

# **SECTION 504 HANDBOOK**

## **WHARTON ISD**

Special Education Annex  
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## What is Section 504?

- Section 504 of the Rehabilitation Act of 1973 is a federal law to eliminate discrimination based on disabilities.
- Individuals of all ages are covered.
- Entities that receive federal funding must follow this law.
- No funding is provided to the Local Education Agencies (LEAs) to implement Section 504.
- The core purpose is to ensure that individuals have equal access and opportunities, particularly in educational settings where it mandates the provision of a "free appropriate public education" (FAPE) for qualified students with disabilities.
- The Office for Civil Rights (OCR) enforces Section 504.

Section 504 states that: "No otherwise qualified individual with a disability in the United States, as defined in section 706(8) of this title, 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), 34 C.F.R. §104.4(a)]

## General Requirements

### Referral and Eligibility:

- **Referral Sources:** Referrals for 504 eligibility can originate from parents, teachers, counselors, nurses, and other campus personnel.
- **Required Documentation:** For each eligible student, the following must be uploaded into the 504 management software:
  - Signed Notice and Consent for 504 Evaluation.
  - Current (within three years) 504 Committee Meeting Notice.
  - Current (within three years) 504 Plan.
  - 504 evaluations consist of gathering data from multiple sources such as parents, teachers, and medical professionals when applicable.
  - Formal testing is not required, but if formal testing is conducted, IDEA timelines will be followed. (45 school days to evaluate, then 30 calendar days from the date of the evaluation to have a Section 504 meeting)
  - Outside evaluations will be considered, but do not automatically ensure eligibility.
  - There are no provisions for an Independent Educational Evaluation (IEE).

### Meeting Procedures and Parent Rights:

- **Plan Distribution:** Within three school days of the 504 committee meeting, the facilitator must distribute the 504 plan to the relevant stakeholders
- **Teacher Responsibilities:** Teachers are responsible for accessing and implementing individual accommodation plans.
- **Parental Notification:** Parents must be notified of 504 committee meetings and receive a copy of Parent and Student Rights.
  - Upon initial referral
  - At re-evaluation meetings.

- Upon significant changes in placement.
- **Meeting Attendance:** Parents are not required to attend meetings. If they do not, the 504 coordinator must inform them of the meeting's results.
- **Advocate/Attorney Presence:**
  - If a parent brings an advocate, a campus administrator must be present.
  - If a parent brings an attorney, the district 504 Coordinator must be notified and attend.
- **Dispute Resolution:** If a parent disagrees with the committee's recommendations, they should be referred to the district 504 Coordinator.

#### **Ongoing Monitoring and Review:**

- **Three-Year Review:** 504 eligibility must be reviewed every three years, or sooner if needed.
- **Disciplinary Actions:** If a student is suspended for 10+ days in a school year, the 504 committee must review the incident in relation to the disability, unless the suspension is due to drugs/alcohol.
- **Progress Monitoring:** 504 Campus Facilitators must monitor student grades and behavior each grading period.
- **Plan Review:** If a student's progress is inadequate, a 504 committee meeting must be scheduled to review the plan and consider special education referral.

## **Procedures for Scheduling a Section 504 Meeting**

#### **Initial Eligibility Meeting:**

- Schedule and hold an initial 504 meeting within 30 school days of receiving evaluation information (medical reports, parent requests, special education evaluations, etc.).
- Upload all supporting documentation to the 504 management software upon receipt.

#### **Three-Year Re-Evaluation:**

- Ensure re-evaluation meetings occur precisely within the three years of the previous 504 meeting.

#### **Parent-Required Meeting:**

- Schedule parent-requested 504 meeting within 10 school days of the request.
- Contact the parent to determine the meeting's purpose and ensure all concerns are addressed.

#### **Meeting Notification and Scheduling:**

- Contact the parent/guardian to schedule a mutually agreed-upon meeting time and location (virtual or in-person).
- If unable to reach the parent/guardian, schedule the meeting within the required timeframe and email a meeting notification at least 5 school days prior to the meeting.
- Include parent rights in email notification.
- Notify relevant staff members who are knowledgeable about the student, evaluation data, and/or suspected disability.

#### **Parent Participation:**

- If the parent does not respond to the meeting notice, the meeting may proceed in their absence.
- If the parent indicates a desire to participate, make reasonable efforts to reschedule the meeting.

#### **Referral for Special Education:**

- **Progress Concerns:**

- If a student consistently struggles to meet class expectations and state assessment standards, the 504 committee should reconvene to determine if a referral for special education is appropriate.

## Who is covered under Section 504?

Any child who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment or is regarded as having such an impairment, and may be based upon academic or nonacademic issues.

- Physical or Mental Impairment
- Impairment affects a major life activity
- Impairment substantially limits the child as compared to average peers for their grade/age level.

## Potential Physical Impairments

Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, cardiovascular, reproductive, digestive and genitourinary, hemic, lymphatic, skin or endocrine, and respiratory.

## Potential Mental Impairments

Any mental or psychological disorder such as an intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disability.

## Potential Qualifying Disabilities\*

Attention Deficit Hyperactivity Disorder (ADHD)	Dyslexia
Asthma	Epilepsy
Autism	Hearing Impairment
Auto-Immune Deficiency	Human Immunodeficiency Virus (HIV)
Cancer	Obsessive Compulsive Disorder (OCD)
Cerebral Palsy	Visual Impairment

\*This list is not exhaustive

## Food Allergies

The number of students with reported food allergies has increased significantly. While severe food allergies that can result in anaphylaxis should be taken very seriously, not all food allergies will rise to the level of disability. It is very important to respond promptly and gather information on suspected food allergies. Ask the following questions when determining how to respond to reported allergies:

- What is the child's history of allergic reactions?
- What kind of exposure (smell, touch, or ingestion) results in a reaction?
- How common is the allergen in the school setting?
- What precautions do the parents take at home and in the community (restaurants, parties, family outings, etc.)?
- How often has the student had a severe reaction to the allergen?
- How much time is there between exposure and reaction?
- How severe is the reaction?
- Is an epi-pen required?
- Is there a health plan housed in the nurse's office?

### What is a Major Life Activity?\*

Bodily Functions	Performing manual tasks
Breathing	Reading
Caring for oneself	Seeing
Concentrating	Speaking
Hearing	Walking
Learning	Working

\*This list is not exhaustive

### Substantial Limitations

- Substantial limitation is not defined in the Section 504 Regulations.
- The decision is made on an individual basis.
- OCR has interpreted it to mean "an important and material limitation."
- The comparison of limitations is made relative to peers of the same age or grade level in the general (e.g., national or state) population; consider eligibility without ameliorating effects of **mitigating measures**.
- The ADAAA lowered the standard by stating an impairment need not prevent or severely or significantly restrict major life activity to be considered substantially limiting.

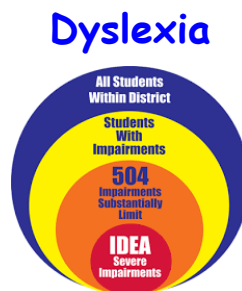
### Mitigating Measures

Beginning in 2009, Congress required that the positive or beneficial impact of mitigating measures should not be considered when determining eligibility. Students are to be evaluated as if they were not, for example, on medication, using compensatory skills, or receiving assistance. In an exception to the rule, the positive impact of ordinary eyeglasses and contact lenses is considered when determining substantial limitations. Once eligible, the committee will decide whether the student requires a Section 504 Plan.

## Child Find

- Locate and identify eligible students.
- Eligible students and parents must be notified of the LEA's responsibilities under Section 504.
- In Wharton ISD, Section 504 Child Find efforts are combined with those under IDEA into one comprehensive process using the Campus 504 committee on each campus.

**Important Note:** At any point, if a need for specialized instruction is suspected, refer for **evaluation** under IDEA to determine if the child is a "**child with a disability**" as IDEA 2004's regulation defines that term at §300.8. IDEA eligible students are protected under Section 504.



Dyslexia, as defined by the International Dyslexia Association, is "a specific learning disability that is neurological in origin. It is characterized by difficulties with accurate and/or fluent word recognition and by poor spelling and decoding abilities."

- **Identification:** There is now a single pathway for the identification of Dyslexia under the Individuals with Disabilities Education Act (IDEA). Therefore, all students suspected of having dyslexia must be referred for a Full and Individual Initial Evaluation (FIIE) to determine whether they may be a student with a Specific Learning Disability (SLD) under IDEA. The multi-disciplinary team of evaluators must include at least one member with specific knowledge regarding the reading process, dyslexia and related disorders, and dyslexia instruction. The member with specific knowledge must also attend the initial ARD and any subsequent ARD committee meetings.
- **Instruction:** There is no longer a distinction between Standard Protocol Dyslexia Instruction and Specially Designed Instruction. Therefore, all students in need of direct dyslexia instruction must be referred for a Full and Individual Evaluation and receive services through an IEP, rather than a 504 plan. The providers of dyslexia instruction must be fully trained in the district's adopted instructional materials for students with dyslexia, which may not be satisfied by the reading academy.
- **Parent Notification:** If a student is suspected of having dyslexia and may be a child with a disability, the parent must receive a notice explaining rights under the Individuals with Disabilities Education Act (IDEA) that may be additional to those under Section 504 of the Rehabilitation Act of 1973. This notice must be distributed along with the Notice of Procedural Safeguards.

- Progress Reports: All students receiving evidence-based dyslexia instruction must have a progress report prepared and communicated to a parent specifically on the student's progress as a result of that program at least once per grading period.

## Potential Section 504 Accommodations and/or Services\*

Section 504 Accommodation Plans will only include those accommodations or services that are necessary for the student to have equal access to programs and services based on the student's disability. Need for accommodations and/or services will be considered with the use of mitigating measures and may be provided in the following areas:

- Adapted or Additional Materials
- Adapted Classroom Instruction
- Access
- Altered Assignments or Testing
- Attention & Focus
- Behavior & Self-Regulation
- Environmental/Accessibility
- Expressive Language · Math
- Memory & Recall
- Physical/Medical Needs
- Planning & Organizing
- Reading
- Scheduling
- Testing/Evaluation
- Time Awareness & Management
- Work Production & Output
- Writing

\*This list is not exhaustive

## The Section 504 Committee

- Section 504 requires that the Section 504 committee or "group of knowledgeable people" contain persons with knowledge of the following:
  1. the child,
  2. the meaning of the evaluation data, and
  3. the placement options.
- In Wharton ISD, the principal designates who will serve as the Section 504 Coordinator for each campus.
- At a minimum, the 504 committee will include the parent, a campus administrator, a teacher of the student, and/or a service provider of the student.

## Individual Health Plans

- Individual Health Plans (IHPs) need to be reviewed on an individual basis to determine if the student is eligible under Section 504. An IHP is considered a mitigating measure.
- The school nurse will attend all 504 meetings in which an IHP is being reviewed or discussed.

## Homebound Services

General education homebound (GEH) services are available for non-special education eligible students who are expected to be confined at home or hospital bedside for a minimum of four weeks. The weeks need not be consecutive (in cases of chronic illness/acute health problems). Confinement must be for medical reasons only and the medical condition must be documented by a physician licensed to practice in the United States. Because homebound placement is one of the most restrictive environments in which we educate students, alternatives should be considered before homebound placement. Services from the school nurse, rest periods during the day, and shortened school days are examples of alternatives to homebound services. All inquiries for general education homebound should be directed to the homebound department. It is critical for the campus to arrange for assignments to be sent home via Google Classroom and completed work to be collected during the referral process. Once homebound services are in place, the homebound teacher focuses on current work provided through Google Classroom and does not work on material covered prior to homebound placement. The campus teachers remain the teachers of record while students are on homebound. They are responsible for submitting work to the homebound teacher's Google Classroom page as well as maintaining grades for the student. If a student has a disability severe enough to warrant a homebound placement, the student will meet eligibility requirements for §504. An initial §504 meeting should be held to determine if accommodations are needed for the student while they are being serviced through homebound. When the homebound period ends, the student returns to school and should be considered for dismissal from §504 as appropriate.

## Temporary Disabilities

A temporary disability is an impairment with an actual or expected duration of six months or less. Eligibility decisions should be made on a case-by-case basis and should consider both the duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity of the affected student.

## Service Animals

- Under ADA and Section 504, a service animal must be a dog or miniature horse.
- The service the animal provides must be directly related to the student's disability.
- The student/handler is responsible for the care and welfare of the animal.
- When faced with a service animal request, Wharton ISD may only ask two specific questions:
  1. Is the animal required because of a disability?
  2. What work or tasks has the animal been trained to perform?
- Wharton ISD must allow access to service animals and must not request certification or training requirements.
- "Emotional Support Animals" that only provide comfort or companionship to an individual **do not** meet the definition of a service animal under Title II of the ADA.
- A student's right to bring a service animal to school is a civil rights issue, not an educational issue.

## In School Suspension

If a student with a disability is receiving all their accommodations while placed in ISS, the placement may not count as a change in placement requiring an MDR. However, if a student is repeatedly placed in ISS, it may indicate that the student needs additional services or a behavior intervention plan. The §504 committee should meet and review the plan to determine if changes need to be made or if a referral for an FIE might be appropriate for the student.

## Non-Academic and Extracurricular Services

Students with disabilities must be afforded the same opportunity to participate as non-disabled students in nonacademic and extracurricular services such as recess, field trips, clubs, and sports. Necessary accommodations should be considered for these areas by §504 committees and documented in §504 plans.

## Manifestation Determination Review (MDR) Procedures

- An MDR is required for all students who are recommended for placement at DAEP for 10 days or more or for any student who has been suspended from school for a total of 10 or more days during a school year.
- **ONE EXCEPTION: If the student is under the influence of drugs or alcohol while at school or while at a school event, an MDR is not required under §504.**
- Procedures:
  - Within 10 school days after the administrator has assigned disciplinary action, the §504 committee must meet to determine whether the behavior is directly and causally related to the documented disability
  - Contact the parent and schedule the meeting at a mutually agreed upon time/place.
  - You must give the parent 24-hour notice prior to holding the MDR meeting
  - If the parent is unreachable, schedule the meeting with the 10-day timeframe

## Transportation

If transportation is required due to a disability and is not normally provided to the student, the §504 committee may provide transportation as a related service for eligible §504 students. Also, if an eligible student requires specialized transportation, for example a student in a wheelchair needs a wheelchair accessible bus, the specialized transportation may be provided as a related service. The facilitator should notify the district §504 program manager of the need for transportation prior to a meeting being held. A §504 committee meeting is required to determine whether the student requires transportation. If so, the §504 facilitator should complete the transportation supplement and submit it to [jraney@whartonisd.net](mailto:jraney@whartonisd.net).

## Dismissal from Section 504

A student's eligibility for a §504 plan isn't permanent. If, after a formal review, it's determined that their disability no longer substantially limits their ability to learn or participate in major life activities, the §504 plan can be discontinued. However, it's crucial to distinguish between a student's improved performance due to the effectiveness of their accommodations and the actual absence of a continued need for those accommodations. Removing a successful 504 plan simply because it's working well can be a mistake.

Some people misunderstand certain aspects of 504 eligibility, believing that once a student is identified as having a disability, they are always entitled to a 504 plan. This misunderstanding stems from the provisions that protect individuals with a "record of" or those "regarded as" having a disability. These provisions are designed to prevent discrimination based on past or perceived disabilities, offering retroactive protection. They do not, however, mandate the ongoing provision of 504 plans or meetings based solely on a past or perceived disability.

Essentially, the law protects against discrimination based on past or perceived disabilities, but it does not mean that a 504 plan must remain in place indefinitely. The determination of whether a student continues to qualify for a 504 plan hinges on whether their current disability substantially limits a major life activity, not on whether they were ever considered to have a disability in the past.

## Honors and Other Advanced Classes (Pre-AP, AP, GT, etc.)

Students with disabilities have equal opportunity to participate in accelerated classes such as AP and GT classes. 504 and ARD committees will determine appropriate accommodations deemed necessary to meet the student's individual educational needs. Accommodations should not change or alter the content or standards of the course. For instance, use of an FM device for a student who is deaf or hard of hearing in an advanced class would be appropriate to ensure access to the content and standards of the course. Conversely, reduced assignments would not be appropriate if that accommodation would alter the content or standards for the course.

## Dual Credit Courses

Students with disabilities who are participating in dual credit courses must apply for accommodations through the disabilities rights offices at the college or university that is providing the dual credit. The college or university will determine if the accommodation will be provided for the course. This decision is made solely by the college or university.

## College Entrance Exams (ACT/PSAT/SAT/AP) Accommodations

Many parents are under the assumption that accommodations provided in school are automatically provided on college entrance exams such as the ACT, PSAT, SAT, and AP

tests. In actuality, the process for receiving accommodations on these tests is very different from what is required under §504.

### **The College Board (PSAT, SAT, and AP tests)**

- "College Board considers all requests for accommodations needed by students with documented disabilities."
- Students and parents should be referred to the appropriate website <https://accommodations.collegeboard.org/> to understand the requirements for receiving accommodations on these tests.

Each year, students who are 8th through 11th grades will take the PSAT/NMSQT or the SAT. In order for students to receive testing accommodations, families and students must apply. Counselors at secondary campuses will provide families with the forms linked below. Campuses will determine if they submit accommodations on behalf of the student or if they will require the parents/students to submit these requests on their own. This determination is made on a campus-by-campus basis and is not dictated by the district.

### **ACT**

- "ACT is committed to providing appropriate accommodations for examinees who take the ACT test. To request accommodations, you will need to work with a school official, because the accommodations requested should be similar to the accommodations you currently receive in school. Accommodations **MUST** be approved by ACT before testing. A request alone is not enough. All requests, including appeals, must be submitted by the late registration deadline for your preferred test date. If your request is not properly submitted, it may **NOT** be approved in time for your preferred test date."
- Students and parents should be referred to the appropriate website <https://www.act.org/content/act/en/products-and-services/the-act.html> to understand the requirements for receiving accommodations on this test.
- In order for students to receive testing accommodations, families and students must apply. Counselors at secondary campuses will provide families with the form linked below. Campuses will determine if they submit accommodations on behalf of the student or if they will require the parents/students to submit these requests on their own. This determination is made on a campus-by-campus basis and is not dictated by the district.

### **Links to Accommodation Consent Forms for SAT/PSAT/AP/ACT**

[SAT/PSAT/AP Consent form for Accommodations Request](#)

[SAT/PSAT/AP Spanish Form](#)

[ACT Consent Form for Accommodations Request](#)

## **Adding Accommodations Solely for College Entrance Exams**

Some parents believe that the school district should add accommodations to a student's §504 plan solely for college entrance exams. This is not the case. Accommodations on §504 plans are those accommodations that are necessary and utilized on a regular basis in the classroom. A §504 plan should not be put in place solely to support accommodations on college entrance exams.

## **Confidentiality**

The Family Educational Rights and Privacy Act (FERPA) and school district policy require that all student records shall be developed, maintained, utilized, and disseminated in such a manner as to protect the privacy of students. §504 electronic records are considered student records and are confidential.

All school district personnel must maintain the confidentiality of personally identifiable information pertaining to any Wharton Independent School District Student. This includes any student name; educational records and test results; any verbal/written anecdotal information; any placement data; any information relating to counseling services rendered to any student or parent or guardian; or any information relating to a student's disability or placement.

According to the WISD Confidentiality Agreement in the WISD Employee Handbook:

1. Staff will use and disclose information only for the purpose of performing assigned duties.
2. Staff will request, obtain, or communicate confidential information only as necessary to perform their assigned duties and shall refrain from requesting, obtaining, or communicating more information than is necessary to accomplish their duties.
3. Staff will take reasonable care to properly secure confidential information on their computer and will take steps to ensure that others cannot view or access such information.
4. Staff will not disclose their personal computer log-ins and/or passwords to anyone.
5. Staff will immediately report any unauthorized use or disclosure of confidential information to their supervisor.
6. Staff will ensure that any confidential information that they might happen to see on someone's desk, white board, during a presentation, etc. is held confidential to protect district data whether student or staff related.

## **Consent to Release/Request Confidential Records**

While we cannot require a medical diagnosis to evaluate a student for §504, it is best practice to obtain medical information from a physician when available. Use the consent for disclosure of confidential information form to request information directly from the professional who evaluated the student.

Remember, the diagnosis alone does not guarantee eligibility under §504. Once a diagnosis is confirmed, the §504 committee must look at multiple sources of data to determine eligibility. When it is suspected that a student has a medical or physical impairment, but there is no diagnosis available, contact the district §504 Program Manager

## Wharton Independent School District Operating Guidelines for Section 504

1. **Child Find.** As part of the on-going identification and referral process, the district will make reasonable efforts to identify and locate every qualified disabled student residing within the district who is not receiving a public education. The district shall inform the parents or guardians of these potentially eligible students (who may be attending private schools or who are homeschooled) of the district's duties under §504. As part of the Child Find effort, the district shall annually publish the Child Find Notice in local newspapers, student handbooks, and other locations likely to be seen by parents of eligible students. Additionally, every teacher within the district should have information regarding the district's overall early intervention process, understand how to initiate a §504 referral.
2. **Referral.** When a student is suspected of having a disability and needs services under §504, the student shall be referred to the §504 facilitator. When a §504 referral has been initiated, the referral will be reviewed along with information from the student's educational records and determines whether a §504 evaluation is necessary. The parent may also initiate a §504 referral. If no §504 evaluation is required, the campus §504 facilitator will notify the parent/guardian within 15 school days.
3. **Consent for Evaluation.** If §504 evaluation is necessary, the person conducting the evaluation will send it to the Parent and Student Rights Under §504 and get consent for evaluation. If no parental consent is received for §504 evaluation, the §504 facilitator should remind the parent annually of the district's continued desire to conduct an evaluation under §504. If the parent sends a refusal, the campus should document the refusal and upload the refusal to the district §504 management software.
4. **Evaluation.** When the consent is received from the parent, the evaluator should:
  - a. Gather evaluation data and review relevant educational records. The evaluation data consists of information from a variety of sources, including efforts and results of early intervention activities, aptitude and achievement testing, teacher recommendations, physical condition, social or cultural background, and adaptive behavior, and parent and teacher input. Should current special education data exist (an evaluation upon which a student was either dismissed from special education or upon which a finding of no IDEA eligibility was made), that data should also be considered.
  - b. Ensure that formalized testing be considered by the §504 committee as evaluation data, the tests:
    - i. Have been validated for the specific purpose for which they are used and are administered by trained personnel in accordance with the instructions provided by the tests' creators.
    - ii. Include those tailored to assess specific areas of educational need and are not merely designed to provide a single intelligence quotient.
    - iii. Are selected and administered to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the tests' results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual,

or speaking skills (except where those skills are the factors that the test purports to measure).

- c. Review evaluation results with the parent prior to the scheduled §504 meeting
  - d. Notify the campus §504 facilitator that a §504 committee meeting needs to be scheduled to review evaluation results
  - e. Give the parents notice of the time and place of the evaluation meeting, inviting the parent to attend
5. **At the §504 meeting the committee should:**
- a. Draw upon information from a variety of sources, including, but not limited to, efforts and results of early intervention activities, aptitude and achievement testing, teacher recommendations, physical condition, social or cultural background, adaptive behavior, and parent and teacher input
  - b. Ensure that all information reviewed in the evaluation is documented and carefully considered and that §504 decisions are made consistently with the Americans with Disabilities Amendments Act of 2008, including appropriate consideration of mitigating measures, recognition of changes made to major life activities, the appropriate consideration of impairments that are episodic or in remission, and Congressional declarations on the definition of substantial limitation
  - c. Complete the §504 plan to determine eligibility and outline any necessary accommodations, if no eligibility is found, the parents are informed in writing
  - d. Should the parent refuse consent to the initial provision of Section 504 services, such refusal should be documented
  - e. At the conclusion of the meeting, the §504 coordinator provides a copy of all documents to the parent electronically. If the parent requests, these can also be provided as a hard copy.
6. **Free Appropriate Public Education (FAPE).** No eligible student may be excluded from receiving a public elementary or secondary education. When considering the educational placement for eligible students, the §504 committee will ensure that the services provided are:
- a. Appropriate. The §504 services are designed to meet the individual needs of the eligible student as adequately as the needs of nondisabled students and are based upon adherence to the regulatory procedures relating to educational setting, evaluation and placement, and procedural safeguards.
  - b. Free. An eligible student's educational program provided under §504 is provided without cost to the parent of the eligible student, regardless of where those services are provided or by whom. The only costs of educational services that may be assessed by the eligible student are those borne by nondisabled students and their parents (such as tickets to events, purchases of supplies, field trip fees, lab fees, art fees, etc.). When the district has made available at FAPE as required by §504, and the parents choose to place the student in a private school, the district is not required to pay for the eligible student's education in the private school.
7. **Parental Rights to Refuse Consent and Revoke Consent for Section 504 Services.** The district recognizes the parent's right to refuse consent for initial §504 services as well as to revoke consent for continued §504 services at any time. The parent may exercise the right to refuse consent or revoke consent by indicating that disagreement within the §504 plan. If this occurs, the disagreement should be forwarded to the district Section 504 program manager for appropriate follow-up.

8. **Least Restrictive Environment (LRE).** The §504 committee shall create a placement for the eligible student that ensures the provision of educational services with persons who are not disabled to the maximum extent appropriate to the needs of the eligible student. The §504 committee will presume that the regular classroom is the appropriate placement, unless it is demonstrated that the eligible student's education in the regular classroom with the use of supplementary aids and services cannot be achieved satisfactorily. Should the §504 committee place an eligible student in a setting other than the regular classroom, it shall consider the proximity of the alternative setting to the eligible student's home.
9. **Non-Academic Services & Extracurricular Activities.** The district shall ensure that the provision of non-academic and extracurricular services and activities (such as meals, recess, counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the recipients, referrals to agencies which provide assistance to people with disabilities, and employment of students, including both employment by the recipient and assistance in making available outside employment) are provided so that:
  - a. Eligible students are afforded an equal opportunity to participate in such services and activities.
  - b. Eligible students participate with nondisabled students to maximum extent appropriate to the needs of the eligible student.

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

**Physical education and athletics.** In providing physical education courses and athletics and similar programs and activities to any of its students, the district will not discriminate on the basis of disability. Students with disabilities shall have equal opportunity to participate in the district's physical education courses as well as interscholastic, club, or intramural athletics operated or sponsored by the district. Wharton ISD will offer students with disabilities physical education and athletic activities that are separate or different from those offered to nondisabled students only if separation or differentiation is consistent with the requirements of LRE and only if no qualified disabled student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.
10. **Implementation of the §504 Plan.** The campus §504 facilitator ensures that the student's §504 plan is shared with all teachers and staff that need it in a timely manner. Teachers are professionally responsible for accessing and implementing individual accommodation plans for each assigned student. Monitoring of implementation of the §504 plan should be accomplished through periodic reviews of the student's academic and behavioral progress.
11. **Re-evaluation.** Every three years, the §504 committee should meet to conduct a periodic re-evaluation of students who have §504 plans as well as for students who are eligible under §504 but not in need of a §504 plan. A re-evaluation may include formal measures or could be based on a review of existing data, based on the individual needs of the student. Re-evaluation should also occur prior to any significant change of placement and whenever necessary to ensure the continued

provision of services. It is also the district's practice to conduct annual reviews when no periodic re-evaluation is required. If the student remains eligible, the §504 committee should adjust the student's §504 plan based on the student's changing needs due to the effects of different classroom subject matter, school demands, and other factors. Should the committee determine that the student is no longer eligible, the §504 committee should dismiss the student from §504. The parents shall be given notice of the results of the re-evaluation.

12. **Discipline.** Should the district recommend a disciplinary removal of the eligible student from his educational placement for a term of more than ten consecutive school days, the §504 committee must first determine if the conduct that led to the disciplinary removal was directly and causally related to the student's disability under §504. Prior to the meeting, the campus §504 coordinator shall give the parents notice of the time and place of the meeting. At the meeting, the Manifestation Determination will be completed. If the conduct is determined to be directly and causally linked to the disability, the disciplinary removal of longer than ten consecutive days cannot occur. If the conduct is determined to not be directly and causally related to the disability, regular discipline ensues. However, the §504 committee must ensure that the §504 plan is implemented within the alternative educational setting.

Removals for fewer than ten days may occur without §504 committee review, subject to the "pattern of exclusion" rule. A series of short removals (including teacher removals under §37.002 of the Education Code) over the course of the school year that exceeds ten total days may constitute a pattern of exclusion that triggers applicable procedural safeguards (a manifestation determination evaluation and a right to due process). In such cases, the §504 committee will meet to conduct a Manifestation Determination Review prior to the tenth cumulative day of removals during a school year.

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

13. **Interaction with Special Education.** Each student referred and evaluated for special education who does not qualify, and each student dismissed from special education may be considered for §504 eligibility on a case-by-case basis. If at any time the §504 committee determines that a student with a disability needs special education or related aids and services to receive educational benefit, a special education referral should be initiated.
14. **Interaction with Texas Dyslexia Law.** In accordance with House Bill 3928 all specially designed instruction for Dyslexia is now serviced under IDEA. For students to be diagnosed with Dyslexia, parents must give consent for an FIIE. All Dyslexia classes are now given through an ARD committee decision in an IEP. Section 504 plans can only give accommodations for Dyslexia.
15. **Mitigating Measures and Development of Section 504 Plans.** Pursuant to the ADA, the determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, equipment, or appliances, low-vision

devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies; use of assistive technology; modifications. The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity. The §504 plan, however, shall not be developed unless needed, at the time, in order for the student to have his needs met as adequately as those of nondisabled students. Should the need develop, the §504 committee shall develop an appropriate §504 plan. Further, students with physical or mental impairments whose needs are addressed through early intervention or health plans will not be excluded from consideration for possible §504 referral, even when current interventions, services or health plans successfully address their impairment-related needs.

16. **Procedural protections.** The district will ensure that a system of procedural safeguards is in place with respect to actions regarding the identification, evaluation, and educational placement of students with disabilities. The system shall include notice, an opportunity for the parent or guardian of the disabled student to examine relevant records, and impartial hearing with opportunity for participation by the student's parent or guardian and representation by counsel, and a review procedure.
17. **Parent Language.** If the district determines that the dominant language of the parent is Spanish, the district will ensure that effective notice in Spanish and services necessary to provide the parent an opportunity for effective participation in the §504 process. If the district determines that the dominant language of the parent is not English or Spanish, the district will make a good faith effort to accomplish notice and provide an opportunity for effective parent participation in the §504 process through other means.
18. **Duty to Not Discriminate.** The district ensures that no qualified disabled person shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any district program or activity.
19. **Retaliation Prohibited.** No Wharton ISD officer, employee, or contractor shall retaliate against any person because they have exercised their rights under §504.
20. **Disability-Based Harassment.** The district will promptly investigate all claims of disability-based harassment and take reasonable action to stop future recurrence. Where evidence of disability-based is found pursuant to an investigation, and the district believes that the harassment has adversely impacted upon the ability of a student with a disability to have equal access to the district's programs or activities or the student's entitlement to a free, appropriate public education, a §504 committee meeting will be called to consider the impact of the harassment and determine whether changes to student's individual accommodation plan are required.

## Notice of Rights & Procedural Safeguards for Disabled Students and their Parents Under §504 of the Rehabilitation Act of 1973

The Rehabilitation Act of 1973, commonly known in the schools as "Section 504," is a federal law passed by the United States Congress with the purpose of prohibiting discrimination against disabled persons who may participate in, or receive benefits from, programs

receiving federal financial assistance. In the public schools specifically, §504 applies to ensure that eligible disabled students are provided with educational benefits and opportunities equal to those provided to nondisabled students.

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

The purpose of this notice is to inform parents and students of the rights granted them under §504. The federal regulations that implement §504 are found at Title 34, Part 104 of the Code of Federal Regulations (CFR) and entitle eligible students and their parents to the following rights:

1. You have the right to be informed about your rights under §504. [34 CFR 104.32] Wharton Independent School District must provide you with written notice of your rights under §504 (this document represents written notice of rights as required under §504). If you need further explanation or clarification of any of the rights described in this notice, contact appropriate staff persons at Wharton Independent School District's §504 Office and they will assist you in understanding your rights.
2. Under §504, your child has the right to an appropriate education designed to meet his or her educational needs as adequately as the needs of non-disabled students are met. [34 CFR 104.33]. You have the right to refuse consent for services at any time.
3. Your child has the right to free educational services with the exception of certain costs normally paid by the parents of non-disabled students. Insurance companies and other similar third parties are not relieved of any existing obligation to provide or pay for services to a student that becomes eligible for services under §504. [34 CFR 104.33].
4. To the maximum extent appropriate, your child has the right to be educated with children who are not disabled. Your child will be placed and educated in regular classes, unless Wharton Independent School District demonstrates that their educational needs cannot be adequately met in the regular classroom, even with the use of supplementary aids and services. [34 CFR 104.34].
5. Your child has the right to services, facilities, and activities comparable to those provided to non-disabled students. [34 CFR 104.34].
6. Wharton Independent School District must undertake an evaluation of your child prior to determining his or her appropriate educational placement or program of services under §504, and also before every subsequent significant change in placement. [34 CFR 104.35]. You have the right to refuse consent for initial evaluation.
7. If formal assessment instruments are used as part of an evaluation, procedures used to administer assessments, and other instruments must comply with the requirements of §504 regarding test validity, proper method of administration, and appropriate test selection. [34 CFR 104.35]. Wharton Independent School District will appropriately consider information from a variety of sources in making its determinations, including, for example: aptitude and achievement tests, teacher recommendations, reports of physical condition, social and cultural background,

adaptive behavior, health records, report cards, progress notes, parent observations, statewide assessment scores, and mitigating measures, among others. [34 CFR 104.35].

8. Placement decisions regarding your child must be made by a group of persons (a §504 committee) knowledgeable about your child, the meaning of the evaluation data, possible placement options, and the requirement that to the maximum extent appropriate, disabled children should be educated with non-disabled children. [34 CFR 104.35].
9. If your child is eligible under §504, he or she has a right to periodic re-evaluations. A reevaluation must take place at least every three years. [34 CFR 104.35].
10. You have the right to be notified by Wharton Independent School District prior to any action regarding the identification, evaluation, or placement of your child. [34 CFR 104.36].
11. You have the right to examine relevant documents and records regarding your child (generally documents relating to identification, evaluation, and placement of your child under §504.) [34 CFR 104.36].
12. You have the right to an impartial due process hearing if you wish to contest any action of Wharton Independent School District with regard to your child's identification, evaluation, or placement under §504. [34 CFR 104.36]. You have the right to participate personally at the hearing, and to be represented by an attorney, if you wish to hire one.
13. If you wish to contest an action taken by the §504 committee by means of an impartial due process hearing, you must submit a Notice of Appeal or a Request for Hearing to the District's §504 Coordinator at the address below. A date will be set for the hearing, and an impartial hearing officer will be appointed. You will then be notified in writing of the hearing date, time, and place.

504 District Coordinator (979) 532-6229, 1010 Rusk Street, Wharton, TX 77488

14. If you disagree with the decision of the hearing officer, you have the right to seek a review of the decision by making a written request to Wharton Independent School District's Section 504 Program Manager, and/or you may seek relief in state or federal court as allowed by law.
15. You also have a right to present a grievance or complaint through Wharton Independent School District's local grievance process. The district will investigate the situation, take into account the nature of the complaint and all necessary factors, and respond appropriately to you within a reasonable time. Parents may contact the District's Section 504 Program Manager for more information about the district's grievance process.
16. You also have a right to file a complaint with the Office for Civil Rights (OCR) of the Department of Education. The address of the OCR Regional Office that covers Wharton Independent School District is:

Wharton Independent School District  
2100 N. Fulton  
Wharton, Texas 77488

<b>Campus</b>	<b>Name</b>	<b>Email</b>	<b>Ext</b>
District Contact	Jennifer Raney	<a href="mailto:jraney@whartonisd.net">jraney@whartonisd.net</a>	1229
Sivells Elementary	Catherine Hernandez	<a href="mailto:cahernandez@whartonisd.net">cahernandez@whartonisd.net</a>	1888
Wharton Elementary	DyAnn Herrera	<a href="mailto:dherrera@whartonisd.net">dherrera@whartonisd.net</a>	1883
Wharton Junior High	Donna Raybon	<a href="mailto:draybon@whartonisd.net">draybon@whartonisd.net</a>	2125
Wharton High School	Lynne Shaver	<a href="mailto:lshaver@whartonisd.net">lshaver@whartonisd.net</a>	1842
Wharton High School	Myrna Hodge	<a href="mailto:mhodge@whartonisd.net">mhodge@whartonisd.net</a>	1239