



Section 504 of the Rehabilitation Act of 1973 Administrative Guidelines

**Special Programs
2022-2023**

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Section 504

General Overview of Laws, Regulations and Guidelines

Introduction

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 or under any program or activity conducted by an Executive agency or by the United States Postal Service...” 29 U.S.C. §794(a).

Codified at 29 USC 701 et seq., Section 504 is part of the Rehabilitation Act of 1973. The Rehabilitation Act of 1973 was the first major legislative effort to secure an equal playing field for individuals with disabilities.

Section 504 prohibits discrimination against individuals with disabilities by federal fund recipients and requires that those recipients make the programs and activities they offer accessible to everyone. Recipients of federal funds for the U.S. Department of Education (ED) include public school districts, institutions of higher education, and other state and local education agencies.

The purpose of Section 504 is to level the playing field and to afford students with disabilities equal opportunities to obtain the same results, to gain the same benefits, or to reach the same level of achievement as their nondisabled peers.

Section 504 does not guarantee success for students with disabilities; it does guarantee an equal opportunity for success through a “free appropriate public education.”

Section 504 overlaps with the requirements of other laws for federal fund recipients. Elementary and secondary schools must comply with the Individuals with Disabilities Education Act (IDEA), for example, the American with Disabilities Act (ADA), and the Elementary and Secondary Education Act (ESEA). All children with disabilities who are protected under the IDEA also are covered under Section 504; however, the converse is not the case.

Disability Defined

To be eligible under Section 504, a student must be determined, as a result of an evaluation, to have a “physical or mental impairment” that substantially limits one or more major life activities.” 29 USC 705(20)(B). Section 504 covers qualified students with disabilities who attend schools receiving Federal financial assistance. A person has a disability (within the meaning of Section 504) if he:

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

Section 504 requires the school districts to provide a free appropriate public education (FAPE) to qualified students in their jurisdiction who have a physical or mental impairment that substantially limits one or more major life activities.

Mental or Physical Impairment

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 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 [intellectual disability], 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.

Conditions Not Covered. The Rehabilitation Act does list conditions that are not covered, including homosexuality, bisexuality, transvestism, transsexualism, compulsive gambling, kleptomania, pyromania, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, other sexual behavior disorders, and psychoactive substance use disorders resulting from the current illegal use of drugs. 29 USC 705(20)(F). The law also does not cover individuals who currently are engaging in the illegal use of drugs. 29 USC 705(20)(C).

Pregnancy. Although pregnancy is not a disability, a disability may arise when pregnancy-related conditions substantially limit a major life activity. For eligibility under §504, the §504 Committee must determine whether the student herself, has a medical or physical impairment that substantially limits one or major life activities.

Pregnancy Related Services (PRS) are addressed in the *TEA Student Attendance Accounting Handbook* http://tea.texas.gov/Finance_and_Grants/Financial_Compliance/Student_Attendance_Accounting_Handbook/ If the student is eligible for PRS, she could receive CEHI (Compensatory Education Home Instruction). The standard for PRS is whether there is a “medical necessity” confining the student to the home.

Temporary Impairments. A temporary impairment is an impairment with an actual or expected duration of six months or less, according to OCR’s guidance in 2009. The §504 Committee must determine whether the impairment substantially limits one or more major life activities and must be determine by examining the extent, duration, and impact of the impairment. The ADA Amendments Act, which amends the Rehabilitation Act, specifies, that impairments that are minor or transitory (lasting six months or less) do not qualify for “regarded as” protection.

Major Life Activities and Major Bodily Functions

Under the ADAAA, “major life activities” is expanded to include “major bodily functions.” The statute contains a non-exhaustive list of “major life activities” that adds additional activities to those currently listed in the ADA and Section 504 regulations, and a non-exhaustive list of “major bodily functions.” Specifically, the ADAAA provides that:

- **Major life activities**, as defined in the Section 504 regulations at 34 C.F.R. 104.3(j)(2)(ii), include but are not limited to, caring for one's self, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.
- **Major bodily functions** include, but are not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

Substantially Limits

“Substantially limits” does not mean “significantly restricted.” When considering the question, “Does the physical or mental impairment substantially limit a major life activity?” the 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.

Ameliorative Effects of Mitigating Measures. The law says when making a determination about whether an impairment meets the definition of a disability, it should be done “without regard to the ameliorative effects of mitigating measures. The ADA requires that when making a determination on whether or not the student is “substantially limited” the Committee should not consider the ameliorative (helpful or positive) effects of mitigating measures (except for ordinary eyeglasses or contact lenses). Ameliorative effects of mitigating measures could include:

- Medication
- Medical devices
- Equipment or appliances
- Low-vision devices (which do not include ordinary eyeglasses or contact lenses)
- Prosthetics including limbs and devices
- Hearing aids, cochlear implants, and other implantable hearing devices
- Mobility devices
- Oxygen therapy equipment and devices
- Assistive technology
- Reasonable accommodations, auxiliary aids, and services
- Learned behavioral or adaptive neurological modifications

Episodic Impairments. 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.

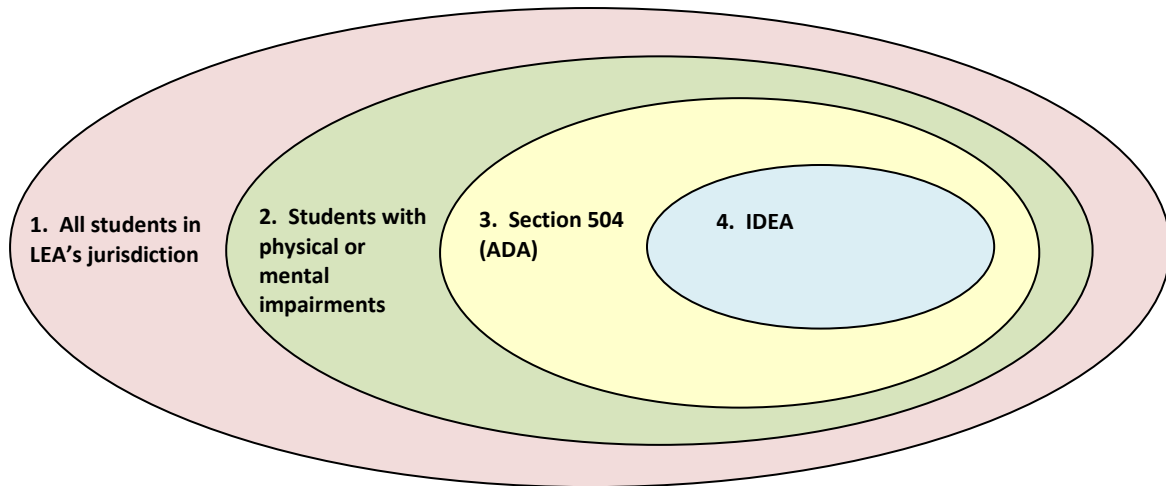
Uncertainty on ‘Substantially Limited’. If at the conclusion of the evaluation the Committee is uncertain as to whether the student is sufficiently impacted by the impairments to be substantially limited (but has been able to identify impairment(s) and impact to one or more major life activities), then due to Congress’ expressed desire for expanded eligibility and the less demanding substantial limitation standard after the ADA, the student should be considered substantially limited.

Individuals with A Record of or Regarded as Having a Disability. The definition of disability includes individuals who have a record or history of an impairment that substantially limits a major life activity. This provision protects individuals who were misclassified or who have recovered from a physical or mental impairment. Simply put, a student is protected from discrimination on the basis of disability under Section 504 if a district treats him as if he has an impairment, even if he no longer has such an impairment and even if he never had an impairment in the first place. 29 USC 705(20)(B)(iii); 34 CFR 104.3(j)(2)(iii). It’s often the case that a student who has been dismissed from eligibility falls in the “regarded as” category.

In January of 2009, the provisions of the Americans with Disabilities Act Amendments Act (ADAAA) went into effect. This legislation significantly changed Section 504 eligibility. In January of 2012, the U.S. Department of Education (ED) issued a guidance letter with an attached question and answer document addressing the changes. Further, the Office for Civil Rights (OCR) has released a number of letters of findings with respect to ADAAA issues, and has updated a Q&A document to address these changes. This document, *Protecting Students with Disabilities: Frequently Asked Questions about Section 504 and the Education of Children with Disabilities*, an FAQ from OCR-Chicago (last revised December 19, 2013), is available on the OCR website at <http://www.ed.gov/about/offices/list/ocr/504faq.html>. (Appendix A) To date, there has been no change in Section 504 regulations.

Section 504, General Education, and Special Education

The following diagram and summary are provided as a way to visualize the relationship among general education, Section 504 and the IDEA.



All students in the LEA's jurisdiction. The outside oval represents all the students who have a right to attend school in the school district (Local education agency or "LEA"). These are student within the age-range or other means. All of the other ovals are subsets of this group of students. Since all students are regular education students first, each group of students in the diagram has the right and privileges of a regular education student *together with* any additional rights resulting from eligibility under ovals 3 or 4.

1. **Students with physical or mental impairments.** This group is actually co-extensive with the first oval, but is shown as smaller to aid understanding of the various relationships. Note that having a physical or mental impairment, even an impairment diagnosed by a medical doctor, does not automatically make a student Section 504-or IDEA-eligible.
2. **Section 504 (ADA).** Those are students who have a right to attend the public schools of the districts and have a physical or mental impairment that substantially limits one or more major life activities, have a record of such impairment or are regarded as impaired. Some, but not all, students with current impairments will receive a Section 504 Plan in addition to the regular education services available to all students. All Section 504-eligible students receive protection from discrimination (described previously) and a short list of procedural safeguards "that includes notice, an opportunity for the parents or guardians of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parents or guardians and representation by counsel, and a review procedure." 34 C.F.R. §104.36
3. **IDEA.** The final oval represents a district's special education population. These are students with impairments that fit one of the recognized categories for eligibility under the IDEA (Learning Disabled, Other Health Impaired, etc.) and, because of disability, need special education and related services. Compared to their Section 504 counterparts, these students are typically more severely disabled and due to that level of disability need access to specially designed instruction in order to receive educational benefit. IDEA eligibility always results in the creation of an IEP—an individualized educational plan based on evaluation data and designed to provide the student with meaningful progress. Substantial parent and student rights (with corresponding school obligations) and extensive procedural requirements ensure that a student's IDEA rights are protected.

Note that IDEA students, in addition to their IDEA rights, also enjoy the nondiscrimination protection of Section 504. All IDEA students would also meet the eligibility standard of Section 504. "In order to be eligible for services under the

IDEA, a child must be found to have one or more of the 13 disability categories specified and must also be found to need special education. OCR can not conceive of any situation in which these children would not also be entitled to the protections extended by Section 504.” *Letter to Mentink*, 19 IDELR 1127 (OCR 1993). That’s why the IDEA oval fits inside the Section 504 oval, and why special education students can, under Section 504 and the ADA, sue alleging disability harassment or bring service animals to school.

While all students who are eligible under IDEA, are also eligible under Section 504, decisions with respect to a special education student’s identification, evaluation and placement have to be made pursuant to IDEA requirements. An IDEA-eligible student cannot be served by a Section 504 plan, since the Section 504 plan is neither created nor maintained through the more stringent procedural protections of the IDEA. A school attempting to comply with its IDEA duties to a child by offering a Section 504 Plan denies the IDEA-eligible student the procedural protections due under IDEA.

“If a student is eligible for services under both IDEA and Section 504, must a school district develop both an individualized education plan (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 Section 504 regulations, one way to meet Section 504 requirements for a free appropriate education is to implement an IEP.”

See Section 504/IDEA Comparison Chart (Appendix B)

Compliance Operational Guidelines for Section 504

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

Referral. The District shall refer for an evaluation of any student who, "because of handicap, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in regular or special education and any subsequent significant change in placement." 34 CFR §104.35(a). Students with physical or mental impairments whose needs are addressed through early intervention, RtI, or health plans will not be excluded from consideration for possible Section 504 referral, even when current interventions, services or health plans successfully address their impairment-related needs. The Parent may also initiate a Section 504 referral.

When a §504 referral has been initiated, the Section 504 Referral Form [hereinafter, "Referral Form"] should be quickly forwarded to the Campus or District §504 Coordinator [hereinafter "Coordinator"]. The Referral Form is designed to be filled in by the person initiating the referral, but may be supplemented as necessary by the Coordinator, utilizing information from the student's cumulative folder, but also other sources. From the basic information, the Coordinator shall forward the Notice of Parent Rights form to the Parents, with a note explaining why the Referral did not lead to a §504 Evaluation at this time.

Consent for Evaluation. If a §504 Evaluation is necessary, the Coordinator should send the Parent Notice of Parent Rights under §504 [hereinafter, "Parent Rights"], together with a Notice and Consent for Initial Evaluation under §504 form, and a Parent Input for Section 504 Evaluation form. If no parental consent is received for §504 Evaluation, the Coordinator should remind the Parent every semester (or at other intervals as determined by the District) of the District's continued desire to conduct an Evaluation under §504.

Evaluation. When the consent is received from the parent, the Coordinator should:

- a) Coordinate the completion of the various Input Documents, including evaluation data submitted by the student's teacher(s). The evaluation data consists of information from a variety of sources, including efforts and results of early intervention activities, aptitude and achievement testing, teacher recommendations, student's historical and current physical and mental condition (including data on conditions in remission and episodic conditions), social or cultural background, adaptive behavior, and mitigating measures; the Teacher Input form to be completed by one or more teachers, and the Parent Input form with information about the Student's activities/behaviors at home, health and medical records if available, and any other data the parent would like the Committee to consider. Should current special education data exist (an evaluation upon which a Student was either dismissed from special education or upon which a finding of no IDEA eligibility was made), that data should also be considered.
- b) Ensure that, should formalized testing be considered by the §504 Committee as evaluation data, the tests:
 - 1) Have been validated for the specific purpose for which they are used and are administered by trained personnel in accordance with the instructions provided by the tests' creators;

- 2) Include those tailored to assess specific areas of educational need and are not merely designed to provide a single intelligence quotient;
 - 3) Are selected and administered to ensure that when a test is administered to a student with impaired sensory, manual, or speaking skills, the tests results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).
- c) Determine who will be in the group of knowledgeable people [hereinafter, the §504 Committee" or "Committee"] (including persons with knowledge of the Child, the meaning of the evaluation data and the placement options).
 - d) Schedule a §504 Evaluation by the Committee.
 - e) Give the parent(s) notice of the time and place of the evaluation meeting, inviting the parent(s) to attend (if that is the District's policy). Written notice, while not required, is preferred, and can be accomplished utilizing a Notice of Section 504 Meeting form.

At the §504 Evaluation, the Committee should:

- a) Draw upon information from a variety of sources, including, but not limited to, efforts and results of early intervention activities, aptitude and achievement testing, teacher recommendations, physical condition, social or cultural background, adaptive behavior and the Parent and Teacher/Administrator input forms.
- b) Ensure that all information reviewed in the evaluation is documented and carefully considered, and that Section 504 decisions are made consistently with the Americans with Disabilities Act Amendments Act of 2008, including appropriate consideration of mitigating measure (as provided in paragraph 16 of these Operational Guidelines), recognition of changes made to major life activities, the appropriate consideration of impairments that are episodic or in remission, and Congressional declarations on the definition of substantial limitation.
- c) Complete the Section 504 Evaluation form. If the Student is determined to be eligible [hereinafter, "eligible student"] and is determined to need accommodations, aids or services from the school, the Committee moves on to the Section 504 Student Services Plan [hereinafter, "Services Plan"] form to develop appropriate services and accommodations. If no eligibility is found, the parents are so informed in writing.
- d) Should the parent refuse consent to the initial provision of Section 504 services by completing, signing, and returning the *Parent Refusal to Consent or Revocation of Services* form (provided by District Section 504 Coordinator) to the campus or district Section 504 Coordinator, the Services Plan should be appropriately annotated with the parent's refusal to consent. Section 504 services detailed on the Services Plan will not be provided to the Student, but the completed plan will serve as documentation of the District's offer of FAPE to the student.

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

Records. Section 504 records, including any evaluation data, shall be kept in a separate §504 folder under the control of the Coordinator, as part of the Student's cumulative folder, or in any other location determined to be appropriate by the District or campus. Regardless of location, the District will maintain the confidentiality of §504 records as required by the Family Educational Rights and Privacy Act (FERPA). Where §504 records are kept separately from the cumulative folder,

a reference to the records and their location will be placed in the cumulative folder to ensure that the campus with responsibility for the student is aware of its §504 obligations to the eligible student and that personnel and third-party contractors who have a duty to implement the plan have access to necessary records including the plan itself.

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

- a. **Appropriate.** The §504 services are designed to meet the individual needs of the eligible Student as adequately as the needs of nondisabled students and are based upon adherence to the regulatory procedures relating to educational setting, evaluation and placement, and procedural safeguards. The Committee may place an eligible student in a program that the District does not operate in order to satisfy this requirement, but in so doing, the District remains responsible for ensuring that the requirements of §504 are met.
- b. **Free.** An eligible student's educational program provided under §504 is provided without cost to the parent of the eligible student, regardless of where those services are provided or by whom. Should the Committee determine that placement in a program not operated by the District is required for the eligible student to receive FAPE, the District shall ensure that adequate transportation is provided to and from the program at no greater cost than would be incurred by the eligible student or his/her parents or guardians if the student were placed in the program operated by the District. The only costs of educational services that may be assessed the eligible student are those borne by nondisabled students and their parents (such as tickets to athletic events, purchases of yearbooks, gym clothes, etc.). When the District has made available a FAPE as required by §504, and the eligible student or his/her parents or guardians choose to place the student in a private school, the District is not required to pay for the eligible student's education in the private school.

Parental Rights to Refuse Consent & Revoke Consent for Section 504 Services. The District recognizes the parent's right to refuse consent for initial Section 504 services as well as to revoke consent for continued Section 504 services at any time. The parent may exercise the right to refuse consent or revoke consent by completing, signing, and returning *Parent Refusal to Consent or Revocation of Services* form (provided by Campus Section 504 Coordinator) to the campus or district §504 Coordinator. In the absence of a *Parent Refusal to Consent or Revocation of Services* form written refusal or revocation, the District will assume that the parent consents to Section 504 services. *See, for example, Tyler (TX) ISD, 56 IDELR 24 (OCR 2010)* (no parent signature required by the Section 504 regulations in order to implement a 504 Services Plan). Following either a refusal to consent or revocation of consent, the parent may consent to §504 services at any time (as long as the student remains eligible for §504 Services) by contacting the §504 CampusCoordinator to schedule a Section 504 meeting.

Least Restrictive Environment (LRE). The Committee shall create a placement for the eligible student that ensures the provision of educational services with persons who are not disabled to the maximum extent possible appropriate to the needs of the eligible student. The Committee will presume that the regular classroom is the appropriate placement, unless it is demonstrated that the eligible student's education in the regular classroom with the use of supplementary aids and services cannot be achieved satisfactorily. Should the Committee place an eligible student in a setting other than the regular classroom, it shall take into account the proximity of the alternative setting to the eligible student's home.

NonAcademic Services & Extracurricular Activities. The District shall ensure that the provision of nonacademic and extracurricular services and activities (such as meals, recess, counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the recipients, referrals to agencies which provide assistance to handicapped persons, and employment of students, including both employment by the recipient and assistance in making available outside employment) are provided so that:

- a. Eligible students are afforded an equal opportunity to participate in such service and activities.
- b. Eligible students participate with nondisabled students to the maximum extent appropriate to the needs of the eligible student.

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

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

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

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

Implementation of the Section 504 Services Plan. The District or Campus §504 Coordinator should ensure that the Student’s Services Plan is delivered to each teacher, administrator, and any other employee or third-party contractor with responsibility to implement the plan. Monitoring of Services Plan implementation should be accomplished through parent input, the teacher appraisal process, review of teacher documentation, walkthroughs, and informal checks of the student’s academic, emotional, behavioral, and social progress by the Coordinator and appropriate administrators.

Re-Evaluation. At least every three years, the 504 Committee should meet to conduct a periodic re-evaluation of students on Section 504 Services Plans as well as those students who are eligible under Section 504 but not in need of a Section 504 Services Plan at this time.

Re-evaluation should also occur prior to any significant change of placement and whenever necessary to ensure the continued provision of FAPE. It is also the District’s practice to conduct annual reviews when no periodic re-evaluation is required. Prior to a re-evaluation, the District will provide the parents with notice of the time and place of the re-evaluation meeting, inviting the parent to attend if that is the District’s policy. Written notice, while not required, is preferred, and can be accomplished utilizing the Notice of Section 504 Meeting form. If the student remains eligible and in need of a Services Plan, the Committee should focus on the Student’s changing needs due to the effects of different classroom subject matter, school demands and other factors. Should the Committee determine that the student is no longer eligible, the Committee should dismiss the student from 504. The Parent shall be given notice of the results of the re-evaluation.

Discipline. The following disciplinary provisions apply to students who are in receipt of a Section 504 Services Plan, together with students who are eligible under Section 504 as students with a physical or mental impairment that substantially limits one or more major life activities, but who are not in need of a Section 504 Services Plan at this time (either because the impairment is in remission or because the students have no need for a Service Plan due to the positive effects of mitigating measures currently in place). Should the District initiate a disciplinary removal of the eligible student from his educational placement for a term of more than ten consecutive school days, the §504 Committee must first conduct an evaluation, *considering various sources of data recent enough to afford an understanding of the*

behavior and disability, which includes manifestation determination, and provide the Parent with another copy of the Notice of Rights. Prior to the evaluation, the Coordinator shall give the Parents notice of the time and place of the evaluation meeting, inviting the Parent to attend if that is the District's policy.

Written notice, while not required, is preferred, and can be accomplished utilizing the Notice of Section 504 Meeting form. The Committee's evaluation should determine:

- (1) Was the conduct in question caused by, or directly and substantially related to the student's disabilities? and,
- (2) Was the conduct in question the direct result of the school's failure to implement the student's §504 plan?

If a link is found, a disciplinary removal of longer than ten consecutive school days cannot occur.

Removals for less than ten days can be effected without §504 Committee approval, subject to the "pattern of exclusion" rule. A series of short removals (including teacher removals under §37.002 of the Texas Education Code) over the course of the school year that exceeds ten total days may constitute a pattern of exclusion that triggers applicable procedural safeguards (a manifestation determination evaluation and a right to due process), and requires the school to provide the Parent with another copy of the Notice of Rights. The Committee will meet to conduct an evaluation prior to the tenth cumulative day of removals during a school year, to determine: (1) was the conduct in question caused by, or directly and substantially related to the student's disabilities? and (2) was the conduct in question the direct result of the school's failure to implement the student's 504 plan? Prior to the evaluation, the Coordinator shall give the parents notice of the time and place of the evaluation meeting, inviting the parent to attend if that is the district's policy. Written notice, while not required, is preferred, and can be accomplished utilizing the Notice of Section 504 Meeting form. If at the evaluation meeting a link is determined, the disciplinary removal cannot occur.

An eligible student who currently is engaging in the illegal use of drugs or in the use of alcohol may be removed from his educational placement for a drug or alcohol offense to the same extent that such disciplinary action is taken against nondisabled students. Further, no §504 Evaluation is required prior to the removal and no §504 due process hearing is available.

Interaction with Special Education. Each student evaluated for special education who does not qualify, as well as each student who is dismissed from special education, shall be considered for possible referral for a Section 504 evaluation on a case-by-case basis. If at any time the §504 Committee determines that the disabled student needs special education or related aids and services in order to receive educational benefit, a special education referral should be initiated. With respect to students who are no longer served by special education due to parents' revocation of consent for continued special education services, the school will offer a Section 504 evaluation. The school should make reasonable efforts to explain to the parents the §504 process and potential protections in these situations. Should the parents refuse consent for a §504 evaluation, the school will document such refusal.

Interaction with Texas Dyslexia Law. In accordance with State Board of Education Rule and the Revised Procedures Concerning Dyslexia (Texas Dyslexia Handbook, 2018), prior to testing a student individually for Dyslexia and/or prior to providing a student with dyslexia services, the District must refer and evaluate under Section 504. The provision of dyslexia instructional services to a §504-eligible student may only be accomplished by a properly constituted §504 Committee. If at any time the §504 Committee determines that the disabled student needs special education and related services in order to receive educational benefit, a special education referral should be initiated. If the student is currently undergoing special education assessment (but is not yet IDEA-eligible) or if the student is already IDEA-eligible, a dyslexia evaluation for the student must occur under the direction of the Student's ARD Committee.

Interaction with regular education Early Intervention efforts. In an effort to meet the needs of struggling students as early as possible, and to reduce the misidentification of students in both Section 504 and special education, the District uses an early intervention process, referred to as Problem Solving Support Team (PSST). This simple, campus-based process is designed to assist students struggling for any number of reasons (family issues, lack of motivation, poverty, etc) and in any number of ways (academically, socially, behaviorally) by providing, appropriate to the student's needs,

differentiated instruction, as well as additional regular education intervention programs, services and opportunities that may vary from campus to campus. Data from these efforts is shared with the parent, and will become part of any Section 504 or special education evaluation. These efforts are available to all students, including students with disabilities. Should regular education, together with these early intervention efforts be insufficient to meet the needs of the struggling student, or there are grounds to suspect that the student has a physical or mental impairment, the District should consider seeking parental consent for an evaluation under Section 504 or special education, as appropriate to the student. Further, students with physical or mental impairments whose needs are addressed through early intervention, Rtl, or health plans will not be excluded from consideration for possible Section 504 referral, even when current interventions, services or health plans successfully address their impairment-related needs.

Mitigating Measures and Development of Section 504 Plans. Pursuant to the ADA, the determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as—medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; or learned behavioral or adaptive neurological modifications. The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity. Section 504 Services plans, however, shall not be developed unless needed, at the time, in order for the student to have his needs met as adequately as those of nondisabled students. Should need develop, the Section 504 Committee shall develop an appropriate Services Plan. Further, students with physical or mental impairments whose needs are addressed through early intervention, Rtl, or health plans will not be excluded from consideration for possible Section 504 referral, even when current interventions, services or health plans successfully address their impairment-related needs.

Procedural Protections. The following protections apply regardless of whether the eligible student currently receives a Section 504 Services Plan. The District will ensure that a system of procedural safeguards is in place with respect to actions regarding the identification, evaluation, and educational placement of disabled students. The system shall include notice, an opportunity for the parent or guardian of the disabled student to examine relevant records, an impartial hearing with opportunity for participation by the student's parent or guardian and representation by counsel, and a review procedure. The impartial hearing is governed by the District's Procedures for §504 Due Process Hearings. Should the parent disagree with the identification, evaluation, or placement decision of a §504 Committee or the decision of a §504 hearing officer, the parent may seek relief in state or federal court as allowed by law and /or access the review procedure.

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

Any person eligible to file a grievance with respect to the District's §504 obligations may file a grievance through the District's local grievance process. Information on the grievance process can be obtained from the District's §504 Coordinator.

Parent Language. If the District determines that the dominant language of the parent is Spanish, the District will ensure effective notice in Spanish and services necessary to provide the parent an opportunity for effective participation in the §504 process. If the District determines that the dominant language of the parent is not English or Spanish, the District

will make a good faith effort to accomplish notice and provide an opportunity for effective parent participation in the §504 process through other means.

Duty to Not Discriminate. The District shall ensure that no qualified disabled person shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any District program or activity. These protections apply regardless of whether the eligible student currently receives a Section 504 Services Plan.

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

Disability-based harassment. The District will promptly investigate all claims of disability-based harassment, and bullying of students with disabilities, and take prompt and effective action to end the harassment and prevent it from recurring, and, as appropriate, remedy the effects of the harassment on the student. Where evidence of disability-based harassment or bullying is found pursuant to an investigation, and the District believes that the harassment or bullying has adversely impacted upon the ability of a disabled student to have equal access to the District's programs or activities, or the disabled student's entitlement to a free, appropriate public education, a §504 Committee meeting will be called to consider the impact of the harassment and determine whether changes to the Student's Services Plan are required.

The District's Section 504 Coordinator will periodically review disability harassment and bullying claims to determine whether additional changes, action or training is needed at the campus or District level. The Coordinator will provide training to District employees as appropriate to foster understanding of disability harassment policies, and compliance with harassment procedures. The Coordinator will also make reasonable efforts to publicize the District's policies and procedures with respect to disability harassment and bullying so that students, faculty and staff, as well as parents recognize and know how to report incidents.

Timelines. Unless otherwise specified in these operational guidelines or Section 504 Hearing Procedures, the Section 504 duties and responsibilities of the District will be completed within a reasonable time. Per OCR guidance, the reasonable time requirement is satisfied by the District's compliance with analogous state IDEA timelines. Where the student's physical or mental impairment and needs are readily ascertainable, the District recognizes that full use of the time allowed under IDEA timelines is unreasonable, and the Section 504 evaluation should be completed more quickly.

Notice of Parent Rights Under Section 504. A copy of the Notice of Rights should be provided to the parent, and the provision of the Notice of Rights documented: (1) at the time consent for initial evaluation for Section 504 is sought; (2) if the school declines a parental request for §504 evaluation; (3) at any time after the Notice of Rights Form is revised; (4) when the student reaches the age of majority (notice to the adult student); (5) when the Committee meets to conduct a manifestation determination; (6) when a parent request for a Section 504 Meeting is refused by the school; and (7) at any time upon parent request. When the notice is provided outside of an evaluation meeting, the campus should document the delivery of rights to the Parent or adult student (e.g., a note in the student's file or a parent contact log).

Temporary Impairments. "A temporary impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period of time. The issue of whether a temporary impairment is substantial enough to be a disability must be resolved on a case-by-case basis, taking into consideration both the duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity of the affected individual. Impairments causing limitations that last, or are expected to last, for six or fewer months may still be substantially limiting, and thus, an individual analysis of each case is required." *Esparto (CA) Unified School District*, 115 LRP 37669 (OCR 2015).

Compliance Due Process Hearing Procedures for Section 504

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

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

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

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

Appointment of a Hearing Officer. Within fifteen (15) days of the date of receipt of a clear Request for a Due Process Hearing, the District will appoint an impartial Hearing Officer to preside over the hearing and issue a decision. The Hearing Officer will be hired by the District as an independent contractor at no expense to the parent. The Hearing Officer shall not be a current employee of the District, and shall not be related to any member of the District’s Board of Trustees to a degree prohibited under the Texas Nepotism Statute. The Hearing Officer need not be an attorney, but shall be familiar with the requirements of §504 and the District’s Hearing Procedures under §504. The District’s choice of an impartial Hearing Officer is final and may not be made an issue at the due process hearing, since such an issue would not relate to the identification, evaluation, or placement of a disabled child under §504. If a parent disputes the impartiality of the appointed Hearing Officer, he or she may raise such issue in a review of the Hearing Officer's opinion by a court of competent jurisdiction (*See "Review Procedure" below*), or in a complaint to the appropriate Office for Civil Rights regional office (*See "Complaints to the Office for Civil Rights (OCR)" below*).

Scheduling of Hearing. The appointed Hearing Officer shall issue an Order Setting Hearing Date to the parent and the District’s §504 Coordinator in writing at his or her earliest opportunity. Such Order shall set a date for a hearing to be held

within fifteen (15) days of the date of issuance of the Hearing Officer's Order. The Order shall also set forth a mutually agreeable time and place for the hearing.

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

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

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

Conduct of Hearing. The hearing shall be conducted in an informal, non-adversarial manner. The parties shall address the Hearing Officer by name (i.e. Mr. or Ms.). The hearing shall be closed or open to the public, at the parent's request. The parties are free to provide the Hearing Officer with information or opinion as to the validity and weight to be given the information presented to him or her. Neither the Federal nor Texas Rules of Evidence or Civil Procedure, however, will apply. The Hearing Officer is not required to entertain any legal evidentiary objections to the admissibility, authenticity, or probative value of either oral testimony or documentary exhibits offered at the hearing. In the exercise of his or her discretion, however, the Hearing Officer may reasonably limit testimony and introduction of documentary exhibits for reasons of relevance. (*See also "Submission of Documentary Exhibits" below*).

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

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

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

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

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

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

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

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

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

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

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

Pflugerville ISD §504 Guidelines and Procedures

This section provides guidance to campus Section 504 Coordinators and administrators.

PfISD strives to meet the needs of all students. These guidelines are designed to provide a system of identifying eligible children with disabilities as defined under Section 504 of the Rehabilitation Act of 1973, as amended (2009), enabling PfISD to ensure that all of the rights of these children are protected.

Campus §504 Responsibilities Matrices can be found in the Appendices (Appendix C).

Referral for Section 504 Evaluation

The school's duty to evaluate under §504 is triggered by the school's suspicion that the student has a physical or mental impairment that substantially limits one or more major life activities, and believes that the student needs either regular education with supplementary services or special education and related services. *Letter to Mentink*, 19 IDELR 1127 (OCR 1993). The duty does not depend on parent request for evaluation. *West Contra Costa (CA) Unified School District*, 42 IDELR 121 (OCR 2004) ("The District had this obligation under Section 504 whether or not the parent made a request for an assessment.")

A student does not need to show an "educational need" to be referred, or considered for referral for a Section 504 Evaluation. Often districts focus on whether an impairment substantially limits the major life activity of learning. Although a student's impairment must substantially limit a major life activity, it does not need to impact his/her learning for the student to be Section 504-eligible. A student does not have to fail in order to be Section 504-eligible. In the case of *Marquette (MI) Area Public Schools*, 58 IDELR 172 (OCR 2011), OCR explained, "that a student who has a mental or physical impairment that substantially limits one or more major life activities is eligible to receive FAPE under Section 504. CFR 103.4(j). A student may qualify as having a disability under Section 504 even if his/her impairment does not substantially impact his/her academic performance..."

- Staff and administrators have the responsibility of insuring that all students with disabilities are identified, evaluated, and provided with needed accommodations and services, resulting in FAPE.
- Parent(s) may also initiate a Section 504 referral
- Students with physical or mental impairments whose needs are addressed through early intervention, Rtl, or health plans will not be excluded from consideration for possible Section 504 referral, even when current interventions, services or health plans successfully address their impairment-related needs.
- *Rtl implementation should not prevent or delay a referral to §504, as that could result in a Section 504 violation.
- Campus Problem Solving Support Team (PSST) committee meetings must include the campus Section 504 Coordinator when discussing potential referrals to Section 504, as the coordinator will be able to help determine whether a §504 Evaluation is necessary.

**PfISD Rtl guidance (Appendix D)*

Section 504 Initial Evaluation.

When a §504 referral has been initiated, the *§504 Notice & Consent for 504 Evaluation* form (eStar Series, Application: 504 Plan, Screen: 4 Section 504 Notice and Consent for 504 Evaluation) is completed by the Campus §504 Coordinator. The Campus §504 Coordinator sends the *§504 Notice & Consent for 504 Evaluation* form along with the *Notice of Rights for Disabled Students and their Parents under §504 of the Rehabilitation Act of 1973* (eStar Series/eStar Docs: Section 504 Notice of Parent Rights), and *Receipt of Rights Contact Information* (eStar Series, Application: 504 Plan, Screen: 14: Receipt of Rights Contact Information) to the parent.

Consent for Evaluation. Consent for a §504 Initial Evaluation must be obtained in writing through the §504 Notice & Consent for 504 Evaluation form (eStar Series, Application: 504 Plan, Screen: 4 Section 504 Notice and Consent for 504 Evaluation). If no parental consent is received for §504 Evaluation, the Coordinator should remind the parent every

semester (or at other intervals as determined by the District) of the District's continued desire to conduct an Evaluation under §504. These attempts to obtain consent must be documented in the student's eStar Series/e-504 file in the Parent Contact Log (eStar Series, Application: 504 Plan, Screen: 42 Parent Contact Log).

Steps for following through with required documentation for a Section 504 Initial Referral can be found in Appendix E *Pflugerville ISD Checklist for Section 504 INITIAL Referral*.

Evaluation. When the consent is received from the parent, evaluation data and completed Input Documents should be given to the Campus §504 Coordinator. The evaluation data consists of information from a variety of sources, including efforts and results of early intervention activities, aptitude and achievement testing, teacher recommendations, student's historical and current physical and mental condition (including data on conditions in remission and episodic conditions), social or cultural background, adaptive behavior, and mitigating measures; the Teacher Input form to be completed by one or more teachers, and the Parent Input form with information about the Student's activities/behaviors at home, health and medical records if available, and any other data the parent would like the Committee to consider. Should current special education data exist (an evaluation upon which a student was either dismissed from special education or upon which a finding of no IDEA eligibility was made), that data should also be considered.

It is important to note that "Evaluation" does not necessarily mean "test." In the §504 context, "evaluation" refers to a gathering of data or information from a variety of sources so that the committee can make the required determinations. §104.35(c)(1). Since specific or highly technical eligibility criteria are not part of the §504 regulations, formal testing is not required to determine eligibility. *Letter to Williams*, 21 IDELR 73 (OCR 1994). If formal testing is pursued, the regulations require that the tests are properly selected and performed by trained personnel in the manner prescribed by the creator of each test. §104.35(b)(2).

§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 on the committee. The Section 504 Committee must verify that the committee members include members with: knowledge of the student being evaluated, knowledge of evaluation data, and knowledge of placement options. It is district policy that each Section 504 Committee meeting includes at least one campus administrator. Campus Administrator Interns are not considered campus administrators for the purposes of Section 504.

Inviting Parents. The Section 504 regulations do not require parent membership on Section 504 Committees although best practice dictates that parents are involved in the evaluation and placement process. It is district policy to invite all parents to meetings. The campus §504 Coordinator will notify the parent of the time and location of the §504 Evaluation meeting by phone and/or send home a *Section 504 Meeting Notice* (eStar Series, Application: 504 Plan, Screen: 5 Section 504 Meeting Notice) once the Section 504 meeting has been scheduled.

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

At the §504 Evaluation, the Committee should:

- a. Draw upon information from a variety of sources, including, but not limited to, efforts and results of early intervention activities, aptitude and achievement testing, teacher recommendations, physical condition, social or cultural background, adaptive behavior and the Parent and Teacher/Administrator input forms.

b. Ensure that all information reviewed in the evaluation is documented and carefully considered, and that Section 504 decisions are made consistently with the Americans with Disabilities Act Amendments Act of 2008, including appropriate consideration of mitigating measure (as provided in the aforementioned Compliance Operational Guidelines for Section 504), recognition of changes made to major life activities, the appropriate consideration of impairments that are episodic or in remission, and Congressional declarations on the definition of substantial limitation.

c. Complete the Section 504 Evaluation form. If the Student is determined to be eligible [hereinafter, “eligible student”] and is determined to need accommodations, aids or services from the school, the Committee moves on to the Section 504 Student Services Plan [hereinafter, “Services Plan”] form to develop appropriate services and accommodations. If no eligibility is found, the Parents are so informed in writing.

d. Should the parent refuse consent to the initial provision of Section 504 the Services Plan should be appropriately annotated with the parent’s refusal to consent. Section 504 services detailed on the Services Plan will not be provided to the student, but the completed plan will serve as documentation of the District’s offer of FAPE to the student.

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

Interaction with Texas Dyslexia Law. Pflugerville ISD utilizes [The Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders](#) as guidelines when considering special education evaluation of student’s. The determination to refer a student for an evaluation must always be made on a case-by-case basis and must be driven by data-based decisions. When the data lead to a suspicion of dyslexia or related disorder, and there is a need for specially designed instruction, the committee must refer the student for a Full and Individual Initial Evaluation under IDEA for the suspicion of a Specific Learning Disability in the area of reading, resulting in dyslexia. If data leads to the suspicion of a related disorder but does not think specially designed instruction through special education is necessary, the committee must refer to section 504 for an evaluation.

If the student qualifies as a student with dyslexia, the student may receive dyslexia instruction and accommodations as outlined in [The Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders](#).

Section 504 Annual Review.

Although an Annual Review is not required by federal law, the district believes that conducting Annual Reviews is a best practice to ensure that student needs are met on an on-going basis and that changes to either the Student’s condition or need for services are recognized and addressed expeditiously. Section 504 Annual Evaluations ensure that a student’s Accommodation Plan or Service Plan is accurate and effective. Parent consent for Section 504 Annual Reviews is not required; however, parents must still be notified (in writing) of the meeting as well as invited. At the conclusion of the Evaluation/Placement meeting, the campus §504 coordinator provides notice to the parent (Notice of Section 504 Evaluation Results form) of the 504 Committee’s findings, and copies of the completed Evaluation form, the Services Plan (if eligible), and the Refusal of Consent Form (if appropriate).

Steps for following through with required documentation for a Section 504 Annual Meeting can be found in Appendix F, *Pflugerville ISD Checklist for Section 504 Review or 3-Year Review*.

Section 504 Three-year Evaluations

Re-Evaluation. At least every three years, the 504 Committee should meet to conduct a periodic re-evaluation of students on Section 504 Services Plans as well as those students who are eligible under Section 504 but not in need of a Section 504 Services Plan at this time. Re-evaluation should also occur prior to any significant change of placement and whenever necessary to ensure the continued provision of FAPE. Parent consent for Section 504 Annual Reviews is not required; however, parents must still be notified (in writing) of the meeting as well as invited. At the conclusion of the Evaluation/Placement meeting, the campus §504 coordinator provides notice to the parent (Notice of Section 504

Evaluation Results form) of the 504 Committee’s findings, and copies of the completed Evaluation form, the Services Plan (if eligible), and the Refusal of Consent Form (if appropriate).

Steps for following through with required documentation for a Section 504 Three-year Re-Evaluation Meeting can be found in Appendix F, *Pflugerville ISD Checklist for Section 504 Annual Review or 3-Year Review*.

General Education Homebound (GEH)

Any student who is served through the General Education Homebound Program must meet the following three criteria:

1. The student is expected to be confined at home or hospital bedside for a minimum of four (4) weeks. The weeks need not be consecutive.
2. The student is confined at home or hospital bedside for medical reasons only.
3. The student’s medical condition is documented by a physician licensed to practice in the United States.

If a campus is contacted about a student’s need for GEH services (i.e., parent or medical provider), and the student is not currently served under Special Education, the campus §504 Campus Coordinator must be informed immediately of this notification. The campus §504 Coordinator will contact the person requesting (or inquiring) GEH services and verify that the student is under the care of a physician who can legally practice medicine in the United States before GEH services can be considered.

Texas Medical Board's searchable database of licensed physicians

https://public.tmb.state.tx.us/HCP_Search/SearchInput.aspx

The campus §504 Coordinator will inform the parent of the process for General Education Homebound and Section 504 Evaluation (*General Education Homebound Decision-Making Guide*, Appendix I, and *PfISD General Education Homebound Operational Procedures*, Appendix J).

If it is determined that the student meets the GEH criteria outlined by the *TEA Student Attendance Accounting Handbook* http://tea.texas.gov/Finance_and_Grants/Financial_Compliance/Student_Attendance_Accounting_Handbook/ the campus §504 Coordinator will:

1. Complete the *§504 Notice & Consent for 504 Evaluation* form (eStar Series, Application: 504 Plan, Screen: 4 Section 504 Notice and Consent for 504 Evaluation) and send home to parent for written consent; along with,
2. *Notice for Release /Consent to Request Medical Information* (eStar Series/eStar Docs);
3. *Physician’s Verification of Need for General Education Homebound Services* (eStar Series/eStar Docs);
4. *Notice of Rights for Disabled Students and their Parents under §504 of the Rehabilitation Act of 1973* (eStar Series/eStar Docs: Section 504 Notice of Parent Rights);
5. *Receipt of Rights Contact Information* (eStar Series, Application: 504 Plan, Screen: 14: Receipt of Rights Contact Information) to the parent.

Evaluation. When the consent is received from the parent, the campus §504 Coordinator should help coordinate the gathering and the completion of the various Input Documents, including data collected by the teacher. The evaluation data consists of information from a variety of sources, including efforts and results of early intervention activities, aptitude and achievement testing, teacher recommendations, student’s historical and current physical and mental condition (including data on conditions in remission and episodic conditions), attendance records, disciplinary referral records, social or cultural background, adaptive behavior, and mitigating measures; the Teacher Input Form to be completed by one or more teachers, and the Parent Input Form with information about the student’s activities/behaviors at home, health and medical records if available, and any other data the parent would like the Committee to consider. Should current special education data exist (an evaluation upon which a student was either dismissed from special education or upon which a finding of no IDEA eligibility was made), that data should also be considered.

Consent for Evaluation. Consent for a §504 Initial Evaluation must be obtained in writing through the *§504 Notice & Consent for 504 Evaluation* form (eStar Series, Application: 504 Plan, Screen: 4 Section 504 Notice and Consent for 504 Evaluation). If no parental consent is received for §504 Evaluation, the Coordinator should remind the parent every semester (or at other intervals as determined by the District) of the District's continued desire to conduct an Evaluation under §504. These attempts to obtain consent must be documented in the student's eStar Series/e-504 file in the *Parent Contact Log* (eStar Series, Application: 504 Plan, Screen: 42 Parent Contact Log).

GEH Committee Membership. While §504 eligibility is determined by a group of knowledgeable persons, including persons with knowledge of the student being evaluated, knowledge of evaluation data, and knowledge of placement options, General Education Homebound eligibility and placement requires the attendance of three specific people:

1. A campus administrator (Campus Administrator Interns are not considered campus administrators for the purposes of Section 504)
2. A teacher of the student
3. A parent or Guardian of the student

The required groups can and should overlap to satisfy requirements under both §504 and GEH. Pflugerville ISD recommends the school nurse and designated GEH teacher also serve on the GEH Committee.

The Campus §504 Coordinator will notify the parent of the time and location of the §504 Evaluation meeting by phone as well as send home a *Section 504 Meeting Notice* (eStar Series, Application: 504 Plan, Screen: 5 Section 504 Meeting Notice) once the Section 504 meeting has been scheduled.

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

The role of the GEH committee is to review and consider the necessity of providing instruction to a general education student at home/hospital bedside. If instruction is to be provided at home/hospital bedside, the GEH Committee determines the type(s) and amount of instruction to be provided. Over the period of his or her confinement, however, the student must be provided instruction in all the courses, including elective courses, in which that student is enrolled. In making these decisions, the GEH Committee must consider information from the student's physician. However, the physician's note/information is not the sole determining factor in the Committee's decision-making process.

GEH Services. A student served through GEH at home/hospital bedside must be served by a certified general education teacher. Over the period of his or her confinement, the student must be provided instruction in all the courses, including elective courses, in which that student is enrolled. A student who is served through the GEH program retains the same ADA eligibility code he or she had before receiving GEH services, regardless of how many hours the student will be served through the GEH program.

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

Behavior

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

positive effects of mitigating measures currently in place). Should the District initiate a disciplinary removal of the eligible Student from his educational placement for a term of more than ten consecutive school days, the §504 Committee must first conduct an evaluation, considering various sources of data recent enough to afford an understanding of the behavior and disability, which includes a manifestation determination, and provide the parent with another copy of the Notice of Rights. Prior to the evaluation, the Campus §504 Coordinator shall give the parent notice of the time and place of the evaluation meeting, inviting the parent to attend if that is the District's policy.

The Campus §504 Coordinator will notify the parent of the time and location of the §504 Evaluation meeting by phone as well as send home a *Section 504 Meeting Notice* (eStar Series, Application: 504 Plan, Screen: 5 Section 504 Meeting Notice) once the Section 504 meeting has been scheduled.

The Committee's evaluation should determine:

- (1) was the conduct in question caused by, or directly and substantially related to the student's disabilities? and,
- (2) was the conduct in question the direct result of the school's failure to implement the student's §504 plan?

If a link is determined, a disciplinary removal of longer than ten consecutive school days cannot occur.

Removals for less than ten days can be effected without §504 Committee approval, subject to the "pattern of exclusion" rule. A series of short removals (including teacher removals under §37.002 of the Texas Education Code) over the course of the school year that exceeds ten total days may constitute a pattern of exclusion that triggers applicable procedural safeguards (a manifestation determination evaluation and a right to due process), and requires the school to provide the parent with another copy of the Notice of Rights. The Committee will meet to conduct an evaluation prior to the tenth cumulative day of removals during a school year (and prior to each subsequent short-term removal thereafter), to determine: (1) was the conduct in question caused by, or directly and substantially related to the student's disabilities? and (2) was the conduct in question the direct result of the school's failure to implement the student's 504 plan? Prior to the evaluation, the campus §504 Coordinator shall give the parents verbal and written notice of the time and place of the evaluation meeting, and invite the Parent to attend. If at the evaluation meeting a link is determined, the disciplinary removal cannot occur.

An eligible student who currently is engaging in the illegal use of drugs or in the use of alcohol may be removed from his educational placement for a drug or alcohol offense to the same extent that such disciplinary action is taken against nondisabled students. Further, no §504 Evaluation is required prior to the removal and no §504 due process hearing is available.

Steps for following through with a §504 Manifestation Determination Procedures can be found in Appendix K *Pflugerville §504 Manifestation Determination Procedures*.

Appendices

Appendix A - Protecting Students with Disabilities: Frequently Asked Questions about Section 504 and the Education of Children with Disabilities

This document is a revised version of a document originally developed by the Chicago Office of the Office for Civil Rights (OCR) in the U.S. Department of Education (ED) to clarify the requirements of Section 504 of the Rehabilitation Act of 1973, as amended (Section 504) in the area of public elementary and secondary education. The primary purpose of these revisions is to incorporate information about the Americans with Disabilities Act Amendments Act of 2008 (Amendments Act), effective January 1, 2009, which amended the Americans with Disabilities Act of 1990 (ADA) and included a conforming amendment to the Rehabilitation Act of 1973 that affects the meaning of disability in Section 504. The Amendments Act broadens the interpretation of disability. The Amendments Act does not require ED to amend its Section 504 regulations. ED's Section 504 regulations as currently written are valid and OCR is enforcing them consistent with the Amendments Act. In addition, OCR is currently evaluating the impact of the Amendments Act on OCR's enforcement responsibilities under Section 504 and Title II of the ADA, including whether any changes in regulations, guidance, or other publications are appropriate. The revisions to this Frequently Asked Questions document do not address the effects, if any, on Section 504 and Title II of the amendments to the regulations implementing the Individuals with Disabilities Education Act (IDEA) that were published in the Federal Register at 73 Fed. Reg. 73006 (December 1, 2008).

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 identifications 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.

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 parents, students or advocates, conducts agency-initiated compliance reviews, and provides technical assistance to school districts, parents 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, parents, 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 affords an opportunity to the complainant for appeal of OCR’s letters of finding issued pursuant to Section 303(a) of the [OCR Case Processing Manual](#). OCR also affords an opportunity to the complainant for appeal of OCR’s dismissals or administrative closures of complaints issued pursuant to Sections 108, 110 and 111 of the Manual. The appeal process provides an opportunity for complainants to bring information to OCR’s attention that would change OCR’s decision, but it does not involve a de novo review of OCR’s decision. The complainant may send a written appeal to the Director of the regional Enforcement Office that issued the determination within 60 days of the date of the determination letter being appealed from. In an appeal, 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. More information about appeals is found in Section 306 of the Manual.

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 Department's 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 committee gathered to evaluate the student. The committee should include persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. The committee 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. 104.35(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. 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 committee 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 committees 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 committee members. The weight of the information is determined by the committee 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 parents' 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 both the duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity of the affected individual.

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 parents' 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 require 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 parents to review relevant records, an impartial hearing with opportunity for participation by the student's parents 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 parents and students about its evaluation and placement process?

Section 504 requires districts to provide notice to parents explaining any evaluation and placement decisions affecting their children and explaining the parents' 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.

Appendix B - Section 504/IDEA Comparison Chart

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	Section 504	IDEA
Purpose in public schools	Prevention of disability-based discrimination in public schools	Funding assistance for participating States to develop and maintain special education programs for eligible students
Eligibility	(1) Physical or mental impairment, and (2) substantial limitation on one or more major life activities	(1) Student meets eligibility criteria for one or more of 13 specific disability categories, and (2) needs special education services as a result
FAPE Formulation	Meeting the educational needs of eligible students as adequately as the needs of nondisabled students are met (a standard of equal educational opportunity)	Provision of and individualized educational program reasonably calculated to confer meaningful educational benefit (<i>Rowley</i> formulation)
Child-Find	Required; affirmative obligation	Required; affirmative obligation
Committee Decision-making	Decision-making group must include persons knowledgeable about child, evaluation data, and placement (service) options Parent not a required member (but most schools choose to invite parents)	IEP team with specifically required members, including the parent Detailed IEP team procedures
Evaluations	Review and careful consideration of data from a variety of sources May or may not include formal assessments Process-oriented	Assessment-based evaluation process (must meet detailed requirements of IDEA regulations) with specified timelines

	Section 504	IDEA
Reevaluations	Periodic reevaluations (at least every 3 years) and prior to significant changes in placement	Three-year reevaluations, unless conditions warrant earlier reevaluation
Programs	504 plans of Accommodations, services (regular or “special education” services within the meaning of §504 regulations), related services, and modifications to policies and practices, as needed to provide a §504 FAPE	IEP with Special education services (“specially designed instruction” within the meaning of IDEA) funded through part use of IDEA-B funds, continuum of placements, a variety of related services, supplementary aids and services, modified curriculum, accommodations, alternate state assessments, various IEP requirements
Procedural Safeguards	Basic safeguards—Prior notice, access to records, local grievance process, due process hearing, review procedure	Detailed and extensive safeguards—prior written notice, access to records, mediation, intricate due process hearing, appeal to federal or state court, SEA complaint, independent evaluations
Extracurricular and Nonacademic Services	Requirement of equal opportunity to participate, including reasonable accommodations needed for participation Accommodations cannot fundamentally alter activity	Requirement of equal opportunity to participate, including reasonable accommodations needed for participation (determined through IEP team process and included in IEP)
OCR Complaint	Allowed within 180 days of alleged violation	Allowed within 180 days of alleged violation (but investigated with respect to compliance with §504 requirements only)
Post-Secondary Education	Reasonable accommodation standard, no evaluation, no committee decision-making	Not applicable
Applicability	Agencies that receive federal funding (“recipients”)	Public elementary and secondary schools in participating States and Territories (currently all)

	Section 504	IDEA
Mitigating Measures Analysis	2008 ADA Amendments Act requires that beneficial effect of mitigating measures (such as medication, technology, compensatory strategies, accommodations, interventions) not be considered in making eligibility determination (i.e., beneficial effect must be “subtracted”)	Eligibility determined “as is,” taking into consideration any beneficial effect of mitigating measures in determining eligibility
Episodic/Remission Conditions	Eligibility must be determined as if condition was in full-blown state at time of determination (2008 ADA AAA)	Eligibility determined “as is” at the time of evaluation
Eligibility Philosophy	Maximum eligibility (2008 ADA AAA)	Eligibility standards applied strictly SEAs monitor eligibility rates
Funding	No specific funding source	IDEA-B federal funding State special education funding Local funding as required for maintenance of effort
Discipline	Manifestation determination requirement prior to disciplinary changes in placement (removals of ≥ 10 consecutive school days) Limits on excessive accumulations of short-term removals (“patterns of removal”) past total of 10 school days in a school year	Manifestation determination requirement prior to disciplinary changes in placement (removals of ≥ 10 consecutive school days) Limits on excessive accumulations of short-term removals (“patterns of removal”) past total of 10 school days in a school year

Appendix C - Section 504 Campus Responsibilities Matrices

Section 504 Campus Responsibilities (Elementary School)

This is a brief document outlining major responsibilities of particular campus staff members as it pertains to Section 504

§504 Administrator (Principal or AP)	Administrative Associate	Registrar	Classroom Teacher/Support Staff	Dyslexia Contact Teacher (DCT)	Elementary School Counselor	Campus Nurse
Conducts campus compliance training on §504 for campus staff						
Ensure all required §504 Committee Members are in attendance at §504 Committee Meetings	Coordinate and schedule §504 Committee Meetings (schedule/notify regarding §504 Evaluations/Reviews, General Education Homebound, Manifestation Determination)		Complete §504 Teacher/Staff Input forms (received from §504 Campus Coordinator) for students being referred for §504 Evaluation/Review, and submit form(s) to §504 Campus Coordinator			Complete §504 Student Health Information Forms (received from §504 Campus Coordinator) for students being referred for §504 Evaluation/Review, and submit form(s) to §504 Campus Coordinator
Facilitate and participate in campus §504 Committee Meetings (§504 Evaluations/Reviews, General Education Homebound, Manifestation Determinations)	Complete all §504 paperwork/forms at §504 Committee Meetings, and pre/post meeting (i.e., §504 Evaluations/Reviews, General Education Homebound, Manifestation Determination, Receipt of Accommodations)		Attend and participate in §504 Committee Meetings for students served under §504 receiving (or requiring) services from classroom teacher, DCT, Counselor, campus nurse, and/or support staff			
Manage, monitor and ensure that progress monitoring/data collection from teachers, counselors, support staff is brought to §504 Committee Meetings	Organize and manage the collection and maintenance of accurate records on students eligible for §504, General Education Homebound, and dyslexia		Obtain, organize, manage, and submit to §504 Committee Meeting student data and/or progress monitoring for students served, <i>or possibly to be served under §504</i> (e.g., academics/interventions, behavior interventions, testing accommodations, proof of implementation of accommodations)			
Ensure distribution of student §504 Accommodation Plans and Receipt of Accommodations form to appropriate staff members	Distribute student §504 Accommodation Plans and Receipt of Accommodations form to appropriate staff members files		Implement <u>ALL</u> §504 Accommodations on students' Individual Accommodation Plan (IAP)			
Manage, monitor, and ensure implementation of: §504 Accommodation Plans, Behavior Intervention Plans (BIPs) for students served under §504; Address accommodation implementation issues (or refer them to campus principal)	Provide Registrar with PEIMS Action Forms (§504/General Education Homebound), and file copies in student cumulative file	Receive PEIMS Action forms from §504 Campus Coordinator and code §504/General Education Homebound students in FOCUS		Assess & score initial & supplemental §504 Dyslexia/Dysgraphia Evaluations, write initial & supplemental §504 Dyslexia/Dysgraphia Evaluation Reports		
Manifestation Determination Review (MDR): Gather all available information regarding offense and contact district §504 Coordinator to notify <u>PRIOR</u> to MDR		Request §504 records from §504 Campus Coordinator (or district §504 Coordinator if §504 folder is no longer on campus)		Review initial & supplemental §504 Dyslexia/Dysgraphia Evaluation Reports in §504 Committee Meetings		
	Notify §504 Campus Coordinator of new students identified as a student under §504/Dyslexia/General Education Homebound	Notify §504 Campus Coordinator of new students identified as a student under §504/Dyslexia/General Education Homebound		Notify §504 Campus Coordinator of need for supplemental dyslexia/dysgraphia assessments on transfer-in students identified §504/Dyslexia/Dysgraphia		Notify §504 Campus Coordinator of students with Individual Health Plans (IHPs), Vision Impairments (VI), and/or Auditory Impairments (AI)
Verify PEIMS coding in FOCUS every six weeks to nine weeks						
Verify/Review §504 state assessment accommodations for students served under §504 for preparation of state assessment administration(s)				Notify §504 Campus Coordinator/Counselor of students requiring direct dyslexia services (incoming/exiting)		
Complete district §504 compliance training	Attend all district §504 PD/Trainings & monthly PLC meetings	Complete district §504 compliance training				

Individuals handling student records (i.e., Clerical Support Staff) must be an employee of the district. Clerical support would consist of filing documents and making copies. Clerical Support Staff are not authorized to distribute IAPs/Receipt of Accommodation(s) documents. The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. §1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records.

Section 504 Campus Responsibilities (Middle School)

This is a brief document outlining major responsibilities of particular campus staff members as it pertains to Section 504

§504 Administrator (Principal or AP)	Middle School Counselor	Registrar	Classroom Teacher/Support Staff	Itinerant Dyslexia Teacher	Campus Nurse
Conducts campus compliance training on §504 for campus staff					
Ensure all required §504 Committee Members are in attendance at §504 Committee Meetings	Coordinate and schedule §504 Committee Meetings (schedule/notify regarding §504 Evaluations/Reviews, General Education Homebound, Manifestation Determination)		Complete §504 Teacher/Staff Input forms (received from §504 Campus Coordinator) for students being referred for §504 Evaluation/Review, and submit form(s) to §504 Campus Coordinator		Complete §504 Student Health Information Forms (received from §504 Campus Coordinator) for students being referred for §504 Evaluation/Review, and submit form(s) to §504
Attend and participate in campus §504 Committee Meetings (§504 Evaluations/Reviews, General Education Homebound, Manifestation Determinations)	As needed, participate in campus §504 Committee Meetings, and complete all §504 paperwork/forms at §504 Committee Meetings, and pre/post meeting (i.e., §504 Evaluations/Reviews, General Education Homebound, Manifestation Determination, Receipt of Accommodations)		Attend and participate in §504 Committee Meetings for students served under §504 receiving (or requiring) services from classroom teacher, IDT, Counselor, campus nurse, and/or support staff		
Manage, monitor and ensure that progress monitoring/data collection from teachers, counselors, support staff is brought to §504 Committee Meetings	As needed, help organize and manage the collection and maintenance of accurate records on students eligible for §504, General Education Homebound, and dyslexia		Obtain, organize, manage, and submit to §504 Committee Meeting student data and/or progress monitoring for students served, <i>or possibly to be served under §504</i> (e.g., academics/interventions, behavior interventions, testing accommodations, proof of implementation of accommodations)		
Ensure distribution of student §504 Accommodation Plans and Receipt of Accommodations form to appropriate staff members	Help distribute student §504 Accommodation Plans and Receipt of Accommodations form to appropriate staff members		Implement <u>ALL</u> §504 Accommodations on students' Individual Accommodation Plan (IAP)		
Manage, monitor, and ensure implementation of: §504 Accommodation Plans, Behavior Intervention Plans (BIPs) for students served under §504; Address accommodation implementation issues (or refer them to campus principal)	Provide Registrar with PEIMS Action Forms (§504/General Education Homebound), and file copies in student cumulative file	Receive PEIMS Action forms from §504 Campus Coordinator and code §504/General Education Homebound students in FOCUS			
Manifestation Determination Review (MDR): Gather all available information regarding offense and contact district §504 Coordinator to notify <u>PRIOR</u> to MDR		Request §504 records from §504 Campus Coordinator (or district §504 Coordinator if §504 folder is no longer on campus)			
Notify §504 Campus Coordinator of new students identified as a student under §504/Dyslexia/General Education Homebound		Notify §504 Campus Coordinator of new students identified as a student under §504/Dyslexia/General Education Homebound			Notify §504 Campus Coordinator of students with Individual Health Plans (IHPs), Vision Impairments (VI), and/or Auditory Impairments (AI)
Verify PEIMS coding in FOCUS every six weeks to nine weeks					
Verify/Review §504 state assessment accommodations for students served under §504 for preparation of state assessment administration(s)					
Complete district §504 compliance training	Attend all district §504 PD/Trainings & monthly PLC meetings	Complete district §504 compliance training			

Individuals handling student records (i.e., Clerical Support Staff) must be an employee of the district. Clerical support would consist of filing documents and making copies. Clerical Support Staff are not authorized to distribute IAPs/Receipt of Accommodation(s) documents. The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. §1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records.

Section 504 Campus Responsibilities (High School)

This is a brief document outlining major responsibilities of particular campus staff members as it pertains to Section 504

§504 Administrator (Principal or AP)	Administrative Associate or other Designee	Registrar	Classroom Teacher/Support Staff	Itinerant Dyslexia Teacher	High School Counselors	Campus Nurse
Conducts campus compliance training on §504 for campus staff						
Ensure all required §504 Committee Members are in attendance at §504 Committee Meetings	Coordinate and schedule §504 Committee Meetings (schedule/notify regarding §504 Evaluations/Reviews, General Education Homebound, Manifestation Determination)		Complete §504 Teacher/Staff Input forms (received from §504 Campus Coordinator) for students being referred for §504 Evaluation/Review, and submit form(s) to §504 Campus Coordinator			Complete §504 Student Health Information Forms (received from §504 Campus Coordinator) for students being referred for §504 Evaluation/Review, and submit form(s) to §504 Campus Coordinator
Attend and participate in campus §504 Committee Meetings (§504 Evaluations/Reviews, General Education Homebound, Manifestation Determinations)	Complete all §504 paperwork/forms after §504 Committee Meetings, and pre/post meeting (i.e., §504 Evaluations/Reviews, General Education Homebound, Manifestation Determination, Receipt of Accommodations)		Attend and participate in §504 Committee Meetings for students served under §504 receiving (or requiring) services from classroom teacher, IDT, Counselor, campus nurse, and/or support staff			
Manage, monitor and ensure that progress monitoring/data collection from teachers, counselors, support staff is brought to §504 Committee Meetings	Organize and manage the collection and maintenance of accurate records on students eligible for §504, General Education Homebound, and dyslexia		Obtain, organize, manage, and submit to §504 Committee Meeting student data and/or progress monitoring for students served, <i>or possibly to be served under §504</i> (e.g., academics/interventions, behavior interventions, testing accommodations, proof of implementation of accommodations)			
Ensure distribution of student §504 Accommodation Plans and Receipt of Accommodations form to appropriate staff members	Distribute student §504 Accommodation Plans and Receipt of Accommodations form to appropriate staff members; eStar Series/e504 Campus Administrator/Manager of e504 files		Implement <u>ALL</u> §504 Accommodations on students' Individual Accommodation Plan (IAP)			
Manage, monitor, and ensure implementation of: §504 Accommodation Plans, Behavior Intervention Plans (BIPs) for students served under §504; Address accommodation implementation issues (or refer them to campus principal)	Provide Registrar with PEIMS Action Forms (§504/General Education Homebound), and file copies in student cumulative file	Receive PEIMS Action forms from §504 Campus Coordinator and code §504/General Education Homebound students in FOCUS				
Manifestation Determination Review (MDR): Gather all available information regarding offense and contact district §504 Coordinator to notify <u>PRIOR</u> to MDR		Request §504 records from §504 Campus Coordinator (or district §504 Coordinator if §504 folder is no longer on campus)				
SAT or ACT (HS): See <u>Guidelines for Assisting Students (with Accommodations) in Registering for College Readiness Exams</u>	Notify §504 Campus Coordinator of new students identified as a student under §504/Dyslexia/General Education Homebound	Notify §504 Campus Coordinator of new students identified as a student under §504/Dyslexia/General Education Homebound			SAT or ACT (HS): See <u>Guidelines for Assisting Students (with Accommodations) in Registering for College Readiness</u>	Notify §504 Campus Coordinator of students with Individual Health Plans (IHPs), Vision Impairments (VI), and/or Auditory Impairments (AI)
Verify PEIMS coding in FOCUS every six weeks to nine weeks						
Verify/Review §504 state assessment accommodations for students served under §504 for preparation of state assessment administration(s)						
Complete district §504 compliance training	Attend all district §504 PD/Trainings & monthly PLC meetings	Complete district §504 compliance training				

Individuals handling student records (i.e., Clerical Support Staff) must be an employee of the district. Clerical support would consist of filing documents and making copies. Clerical Support Staff are not authorized to distribute IAPs/Receipt of Accommodation(s) documents. The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. §1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records.

Guidelines for Assisting Students with Accommodations in Registering for College Readiness Exams

PSAT/AP/SAT

Some students with documented disabilities are eligible for accommodations on College Board exams. School accommodations are NOT College Board accommodations. No one qualifies automatically. Before students with disabilities can take the SAT, SAT Subject Test, PSAT, or AP Exams with accommodations (such as extended time, or use of a computer) their request must be approved by Services for Students with Disabilities (SSD). The approval process can take up to 7 weeks.

College Board Exam: PSAT/AP/SAT	Section 504	SpEd
When are accommodations determined?	<ul style="list-style-type: none"> • During §504 Annual meeting • §504 Campus Coordinator will provide all required documentation for filing process to SSD Campus Coordinator 	<ul style="list-style-type: none"> • During Annual ARD • SpEd Campus Coordinator will provide all required documentation to SSD Campus Coordinator
Communicating with the family	<ul style="list-style-type: none"> • §504 Campus Coordinator, in collaboration with the campus counselors, will explain to family the process of registering for College Board Accommodations. • Remind parents at §504 Annual meeting if they register for test to let school know (especially when student is receiving oral testing). • If approved for accommodations, College Board will send a letter home with student's SSD Number 	<ul style="list-style-type: none"> • SpEd Campus Coordinator, in collaboration with counselors, will explain to family the process of registering for College Board Accommodations. • Remind parents at annual meeting if they register for test to let school know (especially when student is receiving oral testing). • If approved for accommodations, College Board will send a letter home with student's SSD Number
Who will file documentation for College Board?	<ul style="list-style-type: none"> • SSD Campus Coordinator • All students who request accommodations are assigned a seven-digit SSD Eligibility Code. This number is printed on the student's Decision and Eligibility letter. SSD Coordinators can find this number by looking on their SSD online dashboard. 	
Who can help a student register for a College Board Exam?	<ul style="list-style-type: none"> • Student may register at home with parent assistance • Student may register in the College and Career Center with counselor, AVID teacher, or College Forward • HS administrative team will relay testing dates to SSD Campus Coordinator 	
Do students need to reapply for accommodations each time they take an exam?	<ul style="list-style-type: none"> • Once a student's accommodations are approved by College Board, they will remain in effect until a year after high school graduation. 	
Who will test student on campus?	SSD Campus Coordinator will contact pool of staff that indicated interest in testing. SSD Campus Coordinator will make sure that testing staff and student coordinate logistics of exam.	

Guidelines for Assisting Students with Accommodations in Registering for College Readiness Exams

ACT

For students who are currently receiving accommodations in school due to a professionally diagnosed and documented disability, you may submit documentation to support a request for one of the following: [National Standard Time with Accommodations](#), [National Extended Time \(50%-time extension\)](#): Approved examinees taking the ACT have up to 5 hours total to work on all four multiple-choice tests at their own pace. Approved examinees taking the ACT with writing have up to 6 hours to complete all five tests. Both options include time for breaks between tests. [Special Testing \(at school\)](#): Testing at school with extended time (more than 50%-time extension) and alternate formats available—not as part of national or international testing at a test center.

***Requested accommodation(s) must be approved by ACT.**

ACT:	Section 504	SpEd
When are accommodations determined?	<ul style="list-style-type: none"> • During §504 Annual meeting • §504 Campus Coordinator will provide all required documentation to ACT Coordinator for filing process 	<ul style="list-style-type: none"> • During Annual ARD • SpEd Campus Coordinator will provide all required documentation to ACT Coordinator for filing process
Communication with the family	<ul style="list-style-type: none"> • §504 Campus Coordinator, in collaboration with counselors, will explain the process of registering for College Board Accommodations • Remind parent all of the documents will be mailed out once it has been signed by of the appropriate school personnel 	<ul style="list-style-type: none"> • SpEd Campus Coordinator, in collaboration with counselors, will explain the process of registering for College Board Accommodations • Remind parent all of the documents will be mailed out once it has been signed by of the appropriate school personnel
Who can help a student register for ACT Exam?	<ul style="list-style-type: none"> • Student may register at home with parent assistance • Student may register in the College and Career Center with counselor, AVID teacher or College Forward • HS Administrative team will relay testing date to ACT Coordinator • Print a copy of admission ticket. This will be sent along with the request form and documentation 	
Completing the Official ACT form requesting accommodation	<ul style="list-style-type: none"> • §504 Campus Coordinator will fill out ACT request form • §504 Campus Coordinator will give all proper documentation to ACT Coordinator • ACT Coordinator will gather documentation (§504 documents, admission ticket, etc) and sign ACT form • ACT Coordinator will give all documentation to student/parents for signatures and to be mailed out 	<ul style="list-style-type: none"> • SpEd Campus Coordinator will fill out ACT request form • SpEd Campus Coordinator will give all appropriate documentation to ACT Coordinator • ACT Coordinator will gather documentation (IEP documents, admission ticket, etc) and sign ACT form • ACT Coordinator will give all documentation to student/parents for signatures and to be mailed out
Do students need to reapply for accommodation each time they take an ACT?	<ul style="list-style-type: none"> • Students must reapply for accommodations every time they register for an exam 	<ul style="list-style-type: none"> • Students must reapply for accommodations every time they register for an exam
Who will test student on campus?	ACT Coordinator will contact pool of staff that indicated interest in testing. ACT SSD Campus Coordinator will make sure that testing staff and student coordinate with logistics of exam.	

Appendix D – PfISD RtI Information

RtI is a collaborative process of providing targeted research-based instruction developed from the identified needs of students based on teacher observations and measurable data pulled originally from a universal screener. Individual academic or behavioral goals are progress-monitored and intensity of instruction is adjusted based on student response to intervention in the classroom to ensure that all students make adequate growth.

Tier 1

High-Quality Classroom Instruction, Screening, and Differentiation

- All students receive high-quality differentiated classroom instruction by the classroom teacher.
- All students are screened at a minimum of three times per year (BOY, MOY, EOY) through universal screenings and/or results on STAAR/EOC or districtwide assessments to identify students as being “at risk” and in need of additional Tier 2 support.
 - K - 3rd: Universal Screener identifies “at-risk” (*code at-risk indicator #1*)
 - 4th - EOC: STAAR identifies “at-risk” (*code at-risk indicator #4*)
- Discuss students at grade level PLC meetings to monitor progress and determine appropriate interventions based on progress
- Students not demonstrating progress may be provided Tier 2 targeted interventions

Tier 2

Targeted Interventions

- Students not demonstrating progress in the Tier 1 high-quality differentiated classroom will receive intervention based on need.
- For students identified as being “at risk,” supplemental targeted interventions are provided in small-group settings **in** addition to high-quality Tier 1 instruction in the general curriculum.
 - Students will receive additional support from classroom teacher
 - Students may also receive additional support from additional personnel (interventionist, counselor, nurse, etc.)
 - Homogeneous small group
- Discuss students at grade level PLC meetings to monitor progress and determine appropriate interventions based on progress
- Students not demonstrating progress will receive additional Tier 2 diagnostic evaluation

Tier 3

Intensive Interventions

- Students not demonstrating progress in the Tier 1 classroom with Tier 2 interventions will receive more intensive intervention based on need.
- Students receive individualized, intensive interventions that target the student’s need
 - Students will receive additional support from classroom teacher
 - Students will also receive additional support from additional personnel (interventionist, counselor, nurse, etc.)
 - Recommended group
 - Elementary: 5 students
 - Secondary: 10 students
- Discuss students at grade level PLC meetings to monitor progress and determine appropriate interventions based on progress
- Students not demonstrating progress may be recommended to the PSST for additional Tier 3 evaluation (\$504 or Special Education)

Tiered Instruction

	Tier 1	Tier 2	Tier 3
Description:	<p>Classroom teacher provides high- quality differentiated instruction, embedding effective instructional strategies in the general education setting</p> <ul style="list-style-type: none"> • Classroom teacher supports Tier 2 students with scaffold instructional strategies aligned to Tier 1 • Classroom teachers supports Tier 3 students with scaffold instructional strategies to build on Tier 1 and Tier 2 	<p>Instructional strategies are designed to supplement, enhance, support, and align with Tier 1 grade level curriculum</p>	<p>Specifically designed and customized instruction is provided in small groups to support Tier 1 curriculum and Tier 2 instructional strategies, yet diagnostically meet individual needs</p>
Instructor:	Classroom Teacher	Classroom Teacher and/or Interventionist/Specialist	Interventionist/Specialist
Focus:	All students	All students identified by Universal Screener and/or STAAR/EOC who have not responded to Tier I efforts	All students identified by Universal Screener and/or STAAR/EOC who have not responded to Tier I & Tier 2 efforts
Grouping:	<p>Heterogeneously grouped general education classroom includes:</p> <ul style="list-style-type: none"> • Tier 1, Tier 2, Tier 3 students • Student with special needs • English Language Learners (ELLs) 	<p>Homogeneous small group instruction (guided groups) to include special needs and ELLs (either during classroom instruction time or through pull-out/push-in)</p>	<p>Homogeneous small group (guided groups, pull-out, push-in) instruction to include special needs and ELLs Elementary: approx. 5:1 ratio Secondary: approx. 10:1 ratio</p>

Response to Intervention Process: Additional Diagnostic Evaluation

Students not meeting grade level expectations will receive additional diagnostic evaluation

Elementary--administer DIBELS/Tejas LEE (K-2nd), DRA/EDL, TEMI (math) to further identify Tier 2 targeted or Tier 3 intensive intervention needs

Student is not demonstrating reading progress in *Tier 2 interventions

AND

Primary characteristics of dyslexia or dysgraphia are observed.

These characteristics are unexpected in relation to the student's age, educational opportunities, and cognitive abilities. If it is a parent-initiated request, follow procedures in PfISD Dyslexia Handbook.

*Classroom teacher implements a Tier 2 Intervention targeted toward one or more of the primary characteristics of dyslexia or dysgraphia; Classroom teacher collects data reflecting student's response to intervention.

Note:

The use of RtI should not delay or deny an assessment for dyslexia/ dysgraphia IF observations reveal characteristics of dyslexia/ dysgraphia (2021 TEA Dyslexia Handbook).

Tiered interventions must match specific area(s) of weakness. Early interventions and identification is best.

Classroom teacher problem solves with Dyslexia Contact Teacher (DCT) & RtI Committee to develop and implement, with fidelity, a Tier 2 Intervention, targeting the primary characteristics of dyslexia or dysgraphia (check alterable components)

AND

Collect data reflecting student's response to intervention.

Primary reading/spelling characteristics of dyslexia:

- difficulty reading words in isolation;
- difficulty accurately decoding unfamiliar words;
- difficulty with oral reading (slow, inaccurate, or labored);
- difficulty spelling (isolated difficulty in spelling would not be sufficient to identify dyslexia or dysgraphia)

Refer to handbook for definition of dyslexia, primary difficulties, & consequences, and PfISD's definition of dysgraphia & consequences.

**Response to Intervention Process: Tier 3
Dyslexia or Dysgraphia Evaluation-Special Education**

Please note that as of September 1, 2017, all students completing Kindergarten and First Grade must be screened for Dyslexia and related disorders. Pflugerville ISD established a process and procedure for screenings.

Student is not demonstrating progress in reading AND did not respond to Tier 1 and targeted Tier 2 Intervention

AND

Primary characteristics of dyslexia or dysgraphia are observed in the student
These characteristics are unexpected in relation to the student's age, educational opportunities, and cognitive abilities. If it is a parent-initiated request, follow procedures in handbook.

*Tier 1 & Tier 2 Intervention targeted toward one or more of the primary characteristics of dyslexia or dysgraphia; Classroom teacher collects data reflecting student's response to intervention.

Classroom teacher problem solves with Dyslexia Contact Teacher (DCT) & RtI Committee to develop and implement, with fidelity, a Tier 3 Intervention, targeting the primary characteristics of dyslexia or dysgraphia (check alterable components)

AND

Complete the Special Education Referral Packet for Dyslexia/Dysgraphia; Based upon the results, the campus RtI Committee will determine one of the actions labeled A or B.

A. Refer to Special Education for a Dyslexia/Dysgraphia Evaluation

Implement/Continue Tier 3 interventions during the evaluation with weekly progress monitoring in the area(s) of weakness (Progress monitoring should be at the Instructional Level)

B. Not Recommending a referral to Special Education

Complete the PSST Notice of Recommendation/ Refusal Form (PfISD Dyslexia Handbook)

Continue appropriate tiered intervention(s)



Appendix E-Checklist for Section 504 Initial Referral

Pflugerville Independent School District Checklist for Section 504 Initial Referral

Student Name: _____ **ID #:** _____ **Grade:** _____
Campus: _____ **Date:** _____

Date Each Action Item when Completed.

Items 1-3 to Be Released to Parent(s)/Guardian(s) for an Initial §504 Evaluation

The following documents (items 1-3) are the 1st set of documents that are delivered to notify the parent/guardian of the referral to Section 504 for an Initial Evaluation. These documents should, if possible, be presented to parent/guardian in person. A phone call or visit with the parent/guardian is required before releasing these documents to the parent/guardian to explain the referral process for a Section 504 Evaluation and the documents that are being delivered to them.

1. _____ **504 Notice & Consent for 504 Evaluation**
2. _____ **Notice of Rights for Disabled Students and their Parents under §504 of the Rehabilitation Act of 1973**
3. _____ **Notice of Parent and Student Rights Under Section 504: The Rehabilitation Act of 1973**

Items 4-7 to be released after Section 504 Notice & Consent for 504 Evaluation has been received and filed

The following documents (items 4-7) are the 2nd set of documents that are delivered to the campus nurse, student's teachers (including Special Areas), and parent/guardian. Any time documents get delivered to the parent/guardian, a phone call or visit with the parent/guardian is required to explain the purpose of the requested document(s) as well as allow opportunity to clarify the referral process for Section 504 and Section 504 Evaluation.

4. _____ **Educational Screening/Existing Evaluation Data Observation Data**
5. _____ **504 Student Health Information**
6. _____ **Educational Screening/Existing Evaluation Data: Information From Parent/Adult Student**
7. _____ Collect existing data from school personnel, parents and/or outside sources. Obtain **Notice for Release/Consent of Confidential Information**, if applicable

3rd Set of Documents (item 8) to be released to Parent/Guardian after 2nd Set of Documents have been received and filed

The following documents (item 8) are the 3rd set of documents that are delivered to parent/guardian. Any time documents get delivered to the parent, a phone call, or visit with the parents/guardian is required to explain the requirement/request for the document as well as allow opportunity to clarify the referral process for Section 504, and 504 Evaluation.

AFTER campus 504 Coordinator has determined a common time for staff members to meet, who are part of the student's 504 Committee, the meeting is scheduled. The campus 504 Coordinator contacts the parent/guardian and notifies parent/guardian of the scheduled meeting date, as well as providing explanation for the document: 504 Meeting Notice that is being delivered or sent home.

8. _____ ***Section 504 Meeting Notice**
Section 504 Initial Meeting

1. _____ Conduct Section 504 Committee Meeting.
 ___ *Follow Section 504 Meeting Agenda*
 ___ *Complete 504 Plan*
 ___ *Complete Signature Page*
 ___ *Complete any other screens, as applicable*
2. _____ Archive all documents completed and reviewed (504 Plan & applicable supplemental documents) into Archive Manager.

Following the Section 504 Initial Meeting

1. _____ Send a copy of the following documents to the parent/guardian in the order they are listed:
 ___ *Notice of Section 504 Evaluation Results*
 ___ *Completed 504 Plan*
 ___ *Distribute student's §504 Instructional/Testing Accommodations, if eligible, to all student's teachers*
 ___ *Obtain Teacher Signature on Section 504 Receipt of Student Accommodation Plan*
 ___ *File documentation of Section 504 Receipt of Student Accommodation Plan in student's yellow folder.*
 ___ *Complete the Section 504 PEIMS Action Form and distribute copies to appropriate people/files according to document*
2. _____ For students not eligible for §504; complete appropriate documentation (504 Plan & applicable supplemental documents) and save the §504 yellow folder to be brought to Central Office at folder exchange.

Other Forms

- _____ Forms to be sent to District 504 Coordinator
 Section 504 PEIMS Action Form
- _____ Forms to be given to the campus Registrar
 Section 504 PEIMS Action Form



Appendix F-Checklist for Section 504 Annual Review

**Pflugerville Independent School District
Checklist for Section 504 Re-evaluation Meeting**

Student Name: _____ ID #: _____ Grade: _____
Campus: _____ Date: _____

Date Each Action Item when Completed.

1. _____ Collect existing data from school personnel, parents and/or outside sources.
_____ Obtain **Notice for Release/Consent of Confidential Information**; if applicable
_____ **Educational Screening/Existing Evaluation Data Observation Data**
(Not needed for annual review)
_____ **504 Student Health Information** Completed by nurse
_____ **Educational Screening/Existing Evaluation Data: Information from Parent/Adult Student.**
2. _____ Designate meeting day & time and send Notice of Rights.
_____ **Send Section 504 Meeting Notice and Notice of Rights for Disabled Students and their Parents under Section 504 of the Rehabilitation Act of 1973** to parent(s)/guardian(s)

Section 504 Re-evaluation Meeting

3. _____ Conduct Section 504 Committee Meeting.
____ **Follow Section 504 Meeting Agenda**
____ **Complete Section 504 Plan**
____ **Complete Signature Page**
____ **Complete any other screens as applicable to case**
4. _____ **Archive all documents completed and reviewed** (504 Plan & applicable supplemental documents) into Archive Manager.

Following the Section 504 Annual Meeting

5. _____ Send a copy of the following documents to the parent/guardian in the order they are listed (keep originals in yellow folder):
____ **Notice of Section 504 Evaluation Results**
____ **Completed Section 504 Plan**

___ Distribute student's §504 Instructional/Testing Accommodations, if eligible, to all student's teachers

___ Obtain Teacher Signature on Section 504 Receipt of Student Accommodation Plan

___ File documentation of Section 504 Receipt of Student Accommodation Plan in either student's yellow folder or scan and place in an electronic folder.

___ Complete the Section 504 PEIMS Action Form and distribute copies to appropriate people/files according to document

___ For students not eligible for §504, complete appropriate documentation (504 Plan, supplemental documents applicable). The §504 yellow folder will be turned in to the District Section 504 Coordinator at folder exchange.

Other Forms

_____ To be emailed to District 504 Coordinator
Section 504 PEIMS Action Form (if changes occur to PEIMS coding)

_____ To be given to the Campus Registrar
Section 504 PEIMS Action Form (if changes occur to PEIMS coding)



Pflugerville ISD Section 504 Meeting Agenda

I. Introductions

Distribute and Review of Parent Rights under Section 504 to Parent(s)/Guardian(s)

**This must be done at every meeting or with any change to the IAP.*

II. Verification of Committee Membership

Committee Membership shall include members with:

1. Knowledge of the student being evaluated
2. Knowledge of evaluation data, and
3. Knowledge of placement options

**PfISD policy is to have an administrator at every meeting.*

III. Discussion of Data and Information

- a. Parent Input
- b. Teacher Input (includes review of formative and summative assessments)
- c. Campus Data (state assessments, other standardized assessments, district assessments, student behavior, office referrals)
- d. Other Data (medical diagnosis, information from physician or psychologist, information from other outside sources)

IV. Answer Section 504 Determination Questions

The determination for Section 504 Identification and subsequent accommodations is a consensus determination.

V. Determine whether data evidences the need for an Individual Accommodation Plan under Section 504

VI. Develop an Individual Accommodation Plan if the student meets the regulatory definition of a Section 504 Identified Student AND needs an Accommodation Plan under Section 504

VII. Review Meeting Deliberations

VIII. Adjourn

General Education Homebound Services Decision-Making Guide

Has the PISD student's parent or medical provider contacted you about the student's need for GEH Services?

YES

NO

Is the student currently under the care of a physician who can legally practice medicine in the U.S.?

YES

NO

Stop, you need to verify the student is under the care of a physician who can legally practice medicine in the U.S. before GEH Services can be considered.

Have you obtained a completed:

- *Physician Verification of Need for General Education Homebound Services* and
- *Notice for Release/Consent to Request Medical Information?*

Stop, you need to verify the student is under the care of a physician who can legally practice medicine in the U.S. before GEH Services can be considered.

YES

NO

Has the treating physician indicated the student will be confined to home or medical facility for a minimum of four (4)

Stop, you must obtain the above documents before proceeding with decisions regarding student's eligibility for GEH Services.

Email scanned documents to Shannon Jacque:

- *Completed General Education Homebound Services Forms*
- *Physician Verification of Need for General Education Homebound Services and/or Physician's Orders*
- *Additional Information Considered by the GEH Committee*
- *Contract for GEH Services*

GEH Teachers will send originals of the following forms to Stephanie Harrison at Central Office by the 2nd of the month:

- *Original Supplemental Pay Request*
- *Mileage Reimbursement Form*
- *Attendance Log*

No payment for GEH Services will be paid without a signed Contract for Services.

Copy of the GEH Weekly Attendance Logs need to be submitted to the Registrar/Attendance Clerk weekly on Monday mornings by 10:00 a.m.

YES

NO

Stop, the student is not eligible for GEH Services.

- Convene a General Education Homebound Committee Meeting.
- GEH Committee determines student's eligibility for GEH Services.
- Designate a GEH Teacher who will meet with the student during confinement period for a minimum of four (4) hours per week.
- Designate a follow up meeting date. The physician is required to give an end date for confinement*.
- Ensure all documents are completed correctly.

*This date may change as the student's eligible condition may require a shorter or longer confinement.

Pflugerville Independent School District General Education Homebound Operational Procedures

Any student who served through the General Education Homebound Program must meet the following three criteria:

- The student is expected to be confined at home or hospital bedside for a minimum of four (4) weeks. The weeks need not be consecutive.
- The student is confined at home or hospital bedside ***for medical reasons only***.
- The student’s medical condition is documented by a physician licensed to practice in the United States.

You can access the Texas Medical Board's searchable database of licensed physicians at http://reg.tmb.state.tx.us/OnLineVerif/Phys_SearchVerif.asp

A student served through GEH at home/hospital bedside must be served by a certified general education teacher. Over the period of his or her confinement, the student must be provided instruction in all the courses, including elective courses, in which that student is enrolled. A student who is served through the GEH program retains the same ADA eligibility code he or she had before receiving GEH services, regardless of how many hours the student will be served through the GEH program.

Amount of Time Served per Week	Eligible Days Present Earned per Week
1 hour	1 day present
2 hours	2 days present
3 hours	3 days present
4 hours	4 days present (if the week is a 4-day week) 5 days present (if the week is a 5-day week)
More than 4 hours	4 days present (if the week is a 4-day week) 5 days present (if the week is a 5-day week)

3.7.2 GEH Committee

A designated campus committee must make decisions regarding GEH placement. Members of the committee should include but are not limited to —

- a campus administrator,
- a teacher of the student, and
- a parent/guardian of the student.

Pflugerville ISD recommends the school nurse and designated GEH teacher(s) also serve on the GEH Committee.

The role of the GEH committee is to review and consider the necessity of providing instruction to a general education student at home/hospital bedside. If instruction is to be provided at home/hospital bedside, the GEH Committee determines the type(s) and amount of instruction to be provided. Over the period of his or her confinement, however, the student must be provided instruction in all the courses, including elective courses, in which that student is enrolled. In making these decisions, the GEH Committee must consider information from the student's physician. However, the physician’s note/information is not the sole determining factor in the Committee’s decision-making process.

3.7.2.1 GEH Committee Documentation Responsibilities

In qualifying a student for and providing the student GEH services, the following documentation is required:

- a district-developed form that documents GEH Committee decisions regarding whether student is to be served through GEH,
- documentation on the form of the GEH Committee’s decision regarding the type(s) and amount of instruction to be provided to the student, including the designated amount of time per week that instruction will be provided, If the student is enrolled in a CTE (Career and Technology Education) Course, the student must be afforded an additional hour of GEH Instruction.
- a note from a physician stating that the student has a medical condition that requires the student to be confined at home/hospital bedside for a minimum of four (4) weeks,
 - Pflugerville ISD requires the GEH Contact/Liaison to obtain a “Physician’s Verification of General Education Homebound Need” as the proper medical documentation for GEH consideration.
 - The General Education Homebound Committee (GEH Committee) must obtain a document from a licensed physician which specifically states the terms and reason for confinement prior to determining student eligibility for GEH.
- documentation of the day(s) homebound instruction started and stopped, and
- the teacher’s homebound instruction log. GEH Teacher must submit a Weekly Time Sheet to their campus registrar/attendance clerk noting date(s)/time(s)/ and instruction covered during the week.

Additional documentation may be maintained as part of this record at the discretion of the local education agency. This documentation may include, but is not limited to, mileage records for the homebound teacher and information on subjects that were taught as part of the homebound instruction.

GEH Teacher Documentation Responsibilities

The provision of General Education Homebound is supplemental work the GEH Teacher has been contracted to perform above and beyond the scope of their usual teaching duties. Requirements of GEH Teachers include the following duties in addition to providing instruction. Each GEH Teacher is responsible for completing and submitting the following documents:

Signed contract for service which indicates specifically when GEH instruction begins and ends;

- Weekly Time Sheet needs to be submitted to the campus registrar/attendance clerk by Monday of the following week to document the number of hours of instruction provided during the previous week;
- Correctly completed Supplemental Pay Request by the 5th of the subsequent month of service;
- a Mileage Report with a copy of Google Map/Map Quest map which gives the distance from the enrolled school to student’s location of confinement.

3.7.3 GEH Services for Students with Chronic Illness/Acute Health Problems

The federal definition for OHI found in 34 Code of Federal Regulations, §300.8(c)(9)(i)(ii), states, "Other health impairment means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment that —

1. is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and
2. adversely affects a child’s educational performance.

3.7.4 GEH Funding Chart

For GEH services to generate ADA, the services must be provided as follows:

A general education student served at home earns eligible days present based on the number of hours the student is served at home by a certified teacher each week.

In Pflugerville ISD, the GEH Committee determines the number of hours the student will receive instruction. The minimum allotment of hours is four (4) hours per week. Additionally, if a student is enrolled in a CTE course, one (1) additional hour will be allocated to the student for CTE instruction. CTE instruction must be provided by a certified CTE teacher.

Use the following chart to calculate eligible days present:

GEH Funding Chart Amount of Time Served per Week	Eligible Days Present Earned per Week
1 hour	1 day present
2 hours	2 days present
3 hours	3 days present
4 hours	4 days present (if the week is a 4-day week) 5 days present (if the week is a 5-day week)
More than 4 hours	4 days present (if the week is a 4-day week) 5 days present (if the week is a 5-day week)

Eligible days present are determined each week. For GEH purposes, a week starts Sunday and ends Saturday. GEH service hours may not be accumulated and carried forward from one week to the next, nor may service hours be applied to a previous week.

3.7.5 Test Administration and GEH

A student receiving GEH services may earn eligible days present as stated in the GEH funding chart when a homebound instructor administers routine quizzes, daily or weekly classroom exams, etc., that are required as part of the instructional requirements of a class.

If the routine, standardized, six-weeks, semester, or final exam administration or state assessment requires less than one hour, then the homebound instructor must complete the hour with homebound instruction for the student to earn the 1-day present. For example, say a student is administered a final exam, and it takes her 30 minutes to complete the exam. The student must receive an additional 30 minutes of homebound instruction to earn 1-day present.

A student receiving GEH services who returns to his or her campus to take a state-required assessment instrument (e.g., STAAR) must have a medical release from a medical or nurse practitioner licensed to practice in the United States to do so.

3.7.6 Transition from GEH to the Classroom

A student transitioning back to a school-based setting may continue to generate eligible days present based on the GEH funding chart during the transition period. The GEH committee must determine the length of the transition period based on current medical information. Once the student has completed the transition period as determined by the GEH committee, the student no longer generates eligible days present according to the GEH funding chart but instead generates attendance based on whether the student is present at the official attendance-taking time.

A transition meeting may be held in conjunction with a Section 504 Meeting to determine whether the student is eligible for Section 504 and which accommodations are needed during the transition Period. Transition decisions need to be documented on the Transition Meeting Forms.

3.7.7 Transitioning Students with Chronic Illness between Homebound and the Classroom

A student with a chronic illness or acute health problem that is a long-term condition that requires the student to be in the GEH program for at least 4 weeks will generate contact hours based on the following:

- Students transitioning back to a school-based placement may continue to be coded homebound during the transition period subject to the GEH funding chart.
- The length of the transition period must be determined by the GEH committee based on current medical information.

During the transition period, students are to be served through the GEH program for the period of time each week as specified by the GEH committee. Any student attendance in the classroom that is generated during the transition period will not be reported for funding purposes because funding will be based on the GEH funding chart.

Once the student has completed the transition period as determined by the GEH committee, the student no longer generates eligible days present according to the GEH funding chart but instead generates attendance based on whether the student is present at the official attendance-taking time.

It would be best practice for the parent(s)/guardian(s) to contact the school on the days the student is not able to attend class to ensure the GEH Teacher knows the student will need GEH Instruction. Because attendance is generated according to the GEH Funding Chart, while the student is in this transition period, every effort to communicate the student’s need for GEH Instruction on days the student is physically unable to attend school is imperative.

3.7.8 Students with a Recurring Chronic or Acute Health Condition

A student with a chronic illness or acute health problem that is a recurring condition that requires the student to be in the GEH program for a period of time (which can be in daily or weekly increments) totaling at least 4 weeks throughout the school year will generate contact hours based on the following:

- Students moving back and forth between the GEH program and a school-based placement generate eligible days present for those days they are served through the GEH program subject to the GEH funding chart.
- Students with a recurring condition generally do not require a transition period.

You can access the Texas Medical Board's searchable database of licensed physicians at:
http://req.tmb.state.tx.us/OnLineVerif/Phys_SearchVerif.asp

Use the following chart to determine how to record attendance information for students with a recurring condition.

For any week in which the student with the recurring condition —	the student earns contact hours and/or attendance —
is served solely at home/hospital bedside through the GEH program,	according to the requirements of the GEH funding chart.
is served for at least 4 hours at home/hospital bedside through the GEH program and attends school at his or her campus,	according to the requirements of the GEH funding chart.
is served from 1 to 3 hours at home/hospital bedside through the GEH program and attends school at his or her campus,	<ul style="list-style-type: none"> • according to the requirements of the GEH funding chart for those days the student is provided instruction at home/hospital bedside through the GEH program and • according to whether the student is present at the official attendance-taking time for those days the student attends school at his or her campus.

Payment for GEH Services

Supplemental Pay Request Form and Mileage Report Form need to be completed each month and submitted to Lisa Westbrook at Central Office. Make sure your Supplemental Pay Request Form is copied front and back, per PISD

Payroll Department. It is the instructional staff member's responsibility to submit both the Supplemental Pay Request and Mileage Report Forms to Lisa Westbrook by the 2nd day of the subsequent month.

**Supplemental Pay Requests will NOT be processed if a Contract for Services has not been issued by the Department of Special Programs.

The Supplemental Pay Request needs to include the Payee's address on the form, not the student's address.

Any questions concerning General Education Homebound Services may be directed to the PfISD Coordinator of Section 504, Dyslexia, and GEH (x40184).

Appendix K-PfISD §504 Manifestation Determination Procedures



Pflugerville ISD §504 Manifestation Determination Procedures

1. **Gather all available information** about the offense (referral forms, staff statements, student statements, verbal information from administrators and other staff, etc.), and contact District Section 504 Coordinator of the offense (x40184).
2. Send notice to parents of §504 committee meeting to conduct the manifestation determination. Verify that they have also received notice of rights, including the right to request a due process hearing.
3. At the meeting, begin with a brief review of existing §504 evaluation data and the student's disabilities.
4. Determine whether the committee has the information necessary to make the manifestation determination.
5. Determine whether the §504 Plan is appropriate and has been properly implemented.
6. Determine whether the student's disability caused, or was substantially or directly related to, the misbehavior in question.
7. Determine whether any failure to implement the student's §504 plan directly resulted in the misbehavior.
8. Briefly summarize the basic underlying rationale by which the committee is reaching its determination.
9. Notify the campus and the parents of the committee's determination (either at the meeting or afterwards, if they did not attend).
10. If the student is removed to an AEP, ensure that the §504 Accommodations continue to be implemented by forwarding a copy of the student's accommodation plan.

Adapted from *Discipline & Manifestation Determination Reviews Under Section 504*, Jose L. Martin, Attorney at Law, Richards Lindsay & Martin, L.L.P.