Thorndale

Independent School District

Section 504 Handbook

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SECTION 1: RESPONSIBILITIES OF THE CAMPUS SECTION 504 COORDINATOR

Background Information

Section 504 of the Rehabilitation Act of 1973 is a non-discrimination statute enacted by the United States Congress, the purpose of which is to prevent discrimination and to ensure that persons with disabilities have opportunities and benefits comparable to those provided to persons without disabilities. Section 504 states, in part, that "No otherwise qualified individual in the United States shall, solely on the basis of his handicap, be excluded from participation, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance..." The law went into effect in 1977. In 1990, Congress passed the Americans with Disabilities Act, which extended these rights to most of the private sector. However, when cases involving Section 504 and ADA went to court in the 1990's and the first few years of the 21st century, the courts were defining disability more narrowly than Congress had intended. Because of this trend in case law, Congress decided to amend the ADA in 2008, and these changes were also applied to Section 504. The goal of the amendment was to provide the broadest possible coverage and to strengthen the disability laws. The Office of Civil Rights (OCR) of the USDE, which is responsible for enforcement of these laws in public elementary and secondary schools, provided guidance for their implementation following the 2008 amendments.

Under Section 504 as amended in 2008, an eligible student is one who: a) has; b) has a record of; or c) is regarded as having a physical or mental impairment that substantially limits a major life activity such as seeing, hearing, eating, sleeping, breathing, working, standing, walking, lifting, bending, speaking, reading, concentrating, communicating or learning. Accordingly, the District has adopted policies and procedures to ensure that discrimination does not take place.

Overview of Campus Section 504 Coordinator Responsibilities

TISD utilizes a case manager model in coordinating the educational services of all students with disabilities. A campus Section 504 coordinator serves as the case manager for all students evaluated and/or served under Section 504. Case manager responsibilities for campus Section 504 Coordinators include the following:

- Accept 504 referrals from parents.
- If a referral is not considered appropriate and will not be accepted, send the *Notice of Denial of Parent Request for Section 504*.
- If the referral will be accepted, gain consent to communicate with the health care provider who has made the diagnosis and solicit input regarding the student's impairment and the degree to which it causes limitation to one or more major life activities.
- Maintain a record of all referrals and evaluation due dates.
- Provide parents with all notices (including *Notice of Rights and Procedural Protections under Section 504*) and obtain their consent (for placement and evaluation) as required under Section 504 and TISD standard practices.
- Gather background data for initial evaluations, reviews of existing data, 3 year re-evaluations and additional evaluations prior to any change in placement; share background data with other evaluators (e.g., evaluation specialists testing for dyslexia); and lead the Section 504 Committee in completing 504 eligibility evaluations during Section 504 meetings.
- Schedule, provide notice, choose multidisciplinary team members and lead the Section 504 Committee meetings, including evaluation meetings, annual review meetings, and review meetings as needed.
- Ensure that evaluation and placement are conducted by a team of at least three District staff members who are knowledgeable about the student, the evaluation data and placement options (and, for students with dyslexia, the meaning of the dyslexia evaluation, dyslexia and related disorders, the reading process, and dyslexia instruction), and that decisions about placement are based on the child's individual needs and consideration of the least restrictive environment (LRE).
- Complete evaluations within established TISD timelines.
- Complete all required paperwork before, during and after the initial evaluation meeting according to legal requirements and TISD standard practices for Section 504.

- Notify staff with an educational need to know of Section 504 Accommodations and Services Plans
- Maintain appropriate documentation and records.
- Educate and inform campus staff and parents about the responsibilities of the District under Section 504 to students with disabilities.
- Fulfill child-find duties by referring any child suspected of having an impairment that creates a substantial limitation in one or more major life activities, creating a need for accommodations and/or services.
- Know when a referral for special education should be considered and follow District procedures for consulting with special education administrators about a possible SPED referral (RTI paperwork sent for a campus referral and an on-campus review with SPED administrators scheduled for a parent referral).
- Keep campus and District administrators informed regarding any issues involving a Section 504 student that may require administrative attention.
- Ensure the implementation of all legal requirements and TISD standard practices relating to Section 504 on the assigned campus.
- Receive parent grievances and requests for due process hearings as applicable and work with the District 504 administrators as appropriate to resolve grievances/conduct hearings.
- Maintain confidentiality of all Section 504 student data.

Required Documentation

Required documentation will take place on SuccessEd and District forms according to timelines discussed throughout this handbook. The most frequently referenced forms are found in SuccessEd; each campus Section 504 coordinator has access to the remainder of the forms electronically.

All forms will be completed in the SuccessEd system.

Section 504 coordinators should log any phone conversations or informal meetings with parents. Text messages, e-mails, and all other documents become educational records upon records request.

Providing Paperwork to Parents

Notice and consent is always required prior to conducting an initial evaluation and placing a student into Section 504 protection. With each notice, a parent should also receive the *Notice of Rights and Procedural Protections under Section 504*. After the meeting the parents should be provided with a copy of appropriate paperwork.

Note: In this handbook, the term "parent" will also be used to mean the "adult student" in the case of a student age 18 or older, unless the parent has obtained legal guardianship. All legal rights of the parent transfer to the student at age 18 unless the parents have obtained legal guardianship.

Notification of Student's 504 Eligibility Status

Each time a student is initially identified for eligibility for services under Section 504 or dismissed from eligibility under Section 504, the status must be changed in Ascender within 5 working days. State law requires that all 504 eligible students should be tracked in PEIMS. Ascender must also be changed specifically if a student qualifies as a student with dyslexia or a related disorder (e.g., dysgraphia or developmental spelling disability) or no longer qualifies under this eligibility category, as the number of students identified as having dyslexia or a related disorder must be tracked in PEIMS as well.

Notifying School Staff of Accommodations/Services Plan

Teachers and other school staff responsible for implementing Section 504 Student Services Plan should be provided a copy of the current service plan within 5 working days of an initial or revised service plan. Campus coordinator should obtain a teacher receipt of 504 service plans in Success Ed.

SECTION 2: REFERRAL AND EVALUATION PROCESSES

Child Find under Section 504

The District has a positive duty to locate and evaluate students with disabilities who are suspected of being eligible for services under Section 504. District 504 administrators will be responsible for developing and publishing child find activities. In deciding whether a disability is suspected, expected duration of the impairment and need for accommodations and/or services must be considered. Generally, a short-term impairment (less than 6 months) is not considered a disability and would not qualify a student under Section 504; however, the severity of the impairment and degree of need must also be considered. Additionally, the District does not have an obligation to evaluate students who may technically meet the definition of disability, but the disability does not affect one or more of life's major activities.

How Referrals Are Initiated

Referrals may be initiated verbally or in writing by school personnel (including the RTI Committee, Intervention Team, campus nurse, or Special Education Department), by the student's parent or legal guardian, or by outside service providers. Referrals should be made or forwarded to the campus Section 504 Coordinator. Referral will always be considered for a child with a diagnosed impairment who is tested for special education but is found ineligible. They may also be considered for some students exiting special education (though many of these students' needs can be met through RTI accommodations).

Referrals should be made for students who require frequent implementation of a school health plan, who may have emotional or psychological issues, or who have a potentially life threatening disease or disorder such as epilepsy or diabetes.

The Referral Process

Regardless of the source of the referral, parents will be provided with the *Notice of Rights and Procedural Protections under Section 504* at the time of referral. Notice of the proposed evaluation must also be provided and consent obtained from the parent or adult student prior to beginning the evaluation process (with the exception that gathering data already available in the student's educational records is acceptable prior to obtaining consent).

Timelines for Paperwork Following Request for an Initial Evaluation

1. If the District decides to evaluate: The campus coordinator should meet with the parent to explain the Section 504 process and provide the following to the parent. Consent forms must be received back from the parent within 10 school days from the day a request for evaluation under Section 504 is received:
    - *Notice of Rights and Procedural Protections under Section 504*
    - *Notice of Release/Consent to Request Confidential Information* (for health care provider, if applicable)
    - *Notice of and Consent for Initial Section 504 Evaluation*
      (Please see Appendix C for additional forms that may need to be sent to parents for initial evaluations. Some of these forms are required under specific circumstances; others are optional).
2. If the District decides NOT to evaluate: The following must be received by the parent within 15 school days:
    - *Notice of Decision* (copy placed in cumulative folder for documentation purposes)
    - *Notice of Rights and Procedural Protections under Section 504*

When Consent is Not Obtained within Timelines

The campus Section 504 coordinator who is unable to obtain written consent within 15 school days should have documentation of multiple (at least 2) attempts to obtain the consent using multiple methods (e.g., through mail, sending form home in backpack following a telephone call to alert the parent, asking parent to come to the school,

and/or home visit). If signed consent cannot be obtained within timelines, the campus Section 504 coordinator should consult with the District Coordinator.

When Student is not Living with Two Biological Parents

Consent and notice documents should be sent to all persons who have the right to make educational decisions for the student. If parents are divorced or there is some living arrangement other than with two biological parents, please check the documents in the cumulative file, or request a copy of the divorce decree and/or any other legal documents showing custody and parental rights. Although notice and the opportunity to give consent must be provided to all parents with educational decision-making rights, consent need only be obtained from one parent in order to proceed. If one parent with rights is actively refusing consent and the other is providing consent and wanting to move forward, consult the District Coordinator.

Referral information should be recorded by the campus Section 504 coordinator (referral date, report-by date and meet-by date). It is recommended the Campus 504 Coordinator maintain a referral log to track the timeline of the dates.

District Refusal to Evaluate

When a parent requests an evaluation under Section 504, the section 504 coordinator, with the help of the campus principal, will decide whether an evaluation is needed. In the case of dyslexia or related disorders, the district dyslexia coordinator should be consulted to help review data and decide on the appropriateness of a referral. If there is uncertainty about the implications of the data, administrators in charge of Section 504 may be consulted.

In general, the District will err on the side of caution in responding to parent requests to evaluate under Section 504, and the referral will usually be taken. MTSS (RTI-academic) cannot be used as a "roadblock" to testing simply because a student has not "finished the tiers." If a parent requests testing and data available thus far indicate a suspicion of a disability, the referral should be taken.

However, there are some circumstances in which the District may refuse to evaluate (e.g., the parent/adult student cannot name or identify any disorder/impairment, the District already has input from a health provider indicating that the condition is mild and produces only minor limitations, the impairment is of short duration, the evaluation is for dyslexia and the student is performing well in reading, etc.). In such cases, the Campus Coordinator should send a Notice of Decision to parents within 15 working days. A copy should be maintained in the cumulative folder for documentation purposes, and the parent/adult student should be provided a copy of the *Procedural Safeguards* document. The letter and *Notice of Parental Rights and Procedural Safeguards* under Section 504 documents must be sent to parents so that they are received within 15 school days of parental request for evaluation.

Purpose of the Section 504 Evaluation

The purpose of an eligibility evaluation under Section 504 is to:

1. determine whether the student has a physical or mental impairment that substantially limits a major life activity; a record of such impairment; or being regarded as having such an impairment AND has a need for accommodations and services under Section 504;
2. determine eligibility; and
3. if the student is eligible, determine what services, accommodations, or change in placement, if any, are needed in order to provide a free, appropriate public education (FAPE) and determine an accommodations and services plan if needed.

In addition to Section 504 eligibility evaluations, which are generally completed within a Section 504 meeting, there are other individualized evaluations, such as evaluations for dyslexia and dysgraphia, which are completed

prior to the meeting in which eligibility for Section 504 is determined. These evaluations are reviewed in the 504 meeting prior to the 504 eligibility evaluation.

Determining Eligibility Under Section 504

In making the 504 eligibility determination, the following should be considered:

- An eligible student under Section 504 is one who: a) has; b) has a record of; or c) is regarded as having a physical or mental impairment that substantially limits a major life activity such as seeing, hearing, eating, sleeping, breathing, working, standing, walking, lifting, bending, speaking, reading, concentrating, communicating or learning.
- "Substantially limits" should be considered without regard to the helpful effects of mitigating measures (ADHD medications, hearing aids, behavioral therapy, etc.), with the exceptions of ordinary glasses or contact lenses.
- Episodic conditions or conditions in remission are considered a disability if, when active, they would substantially limit a major life activity.
- "Regarded as" focuses on a person being subjected to a discriminatory or harassing act because of an actual or perceived mental or physical impairment, and does not constitute a disability if the impairment is both transitory (less than 6 mos.) and minor. However, such a person is entitled to protections under the law whether or not the impairment is perceived to substantially limit a major life activity.
- Duration of a disability under Section 504 is generally longer than 6 months, but there is no firm rule about duration, and the duration may be shorter depending upon the severity of the disorder. Both severity and duration should be taken into account in determining whether a student should be referred to/served under Section 504.
- There is no comprehensive or exhaustive list of "major life activities."
- School districts should not limit their consideration to major life activities which seem most related to academic achievement, such as thinking, reading, concentrating or learning. Instead, the law is intended to protect persons with substantial limitations on a broad array of major life activities.

Timelines for Completing Initial Evaluations

- Evaluations (with exceptions as described below) are due by the 45th school day following the date of signed parental consent.
- Timelines may only be extended with permission of Section 504 administrators in extreme circumstances when the absences have been frequent and the student has been minimally available for testing, and even in such cases may only be extended by as many days as the student has been absent since consent for testing was obtained
- *Exception to the usual timelines:* If a school district receives written consent signed by a student's parent at least 35 but less than 45 school days before the last instructional day of the school year, the evaluation must be completed by the end of the school year. If a district receives written consent less than 35 school days before the last instructional day of the school year, then the usual timeline of 45 school days applies. "School day" does not include summer school.

Evaluation Materials

Tests and other evaluation materials and procedures used for the purposes of evaluation and placement of children with disabilities must be selected and administered so as not to be racially or culturally discriminatory. For a child with impaired sensory, manual, or speaking skills, tests will be selected and administered to accurately reflect the student's aptitude, achievement level, or whatever other factors the test purports to measure, rather than reflecting the child's impairment. A trained evaluator will choose standardized tests that have been validated for the specific purpose for which they are used, and will administer them in conformance with the instructions provided by their producer.

All tests and evaluation materials will be provided and administered in the student's native language or other mode of communication (This may be done through the use of an ancillary evaluator or interpreter). Materials and procedures used to assess a child with limited English proficiency will be selected and administered to ensure that they measure the extent to which the child has a disability and needs special education, rather than measuring the child's English language skills. No single procedure will be used as the sole criterion for determining an appropriate educational program for a student.

Steps for Completing Section 504 Evaluations

1. Unless the District will be testing for dyslexia or a related disorder, confirm with the parent verbally that a licensed or certified health care provider has diagnosed an impairment that might substantially limit a major life activity. Be sure that parent is able to specify the health care provider and the diagnosis.
2. If possible, meet with the parent to discuss Section 504 and review the following items:
    - *Notice of and Consent for Initial Section 504 Evaluation*: for parents to sign and return within 15 school days of referral and prior to evaluation. This form is only required for INITIAL evaluations or in an instance where the Section 504 Committee is requesting additional information through individualized assessment.
    - *Notice of Rights and Procedural Protections under Section 504*
    - *Parent Input* (for parents to complete and return; this form is required for dyslexia and related evaluations and is generally beneficial for other 504 evaluations, though depending on the nature of the referral, the needed information may be gathered from the parents in other ways).
    - *Notice of Release/Consent to Request Confidential Information*: allows you to communicate with the health care provider making the diagnosis and to send the *Documentation of Student Disability by Certified/Licensed Health Care Provider* form to the provider for their official diagnosis and input (Note: this form may not be needed for dyslexia evaluations). It is recommended that a release of information be obtained and that the impairment be documented in writing from a physician; although it is not required to have this in writing. The Section 504 committee can look for other types of evidence or statistics to support an impairment.
3. If input from a Physician or Healthcare Provider is deemed necessary or preferred, once you have obtained the signed consent for the evaluation and the *Notice of Release/Consent to Request Confidential Information* form from the parent to communicate with the health care provider, immediately FAX the *Release* and the *Documentation of Student Disability by Physician/Health Care Provider* form to the provider for their official diagnosis.
4. In addition to ensuring that the parent has signed and returned the *Notice of and Consent for Initial Section 504 Evaluation* form, and *Notice of Release/Consent to Request Confidential Information* form (before you FAX the health care provider), ensure that parent returns the *Parent Input* form if applicable.
5. Record the referral information and due dates for report and meeting.
6. Ensure that evaluation is conducted within timelines. (45 school days from the day that parental consent is obtained, with an additional 30 days to hold the meeting/eligibility evaluation in the case of an evaluation for dyslexia or a related disorder. Exception: for referrals obtained 35-44 school days before the last instructional day of the school year, the evaluation is due by the end of the school year. Regular timelines apply for referrals received less than 35 school days before the last instructional day.)
7. If applicable, review any previous evaluations, including outside evaluations provided by the parent.
8. Gather background data for the evaluation as needed (including information from forms listed below) and enter this data into the *Section 504 Evaluation* form (found in SuccessEd) prior to the meeting. Information should include:
    - Grades, attendance records, behavioral records, school medical records, and universal screener records (if applicable) gathered and entered *(Note: For dyslexia evaluations, this information should be shared with the dyslexia specialist).*
    - Information from vision/hearing/health records
    - Teacher information from *Teacher Input* Form

- Parent information from *Parent Input* Form or other source
- Information from *Documentation of Student Disability by Physician/ Health Care Provide*r

9. For dyslexia, dysgraphia, submit a request for testing into Eduphoria with a copy of the parent consent for testing.
10. Load parent consent, parent information, teacher information into SuccessEd.
11. Mail the parent the copy of the *Notice of Section 504 Meeting*.
12. Hold Section 504 meeting to complete the *Section 504 Evaluation* (after reviewing Dyslexia, Dysgraphia, or related evaluation) as documentation of the meeting and evaluation results. Complete *Section 504 Student Services Plan* and any additional forms as appropriate.

Decisions about Type and Amount of Data Needed for Evaluations

Decisions about the type and amount of data that need to be gathered for a given evaluation are made on a case-by case basis. Dyslexia evaluations (discussed in the section below) require extensive gathering of background information, since many factors including second language issues, cultural factors, intellectual disability, emotional factors, sensory factors and general health factors should be ruled out as the primary cause of the student's reading problems before dyslexia should be diagnosed. The *Teacher Input Dyslexia Information* form, and the *Parent Input Dyslexia* form should always be used for dyslexia and related (e.g., dysgraphia) evaluations. For these evaluations, you will also need to gather more extensive information about grades, attendance, behavior and health from school records and school personnel.

On the other hand, when a disability for which the student is being evaluated is based on a medical disorder that affects a major life activity other than reading or learning, less extensive data will need to be collected from the school. For example, if a student has an orthopedic impairment due to an amputation following a car accident, grades and attendance may not be particularly relevant to making a decision about the presence of a disability. Thus, you might enter something like "average" or "above average" in the section on grades, and "adequate" or "poor" under attendance, without being more specific. In some cases, you may wish to gather information needed from teachers and/or parents via telephone, email or in person rather than using the *Teacher Input* form and the *Parent Input* form.

School Health Protocols/Evaluations

- School nurses have been notified that whenever they are provided instructions by a physician for handling a medical issue other than administering routine medication (e.g., seizure protocol, diabetes protocol, etc.) to a student, they need to notify the school counselor/Section 504 coordinator because:
    - this raises a "child find" issue* (i.e., if the student is not already served under Section 504 or SPED, this needs to be considered, since most children with complex medical issues will at least qualify under Section 504), AND
    - for a child identified under Section 504 or SPED), the Section 504/ARD committee must approve any medical plan or protocol that goes beyond routine medication administration.
- The counselor/Section 504 Coordinator will notify the nurse whether or not the child is currently under Section 504 (or SPED) and if not, whether or not he/she will be evaluated under Section 504 (or SPED).
- For children who are identified under Section 504 or SPED, the case manager (campus counselor/504 coordinator for Section 504 and Evaluation Specialist for SPED) must work closely with the nurse to ensure that there is only one medical plan/health protocol in place. There should never be two plans (e.g., one set of physician's orders for dealing with seizures in the nurse's office and a different school health protocol developed for Section 504 or SPED in the counselor's office or the special education file). Instead, the nurse and case manager should work together to ensure that there is ONE school health plan or protocol that is in both the nurse's office and the counselor's office or SPED file, and is distributed to staff working with the child as needed.

- If the nurse already has a current plan for dealing with a complex medical issue (e.g., "seizure protocol," "diabetes protocol," etc.) from the physician that is a separate document from other medical orders, then this document can be provided to the case manager, who may take it as a "draft" to a Section 504 or ARD committee meeting and propose its formal adoption. A copy of the document should be marked "Adopted by the Section 504 (or ARD) committee on (date) _____." The case manager is responsible for distributing this document to staff as needed. The school nurse is responsible for providing any training needed by staff for implementing the school health plan/protocol.
- In these cases, the school nurse should be a member of the Section 504 committee.
- If a child under Section 504 or SPED has a complex medical issue but the nurse does not have physician's orders for dealing with the issue, the Section 504 or ARD committee should request information from the physician. The case manager will gain parental consent for both the school nurse and himself/herself to communicate with the physician, and the case manager and school nurse will work together to get the needed input from the physician.

**Note: If a serious injury occurs to a child with a health condition who was never evaluated for 504 or SPED, the school may be sued for monetary damages. This is because under federal law, the District has a "child find" obligation to identify, evaluate, and serve any child eligible for Section 504 or special education.*

Re-evaluations

Re-evaluations are conducted every 3 years or more frequently if conditions warrant or if the child's parent or teacher requests a re-evaluation, but not more than once a year (unless parent and District agree otherwise). Before a re-evaluation for eligibility is conducted, the District should thoroughly review any previous evaluations, including previous 504 eligibility evaluations. Although some data may be reaccepted from the previous evaluation, it is expected that this will take place on an individual basis and the reason for not gathering new data in a given area will be well documented.

Re-evaluations MAY also be conducted prior to any change of placement. In some cases, if an evaluation has been recently conducted, these evaluations may be very informal and consist solely of a review of existing data entered onto a new *Section 504 Evaluation* form. A change of placement includes (but is not limited to):

- expulsion
- serial suspensions that exceed 10 days in a school year
- significant change in programming or related services
- transferring a student to homebound instruction
- exit from Section 504 or from a program within Section 504 (such as the Dyslexia Program)

SECTION 3: SECTION 504 COMMITTEE MEETINGS

Required Members of the Section 504 Committee

The Section 504 Committee will be composed of at least three professional staff members who, collectively, are knowledgeable about:

- the child,
- the meaning of the evaluation data, and
- the placement options.

To participate in meetings, it is TISD standard practice to invite parents to any Section 504 Committee meeting in which the child's eligibility, placement, or services will be discussed. If a parent attends, the parent will be (at least) the 4th member of the committee.

Types of 504 Committee Meetings

There are five types of Section 504 Committee Meetings:

1. *Initial evaluation meetings* - This is the initial meeting in which eligibility is first determined.
2. *Annual meetings* - This meeting is to review one year's progress and plan for the next year.
3. *Review meetings* - These are additional meetings that are held as needed, to review an outside evaluation or a three-year re-evaluation, to consider a change of accommodations and/or services, to address a parent concern, etc.
4. *Manifestation Determination* - These are meetings held when a student is out of placement for more than ten days or being considered for an alternative placement.
5. *Transfer meeting (Annual Review)* - This meeting occurs when a student transfers into TISD from another district and already has been identified as a Section 504 student. The school may choose to accept the previous school's service plan. If this is the case, the plan needs to state "accepted by TISD" with date. It is recommended that an "Annual Review" be held within the school year in the SuccessEd system.

The annual review meeting may be held up to a couple of months early if needed to complete a 3-year re-evaluation within timelines in the meeting. Annual meetings must be held on or before the previous year's meetings. If the accommodations and/or services plan are changed in a review meeting that plan should only be in place until the date of the annual meeting. It should not extend beyond the date of the upcoming annual meeting.

Steps for Conducting Section 504 Committee Meetings

1. Schedule the time and location of the Section 504 Committee meeting.
2. District staff should be invited to the meeting using Google Calendar events
3. Parents should generally be provided with a *Notice of Section 504 Meeting* form at least five days in advance of the meeting. (If a meeting needs to be set up quickly, a shorter notice is acceptable if the parent agrees). Notice should be sent to all persons with the right to make educational decisions for the child.
4. As a courtesy, it is best practice for the Campus 504 Coordinator or designee to follow up with a phone call/phone message to let the parent/adult student know the time and date of the meeting.
5. If parents are unable to attend a Section 504 meeting and wish to re-schedule, it is the decision of the Campus 504 Coordinator whether or not to reschedule.
6. If an evaluation is to be completed in the meeting, come to the Section 504 Committee meeting prepared with *a draft* of the background information on the *Section 504 Evaluation* form in SuccessEd.

7. Prepare in advance a *draft* *Section 504 Student Services Plan* form in SuccessEd as appropriate based on the *Teacher Input* form(s), *Parent Input* form, and/or other information gathered. Develop/approve the final plan in the meeting.
8. Use the *Section 504 Evaluation* form to document decisions made in the meeting following the order of items on the form (in SuccessEd*).* Respond to all areas on the form including notes sections to explain information and decisions made.
9. If this is an Initial evaluation and the parent or adult student is present at the meeting, present the form entitled *Parent Consent for Section 504 Service* (Consent from only one parent is required).

After the Meeting

1. If a student was found newly eligible (or dismissed) from Section 504 and, more specifically, as a student with dyslexia or a related disorder, make the appropriate change in Skyward within *5 school days* of the meeting or of the date you received parental consent for initial placement. Make sure to note the "active date," which is the day after the meeting if the parent was in the meeting and signed consent at that time, or the day after you receive signed parental consent if the parent was not in the meeting.
2. **Provide parents with paperwork from the meeting and evaluation.** Send parents a copy of the applicable forms. Also, **in the case of an initial evaluation only**, if the parent was not present at the meeting, provide the form entitled *Parent Consent for Section 504 Service* and request that parent complete and return it.
3. Ensure that the parent signs and returns the *Parent Consent for Section 504 Service* form ***within 5 school days if possible. but in no case more than 10 school days****.* If consent is not obtained within 10 school days, the case manager must have documentation of at least 2 attempts using multiple methods (phone call followed by form sent home in backpack, form sent through the mail, home visit, request to come to school and sign the form, etc.) to obtain the consent. In this circumstance, please consult the District Director about what action should be taken.
4. Complete and print the services plan (if applicable), distribute the plan to staff and obtain signatures of receipt.
5. Print and File paperwork in the student's yellow folder.
6. **LOCK ALL** draft forms completed and/or uploaded into SuccessEd ***within 5 school days if possible, but in no case more than 10 school days*** of the Section 504 committee meeting (unless you are still pursuing consent for initial placement with the help of Section 504 administrators):
    - *Notice/Consent for Initial Section 504 Evaluation** (signed by parent and uploaded)
    - *Notice of Release/Consent to Request Confidential Information** form (signed by parent and uploaded)
    - *Documentation of Student Disability by Physician/Health Care Provider (uploaded into SuccessEd)*
    - *Notice of Section 504 Meeting* (completed in *SuccessEd)*
    - *Section 504 Evaluation* (completed in *SuccessEd)*
    - *Section 504 Student Services Plan* (completed in *SuccessEd)*
    - *Health Information* (if applicable)
    - *Parent Input (uploaded into SuccessEd)*
    - *Teacher Input (uploaded into SuccessEd)*
    - *Parent Consent for Section 504 Service (signed by parent and uploaded into SuccessEd)* (FOR INITIAL EVALUATIONS ONLY)
    - *Notice of Section 504 Evaluation Results* (completed in *SuccessEd)*
    - *Copies of any other letters/forms used in the evaluation process (outside evaluations, behavior plan, FBA, manifestation determination, transportation information, etc.)*

What to do if Parents are Unable to Attend a Section 504 Committee Meeting at the Scheduled Time

If parents are unable to attend a Section 504 meeting and wish to re-schedule, it is the decision of the Campus 504 Coordinator whether or not to reschedule. When the input or information is needed from the parents, the meeting will need to be rescheduled. On the other hand, if the District has sufficient information to proceed without the parents and the parents do not respond to the invitation, the meeting may proceed without them (as long as consent for the evaluation has been obtained, if applicable). For annual review meetings, it is acceptable to tell the parents that due to the volume of meetings it is not possible to work around every parent's schedule.

Audio-Recording of Section 504 Committee Meetings

The district, the parent, or the adult student may audio-record the Section 504 Committee meeting. All participants in the meeting shall be informed that such a recording is being made. If a parent or adult student notifies the Committee that he/she will record the meeting, the District will also record the meeting and make reference to the audiotape in the minutes of the meeting.

Writing Section 504 Committee Minutes

The following guidelines shall be followed in writing minutes for all Section 504 Committee meetings:

- Minutes can be transcribed in the comments section during the meeting and typed into the comments box in SuccessEd after completion of the meeting.
- The members present for the meeting shall be listed with first and last name. If an individual other than the parent or a school employee is present for the meeting, the individual's title (e.g., parent advocate, private therapist, etc.) should also be listed.
- The purpose of the meeting should be outlined briefly. One or two sentences are sufficient to explain the purpose of the meeting. Example: "The Section 504 committee met to conduct an initial evaluation under Section 504 and to develop a Services Plan if needed."
- Minutes should reflect the general "flow" of discussion. However, all Section 504 meeting notes should not look alike. You should be able to discern something unique about the child's current needs and status, concerns that were discussed, how concerns were addressed, etc.
- Minute-takers should be careful to reflect that "draft" documents, such as Section 504 Plans, have been reviewed first and then accepted.
- Any concerns brought up or requests made by the parents/adult student should be reflected in the minutes, along with the school's response to the concern(s)/request(s).
- While the minutes are not intended to be a "transcript" of the meeting, they should accurately reflect the general discussion of the meeting, as well as any specific issues or concerns that were addressed.

Section 504 Snapshot in Place of an Annual Meeting

For students who have received 504 services by TISD for at least three consecutive years, if there appear to be no pressing concerns and the student is managing well with the accommodations in place, the campus Section 504 Coordinator may consider completing a Snapshot for Annual Review rather than a full Annual Review as long as it not the student's first year on the campus.

Ideally two to four weeks prior to the time an annual review would be conducted, the 504 Coordinator 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 the snapshot can be completed by looking at key data points and 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
- Communication with the parent via phone, email, or personal contact to inquire as to the parent's input on the student's performance and wellbeing.

When the snapshot data reveals concerns, the student will receive an annual review that year. When the snapshot data 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 will complete the Section 504 Snapshot for Annual Review form in SuccessEd. Should the parent request an annual review, the Section 504 Committee will meet to re-evaluate.

Section 504 Coding

SB 1153, passed during the 85th legislative session (2017), requires school districts and open-enrollment charter schools to report on students for whom the school used intervention strategies. An intervention strategy is a strategy in a multi-tiered system of supports that is above the level of intervention generally used in the system with all children. (TEC 26.004)

School districts and open-enrollment charter schools report on students under Section 504 that received aids, accommodations, or services during the course of the school year.

To comply with the statute, the following fields are used in Skyward:

- E1602 – INTERVENTION-STRATEGY-INDICATOR-CODE (StudentProgramExtension complex type)
- E1603 – SECTION-504-INDICATOR-CODE (StudentProgramExtension complex type)

A student should not be identified as both having participated in an intervention strategy and having received assistance through either an aid, accommodation, or service under Section 504 Rehabilitation Act of 1973. (Business Validation Rule 40220-0188).

SECTION 4: PLACEMENT AND SERVICES

Placement Decisions

Placement decisions regarding a child who is identified under Section 504 are made by the Section 504 Committee, which is composed of at least three professional staff members who, collectively, are knowledgeable about the child, the meaning of the evaluation data, and the placement options. Parents will be invited to any Section 504 Committee meeting in which the child's eligibility, placement, or services will be discussed. A re-evaluation (using the *Section 504 Evaluation* form) is required prior to any change in placement. The District guarantees placement in the least restrictive environment (see section below).

Considerations for Placement in the Least Restrictive Environment (LRE)

TISD ensures the provision of educational and related services to eligible students in the least restrictive environment (LRE) appropriate for the student. Students with disabilities must have the opportunity to participate in educational programs and activities with non-disabled students whenever appropriate. In addressing LRE issues, the Section 504 Committee should consider how services provided under Section 504 can allow the student to access the general curriculum and extracurricular activities to the same extent as students without disabilities. The child will only be removed if he/she cannot be served satisfactorily in that environment even with supplementary

aids and services. The instructional day for students with disabilities will be commensurate with that of non-disabled students unless a shortened school day is medically required as determined by the 504 Committee after reviewing input from the physician.

Change of Placement

A re-evaluation MAY BE completed prior to any change in placement, which may include (but is not limited to) the following:

- expulsion
- serial suspensions that exceed 10 days in a school year
- significant change in programming or related services
- transferring a student to homebound instruction
- exit from Section 504 or from a program within Section 504 (such as the Dyslexia Program).
- transfer to TISD

This re-evaluation may consist solely of an informal review of data, but *Evaluation for Section 504 Eligibility and Placement* form should be completed.

Termination of 504 Services or Initiation of Special Education Services

When a student will no longer be served under the Section 504 program, either because he/she no longer needs services or because he/she will now be served under special education Section 504, the case manager should hold a Re-evaluation Meeting to document the student no longer qualifies for Section 504 services. The campus 504 Coordinator will notify PEIMS campus clerk of discontinued eligibility.

Non-academic Services, including After School Care and Special Transportation

TISD provides equal opportunity in areas such as counseling, physical education and athletics, transportation, health services, recreational activities, special interest groups or clubs, referrals to other agencies and employment. This also includes the after-school child care program. If general education students must compete for, meet certain criteria for, or try out for membership or participation in a non-academic organization or activity, then students with disabilities are not guaranteed that they will be chosen, but only that reasonable accommodations will be made to allow them to try out or compete such that they have an equal opportunity to demonstrate the required skill, ability, or attribute.

When a student receives special transportation, please complete the form entitled *Transportation Information* form in SuccessEd. A copy should be sent to the District Director.

Determining Appropriate Accommodations

In considering accommodations within the context of a Section 504 Committee meeting, it is important that they have a basis in formal or informal evaluation data and are related to the student's disability. **Accommodations for STAAR must be based on data presented in the meeting demonstrating (with objective evidence such as test scores) that the student performs better with than without the accommodation.** The accommodations plan must address the identified disability. A student identified with dyslexia must have the section completed on the accommodations plan identifying the services to address dyslexia. The case manager should be careful not to use the word "modifications" to mean "accommodations." Any accommodations that can be provided under special education may also be provided under Section 504.

Behavior Intervention Plans (BIPs)

A BIP may be developed for students served under Section 504. If a student is being dismissed from special education at the time of admission to Section 504 and has an effective BIP in place, the committee may take the information from that BIP and create a BIP using the ***Behavior Intervention Plan*** in SuccessEd. Once created, the BIP should be distributed to staff and signatures obtained to ensure receipt. Keep the receipt of accommodations (BIP) in the student's red folder and upload to SuccessEd.

If a 504 student has a pattern of behavior, or the committee feels the student's behavior is affecting his/her educational progress, the campus 504 Coordinator should contact the campus behavior specialist PRIOR to the scheduled meeting for assistance in writing the behavior plan. The behavior specialist should be invited to all meetings, thereafter.

SECTION 5: COORDINATION OF SECTION 504 WITH OTHER PROGRAMS

Dyslexia Program and Section 504

Dyslexia services (unless the student has another disabling condition under IDEA in addition to Dyslexia) fall under Section 504. At TISD, the District Dyslexia Coordinator or an LSSP from Bastrop Milam County Services will evaluate the student for Dyslexia. The Section 504 Committee will then review the data and recommendations from the evaluation and will make the determination as to whether or not the student has Dyslexia (using the *Section 504 Evaluation* form). However, a third step is required: Even if the student is determined to have Dyslexia, the 504 Committee must determine whether the dyslexia causes a substantial limitation in the major life activity of reading, thereby qualifying the student for services under Section 504. Thus, determination of services for dyslexia is a three-step process: 1) dyslexia evaluation; 2) dyslexia diagnostic determination by 504 committees; and 3) evaluation for eligibility under Section 504.

Response to Intervention (RTI), General Education Homebound (GEH) and Section 504

In some rare cases, a child may require homebound instruction for a significant but short-term condition (less than approximately 6 months) that is not considered a disability. In such cases, the child's needs will be dealt with by a General Education Homebound (GEH) committee through the 504 committee.

Additionally, a disability affecting reading or learning will generally not be suspected until the student has been provided with research-based interventions through MTSS and has failed to respond adequately to these interventions. When a student completes Tier 3 cycle (2 times), and if adequate progress has not been made, he/she may be referred for a Section 504. It is recommended that a student should be referred for a special education evaluation if this is the case. A student should be referred to a special education evaluation at any time if a staff member feels a disability is present. Please note child find responsibilities.

Special Education and Section 504

Special education and Section 504 both serve students with disabilities, but "disability" is defined differently under these two statutes. Under federal law (IDEA), "disability" (for special education purposes) is defined as having one of 13 specifically listed impairments and, on the basis of the impairment, having a need for special education and related services. Having "a need for special education and related services" has been defined through the courts as needing educational services that can only be provided through special education and cannot be provided through general education, with MTSS processes in place, the line between what is available in general education and what is only available in special education has changed considerably. In the world of MTSS, the only services provided exclusively by Special Education are the following:

- provision of a modified curriculum (generally only for students with intellectual disabilities)
- placing the student in a segregated or pull-out program with other disabled students.
- placing the student into educational programs or providing the student with educational services (not just related services) that are paid for out of IDEA-B funds.

Section 504 defines a student as having a disability if the student has a mental or physical impairment that substantially limits a major life activity, a record of such impairment, or regarded as having such impairment. All students who qualify under IDEA for special education also qualify under Section 504, but their needs under Section 504 are addressed by the ARD committee. A student served by special education (even a "speech only" student) should never also be served by a Section 504 committee, because the two committees may be working at odds with one another.

Not all students who qualify under Section 504 also qualify under special education. Special education is focused more specifically on the student's needs with regard to learning and education, and only considers other types of impairments if they fall under one of 13 eligibility categories under IDEA and impact learning or the educational

process. For example, a student who is in a wheelchair but whose education and learning are not affected would not qualify for special education. However, this student likely would qualify under Section 504, since this law covers a wider array of major life activities, including the major life activity of “walking."

Referral to Section 504 by the ARD Committee

In some cases, a student will be dismissed from special education but will be referred for an evaluation under Section 504. Since disability is defined differently under the two laws, the student who no longer has a disability under IDEA may continue to have a disability as defined under Section 504. For example, the student may continue to have the impairment (e.g., ADHD) but no longer have a need for specialized instruction. Nevertheless, if the ADHD significantly impacted the student's capacity to maintain attention, the student would continue to qualify under Section 504.

Referral to Special Education by the 504 Committee

A student may be referred to Special Education by the Section 504 committee when it is believed that, based on the student's impairment; the student needs services that can only be provided through special education.

SECTION 6: LEGAL ISSUES/PARENT RIGHTS

Discrimination Prohibited

Section 504 prohibits discrimination on the basis of disability in programs receiving Federal financial assistance (including the public schools). A person with a disability cannot be denied the opportunity to participate in or benefit from an aid, benefit or service, and may not be offered an aid, benefit or service that is not equal to that afforded persons without disabilities. The aids, benefits or services provided to persons with disabilities can only be different from those provided to persons without disabilities to the extent that the difference is necessary in order for the person with a disability to receive equally effective aids, services, or benefits.

Oversight of IDEA vs. Section 504

The Office of Civil Rights (OCR), a component of the Department ofEducation (DOE), enforces Section 504 of the Rehabilitation Act of 1973 as amended (Section 504), a civil rights statute which prohibits discrimination against individuals with disabilities. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), which extends this prohibition against discrimination to the full range of state and local government services, programs and activities (including public schools) whether or not they receive federal funds. The Office of Special Education and Rehabilitative Services (OSERS), also a component of the DOE, administers IDEA, a statute which partially funds special education programs. State education agencies are responsible for administering IDEA within the state and distributing the funds for special education programs. IDEA is a grant statute which attaches many conditions to the receipt of funds; Section 504 and ADA are antidiscrimination laws and do not provide any funding.

Role of OCR in Overseeing Section 504 in the Public Schools

OCR provides technical assistance to school districts, parents, and students upon request. It also receives complaints from parents, students, or advocates and conducts agency initiated compliance reviews. Except in extraordinary circumstances, OCR does not review the results of individual placement or other educational decisions as long as the District complies with the procedural requirements of Section 504. OCR will generally not evaluate the content of a services plan or attempt to resolve any disagreement between the parent and the school. However, OCR will investigate specific situations in which a student with a disability is allegedly treated differently than students without disabilities (e.g., excluded from certain activities or programs). Additionally, a grievance or complaint by a parent could trigger a general OCR compliance visit. If noncompliance is found, OCR will negotiate with the District to try to bring it into voluntary compliance. If this is unsuccessful, OCR may initiate administrative proceedings to terminate DOE financial assistance to the District or refer the case to the Department of Justice for judicial proceedings. Below are some of the ways the District can be proactive in avoiding sanctions imposed by OCR:

- Closely follow District standard practices with regard to Section 504.
- Maintain complete Section 504 files.
- Maintain documentation of all contacts (phone calls, conversations, emails, etc.) involving Section 504.
- Be sure that documentation supports procedural compliance.
- Ensure that decisions are based on data/documentary evidence.

Private Lawsuits

A person may at any time file a private lawsuit against a school district for issues involving Section 504. The Section 504 regulations do not contain a requirement that a person file a complaint with OCR and exhaust administrative remedies before filing a private lawsuit. Also, unlike IDEA (which does not allow parents of students to sue for financial compensation), there are no limits placed on the types of compensation complainants may receive in a Section 504 lawsuit.

Notice of Rights and Procedural Protections under Section 504

Districts are required under Section 504 to develop procedural safeguards for parents/students under Section 504. Procedural safeguards include information about identification, evaluation, placement, notice, the right to review records, impartial due process hearings, and the right to counsel and review procedures. A *Notice of Rights and Procedural Safeguards under Section 504* form will be provided to the parent/adult student:

- in response to a parent request for evaluation
- upon initial placement
- at all transfer Section 504 meetings upon enrollment in the District
- upon request by a parent
- when parents file a grievance or due process hearing under Section 504
- when the District refuses to comply with a parent request.
- at any manifestation determination review meeting

When a parent/adult student requests an evaluation under Section 504, the campus Section 504 coordinator will provide the parent with the *Notice of Rights and Procedural Protections under Section 504* **within 15 school days of the request for evaluation**. This document should be sent to all persons who have the right to make educational decisions for the student. If parents are divorced, please check the documents in the cumulative file, or request a copy of the divorce decree and/or any other legal documents showing custody and parental rights.

The Right to a Free, Appropriate Public Education

A student who is found eligible under Section 504 has the right to a free, appropriate public education (FAPE). This means that the child's education will be designed to meet his/her individual educational needs as adequately as the needs of non-disabled students are met. No fees will be imposed upon the parents of the child except the same fees imposed on the parents of non-disabled children.

Parental Notice and Consent

Specific notice must be given to parents/adult students under Section 504 upon 1) evaluation, 2) identification; and 3) placement. Consent must be obtained from the parents prior to initial or individualized evaluation and initial placement. Consent need only be obtained from one parent, but all required notices should be sent to all persons who have the right to make educational decisions for the student. If parents are divorced, please check the documents in the cumulative file, or request a copy of the divorce decree and/or any other legal documents showing custody and parental rights.

The following procedures will be used to fulfill these requirements:

Notice/Consent for Initial Section 504 Evaluation

Notice should be provided to parents and consent obtained for any evaluation under Section 504. The requirement for notice of evaluation will be fulfilled by providing the parent with the form entitled *Notice I Consent for Initial Section 504 Evaluation* **and ensuring that the consent is obtained within 15 school days of the referral.** This form will specify the nature, scope, and timelines of the proposed evaluation (Dyslexia evaluation, evaluation for eligibility for services, etc.).

The campus Section 504 coordinator who is unable to obtain this written consent within timelines should have documentation of multiple (at least 2) attempts to obtain the consent using multiple methods (e.g., sending form home in backpack following a telephone call to alert the parent, asking parent to come to the school and sign the

form, mailing the form home, and/or making a home visit). If signed consent cannot be obtained within timelines, the campus Section 504 coordinator should consult with a District-wide administrator in charge of Section 504.

Parent Consent for Section 504 Service

Parents must provide consent for a student's initial placement in the Section 504 program and initial receipt of services. A *Parent Consent for Section 504 Service* form should be provided to parents and their written consent for services should be obtained **within 5 school days if possible, but in no case more than 10 school days** of the 504 meeting in which the decision for **initial** placement was made. Ideally, the parents will attend the meeting and consent for initial placement will be obtained in the 504 Committee meeting. However, if parents do not attend and if written consent cannot be obtained from the parent/adult student within 10 school days of 504 Committee meeting in which placement was determined, the campus Section 504 coordinator should have documentation of multiple (at least 3) attempts to obtain the consent using multiple methods (e.g., sending form home in backpack following a telephone call to alert the parent, asking parent to come to the school and sign the form, mailing the form home, and/or making a home visit). If consent is not obtained within 10 school days, the case manager should consult with the District-wide administrators coordinating Section 504.

Notices should be sent to all persons with the right to make educational decisions for the child. In the case of divorced parents, you will have to check the divorce decree and/or other legal documents. Consent need only be obtained from one parent in order to proceed.

Parental Refusal or Withdrawal of Consent

If the parent refuses (or does not respond to a request for) or withdraws consent for an initial evaluation or placement/services, then the District may (but is not required to) pursue a hearing in an effort to "override" lack of parental consent. In the case of withdrawal of consent, the parent must sign a second *Parent Consent for Section 504 Service* form revoking consent. The school district may, but is not required to, initiate a due process hearing under Section 504 if it is believed that the student needs the evaluation/ placement/services in order to receive FAPE.

Parental Right to Review Records

The District must permit parents or representatives of parents to inspect and review educational records relating to their student. The District may presume that the parent has authority to inspect and review the student's records, unless the District has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

Transfer of Educational Rights at Age 18

At age 18, TISD transfers educational rights from the parent to the adult student. The adult student will be involved and encouraged to participate in the Section 504 Committee meetings and will have all the other rights of parents described in the Procedural Safeguards. All consents must be granted and signed by the student.

Confidentiality

TISD maintains strict confidentiality of student information and records. Student records may include student work, notes, files, meeting documents, and other materials which are maintained in writing, found in computer memory banks, or on film. Personally identifiable information regarding a given student or information about Section 504 Committee meeting proceedings should never be discussed with another person unless that person has an "educational need to know" the information. Materials distributed in Section 504 Committee Meetings (copies of evaluation reports, draft accommodations plans, etc.) must be kept out of the hands and out of the view of other students, staff (unless they have a need to know in order to serve the students), and parents of other

students. Students should not be discussed with others outside of the school setting in a way which identifies them without a release of confidential information form signed by the parent or adult student.

In accordance with the Family Educational Rights and Privacy Act (FERPA), TISD employees must have written permission from the parent or adult student in order to release any information from a student's education record, with the following exceptions. Records may be released without written permission to:

- school officials with legitimate educational interest;
- other schools to which a student is transferring;
- specified officials for audit or evaluation purposes;
- appropriate parties in connection with financial aid to a student;
- organizations conducting certain studies for or on behalf of the school;
- accrediting organizations;
- in order to comply with a judicial order or lawfully issued subpoena;
- appropriate officials in cases of health and safety emergencies; and
- state and local authorities, within a juvenile justice system, pursuant to specific state law.

TISD staff also maintain confidentiality of all information relating to Section 504 Committee Meeting proceedings. With the exception of the release of records listed above, TISD staff may not discuss such proceedings or provide 504-related documents to any person or organization without the written consent of the parent or adult student. Confidentiality of information must be maintained during the times of collection, storage, disclosure, and destruction of information.

When sending emails about a student, case managers should avoid using the student's full name whenever possible. It is best to use initials or a student's first name and initial for the last name (unless the first name is very uncommon and easily identified).

Extracurricular Activities

Schools have a duty to provide reasonable accommodations to students with disabilities if necessary in order for them to participate. Accommodation is not necessary if it would fundamentally change the nature of the activity.

- A guidance letter update from OCR on extracurricular athletic activities said that to prevent extra meetings for students who want accommodations to participate, these accommodations could be determined outside the context of a formal504 meeting. If this is done, the agreement must be documented, the Accommodations Plan revised, and the revised plan and documentation placed in the student's file.
- For students with disabilities requesting participation in extracurricular activities and after school programs, it is the decision of the 504 committee whether the required accommodations are "unreasonable." If not, the District must provide the accommodations. Case law has shown that very few accommodations are considered "unreasonable" for school districts

Disciplinary Change in Placement for Students with Disabilities

- For short-term removals, campuses have 10 FAPE-free days of removal before a manifestation determination review (MDR) is required. At some point, short term removals become a "pattern of exclusion" requiring an MDR. Attorneys generally recommend holding an MDR by the 10^{1h} day and generally not removing a child for more than 10 days of short-term removal in any one school year.
- For long term removals have the MDR as soon as possible, but it must be prior to reaching 10 days.
- At the Manifestation Determination Review meeting (MDR), Committee members will review all relevant information in the student's file, including the 504 Plan, any teacher observations, and any information provided by the parent(s) in order to answer two questions:

1. Was the conduct in question caused by, or did it have a direct and substantial relationship to, the child's disability?
2. Was the conduct in question the direct result of the District's failure to implement the 504 Plan?

- If the answer to both of these questions is "no," then the student's behavior will NOT be considered a manifestation of his/her disability. If the answer to either question #1 or question #2 is "yes," then the behavior in question will be considered to be a manifestation of his/her disability.
- A BIP should always be implemented when a student's behavior interferes with the learning of self or others. At the MDR, a BIP will be developed if not already in place; if already in place, it will be reviewed and revised as needed. These steps will occur regardless of whether the behavior in question was or was not considered a manifestation of the student's disability. The campus/district behavior specialist will assist in writing BIP. Contact the behavior specialist prior to the meeting for assistance.
- If the behavior in question is not considered to be a manifestation of the student's disability, then a change of placement for disciplinary reasons may extend beyond ten days, so long as the same consequence would apply to students without disabilities. However, the student must continue to receive educational services in order to participate in the regular curriculum.
- If the behavior in question is considered to be a manifestation of the student's disability, the student must be returned to the placement from which he or she was removed, unless there is consensus within the Section 504 Committee meeting (or agreement between the parent(s) and RISD) that the change of placement may extend beyond ten days as a part of that student's BIP.
- A district can be held liable for not holding an MDR for a student who is not served because he/she was never evaluated for Section 504 when the District should have known that the student likely had a disability (in other words, in a failure of "child find" duties situation).
- On the day in which a decision is made to remove a student with a disability from his/her placement for disciplinary reasons, RISD will notify the parents of the decision and provide them with a copy of the Notice of Rights and Procedural Protections document or otherwise notify them of applicable procedural safeguards.

Legal Remedies for Parents

Due Process Hearing

TISD will provide an impartial hearing to parents/adult students who disagree with the identification, evaluation, or placement of a student with disabilities. The hearing will be conducted at the local level by an impartial person not connected with the District (see Policy FB Local). The hearing officer need not be an attorney. Hearing officer decisions may be appealed to state or federal court.

The parent/adult student must request a hearing within 30 calendar days from the time he/she received written notice of the decision of the Section 504 Committee with which the complainant disagrees. Written notice of the request for a due process hearing must be provided by the parent/adult student to the District 504 Director, Britney Pollard. The written notice should specify the area of disagreement, and provide reasons for the disagreement. The parent/adult student should also include any documented evidence or data that supports their position. The parent(s) may not raise issues during the due process hearing that were not raised at the time of the original request for a hearing.

The parent has the right to participate, speak, and present information at the due process hearing, and to be represented by legal counsel or any other type of representative of their choice at their expense. If a parent is to be represented by a licensed attorney, he or she must inform the District's Section 504 Coordinator and the appointed hearing officer of that fact in writing at least seven (7) calendar days prior to the hearing date. Failure to do so shall constitute good cause for a continuance of the hearing.

Within 15 days of the receipt of a clear request for a Due Process Hearing, the District will appoint an impartial Hearing Officer to preside over the hearing and issue a decision. The Hearing Officer will be hired by the District as an independent contractor at no expense to the parent. The Hearing Officer will not be a current employee of the

District. The Hearing Office need not be an attorney, but shall be familiar with the requirements of Section 504 and the District's hearing procedures under Section 504. The District's choice of an impartial hearing officer is final and may not be made an issue at the due process hearing.

The appointed Hearing Officer shall issue an Order Setting Hearing Date for the parent and the District's Section 504 Coordinator in writing at his or her earliest opportunity, and shall set a date for a hearing to be held within 15 days of the issuance of the order. The Order will set forth a mutually agreeable time and place for the hearing.

The Hearing Officer may also order a Pre-Hearing Conference at which the parent or his or her representative will state and clarify the issues to be addressed at the hearing. The Pre-Hearing conference can also serve to resolve preliminary matters, clarify issues, and answer questions about the process.

Witnesses will present their information in narrative form, without the question and answer format of formal legal proceedings. Cross examination will not occur, but a party may request that the Hearing Officer at his/her discretion ask another party a question.

The decision of the hearing officer will be made within 45 days of the day of request for a due process hearing. The decision will be made on substantive grounds based on a determination of whether the child received a free, appropriate public education (FAPE) and was not subjected to discrimination on the basis ofhis/her disability. Procedural inadequacies will not contribute to a finding against RISD unless they significantly impeded the child's right to FAPE or led to discrimination against the student with a disability.

The parent/adult student has the right to appeal the decision of the hearing officer to the state or federal court.

SECTION 7: APPENDICES

Appendix A: List of Forms for Section 504

- Forms that are underlined, in bold print and accompanied by a single star (*) are required by law, OCR guidelines, and/or district procedural protections for all students placed in the Section 504 program, and must be used for ALL students if applicable.
- Forms accompanied by a double star (**) are required by law/OCR guidelines only under specific circumstances, as described below.
- Forms accompanied by a triple star (***) are required by RISD standard practices.
- Other forms are optional.

Name of Form	**Location**	**When Form is Used**
Annual Notice for Texas Section 504 Students with Learning Difficulty*	SuccessEd	Required by law to be provided annually to the parent or adult student who the district serves under the Section 504 umbrella. This form can be printed in English or Spanish.
Behavior Intervention Plan**	SuccessEd	Required by law only when a student's behavior interferes with his/her learning or the learning of others, including when misbehavior leading to removal from the general education setting is found to be a manifestation of the disability.
Contact Log	SuccessEd	Campus Section 504 Coordinators may use this form to document contact with parents and/or conversations with students and staff. DO NOT LOCK this form until the end of the school year.
Notice/Consent for Initial Section 504 Evaluation*	SuccessEd	Required by law/OCR guidelines prior to any evaluation or re-evaluation. It also contains the plan for the nature and scope of the evaluation. This form can be printed in English or Spanish.
Notice of Denial of Parent Request for Section 504 Evaluation*	SuccessEd	To be provided to the parent/physician upon denial of 504 evaluation within 15 working days of request.
Notice of Release/Consent to Request Confidential Information**	SuccessEd	Required by law any time information is exchanged about a student with any person or organization except employees of RISD with educational need to know. Sent to parents at the beginning of the evaluation process so that the 504 coordinator can seek input from the health care provider or other outside services, such as counseling. This form can be printed in English or Spanish.
Notice of Rights and Procedural Safeguards under Section 504*	SuccessEd	Required by law to be provided annually to the parent or adult student who the district serves under the Section 504 umbrella. This form can be printed in English or Spanish.

Notice of Section 504 Evaluation Results***	SuccessEd	This form will be used after a Section 504 meeting has occurred as a summary for the parents/guardians of the decisions made. This form can be printed in English or Spanish.
Notice of Section 504 Manifestation Determination Evaluation Results***	SuccessEd	This form will be used after a Section 504 Manifestation Determination meeting has occurred as a summary for the parents/guardians of the decisions made. This form can be printed in English or Spanish.
Notice of Section 504 Meeting*	SuccessEd	Although an invitation to the meeting is not required by law, it is District standard practice to do so and includes our Section 504 Notice of Rights and Procedural Protections, so this form must be provided to parent or adult student to notify parent of the meeting and encourage participation. This form can be printed in English or Spanish.
Parent Consent for Section 504 Service*	SuccessEd	Required by law/OCR guidelines only one time upon initial placement in 504 by parent or adult student. This form is also used if a parent chooses to revoke consent and remove a student from Section 504 evaluation or placement and services. This form can be printed in English or Spanish.
Parent Input	SuccessEd	Collected as part of an initial evaluation or re-evaluation to help the committee to make placement decisions. In lieu of using the form, the 504 coordinator may gather information in a parent meeting, over the telephone, or in the actual Section 504 meeting. However, all information on this form is needed for dyslexia evaluations. This form can be printed in English or Spanish.
Referral Information	SuccessEd	This optional form can be used to gather pertinent background information for a new referral. If this form is NOT used, all of the information must be addressed and documented in the Section 504 Evaluation form.
Section 504 Evaluation*	SuccessEd	This form is required by law for all Section 504 committee meetings to determine eligibility and placement recommendations. These meetings could include initial evaluations, annual reviews, periodic reviews, three-year re- evaluations, or manifestation determination meetings. Manifestation determination meetings are required by law prior to a change of placement (within 10 days of disciplinary removal) to determine whether the behavior in question is a manifestation of the disability and whether the change in placement can proceed. This form can be printed in English or Spanish.

Section 504 Student Services Plan*	SuccessEd	Spells out the accommodations and services the student will receive. Must be provided to all school personnel who will be responsible for implementation. This form can be printed in English or Spanish.
Teacher Input Form***	SuccessEd	Collected as part of an evaluation to help the committee to make placement decisions. Teacher information may be gathered in other ways. However, all information on this form is needed for dyslexia evaluations.
Texas General Education Homebound Supplement*	SuccessEd	This form should be completed in the event that a Section 504 committee agrees that the student is in need of homebound services. This form can be printed in English or Spanish.
Transportation Information***	SuccessEd	To be used when a student qualifies under Section 504 for special transportation as a related service or if other information for transportation needs to be sent to the District Director. This form can be printed in English or Spanish.

Section 504 Eligibility Determination

1. Does the student have a physical or mental impairment?
2. Does the physical or mental impairment affect one or more major life activities (including major bodily functions)?
3. Does the physical or mental impairment substantially limit a major life activity?
4. Does the student need Section 504 services in order for his/her educational needs to be met as adequately as those of non-disabled peers?
   (Use the Initial Evaluation or Re-Evaluation form for more helpful information to answer the questions)

Section 504 Eligibility Determination (In Depth)

To be considered disabled, the student must currently have a physical or mental impairment that substantially limits one or more major life activities or major bodily functions. Finding a disability requires careful analysis of: 1) the physical or mental impairment; 2) the major life activity or bodily function impacted; and, 3) the degree to which the impairment limits the activity.

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

Physical or Mental Impairment

The Section 504 regulations provide a broad definition of the "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 body 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* (34 CFR §104.3(j)(2)).

2. Does the physical or mental impairment affect one or more major life activities (including major bodily functions)?

Major Life Activities

Section 504's definition of disability requires a team to look at the impact of the physical or mental impairment on one or more major life activities. The list of major life activities includes, but is not limited to, the following:

Caring for oneself	Breathing	Walking	Learning
Seeing	Working	Hearing	Performing manual tasks
Speaking	*Reading*	*Eating*	*Concentrating*
Standing	*Thinking*	*Lifting*	*Sleeping*
Bending			

The *italicized* major life activities above were specifically added to the list as a result of changes made by the Americans with Disabilities Act Amendment Act of 2008 (ADAAA). It is important to note that ADAAA additions to

major life activities could likely result in more students technically meeting the definition of disability under Section 504. For example, a student with dyslexia who is able to learn (due to compensatory skills and extra work) may not have been viewed as disabled prior to the ADAAA; but after the ADAAA, may be substantially limited in her ability to read (as opposed to her ability to learn).

Section 504 teams cannot limit their analysis of whether a student has a disability to a review of the impairment's impact on the major life activity of learning (one of multiple major life activities identified by Congress) to the exclusion of other major life activities or bodily functions. The Office for Civil Rights (OCR) has consistently found Section 504 violations when schools limit their determination of disability to whether the student is substantially limited in the ability to learn. All major life activities must be considered in determining whether a disability exists.

Major Bodily Functions

In the definition section of the ADAAA, Congress provided that "a major life activity also includes the 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."

One of the problems encountered in making a disability determination is identifying the major life activity or major bodily function the impairment impacts. To ease the burden and make the analysis more disability-friendly, it is helpful to identify major bodily functions. For some impairments, like diabetes, the addition of major bodily functions (specifically, the endocrine function) makes tying the impairment to a major life activity obvious.

When determining whether a disability exists, schools that merely look to major life activities, while ignoring major bodily functions do so at their own peril. For example, OCR found a school's Section 504 evaluation for a student with irritable bowel syndrome and other digestive complaints in violation of law when the district improperly concluded that the student was not eligible due to good grades, failing to consider the impact on the major life activity of digestive function (55 IDELR 21, 2009). Again, that district limited its consideration of whether a disability existed to the major life activity of learning.

3. Does the physical or mental impairment substantially limit a major life activity?

Substantial Limitation

In order to be considered disabled, the physical or mental impairment must also be found to "substantially limit" a major life activity or bodily function. Section 504 does not currently provide an operational definition of "substantial limitation." Instead, the U.S. Department of Education (USDOE) has concluded that each Local Education Agency (LEA) should make its own determination of what the phrase "substantial limitation" means.

The federal Equal Employment Opportunity Commission (EEOC) created a definition of "substantial limitation" for use in employment cases that is sometimes used by schools in making Section 504 disability determinations. Current EEOC regulations have been put into place as follows: (i) the term "substantially limits" shall be construed broadly in favor of expansive coverage, to the maximum extent permitted under the terms of the ADA. "Substantially limits" is not meant to be a demanding standard. (ii) An impairment is a disability within the meaning of this section if it substantially limits the ability of an individual to perform a major life activity as compared to most people in the general population.

Based upon this analogous language, determining whether a student has a "substantial limitation" in a major life activity could be based upon a comparison of how that particular student performs a major life activity at issue as compared to "most people" in the general population. While this new regulation may be useful, schools still have the discretion to define the meaning of "substantial limitation."

Analyzing the Results of the Committee's Answers

1. **If all four questions are answered "YES"**
   - the student is eligible for both the nondiscrimination and FAPE (Section 504 Services Plan) protections of Section 504
   - the Section 504 Committee will create a Section 504 Services Plan for this student
   - possibilities from the decision list: **B, C, G**
2. **If only the first three questions are answered "YES"**
   - the student is eligible for the nondiscrimination protections of Section 504, together with manifestation determination, procedural safeguards, and periodic re-evaluation or more often as needed
   - the Section 504 Committee will not create a Section 504 Services Plan at this time as the student's needs are currently being met as adequately as his nondisabled peers
   - should such a need develop, the Section 504 Committee shall re-convene and develop an appropriate Section 504 Services Plan at that time
   - possibilities from the decision list: **D, E, F**
3. **If any of the first three answers is "NO"**
   - the student is not eligible for Section 504 nondiscrimination protection and is not eligible for a Section 504 Services Plan
   - possibilities from the decision list: **A, H, I, J, K**

Section 504 Decision Choices

A. Not 504 Eligible

a. The student is not eligible under Section 504.
b. Use this for: *Initial evaluations*

B. 504 Eligible + Plan

a. The student is eligible under §504, and will receive a §504 Services Plan that governs the provision of a free appropriate public education to the student. The student will receive manifestation determination, procedural safeguards, re-evaluation or more often as needed, as well as the nondiscrimination protections of §504.
b. Under RISD best practices, a review of §504 eligibility/Services Plan will occur annually
c. Use this for: *Initial evaluations*

C. 504 Eligible + Plan + Dyslexia Services

a. The student is identified as dyslexic, is eligible under Section 504, and will receive a Section 504 Services Plan that governs the provision of a free appropriate public education to the student. The Plan will include standard protocol dyslexia instruction services. The student will receive manifestation determination, procedural safeguards, periodic re-evaluation (at least every three years) or more often as needed, as well as the nondiscrimination protections of Section 504
b. Under RISD best practices, a review of §504 eligibility/Services Plan will occur annually
c. Use this for: *Initial evaluations, Re-evaluations*

D. 504 Eligible + No Plan (In Remission)

a. The student is eligible under §504, but will not require a §504 Services Plan because the physical or mental impairment is in remission, and there is no current need for services. The student will receive manifestation determination, procedural safeguards, re-evaluation (at least every three years) or more often as needed, as well as the nondiscrimination protections of §504. Should the need for a Plan develop, the §504 Committee shall reconvene and develop an appropriate §504

Services Plan

b. Under RISD best practices, a review of §504 eligibility with snapshot can occur and be sent to the parent/guardian with the procedural safeguards and Annual Notice for Texas without an annual meeting if the student is not due for a re-evaluation
c. Use this for: *Re-evaluations*
d. Often used for students who have had cancer but only need to be monitored

E. 504 Eligible + No Plan (Mitigating Measures)

a. The student is eligible under §504, but will not require a §504 Services Plan because the student's needs are met as adequately as his nondisabled peers due to the positive effect of mitigating measures currently in use. The student will receive manifestation determination, procedural safeguards, periodic re-evaluation (at least every three years) or more often as needed, as well as the nondiscrimination protections of §504. Should the need for a Plan develop, the §504 Committee shall reconvene and develop an appropriate §504 Services Plan. This result applies when the mitigating measures are neither provided by nor implemented by the School
b. Under RISD best practices, a review of §504 eligibility with snapshot can occur and be sent to the parent/guardian with the procedural safeguards and Annual Notice for Texas without an annual meeting if the student is not due for a re-evaluation
c. Use this for: *Re-evaluations*

F. 504 Eligible + No Implemented Plan (Refusal/Revocation of Consent for Services)

a. The student is eligible under §504, but will not be served under a §504 Services Plan at this time because the student's Parent has either refused consent for initial Section 504 Services or has revoked consent for continued Section 504 Services. The Parent's action is documented in the Parental Consent for Section 504 Services form. The Committee will complete the Section 504 Services Plan, but the Plan will not be implemented due to the Parent's refusal to consent or revocation of consent. The student will receive manifestation determination, procedural safeguards, re-evaluation (at least every three years) or more often as needed, as well as the nondiscrimination protections of §504. Should the Parent desire Section 504 Services for the student, the Parent will notify the §504 Coordinator to convene a Section 504 Meeting
b. Under RISD best practices, a review of §504 eligibility with snapshot can occur and be sent to the parent/guardian with the procedural safeguards and Annual Notice for Texas without an annual meeting if the student is not due for a re-evaluation
c. Use this for: *Initial evaluations, Re-evaluations*

G. Continued §504 Eligibility

a. The Student remains eligible under §504 and will receive an updated §504 Services Plan that governs the provision of a free appropriate public education to the student. The Student will receive manifestation determination, procedural safeguards, periodic re-evaluation or more often as needed, as well as the nondiscrimination protections of §504. (For use with re-evaluations)
b. Under RISD best practices, a review of §504 eligibility/Services Plan will occur annually
c. Use this for: *Re-evaluations*
d. This is the most common selection for students who receive services year to year

H. Dismissal from §504

a. The Student is no longer eligible for Section 504 and is exited from the program. The Student will now receive regular education without Section 504 services. The Student will receive the nondiscrimination protections of Section 504 as a student with a record of an impairment, together with procedural safeguards, but will not receive manifestation determination, or periodic re-evaluation
b. Use this for: *Re-evaluations*

I. IDEA Eligible & §504 Dismissal

a. The Student has been determined special education eligible by an ARD Committee/IEP Team. Consequently, the Student is no longer served through a Section 504 Committee and is exited from the program. The Student will receive a free appropriate education through the ARD Committee/IEP Team, together with the nondiscrimination protections and procedural safeguards of Section 504.
b. Use this for: *Initial evaluations, Re-evaluations*

J. Texas General Ed Homebound

a. As part of the §504 evaluation, the Committee considered your Student's eligibility for Texas General Education Homebound. The Student is ___ is not___ eligible for General Education Homebound Services. (Check one if GEH was considered for this student).
b. Use this for: *Initial evaluations, Re-evaluations*