

Section 504 Manual



Scurry-Rosser ISD Mission Statement

The mission of Scurry-Rosser ISD is to prepare students to be passionate learners and influential leaders who strive for excellence and fulfill their potential.

ASSURANCE OF NONDISCRIMINATION

Scurry-Rosser ISD does not discriminate on the basis of race, religion, color, national origin, gender, sex, or disability in providing educational services, activities, and programs, including vocational programs in accordance with Title VI of the Civil Rights Act of 1964, as amended; Title IX of the Educational Amendments of 1972; and Section 504 of the Rehabilitation Act of 1973, as amended.

The following district staff members have been designated to coordinate compliance with these legal requirements:

- Title IX Coordinator, for concerns regarding discrimination on the basis of sex:
Adan Casas
Assistant Superintendent
10705 S. State Hwy 34, Scurry, Texas 75158
(972) 452-8823
- Section 504 Coordinator, for concerns regarding discrimination on the basis of disability:
Heather Jestis
Director of Special Programs
10705 S. State Hwy 34, Scurry, Texas 75158
(972) 452-8823
- All other concerns regarding discrimination:
Adan Casas
Assistant Superintendent
10705 S. State Hwy 34, Scurry, Texas 75158
(972) 452-8823

All complaints shall be handled through established channels and procedures beginning with the building principal, followed by appeal to the appropriate central administration contact, and finally the board of trustees, in accordance with Policy FNG.

If you need the assistance of the Office of Civil Rights (OCR) of the Department of Education, the address of the OCR Regional Office that covers Texas is:

Dallas Office, Office for Civil Rights, U.S. Department of Education
1999 Bryan Street, Suite 1620
Dallas, Texas 75201-6810
Telephone: (214) 661-9600
Fax: (214) 661-9587
Email: OCR.Dallas@ed.gov

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SECTION 504 CAMPUS COMMITTEE PROCEDURES

1. Each campus will have a Section 504 Committee consisting of at least two members of the faculty, including persons knowledgeable about the student, the meaning of the evaluation data, the placement options, and the legal requirements regarding least restrictive environment and comparable facilities for students with disabilities. One of the members must be a campus administrator. Other members may include the counselor, teachers, and/or nurse.
2. The Section 504 Campus Committee will attempt to identify and notify any eligible student under Section 504, the Rehabilitation Act of 1973. An eligible student under Section 504 is a student who (a) has, (b) has a record of having, or (c) is regarded as having, a physical or mental impairment that substantially limits a major life activity such as learning, self-care, walking, seeing, hearing, speaking, breathing, working, and performing manual tasks. Conditions may include, but not limited to the following:
 - ADHD (see guidelines for ADHD screening)
 - Chronic Fatigue Syndrome
 - Diabetes
 - Cerebral palsy
 - Sleep disorders, i.e., dyssomnia
 - Asthma
 - Muscle dysfunction related diseases
 - Dyslexia
 - Allergies
 - Other
3. When a student is referred to the Section 504 Campus Committee the following steps will be taken:
 - a) The committee will initiate the referral and gather data to be considered by the Section 504 Campus Committee. The committee members, which may include the student's teacher(s), shall accumulate all pertinent campus data as necessary and complete the 504 Referral form.
 - b) Following the receipt of the Referral form and the decision that 504 Evaluation should be pursued, the parent will be provided Notice and Consent for Initial Evaluation under 504 and Notice of Parent Rights will be included. The Notice of Parent Rights should be provided after referral regardless if a decision is made to evaluate under 504.
 - c) Teacher Input for 504 Evaluation will be gathered to determine the student's classroom performance and behavior.
 - d) Parent Input for 504 Evaluation will be gathered to determine the child's functioning and activities at home. This also allows the parent to be involved in the process.
 - e) Parent(s)/guardian(s) will receive written notification that the Section 504 Campus Committee will meet to make a determination of the student's eligibility under Section 504.
 - f) During the Section 504 meeting the 504 chairperson will complete the Initial Evaluation and Periodic Re-Evaluation form to determine initial eligibility in Section 504.
 - g) If a determination is made that the identified student qualifies under Section 504 disability, the Section 504 Campus Committee will complete the 504 Student Services Plan.
 - h) Parental Consent for 504 Services should be obtained once it has been determined that the student is eligible under Section 504.
 - i) Parent(s)/Guardian(s) attending meeting will receive copies of all forms. Parent(s)/Guardian(s) invited but unable to attend the 504 meeting will receive, by mail,

copies of all forms. All completed forms will be kept in a designated "Blue" Section 504 file separate from the student's cumulative folder. These files should be kept in a locked cabinet.

- j) The Section 504 Committee will send copies of 504 Student Services Plan to each of the student's teachers and a copy will be provided to administrators.
- k) A copy of all 504 forms will be sent to the district's Department of Special Programs.
- l) The Section 504 Committee will monitor, as instructed in the Section 504 Accommodation Plan, the progress of the 504 identified student by reviewing grade and progress reports. If a student is struggling, then the 504 chairperson needs to gather data as to what is causing the struggle and whether a 504 meeting needs to be held to review and change the current action plan.
- m) The Section 504 Campus Chairperson will complete a Section 504 re-evaluation on each identified student every three years or sooner upon the occurrence of the following:
 - Parental request
 - Receipt of new data that indicate the need for consideration of a significant placement change
 - Notification from student or school personnel that a significant change in placement should be considered
- n) The Section 504 Campus Chairperson will maintain a record of all students who have Section 504 accommodation plans.
- o) If a determination is made that the identified student does not qualify under a Section 504 handicapping condition, all gathered data will be retained at the campus for as long as the student is enrolled at that campus.
- p) The student's Section 504 committee must meet annually to determine if the current Student Services Plan is appropriate, if the plan needs modification, or if exit from Section 504 should be considered. The 504 Annual Review form and 504 Student Services Plan must be completed at the annual review. If dismissal is considered, a re-evaluation must be completed first.
- q) Before disciplinary removal including ISS, OSS, expulsion, or other action that constitutes a significant change in placement (for more than ten school days), the 504 Committee must conduct a 504 Evaluation and Manifestation Determination.

TYPES OF EVALUATION DATA

- Health Information/Records
- Observations
- Anecdotal records
- Attendance records
- TPRI/TELPAS/DIBELS/State Assessment Information
- Parent Information
- Teacher Information
- Medical Records
- Discipline Records
- Grades
- Achievement Tests
- Cum Record Information

Nondiscrimination	<p>A district shall provide equal opportunities to all individuals within its jurisdiction or geographic boundaries. <i>Education Code 1.002(a)</i></p> <p>No officer or employee of a district shall, when acting or purporting to act in an official capacity, refuse to permit any student to participate in any school program because of the student's race, religion, color, sex, or national origin. <i>Civ. Prac. & Rem. Code 106.001</i></p> <p>A district may not deny services to any individual eligible to participate in its special education program, but it shall provide individuals with disabilities special educational services as authorized by law. <i>Education Code 1.002(b)</i></p>
Federal Funding Recipients	<p>No person shall be excluded from participation in, denied the benefits of, or subjected to discrimination by any district that receives federal financial assistance, on the basis of any of the following protected characteristics:</p> <ol style="list-style-type: none">1. Sex.2. Race, color, or national origin.3. Disability, or relationship or association with an individual with a disability. [See EHB, EHBA series, and GA]4. Age. <p><i>20 U.S.C. 1681 (Title IX); 42 U.S.C. 2000d (Title VI); 20 U.S.C. 1400 et seq. (Individuals with Disabilities Education Act); 29 U.S.C. 794 (Section 504); 42 U.S.C. 12132 (Americans with Disabilities Act [ADA]); 42 U.S.C. 6101 et. seq. (Age Discrimination Act of 1975)</i></p>
Sexual Harassment	<p>Sexual harassment of students is discrimination on the basis of sex under Title IX. <i>Franklin v. Gwinnett County Schools, 503 U.S. 60 (1992)</i> [See also DIA and FFH]</p>
Grievance Procedures	<p>A district must adopt and publish grievance procedures for prompt and equitable resolution of student complaints alleging any action that would be prohibited by these provisions. <i>34 C.F.R. 106.8 (Title IX), 104.7(b) (Section 504)</i> [See FFH]</p>
Retaliation	<p>A district shall not coerce, intimidate, threaten, retaliate or discriminate against, or interfere with any person who attempts to assert a right protected by the above laws or cooperates with investigation and enforcement proceedings under these laws. <i>34 C.F.R. 100.7(e) (Title VI), 104.61 (Section 504), 106.71 (Title IX)</i> [See FFH]</p>
Students with Learning Difficulties	<p>The Texas Education Agency shall produce and provide to school districts a written explanation of the options and requirements for providing assistance to students who have learning difficulties or</p>

who need or may need special education. The explanation must state that a parent is entitled at any time to request an evaluation of the parent's child for special education services under Education Code 29.004 or for aids, accommodations, or services under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794). Each school year, a district shall provide the written explanation to a parent of each district student by including the explanation in the student handbook or by another means. *Education Code 26.0081(c)*

**Disability
Discrimination**

ADA

Under the Americans with Disabilities Act (ADA), no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a district, or be subjected to discrimination by the district. *42 U.S.C. 12132; 28 C.F.R. 35.130*

Section 504

Under Section 504 of the Rehabilitation Act, no otherwise qualified individual with a disability shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. *29 U.S.C. 794(a)*

Designation of
Responsible
Employee

A district shall designate at least one employee to coordinate its efforts to comply with Section 504 and the ADA. The district shall make available to all interested individuals the name, office address, and telephone number of the employee(s) so designated. *34 C.F.R. 104.7(a), 28 C.F.R. 35.107*

Definitions

*Student with a
Disability*

A "student with a disability" is one who has a physical or mental impairment that substantially limits one or more of the student's major life activities, has a record of having such an impairment, or is being regarded as having such an impairment.

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, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics, hearing aids, mobility devices, oxygen therapy, assistive technology, or learned behavioral or adaptive neurological modifications.

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

A student meets the requirement of being "regarded as" having an impairment if the student establishes that he or she has been subjected to a prohibited action because of an actual or perceived physical or mental impairment whether or not the impairment limits

or is perceived to limit a major life activity. This provision does not apply to impairments that are transitory or minor. A transitory impairment is one with an actual or expected duration of 6 months or less.

29 U.S.C. 705(20)(B), 42 U.S.C. 12102(1), (3)–(4)

Qualified Individual with a Disability

The term “qualified individual with a disability” means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a district. *42 U.S.C. 12131(2)*

Major Life Activities

“Major life activities” include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. “Major life activity” also includes the operation of major bodily functions, including functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. *42 U.S.C. 12102(2)*

Reasonable Modification

A district shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the district can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. *28 C.F.R. 35.130(b)(7)*

Direct Threat

“Direct threat” means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services as provided below. *28 C.F.R. 35.104*

The ADA does not require a district to permit an individual to participate in or benefit from the services, programs, or activities of that district when that individual poses a direct threat to the health or safety of others.

In determining whether an individual poses a direct threat to the health or safety of others, a district must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain:

1. The nature, duration, and severity of the risk;
2. The probability that the potential injury will actually occur; and

3. Whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

28 C.F.R. 35.139

Free Appropriate
Public Education
(FAPE)

A district shall provide a free appropriate public education to each qualified student with a disability within the district's jurisdiction, regardless of the nature or severity of the student's disability.

A student with a disability is "qualified" if he or she is between the ages of three and 21, inclusive. *20 U.S.C. 1412(a)(1); 34 C.F.R. 104.3(l)(2)*

An appropriate education is the provision of regular or special education and related services that are:

1. Designed to meet the student's individual educational needs as adequately as the needs of students who do not have disabilities are met; and
2. Based on adherence to procedures that satisfy federal requirements for educational setting, evaluation and placement, and procedural safeguards, as set forth below.

34 C.F.R. 104.33(b)

Implementation of an individualized education program (IEP) under IDEA is one means for providing FAPE. *34 C.F.R. 104.33(b)(2)*

Note: See EHBA series for policies regarding the provision of special education to students with disabilities under IDEA who require special education in order to benefit from a free appropriate public education.

Educational Setting

A district shall place a student with a disability in the regular educational environment, unless the district demonstrates that education in the regular environment with the use of supplemental aids and services cannot be achieved satisfactorily. *34 C.F.R. 104.34(a)*

In providing or arranging for nonacademic and extracurricular services and activities, a district shall ensure that a student with a disability participates with students who do not have disabilities to the maximum extent appropriate to the needs of the student with a disability. *34 C.F.R. 104.34(b), 104.37*

Evaluation and
Placement

A district shall conduct an evaluation of any person who, because of disability, 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.

*Evaluation
Procedures*

A district shall establish standards and procedures for the evaluation and placement which ensure that:

1. Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer;
2. Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and
3. Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

*Placement
Procedures*

In interpreting evaluation data and in making placement decisions, a district shall:

1. Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior;
2. Establish procedures to ensure that information obtained from all such sources is documented and carefully considered;
3. Ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and
4. Ensure that the placement decision is made in conformity with 34 C.F.R. 104.34.

Reevaluation

A district shall establish procedures for periodic reevaluation of students who have been provided special education and related services. A reevaluation procedure consistent with the Education for the Handicapped Act [now IDEA] is one means of meeting this requirement.

34 C.F.R. 104.35

<i>Military Dependents</i>	In compliance with the requirements of Section 504, and with Title II of the Americans with Disabilities Act (42 U.S.C. Sections 12131–12165), the district shall make reasonable accommodations and modifications to address the needs of incoming military dependents with disabilities, subject to an existing Section 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the district from performing subsequent evaluations to ensure appropriate placement of the student. <i>Education Code 162.002 art. V, § C</i> [See FDD]
Procedural Safeguards	<p>A district shall establish a system of procedural safeguards with respect to the identification, evaluation, and educational placement of persons who need or are believed to need special instruction or related services.</p> <p>The system shall include notice, an opportunity for the student's parent or guardian to examine relevant records, an impartial hearing with the opportunity for participation by the student's parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of IDEA is one means of meeting this requirement. <i>34 C.F.R. 104.36</i></p>
Children Who Are Homeless	A district shall adopt policies and practices to ensure that homeless children are not stigmatized or segregated on the basis of their homeless status. [See FDC]
Liaison	<p>A district shall designate an appropriate staff person, able to carry out the required duties, as the district liaison for homeless children. A district shall inform school personnel, service providers, advocates working with homeless families, parents and guardians of homeless children, and homeless children of the duties of the liaison. [See FFC]</p> <p><i>42 U.S.C. 11432(g)(1)(J)(i), (ii), (g)(6)(B)</i></p>
Religious Freedom	A district may not substantially burden a student's free exercise of religion, unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. <i>Civ. Prac. & Rem. Code 110.003</i> [See also DAA and GA]
Adverse Action Prohibited	Notwithstanding any other law, a district may not take any adverse action against any person based wholly or partly on the person's membership in, affiliation with, or contribution, donation, or other support provided to a religious organization. <i>Gov't Code 2400.002</i> [See GA]

**Discrimination on
the Basis of Sex**

Title IX

No person in the United States shall, on the basis of sex, be excluded from participation in, denied the benefits of, or be subjected to discrimination by any district receiving federal financial assistance. *20 U.S.C. 1681(a)* [See FFH for information regarding Title IX coordinator designation, policy notification, and complaint procedures.]

A district shall not provide any course or otherwise carry out any of its educational programs or activities separately on the basis of sex, or require or refuse participation therein on the basis of sex, including health, physical education, industrial, business, vocational, technical, home economics, music, and adult education courses. *34 C.F.R. 106.34* [See FFH for information on sexual harassment that may constitute discrimination on the basis of sex under Title IX.]

Separate Facilities

A district may provide separate toilet, locker room, and shower facilities on the basis of sex, but the facilities provided for one sex shall be comparable to the facilities provided for the other sex. *34 C.F.R. 106.33*

Human Sexuality
Classes

Portions of classes in elementary and secondary school that deal primarily with human sexuality may be conducted in separate sessions for boys and girls.

Vocal Music
Activities

A district may make requirements based on vocal range or quality that may result in a chorus or choruses of one or predominantly one sex.

34 C.F.R. 106.34

Single-Sex
Programs

A district shall not, on the basis of sex, exclude any student from admission to an institution of vocational education or any other school or educational unit operated by the district. *34 C.F.R. 106.35*

Pregnancy and
Marital Status

A recipient shall not apply any rule concerning a student's actual or potential parental, family, or marital status that treats students differently on the basis of sex. *34 C.F.R. 106.40* [See FND]

Physical Education
Classes

A district may group students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex.

*Skills
Assessment*

Where use of a single standard of measuring skill or progress in physical education classes has an adverse effect on members of one sex, a district shall use appropriate standards that do not have such effect.

Contact Sports

A district may separate students by sex within physical education classes or activities during participation in wrestling, boxing, rugby,

ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact.

34 C.F.R. 106.34, .43

Athletic Programs

A district shall not discriminate, on the basis of sex, in interscholastic or intramural athletics or provide any such athletics separately on such basis.

*Single-Sex
Teams*

A district may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but not for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try-out for the team offered unless the sport involved is a contact sport.

*Equal Athletic
Opportunities*

A district that operates or sponsors interscholastic or intramural athletics shall provide equal athletic opportunity for members of both sexes. The following factors shall be considered in determining whether a district provides equal athletic opportunities:

1. Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;
2. Provision of equipment and supplies;
3. Scheduling of games and practice time;
4. Travel and per diem allowance;
5. Opportunity to receive coaching and academic tutoring;
6. Assignment and compensation of coaches and tutors;
7. Provision of locker rooms and practice and competitive facilities;
8. Provision of medical and training facilities and services;
9. Provision of housing and dining facilities and services; and
10. Publicity.

34 C.F.R. 106.41

Note: The following provisions address equal educational opportunity for all students in accordance with law. For provisions addressing discrimination, harassment, and retaliation involving District students, see FFH.

Title IX Coordinator The District designates and authorizes the Title IX coordinator for students to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as amended. [See FB(EXHIBIT)]

ADA / Section 504 Coordinator The District designates and authorizes the ADA/Section 504 coordinator for students to coordinate its efforts to comply with Title II of the Americans with Disabilities Act of 1990, as amended, which incorporates and expands upon the requirements of Section 504 of the Rehabilitation Act of 1973 ("Section 504"), as amended. [See FB(EXHIBIT)]

Superintendent The Superintendent shall serve as coordinator for purposes of District compliance with all other nondiscrimination laws.

Equal Educational Opportunity
General Education The District shall provide necessary services and supports to provide students equal access to educational opportunities. [See EHBC] Certain instructional or other accommodations, including on state-mandated assessments, may be made when necessary, when allowable, and when these accommodations do not modify the rigor or content expectations of a subject, course, or assessment. [See EKB]

Additional Services and Supports If the District has reason to believe that a student has a disability that may require additional services and supports in order for the student to receive an appropriate education as this term is defined by law, Section 504 and/or the Individuals with Disabilities Education Act (IDEA) shall govern the evaluation, services, and supports provided by the District. [See also EHBA series]

[For information regarding dyslexia and related disorders, see EHB.]

Note: The following provisions address the District's compliance efforts and system of procedural safeguards as required by federal regulations for a student with a disability as defined by Section 504. A report of discrimination or harassment based on a student's disability shall be made in accordance with FFH.

Section 504 Committees The District shall form Section 504 committees as necessary. The Section 504 coordinator and members of each Section 504 committee shall receive training in the procedures and requirements for

identifying and providing educational and related services and supports to a student who has a disability that results in a substantial limitation of a major life activity.

Each Section 504 committee shall be composed of a group of persons knowledgeable about the student, the meaning of the evaluation data, placement options, and the legal requirements regarding least restrictive environment and comparable facilities for students with disabilities.

Referrals	If a teacher, school counselor, administrator, or other District employee has reason to believe that a student may have a disability as defined by Section 504, the District shall evaluate the student. A student may also be referred for evaluation by the student's parent.
Notice and Consent	The District shall seek written parental consent prior to conducting a formal evaluation. Ordinary observations in the classroom or other school setting shall not require prior parental consent.
Evaluation and Placement	The results of an evaluation shall be considered before any action is taken to place a student with a disability or make a significant change in placement in an instructional program. The Superintendent shall ensure that the District's procedures for tests and other evaluation materials comply with the minimum requirements of law. In interpreting evaluation data and when making decisions related to necessary services and supports, each Section 504 committee shall carefully consider and document information from a variety of sources in accordance with law.
Review and Reevaluation Procedure	<p>To address the periodic reevaluation requirement of law, the District shall adhere to the reevaluation timelines in the IDEA regulations.</p> <p>A parent, teacher, or other District employee may request a review of a student's services and supports at any time, but a formal reevaluation shall generally occur no more frequently than once a year.</p>
Examining Records	A parent shall make any request to review his or her child's education records to the campus principal or other identified custodian of records. [See FL]
Right to Impartial Hearing	A parent shall be given written notice of the due process right to an impartial hearing if the parent has a concern or complaint about the District's actions regarding the identification, evaluation, or educational placement of a student with a disability. The impartial hearing shall be conducted by a person who is knowledgeable about Section 504 issues and who is not employed by the District or related to a member of the Board in a degree that would be prohibited under the nepotism statute [see DBE]. The impartial hearing officer is

not required to be an attorney. The District and the parent shall be entitled to legal representation at the impartial hearing.

Records Retention

Records specific to identification, evaluation, and placement as these pertain to Section 504 shall be retained by the District in accordance with law and the District's local records control schedules. [See CPC]

Title IX Coordinator

The District designates and authorizes the following person as the Title IX coordinator to be responsible for coordinating the District's efforts to comply with Title IX of the Education Amendments of 1972, as amended, for students:

Name: Adan Casas
Position: Assistant Superintendent
Address: 10705 South State Highway 34, Scurry, TX 75158
Email: [Title IX coordinator](mailto:adan.casas@scurry-rosser.com) (adan.casas@scurry-rosser.com)
Telephone: (972) 452-8823

ADA/Section 504 Coordinator

The District designates and authorizes the following person as the ADA/Section 504 coordinator to be responsible for coordinating the District's efforts to comply with Title II of the Americans with Disabilities Act of 1990, as amended, which incorporates and expands upon the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, for students:

Name: Heather Jestis
Position: Special Education Director
Address: 10705 South State Highway 34, Scurry, TX 75158
Email: [ADA/Section 504 coordinator](mailto:heather.jestis@scurry-rosser.com) (heather.jestis@scurry-rosser.com)
Telephone: (972) 452-8823

Protecting Students With Disabilities

Frequently Asked Questions About Section 504 and the Education of Children with Disabilities

[Introduction](#) | [Interrelationship of IDEA and Section 504](#) | [Protected Students](#) | [Evaluation](#) | [Placement](#) | [Procedural Safeguards](#) | [Terminology](#)

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).

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INTRODUCTION

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

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

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

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

This resource document clarifies pertinent requirements of Section 504.

For additional information, please contact the Office for Civil Rights (</about/offices/list/ocr>).

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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> (/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 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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).

16. 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.

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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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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.

24. 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.

25. 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.

26. 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.

27. 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.

28. 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).

29. 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.

30. 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.

31. 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.

32. 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.

33. 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.

34. 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.

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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.

35. 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.

36. 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.

37. 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> (<http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CQaCorner%2C3%2C>)

40. 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.

41. 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.

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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.

42. 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.

43. 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.

44. 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.

45. 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.

46. 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.

47. Is there a mediation requirement under Section 504?

No.

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TERMINOLOGY

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

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

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

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

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

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

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

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Technical Assistance:
Section 504

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The Texas Education Agency has developed this document to provide technical assistance to local education agencies and parents. The intention of this document is to provide helpful, general information. It does not constitute legal advice nor is it a substitute for consulting with a licensed attorney. The information should not be relied upon as a comprehensive or definitive response to a specific legal situation. This document may not include a complete rendition of federal law.

Welcome Letter




Dear Fellow Texas Educators,

Thank you for your service and dedication to all students in the Lone Star state! As a committed stakeholder in public education, you are charged with preparing all students for success in college, a career, or the military by providing students access to high quality learning experiences, curriculum, and instruction.

The Texas Education Agency (TEA) Division of Special Education Program is developing a series of technical assistance guidance documents. These technical assistance guides are intended for use by Texas educators to support implementation of services for students with, or suspected of having, disabilities. Our hope is that these guides provide Local Education Agencies (LEAs) access to reliable information that contributes to improved outcomes for students with disabilities.

There is a ton of great information out there for school staff! Our goal with these guides is to gather and link information in one, easy to read resource. In addition to providing you with information and resources, these guides help clarify TEA's recommendations for practice.

Included in each guide are requirements, links to resources, best practice tips, examples, and more. The following information will help you navigate the technical assistance guides:

- While you can read the documents from beginning to end, you don't have to use them that way. The table of contents links each section, so you can click to skip directly to that area.
- Links that are in lower case [like this](#) will take you to a related website, resource, or document that supports the information you are reading about.
- Links that use all capital letters, [LIKE THIS](#), will take you to a legal citation and definition.
- "Notes" point out important reminders or considerations. Notes use a pencil icon: 
- "Best Practice Tips" have a blue rectangle around them: 
- "Tips for Working with Families" have this icon: 
- Various resources are linked within each section. All resources are provided in an alphabetized list at the end of the guide.
- There is also a resource page that provides links to TEA's Statewide Leadership Networks' websites, the TEA Special Education webpage, and other key state level resources.

For a glossary of special education terms please see: [The Legal Framework Glossary.](#)

If you ever have a question, concern, comment, suggestion, or find a broken link within these documents, please email the TEA Special Education Division at sped@tea.texas.gov.

Again, thank you for all you do, and we hope this document helps you in your journey of serving our students with disabilities and their families.

Sincerely,

The TEA Division of Special Education Program, Technical Assistance Team

Overview



[Video: The Power of 504](#)



Photo Credit: Wall ISD

Section 504

It is easy to assume that the signing of the Rehabilitation Act of 1973, including a short, powerful paragraph in Section 504, immediately provided protections and ended societal discrimination against people with disabilities in the United States. Unfortunately, no regulations accompanied the law, and the decisions regarding the interpretation of the law were left up to the courts. In a 1977 *New York Times* article, Daniel Yohalem, an advocacy group member stated, “The Department’s failure to issue regulations has meant that hundreds of thousands of intended beneficiaries of [Health, Education and Welfare (H.E.W.)] funded programs throughout the country who are handicapped continue to be subjected to discrimination in employment, health and social services, education and access to programs.” (Hicks, *New York Times*, 4/11/1977). After intense pressure from disability activists that included sit-ins and protests, the H.E.W. signed the regulations into law in January 1978, five years after the law was first passed. [TITLE 34](#), Section 104, of the Code of Federal Regulations (C.F.R.) implemented Section 504 of the Rehabilitation Act and created a framework for providing equal access to all students in any program or activity receiving federal financial assistance.





The Americans With Disabilities Act

The [Americans with Disabilities Act of 1990 \(ADA\)](#), signed by President George H.W. Bush, is a “sister act” to Section 504 of the Rehabilitation Act of 1973. According to the Civil Rights Division of the United States Department of Justice, the act is “one of America’s most comprehensive pieces of civil rights legislation that prohibits discrimination and guarantees that people with disabilities have the same opportunities as everyone else to participate in the mainstream of American life...” ([ADA.gov](#)). Much of the language of the law is the same or similar to that of Section 504 and broadens the scope of civil rights protections for people with disabilities from only entities receiving federal financial assistance to all of society, including the private sector. Congress amended the ADA in 2008 in response to court decisions that narrowed the definition of impairment. In amending the ADA, Congress sought to reestablish the original intent of the law by underscoring the broad definition of impairment and clarifying its intent that impairments should be determined without reference to or consideration of [Mitigating Measures](#).



Photo Credit: Harlingen ISD


“ ...prohibits discrimination and guarantees that people with disabilities have the same opportunities as everyone else to participate in the mainstream of American life... ”

Federal Laws	Description
<p>SECTION 504 OF THE REHABILITATION ACT OF 1973</p> 	<p>Section 504 is a provision of the Rehabilitation Act of 1973 that prohibits discrimination based upon disability. SECTION 504 is a civil rights statute that requires the needs of students with disabilities to be met as adequately as the needs of the non-disabled are met.</p> <p>The Office for Civil Rights of the U.S. Department of Education has jurisdiction to enforce Section 504 in instances of discrimination, harassment, or retaliation against anyone based on disability.</p>
<p>AMERICANS WITH DISABILITIES ACT (ADA) OF 1990 Title II</p> 	<p>The ADA is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public. NON DISCRIMINATION STATE AND LOCAL SERVICES</p>
<p>AMERICANS WITH DISABILITIES ACT AMENDMENTS ACT (ADAAA) OF 2008</p> 	<p>The Americans With Disabilities Act Amendments Act (ADAAA) restored the original definition of “SUBSTANTIALLY LIMITED” - that the impairment simply be a substantial limitation rather than a “significant” or “severe” restriction and broadened the definition of “major life activities.”</p> <p> The determination of substantial limitation is made based on a comparison to the ability of students without disabilities to carry out major life activities. It is up to local education agencies (school districts and open-enrollment charter schools, LEAs) to define substantial limitation. The law also clarified that the impairment limit at least one major life activity, not necessarily learning, to be considered a disability under the ADA.</p> <p>LEAs must make their Section 504 determinations based upon the child’s disability as it presents itself <i>without</i> mitigating measures (e.g., hearing aids, medications, learned behavioral adaptations). The use of EYEGLASSES or contact lenses is the exception to this rule.</p> <p>Example: A student with ADHD takes medication daily to enable them to focus and learn at school. Without the medication, the student’s hyper attention or non-attention would impair the major life activity of learning. Therefore, the determination of eligibility must be made according to the impact of the impairment without medication even if the student is making progress when using the mitigating measure.</p> <p>The ADAAA defines TRANSITORY or minor disability as “an impairment with an actual or expected duration of 6 months or less.” Thus, not requiring a Section 504 plan.</p> <p>Example: A student has broken the arm they use for writing and needs help completing schoolwork. Because this disability will likely be resolved within six months or less, it is “transitory and minor.” This does not preclude the LEA, however, from creating a temporary campus support plan for the student in order to accommodate the student’s needs during recovery.</p> <p>An impairment that is EPISODIC or in remission is considered a disability if it substantially limits a major life activity when it is active. Example: A student with epilepsy may experience episodic seizures that, while not frequent, substantially limit major life activities when seizures occur.</p>

[The Individuals with Disabilities Education Act \(IDEA 2004\)](#)



According to the United States Department of Education, the purpose of the IDEA is to provide a free appropriate public education to children with disabilities who qualify for and receive special education and related services. These services are individually calculated to meet the needs of students, including preparation for post-secondary transition. The IDEA is a funding statute that provides financial assistance to states, education service centers, and local education agencies. Compliance with the IDEA [timelines](#) is one way of ensuring compliance with Section 504 requirements for child find, evaluation, meetings, notice, and procedural safeguards. Region 18 Education Service Center provides a side-by-side publication of the IDEA, State Board of Education Rules, Commissioner’s Rules, and Texas State Laws titled: [Special Education Rules & Regulations](#). For further information about the similarities and differences between the IDEA and Section 504, please refer to [The Dyslexia Handbook – 2018 Update: Procedures Concerning Dyslexia and Related Disorders, Appendix D](#).

Texas Law	Description
<p>TEXAS EDUCATION CODE (TEC)</p> 	<p>TEXAS LAW requires LEAs to publish explanations of the options and requirements for providing assistance to students who need or may need special education or supplementary aids, accommodations and services under Section 504 of the Rehabilitation Act of 1973. The explanation must include a statement of the parent’s right to request an evaluation for either a full and individual initial evaluation (FIIE) under the IDEA for special education or Section 504. TEA provides a sample handbook statement that LEAs can use to fulfill this requirement.</p>

Local Education Agency (LEA) Responsibilities under Section 504



FAP

- Free Appropriate Public Education (FAPE) regardless of the nature or severity of disability
- Provided to each qualified student in the LEA
- May be general or special education and related services
- Protects against the segregation or exclusion of students with disabilities



Notice of Non-discrimination

- Must provide Notice of Non-Discrimination
- Does not discriminate on the basis of race, religion, sex, national origin, age, disability, or handicap
- Adopt anti-bullying and harassment policies



Compliance

- Implementation of Section 504 plans and accommodations as written
- No individual or staff member may alter or otherwise interpret the plan
- No individual or staff member may deny accommodations granted to the student
- Establish protections from harassment based on disability

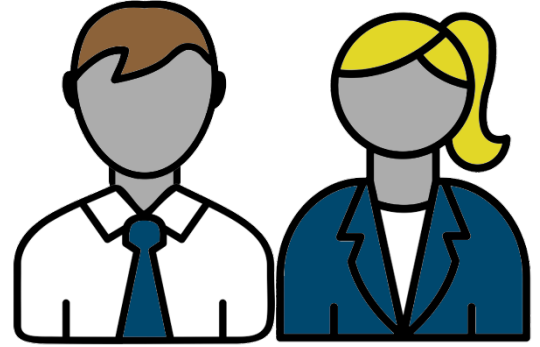


504 Coordinators

- LEAs with 15 or more employees must have a coordinator of Section 504 Services tasked with compliance and named in procedural safeguards
- Must be identified in Notice of Non-Discrimination
- Establish complaint procedures
- May also administer ADA compliance

Section 504 Coordinators

- [COORDINATE](#) and monitor the LEA's compliance with Section 504 and Title II of the [ADA](#), as well as state civil rights requirements regarding discrimination and harassment based on disability
- Oversee efforts to prevent Section 504 and ADA violations from occurring
- Implement the LEA's discrimination complaint procedures with respect to allegations of Section 504/ADA violations, discrimination based on disability, and disability harassment
- Investigate complaints alleging violations of Section 504/ADA, discrimination based on disability, and [disability harassment](#)
- Additional responsibilities as determined by the LEA (The law does not require that the same person coordinate both Section 504 and ADA compliance.)

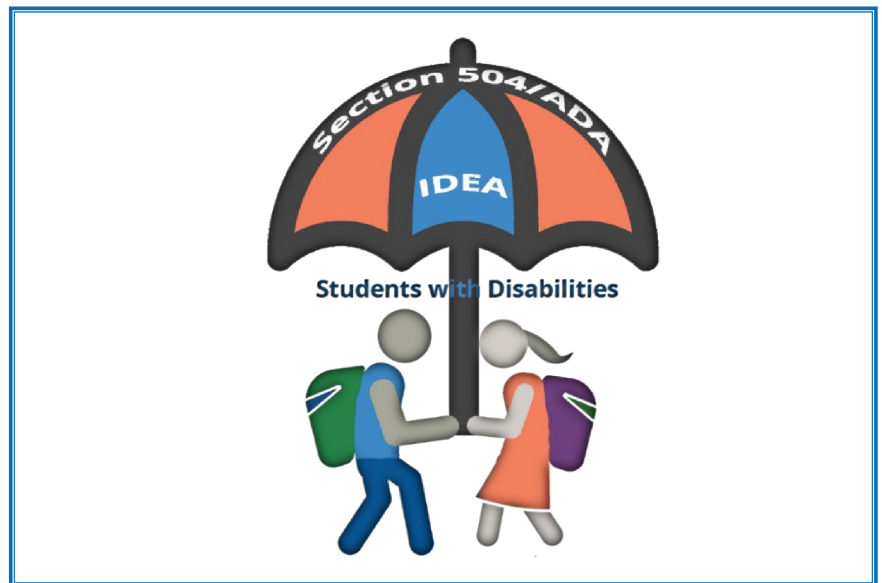


Best Practice Tips:

- Routinely take steps to ensure staff members are trained in Section 504 rules and procedures
 - For example, offer ongoing professional development, hold campus Section 504 coordinator meetings, facilitate professional learning communities
- Perform internal self-audits for Section 504 compliance
 - For example, periodic folder reviews

Collaboration is Key!

To better understand the interplay between Section 504, the ADA and the IDEA, visualize civil rights protections as a big umbrella. Students under the Section 504 umbrella are entitled to a free appropriate public education ([FAPE](#)) which may consist of regular or special education with supplementary aids and services or related services. Congress enacted the IDEA to provide financial assistance to states so that they could create special education programs to meet the needs of students whose disabilities require specially designed instruction and related services. The [IDEA](#) defines FAPE as “The provision of special education and related services... provided at public expense, meeting the standards of the State Educational Agency, and in conformity with an IEP in a manner reasonably calculated to enable the child to receive educational benefit.” Not all students who are eligible for services and accommodations under Section 504 will meet be eligible for special education and related services under the IDEA. However, all students provided special education services are protected under both the civil rights umbrella and the IDEA. The FAPE standard is defined differently by each law.



To receive special education, a student must have a [DISABILITY](#) that falls within at least one of the 13 eligibility categories identified in the IDEA and, because of that disability, requires special education and related services. It is possible that some students with disabilities may not require special education for the entirety of their educational career. Collaboration between Special Education and Section 504 coordinators can create a bridge to provide services in a fluid progression according to student growth, progress, and individual need.

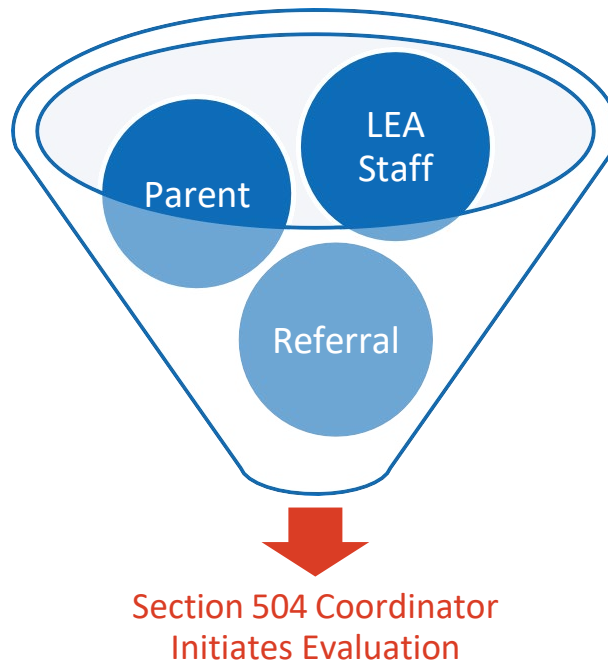
Eligibility

The Referral Process

The LEA's duty to evaluate a student for Section 504 protections is triggered by the suspicion that the student has a disability that substantially limits a major life activity. The Texas Education Agency (TEA) is required by [TEXAS LAW](#) to provide school districts and charter schools with a written statement of the options and requirements for providing assistance to students who have learning difficulties or who need, or may need, special education services. The [statement](#) must be included in each school district's or charter school's student handbook.

Referrals can be made by families or LEA staff. Examples of circumstances in which referral requests are often made include:

- The student has a chronic medical condition that is not covered by the IDEA.
- The student has one of the disabilities identified in the IDEA, but is not eligible for special education and related services because the student does not need specially designed instruction.
- The student has a "[hidden disability](#)," such as low vision, poor hearing, heart disease, or a chronic illness, such as diabetes.
- Families have received an outside evaluation and are requesting Section 504 protections and/or accommodations.



Best Practice Tips:

- Upon receiving a request for a Section 504 evaluation and parental consent, the Section 504 coordinator will follow LEA procedures for the Section 504 evaluation, including providing prior written notice, and notice of procedural safeguards to the family.
- Should the LEA determine that an evaluation is not necessary, the parent should be provided prior written notice (following the [IDEA procedures](#)) and must be provided Section 504 [procedural safeguards](#).
- If an LEA is unsure if a need for special education services is suspected, a referral through IDEA should be initiated.

Note:

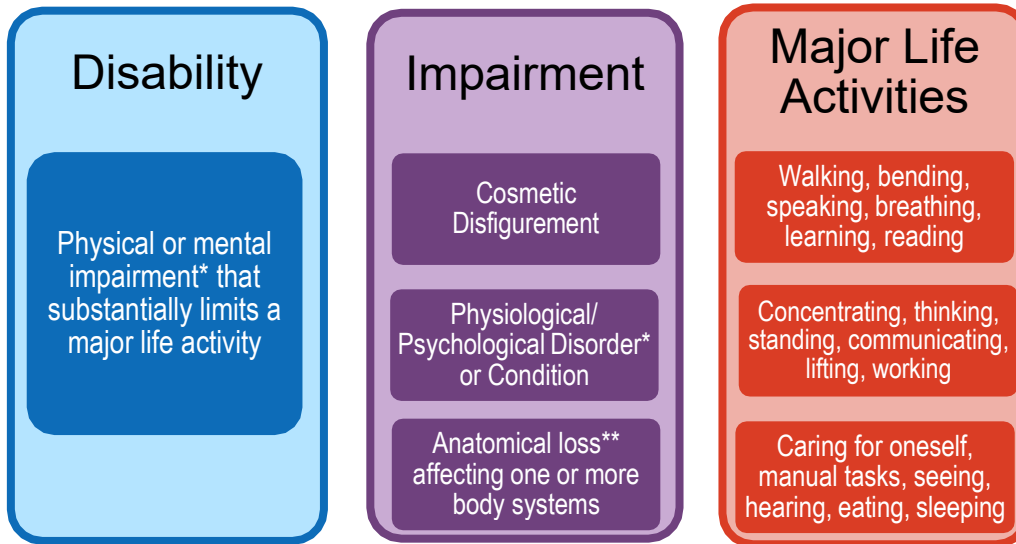


Students who are suspected of having a disability and needing special education services should immediately be referred for an evaluation under the IDEA. Section 504 evaluations cannot be used to delay or deny a referral for special education.

Initial Evaluation

[SECTION 504](#) regulations require LEAs to individually evaluate students before determining eligibility for protections under [Section 504](#) or the IDEA. Procedures must be established at the LEA level for initial evaluation of students who need or are believed to need special education, Section 504, and/or related services. If formal, standardized testing is deemed appropriate by the Section 504 committee, it must be provided free of charge to families. [TEST](#) materials must be valid for the purpose for which they are being used and administered by trained personnel according to publisher instructions. The evaluation must be tailored to address areas of educational need. Tests administered to students with impaired sensory, manual, or speaking skills must accurately reflect the student’s aptitude or achievement level or the factor that the test is created to measure, rather than impaired sensory, manual or speaking skills.

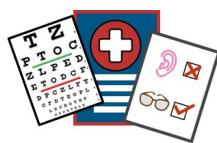
Eligibility for Section 504



* Physical or mental impairment includes, but is not limited to, contagious and noncontagious diseases and conditions such as the following: orthopedic, visual, speech, and hearing impairments; cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, dyslexia, and other specific learning disabilities, attention deficit hyperactivity disorder, human immunodeficiency virus infection (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

**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.

Evaluation



Evaluation Data Sources	Medical/Health	Social Behavioral	Academic	Individuals
Examples	Hearing & Vision, School Health Records, Individual Health Plan, Outside Medical Evaluations	Behavioral Data, Disciplinary Records, Outside Psychological Evaluations, Intervention Progress Monitoring Data, Social and Developmental History	Universal Screening Data, Intervention Progress Monitoring Data, Curriculum Based Assessments, State Assessment Results, Grades, Benchmarks, Quizzes, Unit Tests	Observations and Input From: Student, Family, Teachers, Behavior Specialists, Counselors, School Nurse, Interventionist, Campus Administrator

[EVALUATIONS](#) should be completed in a timely manner. Following the IDEA timelines is one way of meeting the standard. (see [Scenario 5](#), pg. 17)

Note:



- Evaluation does not necessarily mean “test.” In a Section 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 [OCR FAQ 17-34](#).
 - When 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.
- According to the ADA, the definition of disability should not require extensive analysis, and parents may not be burdened or required to provide data or information. If a medical or outside evaluation is required, it must be provided at no cost to the families. [Resource Guide on Students with ADHD, pg. 19](#)

The Office for Civil Rights encourages LEAs to [follow state special education timelines](#) for evaluation after receiving parental consent (see page 17; Scenario 5). In [TEXAS](#), special education evaluations must be completed within 45 school days of receipt of parental consent, subject to certain exceptions. [TEA's Technical Assistance: Child Find and Evaluation Guide](#)

Least Restrictive Environment

Section 504 regulations [MANDATE](#) that students with disabilities are to be educated with their peers without disabilities to the maximum extent appropriate. The expectation for students protected under Section 504 is placement in the general education setting unless the LEA can demonstrate that the education of that student in the general education setting with supplementary aids and services cannot be achieved. This would prompt a referral for a special education evaluation. When Section 504 committees are considering evaluation data and appropriate placement, the Office for Civil Rights advises that the following questions should be asked and answered ([Resource Guide on Students with ADHD, pg. 19](#)):

1. Does the student have a disability as defined by Section 504 regulations?
2. If so, does the student need regular or special education, related aids and services, or supplementary aids and services because of the disability, and in what setting should the student receive them?



Photo Credit: Kilgore ISD

Section 504 Meetings

How to Facilitate an Initial Section 504 Meeting




Initial Section 504 meetings can be intimidating to families and students. Care should be taken to conduct a positive, solution focused meeting, protecting the dignity of student and families.



Who must attend the Section 504 Meeting?

Section 504 regulations require members who:

- Can make placement decisions
- Are knowledgeable about the student
- Can interpret the meaning of the evaluation data

Someone who:	 Can Make Placement Decisions	 Is Knowledgeable about the Student	 Can Interpret the Meaning of Evaluation Data
Examples of Appropriate Members	Principal, Vice/Assistant Principal, Counselor, LEA 504 Coordinator, or Campus 504 Coordinator	Student, Parents or Guardians, Teachers, Counselor, Behavior Specialist, Campus 504 Coordinator, or other Related Service Providers	School Nurse, Diagnostician, Licensed Specialist in School Psychology, Reading Interventionist, Dyslexia Teacher, Language Proficiency Assessment Committee Representative, Related Service Providers, or Texas Workforce Commission Representative

[\[34 CFR §104.35\(c\)-\(3\)\]](#)

During the Meeting

- Committee discussion could include:
 - Celebration of student's strengths
 - Student input related to educational experience and challenges
 - Parent input relevant to the student's impairment and the educational impact
 - Staff input regarding student performance in academics and behavior
- Review of all evaluation data
- Does the student meet Section 504 eligibility requirements?
 1. The student must be [QUALIFIED](#), which means that they must be of an age in which services are provided to non-disabled students.
 2. The student must have a physical or [mental impairment](#) (See question 11)
 3. The physical or mental impairment [substantially limits](#) one or more major life activities (See question 11) and without consideration of [mitigating measures](#), except glasses. (See question 4)



Best Practice Tips:

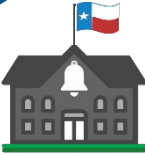
- Students should be encouraged to attend their meetings in order to provide input about their disability, experience in the educational setting and supports that they find helpful. Best practice suggests following IDEA requirements for including students in IEP meetings and transition planning at 14 years old as a guide for Section 504 meetings.
- Prepare an agenda or checklist to make sure that all necessary components of eligibility are addressed. Agendas guide discussion and keep meetings on track.
- Introduce all meeting participants. If the student is in attendance spend a few minutes to make them feel comfortable and included.
- One member of the committee should be assigned to take detailed meeting minutes. While a written summary is not mandated under federal guidelines, it provides required [DOCUMENTATION](#) of the discussion and data sources considered and captures key points.
- Document in meeting minutes that discussion between staff responsible for extracurricular activities and nonacademic activities will be facilitated in order to provide an equal opportunity for participation.

504 Meeting - Sample Checklist:


- Call or email parents to schedule meeting
- Send home an invitation to the meeting with a Notice of Procedural Safeguards
- Evaluation data is assembled and ready for presentation
- Invite all applicable participants, including student:
 - Follow LEA established procedures for procuring substitutes
 - Obtain parental consent to invite or obtain information from any outside service providers
- Signed invitation and receipt of Procedural Safeguards returned and filed documenting parent intent to attend, not attend or need to reschedule
- Prepare the room ahead of time for the meeting
 - Technology
 - Chairs
- Participants introduced
 - Parents in attendance?
 - Student in attendance?
- Explanation of eligibility requirements
 - Physical or mental impairment
 - Major life activity
- Discussion of student strengths
- Discussion of student challenge areas (impact of the disability)
- Review and document the evaluation of data regarding the student's physical or mental impairment
- Review and document identification of major life activities substantially limited
- Document committee discussion regarding the need for special education and related services
 - Initiate special education referral?
 - Explanation to parents that services or accommodations provided pursuant to a plan under Section 504 or services offered as a part of the LEA's multi-tiered systems of support (MTSS) may not be used to delay or deny a referral for special education.
- Document committee deliberations regarding the Least Restrictive Environment (LRE) and Free Appropriate Public Education (FAPE) for the student
- Create plan outlining services and accommodations
- Review minutes
- Obtain participant signatures
- Copies to parents – make sure to obtain signed receipt of Procedural Safeguards/Parent and Student Rights if not returned with invitation
- Distribute the Section 504 plan to all appropriate staff with consult for clarification or assistance in implementation
- Obtain and file signed receipt of Section 504 plan from LEA staff




Types of Meetings	Description
<p>Periodic Reevaluations and Meetings</p>	<p>Section 504 REGULATIONS require LEAs to develop procedures for periodic reevaluation of students. Following IDEA timelines is one way of meeting this requirement. (See Yearly Reviews and Three-Year Reevaluations below)</p>
<p>Manifestation Determinations</p>	<p>Disciplinary removals of more than ten days constitute a significant change in placement, and Section 504 regulations require a reevaluation prior to any change in placement. Changes in placement due to discipline require that the reevaluation include consideration whether the behavior is a manifestation of the student’s disability. (See Manifestation Determination below)</p>
<p>Homebound</p>	<p>In some cases, students suffer from an illness or injury that causes excessive absences. The Student Attendance and Accounting Handbook and LEA policies provide procedures for facilitating a homebound educational experience. Immediately after receiving a licensed physician’s written recommendation that a student be confined at home or hospital bedside for a minimum of four weeks, the 504 coordinator should schedule an initial evaluation meeting if the student has not been previously served under Section 504, or a reevaluation to consider a change in placement if the student is already served under Section 504. The committee should follow Section 504 evaluation procedures (see sample 504 Homebound Meeting checklist) and consider transition plans for leaving and returning to the school environment. (See Homebound below)</p>



LEA Responsibilities: The LEA must follow all legal requirements for Section 504 meetings and ensure that the committee consists of qualified members, that the Section 504 accommodation and services plan is provided to staff and followed with fidelity, and that ongoing monitoring of student progress is implemented. Periodic reevaluations are required.



Family Participation: Parents should request that they be invited to all meetings regarding their student. They should be given the opportunity to provide meaningful input about their student’s impairment, and possible accommodations, collaborate with campus staff and encourage their student to utilize the supports and services provided. Parents are encouraged to keep and review all documents, familiarize themselves with procedural safeguards, and learn about Section 504 regulations.



Student Participation: As soon as they are old enough, students should participate in their Section 504 meetings and be encouraged to provide input into their accommodation and services plan. Students should be aware of the accommodations created by the Section 504 committee. Best practice suggests following IDEA requirements for including students in IEP meetings and transition planning at 14 years of age.

Partner with Families

Families and Section 504

While federal law does not require that families participate in a Section 504 meeting, they should be provided ample opportunity to participate. If they are not able to attend, they should be given the opportunity to provide meaningful input. The relationship between the family and the local education agency is foundational to creating supports and services that meet the needs of students. Texas Education Code states: "[PURPOSE](#). (a) Parents are partners with educators, administrators, and LEA boards of trustees in their children's education. Parents shall be encouraged to actively participate in creating and implementing educational programs for their children."

“Parents are **partners** with educators, administrators, and LEA boards of trustees in their children's education.”



Section 504 meetings are powerful opportunities for LEA staff to celebrate student progress and collaborate with families in a solution focused way to ensure a “level playing field” for eligible students.

Best Practice Tips:

- Provide frequent positive communication with parents about their student.
- Seek parent input and collaboration in creating Section 504 Plans.
- Always invite parents or guardians to Section 504 meetings. If parents live at separate addresses, invite both as allowed and subject to any child custody agreements to which the LEA has access.
- Send home draft documents prior to meetings so that parents know what to expect and have time to read and understand the information to be discussed.
- Plan for the Section 504 committee to include persons who meet the regulatory criteria.
- Plan for the Section 504 meeting to be a positive, solution focused meeting by setting expectations for decorum and providing an agenda.
- In the case of disagreement, consider pausing the meeting with a plan to reconvene within 10 days to gather additional data. Provide parents with procedural safeguards.

Yearly Reviews

While Section 504 regulations merely require “periodic reevaluation,” some Texas LEAs may choose to require annual reviews of Section 504 plans as a best practice or establish their own procedures for alternatives to in-person meetings. Examples of alternatives may include: Section 504 reevaluation and monitoring year schedules, quarterly monitoring activities with documentation, and “snapshot” reviews that are shared with parents in lieu of a yearly meeting. These processes may be beneficial in providing structures for ongoing progress monitoring that may illuminate students who are struggling and in need of further assistance and intervention or those who are performing well due to effective Section 504 accommodation and services plans.

Periodic Reevaluations

Section 504 regulations require LEAs to develop procedures for periodic reevaluation of students served by Section 504. The Section 504 regulatory guidelines for [REEVALUATION](#) procedures are the same as for initial evaluations. A reevaluation procedure that mirrors the IDEA timeline is one way of complying with the requirement. [IDEA](#) timelines require reevaluations not more than one time per year, unless agreed upon by the parents and LEA, and at least one time every three years ([Parent and Educator Resource Guide to Section 504](#) in Public Elementary and Secondary Schools, OCR, pg. 18, footnote 60).

Best Practice Tips:

In some instances, committees may need to convene more frequently to adjust the plan when a student is struggling or has experienced any change in impairment status. **Examples could include, but are not limited to:**

- A [REFERRAL](#) for Special Education
- To change accommodations based on a need, or lack thereof
- When students experience difficulty in the general education classroom
- Prior to any change of placement
- Truancy

Manifestation Determination

Disciplinary removals of more than ten consecutive days or ten days in a cumulative pattern are considered long term removals and constitute a change in placement. Section 504 regulations require a [REEVALUATION](#) prior to change in placement. Therefore, changes in placement due to discipline require that the [reevaluation](#) (pg. 22) include consideration of whether the behavior is a manifestation of the student's disability ([Disability Rights Enforcement Highlights](#), Office for Civil Rights, United States Department of Education, see page 10).

The Section [504](#) committee must consist of a group of persons who can make placement decisions, are knowledgeable about the student, and can interpret the meaning of the evaluation data and placement options. Documentation should be recent and comprehensive including parent information and behavioral data. Utilizing all available information, the Section 504 committee must answer the following questions:



Was the behavior caused by or directly related to the disability?

Was the behavior due to the LEA's failure to implement the 504 plan?

Is the behavior a manifestation of the disability?

If the answer to either question is yes, the behavior is a manifestation of the disability and the student cannot be removed from the [current placement](#) (see pg. 4). A student whose behavior inhibits their ability to learn, or that of others, may require an evaluation for special education and/or [related services](#) (see pg. 9). Committees should consider requesting additional evaluations, including a referral for special education along with additional interventions and supports such as data-based individualization, behavior intervention plans, and related services. Parents must be provided with [PROCEDURAL SAFEGUARDS](#) which stipulate that parents have the right to challenge the decision.

If it is determined, based upon the 504 committee's answers to these questions, that the behavior is not a manifestation of the disability, then the student may be disciplined according to the student code of conduct in the same manner as their [non-disabled peers](#) (See pg. 3). Parents must be provided with [PROCEDURAL SAFEGUARDS](#) and informed of their rights to challenge the decision. The Section 504 plan should be reviewed and updated by the Section 504 committee to prevent future challenges. When implementing disciplinary procedures for behavior that does not trigger consideration of change of placement, LEAs should avoid assigning harsher disciplinary procedures for students with disabilities than those [APPLIED](#) to students without disabilities.

Is the behavior a result of alcohol and drugs?

Students with disabilities are subject to the state and LEA disciplinary procedures regarding alcohol and [DRUGS \(questions 15 and 16\)](#) to the same extent as their non-disabled peers. Due process protections under [TITLE 34, SECTION 104.36](#) do not apply in this situation even if the behavior is a manifestation of the disability, and the LEA is not required to conduct a manifestation determination review. [TEXAS EDUCATION CODE](#) requires the removal from class and placement at a disciplinary alternative education program for certain conduct, including when students sell, give, or deliver controlled substances, marijuana, or alcohol.

Manifestation Determination Meeting Checklist – Sample

- Parents invited to the meeting
- Sent home invitation to the meeting with Notice of Procedural Safeguards
- Evaluation data is assembled, including behavior data and disciplinary reports, and ready to present
- Invite all applicable participants, including student (should include diagnostic personnel who can provide guidance on how the behavior might or might not be caused by the disability)
 - Follow LEA established procedures for procuring substitutes
 - Obtain parental consent to invite or obtain information from any outside service providers
- Signed invitation and receipt of Procedural Safeguards returned and filed documenting parent intent to attend, not attend, or need to reschedule
- Prepare the room ahead of time
 - Technology
 - Chairs
- Participants introduced
 - Parents in attendance?
 - Student in attendance?
- Explanation of eligibility requirements
 - Physical or mental impairment
 - Major life activity
- Discussion of student strengths
- Discussion of student challenge areas
- Review and document the evaluation of data regarding the student's physical or mental impairment, the behavior,⁴ and disciplinary consequence under consideration
- Review and document identification of major life activities substantially limited
- Document committee discussion regarding the following: (If the answer to either question is yes, the behavior is a manifestation.)
 - Was the behavior caused by or directly related to the disability?
 - Was the behavior due to the LEA's failure to implement the Section 504 plan?
- No, the behavior is not a manifestation: discipline will be decided in accordance with student code of conduct.
- Yes, the behavior is a manifestation: document any additional evaluations such as functional behavior assessment, including an evaluation for special education and related services that will be requested
- Create Section 504 services and accommodation plan including behavior intervention plan – including positive behavior interventions and supports (PBIS)/multi-tiered systems of supports (MTSS)
- Review minutes
- Obtain participant signatures
- Copies to parents – make sure to obtain signed receipt of Procedural Safeguards/Parent and Student Rights if not returned with invitation.
- Distribute the Section 504 plan to all appropriate staff with consult for clarification or assistance in implementation – obtain and file signed receipt.



Homebound

In order to qualify for the General Education Homebound (GEH) status, a student must meet the following conditions:

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

Homebound education is provided by a certified general education teacher in core academic subjects. If possible, elective courses should be addressed as well. Each LEA is required to have policy and procedures for implementing homebound instruction that are school board approved. The Section 504 committee, which must follow the GEH committee requirements, must evaluate a variety of data, including documentation from the licensed physician. In these cases, it would be beneficial to include the school nurse as a member of the committee. All homebound educational plans must be created on a case by case basis. Consideration should also include state and LEA assessments, transition away from campus, and returning to campus (including academic, behavioral and social/emotional needs). This means that the 504 committee may need to meet frequently to adjust the transition plans according to individual student need and current medical information. [Student Attendance Accounting Handbook](#)

Attendance

Section 504 committees must meet to address students with disabilities who miss large amounts of school and are not served by homebound services. Section 504 [REGULATIONS](#) protect the rights of students to have access to the general or special education environment through FAPE in the LRE.

Best practice indicates that the Section 504 Coordinator monitor student attendance and convene the Section 504 committee as needed to proactively prevent truancy by creating an individualized plan that may modify LEA attendance policy.



Photo Credit: Wylie ISD

General Education Homebound Meeting Checklist – Sample

- Parents invited to the meeting
- Sent home invitation to the meeting with Notice of Procedural Safeguards
- Evaluation data is assembled, and ready to present – Review and be familiar with Student Attendance and Accounting Handbook 3.7 [General Education Homebound Program](#)
- Invite all appropriate participants, including student
 - GEH Policy requires that the committee include campus administrator, teacher, parent (While the school nurse is not a required participant, according to the Student Attendance and Accounting Handbook, they are valuable members of the committee and should be invited as a best practice to assist in understanding evaluation data.
 - Obtain parental consent to invite or obtain information from any outside service providers.
- Signed invitation and receipt of Procedural Safeguards returned and filed documenting parent intent to attend, not attend, or need to reschedule
- Prepare the room ahead of time for the meeting
 - Technology
 - Chairs
- Participants introduced
 - Parents in attendance?
 - Student in attendance?
- Explanation of eligibility requirements
 - Physical or mental impairment
 - Major life activity
- Discussion of student strengths
- Discussion of student challenge areas
- Review and document the evaluation of data regarding the student’s physical or mental impairment – Must include notification from a licensed physician of the need for homebound for a minimum of 4 weeks;
- Review and document identification of major life activities substantially limited
- Document committee discussion regarding the need for special education and related services
 - Initiate special education referral?
 - Explanation to parents that Section 504/multi-tiered systems of support (MTSS) may not be used to delay or deny a referral for special education
- Document committee deliberations regarding the LRE and FAPE for the student
- Create the GEH plan including location (home or hospital), amount of time per week, and type of instruction to be provided. Provide start and completion dates.
- Plan to reconvene to plan for the student’s transition back to school.
- Complete any LEA developed forms.
- Document discussion of how the plan will meet the core instruction requirement and include all other courses the student is enrolled in, if possible.
- Identify person responsible for collecting the homebound teacher’s instruction log and any additional LEA required documentation– following requirements of Student Attendance and Accounting Handbook 3.7.2.1 GEH Committee Documentation Responsibilities
- Review minutes
- Obtain participant signatures
- Copies to parents – make sure to obtain signed receipt of Procedural Safeguards and Parent and Student Rights if not returned with invitation.
- Follow LEA policy for coordinating with homebound instruction



The 504 Plan

The purpose of the Section 504 [plan](#) (pg.10) is to create an educational blueprint that is unique to each student and provides the student access to a free appropriate public education. An [APPROPRIATE](#) education is one that is designed to meet the individual needs of the student as adequately as that of their non-disabled peers. The Section 504 plan is the bridge that facilitates the provision of an appropriate education. Links to read more about portions of the 504 plan below in [blue](#).



Student 504 Plan

- [Documentation of all data sources used to build the plan \(PLACEMENT PROCEDURES\)](#)
- [Document all committee discussion about Free Appropriate Public Education \(FAPE\), and possible referral for special education and related services](#)
- [Describe the physical or mental impairment](#)
- [List major life activities substantially limited](#)
- [Accommodations including: classroom, testing, behavior](#)
- Who will monitor the plan?
- Signatures
- [Document parental receipt of procedural safeguards](#)
- Addendums

* Prior written notice, home bound services, behavior plan, individual health plans, referral for special education evaluation, related services provisions, auxiliary aids and services. (Title II ADA)

Section 504 Plan Format

While Section 504 regulations do not require a written plan, practical requirements such as documentation of evaluation sources, the impairment and substantial limitations, committee discussion and decisions, and accommodations create the necessity of putting the plan in writing. In addition, should a disagreement take place, the written document may provide clear information regarding the intent of the LEA to provide FAPE.

Accommodations

The purpose of an [accommodation](#) is to change how students access learning and the physical LEA environment. The provision of a free appropriate education is foundational to the creation of a highly effective accommodation plan. Section 504 regulations mandate that students be educated with their non-disabled peers to the maximum extent appropriate based on their individual needs. The first choice for that setting is in general education with accommodations that provide the bridge connecting the student to curriculum and instruction. The LEA must demonstrate that the provision of supplementary aids and services are not effective prior to removing a student from general education. Accommodations should “level the playing field” as opposed to giving any advantage and should never change what a student learns, which would be a modification.

Accommodations should address all impacted areas of the student’s school environment such as: classroom, testing, and behavior. A student’s needs may change each year or throughout the year depending on the context and content required to learn. It is important to do regular checks with the student, teacher, and family to ensure the accommodations implemented are providing the appropriate access to information.

Campus Responsibilities:



Accommodations that are written into a Section 504 plan are [legally binding](#) (pg. 4). This means that for the student to receive their free appropriate public education, they must receive the identified accommodations as written in the plan. Compliance with Section 504 accommodations is non-negotiable.

The campus Section 504 coordinator should disseminate Section 504 accommodation plans and collaborate with campus staff responsible for implementing the plan to ensure fidelity of implementation. In addition, the campus Section 504 coordinator should work with campus staff to monitor student progress to determine if the accommodations are effective. If a student does not make adequate progress, a Section 504 meeting or referral for special education evaluation should be considered.



Family Participation:

Parents should provide input about the impact of the impairment on their student and in the creation of the accommodation plan for their child. Parents can partner with teachers to monitor student progress.



Student Participation:

Students should be encouraged to provide input about the impact of their impairment and in the creation of accommodation plans. The Section 504 committee can help students understand the accommodations that are provided for them. Older students can participate in their Section 504 meetings and should be encouraged to self-advocate for their accommodations.

Note:



- Accommodations should be unique and written in such a way that teachers are able to implement them with fidelity
- Schedule time to monitor student progress and check in with teachers to support implementation of accommodation plans
- Avoid adding phrases such as “at student request” to accommodations. If the committee has carefully considered the impact of the impairment and has determined an accommodation necessary to provide FAPE, it must be provided to the student as directed in the plan as opposed to requiring the student to request them.

Selecting Accommodations for Students with Disabilities

Accommodations must be created based on the impact of the impairment on each individual student's ability to access the aid, benefits and services of the general education environment and calculated in such a way to remove the barriers to access.

Examples of well written accommodations and less effective accommodations

Small Group Testing - Limit Distractions

Exemplar:

Student will take tests and quizzes in the learning lab for math and science (test materials will be delivered to the testing center prior to the class period).

Non-Example:

Student will take tests and quizzes in the learning lab - at student request. *

Behavior - Cue Student to Stay On-Task

Exemplar:

During independent work time, monitor and provide frequent verbal or nonverbal reminders to return to task (student will put his head down or take out his phone when off task) - All Classes

Non-Example:

Cue student to return to task.

Extra Time to Complete Assigned Work

Exemplar:

Student will receive extra time to complete assigned work after check-in with teacher to review progress, provide feedback, and agree upon extended time required to complete the task. - ELA and Social Studies

Non-Example:

Student will receive extra time to complete assigned work.

* If the Section 504 committee determines that an accommodation is required in order to provide FAPE, it should not be left to student request. The accommodation must be provided as written in the accommodation plan.

STAAR Accommodations/Accessibility

Please reference the Accessibility Policy documents listed on the [Accommodation Resources](#) webpage and in the [LEA and Campus Coordinator Resources](#) online for more specific information about TEA accessibility policies.

For students receiving Section 504 services, it is up to the LEA to determine how and if accessibility features the student regularly benefits from during instruction are documented in the Section 504 plan.

Best Practice Tips:

- If a student is regularly benefiting from accessibility features during instruction they should be documented as accommodations in the 504 plan.
- LEAs should work with campus testing coordinators to determine local procedures and practices to ensure proper implementation of all STAAR accommodations in accordance with policy documents related to each.

Section 504 Special Circumstances

LEAs must follow federal law to meet their obligations regarding students with disabilities. Usually, compliance with Section 504 regulations will also meet compliance with the Americans with Disabilities Act (ADA). Compliance with the IDEA will often ensure compliance with all three laws. In the case of effective communication for students with vision, hearing, or speech disabilities, the ADA has a unique approach specific to communication ([FAQs on Effective Communication for Students with Hearing, Vision, or Speech Disabilities](#)). Through regulations, [TITLE II](#) requires that students are provided with an equal opportunity to participate in all LEA activities through the provision of auxiliary aids and services to enable students with disabilities communication as effective as that of students without disabilities. According to the United States Department of Education and The U.S. Department of Justice, "In some instances, in order to comply with Title II, a LEA may have to provide the student with services that are not required under the IDEA." ([DOE and DOJ, 2014 p.2](#)) In addition, public LEAs are to give primary consideration to the [AUXILLARY AID](#) or service requested by the student with the disability when determining what is appropriate. This means that the student or parent must be given the opportunity to request the aid or service that they think is needed to provide effective communications. LEAs will then make an individualized determination considering the communication used by the student, the nature, length, and complexity of the communication involved and the context in which the communication is taking place.

Examples of auxiliary aids and services for students who are deaf, deaf-blind, or hard of hearing include, but are not limited to:

- Qualified sign language interpreters
- Note takers
- Exchange of teacher notes
- Real-time, computer-aided transcription services
- Assistive listening systems
- Accessible electronic and information technology
- Open and closed captioning

Examples of auxiliary aids and services for students who are blind, deaf-blind, or have low vision include, but are not limited to:


- Qualified readers
- Taped texts
- Audio recordings
- Braille materials and displays
- Screen reader software
- Magnification software
- Optical readers
- Secondary auditory programs (SAP)
- Large print materials
- Accessible electronic and information technology



Examples of auxiliary aids and services for students who have a speech disability include, but are not limited to:

- Word or letter board
- Writing materials
- Spelling to communicate
- Qualified interpreter
- Taped texts
- Computer
- Portable device that writes and/or produces speech
- Telecommunications services

Note:



LEAs that provide interpreting services to students who are deaf or hard of hearing **must ensure that interpreters hold appropriate CERTIFICATION** from the Texas Board for Evaluation of Interpreters (BEI) or the National Registry of Interpreters for the Deaf (RID).

504 committees must "CONSIDER the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode including opportunities for direct instruction in the child's language and communication mode" when making placement decisions

Best Practice Tips: Sign Language Interpreting Services

- If a student needs are not met through interpreting services alone, an evaluation for special education services may be necessary to ensure the student receives FAPE

Extracurricular Activities

NONACADEMIC SERVICES and extracurricular services may include activities such as: LEA sponsored special interest groups or clubs, recreational activities and recreational athletics, counseling services, transportation, health services, referrals to agencies that provide assistance to handicapped persons, and employment of students, including both employment by the LEA and making available outside employment. According to Section 504 regulations, the LEA is required to provide students with disabilities an equal opportunity for participation in nonacademic and extracurricular services.

LEAs must make reasonable modifications and provide the necessary aids and services to allow students an equal opportunity for participation, unless they can show that the modification would fundamentally alter the program. Equal opportunity for participation is to be decided on an individual basis and is not meant to provide unfair advantage to students. If a modification would result in an unfair advantage or would fundamentally alter the program, LEAs may consider alternative accommodations, aids, or services.

PHYSICAL EDUCATION and extracurricular athletic activities including club, intramural, or interscholastic athletics at all grade levels are an important part of many students' educational experiences. According to Section 504 regulations, the LEA is required to provide an equal opportunity for participation to all students with disabilities. LEAs may offer separate or different athletic activities only if the separation or differentiation is consistent with the regulatory requirement that students with disabilities are educated to the MAXIMUM extent with their peers without disabilities, unless the LEA can demonstrate the education of the student in the general education setting with supplementary aids and services cannot be achieved. According to a 2013 Dear Colleague Letter from the Assistant Secretary for Civil Rights regarding extracurricular athletics, LEAs have an obligation under federal regulations to ensure that no student may be rendered ineligible to participate in any aid, benefit, or service due to their disability. However, students with disabilities must meet the skill level requirements of any selective or competitive program.



Additional Considerations:

As previously noted, LEAs may not rely on generalizations, assumptions, prejudice, or stereotypes about disabilities regarding student capability to participate in an athletic activity.



Photo Credit: El Paso ISD

While LEAs should not provide unnecessarily different or separate athletic opportunities, they may provide a wide variety of extracurricular athletic experiences for all students. Students who are not able to participate in extracurricular athletics even with supplementary aids and services should have the opportunity to benefit from participation in physical activities.

Separate activities must be provided with LEA support equal to other athletic activities (Ex: wheelchair basketball team).

LEAs may collaborate with community organizations to find creative ways to match student interests with opportunities for [participation in athletic experiences](#).

Advanced Placement and Dual Enrollment

Academic programs offered by the LEA that generate high school credit on a student's transcript are subject to [FAPE](#).

If a student with a disability requires accommodations in their general education classes in order to access FAPE, they must be provided with those accommodations in advanced placement or dual enrollment classes offered by the LEA so long as the advanced nature of the course is not altered. Failure by the LEA to ensure that the Section 504 accommodations are implemented may result in a [violation](#) of Section 504, and all decisions about accommodations must be made on a case by case basis through evaluation by the Section 504 committee. [OCR Dear Colleague Letter](#).

After School and Summer Programs

LEAs that offer after school or summer programs must ensure that all students have equal opportunity for [PARTICIPATION](#). This means that the LEA may need to make reasonable accommodations to provide students with disabilities access to the program. The accommodations need not be identical to those listed in the Section 504 plan and are not a required component of the Section 504 accommodations plan.

Counseling Services

Section 504 regulations require LEAs that provide [COUNSELING](#), guidance, or placement services to students must provide them to all students without discrimination due to disability. In addition, students with disabilities should not be counseled towards more restrictive career objectives than their peers with similar interests without disabilities.



Photo Credit: Abilene ISD

Frequently Occurring Disabilities

The following list is not meant to address every disability that might be eligible for a Section 504 accommodation plan, but serves instead to provide information on some frequently occurring disabilities based on feedback from LEAs. Section 504 and ADA regulations mandate a broad interpretation of physical or mental impairment and substantial limitation.

Specific Learning Disability

The United States Department of Education published a [pamphlet](#) providing guidance about civil rights of students with hidden disabilities in November 2018. The document defines a hidden disability as a physical or mental impairment as defined by Section 504 regulations that is not readily apparent to others. Specific learning disability (SLD) is the first item in the list of examples of hidden disabilities. Section 504 does not provide specific criteria for the identification and evaluation of disabilities. Instead, it relies on the broad coverage of the term “physical or mental impairment” that substantially limits one or more major life activities. The major life activities impacted by a learning disability can include learning, listening, reading, writing, and math calculation. IDEA provides a definition of [SPECIFIC LEARNING DISABILITY](#) that is used in deciding eligibility for special education. Students suspected of having a learning disability and a need for special education should be referred for evaluation through IDEA (For more information about Child Find and IDEA please review the [Technical Assistance: Child Find and Evaluation](#) guide). However, learning disabilities fall on a continuum, and not all students with LD will qualify for or require special education. Some students with learning disabilities may be provided supports and protections under Section 504.

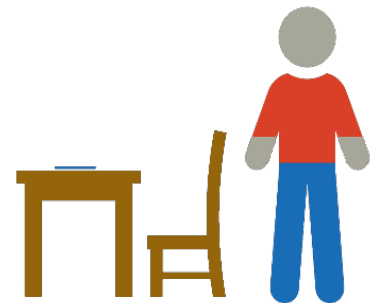


Texas Education Code (TEC) defines [DYSLEXIA](#) and related disorders as a disorder of constitutional origin manifested by a difficulty in learning to read, write, or spell, despite conventional instruction, adequate intelligence, and sociocultural opportunity. The words *dyslexia*, and *dysgraphia* are, in fact, terms that describe learning disabilities. While some students with dyslexia may be appropriately supported under Section 504, other students will require special education services. Evaluation procedures under both 504 and IDEA are described in chapter 3 of the dyslexia handbook. *If 504 committees are unsure if they suspect a need for special education and related services after a review of data, best practice would be to refer for a full and individual initial evaluation (FIIIE).*

For additional information on dyslexia and related disorders, please refer to: [Texas Education Agency Dyslexia and Related Disorders webpage](#) and [Region 10 Educational Service Center](#).

Attention Deficit Hyperactivity Disorder

In 2016, the Office for Civil Rights (OCR) published a [Dear Colleague Letter and Resource Guide](#) specific to students with Attention Deficit Hyperactivity Disorder (ADHD) in order to clarify LEA responsibilities under Section 504 and address the increase in complaints to the OCR alleging discrimination against students with ADHD. The National Institute of Mental Health defines [attention deficit hyperactivity disorder](#) as, “a brain disorder marked by an ongoing pattern of inattention and/or hyperactivity-impulsivity that interferes with functioning or development.” Even if a student is found ineligible for special education, the LEA bears the obligation to consider whether they are eligible for Section 504 accommodations, without considering mitigating measures or financial/administrative costs. The [Office for Civil Rights](#) advises that a diagnosis of ADHD provided by a licensed clinician with expertise in ADHD, as the result of a comprehensive evaluation, may be considered evidence of a disability, and the presumption may be made that there is a substantial limitation in one or more major life activities. After receiving such an assessment, the LEA must still conduct an evaluation according to regulations. If the Section 504 committee decides that a medical assessment is required, the evaluation must be provided at no cost to the families. Section 504 regulations do not require medical diagnosis as a part of an evaluation for eligibility. Students who do not have academic difficulties, but experience challenges in behavior, focus, or executive functioning, may still qualify for Section 504 accommodations. Grades should not be the deciding factor in determining eligibility. In addition to academic challenges, students with ADHD may experience behavioral, [executive functioning](#), or social skills deficits.



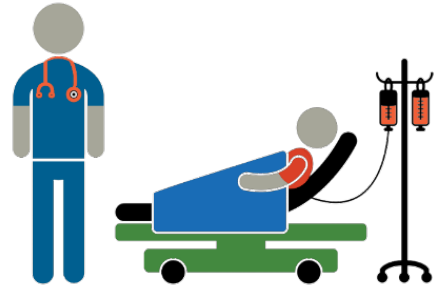
Chronic Illness

Creating a plan for a student with a chronic illness can be challenging for all involved. According to the OCR, “A [chronic illness](#) involves a recurring and long-term disability such as diabetes, heart disease, kidney and liver disease, high blood pressure, or ulcers.”

Chronic disease may cause a student to miss a significant amount of instruction due to the severity of the disability or frequent, required medical visits. Section 504 regulations protect the rights of students to have the opportunity to participate in or benefit from the aid, benefit, or services of the LEA environment with their peers without disabilities in the [LEAST RESTRICTIVE ENVIRONMENT](#) to the maximum extent appropriate.

When reviewing and analyzing a variety of evaluation data, Section 504 committees should:

- Consider the medical description of the disorder including common symptoms. (For example, [sickle cell anemia](#) is an inherited [blood disorder](#) that affects hemoglobin and the level of oxygen in the blood. Students may experience anemia, pain that inhibits focus, stroke, and damage to internal organs. Factors that can exacerbate symptoms [include](#) infections, cold, damp climate, pollution, dehydration, extreme physical activity, or stress.)
- Consider the type of treatment plan
- Individualized health plan
- Emergency care plan
- Required equipment
- Consider the unique impact of the student's chronic illness in the following areas:
 - Classroom environment – seating, temperature, access to assistive technology
 - Class work and tests – May include a statement regarding student's ability to make up work missed due to medically [related absence](#). For example, tests may be administered at a different time if symptoms are severe, without penalty.
 - Access to water, bathroom, and nurse
 - Participation in LEA activities
 - Rest time
 - Physical education - Allowed level of physical exertion during recess or other LEA activities
 - Physical navigation on campus
 - Nutrition (breakfast, lunch, snacks)
- Communication to LEA staff, including substitutes
- Collaboration with school nurse for training for LEA staff
- Consider unique student requirements during emergency drill procedures
- Consider transportation and other necessary related services
- Develop transition procedures for absences from school and return to school including academic, behavioral, and social emotional supports – students should be given the opportunity to make up missed with without penalty; class work should be sent home promptly



Traumatic Brain Injury and Concussion

Federal Definition:

According to the IDEA, a [TRAUMATIC BRAIN INJURY](#) is an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a student's education performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, sensory, perceptual, and motor abilities, psychosocial behavior, physical functions, information processing, and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative or to brain injuries induced by birth trauma.

Texas Definition: [Texas Commissioner's Rules](#) [See: (c) Eligibility definitions (11)] Traumatic Brain injury: A student with a traumatic brain injury is one who has been determined to meet the criteria for traumatic brain injury as stated in [IDEA](#) regulations. The multidisciplinary team that collects or reviews evaluation data in connection with the determination of a student's eligibility for special education based on a traumatic brain injury must include a licensed physician, in addition to a licensed specialist in school psychology (LSSP), an educational diagnostician, or other appropriately certified or licensed practitioner with experience and training in the area of the disability.

Additional State Law Related to Concussions:

The Texas Legislature passed House Bill (HB) 2038, which was signed into law in 2011. HB 2038 defines a concussion as “a complex pathophysiological process affecting the brain caused by a traumatic physical force or impact to the head or body, which may: a) include temporary or prolonged altered brain function resulting in physical, cognitive, or emotional symptoms or altered sleep patterns and b) involve loss of consciousness.” The law mandates that each LEA have a concussion oversight team that designs and implements the protocol for the diagnosis, treatment, and return to play of any student athlete who sustains a concussion. [Texas Education Agency & Region 3 Education Service Center Guidance](#)



Students who have concussions may experience substantial limitations in the areas of physical activity, cognitive function, emotional regulation, and sleep. Section 504 committees should include the school nurse to assist the committee in understanding the impact of the impairment on the student’s access to the school environment. In addition, traumatic brain injury is considered a disability under IDEA, and the Section 504 committee must consider the need for special education and related services and proceed with a FIIE if needed.

Allergies/Anaphylaxis

Allergies for some students are far more than a mere inconvenience; they are life threatening. According to the [Guidelines for the Care of Students with Food Allergies At-Risk for Anaphylaxis](#) published by The Commissioner of the Texas Department of State Health Services (DSHS), A food allergy is an abnormal response to a food triggered by the body’s immune system that can range from mild to life threatening.

Anaphylaxis is a severe reaction that occurs quickly and can result in the death of the student. The Guidelines for the Care of Students with Food Allergies At-Risk for Anaphylaxis states that there is no cure for food allergies (pg. 13). The only way to avoid the risk of symptoms is strict avoidance of the allergen.



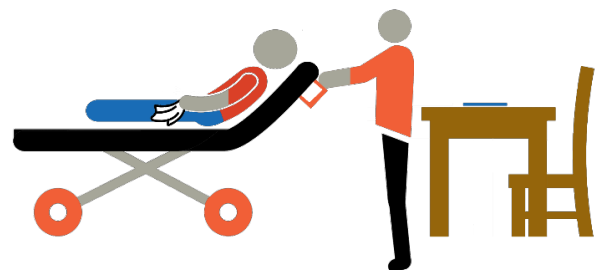
The Texas Education Agency (TEA) has published classroom resources for teachers along with a suite of resources for a coordinated school health model. [School Health – Students with Special Health Needs](#)

Texas Education Code requires local LEA boards of trustees and governing bodies to create and adopt policy for the care of students diagnosed with food allergy at risk for [ANAPHYLAXIS](#) based on guidelines developed by the Commissioner of State Health Services.

Section 504 Plans, Individual Health Plans, & Emergency Care Plans

The task of protecting students with serious allergies and anaphylaxis at school can be daunting and should be approached in a team-based framework in order to limit exposure to life threatening allergens.

Campuses are encouraged to form food allergy management teams, including the school nurse, to create plans that will help ensure a safe learning environment for students who suffer from serious food allergies. Students with severe food allergies are likely to meet eligibility requirements under Section 504 as a person with a physical impairment that substantially limits one or more major life activities. The individual health plan may be implemented in addition to the Section 504 accommodation plan, and the school nurse should be a member of



the Section 504 committee. Section 504 protects the rights of the students to a free appropriate public education (FAPE) and procedural safeguards while the individual health plan does not, in of itself, provide civil rights protections.

Section 504 committees should consider the impact of anaphylaxis on the student's ability to access FAPE and build appropriate accommodations taking into consideration that the only way to avoid the severe reaction is to avoid the allergen in all educational settings (for example, classrooms, cafeteria, common areas, and field trips).



Family Participation:

Families should [notify](#) (pg. 19) the LEA of allergies and provide medical information along with medication.



Student Participation:

Students of an appropriate age, as determined by physician and parents, should understand their disability and work towards [SELF-MANAGEMENT](#) of avoiding the allergen, identification of symptoms, communication with an adult when they are having a reaction, reading of food labels, and carrying and administering their personal medications.



LEA Responsibilities:

- Comply with federal and state laws and LEA policy
- Include students with food allergies in all LEA activities
- Create a campus level team, that includes parents, to manage food allergies
- Train all staff in how to recognize symptoms and respond to an emergency anaphylactic reaction
- Work to eliminate allergens from the LEA environment
- Distribute Emergency Care plans and Section 504 plans to LEA staff, including bus drivers, with support from the school nurse in understanding and implementing the accommodations and emergency procedures
- Plan for field trips and extracurricular activities with LEA staff and parents
- Respond immediately to bullying or harassment of children with food allergies

Dispute Resolution

Procedural Safeguards

Section 504 regulations require that LEAs establish and implement a system of [PROCEDURAL SAFEGUARDS](#) that includes:

Notice

An opportunity for
parents/guardians to
examine relevant
records

Impartial hearing
with parent
participation

Review procedure
following hearing

Compliance with IDEA [procedural safeguards](#) is one way of meeting this [REQUIREMENT](#).

Local Grievance Procedures

Section 504 regulations require LEAs with 15 or more employees to adopt [grievance](#) (pg. 35) procedures that incorporate due process standards and that provide prompt, equitable resolution of complaints alleging any prohibited action. Families and LEAs have a powerful tool at the local level for resolving disagreements before escalating to the federal or judicial level. LEAs should adopt easily understood and accessible procedures for parents to submit grievances which are responded to quickly in a solution focused manner.

Parents may not be required to exhaust grievance procedures prior to pursuing an impartial hearing or lodging a complaint with the Office for Civil Rights.

Impartial Hearing

The purpose of the impartial hearing is to resolve disagreements between the LEA and parents regarding the identification, evaluation, or educational placement of a student with a disability. It is the LEA's responsibility to arrange for the [hearing](#), providing the parents the opportunity to participate and to be represented by [COUNSEL](#) if they so choose.

Office for Civil Rights

According to the Office for Civil Rights of the Department of Education, anyone can file a civil rights complaint whether they are the complainant or are filing the complaint on behalf of an individual, with written consent. Complaints should be filed within 180 days of the last act of discrimination. [Complaints](#) may be filed online, via email, mail, or fax.

Texas Education Agency (TEA)

Texas Education Agency does not investigate Section 504 complaints. For information about the complaints that TEA will investigate, please access the [TEA Complaints and Investigations](#) webpage.



Photo Credit: Greenville ISD

Retaliation

Federal civil rights laws protect individuals from [retaliation](#) as a response by LEAs to the assertion of their rights. The Americans with Disabilities Act Title II mandates that no public or private entity may discriminate, coerce, intimidate, threaten, or interfere with any individual who has [ASSERTED](#) their rights, opposed any act or practice, made a charge or testified, assisted, or participated in an investigation, proceeding, or hearing.

Additionally, Section 504 regulations cite the procedural provisions regarding intimidation or retaliation in [Title VI](#) of the Civil Rights Act of 1964. The regulations directly prohibit intimidation, threats, coercion, or discrimination against any person for the purpose of interfering with any right or privilege that is protected by law because they complained, testified, assisted or participated in an investigation, proceeding, or hearing.

Best Practice Tips:

- Build and maintain positive relationships with families and community members
- Respond promptly to concerns in a solution focused manner
- Provide professional development and coaching to staff in how to communicate with families and manage parent concerns, crucial conversations, or negative feedback
- Ensure that LEA grievance procedures are accessible and easy to follow for parents and staff in order to resolve problems at the local level.

Resources

[2019-2020 Accommodation Resources - TEA Student Testing and Accountability](#)
[Accommodations Central](#)
[Americans with Disabilities Act Title II Regulations](#)
[Child Find - Referral to Special Education - Request for Evaluation SPEDTex](#)
[Civil Rights Act of 1964 - Retaliation](#)
[Dual Enrollment OCR Resolution](#)
[Electronic Code of Federal Regulations Section 504 Regulations](#)
[Electronic Code of Federal Regulations Special Education Regulations](#)
[Frequently Asked Questions on Effective Communication for Students with Hearing, Vision, or Speech Disabilities in Public Elementary and Secondary Schools](#)
[Guidelines for the Care of Students With Food Allergies At-Risk for Anaphylaxis To Implement TEC Ch. 38 Section 38.0151](#)
[IDEA Webpage](#)
[Identification of Students 504-Only Students: An Alternate Eligibility Form, Perry A. Zirkel, 2018](#)
[Information and Technical Assistance on the Americans with Disabilities Act](#)
[OCR Complaints](#)
[OCR Extracurricular Activity - Dear Colleague Letter 2013](#)
[OCR Procedural Safeguards: Section 504 FAQ](#)
[OCR Protecting Students With Disabilities Section 504 FAQ](#)
[Qualifications of Special Education, Related Service, and Paraprofessional Personnel. §89.113.](#)
[Region 3 and TEA Guidelines for Educating Students with Traumatic Brain Injury/Concussions](#)
[Region 13 Section 504 FAQ](#)
[Region 18 The Legal Framework](#)
[Region 18 Legal Framework Side by Side](#)
[Retaliation - Dear Colleague Letter - OCR 2013](#)
[Sickle Cell Disease in Children - Stanford Children's Health](#)
[Students with ADHD and Section 504: A Resource Guide](#)
[Student Attendance Accounting Handbook 2019-2020](#)
[19 Texas Administrative Code § 89.1011. Full and Individual Initial Evaluation](#)
[19 Texas Administrative Code Part 2 Chapter 89 Subchapter AA](#)
[Texas Assessment Program District and Campus Coordinator Resources](#)
[Texas Education Agency Complaints and Investigations](#)
[Texas Education Agency Dyslexia Webpage](#)
[Texas Education Agency Responsibilities and Timelines Regarding Parent Requests for Special Education Evaluations](#)
[Texas Education Agency School Health - Students with Special Health Needs Webpage](#)
[Texas Education Code Chapter 26 Parental Rights and Responsibilities](#)
[Texas Education Code 26.0081: Right to Information Concerning Special Education and Education of Students with Learning Disabilities](#)
[Texas Education Agency Student Handbook Statement](#)
[The Civil Rights of Students with Hidden Disabilities Under Section 504 of the Rehabilitation Act of 1973](#)
[The Power of Section 504 Video](#)
[THE PUBLIC SCHOOLS' OBLIGATION FOR IMPARTIAL HEARINGS UNDER SECTION 504 - Perry Zirkel, 2012](#)
[Title 42 - The Public Health and Welfare § 12102](#)
[Tips for Supporting Students with Sickle Cell Disease - CDC](#)
[United States Department of Education Dear Colleague Letter Americans with Disabilities Act FAQ](#)
[United States Department of Education Dear Colleague Letter Bullying and Harassment](#)
[United States Department of Education Office for Civil Rights](#)
[United States Department of Education Title 34 Education Subtitle B Chapter I Part 104](#)

Texas Special Education Statewide Leadership Networks:

(Scan the QR Code or click on the boxes below to go directly to the website)

<p>Child Find, Evaluation, and ARD Supports</p> 	<p>School, Family, and Community Engagement</p> 	<p>Inclusion in Texas</p> 	<p>Texas Statewide Leadership for Autism Training (TSLAT)</p> 	<p>Tiered Interventions using Evidence-Based Research (TIER)</p> 
<p>Texas Complex Access Network (TX CAN)</p> 	<p>Texas Sensory Support Network (TxSSN)</p> 	<p>Small and Rural Schools Network (SRSN)</p> 	<p>Student-Centered Transitions Network (SCTN)</p> 	<p>Multiple Exceptionalities and Multiple Needs (MEMN)</p> 

Additional Special Education Resources:

(Scan the QR Code or click on the boxes below to go directly to the website)

<p> framework.esc18.net</p> <p> 432-561-IDEA</p>  	<p> tea.texas.gov/TexasSped</p> <p> 512.463.9414</p>  
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Special Education Resources for Parents and Families:

(Scan the QR Code or click on the boxes below to go directly to the website)

<p> spedtex.org</p> <p> 1.855.773.3839</p>  	<p> prntexas.org</p> <p> 1.800.866.4726</p>  
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