures" but rather provided a non-exhaustive list of "mitigating measures." The mitigating measures are as follows: 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; oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; and learned behavioral or adaptive neurological modifications.

Congress created one exception to the mitigating measures analysis. The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining if an impairment substantially limits a major life activity. "Ordinary eyeglasses or contact lenses" are lenses that are intended to fully correct visual acuity or eliminate refractive error, whereas "low-vision devices" (listed above) are devices that magnify, enhance, or otherwise augment a visual image.

22. Does OCR endorse a single formula or scale that measures substantial limitation?

No. The determination of substantial limitation must be made on a case-by-case basis with respect to each individual student. The Section 504 regulatory provision at 34 C.F.R. 104.35 (c) requires that a group of knowledgeable persons draw upon information from a variety of sources in making this determination.

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. As noted in FAQ 22, the Section 504 regulations require school districts to draw upon a variety of sources in interpreting evaluation data and making placement decisions.

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 minor limitation in that regard.

26. How should a recipient school district handle an outside independent evaluation? Do all data brought to a multi-disciplinary Team need to be considered and given equal weight?

The results of an outside independent evaluation may be one of many sources to consider. Multi-disciplinary Teams must draw from a variety of sources in the evaluation process so that the possibility of error is minimized. All significant factors related to the subject student's learning process must be considered. These sources and factors include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior, among others. Information from all sources must be documented and considered by knowledgeable Team members. The weight of the information is determined by the Team given the student's individual circumstances.

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

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

28. Who in the evaluation process makes the ultimate decision regarding a student's eligibility for services under Section 504?

The Section 504 regulatory provision at 34 C.F.R.104.35 (c) (3) requires that school districts ensure that the determination that a student is eligible for special education and/or related aids and services be made by a group of persons, including persons knowledgeable about the meaning of the evaluation data and knowledgeable about the placement options. If a parent disagrees with the determination, he or she may request a due process hearing.

29. Once a student is identified as eligible for services under Section 504, is there an annual or triennial review requirement? If so, what is the appropriate

process to be used? Or is it appropriate to keep the same Section 504 plan in place indefinitely after a student has been identified?

Periodic re-evaluation is required. This may be conducted in accordance with the IDEA regulations, which require re-evaluation at three-year intervals (unless the parent and public agency agree that re-evaluation is unnecessary) or more frequently if conditions warrant, or if the child's parent or teacher requests a re-evaluation, but not more than once a year (unless the parent and public agency agree otherwise).

30. Is a Section 504 re-evaluation similar to an IDEA re-evaluation? How often should it be done?

Yes. Section 504 specifies that re-evaluations in accordance with the IDEA is one means of compliance with Section 504. The Section 504 regulations require that re-evaluations be conducted periodically. Section 504 also requires a school district to conduct a re-evaluation prior to a significant change of placement. OCR considers an exclusion from the educational program of more than 10 school days a significant change of placement. OCR would also consider transferring a student from one type of program to another or terminating or significantly reducing a related service a significant change in placement.

31. What is reasonable justification for referring a student for evaluation for services under Section 504?

School districts may always use regular education intervention strategies to assist students with difficulties in school. Section 504 requires recipient school districts to refer a student for an evaluation for possible special education or related aids and services or modification to regular education if the student, because of disability, needs or is believed to need such services.

32. A student is receiving services that the school district maintains are necessary under Section 504 in order to provide the student with an appropriate education. The student's parent no longer wants the student to receive those services. If the parent wishes to withdraw the student from a Section 504 plan, what can the school district do to ensure continuation of services?

The school district may initiate a Section 504 due process hearing to resolve the dispute if the district believes the student needs the services in order to receive an appropriate education.

33. A student has a disability referenced in the IDEA, but does not require special education services. Is such a student eligible for services under Section 504?

The student may be eligible for services under Section 504. The school district must determine whether the student has an impairment which substantially limits his or

her ability to learn or another major life activity and, if so, make an individualized determination of the child's educational needs for regular or special education or related aids or services. For example, such a student may receive adjustments in the regular classroom.

34. How should a recipient school district view a temporary impairment?

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 either the duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity of the affected individual.

In the Amendments Act (see FAQ 1), Congress clarified that an individual is not "regarded as" an individual with a disability if the impairment is transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

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

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

PLACEMENT

Once a student is identified as being eligible for regular or special education and related aids or services, a decision must be made regarding the type of services the student needs.

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

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

37. Must a school district develop a Section 504 plan for a student who either "has a record of disability" or is "regarded as disabled"?

No. In public elementary and secondary schools, unless a student actually has an impairment that substantially limits a major life activity, the mere fact that a student has a

"record of' or is "regarded as" disabled is insufficient, in itself, to trigger those Section 504 protections that require the provision of a free appropriate public education (FAPE). This is consistent with the Amendments Act (see FAQ 1), in which Congress clarified that an individual who meets the definition of disability solely by virtue of being "regarded as" disabled is not entitled to reasonable accommodations or the reasonable modification of policies, practices or procedures. The phrases "has a record of disability" and "is regarded as disabled" are meant to reach the situation in which a student either does not currently have or never had a disability, but is treated by others as such.

As noted in FAQ 34, in the Amendments Act (see FAQ 1), Congress clarified that an individual is not "regarded as" an individual with a disability if the impairment is transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

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

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

39. What are the responsibilities of regular education teachers with respect to implementation of Section 504 plans? What are the consequences if the district fails to implement the plans?

Regular education teachers must implement the provisions of Section 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 Section 504.

40. What is the difference between a regular education intervention plan and a Section 504 plan?

A regular education intervention plan is appropriate for a student who does not have a disability or is not suspected of having a disability but may be facing challenges in school. School districts vary in how they address performance problems of regular education students. Some districts employ Teams at individual schools, commonly

referred to as "building Teams." These Teams are designed to provide regular education classroom teachers with instructional support and strategies for helping students in need of assistance. These Teams are typically composed of regular and special education teachers who provide ideas to classroom teachers on methods for helping students experiencing academic or behavioral problems. The Team usually records its ideas in a written regular education intervention plan. The Team meets with an affected student's classroom teacher(s) and recommends strategies to address the student's problems within the regular education environment. The Team then follows the responsible teacher(s) to determine whether the student's performance or behavior has improved. In addition to building Teams, districts may utilize other regular education intervention methods, including before- school and after-school programs, tutoring programs, and mentoring programs.

PROCEDURAL SAFEGUARDS

Public elementary and secondary schools must employ procedural safeguards regarding the identification, evaluation, or educational placement of persons who, because of disability, need or are believed to need special instruction or related services.

41. Must a recipient school district obtain parental consent prior to conducting an initial evaluation?

Yes. OCR has interpreted Section 504 to require districts to obtain parental permission for initial evaluations. If a district suspects a student needs or is believed to need special instruction or related services and parental consent is withheld, the IDEA and Section 504 provide that districts may use due process hearing procedures to seek to override the a parent' denial of consent for an initial evaluation.

42. If so, in what form is consent required?

Section 504 is silent on the form of parental consent required. OCR has accepted written consent as compliance. IDEA, as well as many state laws, also requires written consent prior to initiating an evaluation.

43. What can a recipient school district do if a parent withholds consent for a student to secure services under Section 504 after a student is determined eligible for services?

Section 504 neither prohibits nor requires a school district to initiate a due process hearing to override a parental refusal to consent with respect to the initial provision of special education and related services. Nonetheless, school districts should consider that IDEA no longer permits school districts to initiate a due process hearing to override a parental refusal to consent to the initial provision of services.

44. What procedural safeguards are required under Section 504?

Recipient school districts are required to establish and implement procedural safeguards that include notice, an opportunity for a parent to review relevant records, an impartial hearing with opportunity for participation by the student's a parent or guardian, representation by counsel and a review procedure.

45. What is a recipient school district's responsibility under Section 504 to provide information to a parent and students about its evaluation and placement process?

Section 504 requires districts to provide notice to a parent explaining any evaluation and placement decisions affecting their children and explaining the a parent' right to review educational records and appeal any decision regarding evaluation and placement through an impartial hearing.

46. Is there a mediation requirement under Section 504?

No. However, the District provides and encourages mediation in order to resolve Section 504 disputes.

TERMINOLOGY

The following terms may be confusing and/or are frequently used incorrectly in the elementary and secondary school context.

Equal access: equal opportunity of a qualified person with a disability to participate in or benefit from educational aid, benefits, or services

Free appropriate public education (FAPE): a term used in the elementary and secondary school context; for purposes of Section 504, refers to the provision of regular or special education and related aids and services that are designed to meet individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met and is based upon adherence to procedures that satisfy the Section 504 requirements pertaining to educational setting, evaluation and placement, and procedural safeguards

Placement: a term used in the elementary and secondary school context; refers to regular and/or special educational program in which a student receives educational and/or related services

Reasonable accommodation: a term used in the employment context to refer to modifications or adjustments employers make to a job application process, the work environment, the manner or circumstances under which the position held or desired is customarily performed, or that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment; this term is sometimes used incorrectly to refer to related aids and services in the elementary and secondary school

context or to refer to academic adjustments, reasonable modifications, and auxiliary aids and services in the postsecondary school context

Reasonable modifications: under a regulatory provision implementing Title II of the ADA, public entities are required to make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity

Related services: a term used in the elementary and secondary school context to refer to developmental, corrective, and other supportive services, including psychological, counseling and medical diagnostic services and transportation.