

Lindale ISD

SECTION 504

PHYSICAL ACCESSIBILITY

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Physical Accessibility

What is Required

The District must ensure that students with disabilities are not excluded from participation in or denied the benefits of a program or activity because of inaccessible or unusable facilities. In addition to the rules and regulations regarding accessibility under Section 504, the District must also comply with accessibility standards under the Americans with Disabilities Act and Americans with Disabilities Act as Amended. The requirements that the District must meet to ensure programs and activities are accessible depends on the date a facility was built (constructed) or altered (changes made to a building that affect its use for accessibility purposes).

Definition of “Facility”

Section 504 defines “facility” as “all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.” In the educational setting, the term “facility” relates to schools as a whole, individual classrooms, offices, restrooms, cafeterias, auditoriums, locker rooms, playgrounds, swimming pools, parking lots, sidewalks, and “support facilities,” which include parking spaces, doorways, and wheelchair ramps.

Should the District fail to be in full compliance with Section 504’s accessibility standards, OCR may order the District to remedy the situation by making the noncompliant portions of the facilities accessible for students with disabilities.

Existing Facilities

Under Section 504, a facility is considered an “existing facility” if it was constructed before the June 3, 1977, regulations for new construction took effect. For existing facilities, the District must operate each service, program, and activity so that it is readily accessible to students with disabilities when viewed in its entirety. However, the District does not need to ensure that every part of the facility is accessible to students with disabilities.

To ensure program accessibility for students under Section 504, the District may consider redesigning or acquiring equipment, reassigning classes or services to accessible buildings, assigning an aide for the student, or altering or constructing facilities. The District must ensure that any alternative means of access are effective for the student to access the service, program, or activity. In addition, the District must provide appropriate notice as to how students with disabilities may access the service, program, or activity.

New Construction and Alterations

Any facility constructed or altered after June 3, 1977, is considered “new construction.” Any facility constructed or altered on or after June 3, 1977, but before January 18, 1991, must comply with the American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped (“ANSI”). Any building constructed between January 18, 1991, and July 26, 1992, must conform to the Uniform Federal Accessibility Standards (“UFAS”). For construction or alterations that began after July 26, 1992, but before September 15, 2010, the District must comply with either the UFAS or the 1991 ADA Standards for Accessible Design. If the construction or alterations began on or after September 15, 2010, and before March 15, 2012, the new construction and alterations may comply with either the UFAS, the 2010 ADA Standards for Accessible Design, or the 1991 ADA Standards for Accessible Design. For any new construction or alterations commenced on or after March 15, 2012, the District may comply with either the UFAS or the 2010 ADA Standards for Accessible Design. However, if the District applies the 2010 ADA Standards for Accessible Design, rather than the UFAS, the exception allowing buildings with fewer than three (3) stories or 3,000 square feet per story to not have an elevator does not apply.

If the District’s new construction does not comply with the applicable guidelines set forth in this section, the District shall consider whether it is required to renovate the facility to bring it into compliance with Section 504 and the ADA.

Definition of “Alterations”

The District must comply with requirements relating to new construction and alterations any time the District alters an existing facility in a manner that could impact the usability of that portion of the facility. Alterations to windows, hardware, controls, electrical outlets, and signage are not considered alterations that impact the usability of or access to an area containing a primary function.

If the alteration affects a student’s access to a part of a facility that contains a primary function—i.e., a major activity for which the facility is intended to be used—the District must ensure that the path of travel and support facilities, including restrooms and drinking fountains, serving the altered area are easily accessible by students with disabilities to the maximum extent possible, unless the cost and scope of the alterations is disproportionate to the cost of the overall alteration. Examples of a part of a facility that contains a primary function within the school setting are a classroom or cafeteria.

Alterations made to the path of travel are deemed disproportionate to the cost of the overall alteration if they cost more than twenty (20) percent of the cost of the alteration to the primary function area. If the cost of making the path of travel readily accessible is disproportionate to the cost of the overall alteration, the District must make every effort to make the path of travel as accessible as possible without incurring disproportionate costs.

Compliance Plus Accessibility

While the District is required to meet the accessibility requirements of a specific design standard as set out above, compliance with the standard alone may not be sufficient to meet an individual student's needs under Section 504. When this occurs, the District has an obligation to provide access to the student. For example, if the main entrance of the school has a ramp that meets all of the required accessibility standards, but a student who attends the school and uses leg braces is unable to traverse the ramp, the school will need to find another way to ensure the student has access to its program and activities. One solution could be to allow the student to use the faculty entrance that has a flat entrance and a short walkway to the entrance door. Such accessibility accommodations should be included in the student's Section 504 Plan, as needed to ensure access to the District's facilities and programs.

The District must also have procedures in place to ensure that parents, students, and other interested persons can obtain information about the location of services, activities, and facilities that are accessible to and usable by individuals with disabilities. Such information should be included on each District facility's website.

Evidence of Implementation

- Compliance with Accessibility Guidelines
- Conversations Related to Ensuring Compliance with Accessibility Guidelines
- Building Plans/Blueprints
- Building Renovations
- Redesigning or Acquiring Equipment
- Altering or Constructing New Facilities
- Assignment of an Aide for Assistance
- Reassignment of Classes or Services
- District Facility Accessibility Information

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](#)

[Notice of Interpretation for Section 504 Accessibility - 77 Fed. Reg. 14,972 \(2012\)](#)

[1991 ADA Standards for Accessible Design - ADA.Gov](#)

[1991 ADA Standards for Accessible Design - 28 C.F.R. Part 36 \(July 1, 1994\)](#)

[2010 ADA Standards for Accessible Design - U.S. Department of Justice \(Sept. 15, 2010\)](#)

[Guidance on the 2010 ADA Standards for Accessible Design - U.S. Department of Justice \(Sept. 15, 2010\)](#)

[Disability Rights Enforcement Highlights - U.S. Department of Education \(Oct. 2012\)](#)

CITATIONS

Board Policy FB, Board Policy CS, and Board Policy CV; 29 USC 794; 28 CFR 35.151; 34 CFR 104.21-104.23, 104.3