

# SECTION 504

## HANDBOOK

*Procedures for the Education of Students  
with Disabilities Under Section 504*



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### I. GENERAL INFORMATION ABOUT SECTION 504

#### A. DEFINITIONS

##### **1. Section 504**

Section 504 is a federal law designed to protect the rights of individuals with disabilities in programs and activities that receive Federal financial assistance from the U.S. Department of Education (ED). The Office of Civil Rights (OCR) enforces Section 504 in programs and activities that receive Federal financial assistance from ED. Recipients of this Federal financial assistance include public school districts, institutions of higher education, and other state and local education agencies. The regulations implementing Section 504 in the context of educational institutions appear at 34 C.F.R. Part 104.

##### **2. 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: (1) have a physical or mental impairment that substantially limits one or more major life activities; or (2) have a record of such an impairment; or (3) be regarded as having such an impairment. Section 504 requires that school districts provide a free appropriate public education (FAPE) to qualified students in their jurisdictions who have a physical or mental impairment that substantially limits one or more major life activities.

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. 104.3(j)(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 intellectual disabilities, 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. 104.3(j)(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 Americans with Disabilities Act Amendments Act (ADAAA), Congress provided additional examples of general activities that are major life activities, including eating, sleeping, standing, lifting, bending, reading,

concentrating, thinking, and communicating. 42 U.S.C. § 12102(b)(2)(A). 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. 42 U.S.C. § 12102(b)(2)(B). The Section 504 regulatory provision, though not as comprehensive as the Amendments Act, is still valid – the Section 504 regulatory provision’s list of examples of major life activities is not exclusive, and an activity or function not specifically listed in the Section 504 regulatory provision can nonetheless be a major life activity.

At the elementary and secondary educational level, a "qualified student with a disability" is a student with a disability who is: of an age at which students without disabilities are provided elementary and secondary educational services; of an age at which it is mandatory under state law to provide elementary and secondary educational services to students with disabilities; or a student to whom a state is required to provide a free appropriate public education under the Individuals with Disabilities Education Act (IDEA).

### **3. Americans with Disabilities Act (ADA)**

The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, state and local government services, public accommodations, commercial facilities, and transportation. It also mandates the establishment of TDD/telephone relay services. The ADA was revised by the ADA Amendments Act of 2008 (P.L. 110-325), which became effective on January 1, 2009. The ADA is codified at 42 U.S.C. 12101 et seq.

### **4. Child Find**

Pursuant to Section 504 of the Rehabilitation Act of 1973, the District has a duty to identify, refer, evaluate, and if eligible, provide a free, appropriate public education to disabled students. For additional information about the rights of parents of eligible children, or for answers to any questions you might have about identification, evaluation and placement into Section 504 programs, please contact the District’s Section 504 Coordinator, Jennifer Kedare, by phone at 817-252-2580 or by mail at 5228 Ohio Garden Road, Fort Worth, TX 76114.

### **5. Free Appropriate Public Education (FAPE)**

Under Section 504, a FAPE is the provision of services, such as accommodations, designed to meet the educational needs of the disabled student as adequately as the needs of nondisabled students are met. In essence, FAPE under Section 504 consists of equal educational opportunity.

Under Section 504, FAPE does not include specially designed instruction. Students who are suspected of being in need of specially designed instruction should be referred for a Special Education eligibility evaluation.

### **6. Related Aids and Services**

“Related aids and services” means any service that a disabled student needs to participate in and/or benefit from the District’s education program (ex: if, without a specific related aid and/or service, a disabled student is unable to participate in or benefit from the District’s education program, the aid and/or service in question

is a necessary related aid or service for the student). Related aids and/or services include but are not limited to:

- School health services
- Counseling services
- Environmental instructional, and/or behavioral accommodations
- Transportation services
- Provision of a modified schedule, grading system, and/or curriculum

**7. Parent(s)/Guardian(s)**

“Parent(s)/Guardian(s)” means a natural or adoptive parent, a legal guardian, a foster parent, and/or a person acting in the place of the parent, such as grandparent or step-parent with whom a student actually lives.

**8. Adult Student**

An adult student is a student who is 18 years of age or older who has not been judged incapacitated by a court of law. An adult student assumes and is entitled to exercise all Section 504 rights, duties, and/or responsibilities that were previously held by his or her parent(s)/guardian(s).

**9. Campus-Based Section 504 Committee**

The Section 504 Committee makes decisions regarding the evaluation and/or placement of students under Section 504. The membership of any particular student’s Section 504 team includes persons knowledgeable about the student, can interpret the meaning of the student’s current evaluation data, and have authority to make placement options. The committee must include an administrator, Campus 504 Coordinator, and at least one of the student’s teachers; ideally, all of the student’s teachers should attend committee meetings. The 504 Committee determines the scope of evaluations and if students qualify for Section 504, develops Section 504 Plans, and makes “manifestation determinations” for purposes of disciplinary exclusion from school.

**10. Section 504 Campus Coordinator**

The Campus Coordinator is a certified staff member of the school who is designated to coordinate all Section 504 activities within the school and is responsible for coordinating all aspects of the Section 504 referral and evaluation process. In most instances, schools will designate a counselor or administrator to serve as the Building Coordinator.

**11. Section 504 District Coordinator**

The District Coordinator is a central-office staff member that oversees the District’s provision of free appropriate public education (FAPE) for students with disabilities under Section 504, provides all training related to Section 504 FAPE, and ensures campus compliance.

## **B. OVERVIEW OF THE SECTION 504 PROCESSES**

### **1. Referral**

Parent(s)/Guardian(s) and/or school staff can refer a student for Section 504 evaluation if they know or suspect that, due to a disability, the student needs accommodations to participate in or benefit from the District's education program. A parent or district staff member can refer a student for evaluation under Section 504. Referrals need to be submitted to the Campus 504 Coordinator.

A student does not have to have a formal medical diagnosis to be referred for consideration as a disabled student pursuant to Section 504.

### **2. The 504 Committee**

A separate 504 Committee is constituted for each child. The Committee is composed of two or more people knowledgeable about the child, meaning of evaluation data, placement options, LRE requirements, and comparable facilities requirements. The parent is not required to be on the 504 Committee, but the parent must be invited to all meetings of the Committee.

### **3. Decision to Evaluate**

After receiving a Section 504 referral, the Campus 504 Committee must decide whether to evaluate the student and must notify the student's parent(s)/guardian(s) of its decision. As a general rule, students should be evaluated if staff know or suspect that the student, because of a disability, is not attending school, advancing from grade to grade, meeting the standards of personal independence or social responsibility expected of his or her age or cultural group, or otherwise needs special education or related aids or services to participate in or benefit from the District's education program. This decision must be communicated using the Notice and Consent for Evaluation Form..

### **4. Consent**

Under CISD Policy FB (LOCAL) the District must obtain consent from a parent(s)/guardian(s) before a student's initial evaluation and before a student is placed on a Section 504 Plan for the first time. This should be done using the Parent Consent for Evaluation. *If a parent(s)/guardian(s) refuses consent to either initial evaluation or initial placement, the district may, but is not required to, initiate a Section 504 due process hearing to override the refusal to consent.* The district must notify a parent(s)/guardian(s) before it re-evaluates or significantly changes a student's placement, but does not need to obtain consent. Consent must be informed, meaning the parent(s)/guardian(s) must be fully informed of all information relevant to the activity for which consent is sought in his or her native language or other mode of communication.

### **5. Initial Evaluation**

The scope of Section 504 evaluations will be specific to the student at issue. An evaluation may include a review of assessments conducted by District staff or can be a review of outside assessments. Any evaluation should be broad enough to

enable the Campus 504 Committee to determine whether a student has a disability that necessitates services, accommodations, and/or modifications for the student to receive FAPE. The results of an evaluation are documented in the Section 504 Plan.

Mitigating measures (ex: medication, medical devices, related aids and services, etc.) must be disregarded when determining eligibility under Section 504.

Staff should encourage families to share any information they have that is relevant to determining if the student is eligible under Section 504 and should obtain authorization to speak with health care providers using the Consent for Release form.

While it is very useful to have supporting information from a health care provider to consider as part of the evaluation process, families cannot be required to provide proof of a diagnosis to determine if a student is subject to Section 504.

#### **6. Section 504 Plan**

A Section 504 Plan is a written plan that describes the educational and related aids and services that the 504 Committee determines a disabled student needs to receive FAPE. Section 504 Plans are documented using the Section 504 Plan. The content of a Section 504 Plan is fluid and may change within a school year or between school years as a student's needs and services change.

A Section 504 Plan must be sufficiently detailed to allow teachers to address the individual needs of the student and should outline the specific modifications, adjustments, accommodations, and/or other related aids and services to be provided to the student to ensure the ability to access FAPE.

For a student whose only disability is a life-threatening health condition, documentation should be shared between the school nurse and the Campus 504 Coordinator.

#### **7. Section 504 Placement**

Placement under Section 504 means the related aids, services, accommodations, and/or modifications that a student needs to receive FAPE. Placement decisions under Section 504 must be documented, be based upon a student's evaluated needs, be made by persons knowledgeable about the student, who know the meaning of the student's evaluation data, and have the authority to make placement decisions. In addition, placement decisions must ensure that disabled students are educated in the least restrictive appropriate placement. Parental consent must be obtained before a student is placed on a Section 504 Plan for the first time.

#### **8. Annual Review and Periodic Re-evaluation**

Section 504 Plans must be reviewed at least annually and revised if necessary. Periodic re-evaluation is required. This may be conducted in accordance with the IDEA regulations, which require re-evaluation at three-year intervals (unless the parent and public agency agree that re-evaluation is unnecessary) or more



frequently if conditions warrant, or if the child's parent or teacher requests a re-evaluation, but not more than once a year (unless the parent and public agency agree otherwise). It is also wise to consider conducting a re-evaluation before or shortly after a student transitions from elementary school to middle school or from middle school to high school.

## **9. Record Retention**

A copy of all Section 504 Plans should be forwarded to the District 504 Coordinator. A copy of the student's Section 504 Plan shall be placed in the student's 504 folder at his/her campus. Copies of plans including health conditions should be maintained in the student's nursing file. The Campus 504 Coordinator should also ensure that notice of Section 504 status is electronically reflected in the student database for all students eligible for Section 504.

## **II. DETAILED INFORMATION REGARDING IDENTIFICATION, EVALUATION, AND PLACEMENT PROCEDURES**

### **A. IDENTIFICATION/CHILD FIND PROCEDURES**

The District will make appropriate efforts to locate and identify qualified students residing within the District boundaries. The District will annually inform these students and their parents or guardians of the District's duties under Section 504 through appropriate efforts such as notices to private schools, state and local agencies, or other notices posted in public areas. Additionally, every teacher within the District will have information regarding the District's early intervention process, the identity of the campus Section 504 administrator, and the characteristics of students who should be referred.

#### **1. Providing Information to Families and Posting Notices**

The district and/or individual schools will inform parent(s)/guardian(s) in the school of the availability of Section 504 services, accommodations, and/or modifications, including posting on the district website.

#### **2. Advising Staff of the Referral Process**

Each school will instruct staff members to identify students they believe are potentially disabled and could be eligible for Section 504. Staff members could include teachers, counselors, nurses, paraprofessionals, and/or other staff members who have had personal interactions with the student. Staff should be advised to identify potentially eligible Section 504 students whose disabilities are not limited to learning or other academic problems.

### **B. REFERRAL, EVALUATION, AND PLACEMENT PROCEDURES**

#### **1. Referral to the Campus 504 Coordinator or Administrator**

Students suspected of having a disability may be referred to the Campus 504 Coordinator for evaluation in writing (or orally by the parent if the parent does not know how to write, or has a disability that prevents a written statement.) All referrals should be routed to the Campus 504 Coordinator. The Campus 504

Coordinator is responsible for coordinating all aspects of the Section 504 referral and evaluation process.

## **2. Referral by Campus 504 Coordinator to 504 Committee for Possible Evaluation**

Within five (5) school days of receipt of a request for referral, the Campus 504 Coordinator should refer the student to the 504 Committee for consideration of a Section 504 evaluation. A referral to the 504 Committee may also be made in the following circumstances:

- When a student is referred for IDEA, but the decision is not to evaluate or is deemed ineligible for special education services;
- When a student is not responding to general education academic interventions or when a student continues to display behavior problems despite classroom interventions being taken;
- When a student is returning to school after a serious illness or injury or after alcohol and/or drug treatment;
- When a student has a “life threatening health condition;”
- When a student has a temporary impairment that will be substantially limiting for an extended period of time; and/or
- When a student has an impairment that is episodic or in remission that is substantially limiting.

If the Campus 504 Coordinator knows or suspects that the student is eligible as a disabled student under the IDEA, is an English Language Learner, or has other needs, the Campus 504 Coordinator should follow the referral process for those departments.

## **3. Consideration of the Referral**

The Campus 504 Coordinator will coordinate a meeting of the 504 Committee to consider the referral. The 504 Committee is made up of the Campus 504 Coordinator, at least one teacher of the student who is knowledgeable about the student, and a campus administrator. Parent(s)/Guardian(s) shall be invited, however attendance is not required.

The 504 Committee should review the referral; collect and examine existing school, medical, and/or other records in the possession of the parent, District, and/or other public agency; and determine whether or not to conduct an evaluation. The 504 Committee decision will be made within 30 school days of receiving the referral.

If the 504 Committee knows or suspects that the student is eligible as a disabled student under the IDEA, is an English language learner, or has other needs, the 504 Committee should follow the referral process for those departments.

## **4. Notice and Consent**

Parent(s)/Guardian(s) will be notified of the 504 Committee decision in writing through the Notice and Consent for Initial Evaluation. Parent(s)/Guardian(s) may accept or decline evaluation on this form, returning it to the Campus 504

Coordinator.

## **5. Evaluation**

Each referred student will be evaluated by the 504 Committee. The Campus 504 Coordinator will facilitate the assembly of the 504 Committee. Members of the committee could include the school nurse, teacher(s), counselor, school psychologist, assistant principal, and/or any other appropriate school personnel member. The parent is invited to attend. At a minimum, the committee shall include:

- At least one person knowledgeable about the suspected disability;
- At least one person knowledgeable about the meaning of the evaluation data;
- At least one person knowledgeable about the student; and/or
- At least one person knowledgeable about the placement options.

A single person can fulfill multiple roles, dependent upon qualifications and interactions with the student at issue.

The determination of whether a student is substantially limited in one or more major life activities will be made without regard to any ameliorative effects of mitigating measures, which include, but are not limited to: medication, medical supplies, equipment, low-vision devices, prosthetics, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy equipment and supplies, assistive technology, reasonable accommodations, auxiliary aids or services, learned behavior or adaptive neurological modifications, or service animals.

Low vision devices do not include ordinary eyeglasses or contact lenses. The ameliorative effects of ordinary glasses or contact lenses may be considered in determining whether the impairment substantially limits a major life activity.

The evaluation shall be sufficient to identify the regular or special education and related aids and services needed to provide FAPE. The 504 Committee should use assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the student. The 504 Committee will gather data and information from a variety of sources. Sources of evaluation data may include, among others, formal testing, student grades, health information, parent information, teacher comments, standardized test scores, and disciplinary referrals. The 504 committee will determine the scope of data to be gathered and reviewed. Based on the review, the 504 Committee will identify what additional information, if any, is needed to fully evaluate the student. If the 504 committee determines that additional information is necessary, the 504 committee will identify how this information will be obtained and who will have responsibility for obtaining it.

Any assessments selected and administered in the evaluation process should:

- be selected and administered so as not to be racially or culturally discriminatory;
- be administered in the student’s native language or other mode of communication, unless it is clearly not feasible to do so;
- be tailored to assess specific areas of educational need; and/or • include assessments tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

After reviewing and carefully considering all information obtained by the 504 Committee, the 504 Committee will determine:

- Does the student have a physical or mental impairment?
- Does the physical or mental impairment affect one or more major life activities (including major bodily functions)?
- Does the physical or mental impairment substantially limit a major life activity?
- If “Yes” to all three questions, does the student need Section 504 services in order for his/her educational needs to be met as adequately as those of non-disabled peers?

#### **6. Plan Development and Plan Implementation**

Once the 504 Committee has determined that the student is eligible for Section 504 Services and has completed the evaluation, the 504 Committee will meet and determine the appropriate services, accommodations, and/or modifications that will be provided to address the student’s disability related needs.

Parent(s)/Guardian(s) shall be invited to participate and provide input about the student, although their attendance is not required. The 504 Committee shall receive input from all of the student’s teachers.

The 504 Committee shall develop the Section 504 Plan. This form should include accommodations, and/or modifications that will be provided and indicate who is to provide each service and/or accommodation. The student’s Section 504 Plan will be developed no more than 30 school days after the evaluation determination is issued by the 504 Committee. Once it has been determined that a student is a disabled student under Section 504 for purposes of FAPE, the school must provide whatever services it decides the student needs to participate in and benefit from its education program. As a general rule, the District is under no obligation to provide a service that a student’s parent(s)/guardian(s) and/or doctor(s) requests unless the 504 Committee determines the student needs the service to participate in and benefit from its education program.

The Section 504 Plan must address all areas of the student’s disability-related educational needs.

Parent(s)/Guardian(s) will be notified of the placement decision and parent(s)/guardian(s) may challenge the decision through the District’s Section

504 hearing process.

In interpreting evaluation data and in making placement decisions, the District will (1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background and adaptive behavior; (2) establish procedures to ensure that information obtained from all sources is documented and carefully considered; and (3) ensure that the student is educated with his/her non-disabled peers to the maximum extent appropriate.

#### **7. Sharing of Information**

Once the student's Section 504 Plan is finalized and the parent(s)/guardian(s)/adult student consent for an initial placement is received, the Campus 504 Coordinator shall immediately notify each of the student's teachers about the services, accommodations, and/or modifications and shall ensure that all services, accommodations, and/or modifications are being provided to the student through periodic monitoring.

#### **8. Location of Section 504 Plans**

The signed original of all Section 504 Plans will be kept in the student's 504 folder on the campus in a secure location. The Section 504 Plan document should also be uploaded into the student's electronic file in Skyward. A copy of the Section 504 plan should be provided to each of the student's teachers. Copies of Plans addressing health issues should also be kept in the Nurse's files.

The Campus 504 Coordinator should also ensure that notice of Section 504 status is electronically reflected in the student database for all students eligible for Section 504.

### **C. ANNUAL SECTION 504 PLAN REVIEW AND PERIODIC RE-EVALUATIONS**

#### **1. Annual Section 504 Plan Review**

The period covered by a student's Section 504 Plan is one (1) calendar year. An annual review of each Section 504 student's services, accommodations, an/or modifications by the 504 Committee shall be completed each year. Each school must ensure that the annual review process is completed and any necessary evaluations and program changes are done in a timely manner.

Campus 504 Coordinators are expected to begin the process of preparing for the annual review by no later than one month before the date any student's Section 504 Plan is set to expire, including gathering information on the student's progress and working with the 504 Committee to identify a meeting date sufficiently in advance of the date upon which any Section 504 Plan is set to expire so that if necessary, a re evaluation can occur before the Section 504 Plan expires.

If the school or District receives information indicating a student may have disability related educational needs that, because of a change in circumstances or other factors (including, for example, that a student with a disability has stopped attending school), are not currently being addressed by the student's Section 504 Plan, the school or District staff who have received the information will take

prompt and appropriate steps to notify the Campus 504 Coordinator. The Campus 504 Coordinator will schedule a 504 Committee meeting to consider the information and determine whether a change in the student's Section 504 Plan is needed to address the information.

The 504 Committee conducting the annual review should include at least one person knowledgeable about the student, at least one person knowledgeable about the disability, the Campus 504 Coordinator, and at least one of the student's teachers. The parent(s)/guardian(s) shall be invited to participate in the review process, although parent(s)/guardian(s) input and attendance is not required.

The annual 504 meeting reviews the Section 504 Plan. It is not conducted to evaluate whether the student continues to be eligible for Section 504 services and/or accommodation, but rather to determine whether the services and/or accommodations that are currently being provided continue to be appropriate. The Section 504 Committee completes a file review and observation of the student, if observations are determined to be necessary. The Section 504 Committee may determine that:

- the plan continues to be appropriate;
- modifications in the plan may be needed; and/or
- the student should be referred for a re-evaluation.

**a. Renewing/Continuing a Section 504 Plan**

If the Section 504 Committee determines that no new services, accommodations, and/or modifications are necessary, the Section 504 Committee will renew/continue the Section 504 Plan. Parent(s)/Guardian(s) will be provided notice of continuation of the Plan; however parental consent of concurrence with the Committee's decision is not required.

**b. Modifying the Section 504 Plan, if needed**

The Campus 504 Committee will determine what modifications, if any, are necessary to the Section 504 Plan. Parent(s)/Guardian(s) will be provided notice of the modification and may challenge the decisions through the District's Section 504 hearing process by contacting the District 504 Coordinator. If modifications are made to the Section 504 Plan, then it is considered a new Section 504 Plan and the three (3) years starts again. Within (1) one week, the Campus 504 Coordinator will provide the teachers a copy of the new Plan, and ensure a copy of the Plan is provided to the nurse, as necessary.

**c. Conduct a Re-evaluation, if needed**

The Section 504 Committee will conduct the re-evaluation using procedures consistent with the District's initial evaluation and re-evaluation procedures, except that consent from a parent(s)/guardian(s) or an adult student is not needed for a re-evaluation. A re-evaluation is needed prior to making any significant changes in a Section 504 student's educational placement.

Significant changes in placement include terminating Section 504 eligibility, initiating or discontinuing a service, significantly increasing or decreasing the amount of a service, and/or certain disciplinary removals from school (ex: long-term suspensions and expulsions).

## **2. Periodic Re-evaluations**

The purpose of the re-evaluation is to determine if the student continues to be qualified for Section 504 services, modifications, and/or accommodations because the student continues to have an impairment that substantially limits a major life activity. The re-evaluation also provides information for decisions about the appropriateness of the Section 504 Plan.

A re-evaluation will be conducted when:

- It has been 3 years since the previous evaluation;
- The student's needs have changed; and/or
- When parent(s)/guardian(s) or staff believe the student is in need of a significant change in placement.

Significant changes in placement include terminating Section 504 eligibility, initiating or discontinuing a service, significantly increasing or decreasing the amount of service, an/or certain disciplinary removals from school (ex: long-term suspensions and expulsions).

Within 30 school days from the initiation of the re-evaluation process, the 504 Committee will review existing evaluation data and obtain input from the student's teachers and parent(s)/guardian(s) on the student, including:

- Prior evaluations and information provided by the parent(s)/guardian(s) of the student;
- Current classroom-based assessment and observations; and/or
- Observations by teachers and related services providers.

The 504 Committee will identify and obtain what additional data, if any, is needed to determine:

- Whether the student continues to have a disability;
- Whether the student continues to need services, modifications, and/or accommodations under Section 504;
- Whether more tests and evaluations are needed to make a determination of the nature and amount of services, modifications and/or accommodations; and/or
- If no other data is needed, then eligibility can be established using current data.

Parent(s)/Guardian(s) will be provided with written notice consistent with the notice requirements for the initial evaluation prior to conducting the re-evaluation; however, parental consent is not required for a re-evaluation.

If the 504 Committee determines that the student is no longer eligible for services, accommodations, and/or modifications under Section 504, the 504 Committee will

document the reasons for the determination. The Campus 504 Coordinator will ensure that the student's teachers are informed of the determination, that the student's Section 504 eligibility status is updated in the student database, that the documentation outlining the reasons for the determination that the student is no longer eligible is kept in the student's 504 folder on campus and in nurse's files, as appropriate.

If the 504 Committee determines that the student continues to be eligible under Section 504, a new Section 504 Plan will be developed and implemented in a manner consistent with the initial plan development and implementation procedures, within 30 school days. There will be no interruption of services, accommodations, and/or modifications while the re-evaluation is being completed. The new signed original plan is placed in the student's 504 file and the nurse's file, as appropriate.

Parent(s)/Guardian(s) may challenge re-evaluation decisions through the Section 504 hearing process by contacting the District 504 Coordinator.

### **3. Homebound**

In some cases, students suffer from an illness or injury that causes excessive absences. The Student Attendance and Accounting Handbook and LEA policies provide procedures for facilitating a homebound educational experience. Immediately after receiving a licensed physician's written recommendation that a student be confined at home or hospital bedside for a minimum of four weeks, the 504 coordinator should schedule an initial evaluation meeting if the student has not been previously served under Section 504, or a reevaluation to consider a change in placement if the student is already served under Section 504. The committee should follow Section 504 evaluation procedures (see sample 504 Homebound Meeting checklist) and consider transition plans for leaving and returning to the school environment.

In order to qualify for the General Education Homebound (GEH) status, a student must meet the following conditions:

1. Will be confined at home or in a hospital for a minimum of 4 weeks (need not be consecutive).
2. The confinement is for medical reasons only.
3. The medical condition is documented by a physician licensed to practice in the United States.

Homebound education is provided by a certified general education teacher in core academic subjects. If possible, elective courses should be addressed as well. Each LEA is required to have policy and procedures for implementing homebound instruction that are school board approved. The Section 504 committee, which must follow the GEH committee requirements, must evaluate a variety of data, including documentation from the licensed physician. In these cases, it would be beneficial to include the school nurse as a member of the committee. All homebound educational plans must be created on a case by case basis. Consideration should also include state and LEA assessments, transition away from campus, and returning to campus (including academic, behavioral and social/emotional needs). This means that the 504 committee may need to meet frequently to adjust the transition plans



according to individual student need and current medical information. Section 504 committees must meet to address students with disabilities who miss large amounts of school and are not served by homebound services. Section 504 REGULATIONS protect the rights of students to have access to the general or special education environment through FAPE in the LRE. Best practice indicates that the Section 504 Coordinator monitors student attendance and convenes the Section 504 committee as needed to proactively prevent truancy by creating an individualized plan that may modify LEA attendance policy.

### **III. DISCIPLINE AND SECTION 504 STUDENTS**

#### **A. GENERAL OVERVIEW**

Section 504 protects disabled students from being improperly removed from school for misconduct that is related to their disability. As a general rule, Section 504 and IDEA apply to the disciplinary action that constitutes a “significant change in placement,” it must evaluate the student to determine whether the student’s misconduct was caused by, or had a direct and substantial relationship to, the student’s disability or was the direct result of the District’s failure to implement the student’s Section 504 Plan. This type of evaluation is commonly called a “manifestation determination.”

If a disabled student’s misconduct is a manifestation of his/her disability, the District cannot implement a disciplinary action that constitutes a significant change in the student’s placement. If a disabled student’s misconduct is not a manifestation of his or her disability, the District can discipline the student in the same manner that it disciplines non-disabled students for the same misconduct.

#### **1. Significant Change in Placement**

A “significant change in placement” means a significant change in the type or amount of educational or related aids or services that the District provides to a disabled student. A significant change in placement may include but is not limited to:

- Terminating eligibility under Section 504;
- Initiating or terminating a service;
- Significantly increasing or decreasing the amount of a service;
- Disciplinary actions that exclude a student from school for more than 10 consecutive school days in a school year; and/or
- Disciplinary action that create a pattern of exclusion from school (ex: cumulative short-term suspensions that cumulatively total 10 school days or more that create a pattern of exclusion due to the length of each suspension, the proximity in time of the suspensions, the total amount of time the student was excluded from school, and the similarities of the behaviors that led to the suspensions).

To be considered as a substitute for the suspension without being a significant change of placement, an in-school suspension must provide an educational benefit equivalent to that provided to students who are in school. For Section 504 students with certain disabilities, the school must consider whether an in-school suspension that normally expects students to work semi-independently in an environment

where they are subject to restricted movements, have limited bathroom breaks, and must be silent for extended periods provides an educational benefit equivalent to that provided to students in regular classrooms. In some cases, particularly for periods greater than 10 days, in-school suspension may constitute a significant change in a Section 504 student's placement because it may interrupt the educational programming called for in the student's Section 504 Plan.

## **2. Manifestation Determination**

A manifestation determination is needed by the 504 Committee when a student's placement may be significantly changed by disciplinary action for his/her misconduct. Usually, a short-term suspension of 10 days or less does not constitute a significant change in the student's placement. Therefore, a manifestation determination is not necessary when a student is short-term suspended when the suspension does not constitute a significant change in placement. Additionally, manifestation determination is not required for drug or alcohol offenses, weapons offenses, and infliction of serious bodily injury (see *Interim Alternative Educational Settings*).

A manifestation determination is essentially an evaluation that answers two questions:

### **a. Is the misconduct in question related to the student's disability?**

This determination must be based upon evaluation data related to behavior and must be recent enough to afford an understanding of the student's current behavior. Misconduct is a manifestation of a disability if it "is caused by the disability" or "has a direct and substantial relationship to the disability." Misconduct is not a manifestation of a disability if it bears only a weak relationship to the student's disability. A determination that a student knows the difference between right and wrong does not constitute a determination that the student's misconduct was or was not a manifestation of the disability. If, from the evaluation data, a reasonable person would conclude that the behavior is likely to take place, the behavior is related to the disability.

Consider in this analysis whether the disability significantly impairs the child's behavioral controls. When considering if impulsivity was the source of the misbehavior, the determination should consider how long the behavior lasted and the amount of planning involved. The longer the duration and the greater the planning, the less likely the behavior was impulsive.

### **b. Is the misconduct in question the direct result of a failure to implement the Section 504 Plan?**

This determination must be based upon information from a variety of sources, including aptitude and achievement tests, teacher reports, physical condition, social or cultural background, and/or adaptive behavior. If the student is eligible for Section 504 and there is no current Section 504 Plan in place for the student, a new Section 504 Plan should be immediately drafted.

If the 504 Committee determines that a student's misconduct was a manifestation of the student's disability or the result of an inappropriate placement, the student must be returned to school, to the educational placement that the student was in at the time of the incident.

If the 504 Committee determines that the student's misconduct was not a manifestation of the student's disability or the result of an inappropriate placement, the student may be given the same sanction as would be given to a non-disabled student under the same circumstances.

The results of the manifestation determination will be documented by the 504 Committee making the decision within 5 school days of the determination. The notification will inform the parent(s)/guardian(s) of their right to initiate a due process hearing to challenge the 504 Committee's decision.

### **3. Interim Alternative Educational Settings**

If the Section 504 student possesses, uses, sells, or solicits illegal drugs on school grounds or at a school-sponsored event; carries a weapon to school or a school function; or inflicts serious bodily injury upon another person at school or a school sponsored event, the District may place the student in an interim alternative educational setting for up to 45 days *without* a manifestation determination.

A weapon excludes knives with blades less than 2 ½ inches long.

Seriously bodily injury is an injury that results in:

- A substantial risk of death;
- Extreme physical pain;
- Protracted and obvious disfigurement; and/or
- Protracted loss or impairment of the function of a bodily member, organ, and/or mental faculty.

### **4. Functional Behavioral Assessments ("FBA") and Behavior Intervention Plans ("BIP")**

A school should conduct a functional behavioral assessment and implement a BIP for any Section 504 student who has been removed from school more than ten (10) days during the current school year, even if their original qualifying disability was not behavior related. The 504 Committee should review the BIP after each removal and exclusion from school to determine whether modifications to the Section 504 Plan are needed. If one or more team member believes modifications are needed, the 504 Committee will meet to consider modification of the Section 504 Plan and implementation procedures. Best practice should be exercised by intervening before the student reaches the 10<sup>th</sup> day of removal by holding a parent conference, offering counseling services, or other types of interventions.

### **5. Appeal Rights and Placement During Appeals**

If a parent(s)/guardian(s) disagrees with a determination that a student's behavior

was not a manifestation of the student's disability or with any decision regarding placement for disciplinary purposes, the parent(s)/guardian(s) may request a hearing to appeal the determination. The Campus 504 Coordinator will arrange an expedited hearing with the 504 Committee.

In reviewing a decision with respect to the manifestation determination, the 504 Committee shall determine whether the student's behavior was a manifestation of the student's disability. The 504 Committee will also review the appropriateness of the proposed interim alternative educational placement.

If a parent(s)/guardian(s) requests a hearing to challenge the interim alternative education setting or the manifestation determination, the student remains in his/her current setting pending the decision of the hearing officer unless the disciplinary action is related to removal for weapons, drugs, or serious bodily injury. In the case of removal of a Section 504 student for weapons, drugs, and/or serious bodily injury, the student must remain in the interim alternative educational setting pending the decision of the 504 Committee or until the 10 school days' time period expires, whichever occurs first, unless the parent(s)/guardian(s) and school agree otherwise.

#### **6. Protections for Students Not Yet Eligible for Section 504 or the IDEA**

A student who has not been evaluated and made eligible for Section 504 protection may assert any of the protections provided for in these procedures if the school and/or the District had knowledge that the student was possibly eligible for Section 504 accommodations before the behavior that precipitated the disciplinary action occurred. There are additional specific Special Education regulations that come into play if such an assertion is made. Please consult with the Campus 504 Coordinator or the Special Education Director if this issue arises at your school.

### **IV. NON-ACADEMIC SERVICES, FIELD TRIPS, EXTRACURRICULAR ACTIVITIES, TRANSPORTATION, AND MODIFICATIONS TO PHYSICAL STRUCTURES**

The District will provide non-academic and extracurricular services and activities in such a manner as is necessary to afford disabled students an equal opportunity for participation in such services and activities. Non-academic and extracurricular services and activities are ones sponsored by the District and may include counseling services, physical recreation athletics, transportation, health services, recreational activities, and interest groups or clubs. The District will observe reasonable health and safety standards for all students.

#### **A. FIELD TRIPS**

As a general rule, schools cannot exclude a disabled student from participating in a field trip for which the student is otherwise eligible to attend unless the school has a legitimate, nondiscriminatory justification for excluding the student. Any decision to exclude a disabled student from participating in such a field trip is a placement decision and must be based upon procedures that satisfy the evaluation, placement, and/or due process requirements of Section 504. It is not permissible under Section 504 to exclude a disabled student from a field trip because:

- the student needs related aids or services (ex: the administration of medication or the assistance of a school nurse) to participate in the field trip;

- and/or
- the student's parent(s)/guardian(s) is unable to attend the field trip, unless the participation of the parent(s)/guardian(s) of non-disabled students is required.

When questions arise regarding a student's ability to participate in a field trip due to disability, the 504 Committee should consider supplementary aids and services, program modifications, and/or support for school personnel that can be provided to enable the student to participate without changing the basic purpose and/or nature of the program. The student's Section 504 Plan shall include any services, accommodations, and/or services needed to help the student participate in field trips.

If problems arise after the student is allowed to attend field trips, please reconvene the student's 504 Committee meeting to discuss whether there are any services, accommodations, and/or modifications that could be given so that the student can continue to participate in these activities.

If the student is not able to participate in field trips even with the use of supplementary aids and/or services, then an alternative educational program should be provided as appropriate to substitute for the field trip or activity.

## **B. EXTRACURRICULAR ACTIVITIES**

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

For example, a school may establish a grade/credit eligibility requirement for participation in an extracurricular activity. If a disabled student wants to participate in the activity and the school determines that the student is unable to satisfy the eligibility requirement because of his or her disability, the school must modify the requirement to enable the student to participate unless doing so would fundamentally alter the nature of the activity.

When a disabled student requests services, accommodations, and/or modifications so that he or she can participate in the extracurricular activity, such a request should be evaluated by the 504 Committee. If the services, accommodations, and/or modifications needed by the student in order to participate create a fundamental alteration in the nature of the program or activity, the student may not be qualified to participate.

The 504 Committee should consult with the District 504 Coordinator or with the Athletic Department for advice or assistance when necessary. No two situations are alike and no general advice will suffice. Parent(s)/guardian(s) will be notified in writing of 504 Committee decisions and reasoning. When disputes exist between the parent(s)/guardian(s) and the 504 Committee over athletic participation or the services, accommodations, and/or modifications to be provided, the District's internal due process and/or grievance procedures should be utilized. Please use this procedure to ensure fairness to disabled athletes.

If the issue involves a University Interscholastic League (UIL) activity, contact the District 504 Coordinator who will work with the 504 Committee to seek consultation from the UIL.

If a school has information that a UIL rule or regulation as applied to a specific student may subject the student to discrimination on the basis of disability, it must take reasonable steps to ensure that application of the rule or regulation does not discriminate against the student on the basis of disability. For example:

- Make an initial determination about whether application of the rule or regulation to the student subjects the student to discrimination on the basis of disability; • If the initial determination is YES, the District must assist the student to appeal the ineligibility through UIL's level of appeal, unless the District becomes persuaded during an appeal that applying the rule to the student does not discriminate against the student on the basis of disability; and/or
- If the initial determination is NO, the District must provide an internal Section 504 grievance procedure to promptly and equitably resolve the matter.

### **C. TRANSPORTATION**

All Section 504 students requiring transportation services will be identified to the Transportation Office by the District 504 Coordinator. Unless a specific transportation service is identified as a necessary service by the 504 Committee, Section 504 students are subject to the same eligibility criteria as all other students.

Because the District provides transportation to some students within a certain geographic area, it will not discriminate in its provision of transportation to students with disabilities.

If the District proposes to terminate a qualified disabled student's bus transportation for inappropriate bus behavior, the District will first determine the relationship between the student's behavior and his/her disabling condition, the appropriateness of the related service of transportation, and the need for re-evaluation. The parent(s)/guardian(s) will be provided notice of the results of such determinations and of their right to challenge such determinations.

The length of the bus rides for qualified disabled students should not be longer than that of non-disabled students.

#### **1. Determining Eligibility**

Section 504 students eligible for special services transportation will be identified by the student's 504 Committee. Each student's name, address, telephone number, emergency number, attending school with starting and dismissal times, and special instructions related or pertinent to the nature of his or her handicap, should be submitted to the Transportation Office by the District 504 Coordinator.

#### **2. Assigning Transportation**

The modes of transportation selected for students with disabilities will be based

upon their individual needs as determined by their 504 Committees in cooperation with the Transportation Office.

### **3. Schools Serviced by Transportation**

When a disabled student receives transportation to and from school, schools should follow their normal procedures unless the student requires services, accommodations, and/or modifications in order to access transportation services. If a deviation from the departure schedule is required, the Transportation Office must be notified.

### **4. Student Transportation Records**

The Transportation Office maintains a record for each student receiving Section 504 transportation services. These records are used to update information pertaining to the student (resident changes, school changes, etc.).

### **5. Special Equipment**

Special equipment that may be required for busing students with disabilities, such as restraining harnesses, seatbelts, lap belts, etc., will be provided from District resources. Parent(s)/Guardian(s) must provide personal individual items, such as wheelchairs. Bus drivers are not authorized to carry medication for students on buses; parent(s)/guardian(s) are responsible for bringing any medication required for the student to the school.

## **D. MODIFICATIONS TO PHYSICAL STRUCTURES**

A student's access to educational facilities is an inherent right of all students who attend the District and barriers to that access must be removed if possible and, if not, the District must immediately, without delay, make arrangements to make necessary modifications. The process for requesting modification to the physical structure is the same as any other accommodation and must follow the same procedures outlined in Section Two of this manual.

### **1. Consideration by the Campus 504 Committee**

When reviewing a request for physical modifications, the 504 Committee must consider not only the student's disability but also how the disability affects the student's access to the programs inside and out of the building. The committee member should consider:

- Student's disability (evaluate to qualify for Section 504 if not already qualified);
- How student's disability affects their access to the building;
- What other alternatives may be available to meet the student's disability related needs before changing the physical structure; and/or
- Any interim measures necessary to achieve immediate access, including temporary relocation, if necessary.

### **2. Referral to Campus 504 Committee**

If the 504 Committee determines that the building is in need of a physical modification in order to provide access for the student, a request should be submitted by the Campus 504 Coordinator and/or campus administration to the District 504 Coordinator. The District 504 Coordinator will promptly reply to the

Campus 504 Coordinator and/or the campus administration explaining the next steps in the process.

#### **E. APPROPRIATE FUNDING**

The District recognizes that the regular education funding of the District is the funding source for serving students who are qualified as disabled under Section 504 only. However, if students are identified as IDEA eligible, state and federal special education funds can be used. The District will not use money appropriated by the IDEA to serve students found under Section 504, but not IDEA. The District may use the IDEA money to evaluate a student if the District believes the student may also be eligible under the IDEA.

#### **V. PROCEDURAL SAFEGUARDS AND DISPUTE RESOLUTION PROCESS**

##### **HEARING RIGHTS FOR PARENT(S)/GUARDIAN(S) AND STUDENTS**

Section 504 gives parent(s)/guardian(s) the right to challenge District decisions regarding the identification, evaluation, and/or educational placement of their child. Under Section 504, the District must notify a student's parent(s)/guardian(s) before it takes any action regarding the identification, evaluation, and/or placement of their child to provide the parent(s)/guardian(s) an opportunity to challenge the action if they disagree. "Any action" includes a decision not to evaluate a student and/or denial of placement. The minimum necessary due process rights include: prior notice of any action; a right to inspect records; an impartial hearing with a right to representation by counsel; and/or a review procedure.

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.

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 his or her choice at his or her expense. If a parent will 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 by the deadline 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 timeline 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 Conference" below).

**Appointment of a Hearing Officer.** 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 cannot be a current employee of the District or 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. 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 of Civil Rights (OCR)" below).

**Pre-Hearing Conference.** The Hearing Officer will hold a telephonic 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. Failure of the parent to participate in the pre-hearing conference may result in dismissal of the case.

**Scheduling of Hearing.** The Hearing Officer, with input from the parties, will select a date and time for the hearing, which will occur no later than sixty (60) days after the pre-hearing conference. The District will provide a location for the hearing. After the pre-hearing conference, the Hearing Officer shall issue an order to the parties setting forth the hearing date, time, and place.

**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 (e.g., Mr. or Ms. Brown). The hearing shall be closed to the public. 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, an audio recording of the entire due process hearing will be made. The parent may obtain a copy of the recording upon request. In order for an accurate recording to be made, the parties and witnesses shall introduce themselves at the beginning of their presentations.

**Witnesses.** Witnesses will present their information in narrative form, without the traditional question-and-answer formality 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 Presentation.** 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 statement. The District will then respond by making a statement, offering personal presentations, calling witnesses, and making a closing statement. The Hearing Officer may establish additional rules for the proceeding at his or her discretion.

**Submission of Documentary Exhibits.** As part of their presentation, the parties may submit reports, evaluations, correspondence, notes or any other documents that may support their positions. The Hearing Officer shall determine whether or not to admit documents into the record. 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 the presentations or statements.

**Written Closing Arguments or Briefs.** The parties may submit, at the Hearing Officer’s discretion, a written closing argument or brief summarizing and characterizing the information presented at the hearing and providing legal authority in support their position. Timelines 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 to take the case under advisement but must in all cases issue a written opinion addressing and ruling on all issues raised by the

parent 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 thirty (30) days after the hearing.

**Remedies and Relief.** The Hearing Officer must confine his or her orders and ruling to those matters that involve identifications, 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 the pre-hearing conference). A Hearing Officer may not award attorneys' fees as a part of relief granted to a parent.

**Review Procedure.** If aggrieved by the decision of the Hearing Officer, a parent may seek review of the hearing decision in a court of competent jurisdiction, generally the closest federal district court.

**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.

## **VI. DISTRICT PROCEDURES FOR SECTION 504 DISCRIMINATION COMPLAINTS**

If you believe that someone has been discriminated against in Castleberry Public Schools on the basis of disability, please call or submit a written complaint to:

ADA/Section 504 Coordinator  
Castleberry Public Schools  
Office of Student Civil Rights  
5228 Ohio Garden Road  
Fort Worth, TX 76114  
Phone: (817)252-2580  
Email: kedarej@castleberryisd.net

Informal complaints may be made orally, in writing, and may also be made anonymously. Complaints should understand that any anonymous complaint might not be resolved to the complainant's satisfaction due to investigation limitations created by anonymity. All attempts shall be made to keep the identity of the complainant confidential, although confidentiality cannot be guaranteed.

**Formal Complaint Process-** Anyone may initiate a formal complaint of discrimination even if the informal complaint process was initially utilized. All formal complaints shall set forth the specific acts, conditions, or circumstances alleged to have occurred that constitute discrimination.

## **VII. RIGHT TO FILE A COMPLAINT WITH THE OFFICE OF CIVIL RIGHTS ("OCR")**

Parent(s)/guardian(s) and adult students also have the right to file a complaint with the Office of Civil Rights (“OCR”), the body that enforces Section 504. OCR’s focus is on the process the District follows to identify, evaluate, and/or provide an educational placement to a disabled student and to provide procedural due process to the student’s parent(s)/guardian(s).

Except in extraordinary circumstances, OCR does not review the result of individual placement and/or other educational decisions so long as the District complies with the procedural requirements of Section 504 relating to identification and/or location of students with disabilities, evaluation of such students, and =/or due process.

Accordingly, OCR generally will not evaluate the content of a Section 504 Plan or an IEP; rather, any disagreement can be resolved through a due process hearing.

OCR will examine procedures by which the District identifies and evaluates students with disabilities and the procedural safeguards that the District provides students. OCR will also examine incidents in which students with disabilities are allegedly subjected to treatment that is different from the treatment to which similarly situated students without disabilities are subjected. Such incidents may involve the unwarranted exclusion of disabled students from educational programs and/or services.

The address of the Regional Office that represents Castleberry ISD is:

***Dallas Office***

U.S. Department of Education

Office for Civil Rights

Renaissance Tower

1201 Elm St., Suite 1000

Dallas, TX 75270

Telephone: (214) 661-9600

Facsimile: (214) 661-9587

Email: [OCR.Dallas@ed.gov](mailto:OCR.Dallas@ed.gov)

