

# Levelland I.S.D.

District

Section 504 / Dyslexia Plan

**Levelland Independent School District**

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# I: SECTION 504 GENERAL PROGRAM INFORMATION

## Levelland ISD Section 504/ Dyslexia Department Information

This manual was developed to provide guidance with the implementation of Section 504 of the Rehabilitation Act of 1973, with the interpretation and the identification of students with disabilities on all LISD campuses. The intent of this document is to provide campuses with knowledge to serve participants of this program with appropriate support, accommodations and an educational program that will assist students in overcoming their disability(s) to become successful in their quest to become lifelong learners and upon graduation, successful members of our society.

The mission of the Section 504 Department is to provide professional assistance to campus personnel in responding to students who may have a mental or physical impairment that substantially limits a major life activity in order to identify and provide appropriate services in the general education setting for successful completion of their course of study within the Levelland Independent School District.

**\*\*\*An important note about the ADA Amendments Act of 2008 (ADAAA).** In January of 2009, the provisions of the ADAAA went into effect. This legislation significantly changed Section 504 eligibility. In January of 2012, the U.S. Department of Education (ED) issued a guidance letter with an attached question and answer document addressing the changes. *Dear Colleague Letter*, 112 LRP 3621 (OCR 2012). Further, the Office for Civil Rights (OCR) has released a number of letters of finding with respect to ADAAA issues, and has updated a Q&A document to address these changes. This document, *Protecting Students with Disabilities: Frequently Asked Questions about Section 504 and the Education of Children with Disabilities*, an FAQ from OCR-Chicago (last revised October 16, 2015), is available on the OCR website at <http://www.ed.gov/about/offices/list/ocr/504faq.html>. To date, there has been no change in ED's Section 504 regulations.

## II: INTRODUCTION TO SECTION 504

Section 504 of the Rehabilitation Act has been with us since 1973. The Office for Civil Rights (OCR) is charged with enforcement of Section 504, and has become proactive in the field of education of individuals with disabilities. Advocacy organizations and the legal system likewise have increasingly focused on 504's requirements to insure the education system provides the full range of special accommodations and services necessary for students with special needs to participate in and benefit from public education programs and activities. The following information focuses upon the instruction issues of Section 504 (Subpart D), and not upon employment practices.

Section 504 prohibits discrimination against persons with disabilities, including both students and staff members, by school districts receiving federal financial assistance from the United States Department of Education. This statute states: ***“No qualified person with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives federal financial assistance” (34 CFR 104.4(a)).***

This includes all programs or activities of the school district receiving federal funds, regardless of whether the specific program or activity involved is a direct recipient of federal funds. Included in the U.S. Department of Education regulations for Section 504 is the requirement that students with disabilities be provided with:

- A free appropriate public education (FAPE). These regulations require identification, evaluation, provision of appropriate services, and procedural safeguards in every public school in the United States.
- All individuals who are disabled under the Individuals with Disabilities Education Act (IDEA) are also considered to have disabilities and therefore protected under Section 504.

However, all individuals who have been determined to have disabilities under Section 504 may not be disabled under IDEA. These students require a response from the general education staff and curriculum.

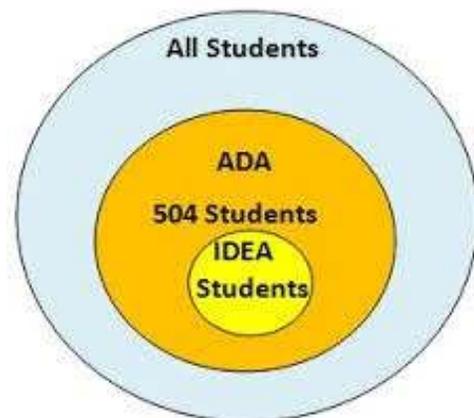
### **A. Special Education or Section 504 Student?**

There are some students who are not eligible for IDEA or Special Education Services but who nevertheless are deemed to have a disability under Section 504, and to whom a district may therefore have responsibilities to address.

Special Education defines as eligible only students who have certain specified types of disabilities and who, because of one of those conditions, need an Individualized Educational Plan (IEP).

Section 504 on the other hand, protects and classifies all students as disabled who are identified as having any physical or mental impairment that substantially limits one or more major life activities (including learning). Under Section 504 the determination of whether a student's impairment substantially limits a major life activity is made without regard to the ameliorative effects of mitigating measures and if a student has an impairment that is episodic or in remission he is entitled to protections as a student with a disability if the impairment would substantially limit a major life activity when active.

Some students may not meet any of the 13 categories for services under IDEA services such as learning disabled, other health impaired, or emotionally disturbed. However, if their disorders or conditions substantially



limit a student's ability to function at school, they have a disability within the meaning of Section 504 and must be provided with accommodations necessary to benefit from FAPE.

If a district or parent has reason to believe that, because of a disability as defined under Section 504, a student may need either accommodations or related services in the general education setting in order to participate in the school program, the district must evaluate the student. If the student is determined to have a disability under Section 504, the district must develop and implement a plan for the delivery of all needed services.

What is required for the Section 504 evaluation and placement process? Through data, the campus determines the type of disability believed to be present and the type of services the student may need. The evaluation must be sufficient to accurately and completely assess the nature and extent of the disability and recommended services. Evaluations more limited than a full special education evaluation may be adequate in some circumstances.

The determination of what services are needed must be made by a group of persons knowledgeable about the student. The group should review the nature of the disability, how it affects the student's education, whether specialized accommodations are needed and, if so, those accommodations must be identified. The decisions about 504 eligibility and services must be documented in the student's red folder and entered into the Skyward and PEIMS programs. This information must be reviewed periodically.

Under Section 504, the parent or guardian must be provided with notice of actions affecting the identification, evaluation and placement of the student. The parent or guardian is entitled to an impartial hearing upon disagreement with the district's decision(s) in these areas. For disabilities covered by Section 504, a hearing will have to be made available by a local hearing officer. In summary, it is important to keep in mind that some students who have physical or mental conditions that limit their ability to access and participate in the general education program are entitled to protection under Section 504.

It is also important to realize that *Section 504 is not an aspect of "special education"*. Rather, it is a *responsibility of the general public education system*. As such, the district and campus administration teams are responsible for its implementation within their schools.

## **B: Section 504 Qualification Criteria**

Whether a particular student is protected under Section 504 requires a determination that the student is an "individual with a disability" and that the student is "qualified." The age range within which a disabled student can qualify under Section 504 is determined by whether the student is an age during which nondisabled persons are provided educational services. 34 CFR§104.3(k)(2) K – 12 students are protected under Section 504, as well as students in Voluntary Pre-K Class, if the program is provided by a recipient of federal funds. Therefore, PK students being served in public schools are typically covered. Private providers for PK are not subject to Section 504 if federal funds are not received by the provider.

For students in postsecondary and vocational education services, "a qualified person" is one with a disability who meets the academic and technical standards requisite to admission or participation in the educational institution's program or activity. 34 CFR§104.3(l)(3)

A student is "disabled" under Section 504 regulations if the student meets any one of the three criteria of eligibility listed in 34 CFR 104.3(j)(1). A disabled student under Section 504 must:

1. have a physical or mental impairment that substantially limits one or more major life activities;
2. has a record of such an impairment (has history of, or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities); or
3. is regarded as having such an impairment.

The criteria under which the student is eligible assists in determining which of the Section 504 protections are extended to the student.

### **Criteria #1: Current Impairment**

To be eligible under this criteria, the student must have a physical or mental impairment that substantially limits one or more major life activities. Section 504 regulations provide a broad definition of “physical or mental impairment”. Physical or mental impairment means

- A. any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following bodily systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- B. any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. 34CFR104.3(j)

A temporary impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period of time.

An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. An episodic impairment ebbs and flows in severity. Conditions such as seasonal allergies or asthma and migraine headaches are two good examples of impairments that may be substantially limiting at times and have little impact at other times. Eligibility should not be denied for students whose impairments are episodic and who are not substantially limited at the time of the evaluation. An impairment is noted to be in remission when an abatement or subsiding of the impairment occurs. Conditions such as cancer or Bipolar Disorder are two good examples of impairments that may have been substantially limiting in the past but not currently. Eligibility should not be denied for students whose impairments are in remission and not substantially limiting a major life activity at the time of the evaluation if the impairment was substantially limiting in the past. Section 504 eligibility looks for impact from physical or mental impairment on one or more major life activities.

Examples of a “major life activity” include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. A “major life activity” also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cellgrowth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. **42 U.S.C. 12102**

A substantial limitation in performing a major life activity or major bodily function is defined by our school district as a significant limitation in the performance of a major life activity or bodily function as compared to most people in the general population. The determination of whether or not an impairment substantially limits a major life activity or major bodily function must be made without regard to the ameliorative effects of mitigating measures.

### ***Mitigating Measures***

Mitigating measures include, but are not limited to the following: medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses) prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy, equipment and supplies; use of assistive technology reasonable accommodations or auxiliary aids or services; or learned behavioral or adaptive neurological modifications. **42 U.S.C. 12102 (4) (E).**

### **Criteria #2: Record of Impairment**

Individuals with a record or history of a physical or mental impairment that substantially limits one or more major life activities are also protected from discrimination under Section 504. A student that no longer meets eligibility criteria for a special program for students with disabilities (ie: a former IDEA- eligible student) is an example of someone who has a record of having had a disability. Denying a student the opportunity to participate in field trips because of a previous history of disability is an example of discrimination under Section 504. Some of these “records of impairment” may trigger Criteria #1 protections, including Section 504 accommodation plan due to the rule on impairments in remission.

### **Criteria #3: Student is Regarded as Impaired**

Finally, individuals who are regarded as having a physical or mental impairment when in fact such impairment may or may not actually exist are protected from discrimination under Section 504. A person with a history of a mental or physical impairment because of misclassification also qualifies for protection under Section 504. For example, a limited English proficient student mistakenly determined to be eligible for a special program for students who have intellectual disabilities. A student with epilepsy might be treated as having an impairment that limits physical activities such as sports when the student actually has no limitation that would affect participation in sports. Others might treat a person with HIV as if a physical impairment existed based simply on the medical condition. Unlike individuals with a current disability, students with a record of a disability or who are regarded as having a disability are not eligible for services and/or accommodations not afforded to the general population.

However, such individuals are protected against discriminatory action based on the recorded or perceived disability and should be afforded any remedial or corrective aids and services they might need that are available to the general student population.

Students described in Criteria 2 and 3 are protected from discrimination under Section 504, even though they are not individuals with a current substantiated disability under Section 504 for which accommodations may be necessary and therefore may not require an accommodation plan.

# III: COMPLIANCE WITH FEDERAL LAW & DISTRICT REQUIREMENTS

## **A. Free and Appropriate Public Education (FAPE)**

Under Section 504, FAPE is defined as “the provision of regular or special education and related aids and services that are designed to meet individual needs of handicapped persons as well as the needs of non-handicapped persons are met and based on adherence to procedural safeguards outlined in the law.”

The protections afforded by Section 504 are “broader” in the sense that many students with disabilities, who do not qualify in one of the IDEA classifications, are covered under Section 504. In fact, specific eligible conditions are not listed in Section 504 in order to assure inclusive coverage of all students with a disability. Section 504 is an *access* law which requires accommodations, aids, or special services be provided to students with disabilities so they have an opportunity, equal to non-disabled students, to participate in educational experiences. Section 504 provides no funding and the eligible student’s education must be provided in the regular education classroom.

## **B. Disability Discrimination**

Levelland Independent School District ensures that no qualified disabled student, shall, on the basis of disability be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any district program or activity. Discrimination under Section 504 occurs when a recipient of federal funds:

- Denies a person with a disability the opportunity to participate in or benefit from an aid, benefit or service which is afforded to non-disabled students.
- Fails to afford the student with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is *equal* to that afforded others.
- Denies a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that provided to others.
- Provides different or separate aids, benefits or services unless such action is necessary to be as effective as the aids, benefits or services provided to non-disabled students (e.g. segregating students in separate classes, schools or facilities, unless necessary)
- Aids or perpetuates discrimination by providing significant assistance to an agency, organization or person that discriminates on the basis of disabilities (e.g. sponsoring a student organization that excludes persons with disabilities).
- Otherwise limits the enjoyment of any right, privilege, advantage or opportunity enjoyed by others  
Determining the site or location of a facility, makes selections, which effectively excludes persons with disabilities, denies them the benefits of, or otherwise subjects them to discrimination

## **C. Examples of Discrimination**

- The practice of refusing to allow any student on an Individual Accommodation Plan the opportunity to be on the honor roll.
- Allow non-disabled students to participate in an inter-district transfer arrangement, but not students with disabilities.
- Refuse to make necessary arrangements for a child with a disability to attend a field trip, outdoor school, or other similar activity.
- Fail to appropriately use statewide assessment options to allow students with disabilities alternative methods for demonstrating that they meet benchmark or state testing standards.
- Refuse to dispense medication to a student who could not attend school otherwise, or fail to have an effective system for dispensing medication.

- Frequently move classes for students with disabilities from building to building while regular education classes are not moved.
- Automatically schedule lunch and recess for special education classes at different times than for other classes.
- Automatically provide special transportation for students with disabilities without determining, on an individual basis, that special transportation is necessary.
- Locate special education classes in more remote locations in the building limiting access to non-disabled peers.
- Allow students with disabilities to be located in inferior facilities, such as trailers, wings in basements and unnecessarily restrictive classrooms due to a lack of classroom space.
- Deny students with disabilities access to recess, assemblies, or other non-academic activities or deny access to lunch based on disability-related behavior.

The Policy of the Levelland Independent School District is to promptly investigate all claims of disability based on discrimination and/or harassment and take action to stop future recurrence. If evidence of discrimination is found and the district believes the discrimination has adversely impacted the student's FAPE, a Section 504 Meeting will be called to consider the impact of the discrimination or harassment and determine if changes to the student's Individual Accommodation Plan (IAP) are required.

#### **D. Documentation and Maintaining Confidentiality**

The student's 504 records shall be placed in the student's 504 RED folder and maintained by the campus 504 coordinator. The records must be kept confidential, other than for staff that has a legitimate educational purpose in accessing the information or other allowable release of information pursuant to the Family Educational Rights and Privacy Act (FERPA). The student's teachers, and any other personnel who have a legitimate educational purpose to access the information, shall receive copies of the student's IAP. The campus principal is the custodian of records for that campus and a student's 504 records may not be copied or removed from the 504 RED folder without the principal's knowledge and consent.

The District's Section 504 forms may be obtained through the LISD's W drive Website. All original forms must be kept in the RED Section 504 Student Folder. A copy of the entire Section 504 Committee packet, including all data used in the evaluation and attachments must be sent to the Campus Section 504 Coordinator.

#### **E. District Requirements**

##### **Compliance with Federal Law: Section 504 of the Rehabilitation Act of 1973**

Section 504 is a federal law designed to protect the rights of individuals with disabilities in programs and activities that receive Federal financial assistance this includes all of our public schools. Section 504 states: *"No otherwise qualified individual with a disability in the United States . . . 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 . . . ."*

The Section 504 regulations require a school district to provide a "Free Appropriate Public Education" (FAPE) to each qualified student with a disability who is in the school district's jurisdiction, regardless of the nature or severity of the disability. Under Section 504, FAPE consists of the provision of regular or special education and related aids and services designed to meet the student's individual educational needs as adequately as the needs of nondisabled students are met.

A combination of Section 504 and the dyslexia guidelines established by the State Board of Education of Texas must be followed. Section 504 requires each school to:

- Conduct an unbiased evaluation of a child who has a disability, has a record of such a disability, or is regarded as having a disability.

- Make placement decisions using a team of persons knowledgeable about the student and the assessment data.
- Offer due process procedures for the resolution of disputes.

### **Section 504 School Compliance Obligations**

School districts and their schools have a number of obligations under Section 504, including the following:

- Conduct appropriate child find and initial evaluations.
- Provide periodic reevaluations of students with disabilities.
- Provide eligible students with FAPE (Free And Appropriate Public Education).
- through the provision of a Section 504 plan to meet the individual educational needs of eligible students as adequately as the needs of nondisabled students are met.
- Provide education to students with disabilities in the least restrictive environment.
- Provide established standards and procedures in the identification and evaluation process.
- Provide transportation under specific individual circumstances and conditions.
- Provide equal access to parents who have a disability.
- Provide students with disabilities equal access to non/academic and/or extracurricular services.
- Establish and implement a system of procedural safeguards regarding the identification, evaluation, placement, or provision of FAPE to a student.
- Ensure behavior in question is not a manifestation of a student's disability during disciplinary proceedings.

### **F. Parent Language**

If the Section 504 Committee determines that the parents' dominant language is Spanish, the school district must ensure effective notice is provided in Spanish and services necessary to provide the parent the opportunity to participate appropriately in the Section 504 process. If the parent's dominant language is not English or Spanish, the school district will make a good faith effort to ensure effective notice and services necessary to provide the parent and opportunity for effective participation through other means.

# IV: OPERATIONAL GUIDELINES FOR SECTION 504

**1. Child Find.** As part of the on-going identification and referral process, the District will make reasonable efforts to identify and locate every qualified disabled Student residing within the District who is not receiving a public education. The District shall inform the Parents or Guardians of these potentially eligible Students (who may be attending private or homeschools) of the District's duties under §504. As part of the Child Find effort the District shall annually publish the Child Find Notice in local newspapers, student handbooks, and/or place the Notice in locations likely to be seen by Parents of eligible Students (such as supermarkets, pediatrician's offices, etc.). Additionally, every teacher within the District should have information regarding the District's overall early intervention process, understand how to initiate a §504 Referral and know how to identify Students who should be referred.

**2. Referral.** The District shall refer for an evaluation of any Student who, "because of handicap, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in regular or special education and any subsequent significant change in placement" 34 CFR §104.35(a). Students with physical or mental impairments whose needs are addressed through early intervention, RtI, or health plans will not be excluded from consideration for possible Section 504 referral, even when current interventions, services or health plans successfully address their impairment-related needs. The Parent may also initiate a Section 504 referral.

When a §504 referral has been initiated, the Section 504 Referral Form [hereinafter, "Referral Form"] should be quickly forwarded to the Campus or District §504 Coordinator [hereinafter "Coordinator"]. The Referral Form is designed to be filled in by the person initiating the referral, but may be supplemented as necessary by the Coordinator, utilizing information from the Student's cumulative folder or other sources. From that basic information, the Coordinator will determine whether a §504 Evaluation is necessary. If District staff believe that no §504 Evaluation is required, the Coordinator shall forward the Notice of Parent Rights form (Form 6) to the Parents, with a letter explaining why the Referral did not lead to a §504 Evaluation at this time. New Form 19 (Notice of Denial of Parent Request for Section 504 Evaluation) has been added to serve as the letter to provide the reasons for the refusal of the evaluation.

**3. Consent for Evaluation.** If a §504 Evaluation is necessary, the Coordinator should send to the Parent Notice of Parent Rights under §504 [hereinafter, "Parent Rights"], together with a Notice and Consent for Initial Evaluation under §504 Form [hereinafter, "Notice and Consent"], and a Parent Input for Section 504 Evaluation Form [hereinafter, "Parent Input"]. If no parental consent is received for §504 Evaluation, the Coordinator should remind the Parent every semester (or at other intervals as determined by the District) of the District's continued desire to conduct an Evaluation under §504.

**4. Evaluation.** When the consent is received from the parent, the Coordinator should:

- a. Gather evaluation data and coordinate/direct the completion of the various Input Documents. The evaluation data consists of information from a variety of sources, including efforts and results of early intervention 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, and mitigating measures; the Teacher Input form to be completed by one or more teachers, and the Parent Input form with information about the Student's activities/behaviors at home, health and medical records if available, and any other data the parent would like the Committee to consider. Should current special education data exist (an evaluation upon which a Student was either dismissed from special education or upon which a finding of no IDEA eligibility was made), that data should also be considered.

- b. Ensure that should formalized testing be considered by the §504 Committee as evaluation data, the tests:
  - 1) 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 tests' creators;
  - 2) Include those tailored to assess specific areas of educational need and are not merely designed to provide a single intelligence quotient;
  - 3) 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).
- c. Determine who will be in the group of knowledgeable people [hereinafter, the "§504 Committee" or "Committee"] (including persons with knowledge of the Child, the meaning of the evaluation data and the placement options).
- d. Schedule a §504 Evaluation by the Committee.
- e. Give the Parents notice of the time and place of the evaluation meeting, inviting the Parent to attend if that is the District's policy. Written notice, while not required, is preferred, and can be accomplished utilizing the Notice of Section 504 Meeting form.

At the §504 Evaluation, the Committee should:

- a. Draw upon information from a variety of sources, including, but not limited to, efforts and results of early intervention activities, aptitude and achievement testing, teacher recommendations, physical condition, social or cultural background, adaptive behavior and the Parent and Teacher/Administrator input forms;
- b. Ensure that all information reviewed in the evaluation is documented and carefully considered, and that Section 504 decisions are made consistently with the Americans with Disabilities Act Amendments Act of 2008, including appropriate consideration of mitigating measure (as provided in paragraph 16 of these Operational Guidelines), recognition of changes made to major life activities, the appropriate consideration of impairments that are episodic or in remission, and Congressional declarations on the definition of substantial limitation.
- c. Complete the Section 504 Evaluation form. If the Student is determined to be eligible [hereinafter, "eligible student"] and is determined to need accommodations, aids or services from the school, the Committee moves on to the Section 504 Student Services Plan [hereinafter, "Services Plan"] form to develop appropriate services and accommodations. If no eligibility is found, the Parents are so informed in writing.
- d. Should the Parent refuse consent to the initial provision of Section 504 services by completing, signing, and returning Form 12 to the campus or district Section 504 Coordinator, the Services Plan should be appropriately annotated with the Parent's refusal to consent. Section 504 services detailed on the Services Plan will not be provided to the Student, but the completed Plan will serve as documentation of the District's offer of FAPE to the Student.

At the conclusion of the Evaluation/Placement meeting, the Coordinator provides notice to the parent (Notice of Section 504 Evaluation Results form) of the 504 Committee's findings, and copies of the completed Evaluation form, the Services Plan (if eligible), and the Refusal of Consent Form (if appropriate).

**5. Records.** Section 504 records, including any evaluation data, shall be kept in a separate §504 folder under the control of the Coordinator, as part of the Student's cumulative folder.

**6. Free Appropriate Public Education (FAPE).** No eligible Student may be excluded by the District from receiving a public elementary or secondary education. When considering the educational placement for eligible students, the Committee will ensure that the services provided are:

- a. **Appropriate.** The §504 services are designed to meet the individual needs of the eligible Student as adequately as the needs of nondisabled students, and are based upon adherence to the regulatory procedures relating to educational setting, evaluation and placement, and procedural safeguards. The Committee may place an eligible Student in a program that the District does not operate in order to satisfy this requirement, but in so doing, the District remains responsible for ensuring that the requirements of §504 are met.
- b. **Free.** An eligible Student's educational program provided under §504 is provided without cost to the Parent of the eligible Student, regardless of where those services are provided or by whom. Should the Committee determine that placement in a program not operated by the District is required for the eligible Student to receive FAPE, the District shall ensure that adequate transportation is provided to and from the program at no greater cost than would be incurred by the eligible Student or his or her parents or guardians if the student were placed in the program operated by the District. The only costs of educational services that may be assessed the eligible Student are those borne by nondisabled students and their Parents (such as tickets to athletic events, purchases of yearbooks, gym clothes, etc.). When the District has made available a FAPE as required by §504, and the eligible Student or his or her Parents or Guardians choose to place the Student in a private school, the District is not required to pay for the eligible Student's education in the private school.

**7. Parental Rights to Refuse Consent & Revoke Consent for Section 504 Services.** The District recognizes the Parent's right to refuse consent for initial Section 504 Services as well as to revoke consent for continued Section 504 Services at any time. The Parent may exercise the right to refuse consent or revoke consent by completing, signing, and returning Form 12 to the campus or district §504 Coordinator. In the absence of a Form 12 written refusal or revocation, the District will assume that the Parent consents to Section 504 Services. *See, for example, Tyler (TX) ISD, 56 IDELR 24 (OCR 2010)*(no parent signature required by the Section 504 regulations in order to implement a 504 Services Plan). Following either a refusal to consent or revocation of consent, the Parent may consent to §504 Services at any time (as long as the Student remains eligible for §504 Services) by contacting the §504 Coordinator to schedule a Section 504 meeting.

**8. Least Restrictive Environment (LRE).** The Committee shall create a placement for the eligible Student that ensures the provision of educational services with persons who are not disabled to the maximum extent possible appropriate to the needs of the eligible Student. The regular classroom is the appropriate placement, unless it is demonstrated that the eligible Student's education in the regular classroom with the use of supplementary aids and services cannot be achieved satisfactorily. Should the Committee place an eligible student in a setting other than the regular classroom, it shall take into account the proximity of the alternative setting to the eligible Student's home.

**9. NonAcademic Services & Extracurricular Activities.** The District shall ensure that the provision of nonacademic and extracurricular services and activities (such as meals, recess, counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the recipients, referrals to agencies which provide assistance to handicapped persons, and employment of students, including both employment by the recipient and assistance in making available outside employment) are provided so that:

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

**Counseling.** Should the District provide personal, academic, or career counseling, guidance, or placement services to its students, those services shall be provided without discrimination on the basis of disability. The

District shall ensure that disabled students are not counseled toward more restrictive career objectives than are nondisabled students with similar interests and abilities.

**Physical education and athletics.** In providing physical education courses and athletics and similar programs and activities to any of its students, the District will not discriminate on the basis of disability. Disabled students shall have equal opportunity to participate in the District's physical education courses, as well as interscholastic, club, or intramural athletics operated or sponsored by the District. The District will offer disabled students physical education and athletic activities that are separate or different from those offered to nondisabled students only if separation or differentiation is consistent with the requirements of LRE and only if no qualified disabled student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

**Accommodations to Extracurricular Athletics.** In its December 2013 guidance letter on extracurricular athletics, OCR announced that decisions with respect to modifications, aids and services required for Section 504 students to participate in extracurricular athletics need not be determined in a Section 504 meeting or by a Section 504 Committee. Form 18 (Accommodations in Extracurricular Athletics) serves to describe the OCR-approved process, and to document the accommodations to be provided.

**Comparable Facilities.** If the District operates a facility that is identifiable as being for disabled students, the District will ensure that the facility and the services and activities provided there are comparable to the other facilities, services and activities of the District.

**10. Implementation of the Section 504 Services Plan.** The District or Campus §504 Coordinator should ensure that the Student's Services Plan is delivered to each teacher, administrator, and any other employee or third-party contractor with responsibility to implement the plan. Monitoring of Services Plan implementation should be accomplished through parent input, the teacher appraisal process, review of teacher documentation, walkthroughs, and informal checks of the student's academic, emotional, behavioral, and social progress by the Coordinator and appropriate administrators.

**11. Periodic Three-Year Re-Evaluation.** At least every three years, the 504 Committee should meet to conduct a periodic re-evaluation of students on Section 504 Services Plans as well as those students who are eligible under Section 504 but not in need of a Section 504 Services Plan at this time. If the Committee completes the screening questions on Form 14 (Annual Review), and is satisfied that there are no significant changes in the student's impairments or the student's need for accommodations and services, it may complete the periodic re-evaluation using Form 14, as these screening answers have confirmed continued Section 504 eligibility and need for services. Should the Committee, following its completion of the Form 14 screening questions determine that there are significant changes to the student's impairments or need for services, it should conduct the periodic re-evaluation of these changes using Form 10 instead of Form 14.

Prior to a re-evaluation, the District will provide the parents with notice of the time and place of the re-evaluation meeting, inviting the parent to attend if that is the District's policy. Written notice, while not required, is preferred, and can be accomplished utilizing the Notice of Section 504 Meeting form. If the Student remains eligible and in need of a Services Plan, the Committee should focus on the Student's changing needs due to the effects of different classroom subject matter, school demands and other factors. Should the Committee determine that the Student is no longer eligible, the Committee should dismiss the Student from 504. The Parent shall be given notice of the results of the re-evaluation.

**"As Needed" Re-evaluation.** Re-evaluation should also occur prior to any significant change of placement and whenever necessary to ensure the continued provision of FAPE. For example, when the school suspects that a technically eligible student may now be in need of services from the school due to changes in their impairment (or, perhaps, the decision of the parents to no longer medicate the student), the school should proceed to re-evaluate due to the change in circumstances. The school must not wait for the three-year periodic reevaluation in such situations.

**Annual Review for some eligible students.** In addition to the required periodic three-year re-evaluation, it is the District’s practice to conduct annual reviews for certain Section 504-eligible students. Annual review/re-evaluation is not required under the Section 504 regulations, but is a best practice for district Section 504 programs, particularly with certain types of students and situations. Form 14 is appropriate for annual reviews/re-evaluations if the screening questions are answered in the affirmative. The following protocol shall be utilized to determine which students will be provided annual review.

**Technically Eligible Section 504 Students do not receive annual review.** Students who are technically eligible under Section 504 (they have a physical or mental impairment that substantially limits one or more major life activities under prong one but do not require a Section 504 Plan) will not be subject to annual review. Nevertheless, should the technically eligible student at any time develop a need for services, the school will timely hold a 504 meeting to evaluate need and develop a 504 plan (see “As Needed” re-evaluations).

**Section 504 eligible students with 504 Plans and additional concerns.** For certain Section 504-eligible students with 504 Plans, no snapshot is necessary, and the student will receive an annual review that year if any of the following factors apply: the student has a complex or intricate Section 504 Plan (as determined by the Coordinator); the student has life-threatening impairments or impairments that, if improperly addressed, could result in serious bodily injury (as determined by the 504 Committee); or the student is moving to a new campus the following year (for example, the student is moving from the elementary to the middle school).

**Section 504 eligible students with 504 Plans.** For Section 504-eligible students with 504 Plans, the following protocol will be used to determine whether an annual review is necessary. Note that this protocol is intended to be used each year to make the annual review determination for each eligible student with a 504 Plan.

**The snapshot.** Each year, ideally two to four weeks prior to the time an annual review would be conducted, the 504 coordinator or designee (as appropriate) will conduct a snapshot review of each eligible student’s status. This review is not intended to be a lengthy or formal exercise. Rather, it is anticipated that that the snapshot can be completed by looking at key data points and a holding a conversation with the parent. The snapshot will focus on the following areas of performance: attendance; grades and classroom performance; State assessment and benchmarks testing; disciplinary record (including number of removal days); informal inquiries with the counselor and teachers (and school nurse, where appropriate) regarding the student’s performance, health, and social/emotional well-being; and communication with the parent via phone, email, or personal contact to inquire as to parent’s input on the student’s performance and well-being. Where the snapshot reveals concerns, the student will receive an annual review that year. Where the snapshot reveals that the student is functioning within the average range for students of the same age or grade, with no indication that the Section 504 Plan requires revision, the 504 coordinator or designee will provide the parent a letter indicating that no annual review will be held that year, and informing the parent of 504 parent rights. Should the parent request an annual review, the Section 504 Committee will meet to re-evaluate.

***Please note: Nothing in this protocol shall be construed to limit the right of a parent of a Section 504 student to request a Section 504 meeting or re-evaluation at any time, nor to change the school’s duty to provide a periodic three-year re-evaluation.***

**12. Discipline.** The following disciplinary provisions apply to students who are in receipt of a Section 504 Services Plan, together with students who are eligible under Section 504 as students with a physical or mental impairment that substantially limits one or more major life activities, but who are not in need of a Section 504 Services Plan at this time (either because the impairment is in remission or because the students have no need for a Service Plan due to the positive effects of mitigating measures currently in place). Should the District initiate a disciplinary removal of the eligible Student from his educational placement for a term of more than ten consecutive school days, the §504 Committee must first conduct an evaluation, *considering various sources of data recent enough to afford an understanding of the behavior and disability*, which includes a manifestation determination using Form 15, and provide the Parent with another copy of the Notice of Rights (Form 6). Prior

to the evaluation, the Coordinator shall give the Parents notice of the time and place of the evaluation meeting, inviting the Parent to attend if that is the District's policy.

Written notice, while not required, is preferred, and can be accomplished utilizing the Notice of Section 504 Meeting form. The Committee's evaluation should determine: (1) was the conduct in question caused by, or directly and substantially related to the student's disabilities?; and (2) was the conduct in question the direct result of the school's failure to implement the student's §504 plan? If a link is determined, a disciplinary removal of longer than ten consecutive school days cannot occur.

Removals for less than ten days can be effected without §504 Committee approval, subject to the "pattern of exclusion" rule. A series of short removals (including teacher removals under §37.002 of the Texas Education Code) over the course of the school year that exceeds ten total days may constitute a pattern of exclusion that triggers applicable procedural safeguards (a manifestation determination evaluation and a right to due process), and requires the school to provide the Parent with another copy of the Notice of Rights (Form 6). The Committee will meet to conduct an evaluation prior to the tenth cumulative day of removals during a school year (and prior to each subsequent short term removal thereafter), to determine: (1) was the conduct in question caused by, or directly and substantially related to the Student's disabilities? and (2) was the conduct in question the direct result of the school's failure to implement the Student's 504 plan? Prior to the evaluation, the Coordinator shall give the Parents notice of the time and place of the evaluation meeting, inviting the Parent to attend if that is the district's policy. Written notice, while not required, is preferred, and can be accomplished utilizing the Notice of Section 504 Meeting form. If at the evaluation meeting a link is determined, the disciplinary removal cannot occur.

An eligible Student who currently is engaging in the illegal use of drugs or in the use of alcohol may be removed from his educational placement for a drug or alcohol offense to the same extent that such disciplinary action is taken against nondisabled students. Further, no §504 Evaluation is required prior to the removal and no §504 due process hearing is available.

**13. Interaction with Special Education.** Each student evaluated for special education who does not qualify, as well as each student who is dismissed from special education, shall be considered for possible referral for a Section 504 evaluation on a case-by-case basis. If at any time the §504 Committee determines that the disabled Student needs special education or related aids and services in order to receive educational benefit, a special education referral should be initiated. With respect to students who are no longer served by special education due to parents' revocation of consent for continued special education services, the school will offer a Section 504 evaluation. The school should make reasonable efforts to explain to the parents the §504 process and potential protections in these situations. Should the parents refuse consent for a §504 evaluation, the school will document such refusal.

**14. Interaction with Texas Dyslexia Law.** In accordance with State Board of Education Rule and the Revised Procedures Concerning Dyslexia (2014 Burgundy Book), prior to testing a student individually for Dyslexia and/or prior to providing a student with dyslexia services, the District must refer and evaluate under Section 504, utilizing Form 16. The provision of dyslexia instructional services to a §504-eligible student may only be accomplished by a properly constituted §504 Committee. If at any time the §504 Committee determines that the disabled student needs special education and related services in order to receive educational benefit, a special education referral should be initiated. If the Student is currently under-going special education assessment (but is not yet IDEA-eligible) or if the Student is already IDEA-eligible, a dyslexia evaluation for the Student must occur under the direction of the Student's ARD Committee.

**15. Interaction with regular education Early Intervention efforts.** In an effort to meet the needs of struggling students as early as possible, and to reduce the misidentification of students in both Section 504 and special education, the District uses an early intervention process, referred to as "K-2 Early Reading & Dyslexia Screener". This simple, campus-based process is designed to assist students struggling for any number of reasons (family issues, lack of motivation, poverty, etc) and in any number of ways (academically, socially, behaviorally) by providing, appropriate to the student's needs, differentiated instruction, as well as additional

regular education intervention programs, services and opportunities that may vary from campus to campus. Data from these efforts is shared with the parent, and will become part of any Section 504 or special education evaluation. These efforts are available to all students, including students with disabilities. Should regular education, together with these early intervention efforts be insufficient to meet the needs of the struggling student, or there are grounds to suspect that the student has a physical or mental impairment, the District should consider seeking parental consent for an evaluation under Section 504 or special education, as appropriate to the student. Further, students with physical or mental impairments whose needs are addressed through early intervention, RtI, or health plans will not be excluded from consideration for possible Section 504 referral, even when current interventions, services or health plans successfully address their impairment-related needs.

For students who are Section 504-eligible and who continue to receive early intervention/RtI services under local district procedures, the role of the Section 504 Committee with respect to those services is as follows. The 504 Committee will assist in explaining to the parents the role of early intervention/RtI services and the informal decision-making required to make changes to the interventions within each RtI tier. The 504 Committee, by means of an appropriate 504 evaluation, shall make the determination with respect to the tier of intervention in which a 504-eligible student is placed, and shall describe to the parent the range of interventions that might be provided in that tier at the discretion of instructional staff. The selection of interventions within the tier shall be made pursuant to local policy and procedure. The 504 Committee will observe student progress and review early intervention/RtI data as appropriate, and shall determine when a change in tier is required. The 504 Committee remains responsible for all determinations necessary for the provision of a FAPE under Section 504.

**16. Mitigating Measures and Development of Section 504 Plans.** Pursuant to the ADA, the determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as—medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; or learned behavioral or adaptive neurological modifications. The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity. Section 504 Services plans, however, shall not be developed unless needed, at the time, in order for the student to have his needs met as adequately as those of nondisabled students. Should need develop, the Section 504 Committee shall develop an appropriate Services Plan. Further, students with physical or mental impairments whose needs are addressed through early intervention, RtI, or health plans will not be excluded from consideration for possible Section 504 referral, even when current interventions, services or health plans successfully address their impairment-related needs.

**17. Procedural Protections.** The following protections apply regardless of whether the eligible Student currently receives a Section 504 Services Plan. The District will ensure that a system of procedural safeguards is in place with respect to actions regarding the identification, evaluation, and educational placement of disabled students. The system shall include notice, an opportunity for the Parent or Guardian of the disabled Student to examine relevant records, an impartial hearing with opportunity for participation by the Student's Parent or Guardian and representation by counsel, and a review procedure. The impartial hearing is governed by the District's Procedures for §504 Due Process Hearings. Should the Parent disagree with the identification, evaluation, or placement decision of a §504 Committee or the decision of a §504 hearing officer, the Parent may seek relief in state or federal court as allowed by law and /or access the review procedure.

Upon request, the District's §504 Coordinator shall provide a review procedure to ensure that the Section 504 due process hearing was properly conducted pursuant to the requirements of the §504 procedural safeguards and the District's §504 due process hearing procedures. The Parent has 30 calendar days from the date that the due process hearing officer issues a decision to request a review. The request should be in writing, and should include a brief description of the basis of the request. The request for review is made directly to the District's §504 Coordinator. Within 15 days of the receipt of a request for review, the District's §504 Coordinator shall issue a decision in writing. The decision should be based on a review of the written request, the hearing officer's

decision, the District's Procedures for §504 Due Process Hearings, any additional information provided by the Parent, and any additional information deemed relevant by the §504 Coordinator.

Any person eligible to file a grievance with respect to the District's §504 obligations may file a grievance through the District's local grievance process. Information on the grievance process can be obtained from the District's §504 Coordinator.

**18. Parent Language.** If the District determines that the dominant language of the parent is Spanish, the District will ensure effective notice in Spanish and services necessary to provide the Parent an opportunity for effective participation in the §504 process. If the District determines that the dominant language of the Parent is not English or Spanish, the District will make a good faith effort to accomplish notice and provide an opportunity for effective parent participation in the §504 process through other means.

**19. Duty to Not Discriminate.** The District shall ensure that no qualified disabled person shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any District program or activity. These protections apply regardless of whether the eligible Student currently receives a Section 504 Services Plan.

**20. Retaliation prohibited.** No District officer, employee, or contractor shall retaliate against any person because of his or her exercise of rights under Section 504.

**21. Disability-based harassment.** The District will promptly investigate all claims of disability-based harassment and bullying of students with disabilities, and take prompt and effective action to end the harassment and prevent it from recurring, and, as appropriate, remedy the effects of the harassment on the student. Where evidence of disability-based harassment or bullying is found pursuant to an investigation, and the District believes that the harassment or bullying has adversely impacted upon the ability of a disabled Student to have equal access to the District's programs or activities, or the disabled Student's entitlement to a free, appropriate public education, a §504 Committee meeting will be called to consider the impact of the harassment and determine whether changes to the Student's Services Plan are required.

The District's Section 504 Coordinator will periodically review disability harassment and bullying claims to determine whether additional changes, action or training is needed at the campus or District level. The Coordinator will provide training to District employees as appropriate to foster understanding of disability harassment policies, and compliance with harassment procedures. The Coordinator will also make reasonable efforts to publicize the District's policies and procedures with respect to disability harassment and bullying so that students, faculty and staff, as well as parents recognize and know how to report such incidents.

**22. Timelines.** Unless otherwise specified in these operational guidelines or Section 504 Hearing Procedures, the Section 504 duties and responsibilities of the District will be completed within a reasonable time. Per OCR guidance, the reasonable time requirement is satisfied by the District's compliance with analogous state IDEA timelines. Where the student's physical or mental impairment and needs are readily ascertainable, the District recognizes that full use of the time allowed under IDEA timelines is unreasonable, and the Section 504 evaluation should be completed more quickly.

**23. Notice of Parent Rights Under Section 504.** A copy of the Notice of Rights (Form 6) should be provided to the Parent, and the provision of the Notice of Rights documented: (1) at the time consent for initial evaluation for Section 504 is sought; (2) if the school declines a parental request for §504 evaluation; (3) at any time after the Notice of Rights Form is revised; (4) when the student reaches the age of majority (notice to the adult student); (5) when the Committee meets to conduct a manifestation determination; (6) when a Parent request for a Section 504 Meeting is refused by the school; and (7) at any time upon Parent request. When the notice is provided outside of an evaluation meeting, the campus should document the delivery of rights to the Parent or adult student (e.g., a note in the student's file or a Parent contact log).

**24. Temporary Impairments.** “A temporary impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period of time. The issue of whether a temporary impairment is substantial enough to be a disability must be resolved on a case-by-case basis, taking into consideration both the duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity of the affected individual. Impairments causing limitations that last, or are expected to last, for six or fewer months may still be substantially limiting, and thus, an individual analysis of each case is required.” *Esparto (CA) Unified School District*, 115 LRP 37669 (OCR 2015).

**25. Transfer of Rights to the Adult Student.** Upon reaching the state-determined age of majority (for example, eighteen years of age in Texas) the Section 504 rights previously held by the student’s parents transfer fully to the now-adult student, and Form 6 must be provided to the adult student.

**26. Use of the terms “Parent” and “Surrogate” in the forms.** The term “parent” is used in the forms to identify the parents of the student, as well as surrogates (individuals acting in the place of parents but not to be confused with the highly technical “surrogate” of the IDEA world) and adult students (who upon reaching age of majority, acquire rights normally afforded to parents). In signature lines and greetings, the types or categories of parents are sometimes listed to remind the school of the various individuals who might need to be considered. Elsewhere in the forms, the word “parent” is used broadly, without specific reference to surrogates or adult students for clarity of reading, but with the understanding that surrogates and adult students are included in the term.

# V: SECTION 504 COMPLIANCE DOCUMENTS

**NOTE: All of these forms can be found on the District w drive in the LISD 504 or LISD Dyslexia Folders. Many of them can also be accessed for viewing or use on Eduphoria.**

**Form 1. Child Find Notice:** Provided in both English and Spanish, this document provides notice of the District's §504 duties to parents of potentially eligible §504 students.

**Form 2. §504 Referral:** This is the document that begins the process of §504 for a child. It gathers basic information on the child's academic, behavioral and social progress at school, and serves as the basis for the Coordinator's determination of whether a §504 Evaluation should be sought. This form is now also provided in Spanish.

**Form 3. Notice and Consent for Initial Evaluation under §504:** Following the receipt of the Referral and the decision that a §504 Evaluation should be pursued, this form is sent home to the parents to gain consent for initial evaluation. Included with it is a copy of Form 6, the Notice of Parent Rights. The form is now available in Spanish.

**Form 4. Notice of Parent Rights & Procedural Safeguards Under §504:** A short document (provided to the parent in English or Spanish) to inform parents of their rights under §504. This document is provided to the parent after referral, regardless of whether the decision is made to evaluate under §504.

**Form 5. Teacher Input for §504 Evaluation:** A document designed to seek information from a student's teacher or teachers about classroom performance and behavior.

**Form 6. Parent Input for §504 Evaluation:** A document designed to seek information from the parent about the child's functioning and activities at home. It also provides the parents an opportunity to be involved in the process. This form is now also provided in Spanish.

**Form 7. Notice of §504 Meeting:** Provided in both English and Spanish, this document is sent to the parent prior to each §504 meeting, describing what will occur and giving the time, and place of the meeting. Note that this form assumes that parents are participants in the §504 Committee. The form is now available in Spanish.

**Form 8. §504 Initial Evaluation and Periodic Re-Evaluation:** This form is used by the §504 Committee to determine initial eligibility in Section 504, and to fulfill the regulatory requirement for periodic Re-Evaluation (at least every three years). The form prompts the Committee to ask the right questions and to review the required data and includes the Notice of §504 Evaluation Results (English and Spanish).

**Form 9. Texas Dyslexia & Section 504 Initial Evaluation & Periodic Re-Evaluation:** When the §504 Committee is performing an evaluation that includes possible eligibility under the Texas Dyslexia law, this form should be used. This form guides the committee in meeting both the requirements of the Section 504 evaluation and the additional evaluation requirements established by Texas state law and the Revised Procedures Concerning Dyslexia (i.e., the 2014 Burgundy Book). This form is also used for three-year re-evaluations for students with Section 504 eligibility who receive dyslexia services under the Texas Dyslexia law

**Form 10. Notice of Section 504 Evaluation Results.** This notice is sent to the parents following evaluations to indicate what occurred. This notice of results form is designed to be used following any type of §504 Evaluation (initial, annual review, re-evaluation, etc.). Other documents are attached to this notice for delivery to the parents.

**Form 11. §504 Student Services Plan:** Should the §504 Committee determine that the student is eligible and in need of a Plan, it uses this form to create a placement. The completed plan is delivered to the parent and school

personnel and third-party contractors who have the duty to implement the plan. A behavior management form is part of the Plan form and is completed if necessary.

**Form 12. Parental Consent for §504 Services.** Consistent with OCR guidance in the *Frequently Asked Questions about Section 504 and the Education of Children with Disabilities*, this form documents the parent's consent for Section 504 Services, refusal to consent for initial Section 504 services, as well as a parent's decision to revoke consent for continued Section 504 services. Note that the Section 504 Services Plan is still completed for the child to document the school's offer of FAPE, but no services are implemented due to the refusal to consent or revocation of consent. This form is also provided in Spanish.

**Form 13. §504 Annual Review:** This form is designed to be used when a full evaluation is not required, but minor changes to the Services Plan, or no changes, are needed. The form screens for situations where a full re-evaluation, using Form 10, is required.

**Form 14. §504 Evaluation and Manifestation Determination:** When disciplinary removals trigger the need for evaluation, this document walks the Committee through the required questions. This form also now includes a Notice of Evaluation to inform the parents of the results of the manifestation determination.

**Form 15. General Education Homebound.** This form is designed to assist Texas §504 Committees in determining whether homebound services are available under regular education for §504-eligible students, and what types of services are appropriate. It should be used in conjunction with the §504 Evaluation form (Form 10).

**Form 16. Accommodations in Extracurricular Athletics.** This form is designed to address the dynamic created by OCR's 2013 guidance on extracurricular athletics. That guidance recognized that accommodations for Section 504 students in extracurricular athletics did not have to be determined in a Section 504 meeting. The form provides pertinent pieces of the OCR guidance and will serve to document in writing the accommodations agreed to outside of a Section 504 meeting.

**Form 17. Notice of Denial of Parent Request for Section 504 Evaluation.** This form serves to communicate to the parent that a parent request for 504 evaluation has been refused by the school. The form should include the reasons for the refusal and should be delivered with a copy of the Section 504 Notice of Rights.

**Form 18. Sample Letter to Parent on Section 504 Snapshot for Annual Review.** This form is a sample letter that can be used to notify the parent when the coordinator determines that an annual review is not required for the student pursuant to the new protocol. The first page is for students with plans. The second page is for students who are technically eligible.

### **ADDITIONAL FORMS CREATED FOR USE BY LEVELLAND ISD**

**Form 19. Dyslexia Testing Student Profile**

**Form 20. Dyslexia Testing Snapshot**

**Form 21. Did Not Qualify Notice**

**Form 22. K-2 Early Reading & Dyslexia Screener**

**Referral Log** - for campus Section 504 Coordinators to keep track of the referral process

**Student Progress Report** - for use by General Education teachers for the Section 504 & Dyslexia Coordinators to keep track of the students' progress and use of accommodations

**Receipt of Accommodations** - for the General Education teachers to sign when they have received (or viewed on Eduphoria) the IAPs for their students

# VI: STUDENT IDENTIFICATION PROCESS FOR NON-DYSLEXIA DISABILITIES

## **A. Referral**

A request for a Section 504 evaluation may be made by any person who suspects that the student may have a mental or physical impairment that substantially limits a major life activity. The Campus 504 Committee may consider the referral and determine whether to refer a student for a 504 evaluation. If the team determines that an evaluation is not needed, other appropriate interventions for the student should be considered. Parents who have referred their child for a Section 504 evaluation should be provided with a copy of all rights information.

Students who have been referred and evaluated for Special Education but do not qualify for Special Education, as well as students who are being dismissed from Special Education, should be referred back to RTI or considered for Section 504. However, they are not automatic Section 504 eligible students. Students who are referred for evaluation under the Individuals with Disabilities Education Act (IDEA) who are determined not to be eligible should be referred for consideration for Section 504 Program.

Any teacher, counselor or other school personnel, or a student's parent, may bring a concern to the school's Section 504 Coordinator. This includes concerns about students who do not attend public school.

The district also is obligated to find students who may qualify for services under Section 504. This is accomplished by informing school personnel of the characteristics of disabilities, their effects, and the procedures for making referrals.

Concerns from staff should be written on the Section 504 Referral Packet Form. The Campus Section 504 Coordinator, the School Counselor or other school personnel should provide assistance to parents who have difficulty putting their concerns in writing.

### **Questions to ask when considering a Section 504 Referral:**

- Is a disability of any kind known or suspected?
- Has a parent frequently expressed a concern about the student's performance?
- Is a suspension or expulsion being considered for any student?
- Have multiple in-house suspensions occurred?
- Is retention being considered?
- Has this student returned to school after a serious illness or injury?
- Has the student shown a pattern of not benefiting from teacher instruction?
- Has the student been referred to the school-based teacher assistant team, but is found not to need an evaluation for special education?
- Was this student dismissed from special education services?
- Does the student exhibit a chronic health condition?
- Has the student been identified as having any type of disability?
- Is the student identified as "at risk" or does he/she exhibit the potential for dropping out of school?
- When substance abuse is a disability: The individual must have stopped using the substance at some point in time and should either be in rehabilitation or have gone through the rehabilitation process.

## **B. Consent for Evaluation**

If the 504 Committee determines that a 504 evaluation is necessary, to initiate the process the Section 504 Referral Packet must be completed and turned over to the Campus Section 504 Coordinator.

The Campus 504 Coordinator shall send the following forms to the parent:

- Notice and Consent for Initial Evaluation under Section 504, and
- Notice of Parent and Student Rights under Section 504.

Section 504 requires the school district to provide notice to parents explaining any evaluation and placement decisions affecting their children and explaining the parents' right to review educational records and appeal any decision regarding evaluation, identification, and placement.

Upon receipt of a completed Prior Notice/Parent Consent to Evaluate form, the Section 504 Committee will complete an evaluation to determine the student's eligibility under Section 504. No initial individual evaluation will occur before obtaining written consent. If no consent is provided by the parent, the Section 504 coordinator should remind the parent periodically of the District's continued desire to conduct an evaluation for Section 504 services.

## **C. Evaluation**

Evaluation precedes eligibility and precedes the initial delivery of services. The Section 504 regulations require that the school evaluate the student "before taking any action with respect to the initial placement of the person in a regular or special education program and any subsequent significant change in placement" CFR 104.3 5(a). There are no initial services without an evaluation, nor are there changes in the services provided under Section 504 without a reevaluation.

Once the Section 504 Coordinator has received the consent for evaluation and prior to scheduling the Section 504 Committee Meeting, the school's Section 504 Coordinator must:

1. Collect information from a variety of sources in the evaluation process.
2. Ensure that necessary screenings and/or other assessments have been completed.
3. Consult with other related service personnel prior to selecting a meeting day/time.
4. Provide written notification to the parent/guardian using the **Section 504 Meeting Notice** (even if the meeting is scheduled by phone and parents agree to come).
5. Notify Section 504 Committee members of the day/time/location of the meeting.
6. School Behavioral Specialist must be included if there are academic/behavioral concerns for possible development of a Behavior Intervention Plan.
7. School nurse must be included if there are health related concerns
8. A regular education teacher may participate in the Section 504 Committee meeting.
9. A Social Worker/School Counselor must be included if there are social/cultural concerns.
10. An Educational Diagnostician may be included if the Section 504 Committee suspects other related disabilities.
11. A Dyslexia Teacher must be included if the Section 504 Committee suspects or is discussing Dyslexia.

Should formalized testing be considered for students who need or are believed to need Section 504 (with or without Dyslexia) or related services, ensure that:

- (1) Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer;
- (2) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and

(3) Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test 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). 34 CFR 104.35 (b)

#### **D. Data Required for Evaluation**

The following data should be considered in Section 504 evaluations and included in the Section 504 Referral / Evaluation packet:

- Teacher observation report (form must be completed by all teachers)
- Progress monitoring data
- Vision/hearing screening (when academic / behavior concerns are present)
- Evidence of research based programs implementation
- Behavior documentation
- Attendance history
- Discipline history
- Current grades
- Standardized test score history
- Physician's statement of health condition (only if medical concerns are present)
- Any additional relevant information
- Copy of any private evaluation reports the parents may have already obtained for their child (For example, psychological, psychiatric, neurological)

It is important to note that Section 504 regulations do **NOT** require medical documentation in order to determine eligibility. Additionally, a medical diagnosis alone does not determine eligibility. If the parent/guardian chooses to provide a medical diagnosis or information from a health care provider, it must be considered in the evaluation. The Section 504 Committee may need to administer additional assessments as part of the evaluation. Additionally, the Section 504 Committee can request, but not require, additional medical information from the parent.

#### **E. Section 504 Timelines**

The following internal District timelines apply to students in regular education programs who may qualify as Section 504:

- Upon receipt of parent or guardian's consent to evaluate until evaluation is complete or evaluation data gathered shall strive to be 45 school days or less.
- From the completion of the assessment to the committee of knowledgeable person meeting for determination of dyslexia and or Section 504 program placement shall strive to be 30 calendar days or less.
- Once it has been determined that a student meets the Section 504 criteria, the school district shall provide an appropriate Individual Accommodation Plan for the student and all information needs to be placed in a red folder in the student's permanent record within 5 days of the Meeting. Also, if the parent is not at the Initial /Evaluation Meeting, the Campus Section 504 Coordinator needs to contact the parent to discuss the IAP as soon as possible.
- If the Dyslexia Program is recommended, state and federal guidelines mandate for the student to be serviced immediately following the committee of knowledgeable persons meeting unless recommended otherwise and indicated in the summary of deliberations by the Section 504 Committee.

## **F. Temporary or Episodic Impairments**

A temporary impairment (generally an actual or expected duration of six months or less) does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period of time. The issue of whether a temporary impairment is substantial enough to be a disability must be decided by the Section 504 Committee. It must be resolved on a case by case basis, taking into consideration the duration of the impairment and the extent to which it actually limits a major life activity. An impairment that is episodic or in remission (i.e., cancer, asthma, multiple sclerosis, epilepsy) constitutes a disability under Section 504 if it substantially limits a major life activity for the student when active.

Campuses are encouraged to provide any necessary general education accommodations to students with transitory impairments who are not found eligible by the 504 committee.

## **G. Section 504 Eligibility**

The Section 504 Committee Team must include persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. The Section 504 Committee members must determine if they have enough information to make a knowledgeable decision as to whether or not the student has a mental or physical impairment that substantially limits a major life activity. If additional information is necessary in order to make this decision, the Section 504 Committee may have to reconvene.

**During the 504 Committee meeting determining eligibility, the committee shall determine** whether the student has a physical or mental disability that substantially limits one or more major life activities. In making this determination, the Committee shall:

- Consider all evaluation data, including teacher and parent input forms,
- Consider the student's disability and educational needs,
- Consider whether any additional testing is necessary,
- If appropriate, consider a referral for Special Education,
- If the student is found eligible for Section 504 services, the 504 Committee shall then develop the student's Individual Accommodation Plan (IAP),
- If the student is in need of any related service, the 504 Committee shall complete the appropriate form.

If the student is not found eligible for Section 504 services, the 504 Committee shall refer the student back to RTI for consideration of other general education options/interventions. The campus administrator chairing the 504 Committee must inform parents in writing of the Committee's decision and provide them with a copy of their procedural rights, including the right to grieve the Section 504 Committee decision by filing a due process hearing request with the school district and/or a complaint with the Office for Civil Rights.

## **H. Placement Procedures for the Least Restrictive Environment**

In interpreting evaluation data and making placement decisions, the Section 504 Committee must:

1. Draw upon information from a variety of sources;
2. Ensure all information is documented and considered;
3. Ensure the placement decision is made by a group of persons including those who are knowledgeable about the child, the meaning of the evaluation data, and placement options; and
4. Ensure the student is educated with his/her nondisabled peers to the maximum extent appropriate.

**Note: When students with disabilities will be educated in separate facilities, the district must ensure that those facilities are comparable to those in which nondisabled students are educated.**

Once the evaluation is completed and/or evaluation data is gathered, the Section 504 Committee will meet to review the evaluation results and to complete the Section 504 Eligibility Determination Report. (This may be done at the first meeting if no additional assessment is needed to determine eligibility and need for a 504 plan.) The 504 Coordinator sends a notice to the parent/guardian that establishes a time and location to share the evaluation data and determine eligibility/non-eligibility.

If the parent does not respond to a request to attend the meeting, the *Notice/Consent* may be sent home at least three times. If it is not returned, concerted efforts should be made to communicate with parent and obtain it. Documented evidence of good faith attempts should be on file. If the parent elects not to attend the meeting, efforts should be made to persuade the parent to attend. All attempts should be documented.

In determining Section 504 eligibility, the Section 504 Committee will answer these questions using data from a variety of sources:

**1. Does the student have a mental or physical impairment?**

This question must be answered completely. Simply listing the diagnosed impairment is insufficient. If so, include a brief description of the impairment. Include how the disability manifests itself in everyday life and in the school setting. In the Summary of Deliberations include the approximate date of the diagnosis, name of person making the diagnosis, and whether it is a temporary or lifelong impairment.

**2. Does the physical or mental impairment substantially limit one or more major life activities?**

An impairment needs to only substantially limit one major life activity. An impairment need not prevent, or significantly or severely restrict, performance of a major life activity to be “substantially limiting.” NOTE: An individual’s ability to perform a major life activity is compared to “most people in the general population,” often using a common-sense analysis without scientific or medical evidence. Major life activities are listed on the Initial Evaluation forms.

For students, a major life activity is learning. Therefore, when it is suspected learning is limited, determine if the suspected impairment is preventing the student from learning the required curriculum for his or her grade. If the student is learning and passing, the suspected impairment probably does not rise to the level of a significant limitation on learning. A substantial limitation of other major life activities should also be considered even if learning is not substantially limited by the impairment

The need for accommodations must be clearly documented. Additionally, this information assists the Committee on determining the type of accommodation needed for the student.

**IF THERE IS NOT A SUBSTANTIAL LIMITATION OF AT LEAST ONE MAJOR LIFE ACTIVITY THE STUDENT IS NOT ELIGIBLE FOR SECTION 504.**

**3. Does the student need Section 504 accommodations in order for his/her educational needs to be met as adequately as those of non-disabled peers?**

If all the three questions are answered **YES** by the Section 504 Committee members, the student is eligible for Section 504 protection including nondiscrimination protection and a Free Appropriate Public Education.

If questions no. 2 and/or no. 3 are answered NO, the student is not eligible for Section 504 accommodations or FAPE unless question no. 1 is answered YES. In that situation, the student may be eligible for Section 504 because he or she has a record of having an impairment or is regarded as having an impairment that substantially limits a major life activity. In this case, the student is not in need of a Section 504 Accommodation Plan but may still be eligible for Section 504 Non-Discrimination protection.

Eligibility for non-discrimination should also be considered if all three questions are answered “no”, but the committee believes that the student has a record of or is regarded as having what substantially limits a major life activity.

At the conclusion of the Evaluation Meeting, the Section 504 Coordinator provides copies of the Section 504 Committee Report as well as any other related document to the parent/guardian. If the parent/guardian does not consent to the services recommended by the Section 504 Committee, the reason for denial must be documented in the summary of deliberations and the parent/guardian must be given a refusal for services form.

### **Written Documentation that is required to Ensure Compliance with Section 504**

- Documentation that the notice for initial evaluation has been given to parents or guardians.
- Documentation that parents or guardians were given their Procedural Safeguards under Section 504.
- Documentation of the parent's or guardian's consent for the evaluation
- Documentation of the evaluation data.
- Documentation of the Invitation to the Section 504 Meeting
- Documentation of the decision made by the committee of knowledgeable persons concerning the disability (whether a disability exists) and, if a disability exists, whether the disability substantially limits a major life activity.
- Documentation of the placement options and placement decisions for the student.

### **I. Mitigating Measures**

It is important to note that with the exception of ordinary eyeglasses and contact lenses, the positive effects of mitigating measures may NO LONGER be considered in determining whether or not a student has a mental or physical impairment that substantially limits a major life activity.

Examples of mitigating measures include the following:

- Medication
- Medical equipment and devices
- Prosthetics
- Hearing aids
- Cochlear implants and other implantable hearing devices
- Low vision devices
- Mobility devices
- Oxygen therapy
- Use of assistive technology
- Reasonable accommodations and auxiliary aids or services
- Behavioral or neurological modifications
- Surgical interventions that do not permanently eliminate an impairment

### **J: Accommodations for Standardized Assessments**

Accommodations are intended to reduce or eliminate effects of a disability or limitation, but not to reduce learning expectations. In addition, a student may have a temporary disabling condition (e.g., a broken arm or lost eye glasses) which may require the use of an accommodation. **It is critical to note that although some accommodations may be appropriate for instructional use they may not be appropriate for use on a standardized assessment and in fact may not be approved or allowed by the State during State standardized assessments.**

In the public school setting, students with disabilities protected by Section 504 have the right to the aids and services required to meet their educational needs to the same extent as other students.

Accommodations may be used to enhance the way instruction or materials are presented to a student or to provide different ways for a student to respond to instruction or materials without changing the content being addressed. The decision to use a specific accommodation with a student should ensure the following:

- The accommodation addresses the individual student’s needs.
- The accommodation is used routinely, independently, and effectively used during classroom instruction and testing.

**GUIDELINES ON DEVELOPING AN ACCOMMODATION PLAN FOR STUDENTS WHO ARE ELIGIBLE FOR 504 SERVICES:**

1. Accommodations within a 504 Plan must reflect upon the specific areas in which a substantial limitation is documented;
2. They should be designed to meet the individual educational needs of the handicapping condition as adequately as the needs of a non-disabled student is met;
3. Make sure that the proposed accommodation is supported by evaluation data (i.e., report cards, standardized testing, evaluations, screenings, educational records, etc.) ;
4. Do not write in an accommodation that is left to the discretion of the teacher;
5. Accommodations should be clear and specific, leave no room for interpretation; Any terminology that is used should be clarified, i.e., what does extended time mean and how much extended time is required; what does preferential seating entail;
6. All teachers who will be teaching the student should have a copy of the accommodations and understand how they should be implemented;
7. All implementation of the accommodations should be documented;

**Questions to help determine appropriate accommodations:**

- a. Does the student require more time for homework and in-school assignments and testing? How much time?
- b. Are modified assignments necessary? In what classes? By how many or what percentage of questions should be modified? What is the curriculum for that class and how can the accommodation be implemented (particularly in secondary and AP classes)?
- c. Are there instructional, social and emotional behaviors that need to be addressed? If so, consider a counseling referral.
- d. Does the student have substantial difficulty organizing, planning, and completing assignments?
- e. Does the student exhibit frequent behaviors, such as drowsiness, impulsivity, inattentiveness, or aggressiveness?
- f. Is the student chronically absent or tardy for reasons related to the disability? If so, for what reasons?
- g. Is there a steady increase in disciplinary incidents or interventions for which there is no known cause other than the diagnosed disability? If so, is there a need to consider a possible referral to Special Education?
- h. Does the student require specialized health management? If so, what intervention (Health Plan) and at what frequency?
- i. Is the accommodation written in such a manner that provides clarity to the parent, student, and teacher?

**K: Extracurricular Activities**

When a Section 504 identified student requests services, accommodations, and/or modifications so that he or she can participate in the extracurricular activity, such a request may be evaluated and agreed upon by the Section 504 Committee. However, the Office for Civil Rights has stated it is not required that a Section 504 committee evaluates and agree upon accommodations for an extracurricular activity. Such a decision must be made on a case by case basis. For example, a Section 504, visually impaired student who wishes to participate in the debate team may request materials be provided to her in a larger font or different colored paper. Such an accommodation would not fundamentally alter the nature of the activity and the need to convene a Section 504 meeting would seem unnecessary. However, a Section 504 student with asthma who wishes to try out for the track team with provision of accommodations may require a Section 504 committee to convene to discuss the accommodations and whether they would fundamentally alter the nature of the activity. Participation of a coach or sponsor would be imperative at such a Section 504 meeting.

Regardless of whether a Section 504 committee is convened, a school must provide disabled students an equal opportunity to participate in extracurricular activities. As a general rule, a school can impose eligibility requirements to participate in extracurricular activities as long as they are neutral on their face with respect to disability, essential to the activity in question, and applied equally to both disabled and non-disabled students alike. A school may be required to modify an eligibility requirement if the requirement discriminates against the student in question based on disability and modification of the requirement would not fundamentally alter the nature of the activity in question.

If the services, accommodations, and/or modifications needed by the student in order to participate create a fundamental alteration in the nature of the program or activity, the student may not be qualified to participate.

The Campus Section 504 Coordinator should keep tabs on the number of students with disabilities who are unable to participate in the district's existing extracurricular athletic program even with reasonable modifications, aids or services. If the need for additional opportunities for extracurricular athletics for these students with disabilities becomes apparent, the Section 504 Coordinator may need to explore possible options for expanded opportunities.

The Campus Section 504 Coordinator must ensure all coaches and cheerleader sponsors provide a list of students participating in extracurricular activities. This list will enable the coaches and sponsors to provide appropriate accommodations to those students that require accommodations through an Individual Accommodation Plan (IAP) or a Health Plan as recommended by a Section 504 Committee.

# VII: HEALTH PLANS: DIABETIC AND OTHER MEDICAL CONDITIONS

Federal laws that protect children with diabetes include the Rehabilitation Act of 1973, Section 504, the Individuals with Disabilities Education Act of 1991, and the Americans with Disabilities Act of 1992 and their amendments. Under these laws, diabetes has been determined to be a disability, and it is illegal for schools to discriminate against children with diabetes. Any school that receives federal funding or any facility considered open to the public must reasonably accommodate the special needs of children with diabetes. The required accommodations should be provided within the child's usual school setting with as little disruptions to the school's and the child's routine as possible and allowing the child full participation in all school activities. Federal law requires an individualized assessment of any child with diabetes. (Source: American Diabetes Association) Physiological disorders affecting the endocrine system are listed among the physical impairments for the purpose of coverage of students under Section 504. Diabetes is a disease of the endocrine system. Section 504 obligates the school district to provide a student with disabilities with a Health Plan that must be performed during the school day to allow attendance. Failure to address the health related needs of the students with disabilities would be a violation of Section 504.

## PLEASE NOTE:

- The School nurse should be included in Section 504 Committee Meeting when there are health related concerns.
- Parents should be encouraged, but not required, to bring medical information for consideration by the Section 504 Committee
- A health plan will never automatically qualify as a sufficient replacement for a Section 504 Plan although the Section 504 Committee can adopt a health plan as the Section 504 Accommodation Plan. Nevertheless, a student who is suspected of having a physical or mental impairment that substantially limits a major life activity should be considered for Section 504 eligibility.

## HEALTH PLANS Q&A

### ➤ **Are students with diabetes eligible for services under section 504?**

Yes. Students with diabetes have disabilities as defined by Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act. The law defines disability as a substantial limitation on a major life activity. Students with diabetes can be substantially limited in the major life activities of eating, caring for oneself, thinking, communicating, and learning. All students with diabetes are substantially limited in the major bodily function of the endocrine system.

### ➤ **Does a student with diabetes still have a disability if he/she uses insulin?**

Yes. Insulin controls the level of glucose in the blood, but it does not cure the defect in the endocrine system that has caused diabetes. The use of insulin is a mitigating measure that may not be considered when determining whether a student has a disability.

### ➤ **How does the Americans with Disabilities Act Amendments Act impact students with diabetes?**

The Americans with Disabilities Act Amendments Act (ADAAA) was intended to address problems with the definition of disability that had mainly arisen in employment. But it also affects students with diabetes because it makes it even easier to prove that diabetes is a disability. The ADAAA amended the law in a number of ways, and the changes also apply to the Rehabilitation Act. Most notably for students with diabetes, ADAAA requires that when determining eligibility under section 504, a school may not consider the use of medication (such as insulin) when determining whether a student is substantially limited in a major life activity. The

ADAAA also expanded the list of major life activities to include major bodily functions – including the functioning of the endocrine system – as major life activities.

➤ **Do schools need to do anything differently for students with diabetes because of the ADAAA?**

Schools should not see much difference in eligibility determinations for students with diabetes as a result of the ADAAA. One reason for this is that the Office for Civil Rights at the U.S. Department of Education has long taken the position that “mitigating measures” such as insulin could not be considered when determining whether a student has a disability. As a result, students with diabetes historically have had few problems showing they were covered by section 504. The ADAAA makes it even easier to establish eligibility.

➤ **Is a student with diabetes still eligible for services under section 504 if he/she is academically performing and has no trouble learning?**

Yes. Unlike the Individuals with Disabilities in Education Act (IDEA), which considers whether a student’s disability makes it difficult for them to learn, section 504 is a broad civil rights law applying to all recipients of federal financial funding (including public schools) and eligibility does not require that a student have trouble learning. As discussed above, students with diabetes are eligible under section 504 because they are substantially limited in several major life activities and the major bodily function of the endocrine system.

*For more information on diabetes, visit [www.diabetes.org](http://www.diabetes.org) or call 1-800-DIABETES*

# VIII: DYSLEXIA PROGRAM

*Reading is the fundamental skill upon which all formal education depends. Research now shows that a child who doesn't learn the reading basics early is unlikely to learn them at all. Any child who doesn't learn to read early and well will not easily master other skills and knowledge and is unlikely to ever flourish in school or life.*

(Moats, 1999)

This procedure guide sets forth the procedures regarding dyslexia and related disorders in **Levelland Independent School District**. The guide provides general information about dyslexia, procedures to follow when school personnel suspect a student may have dyslexia or a related disorder, and a range of intervention options for students struggling to read, write and/or spell. This guide also outlines allowable accommodations on state student assessment, gives specific information about student monitoring during participation in the Dyslexia Program, and details criteria for exit from the program. Finally, information and resources for parents and teachers are provided.

These procedures correspond to state and federal guidelines, and were developed to provide an effective means for meeting the needs of students with dyslexia in **Levelland ISD**. This District Plan follows the recommendations of the Texas Education Agency as stated in "**The Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders**" (TEA, Revised 2007, Updated 2014). This **LISD** District Plan is intended to clarify the district's implementation of the state procedures; any conflict between this document and "The Dyslexia Handbook" is unintentional and should be resolved in favor of the TEA document. References research and studies used or quoted are in the TEA Dyslexia Handbook.

## **A. Dyslexia and Related Disorders Administrative Procedures**

Authority: Texas Education Code, Section §38.003

As stated in Texas Education Code §38.003 (a) and (b):

- (a) "Students enrolling in public schools in this state shall be tested for dyslexia and related disorders at appropriate times in accordance with a program approved by the State Board of Education." The appropriate time depends upon multiple factors including the student's reading performance, reading difficulties, poor response to additional reading instruction (if placed in additional reading instruction), teachers' input, and parents' input.
- (b) "In accordance with the program approved by the State Board of Education, the board of trustees of each school district shall provide for the treatment of any student determined to have dyslexia or a related disorder."

### **1. District Committee**

The District Dyslexia Committee will develop written guidelines for the implementation of state rules related to the evaluation and instruction of students with dyslexia and related disorders. The committee will meet periodically to update the guidelines and the district's implementation plan and disseminate such revisions to all campuses.

### **2. Campus Committees**

At each **Levelland Independent School District** campus, the Student Intervention Team, the campus 504 committee and/or the ARD committee, along with the campus dyslexia specialist, will work in accordance with the **Levelland Independent School District** Dyslexia Flowchart in this manual.

The committee members, other than those specified, will consist of different professional personnel depending

upon the students referred, the type of concern, the teachers having direct contact with the referred student, and the teachers of the various programs into which students may be referred and placed for services.

## **B. Definitions and Characteristics of Dyslexia**

The student who struggles with reading and spelling often puzzles teachers and parents. The student displays average ability to learn in the absence of print and receives the same classroom instruction that benefits most children; however, the student continues to struggle with some or all of the many facets of reading and spelling. This student may be a student with dyslexia.

The Texas Education Code (TEC) §38.003 defines dyslexia in the following way:

*(1) Dyslexia means a disorder of constitutional origin manifested by a difficulty in learning to read, write, or spell, despite conventional instruction, adequate intelligence, and sociocultural opportunity.*

*(2) Related disorders includes disorders similar to or related to dyslexia such as developmental auditory imperception, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability.*

<http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.38.htm#38.003>

The current definition from the International Dyslexia Association states the following:

*Dyslexia is a specific learning disability that is neurological in origin. It is characterized by difficulties with accurate and/or fluent word recognition and by poor spelling and decoding abilities. These difficulties typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction. Secondary consequences may include problems in reading comprehension and reduced reading experience that can impede growth of vocabulary and background knowledge.*

(Adopted by the International Dyslexia Association Board of Directors, Nov. 12, 2002)

The **primary difficulties** of a student identified as having dyslexia occur in phonemic awareness and manipulation, single-word decoding, reading fluency, and spelling. **Secondary consequences** of dyslexia may include difficulties in reading comprehension and/or written expression. These difficulties are **unexpected** for the student's age, educational level, or cognitive abilities. Additionally, there is often a family history of similar difficulties.

The following are the primary reading/spelling characteristics of dyslexia:

- Difficulty reading words in isolation
- Difficulty accurately decoding unfamiliar words
- Difficulty with oral reading (slow, inaccurate, or labored)
- Difficulty spelling

It is important to note that individuals may demonstrate differences in degree of impairment.

The reading/spelling characteristics are the result of difficulty with the following:

- Segmenting, blending, and manipulating sounds in words (phonemic awareness)
- Learning the names of letters and their associated sounds
- Holding information about sounds and words in memory (phonological memory)
- Rapidly recalling the names of familiar objects, colors, or letters of the alphabet (rapid naming)

Consequences of dyslexia may include the following:

- Variable difficulty with aspects of reading comprehension
- Variable difficulty with aspects of written language

- Limited vocabulary growth due to reduced reading experiences

### **Common Risk Factors Associated with Dyslexia**

If the following behaviors are unexpected for an individual’s age, educational level, or other thinking abilities, they may be risk factors associated with dyslexia. A student with dyslexia usually exhibits several of these behaviors that persist over time and interfere with his/her learning. A family history of dyslexia may be present; in fact, recent studies reveal that the whole spectrum of reading disabilities is strongly determined by genetic predispositions (inherited aptitudes) .

#### **Preschool**

- Delay in learning to talk
- Difficulty with rhyming
- Difficulty pronouncing words (e.g., “pusgetti” for “spaghetti,” “mawn lower” for “mower”)
- Poor auditory memory for nursery rhymes and chants
- Difficulty in adding new vocabulary words
- Inability to recall the right word
- Trouble learning and naming letters and numbers and remembering the letters in his/her name
- Aversion to print (e.g., doesn’t enjoy following along if book is read aloud)

#### **Kindergarten and First Grade**

- Difficulty breaking words into smaller parts (syllables) (e.g., “baseball” can be pulled apart into “base” “ball” or “napkin” can be pulled apart into “nap” “kin”)
- Difficulty identifying and manipulating sounds in syllables (e.g., “man” sounded out as/m/ /ă/ /n/)
- Difficulty remembering the names of letters and recalling their corresponding sounds
- Difficulty decoding single words (reading single words in isolation)
- Difficulty spelling words the way they sound (phonetically) or remembering letter sequences in very common words seen often in print ( e.g., “sed” for “said”)

#### **Second Grade and Third Grade**

Many of the previously described behaviors remain problematic along with the following:

- Difficulty recognizing common sight words (e.g., “to,” “said,” “been”)
- Difficulty decoding single words
- Difficulty recalling the correct sounds for letters and letter patterns in reading
- Difficulty connecting speech sounds with appropriate letter or letter combinations and omitting letters in words for spelling (e.g., “after” spelled “eftr”)
- Difficulty reading fluently (e.g., slow, inaccurate, and/or without expression)
- Difficulty decoding unfamiliar words in sentences using knowledge of phonics
- Reliance on picture clues, story theme, or guessing at words
- Difficulty with written expression

#### **Fourth Grade through Sixth Grade**

Many of the previously described behaviors remain problematic along with the following:

- Difficulty reading aloud (e.g., fear of reading aloud in front of classmates)
- Avoidance of reading (e.g., particularly for pleasure)
- Acquisition of less vocabulary due to reduced independent reading
- Use of less complicated words in writing that are easier to spell

- Reliance on listening rather than reading for comprehension

### **Middle School and High School**

Many of the previously described behaviors remain problematic along with the following:

- Difficulty with the volume of reading and written work
- Frustration with the amount of time required and energy expended for reading
- Difficulty with written assignments
- Tendency to avoid reading (particularly for pleasure)
- Difficulty learning a foreign language

### **Associated Academic Difficulties and Other Conditions**

The behaviors in the previous sections represent common difficulties that students with dyslexia may exhibit. In addition, students with dyslexia can have problems in written expression, reading comprehension, and mathematics, as well as other complicating conditions and/or behaviors.

Besides academic struggles, students with dyslexia may exhibit other complex conditions and/or behaviors. The most common co-occurring disorders with dyslexia are attention deficit hyperactivity disorder (ADHD) and specific developmental language disorders. Some students with dyslexia may also experience symptoms such as anxiety, anger, depression, lack of motivation, or low self-esteem. Educators should appropriately screen, monitor, and provide needed instructional/referral services to address associated symptoms and/or academic impairments.

According to the State of Texas Dyslexia Handbook, the list of "Related Disorders" is: Developmental Auditory Imperceptions, Dysphasia, Developmental Dysgraphia, and Developmental Spelling Disorder.

These additional conditions can have a significant impact on the effectiveness of instruction provided to students with dyslexia. Motivation, in particular, has been shown to be critical to the success or failure of instructional practices. In regard to motivation, Torgesen states, "Even technically sound instructional techniques are unlikely to succeed unless we can ensure that, most of the time, students are engaged and motivated to understand what they read." Therefore, all the factors that may affect learning must be considered when identifying and providing instruction for students with dyslexia. ADHD or symptoms of anxiety, anger, depression, or low self-esteem may lower a student's motivation and engagement in learning. Educators are responsible for providing an environment of affirmation that motivates and engages the student with dyslexia and complicating conditions.

### **Sources for Common Evidence of Dyslexia:**

Common Signs, (n.d.). Retrieved July 10, 2006, from The International Dyslexia Association Web site.

Shaywitz, S. (2003). *Overcoming dyslexia: A new and complete science-based program for reading problems at any level*. New York: Alfred A Knopf.

### **C. Procedures for Assessing Students for Dyslexia**

*Research shows that children who read well in the early grades are far more successful in later years; and those who fall behind often stay behind when it comes to academic achievement.* (Snow, Burns, and Griffin, 1998)

### **NOTE: Procedures Required By State and Federal Law Prior To Formal Assessment**

The Student Success Initiative (SSI) is a state-level effort to ensure that all Texas students receive the instruction and support needed to be academically successful in reading and mathematics. For students that demonstrate difficulties during early reading instruction (kindergarten, grades 1 and 2), the most common form of instructional help is available through the SSI as mandated by TEC §28.006. This education code requires districts and charter schools to administer early reading instruments to all students in kindergarten and

grades 1 and 2 to assess their reading development and comprehension.

If (**at any grade level**), on the basis of the reading instrument results, students are determined to be at risk for dyslexia or other reading difficulties, the district or charter school must notify the students' parents or guardians. According to TEC §28.006(g), the district or charter school must also implement an accelerated (intensive) reading program that appropriately addresses the students' reading difficulties and enables them to "catch up" with their typically performing peers.

Research continues to support the need for early identification and assessment. The rapid growth of the brain and its responsiveness to instruction in the primary years make the time from birth to age eight a critical period for literacy development. Characteristics associated with reading difficulties are connected to spoken language. Difficulties in young children can be assessed through screenings of phonemic awareness and other phonological skills.

Keeping the above-referenced information in mind, it is important that the school district not delay identification and intervention processes until second or third grade for students suspected of having dyslexia. This identification process should be an individualized evaluation rather than a screening. Further, the evaluation should be conducted through §504 procedures or through the Individuals with Disabilities Education Act (IDEA 2004).

As evident through the components of SSI and other state-level initiatives that support reading, Texas is committed to data-driven instruction. Early reading assessments are required by state law and are evidence-proven to be best practice. With the use of early reading assessment instruments, teachers can quickly assess a child's reading abilities and provide prescriptive instruction by isolating the skills that need strengthening.

The International Dyslexia Association (IDA) indicates that the unexpected difficulties that students with dyslexia demonstrate in the area of reading are seen despite the provision of effective (scientifically based) classroom instruction. Therefore, **the use of a Response to Intervention (RtI) or a tiered process is important in the identification of dyslexia.** RtI or the use of a tiered process should not delay the inclusion of a student in dyslexia intervention once dyslexia is identified.

#### **D. Response to Intervention**

The interventions provided to students who are reported to be at risk for dyslexia or other reading difficulties should align with the requirements of ESSA legislation that requires districts and charter schools implement reading programs using scientifically based reading research (SBRR). A process based on the student's response to scientific, research-based intervention is one of the criteria included in IDEA 2004 to be used in determining whether a student has a specific learning disability, including dyslexia. Districts are strongly recommended to implement an RtI process for students who are at risk for dyslexia or other reading difficulties, as they would with any student exhibiting learning difficulties. **Ongoing assessment and progress monitoring of reading achievement gains are required for students at risk for dyslexia or other reading difficulties.** Additional information pertaining to initiatives that support the reading achievement of Texas students is available on TEA's website: [www.tea.state.tx.us](http://www.tea.state.tx.us).

**Tier I:** Student exhibits poor performance on early reading assessment or fails to respond to scientifically based reading instruction at any level. Classroom teacher intensifies instruction and provides accommodations. If student does not make adequate reading progress proceed to Tier II.

**Tier II:** Teacher provides more intense intervention in addition to the core reading program and monitors progress, including intensive small group reading instruction, establishment of goals and progress monitoring. If student does not make adequate reading progress AND exhibits characteristics of dyslexia, proceed to Tier III.

**Tier III:** Student is recommended for dyslexia screening. Before a teacher can refer a student for screening or testing for dyslexia the Response to Intervention (RTI) process should be completed. (See Section II

Flowchart). However, **Progression through tiered intervention is not required in order to begin the identification of dyslexia. The use of a tiered intervention process should not delay or deny an evaluation for dyslexia, especially when parent or teacher observations reveal the common characteristics of dyslexia.** The needs of the students must be the foremost priority. Frequently, a child with dyslexia may be making what appears to be progress in the general education classroom based on report card grades or minor gains on progress measures. While various interventions may prove to be helpful in understanding curriculum, a child with dyslexia also requires a specialized type of intervention to address his/her specific reading disability. The use of a tiered process should not delay the inclusion of a student in dyslexia intervention once dyslexia is identified.

**Parents/guardians always have the right to request a referral for a dyslexia assessment at any time.**

Once a parent request for dyslexia assessment has been made, the school district is obligated to review the student's data history (both formal and informal data) to determine whether there is reason to believe the student has a disability. If a disability is suspected, the student needs to be screened following the guidelines outlined in this chapter. If the school does not suspect a disability and determines that evaluation would not be warranted, the parents/guardians must be notified of their due process rights.

When a referral for dyslexia assessment is made, districts should ensure that evaluation procedures are followed in a reasonable amount of time. Section 504 does not require specific timelines; therefore, it is beneficial for districts to consider the timelines Texas has established for the completion of initial special education evaluations through TEC §29.004(a).

**The RTI process with data gathering includes:**

Information to be considered includes the results from some or all of the following:

- Vision screening
- Hearing screening
- Teacher reports of classroom concerns
- Basal reading series assessment
- Accommodations provided by classroom teachers
- Academic progress reports (report cards)
- Gifted/Talented assessments
- Samples of school work
- Parent conferences
- Testing for limited English proficiency (all years available)
- Speech and language screening through a referral process (English and native language, if possible)
- The K–2 reading instrument as required in TEC §28.006 (English and native language, if possible)
- Universal screening for all grade levels available (English and native language, if possible)
- State student assessment program as described in TEC §39.022

Students enrolling in public schools in Texas shall be assessed for dyslexia and related disorders at appropriate times (TEC §38.003(a)). The appropriate time depends upon multiple factors including the student's reading performance; reading difficulties; poor response to supplemental, scientifically based reading instruction; teachers' input; and input from the parents/guardians. For students demonstrating difficulties in reading (kindergarten; grades 1, 2, and 7), the SSI as mandated by TEC §28.006 provides guidance to ensure that all students receive the instruction and support needed to be academically successful in reading and mathematics. Additionally, the appropriate time for assessing is early in a student's school career (19 TAC §74.28). While earlier is better, students should be recommended for assessment for dyslexia even if the reading difficulties appear later in a student's school career.

The **Levelland ISD** recommends assessment for dyslexia if the student demonstrates the following:

- Poor performance in one or more areas of reading and/or the related area of spelling that is unexpected for the student's age/grade

## □ Characteristics of dyslexia

The academic history of each student will provide the school with the cumulative data needed to ensure that underachievement in a student suspected of having dyslexia is not due to lack of appropriate instruction in reading. This information should include data that demonstrates the student was provided appropriate instruction and include data-based documentation of repeated assessments of achievement at reasonable intervals (progress monitoring), reflecting formal assessment of student progress during instruction. This cumulative data also includes information from parents/guardians. Sources and examples of cumulative data are provided in Figure 2.2 of the State of Texas Dyslexia Handbook 2014.

### **State and Federal Law Regarding Early Identification and Intervention Prior to Formal Assessment**

Both state and federal legislation emphasize early identification and intervention for students who may be at risk for reading disabilities, such as dyslexia. In addition, in 2017, HB 1886 requires screening for dyslexia for each Kindergarten and First Grade student at the end of the school year. In Levelland, we also screen all Second Grade students at the end of the year. Those professionals responsible for working with students with reading difficulties should be familiar with the legislation listed in the State of Texas Dyslexia Handbook 2014.

### **Process for Formal Assessment of Dyslexia**

When the RTI process has been completed a formal referral for Dyslexia Screening may be filled out, as well as the parent input and teacher input forms. Description of the LISD process:

- 1. Student Intervention Team Meeting to Begin Process:** This can be initiated by parent, teacher, Intervention Support Teacher, Administrator, or Dyslexia Specialist and can occur at any Student Intervention Team meeting. If the dyslexia teacher is not a regular member of the team, he/she **shall attend all Student Intervention Team meetings in which information about the dyslexia process or students with dyslexic tendencies are reviewed.**
- 2. Data Gathering Initiated by the Dyslexia Specialist:** The Dyslexia Specialist will give the *Teacher Input / Dyslexia Survey* form to the teacher(s) along with a request for documenting co-existing complications or assets. The Dyslexia Survey should be filled out by **each of the student's teachers** since different behaviors may be noticed in different settings. The referral, parent input and teacher input forms shall also be submitted to the campus dyslexia specialist.
- 3. Screening Review:** Upon receipt of the form(s), the Dyslexia Specialist will fill out the form, *Summary of Screening*, on the child. Based on the *Summary of Screening* and the accumulated data, the Student Intervention Team or 504 Committee (By regulation, the Section 504 Committee is a group of people with knowledge of The Child, The Meaning of the Evaluation Data & the dyslexia assessment, The Placement Options, The reading process, Dyslexia and related disorders, Dyslexia instruction, District or charter school, state & federal guidelines for assessment), along with the Dyslexia Specialist, will make one of two recommendations:
  - a.) If the student has a score of **76 or above**, continue immediately to Formal Dyslexia Assessment,
    - The Dyslexia Specialist, and/or the campus 504 coordinator will meet with the parent to issue *Permission for Assessment*, and *504 Rights and Receipt of 504 Rights* forms to the parent.
    - After the Dyslexia Specialist receives *Permission for Assessment* and *Receipt of 504 Rights*, formal assessment begins. A Dyslexia Specialist gives and scores the formal dyslexia battery.
    - After the testing is complete, the Dyslexia Specialist fills out *Dyslexia Testing Student Profile*.
    - The Dyslexia Specialist will notify the campus 504 coordinator when assessment is complete so that the 504 committee meeting can be convened.
    - District 504 procedures will be followed to determine eligibility for services under section

504. Or,

b.) If the student has a score of **0-75**, the Student Intervention Team or 504 Committee will continue to monitor the student and determine appropriate intervention and support based upon student need.

- If concern continues even with additional intervention and supports in place, the Student Intervention Team or 504 Committee may request that the dyslexia specialist proceed with formal assessment for dyslexia. The procedures outlined above will be followed.

The following domains will be assessed:

- **Primary Characteristics**
  - Word Reading
  - Decoding Unfamiliar Words
  - Spelling
  - Letter Knowledge & Letter-Sound Correspondence
- **Reading Fluency**
  - Accuracy
  - Rate
  - Fluency
  - Prosody
- **Secondary Characteristics**
  - Reading Comprehension
  - Mathematics
  - Written Composition
- **Cognitive Processes/Underlying Academic Weaknesses**
  - Phonological Awareness
  - Rapid Naming
  - Phonological Memory
  - Orthographic Processing
  - Verbal Working Memory
  - Processing Speed
- **Unexpected and Other Co-occurring**
  - Listening Comprehension
  - Oral Language/Expression
  - Vocabulary Knowledge
  - Handwriting
  - Associational Fluency

**The student's difficulties in the area of reading must be unexpectedly low for the student's age and educational level.**

NOTE:

- Regardless of the process in place, the parents or guardians always have the right to request a referral for screening at any time. If this is the case, the Student Intervention Team will meet to begin the process (See #1 above).
- If the student is being assessed as part of a special education evaluation or is already served in special education and a dyslexia evaluation is being requested, IDEA 2004 due process procedures must be followed. *Also, the ARD Committee will take the place of the Student Intervention Team or the 504 Committee in process outlined above.* See additional guidelines following.
- The notices and consent must be provided in the native language of the parent or guardian or other mode of communication used by the parent or guardian, unless it is clearly not feasible to do so.
- In compliance with §504, tests, assessments, and other evaluation materials must follow the state guidelines.

- If a student has previously met special education eligibility, the ARD committee should include goals that reflect the need for dyslexia instruction in the IEP and determine the least restrictive environment for delivering the student’s dyslexia intervention.

Based on the above information and guidelines, should the committee (§504 or ARD) determine that the student exhibits weaknesses in reading and spelling, the committee will then examine the student’s data to determine whether these difficulties are **unexpected** in relation to the student’s other cognitive abilities, sociocultural factors, language difference, irregular attendance, or lack of appropriate and effective instruction. For example, the student may exhibit strengths in areas such as reading comprehension, listening comprehension, math reasoning, or verbal ability yet still have difficulty with reading and spelling. Therefore, it is not one single indicator but a preponderance of data (both informal and formal) that provide the committee with evidence for whether these difficulties are unexpected. Questions to be considered are outlined in Figure 2.5 of the State of Texas Dyslexia Handbook 2014. A clearer description for the Procedures for Identification are on pages 21-24 of the State of Texas Dyslexia Handbook.

## **Interpretation**

To appropriately understand test results, the examiner(s)/committee of knowledgeable persons must interpret test results in light of the student’s language development (in both English and the student’s native language), educational history, linguistic background, socioeconomic issues, and any other pertinent factors that affect learning.

The committee (§504 or ARD) must first determine if a student’s difficulties in the areas of reading and spelling reflect a pattern of evidence for the primary characteristics of dyslexia with unexpectedly low performance for the student’s age and educational level in some or all of the following areas:

- Reading words in isolation
- Decoding unfamiliar words accurately and automatically
- Reading fluency for connected text (both rate and/or accuracy)
- Spelling (An isolated difficulty in spelling would not be sufficient to identify dyslexia.)

The evaluation data collected also may include information on reading comprehension, mathematics, and written expression. Dyslexia often coexists with learning difficulties in these related areas. Another factor to consider when interpreting test results is the student’s linguistic background. Additional information for interpreting the results as well as RtI information are in the Texas Dyslexia Handbook 2014.

## **E. English Language Learners**

*This refers to students served in bilingual and ESL programs as well as students designated limited English proficient (LEP) whose parents have denied services.*

Much diversity exists among English language learners (ELLs). The identification and service delivery process for dyslexia must be in step with the student’s linguistic environment and educational background. Involvement of the Language Proficiency Assessment Committee (LPAC) is recommended.

**Additional Data Gathering** (in addition to the information previously listed under “Data Gathering”) Language Proficiency Assessment Committee (LPAC) documentation (TEC §§89.1220 (g)(h)(i)) that includes the following:

- Home Language Survey
- Assessment related to identification for limited English proficiency (oral language proficiency tests and norm-referenced tests)
- STAAR results when available

- Texas English Language Proficiency System (TELPAS) information (Reading Proficiency Test in English [RPTE] and Texas Observation Protocol [TOP])
- Type of language programming provided and language of instruction
- Linguistic environment and second-language acquisition development
- Previous schooling in and outside of the United States

**Additional Assessment** (in addition to the information listed under “Domains to Assess”)

- Comprehensive oral language proficiency testing should be completed in English and the student’s native language whenever possible.
- If the student has received academic instruction in his/her native language, as well as English, then the “Domains to Assess” need to be completed in both languages to the appropriate extent.

Additionally, personnel involved in the evaluation process of ELLs for dyslexia need to be trained in bilingual assessment and interpretation procedures as outlined in the State of Texas Dyslexia Handbook 2014. Areas for assessment are outlined in Figure 2.4 of the Texas Dyslexia Handbook 2014.

*Additional Considerations for English Language Learners*

A professional involved in the assessment, interpretation of assessment results, and identification of ELLs with dyslexia needs to have the following training/knowledge:

- Knowledge of first and second language acquisition theory
- Knowledge of the written system of the first language—transparent (Spanish, Italian, German), syllabic (Japanese-kana), semitic (Arabic, Hebrew), and morphosyllabic (Chinese-Kanji)
- Knowledge of student’s literacy skills in native and second language
- Knowledge of how to interpret results from a cross-linguistic perspective
- Knowledge of how to interpret the TELPAS (Texas English Language Proficiency Assessment System)
- Knowledge of how to interpret the results of the student’s oral language proficiency in two or more languages in relation to the results of the tests measuring academic achievement and cognitive processes as well as academic data gathered and economic and socioeconomic factors

**F. The Relationship between Dyslexia and Special Education**

The following are some questions and answers from Appendix C of the State of Texas Dyslexia Handbook 2014 (found on pages 74-78):

**27. Can special education assess for dyslexia?**

Yes, however, special education assessments are used to determine eligibility under IDEA 2004 and are not specific to identification of dyslexia.

IDEA 2004 regulations related to assessment (34 C.F.R. §300.304(c)(4)) indicate that a student should be assessed in all areas related to the suspected disability. Although dyslexia is a condition that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations, it is not considered one of the 13 eligible disability categories listed in the IDEA 2004 regulations (34 C.F.R. §300.8(c)).

IDEA 2004 regulations related to specific learning disability (SLD) (34 C.F.R. §300.8(c)(10)(i)) define it as a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, **dyslexia**, and development aphasia. IDEA 2004 regulations (34 §CFR

300.309(a)(1)) specifically designate the following areas for a SLD: oral expression, listening comprehension, written expression, basic reading skill, reading fluency skill, reading comprehension, mathematics calculation, and/or mathematics problem solving.

A student with severe dyslexia or related disorders who is unable to make adequate academic progress may be referred to special education for evaluation and possible identification as a child with a disability within the meaning of IDEA 2004.

## **28. Who administers a dyslexia assessment to a student receiving special education services?**

*The Dyslexia Handbook* contains two references related to who is qualified to assess for dyslexia.

1. Nineteen TAC §74.28 indicates that assessment should only be done by individuals/professionals who are trained to assess students for dyslexia and related disorders.
2. Section 504 requires that tests, assessments, and other evaluation materials be administered by trained personnel and conform to the instructions provided by the producer of the evaluation materials.

A school district or open-enrollment charter school can determine in its policies and procedures who will conduct the dyslexia assessment. In some cases, it may be the dyslexia teacher; in other cases it may be an educational diagnostician or a licensed specialist in school psychology (LSSP).

## **29. When should further assessment through special education be considered?**

- If a student exhibits evidence of severe difficulties with academic skills and a disability is suspected, further assessment should be considered.
- If, while in dyslexia intervention, the student is not making sufficient progress, further assessment should be considered.
- If a student is not enrolled in public school (i.e., private school or a home-school setting) and a learning disability is suspected, further assessment should be considered under Child Find.

Note: Students who are enrolled in a private school, including a home school, are entitled under Child Find to be assessed for a suspected learning disability; however, they must be enrolled in a public school to receive dyslexia services (TEC §38.003).

## **52. If a student is currently receiving special education services and is identified as needing additional services for dyslexia, does the ARD committee need to document in the ARD report the dyslexia identification process and the instruction specific to dyslexia?**

- The ARD committee should document that the student has been identified with dyslexia or that the student has a reading disability that exhibits characteristics consistent with dyslexia. Since there are instructional implications as well as potential accommodations on the state assessment program for students who have been identified with dyslexia, the dyslexia identification should be noted in the ARD Report.
- For students with dyslexia who qualify for special education in the area of reading and who will be receiving their reading instruction in a special education placement, the ARD committee **must** include appropriate reading instruction on the student's IEP. Appropriate reading instruction includes the descriptors found in Chapter III of *The Dyslexia Handbook*.

## **53. If a student is already receiving special education services for one particular area of need (e.g., speech), does the ARD committee need to convene to recommend that the student be assessed for dyslexia?**

Yes. For any student receiving special education services, including a student receiving speech services, special education procedures **must** be followed. The ARD committee and other qualified professionals, as appropriate, must review existing evaluation data on the student and, on the basis of that review and input from the student's parents/guardians, identify what additional data, if any, are needed to make an informed decision regarding the identification of dyslexia. If further assessment is recommended, the parent or

guardian must receive notice of assessment and procedural safeguard rights (when appropriate) and give consent for the evaluation according to the requirements by the IDEA 2004. A timeline for completion of the dyslexia evaluation should be determined by the ARD committee.

**54. Who provides dyslexia instruction to a student receiving special education services?**

Chapter III: Instruction for Students with Dyslexia of *The Dyslexia Handbook* indicates that teachers who provide specialized instruction for students with dyslexia must be trained in instructional strategies that use individualized, intensive, multisensory, phonetic methods, and a variety of writing and spelling components (TEC §74.28(c)).

**55. Who determines the content of the dyslexia instruction for a student who is also receiving special education services?**

If the student with dyslexia is found eligible for special education in the area of reading, the ARD committee must include appropriate reading instruction on the student's IEP. Appropriate reading instruction includes the descriptors listed in Chapter III: Instruction for Students with Dyslexia.

**56. May the educational diagnostician or LSSP use the same diagnostic data that was gathered for the IDEA 2004 identification process to identify a student with dyslexia? Must the determination of dyslexia be made by the §504 Committee or the ARD committee?**

The educational diagnostician or LSSP may use the same diagnostic data gathered for the IDEA 2004 identification process as long as the data includes assessment information from the domains listed in *The Dyslexia Handbook* as part of the identification of dyslexia.

The determination of dyslexia is made by a multidisciplinary team composed of members who are knowledgeable about dyslexia and the reading process as indicated in Chapter II of *The Dyslexia Handbook*. For purposes of a student who is currently receiving special education services, the ARD committee serves as the multidisciplinary team described above and should include members with the additional knowledge of dyslexia, dyslexia evaluation, and interventions required by Chapters II and III of *The Dyslexia Handbook*.

**57. What additional training does an educational diagnostician or LSSP need to have in order to assess a student for dyslexia?**

TAC §74.28 indicates that assessment should be done by professionals who are trained to assess students for dyslexia and related disorders.

While the educational diagnostician or LSSP possesses the underlying knowledge on how to administer and interpret formal assessments, additional training may be needed to better understand the characteristics of dyslexia, increase awareness of the domains to assess for dyslexia, and identify the strengths and weaknesses typically exhibited when a student has dyslexia.

**58. When a student is receiving special education services, may a general education teacher(s) assess for dyslexia versus having an educational diagnostician or LSSP assess?**

A general education teacher (preferably a dyslexia teacher/therapist or reading specialist) may assess for dyslexia if that is consistent with the school district or open-enrollment charter school policies and procedures and if he/she meets the qualifications required in TAC §74.28 and §504. However, the identification should be made by the appropriate committee. For a student receiving special education services, this committee would be the ARD committee, which should include member(s) who are knowledgeable about dyslexia and the reading process as indicated in Chapter II: Procedures for the Assessment and Identification of Students with Dyslexia of *The Dyslexia Handbook*. Proper implementation of the evaluation process should be followed as noted in the evaluation framework of the legal framework.

**59. How do school districts and open-enrollment charter schools prevent duplication or conflict of services for a student identified for both special education and dyslexia services (e.g., if a student is**

**receiving instruction in one method with his/her dyslexia teacher and a different method with his/her special education teacher)?**

The appropriate teachers for a student who is receiving reading instruction through both special education and general education dyslexia should coordinate the services offered to this student. This collaboration model should include all teachers, both general education and specialized teachers, who teach reading (including reading in the content area) to ensure generalization of the methodology identified as the reading intervention. The ARD committee has the ultimate responsibility for consistency of methodology and documentation concerning the collaboration between the two services. The ARD committee will also need to determine the most appropriate environment in which the student receives instruction.

**60. What considerations need to be given to least restrictive environment (LRE) when determining dyslexia services for a student also receiving special education services (e.g., a special education dyslexia program offered in a resource class vs. a dyslexia program offered outside the special education class)?**

LRE means that students with disabilities are educated with peers who are nondisabled to the maximum extent appropriate, and special classes, separate schooling, or other removal of students with disabilities from the general educational environment occurs only if the nature or severity of the disability is such that education in general education classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Since LRE demands that special education students be educated with regular or non-IDEA students to the maximum extent appropriate, the ARD must consider for the IDEA-student with dyslexia, whether the student's reading needs can be appropriately met outside of special education settings, namely in dyslexia labs or classes. If the ARD determines that the student's reading needs can be met through the regular dyslexia program, then LRE considerations would require the ARD to use the dyslexia lab or regular education dyslexia program rather than a resource setting (Council of Educators for Students with Disabilities, Inc., 2013).

For any student receiving special education services, including a student identified with dyslexia, the placement decision is made by the ARD committee, which has the sole responsibility for determining the placement options (as per the ARD committee recommendation), and it is made in conformity with the LRE provisions of IDEA 2004. The child's placement is determined at least annually and is based on the child's IEP.

**Additional Special Education / Dyslexia Information:**

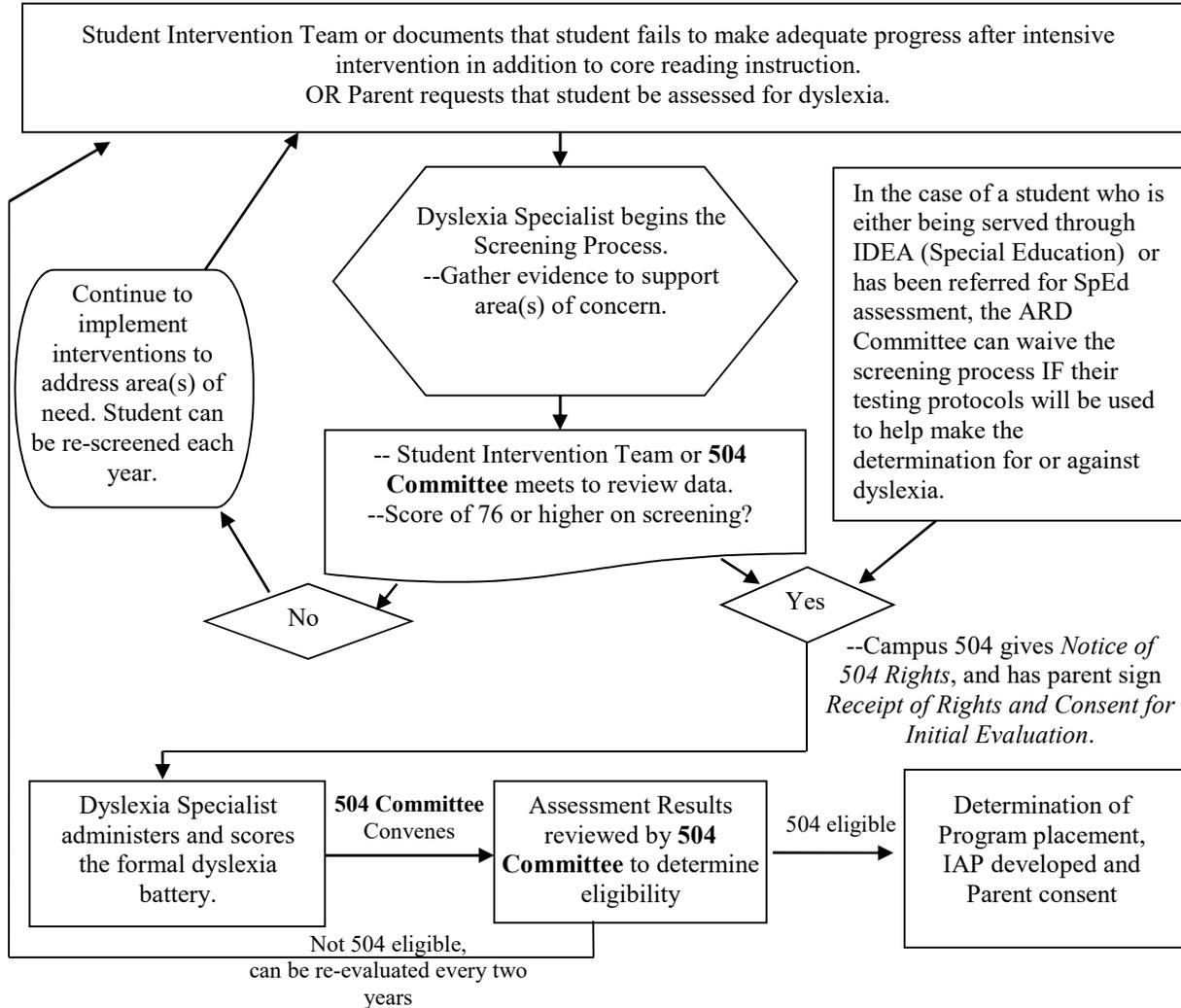
1. When identifying students with Dyslexia who are Special Ed:
  - a. Use the tests that SPECO already administered, if tests were administered within the previous three years
  - b. Insert the information into the Dyslexia Testing Profile and then **only test what is not covered**. SPECO will need to give us permission to view their testing (*SPECO will need to obtain that permission from parent*).
  - c. Take into consideration why the student qualified for SpEd in the first place.
  - d. Remember the State Handbook's definition of dyslexia.
2. NOTE: All Reading disabilities are not dyslexia. Dyslexia has a very specific set of impairments. The definition of dyslexia by the International Dyslexia Association should be understood and considered when identifying for dyslexia.
3. To clarify: It is sometimes difficult to identify a SpEd student with dyslexia because of the "unexpected in relation to other **cognitive abilities**."
4. **The ARD committee can give a determination of dyslexia** (if the student meets the IRA definition) **without further "dyslexia testing."** ALSO, the campus dyslexia specialist **must** be included in any

discussion regarding dyslexia to give guidance about current dyslexia procedures and/or interpretation of dyslexia assessment results.

5. The following procedural Flowchart should be followed even for a student who is either already identified as Special Ed or who is undergoing SpEd consideration. The difference would be to insert the ARD Committee in place of the Student Intervention Team and/or 504 Committee.
6. Always refer back to pages 21-24 of the State Handbook for the Procedures for Identification.
7. One additional note, a student cannot be served through IDEA Special Education and §504 at the same time. Therefore, the ARD Committee makes the educational decisions with regards to dyslexia for SpEd students.

**FLOWCHART OF THE DYSLLEXIA PROCESS FOR LEVELLAND ISD**

The following flow chart outlines LISD’s dyslexia process (NOTE: the ARD Committee will take the place of the Student Intervention Team and/or the 504 Committee). It is important to note that a tiered intervention should last as long as progress monitoring indicates appropriate. Generally, interventions are not expected to last an entire year.



**NOTE:**

- Copies of all documentation are sent to Dyslexia Specialist to schedule testing (Suggested timeline to test: 45 days)
- After evaluation, the Dyslexia Specialist fills out the Dyslexia Student Testing Profile and the Dyslexia Testing Results Snapshot.
- The Dyslexia Specialist will notify the Campus 504 Coordinator that a 504 Meeting can be scheduled (Suggested timeline from testing to 504 Meeting: 30 days).
- The Campus Coordinator notifies the members of the **504 Committee** as to the time and place.
- Notice of the Evaluation Results will be sent to parent if not in attendance at meeting.

## Additional Guidelines Specific to Levelland ISD

### A. Annual Review

The progress of students in the district dyslexia program will be reviewed annually (minimally) by either the Student Intervention Team or the campus 504 committee as appropriate to the student's identification.

### B. Assessment Procedures

A parent or guardian may request to have his/her child assessed for dyslexia or a related disorder by staff at the district or charter school. **(If the school district has data to support refusal of the parent's or guardian's request, the procedural protections of §504 must be followed.** The parents or guardians must be provided their notice of rights under §504. For a student who is special education-eligible, IDEA 2004 procedures must be followed. Best practices suggest appropriate timelines to mirror those of special education.) It is important to remember that once a parent request for dyslexia assessment has been made, the school district is obligated to review the student's data history (both formal and informal data) to determine whether there is reason to believe the student has a disability. If a disability is suspected, the student needs to be evaluated following the guidelines outlined in prior chapter. If the 504 Committee does not suspect a disability and determines that evaluation would not be warranted, the parents/guardians must be notified of their due process rights. **Once the Consent to Test has been signed by the parent or guardian, formal assessment must take place unless there is sufficient data to support a refusal.**

*A student is not required to fail a class or subject or fail the state required assessment to be considered for a dyslexia assessment. According to TEC §38.003, students should be assessed for dyslexia at appropriate times. Results from a state test, required by the statewide assessment program, are only one source of data to be gathered and considered for possible recommendation for assessment. Other information must also be considered, such as teacher information, report card grades, parent information, history of reading difficulties, informal observations of the student's abilities, response to scientifically based reading instruction, etc. (Texas Dyslexia Guidelines, page 64)*

### C. Assessment of Students Identified Outside the District

Students identified as having dyslexia or related disorders from an outside source will be evaluated by the campus 504 Committee for eligibility in the district's program. **Levelland ISD may choose to accept the outside assessment, or may choose to re-assess the student.** In either situation, the §504 committee will determine the identification status of a student enrolled in **Levelland ISD**, and the placement of the student in the dyslexia program(s).

### D. Re-Evaluation

For those students who will be taking a state assessment, the 504 Committee should meet to conduct an annual re-evaluation of students on Section 504 Services Plans as well as those students who are eligible under Section 504 but not in need of a Section 504 Services Plan at this time. Re-evaluation should also occur prior to any significant change of placement and whenever necessary to ensure the continued provision of FAPE. It is also the District's practice to conduct annual reviews when no periodic re-evaluation is required. For those students who will not be taking a state assessment, this periodic re-evaluation should occur at least every three years.

Prior to a re-evaluation, the District will provide the parents with notice of the time and place of the re-evaluation meeting, inviting the parent to attend. Written notice, while not required, is preferred, and can be accomplished utilizing the Notice of Section 504 Meeting form. If the Student remains eligible and in need of a Services Plan, the Committee should focus on the Student's changing needs due to the effects of different classroom subject matter, school demands and other factors. Should the Committee determine that the Student is

no longer eligible, the Committee should dismiss the Student from 504. The Parent shall be given notice of the results of the re-evaluation.

*NOTE: This re-evaluation is not a formal re-assessment. The re-evaluation is the 504 Committee meeting to review current student data to determine which accommodations are appropriate for the student.*

### **E. Timeline**

The following timeline applies to students in regular education programs, or who may qualify as §504:

- Upon receipt of parent permission to assess until assessment is completed shall be 45 school days or less
- From the completion of the assessment to the 504 Committee meeting for determination of dyslexia and program placement shall be within 30 days

Special education students shall follow the timelines required by federal law, under IDEA 2004.

### **F. Instruction for Students with Dyslexia**

TEC §38.003(b) states, “In accordance with the program approved by the State Board of Education, the board of trustees of each school district shall provide for the treatment of any student determined to have dyslexia or a related disorder.”

Effective literacy instruction is essential for all students and is especially critical for students identified with dyslexia. High-quality core classroom reading instruction can give students identified with dyslexia a foundation upon which intervention instruction can have a more significant impact. Specialized instruction for students with dyslexia is discussed in Section G.

Each school **must** provide an identified student access at his/her campus to an instructional program that meets the requirements in 19 TAC §74.28(c) and to the services of a teacher trained in dyslexia and related disorders. While the components of instruction for students with dyslexia include good teaching principles for all teachers, the explicitness and intensity of the instruction, fidelity to program descriptors, grouping formats, and training and skill of the teachers are wholly different from core classroom instruction. Core Instruction alone may not meet the instructional program requirements for students with dyslexia.

### **G. Specialized Dyslexia Intervention**

For the student who has not benefited from the research-based core reading instruction, the components of instruction will include additional specialized instruction as appropriate for the reading needs of the student with dyslexia. It is important to remember that while intervention is most preventative when provided in kindergarten and first grade, older children with reading disabilities will also benefit from focused and intensive remedial instruction.

Instructional decisions for a student with dyslexia must be made by a committee (§504 or ARD) that is knowledgeable about the instructional components and approaches for students with dyslexia. In accordance with 19 TAC §74.28(c), districts shall purchase or develop a reading program for students with dyslexia and related disorders that incorporates **all** the components of instruction and instructional approaches in the following section:

### **H. Critical, Evidence-Based Components of Dyslexia Instruction**

(Expanded definition of components and delivery of instruction is in the State of Texas Dyslexia Handbook 2014)

- **Phonological awareness**
- **Sound-symbol association**
- **Syllabication**

- **Orthography**
- **Morphology**
- **Syntax**
- **Reading comprehension**
- **Reading fluency**

## **I. Enrollment in Gifted/Talented and Advanced Academic Programs**

A student who has been identified with dyslexia can also be a gifted learner, or a twice-exceptional learner. A twice-exceptional learner is a child or youth who performs at or shows the potential for performing at a remarkably high level of accomplishment when compared to others of the same age, experience, or environment and who exhibits high-performance capability in an intellectual, creative, or artistic area; possesses an unusual capacity for leadership; or excels in a specific academic field (TEC §29.121) and who also gives evidence of one or more disabilities as defined by federal or state eligibility (IDEA 2004) (300.8) (§504) criteria such as learning disabilities, speech and language disorders, emotional/behavioral disorders, physical disabilities, sensory disabilities (hearing impaired, visually impaired, blind-deaf), traumatic brain injury, autism spectrum disorder, or other health impairments such as ADHD.

Assessment and identification of twice-exceptional learners can be challenging and requires those vested in the education of these learners to be knowledgeable of the unique characteristics and behaviors demonstrated by these learners. Often the disability masks the giftedness, which places emphasis on barriers to learning instead of the potential that the learner has as a result of the gifted attributes. Conversely, the giftedness may mask the disability, which may result in the learner’s experiencing gaps in learning compounded by the disability, thus affecting how the learner perceives his or her abilities.

Twice-exceptional students must be provided access to all service and course options available to other students. The US Department of Education’s Office for Civil Rights offers information for addressing students with disabilities seeking enrollment in advanced academic programs (e.g., Advanced Placement and International Baccalaureate). For more information, see [www2.ed.gov/about/offices/list/ocr/letters/colleague-20071226.pdf](http://www2.ed.gov/about/offices/list/ocr/letters/colleague-20071226.pdf).

## **J. Professional Development Relative to Dyslexia for All Teachers**

Research consistently confirms the impact that a knowledgeable teacher can have on the success or failure of even the best reading programs (Shaywitz, 2003). To ensure that general education teachers are knowledgeable about dyslexia, TEC §21.054(b) and TAC §232.11(e) require educators who teach students with dyslexia to be trained in new research and practices related to dyslexia as a part of their continuing professional education (CPE) hours.

For each campus, the Dyslexia Interventionists must be familiar with and prepared to use the techniques, tools, and strategies outlined in State of Texas Dyslexia Handbook 2014. They may also serve as trainers and consultants in the area of dyslexia and related disorders for regular, remedial, and special education teachers. In addition, in Texas K–12 education, dyslexia practitioner licensure is voluntary. K–12 educators can provide services to those with dyslexia without being licensed. However, K–12 educators must have training in the components and delivery of dyslexia instruction outlined State of Texas Dyslexia Handbook 2014 if they are providing the dyslexia services.

## **K. Technology Integration for Students with Dyslexia (TEC §38.0031)**

The research is definitive regarding technology and instruction for students with dyslexia. When students have access to effective technology, their overall educational performance improves. One of the best ways to use technology is in combination with instruction in reading strategies and processes. Technology is not intended to take the place of quality reading instruction. It should be used in combination with teacher-directed instruction and intervention. Technology should never be used as a substitute for quality instruction; it is

intended to supplement, not supplant.

The *Technology Integration for Students with Dyslexia* online tool (TEC §38.0031) is a resource developed to support instructional decisions regarding technology that benefits students with dyslexia. To view this source, visit [www.region10.org/dyslexia/techplan](http://www.region10.org/dyslexia/techplan).

## **L. Using Accommodations during Classroom Instruction and Testing**

The use of accommodations primarily occurs in the classroom on a daily basis. Understanding the basic principles of accommodations helps ensure their appropriate use in all educational settings.

## **M. Accommodations**

-  • are changes to instructional materials, procedures, or techniques that allow a student with a disability to participate meaningfully in grade-level or course instruction
- should be effective in allowing a student access to the Texas Essential Knowledge and Skills (TEKS)
- must be individualized for each student
- are intended to reduce the effect of a student's disability
- should be routinely used during classroom instruction and testing
- may be appropriate for classroom use but may not be appropriate or allowed for use on a statewide assessment
- should be documented in the appropriate student paperwork
- should be evaluated regularly to determine effectiveness and to help plan for accommodations the student will need each year

-  • are **not** necessary for every student
- are **not** changes to the performance criteria of an assignment or assessment
- are **not** changes to the content being assessed and should not replace the teaching of subject-specific knowledge and skills as outlined in the TEKS
- should **not** be provided to an entire group of students, such as those in the same class or disability category, as a “one-size-fits-all” accommodation
- are **not** intended to provide a student with a disability an advantage (e.g., increase a passing score to a higher score)
- should **not** be provided to a student without evidence of effectiveness from year to year

Educators who make decisions about accommodations for a student should have knowledge of the TEKS and a clear understanding of the student's performance in relation to the TEKS. In addition, educators should continually collect and analyze data pertaining to the use and effectiveness of accommodations so that informed educational decisions can be made for each student. Such data could include observational reports or assignment/test scores with and without the use of the accommodation. Sometimes an accommodation becomes ineffective or inappropriate over time due to the student's age or changing needs. By analyzing data, an educator may be able to see that the student has gained skills, overcome weaknesses, or progressed in the curriculum and no longer needs the accommodation. Or it may confirm for the educator that the student still struggles in certain areas and should continue to use the accommodation.

## **N. Using Accommodations on Statewide Assessments**

Accommodations provided to students during classroom instruction and testing may differ from accommodations allowed for use on statewide assessments. This should not discourage the use of appropriate accommodations during instruction. Classroom instruction is intended to provide each student the opportunity to learn the state-mandated curriculum. To accomplish this, educators should use a variety of techniques to meet the needs of each student, thus allowing each student to maximize his or her academic potential.

However, statewide assessments are intended to measure how well each student has mastered the state-mandated curriculum. In order to assure the reliability, validity, and security of all statewide assessments, **only those accommodations that do not invalidate the content being measured or compromise the security and integrity of the assessments are allowed.** Therefore, not all accommodations used routinely in the classroom are appropriate or allowed for use during the statewide assessments.

## **V. STUDENT MONITORING AND DYSLEXIA PROGRAM EXIT**

Upon successful completion of **Levelland ISDs** program(s), as measured by program mastery checks (assessments) completed at regular intervals, students will be exited from the district dyslexia program(s). Please note, **exit from the Dyslexia Program does not necessarily also mean exit from §504 nor from Testing Accommodations.** Additional criteria for exit may include but is not limited to: grades from progress reports or report cards, state assessment data, benchmarks, progress monitoring data, teacher and/or parent observations/checklists, and individual dyslexia program requirements.

Students that have completed the **Levelland ISD** dyslexia program will receive regular monitoring during the first year. Monitoring may include, but is not limited to the collection/evaluation of:

- Progress reports
- Report cards
- State assessment data
- Teacher reports/checklists
- Parent reports/checklists
- Counselor reports
- Other program reports
- Additional assessment data

Students qualifying for dyslexia services that are identified as §504 or special education will follow monitoring/re-evaluation requirements outlined in federal law.

No one factor is sufficient to warrant exiting a student from direct dyslexia services. Dismissal is determined by the §504 committee, or ARD committee. The committee considers the following factors when recommending exiting or reduction of dyslexic services:

- Completion of the district dyslexia program
- The reevaluation and/or post-testing of student shows student growth to be closer to grade level proficiency standards
- The student demonstrates self-monitoring/self-correction behaviors as evidenced through informal observation by teacher and/or dyslexia teacher
- The student passed the reading portion of the state assessment
- Committee recommendation
- Parents request in writing that the student exit the program

If a student has shown substantial progress and the §504 committee determines the student is ready to be dismissed completely from the program, the committee may recommend monitoring services instead of direct services. When a child is exited from the dyslexia program, a dismissal form will be completed, placed in the child's cumulative folder and a copy will be mailed or given to parent.

## **VI. DYSLEXIA EVALUATION PROCEDURES FOR PRIVATE SCHOOL REFERRALS**

State statute related to dyslexia, TEC §38.003, indicates that the law pertains to students enrolled in public schools. However, when formal assessment is recommended, the school district or open- enrollment charter school completes the evaluation process as outlined in §504 (unless under IDEA 2004). Under §504, upon

receiving notice of a parent's belief that a child has a disability, the school should follow §504 procedures. **The school has no duty to provide services unless the student is enrolled in public school.** State Dyslexia Handbook Q&A #20.

1. The parent contacts the school district with the request for a Dyslexia evaluation.
2. The Section 504 and Dyslexia Department will contact the parent(s) and determine the student's home school.
3. The Section 504 and Dyslexia Department will contact the home school to notify them a private school student will be evaluated.
4. Through the §504 process, the Section 504 and Dyslexia Department will complete the evaluation as outlined using the following procedures:
  - a) Notify parents/guardians of the proposal to assess student for dyslexia (§504).
  - b) Inform parents/guardians of their rights under §504.
  - c) Obtain permission from parents/guardians to assess the student for dyslexia.
  - d) Assess student, being sure that individuals/professionals who administer assessments have training in the evaluation of students for dyslexia and related disorders (19 TAC §74.28).
5. Upon completion of all required documentation and within 45 school days or less of receipt of the signed Parent Consent/Notice for Section 504 Evaluation, the evaluation will be scheduled and completed at the student's home school.
6. The Dyslexia Teacher will be contacted to coordinate informal assessment administration (BRI).
7. The formal assessment will be completed at the student's home school.
8. The Section 504 Committee meeting must be held within 30 calendar days or less upon completion of the Dyslexia Evaluation Report.
9. The Campus Section 504 Coordinator will contact the parent(s) to advise them that their child has been evaluated as provided for under Section 504 of the Rehabilitation Act of 1973 and a Section 504 Committee Meeting has been schedule.
10. As per Section 504 Regulations, the Campus Section 504 Coordinator will contact the private school to notify them about the scheduled Section 504 Meeting and request the attendance of the student's General Education Teacher and if possible an administrator.
11. A Section 504 Committee Meeting will take place and an informed determination will be made by the group of knowledgeable people.

## **References**

**THE DYSLEXIA HANDBOOK Revised 2014**, Procedures Concerning Dyslexia and Related Disorders © 2014 by the Texas Education Agency  
Publication [www.tea.state.tx.us/curriculum/elar/2007EnglishHandbook.pdf](http://www.tea.state.tx.us/curriculum/elar/2007EnglishHandbook.pdf)

Texas Education Agency (TEA) <http://www.tea.state.tx.us>

The Legal Framework for the Child-Centered Special Education Process <http://framework.esc18.net>

# IX: SECTION 504 COMMITTEE MEETINGS

## **A. Annual Meetings**

In LISD, Annual Reviews are required Section 504 Committee Meetings. An Annual Review Meeting must be scheduled to review the student's current progress and determine if changes need to be made to the Individual Accommodation Plan. It is preferable to schedule these annual review meetings during the first six weeks of school. For students with serious, life threatening impairments, it may be necessary to schedule the Annual Review Meeting during pre-planning or the first week of school.

Additional Section 504 Review Meetings may be scheduled throughout the year on an as needed basis. The Section 504 Coordinator is responsible for informally reviewing the progress of each student at the end of every grading period. This informal review should include at a minimum checking the following information on: report cards, individual course grades, attendance, office discipline referrals, and consultation with the classroom teacher(s) etc.

Parents must be invited to all Section 504 meetings and be provided written notice of the meeting using the **Section 504 Meeting Notice** form. Parental rights should be provided and explained every time.

## **B. Re-Evaluation Meetings**

Section 504 requires "periodic" reevaluations of the student's eligibility. LISD will be in compliance if we reevaluate the student every three years. Additionally, Section 504 requires an evaluation of the appropriateness of the 504 Plan before any significant change in placement. **34 CFR 104.35(d)**.

Examples of significant changes in placement which require reevaluation include:

1. Expulsion,
2. Serial suspensions which exceed ten (10) days in a school year;
3. Individual suspensions that exceed ten calendar days (DAEP which requires Manifestation Determinations)
4. Recommendation of a student to homebound instruction;
5. Significant change in the delivery of education (e.g., placing the student in the Texas Dyslexia Program)

During a Reevaluation Meeting if the student continues to qualify, the Section 504 Committee should focus on the students Individual Accommodation Plan and make projections for rest of school year and next school year if appropriate. If the Section 504 Committee determines the student no longer meets the eligibility criteria, the student will be dismissed from the program. Additionally, the student may still be eligible for Section 504 nondiscrimination protection as a student who is regarded as having a disability or has a record of having a disability.

## **C. Transfer Meetings**

A student is Section 504 eligible in the K-12 public schools until dismissed by the appropriate Section 504 Committee action or the student's graduation with a regular diploma. Consequently, when an eligible student moves into the new school, he or she remains eligible until dismissed and the new school is required to provide the student a Free and Appropriate Education. The student's IAP should be implemented as developed by the previous school pending the results of a reevaluation.

The Office of Civil Rights requires an enrolling school to conduct its own evaluation, convene a Section 504 Committee Meeting and developed an Individual Accommodation Plan. Therefore an enrolling school must convene a Section 504 Committee in order to:

- Review a student’s current Accommodation Plan and supporting documentation
- Determine if the Accommodation Plan from the previous school is appropriate
- Implement the Accommodation Plan or rewrite it and/or
- Initiate a Section 504 Reevaluation to determine eligibility under district criteria
- If Dyslexia eligible, the Dyslexia Teacher will re-evaluate if necessary

#### **D. Discipline and Manifest Determinations**

Prior to removing a 504 student from his or her current placement for a period of more than 10 consecutive school days due to a violation of the Student Code of Conduct, the Section 504 Committee shall meet to conduct a Manifestation Determination Review (MDR) because such a removal constitutes a change in placement. The student's parents shall be given notice of the time and place of the MDR and invited to attend. Other circumstances constitute a change in placement of the student and require a MDR:

1. student has accumulated nonconsecutive removals which total more than 10 school days in a school year
2. student's behavior is substantially similar to the student's behavior in previous incidents that resulted in a series of removals, and
3. pattern of removals (total time the student has been removed, proximity of the removals to one another) constitute a change in placement.

The 504 Committee shall consider whether the student's behavior is a manifestation of the student's disability prior to the removal. The Manifestation Determination Review is a RE- EVALUATION meeting. This Manifestation Determination Review focuses on two determinations:

1. Was the behavior in question caused by, or does it have a direct and substantial relationship to the student’s impairment?
2. Was the behavior in question a direct result of the school’s failure to implement the student’s 504 plan?

Students served under Section 504 are treated similar to students served under IDEA with respect to discipline. The Student Code of Conduct outlining rules and standards can be applied to disabled students just as they are applied to non-disabled students. The following summarizes considerations when working with students protected under Section 504:

A change of placement occurs when the student is removed from class more than 10 school days, either consecutively or cumulatively for the school year.

If the student is assigned to ISS, these days will not count as long as the Section 504 Plan continues to be implemented on those days and the student is permitted to progress in the curriculum. For this reason, it is extremely important for the school’s 504 Coordinator and Administrators responsible for discipline of the student to follow the procedures that have been developed for closely monitoring suspension days and communicating with the ISS teacher about the student’s 504 plan.

If the student’s 504 Plan includes specific disciplinary measures, then those measures would take precedent over the district’s regular disciplinary procedures.

Section 504 students may not be disciplined more harshly than a nondisabled student for the same conduct, unless warranted by individual circumstances unrelated to the student’s mental or physical impairment.

When the Section 504 Coordinator contemplates a removal that constitutes a change in placement, for more than ten school days, then a Manifestation Determination needs to take place.

**When considering removal including a removal to an interim alternative educational setting, the Section 504 Coordinator:**

- Notifies the parent(s) of that decision and provides the parent(s) with the procedural safeguards notice no later than the date on which the decision to take the action is made
- Convenes the Section 504 Committee Meeting and other qualified personnel immediately, if possible, but not later than 10 school days after the date on which the decision to take the action is made. The Section 504 Committee team review the relationship between the student's disability and the behavior subject to the disciplinary action
- No later than 10 school days after either first removing a child for more than 10 school days in a year or commencing a removal that constitutes a change in placement, the Section 504 Coordinator must convene a Section 504 Committee meeting which must consider the following:

--If the Section 504 Committee has not conducted a functional behavioral assessment and implemented a Behavioral Intervention Plan, the Section 504 Committee should meet to develop a functional behavior assessment (FUBA) plan and a Behavior Intervention Plan (BIP) that addresses the behavior. A FUBA is not mandated by law; however, Section 504 Committees are encouraged to use a FUBA in the creation of a BIP. Once in place, the Behavior Intervention Plan as well as the Section 504 Individual Accommodation Plan must be followed to avoid violation of federal law.

--If the student has a Behavioral Intervention Plan, the Section 504 Committee team meets to review the plan and its implementation and modifies the plan and its implementation as necessary to address necessary adjustments to plan. Failure to have a BIP in place where one is required is not only a violation of federal law, it may prevent the school from moving the student to a more restrictive setting due to the school not being able to prove that the student could be served in the regular education setting with accommodations since a BIP was never even attempted. Change of placement should not be considered unless a behavior plan and counseling has been tried first.

\*\*\*It is not best practice to dismiss a Section 504 student during a Manifestation Meeting.

**Following the 504 Committee Meeting, the campus 504 Coordinator shall:**

Provide notice to the parent of the 504 Committee's determination about eligibility, as well as copies of all evaluation and other data considered by the Committee and the student's Individual Accommodation Plan along with the Section 504 Procedural Safeguards. The parent shall also be given his or her due process rights, which includes a right to appeal the Section 504 Committee decision.

The Section 504 Coordinator disseminates copies to all appropriate teachers/personnel who will be implementing the Individual Accommodation Plan and obtain signatures that they received the plan.

The Section 504 Coordinator should ensure that the student's Individual Accommodation Plan is delivered to each teacher, campus administrator, and any other employee or third party that has the responsibility of implementing the plan. Monitoring of Service Plan implementation should be accomplished through T-TESS, through walkthroughs, and or informal checks of student's progress by the Section 504 Coordinator and other appropriate personnel.

# X: APPENDICES

## **A. Acronyms**

The following are commonly used acronyms and definitions used in Section 504/ADA.

- ✚ **ADA** Americans with Disabilities Act
- ✚ **ADAAG** Americans with Disabilities Act Accessibility Guidelines
- ✚ **ADD** Attention Deficit Disorder
- ✚ **ADHD** Attention Deficit Hyperactivity Disorder
- ✚ **AP** Accommodation Plan
- ✚ **APR** Annual Performance Report
- ✚ **AYP** Adequate Yearly Progress
- ✚ **CD** Cognitive Delay
- ✚ **CRTI** Campus Response to Intervention Team
- ✚ **CFR** Code of Federal Regulations
- ✚ **DD** Developmental Disabilities
- ✚ **DPH** Due Process Hearing
- ✚ **DNQ** Does Not Qualify
- ✚ **ESY** Extended School Year
- ✚ **FAPE** Free Appropriate Public Education
- ✚ **FERPA** Family Educational Rights and Privacy Act
- ✚ **AI** Auditory Impaired
- ✚ **IDEA** Individuals with Disabilities Education Act—Special Education
- ✚ **IEP** Individualized Education Program
- ✚ **IAP** Individual Accommodation Plan
- ✚ **LEA** Local Education Agency
- ✚ **LRE** Least Restrictive Environment
- ✚ **LD** Learning Disability
- ✚ **NCLB** No Student Left Behind (Act)
- ✚ **OCR** Office for Civil Rights
- ✚ **OHI** Other Health Impaired
- ✚ **OSEP** Office of Special Education Programs
- ✚ **Part B** Special Education for School-Aged Student (IDEA)
- ✚ **Part C** Special Education for Infants and Toddlers Birth to Two Years (IDEA)
- ✚ **RtI** Response to Intervention
- ✚ **SEA** State Education Agency
- ✚ **SLD** Specific Learning Disability
- ✚ **SLP** Speech-Language Pathology
- ✚ **VI** Visually Impaired
- ✚ **504** Section 504 of the Rehabilitation Act of 1973

## **B. Section 504 Definitions**

**Accommodations:** Adaptations made by classroom teacher(s) and other school staff to enable the students to benefit from their educational program. In some cases, a Section 504 plan should be developed outlining accommodations. Accommodations do not fundamentally alter standards; they do not affect grades.

**ADA Accessibility Guidelines (ADAAG):** Standards used to meet Section 504 accessibility requirements for the design, construction, and alteration of buildings.

**Appropriate education:** For the purpose of this subpart, the provision of an appropriate education is the provision of regular or special education and related aids and services that

- (a) are designed to meet individual educational needs of handicapped persons as adequately as the needs of non-handicapped persons are met and
- (b) are based upon adherence to procedures that satisfy the requirements of 104.34, 104.35, and 104.36

**Americans With Disabilities Act—1990 (ADA):** A civil rights law that prohibits discrimination against persons with disabilities in the areas of accessibility, employment, public services, public accommodations, transportation, and communication. New ADA amendments took effect in January 2009.

**Barrier-Free Environment:** A school environment that contains no obstacles to accessibility and usability by students and other individuals with disabilities. Barriers can be physical and non-physical.

**Consent:** Written parent permission before initial evaluation.

**Contagious Diseases Protected under 504:** Contagious diseases are those that can be transmitted from person-to-person. Examples are diseases such as AIDS, HIV, and tuberculosis.

**Diabetes Care Plan:** This plan is often called a "504 Plan" or "IAP" after terminology used in federal laws on disabilities. The child's diabetes care plan should cover the responsibilities of both the parent and the school in specific detail. It should also list any accommodations that may need to be made for the child.

**Free Appropriate Public Education—(FAPE):** A term used in the elementary and secondary school context, for purposes of Section 504 refers to the provision of regular or special education and related aids and services that are designed to meet individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met and is based upon adherence to procedures that satisfy the Section 504 requirements pertaining to educational setting, evaluation and placement, and procedural safeguards.

**Individuals With Disabilities Education Act, (IDEA):** Federal special education law.

**Major life activities:** Means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, communicating, operation of a major bodily function, including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

**Office for Civil Rights (OCR):** This federal agency has three primary responsibilities: investigating complaints, conducting compliance reviews, and providing technical assistance.

**Physical or Mental Impairment:**

- (1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs;

- respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or
- (2) any mental or physical disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term “physical or mental impairment” includes, **but is not limited to**, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction, and alcoholism.

**Program Accessibility:** The school will ensure programs and activities are accessible to and usable by persons with disabilities. In many instances, programs and activities may be made accessible through slight modifications and adjustments in procedures, practices, and policies. In others, building renovation or construction may be required. Structural change is required only where program accessibility cannot be achieved effectively through other means.

**Program or Activity:** In the context of Section 504, this includes all operations of State and local agencies that receive federal funds and includes all programs and activities of the school district, including extracurricular, non-academic, transportation, field trips, recreational athletics, employment opportunities, counseling and referrals and recreational activities.

**Public Entity:** Any school, organization, agency, or office that receives federal funding and is therefore obligated to follow Section 504 requirements.

**Public Notice:** The school is required to provide public notice and internal notice (i.e., to staff, individuals with disabilities, and students) stating it does not discriminate on the basis of a disability.

**Qualified Student:** Any student who has been determined through an evaluation to have a physical or mental impairment that substantially limits one or more major life activities and impacts education.

**Regarded as having an impairment means:**

- (A) has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation;
- (B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or
- (C) has none of the impairments defined in this handbook but is treated by a recipient as having such an impairment.

**Section 504:** The Rehabilitation Act of 1973 that guarantees specific rights in federally funded programs and activities to people who qualify as disabled. Section 504 states, “No otherwise qualified disabled individual in the Levelland States... shall, solely by reason of a 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.” Section 504 Individual Accommodation Plans are accommodations for the regular curriculum.

**Section 504 Coordinator (District Level):** A school employing 15 or more persons must assign a person to coordinate compliance with Section 504 regulations. It is recommended that all districts appoint a Section 504 Coordinator.

**Section 504 Coordinator (Campus Level):** It is recommended that each school appoint a 504 Coordinator to collaborate with the District’s Section 504 Coordinator and coordinate the campus level 504 activities.

**Self-Evaluation:** The Americans with Disabilities Act requires that federal fund recipients evaluate their programs, physical accessibility, and employment practices to determine the extent to which programs and

activities require modification to ensure full participation by students with disabilities. These evaluations should be revisited annually by the Section 504 Coordinator. The self-evaluation should not be confused with student evaluation.

### **C. References**

Acknowledgment: Various documents from school districts, state agencies, organizations and individuals throughout the United States have been used in the development of this reference document.

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- Council of Educators of Students with Disabilities (CESD) [www.504idea.org](http://www.504idea.org)
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- International Dyslexia Association <http://www.interdys.org>
- Learning Disabilities Association of America (LDA) <http://www.ldanatl.org>
- Texas Reading Initiative <http://www.tea.state.tx.us/reading>
- Texas Education Agency (TEA) <http://www.tea.state.tx.us>
- Special Education in Texas (TEA) <http://ritter.tea.state.tx.us/special-ed>
- The Office for Civil Rights Department of Education <http://www2.ed.gov>
- REGION 17 Education Service Center <http://www.region17.org>