



Section 504:

Rehabilitation Act of 1973 and Americans with Disabilities Amendments Act of 2008

Operational Guidelines and District Procedures 2023-2024

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Operational Guidelines for Section 504

1. Child Find.

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

2. Referral.

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

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

3. Consent for Evaluation.

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

4. Evaluation.

When the consent is received from the parent, the Coordinator should:

- a. Gather evaluation data and coordinate/direct the completion of the various Input Documents. The evaluation data consists of information from a variety of sources, including efforts and results of early intervention activities, aptitude and achievement testing, teacher recommendations, student's historical and current physical and mental condition (including data on conditions in remission and episodic conditions), social or cultural background, adaptive behavior, and mitigating measures; the Teacher Input form to be completed

by one or more teachers, and the Parent Input form with information about the Student's activities/behaviors at home, health and medical records if available, and any other data the parent would like the Committee to consider. Should current special education data exist (an evaluation upon which a Student was either dismissed from special education or upon which a finding of no IDEA eligibility was made), that data should also be considered.

b. Ensure that should formalized testing be considered by the §504 Committee as evaluation data, the tests:

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

c. Determine who will be in the group of knowledgeable people [hereinafter, the "§504 Committee" or "Committee"] (including persons with knowledge of the Child, the meaning of the evaluation data and the placement options).

d. Schedule a §504 Evaluation by the Committee. e. Give the Parents notice of the time and place of the evaluation meeting, inviting the Parent to attend if that is the District's policy. Written notice, while not required, is preferred, and can be accomplished utilizing the Notice of Section 504 Meeting form.

At the §504 Evaluation, the Committee should:

a. Draw upon information from a variety of sources, including, but not limited to, efforts and results of early intervention activities, aptitude and achievement testing, teacher recommendations, physical condition, social or cultural background, adaptive behavior and the Parent and Teacher/Administrator input forms;

b. Ensure that all information reviewed in the evaluation is documented and carefully considered, and that Section 504 decisions are made consistently with the Americans with Disabilities Act Amendments Act of 2008, including appropriate consideration of mitigating measure (as provided in paragraph 16 of these Operational Guidelines), recognition of changes made to major life activities, the appropriate consideration of impairments that are episodic or in remission, and Congressional declarations on the definition of substantial limitation.

c. Complete the Section 504 Evaluation form. If the Student is determined to be eligible [hereinafter, "eligible student"] and is determined to need accommodations, aids or services from

the school, the Committee moves on to the Section 504 Student Services Plan [hereinafter, "Services Plan"] form to develop appropriate services and accommodations. If no eligibility is found, the Parents are so informed in writing. The Section 504 regulations do not require signatures on the 504 Evaluation document, and consequently, the form does not ask for signatures.

d. Should the Parent refuse consent to the initial provision of Section 504 services by completing, signing, and returning refusal to the campus or district Section 504 Coordinator, the Services Plan should be appropriately annotated with the Parent's refusal to consent. Section 504 services detailed on the Services Plan will not be provided to the Student, but the completed Plan will serve as documentation of the District's offer of FAPE to the Student.

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

5. Records.

Section 504 records, including any evaluation data, shall be kept in a separate §504 folder under the control of the Coordinator, as part of the Student's cumulative folder, or in any other location determined to be appropriate by the District or campus. Regardless of location, the District will maintain the confidentiality of §504 records as required by the Family Educational Rights and Privacy Act (FERPA). Where §504 records are kept separately from the cumulative folder, a reference to the records and their location will be placed in the cumulative folder to ensure that the campus with responsibility for the Student is aware of its §504 obligations to the eligible student and that personnel and third-party contractors who have a duty to implement the plan have access to necessary records including the plan itself.

6. Free Appropriate Public Education (FAPE).

No eligible Student may be excluded by the District from receiving a public elementary or secondary education. When considering the educational placement for eligible students, the Committee will ensure that the services provided are:

a. **Appropriate.** The §504 services are designed to meet the individual needs of the eligible Student as adequately as the needs of nondisabled students and are based upon adherence to the regulatory procedures relating to educational setting, evaluation and placement, and procedural safeguards. The Committee may place an eligible Student in a program that the District does not operate in order to satisfy this requirement, but in so doing, the District remains responsible for ensuring that the requirements of §504 are met.

b. **Free.** An eligible Student's educational program provided under §504 is provided without cost to the Parent of the eligible Student, regardless of where those services are provided or by whom. Should the Committee determine that placement in a program not operated by the District is required for the eligible Student to receive FAPE, the District shall ensure that adequate transportation is provided to and from the program at no greater cost than would be incurred by the eligible Student or his or her parents or guardians if the student were placed in the program operated by the District. The only costs of educational services that may be assessed the eligible Student are those borne by nondisabled students and their Parents (such as tickets to athletic events, purchases of yearbooks, gym clothes, etc.). When the District has made available a FAPE as required by §504, and the eligible Student or his or her Parents or Guardians choose to place

the Student in a private school, the District is not required to pay for the eligible Student's education in the private school.

7. Parental Rights to Refuse Consent & Revoke Consent for Section 504 Services.

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

8. Least Restrictive Environment (LRE).

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

9. Nonacademic Services & Extracurricular Activities.

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

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

Counseling. Should the District provide personal, academic, or vocational counseling, guidance, or placement services to its students, those services shall be provided without discrimination on the basis of disability. The District shall ensure that disabled students are not counseled toward more restrictive career objectives than are nondisabled students with similar interests and abilities.

Physical education and athletics. In providing physical education courses and athletics and similar programs and activities to any of its students, the District will not discriminate on the basis of disability. Disabled students shall have equal opportunity to participate in the District's physical education courses, as well as interscholastic, club, or intramural athletics operated or sponsored by the District. The District will offer disabled students physical education and athletic activities that are separate or different from those offered to nondisabled students only if separation or differentiation is consistent with the requirements of

LRE and only if no qualified disabled student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

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

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

10. Implementation of the Section 504 Services Plan.

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

11. Periodic Three-Year Re-Evaluation.

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

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

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

Annual Review for some eligible students. In addition to the required periodic three-year re-evaluation, it is the District's practice to conduct annual reviews for certain Section 504-eligible

students. Annual review/reevaluation is not required under the Section 504 regulations but is a best practice for District Section 504 programs, particularly with certain types of students and situations. The following protocol shall be utilized to determine which students will be provided annual review.

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

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

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

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

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

12. Discipline.

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

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

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

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

13. Interaction with Special Education.

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

refusal. The District acknowledges and respects the parents' right to request a special education evaluation for their child at any time.

14. Interaction with Texas Dyslexia Law. In accordance with State Board of Education Rule and the Revised Procedures Concerning Dyslexia (2021 Update), prior to testing a student individually for Dyslexia and/or prior to providing a student with dyslexia services, the District must refer and evaluate under IDEA.

15. Interaction with regular education Early Intervention efforts.

In an effort to meet the needs of struggling students as early as possible, and to reduce the misidentification of students in both Section 504 and special education, the District uses an early intervention process, referred to as multi-tiered support system (MTSS). This simple, campus based process is designed to assist students struggling for any number of reasons (family issues, lack of motivation, poverty, etc) and in any number of ways (academically, socially, behaviorally) by providing, appropriate to the student's needs, differentiated instruction, as well as additional regular education intervention programs, services and opportunities that may vary from campus to campus. Data from these efforts is shared with the parent and will become part of any Section 504 or special education evaluation. These efforts are available to all students, including students with disabilities. Should regular education, together with these early intervention efforts be insufficient to meet the needs of the struggling student, or there are grounds to suspect that the student has a physical or mental impairment, the District should consider seeking parental consent for an evaluation under Section 504 or special education, as appropriate to the student. Further, students with physical or mental impairments whose needs are addressed through early intervention, MTSS, or health plans will not be excluded from consideration for possible Section 504 referral, even when current interventions, services or health plans successfully address their impairment-related needs.

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

16. Mitigating Measures and Development of Section 504 Plans.

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

early intervention, MTSS, or health plans will not be excluded from consideration for possible Section 504 referral, even when current interventions, services or health plans successfully address their impairment-related needs.

17. Procedural Protections.

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

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

Local Grievance Policy. In school districts where the governing board has adopted policies specifically addressing grievances with respect to discrimination and harassment on the basis of disability (such as TASB Policy FFH (Local) and FNG (Local) in Texas), the following provisions with respect to grievances would not apply, and the board's adopted policy will be followed. In the absence of a specific grievance policy adopted by the board, the following policy and procedures will govern grievances with respect to disability discrimination and harassment in violation of §504:

This grievance policy and procedure serves to provide a mechanism for students, parents/guardians, and/or employees to raise complaints alleging violations of the District's obligation to not discriminate on the basis of disability in any of its programs or activities under Section 504 of the Rehabilitation and Vocational Act of 1973 (29 U.S.C. §794a) and its implementing regulations at 34 C.F.R. Part 104.

Grievances must be submitted to the District Section 504 Coordinator within 180 calendar days of the date the person filing the grievance becomes aware of the alleged discriminatory action or omission in violation of §504. Lateness in filing a grievance under this Procedure shall result in a dismissal of the grievance as untimely.

A grievance must be in writing, containing the name and address of the person filing it, as well as the name of the student and campus of enrollment, if any. The grievance process documentation shall ensure the confidentiality of the student and/or parent/guardian filing the grievance pursuant to the requirements of the Family Educational Rights and Privacy Act (FERPA, at 20 U.S.C. §1232g) and its regulations. The grievance must contain a brief and plain statement of the action or omission alleged to be discriminatory, facts underlying the claim, and the remedy or relief sought. The Grievant may attach relevant documents for consideration and shall have the opportunity to submit documentary evidence no later than 20 school

business days after the date of the filing of the grievance. Lateness in submitting documents may result in the documents not being considered as part of the grievance.

The Section 504 Coordinator (or her/his campus designee) must notify the Grievant in writing of the receipt of the grievance, the steps of the grievance process (i.e., receipt of grievance, investigation, consideration of documentary evidence, and decision), and the timeline for submitting written evidence for consideration. The Section 504 Coordinator (or her/his campus designee) shall conduct an investigation of the factual bases for the grievance. This investigation may be informal, but it must be thorough, considering relevant information and also affording the campus staff an opportunity to submit written information relevant to the grievance no later than 20 school business days after the date of the filing of the grievance. The Section 504 Coordinator (or her/his campus designee) may seek out relevant information for consideration beyond that provided by the Grievant and campus staff. The Section 504 Coordinator (or her/his campus designee) will maintain all records relating to each grievance. The Section 504 Coordinator may attempt to mediate a resolution of the grievance claims, if feasible, although a grievant shall not be required to participate in any mediation or informal resolution of the grievance claims.

The Section 504 Coordinator will consider all information deemed relevant, the applicable legal requirements, application of the legal requirements to the facts, and issue a brief written decision on the grievance claims no later than 30 school business days after the date of its filing. A copy of the decision shall be provided to the Grievant within three school business days of its completion. Such decision may be appealed to the Superintendent or their designee by the filing of a written appeal, which must be submitted to the Superintendent's office within 5 school business days after the date of the grievance decision. Missing of the appeal timeline under this Procedure shall result in dismissal of the appeal as untimely. The Grievant shall have access to other remedial options, as well, as indicated below.

The availability and use of this grievance procedure does not prevent a person from filing a complaint with the Office for Civil Rights (OCR), a due process hearing request, or a civil action in federal or state court, either before, after, or together with, the grievance process. Resort to the grievance process shall not be required prior to any other remedial option.

Any person with a question with respect to the appropriate grievance procedures for disability discrimination or harassment may contact the District Section 504 Coordinator for clarification.

18. Parent Language.

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

19. Duty to Not Discriminate.

The District shall ensure that no qualified disabled person shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any District program or activity. These protections apply regardless of whether the eligible Student currently receives a Section 504 Services Plan.

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

21. Disability-based harassment.

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

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

22. Timelines.

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

23. Notice of Parent Rights Under Section 504.

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

24. Temporary Impairments.

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

25. Transfer of Rights to the Adult Student.

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

26. Use of the terms “Parent” and “Surrogate” in the forms.

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

27. Section 504 and Pre-Kindergarten Programs & Activities.

A student’s Section 504 right to nondiscrimination protection and to services prior to kindergarten largely depends on what educational opportunities the school makes available to nondisabled peers of the same age. For example, when the only pre-k programs in a district exist for students who are special education-eligible, there are no district programs and activities for nondisabled pre-k students. Consequently, Section 504 would provide equal opportunity for the student with a disability (who does not qualify under IDEA) to participate and benefit in those nonexistent programs and activities.

When the school provides pre-kindergarten programs to nondisabled students, some Section 504 rules will apply. “Section 104.38 of the Department’s Section 504 regulations specify that recipients of Federal financial assistance from the Department that provide preschool education may not on the basis of disability exclude qualified persons with disabilities, and must take into account the needs of these persons in determining the aid, benefits, or services to be provided. 34 CFR §104.38...” OSERS Dear Colleague Letter, January 9, 2017, Fn. 4. The Section 504 regulations contain a less-than-FAPE standard for pre-kindergarten students. 34 C.F.R. § 104.38 provides: “Preschool and adult education. A recipient to which this subpart applies that provides preschool education or day care or adult education may not, on the basis of handicap, exclude qualified handicapped persons and shall take into account the needs of such persons in determining the aid, benefits or services to be provided.”

In making the required determinations, no specific process is outlined by OCR or the regulations. See, for example, Kanawha County (WV) Schools, 17 IDELR 186 (OCR 1990)(“The Section 504 regulation at 34 C.F.R. Section 104.38 provides that for a preschool program, a recipient shall take into account the needs of the handicapped person in determining his/her aid, benefits or services under the program. The regulation neither specifies that preschool programs should follow any formal procedures nor identifies any standards which must be met.”). Looking to the ADA, OCR has directed “The Title II regulations, at 28 C.F.R. § 35.130(b)(7), require a school district to make reasonable modifications to policies, practices, or procedures that are necessary to avoid disability discrimination, unless it can demonstrate that such modifications would fundamentally alter the nature of the service, program, or activity. Under 28 C.F.R. § 35.130(b)(8), a school district may not apply eligibility criteria that screen or tend to screen out a disabled child or children from fully and equally enjoying any service, program, or activity, unless it can show that the criteria are necessary to provide the offered service, program or activity.”

For nondiscrimination rules to apply, the student must be (1) “disabled” (i.e., have physical or mental impairment that substantially limits one or more major life activities), and (2) be “otherwise qualified.” “Otherwise qualified” refers to the eligibility criteria applied to all students who desire to participate in the program or activity. For example, any student’s participation in the program or activity may require the completion of a timely application and/or the payment of a fee. Should space be limited in the program or activity, a first-come first-served rule could apply to limit enrollment to the first applicants to fill the program. As explained above, however, the program or activity eligibility criteria must not be discriminatory on the basis of disability. Should parents request accommodation that is needed due to disability with respect to the enrollment process or criteria, the request will be addressed by the district Section 504 Coordinator or designee. Generally, however, criteria such as completion of applications or

first-come first-served policies would not be considered to be discriminatory on the basis of disability and would thus not require accommodation. Section 504 students applying to voluntary pre-K must also meet the regular admission criteria normally applied to all students, unless such criteria would be discriminatory.

Once enrolled in the pre-k program or activity, the school will utilize the following interactive process to determine whether and which reasonable accommodation might be needed. The student's pre-kindergarten teacher, the parents, and other staff as determined by the school, will discuss the student's impairment, including consideration of available medical data, the Section 504 eligibility standard, and, if eligible, the student's disability-related needs and the impact of those needs on participation in the program or activity. Reasonable accommodations will be offered to ensure students with disability are not excluded and will be documented in writing. The school, however, is not required to fundamentally alter the pre-kindergarten program to comply with Section 504 or the ADA."

28. Texas Annual Notice to Students with Learning Difficulties.

Pursuant to the requirements of Texas Education Code §26.0081(d), Texas schools will provide Form 21 annually to parents of students with learning difficulties eligible under Section 504. The notice can be provided during a Section 504 meeting. This form is only calculated to provide the required notice to Section 504 students.

Section 504 Due Process Hearing Procedures

Right to Due Process. In the event a parent or guardian [hereinafter “parent”] wishes to contest an action or omission on the part of the District with regard to the identification, evaluation, or placement of a disabled child under §504 of the Rehabilitation Act of 1973 [“§504”], the parent has a right to an impartial hearing before an impartial hearing officer. Omissions on the part of the District with regard to a disabled child might include, for example, the District's failure to identify a child eligible for services under §504. Thus, a child’s identification as eligible for services under §504 is not an absolute prerequisite to the right to due process.

The parent must exercise the right to an impartial hearing by providing the written request for hearing (described below) within the state-law timeline for a special education due process hearing under the IDEA. In Texas, the application of this rule means that requests for a Section 504 due process hearing must be made in writing within one year of the District’s action or omission.

Parent Participation & Representation. A 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 advocate or representative of their choice at their expense. If a parent is to be represented by a licensed attorney at the due process hearing, he or she must inform the District’s §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 notify the §504 Coordinator and the appointed hearing officer of that fact in writing shall constitute good cause for a continuance of the hearing date. (See “Continuances” below).

Initiation of Due Process Procedures. A parent who wishes to challenge a District’s action or omission with regard to the identification, evaluation, or placement of a disabled child must submit a written Request for a Due Process Hearing to the District’s §504 Coordinator. Such a written request must make clear that the parent is seeking a due process hearing under §504 before an impartial §504 Hearing Officer. The written request may be made on a form provided by the District for that purpose. If an intent to seek a due process hearing under §504 is not clear from the face of a Request, the District’s §504 Coordinator may contact the parent to clarify the Request and ascertain whether the parent wishes to initiate a §504 due process hearing. The Coordinator may also assist the parent in clarifying any questions regarding due process rights under §504. The reasonable time involved in ascertaining whether an ambiguous or unclear Request seeks a due process hearing under §504 shall toll the time lines set forth in these procedures (meaning that such time will not count toward the time line days specified in these procedures). If after such communication, the District is still unsure whether the parent is requesting a due process hearing under §504, the District shall initiate due process procedures, and the appointed Hearing Officer will hold a pre-hearing conference to decide whether the parent is seeking a due process hearing under §504, and whether the Hearing Officer has jurisdiction to entertain the claims and issues raised by the parent. (See “Pre-Hearing Conferences” below).

Appointment of a Hearing Officer. Within fifteen (15) days of the date of 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 shall not be a current employee of the District and shall not be related to any member of the District’s Board of Trustees to a degree prohibited under the Texas Nepotism Statute. The Hearing Officer need not be an attorney but shall be familiar with the requirements of §504 and the District’s Hearing Procedures under §504. The District’s choice of an impartial Hearing Officer is final and may not be made an issue at the due process hearing, since such an issue would not relate to the identification, evaluation, or placement of a disabled child under §504. If a parent disputes the impartiality of the appointed Hearing Officer, he or she may raise such issue in a review of the Hearing Officer's opinion

by a court of competent jurisdiction (See “Review Procedure” below), or in a complaint to the appropriate Office for Civil Rights regional office (See “Complaints to the Office for Civil Rights (OCR)” below).

Scheduling of Hearing. The appointed Hearing Officer shall issue an Order Setting Hearing Date to the parent and the District’s §504 Coordinator in writing at his or her earliest opportunity. Such Order shall set a date for a hearing to be held within fifteen (15) days of the date of issuance of the Hearing Officer’s Order. The Order shall also set forth a mutually agreeable time and place for the hearing.

Pre-Hearing Conference. 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 jurisdictional issues, and answer the parties’ questions regarding the hearing process.

Dismissals. If, after the Pre-Hearing Conference, the Hearing Officer finds that the parent, as a matter of law, alleges and raises no factual claims or legal issues that come within his or her jurisdiction as a §504 Hearing Officer, he or she may dismiss the hearing and issue an order to that effect explaining the bases for such finding.

Continuances. Upon a showing of good cause, the Hearing Officer, at his or her discretion, may grant a continuance of the hearing date and set a new hearing date by issuing a written Amended Order Setting Hearing.

Conduct of Hearing. The hearing shall be conducted in an informal, non-adversarial manner. The parties shall address the Hearing Officer by name (i.e. Mr. or Ms.). The hearing shall be closed or open to the public, at the parent’s request. The parties are free to provide the Hearing Officer with information or opinion as to the validity and weight to be given the information presented to him or her. Neither the Federal nor Texas Rules of Evidence or Civil Procedure, however, will apply. The Hearing Officer is not required to entertain any legal evidentiary objections to the admissibility, authenticity, or probative value of either oral testimony or documentary exhibits offered at the hearing. In the exercise of his or her discretion, however, the Hearing Officer may reasonably limit testimony and introduction of documentary exhibits for reasons of relevance. (See also “Submission of Documentary Exhibits” below).

Recording. Instead of a formal written transcript produced by a court reporter, the entire due process hearing will be tape-recorded. The parent may obtain a copy of the tape recording at his or her request. In order for an accurate recording to be made, the parties and witnesses shall introduce themselves at the beginning of their presentations. If a parent proceeds to a review of the due process hearing decision to a court of competent jurisdiction (See “Review Procedure” below), the District will prepare a written transcript of the hearing tape recording to be offered to the court as an exhibit.

Witnesses. Witnesses will present their information in narrative form, without the traditional question and answer format of legal proceedings. Cross-examination of witnesses will not be allowed, but a party may request that the Hearing Officer, at his or her discretion, ask a witness a certain question.

Format for Presentations. The parent will present its case first, by making an opening statement which outlines the parent’s position on all issues, presenting personally, calling additional witnesses, and making a closing argument. All of the preceding may be done either personally or through counsel, except for personal presentations or statements. At the end of the District’s presentation, the Parent may offer a short response to the District’s case. The above format is not required but may be helpful in organizing the presentation of the case to the Hearing Officer.

Submission of Documentary Exhibits. As part of their presentations, the parties may submit any reports, evaluations, correspondence, notes, or any other documents that may support their positions and that the Hearing Officer will admit at his or her discretion. Each separate documentary exhibit submitted to the Hearing Officer by either party must be marked numerically (i.e., Parent 1, Parent 2; District 1, District 2, etc.). The Hearing Officer may, in the exercise of his or her discretion, reasonably limit the number of documents to be submitted for his or her review, as well as the number of witnesses and the length and/or scope of their presentations or statements.

Written Closing, Arguments or Briefs. The parties may submit, at the Hearing Officer's discretion, a written Closing Argument summarizing and characterizing the information presented at the hearing and providing legal authority in support of their position. Time lines for the submission of Closing Arguments shall be set by the Hearing Officer at the conclusion of the hearing.

Closing of Hearing. At the conclusion of all presentations, the Hearing Officer will close the hearing and set a date for the issuance of the written decision. The Hearing Officer may make an oral ruling at the conclusion of the hearing or take the case under advisement but must in all cases issue a written opinion addressing and ruling on all issues raised by the Petitioner and indicating what corrective action, if any, the District must take. Formal findings of fact and conclusions of law, however, are not required. Any issue or claim raised by the parent that is left unaddressed by the Hearing Officer in his or her decision will be deemed to have been denied to the parent. The decision must be issued to both parties within fifteen (15) days after the hearing.

Decision Timeline. A decision must be issued within forty-five (45) days after the date the Request for a Due Process Hearing is received by the district.

Remedies and Relief. The Hearing Officer must confine his or her orders and rulings to those matters that involve identification, evaluation, or placement of children under §504 and to the provisions of the regulations implementing §504. If a parent has raised issues or claims outside of the areas of identification, evaluation, or placement, that are not within the Hearing Officer's jurisdiction, the Hearing Officer will make appropriate findings to that effect either in the written decision, or at any time prior to the issuance of a decision (for example, at a Pre-Hearing Conference). A Hearing Officer may not award attorneys' fees as a part of relief granted to a parent.

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

Access to Courts. A parent may seek relief available under Section 504 and the ADA in a state or federal court of competent jurisdiction.

Complaints to the Office for Civil Rights (OCR). At any time, a parent may file a complaint with OCR if he or she believes that the District has violated any provision or regulation of §504. The filing of a complaint does not affect the hearing process, or the timelines set forth above. OCR addresses §504

complaints separately and independently of the local hearing process, in accordance with the guidelines set forth in OCR's Complaint Resolution Manual.

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LAMAR CONSOLIDATED INDEPENDENT SCHOOL DISTRICT

Lamar CISD Section 504 Procedure's Manual

INTRODUCTION

Section 504 is a federal law designed to protect the rights of individuals with disabilities in programs and activities that receive federal funds from the U.S. Department of Education (ED). Section 504 provides: "No otherwise qualified individual with a disability in the United States ... shall solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance ... "

§504 Terms

The following terms may be confusing and/or are frequently used incorrectly in the elementary and secondary school context.

Accommodation: a term correctly used in the context of public accommodations and facilities; an individual with a disability may not be excluded, denied services, segregated or otherwise treated differently than other individuals by a public accommodation or commercial facility; (term is not to be confused with "reasonable accommodation," discussed below)

Equal access: equal opportunity of a qualified person with a disability to participate in or benefit from educational aids, benefits, or services.

Free and appropriate public education (FAPE): a term used in the elementary and secondary school context; refers to the provision of regular or special education and related aids and services that are designed to meet individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met and is based upon adherence to procedures that satisfy the §504 requirements pertaining to educational setting, evaluation and placement, and procedural safeguards.

Placement: a term used in the elementary and secondary school context; refers to regular and/or special educational program in which a student receives educational and/or related services.

Related services: a term used in the elementary and secondary school context to refer to developmental, corrective, and other supportive services, including psychological, counseling and medical diagnostic services and transportation.

FAPE

Through the federal regulations of §504, Lamar CISD is required by the Office of Civil Rights (OCR) to provide a "free appropriate public education" (FAPE) to each of our students with a qualifying disability who live within its jurisdiction, regardless of the nature or severity of the disability.

FAPE, under §504, consists of the delivery of regular or special education and related services, as well as, supplemental aids designed to meet a student's educational needs to the same degree as the needs of non-disabled students.

§504 Essentials of Implementation:

- Interpret the student's disability appropriately.
- Gather adequate information about the student from a variety of sources.
- Reasonably accommodate a student based on the disability.

Remember:

- When in doubt about a student's eligibility, substantial limitation and the need for accommodations, it's usually better to err on behalf of the student. Section 504 program is designed to give students with disabilities and needs a "level playing field".
- Homebound does not negate all absences for students who are chronically ill.
- **If a disability is suspected and specially designed instruction is needed to provide FAPE to a student Lamar CISD has a Child Find obligation under IDEA to refer for a full and individual evaluation.**

CAMPUS 504 COORDINATOR RESPONSIBILITIES:

Whether you are a veteran or have just been assigned to this role by your principal, it's always reassuring to have an understanding of the job expectations and duties. *According to OCR, the primary role of the campus level 504 coordinator is to support the school in "complying with requirements and facilitating services for eligible students"*. Below is a list of the duties of this position:

- Provides annual §504 overview and trainings for faculty and staff.
- Manages student referral audit record.
- Serves as the school's initial point of contact for inquiries and referrals.
- Prepares the agenda for the §504 meetings.
- Ensures that evaluations and other information are available at the meeting.
- Convenes the §504 meeting when needed.
- Completes Student Service Plans (See Eligibility Section - SUCCESS ED procedures.)
- Invites parents and school staff to Section 504 meetings when needed.
- Works with principals (and school staff) to ensure accommodations are implemented.
- Consults with District Section 504 Director when clarification is needed.
- Ensures Section 504 **referral, evaluation**, and placement procedures are followed.
- Notifies the Principal and District Section 504 Director of unresolved issues.
- Manages and updates current students in SuccessEd.
- Sends in §504 data sheet for Skyward entry.
- Maintains a parent communication log in the student's legal folder.
- Transfers Section 504 records for new school enrollment.

INITIAL REFERRALS

- The Referral Form should be filled in by the person initiating the referral, but may be supplemented as necessary by the Coordinator, utilizing information from the Student's cumulative folder or other sources.
- §504 Campus Coordinator should enter the referral information into the SuccessEd system.
- The Coordinator will complete the following steps:
 - If no §504 Evaluation is required, the Coordinator will send the parent the following:
 - Notice of Parent Rights form to the Parents; and
 - A note explaining why the Referral did not lead to a §504 Evaluation at this time.
 - If a §504 Evaluation is necessary the coordinator should send the parent the following:

- Parent Notice of Parent Rights
- Notice and Consent for Initial Evaluation
- Parent Input form.

If no parental consent is received for the §504 Evaluation, the Coordinator should remind the Parent every semester (or at other intervals as determined by Lamar CISD) of district’s continued desire to conduct an Evaluation under §504 and maintain all documentation of attempts.

- Special Education Referrals Initiated through a §504 Meeting:
 - The request for a special education referral should be documented in the §504 Service Plan deliberations.
 - The §504 Team should work in conjunction with the campus PST to complete all referral documents.
 - The referral packet will be sent to the Special Education Referral Review Committee (RRC) at the Administration Annex to ensure the campus has tried all support services available to all students, such as tutorial; remedial; compensatory; and other academic or behavior support services.
 - The RRC will provide the campus with their recommendation to test or not based on the data provided.
 - If testing is recommended, the campus §504 coordinator should move forward with the referral and will provide the parent with the following information:
 - Prior Written Notice (The paperwork is in SUCCEEDED)
 - Notice and Consent for Evaluation
 - Procedural Safeguards
 - Guide to the ARD Process Book
 - Procedural Safeguards Receipt Log

(The Parent will sign and return the Procedural Safeguards log and the Consent for Evaluation.)

- **Parent Requests**
 - If a parent requests testing for special education please have them direct their request to the Director of Special Programs.
 - If the request is sent to a campus administrator, please forward the request to childfind@lcisd.org
 - A campus designee will have to complete and gather the referral checklist documents (packet).
 - The request and referral packet will then be sent to the RRC.
 - The RRC will complete and send the Prior Written Notice to the parent and campus staff with the recommendation to test or not within 15 school days of the date of the parent’s request.
 - The campus designee will provide the parent with the following:
 - Notice and Consent for Evaluation
 - Procedural Safeguards
 - Guide to the ARD Process Book
 - Procedural Safeguard Receipt Log

(The Parent will sign and return the Procedural Safeguard log and the Consent for Evaluation.)

§504 TRANSFER STUDENTS

- **Welcome the parents and student.**

Instead of starting from scratch, let the parent and student know that you are eager to review the current plan. Tell them that you are open to examining the plan to determine if any changes need to happen, and that it is a collaborative process.

- **Convene a §504 team meeting to review the §504 Plan and decide what's appropriate.**

- Before the meeting, if you have a copy of the plan, gather together the student's new team to review the previous plan.
- If you don't, request from the previous school a current copy, evaluation documents, and any information they had in determining the student's eligibility.
- Though it is not supposed to occur, sometimes there is a wide disparity among schools with regards to their Section 504 processes, and how many records are part of this process.
- If the records are minimal, the current school team may have to gather new data.
- According to OCR, if the receiving school or district determines that the student's plan is inappropriate, Lamar CISD needs to conduct its own evaluation and determine what is appropriate for the student. (114 LRP 45980, 12/19/13)

- **Reassure the parents that the §504 team process won't take long.**

The Section 504 team can quickly review the preexisting 504 Plan and associated data and determine if the student continues to be eligible under Section 504. Please remember, the new team should not presume that the student is still eligible. Be open to the possibility that the plan needs to be changed.

- **Find out about accommodations that need to be implemented immediately.**

Typically, a transferring student needs to start school before a team meeting is scheduled. Contact the parent beforehand and talk about the accommodations that his/her teacher need to know about immediately. Use the parent's information and the existing plan to implement the appropriate accommodations before the meeting.

- **Review the 504 Plan after you know the student better.**

While relying on the previous Section 504 plan and the parents' information, your staff is slowly getting to know the student. As time goes on, a student may demonstrate no longer needing some of the accommodations listed on the plan. This is a good time to do a review of the plan to determine further changes using the new data acquired about the student since their start or transfer to their new school.

ELIGIBILITY

- **Student is Eligible for Protection but does not require a Service Plan:**

A student may have a disability but not require a service plan. In this case, the student is monitored by the campus coordinator to ensure the student continues to have access to the general education curriculum and nonacademic and extracurricular activities without discrimination. This monitoring

process allows the campus to be aware of any changes in the disability and ensures the student continues to have equal access to all aspects of the general education curriculum.

- **Student is eligible and does require a Service Plan.**

STUDENTS WITH ADHD

- OCR presumes, unless there is evidence to the contrary, that a student with a diagnosis of ADHD is substantially limited in one or more major life activities.
- Therefore, the school district must evaluate to determine if the impairment substantially limits that student in a major life activity and determine if general or special education services are needed.
- **This means every student with ADHD will have to have a 504 meeting or will be referred for a special education full and individual evaluation.**
 - Possible Characteristics:
 - Considerable restlessness or inattention inappropriate for their age and grade level;
 - Trouble organizing;
 - Communication or social skills deficits;
 - Ability to begin a task;
 - Organizing and recalling information; and
 - Completing assignments.
 - Other Things to Consider
 - High number of discipline referrals as compared to their peers for incidences such as disruptions in class; or
 - Behaviors that do not coincide with the district's student code of conduct.
- **Remember:**
 - Someone with ADHD may achieve a high level of academic success but may nevertheless be substantially limited in a major life activity because of the additional time or effort he or she must spend to read, write, or learn compared to others.
 - Ask how difficult or how much time it takes for a student with ADHD, in comparison to a student without ADHD, to plan, begin, complete, and turn in an essay, term paper, homework assignment, or exam.
 - **Intervention Strategies MUST NOT deny or delay evaluation of students suspected of having a disability.**
 - The evaluation should not require extensive analysis and does not require a medical assessment in order to make the diagnosis under §504.
 - You cannot consider mitigating measures, such as medication, when determining eligibility and whether or not the student requires a service plan.
 - Accommodations should be directly linked to the behaviors associated with ADHD.
 - If academic difficulties exist the student may need to be referred for a Full and Individual Evaluation.

AUDIT FOLDER REQUIREMENTS

- Original 504 documentation should be filed in the student's 504 audit folder.
- Required documents to be filed:
 - Annual 504 meeting and any subsequent review meetings (including detailed minutes);

- 504 evaluation and any supporting documentation;
- Consent for evaluation;
- Consent for placement;
- Signed receipt of parental rights;
- Updated parent communication log
- If a student transfers to another school within the district the sending campus should provide:
 - Section 504 Audit Folder
 - Any specific behavior charts or graphic organizers that are necessary to provide FAPE to the student.
- When 504 students transfer out of the district, 504 records must be forwarded by the campus to the receiving school through usual school records transfer processes. Written parental request is not necessary, as these are regular education records.

GENERAL EDUCATION HOMEBOUND (GEH) SERVICES

LCISD provides instruction to students who are too ill to attend school. Instruction in the home or hospital is a temporary arrangement that allows the student with medical concerns to continue education through a reduced level of coursework or online instruction. The §504 or Special Education ARD Committee must consider the physician's information as **one** of the factors in the decision-making process when determining homebound educational services. ***Please remember, homebound services are considered one of the most restrictive program placements for students with disabilities and remove them from educational opportunities with their nondisabled peers.*** This program option is provided to those students with the most severe medical disabilities.

If a student is suspected or diagnosed with an emotional disability, the campus has a Child Find obligation to consider a Full and Individual Evaluation under IDEA to determine the depth and breadth of possible services needed to provide the student with a Free and Appropriate Public Education. The treating psychiatrist or psychologist is encouraged to send a copy of their written report to help expedite the process. If the evaluation completed meets federal and state guidelines the committee can accept the testing or determine if any additional testing is needed to ensure appropriate services are provided to the student.

- Any student who is served through the GEH program must meet the following criteria:
 - The student is expected to be confined at home or hospital bedside for a minimum of 4 weeks. The weeks need not be consecutive.
 - The student is confined at home or hospital bedside for medical reasons only.
 - The student's medical condition is documented by a physician licensed to practice in the United States.
- A student served through the GEH program at home or hospital bedside must be served by a certified general education teacher. Over the period of his or her confinement, the student must be provided instruction in all core academic subject area courses in which the student is enrolled. In addition, over the period of confinement, the student should be provided instruction in all other courses the student is enrolled in, if possible.
- A student who is served through the GEH program retains the same ADA eligibility code he or she had before receiving GEH services, regardless of how many hours the student will be served through the GEH program.

- A campus Section 504 Committee must make decisions regarding GEH placement. Members of the committee should include but are not limited to the following:
 - The campus administrator
 - A teacher of the student, and
 - A parent or guardian of the student.
- The role of the GEH committee is to review and consider the necessity of providing instruction to a general education student at home or hospital bedside. If instruction is to be provided at home or hospital bedside, the GEH committee determines the type(s) and amount of instruction to be provided.

Section 504 (GEH) Committee Documentation

- In qualifying a student for and providing the student GEH services, the following documentation is required:
 - Section 504 Initial or Annual Review Form documenting the committee’s decisions regarding whether a student is to be served through GEH;
 - Documentation on the form of the committee’s decision regarding the type(s) and amount of instruction to be provided to the student, including the designated amount of time per week that instruction will be provided;
 - The district’s homebound form must be completed in its entirety from a licensed physician stating the student has a medical condition that requires the student to be confined at home or hospital bedside for a minimum of 4 weeks;

Home Campus Responsibilities:

- Upon placement in either General Education or Special Education Homebound:
 - The campus classroom teacher(s) remain(s) the Teacher of Record;
 - The Teacher(s) of Record must send all materials for the upcoming week to the Homebound Department via interoffice mail or email no later than the last day of the school week.
- For Chronically Ill students, the Teacher(s) of Record must forward their weekly lesson plans to the Homebound Department no later than the last day of the school week so in case of absence the Homebound teacher is aware of what the student is missing in class that day.
- The Teacher(s) of Record will ensure that all homebound students receive grade reports, conferences, handouts, and campus/community information routinely provided to all students.

Grading Materials:

- The Homebound Teacher will return assignments and materials to the Teacher(s) of Record at least once weekly for grading.

Services for Chronically Ill Students

When a Chronically Ill student is unable to attend school, the family will notify the Homebound Department no later than 9am. **The student will be scheduled for a homebound class on the second day of absence.**

GEH Funding Chart

For GEH services to generate ADA, the services must be provided as follows: A general education student served at home earns eligible days present based on the number of hours the student is served at home by a certified teacher each week. Use the following chart to calculate eligible days present:

| Amount of Time Served per Week | Eligible Days Present Earned per Week |
|--------------------------------|--|
| 1 hour | 1 day present |
| 2 hours | 2 days present |
| 3 hours | 3 days present |
| 4 hours or more hours | 4 days present (if the week is a 4-day week) 5 days present (if the week is a 5-day week) |

Eligible days present are determined each week. For GEH purposes, a week starts Sunday and ends Saturday. GEH service hours must not be accumulated and carried forward from one week to the next, and service hours must not be applied to a previous week.

DYSLEXIA SERVICES

Students enrolling in LCISD shall be assessed for dyslexia and related disorders at appropriate times (TEC §38.003(a)). The appropriate time depends upon multiple factors including the student's reading performance, reading difficulties, poor response to supplemental, scientifically-based reading instruction, teachers' input, and parents' or guardians' input. It is critical that identification occurs as early as possible; however, a student can be recommended for assessment for dyslexia even if the reading difficulties appear later in a student's school career.

- **All students suspected of having Dyslexia or other related disorders, such as Dysgraphia and Dyscalculia, will be assessed through Special Education.**
 - LCISD will meet Child Find requirements for IDEA and §504.
 - The FIE will ensure all areas of a possible reading, math, or writing disability have been identified.
- When formal assessment is recommended, LCISD completes the evaluation process using the following procedures for all evaluations:
 - Referral packet is sent to the RRC.
 - Notify parents or guardians of proposal to assess student for dyslexia through prior written notice.
 - Provide parents with their Procedural Safeguards for IDEA (special education).
 - Obtain parent or guardian consent to assess the student for dyslexia.
 - Assess student utilizing individuals/professionals who administer assessments and have training in the evaluation of students for dyslexia and related disorders.

SERVICE ANIMALS

Requests for the Use of Service Animals by Enrolled Students, Under the ADA Section 504

I. PURPOSE

The purpose of these procedures is to establish guidelines for the use of service animals by students in the Lamar Consolidated Independent School District, including school buildings, vehicles and other property. These procedures will be used to assist Lamar CISD personnel in handling requests for service animals, including directing parents' requests to the proper individuals within Lamar CISD, and advising parents of their rights under the relevant laws. For additional information regarding Service Animals, please refer to Lamar CISD Board Policy FBA(LLEGAL).

II. FEDERAL LAWS CONCERNING SERVICE ANIMALS IN SCHOOLS

Individuals with Disabilities in Education Act

Under the Individuals with Disabilities in Education Act ("IDEA"), eligible students are entitled to a free, appropriate public education ("FAPE"). The parent may request that an ARD committee consider whether or not the use of a service animal is necessary in order for the student to receive a FAPE. If the ARD Committee determines that the student can be provided FAPE without the use of the animal, the animal does not become a related service or support under a student's IEP.

Americans with Disabilities Act and Section 504 of the Rehabilitation Act

Under the Americans with Disabilities Act ("ADA") and Section 504 of the Rehabilitation Act (Section 504), schools are generally required to allow a disabled individual to be accompanied by a service animal, so long as the animal meets the ADA definition of "service animal," the animal is under the control of its handler, is housebroken, and does not pose a direct threat to the health and/or safety of others. Exclusion of an animal could be discrimination based on disability. The ADA requires public entities to appoint a person to handle claims of disability discrimination, the Section 504 Coordinator (See Board Policy FB and FFH). Additionally, the §504 committee should convene to apply the ADA guidelines and determine if additional accommodations are needed for access or for an equal educational opportunity.

For students who are eligible under §504 and have a §504 accommodation plan, a §504 committee should convene to review the plan to ensure the child continues to have equal educational opportunity and to consider reasonable accommodations. Additionally, the §504 committee should convene to apply the ADA guidelines and determine if additional accommodations are needed for access or for an equal educational opportunity.

III. DEFINITION OF SERVICE ANIMAL AND RELATED PROVISIONS

Service animals are defined by the ADA as any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability. The work or tasks performed must be directly related to the individual's disability. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition. 28 C.F.R. §35.104. A service animal is not a pet.

Animals that do not work or perform tasks for the benefit of an individual with a disability are not permitted on campus. The School District permits service animals, as defined by the ADA, on campus and in its public facilities, subject to the following conditions:

(1) The service animal must be under the control of the individual with a disability at all times. The school district may ask the individual to remove a service animal from the premises if the animal is out of control and the individual does not take effective action to control it. 28 C.F.R. §35.106(b).

(2) The individual, not the School District, is responsible for the care, supervision and handling of the service animal. 28 C.F.R. §35.136(e).

(3) The service animal shall have a harness leash, or other tether unless either: (a) the individual is unable because of a disability to use a harness, leash, or other tether; or (b) the use of the device would interfere with the service animal's safe, effective performance of work or tasks. In such circumstances, the service animal must be under the individual's control through another effective means such as voice control or signals. 28 C.F.R. §35.136(d).

(4) The service animal must be housebroken. 28 C.F.R. §35.136(b)(2). The service animal must be walked, exercised, and allowed to eliminate waste only in designated areas. The individual is responsible for cleaning up after the animal.

(5) The individual, not the School District, is responsible for any damage done by the animal and for the upkeep and cleanliness of any area traversed or occupied by the animal. Texas Human Resources Code Section § 121.005.

(6) The School District may ask if the animal is required because of a disability and what work or task the animal has been trained to perform. 28 C.F.R. §35.136(f). If the animal does not perform work or tasks directly related to the individual's disability, the School District may instruct the individual to remove the animal from the premises. 28 C.F.R. §35.104.

(7) The School District may ask the individual to remove the animal if the animal poses a direct threat to the health or safety of others. 28 C.F.R. §35.139.

(8) The School District may ask the individual to remove the animal if the animal's presence or behavior fundamentally alters the nature of the School District's service, program, or activity. 28 C.F.R. §35.130(b)(7).

(9) The individual must provide annual proof in writing of the following vaccinations: DHLPPC (distemper, hepatitis, leptospirosis, parvovirus, coronavirus), Bordetella, and rabies and any other vaccinations required by the law in the State of Texas.

(10) Special provisions regarding miniature horses: requests to permit a miniature horse to accompany an individual with a disability in school buildings, classrooms, or at school functions will be handled on a case by case basis considering the type, size and weight of the horse and whether the facility can accommodate these features; whether the individual has sufficient control of the miniature horse; whether the miniature horse is housebroken; and whether the presence of the miniature horse in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

IV. PROCEDURES/REQUIREMENTS

Use of service animals by a student with a disability is subject to the following procedures and requirements:

A. Parents/Adult students must submit a request (See Attachment 1) for the use of service animals to the Director of Special Programs/Section 504 Coordinator. Requests for the use of service animals on School District property must, whenever possible, be made no less than three (3) weeks prior to the proposed use of the service animal.

If the student is eligible for special education services under the IDEA, the student's ARD committee will determine if the animal is necessary for FAPE. If it is determined that that animal is necessary for FAPE, the student will be allowed to use the animal. All applications for use of the service animal on School

District property will be considered on a case-by-case basis. Approval of the use of the service animal is subject to periodic review, revision, or revocation by the District. At a minimum, the request for use of the service animal must be renewed annually, prior to the start of each subsequent school year. In addition, the request must be renewed whenever the student changes schools or when the student desires to use a different service animal.

If it is determined that the animal is not necessary for FAPE under the IDEA, or the child is not eligible for special education services under the IDEA, then §504/ADA procedures are implicated. The §504 Coordinator or committee, as appropriate, will determine if the animal meets the definition of service animal under the ADA. If the animal meets the definition of service animal and there are no grounds to remove the animal, the student will be allowed to use the animal on campus.

B. If the animal meets the definition of a service animal, the parent must sign and return the Agreement for Use of the Service Animal prior to the service animal being introduced into the schools setting.

C. Under the Americans with Disabilities Act, a service animal may be excluded if: 1) it is out of the handler's control and the handler cannot take effective steps to control the animal; 2) the animal is not housebroken; 3) the animal poses a direct threat to the health or safety of others; or 4) the animal's presence or behavior fundamentally alters the nature of the School District's service, program, or activity.

D. It is the responsibility of the student who uses a service animal pursuant to this procedure to provide proper handling of the service animal. The service animal must be under the control of the handler at all times. The school district is not responsible for the care or supervision of the animal. Any cost incurred to handle the service animal will be the responsibility of the adult student or parent of the student who uses the service animal. The school nurse will be consulted by school administration regarding any known allergies among the school population. Any measures needed to minimize contact between any allergic students and the service animal will be identified by the school administration and followed by the handler.

E. The service animal shall have a harness, leash, or other tether unless either: (a) the handler is unable because of a disability to use a harness, leash, or other tether; or (b) the use of such device would interfere with the service animal's safe, effective performance of work or tasks. In such circumstances, the service animal must be under the handler's control through another effective means such as voice control or signals. The handler will be responsible for ensuring the service animal is provided any food and water needed by the animal and regular outside time to relieve itself in a designated place, including proper disposal of waste. Any food provided at the school must be contained in sealable containers. The service animal will not be allowed on school furnishings unless it is required for performance of its work or task. It is the handler's responsibility to inform others that the animal is a service animal and should not be petted, bothered, harassed or fed.

F. The adult student or the student's parents/guardians, are liable for any damage to school or personal property and any injuries to individuals caused by the service animal. The District and its employees shall be held harmless in the event that the animal damages property or causes harm to any individual.

G. The District may, at its discretion, require that the student/parent requesting the use of a service animal complete the steps of this procedure, as often as reasonable so that the District may ensure the safety of patrons and the continued need for the service animal to the student.

H. Prior to the introduction of the service animal into the school, relevant campus staff will create a plan with the student and the student's parent to integrate an approved service animal into the classroom and school environment and to meet the animal's basic needs during the school day.

The plan will consider appropriate training for school staff, emergency evacuation and disaster response, and any other activities or conditions appropriate for the learning environment.

To the extent that use of a service animal is not a related service address in an IEP or Section 504 plan, an integration plan does not constitute a service or accommodation under the IDEA or Section 504.

I. The introduction of a service animal into the school setting may result in medical issues among other students and/or employees. Should such issues arise, the District will resolve those issues by considering the needs of all persons involved. The student's schedule may be altered or other appropriate action taken in order to accommodate the document needs of all students and staff on the campus.

J. Lamar Consolidated Independent School District follows all applicable laws and regulations to protect the health and safety of the students and employees of Lamar CISD. Texas law pertaining to the treatment of animals shall apply. See Tex. Penal Code Chapter 42 and Tex. Human Res. Code Chapter 121.

V. COMPLAINT PROCEDURES

Lamar Consolidated Independent School District provides training to staff to ensure compliance with the ADA and Section 504 regarding requests for service animals. Any individual who believes that he/she is being denied access to buildings or programs, or discriminated against based on disability, should immediately inform the 504 Coordinator, Tiffany Mathis, at (832) 223-0400. Any disputes or complaints by any person involving service animals should be made in writing to the District's Section 504 Coordinator. Some disputes may be subject to the grievance procedures outlined by School Board Policy and/or in the Student Handbook.

Lamar CISD does not discriminate against students on the basis of race, sex, national origin, disability, religion, color or ethnicity.

Questions and Answers

STUDENTS PROTECTED UNDER SECTION 504

Section 504 covers qualified students with disabilities who attend schools receiving Federal financial assistance. To be protected under Section 504, a student must be determined to have a physical or mental impairment that substantially limits one or more major life activities. Students with a record of such an impairment, or been regarded as having such an impairment are eligible for the non-discrimination protection. Section 504 requires that school districts provide FAPE to qualified students in their jurisdictions who have a physical or mental impairment that substantially limits one or more major life activities.

1. *What is a physical or mental impairment that substantially limits a major life activity?*

The determination of whether a student has a physical or mental impairment that substantially limits a major life activity must be made on the basis of an individual inquiry. The Section 504 regulatory provision at 34 C.F.R. 104.3U)(2)(i) defines a physical or mental impairment as 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 any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The regulatory provision does not set forth an exhaustive list of specific diseases and conditions that may constitute physical or mental impairments because of the difficulty of ensuring the comprehensiveness of such a list.

Major life activities, as defined in the Section 504 regulations at 34 C.F.R. 104.3U)(2)(ii), include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. This list is not exhaustive. Other functions can be major life activities for purposes of Section 504. In the Amendments Act, Congress provided additional examples of general activities that are major life activities, including eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, and communicating. Congress also provided a non-exhaustive list of examples of "major bodily functions" that are major life activities, such as the functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

2. *What services are available for LAMAR CISD students who qualify under Section 504?*

Section 504 requires LAMAR CISD to provide to students with disabilities appropriate educational services designed to meet the individual needs of such students to the same extent as the needs of students without disabilities are met. An appropriate education for a student with a disability under the Section 504 regulations could consist of education in regular classrooms, education in regular classes with supplementary services, and/or special education and related services.

3. *Once a student is identified as eligible for services under Section 504, is that student always entitled to such services?*

It depends...The protections of Section 504 extend only to individuals who meet the regulatory definition of a person with a disability. If LAMAR CISD re-evaluates a student in accordance with the Section 504 regulation at 34 C.F.R. 104.35 and determines that the student's mental or

physical impairment no longer substantially limits his/her ability to learn or any other major life activity, the student is no longer eligible for a service plan under Section 504. However, the student may continue to receive §504 protections.

4. *Are current illegal users of drugs excluded from protection under Section 504?*

Generally, yes. Section 504 excludes from the definition of a student with a disability, and from 504 protection, any student who is currently engaged in the illegal use of drugs (with exceptions for persons in rehabilitation programs).

5. *Are current users of alcohol excluded from protection under Section 504?*

No. Section 504's definition of a student with a disability does not exclude users of alcohol. However, Section 504 allows schools to take disciplinary action against students with disabilities using drugs or alcohol to the same extent as students without disabilities.

EVALUATION

Determining whether a child is a qualified disabled student under Section 504 begins with the evaluation process. Section 504 requires the use of evaluation procedures that ensure that children are not misclassified, unnecessarily labeled as having a disability, or incorrectly placed, based on inappropriate selection, administration, or interpretation of evaluation materials.

6. *What is an appropriate evaluation under Section 504?*

LAMAR CISD has established standards and procedures for initial evaluations and periodic re-evaluations of regular education students who need or are believed to need special education accommodations and/or related services because of a disability. The Section 504 regulation, at 34 C.F.R. 104.35(b), requires LAMAR CISD to individually evaluate a student before classifying the student as having a disability or providing the student with special education accommodations. Tests used for this purpose must be selected and administered so as best to ensure that the test results accurately reflect the student's aptitude or achievement or other factor being measured rather than reflect the student's disability, except where those are the factors being measured. Section 504 also requires that tests and other evaluation materials include those tailored to evaluate the specific areas of educational need and not merely those designed to provide a single intelligence quotient. The tests and other evaluation materials must be validated for the specific purpose for which they are used and appropriately administered by trained personnel.

7. *How much is enough information to document that a student has a disability?*

The amount of information required is determined by the multi-disciplinary committee gathered to evaluate the student. The committee should include persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. The committee members must determine if they have enough information to make a knowledgeable decision as to whether or not the student has a disability. The Section 504 regulation, at 34 C.F.R. 104.35(c), requires that LAMAR CISD draw from a variety of sources in the evaluation process so that the possibility of error is minimized. The information obtained from all such sources must be documented and all significant factors related to the student's learning process must be considered. These sources and factors may include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior. In evaluating a student suspected of having a disability, it is unacceptable to rely on presumptions and stereotypes regarding persons

with disabilities or classes of such persons. Compliance with the IDEA regarding the group of persons present when an evaluation or placement decision is made is satisfactory under Section 504.

8. *What process should LAMAR CISD use to identify students eligible for services under Section 504? Is it the same process as that employed in identifying students eligible for services under the IDEA?*

Adoption of a separate process for evaluating the needs of students under Section 504 requires that the ARD must follow the requirements for evaluation specified in the Section 504 regulation at 34 C.F.R. 104.35.

9. *Must LAMAR CISD consider "mitigating measures" used by a student in determining whether the student has a disability under Section 504?*

No. As of January 1, 2009, school districts, in determining whether a student has a physical or mental impairment that substantially limits that student in a major life activity, must not consider the ameliorating effects of any mitigating measures.

Congress did not define the term "mitigating measures" but rather provided a non-exhaustive list of "mitigating measures." The mitigating measures are as follows: medication; medical supplies, equipment or appliances; low-vision devices (which do not include ordinary eyeglasses or contact lenses); prosthetics (including limbs and devices); hearing aids and cochlear implants or other implantable hearing devices; mobility devices; oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; and learned behavioral or adaptive neurological modifications.

Congress created one exception to the mitigating measures analysis. The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining if an impairment substantially limits a major life activity. "Ordinary eyeglasses or contact lenses" are lenses that are intended to fully correct visual acuity or eliminate refractive error, whereas "low-vision devices" (listed above) are devices that magnify, enhance, or otherwise augment a visual image.

10. *Is there a single formula or scale that measures substantial limitation?*

No. The determination of substantial limitation must be made on a case-by-case basis with respect to each individual student. The Section 504 regulation, at 34 C.F.R. 104.35 (c), requires that a group of knowledgeable persons draw upon information from a variety of sources in making this determination.

11. *Are there any impairments which automatically qualify a student for protection under Section 504?*

No. An impairment in and of itself does not qualify a student for protection under Section 504. The impairment must substantially limit one or more major life activities in order to qualify a student for protection under Section 504.

12. *Can a medical diagnosis suffice as an evaluation for the purpose of providing FAPE?*

No. A physician's medical diagnosis may be considered among other sources in evaluating a student with a disability or believed to have a disability which substantially limits a major life

activity. Other sources to be considered, along with the medical diagnosis, include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior.

13. *Does a medical diagnosis of an illness automatically qualify a student for services under Section 504?*

No. A medical diagnosis of an illness does not automatically qualify a student for services under Section 504. The illness must cause a substantial limitation on the student's ability to learn or other major life activities. For example, a student who has a physical or mental impairment would not be considered a student in need of services under Section 504 if the impairment does not in any way limit the student's ability to learn or other major life activity, or only results in some minor limitation in that regard.

14. *How should LAMAR CISD handle an outside independent evaluation'? Do all data brought to a multi-disciplinary committee need to be considered and given equal weight?*

The results of an outside independent evaluation may be one of many sources to consider. Multi-disciplinary committees must draw from a variety of sources in the evaluation process so that the possibility of error is minimized. All significant factors related to the student's learning process must be considered. These sources and factors include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior, among others. Information from all sources must be documented and considered by knowledgeable committee members. The weight of the information is determined by the committee given the student's individual circumstances.

15. *What should LAMAR CISD do if a parent refuses to consent to a case study evaluation under the Individuals with Disabilities Education Act (IDEA), but demands a Section 504 plan for a student without further evaluation?*

Section 504 requires informed parental permission for initial evaluations. If a parent refuses consent for an initial evaluation and LAMAR CISD suspects a student has a disability, the IDEA and Section 504 provide that LAMAR CISD may use due process hearing procedures to override the parents' denial of consent.

16. *Who in the evaluation process makes the ultimate decision regarding a student's eligibility for services under Section 504.*

The Section 504 regulation at 34 C.F.R. 104.35 (c) (3) requires that LAMAR CISD ensures that the determination that a student is eligible for 504 services and/or related aids be made by a group of persons, including persons knowledgeable about the meaning of the evaluation data and knowledgeable about the placement options. If a parent disagrees with the determination, he or she may request a due process hearing.

17. *Once a student is identified as eligible for services under Section 504, is there an annual or triennial review requirement? If so, what is the appropriate process to be used? Or is it appropriate to keep the same Section 504 plan in place indefinitely after a student has been identified?*

LAMAR CISD requires an annual review of each student's 504 plan. The review must be completed not later than the end of the First Quarter each school year. Periodic re-evaluation is

also required. This may be conducted in accordance with the IDEA regulation, which requires re-evaluation at three-year intervals or more frequently if conditions warrant, or if the child's parent or teacher requests a re-evaluation.

18. *Is a Section 504 re-evaluation similar to an IDEA re-evaluation? How often should it be done?*

Yes. Section 504 specifies that re-evaluations in accordance with the IDEA comply with Section 504. The Section 504 regulation requires that re-evaluations be conducted periodically. Section 504 also requires LAMAR CISD to conduct a re-evaluation prior to a significant change of placement. The Office of Civil Rights (OCR) considers an exclusion from the educational program of more than 10 school days a significant change of placement. OCR would also consider transferring a student from one type of program to another or terminating or significantly reducing a related service a significant change in placement.

19. *What is reasonable justification for referring a student for evaluation for services under Section 504?*

LAMAR CISD may always use regular education intervention strategies to assist students with difficulties in school. Section 504 requires LAMAR CISD to refer a student for an evaluation for possible modification to regular education if the student, because of disability, needs or is believed to need such services.

20. *A student is receiving services that LAMAR CISD maintains are necessary under Section 504 in order to provide the student with an appropriate education. The student's parent no longer wants the student to receive those services. If the parent wishes to withdraw the student from a Section 504 plan, what can LAMAR CISD do to ensure continuation of services?*

LAMAR CISD may initiate a Section 504 due process hearing to resolve the dispute if Lamar CISD believes the student needs the services in order to receive an appropriate education.

21. *A student has a disability referenced in the IDEA, but does not require special education services. Is such a student eligible for services under Section 504?*

The student may be eligible for services under Section 504. LAMAR CISD must determine whether the student has an impairment which substantially limits his or her ability to learn or other major life activities and, if so, make an individualized determination of the child's educational needs for regular or special education or related aids or services. For example, such a student may receive adjustments in the regular classroom.

22. *How should LAMAR CISD regard a temporary impairment?*

A temporary impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period of time. The issue of whether a temporary impairment is substantial enough to be a disability must be resolved on a case-by-case basis, taking into consideration both the duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity of the affected individual.

PLACEMENT

- 23. *If a student qualifies for services under both the IDEA and Section 504, must a school district develop both an individualized education program (IEP) under the IDEA and a Section 504 plan under Section 504?***

No. If a student is eligible under IDEA, he or she must have an IEP. Under the Section 504 regulations, one way to meet Section 504 requirements is to comply with IDEA.

- 24. *Must LAMAR CISD develop a Section 504 plan for a student who either "has a record of disability" or is "regarded as disabled"?***

No. In public elementary and secondary schools, unless a student actually has an impairment that substantially limits a major life activity, the mere fact that a student has a "record of" or is "regarded as" disabled is insufficient, in itself, to trigger those Section 504 protections that require the provision of a free appropriate public education (FAPE). This is consistent with the Amendments Act, in which Congress clarified that an individual who meets the definition of disability solely by virtue of being "regarded as" disabled is not entitled to reasonable accommodations or the reasonable modification of policies, practices or procedures.

In the Amendments Act, Congress clarified that an individual is not "regarded as" an individual with a disability if the impairment is transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

- 25. *What is LAMAR CISD's responsibility under Section 504 toward a student with a Section 504 plan who transfers from another district?***

If a student with a disability transfers to LAMAR CISD from another school district with a Section 504 plan, the receiving district should review the plan and supporting documentation. If a group of persons at LAMAR CISD, including persons knowledgeable about the meaning of the evaluation data and knowledgeable about the placement options determines the plan is appropriate, the LAMAR CISD is required to implement the plan. If the LAMAR CISD determines that the plan is inappropriate, the LAMAR CISD is to evaluate the student consistent with the Section 504 procedures at 34 C.F.R. 104.35 and determine which educational program is appropriate for the student.

- 26. *What are the responsibilities of regular education teachers with respect to implementation of Section 504 plans? What are the consequences if Lamar CISD fails to implement the plans?***

Regular education teachers must implement the provisions of Section 504 plans when those plans govern the teachers' treatment of students for whom those plans govern the teachers' treatment of students for whom they are responsible. If the teachers fail to implement the plans, such failure can cause the school district to be in noncompliance with Section 504, and in rare instances teachers may be held personally liable.

- 27. *What is the difference between a regular education intervention plan and a Section 504 plan?***

A regular education intervention plan is appropriate for a student who does not have a disability or is not suspected of having a disability but may be facing challenges in school.

PROCEDURAL SAFEGUARDS

Public elementary and secondary schools must employ procedural safeguards regarding the identification, evaluation, or educational placement of persons who, because of disability, need or are believed to need special instruction or related services.

28. *Must LAMAR CISD obtain parental consent prior to initiating a Section 504 evaluation?*

Yes. OCR has interpreted Section 504 to require LAMAR CISD to obtain parental permission for initial evaluations. If LAMAR CISD suspects a student needs or is believed to need special instruction or related services and parental consent is withheld, LAMAR CISD may use due process hearing procedures to override the parent's denial of consent for an initial evaluation.

29. *What procedural safeguards are required under Section 504?*

LAMAR CISD is required to establish and implement procedural safeguards that include notice, an opportunity for parents to review relevant records, an impartial hearing with opportunity for participation by the student's parents or guardian, representation by counsel and a review procedure.

30. *What is LAMAR CISD's responsibility under Section 504 to provide information to parents and students about its evaluation and placement process?*

Section 504 requires LAMAR CISD to provide notice to parents explaining any evaluation and placement decisions affecting their children and explaining the parents' right to review educational records and appeal any decision regarding evaluation and placement through an impartial hearing.

31. *Is there a mediation requirement under §504?*

No. However, per a memorandum dated December 6, 2007 the LAMAR CISD has established a policy that permits mediation if both parties agree to mediation.

ADDITIONAL QUESTIONS

32. *When should a student be considered by a Campus §504 Committee?*

- a. When a student does not qualify for Special Education services, either through the initial evaluation or the three-year reevaluation.
- b. When a parent requests a §504 Committee meeting.
- c. When school personnel are notified of, or suspect a student has, a disability.

When the §504 committee has a question regarding whether or not a student is eligible, best practice suggests that committees err on the side of eligibility.

33. *Does a diagnosis from a doctor automatically mean a student is eligible for §504 services?*

No. A doctor's report or diagnosis is one part of the data a Campus §504 Committee must consider for eligibility and services. A single piece of data does not have more weight than another, but all data must be reviewed and considered. *Neither a doctor's note nor an ADHD evaluation is required for eligibility.*

34. *Should a student who is retained in a grade level be considered by a §504 Committee?*

Yes. While research indicates that retention is not an effective remediation strategy, best practice suggests that a §504 Committee should review students suspected of having a disability that may substantially limit a major life function in this situation.

35. *Who monitors the progress of a §504 student?*

After a student qualifies under §504, the student should be monitored by the Administrator or their designee.

36. *Who determines whether or not a student is §504 qualified?*

The Campus §504 Committee makes the determination *based on an evaluation*. Students who are considered by Campus §504 Committees are NOT automatically §504 qualified.

37. *Are all students with Health Plans eligible for §504 Services?*

All students with Health Plans on file should be reviewed by a Campus §504 Committee. OCR has determined that both Health Plans and Emergency Plans are mitigating measures, and without those mitigating measures, the student's disability may significantly impair a major life activity.

38. *Are all students with a medical condition noted on the annually-completed School Emergency form automatically considered eligible for Section §504 services?*

Probably. Campus §504 committees should review the emergency cards annually and determine if the student's condition meets the eligibility criteria for §504. It is possible for a condition to not significantly impair a major life activity.

39. *What if a parent disagrees with Campus §504 Committee decisions or recommendations?*

First and foremost, the campus should work with the parent to attempt to resolve disagreements. At all times, however, the parent has the right to begin due process, as stated in "Notice of Parent and Student Rights under §504, The Rehabilitation Act of 1973."

40. *Can a parent revoke consent for Section §504 services once the student has been served?*

Yes. The student's parents can revoke services. However, the campus must remember that the student is then "Technically Eligible" for services, and is still required to receive all of the rights, including manifestation determination, procedural safeguards, periodic reevaluation, and the nondiscrimination protections of Section §504.

41. *Are §504 qualified students required to have a Behavior Intervention Plan?*

The 504 Accommodation Plan allows for accommodations in the area of student behavior and discipline if deemed necessary by the Campus 504 Committee. Behavior Intervention Plans should be well documented within the Individual Accommodation Plan.

42. *To whom in administration do we send copies of documentation after Campus §504 Committee meetings?*

Original copies of all §504 documents should be filed in the district audit file located on each campus. Each campus §504 coordinator is responsible for maintaining the audit file for all eligible students.

43. *What procedure is to be followed to ensure that the §504 qualified student's Accommodation Plan is followed by campus personnel?*

It is the responsibility of the Campus §504 Coordinator to provide a copy of the §504 Accommodation Plan to each of the student's teachers and to other staff who have a need to know. Teachers should be fully informed regarding a student's disability and all needed accommodations. A written acknowledgement or receipt of the 504 Accommodation Plan is required and must be filed in the student's campus §504 folder.

Campus Administrators should have a complete list of all §504 qualified students.

44. *What is considered a "significant change in placement" for 504 qualified students?*

Any change for 10 or more **cumulative** school days is considered significant and requires a Campus 504 Committee review.

A Campus 504 Committee meeting must be held prior to a §504 student's significant change in school placement in order to complete a Manifestation Determination Review.

45. *Can §504 qualified students' state mandated testing be modified?*

No. Only an ARD committee has the authority to modify state testing for students receiving Special Education services. §504 qualified students may be eligible for accommodations in state testing as delineated by TEA.

46. *When students do not meet IDEA eligibility based on a Full and Individual Evaluation, will they be eligible for §504 services?*

Maybe. Since a special education evaluation was requested, the student is clearly suspected to have a disability. A Campus §504 Committee should meet to consider the student's educational needs. It is suggested that in this case the Campus §504 Committee meet immediately following the ARD Committee.

47. *When students receiving Special Education Services (including Speech Therapy) are dismissed from Special Education, are they still referred to a Campus §504 Committee for consideration?*

Yes, because these students now "have a history of having a disability." It is suggested that the Campus §504 Committee meet immediately following the ARD committee to discuss the student's eligibility.

Notice of Rights for Disabled Students and their Parents Under §504 of the Rehabilitation Act of 1973

The Rehabilitation Act of 1973, commonly known in the schools as "Section 504," is a federal law passed by the United States Congress with the purpose of prohibiting discrimination against disabled persons who may participate in, or receive benefits from, programs receiving federal financial assistance. In the public schools specifically, §504 applies to ensure that eligible disabled students are provided with educational benefits and opportunities equal to those provided to non-disabled students.

Under §504, a student is considered "disabled" if he or she suffers from a physical or mental impairment that substantially limits one or more major life activities. Section 504 also protects students with a record of an impairment, or who are regarded as having an impairment from discrimination on the basis of disability. Students can be considered disabled, and can receive services under §504, including regular or special education and related aids and services, even if they do not qualify for, or receive, special education services under the IDEA.

The purpose of this Notice is to inform parents and students of the rights granted them under §504. The federal regulations that implement §504 are found at Title 34, Part 104 of the Code of Federal Regulations (CFR) and entitle eligible student and their parents, to the following rights:

1. You have a right to be informed about your rights under §504. [34 CFR 104.32] The School District must provide you with written notice of your rights under §504 (this document represents written notice of rights as required under §504). If you need further explanation or clarification of any of the rights described in this Notice, contact appropriate staff persons at the District's §504 Office and they will assist you in understanding your rights.
2. Under §504, your child has the right to an appropriate education designed to meet his or her educational needs as adequately as the needs of non-disabled students are met. [34 CFR 104.33]. You have the right to refuse consent for services at any time.
3. Your child has the right to free educational services, with the exception of certain costs normally also paid by the parents of non-disabled students. Insurance companies and other similar third parties are not relieved of any existing obligation to provide or pay for services to a student that becomes eligible for services under §504. [34 CFR 104.33].
4. To the maximum extent appropriate, your child has the right to be educated with children who are not disabled. Your child will be placed and educated in regular classes, unless the District demonstrates that his or her educational needs cannot be adequately met in the regular classroom, even with the use of supplementary aids and services. [34 CFR 104.34].
5. Your child has the right to services, facilities, and activities comparable to those provided to non-disabled students. [34 CFR 104.34].
6. The School District must undertake an evaluation of your child prior to determining his or her appropriate educational placement or program of services under §504, and also before every subsequent significant change in placement. [34 CFR 104.35]. You have the right to refuse consent for initial evaluation.
7. If formal assessment instruments are used as part of an evaluation, procedures used to administer assessments and other instruments must comply with the requirements of §504 regarding test validity, proper method of administration, and appropriate test selection. [34 CFR 104.35]. The District will appropriately consider information from a variety of sources in making its determinations, including, for example: aptitude and achievement tests, teacher recommendations, reports of physical condition, social and cultural background, adaptive behavior, health records, report cards, progress notes, parent observations, statewide assessment scores, and mitigating measures, among others. [34 CFR 104.35].
8. Placement decisions regarding your child must be made by a group of persons (a §504 committee) knowledgeable about your child, the meaning of the evaluation data, possible placement options, and the requirement that to the maximum extent appropriate, disabled children should be educated with non-disabled children. [34 CFR 104.35].
9. If your child is eligible under §504, he or she has a right to periodic reevaluations. A reevaluation must take place at least every three years. [34 CFR 104.35].

10. You have the right to be notified by the District prior to any action regarding the identification, evaluation, or placement of your child. [34 CFR 104.36]

11. You have the right to examine relevant documents and records regarding your child (generally documents relating to identification, evaluation, and placement of your child under §504). [34 CFR 104.36].

12. You have the right to an impartial due process hearing if you wish to contest any action of the District with regard to your child's identification, evaluation, or placement under §504. [34 CFR 104.36]. You have the right to participate personally at the hearing, and to be represented by an attorney, if you wish to hire one.

13. If you wish to contest an action taken by the §504 Committee by means of an impartial due process hearing, you must submit a Notice of Appeal or a Request for Hearing to the District's §504 Coordinator at the address below. In Texas, you must submit the required notice or request in writing within one year of the action or omission giving rise to your complaint. Failure to make a timely request will result in the loss of your opportunity to pursue a due process hearing on that action or omission.

A date will be set for the hearing and an impartial hearing officer will be appointed. You will then be notified in writing of the hearing date, time, and place.

**Elizabeth Franklin
Director of Dyslexia & 504 Services
3801 Avenue N.
Rosenberg, TX 77471
(832)223-0485**

14. If you disagree with the decision of the hearing officer, you have a right to seek a review of the decision by making a written request to the District's Section 504 Coordinator, and/or you may seek relief in state or federal court as allowed by law.

15. You also have a right to present a grievance or complaint through the District's local grievance process. The District will investigate the situation, take into account the nature of the complaint and all necessary factors, and respond appropriately to you within a reasonable time. Parents may contact the District's Section 504 Coordinator for more information about the District's grievance process.

16. You also have a right to file a complaint with the Office for Civil Rights (OCR) of the Department of Education. The address of the OCR Regional Office that covers this school district is:

**Director, Office for Civil Rights, Region VI
1999 Bryan Street, Suite 1620, Dallas, Texas 75201-6810, Tel. 214-661-9600**

Aviso a Padres de Estudiantes Incapacitados de sus Derechos Legales bajo la Sección 504 del Decreto de Rehabilitación de 1973

El Decreto de Rehabilitación de 1973, conocido generalmente como la "Sección 504," es una ley federal legislada por el Congreso de los Estados Unidos. El propósito de esta ley es de prohibir discriminación contra estudiantes incapacitados y asegurar que tengan oportunidades y beneficios educativos tan adecuados como los de estudiantes sin incapacidades.

Bajo la Sección 504, un estudiante es considerado "incapacitado" si padece de un impedimento o condición física o mental que limita substancialmente por lo menos una de sus actividades vitales. La ley también protege a estudiantes que han tenido un impedimento o condición física o mental substancial en el pasado, o que son considerados incapacitados aunque realmente no lo sean. Estudiantes pueden ser considerados incapacitados bajo la Sección 504 y pueden recibir asistencia educativa bajo esa ley, incluyendo servicios educativos regulares o especiales y otra asistencia relacionada aunque no reciban educación especial según la ley federal IDEA.

El propósito de este Aviso es de explicarle los derechos legales garantizados bajo la Sección 504 a estudiantes incapacitados y a sus padres. Los reglamentos federales que dan efecto a la Sección 504 (los cuales se encuentran en el Título 34, Parte 104 del Código Federal de Reglamentos, o CFR) otorgan a los padres de familia y a estudiantes incapacitados los siguientes derechos:

1. Usted tiene derecho a ser informado de sus derechos bajo la Sección 504. [34 CFR 104.32]. El distrito escolar debe darle información escrita sobre sus derechos (este Aviso precisamente sirve para informarle de sus derechos). Si necesita que le expliquen o clarifiquen cualquier de los siguientes derechos, los dirigentes apropiados del distrito escolar le ayudarán a resolver sus preguntas.

2. Bajo la Sección 504, su hijo/a tiene derecho a una educación apropiada diseñada para satisfacer sus necesidades educativas individuales tan adecuadamente como las de estudiantes sin incapacidades. [34 CFR 104.33]. Usted tiene el derecho de rechazar, a cualquier punto, su permiso a recibir servicios.

3. Su hijo/a tiene derecho a servicios educativos gratuitos, con la excepción de gastos que normalmente se les cobran también a estudiantes sin incapacidades (o a sus padres). Compañías de seguros, y otras terceras personas similares, no son libres de sus obligaciones normales para proporcionar o pagar por servicios para un estudiante considerado incapacitado bajo la Sección 504. [34 CFR 104.33]. El recibir asistencia educativa bajo la Sección 504 no disminuye su derecho a recibir otra asistencia pública o privada de cualquier tipo.

4. Su hijo/a tiene derecho a ser colocado en el ambiente educativo que permita máximo contacto y relaciones con estudiantes sin incapacidades. [34 CFR 104.34]. A menos que sus necesidades educativas no puedan ser satisfechas ahí, su hijo/a será colocado en clases regulares.

5. Su hijo/a tiene derecho a equipo, clases, edificios, servicios y actividades comparables a las que son proporcionadas a estudiantes sin incapacidades. [34 CFR 104.34].

6. Su hijo/a tiene derecho a una evaluación antes de determinar una colocación educativa o programa de asistencia bajo la Sección 504, y también antes de cualquier cambio importante en colocación subsecuente. [34 CFR 104.35]. Usted tiene el derecho de rechazar permiso para la evaluación inicial.

7. Procedimientos utilizados para administrar pruebas y otras evaluaciones educativas deben cumplir con los requisitos de la Sección 504 en cuanto a la validez de las pruebas, su forma de administración, y las áreas necesarias de evaluación. [34 CFR 104.35]. El distrito considerará apropiadamente información de diversas fuentes y orígenes, incluyendo, por ejemplo: pruebas de aptitudes y aprovechamiento, recomendaciones de maestros, reportes de condición física, antecedentes sociales y culturales, análisis de comportamiento adaptado, reportes médicos, calificaciones, reportes de progreso, observaciones de los padres, anécdotas de maestros, calificaciones de pruebas estatales, y medidas aliviantes, entre otras. [34 CFR 104.35].

8. Las decisiones de colocación educativa deben realizarse por un grupo de personas (llamado el comité 504) que conocen la situación de su hijo/a, el significado de los resultados de las evaluaciones, las opciones de colocación, y la obligación legal de asegurar el ambiente educativo que permita el máximo contacto con estudiantes no incapacitados. [34 CFR 104.35].

9. Si es considerado incapacitado bajo la Sección 504, su hijo/a tendrá derecho a nuevas evaluaciones, llamadas re-evaluaciones, periódicamente. Generalmente re-evaluaciones educativas se harán para cada niño incapacitado por lo menos cada tres años. [34 CFR 104.35.]

10. Usted tiene derecho a que el distrito escolar le avise antes de tomar cualquier acción en relación a la identificación, evaluación o colocación educativa de su hijo/a. [34 CFR 104.36].

11. Usted tiene derecho a examinar archivos y documentos relacionados a la educación de su hijo/a (normalmente archivos y documentos con relación a la identificación, evaluación o colocación educativa de su hijo/a). [34 CFR 104.36].

12. Usted tiene derecho a una audiencia imparcial si no está de acuerdo con las acciones del distrito en relación a la identificación, evaluación, o colocación educativa de su hijo/a. Usted tiene la oportunidad de participar personalmente en tal audiencia y de ser representada por un abogado, si desea contratarlo. [34 CFR 104.36].

13. Si desea protestar o disputar las acciones del Comité 504 del distrito a través de una audiencia imparcial, debe presentar un Aviso de Apelación escrito ante el Coordinador 504 del distrito, en la siguiente dirección. Se fijará una fecha para una audiencia ante un oficial imparcial, y serán notificados por escrito de la fecha, hora, y lugar de la audiencia. En el Estado de Texas, la petición para una audiencia imparcial se debe presentar a menos de un año después de el acto u omisión que da a cabo la petición. Peticiones tardías resultaran en la pérdida de oportunidad para una audiencia imparcial sobre tal acto u omisión.

**Elizabeth Franklin
Director of Dyslexia & 504 Services
3801 Avenue N.
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(832)223-0485**

14. Si usted está en desacuerdo con la decisión final del oficial imparcial de audiencia, tiene derecho a pedir por escrito un reviso de tal decisión al Coordinador de §504 del Distrito Escolar, o a través de petición formal a una corte estatal o federal tal permitida por ley. [34 CFR 104.36].

15. También tiene el derecho de presentar una queja local al Coordinador de §504 del Distrito Escolar (o su dirigente), quien investigará la situación, considerará los temas de la queja y todo factor necesario, y le responderá apropiadamente dentro de un plazo de tiempo razonable. Si tiene preguntas sobre el proceso para presentar quejas locales, se puede comunicar con el Coordinador de §504 para obtener respuesta.

16. Usted también tiene el derecho a presentar una queja ante la Oficina de Derechos Civiles de el Departamento de Educación de los Estados Unidos. La dirección de la Oficina Regional a la cual pertenece a este distrito es:

**Director, Office for Civil Rights, Region VI
1999 Bryan Street, Suite 1620, Dallas, Texas 75201-6810, Tel. 214-661-9600**

LAMAR CONSOLIDATED INDEPENDENT SCHOOL DISTRICT

RECEIPT OF SECTION 504 ACCOMMODATION PLAN

Student _____ Date _____

School _____ Grade _____ ID# _____

Circle the appropriate semester: Semester 1 2

The following staff members are responsible for the implementation of the Accommodation Plan for the student listed above.

| Staff Member | Position | Signature | Date |
|--------------|----------|-----------|-------|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

All staff members listed above must sign this form.

ATTACH THIS FORM TO THE ACCOMMODATION PLAN AND
FILE IN THE STUDENT'S 504 FOLDER.

LAMAR CONSOLIDATED INDEPENDENT SCHOOL DISTRICT

SECTION 504 - MANIFESTATION DETERMINATION CHECKLIST

To ensure compliance a Section 504 Committee considering manifestation determination should address the following questions.

Prior to the 504 Committee Meeting

- | | Yes | No | |
|-----|-------|-------|--|
| 1. | _____ | _____ | Could the discipline action result in a change in placement for more than 10 <i>cumulative</i> school days? |
| 2. | _____ | _____ | Have district procedures been followed in notifying the student and parent of the disciplinary offense within appropriate timelines? (no later than day on which decision to take disciplinary action is made) |
| 3. | _____ | _____ | When must the Manifestation Determination be conducted? As soon as possible, but in no case later than 10 school days after the date on which the decision to take disciplinary action is made. |
| 4. | _____ | _____ | Have parents received notification of their Section 504 rights? |
| 6. | _____ | _____ | Does the Campus 504 Committee consist of people who are knowledgeable of the student, the meaning of the evaluation data, and placement options? |
| 7. | _____ | _____ | Have parents received notification of the date and time to furnish the 504 committee with any additional or more current evaluation data they may have? |
| 8. | _____ | _____ | Is the district's evaluation data current? If not, what additional information or assessment is appropriate prior to the 504 committee meeting? |
| 10. | _____ | _____ | Is the 504 Accommodation Plan available to the 504 committee for review? |
| 11. | _____ | _____ | If a Behavior Intervention Plan has been implemented, is it available to the 504 committee for review? |

MANIFESTATION DETERMINATION CHECKLIST (Continued)

Following the Campus 504 Committee Meeting

- | | Yes | No | |
|----|-------|-------|---|
| 1. | _____ | _____ | Did the Campus 504 Committee make a determination as to whether the behavior in question was a manifestation of the student's disability? |
| 2. | _____ | _____ | If there was no manifestation, has the district gone forward with regular education disciplinary procedures? |
| 3. | _____ | _____ | If there was no manifestation, has the Campus 504 Committee determined what educational services will be provided to the student during the term of expulsion, in order to prevent significant regression (<i>including, but not limited to, a behavior intervention plan</i>)? |
| 4. | _____ | _____ | If the behavior in question was a manifestation of the student's disability, did the Campus 504 Committee review the 504 Accommodation Plan/Behavior Intervention Plan to assure their appropriateness? |
| 5. | _____ | _____ | Have teachers been given (<i>and signed for</i>) a copy of the updated 504 Accommodation Plan/Behavior Intervention Plan (home campus and disciplinary placement teachers) |
| 6. | _____ | _____ | Have parents received notification of the determination and the resulting actions? |



Section 504 Compliance Checklist

(Please fill this out and place in student’s 504 legal folder after each meeting.)

Student’s Name: _____ **Meeting Date:** _____
Person _____ **Completing** _____ **Form:** _____

| | |
|--|-----------|
| Communication Log Updated | Yes or No |
| Referral Date: (Initial referral date; there is only one initial date.) | |
| Referral Information in Folder (This form is in SuccessEd.) | Yes or No |
| Notice of Evaluation Date: (Date form is sent or mailed.) | |
| Consent for Evaluation Date: (Date parent signed the consent.) | |
| Evaluation Data in Student’s Legal Folder (Initial and current) | Yes or No |
| Evaluation Date: | |
| Student's Disability: | |
| Major Life Activity Substantially Limited: | |
| Notice of 504 Meeting Date: (current; may be initial meeting) | |
| Service Plan Date: | |
| Accommodations Linked to Student’s Disability | Yes or No |
| Routine Instructional Accommodations Provided on State Assessment | Yes or No |
| Notes/Minutes: | Yes or No |

Please place tabs on the following items:

Red Tab: Consent for Evaluation **(current)**

Yellow Tab: Evaluation **(current)**

Green Tab: Consent for Services **(This should have been completed at the initial 504 meeting.)**

Blue Tab: Service Plan **(current)**

Referral Date: If the student is transferring into LCISD and the campus is unable to obtain the initial referral please complete this form in SuccessEd.

Evaluation Data: Remember, some folders may not have initial data because some campuses considered the SuccessEd Evaluation document as the evaluation data. The legal guidance states that there must be a preponderance of evidence (not a form).

Evaluation data = Evidence

