

Lindale ISD

# **SECTION 504**

TEMPORARY IMPAIRMENTS

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## Temporary Impairments

### What is Required

Unlike the IDEA, students with temporary impairments are generally covered under Section 504 if the temporary impairment substantially limits one or more major life activities for an extended period of time. This may be the case even where the condition only lasts for six (6) months or less. Whether a student with a temporary impairment qualifies for services under Section 504 should be determined on a case-by-case basis, considering: (1) the duration or expected duration of the impairment, and (2) the extent to which the temporary impairment actually limits a major life activity of the student. Furthermore, the District must determine what constitutes an “extended period of time” based on a standard of reasonableness on a case-by-case basis.

### **Eligibility**

The Section 504 Committee will draw from a variety of sources when determining if the student is eligible for Section 504 based on a temporary impairment. Specifically, the Section 504 Committee should consider information relating to the following areas:

- (1) The physical or mental impairment at issue;
- (2) The major life activity or bodily function impacted by the temporary impairment;  
and
- (3) The degree to which the impairment substantially limits a major life activity or activities—even if only temporarily. See [DETERMINATION OF ELIGIBILITY].

When it is suspected that the student’s temporary impairment no longer substantially limits one or more major life activities, the Section 504 Committee shall convene to determine whether the student remains eligible for services under Section 504. Should it be determined that the temporary impairment no longer substantially limits one or more major life activities, thus making the student no longer eligible for services, the Section 504 Committee may eliminate the student’s Section 504 plan. The Campus Section 504 Chairperson will provide the parent notice of the decision to terminate services and a copy of the *Section 504 Parent Rights* at that time.

### **Broken Limbs**

Where a student has a temporary disability due to a broken limb, the Section 504 Committee must determine on a case-by-case basis whether the broken limb constitutes an impairment that significantly limits a major life activity, looking at both the severity and duration of the particular injury.

For example, if a right-handed student breaks his left arm, and the break is expected to heal normally without any complications, the student likely would not be eligible for services under Section 504 as a student with a disability. This is because the student would not be prevented from accessing his education due to this injury. However, if the student breaks both legs and is in and out of the hospital due to complications and surgeries due to the injuries, lasting for multiple months, this student would likely be eligible for services under Section 504 as a student with a disability. This is because access to the student's education is likely to be significantly disrupted due to the temporary impairment.

### **Pregnancy**

Pregnancy, in and of itself, is not considered a temporary impairment. However, complications arising from pregnancy could be considered a temporary impairment qualifying a student for services under Section 504 where the complications substantially limit one or more major life activities for an extended period of time. For example, if pregnancy impairs a student's ability to attend class, walk, or learn in the general education setting, it may constitute a temporary impairment. Whether complications arising from pregnancy constitute a temporary impairment should be determined by a student's Section 504 Committee on a case-by-case basis.

### **Episodic Impairments**

A temporary impairment is different from an impairment that is episodic in nature or in remission. Whereas temporary impairments exist for a limited time span, impairments that are episodic in nature are in remission and are ongoing. If an impairment only occurs periodically or is in remission, it is a disability if, when in an active phase, it would substantially limit a major life activity. For example, a student with epilepsy is a student with a disability if, during a seizure, the student is substantially limited in a major life activity such as thinking, breathing, or neurological function. A student with bipolar disorder is a person with a disability under Section 504 if, during manic or depressive episodes, the student is substantially limited in a major life activity such as concentrating or brain function.

### **Infectious Diseases**

A student diagnosed with an infectious disease, including a viral or bacterial infection, typically will not be eligible under Section 504 unless the infection is recognized as a chronic contagious disease. However, the District should make these determinations on a case-by-case basis, considering: (1) the duration or expected duration of the impairment; and (2) the extent to which it actually limits a major life activity of the affected student. It is possible that, depending on the individual situation, the virus may constitute a temporary impairment for which the student is eligible for Section 504 services.

## **Evidence of Implementation**

- Determination of Eligibility Based on Temporary Impairment
- Section 504 Notice
- Section 504 Meeting
- Section 504 Plan
- Provision of Accommodations and Services under Section 504
- *Section 504 Parent Rights*

## **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](#)

[Parent and Educator Resource Guide to Section 504 in Public Elementary and  
Secondary Schools - U.S. Department of Education \(Dec. 2016\)](#)

## **CITATIONS**

Board Policy FB; 29 USC 794; 28 CFR 35.108; 29 CFR 1630.2