



Section 504 Operational Guidelines

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More detailed information and explanations can be
found at: www.texasprojectfirst.org/Sect504

I. Introduction: What is “Section 504”?

Section 504 of the Rehabilitation Act of 1973 is a federal law designed to protect the rights of individuals with disabilities in programs and activities that receive Federal financial assistance from the U.S. Department of Education. To be protected under Section 504, a student must be determined to: (1) have a physical or mental impairment that substantially limits one or more major life activities; or (2) have a record of such impairment; or (3) be regarded as having such impairment. Section 504 requires that school districts provide a free appropriate public education (FAPE) to qualified students in their jurisdictions who have a physical or mental impairment that substantially limits one or more major life activities.

The Section 504 regulatory provision [(34 C.F.R. 104.3 (j)(2)(i))] defines a physical or mental *impairment* as any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organize; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Major life activities, as defined in the Section 504 regulations [34 C.F.R. 104.3 (j)(2)(ii)], include functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. The Section 504 regulator provision’s list of examples of major life activities is not exclusive, and an activity or function not specifically listed in the Section 504 regulatory provision can nonetheless be a major life activity. For example, in the Amendment Act of 2008, Congress provided additional examples of general activities that are major life activities, including eating, sleeping, standing, lifting, bending, reading, concentrating, thinking and communication.

Child Find

As part of the on-going identification and referral process, the District will, at least annually, 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 or homeschools) of the District’s duties under Section 504. Additionally, every teacher and campus administrator within the District should have information regarding the District’s overall early intervention process, and understand how to initiate a Section 504 referral and know how to identify students who should be referred.

II. Process for Determining the Need for Section 504 Services **[34 C.F.R. 104.35 (a)(b)(c)]**

Referral

If a campus has reason to suspect that because of a disability, a student needs accommodations in the general educational environment in order to have equally effective participation in the school program, then the campus must initiate a Section 504 referral.

Section 504 referrals (documents found in [eStar](#)), whether initiated by an individual (i.e. parent, doctor, teacher) or via the campus’ early intervention process, will be received by the Campus 504 Coordinator

(Counselor). Upon receipt of a Section 504 referral, the (Counselor) will begin to gather preliminary data to determine if an evaluation for Section 504 is warranted.

After review of preliminary data (i.e. student records, parent information, teacher information), the Campus 504 Coordinator (Counselor) will issue to the referred student's parent(s) or guardian a "prior written notice" and *Notice of Rights and Procedural Protections Under Section 504*. The "prior written notice" may be either a *504 Notice and Consent for Evaluation or Notice of Refusal for Section 504 Evaluation*. Notify the Central Office Administrator to enter that student **eStar**.

Note: For Dyslexia referrals, completed referrals will be submitted to the district's administrative office for review and acceptance. Upon acceptance, the administrative office will contact the Campus 504 Designee (Counselor) in regards to issuing notices and consents to the parent. The Campus 504 Designee (Counselor) will not issue parent notices and consents without notification from the district 504 administrative office.

Consent for Evaluation

Before a Section 504 evaluation can be conducted, the Campus 504 Coordinator (Counselor) will acquire from the parent(s)/guardian, a signed consent. Necessary documents are found in **eStar**.

Initial Evaluation

The eligibility for the Section 504 process can only begin after the signed consent is received from the parent(s)/guardian, and the evaluation records for the student. The evaluation should draw from a variety of sources in the identification determination process so that the possibility of error is minimized. The information obtained from all such sources must be documented and all significant factors related to the student's learning process must be considered. Sources and factors may include aptitude and achievements tests, teacher recommendations, physical condition, RtI data, formal assessments (if applicable), social and cultural background, and adaptive behavior. **Section 504 requires the use of evaluation procedures that ensure that students are not misclassified, unnecessarily labeled as having a disability, or incorrectly placed, based on inappropriate selection, administration, or evaluation materials.**

Note: "Evaluation" does not necessarily mean "test". In the §504 context, "evaluation" refers to a gathering of data or information from a variety of sources so that the committee can make the required determinations. §104.35(C)(1). Since specific or highly technical eligibility criteria are not part of the §504 regulations, formal testing is not always required to determine eligibility. – Office for Civil Rights (OCR). Common sources of evaluation data for §504 eligibility are the student's grades, disciplinary referrals, health information, language surveys, parent information, standardized test scores, teacher comments, work samples, etc. If formal testing is pursued, the regulations require that the tests are properly selected, non-discriminatory and performed by trained personnel in the manner prescribed by the test's creator. §104.35(b)(2).

Note: The §504 regulations require that the school evaluate the student "before taking any action with respect to the initial placement of the person in a regular or special education program and any subsequent change in placement." §104.35(a). There are no initial services without an evaluation, nor changes in the services provided under Section 504 without a re-evaluation. Without data, we do not know whether the

student is a student with a disability) is he eligible?) nor would we know how to serve him (how does the disability impact his ability to access the school's programs and activities?).

At the initial/Annual 504 Committee Meeting, the committee, which consists of at least 3 people, including persons knowledgeable about the student, meaning of the evaluation data, and knowledgeable about the placement options, should:

- a. Consider all evaluation data, including outside independent evaluations (if available).
- b. Examine any non-impairment related or causal factors for the student's lack of access to his/her educational environment. Also consider attendance, behavior referrals and the student's ability to understand English, these must be ruled out as causal factors for the student's need for Section 504.
- c. Determine if an *impairment* exists.
- d. Determine if the identified impairment impacts a *major life activity*.
- e. Determine if the identified impairment substantially limits the student's ability to perform the major life activity and, thus constitute a *disability* under Section 504.

Comment: "An impairment in and of itself is not a disability. The impairment must substantially limit one or more major life activities in order to be considered a disability under Section 504" – OCR.

*Comment: "A medical diagnosis of an **illness does not automatically** mean a student can receive services under Section 504. The illness must cause a substantial limitation on the student's ability to learn or another major life activity." – OCR.*

*Comment: "The ameliorating effects of any mitigating measures [medication, medical supplies, use of assistive technology, etc.] that the student is using must **not** be considered when determining whether a student has a physical or mental impairment that substantially limits the student in a major life activity, with the **exception** of ordinary eyeglasses or contact lenses." – OCR*

Comment: "A temporary impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period of time. The issue....must be resolved on a case-by-case basis, taking into consideration both the duration (or expected duration) or the impairment and the extent to which it actually limits a major life activity of the affected individual." - OCR.

- f. If the committee identifies the student as eligible for services under Section 504, the committee will:
 - i. Develop a "504 Plan" designed to provide FAPE to the student.
 - ii. Provide a signed copy of the "504 Initial/Annual Plan Documentation" to the parent(s).
 - iii. Create a 504 folder for the campus records, and keep copies of the evaluation data, "504 Plan Documentation", and the "Individualized Plan for Accommodations and Services". Document and archive the documents in **eStar**.
 - iv. Distribute copies of the "Individualized Plan and Accommodations and Services" to the student's teacher(s) no later than one day after the meeting. Maintain a signature for the receipt of the accommodations by staff. Reissue the accommodations with any schedule changes (i.e. beginning of new school year, or new semester).
 - v. Deliver all the originals of the signed "504 Plan and Accommodations" to the District 504 Administration Office. Change the student's status in **eStar** to "currently served".

- g. If the committee does not identify the student as eligible for services under 504, the team will:
 - i. Provide a signed copy of the “504 Initial/Annual Documentation” to the parents.
 - ii. Place copies of the evaluation data and the “504 Initial/Annual Documentation” in the student’s 504 folder on campus. Documents are maintained and archived in eStar.
 - iii. Deliver all the signed originals to the District 504 Administration Office.

III. Review and Re-Evaluation Requirements [34 C.F.R. 104.35 (d)]

Review:

- a. A Section 504 meeting shall be held at least annually to review the student’s needs and appropriateness and effectiveness of his/her “*Individualized Plan for Accommodations and Services*”.
- b. Committee decisions regarding the student’s “*Plan*” must be based on current information/data drawn from a variety of sources
- c. Committee actions will be documented, and archived, in eStar.
- d. Provide a signed copy of the “*Documentation of 504 Plan*” to the parent(s)/guardian.
- e. Deliver all the originals to the District 504 Administrative Office.

Re-Evaluation:

- a. A re-evaluation of a student’s needs and eligibility for Section 504 services shall be completed at least every three years.
- b. Evaluation data, including formal assessments and “outside” evaluations (if appropriate), shall be gathered in a timely manner.

****Note:** Initial evaluation requirements for “Notices”, “Consents” and “Parent Rights and Procedural Protections” apply to “Reviews” and Re-Evaluations”. All Documents are available in eStar.

IV. Out-Of-District Transfers

If a student with a disability transfers to the district from another school district with a Section 504 plan, The Campus 504 Designee (Counselor) at the student’s enrolled campus will notify the district 504 Administration Office, and schedule a 504 meeting. At the meeting, the 504 committee will:

- 1. Review the plan and supporting documentation
- 2. Determine the appropriateness of the plan.
 - a. If the plan is determined appropriate, the campus is required to implement the plan
 - b. The 504 Designee (Counselor) should schedule a 504 Committee meeting and follow the guidelines for a review of the Section 504 Plan.

V. Disciplinary Actions

The following disciplinary provisions apply to students who are in receipt of a Section 504 Plan, including those who are qualified for Section 504, but who are not in need of a plan at this time.

1. Procedural safeguards will be adhered to when a disciplinary “change in placement” is under consideration (Notice to parents, opportunity for parents to participate, and receipt of rights and procedural protections).
2. Should the District initiate 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 conduct an evaluation, which includes manifestation determination.
3. Removals for less than ten days can be effected without 504 Committee approval, subject to the “pattern of exclusion” rule. A series of short removals over the course of the school year that exceeds ten total days may constitute a pattern of exclusion that triggers applicable procedural safeguard (a manifestation determination evaluation and a right to due process). The Committee will meet to conduct an evaluation prior to the tenth cumulative day of removals during a school year, to determine:
 - a. Was the conduct in question caused by or directly and substantially related to the student’s disabilities?
AND
 - b. Was the conduct in question the direct result of the school’s failure to implement the student’s 504 Plan?

Exception: A student identified as a student with a disability engaging in the illegal use of drugs or in the use of alcohol may be removed from his educational placement for a drug or alcohol offense to the same extent that such a disciplinary action is taken against nondisabled students. Further, no 504 evaluation is required prior to the removal and no 504 due process hearing is available.

VI. EXIT PROCESS

Students identified as receiving services through Section 504 may be exited through the following processes:

1. The 504 Committee will request additional review of the progress and eligibility requirements (evaluation). Upon review of the data, the 504 Committee may determine that a need for 504 accommodations is no longer required and the student may be exited from 504.
2. The 504 Committee may request an interim eligibility review, if the student exhibits progress that would alleviate the need for accommodations that are delivered in the classroom (routinely, effectively, and independently). Upon review of the data, the 504 Committee may determine the need for 504 accommodations/services are no longer required and the student may be exited from 504.
3. The parent may request that a student be removed from the 504 accommodations plan. Upon the request, the 504 committee should meet to review all the data and make appropriate recommendations.
4. If the student is “exited”, the Committee will complete the “504 Exit Documentation” which will be provided (available in eStar), along with the “504 Initial/Annual Documents”, to the parent(s).
5. Copies will also be placed in the student’s campus 504 folder and the originals sent to the District 504 Administration Office. Documents are maintained and archived in eStar.

