SECTION 504

REHABILITATION ACT
OF 1973

PROCEDURES AND GUIDELINES
FOR CAMPUS §504 MANAGEMENT

Updated: July 2019
TABLE OF CONTENTS

Notice of District Compliance With §504 of Rehabilitation Act of 1973 ......................... 3

General Information - Students with Disabilities under §504 ............................................. 4 - 9
  Legal Eligibility Under §504
  Otherwise Qualified Defined
  Physical or Mental Impairment Defined
  Substantially Limits Defined
  Section 504 and IDEA
  Age of Eligibility
  Free and Appropriate Public Education
  Least Restrictive Environment
  Referrals for Response to Intervention or Evaluation under IDEA
  Behavior and the Student Code of Conduct

Procedural Safeguards – The Rights of Parents and Guardians ............................................. 10-11
  Posting of General Notice of Non-discrimination
  Notice of Rights
  Student Records
  Complaints
  Impartial Hearing Process
  Review Procedures for Continued Disagreement

Identification, Evaluation, and the Individual Accommodation Plan ...................................... 12-15
  Identification
  Evaluation Procedures
  Frequency and Scope of Evaluations
  Decisions – The §504 Committee
  Accommodations
  Students who do not or no longer qualify under IDEA
  When a parent decides to revoke IDEA Special Education Services

Section 504 Administrative Leadership ..................................................................................... 15

Implementation and §504 Operating Guidelines ..................................................................... 15-20
  Roles and Responsibilities
  Referral Process
  Parent or Guardian Notice
  Evaluation
  §504 Committee Meeting
  Students in AP/Honors Courses, Specialized Magnet Programs or Academically Above Average
  Homebound
  Reevaluation
  Discipline
  Dismissal from §504

Section 504 and the Response to Intervention Process .............................................................. 20-21

Section 504 Record Maintenance .............................................................................................. 21-22

Section 504 Withdraw or Dismissal Procedures ...................................................................... 22
NOTICE OF DISTRICT COMPLIANCE WITH SECTION 504
OF THE REHABILITIAION ACT OF 1973

No otherwise qualified individual with disabilities shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
42 U.S.C. 12132; 29 U.S.C. 794; 34 CFR 104.4(a)

Reports of discrimination based on disability may be directed to the ADA/§504 Director, designated by the district to coordinate efforts to comply with Title II of the Americans with Disabilities Act of 1990, as amended, which incorporates and expands upon the requirements of Section 504 of the Rehabilitation Act of 1973, as amended:

Name: Janice Greer DeHaven
Position: Director for Special Education and §504
Address: 8961 Tesoro Drive
San Antonio, Texas 78217
Office Telephone: (210) 407-0249
Office Email: jdehav@neisd.net

THE DISTRICT SYSTEMS INCLUDE PROCEDURAL SAFEGUARDS FOR NOTICE, OPPORTUNITY FOR THE STUDENT’S PARENT OR GUARDIAN TO EXAMINE RELEVANT RECORDS, IMPARTIAL HEARING WITH THE OPPORTUNITY FOR PARTICIPATION BY THE PARENTS OR GUARDIAN AND REPRESENTATION BY COUNSEL, AND REVIEW PROCEDURES.
Section 504 of the Rehabilitation Act of 1973 intended the elimination of discrimination against any student with a disability in any program offered by a 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.

Interplay exists between §504 and the Individuals with Disabilities Education (IDEA) commonly known as the Special Education. Both laws involve students with disabilities. All students who qualify as “disabled” under IDEA (Special Education) are also considered to be disabled under §504. In other words, §504 protects all the disability categories identified by the IDEA and conditions that are not eligible for specially designed instruction under IDEA.

Section 504 prohibits discrimination against students with disabilities or medical conditions that substantially limit a major life activity or bodily function. These conditions may fall into categories such as emotional/behavioral disorders, physical/health disorders, auditory/visual impairments, or learning disorders. Implementation of Section 504 accommodations typically take place in general education programs. The North East Independent School District accepts the affirmative responsibility of non-discrimination against any student with a disability.

Federal law mandates and funds the IDEA statute. Federal law mandates Section 504 as a nondiscrimination statute for individuals with disabilities; however, the government allocates no federal funding. Enforcement of Section 504 occurs through a set of complex regulations that often mirror the regulations that accompany IDEA. Section 504, however, is governed by the United States Office for Civil Rights through the Department of Labor, whereas, IDEA is under the Department of Education at both the state and federal levels.

**Legal Eligible under §504:**

“Any person who (i) has a physical or mental impairment that substantially limits one or more of such person’s major life activities; (ii) has a record of such an impairment; or (iii) is being regarded as having such an impairment.” 29 U.S.C. §705(20). Students with disabilities or medical conditions receive non-discriminatory protections through this definition.

Students who lack educational opportunity, are new to the United States, qualify as English language learners or who meet the definition of “at risk” under Texas law are not considered students with disabilities under §504, unless these students also carry the identification of a mental or physical impairment.
Otherwise Qualified Defined:

For a student with a disability to be protected under §504, the student must be otherwise qualified to participate in the intended activity. In other words, a student with a disability must be qualified to participate before the presence of a disability becomes a factor of discrimination. Therefore, if a student wants to participate in some activity, but is not otherwise qualified for that activity, it is not discriminatory to deny participation. For example, a 15-year-old high school student with ADHD or asthma participates in basketball team try-outs and is unable to pass, shoot or dribble. The coach determines whether the student makes the team based on basketball skills. This would not be considered discrimination under §504 because the student was not otherwise qualified to be on the team.

Physical or Mental Impairment Defined:

Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive, genito-urinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Substantially Limits Defined:

The Office for Civil Rights (OCR) declines to provide a clear definition for the term “substantial limitation.” The extent of a substantial limitation becomes a determination by the committee on a case-by-case basis. Committees utilize the following guidelines:

1. The impairment substantially limits any major life activity: caring for oneself, doing manual tasks, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

2. The individual experiences significant restrictions as to the condition, manner or duration under which they can perform a particular major life activity when compared to the condition, manner or duration under which the average person in the general population can perform the same major life activity.

3. The determination of whether an impairment substantially limits a major life activity shall be made without regard to the effects of mitigating measures, such as medication, low-vision devices, hearing aids and mobility devices, with the exclusion of ordinary eyeglasses and contact lenses.

4. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

5. A temporary injury or illness with duration, or expected duration, of six months or less would not be regarded as an impairment that substantially limits a major life activity, unless, without accommodations the student would not have access to the educational environment.
6. There is no such thing as automatic coverage in Section 504.
   a. Section 504 eligibility is not automatically bestowed on a student who is referred for a special education evaluation and who is subsequently determined not to be IDEA –eligible. *Letter to Veir*, 20 IDELR 864 (OCR 1993).

   b. OCR emphasized in *Protecting Students with Disabilities: Frequently Asked Questions about Section 504 and the Education of Children with Disabilities* (March 2009) that “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.”

   c. The standard in determining 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, optimal performance levels go beyond the standard.

      i. Example: access to participate at an equitable level of all students in the general population

      ii. Non-example: unfair advantage given to a student based on the presence of a disabling condition

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

The Office for Civil Rights (OCR) has stated that the need for accommodations is not limited to academic problems stemming from the student’s disability. The educational environment also encompasses attendance, social and emotional or behavior problems related to the student’s disability even if the student’s academic performance is within an acceptable range. In other words, the student’s academic performance need not necessarily be adversely affected to be protected by §504.

Examples include students requiring accommodations such as insulin shots, asthma treatments, personal care assistance, etc., in order to attend school. Included in the 2008 amendments to the Americans with Disabilities Act (ADA) Congress added to the discussion of substantial limitations by requiring that eligibility for Section 504 also take into account *mitigating measures*.

According to the new law, 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. The only exceptions to mitigating measures are glasses or contact lenses.
Section 504 and IDEA:

Section 504 offers a broader definition of a disability than the 13 categorical definitions under IDEA. Section 504, as discrimination law, also protects all students served by special education. These students DO NOT carry both plans; rather, the IEP completed under IDEA encompasses both the civil rights accommodations for non-discrimination and the specially designed instruction required for the student.

Common Elements:
- Provision of a free appropriate education (FAPE)
- Annual Review of individual plans
- Students with disabilities participate in general education environments with non-disabled students to the maximum extent possible
- Procedural and operating guidelines identify, locate and serve all students with disabilities residing in the school district.
- The establishment of evaluation and service/support procedures

Differences:
- Section 504 is a civil rights, non-discrimination, labor law with no federal funding associated with required compliance. It is not a program or intervention system. Compliance designates accommodations for the disability. Special Education, designed by the department of education as the IDEA, receives federal funds. The IEP specifies interventions and instructional modifications and monitored with educational standards.
- The Office for Civil Rights monitors Section 504. Department of Education monitors IDEA.
- Section 504 applies to all activities of the district and includes employees, parents, or anyone coming to school sponsored activities. IDEA only applies to specific students who must meet clear eligibility requirements and who require specially designed instruction.
- Each law defines disability differently.
- Eligibility evaluation procedures differ between the two laws. IDEA requires a comprehensive full and individual evaluation to determine if there is a disability. Observations, medical information and external professional judgments are considered legitimate sources of evaluation under §504. The timelines for evaluation under IDEA are not relevant under §504 as documentation of the condition stems from reports provided by the parent from their treating professionals. Under §504 the process may be completed “within a reasonable period of time.”
- Section 504 is intended to “level the playing field” usually by eliminating barriers and providing reasonable accommodations that are monitored for implementation, effectiveness, and appropriateness. IDEA requires a program of services with individualized measurable goals and ongoing progress monitoring.
§504 / IDEA - Dual Disability:

When a student with an educational disability served by special education also has a condition that would typically be protected under §504, both conditions are included in the IEP under special education. All students with an Individualized Education Program (IEP) under IDEA also receive non-discriminatory protections under Section 504. No additional §504 accommodation plan is required.

If a student, who already receives services through special education, receives identification with an additional condition from a private treating professional, the ARD committee addresses the condition in the IEP. Even when the new condition does not necessarily qualify in special education, because the student is already receiving special education services the ARD addresses the new access accommodations. EXAMPLE: A student identified as having a speech or language disability receives a diagnosis of diabetes. The ARD addresses the medical accommodations in the IEP.

Age of Eligibility:

Section 504 protects any students with disabilities who participates in a school-based program. Based on NEISD Board Policy students may enroll free of tuition who are over 5 and younger than 21 years of age on September 1 of any school year and have not graduated. This includes students who are at least 21 and under 26 who register to complete the requirements for a high school diploma. Section 504 extends to eligible students who participate in district sponsored pre-kindergarten programing.

Free Appropriate Public Education:

The right to free appropriate public education (FAPE) extends to all students with identified disabilities, whether protected by §504 or served by special education. This means that the student has a civil right to the provision of accommodations in regular or special education and related aids or services designed to meet individual needs without cost, except for fees also paid by non-disabled students.

When a student has “a record of” or “is regarded as” disabled, but is not currently experiencing a disabling condition, entitlement to protection against discrimination for his/her prior record or the assumption of others continues as anti-discrimination protection. The term technically eligible applies, and without a plan in place continues to require an annual review. (a parent can deny services, discontinuing the process.)
Least Restrictive Environment:

The concept of the least restrictive environment, when applied to students protected under §504, indicates that the educational supports for the students take place with students who are not disabled, to the maximum extent appropriate to the needs of the student. Section 504 protections apply in the general educational environment.

Referrals for Response to Intervention or Evaluation under IDEA:

When academic concerns manifest in a way that is unexpected for the identified disability, the committee refers to the RTI process for multi-tiered interventions.

If the student protected through §504 presents with educational needs that extend beyond the accommodations in the general education environment, the committee makes a referral for an evaluation under IDEA.

Behavior and the Student Code of Conduct:

When a student protected by §504 behaves in a manner that violates the student code of conduct disciplinary procedures apply. The protections for the student with a disability add the layer of a Manifestation Determination Review (MDR) with the §504 committee prior to making the disciplinary decision. When the behavior violation under consideration is NOT a manifestation of the disability or the result of the local education agencies failure to implement the accommodations plan, the student protected by §504 may be placed in a Discipline Alternative Education Placement (DAEP).
PROCEDURAL SAFEGUARDS
THE RIGHTS OF PARENTS AND GUARDIANS

Posting General Notice of Nondiscrimination:

Federal laws require districts to provide both initial and continuing notice stating that NEISD does not discriminate based on disability. The notice identifies the district §504/ADA administrator by name and title, address and telephone number. School Board policy supports this regulation requiring official notice posting on campuses and district publications.

Notice of Rights:

Before the district takes any action regarding the identification, evaluation, or educational placement of a student under §504, parents/guardians must be provided notice of the actions proposed. Additionally, the district follows a system for the provision of procedural safeguards to include notice, a right to inspect records, a review procedure, an impartial hearing with an opportunity for participation by the student’s parents or guardian and representation by counsel. To accomplish this, the invitation to §504 Initial/Annual meeting and Notice of Rights forms are located in the electronic record application.

Student Records:

Parents or guardians shall have the opportunity to examine relevant education records upon reasonable notice during school hours or at other mutually convenient time by prior arrangement, as noted in district board policy.

Complaints:

Parents or guardians who allege that the school district has violated the provisions of §504 may:

1. File a complaint with the District §504 administrator or campus §504 designee. The obligation of the administrator or designee requires an investigation the allegations to the extent warranted by the nature of the complaint in an effort to reach a prompt and equitable resolution. The district administrator may conduct an informal hearing as an attempt to resolve the issues between the campus and the parent.

Or,

2. File a complaint with the Office for Civil Rights beginning with the Texas Regional Office:

   Director, Office for Civil Rights, Region VI
   1999 Bryan Street, Suite 2600   Dallas, Texas 75201
   Phone: (214) 880-2459
Impartial Hearing Process:

In the event of an unresolved disagreement between the parent(s) or guardian and the school district in regard to the identification, evaluation, or educational accommodation of a student with a disability protected under §504, the parent or guardian has the right to an impartial hearing, with an opportunity to participate and be represented by an attorney.

Parents or guardians who wish to challenge a decision of the §504 committee shall file a written Parent’s Notice of Appeal or Complaint with the district §504 administrator.

Within thirty (30) days of the date of the Parent’s Notice of Appeal or Complaint requesting a due process hearing, the district will schedule a hearing before an impartial hearing officer. The district provides the parent(s) or guardian with a written Notice of Hearing that sets the date, time, and place for hearing, advising them of the right to participate and access representation by an attorney. Upon good cause shown and at the discretion of the hearing officer, either party may receive a continuance of the scheduled hearing date. The officer conducts an informal hearing; the Rules of Evidence and Procedure do not apply.

The district makes an audio recording of the complete hearing. No written transcript will be required, but the parent(s) or guardian shall be entitled to obtain a copy of the audio recording at reasonable cost.

The hearing officer renders a brief written decision at the conclusion of the hearing, or, if it is imperative that the decision be taken under advisement, within thirty (30) calendar days of the hearing. No written findings of fact or conclusions of law shall be required of the hearing officer.

The person who serves as impartial hearing officer must not be an employee of the school district and may not be related to any member of the Board of Trustees in a degree that would be prohibited under the Nepotism Statute.

The hearing officer need not be an attorney at law but shall have knowledge and skills adequate to serve as a §504 hearing officer.

The hearing officer will be paid by the school district as an independent contractor for services rendered concerning the hearing. The hearing will be conducted without cost to the parent(s) or guardian.

Review Procedure for continued Disagreement:

If the parent(s) or guardians do not agree with the decision of the impartial hearing officer, they may seek a review of the decision by a court of competent jurisdiction.
IDENTIFICATION, EVALUATION, AND THE INDIVIDUALIZED ACCOMMODATION PLAN (IAP)

Identification:

Any student suspected of having a mental or physical impairment that substantially limits a major life activity and needs or is believed to need accommodations has a right to a §504 evaluation or assessment under IDEA.

Evaluation Procedures:

Data drawn from a variety of sources, such as medical information, physical condition, psychological condition, aptitude and achievement tests, teacher observations, and adaptive behavior inform the individualized evaluation process. Accurate documentation and consideration of formal and informal data from all sources comprise the evaluation.

Family selected treating professionals offering diagnostic data hold credentials to make the diagnosis and recommendations for treatment. These professionals may hold various titles including but not limited to medical doctors, psychiatrists, psychologists, licensed professional counselors or social workers, treatment center personnel, or therapists. Verification of credentials becomes the responsibility of the §504 designee.

Most §504 evaluations use the review of existing data process, however, recognition of what IDEA requires local education agencies to adhere to concerning standards for diagnostic educational testing applies. Test administrators select valid formal assessments, used for the specifically designed purpose, administered by trained personnel according to the instructions provided by the maker of the test, tailored to assess specific areas of educational need and not be limited to a single IQ score.

When an assessment requires sensory, manual, or speaking skills, the selected instrument must be used in a way that ensures it measure whatever it is designed so that the impairment does not penalize the child’s test score (except where the impaired skills are what the test is designed to measure). When proposing formal school based testing to determine program eligibility, the parent or guardian must give permission for such evaluation.

Frequency and Scope of Evaluations:

The formal §504 review of diagnostic data becomes the first action taken regarding an initial §504 consideration. The committee conducts a reevaluation of data before any significant change in accommodations or placement takes place. The reevaluation of student needs occurs annually alongside the development of the accommodation plan. Private treating professionals provide updates to the condition upon request. The three year eligibility standard derived from IDEA applies when formal school based testing applies.
Decisions - The §504 Duly Constituted Committee:

A §504 committee consisting of a group of persons (at least two) evaluate and make accommodation decisions. It is required that these individuals be knowledgeable about the student, the nature and severity of the suspected disability, the meaning of evaluation data, accommodation options, the least restrictive environment requirement, and the comparable facilities requirements.

**Required Members**: Section 504 Designee, Instructional Representative, Parent or documented permission to proceed without the parent

**Occasional Members, Depending on the Disability or Situation**: Campus RN, Itinerant Teacher for students with Visual or Auditory Impairments, Reading Intervention teacher, Counselor, Administration, District Representation, Legal Representation

**Advocacy or other Parental Supports**: The parental right to providing personal support during a meeting exists. When a parent brings an individual who is not the legal guardian to the meeting, the campus designee presents the *Consent to Share Confidential Information* form for a signature allowing the individual to participate. If the individual is serving in the role of legal counsel, the district maintains the right to representation. Rescheduling the meeting to balance the membership may be required.

**Accommodations Provided by a §504 Committee**:

Accommodations individually designed to meet unique student needs for equitable access to a FAPE as adequately peers who do not have a disability. All decisions are individualized and recorded with specifics for implementation in the IAP.

The term *reasonable* accommodations that ensure students access instruction in the general curriculum, services, events, activities, and facilities provided for students without disabilities lays the foundation for decision-making. The concept of *reasonable* applies to financial resources and fundamental standards or rubrics for participation and access to, not exemption from, educational opportunities.

- Compulsory attendance laws apply to all students; waiving regulations is not an allowable accommodation for a student protected under §504
- A student protected under §504 may receive failing grades if they do not accomplish the passing standards for the course
- Waiving the standards for assignment of course credit, grades, and grade placement is not an allowable accommodation for a student protected under §504
- Exemption from district assessments or the statewide assessments (STAAR/EOC) is not allowable for a student protected under §504.
Numerous reasonable accommodations provide nondiscriminatory educational access for students protected under §504. By definition, accommodations adapt or adjust the environment to “level the playing field.” Committees accept the charge of ascertaining the difference between “level” and “unfair advantage” resulting from the accommodation.

Accommodations determined by the §504 committee and permitted by TEA guidelines apply for statewide required assessments as long as the student uses them effectively, independently, and on a routine basis.

Accommodations include, but not be limited to, structuring the learning environment; assisting with personal organization for school applications, use of instructional materials, and instructional techniques, adjusting test construction and administration, or the creation of a medical action plan. The following table offers a few suggestions; not as a menu, but rather, a clarification of the types of accommodations that may be identified for a student.

Examples of potential accommodation categories include:

<table>
<thead>
<tr>
<th>Environment</th>
<th>Instruction / Learning</th>
<th>Organization</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Elevator passkey</td>
<td>• Restructure assignments or tests by creating milestones within the piece</td>
<td>• Access to notes</td>
</tr>
<tr>
<td>• Sound field access</td>
<td>• Questioning techniques to increase focus on essential information</td>
<td>• Access to resources</td>
</tr>
<tr>
<td>• Priority seating (describe)</td>
<td>• Intentional vocabulary supports</td>
<td>• Calendar of assignments</td>
</tr>
<tr>
<td>• Designed work spaces</td>
<td></td>
<td>• Timelines / Time Management</td>
</tr>
<tr>
<td>• Scheduled breaks</td>
<td></td>
<td>• Specific time extensions</td>
</tr>
<tr>
<td>• Study carrels or partitions</td>
<td></td>
<td>• Notebooks / Folders</td>
</tr>
<tr>
<td>• Protection from allergens</td>
<td></td>
<td>• Goal setting</td>
</tr>
<tr>
<td>• Removal of allergens</td>
<td></td>
<td>• Homework accountability plan</td>
</tr>
<tr>
<td>• Classroom structure</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Medical / Health</th>
<th>Instructional Materials / Tools</th>
<th>Assessments</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Access to the clinic</td>
<td>• Differentiated Materials</td>
<td>• Time extensions</td>
</tr>
<tr>
<td>• Health Management Plans</td>
<td>• Calculators / Manipulatives</td>
<td>• Environmental arrangements</td>
</tr>
<tr>
<td>• Medication Administration Requests</td>
<td>• Graphic Organizers</td>
<td>• Technology</td>
</tr>
<tr>
<td>• Physical supports</td>
<td>• Outlines / Notes</td>
<td>• Tools for support</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Access TEA Website for Statewide assessment allowable accommodations</td>
</tr>
</tbody>
</table>

**Students who do not or no longer qualify under IDEA**

Students referred for an evaluation under special education who do not meet the specific eligibility criteria according to IDEA, or are being dismissed from special education as no longer disabled, are *not automatically* eligible for §504. When the Admission, Review and Dismissal (ARD) process determines that the student does not initially qualify or no longer qualifies with a disability under IDEA a §504 committee responds if a protected disability or condition exists.
When a parent decides to revoke IDEA Special Education Services

Revocation of services under IDEA does not automatically qualify a student for §504 services. Eligibility for services under §504 depends on the identification of a current physical or mental impairment that substantially limits the student’s ability to learn or another major life activity. The §504 committee determines eligibility through the review of the student’s evaluation data. If the committee develops an IAP it must meet the standard of §504 accommodations and not imply or design course modifications or specially designed instruction afforded by special education. If a §504 IAP is not developed, it must be noted that the student has “a record of having a disability” and, to the extent possible, should not be discriminated against.

SECTION 504 ADMINISTRATIVE LEADERSHIP

The district designated Janice Greer DeHaven as the §504 / ADA Administrator for students.

Richard A. Middleton Education Center (RAMEC)
8961 Tesoro Drive     San Antonio, Texas 78217
(210) 407-0249

IMPLEMENTATION AND §504 OPERATING GUIDELINES

§504 Administrator will:

- Ensure that the district annually notifies students with disabilities and their parents or guardians that the district does not discriminate based on disability.
- Provide written notice to parents of their due process right to an impartial hearing when they have a concern or complaint about the district’s actions regarding the identification, evaluation, or educational placement of a student’s with disabilities.
- Investigate and assist in the resolution of parental complaints/grievances.
- Arrange for an impartial hearing when a parent challenges, in writing, the actions of the §504 committee related to a student’s identification, evaluation, and placement.
- Maintain, manage, and communicate §504 procedures, terms and operating guidelines.
- Train campus §504 designees in the understanding and implementation of §504 processes, procedures, and operating guidelines.
- Lead quarterly support meetings for campus §504 designees.
• Perform electronic and campus based audits of the §504 record.
• Monitor implementation of the §504 process on all campuses
• Support campus designees to locate, identify and implement plans for students eligible for §504.
• Assist campuses in determining appropriate actions for student referrals, evaluations and accommodations.

**Campus §504 Designee** will:

• Attend district professional development designed for §504 program management.
• Implement §504 procedures, use terms and follow operating guidelines.
• Coordinate campus referrals, evaluations, planning and implementation of §504 accommodations
• Provide training and support to campus staff in the understanding and implementation of Section §504 processes and procedures.
• Provide notice that the district does not discriminate based on disability through distribution of the Student Handbook.
• Ensure distribution of the Notice of §504 Rights to parents or adult students.
• Investigate and document campus-based parental concerns/complaints.
• Complete an annual §504 accommodation plan for all eligible students.
• Ensure that all teachers have access to the IAPs for individual students.
• Refer grievances and unresolved complaints regarding §504 issues to the district §504 Administrator.

**Campus §504 Committee** will:

• Be composed of persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. Composition will vary on a case-by-case basis, but no less than two persons must participate in the meeting.
• Be chaired by the Campus §504 designee or other appointed individual who has been trained in the process.
• Create an annual individualized accommodation plan based on current evaluation data, for each eligible student.

**Campus Principal or Designee** will:

• Refer grievances and unresolved complaints regarding §504 issues to the district §504 Administrator.
• Ensure campus implementation of all student accommodation plans.
• Annually assign a campus §504 designee from the administrative leadership team to manage the §504 process and maintain documentation in students’ record.
Referral Process:

Parents or guardians initiate a referral to the campus §504 designee who completes the §504 Referral Form.

Any non-district entity, such as, a physician licensed to practice in the United States or other treating professional provide diagnostic data to the campus §504 designee. Provision of reports frequently pass through the family to the designee, or, with consent, are requested directly from the treating professional.

Campus staff who have knowledge of or suspect that a student has a physical or mental impairment that substantially limits a major life activity contact their campus §504 designee.

All appropriate and knowledgeable staff members will work with the campus §504 coordinator when gathering data for a §504 referral.

Parent or Guardian Notice:

Following the initial referral to consider a §504 plan, the §504 campus coordinator informs parents or guardians of the process by communicating the §504 Notice and Consent for evaluation, in the parent or guardian’s native language or use an interpreter when needed, and obtaining a signature providing permission to proceed.

Evaluation:

A §504 evaluation draws upon data collected from treating professionals, family members, teachers, or other professionals familiar with the condition presented for the student.

If additional data is needed, the campus §504 designee requests it from appropriate personnel. A recommendation for formal evaluation requires parental permission prior to testing. Formal assessments by campus personnel follow the Department of Special Education procedures.

Documentation of the §504 evaluation includes the name of the physician or other individuals providing data alongside the diagnosis or disability determined to be the physical or mental impairment considered for eligibility under §504.

Section 504 Committee meeting:

The §504 designee schedules a committee meeting to include the parent, notified of the meeting using the official invitation provided in the software program. Documented efforts to obtain parental participation with the team precedes convening of the committee. When the parent does not respond, the committee documents the efforts and the meeting occurs stating the purposeful
benefit for the child. The standard for proceeding without the parent for the benefit of the child is three documented attempts for three meeting times. Parental response options include accepting attendance, requesting a new date a time, participation by phone, or granting permission to proceed without their participation. Procedures require official documentation of all signed responses or lack of response. When appropriate, encourage students to participate in their §504 IAP meetings.

In an effort to develop a “true picture” of the student in the school environment the §504 Committee will:

- review current evaluation information to determine if a §504 disability exists
- operationally define and describe the areas of concern requiring accommodations
- develop an individualized accommodation plan (IAP)
- identify the level of supports needed as the placement decision
- sign and date the record of the meeting using the district electronic documentation system

Following the meeting the §504 designee ensures that all documentation is archived, district data management systems are updated to reflect eligibility, and distributes accommodation information to appropriate teachers by following current distribution guidelines.

All teachers are obligated to access the accommodations information and implement the IAP as designed by the committee. Teachers complete required reporting on implantation, effectiveness, and student progress.

**Students in AP/Honors Courses, Specialized Magnet Programs, or Academically Above Average and §504 Eligibility:**

- Students in AP/Honors courses, specialized magnet programs or perform academically above average, who also have psychological, physical, or medical conditions that interfere with their classroom attendance or access to the education setting may be §504 eligible.
- Section 504 accommodations remove discriminatory barriers in accessing these specialize options, however, do not provide unfair advantage or guarantee grades, passing standards, credits, or exemptions from the required curriculums of advanced program opportunities.
- Section 504 protects students in classroom settings. This precludes consideration of changing academic standards in competitive classroom settings such as AP/Honors or specialized magnet programs. When accommodations provide access to the general curriculum and the student is unable to compete or complete the extended expectations that go beyond the general curriculum, §504 cannot compel changes to the extended curriculum.
General Education Homebound:

- Consideration for General Education Homebound services includes professionals from the Guidance and Counseling Department.
  - When a student’s condition prohibits their physical attendance on campus, the committee discusses the possibility of providing educational opportunity in the home setting based on the general curriculum and provided by a general education teacher.
  - The need for long-term homebound instruction for chronic medical conditions may constitute eligibility for the category of “Other Health Impairment” under IDEA. This requires a referral to special education.

Reevaluation:

Eligible students with disabilities under §504 shall be reevaluated at least every three years. Most conditions protected by §504 are lifelong circumstances. Reviewing the status of the condition at the annual meeting, including the updating of the evaluation information in the IAP serves the reevaluation purpose. Updated medical reports, prescriptions or continued services by a specialist constitute reevaluation data. Reevaluation takes place at the MDR before any significant change in placement (i.e., more than ten (10) school days). Due to the practice of reevaluating the condition during the annual meeting, special reevaluation meetings at the three-year mark become a moot point.

Discipline under Section 504:

Before a suspension, expulsion or placement in the District Alternative Education Program (DAEP), resulting in a significant change in placement (i.e., ten (10) school days or more), the §504 committee must conduct a manifestation determination meeting. The MDR determines whether there is a direct and substantial relationship between the student’s conduct and his/her disabling condition and/or if the conduct in question was the direct result of the school’s failure to implement the IAP. Current evaluation data informs a determination.

If the misconduct is not related to the student’s disabling condition and the conduct in question was not the direct result of the school’s failure to implement the IAP, the student may be disciplined or receive consequences in the same manner as non-disabled students.

The MDR does not determine the disciplinary placement. Results of the determination made by the MDR inform the Pupil Personnel Hearing Officer’s final decision on a disciplinary placement.

During the term of the disciplinary placement, there cannot be a complete cessation of accommodations. The §504 committee determines the type of accommodations necessary during this placement.
If there is a direct and substantial relationship between the disability and the behavior and/or if the conduct in question was the direct result of the school’s failure to implement the IAP, the §504 committee considers other disciplinary options and reconsideration of the IAP.

Students who violate rules concerning use or possession of drugs, alcohol or weapons as set forth in the District Student Code of Conduct forfeit the right to a Manifest Determination Meeting and are subject to disciplinary consequences applied equitably to all students.

**Dismissal from Section 504:**

The 504 Committee considers multiple sources of data in determining a dismissal from §504 protections.

- Review of current diagnostic data
- Documentation of the review and considerations.
- Determine if there continues to be a physical or mental impairment that substantially limits the student’s opportunity to participate in his or her education.
- Determine whether any mitigating measures, if not provided, will adversely affect the student’s access to a free appropriate public education.
- When a student becomes eligible for services under IDEA, dismissal of the Section 504 IAP takes place to allow the IEP to override the management of the student’s individualized program
- If the committee determines that the student is no longer eligible for §504, the decision is documented in the §504 electronic application and the district’s student information management system.

**SECTION 504 and the RESPONSE TO INTERVENTION (RtI) PROCESS**

All schools in North East ISD implement instructional and behavioral interventions recorded as the Response to Intervention (RtI) Process - a system for defining a student’s needs and identifying interventions and/or strategies for academic and behavioral success. Some students will demonstrate sufficient growth and improvement with Tier I and Tier II intervention strategies, some students will present complex needs requiring a team approach to generating strategies of a more intensive or specific nature. A small group of students may require additional programs of specially designed instruction subsequently identified through IDEA.

Students who are protected under §504 for a disability may demonstrate academic challenges that are unexpected for the identified disability. Accessing the RtI process becomes an additional service support by federal law. Section 504 accommodations address the identified disability. Challenges beyond the scope of the condition move toward RtI considerations. Example: a student with diabetes experiences academic challenges in math. Section 504 addresses the
medical accommodations; however, accommodating for math skills is inappropriate and may actually inhibit the student’s opportunities for interventions through RtI.

If the family an unidentified student who is involved in the RtI process presents diagnostic data indicating the presence of a disability, the RtI committee refers directly to the §504 committee for considerations.

If the RtI committee suspects the presence of a disability, complete a referral for evaluation under IDEA. Making a referral during the RtI process follows the same process as any other referral for evaluation. Frequently, characteristics of dyslexia present by the student during RtI processes and may trigger a referral for evaluation. This does not change the RtI process or efforts made to close specific gaps in skills.

The §504 committee responsibility is to determine if a student has an identified physical or mental impairment that substantially limits a major life activity. These impairments may be offered protections under §504.

§504 COMMITTEE RECORD MAINTENANCE

The Official §504 Record:

- Use the electronic §504 application to document and archive the notice, consent, evaluation, and plan designed for the student.
- Upload signatures, medical documentation, evaluation information or other relevant documents to the electronic record archive
- All §504 IAPs are maintained electronically in the student’s archived record.

Disseminating Information to Teachers:

- Communicate with all campus staff who need to know the student’s §504 plan.
- Apply the indicator flag to the student record in the district student record system
- Upload an electronic copy of the Accommodations (Teacher Bundle) to the district student record system
- Document teacher access to the Accommodations for implementation

Identifying Cumulative Records:

- Should a student with an IAP withdraw and records are requested, the registrar/data processor observes in the district record system that the student has an IAP for §504 protections due to the indicator flag.
- The §504 designee provides a complete copy of the most recent annual meeting and diagnostic information to the registrar to include in the transfer of records.
Transferring §504 Folders within NEISD:

- Campus §504 coordinators must follow Transfer of Records Policy.
- Electronic records automatically transfer to the inter-district campus of enrollment
- Communicate with the campus §504 coordinator at the receiving campus about any unusual or significant §504 situations that may be significant to the student.

Handling Withdraw/Dismissed §504 Student:

The electronic record allows for withdraw/dismissal data to be entered. Maintenance according to record keeping regulations occurs electronically.

Any paper records, not archived electronically, require maintenance in hard copy for 5 years, according to record keeping regulations. Best practice recommends archiving in the electronic record.