

# Wills Point Independent School District

District Section 504 Manual



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## **I. Introduction- What is Section 504?**

Section 504 of the Rehabilitation Act of 1973 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. 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 impairment; or (3) be regarded as having such 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 Section 504 regulatory provision [(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 mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Major life activities, as defined in the Section 504 regulations [(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. The Section 504 regulatory provision's list of examples of major life activities is not exclusive, and an activity or function not specifically listing the Section 504 regulatory provision can nonetheless be a major life activity. For example, in the Amendment Act of 2008, Congress provided additional examples of general activities that are major life activities, including eating, sleeping, standing, lifting, bending, reading, concentration, thinking, learning, and communicating. In addition, 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.

## **II. Child Find requirements**

As part of the on-going identification and referral process, Wills Point ISD will make reasonable efforts to identify and locate every qualified disabled student residing within the District who is not receiving a public education. Wills Point ISD, shall inform the parents or guardians of these potentially eligible students (who may be attending private or homeschools) of the District's duties under section 504. As part of the Child Find efforts, the District shall annually publish the Child Find Notice in local newspapers, student handbooks, district web page, and/or place the Notice in locations likely to be seen by parents of eligible students (such as pediatrician's offices etc). Additionally, every teacher and campus administrator within the District should have information regarding the District's overall early intervention process (RtI) and CARE Team procedures in order to initiate a section 504 referral.

## **III. Process for Determining the Need for Section 504 Service [34 C.F.R. 104.35 (a) (b) (c)]**

1. **Referral.** If a campus has reason to suspect that because of a disability, a student needs accommodations in the general educational environment in order to have equally effective participation in the school program, than the campus must initiate a section 504 referral.

Section 504 referrals, where initiated by an individual (i.e. parent, doctor, teacher) or via the CARE Team through the RtI process established by Wills Point ISD, will be received by the Campus 504 Designee. Upon receipt of a section 504 referral, the Campus 504 Designee, in collaboration with the CARE Team, gather preliminary data to determine if an evaluation for section 504 protections is warranted. This data gathering will include vision/hearing screening,

home language survey, parent information, Rtl data. See District's Rtl manual for additional information regarding Wills Point ISD policies and procedures for Rtl.

After review of preliminary data (i.e. student records, parent information, teacher information), through CARE Team meeting(s), the Campus 504 Designee will issue to the referred student's parent(s) a "prior written notice" and ***Notice of Rights and Procedural Protections Under Section 504***. The "prior written notice" may be either a ***504 Notice or Consent for Evaluation*** or ***Notice of Refusal for Section 504 Evaluation***.

2. **Consent for Evaluation.** Before a section 504 evaluation can be conducted, the Campus 504 Designee must acquire from the parent(s) a **signed** consent.
3. **Initial Evaluation.** When the consent is received from the parent, the Campus 504 Designee, in collaboration with the CARE Team, should:
  - i. Gather all relevant data (including formal assessments, if applicable). 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, as well as, any outside evaluation that may be applicable.
  - ii. The evaluation should draw from a variety of sources in the identification determination 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. Sources and factors may include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior. Section 504 requires the use of evaluation procedures that ensure that students are not misclassified, unnecessarily labeled as having a disability, or incorrectly placed, based on inappropriate

selection, administration, or interpretation of evaluation materials.

Comment: “Evaluation” does not necessarily mean “test”. In the section 504 context, “evaluation” refers to a gathering of data or information from a variety of sources so that the committee can make the required determinations. [34 C.F.R. 104.35(c)(1)]. Since specific or highly technical eligibility criteria are not part of the section 504 regulations, formal testing is not required to determine eligibility. -Office for Civil Rights (OCR).

If formal testing is pursued, the regulations require that the tests are properly selected and performed by trained personnel in the manner prescribed by the creator of each test. [34 C.F.R. 104.35 (b)(2)]

Comment: The section 504 regulations require that the school evaluate the student “before taking any action with respect to the initial placement of the person in a regular or special education program and any subsequent significant change in placement.” [34.C.F.R. 104.35 (a)] **There are no initial services without an evaluation, nor changes in the services provided under section 504 without a re-evaluation.** Without data, we do not know whether the student is a student with a disability (is he/she eligible?) nor would we know how to serve the student (how does the disability impact his/her ability to access the school’s programs and activities?)

Comment: An appropriate evaluation is than “designed to identify the specific nature of the student’s disabilities and to identify the services necessary to meet her/his individual needs.”-OCR.

- iii. Formalized testing recommendations should meet the following requirements:
  - a. 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.

- b. Include those tailored to assess specific areas of educational need and are not merely designed to provide a single intelligence quotient.
- c. 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).
- iv. Upon completion of evaluation, an initial 504 meeting will be held to review results and determine eligibility. Parents will receive a written **Notice of 504 Meeting** at least 5 days prior to the scheduled meeting date. Written notice, while not required, is preferred. Parent involvement in all 504 meetings are strongly encouraged.

4. At the initial/Annual 504 Meeting, the team, which include person(s) knowledgeable about the student, meaning of the evaluation data, and knowledgeable about the placement options, should:

- i. Consider all evaluation data, including outside independent evaluations (if available).
- ii. Examine any non-impairment related causal factors for the student's lack of access to his/her educational environment.
  - a. Attendance should be reviewed to ensure that the student's attendance record is not the cause of lack of academic progress and access to curriculum (excessive non-impairment related absences)
  - b. Removal from the classroom for behavior matters must also be considered (excessive disciplinary removals from class for non-impairment related behaviors)

- c. Other non-impairment causal factors that may constitute a “lack of opportunity” (i.e. high mobility including extended times of non-enrollment; insufficient, or not early intervention services).
- d. A student’s ability to understand English should be reviewed to ensure the student’s lack of English Language Proficiency is not a primary factor that impedes the student’s academic progress or access to curriculum (LEP students).

iii. Determine if *impairment* exists.

iv. Determine if the identified impairment impacts a *major life activity*.

v. Determine if the identified impairment *substantially limits* the student’s ability to perform the major life activity and, thus, constituting a disability under section 504.

Comment: “An impairment in and of itself is not a disability. The impairment must substantially limit one or more major life activities in order to be considered a disability under Section 504.” –OCR.

Comment: “A medical diagnosis of an illness **does not automatically** mean a student can receive services under Section 504. The illness must cause a substantial limitation on the student’s ability to learn or another major life activity.” –OCR.

Comment: “The ameliorating effects of any mitigating measures [medication, medical supplies, use of assistive technology, etc.] that the student is using must not be considered when determining whether a student has a physical or mental impairment that substantially limits that student in a major life activity, with the exception of ordinary eyeglasses or contact lenses.” –OCR.

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

vi. If the team identifies the student as eligible for services under Section 504, the team will:

- a. Complete the **Section 504 Initial Evaluation and Periodic Re-Evaluation**. If a student is being considered for Dyslexia complete the **Texas Dyslexia Law and section 504 Initial Evaluation and Periodic Re-Evaluation** in lieu of the above mentioned form.
- b. Develop a **Section 504 student service plan** designed to provide FAPE to the student.
- c. Obtain signed **Parent consent for Section 504 services** and provided **Notice of Parents Rights under Section 504** ; if parent refuses services provided by Section 504 obtained signed **Parent consent for Section 504 services** ensuring parent(s) sign appropriate area documenting refusal.  
If parent refusal- follow guidelines indicated on form regarding the **Section 504 student service plan**.
- d. Provided a copy of the **Section 504 Initial evaluation and Periodic Re-evaluation** and **Section 504 student service plan** to parent(s) in a timely manner.
- e. Provide copies of the **Section 504 student service plan** to appropriate school personnel with documentation of receipt within 5 school days from date of meeting.
- f. Maintain records of Section 504 paperwork on student’s current campus to be given to receiving campus 504 coordinator as appropriate; a copy of Section 504 paperwork will be given to Dyslexia representative-when appropriate, for Dyslexia representative to maintain a copy at the Special Services building.

vii. If the team does not identify the student as eligible for services under section 504, the team will:

- a. Provide parent(s) a copy of the 504 Initial Evaluation and Periodic Re-Evaluation in a timely manner

b. Maintain a copy of results to be retained for 5 years or more according to Wills Point ISD Destruction of Records Policy.

IV. **Review and Re-Evaluation Requirements [34 C.F.R. 104.35(d)]**

1. Review:

a. A section 504 meeting shall be held at least annually to review the student's needs and appropriateness and effectiveness of the student's 504 Student Service plan or more frequently based on teacher, parent, and/or student's progress or lack of progress.

b. Parents will receive a written **Notice of 504 Meeting** at least 5 days prior to the scheduled meeting date. Written notice, while not required, is preferred. Parent involvement in all 504 meetings are strongly encouraged.

c. At the annual meeting the committee will consist of the team, which include person(s) knowledgeable about the student, meaning of the evaluation data, and knowledgeable about the placement options, should review and make appropriate changes to the student's current **Section 504 Student Service Plan** and the student's current **Section 504 Annual Review** based on current information and data drawn from a variety of sources.

d. Provided a copy of the **Section 504 Annual Review** and **Section 504 student service plan** to parent(s) in a timely manner.

e. Provide copies of the **Section 504 student service plan** to appropriate school personnel with documentation of receipt within 5 school days from date of meeting.

f. Maintain records of Section 504 paperwork on student's current campus to be given to receiving campus 504 coordinator as appropriate; a copy of Section 504 paperwork will be given to Dyslexia representative-when appropriate, for Dyslexia representative to maintain a copy at the Special Services building.

2. Re-Evaluation:

a. A re-evaluation of a student's needs and eligibility for 504 services shall be completed at least every three years.

b. Consent for Evaluation. Before a section 504 evaluation can be conducted, the Campus 504 Designee must acquire from the parent(s) a **signed** consent.

c. Re-Evaluation. When the consent is received from the parent, the Campus 504 Designee, in collaboration with the 504 Committee, should:

i. Gather all relevant data (including formal assessments, if applicable). 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, as well as, any outside evaluation that may be applicable.

ii. The evaluation should draw from a variety of sources in the identification determination 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. Sources and factors may include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior. Section 504 requires the use of evaluation procedures that ensure that students are not misclassified, unnecessarily labeled as having a disability, or incorrectly placed, based on inappropriate selection, administration, or interpretation of evaluation materials.

Comment: "Evaluation" does not necessarily mean "test". In the section 504 context, "evaluation" refers to a gathering of data or information from a variety of sources so that the committee can make the required determinations. [34 C.F.R. 104.35(c)(1)]. Since specific or highly technical eligibility criteria are not part of the section 504 regulations, formal testing is not required to determine eligibility. -Office for Civil Rights (OCR).

If formal testing is pursued, the regulations require that the tests are properly selected and performed by trained personnel in the manner prescribed by the creator of each test. [34 C.F.R. 104.35 (b)(2)]

Comment: The section 504 regulations require that the school evaluate the student “before taking any action with respect to the initial placement of the person in a regular or special education program and any subsequent significant change in placement.” [34.C.F.R. 104.35 (a)] **There are no initial services without an evaluation, nor changes in the services provided under section 504 without a re-evaluation.** Without data, we do not know whether the student is a student with a disability (is he/she eligible?) nor would we know how to serve the student (how does the disability impact his/her ability to access the school’s programs and activities?)

Comment: An appropriate evaluation is than “designed to identify the specific nature of the student’s disabilities and to identify the services necessary to meet her/his individual needs.”-OCR.

- iii. Formalized testing recommendations should meet the following requirements:
  - a. 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.
  - b. Include those tailored to assess specific areas of educational need and are not merely designed to provide a single intelligence quotient.
  - c. 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. At the annual/re-evaluation meeting the committee will consist of the team, which include person(s) knowledgeable about the student, meaning of the evaluation data, and knowledgeable about the placement options, should review and make appropriate changes to the student's current **Section 504 Student Service Plan** and the student's current **Section 504 Initial Evaluation and Periodic Re-Evaluation** based on current information and data drawn from a variety of sources. If a student is being re-evaluated for Dyslexia complete the **Texas Dyslexia Law and section 504 Initial Evaluation and Periodic Re-Evaluation** in lieu of the above mentioned form.
- d. Provided a copy of the **Section 504 Initial Evaluation and Periodic Re-Evaluation** and **Section 504 student service plan** to parent(s) in a timely manner.
- e. Provide copies of the **Section 504 student service plan** to appropriate school personnel with documentation of receipt within 5 school days from date of meeting.
- f. Maintain records of Section 504 paperwork on student's current campus to be given to receiving campus 504 coordinator as appropriate; a copy of Section 504 paperwork will be given to Dyslexia representative-when appropriate, for Dyslexia representative to maintain a copy at the Special Services building.

## V. Out-of-District Transfers

If a student with a disability transfers into the district from another school district with a Section 504 Service Plan, the Campus 504 Designee at the student's enrolled campus will notify the District's 504 Coordinator's Administrative Assistant of new student. The District's 504 Coordinator's Administrative Assistant will input the student's required data into the District's 504 computer program. The Campus 504 Designee will schedule a 504 meeting following the procedures outlined in the above sections and review the student's current Section 504 service plan.

1. Review the plan and supporting documentation
2. Determine the appropriateness of the plan.

- a. If the plan is determined appropriate, the campus is required to implement the plan. (Must have documentation of eligibility for section 504 services, if documentation is not available assessment **will** be completed for continued services through Section 504)
- b. If the plan is determined inappropriate, the campus will evaluate the student consistent with evaluation procedures as outlined in the above sections and determine which educational program is appropriate for the student.

## VI. Disciplinary Actions

The following disciplinary provisions apply to students who are in receipt of a Section 504 Service 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 Service Plan at this time (either because the impairment is in remission or because the student has no need for a plan at the time due to the positive effects of mitigating measures currently in place.)

1. Procedural safeguards will be adhered to when a disciplinary “change in placement” is under consideration.
2. Should the District initiate a disciplinary removal of the eligible student from his/her educational placement for a term of more than ten consecutive school days, the 504 committee must first conduct an evaluation, which includes a manifestation determination.
3. Removals for less than ten days can be effected without a 504 committee approval, subject to the “pattern of exclusion” rule. A series of short removal over the course of the school that exceeds ten today days may constitute a pattern of exclusion that triggers applicable procedural safeguards (a manifestation determination evaluation and a right to due process). The 504 committee will meet to conduct an evaluation prior to the tenth cumulative day of removals during a school year, to determine:
  - a. Was the conduct in question caused by or directly and substantially related to the student’s disabilities?
  - b. Was the conduct in question the direct result of the school’s failure to implement the student’s 504 service plan.

**Exceptions:** A student identified as a student with a disability engaging in the illegal use of drugs or in the use of alcohol may be removed from his/her educational placement for a drug or alcohol offense to the same extent that such disciplinary action is taking against nondisabled students. Further, no 504 committee is required prior to the removal and no 504 due process hearing is available.

## VII. Exit Process

Students identified as receiving services through Section 504 may be exited through the following processes:

1. The 504 committee will request additional review of the progress and eligibility requirements (evaluation). Upon review of the data, the 504 committee may determine that a need for 504 accommodations is no longer required and the student may be exited from 504.
2. The 504 committee may request an interim eligibility review, if the student exhibits progress that would alleviate the need for accommodations that are delivered in the classroom (routinely, effectively, and independently). Upon review of the data, the 504 committee may determine the need for 504 accommodations/services are no longer required and the student may be exited from 504.
3. The parent or adult student may request that a student be removed from the 504 Service plan. Upon request, the 504 committee should meet to review all data and make appropriate recommendations
4. Parent or adult student may revoke previous consent to placement in 504. Upon request, the 504 committee should meet to review all data and make appropriate recommendations.
5. If the student is “exited” from 504 services, the campus 504 Designee will note the change to the campus counselor and the District 504 Coordinator’s administrative assistant. The campus counselor will make the appropriate changes in the district’s database. The District 504 Coordinator’s administrative assistant will make the appropriate changes in the District’s 504 computer program. The Campus 504 Designee will maintain a copy of student’s 504 service records to be retained for 5 years or more according to Wills Point ISD Destruction of Records Policy.

**Note: Notice of Rights and Procedural Protections Under Section 504** are provided to parents at initial request for assessment, initial placement, any time consent is obtained for assessment, annual reviews, re-evaluations, disciplinary reviews, and any time parent requests a copy.

VIII. **Section 504 forms**

1. ***Notice and Consent for Initial Section 504 Evaluation***-Following the receipt of the referral and the decision that a section 504 evaluation should be pursued, this form is provided to the parent(s) to gain consent for initial evaluation.
2. ***Notice of release/consent to request confidential information***- This form is required when requesting information from a third party individual to help with placement and assessment needs.
3. ***Notice of Section 504 Evaluation results***-This form provides a summary of evaluation results if parent(s) were not present for meeting. If this was an initial meeting, services will not be implemented until district receives signed consent for placement in section 504.
4. ***Notice of Section 504 Manifestation Determination Evaluation***- This form is required when disciplinary removal trigger the need for evaluation, this document walks the committee through the required questions.
5. ***Notice of Section 504 Meeting***-This form is provided to the parent prior to each section 504 meeting, describing what will occur and giving the time, and place of the meeting.
6. ***Parent input***-This form is provided to the parent to seek information about the child's functioning and activities at home. It also provides the parent(s) an opportunity to be involved in the process.
7. ***Section 504 Annual Review***-This form is designed to be used when a full evaluation is not required, but minor changes to the Service plan or no changes are needed. This form will be completed an annual reviews.
8. ***Section 504 Initial Evaluation and Periodic Re-Evaluation***-This form is used by the section 504 committee to determine initial

eligibility and to fulfill the regulatory requirement for periodic re-evaluation (at least every three years).

9. **Section 504 Student service Plan**-This form is completed in a 504 committee documenting the student's accommodations. The completed plan is delivered to the parent and school personnel and third party contractors who have the duty to implement the plan. **Behavior Intervention plan** is part of the plan and is completed if necessary and is legally required to be implemented.

10. **Teacher input**- This form is sent to a student's teacher or teachers seeing information about a student's classroom performance and behavior.

11. **Parent Consent for Section 504 services**-This form documents the parent's consent for section 504 services, refusal to consent for initial Section 504 services, as well as a parent's decision to revoke consent for continued Section 504 services. Note the Section 504 services plan is still completed for the child, but no services are implemented due to the refusal to consent or revocation of consent.

12. **Texas Dyslexia Law and Section 504 Initial Evaluation and Periodic Re-Evaluation**- When the section 504 committee is performing an evaluation that includes possible eligibility under the Texas Dyslexia law, this form should be used. This form guides the committee in meeting both the requirements of the Section 504 evaluation and the additional evaluation requirements established by Texas state law and the Dyslexia Handbook revised-2014. This form is also used for three year reevaluations for student with section 504 eligibility who receives dyslexia services under the Texas Dyslexia law.

13. **Texas General Education Homebound Supplement**-This form is designed to assist Texas Section 504 committee in determine whether homebound services are available under regular education for section 504 eligible students, and what types of services are appropriate.

14. **Notice of Rights and Procedural Protections under Section 504**- A short document to inform parents of their rights under section 504. This document is provided to parents at initial request for assessment, initial placement, any time consent is obtained for

assessment, annual reviews, re-evaluations, disciplinary reviews, and any time parent requests a copy.