

**Section 504
Policies
&
Procedures**

La Vega ISD

VISION STATEMENT

Making Excellence a Tradition

MISSION STATEMENT

The mission of La Vega ISD is to provide a needs-satisfying environment where everyone can produce successfully, with the understanding that learning adds quality to life. Preparing each student to contribute to an ever-changing, interdependent society is our commitment.

The La Vega Independent School District does not discriminate on the basis of race, color, religion, sex, age, national origin, or disability in admission, access, treatment or employment in its programs, services and activities. Applicants, students, parents/guardians, employees, referral agencies and all organizations holding agreements with the District are hereby notified of this policy. Any person with concerns regarding the District's compliance with the regulations implementing Title VI, Title IX, Section 504 or the Americans with Disabilities Act is instructed to contact:

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SECTION 1: RESPONSIBILITIES OF THE CAMPUS SECTION 504 COORDINATOR

Background Information

Section 504 of the Rehabilitation Act of 1973 is a non-discrimination statute enacted by the United States Congress, the purpose of which is to prevent discrimination and to ensure that persons with disabilities have opportunities and benefits comparable to those provided to persons without disabilities. Section 504 states, in part, that “No otherwise qualified individual in the United States shall, solely on the basis of his handicap, be excluded from participation, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance...” The law went into effect in 1977. In 1990, Congress passed the Americans with Disabilities Act, which extended these rights to most of the private sector. However, when cases involving Section 504 and ADA went to court in the 1990’s and the first few years of the 21st century, the courts were defining disability more narrowly than Congress had intended. Because of this trend in case law, Congress decided to amend the ADA in 2008, and these changes were also applied to Section 504. The goal of the amendment was to provide the broadest possible coverage and to strengthen the disability laws. The Office of Civil Rights (OCR) of the USDE, which is responsible for enforcement of these laws in public elementary and secondary schools, provided guidance for their implementation following the 2008 amendments.

Under Section 504 as amended in 2008, an eligible student is one who: a) has; b) has a record of; or c) is regarded as having a physical or mental impairment that substantially limits a major life activity such as seeing, hearing, eating, sleeping, breathing, working, standing, walking, lifting, bending, speaking, reading, concentrating, communicating or learning. Accordingly, the District has adopted policies and procedures to ensure that discrimination does not take place.

The Section 504 program is coordinated and overseen by the district Section 504 Coordinator; at La Vega ISD, this is the Executive Director of Special Education, Assessment and Student Support (Angela Ward). Ms. Ward can be reached at the LVISD Special Education office at 299-6750, ext. 6751.

Overview of Campus Section 504 Coordinator Responsibilities

LVISD utilizes a case manager model in coordinating the educational services of all students with disabilities. A campus Section 504 coordinator serves as the case manager for all students evaluated and/or served under Section 504. Case manager responsibilities for campus Section 504 Coordinators include the following:

- Accept Section 504 referrals from parents.
- If the referral is not considered appropriate and will not be accepted, create a *Notice of Denial of Parent Request for Section 504 Evaluation* and provide to the parent within 15 school days of request.
- If the referral is considered appropriate, gain consent to communicate with the health care provider who has made the diagnosis and solicit input regarding the student’s impairment and the degree to which it causes limitation to one or more major life activities. Maintain a record of all referrals and evaluation due dates.
- Provide parents with all notices (including *Notice of Rights and Procedural Protections under Section 504*) and obtain their consent by creating a *Notice and Consent for Initial Section 504 Evaluation*.
- Gather background data for initial evaluations, reviews of existing data, 3 year re-evaluations and additional evaluations prior to any change in placement; share background data with other evaluators; and lead the Section 504 Committee in completing Section 504 eligibility evaluations during Section 504 meetings.
- Schedule, provide notice, choose multidisciplinary team members and lead the Section 504 Committee meetings, including evaluation meetings, annual review meetings, and review meetings as needed.
- Ensure that evaluation and placement are conducted by a team of at least three district staff members who together are knowledgeable about the student, the evaluation data and placement options, and that

decisions about placement are based on the child’s individual needs and consideration of the least restrictive environment (LRE), as well as a parent/guardian/adult student.

- Complete evaluations within established LVISD timelines.
- Complete all required paperwork before, during and after the initial evaluation meeting according to legal requirements and LVISD standard practices for Section 504.
- Notify staff with an educational need to know of *Section 504 Student Services Plan* and document the receipt of information.
- Maintain appropriate documentation and records, including records of all contacts with parents in the online *SuccessEd* system.
- Educate and inform campus staff and parents about the responsibilities of the District under Section 504 to students with disabilities.
- Fulfill child find duties by referring any child suspected of having an impairment that creates a **substantial limitation** in one or more major life activities, creating a need for accommodations and/or services.
- Know when a referral for special education should be considered and follow district procedures for consulting with special education department about a possible SPED referral.
- Keep campus and district administrators informed regarding any issues involving a Section 504 student that may require administrative attention.
- Ensure the implementation of all legal requirements and LVISD standard practices relating to Section 504 on the assigned campus.
- Receive parent grievances and requests for due process hearings as applicable and work with the district Section 504 administrator as appropriate to resolve grievances/conduct hearings.
- Maintain confidentiality of all Section 504 student data.

Required Documentation

Required documentation will be maintained through *SuccessEd* according to timelines discussed throughout this handbook. All referenced forms are found in *SuccessEd*.

All forms/documentation will be either completed in *SuccessEd* system or uploaded to the system under the “History” tab (information gathered from outside sources). This online system will serve as the student’s official Section 504 file.

Campus Section 504 coordinators should log any phone conversations or informal meetings with parents in the “Contact Log” section of *SuccessEd* or through SchoolStatus. Text messages, e-mails, and all other documents become educational records upon records request.

Providing Paperwork to Parents

Notice and consent is always required prior to conducting an evaluation and placing a student into Section 504 protection. With each notice, a parent should also receive the *Notice of Rights and Procedural Protections under Section 504*. After the meeting the parents should be provided with a copy of:

any consent forms signed by the parent

Section 504 Evaluation

Section 504 Student Services Plan

Notice of Section 504 Evaluation Results

Accelerated Plan/Intensive Program of Instruction (if applicable)

Behavior Intervention Plan (if applicable)

Transportation Information (if applicable)

Notification to PEIMS Coordinator of Student’s Section 504 Eligibility Status

Each time a student is initially identified for eligibility for services under Section 504 or dismissed from eligibility under Section 504, the campus PEIMS coordinator must be notified within two work days. State law requires that all Section 504 eligible students are tracked in PEIMS.

Notifying School Staff of Accommodations/Services Plan in Success Ed

Teachers and other school staff responsible for implementing *Section 504 Student Services Plan* should be notified **within 5 school days** of the date of initial services or the beginning of a new school year.

Note: In this handbook, the term “parent” will also be used to mean the “adult student” in the case of a student age 18 or older, unless the parent has obtained legal guardianship. All legal rights of the parent transfer to the student at age 18 unless the parents have obtained legal guardianship.



SECTION 2: LEGAL ISSUES/PARENT RIGHTS

Discrimination Prohibited

Section 504 prohibits discrimination on the basis of disability in programs receiving Federal financial assistance (including the public schools). A person with a disability cannot be denied the opportunity to participate in or benefit from an aid, benefit or service, and may not be offered an aid, benefit or service that is not equal to that afforded persons without disabilities. The aids, benefits or services provided to persons with disabilities can only be different from those provided to persons without disabilities to the extent that the difference is necessary in order for the person with a disability to receive equally effective aids, services, or benefits.

Oversight of IDEA vs. Section 504

The Office of Civil Rights (OCR), a component of the Department of Education (DOE), 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) whether or not they receive federal funds. The Office of Special Education and Rehabilitative Services (OSERS), also a component of the DOE, administers IDEA, a statute which partially funds special education programs. State education agencies are responsible for administering IDEA within the state and distributing the funds for special education programs. IDEA is a grant statute which attaches many conditions to the receipt of funds; Section 504 and ADA are antidiscrimination laws and do not provide any funding.

Role of OCR in Overseeing Section 504 in the Public Schools

OCR provides technical assistance to school districts, parents, and students upon request. It also receives complaints from parents, students, or advocates and conducts agency initiated compliance reviews. Except in extraordinary circumstances, OCR does not review the results of individual placement or other educational decisions as long as the District complies with the procedural requirements of Section 504. OCR will generally not evaluate the content of a service plan or attempt to resolve any disagreement between the parent and the school. However, OCR will investigate specific situations in which a student with a disability is allegedly treated differently than students without disabilities (e.g., excluded from certain activities or programs). Additionally, a grievance or complaint by a parent could trigger a general OCR compliance visit. If noncompliance is found, OCR will negotiate with the District to try to bring it into voluntary compliance. If this is unsuccessful, OCR may initiate administrative proceedings to terminate DOE financial assistance to the District or refer the case to the Department of Justice for judicial proceedings. Below are some of the ways the District can be proactive in avoiding sanctions imposed by OCR:

- Closely follow District standard practices with regard to Section 504.
- Maintain complete Section 504 files.
- Maintain documentation of all contacts (phone calls, conversations, emails, etc.) involving Section 504.
- Be sure that documentation supports procedural compliance.
- Ensure that decisions are based on data/documentary evidence.

Private Lawsuits

A person may at any time file a private lawsuit against a school district for issues involving Section 504. The Section 504 regulations do not contain a requirement that a person file a complaint with OCR and exhaust administrative remedies before filing a private lawsuit. Also, unlike IDEA (which does not allow parents of students to sue for financial compensation), there are no limits placed on the types of compensation complainants may receive in a Section 504 lawsuit.

Notice of Rights and Procedural Protections under Section 504

Districts are required under Section 504 to develop procedural safeguards for parents/students under Section 504. Procedural safeguards include information about identification, evaluation, placement, notice, the right to review records, impartial due process hearings, and the right to council and review procedures. A *Notice of Rights and Procedural Safeguards under Section 504* form will be provided to the parent:

- in response to a parent request for evaluation
- upon initial placement
- at all transfer Section 504 meetings upon enrollment in the District
- upon request by a parent
- when parents file a grievance or due process hearing under Section 504
- when the District refuses to comply with a parent request.
- at any manifestation determination review meeting

When a parent requests an evaluation under Section 504, the campus Section 504 coordinator will provide the parent with the *Notice of Rights and Procedural Protections under Section 504* within **15 school days** of the request for evaluation. This document should be sent to all persons who have the right to make educational decisions for the student. If parents are divorced, please check the documents in the cumulative file, or request a copy of the divorce decree and/or any other legal documents showing custody and parental rights.

The Right to a Free, Appropriate Public Education

A student who is found eligible under Section 504 has the right to a free, appropriate public education (FAPE). This means that the child's education will be designed to meet his/her individual educational needs as adequately as the needs of non-disabled students are met. No fees will be imposed upon the parents of the child except the same fees imposed on the parents of non-disabled children.

Parental Notice and Consent

Consent must be obtained from the parents prior to initial evaluation and initial placement. Consent need only be obtained from one parent, but all required notices should be sent to all persons who have the right to make educational decisions for the student. If parents are divorced, please check the documents in the cumulative file, or request a copy of the divorce decree and/or any other legal documents showing custody and parental rights.

The following procedures will be used to fulfill these requirements:

- Initial Section 504 Evaluation

Notice should be provided to parents and consent obtained for any evaluation or re-evaluation under Section 504. The requirement for notice of evaluation will be fulfilled by providing the parent with the form entitled *Notice and Consent for Initial Section 504 Evaluation* and make reasonable efforts to ensure that the consent is obtained **within 15 school days** of the referral. This form will specify the nature, scope, and timelines of the proposed evaluation.

The campus Section 504 coordinator who is unable to obtain this written consent within timelines should have documentation of multiple (at least 3) attempts to obtain the consent using multiple methods (e.g., sending form home in backpack following a telephone call to alert the parent, asking parent to come to the school and sign the form, mailing the form home, and/or making a home visit). If signed consent cannot be obtained within timelines, the campus Section 504 coordinator should consult with a district Section 504 coordinator, Angela Ward.

- **Initial Section 504 Placement**

Parents must provide consent for a student's initial placement in the Section 504 program, which includes initial receipt of services. A *Parent Consent for Section 504 Service* form should be provided to parents and their written consent for services should be obtained during the initial Section 504 meeting.

Parental Refusal or Withdrawal of Consent

If the parent refuses, does not respond to a request for or withdraws consent for an initial evaluation or placement/services, then the District may (but is not required to) pursue a hearing in an effort to “override” the lack of parental consent. The school district may want to initiate a due process hearing under Section 504 if it is believed that the student needs the evaluation/ placement/services in order to receive FAPE. In the case of withdrawal of consent, the parent must complete the “revoke consent” section and sign a *Parent Consent for Section 504 Service* form.

Parental Right to Review Records

The District must permit parents or representatives of parents to inspect and review educational records relating to their student. The District may presume that the parent has authority to inspect and review the student's records, unless the District has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

Transfer of Educational Rights at Age 18

At age 18, LVISD transfers educational rights from the parent to the adult student. The adult student will be involved and encouraged to participate in the Section 504 committee meetings and will have all the other rights of parents described in the Procedural Safeguards. All consents must be granted and signed by the adult student.

Confidentiality

LVISD maintains strict confidentiality of student information and records. Student records may include student work, notes, files, meeting documents, and other materials which are maintained in writing, found in computer memory banks, or on film. Personally identifiable information regarding a given student or information about Section 504 committee meeting proceedings should never be discussed with another person unless that person has an “educational need to know” the information. Materials distributed in Section 504 committee meetings (copies of evaluation reports, draft accommodations plans, etc.) must be kept out of the hands and out of the view of other students, staff (unless they have a need to know in order to serve the students), and parents of other students. Students should not be discussed with others outside of the school setting in a way which identifies them without a release of confidential information form signed by the parent.

In accordance with Family Educational Rights and Privacy Act (FERPA), LVISD employees must have written permission from the parent in order to release any information from a student's education record, with the following exceptions. Records may be released without written permission to:

- school officials with legitimate educational interest;
- other schools to which a student is transferring;
- specified officials for audit or evaluation purposes;
- appropriate parties in connection with financial aid to a student;
- organizations conducting certain studies for or on behalf of the school;
- accrediting organizations;
- in order to comply with a judicial order or lawfully issued subpoena;

- appropriate officials in cases of health and safety emergencies; and
- State and local authorities, within a juvenile justice system, pursuant to specific State law.

LVISD staff also maintain confidentiality of all information relating to Section 504 committee meeting proceedings. With the exceptions of release of records listed above, LVISD staff may not discuss such proceedings or provide Section 504-related documents to any person or organization without the written consent of the parent. Confidentiality of information must be maintained during the times of collection, storage, disclosure, and destruction of information.

When sending emails about a student, case managers should avoid using the student’s full name whenever possible. It is best to use initials or a student’s first initial and last name (unless the last name is very uncommon and easily identified).

Extracurricular Activities

Schools have a duty to provide reasonable accommodations to students with disabilities if necessary in order for them to participate. Accommodations are not necessary if it would fundamentally change the nature of the activity.

- A guidance letter update from OCR on extracurricular athletic activities said that to prevent extra meetings for students who want accommodations to participate, these accommodations could be determined outside the context of a formal Section 504 meeting. If this is done, the agreement must be documented, the Student Service Plan revised, and the revised plan and documentation placed in the student’s file.
- For students with disabilities requesting participation in extracurricular activities and after school programs, it is the decision of the Section 504 committee whether the required accommodations are “unreasonable.” If not, the District must provide the accommodations. Case law has shown that very few accommodations are considered “unreasonable” for school districts – even accommodations such as providing a one-on-one assistant.

Disciplinary Change in Placement for Students with Disabilities

- For short-term removals, campuses have 10 FAPE-free days of removal before a manifestation determination review (MDR) is required. At some point, short term removals become a “pattern of behavior” requiring an MDR. Attorneys generally recommend holding an MDR by the 10th day and generally not removing a child for more than 10 days of short-term removal in any one school year.
- For long term removals, the MDR must occur as soon as possible, but not after reaching 10 days.
- At the Manifestation Determination Review meeting (MDR), committee members will review all relevant information in the student’s file, including the Section 504 Plan, any teacher observations, and any information provided by the parent(s) in order to answer two questions:
 1. Was the conduct in question caused by, or did it have a direct and substantial relationship to, the child’s disability?
 2. Was the conduct in question the direct result of the District’s failure to implement the Section 504 Plan?

If the answer to both of these questions is “no,” then the student’s behavior will NOT be considered a manifestation of their disability. If the answer to either question # 1 or question # 2 is “yes,” then the behavior in question will be considered to be a manifestation of their disability and the campus cannot move forward with the recommended placement.

- A BIP should always be implemented when a student’s behavior interferes with the learning of self or others. At the MDR, a BIP will be developed if not already in place; if already in place, it will be reviewed and revised as needed. These steps will occur regardless of whether the behavior in question

was or was not considered a manifestation of the student's disability. However, if the behavior in question IS a manifestation of the student's disability, then a Functional Behavioral Analysis (FBA) must be completed prior to development of the BIP.

- If the behavior in question is not considered to be a manifestation of the student's disability, then the campus can proceed to discipline as it would apply to students without disabilities. However, the student must continue to receive educational services in order to participate in the regular curriculum.
- If the behavior in question is considered to be a manifestation of the student's disability, the student must be returned to the placement from which they were removed, unless there is consensus within the Section 504 committee meeting (or agreement between the parent(s) and LVISD) that the change of placement may extend beyond ten days as a part of that student's BIP. This applies to non-discretionary placements only.
- If the student is placed in a "smart ISS" in which there is documentation that the teacher had implemented the student's accommodations and the student received all the same work as other students in their grade, then the days do not count toward the 10-day rule.
- A district can be held liable for not holding an MDR for a student who is not served because they were never evaluated for Section 504 when the District should have known that the student likely had a disability (in other words, in a failure of "child find" duties situation).
- On the day in which a decision is made to remove a student with a disability from their placement for disciplinary reasons, LVISD will notify the parents of the decision and provide them with copies of: the *Notice of Section 504 Manifestation Determination Evaluation Results*, the *Section 504 Evaluation-Manifestation Determination*, the *Section 504 Student Services Plan* (if applicable) and the *Notice of Rights and Procedural Protections under Section 504* document.

Due Process Hearing

LVISD will provide an impartial hearing to parents who disagree with the identification, evaluation, or placement of a student with disabilities. The hearing will be conducted at the local level by an impartial person not connected with the District (see Policy FB Local). The hearing officer need not be an attorney. Hearing officer decisions may be appealed to state or federal court.

The parent must request a hearing within **30 calendar days** from the time they received written notice of the decision of the Section 504 committee with which the complainant disagrees. Written notice of the request for a due process hearing must be provided by the parent to the district Section 504 coordinator (Angela Ward). The written notice should specify the area of disagreement, and provide reasons for the disagreement. The parent should also include any documented evidence or data that supports their position. The parent(s) may not raise issues during the due process hearing that were not raised at the time of the original request for a hearing.

The parent has the right to participate, speak, and present information at the due process hearing, and to be represented by legal counsel or any other type of representative of their choice at their expense. If a parent is to be represented by a licensed attorney, they must inform the district Section 504 coordinator and the appointed hearing officer of that fact in writing **at least 7 calendar days** prior to the hearing date. Failure to do so shall constitute good cause for a continuance of the hearing.

Within **15 days** of the receipt of a clear request for a Due Process Hearing, the District will appoint an impartial Hearing Officer to preside over the hearing and issue a decision. The Hearing Officer will be hired by the District as an independent contractor at no expense to the parent. The Hearing Officer will not be a current employee of the District. The Hearing Officer need not be an attorney, but shall be familiar with the requirements of Section 504 and the District's hearing procedures under Section 504. The District's choice of an impartial hearing officer is final and may not be made an issue at the due process hearing.

The appointed Hearing Officer shall issue an Order Setting Hearing Date for the parent and the District's Section 504 coordinator in writing at their earliest opportunity, and shall set a date for a hearing to be held **within 15 days** of the issuance of the order. The Order will set forth a mutually agreeable time and place for the hearing.

The Hearing Officer may also order a Pre-Hearing Conference at which the parent or their representative will state and clarify the issues to be addressed at the hearing. The Pre-Hearing conference can also serve to resolve preliminary matters, clarify issues, and answer questions about the process.

Witnesses will present their information in narrative form, without the question and answer format of formal legal proceedings. Cross examination will not occur, but a party may request that the Hearing Officer, at their discretion, ask another party a question.

The decision of the hearing officer will be made within **45 days** of the day of request for a due process hearing. The decision will be made on substantive grounds based on a determination of whether the child received a free, appropriate public education (FAPE) and was not subjected to discrimination on the basis of their disability. Procedural inadequacies will not contribute to a finding against LVISD unless they significantly impeded the child's right to FAPE or led to discrimination against the student with a disability.

The parent has the right to appeal the decision of the hearing officer to the state or federal court.

SECTION 3: REFERRAL AND EVALUATION PROCESSES

Child Find Under Section 504

The District has a positive duty to locate and evaluate students with disabilities ***who are suspected of being eligible for services*** under Section 504. District Section 504 administrators will be responsible for developing and publishing child find activities. In deciding whether a disability is suspected, expected duration of the impairment and need for accommodations and/or services must be considered. Generally, a short-term impairment (less than 6 months) is not considered a disability and would not qualify a student under Section 504; however, the severity of the impairment and degree of need must also be considered. Additionally, the District does not have an obligation to evaluate students who may technically meet the definition of disability under Section 504 but who do not need accommodations or services.

Purpose of the Section 504 Evaluation

The purpose of an eligibility evaluation under Section 504 is to:

1. determine whether the student has a physical or mental impairment that substantially limits a major life activity; a record of such impairment; or being regarded as having such an impairment AND has a need for accommodations and services under Section 504;
2. determine eligibility; and
3. if the student is eligible, determine what services, accommodations, or change in placement, if any, are needed in order to provide a free, appropriate public education (FAPE) and determine an accommodations and services plan if needed.

In addition to Section 504 eligibility evaluations, which are generally completed within a Section 504 meeting, there are other individualized evaluations, which are completed prior to the meeting in which eligibility for Section 504 is determined. These evaluations are reviewed in the Section 504 meeting prior to the Section 504 eligibility evaluation.

Evaluation Materials

Tests and other evaluation materials and procedures used for the purposes of evaluation and placement of children with disabilities must be selected and administered so as not to be racially or culturally discriminatory. For a child with impaired sensory, manual, or speaking skills, tests will be selected and administered to accurately reflect the student's aptitude, achievement level, or whatever other factors the test purports to measure, rather than reflecting the child's impairment. A trained evaluator will choose standardized tests that have been validated for the specific purpose for which they are used, and will administer them in conformance with the instructions provided by their producer.

All tests and evaluation materials will be provided and administered in the student's native language or other mode of communication (This may be done through the use of an ancillary evaluator or interpreter). Materials and procedures used to assess a child with limited English proficiency will be selected and administered to ensure that they measure the extent to which the child has a disability, rather than measuring the child's English language skills. No single procedure will be used as the sole criterion for determining an appropriate educational program for a student.

How Referrals Are Initiated

Referrals may be initiated verbally or in writing by school personnel (including the RtI Committee, Intervention Team, campus nurse, or Special Education Department) or by the student's parent or legal guardian. Referrals should be made or forwarded to the campus Section 504 Coordinator. Referrals will always be considered for a child with a diagnosed impairment who is tested for special education but is found ineligible. They may also be considered for some students exiting special education.

Referrals should be made for students who require frequent implementation of a school health plan, who have engaged in suicidal gestures or made suicide threats, who self-mutilate, or who have a potentially life threatening disease or disorder such as epilepsy or diabetes.

Decisions about Type and Amount of Data Needed for Evaluations

Decisions about the type and amount of data that needs to be gathered for a given evaluation is made on a case-by case basis.

When a disability for which the student is being evaluated is based on a medical disorder that affects a major life activity other than reading or learning, less extensive data may need to be collected from the school.

The Referral Process

Regardless of the source of the referral, parents will be provided with the *Notice of Rights and Procedural Protections under Section 504* at the time of referral. Notice of the proposed evaluation must also be provided and consent obtained from the parent or adult student prior to beginning the evaluation process (with the exception that gathering data already available in the student’s educational records is acceptable prior to obtaining consent).

Timelines for Completing an Initial Evaluation Following a Request

1. The campus has **15 school days** to obtain consent for the evaluation or provide the parent with a notice of denial.
 - a. If the District decides NOT to evaluate: The campus Section 504 coordinator provides the parent with:
 - *Notice of Denial of Parent Request for Section 504 Evaluation*
 - *Notice of Rights and Procedural Protections under Section 504*
 - b. If the District decides to evaluate: The campus Section 504 coordinator should meet with the parent to explain the Section 504 process and provide the following to the parent.
 - *Notice of Rights and Procedural Protections under Section 504*
 - *Notice of Release/Consent to Request Confidential Information* (if applicable)
 - *Notice of and Consent for Initial Section 504 Evaluation*
2. The campus has **45 school days** to complete the evaluation and input the information into the *Section 504 Evaluation*.
 - Timelines may only be extended with permission of Section 504 administrators in extreme circumstances when the absences have been frequent and the student has been minimally available for testing, and even in such cases may only be extended by as many days as the student has been absent since consent for testing was obtained
 - Exception to the usual timelines: If a school district receives written consent signed by a student's parent at least 35 but less than 45 school days before the last instructional day of the school year, the evaluation must be completed by the end of the school year. If a district receives written consent less than 35 school days before the last instructional day of the school year, then usual timeline of 45 school days applies. “School day” does not include summer school.

Steps for Completing Section 504 Evaluations

1. Confirm with the parent (verbal confirmation is allowed) that a licensed or certified health care provider has diagnosed an impairment that might substantially limit a major life activity. Be sure that parent is able to specify the health care provider and the diagnosis.

2. Meet with the parent to discuss Section 504 and review the following items:
 - *Notice of and Consent for Initial Section 504 Evaluation*- for parents to sign. This form is only required for INITIAL evaluations or in an instance where the Section 504 Committee is requesting additional information through individualized assessment. The consent is only provided permission for the evaluation and NOT placement.
 - *Notice of Rights and Procedural Protections under Section 504*- this is for the parent to keep. It explains their rights as a parent of a student with a disability.
 - *Parent Input*- review with the parent. It is permissible for the parent to take it home to complete it and bring it back within 15 school days from the date of consent.
 - *Notice of Release/Consent to Request Confidential Information*– allows the campus Section 504 coordinator to communicate with the health care provider making the diagnosis.
3. Once you have obtained the signed consent for the evaluation and the *Notice of Release/Consent to Request Confidential Information* form from the parent to communicate with the health care provider, FAX the *Notice of Release/Consent to Request Confidential Information* form to the provider for their official diagnosis and input.
4. If applicable, review any previous evaluations, including outside evaluations provided by the parent.
5. Complete the following forms and enter the data into the *Section 504 Evaluation* form prior to the meeting.
 - *Home Language Survey*
 - *Referral Information*
 - *Parent Input*
 - *Teacher Input*
6. Ensure that evaluation is conducted within timelines.
7. Hold Section 504 meeting to complete the *Section 504 Evaluation*, *Section 504 Student Services Plan* and *Parent Consent for Section 504 Service* (if applicable) as documentation of the meeting and evaluation results.

When Consent is Not Obtained within Timelines

The campus Section 504 coordinator who is unable to obtain written consent within 15 school days should have documentation of multiple (at least 3) attempts to obtain the consent using multiple methods (e.g., through mail, sending form home in backpack following a telephone call to alert the parent, asking parent to come to the school, and/or home visit). Document all attempts to contact parents in the *Contact Log of SuccessEd* or through SchoolStatus. If signed consent cannot be obtained within timelines, the campus Section 504 coordinator should consult with Angela Ward.

When Student is Not Living with Two Biological Parents

Consent and notice documents should be sent to all persons who have the right to make educational decisions for the student. If parents are divorced or there is a living arrangement other than with two biological parents, please check the documents in the cumulative file, or request a copy of the divorce decree and/or any other legal documents showing custody and parental rights. Although notice and the opportunity to give consent must be provided to all parents with educational decision-making rights, consent need only be obtained from one parent in order to proceed. If one parent with rights is actively refusing consent and the other is providing consent and wanting to move forward, consult with Angela Ward.

District Refusal to Evaluate

In general, the District will err on the side of caution in responding to parent requests to evaluate under Section 504, and the referral will usually be taken. RTI cannot be used as a “roadblock” to testing simply because a student has not “finished the tiers.” If a parent requests testing and data available thus far indicates a suspicion of a disability, the referral should be taken.

However, there are some circumstances in which the District may refuse to evaluate (e.g., the parent cannot name or identify any disorder/impairment, the District already has input from a health provider indicating that the condition is mild and produces only minor limitations, the impairment is of short duration, etc.). In such cases, the campus RTI Committee should prepare a *Notice of Denial of Parent Request for Section 504* for the parent. Additionally, they should be provided a copy of the *Notice of Parent Rights and Procedural Safeguards* document. Both documents must be sent to parents so that they are received within **15 school days** of parental request for evaluation.

Determining Eligibility Under Section 504

In making the Section 504 eligibility determination, the following should be considered:

- An eligible student under Section 504 is one who: a) has; b) has a record of; or c) is regarded as having a physical or mental impairment that **substantially limits** a major life activity such as seeing, hearing, eating, sleeping, breathing, working, standing, walking, lifting, bending, speaking, reading, concentrating, communicating or learning.
- “Substantially limits” should be considered without regard to the helpful effects of mitigating measures (ADHD medications, hearing aids, behavioral therapy, etc.), with the exceptions of ordinary glasses or contact lenses.
- Episodic conditions or conditions in remission are considered a disability if, when active, they would substantially limit a major life activity.
- “Regarded as” focuses on a person being subjected to a discriminatory or harassing act because of an actual or perceived mental or physical impairment, and does not constitute a disability if the impairment is both transitory (less than 6 mos.) and minor. However, such a person is entitled to protections under the law whether or not the impairment is perceived to substantially limit a major life activity.
- Duration of a disability under Section 504 is generally longer than 6 months, but there is no firm rule about duration, and the duration may be shorter depending upon the severity of the disorder. Both severity and duration should be taken into account in determining whether a student should be referred to/served under Section 504.
- There is no comprehensive or exhaustive list of “major life activities.”
- School districts should not limit their consideration to major life activities which seem most related to academic achievement, such as thinking, reading, concentrating or learning. Instead, the law is intended to protect persons with substantial limitations on a broad array of major life activities.

Dyslexia/Dysgraphia Evaluations

La Vega ISD follows the procedures outlined in the most recently adopted version of *The Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders* produced by the Texas Education Agency (TEA), including domains to assess and procedures for identification. Dyslexia/Dysgraphia evaluations will be completed by an Evaluation Specialist in the Special Education Department. For all evaluations, consult with the campus Evaluation Specialist to determine the best course of action.

School Health Protocols/Evaluations

- Communicate with school nurses to determine whether there are students with medical needs other than administering routine medications (e.g., seizure protocol, diabetes protocol, etc.) because:

1. this raises a “child find” issue (i.e., if the student is not already served under Section 504 or SPED, this needs to be considered, since most children with complex medical issues will at least qualify under Section 504)
 2. for a child identified under Section 504 or SPED, the Section 504/ARD committee must approve any medical plan or protocol that goes beyond routine medication administration
- For children who are identified under Section 504, work closely with the school nurse to ensure that there is only one medical plan/health protocol in place. There should never be two plans (e.g., one set of physician’s orders for dealing with seizures in the nurse’s office and a different school health protocol developed for Section 504). Instead, work together to ensure that there is ONE school health plan or protocol that is in both the nurse’s office and the campus Section 504 coordinator’s office. Additionally, distribute the plan to staff working with the student.
 - If the nurse already has a current plan for dealing with a complex medical issue (e.g. seizure protocol, diabetes protocol, etc.) from the physician that is a separate document from other medical orders, then this document can be provided to the campus Section 504 coordinator. The Section 504 committee will review the ‘draft’ in a formal meeting and propose its formal adoption. A copy of the document should be marked “Adopted by the Section 504 committee on (date) _____.” The adopted health plan should be uploaded into *SuccessEd* under the “History” tab. The school nurse is responsible for providing any training needed by staff for implementing the school health plan/protocol.
 - If the nurse has a plan or protocol for dealing with a complex medical issue that is not on a separate document (e.g., it is on a document that contains other orders such as routine medication administration), then the school nurse would create the health plan with just the part of that document that deals with the protocol for addressing a complex medical issue. The school health plan will then be presented as draft at a Section 504 meeting for formal adoption. There should be a place on the form to indicate that the protocol was adopted by the Section 504 committee and the date of the adoption.
 - In these cases, the school nurse should be a member of the Section 504 committee.
 - If a child under Section 504 has a complex medical issue but the nurse does not have physician’s orders for dealing with the issue, the campus Section 504 coordinator should request a school health protocol from the physician. Consent for both the school nurse and the Section 504 coordinator to communicate with the physician should be obtained.

Change of Placement

A review of the evaluation must be conducted prior to a change of placement. A change of placement includes (but is not limited to):

- expulsion
- serial suspensions that exceed 10 days in a school year
- significant change in programming or related services
- transferring a student to homebound instruction
- exit from Section 504 or from a program within Section 504.
- transfer to LVISD

Re-evaluations

Re-evaluations are conducted every 3 years or more frequently if conditions warrant or if the child’s parent or teacher requests a re-evaluation. Evaluations will not be conducted more than once a year (unless parent and District agree otherwise). Before a re-evaluation for eligibility is conducted, the District should thoroughly review any previous evaluations, including previous Section 504 eligibility evaluations. Although some data may be reaccepted from the previous evaluation, it is expected that this will take place on an individual basis and the reason for not gathering new data in a given area will be well documented. A previous diagnosis from a

physician should not be re-accepted unless the condition is definitely a permanent one that does not fluctuate significantly and cannot improve significantly over time.



SECTION 4: SECTION 504 COMMITTEE MEETINGS

Required Members of the Section 504 Committee

The Section 504 Committee will be comprised of:

- at least **three professional staff members** who, collectively, are knowledgeable about: the child, the meaning of the evaluation data, and the placement options.
- Parent (while not legally required, it is standard practice for the district)
- Student (when appropriate)

Types of Section 504 Committee Meetings

There are four types of Section 504 Committee meetings:

1. Initial evaluation meetings – This is the initial meeting in which eligibility is first determined.
2. Annual/Snapshot Review meetings – This meeting is to review one year's progress and plan for the next year.
3. Review meetings – These are additional meetings that are held as needed, to review an outside evaluation or a three-year reevaluation, to consider a change of accommodations and/or services, to address a parent concern, etc.
4. Transfer meeting – This meeting occurs when a student transfers into LVISD from another district and already has been identified as a Section 504 student.

Annual meetings for a given student should be held around the same time each year. If the accommodations and/or services plan is changed in a review meeting that plan should only be in place until the date of the annual meeting. It should not extend beyond the date of the upcoming annual meeting.

If there appears to be no academic, behavioral, or health concerns and the student is managing well with the accommodations in place, the campus Section 504 Coordinator may consider completing a Snapshot for Annual Review rather than a full Annual Review. The Snapshot Review should occur two to four weeks prior to the time an annual review would be conducted. The Snapshot Review is NOT a formal meeting. The campus Section 504 coordinator should contact the parent, review the current plan and key data points. The key data points should focus on the following areas of performance: attendance, grades and classroom performance, state assessment and benchmarks testing, disciplinary record (including number of removal days), and health and social/emotional well-being. If concerns are expressed, then an Annual Review will be conducted that year. If no concerns are expressed, the Section 504 coordinator will complete the *Section 504 Snapshot for Annual Review* and provide the parent a copy no later than 10 school days after the parent conference.

When Parents are Unable to Attend a Section 504 Committee Meeting at the Scheduled Time

If parents are unable to attend a Section 504 meeting and wish to re-schedule, the campus Section 504 coordinator will make all reasonable efforts to accommodate the parent. If the Section 504 meeting cannot be reasonably rescheduled, then the campus Section 504 coordinator will obtain the necessary information from the parent prior to the meeting.

Steps for Conducting Section 504 Committee Meetings

1. Schedule the time and location of the Section 504 Committee meeting.
2. Invite district staff using the Outlook Calendar meeting invitation system.
3. Parents should be provided with a *Notice of Section 504 Meeting* form **at least five days** in advance of the meeting. (If a meeting needs to be set up quickly, a shorter notice is acceptable if the parent agrees). The notice should be sent to all persons with the right to make educational decisions for the child. It is best practice to follow up with a phone call to let the parent know the time and date of the meeting.

4. If parents are unable to attend a Section 504 meeting and wish to re-schedule, the campus Section 504 coordinator will make all reasonable efforts to accommodate the parent.
5. Prepare the necessary paperwork (e.g. evaluation, service plan) prior to the meeting.
6. Use the *Section 504 Evaluation* and *Section 504 Student Services Plan* forms to document decisions made in the meeting following the order of items on the form. Respond to all areas on the form including notes sections to explain information and decisions made.
7. If this is an Initial evaluation, then present the parent with the form entitled *Parent Consent for Section 504 Service* (consent from only one parent is required) and obtain their signature.

Writing Section 504 Committee Minutes

The following guidelines should be followed in writing minutes for all Section 504 committee meetings:

- The first and last name and title (e.g., parent advocate, private therapist, etc.) of any member that is not listed in Committee Membership should be documented in the notes section.
- The purpose of the meeting should be outlined briefly. One or two sentences are sufficient to explain the purpose of the meeting. Example: “The Section 504 committee met to conduct an initial evaluation under Section 504 and to develop a Services Plan if needed.”
- Minutes should reflect the general “flow” of discussion. However, all Section 504 meeting notes should not look alike. You should be able to discern something unique about the child’s current needs and status, concerns that were discussed, how concerns were addressed, etc.
- Minute-takers should be careful to reflect that “draft” documents, such as Section 504 Plans, have been reviewed first and then accepted.
- Any concerns brought up or requests made by the parents/adult student should be reflected in the minutes, along with the school’s response to the concern(s)/request(s).

While the minutes are not intended to be a “transcript” of the meeting, they should accurately reflect the general discussion of the meeting, as well as any specific issues or concerns that were addressed.

After the Meeting

1. If a student was found newly eligible (or dismissed) from Section 504, notify the campus PEIMS coordinator within **2 school days** of the meeting or of the date you received parental consent for initial placement.
2. After proofreading, lock all completed documents.
3. Provide parents with the paperwork from the meeting and evaluation. Send parents a copy of the applicable forms within **10 school days** from the date of the meeting. Parents **MUST** be present at the initial meeting to consent to Section 504 placement.
4. Disseminate the service plan to all staff members that are required to implement.

Audio-Recording of Section 504 Committee Meetings

The district, the parent, or the adult student may audio-record the Section 504 committee meeting. All participants in the meeting shall be informed that such a recording is being made. If a parent or adult student notifies the committee that he/she will record the meeting, the District will also record the meeting and make reference to the audiotape in the minutes of the meeting.

SECTION 5: PLACEMENT AND SERVICES

Placement Decisions

Placement decisions regarding a child who is identified under Section 504 are made by the Section 504 committee, which is composed of at least three professional staff members who, collectively, are knowledgeable about the child, the meaning of the evaluation data, and the placement options. Parents will be invited to all Section 504 committee meetings; however, they are required to attend the initial placement meeting. The District guarantees placement in the least restrictive environment (see section below).

Considerations for Placement in the Least Restrictive Environment (LRE)

LVISD ensures the provision of educational and related services to eligible students in the least restrictive environment (LRE) appropriate for the student. Students with disabilities must have the opportunity to participate in educational programs and activities with non-disabled students whenever appropriate. In addressing LRE issues, the Section 504 committee should consider how services provided under Section 504 can allow the student to access the general curriculum and extracurricular activities to the same extent as student without disabilities. The instructional day for students with disabilities will be commensurate with that of non-disabled students unless a shortened school day is medically required as determined by the Section 504 committee after reviewing input from the physician.

Determining Appropriate Accommodations

In considering accommodations within the context of a Section 504 committee meeting, it is important that they have a basis in formal or informal evaluation data and are related to the student's disability. Any accommodations that can be provided under special education may also be provided under Section 504. The campus Section 504 coordinator should be careful not to use the word "modifications" to mean "accommodations". Accommodations for STAAR must be based on data presented in the meeting demonstrating (with objective evidence such as test scores) that the student performs better with than without the accommodation. Additionally, the accommodation must be used routinely and effectively in the classroom.

Behavior Intervention Plans (BIPs)

A BIP may be developed for students served under Section 504. If a student is being dismissed from special education at the time of admission to Section 504 and has an effective BIP in place, the committee may take the information from that BIP and create a new one using the *Behavior Intervention Plan* in SuccessEd. Once created, the BIP should be provided to the appropriate staff.

Change of Placement

A deviation from the educational program that was determined during the Section 504 meeting. The following could be reasons for a deviation:

- expulsion
- serial suspensions that exceed 10 days in a school year
- significant change in programming or related services
- transferring a student to homebound instruction
- exit from Section 504 or from a program within Section 504.
- transfer to LVISD

Non-academic Services, including Special Transportation

LVISD provides equal opportunity in areas such as counseling, physical education and athletics, transportation, health services, recreational activities, special interest groups or clubs, referrals to other agencies and employment. If general education students must compete for, meet certain criteria for, or try out for

membership or participation in a non-academic organization or activity, then students with disabilities are not guaranteed that they will be chosen, but only that reasonable accommodations will be made to allow them to try out or compete such that they have an equal opportunity to demonstrate the required skill, ability, or attribute.

When a student receives special transportation, please complete the form entitled *Transportation Information* form in SuccessEd. A copy should be sent to Mandy Livingston in the Transportation Department.

Termination of Section 504 Services or Initiation of Special Education Services

When a student will no longer be served under the Section 504 program, either because they no longer need services or because they will now be served under special education, the campus Section 504 coordinator will conduct a Section 504 meeting, document the evidence in the meeting notes and notify the campus PEIMS coordinator.



SECTION 6: COORDINATION OF SECTION 504 WITH OTHER PROGRAMS

Dyslexia, Section 504 and Special Education

Section 504 or Special Education may serve students identified with Dyslexia. However, students with dyslexia that require specially designed instruction, must be served through Special Education. When making a referral for consideration of dyslexia, the Evaluation Specialist from Special Education will evaluate. Consideration should be given to the perceived severity, the amount of accommodations required to make progress, informal data, formal data, etc. All decisions should be made individually and take into account multiple sources of data.

Special Education and Section 504

Special education and Section 504 both serve students with disabilities, but “disability” is defined differently under these two statutes. Under federal law (IDEA), “disability” (for special education purposes) is defined as having one of 13 specifically listed impairments and, on the basis of the impairment, having a need for specially designed instruction. Specially designed instruction has been defined as needing educational services that can only be provided through special education and cannot be provided through general education. With Response to Intervention (RtI) processes in place, the line between what is available in general education and what is only available in special education has changed considerably. In the world of RtI, the only services provided exclusively by Special Education are the following:

- modified curriculum
- pull-out program designed only for students with disabilities
- placing the student into educational programs or providing the student with educational services (not just related services) that are paid for out of IDEA-B funds.

Section 504 defines a student as having a disability if the student has a mental or physical impairment that substantially limits a major life activity, a record of such impairment, or regarded as having such impairment. All students who qualify under IDEA for special education also qualify under Section 504, but their needs under Section 504 are addressed by the ARD committee. A student served by special education (even a “speech only” student) should never also be served by a Section 504 committee, because the two committees may be working at odds with one another.

Not all students who qualify under Section 504 also qualify under special education. Special education is focused more specifically on the student’s needs with regard to learning and education, and only considers other types of impairments if they fall under one of 13 eligibility categories under IDEA and impact learning or the educational process. For example, a student who is in a wheel chair but whose education and learning are not affected would not qualify for special education. However, this student likely would qualify under Section 504, since this law covers a wider array of major life activities, including the major life activity of “walking.”

English Learners (ELs) and Section 504

For students who are served in Section 504 and are identified as EL, the LPAC representative will facilitate the participation of ELs in Section 504 while ensuring full access to the language program services required under the TEC, §29.053.

While attendance is always preferred, if the LPAC representative is not able to attend, program recommendations will be sent to the campus Section 504 coordinator no later than 2 days prior to the meeting. When providing information, be sure to include oral language proficiency results, TELPAS results and any other data that would be relevant to the committee when making a service plan for the student.

When considering reclassification of an EL student, the decision will be made at the end of the school year and documented in a Section 504 meeting. In order to be eligible for reclassification, the student must be rated

Advanced High for listening, speaking, reading and writing and meet the passing standard for the Reading (English) state assessment. Additionally, the subjective teacher evaluation form must be completed.

Referral to Section 504 by the ARD Committee

In some cases a student will be dismissed from special education but will be referred for an evaluation under Section 504. Since disability is defined differently under the two laws, the student who no longer has a disability under IDEA may continue to have a disability as defined under Section 504. For example, the student may continue to have the impairment (e.g., ADHD) but no longer have a need for specially designed instruction. Nevertheless, if the ADHD significantly impacts the student’s capacity to maintain attention, the student would continue to qualify under Section 504.

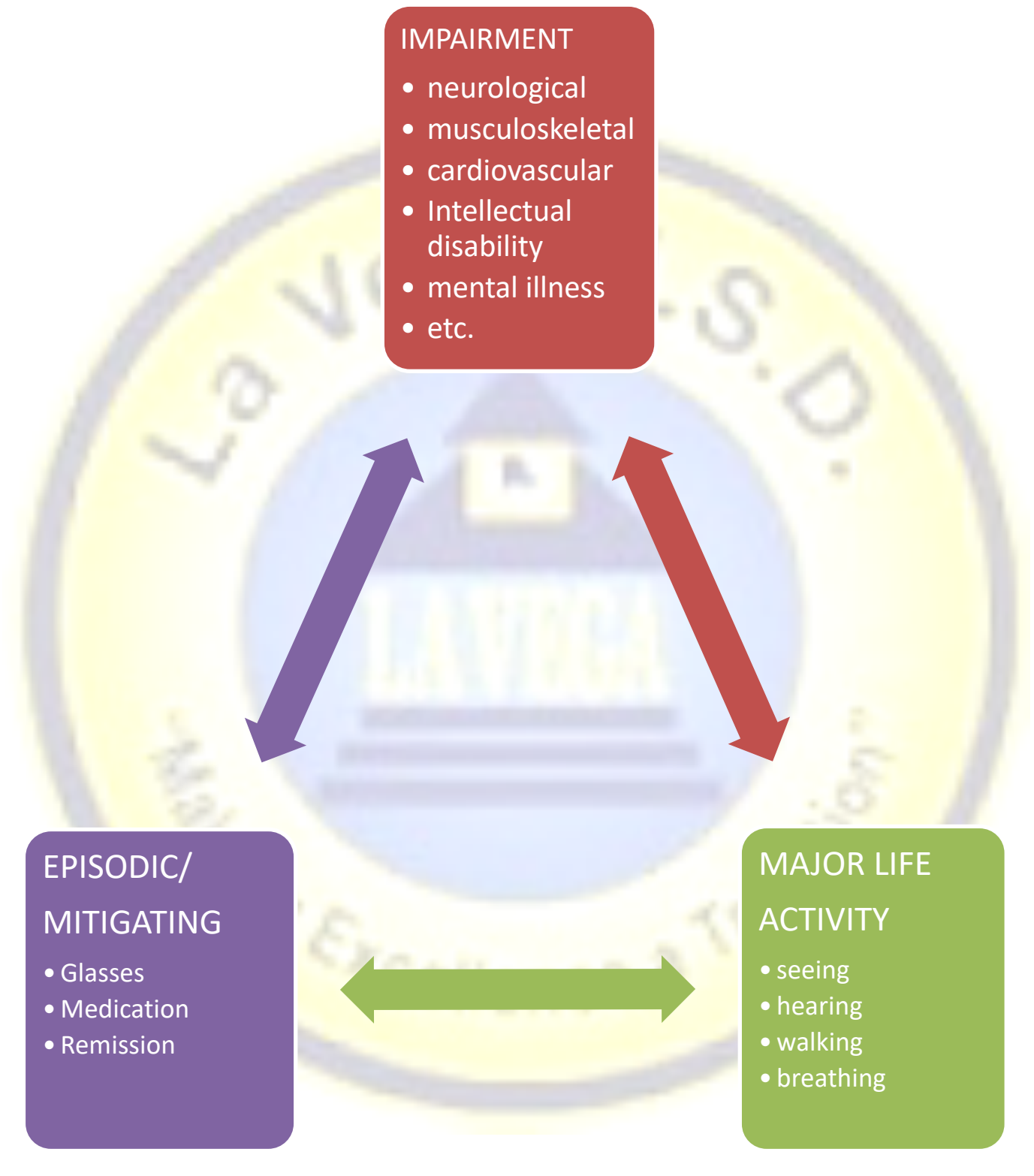
Referral to Special Education by the Section 504 Committee

A student may be referred to special education by the Section 504 committee when it is believed that, based on the student’s impairment; the student needs services that can only be provided through special education. The members of the Section 504 committee; however, should keep in mind that many services are now available through general education that were once available only through special education.



APPENDICES

Appendix A: Eligibility Standards



Appendix B: Specific 504 Evaluation Process

