



Technical Assistance:  
**Section 504**

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**The Texas Education Agency has developed this document to provide technical assistance to local education agencies and parents. The intention of this document is to provide helpful, general information. It does not constitute legal advice nor is it a substitute for consulting with a licensed attorney. The information should not be relied upon as a comprehensive or definitive response to a specific legal situation. This document may not include a complete rendition of federal law.**

## Welcome Letter

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Dear Fellow Texas Educators,

Thank you for your service and dedication to all students in the Lone Star state! As a committed stakeholder in public education, you are charged with preparing all students for success in college, a career, or the military by providing students access to high quality learning experiences, curriculum, and instruction.

The Texas Education Agency (TEA) Division of Special Education Program is developing a series of technical assistance guidance documents. These technical assistance guides are intended for use by Texas educators to support implementation of services for students with, or suspected of having, disabilities. Our hope is that these guides provide Local Education Agencies (LEAs) access to reliable information that contributes to improved outcomes for students with disabilities.

There is a ton of great information out there for school staff! Our goal with these guides is to gather and link information in one, easy to read resource. In addition to providing you with information and resources, these guides help clarify TEA's recommendations for practice.

Included in each guide are requirements, links to resources, best practice tips, examples, and more. The following information will help you navigate the technical assistance guides:

- While you can read the documents from beginning to end, you don't have to use them that way. The table of contents links each section, so you can click to skip directly to that area.
- Links that are in lower case [like this](#) will take you to a related website, resource, or document that supports the information you are reading about.
- Links that use all capital letters, [LIKE THIS](#), will take you to a legal citation and definition.
- "Notes" point out important reminders or considerations. Notes use a pencil icon: 
- "Best Practice Tips" have a blue rectangle around them: 
- "Tips for Working with Families" have this icon: 
- Various resources are linked within each section. All resources are provided in an alphabetized list at the end of the guide.
- There is also a resource page that provides links to TEA's Statewide Leadership Networks' websites, the TEA Special Education webpage, and other key state level resources.

**For a glossary of special education terms please see:** [The Legal Framework Glossary](#).

If you ever have a question, concern, comment, suggestion, or find a broken link within these documents, please email the TEA Special Education Division at [sped@tea.texas.gov](mailto:sped@tea.texas.gov).

Again, thank you for all you do, and we hope this document helps you in your journey of serving our students with disabilities and their families.

Sincerely,

The TEA Division of Special Education Program, Technical Assistance Team

## Overview



[Video: The Power of 504](#)



Photo Credit: Wall ISD

### Section 504

It is easy to assume that the signing of the Rehabilitation Act of 1973, including a short, powerful paragraph in Section 504, immediately provided protections and ended societal discrimination against people with disabilities in the United States. Unfortunately, no regulations accompanied the law, and the decisions regarding the interpretation of the law were left up to the courts. In a 1977 *New York Times* article, Daniel Yohalem, an advocacy group member stated, “The Department’s failure to issue regulations has meant that hundreds of thousands of intended beneficiaries of [Health, Education and Welfare (H.E.W.)] funded programs throughout the country who are handicapped continue to be subjected to discrimination in employment, health and social services, education and access to programs.” (Hicks, *New York Times*, 4/11/1977). After intense pressure from disability activists that included sit-ins and protests, the H.E.W. signed the regulations into law in January 1978, five years after the law was first passed. [TITLE 34](#), Section 104, of the Code of Federal Regulations (C.F.R.) implemented Section 504 of the Rehabilitation Act and created a framework for providing equal access to all students in any program or activity receiving federal financial assistance.





### The Americans With Disabilities Act

The [Americans with Disabilities Act of 1990 \(ADA\)](#), signed by President George H.W. Bush, is a “sister act” to Section 504 of the Rehabilitation Act of 1973. According to the Civil Rights Division of the United States Department of Justice, the act is “one of America’s most comprehensive pieces of civil rights legislation that prohibits discrimination and guarantees that people with disabilities have the same opportunities as everyone else to participate in the mainstream of American life...” ([ADA.gov](#)). Much of the language of the law is the same or similar to that of Section 504 and broadens the scope of civil rights protections for people with disabilities from only entities receiving federal financial assistance to all of society, including the private sector. Congress amended the ADA in 2008 in response to court decisions that narrowed the definition of impairment. In amending the ADA, Congress sought to reestablish the original intent of the law by underscoring the broad definition of impairment and clarifying its intent that impairments should be determined without reference to or consideration of [Mitigating Measures](#).



Photo Credit: Harlingen ISD


“ ...prohibits discrimination and guarantees that people with disabilities have the same opportunities as everyone else to participate in the mainstream of American life... ”

Federal Laws	Description
<p><a href="#">SECTION 504 OF THE REHABILITATION ACT OF 1973</a></p> 	<p>Section 504 is a provision of the Rehabilitation Act of 1973 that prohibits discrimination based upon disability. <a href="#">SECTION 504</a> is a civil rights statute that requires the needs of students with disabilities to be met as adequately as the needs of the non-disabled are met.</p> <p><a href="#">The Office for Civil Rights</a> of the U.S. Department of Education has jurisdiction to enforce Section 504 in instances of discrimination, harassment, or retaliation against anyone based on disability.</p>
<p><a href="#">AMERICANS WITH DISABILITIES ACT (ADA) OF 1990 Title II</a></p> 	<p>The ADA is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public. <a href="#">NON DISCRIMINATION STATE AND LOCAL SERVICES</a></p>
<p><a href="#">AMERICANS WITH DISABILITIES ACT AMENDMENTS ACT (ADAAA) OF 2008</a></p> 	<p>The Americans With Disabilities Act Amendments Act (ADAAA) restored the original definition of “<a href="#">SUBSTANTIALLY LIMITED</a>” - that the impairment simply be a substantial limitation rather than a “significant” or “severe” restriction and broadened the definition of “major life activities.”</p> <p> The determination of substantial limitation is made based on a <a href="#">comparison</a> to the ability of students without disabilities to carry out major life activities. It is up to local education agencies (school districts and open-enrollment charter schools, LEAs) to define substantial limitation. The law also clarified that the impairment limit at least one major life activity, not necessarily learning, to be considered a disability under the ADA.</p> <p>LEAs must make their Section 504 determinations based upon the child’s disability as it presents itself <i>without</i> mitigating measures (e.g., hearing aids, medications, learned behavioral adaptations). The use of <a href="#">EYEGLASSES</a> or contact lenses is the exception to this rule.</p> <p><b>Example:</b> A student with ADHD takes medication daily to enable them to focus and learn at school. Without the medication, the student’s hyper attention or non-attention would impair the major life activity of learning. Therefore, the determination of eligibility must be made according to the impact of the impairment without medication even if the student is making progress when using the mitigating measure.</p> <p>The ADAAA defines <a href="#">TRANSITORY</a> or minor disability as “an impairment with an actual or expected duration of 6 months or less.” Thus, not requiring a Section 504 plan.</p> <p><b>Example:</b> A student has broken the arm they use for writing and needs help completing schoolwork. Because this disability will likely be resolved within six months or less, it is “transitory and minor.” This does not preclude the LEA, however, from creating a temporary campus support plan for the student in order to accommodate the student’s needs during recovery.</p> <p>An impairment that is <a href="#">EPISODIC</a> or in remission is considered a disability if it substantially limits a major life activity when it is active. <b>Example:</b> A student with epilepsy may experience episodic seizures that, while not frequent, substantially limit major life activities when seizures occur.</p>

[The Individuals with Disabilities Education Act \(IDEA 2004\)](#)



According to the United States Department of Education, the purpose of the IDEA is to provide a free appropriate public education to children with disabilities who qualify for and receive special education and related services. These services are individually calculated to meet the needs of students, including preparation for post-secondary transition. The IDEA is a funding statute that provides financial assistance to states, education service centers, and local education agencies. Compliance with the IDEA [timelines](#) is one way of ensuring compliance with Section 504 requirements for child find, evaluation, meetings, notice, and procedural safeguards. Region 18 Education Service Center provides a side-by-side publication of the IDEA, State Board of Education Rules, Commissioner’s Rules, and Texas State Laws titled: [Special Education Rules & Regulations](#). For further information about the similarities and differences between the IDEA and Section 504, please refer to [The Dyslexia Handbook – 2018 Update: Procedures Concerning Dyslexia and Related Disorders, Appendix D](#).

Texas Law	Description
<p>TEXAS EDUCATION CODE (TEC)</p> 	<p><a href="#">TEXAS LAW</a> requires LEAs to publish explanations of the options and requirements for providing assistance to students who need or may need special education or supplementary aids, accommodations and services under Section 504 of the Rehabilitation Act of 1973. The explanation must include a statement of the parent’s right to request an evaluation for either a full and individual initial evaluation (FIIE) under the IDEA for special education or Section 504. TEA provides a <a href="#">sample handbook statement</a> that LEAs can use to fulfill this requirement.</p>

**Local Education Agency (LEA) Responsibilities under Section 504**



**FAP**

- Free Appropriate Public Education (FAPE) regardless of the nature or severity of disability
- Provided to each qualified student in the LEA
- May be general or special education and related services
- Protects against the segregation or exclusion of students with disabilities



**Notice of Non-discrimination**

- Must provide Notice of Non-Discrimination
- Does not discriminate on the basis of race, religion, sex, national origin, age, disability, or handicap
- Adopt anti-bullying and harassment policies



**Compliance**

- Implementation of Section 504 plans and accommodations as written
- No individual or staff member may alter or otherwise interpret the plan
- No individual or staff member may deny accommodations granted to the student
- Establish protections from harassment based on disability

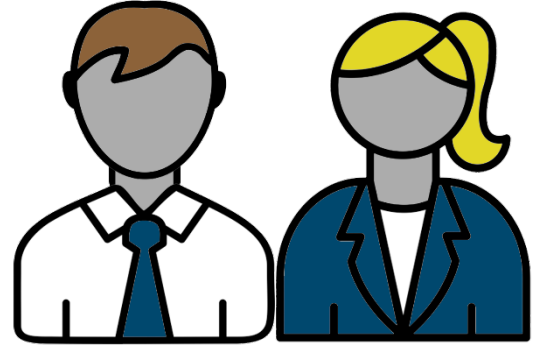


**504 Coordinators**

- LEAs with 15 or more employees must have a coordinator of Section 504 Services tasked with compliance and named in procedural safeguards
- Must be identified in Notice of Non-Discrimination
- Establish complaint procedures
- May also administer ADA compliance

## Section 504 Coordinators

- [COORDINATE](#) and monitor the LEA's compliance with Section 504 and Title II of the [ADA](#), as well as state civil rights requirements regarding discrimination and harassment based on disability
- Oversee efforts to prevent Section 504 and ADA violations from occurring
- Implement the LEA's discrimination complaint procedures with respect to allegations of Section 504/ADA violations, discrimination based on disability, and disability harassment
- Investigate complaints alleging violations of Section 504/ADA, discrimination based on disability, and [disability harassment](#)
- Additional responsibilities as determined by the LEA (The law does not require that the same person coordinate both Section 504 and ADA compliance.)



### Best Practice Tips:

- Routinely take steps to ensure staff members are trained in Section 504 rules and procedures
  - For example, offer ongoing professional development, hold campus Section 504 coordinator meetings, facilitate professional learning communities
- Perform internal self-audits for Section 504 compliance
  - For example, periodic folder reviews

## Collaboration is Key!

To better understand the interplay between Section 504, the ADA and the IDEA, visualize civil rights protections as a big umbrella. Students under the Section 504 umbrella are entitled to a free appropriate public education ([FAPE](#)) which may consist of regular or special education with supplementary aids and services or related services. Congress enacted the IDEA to provide financial assistance to states so that they could create special education programs to meet the needs of students whose disabilities require specially designed instruction and related services. The [IDEA](#) defines FAPE as “The provision of special education and related services... provided at public expense, meeting the standards of the State Educational Agency, and in conformity with an IEP in a manner reasonably calculated to enable the child to receive educational benefit.” Not all students who are eligible for services and accommodations under Section 504 will meet be eligible for special education and related services under the IDEA. However, all students provided special education services are protected under both the civil rights umbrella and the IDEA. The FAPE standard is defined differently by each law.



To receive special education, a student must have a [DISABILITY](#) that falls within at least one of the 13 eligibility categories identified in the IDEA and, because of that disability, requires special education and related services. It is possible that some students with disabilities may not require special education for the entirety of their educational career. Collaboration between Special Education and Section 504 coordinators can create a bridge to provide services in a fluid progression according to student growth, progress, and individual need.



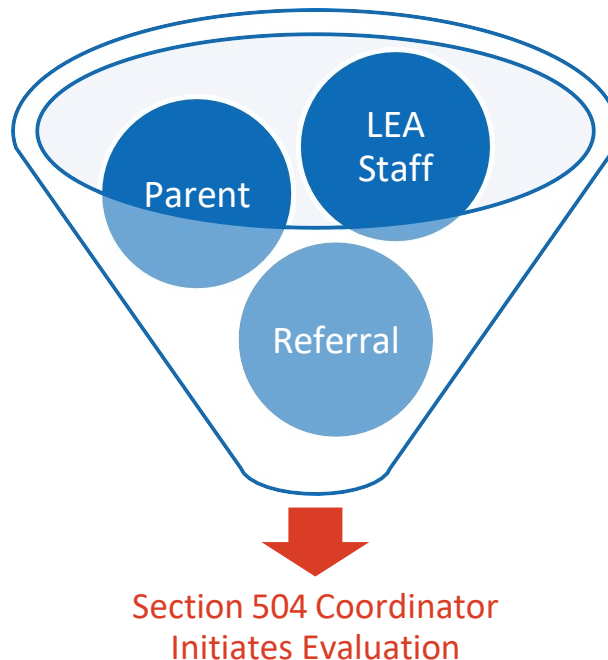
## Eligibility

### The Referral Process

The LEA's duty to evaluate a student for Section 504 protections is triggered by the suspicion that the student has a disability that substantially limits a major life activity. The Texas Education Agency (TEA) is required by [TEXAS LAW](#) to provide school districts and charter schools with a written statement of the options and requirements for providing assistance to students who have learning difficulties or who need, or may need, special education services. The [statement](#) must be included in each school district's or charter school's student handbook.

Referrals can be made by families or LEA staff. Examples of circumstances in which referral requests are often made include:

- The student has a chronic medical condition that is not covered by the IDEA.
- The student has one of the disabilities identified in the IDEA, but is not eligible for special education and related services because the student does not need specially designed instruction.
- The student has a "[hidden disability](#)," such as low vision, poor hearing, heart disease, or a chronic illness, such as diabetes.
- Families have received an outside evaluation and are requesting Section 504 protections and/or accommodations.



#### Best Practice Tips:

- Upon receiving a request for a Section 504 evaluation and parental consent, the Section 504 coordinator will follow LEA procedures for the Section 504 evaluation, including providing prior written notice, and notice of procedural safeguards to the family.
- Should the LEA determine that an evaluation is not necessary, the parent should be provided prior written notice (following the [IDEA procedures](#)) and must be provided Section 504 [procedural safeguards](#).
- If an LEA is unsure if a need for special education services is suspected, a referral through IDEA should be initiated.

#### Note:

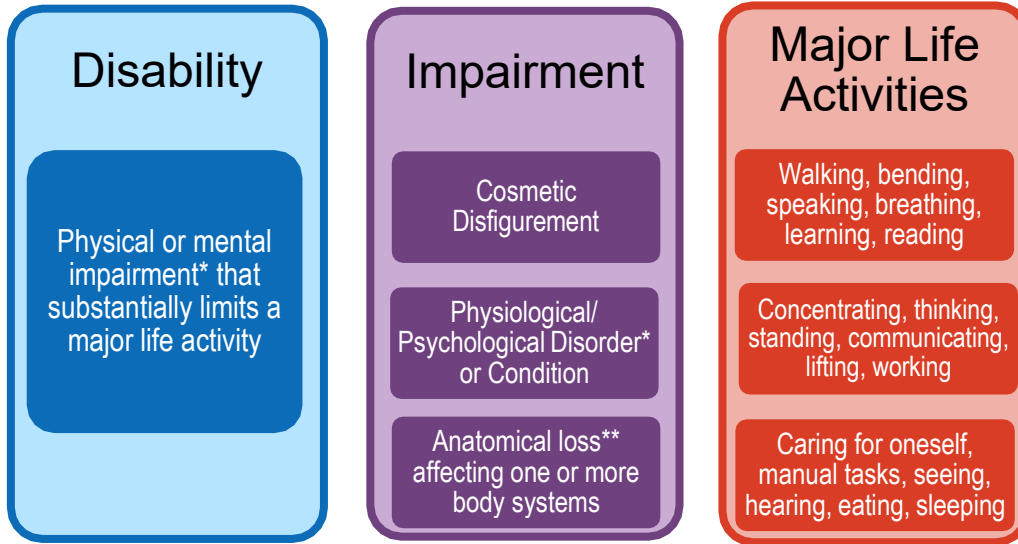


Students who are suspected of having a disability and needing special education services should immediately be referred for an evaluation under the IDEA. Section 504 evaluations cannot be used to delay or deny a referral for special education.

## Initial Evaluation

[SECTION 504](#) regulations require LEAs to individually evaluate students before determining eligibility for protections under [Section 504](#) or the IDEA. Procedures must be established at the LEA level for initial evaluation of students who need or are believed to need special education, Section 504, and/or related services. If formal, standardized testing is deemed appropriate by the Section 504 committee, it must be provided free of charge to families. [TEST](#) materials must be valid for the purpose for which they are being used and administered by trained personnel according to publisher instructions. The evaluation must be tailored to address areas of educational need. Tests administered to students with impaired sensory, manual, or speaking skills must accurately reflect the student’s aptitude or achievement level or the factor that the test is created to measure, rather than impaired sensory, manual or speaking skills.

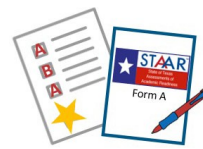
## Eligibility for Section 504



\* Physical or mental impairment includes, but is not limited to, contagious and noncontagious diseases and conditions such as the following: orthopedic, visual, speech, and hearing impairments; cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, dyslexia, and other specific learning disabilities, attention deficit hyperactivity disorder, human immunodeficiency virus infection (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

\*\*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.

## Evaluation



Evaluation Data Sources	Medical/Health	Social Behavioral	Academic	Individuals
<b>Examples</b>	Hearing & Vision, School Health Records, Individual Health Plan, Outside Medical Evaluations	Behavioral Data, Disciplinary Records, Outside Psychological Evaluations, Intervention Progress Monitoring Data, Social and Developmental History	Universal Screening Data, Intervention Progress Monitoring Data, Curriculum Based Assessments, State Assessment Results, Grades, Benchmarks, Quizzes, Unit Tests	Observations and Input From: Student, Family, Teachers, Behavior Specialists, Counselors, School Nurse, Interventionist, Campus Administrator

[EVALUATIONS](#) should be completed in a timely manner. Following the IDEA timelines is one way of meeting the standard. (see [Scenario 5](#), pg. 17)

## Note:



- Evaluation does not necessarily mean “test.” In a Section 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 [OCR FAQ 17-34](#).
  - When evaluating a student suspected of having a disability, it is unacceptable to rely on presumptions and stereotypes regarding persons with disabilities or classes of such persons.
- According to the ADA, the definition of disability should not require extensive analysis, and parents may not be burdened or required to provide data or information. If a medical or outside evaluation is required, it must be provided at no cost to the families. [Resource Guide on Students with ADHD, pg. 19](#)

The Office for Civil Rights encourages LEAs to [follow state special education timelines](#) for evaluation after receiving parental consent (see page 17; Scenario 5). In [TEXAS](#), special education evaluations must be completed within 45 school days of receipt of parental consent, subject to certain exceptions. [TEA's Technical Assistance: Child Find and Evaluation Guide](#)

### Least Restrictive Environment

Section 504 regulations [MANDATE](#) that students with disabilities are to be educated with their peers without disabilities to the maximum extent appropriate. The expectation for students protected under Section 504 is placement in the general education setting unless the LEA can demonstrate that the education of that student in the general education setting with supplementary aids and services cannot be achieved. This would prompt a referral for a special education evaluation. When Section 504 committees are considering evaluation data and appropriate placement, the Office for Civil Rights advises that the following questions should be asked and answered ([Resource Guide on Students with ADHD, pg. 19](#)):

1. Does the student have a disability as defined by Section 504 regulations?
2. If so, does the student need regular or special education, related aids and services, or supplementary aids and services because of the disability, and in what setting should the student receive them?



Photo Credit: Kilgore ISD

## Section 504 Meetings

### How to Facilitate an Initial Section 504 Meeting




Initial Section 504 meetings can be intimidating to families and students. Care should be taken to conduct a positive, solution focused meeting, protecting the dignity of student and families.



### Who must attend the Section 504 Meeting?

Section 504 regulations require members who:

- Can make placement decisions
- Are knowledgeable about the student
- Can interpret the meaning of the evaluation data

Someone who:	 Can Make Placement Decisions	 Is Knowledgeable about the Student	 Can Interpret the Meaning of Evaluation Data
Examples of Appropriate Members	Principal, Vice/Assistant Principal, Counselor, LEA 504 Coordinator, or Campus 504 Coordinator	Student, Parents or Guardians, Teachers, Counselor, Behavior Specialist, Campus 504 Coordinator, or other Related Service Providers	School Nurse, Diagnostician, Licensed Specialist in School Psychology, Reading Interventionist, Dyslexia Teacher, Language Proficiency Assessment Committee Representative, Related Service Providers, or Texas Workforce Commission Representative

[\[34 CFR §104.35\(c\)-\(3\)\]](#)

### During the Meeting

- Committee discussion could include:
  - Celebration of student’s strengths
  - Student input related to educational experience and challenges
  - Parent input relevant to the student’s impairment and the educational impact
  - Staff input regarding student performance in academics and behavior
- Review of all evaluation data
- Does the student meet Section 504 eligibility requirements?
  1. The student must be [QUALIFIED](#), which means that they must be of an age in which services are provided to non-disabled students.
  2. The student must have a physical or [mental impairment](#) (See question 11)
  3. The physical or mental impairment [substantially limits](#) one or more major life activities (See question 11) and without consideration of [mitigating measures](#), except glasses. (See question 4)



### Best Practice Tips:

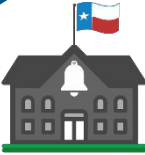
- Students should be encouraged to attend their meetings in order to provide input about their disability, experience in the educational setting and supports that they find helpful. Best practice suggests following IDEA requirements for including students in IEP meetings and transition planning at 14 years old as a guide for Section 504 meetings.
- Prepare an agenda or checklist to make sure that all necessary components of eligibility are addressed. Agendas guide discussion and keep meetings on track.
- Introduce all meeting participants. If the student is in attendance spend a few minutes to make them feel comfortable and included.
- One member of the committee should be assigned to take detailed meeting minutes. While a written summary is not mandated under federal guidelines, it provides required [DOCUMENTATION](#) of the discussion and data sources considered and captures key points.
- Document in meeting minutes that discussion between staff responsible for extracurricular activities and nonacademic activities will be facilitated in order to provide an equal opportunity for participation.

## 504 Meeting - Sample Checklist:


- Call or email parents to schedule meeting
- Send home an invitation to the meeting with a Notice of Procedural Safeguards
- Evaluation data is assembled and ready for presentation
- Invite all applicable participants, including student:
  - Follow LEA established procedures for procuring substitutes
  - Obtain parental consent to invite or obtain information from any outside service providers
- Signed invitation and receipt of Procedural Safeguards returned and filed documenting parent intent to attend, not attend or need to reschedule
- Prepare the room ahead of time for the meeting
  - Technology
  - Chairs
- Participants introduced
  - Parents in attendance?
  - Student in attendance?
- Explanation of eligibility requirements
  - Physical or mental impairment
  - Major life activity
- Discussion of student strengths
- Discussion of student challenge areas (impact of the disability)
- Review and document the evaluation of data regarding the student's physical or mental impairment
- Review and document identification of major life activities substantially limited
- Document committee discussion regarding the need for special education and related services
  - Initiate special education referral?
  - Explanation to parents that services or accommodations provided pursuant to a plan under Section 504 or services offered as a part of the LEA's multi-tiered systems of support (MTSS) may not be used to delay or deny a referral for special education.
- Document committee deliberations regarding the Least Restrictive Environment (LRE) and Free Appropriate Public Education (FAPE) for the student
- Create plan outlining services and accommodations
- Review minutes
- Obtain participant signatures
- Copies to parents – make sure to obtain signed receipt of Procedural Safeguards/Parent and Student Rights if not returned with invitation
- Distribute the Section 504 plan to all appropriate staff with consult for clarification or assistance in implementation
- Obtain and file signed receipt of Section 504 plan from LEA staff




Types of Meetings	Description
<p><b>Periodic Reevaluations and Meetings</b></p>	<p>Section 504 <a href="#">REGULATIONS</a> require LEAs to develop procedures for periodic reevaluation of students. Following IDEA timelines is one way of meeting this requirement. (See Yearly Reviews and Three-Year Reevaluations below)</p>
<p><b>Manifestation Determinations</b></p>	<p>Disciplinary removals of more than ten days constitute a <a href="#">significant change</a> in placement, and Section 504 regulations require a reevaluation prior to any change in placement. Changes in placement due to discipline require that the reevaluation include consideration whether the behavior is a manifestation of the student’s disability. (See Manifestation Determination below)</p>
<p><b>Homebound</b></p>	<p>In some cases, students suffer from an illness or injury that causes excessive absences. The <a href="#">Student Attendance and Accounting Handbook</a> and LEA policies provide procedures for facilitating a homebound educational experience. Immediately after receiving a licensed physician’s written recommendation that a student be confined at home or hospital bedside for a minimum of four weeks, the 504 coordinator should schedule an initial evaluation meeting if the student has not been previously served under Section 504, or a reevaluation to consider a change in placement if the student is already served under Section 504. The committee should follow Section 504 evaluation procedures (see sample 504 Homebound Meeting checklist) and consider transition plans for leaving and returning to the school environment. (See Homebound below)</p>



**LEA Responsibilities:** The LEA must follow all legal requirements for Section 504 meetings and ensure that the committee consists of qualified members, that the Section 504 accommodation and services plan is provided to staff and followed with fidelity, and that ongoing monitoring of student progress is implemented. Periodic reevaluations are required.



**Family Participation:** Parents should request that they be invited to all meetings regarding their student. They should be given the opportunity to provide meaningful input about their student’s impairment, and possible accommodations, collaborate with campus staff and encourage their student to utilize the supports and services provided. Parents are encouraged to keep and review all documents, familiarize themselves with procedural safeguards, and learn about Section 504 regulations.



**Student Participation:** As soon as they are old enough, students should participate in their Section 504 meetings and be encouraged to provide input into their accommodation and services plan. Students should be aware of the accommodations created by the Section 504 committee. Best practice suggests following IDEA requirements for including students in IEP meetings and transition planning at 14 years of age.

### Partner with Families

#### Families and Section 504

While federal law does not require that families participate in a Section 504 meeting, they should be provided ample opportunity to participate. If they are not able to attend, they should be given the opportunity to provide meaningful input. The relationship between the family and the local education agency is foundational to creating supports and services that meet the needs of students. Texas Education Code states: "[PURPOSE](#). (a) Parents are partners with educators, administrators, and LEA boards of trustees in their children's education. Parents shall be encouraged to actively participate in creating and implementing educational programs for their children."

“Parents are **partners** with educators, administrators, and LEA boards of trustees in their children's education.”



Section 504 meetings are powerful opportunities for LEA staff to celebrate student progress and collaborate with families in a solution focused way to ensure a “level playing field” for eligible students.

#### Best Practice Tips:

- Provide frequent positive communication with parents about their student.
- Seek parent input and collaboration in creating Section 504 Plans.
- Always invite parents or guardians to Section 504 meetings. If parents live at separate addresses, invite both as allowed and subject to any child custody agreements to which the LEA has access.
- Send home draft documents prior to meetings so that parents know what to expect and have time to read and understand the information to be discussed.
- Plan for the Section 504 committee to include persons who meet the regulatory criteria.
- Plan for the Section 504 meeting to be a positive, solution focused meeting by setting expectations for decorum and providing an agenda.
- In the case of disagreement, consider pausing the meeting with a plan to reconvene within 10 days to gather additional data. Provide parents with procedural safeguards.

### Yearly Reviews

While Section 504 regulations merely require “periodic reevaluation,” some Texas LEAs may choose to require annual reviews of Section 504 plans as a best practice or establish their own procedures for alternatives to in-person meetings. Examples of alternatives may include: Section 504 reevaluation and monitoring year schedules, quarterly monitoring activities with documentation, and “snapshot” reviews that are shared with parents in lieu of a yearly meeting. These processes may be beneficial in providing structures for ongoing progress monitoring that may illuminate students who are struggling and in need of further assistance and intervention or those who are performing well due to effective Section 504 accommodation and services plans.

### Periodic Reevaluations

Section 504 regulations require LEAs to develop procedures for periodic reevaluation of students served by Section 504. The Section 504 regulatory guidelines for [REEVALUATION](#) procedures are the same as for initial evaluations. A reevaluation procedure that mirrors the IDEA timeline is one way of complying with the requirement. [IDEA](#) timelines require reevaluations not more than one time per year, unless agreed upon by the parents and LEA, and at least one time every three years ([Parent and Educator Resource Guide to Section 504](#) in Public Elementary and Secondary Schools, OCR, pg. 18, footnote 60).

**Best Practice Tips:**

In some instances, committees may need to convene more frequently to adjust the plan when a student is struggling or has experienced any change in impairment status. **Examples could include, but are not limited to:**

- A [REFERRAL](#) for Special Education
- To change accommodations based on a need, or lack thereof
- When students experience difficulty in the general education classroom
- Prior to any change of placement
- Truancy

**Manifestation Determination**

Disciplinary removals of more than ten consecutive days or ten days in a cumulative pattern are considered long term removals and constitute a change in placement. Section 504 regulations require a [REEVALUATION](#) prior to change in placement. Therefore, changes in placement due to discipline require that the [reevaluation](#) (pg. 22) include consideration of whether the behavior is a manifestation of the student's disability ([Disability Rights Enforcement Highlights](#), Office for Civil Rights, United States Department of Education, see page 10).

The Section [504](#) committee must consist of a group of persons who can make placement decisions, are knowledgeable about the student, and can interpret the meaning of the evaluation data and placement options. Documentation should be recent and comprehensive including parent information and behavioral data. Utilizing all available information, the Section 504 committee must answer the following questions:



Was the behavior caused by or directly related to the disability?

Was the behavior due to the LEA's failure to implement the 504 plan?

**Is the behavior a manifestation of the disability?**

If the answer to either question is yes, the behavior is a manifestation of the disability and the student cannot be removed from the [current placement](#) (see pg. 4). A student whose behavior inhibits their ability to learn, or that of others, may require an evaluation for special education and/or [related services](#) (see pg. 9). Committees should consider requesting additional evaluations, including a referral for special education along with additional interventions and supports such as data-based individualization, behavior intervention plans, and related services. Parents must be provided with [PROCEDURAL SAFEGUARDS](#) which stipulate that parents have the right to challenge the decision.

If it is determined, based upon the 504 committee's answers to these questions, that the behavior is not a manifestation of the disability, then the student may be disciplined according to the student code of conduct in the same manner as their [non-disabled peers](#) (See pg. 3). Parents must be provided with [PROCEDURAL SAFEGUARDS](#) and informed of their rights to challenge the decision. The Section 504 plan should be reviewed and updated by the Section 504 committee to prevent future challenges. When implementing disciplinary procedures for behavior that does not trigger consideration of change of placement, LEAs should avoid assigning harsher disciplinary procedures for students with disabilities than those [APPLIED](#) to students without disabilities.

**Is the behavior a result of alcohol and drugs?**

Students with disabilities are subject to the state and LEA disciplinary procedures regarding alcohol and [DRUGS \(questions 15 and 16\)](#) to the same extent as their non-disabled peers. Due process protections under [TITLE 34, SECTION 104.36](#) do not apply in this situation even if the behavior is a manifestation of the disability, and the LEA is not required to conduct a manifestation determination review. [TEXAS EDUCATION CODE](#) requires the removal from class and placement at a disciplinary alternative education program for certain conduct, including when students sell, give, or deliver controlled substances, marijuana, or alcohol.



## Manifestation Determination Meeting Checklist – Sample

- Parents invited to the meeting
- Sent home invitation to the meeting with Notice of Procedural Safeguards
- Evaluation data is assembled, including behavior data and disciplinary reports, and ready to present
- Invite all applicable participants, including student (should include diagnostic personnel who can provide guidance on how the behavior might or might not be caused by the disability)
  - Follow LEA established procedures for procuring substitutes
  - Obtain parental consent to invite or obtain information from any outside service providers
- Signed invitation and receipt of Procedural Safeguards returned and filed documenting parent intent to attend, not attend, or need to reschedule
- Prepare the room ahead of time
  - Technology
  - Chairs
- Participants introduced
  - Parents in attendance?
  - Student in attendance?
- Explanation of eligibility requirements
  - Physical or mental impairment
  - Major life activity
- Discussion of student strengths
- Discussion of student challenge areas
- Review and document the evaluation of data regarding the student's physical or mental impairment, the behavior, and disciplinary consequence under consideration
- Review and document identification of major life activities substantially limited
- Document committee discussion regarding the following: (If the answer to either question is yes, the behavior is a manifestation.)
  - Was the behavior caused by or directly related to the disability?
  - Was the behavior due to the LEA's failure to implement the Section 504 plan?
- No, the behavior is not a manifestation: discipline will be decided in accordance with student code of conduct.
- Yes, the behavior is a manifestation: document any additional evaluations such as functional behavior assessment, including an evaluation for special education and related services that will be requested
- Create Section 504 services and accommodation plan including behavior intervention plan – including positive behavior interventions and supports (PBIS)/multi-tiered systems of supports (MTSS)
- Review minutes
- Obtain participant signatures
- Copies to parents – make sure to obtain signed receipt of Procedural Safeguards/Parent and Student Rights if not returned with invitation.
- Distribute the Section 504 plan to all appropriate staff with consult for clarification or assistance in implementation – obtain and file signed receipt.



### Homebound

In order to qualify for the General Education Homebound (GEH) status, a student must meet the following conditions:

1. Will be confined at home or in a hospital for a minimum of 4 weeks (need not be consecutive).
2. The confinement is for medical reasons only.
3. The medical condition is documented by a physician licensed to practice in the United States.

Homebound education is provided by a certified general education teacher in core academic subjects. If possible, elective courses should be addressed as well. Each LEA is required to have policy and procedures for implementing homebound instruction that are school board approved. The Section 504 committee, which must follow the GEH committee requirements, must evaluate a variety of data, including documentation from the licensed physician. In these cases, it would be beneficial to include the school nurse as a member of the committee. All homebound educational plans must be created on a case by case basis. Consideration should also include state and LEA assessments, transition away from campus, and returning to campus (including academic, behavioral and social/emotional needs). This means that the 504 committee may need to meet frequently to adjust the transition plans according to individual student need and current medical information. [Student Attendance Accounting Handbook](#)

### Attendance

Section 504 committees must meet to address students with disabilities who miss large amounts of school and are not served by homebound services. Section 504 [REGULATIONS](#) protect the rights of students to have access to the general or special education environment through FAPE in the LRE.

Best practice indicates that the Section 504 Coordinator monitor student attendance and convene the Section 504 committee as needed to proactively prevent truancy by creating an individualized plan that may modify LEA attendance policy.



Photo Credit: Wylie ISD

## General Education Homebound Meeting Checklist – Sample

- Parents invited to the meeting
- Sent home invitation to the meeting with Notice of Procedural Safeguards
- Evaluation data is assembled, and ready to present – Review and be familiar with Student Attendance and Accounting Handbook 3.7 [General Education Homebound Program](#)
- Invite all appropriate participants, including student
  - GEH Policy requires that the committee include campus administrator, teacher, parent (While the school nurse is not a required participant, according to the Student Attendance and Accounting Handbook, they are valuable members of the committee and should be invited as a best practice to assist in understanding evaluation data.
  - Obtain parental consent to invite or obtain information from any outside service providers.
- Signed invitation and receipt of Procedural Safeguards returned and filed documenting parent intent to attend, not attend, or need to reschedule
- Prepare the room ahead of time for the meeting
  - Technology
  - Chairs
- Participants introduced
  - Parents in attendance?
  - Student in attendance?
- Explanation of eligibility requirements
  - Physical or mental impairment
  - Major life activity
- Discussion of student strengths
- Discussion of student challenge areas
- Review and document the evaluation of data regarding the student’s physical or mental impairment – Must include notification from a licensed physician of the need for homebound for a minimum of 4 weeks;
- Review and document identification of major life activities substantially limited
- Document committee discussion regarding the need for special education and related services
  - Initiate special education referral?
  - Explanation to parents that Section 504/multi-tiered systems of support (MTSS) may not be used to delay or deny a referral for special education
- Document committee deliberations regarding the LRE and FAPE for the student
- Create the GEH plan including location (home or hospital), amount of time per week, and type of instruction to be provided. Provide start and completion dates.
- Plan to reconvene to plan for the student’s transition back to school.
- Complete any LEA developed forms.
- Document discussion of how the plan will meet the core instruction requirement and include all other courses the student is enrolled in, if possible.
- Identify person responsible for collecting the homebound teacher’s instruction log and any additional LEA required documentation– following requirements of Student Attendance and Accounting Handbook 3.7.2.1 GEH Committee Documentation Responsibilities
- Review minutes
- Obtain participant signatures
- Copies to parents – make sure to obtain signed receipt of Procedural Safeguards and Parent and Student Rights if not returned with invitation.
- Follow LEA policy for coordinating with homebound instruction



## The 504 Plan

The purpose of the Section 504 [plan](#) (pg.10) is to create an educational blueprint that is unique to each student and provides the student access to a free appropriate public education. An [APPROPRIATE](#) education is one that is designed to meet the individual needs of the student as adequately as that of their non-disabled peers. The Section 504 plan is the bridge that facilitates the provision of an appropriate education. Links to read more about portions of the 504 plan below in [blue](#).



### Student 504 Plan

- [Documentation of all data sources used to build the plan \(PLACEMENT PROCEDURES\)](#)
- [Document all committee discussion about Free Appropriate Public Education \(FAPE\), and possible referral for special education and related services](#)
- [Describe the physical or mental impairment](#)
- [List major life activities substantially limited](#)
- [Accommodations including: classroom, testing, behavior](#)
- Who will monitor the plan?
- Signatures
- [Document parental receipt of procedural safeguards](#)
- Addendums

\* Prior written notice, home bound services, behavior plan, individual health plans, referral for special education evaluation, related services provisions, auxiliary aids and services. (Title II ADA)

## Section 504 Plan Format

While Section 504 regulations do not require a written plan, practical requirements such as documentation of evaluation sources, the impairment and substantial limitations, committee discussion and decisions, and accommodations create the necessity of putting the plan in writing. In addition, should a disagreement take place, the written document may provide clear information regarding the intent of the LEA to provide FAPE.

## Accommodations

The purpose of an [accommodation](#) is to change how students access learning and the physical LEA environment. The provision of a free appropriate education is foundational to the creation of a highly effective accommodation plan. Section 504 regulations mandate that students be educated with their non-disabled peers to the maximum extent appropriate based on their individual needs. The first choice for that setting is in general education with accommodations that provide the bridge connecting the student to curriculum and instruction. The LEA must demonstrate that the provision of supplementary aids and services are not effective prior to removing a student from general education. Accommodations should “level the playing field” as opposed to giving any advantage and should never change what a student learns, which would be a modification.

Accommodations should address all impacted areas of the student’s school environment such as: classroom, testing, and behavior. A student’s needs may change each year or throughout the year depending on the context and content required to learn. It is important to do regular checks with the student, teacher, and family to ensure the accommodations implemented are providing the appropriate access to information.

### Campus Responsibilities:



Accommodations that are written into a Section 504 plan are [legally binding](#) (pg. 4). This means that for the student to receive their free appropriate public education, they must receive the identified accommodations as written in the plan. Compliance with Section 504 accommodations is non-negotiable.

The campus Section 504 coordinator should disseminate Section 504 accommodation plans and collaborate with campus staff responsible for implementing the plan to ensure fidelity of implementation. In addition, the campus Section 504 coordinator should work with campus staff to monitor student progress to determine if the accommodations are effective. If a student does not make adequate progress, a Section 504 meeting or referral for special education evaluation should be considered.



### Family Participation:

Parents should provide input about the impact of the impairment on their student and in the creation of the accommodation plan for their child. Parents can partner with teachers to monitor student progress.



### Student Participation:

Students should be encouraged to provide input about the impact of their impairment and in the creation of accommodation plans. The Section 504 committee can help students understand the accommodations that are provided for them. Older students can participate in their Section 504 meetings and should be encouraged to self-advocate for their accommodations.

### Note:



- Accommodations should be unique and written in such a way that teachers are able to implement them with fidelity
- Schedule time to monitor student progress and check in with teachers to support implementation of accommodation plans
- Avoid adding phrases such as “at student request” to accommodations. If the committee has carefully considered the impact of the impairment and has determined an accommodation necessary to provide FAPE, it must be provided to the student as directed in the plan as opposed to requiring the student to request them.

## Selecting Accommodations for Students with Disabilities

Accommodations must be created based on the impact of the impairment on each individual student's ability to access the aid, benefits and services of the general education environment and calculated in such a way to remove the barriers to access.

### Examples of well written accommodations and less effective accommodations

#### Small Group Testing - Limit Distractions

**Exemplar:**

Student will take tests and quizzes in the learning lab for math and science (test materials will be delivered to the testing center prior to the class period).

**Non-Example:**

Student will take tests and quizzes in the learning lab - at student request. \*

#### Behavior - Cue Student to Stay On-Task

**Exemplar:**

During independent work time, monitor and provide frequent verbal or nonverbal reminders to return to task (student will put his head down or take out his phone when off task) - All Classes

**Non-Example:**

Cue student to return to task.

#### Extra Time to Complete Assigned Work

**Exemplar:**

Student will receive extra time to complete assigned work after check-in with teacher to review progress, provide feedback, and agree upon extended time required to complete the task. - ELA and Social Studies

**Non-Example:**

Student will receive extra time to complete assigned work.

\* If the Section 504 committee determines that an accommodation is required in order to provide FAPE, it should not be left to student request. The accommodation must be provided as written in the accommodation plan.

## STAAR Accommodations/Accessibility

Please reference the Accessibility Policy documents listed on the [Accommodation Resources](#) webpage and in the [LEA and Campus Coordinator Resources](#) online for more specific information about TEA accessibility policies.

For students receiving Section 504 services, it is up to the LEA to determine how and if accessibility features the student regularly benefits from during instruction are documented in the Section 504 plan.

### Best Practice Tips:

- If a student is regularly benefiting from accessibility features during instruction they should be documented as accommodations in the 504 plan.
- LEAs should work with campus testing coordinators to determine local procedures and practices to ensure proper implementation of all STAAR accommodations in accordance with policy documents related to each.

## Section 504 Special Circumstances

LEAs must follow federal law to meet their obligations regarding students with disabilities. Usually, compliance with Section 504 regulations will also meet compliance with the Americans with Disabilities Act (ADA). Compliance with the IDEA will often ensure compliance with all three laws. In the case of effective communication for students with vision, hearing, or speech disabilities, the ADA has a unique approach specific to communication ([FAQs on Effective Communication for Students with Hearing, Vision, or Speech Disabilities](#)). Through regulations, [TITLE II](#) requires that students are provided with an equal opportunity to participate in all LEA activities through the provision of auxiliary aids and services to enable students with disabilities communication as effective as that of students without disabilities. According to the United States Department of Education and The U.S. Department of Justice, "In some instances, in order to comply with Title II, a LEA may have to provide the student with services that are not required under the IDEA." ([DOE and DOJ, 2014 p.2](#)) In addition, public LEAs are to give primary consideration to the [AUXILLARY AID](#) or service requested by the student with the disability when determining what is appropriate. This means that the student or parent must be given the opportunity to request the aid or service that they think is needed to provide effective communications. LEAs will then make an individualized determination considering the communication used by the student, the nature, length, and complexity of the communication involved and the context in which the communication is taking place.

Examples of auxiliary aids and services for students who are deaf, deaf-blind, or hard of hearing include, but are not limited to:

- Qualified sign language interpreters
- Note takers
- Exchange of teacher notes
- Real-time, computer-aided transcription services
- Assistive listening systems
- Accessible electronic and information technology
- Open and closed captioning

Examples of auxiliary aids and services for students who are blind, deaf-blind, or have low vision include, but are not limited to:


- Qualified readers
- Taped texts
- Audio recordings
- Braille materials and displays
- Screen reader software
- Magnification software
- Optical readers
- Secondary auditory programs (SAP)
- Large print materials
- Accessible electronic and information technology



Examples of auxiliary aids and services for students who have a speech disability include, but are not limited to:

- Word or letter board
- Writing materials
- Spelling to communicate
- Qualified interpreter
- Taped texts
- Computer
- Portable device that writes and/or produces speech
- Telecommunications services

### Note:

 LEAs that provide interpreting services to students who are deaf or hard of hearing **must ensure that interpreters hold appropriate CERTIFICATION** from the Texas Board for Evaluation of Interpreters (BEI) or the National Registry of Interpreters for the Deaf (RID).

504 committees must "CONSIDER the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode including opportunities for direct instruction in the child's language and communication mode" when making placement decisions

### Best Practice Tips: Sign Language Interpreting Services

- If a student needs are not met through interpreting services alone, an evaluation for special education services may be necessary to ensure the student receives FAPE

## Extracurricular Activities

NONACADEMIC SERVICES and extracurricular services may include activities such as: LEA sponsored special interest groups or clubs, recreational activities and recreational athletics, counseling services, transportation, health services, referrals to agencies that provide assistance to handicapped persons, and employment of students, including both employment by the LEA and making available outside employment. According to Section 504 regulations, the LEA is required to provide students with disabilities an equal opportunity for participation in nonacademic and extracurricular services.

LEAs must make reasonable modifications and provide the necessary aids and services to allow students an equal opportunity for participation, unless they can show that the modification would fundamentally alter the program. Equal opportunity for participation is to be decided on an individual basis and is not meant to provide unfair advantage to students. If a modification would result in an unfair advantage or would fundamentally alter the program, LEAs may consider alternative accommodations, aids, or services.

PHYSICAL EDUCATION and extracurricular athletic activities including club, intramural, or interscholastic athletics at all grade levels are an important part of many students' educational experiences. According to Section 504 regulations, the LEA is required to provide an equal opportunity for participation to all students with disabilities. LEAs may offer separate or different athletic activities only if the separation or differentiation is consistent with the regulatory requirement that students with disabilities are educated to the MAXIMUM extent with their peers without disabilities, unless the LEA can demonstrate the education of the student in the general education setting with supplementary aids and services cannot be achieved. According to a [2013 Dear Colleague Letter](#) from the Assistant Secretary for Civil Rights regarding extracurricular athletics, LEAs have an obligation under federal regulations to ensure that no student may be rendered ineligible to participate in any aid, benefit, or service due to their disability. However, students with disabilities must meet the skill level requirements of any selective or competitive program.





### Additional Considerations:

As previously noted, LEAs may not rely on generalizations, assumptions, prejudice, or stereotypes about disabilities regarding student capability to participate in an athletic activity.



Photo Credit: El Paso ISD

While LEAs should not provide unnecessarily different or separate athletic opportunities, they may provide a wide variety of extracurricular athletic experiences for all students. Students who are not able to participate in extracurricular athletics even with supplementary aids and services should have the opportunity to benefit from participation in physical activities.

Separate activities must be provided with LEA support equal to other athletic activities (Ex: wheelchair basketball team).

LEAs may collaborate with community organizations to find creative ways to match student interests with opportunities for [participation in athletic experiences](#).

### Advanced Placement and Dual Enrollment

Academic programs offered by the LEA that generate high school credit on a student's transcript are subject to [FAPE](#).

If a student with a disability requires accommodations in their general education classes in order to access FAPE, they must be provided with those accommodations in advanced placement or dual enrollment classes offered by the LEA so long as the advanced nature of the course is not altered. Failure by the LEA to ensure that the Section 504 accommodations are implemented may result in a [violation](#) of Section 504, and all decisions about accommodations must be made on a case by case basis through evaluation by the Section 504 committee. [OCR Dear Colleague Letter](#).

### After School and Summer Programs

LEAs that offer after school or summer programs must ensure that all students have equal opportunity for [PARTICIPATION](#). This means that the LEA may need to make reasonable accommodations to provide students with disabilities access to the program. The accommodations need not be identical to those listed in the Section 504 plan and are not a required component of the Section 504 accommodations plan.

### Counseling Services

Section 504 regulations require LEAs that provide [COUNSELING](#), guidance, or placement services to students must provide them to all students without discrimination due to disability. In addition, students with disabilities should not be counseled towards more restrictive career objectives than their peers with similar interests without disabilities.



Photo Credit: Abilene ISD

### Frequently Occurring Disabilities

The following list is not meant to address every disability that might be eligible for a Section 504 accommodation plan, but serves instead to provide information on some frequently occurring disabilities based on feedback from LEAs. Section 504 and ADA regulations mandate a broad interpretation of physical or mental impairment and substantial limitation.

## Specific Learning Disability

The United States Department of Education published a [pamphlet](#) providing guidance about civil rights of students with hidden disabilities in November 2018. The document defines a hidden disability as a physical or mental impairment as defined by Section 504 regulations that is not readily apparent to others. Specific learning disability (SLD) is the first item in the list of examples of hidden disabilities. Section 504 does not provide specific criteria for the identification and evaluation of disabilities. Instead, it relies on the broad coverage of the term “physical or mental impairment” that substantially limits one or more major life activities. The major life activities impacted by a learning disability can include learning, listening, reading, writing, and math calculation. IDEA provides a definition of [SPECIFIC LEARNING DISABILITY](#) that is used in deciding eligibility for special education. Students suspected of having a learning disability and a need for special education should be referred for evaluation through IDEA (For more information about Child Find and IDEA please review the [Technical Assistance: Child Find and Evaluation](#) guide). However, learning disabilities fall on a continuum, and not all students with LD will qualify for or require special education. Some students with learning disabilities may be provided supports and protections under Section 504.

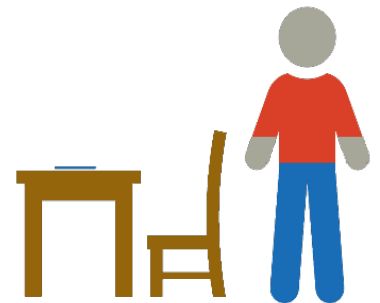


Texas Education Code (TEC) defines [DYSLEXIA](#) and related disorders as a disorder of constitutional origin manifested by a difficulty in learning to read, write, or spell, despite conventional instruction, adequate intelligence, and sociocultural opportunity. The words *dyslexia*, and *dysgraphia* are, in fact, terms that describe learning disabilities. While some students with dyslexia may be appropriately supported under Section 504, other students will require special education services. Evaluation procedures under both 504 and IDEA are described in chapter 3 of the dyslexia handbook. *If 504 committees are unsure if they suspect a need for special education and related services after a review of data, best practice would be to refer for a full and individual initial evaluation (FIIIE).*

For additional information on dyslexia and related disorders, please refer to: [Texas Education Agency Dyslexia and Related Disorders webpage](#) and [Region 10 Educational Service Center](#).

## Attention Deficit Hyperactivity Disorder

In 2016, the Office for Civil Rights (OCR) published a [Dear Colleague Letter and Resource Guide](#) specific to students with Attention Deficit Hyperactivity Disorder (ADHD) in order to clarify LEA responsibilities under Section 504 and address the increase in complaints to the OCR alleging discrimination against students with ADHD. The National Institute of Mental Health defines [attention deficit hyperactivity disorder](#) as, “a brain disorder marked by an ongoing pattern of inattention and/or hyperactivity-impulsivity that interferes with functioning or development.” Even if a student is found ineligible for special education, the LEA bears the obligation to consider whether they are eligible for Section 504 accommodations, without considering mitigating measures or financial/administrative costs. The [Office for Civil Rights](#) advises that a diagnosis of ADHD provided by a licensed clinician with expertise in ADHD, as the result of a comprehensive evaluation, may be considered evidence of a disability, and the presumption may be made that there is a substantial limitation in one or more major life activities. After receiving such an assessment, the LEA must still conduct an evaluation according to regulations. If the Section 504 committee decides that a medical assessment is required, the evaluation must be provided at no cost to the families. Section 504 regulations do not require medical diagnosis as a part of an evaluation for eligibility. Students who do not have academic difficulties, but experience challenges in behavior, focus, or executive functioning, may still qualify for Section 504 accommodations. Grades should not be the deciding factor in determining eligibility. In addition to academic challenges, students with ADHD may experience behavioral, [executive functioning](#), or social skills deficits.



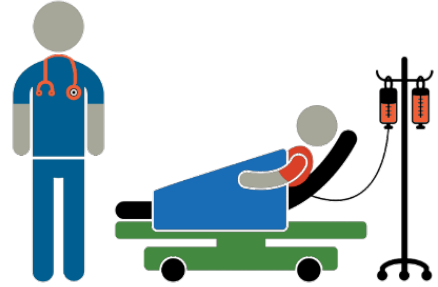
## Chronic Illness

Creating a plan for a student with a chronic illness can be challenging for all involved. According to the OCR, “A [chronic illness](#) involves a recurring and long-term disability such as diabetes, heart disease, kidney and liver disease, high blood pressure, or ulcers.”

Chronic disease may cause a student to miss a significant amount of instruction due to the severity of the disability or frequent, required medical visits. Section 504 regulations protect the rights of students to have the opportunity to participate in or benefit from the aid, benefit, or services of the LEA environment with their peers without disabilities in the [LEAST RESTRICTIVE ENVIRONMENT](#) to the maximum extent appropriate.

When reviewing and analyzing a variety of evaluation data, Section 504 committees should:

- Consider the medical description of the disorder including common symptoms. (For example, [sickle cell anemia](#) is an inherited [blood disorder](#) that affects hemoglobin and the level of oxygen in the blood. Students may experience anemia, pain that inhibits focus, stroke, and damage to internal organs. Factors that can exacerbate symptoms [include](#) infections, cold, damp climate, pollution, dehydration, extreme physical activity, or stress.)
- Consider the type of treatment plan
- Individualized health plan
- Emergency care plan
- Required equipment
- Consider the unique impact of the student's chronic illness in the following areas:
  - Classroom environment – seating, temperature, access to assistive technology
  - Class work and tests – May include a statement regarding student's ability to make up work missed due to medically [related absence](#). For example, tests may be administered at a different time if symptoms are severe, without penalty.
  - Access to water, bathroom, and nurse
  - Participation in LEA activities
  - Rest time
  - Physical education - Allowed level of physical exertion during recess or other LEA activities
  - Physical navigation on campus
  - Nutrition (breakfast, lunch, snacks)
- Communication to LEA staff, including substitutes
- Collaboration with school nurse for training for LEA staff
- Consider unique student requirements during emergency drill procedures
- Consider transportation and other necessary related services
- Develop transition procedures for absences from school and return to school including academic, behavioral, and social emotional supports – students should be given the opportunity to make up missed with without penalty; class work should be sent home promptly



## Traumatic Brain Injury and Concussion

### Federal Definition:

According to the IDEA, a [TRAUMATIC BRAIN INJURY](#) is an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a student's education performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, sensory, perceptual, and motor abilities, psychosocial behavior, physical functions, information processing, and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative or to brain injuries induced by birth trauma.

**Texas Definition:** [Texas Commissioner's Rules](#) [See: (c) Eligibility definitions (11)] Traumatic Brain injury: A student with a traumatic brain injury is one who has been determined to meet the criteria for traumatic brain injury as stated in [IDEA](#) regulations. The multidisciplinary team that collects or reviews evaluation data in connection with the determination of a student's eligibility for special education based on a traumatic brain injury must include a licensed physician, in addition to a licensed specialist in school psychology (LSSP), an educational diagnostician, or other appropriately certified or licensed practitioner with experience and training in the area of the disability.

### Additional State Law Related to Concussions:

The Texas Legislature passed House Bill (HB) 2038, which was signed into law in 2011. HB 2038 defines a concussion as “a complex pathophysiological process affecting the brain caused by a traumatic physical force or impact to the head or body, which may: a) include temporary or prolonged altered brain function resulting in physical, cognitive, or emotional symptoms or altered sleep patterns and b) involve loss of consciousness.” The law mandates that each LEA have a concussion oversight team that designs and implements the protocol for the diagnosis, treatment, and return to play of any student athlete who sustains a concussion. [Texas Education Agency & Region 3 Education Service Center Guidance](#)



Students who have concussions may experience substantial limitations in the areas of physical activity, cognitive function, emotional regulation, and sleep. Section 504 committees should include the school nurse to assist the committee in understanding the impact of the impairment on the student’s access to the school environment. In addition, traumatic brain injury is considered a disability under IDEA, and the Section 504 committee must consider the need for special education and related services and proceed with a FIIE if needed.

### Allergies/Anaphylaxis

Allergies for some students are far more than a mere inconvenience; they are life threatening. According to the [Guidelines for the Care of Students with Food Allergies At-Risk for Anaphylaxis](#) published by The Commissioner of the Texas Department of State Health Services (DSHS), A food allergy is an abnormal response to a food triggered by the body’s immune system that can range from mild to life threatening.

Anaphylaxis is a severe reaction that occurs quickly and can result in the death of the student. The Guidelines for the Care of Students with Food Allergies At-Risk for Anaphylaxis states that there is no cure for food allergies (pg. 13). The only way to avoid the risk of symptoms is strict avoidance of the allergen.



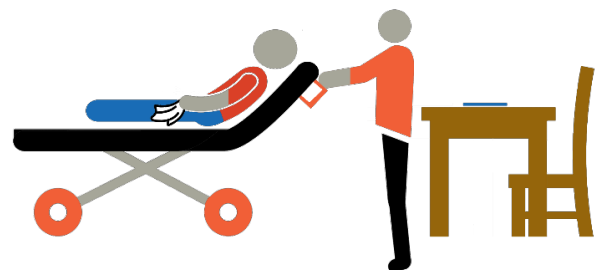
The Texas Education Agency (TEA) has published classroom resources for teachers along with a suite of resources for a coordinated school health model. [School Health – Students with Special Health Needs](#)

Texas Education Code requires local LEA boards of trustees and governing bodies to create and adopt policy for the care of students diagnosed with food allergy at risk for [ANAPHYLAXIS](#) based on guidelines developed by the Commissioner of State Health Services.

### Section 504 Plans, Individual Health Plans, & Emergency Care Plans

The task of protecting students with serious allergies and anaphylaxis at school can be daunting and should be approached in a team-based framework in order to limit exposure to life threatening allergens.

Campuses are encouraged to form food allergy management teams, including the school nurse, to create plans that will help ensure a safe learning environment for students who suffer from serious food allergies. Students with severe food allergies are likely to meet eligibility requirements under Section 504 as a person with a physical impairment that substantially limits one or more major life activities. The individual health plan may be implemented in addition to the Section 504 accommodation plan, and the school nurse should be a member of



the Section 504 committee. Section 504 protects the rights of the students to a free appropriate public education (FAPE) and procedural safeguards while the individual health plan does not, in of itself, provide civil rights protections.

Section 504 committees should consider the impact of anaphylaxis on the student's ability to access FAPE and build appropriate accommodations taking into consideration that the only way to avoid the severe reaction is to avoid the allergen in all educational settings (for example, classrooms, cafeteria, common areas, and field trips).



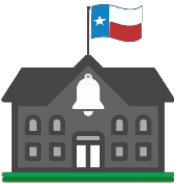
### Family Participation:

Families should [notify](#) (pg. 19) the LEA of allergies and provide medical information along with medication.



### Student Participation:

Students of an appropriate age, as determined by physician and parents, should understand their disability and work towards [SELF-MANAGEMENT](#) of avoiding the allergen, identification of symptoms, communication with an adult when they are having a reaction, reading of food labels, and carrying and administering their personal medications.



### LEA Responsibilities:

- Comply with federal and state laws and LEA policy
- Include students with food allergies in all LEA activities
- Create a campus level team, that includes parents, to manage food allergies
- Train all staff in how to recognize symptoms and respond to an emergency anaphylactic reaction
- Work to eliminate allergens from the LEA environment
- Distribute Emergency Care plans and Section 504 plans to LEA staff, including bus drivers, with support from the school nurse in understanding and implementing the accommodations and emergency procedures
- Plan for field trips and extracurricular activities with LEA staff and parents
- Respond immediately to bullying or harassment of children with food allergies

## Dispute Resolution

### Procedural Safeguards

Section 504 regulations require that LEAs establish and implement a system of [PROCEDURAL SAFEGUARDS](#) that includes:

Notice

An opportunity for  
parents/guardians to  
examine relevant  
records

Impartial hearing  
with parent  
participation

Review procedure  
following hearing

Compliance with IDEA [procedural safeguards](#) is one way of meeting this [REQUIREMENT](#).

### Local Grievance Procedures

Section 504 regulations require LEAs with 15 or more employees to adopt [grievance](#) (pg. 35) procedures that incorporate due process standards and that provide prompt, equitable resolution of complaints alleging any prohibited action. Families and LEAs have a powerful tool at the local level for resolving disagreements before escalating to the federal or judicial level. LEAs should adopt easily understood and accessible procedures for parents to submit grievances which are responded to quickly in a solution focused manner.

Parents may not be required to exhaust grievance procedures prior to pursuing an impartial hearing or lodging a complaint with the Office for Civil Rights.

### Impartial Hearing

The purpose of the impartial hearing is to resolve disagreements between the LEA and parents regarding the identification, evaluation, or educational placement of a student with a disability. It is the LEA's responsibility to arrange for the [hearing](#), providing the parents the opportunity to participate and to be represented by [COUNSEL](#) if they so choose.

### Office for Civil Rights

According to the Office for Civil Rights of the Department of Education, anyone can file a civil rights complaint whether they are the complainant or are filing the complaint on behalf of an individual, with written consent. Complaints should be filed within 180 days of the last act of discrimination. [Complaints](#) may be filed online, via email, mail, or fax.

### Texas Education Agency (TEA)

Texas Education Agency does not investigate Section 504 complaints. For information about the complaints that TEA will investigate, please access the [TEA Complaints and Investigations](#) webpage.



Photo Credit: Greenville ISD

### Retaliation

Federal civil rights laws protect individuals from [retaliation](#) as a response by LEAs to the assertion of their rights. The Americans with Disabilities Act Title II mandates that no public or private entity may discriminate, coerce, intimidate, threaten, or interfere with any individual who has [ASSERTED](#) their rights, opposed any act or practice, made a charge or testified, assisted, or participated in an investigation, proceeding, or hearing.

Additionally, Section 504 regulations cite the procedural provisions regarding intimidation or retaliation in [Title VI](#) of the Civil Rights Act of 1964. The regulations directly prohibit intimidation, threats, coercion, or discrimination against any person for the purpose of interfering with any right or privilege that is protected by law because they complained, testified, assisted or participated in an investigation, proceeding, or hearing.

#### Best Practice Tips:

- Build and maintain positive relationships with families and community members
- Respond promptly to concerns in a solution focused manner
- Provide professional development and coaching to staff in how to communicate with families and manage parent concerns, crucial conversations, or negative feedback
- Ensure that LEA grievance procedures are accessible and easy to follow for parents and staff in order to resolve problems at the local level.

## **Resources**

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[2019-2020 Accommodation Resources - TEA Student Testing and Accountability](#)  
[Accommodations Central](#)  
[Americans with Disabilities Act Title II Regulations](#)  
[Child Find - Referral to Special Education - Request for Evaluation SPEDTex](#)  
[Civil Rights Act of 1964 - Retaliation](#)  
[Dual Enrollment OCR Resolution](#)  
[Electronic Code of Federal Regulations Section 504 Regulations](#)  
[Electronic Code of Federal Regulations Special Education Regulations](#)  
[Frequently Asked Questions on Effective Communication for Students with Hearing, Vision, or Speech Disabilities in Public Elementary and Secondary Schools](#)  
[Guidelines for the Care of Students With Food Allergies At-Risk for Anaphylaxis To Implement TEC Ch. 38 Section 38.0151](#)  
[IDEA Webpage](#)  
[Identification of Students 504-Only Students: An Alternate Eligibility Form, Perry A. Zirkel, 2018](#)  
[Information and Technical Assistance on the Americans with Disabilities Act](#)  
[OCR Complaints](#)  
[OCR Extracurricular Activity - Dear Colleague Letter 2013](#)  
[OCR Procedural Safeguards: Section 504 FAQ](#)  
[OCR Protecting Students With Disabilities Section 504 FAQ](#)  
[Qualifications of Special Education, Related Service, and Paraprofessional Personnel. §89.113.](#)  
[Region 3 and TEA Guidelines for Educating Students with Traumatic Brain Injury/Concussions](#)  
[Region 13 Section 504 FAQ](#)  
[Region 18 The Legal Framework](#)  
[Region 18 Legal Framework Side by Side](#)  
[Retaliation - Dear Colleague Letter - OCR 2013](#)  
[Sickle Cell Disease in Children - Stanford Children's Health](#)  
[Students with ADHD and Section 504: A Resource Guide](#)  
[Student Attendance Accounting Handbook 2019-2020](#)  
[19 Texas Administrative Code § 89.1011. Full and Individual Initial Evaluation](#)  
[19 Texas Administrative Code Part 2 Chapter 89 Subchapter AA](#)  
[Texas Assessment Program District and Campus Coordinator Resources](#)  
[Texas Education Agency Complaints and Investigations](#)  
[Texas Education Agency Dyslexia Webpage](#)  
[Texas Education Agency Responsibilities and Timelines Regarding Parent Requests for Special Education Evaluations](#)  
[Texas Education Agency School Health - Students with Special Health Needs Webpage](#)  
[Texas Education Code Chapter 26 Parental Rights and Responsibilities](#)  
[Texas Education Code 26.0081: Right to Information Concerning Special Education and Education of Students with Learning Disabilities](#)  
[Texas Education Agency Student Handbook Statement](#)  
[The Civil Rights of Students with Hidden Disabilities Under Section 504 of the Rehabilitation Act of 1973](#)  
[The Power of Section 504 Video](#)  
[THE PUBLIC SCHOOLS' OBLIGATION FOR IMPARTIAL HEARINGS UNDER SECTION 504 - Perry Zirkel, 2012](#)  
[Title 42 - The Public Health and Welfare § 12102](#)  
[Tips for Supporting Students with Sickle Cell Disease - CDC](#)  
[United States Department of Education Dear Colleague Letter Americans with Disabilities Act FAQ](#)  
[United States Department of Education Dear Colleague Letter Bullying and Harassment](#)  
[United States Department of Education Office for Civil Rights](#)  
[United States Department of Education Title 34 Education Subtitle B Chapter I Part 104](#)

### Texas Special Education Statewide Leadership Networks:

(Scan the QR Code or click on the boxes below to go directly to the website)

<p><b>Child Find, Evaluation, and ARD Supports</b></p> 	<p><b>School, Family, and Community Engagement</b></p> 	<p><b>Inclusion in Texas</b></p> 	<p><b>Texas Statewide Leadership for Autism Training (TSLAT)</b></p> 	<p><b>Tiered Interventions using Evidence-Based Research (TIER)</b></p> 
<p><b>Texas Complex Access Network (TX CAN)</b></p> 	<p><b>Texas Sensory Support Network (TxSSN)</b></p> 	<p><b>Small and Rural Schools Network (SRSN)</b></p> 	<p><b>Student-Centered Transitions Network (SCTN)</b></p> 	<p><b>Multiple Exceptionalities and Multiple Needs (MEMN)</b></p> 

### Additional Special Education Resources:

(Scan the QR Code or click on the boxes below to go directly to the website)

<p> <a href="http://framework.esc18.net">framework.esc18.net</a></p> <p> 432-561-IDEA</p>  	<p> <a href="http://tea.texas.gov/TexasSped">tea.texas.gov/TexasSped</a></p> <p> 512.463.9414</p>  
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### Special Education Resources for Parents and Families:

(Scan the QR Code or click on the boxes below to go directly to the website)

<p> <a href="http://spedtex.org">spedtex.org</a></p> <p> 1.855.773.3839</p>  	<p> <a href="http://prntexas.org">prntexas.org</a></p> <p> 1.800.866.4726</p>  
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