



**Hallsville ISD**

**Section 504**

Program Guidelines

2018-2019

## Section 504 Materials and Procedures

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## **INTRODUCTION**

Section 504 of the Rehabilitation Act of 1973 is a federal law that prohibits discrimination on the basis of disability. Unlike the Individuals with Disabilities Education Act (IDEA) that governs special education, Section 504 is not an education, service, or funding statute. The purpose of Section 504 is to ensure that individuals with disabilities are given the same opportunity to participate in programs and activities as are their nondisabled peers.

It is the responsibility of Hallsville Independent School District to identify and serve students who, within the intent of Section 504 of the Rehabilitation Act of 1973, are considered disabled and who, because of disability, need special services/accommodations within the general education program.

## **504 OVERVIEW**

Section 504 applies only to students who are considered eligible under the act. There are two primary requirements under Section 504: nondiscrimination and the provision of a free and appropriate public education (FAPE). The regulations require identification, evaluation, appropriate services, and procedural safeguards.

### ***Nondiscrimination***

Section 504 “specifically prohibits schools from discriminating on the basis of disability in providing any aid, benefit, or service”. This means that all otherwise qualified students receive equal access to services and benefits provided by the school. Examples of discrimination include:

- Refusing to allow any student with a disability the opportunity to be on the honor roll;
- Excluding a student from an academic class because the classroom is inaccessible;
- Refusing to give course credit or lowering a grade for a student due to nonattendance when the absences are related to a disabling condition;
- Refusing to allow any otherwise qualified student with a disability the opportunity to participate in extracurricular activities;
- Refusing to provide opportunities for students with disabilities to try out for academic or sports teams.

Nondiscrimination does not mean that every student has access to every program. Even a student with a disability under Section 504 is not automatically included in all school activities. A student must be “otherwise qualified” to participate. To be otherwise qualified means that a

student meets all other requirements of the activity and would be able to participate with reasonable accommodations.

### ***Free and Appropriate Education (FAPE)***

Every student in a school must receive equal opportunity. This does not mean that every student receives the same services or accommodations. Each student must be considered as an individual.

### **ELIGIBILITY**

Students may qualify for protection under Section 504 if they have a mental or physical impairment that substantially limits one or more of life's major activities. A label, disability, or diagnosis, alone, does not make a student eligible under Section 504. The disability must substantially limit the student's performance as compared to the performance of the average student in the general population.

*Regulations at 34 CFR 104.3(j)(i) defines the term "physical or mental impairment," as set forth below: (A) 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; genitorurinary; 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. Note that the definition does not define specific diseases; nor is the regulation intended to limit the range of diseases or medical conditions that might come into play.*

*A Person is Substantially Limited If He Is: "Unable to perform a major life activity that the average person in the general population can perform," 29 C.F.R. 1630.2(j).(1)(i).; or Significantly restricted as to the condition, manner or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity."*

### **IDENTIFICATION**

The first responsibility of schools under Section 504 is to identify and locate students needing service. The process can be coordinated with the school's special education child-find process. Students who may be disabled under Section 504 can be referred by a concerned teacher, administrator, parent, or private/public agency. ***Section 504 is a tool for student success when lesser interventions are not successful.*** If, after receiving targeted intervention, a student continues to experience difficulty, the teacher or counselor should refer the child to the RTI

team. This team should consist of the building principal or his/her designee, the student's regular education teacher or his/her designee, and another person familiar to the student.

## **REFERRAL**

When the decision is made to initiate a Section 504 referral, the campus counselor will complete the Referral Report and gather data pertinent to the evaluation; send Parent Consent, Notice of Rights, and Parent Input to the student's parent/guardian; Health Information to the campus nurse; Teacher Input and Dyslexia Checklist (if applicable) to the student's teachers; Physician's Report to the student's Doctor(s) (if applicable). Once all data is gathered, the counselor will notify teachers, administrator, and parents/guardians of the proposed meeting date.

Once a referral is made, an evaluation must follow within a reasonable period of time from parent's consent, unless there is no reasonable basis to suspect a disability. If there is no reasonable basis to suspect a disability, HISD will issue a notice in writing stating the reasons for denial. Also, if a parent refuses to grant permission for an initial evaluation, the school may only evaluate the student by initiating a due process hearing and getting an order from an independent hearing officer.

## **EVALUATION**

The evaluation for determining Section 504 eligibility is based on the type of suspected disability, the impact of the disability in the educational environment, and the type of services or accommodations that may be needed. There are no specific evaluation requirements for Section 504; however, the evaluation must be sufficient to accurately and completely assess the nature and extent of the disability and the impact of the disability on a specific major life activity. Data can include aptitude and achievement tests, teacher recommendations, physical and health information, adaptive behavior data, discipline information, parent input, privately-obtained data, prior IDEA evaluations, grade and progress reports, and any other relevant information.

## **SECTION 504 COMMITTEE MEETING**

When the evaluation is completed, a Section 504 meeting must be scheduled. The 504 Committee will consist of a person that has knowledge of the child, knowledge of the placement options, and knowledge of the meaning of the evaluation data. If the student is 18 years of age or older, he/she must attend. Prior to a Section 504 meeting, HISD will provide the parents with notice of the time and place of the meeting.

### *Types of Section 504 Meetings:*

- **Re-Evaluation Meeting:** A re-evaluation is conducted at least every three years, or whenever there is a question of continued eligibility, a change in placement, or there's a question that the student service plan is no longer appropriate. When a re-evaluation is needed a knowledgeable committee will convene with the purpose of reviewing evaluation information and answering the eligibility questions that determine if the student continues to qualify as a student with a disability under Section 504.
- **Transfer Meeting:** When a student transfers into Hallsville ISD and is qualified as disabled under Section 504, a knowledgeable committee shall review the existing 504 plan to determine the plan's appropriateness to the current educational setting. Hallsville ISD will implement the current 504 plan, as written; until the knowledgeable committee convenes to review the student's needs and recommend any required changes. The committee may decide to transfer the plan that was received onto HISD forms, write a new or more appropriate plan to the current educational setting, or reevaluate the student to determine if the student continues to qualify as a student with a disability under Section 504.
- **Snapshot:** Snapshots will be completed for HISD students that do not require a re-evaluation for the current school year. Snapshots will focus on the following areas of performance: attendance; grades and classroom performance; state assessments; disciplinary record (including number of removal days). If 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, then the 504 coordinator or designee will provide the parent a letter indicating that no re-evaluation will be held that year, which will include a copy of parent rights. Should the parent or school personnel request a re-evaluation, the parent will be notified and the Section 504 Committee will meet to re-evaluate.
- **Manifestation Determination:** Before implementing a suspension or expulsion that constitutes a significant change in the placement of a student with a disability, a school district must conduct a manifestation determination of the student to determine whether the misconduct in question is caused by or has a substantial relationship to the student's disability, and if so, whether the student's current educational placement is appropriate. If it is determined that the misconduct is not caused by the student's disability or the school's inappropriate placement, the student may be excluded from school in the same manner as are similarly-situated

students who do not have disabilities. Please refer to the Discipline section below for more information on days out of placement resulting in a Manifestation Determination Review.

## **SERVICES**

If the committee determines that a student is disabled, the committee must determine what services or accommodations are required to enable the student to receive an appropriate education. ***Services are provided to give equal access, not as extra support for a student.*** The student must be reevaluated through a formal 504 process every 3 years. In addition, the committee should consider reevaluation when:

- (a) the student transitions to a new school;
- (b) the student's behavior/academic achievement shifts; and
- (c) if the committee believes that the student is no longer mentally or physically impaired or if the student's impairment no longer substantially limits a major life activity.

## **DISCIPLINE**

Section 504 requires that a school district evaluate a student believed to have impairment before making an initial placement of the child and before any subsequent, significant change in placement. The permanent exclusion of a student with impairment, the exclusion of a student for an indefinite period, or the exclusion of the student for more than **10** consecutive school days constitutes a ***significant change in placement*** under Section 504.

A series of suspensions, each of which is 10 or fewer days in duration, but that creates a pattern of exclusions, may also constitute a significant change in placement. The determination of whether a series of suspensions creates a pattern is made on a case by case basis. Among the factors considered in determining whether a series of suspensions has resulted in a significant change in placement are length of each suspension, the proximity of the suspensions to one another, and the total amount of time the student is excluded from school. The Office of Civil Rights does not consider a series of suspensions that, in the aggregate, is for 10 or fewer days to be a significant change in placement.

## **DUE PROCESS**

Parents and students have due process rights under Section 504. These include the following:

- Right to be informed by the district of specific due process rights;
- Right for the child to have access to equal academic and non-academic school activities;
- Right for the child to have an appropriate education in the least restrictive setting, which includes: accommodations, modifications, and related services;
- Right to notice regarding referral, evaluation, and placement;

- Right for the child to have a fair evaluation conducted by knowledgeable person(s);
- Right to an administrative hearing and appeals process;
- Right to examine and obtain copies of all school records;
- Right to provide consent prior to evaluation or placement for Section 504 services;
- Right, in most cases, for the student to “stay put” during the pendency of a hearing or appeal; and
- Right to request an independent educational evaluation at public expense if they disagree with the school’s evaluation.

The list of rights above is non-exhaustive, but it is important to note that the crux of a parent’s due process rights are (a) the right to prior written notice; (b) the right to inspect educational records; (c) the right to an impartial hearing to dispute a school’s decision; and (d) the right to appeal the impartial hearing officer’s decision.

### **ASSURANCES**

Section 504 regulations concerning provision of FAPE closely mirror the procedural requirements of special education. Students being considered for Section 504 services must be referred, evaluated, and provided services in accordance with Section 504 regulations. The school has the responsibility to provide written assurance of nondiscrimination and have a Section 504 process in place.

**Please don’t hesitate to contact the 504 campus coordinator or the 504 office if you have any questions or concerns.**

**If you would like copies of your student’s 504 accommodations or services plan, please contact the 504 office at (903) 668-5990 x5045.**