

Notice to Parents & Guardians of Rights to a Due Process Hearing
SECTION 504
Fort Worth Independent School District
Department of Special Programs

The Fort Worth Independent School District does not discriminate on the basis of disability with regard to admission, access to programs or services, treatment or employment in programs and activities conducted by the District or contracted with another entity. The District will make reasonable accommodations for students, parents, and employees with disabilities and will provide appropriate educational programs for all resident students.

As a parent or guardian you have the following legal rights according to Section 504.

Evaluation:

Any student who needs or is believed to need special accommodations, related services or programs under Section 504 of the Rehabilitation Act 1973, may be referred to the Section 504 Committee.

The student's parent or guardian must provide his or her consent and receive a copy of the Parent Rights/Procedural Safeguards prior to any evaluation of a student referred to Section 504.

Due Process Hearing:

Section 504 of the Rehabilitation Act of 1973 provides parents with the right to an impartial due process hearing to contest any action of the LEA with regard to a student's identification, evaluation or placement. 34 CFR §104.36. The parent has the right to personally participate and to be represented at the hearing by an attorney at the parent's expense.

Right to Due Process:

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

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

Request for Due Process:

A parent who wishes to challenge the LEA's action or omission with regard to the identification, evaluation or placement of a student who has or is believed to have a disability, shall make an oral or written request for a due process hearing to the LEA's Section 504 coordinator. If a request is received orally, it should be reduced to writing or the parent/guardian should be provided a form for such purpose. The written request must clearly state that the parent is seeking a Section 504 due process hearing. The LEA cannot refuse a parent's due process hearing request. The LEA cannot unilaterally determine whether a due process hearing is warranted, as such decisions are reserved to the impartial hearing officer.

Procedures to Follow at the Hearing:

- A Section 504 due process hearing may be called at the request of the school district or a parent or guardian. The proceedings shall be presided over and decided by an impartial hearing officer.
- Requests for a due process hearing must be submitted in writing to the District's 504 Coordinator. The Parent or Guardian will be notified of the hearing at least 7 days prior to the date set for the hearing.

Parent Participation & Representation:

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

The notice shall contain:

1. A statement of time, place and nature of the hearing.
 2. A statement of the legal authority and jurisdiction under which the hearing is being held.
 3. A statement of the matters asserted.
 4. A statement of the right to be represented by counsel.
 5. A statement of the right to examine relevant records.
- Information shall be provided in English or in the native language or mode of communication of a parent or guardian.
 - At the hearing, each party shall have an opportunity to present relevant information and outside expert testimony.
 - A copy of the hearing officer's decision shall be delivered to the school district and the parent or person in parental relationship within 45 days following completion of the hearing.
 - The decision of the hearing officer is binding on all parties involved; it is subject to review by the Commission of Education, or the State Review Officer, as appropriate, and by a federal court of competent jurisdiction.

Please contact the school district if you have any questions:

Dr. Carolyn Smythe, District 504 Compliance Coordinator

Specialized Learning Department

Fort Worth Independent School District

817.814.2878 | carolyn.smythe@fwisd.org

215 N.E. 14th Street., Fort Worth, TX 76164

REQUEST FOR SECTION 504 DUE PROCESS HEARING



Student's Name: Date of Birth:

Student's Address:

School:

Parent/Guardian's Name:

Parent/Guardian's Address:

Parent/Guardian's Phone Number(s):

I AM REQUESTING THAT A SECTION 504 DUE PROCESS HEARING BE SCHEDULED REGARDING THE FOLLOWING ISSUES:

☐ Section 504 identification:

☐ Section 504 evaluation:

☐ Section 504 placement:

REQUEST FOR SECTION 504 DUE PROCESS HEARING



SUBJECT OF THE COMPLAINT

Describe the **nature of the problem** (the concerns that led you to request this hearing), including all **specific facts** relating to the problem. Attach additional pages or documents as necessary.

PROPOSED SOLUTION

State your **proposed resolution** of the problem to the extent known and available at this time. Attach additional pages or documents as necessary.

NAME OF PERSON COMPLETING THIS FORM:

SIGNATURE:

CHECK ONE:

DATE:

- ☒ Parent or Person in Parental Relationship
- ☐ Surrogate Parent
- ☐ Parent's Attorney
- ☐ School District/State Agency Representative
- ☐ School District/State Agency Attorney

FORT WORTH INDEPENDENT SCHOOL DISTRICT
Department of Special Programs
100 N. University Dr. Fort Worth
Phone: 817-814-2460

Notice of Rights for Disabled Students and their Parents under Section 504 of the Rehabilitation Act of 1973

The Rehabilitation Act of 1973, commonly referred to as "Section 504" is a nondiscrimination statute enacted by the United States Congress. The purpose of the act is to prohibit discrimination and to ensure that disabled students have educational opportunities and benefits comparable to those provided to non-disabled students.

An eligible student under Section 504 is a student who (a) has, (b) has a record of having, or (c) is regarded as having a physical or mental impairment that substantially limits a major life activity such as learning, self-care, walking, seeing, hearing, speaking, breathing, working, and performing manual tasks.

It is the purpose of this notice to set out the rights assured by Section 504 to those disabled students who do not qualify under IDEA. The enabling regulations for Section 504 as set out in 34 CFR Part 104 provides the parents and/or students with the following rights:

1. You have the right to be informed by the school district of your rights under Section 504. (CFR 104.32)
2. Your child has the right to an appropriate education designed to meet his/her individual educational needs as adequately as the needs of the non-disabled students are met. (34 CFR 104.33)
3. Your child has the right to free educational services except for those fees that imposed on the non-disabled students or their parents. Insurers and similar third parties are not relieved from an otherwise valid obligation to provide or to pay for services provided to a disabled student. (34 CFR 104.34)
4. Your child has a right to placement in the least-restrictive environment. (34 CFR 104.34)
5. Your child has a right to facilities, services, and activities that are comparable to those provided for non-disabled students. (34 CFR 104.34)
6. Your child has a right to an evaluation prior to an initial Section 504 placement and prior to any subsequent significant change in placement. (34 CFR 104.34)
7. Testing and other evaluation procedures must conform to the requirements of 34 CFR 104.35 as to validation, administration, areas of evaluation, etc. The district shall consider information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition or medical reports, student grades, progress reports, parent observations, anecdotal reports, and state assessment scores. (34 CFR 104.35)
8. Placement decisions must be made by a group of persons (i.e., the Section 504 Committee) including persons knowledgeable about your child, the meaning of the least-restrictive environment, and comparable facilities. (34 CFR 104.36)
9. If eligible under Section 504, your child has a right to periodic reevaluations, generally every three years. (34 CFR 104.35)
10. You have the right to notice prior to any action by the district in regard to the identification, evaluation, or placement of your child. (CFR 104.36)
11. You have the right to examine relevant records. (34 CFR 104.36)
12. You have the right to an impartial hearing with respect to the district's actions regarding your child's identification, evaluation or educational placement, with the opportunity for parental participation in the hearing and representation by an attorney. (34 CFR 104.36)

13. If you wish to challenge the actions of the district's Section 504 Committee in regard to your child's identification, evaluation, or educational placement, you should file a written Notice of Appeal with the district's Section 504 Coordinator within 30 calendar days from the time you receive written notice of the Section of 504 Committee's action(s).

Dr. Carolyn Smythe, 504 Compliance Coordinator, Specialized Programs

215 N.E. 14th Street, Fort Worth, TX 76164, Tel. 817-814-2878

A hearing will be scheduled before an impartial hearing officer, and you will be notified in writing of the date, time, and place for the hearing.

14. If you disagree with the decision of the impartial hearing officer, you have a right to a review of that decision by a court of competent jurisdiction. (34 CFR 104.36)

15. On Section 504 matters other than your child's identification, evaluation, and placement, you have a right to file a complaint with the district's Section 504 Coordinator (or designee), who will investigate the allegations to the extent warranted by the nature of the complaint in an effort to reach a prompt and equitable resolution.

16. You also have the right to file a complaint with the Office of Civil Rights. The address of the Regional Office with jurisdiction in Texas is:

Office for Civil Rights

U.S. Department of Health and Human Services

200 Independence Avenue, SW Room 509F, HHH Building

Washington, D.C. 20201

800-421-3481