

Lindale ISD

# **SECTION 504**

PARENTAL RIGHTS & PROCEDURAL  
SAFEGUARDS

August 2025

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## Parental Rights & Procedural Safeguards

### What is Required

Under Section 504, the District must adopt and implement a system of appropriate procedural safeguards regarding the identification, evaluation, or educational placement of students with disabilities or those who are suspected of having disabilities. These safeguards must include (1) notice of any identification, evaluation or placement actions taken by the District; (2) an opportunity for the parents to examine relevant records or documents that the school relied on in making its decision about the student; (3) an impartial hearing with opportunity for participation by the parents and representation by counsel; and (4) an opportunity for review of the decision made at the hearing.

### **Section 504 Procedural Safeguards**

The Campus Section 504 Chairperson must provide parents of students eligible to receive Section 504 services or who are suspected of having disabilities with a copy of their procedural safeguards called the *Section 504 Parent Rights* at least once a year and, at a minimum, on the following occasions:

- Upon initial referral or upon a request for an evaluation;
- Upon the District's decision not to conduct an evaluation requested by the parent;
- Upon the first occurrence of the filing of a Section 504 hearing or complaint during a school year;
- Upon a disciplinary change of placement;
- Upon a Section 504 meeting to conduct a manifestation determination;
- Upon the District's refusal to convene a Section 504 meeting requested by the parent;
- Upon a request by a parent;
- Upon the revision of the *Section 504 Parent Rights*; and
- To the student upon the student reaching the age of majority.

The District is not required to provide a copy of the *Section 504 Parent Rights* to the parent of a high school senior with a disability who will be graduating and receiving a regular high school diploma.

The Campus Section 504 Chairperson will document the provision of the receipt of the *Section 504 Parent Rights* in the student's Section 504 folder. The *Section 504 Parent Rights* must be provided in the parent's native language or other mode of communication unless it is clearly not feasible to do so. If a parent's native language or other mode of communication is not a written language, the Campus Section 504 Chairperson shall

translate the *Section 504 Parent Rights* orally or by other means to ensure the parent is able to understand it.

The *Section 504 Parent Rights* provided to a parent of a student receiving Section 504 services is different than the *Notice of Procedural Safeguards* provided to a parent of a student in special education under the IDEA. This is because procedural safeguard requirements under Section 504 are not as stringent as those under the IDEA. Moreover, the IDEA procedural safeguards include topics like stay-put, independent educational evaluations, and a parent's right to a hearing transcript at district expense—none of which apply under Section 504.

### **Section 504 Parent Rights**

A parent of a student, or an adult student, who has been determined to be eligible for services or supports under Section 504 shall have the following rights:

- Have their child take part in, and receive benefits from, public education programs without discrimination because of his/her disability;
- Have the school district advise them of their rights under federal law;
- Receive notice with respect to identification, evaluation, or placement of their child;
- Have their child receive a free appropriate public education. This includes the right to be educated with students without disabilities to the maximum extent appropriate. It also includes the right to have the school district make accommodations to allow their child an equal opportunity to participate in school and school-related activities;
- Have their child educated in facilities and receive services comparable to those provided to students without disabilities;
- Have evaluation, educational, and placement decisions made based upon a variety of information sources, and by persons who know the student, the evaluation data, and placement options;
- Have their child receive accommodations and/or related aids and services to allow the child an equal opportunity to participate in school activities;
- Have their child receive educational and related aids and services without cost, except for those fees imposed on the parents of children without disabilities;
- Have transportation provided to and from an alternative placement setting at no greater cost to them than would be incurred if the student were placed in a program operated by the district.
- Have their child be given an equal opportunity to participate in non-academic and extra-curricular activities offered by the district;
- Examine all relevant records relating to decisions regarding their child's

identification evaluation, educational program, and placement;

- Obtain copies of educational records at a reasonable cost unless the fee would effectively deny them access to the records;
- Receive a response from the school district to reasonable requests for explanations and interpretations of their child's records;
- Request amendment of their child's educational records if there is reasonable cause to believe that they are inaccurate, misleading, or otherwise in violation of the privacy rights of their child. If the school district refuses this request for amendment, it shall notify them within a reasonable time, and advise them of the right to a hearing;
- File a 504 complaint if they have a disagreement with the school;
- Request an impartial due process hearing related to decisions or actions regarding their child's identification, evaluation, educational program or placement. The parent and the student may take part in the hearing and have an attorney represent them.

### **Section 504 Notices**

As part of a parent's procedural safeguards under Section 504, the District must notify parents of any identification, evaluation, or placement action the District plans to take regarding the parent's child. The notice should be sufficiently detailed to allow the parent to understand the proposed action and the reasons for the action to be taken. The notice must be provided in the parent's native language or other mode of communication unless it is clearly not feasible to do so. If a parent's native language or other mode of communication is not a written language, the Campus Section 504 Chairperson shall translate the notice orally or by other means to ensure the parent is able to understand it.

In addition, as part of the notice, parents shall be informed of their rights under Section 504 to examine relevant records or documents that the school relied on in making its decision about the student; to request an impartial hearing with opportunity for participation by the parents and representation by counsel related to the action; and of their opportunity for review of the decision made at the hearing.

### **Opportunity to Examine Records**

The District must provide the parent of a student with a disability or eligible adult student the opportunity to examine all records relating to the student as described in the *Section 504 Parent Rights*, unless the District has been provided with evidence that there is a court order, state statute, or legally binding document relating to such matters as guardianship, divorce, separation, or custody that specifically revoked these rights. This includes any education records of the student that are collected, maintained, or used by

the District. The District, however, is not required to provide information that is not maintained by the District or to create education records that do not already exist in response to a parent's request.

Upon request to review the records, the Campus shall make them available to the parent without unnecessary delay and before any Section 504 meeting or any Section 504 hearing, and in no case more than 45 calendar days after the request.

If a parent believes that the school has violated its procedural safeguards by failing to comply with a request for access to the student's education records, the parent should complete a parent complaint form, which includes the following:

- The date of the request for access to the student's education records;
- The name of the school official to whom the request was made, including a dated copy of any written request to the school where possible;
- The response of the school official, if any; and
- The specific nature of the information requested.

The parent shall follow the District's parent grievance process relating to accessing student records. See [STUDENT RECORDS].

### **Consent**

Unlike the IDEA, Section 504 does not specify when, or whether, districts must obtain prior parental consent for actions taken by a District for a Section 504 student. OCR's current position is that districts need parental consent prior to conducting an initial evaluation under Section 504 for the identification, diagnosis, and prescription of specific educational services. See *Protecting Students with Disabilities: Frequently Asked Questions About Section 504 and the Educ. Of Children with Disabilities*, 67 IDELR 189 (OCR 2015). In regard to reevaluations, OCR has taken the position that districts are not required to obtain parental consent for subsequent student evaluations under Section 504. Section 504 is silent on the form of parent consent required. OCR has accepted written consent as compliance.

The District will seek written parental consent for an initial evaluation under Section 504 and for the initial provision of services. Such consent will be obtained after providing notice to the parent. If the parent does not consent to an initial Section 504 evaluation, the District may, but is not required to, initiate a Section 504 hearing to seek permission to conduct the evaluation in the absence of consent. If the parent does not consent to the initial Section 504 plan, after notice and an opportunity to participate in the drafting of the plan, the student will not be provided with Section 504 services.

### **Filing Complaints and Requests for Hearings**

In accordance with Board policy, the parent may also file a complaint regarding matters other than the student's identification, evaluation, and placement with the District Section 504 Coordinator. See [SECTION 504 COMPLAINTS]. For matters relating to the identification, evaluation, or placement of the student, the parent shall request an impartial due process hearing. See [SECTION 504 HEARINGS]. The parent will be provided the opportunity to participate in the hearing and/or to have representation by an attorney at the parent's expense. Finally, should the parent believe that the student or parent's rights under Section 504 have been violated, the parent may file a complaint with the Office for Civil Rights. See [OCR COMPLAINTS]. Unlike under the IDEA, there is no mediation requirement under Section 504.

### **Evidence of Implementation**

- *Section 504 Parent Rights*
- Section 504 Notices
- Section 504 Consent for Initial Evaluation
- Section 504 Consent for Initial Section 504 Plan
- Request for Student Records
- Consent to Disclose Student Records
- Copies of Student Records
- Alternative Arrangements to Review Student Records
- Parent Complaint Form
- Local Grievance Procedures
- Investigation into Parent Complaint
- Request for Impartial Hearing

## **Resources**

[Title 34, Section 104 of the Code of Federal Regulations \(“Section 504 Regulations”\) - Electronic Code of Federal Regulations](#)

[Technical Assistance: 504 - Texas Education Agency](#)

[Section 504 Fact Sheet for Parents - Texas Education Agency](#)

[Guidance on Procedural Safeguards Production and Required Dissemination - Texas Education Agency](#)

[Procedural Safeguards - SPEDTex](#)

[Protecting Student Privacy: What is FERPA - U.S. Department of Education](#)

[Parent and Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools - U.S. Department of Education](#)

[Texas Education Code Chapter 26: Parental Rights and Responsibilities](#)

## **CITATIONS**

Board Policy FB, Board Policy FL, Board Policy FFH, and Board Policy FNG; 29 USC 794; 34 CFR 99.3, 99.4, 99.8, 99.10–99.12, 99.30, 99.34, 104.35, 104.36; Tex. Educ. Code 26.004(a)–(b), 26.011-26.012