

Lindale ISD

# **SECTION 504**

SECTION 504 COMPLAINTS

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**CONTENTS**

Section 504 Complaints .....	3
What is Required.....	3
Statement of Disability Nondiscrimination .....	3
Prohibited Conduct .....	3
Reporting Procedure.....	4
Informal Resolution .....	4
Formal Section 504 Complaint.....	5
Initial Assessment and Interim Actions .....	5
Complaint Investigation .....	5
Complaint Decision .....	6
District Action .....	6
Confidentiality .....	7
Appeal .....	7
Access to Policy and Procedures .....	7
Evidence of Implementation .....	7
Resources .....	8
CITATIONS .....	8

## **Section 504 Complaints**

### **What is Required**

The District has adopted grievance procedures for addressing complaints of discrimination under Section 504. The District's grievance procedures are designed to provide for a prompt and equitable resolution of a complaint. The District ensures that its grievance procedures related to Section 504 incorporate appropriate due process standards and include, at a minimum, the following information:

- A statement that the grievance procedure is applicable to complaints alleging discrimination, harassment, and retaliation on the basis of disability;
- A notice to students, employees, and others of the process for filing a grievance, including contact information for the District Section 504 Coordinator (name, title, address, and telephone number) and how to initiate a Section 504 complaint;
- A requirement that all Section 504 complaints will be promptly, thoroughly, and impartially investigated and decided within reasonable, designated time frames at each stage of the grievance process;
- Provisions for maintaining the confidentiality of the person who files a Section 504 complaint, if possible;
- A written notice to the parent of the disposition of the grievance at each stage of the process;
- A notice that retaliation against a parent who files a Section 504 complaint, or those who participate in relating investigations or proceedings, is prohibited;
- An assurance that appropriate corrective and remedial action will be taken if discrimination has occurred; and
- A provision that notifies parents of their right to file a complaint with OCR. See [OCR COMPLAINTS].

### **Statement of Disability Nondiscrimination**

The District prohibits discrimination, including harassment, against any student on the basis of disability that adversely affects the student.

### **Prohibited Conduct**

Prohibited conduct includes disability discrimination, harassment, and retaliation, even if the behavior does not rise to the level of unlawful conduct.

Disability discrimination against a student is defined as conduct directed at a student on

the basis of disability that adversely affects the student.

Prohibited disability harassment of a student is defined as physical, verbal, or nonverbal conduct based on the student's disability, when the conduct is so severe, persistent, or pervasive that the conduct affects the student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile or offensive educational environment; has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or otherwise adversely affects the student's educational opportunities. Prohibited harassment includes, but is not limited to, oral, written, psychological, physical, and other demonstrative actions with regard to disability that is harassing. Examples of prohibited harassment may include offensive or derogatory language directed at an other's disability or need for accommodation; threatening, intimidating, or humiliating conduct; offensive jokes, name-calling, slurs, or rumors; cyber harassment; physical aggression or assault; display of graffiti or printed material promoting negative stereotypes; or other kinds of aggressive conduct such as theft or damage to property.

The District also prohibits retaliation by a student or District employee against a student alleged to have experienced discrimination or harassment, or another student who, in good faith, makes a report of harassment or discrimination, files a complaint of harassment or discrimination, serves as a witness, or participates in the investigation. Examples of retaliation may include threats, intimidation, coercion, rumor spreading, ostracism, assault, destruction of property, unjustified punishments, or unwarranted grade reductions. Unlawful retaliation does not include petty slights or annoyances.

### **Reporting Procedure**

Any student or parent of a student who believes that the student has experienced disability-related prohibited conduct or believes that another student has experienced disability-related prohibited conduct should immediately report the alleged acts to a teacher, school counselor, principal or other District employee, Campus Section 504 Chairperson, or the District Section 504 Coordinator. Any District employee who suspects or receives direct or indirect notice that a student or group of students has or may have experienced disability-related prohibited conduct shall immediately notify the Section 504 Campus Chairperson, District Section 504 Coordinator, and/or the employee's supervisor and take any other step required by Board policy.

### **Informal Resolution**

A parent who believes their student has been discriminated against in violation of Section 504 is encouraged to first attempt to resolve the matter informally with the Campus Section 504 Chairperson and/or Campus Principal. However, if the Campus Section 504 Chairperson and Campus Principal are both the subject of the complaint, the parent shall submit their complaint directly to the Section 504 Coordinator. The Campus Section 504

Chairperson and/or Campus Principal will promptly investigate the complaint and communicate the findings to the parent within ten (10) school days.

### **Formal Section 504 Complaint**

If the parent believes that the Campus Section 504 Chairperson and/or Campus Principal were unable to informally resolve the matter or wishes to do so for any other purpose, the parent may file a formal Section 504 complaint directly with the District Section 504 Coordinator through the District's grievance process. Unlike the IDEA, the Texas Education Agency does not investigate Section 504 complaints. Rather, these are all handled internally by the District.

An individual shall not be required to report prohibited conduct to the person alleged to have committed the conduct. Reports concerning prohibited conduct, including reports against the District Section 504 Coordinator, may be directed to the Superintendent. The Superintendent shall appoint an appropriate person to conduct the investigation if the report is against the District Section 504 Coordinator. A report against the Superintendent may be made directly to the Board of Trustees. If a report is made directly to the Board related to the conduct of the Superintendent, the Board shall appoint an appropriate person to conduct the investigation.

The complaint must be in writing, containing the name and address of the person filing it, as well as the name of the student and campus of enrollment where applicable. The complaint must also include a brief statement regarding the issue or action alleged to be discriminatory, general overview of the facts at issue, and the remedy or relief sought. The parent may attach relevant documents to the complaint for consideration. The parent must submit the complaint to the District Section 504 Coordinator (or other appropriate person) within ten (10) school days of the date the parent first becomes aware of the alleged discriminatory action.

### **Initial Assessment and Interim Actions**

Upon receipt or notice of a complaint, the District Section 504 Coordinator (or other appropriate designee) shall determine whether the allegations, if proved, would constitute prohibited conduct. If so, the District shall immediately undertake an investigation. If the District Section 504 Coordinator (or other appropriate designee) determines that the allegations, if proved, would not constitute prohibited conduct under Section 504, but does allege some other violation of the Student Code of Conduct or Board policy, the District Section 504 Coordinator should refer the complaint to the appropriate person for consideration.

If appropriate, the District shall promptly take interim action calculated to address the prohibited conduct prior to the completion of the District's investigation.

### **Complaint Investigation**

Upon receipt of the complaint, the District Section 504 Coordinator (or other appropriate designee) will promptly investigate the allegations and respond to the parent's concerns in a solution-focused manner. If appropriate, the District Section 504 Coordinator may arrange a meeting with the parent in an attempt to informally mediate the issues and reach a resolution. The District Section 504 Coordinator will meet with relevant parties to gather information, review any applicable documentation, and obtain and review any statements submitted by the parent or others involved. The District Section 504 Coordinator will maintain all records relating to the complaint, including the complaint itself and any documentation collected, reviewed, and considered during the investigation and decision-making process.

### **Complaint Decision**

Absent extenuating circumstances, no later than thirty (30) school days after the filing of the formal complaint, the District Section 504 Coordinator will issue a written decision. However, the investigator shall take additional time if necessary to complete a thorough investigation. The written decision shall include a determination of whether prohibited conduct occurred. The written decision shall be shared with the parent in compliance with the Family Educational Rights and Privacy Act (FERPA).

### **District Action**

If the results of the investigation indicated that prohibited conduct occurred, the District shall promptly respond by taking appropriate disciplinary action in accordance with the Student Code of Conduct and may take corrective action reasonably calculated to address the conduct. Examples of corrective action may include a training program for those involved in the report, a comprehensive education program for the school community, counseling to the victim and the student who engaged in prohibited conduct, follow-up inquiries to determine if any new incident or any instances of retaliation have occurred, involving parents and students in efforts to identify problems and improve the school climate, increasing staff monitoring of areas where prohibited conduct has occurred, revisions to the student's Section 504 plan to include additional supports and services to address the conduct, and reaffirming the District's policy against discrimination and harassment.

If the results of the investigation indicate that bullying occurred, as defined by Board policy, the District official shall refer to Board policy regarding bullying for appropriate notice to parents and District action.

If the investigation reveals improper conduct that did not rise to the level of prohibited conduct or bullying, the District may take disciplinary action in accordance with the Student Code of Conduct or other corrective action reasonably calculated to address the conduct.

**Confidentiality**

To the greatest extent possible, the District shall respect the privacy of the complainant, person against whom a report is filed, and witnesses. Certain disclosures may be necessary, however, to conduct a thorough investigation and comply with applicable law.

**Appeal**

The decision of the District Section 504 Coordinator is final and unappealable. However, the parent may still file a request for an impartial due process hearing, a complaint with the Office of Civil Rights (“OCR”), or a civil action in federal or state court relating to the claims. See [SECTION 504 HEARINGS] and [OCR COMPLAINTS]. The parent is not required to utilize the District’s grievance procedures prior to doing so. Unlike the IDEA, there is no requirement that a parent exhaust their administrative remedies through the complaint process prior to filing a civil action in federal or state court.

Should a parent file an OCR complaint, OCR will review the District’s grievance procedures for compliance in the course of conducting the OCR investigation. OCR may find a Section 504 violation if the District’s grievance procedure is insufficient or delays the resolution of the alleged harassment.

**Access to Policy and Procedures**

Information regarding the Section 504 Complaint Procedures shall be distributed annually in the employee and student handbooks and posted on the District’s website, to the extent practicable, and readily available at each campus and the District’s administrative offices. Further, the District will make appropriate arrangements to ensure that parents receive the accommodations necessary to participate in this complaint process, including, but not limited to, providing interpreters, accessible materials, and barrier-free locations for proceedings.

**Evidence of Implementation**

- Section 504 Complaint Form
- Investigation into Parent Complaint
- Communication with Parent
- Maintenance of Records
- Investigation Report/Written Decision
- OCR Complaint/Investigation

## **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](#)

[Section 504 - Texas Education Agency](#)

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

## **CITATIONS**

Board Policy FB, Board Policy FFH, and Board Policy FNG; 29 USC 794; 34 CFR 100.7; 104.7; Tex. Educ. Code 26.011