

SECTION 504 PROCEDURAL REQUIREMENTS

Teague ISD

OVERVIEW OF SECTION 504

Section 504 of the Rehabilitation Act of 1973 is major federal legislation that impacts entities that receive federal funding. It is civil rights legislation for persons with disabilities, designed to prevent any form of discrimination based on disabilities. Individuals with disabilities, who are otherwise qualified, are protected.



KEY POINTS

- 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 program or activity receiving Federal financial assistance.



WHAT IS A QUALIFIED STUDENT WITH A DISABILITY?

- Of an age during which persons without disabilities are provided such services;
- Of an age during which it is mandatory under state law to provide such services to students with disabilities; or
- A student for whom a state is required to provide a free appropriate public education under IDEA



SUMMARY OF SECTION 504

- Section 504 is a major component of the Rehabilitation Act that was passed in 1973.
- Section 504 is basically civil rights legislation for persons with disabilities.
- The statute “grants the right to be free from discrimination to a diverse array of people.”
- The antidiscrimination legislation affects individuals who meet the definition of disability in the act and is applied to entities that receive federal funding.
- Unlike some federal legislation, Section 504 is a relatively simple part of the act; it is one sentence long.



SUMMARY OF SECTION 504

- Section 504 focuses on employment; program accessibility; preschool, elementary, and secondary education; postsecondary education; and health, welfare, and social services.
- Section 504 is beginning to have a major impact on schools.
- Section 504 covers many children not eligible for services under IDEA.



ADA AMENDMENTS ACT

- Congress believed Supreme Court overly stringent in its interpretation of eligibility therefore not allowing employees access to Federal courts to raise claims that employers failed to provide reasonable accommodations ; set a “demanding” standard for eligibility
- Expands list of major life activities
- Declares that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active
- Prohibits the consideration of the effects of remediation efforts when determining whether a disability substantially limits a major life activity (with the exception of eye-glasses and contact lenses)



ADA AMENDMENTS ACT

- A new definition of substantial limitation
 - Congress concluded the courts incorrectly construed “substantially limits” and disapproved of the EEOC’s defining of term to mean “significantly restricts”
 - Opted to retain term in Amendments Act but to clarify that is it not to be a demanding standard
 - Construed broadly in favor of expansive coverage, to the maximum extent permitted by the terms of the ADA.



ADA AMENDMENTS ACT

- EEOC's List of Impairments That Will Consistently Meet the Definition of Disability
 - **ED** has taken a different position on this from the EEOC . However, this could always change. At this time, eligibility is determined individually and not merely because the student has a particular impairment.



OPERATIONAL GUIDELINES



○ Child Find

- Part of the on-going identification and referral process
- Reasonable efforts to identify and locate every qualified disabled student residing within the district
- Place “Child Find Notice” in locations likely to be seen by parents of eligible students
- Teachers within district should have information regarding District’s overall early intervention process, understand how to initiate a §504 Referral, and know how to identify students who should be referred



OPERATIONAL GUIDELINES

○ Referral

- Campus 504 Coordinator (Counselor) completes the referral and facilitates the data collection
- The Coordinator will determine whether a §504 Evaluation is necessary. If no §504 Evaluation is required, the Coordinator shall forward the Parents Rights to the parents with a note explaining why the Referral did not lead to a §504 Evaluation at this time.



OPERATIONAL GUIDELINES

- Consent for Evaluation
 - If an evaluation is necessary, the following should be sent to the parents:
 - Notice and Consent for Initial Evaluation
 - Notice of Parents Rights Parent Input for Section 504 Evaluation If no consent is received, the Coordinator should remind the parent every semester the District's desire to conduct an Evaluation under §504.



OPERATIONAL GUIDELINES

○ Evaluation

- Parent Input
- Teacher Input
- Data is collected from a variety of sources:
 - Efforts and results of early intervening activities
 - Aptitude and achievement testing
 - Teacher recommendations
 - Student's historical and current physical and mental condition, including data on conditions in remission and episodic conditions
 - Social or cultural background
 - Adaptive behavior
 - Mitigating measures
 - Current FIE data



OPERATIONAL GUIDELINES

- Evaluation (cont.)
- Any formal testing:
 - Have been validated for the specific purpose for which they are used and are administered by trained personnel in accordance with the instructions provided by the test's creators;
 - Include those tailored to assess specific areas of educational need and are not merely designed to provide a single intelligence quotient;
 - Are selected and administered to ensure that when a test is administered to a student with impaired sensory, manual, or speaking skills, the tests results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).



OPERATIONAL GUIDELINES

- Evaluation (cont.)
- Determine group of knowledgeable people
 - Knowledge of the child
 - Knowledge of the evaluation data
 - Knowledge of the placement options
- Schedule the §504 Evaluation by the Committee
- Provide the parents and committee members notice of the meeting date and time.



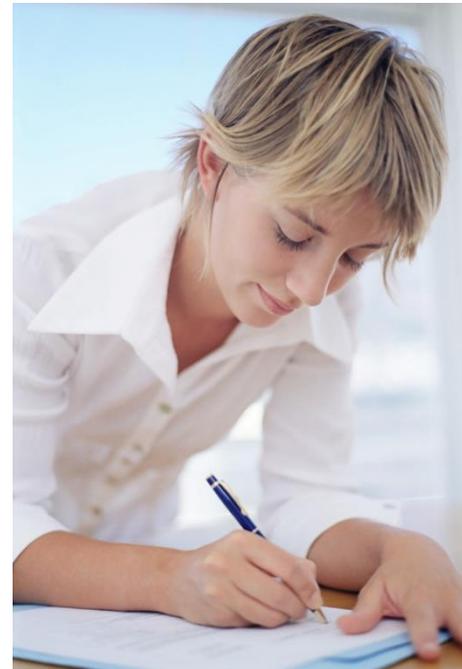
OPERATIONAL GUIDELINES

- Evaluation (cont.)
- At the meeting:
 - Review the reason for the referral
 - Ensure that all information reviewed in the evaluation is documented and carefully considered consistent with ADA AAAA.
 - Complete the evaluation form. If found eligible and in need of accommodations, develop a service plan .
 - Provide notice to the parents of the committee's determinations and copies of completed evaluation forms and the service plan if eligible.



OPERATIONAL GUIDELINES

- Individual Accommodation Plans (IAPs)
 - Ensure the plan is distributed to all the student's teachers. Get signatures to indicate receipt.
 - Match the **need** determined by the evaluation data to the **accommodation**.
 - The goal is to level the playing field.
 - Maintain confidentiality.



OPERATIONAL GUIDELINES

○ Records

- Separate folder under control of the Coordinator as a part of the cumulative record
- Maintain confidentiality



○ FAPE

- §504 services are designed to meet individual needs of the eligible student as adequately as the needs of nondisabled students
- The program is provided at no cost to the parent of the eligible student regardless of where those services are provided or by whom.



OPERATIONAL GUIDELINES

○ LRE

- Create a placement that ensures the provision of services with persons who are not disabled to the maximum extent possible appropriate to the needs of the eligible student

○ Nonacademic Services and Extracurricular Activities

- Eligible students are afforded an equal opportunity to participate in such service and activities.
- Eligible students participate with nondisabled students to the maximum extent appropriate to the needs of the eligible student.



OPERATIONAL GUIDELINES

- Implementation of the Section 504 Services Plan
 - Campus coordinator ensures delivery of each student's plan to teachers and campus administration
 - Monitoring of the implementation of the service plans should be accomplished through PDAS, walkthroughs, or informal checks of student progress



OPERATIONAL GUIDELINES

- Re-Evaluation
- At least every three years
 - Prior to any significant change of placement or whenever necessary to ensure the continued provision of FAPE
 - If the student remains eligible and in need of a plan, focus upon the student's changing needs due to the effects of different classroom subject matter, school demands, and other factors.
 - Dismiss the student from §504 if found to be no longer eligible.
 - Provide notice to parents of the results of the re-evaluation.



OPERATIONAL GUIDELINES

- Annual Reviews
- Appropriate when re-evaluation **is** not required
 - Make changes to the accommodation plan if necessary



OPERATIONAL GUIDELINES

○ Discipline

- Removal of more than 10 consecutive school days
 - Evaluation
 - Manifestation Determination
 - Parental notification
- The evaluation must answer two questions:
 - Was the conduct in question caused by, or directly and substantially related to the student's disabilities?
 - Was the conduct in question the direct result of the school's failure to implement the student's §504 plan?

If a link is found, a disciplinary removal of longer than ten consecutive school days cannot occur.



OPERATIONAL GUIDELINES

- Discipline
 - “Pattern of exclusion” rule.
 - Alcohol and drug offenses



OPERATIONAL GUIDELINES

- Interaction With Special Education
 - Evaluate DNQs and recently dismissed students on case by case basis
 - Referral to special education
 - Parent's revocation of consent for continued special education services; refer on case by case basis
- Interaction with Texas Dyslexia Law
- Refer for dyslexia. Based on the results:
 - Refer under Section 504
 - Dyslexia evaluation may occur under direction of ARD committee
 - May refer to Special Education



OPERATIONAL GUIDELINES

- Interaction with regular education Early Intervention efforts
 - Campus based efforts to assist all struggling students with academic, social, and behavioral needs.
 - Data collected may lead staff to suspect a mental or physical impairment leading to a §504 referral
 - Data becomes part of the §504 evaluation



OPERATIONAL GUIDELINES

- Mitigating Measures and Development of Section 504 Plans
 - Determination of substantial limitation made without regard to ameliorative effects of mitigating measures
- Procedural Protections
 - System of procedural safeguards
 - Parents Rights
 - Section 504 Due Process Hearing Procedures
 - Local grievance procedures
- Parent Language
 - Ensure effective notice in Spanish
 - Provide parent opportunity for effective participation in §504 process



OPERATIONAL GUIDELINES

- Duty Not to Discriminate
- Retaliation prohibited
- Disability-based harassment
 - Promptly investigate all claims of disability-based harassment.
 - Take reasonable action to stop future recurrence.
 - Consider the impact of the harassment and determine if changes to the service plan are needed.





THE FOCUS

- Non-discrimination due to disability
- Services that level the playing field
- Evaluation data identifies disability-related need.
- Need determines accommodation.



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