What is Section 504?

Section 504 of the Rehabilitation Act of 1973 was designed to eliminate discrimination against any student with a disability in any program offered by the school district. Section 504 states that:

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

What is the definition of a disabled student under Section 504?

A disabled student is one who:

A. Has a physical or mental impairment that substantially limits one or more major life activities, including learning;
B. Has a record of such impairment; or
C. Is regarded as having such impairment.

What is meant by "otherwise qualified"?

For an individual to be covered under Section 504, the student must be otherwise qualified, meaning that a student with a disability must be qualified to do something before the presence of a disability can be a factor in discrimination. Therefore, if a student wants to participate in some activity, but the individual is not otherwise qualified for that activity, not allowing the person to participate would not be considered discrimination. For example, a 12 year old middle school boy with ADHD or asthma tries out for the basketball team, but is unable to pass, shoot or dribble. The coach will probably not allow the boy to be on the team. This would not be considered discrimination under Section 504 because the boy was not otherwise qualified to be on the team.

What is a "major life activity"?

Major life activities are:
Caring for oneself, doing manual tasks, walking, seeing, hearing, eating, sleeping, breathing, standing, lifting, bending, learning, reading, concentrating, thinking, communicating, working or the operation of a major bodily function. An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

Who decides if a student is "substantially limited"?

The standard that should be used to determine if a physical or mental impairment results in a substantial limitation is average performance in the general population, not just within a classroom, a school or the school district. Therefore, the standard used is not

based on the optimal performance level for a student, but rather the average performance of all students in the general population.

A student who is determined to have a disability is not automatically eligible or covered under Section 504. The disability must substantially limit a major life activity. Furthermore, simply because a student is considered for Section 504 protection does not always mean that the student is eligible. School personnel must use their professional judgment to determine eligibility.

In addition, a student is disabled under Section 504 if they have a physical or mental impairment that WOULD substantially limit them in a major life activity if they were NOT taking advantage of mitigating measures (except in the case of glasses or contact lenses). Examples of mitigating measures include such things as medication.

What is the connection between Section 504 and Special Education?

The Individuals with Disabilities Education Act (IDEA) is the legal mandate for Special Education. Under IDEA, disabilities fall into categories requiring that a student meet very specific criteria for eligibility. Even if a student meets the criteria for eligibility in one of the categories, the student must also have an educational need for the "specially designed" services available through special education.

All students who are eligible for special education are also considered to be disabled under Section 504. However, all students who have been determined to be disabled under Section 504 may not be disabled under IDEA (special education).

What are some common elements of Section 504 and IDEA?

The definition of a disability under Section 504 is much broader than the categorical definitions under IDEA. Section 504, because it is a discrimination law, also protects all special education students.

Common Elements:

- A free appropriate education must be provided.
- Students with disabilities must be educated with non-disabled students to the maximum extent possible.
- Operating guidelines must be developed to identify, locate and serve all disabled student living in the school district.
- Evaluation and service/accommodation procedures must be established.

Differences:

- Section 504 is a civil rights law. There is no funding associated with compliance. It is not a program or intervention system. The district must simply

"accommodate" for the disability. Special Education, under IDEA, is partially federally funded. Interventions are specific and compliance is strictly monitored.

- Section 504 is monitored by the Office for Civil Rights. IDEA is monitored by the Department of Education.
- Section 504 covers all activities of the district and includes employees, parents, or anyone coming to school sponsored activities. IDEA only covers specific students who must meet very clear eligibility requirements.
- The definitions of "disability" are different.
- Evaluation to determine eligibility is different for each law. Section 504 does not require as comprehensive an evaluation to determine if there is a disability as must be done under IDEA. Observations, medical information and professional judgments are considered legitimate sources of evaluation under Section 504. There are no timelines for evaluation under Section 504 as there are under IDEA. Under Section 504 evaluations may be completed "within a reasonable period of time."
- Section 504 is intended to "level the playing field" usually by eliminating barriers. IDEA requires a program of services with measurable and individual goals and outcomes which must be regularly documented.

What is Section 504 eligibility and how does it work?

The following questions should be addressed when considering eligibility for Section 504 accommodations:

1. Is the student's condition physical or mental?
2. Does the condition impair a major life activity?
3. Is the degree of this impairment substantially limiting as compared to the general population?
4. Does the student's condition require any accommodations in order for the student to access an educational activity?
5. Would the impairment substantially limit a student in a major life activity if they were not getting a mitigating measure?

The following factors should be considered when determining if the substantially limits requirement is met:

1. The nature and severity of the impairment
    A. Is the impairment mild or severe?
    B. Does the impairment result in failure or the student not achieving at least at average expected levels?
    C. Does the impairment impact on a major life activity? If so, how is it impacted?
2. Duration or expected duration of the impairment
3. Permanent or long term impact resulting from the impairment
4. Is the impairment episodic or in remission?

The following are some examples of disabilities which may be covered under Section 504 but not under IDEA:

- Students with various health needs
- Students with ADD/ADHD
- Students on crutches or in a wheelchair after an accident
- Students needing Homebound services for a short period of time due to a medical condition
- Students needing a partial school day schedule due to a medical need and currently under the care of a physician licensed to practice in the U.S.

What if my student qualifies under IDEA as needing special education services, but I would rather have them served as a student with a disability under Section 504?

Under IDEA regulations and law, students who qualify under one of the special education categories may not be labeled as a student with a disability solely under Section 504 as a "consolation" or because a parent fears the designation of having a student in special education. If a parent turns down services available under IDEA, they may also be turning down any rights they may have under Section 504. Additionally, if a student is evaluated and does not qualify under IDEA (special education) then it is clear that the student likely does not have that same disability under Section 504, or does not have an educational need for special education. However, there are some exceptions if the student is receiving a mitigating measure such as medication, but does not have an educational need. In this case, the student may be able to have some minor accommodations to monitor educational progress, but these would not rise to the level of specially designed instruction or interventions available under Special Education. The student may also have other disabilities that would enable them to qualify under Section 504.

Who must be contacted if I believe a student may qualify under Section 504?

Every campus has an administrator who is the designated Campus 504 Coordinator. Contact your home campus to refer your student to this person. Or contact the District 504 Director at 432-3640.

What is a Campus 504 Committee?

The Campus 504 Coordinator will convene a 504 Committee to conduct an evaluation to determine if a student is eligible for Section 504 accommodations. The committee is made up of the Campus 504 Coordinator and other knowledgeable staff who may be either familiar with the student and/or familiar with the condition. Parents or guardians are not required members of this committee. AISD, however, strongly wishes that parents will participate in the meeting either in person or by telephone conference call. Unlike special education, parent agreement with the decisions of the 504 committee is not required.

What does the 504 Committee do?

The Campus 504 Committee will do the following:

Identification, Referral and Evaluation:

1. Any student because of a disability who may need accommodations not available through any other program may be referred to this Committee by parents, guardians, doctors, community agencies or any other school staff.
2. Based upon a review of school records or reports from outside evaluators (including, but not limited to, academic, social, attendance, health, behavior or any other helpful information both formal and informal) the Committee will determine if the student meets the eligibility of a student with a disability under Section 504.
3. If the Committee determines that the student may have a disability, but does not meet the requirements under Section 504 such that the disability substantially limits a major life activity, the Committee will notify the parent or guardian of the their decision (clearly outlining the basis for this decision).
4. The Committee will obtain current evaluation information as needed, but at least every three years to determine of the disability identified continues to meet the qualifications under Section 504.

Individual Accommodation Plan (IAP) and Placement

1. For a student who has been identified by the Committee as a qualified disabled student under the meaning of Section 504, the Committee will determine and develop a written accommodation plan to ensure that the student has access to a free appropriate education.
2. The Committee will ensure that the plan will be transmitted to any and all campus staff needing to be aware of and/or implement the plan.
3. The Committee will ensure that the student will be placed with non-disabled peers or in the placement they would normally attend if they were not disabled under Section 504.

Annual Review

1. The Committee will monitor the progress of the disabled student and the effectiveness of the student's plan at least annually (or more often if needed) to determine whether the accommodations continue to be appropriate or necessary.

What are some samples of typical accommodations found in a Section 504 Plan?

There are numerous accommodations that may be necessary for students with disabilities under Section 504. An accommodation is an adaptation or adjustment that is needed to "level the playing field." Because students qualifying for Section 504 can have a variety of needs, the following are simply a list of the most reasonable and common strategies that can help:

Accommodations to the Environment

- Seat the student near the teacher
- Seat the student near someone who will be helpful and understanding
- Seat the student in an area free from distraction
- Seat the student out of main traffic areas
- Provide more space for the student
- Allow the student more break or rest time
- Establish and use a learning center
- Ensure proper lighting
- Ensure that various instructional materials or supplies do not result in allergic reactions by the student
- Restructure short or long term assignments and tests to be done in chunks
- Encourage teachers to move around the classroom for proximity control
- Create a Medical Action Plan with the assistance of a doctor

Accommodations for Organization

- Help students use assignment notebooks or monthly calendars
- Allow additional time (be specific) to complete assignments/take tests
- Provide notebooks or folders
- Provide structure in the classroom
- Help the student to set short-term goals
- Question students to help focus on important information
- Question student to be sure they have the correct assignment for homework before leaving class
- Help students set up timelines for completion of long term assignments
- Use highlighting
- Ask students to repeat directions before beginning tasks

Accommodations to Instructional Materials

- Use multi-sensory materials
- Allow the use of calculators, tape recorders or concrete manipulative materials where appropriate
- Use advance organizers
- Provide lecture outlines or class notes when appropriate
- Provide pretest questions, outlines or fact sheets for studying

Accommodations While Testing

- Allow oral testing
- Use a scribe for testing
- Allow more time (be specific)
- Break tests in to shorter sections
- Use a quiet area or study carrel for testing

Accommodations to Instructional Method or Presentation

- Use peer tutoring, buddies
- Provide note takers
- Use graphic organizers
- Use study guides
- Use multi-sensory materials
- Allow tape recording
- Use audio-visual resources
- Use computers or Alpha Smarts
- Use simple directions
- Give more regular feedback
- Teach and reinforce study skills
- Use flexible homework criteria, amount, etc.
- Photocopy teacher or student notes
- Stress auditory, visual and kinesthetic modes of presentation
- Recap or summarize more often
- Reduce or eliminate the need to orally read in class
- Use memory devices
- Set up weekly communication systems with parents
- Check for frustration as well as understanding
- Encourage students to ask for help
- Use nonverbal cues to correct or remind
- Provide chapter outlines, study guides or testing outlines
- When possible, reduce quantity of assignments, spelling or vocabulary lists
- Supply students with work samples of what is expected
- Allow printing
- Use lined paper vertically for math assignments to help keep columns straight
- Use worksheets that are visually clear with more space
- Use a ruler or cardboard to cover or limit focus
- Make sure homework is started correctly in class

What if my student is qualified under Section 504 and they are disciplined at school?

Student served under Section 504 are treated similar to students served under IDEA with respect to discipline. The Student Code of Conduct outlining rules and standards can be applied to disabled students just as they are applied to non-disabled students. The following summarizes considerations when working with students protected under Section 504:

- As with any other student, students eligible under Section 504 may be suspended for any violation of the Code of Conduct.
- When the number of suspensions accumulates to 10 or more days, a manifestation determination meeting of the student Campus 504 Committee is required.

- When placement at a Discipline Alternative Education Placement (DAEP) is contemplated, a manifestation determination meeting by the Campus 504 Committee is also needed.
- A manifestation determination must be made before suspending a student for more than 10 days (consecutive or cumulative) and before DAEP placement or expulsion.
- A manifestation determination means that the Campus 504 Committee must decide if there is any direct relationship between the behavior that violated the Student Code of Conduct and the student's disability.
- If there is no direct relationship between the behavior in question and the disability, then the student may be disciplined as any other student.
- If the 504 Committee believes there is a relationship, then the student may not be suspended for more than 10 days, moved to a DAEP or expelled. The 504 Committee needs to adjust the accommodation plan to make an effort to address this behavior if it is related to the student's disability. This will be a very rare situation.
- Students currently engaged in drug or alcohol abuse are not protected under Section 504.

What Rights does one have under Section 504?

The parent(s) or guardian of students being considered for Section 504 eligibility shall be given the "Notice of Parent and Student Rights" under Section 504.

The parent(s) or guardian must be notified in writing of all District decisions concerning the identification, evaluation or placement of their student in Section 504.

The parent(s) or guardian has the right to review student records as per Board Policy.

The parent(s) or guardian has the right to appeal the decisions of the Campus 504 Committee and to question the implementations of individual accommodations to the District 504 Director.

The parent(s) or guardian has the right to an impartial hearing (either with or without legal representation) as to District decisions concerning the identification, evaluation or placement of a disabled student under Section 504. The request for hearing must be filed with the District Director for Section 504, at 405 NW 3rd St. The request must include: a) the specific nature of the disagreement, b) specific relief or correction needed, and c) any other information that may be helpful in understanding the request.

Finally, you have the right to file a complaint with the Office for Civil Rights in Dallas.

Office for Civil Rights U.S. Department of Education 1999 Bryan Street, Suite 1620 Dallas, Texas 75201-6810 Telephone: 214-661-9600 FAX: 214-661-9587; TDD: 877-521-2172 Email: OCR.Dallas@ed.gov