

FBISD



*FBISD exists to inspire and equip all students to pursue futures  
beyond what they can imagine*

# Section 504 Handbook

## Table of Contents

Purpose of Section 504.....	4
Requirements for Section 504 Campus Facilitators .....	4
Procedures for Scheduling a Section 504 Meeting .....	5
Transfer Section 504 Procedures .....	6
Initial Evaluations.....	7
Re-Evaluations.....	7
504 Amendment Procedures .....	8
Manifestation Determination Review (MDR) Procedures .....	8
Dismissal from Section 504 .....	8
College Entrance Exams (ACT/PSAT/SAT/AP) Accommodations .....	9
The College Board (PSAT, SAT, and AP tests) .....	9
ACT .....	10
Links to Accommodation Consent Forms for SAT/PSAT/AP/ACT .....	10
College Board/ACT School Codes .....	10
Adding Accommodations Solely for College Entrance Exams .....	11
Americans with Disabilities Amendment Act .....	11
Confidentiality .....	12
Consent to Release/Request Confidential Records .....	12
Dyslexia in Section 504.....	13
Food Allergies .....	13
Homebound Services.....	14
Honors and Other Advanced Classes (Pre-AP, AP, GT, etc.).....	15
Dual Credit Courses.....	15
In School Suspension.....	15
Non-Academic and Extracurricular Services .....	15
Private/Outside Testing.....	15
Student Section 504 Records .....	16
STAAR Testing Accommodations.....	16
Technical Eligibility.....	17
Temporary Disabilities.....	17
Transportation .....	17

When to Evaluate .....	17
Fort Bend Independent School District Operating Guidelines for Section 504 .....	18
Notice of Rights & Procedural Safeguards for Disabled Students and their Parents Under §504 of the Rehabilitation Act of 1973 .....	23
Appendix A—Section 504 Due Process Hearing Procedures.....	26



## Purpose of Section 504

Section 504 of the Rehabilitation Act of 1973 is a civil rights law designed to prevent discrimination against individuals with disabilities in programs and activities that receive federal financial assistance. Its core purpose is to ensure that these individuals have equal access and opportunities, particularly in educational settings where it mandates the provision of a "free appropriate public education" (FAPE) for qualified students with disabilities. Essentially, Section 504 aims to level the playing field, guaranteeing that disabilities do not become barriers to participation or benefit in federally funded programs.

## Requirements for Section 504 Campus Facilitators

### Ongoing monitoring requirements

#### Sharing 504 Plans:

- Current 504 plans and accommodation logs must be shared with all teachers at the start of each semester.

#### Accommodation Log Submission:

- Teachers must submit completed accommodation logs at the end of each semester.
- Logs should be uploaded to the 504 management software, using the following file naming convention: "student first initial.last name 504 acclogs Semester Year" (e.g., s.smith 504 acclogs Spring 2025).

#### Digital Log Distribution:

- Campuses should distribute and maintain accommodation logs digitally (e.g., via Schoology or OneDrive).

#### Compliance Monitoring (Re-evaluations):

- Lead facilitators must run a compliance report at the end of each nine-week grading period to verify that all required three-year re-evaluations have been completed.

#### Student Code Updates:

- Campus facilitators must ensure student 504 codes are accurately updated in Skyward upon qualification and dismissal.
- This should be verified at the end of each nine-week grading period.

### General Requirements

#### Referral and Eligibility:

- **Referral Sources:** Referrals for 504 eligibility can originate from parents, teachers, counselors, nurses, and other campus personnel.
- **Required Documentation:** For each eligible student, the following must be uploaded to the 504 management software:
  - Signed Notice and Consent for 504 Evaluation.
  - Current (within three years) 504 Committee Meeting Notice.
  - For students with dyslexia: Current Full Individual Evaluation (FIE) indicating dyslexia as a disability and signed parental refusal of IDEA services.

- Current (within three years) 504 Plan.
- **Committee Composition:** The 504 committee must consist of at least three district personnel knowledgeable about the student and evaluation data. Parents may provide input but are not required members.

#### **Meeting Procedures and Parent Rights:**

- **Plan Distribution:** Within three school days of the 504 committee meeting, the facilitator must distribute the 504 plan to relevant stakeholders.
- **Teacher Responsibilities:** Teachers are responsible for accessing and implementing individual accommodation plans.
- **Parental Notification:** Parents must be notified of 504 committee meetings and receive a copy of Parent and Student Rights:
  - Upon initial referral.
  - At re-evaluation meetings.
  - Upon significant changes in placement.
- **Meeting Attendance:** Parents are not required to attend meetings. If they do not, the 504 coordinator must inform them of the meeting's results.
- **Advocate/Attorney Presence:**
  - If a parent brings an advocate, a campus administrator must be present.
  - If a parent brings an attorney, the district 504 Program Manager must be notified and attend.
- **Dispute Resolution:** If a parent disagrees with the committee's recommendations, they should be referred to the district 504 Program Manager.

#### **Ongoing Monitoring and Review:**

- **Three-Year Review:** 504 eligibility must be reviewed every three years, or sooner if needed.
- **Disciplinary Actions:** If a student is suspended for 10+ days in a school year, the 504 committee must review the incident in relation to the disability, unless the suspension is due to drugs/alcohol.
- **Progress Monitoring:** 504 facilitators must monitor student grades and behavior each grading period.
- **Plan Review:** If a student's progress is inadequate, a 504 committee meeting must be scheduled to review the plan and consider special education referral.

## **Procedures for Scheduling a Section 504 Meeting**

#### **Initial Eligibility Meeting:**

- Schedule and hold an initial 504 meeting within 30 school days of receiving evaluation information (medical reports, parent requests, special education evaluations, etc.).
- Upload all supporting documentation to the 504 management software upon receipt.

#### **Three-Year Re-evaluation:**

- Ensure re-evaluation meetings occur precisely within three years of the previous 504 meeting.

#### **Parent-Requested Meetings:**

- Schedule parent-requested 504 meetings within 10 school days of the request.

- Contact the parent to determine the meeting's purpose and ensure all concerns are addressed.

#### **Meeting Notification and Scheduling:**

- Contact the parent/guardian to schedule a mutually agreed-upon meeting time and location (virtual or in-person).
- If unable to reach the parent/guardian, schedule the meeting within the required timeframe and email a meeting notification at least 5 school days prior to the meeting.
- Include parent rights in the email notification.
- Notify relevant staff members who are knowledgeable about the student, evaluation data, and/or suspected disability.

#### **Parent Participation:**

- If the parent does not respond to the meeting notice, the meeting may proceed in their absence.
- If the parent indicates a desire to participate, make reasonable efforts to reschedule the meeting.

#### **Referral for Special Education:**

- **Progress Concerns:**
  - If a student consistently struggles to meet class expectations and state assessment standards, the 504 committee should reconvene to determine if a referral for a special education evaluation is appropriate.

## **Transfer Section 504 Procedures**

#### **Transfers from other districts in Texas:**

- Include 504 records in the TReX records request for all students transferring from other Texas districts.

#### **Out-of-State Transfers:**

- If records are not received via TReX, request them directly from the previous district.
- For out-of-state transfers, parental consent may be required. Generate the consent form within the 504 management system.

#### **Record Retrieval Assistance:**

- If records cannot be obtained, contact the district 504 Program Manager for assistance.

#### **Record Upload:**

- Upon receipt, upload all 504 records to the 504 management software.

#### **Plan Implementation and Review:**

- **Current and Implementable Plans:**
  - If the received 504 plan is current (within 3 years) and can be implemented as written, upload it and share it with teachers.
  - Schedule the re-evaluation meeting when it is due or if updated accommodations are needed.
- **Plans Requiring Revision:**

- If the 504 plan cannot be implemented as written, schedule a re-evaluation meeting.
- Gather teacher input and hold the meeting within 30 school days of the student's enrollment.

## Initial Evaluations

### Parent Referrals:

- Request that the parent/guardian provide documentation from a medical provider to support evidence of a disability. This can include formal or informal medical reports, information from MyChart, or information from the school nurse.
- Create a referral in the 504 management software system.
- Send home the following documents: Notice and Consent for an Initial 504 Evaluation, the referral form, and the Parent Rights document.
- Upon receipt of the signed consent and notice from the parent, begin the data collection process for the evaluation.

### Campus-Based Referrals:

- All initial evaluations for campus-based referrals must go through the special education referral process.

## Re-Evaluations

### Disability Documentation:

- All students with 504 plans must have current (within 3 years) disability documentation from a medical provider archived in the 504 management software.

### Re-evaluation Procedures:

- Re-evaluations can be conducted formally or informally.
  - **Formal Re-evaluation:**
    - Requires current disability documentation from the parent.
    - Upload all re-evaluation documentation to the 504 management software.
  - **Informal Re-evaluation:**
    - The 504 committee reviews current educational data to determine if additional documentation is necessary.
    - If no further documentation is needed, the following statement must be included in the meeting deliberations: "Based on a review of parent information, teacher information, and educational records, [student name] continues to qualify as a student with [disability]. No further information is needed, and today's date will serve as the date of re-evaluation."

Students protected under §504 have the right to periodic re-evaluation, at least every three years. Re-evaluations should also occur prior to any significant change in placement. In addition, if at any time the student is struggling, it is recommended that the §504 committee meets to determine the



appropriateness of the accommodation plan. Re-evaluations may be based on formal evaluation data or may be done through a review of existing evaluation data, dependent on the needs and progress of the student.

\*If the parent/guardian is unable or unwilling to produce more current documentation of a disability for re-evaluation purposes, please contact the district §504 Program Manager for guidance.

## 504 Amendment Procedures

- A §504 Amendment may be used to revise classroom and state testing accommodations or to address other changes that might need to be made to a three-year plan. They can also be used to correct clerical errors
- Procedures:
  - Contact the parent/guardian via phone or email to discuss the recommended changes
  - Make updates in the active §504 plan (do not change the plan date) and lock the §504 Plan under the heading “§504 Amendment”

## Manifestation Determination Review (MDR) Procedures


- An MDR is required for all students who are recommended for placement at DAEP for 10 days or more or for any student who has been suspended from school for a total of 10 or more days during a school year.
- **ONE EXCEPTION: If the student is under the influence of drugs or alcohol while at school or while at a school event, an MDR is not required under §504.**
- Procedures:
  - Within 10 school days after the administrator has assigned disciplinary action, the §504 committee must meet to determine whether the behavior is directly and causally related to the documented disability
  - Contact the parent/guardian and schedule the meeting at a mutually agreed upon time/place.
  - You must give the parent 24-hour notice prior to holding the MDR meeting
  - If the parent is unreachable, schedule the meeting with the 10-day timeframe

## Dismissal from Section 504

A student's eligibility for a §504 plan isn't permanent. If, after a formal review, it's determined that their disability no longer substantially limits their ability to learn or participate in major life activities, the §504 plan can be discontinued. However, it's crucial to distinguish between a student's improved performance due to the effectiveness of their accommodations and the actual absence of a continued need for those accommodations. Removing a successful 504 plan simply because it's working well can be a mistake.

Some people misunderstand certain aspects of 504 eligibility, believing that once a student is identified as having a disability, they are always entitled to a 504 plan. This misunderstanding stems from the provisions that protect individuals with a "record of" or those "regarded as" having a disability. These provisions are designed to prevent discrimination based on past or perceived disabilities, offering retroactive protection. They do not, however, mandate the ongoing provision of 504 plans or meetings based solely on a past or perceived disability.

Essentially, the law protects against discrimination based on past or perceived disabilities, but it does not mean that a 504 plan must remain in place indefinitely. The determination of whether a student continues to qualify for a 504 plan hinges on whether their current disability substantially limits a major life activity, not on whether they were ever considered to have a disability in the past.

When dismissing a student, follow these steps: 

- If it is outside of the annual §504 meeting, contact the parent/guardian to discuss recommendation for dismissal.
- Schedule a §504 meeting to formally review the recommendation.
- Notate in the evaluation paperwork and deliberations the decision to dismiss the student and what information the dismissal is based upon.
- Provide a copy of the §504 dismissal meeting paperwork to the parent/guardian

## College Entrance Exams (ACT/PSAT/SAT/AP) Accommodations

Many parents are under the assumption that accommodations provided in school are automatically provided on college entrance exams such as the ACT, PSAT, SAT, and AP tests. In actuality, the process for receiving accommodations on these tests is very different than what is required under §504.

### The College Board (PSAT, SAT, and AP tests)

- “College Board considers all requests for accommodations needed by students with documented disabilities.”
- Students and parents should be referred to the appropriate website <https://accommodations.collegeboard.org/> to understand the requirements for receiving accommodations on these tests.

Each year, students who are 8<sup>th</sup> through 11<sup>th</sup> grades will take the PSAT/NMSQT or the SAT. In order for students to receive testing accommodations, families and students must apply. Counselors at secondary campuses will provide families with the forms linked below. Campuses will determine if they submit accommodations on behalf of the student or if they will require the parents/students to submit these requests on their own. This determination is made on a campus-by-campus basis and is not dictated by the district.

## ACT

- “ACT is committed to providing appropriate accommodations for examinees who take the ACT test. To request accommodations, you will need to work with a school official, because the accommodations requested should be similar to the accommodations you currently receive in school. Accommodations **MUST** be approved by ACT before testing. A request alone is not enough. All requests, including appeals, must be submitted by the late registration deadline for your preferred test date. If your request is not properly submitted, it may be approved in time for your preferred test date.”
- Students and parents should be referred to the appropriate website <https://www.act.org/content/act/en/products-and-services/the-act/registration/accommodations.html> to understand the requirements for receiving accommodations on this test.
- In order for students to receive testing accommodations, families and students must apply. Counselors at secondary campuses will provide families with the form linked below. Campuses will determine if they submit accommodations on behalf of the student or if they will require the parents/students to submit these requests on their own. This determination is made on a campus-by-campus basis and is not dictated by the district.

## Links to Accommodation Consent Forms for SAT/PSAT/AP/ACT

[SAT/PSAT/AP Consent Form for Accommodations Request](#)

[SAT/PSAT/AP Spanish Form](#)

[ACT Consent Form for Accommodations Request](#)

## College Board/ACT School Codes

Dulles HS	446785	Ridge Point HS	444836
Bush HS	443531	Travis HS	445848
Austin HS	445860	Willowridge HS	446712
Clements HS	446784	Crawford HS	575119
Hightower HS	446788	Elkins HS	446782
Kempner HS	446783	Marshall HS	444841

## Adding Accommodations Solely for College Entrance Exams

Some parents believe that the school district should add accommodations to a student's §504 plan solely for college entrance exams. This is not the case. Accommodations on §504 plans are those accommodations that are necessary and utilized on a regular basis in the classroom. A §504 plan should not be put in place solely to support accommodations on college entrance exams.

## Americans with Disabilities Amendment Act

In January 2009, the Americans with Disabilities Amendment Act became effective. The intent of this act was to reverse the narrow interpretation by the courts of the Americans with Disabilities Act (ADA). The overall intent of the amendment was to shift the inquiry away from the question of whether a student HAS a disability and toward the school district's actions and obligations to ensure equal educational opportunities (OCR, 2012, Q4).

The Amendment Act has four main components:

1. Lessen the construed interpretation of "substantial limitation."
2. Expands the list of major life activities to include, among other things: reading, concentrating, thinking, sleeping, and all major bodily functions.
3. Measurement of substantial limitation without the use of mitigation measures. Medication, medical supplies and equipment, low-vision devices (except ordinary glasses and contact lenses), prosthetics, hearing aids and cochlear implants or implantable hearing devices, mobility devices, oxygen therapy equipment and supplies; assistive technology; reasonable accommodations or auxiliary aids or services; and learned behavioral or adaptive neurological modifications are examples of mitigating measures.
4. Clarification that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

While the amendment clearly broadens §504 eligibility, the amendment does not make any assumptions that all students within any category are automatically eligible for §504. Committees must still make decisions on a case-by-case basis, reviewing multiple sources of data. Eligibility continues to be based on data that a student has an impairment that, regardless of the use of a mitigating measure, limits one or more major life activities.

Furthermore, while the use of mitigating measures cannot be considered in eligibility decisions, their use and effectiveness should be considered in determining appropriate accommodations and services. Committees are advised to focus on accommodations and services that level the playing field. Remember, the plan obligates the school staff to perform the required tasks and provide the listed accommodations and services. Thus, accommodations and services should be limited to

those things that the student consistently needs to benefit from the school's program and activities.

For impairments that are episodic or in remission, accommodations and services should be written with indication of when the accommodation or service is to be implemented. For instance, if the student has diabetes, an accommodation or service may be implemented "when the student has a low blood sugar level as documented by the nurse." Another example is when a student is absent from school for a disability related illness, "the student will receive a copy of teacher notes when the student is absent due to his or her disability." If written in this manner, teachers will not be required to provide unnecessary accommodations or services when they are not needed.

## Confidentiality

The Family Educational Rights and Privacy Act (FERPA) and school district policy require that all student records shall be developed, maintained, utilized, and disseminated in such a manner as to protect the privacy of students. §504 electronic records are considered student records and are confidential.

All school district personnel must maintain the confidentiality of personally identifiable information pertaining to any Fort Bend Independent School District Student. This includes any student name; educational records and test results; any verbal/written anecdotal information; any placement data; any information relating to counseling services rendered to any student or parent or guardian; or any information relating to a student's disability or placement.

According to the FBISD Confidentiality Agreement in the FBISD Employee Handbook:

1. Staff will use and disclose information only in connection with a for the purpose of performing assigned duties.
2. Staff will request, obtain, or communicate confidential information only as necessary to perform their assigned duties and shall refrain from requesting, obtaining, or communicating more information than is necessary to accomplish their duties.
3. Staff will take reasonable care to properly secure confidential information on their computer and will take steps to ensure that others cannot view or access such information.
4. Staff will not disclose their personal computer log-ins and/or passwords to anyone.
5. Staff will immediately report any unauthorized use or disclosure of confidential information to their supervisor.
6. Staff will ensure that any confidential information that they might happen to see on someone's desk, white board, during a presentation, etc. is held confidential to protect district data whether student or staff related.

## Consent to Release/Request Confidential Records

While we cannot require a medical diagnosis to evaluate a student for §504, it is best practice to obtain medical information from a physician when available. Use the consent for disclosure of

confidential information form to request information directly from the professional who evaluated the student.

Remember, the diagnosis alone does not guarantee eligibility under §504. Once a diagnosis is confirmed, the §504 committee must look at multiple sources of data to determine eligibility.

When it is suspected that a student has a medical or physical impairment, but there is not diagnosis available, contact the district §504 Program Manager.

## Dyslexia in Section 504

With the passing of House Bill 3928 on June 10, 2023, the State of Texas passed required changes for the diagnosis and implementation of standard protocol dyslexia instruction.

With the passage of this House Bill, all diagnoses of Dyslexia will be given through an FIE. All direct Dyslexia instruction will now be considered “specially designed instruction” and therefore given through special education through the recommendation of an ARD committee.

Should a student qualify as a student with Dyslexia who does not require direct Dyslexia instruction, but who does need accommodations, their parent/guardian may choose to seek those accommodations through a Section 504 evaluation and plan.

It should be noted that Section 504 only allows for accommodations and students with a diagnosis of Dyslexia through an FIE who need more supports may benefit from seeking supports through the support of an IEP developed by an ARD committee.

## Food Allergies

The number of students with reported food allergies has risen significantly. While severe food allergies that can result in anaphylaxis should be taken very seriously, not all food allergies will rise to the level of disability. It is very important to respond promptly and gather information on suspected food allergies. Ask the following questions when determining how to respond to reported allergies:

- What is the child’s history of allergic reactions?
- What kind of exposure (smell, touch, or ingestion) results in a reaction?
- How common is the allergen in the school setting?
- What precautions do the parents take at home and in the community (restaurants, parties, family outings, etc.)?
- How often has the student had a severe reaction to the allergen?
- How much time is there between exposure and reaction?
- How severe is the reaction?
- Is an epi-pen required?
- Is there a health plan housed in the nurse’s office?

- Has the campus staff been required to be trained on the student's allergy action plan?

If the student does have a severe allergy that rises to the level of disability, the §504 facilitator must be vigilant in developing a plan that includes information on how to limit exposure and what to do in the case of exposure/reaction. The school nurse should take an active role in developing this plan and a copy of the allergy action plan should be kept in every room that the child enters on the campus. The date from this plan may be used as the evaluation date.

The district's Child Nutrition Department has a procedure for students who require dietary modifications in the cafeteria. The procedures require that a [form](#) be completed by the student's physician annually. This process may trigger a child find responsibility. Nurses and cafeteria staff should notify the campus §504 facilitator if they have knowledge of student with severe food allergies or an impairment that substantially limits a student's ability to eat.

## Homebound Services

General education homebound (GEH) services are available for non-special education eligible students who are expected to be confined at home or hospital bedside for a minimum of four weeks. The weeks need not be consecutive (in cases of chronic illness/acute health problems). Confinement must be for medical reasons only and the medical condition must be documented by a physician licensed to practice in the United States.

Because homebound placement is one of the most restrictive environments in which we educate students, alternatives should be considered before homebound placement. Services from the school nurse, rest periods during the day, and shortened school days are examples of alternatives to homebound services.

All inquiries for general education homebound should be directed to the homebound department email at [fbisd.homebound@fortbendisd.gov](mailto:fbisd.homebound@fortbendisd.gov). It is critical for the campus to arrange for assignments to be sent home via Schoology and completed work to be collected during the referral process. Once homebound services are in place, the homebound teacher focuses on current work provided through Schoology and does not work on material covered prior to homebound placement.

The campus teachers remain the teachers of record while students are on homebound. They are responsible for submitting work to the homebound teacher's Schoology page as well as maintaining grades for the student.

If a student has a disability severe enough to warrant a homebound placement, the student will meet eligibility requirements for §504. An initial §504 meeting should be held to determine if accommodations are needed for the student while they are being serviced through homebound.

When the homebound period ends, the student returns to school and should be considered for dismissal from §504 as appropriate.

## Honors and Other Advanced Classes (Pre-AP, AP, GT, etc.)

Students with disabilities have equal opportunity to participate in accelerated classes such as AP and GT classes. 504 and ARD committees will determine appropriate accommodations deemed necessary to meet the student's individual educational needs. Accommodations should not change or alter the content or standards of the course. For instance, use of an FM device for a student who is deaf or hard of hearing in an advanced class would be appropriate to ensure access to the content and standards of the course. Conversely, reduced assignments would not be appropriate if that accommodation would alter the content or standards for the course.

## Dual Credit Courses

Students with disabilities who are participating in dual credit courses must apply for accommodations through the disabilities rights offices at the college or university that is providing the dual credit. The college or university will determine if the accommodation will be provided for the course. This decision is made solely by the college or university.

## In School Suspension

If a student with a disability is receiving all their accommodations while placed in ISS, the placement may not count as a change in placement requiring an MDR. However, if a student is repeatedly placed in ISS, it may indicate that the student needs additional services or a behavior intervention plan. The §504 committee should meet and review the plan to determine if changes need to be made or if a referral for an FIE might be appropriate for the student.

## Non-Academic and Extracurricular Services

Students with disabilities must be afforded the same opportunity to participate as non-disabled students in nonacademic and extracurricular services such as recess, field trips, clubs, and sports. Necessary accommodations should be considered for these areas by §504 committees and documented in §504 plans.

## Private/Outside Testing

Parents often bring evaluations that have been completed by someone outside of the school district. In most situations, this should be considered as a request for an evaluation. The §504 committee must consider as part of an evaluation, any evaluation that a parent provides. The best practice is to give "due weight" to the evaluation. §504 committees should consider the following factors in considering how much "weight" to give the evaluation:



- How old is the evaluation? Generally, evaluations are only valid for three years, but for school age children receiving instruction and interventions, the data may change more rapidly than that.
- Who conducted the evaluation? What is his or her area of specialty and expertise?
- How thorough is the evaluation?
- §504 regulations require that tests and other evaluation materials must be validated for the specific purpose for which they are used and tailored to assess specific areas of educational need. Does it appear these requirements were met?
- Is the evaluation comparable to what a school district evaluation would look like?
- Does the evaluation include input from the school? An evaluation that diagnoses a learning disability or ADHD without input on how the student performs at school may not be as valid as a thorough evaluation conducted by a §504 committee.

The campus §504 facilitator should ask the campus diagnostician or LSSP to review the evaluation, if additional interpretation is needed.

## Student Section 504 Records

§504 records are important educational records subject to legal scrutiny. Please maintain electronic §504 files in the online §504 management system. Following these steps will help:

- Maintain all §504 records within the student's file in the §504 online management system
- When a student transfers to another campus within FBISD, the sending campus should notify the receiving campus
- When the student transfers to another school district, copies of relevant records are forwarded to the receiving school district with other transfer records via TReX. Contact the district §504 program manager if you need assistance with a §504 record transferred electronically from another district.

Parents, guardians, and eligible students shall have the opportunity to examine relevant education records, including §504 records, upon reasonable notice during school hours or at other mutually convenient times by prior arrangement.

## STAAR Testing Accommodations

Information regarding accommodations for state assessment can be found on the [TEA website](#). Any testing accommodation that is recommended for a §504 eligible student should be routinely provided during regular classroom instruction. It is critical that the §504 committee be knowledgeable about current TEA guidelines, including “student eligibility criteria” for each type of accommodation. If the committee has questions about the eligibility criteria for accommodations, they should reach out to the campus testing coordinator.

## Technical Eligibility

Previous to the ADAAA, students who had a disability typically required a need for an accommodation (or service) plan to be eligible for §504. As a result, to the changes to eligibility due to the ADAAA, specifically to the prohibition to consider mitigating measures and the inclusion of impairments that are in remission, there will be some students eligible for §504 who do not need a §504 plan. These students are considered “technically eligible” students. While they are eligible for the nondiscrimination protections of §504, procedural safeguards, manifestation determination, and periodic re-evaluations, §504 committees will not be required to develop a §504 plan for them. Eligibility for a §504 plan for these students should be reviewed if they begin to struggle academically or behaviorally.

## Temporary Disabilities

A temporary disability is an impairment with an actual or expected duration of six months or less. Eligibility decisions should be made on a case-by-case basis and should consider both the duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity of the affected student.

## Transportation

If transportation is required due to a disability and is not normally provided to the student, the §504 committee may provide transportation as a related service for eligible §504 students. Also, if an eligible student requires specialized transportation, for example a student in a wheelchair needs a wheelchair accessible bus, the specialized transportation may be provided as a related service. The facilitator should notify the district §504 program manager of the need for transportation prior to a meeting being held. A §504 committee meeting is required to determine whether the student requires transportation. If so, the §504 facilitator should complete the transportation supplement and submit it to [spedtransportation@fortbendisd.gov](mailto:spedtransportation@fortbendisd.gov).

## When to Evaluate

Schools have an obligation to evaluate a student who they suspect may have a disability, needs or is believed to need §504 services or special education services. It is not the parents’ responsibility to request an evaluation. Reasons to evaluate may include:

- When a parent or teacher initiates a request
- When a disability is suspected
- When a student exhibits a chronic health condition
- When a student requires a health plan
- When a student exhibits persistent academic or behavioral problems and interventions have not been successful

- When a student is evaluated, but is not eligible for special education

In cases where a student exhibits poor grades, failure to pass state assessments, retention, serious behavior issues, or attendance issues and there is no reason to suspect an impairment is the cause, the student may be referred for consideration for intervention at the campus level. However, if the school has knowledge of the student having an impairment, best practice is to proceed with making a referral for an evaluation under special education.

If a parent or guardian requests a referral for a §504 evaluation specifically, the school must either (1) conduct the evaluation; or (2) within 15 school days provide written reason for not conducting the evaluation.

## Fort Bend Independent School District Operating Guidelines for Section 504

1. **Child Find.** As part of the on-going identification and referral process, the district will make reasonable efforts to identify and locate every qualified disabled student residing within the district who is not receiving a public education. The district shall inform the parents or guardians of these potentially eligible students (who may be attending private schools or who are homeschooled) of the district's duties under §504. As part of the Child Find effort, the district shall annually publish the Child Find Notice in local newspapers, student handbooks, and other locations likely to be seen by parents of eligible students. Additionally, every teacher within the district should have information regarding the district's overall early intervention process, understand how to initiate a §504 referral.
2. **Referral.** When a student is suspected of having a disability and needs services under §504, the student shall be referred to the §504 facilitator. When a §504 referral has been initiated, the referral will be reviewed along with information from the student's educational records and determines whether a §504 evaluation is necessary. The parent may also initiate a §504 referral. If no §504 evaluation is required, the campus §504 facilitator will notify the parent/guardian within 15 school days.
3. **Consent for Evaluation.** If §504 evaluation is necessary, the person conducting the evaluation will send to the Parent and Student Rights Under §504 and get consent for evaluation. If no parental consent is received for §504 evaluation, the §504 facilitator should remind the parent annually of the district's continued desire to conduct an evaluation under §504. If the parent sends a refusal, the campus should document the refusal and upload the refusal to the district §504 management software.
4. **Evaluation.** When the consent is received from the parent, the evaluator should:
  - a. Gather evaluation data and review relevant educational records. The evaluation data consists of information from a variety of sources, including efforts and results of early intervention activities, aptitude and achievement testing, teacher recommendations, physical condition, social or cultural background, and adaptive behavior, and parent and teacher input. 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.

- b. Ensure that, should formalized testing be considered by the §504 committee as evaluation data, the tests:
  - i. 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.
  - ii. Include those tailored to assess specific areas of educational need and are not merely designed to provide a single intelligence quotient.
  - iii. 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. Review evaluation results with the parent prior to the scheduled §504 meeting
- d. Notify the campus §504 facilitator that a §504 committee meeting needs to be scheduled to review evaluation results
- e. Give the parents notice of the time and place of the evaluation meeting, inviting the parent to attend

**5. At the §504 meeting the committee should:**

- a. Draw upon information from a variety of sources, including, but not limited to, efforts and results of early intervention activities, aptitude and achievement testing, teacher recommendations, physical condition, social or cultural background, adaptive behavior, and parent and teacher input
- b. Ensure that all information reviewed in the evaluation is documented and carefully considered and that §504 decisions are made consistently with the Americans with Disabilities Amendments Act of 2008, including appropriate consideration of mitigating measures, recognition of changes made to major life activities, the appropriate consideration of impairments that are episodic or in remission, and Congressional declarations on the definition of substantial limitation
- c. Complete the §504 plan to determine eligibility and outline any necessary accommodations, if no eligibility is found, the parents are informed in writing
- d. Should the parent refuse consent to the initial provision of Section 504 services, such refusal should be documented
- e. At the conclusion of the meeting, the §504 coordinator provides a copy of all documents to the parent electronically. If the parent requests, these can also be provided as a hard copy.

- 6. **Free Appropriate Public Education (FAPE).** No eligible student may be excluded from receiving a public elementary or secondary education. When considering the educational placement for eligible students, the §504 committee will ensure that the services provided are:

- a. Appropriate. The §504 services are designed to meet the individual needs of the eligible student as adequately as the needs of nondisabled students and are based upon adherence to the regulatory procedures relating to educational setting, evaluation and placement, and procedural safeguards.
  - b. Free. An eligible student's educational program provided under §504 is provided without cost to the parent of the eligible student, regardless of where those services are provided or by whom. The only costs of educational services that may be assessed the eligible student are those borne by nondisabled students and their parents (such as tickets to events, purchases of supplies, field trip fees, lab fees, art fees, etc.). When the district has made available at FAPE as required by §504, and the parents choose to place the student in a private school, the district is not required to pay for the eligible student's education in the private school.
- 7. **Parental Rights to Refuse Consent and Revoke Consent for Section 504 Services.** The district recognizes the parent's right to refuse consent for initial §504 services as well as to revoke consent for continued §504 services at any time. The parent may exercise the right to refuse consent or revoke consent by indicating that disagreement within the §504 plan. If this occurs, the disagreement should be forwarded to the district Section 504 program manager for appropriate follow-up.
- 8. **Least Restrictive Environment (LRE).** The §504 committee shall create a placement for the eligible student that ensures the provision of educational services with persons who are not disabled to the maximum extent appropriate to the needs of the eligible student. The §504 committee will presume that the regular classroom is the appropriate placement, unless it is demonstrated that the eligible student's education in the regular classroom with the use of supplementary aids and services cannot be achieved satisfactorily. Should the §504 committee place an eligible student in a setting other than the regular classroom, it shall consider the proximity of the alternative setting to the eligible student's home.
- 9. **Non-Academic Services & Extracurricular Activities.** The district shall ensure that the provision of non-academic and extracurricular services and activities (such as meals, recess, counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the recipients, referrals to agencies which provide assistance to people with disabilities, and employment of students, including both employment by the recipient and assistance in making available outside employment) are provided so that:
  - a. Eligible students are afforded an equal opportunity to participate in such services and activities.
  - b. Eligible students participate with nondisabled students to maximum extent appropriate to the needs of the eligible student.

Counseling. Should the district provide personal, academic, or vocational counseling, guidance, or placement services to its students, those services shall be provided without discrimination on the basis of disability. The Fort Bend ISD shall ensure that disabled students are not counseled toward more restrictive career objectives than are nondisabled students with similar interests and abilities.

Physical education and athletics. In providing physical education courses and athletics and similar programs and activities to any of its students, the district will not discriminate on the basis of disability. Students with disabilities shall have equal opportunity to participate in the district's physical education courses as well as interscholastic, club, or intramural athletics operated or sponsored by the district. The Fort Bend ISD will offer students with disabilities physical education and athletic activities that are separate or different from those offered to nondisabled students only if separation or differentiation is consistent with the requirements of LRE and only if no qualified disabled student is denied the opportunity to compete for teams or to participate in course that are not separate or different.

10. **Implementation of the §504 Plan.** The campus §504 facilitator ensures that the student's §504 plan is shared with all teachers and staff that need it in a timely manner. Teachers are professionally responsible for accessing and implementing individual accommodation plans for each assigned student. Monitoring of implementation of the §504 plan should be accomplished through periodic reviews of the student's academic and behavioral progress.
11. **Re-evaluation.** Every three years, the §504 committee should meet to conduct a periodic re-evaluation of students who have §504 plans as well as for students who are eligible under §504 but not in need of a §504 plan. A re-evaluation may include formal measures or could be based on a review of existing data, based on the individual needs of the student. Re-evaluation should also occur prior to any significant change of placement and whenever necessary to ensure the continued provision of services. It is also the district's practice to conduct annual reviews when no periodic re-evaluation is required. If the student remains eligible, the §504 committee should adjust the student's §504 plan based on the student's changing needs due to the effects of different classroom subject matter, school demands, and other factors. Should the committee determine that the student is no longer eligible, the §504 committee should dismiss the student from §504. The parents shall be given notice of the results of the re-evaluation.
12. **Discipline.** Should the district recommend a disciplinary removal of the eligible student from his educational placement for a term of more than ten consecutive school days, the §504 committee must first determine if the conduct that led to the disciplinary removal was directly and causally related to the student's disability under §504. Prior to the meeting, the campus §504 coordinator shall give the parents notice of the time and place of the meeting. At the meeting, the Manifestation Determination will be completed. If the conduct is determined to be directly and causally linked to the disability, the disciplinary removal of longer than ten consecutive days cannot occur. If the conduct is determined to not be directly and causally related to the disability, regular discipline ensues. However, the §504 committee must ensure that the §504 plan is implemented within the alternative educational setting.

Removals for fewer than ten days may occur without §504 committee review, subject to the "pattern of exclusion" rule. A series of short removals (including teacher removals under §37.002 of the Education Code) over the course of the school year that exceeds ten total

days may constitute a pattern of exclusion that triggers applicable procedural safeguards (a manifestation determination evaluation and a right to due process). In such cases, the §504 committee will meet to conduct a Manifestation Determination Review prior to the tenth cumulative day of removals during a school year.

An eligible student who currently is engaging in the illegal use of drugs or in the use of alcohol may be removed from their educational placement for a drug or alcohol offense to the same extent that such disciplinary action is taken against nondisabled students. No §504 discipline review is required prior to the removal and no §504 due process hearing is available.

13. **Interaction with Special Education.** Each student referred and evaluated for special education who does not qualify, and each student dismissed from special education may be considered for §504 eligibility on a case-by-case basis. If at any time the §504 committee determines that a student with a disability needs special education or related aids and services to receive educational benefit, a special education referral should be initiated.
14. **Interaction with Texas Dyslexia Law.** In accordance with House Bill 3928 all specially designed instruction for Dyslexia is now serviced under IDEA. For students to be diagnosed with Dyslexia, parents must give consent for an FIE. All Dyslexia classes are now given through an ARD committee decision in an IEP. Section 504 plans can only give accommodations for Dyslexia.
15. **Mitigating Measures and Development of Section 504 Plans.** Pursuant to the ADAAA, the determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as- medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies; use of assistive technology; modifications. The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity. The §504 plan, however, shall not be developed unless needed, at the time, in order for the student to have his needs met as adequately as those of nondisabled students. Should the need develop, the §504 committee shall develop an appropriate §504 plan. Further, students with physical or mental impairments whose needs are addressed through early intervention or health plans will not be excluded from consideration for possible §504 referral, even when current interventions, services or health plans successfully address their impairment-related needs.
16. **Procedural protections.** The district will ensure that a system of procedural safeguards is in place with respect to actions regarding the identification, evaluation, and educational placement of students with disabilities. The system shall include notice, and opportunity for the parent or guardian of the disabled student to examine relevant records, and impartial hearing with opportunity for participation by the student's parent or guardian and representation by counsel, and a review procedure.



17. **Parent Language.** If the district determines that the dominant language of the parent is Spanish, the district will ensure that effective notice in Spanish and services necessary to provide the parent an opportunity for effective participation in the §504 process. If the district determines that the dominant language of the parent is not English or Spanish, the district will make a good faith effort to accomplish notice and provide an opportunity for effective parent participation in the §504 process through other means.
18. **Duty to Not Discriminate.** The district ensures that no qualified disabled person shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under and district program or activity.
19. **Retaliation Prohibited.** No Fort Bend ISD officer, employee, or contractor shall retaliate against any person because they have exercised their rights under §504.
20. **Disability-Based Harassment.** The district will promptly investigate all claims of disability-based harassment and take reasonable action to stop future recurrence. Where evidence of disability-based is found pursuant to an investigation, and the district believes that the harassment has adversely impacted upon the ability of a student with a disability to have equal access to the district's programs or activities or the student's entitlement to a free, appropriate public education, a §504 committee meeting will be called to consider the impact of the harassment and determine whether changes to student's individual accommodation plan are required.

## Notice of Rights & Procedural Safeguards for Disabled Students and their Parents Under §504 of the Rehabilitation Act of 1973

The Rehabilitation Act of 1973, commonly known in the schools as “Section 504,” is a federal law passed by the United States Congress with the purpose of prohibiting discrimination against disabled persons who may participate in, or receive benefits from, programs receiving federal financial assistance. In the public schools specifically, §504 applies to ensure that eligible disabled students are provided with educational benefits and opportunities equal to those provided to non-disabled students.

Under §504, a student is considered “disabled” if they suffer from a physical or mental impairment that substantially limits one or more major life activities. Section 504 also protects students with a record of an impairment, or who are regarded as having an impairment from discrimination on the basis of disability. Students can be considered disabled, and can receive services under §504, including regular or special education and related aids and services, even if they do not qualify for, or receive, special education services under the IDEA.

The purpose of this notice is to inform parents and students of the rights granted them under §504. The federal regulations that implement §504 are found at Title 34, Part 104 of the Code of Federal Regulations (CFR) and entitle eligible students and their parents, to the following rights:



1. You have the right to be informed about your rights under §504. [34 CFR 104.32] Fort Bend Independent School District must provide you with written notice of your rights under §504 (this document represents written notice of rights as required under §504). If you need further explanation or clarification of any of the rights described in this notice, contact appropriate staff persons at Fort Bend Independent School District's §504 Office and they will assist you in understanding your rights.
2. Under §504, your child has the right to an appropriate education designed to meet his or her educational needs as adequately as the needs of non-disabled students are met. [34 CFR 104.33]. You have the right to refuse consent for services at any time.
3. Your child has the right to free educational services with the exception of certain costs normally paid by the parents of non-disabled students. Insurance companies and other similar third parties are not relieved of any existing obligation to provide or pay for services to a student that becomes eligible for services under §504. [34 CFR 104.33].
4. To the maximum extent appropriate, your child has the right to be educated with children who are not disabled. Your child will be placed and educated in regular classes, unless Fort Bend Independent School District demonstrates that their educational needs cannot be adequately met in the regular classroom, even with the use of supplementary aids and services. [34 CFR 104.34].
5. Your child has the right to services, facilities, and activities comparable to those provided to non-disabled students. [34 CFR 104.34].
6. The Fort Bend Independent School District must undertake an evaluation of your child prior to determining his or her appropriate educational placement or program of services under §504, and also before every subsequent significant change in placement. [34 CFR 104.35]. You have the right to refuse consent for initial evaluation.
7. If formal assessment instruments are used as part of an evaluation, procedures used to administer assessments, and other instruments must comply with the requirements of §504 regarding test validity, proper method of administration, and appropriate test selection. [34 CFR 104.35]. Fort Bend Independent School District will appropriately consider information from a variety of sources in making its determinations, including, for example: aptitude and achievement tests, teacher recommendations, reports of physical condition, social and cultural background, adaptive behavior, health records, report cards, progress notes, parent observations, statewide assessment scores, and mitigating measures, among others. [34 CFR 104.35].
8. Placement decisions regarding your child must be made by a group of persons (a §504 committee) knowledgeable about your child, the meaning of the evaluation data, possible placement options, and the requirement that to the maximum extent appropriate, disabled children should be educated with non-disabled children. [34 CFR 104.35].
9. If your child is eligible under §504, he or she has a right to periodic re-evaluations. A re-evaluation must take place at least every three years. [34 CFR 104.35].
10. You have the right to be notified by Fort Bend Independent School District prior to any action regarding the identification, evaluation, or placement of your child. [34 CFR 104.36].

11. You have the right to examine relevant documents and records regarding your child (generally documents relating to identification, evaluation, and placement of your child under §5040.) [34 CFR 104.36].
12. You have the right to an impartial due process hearing if you wish to contest any action of Fort Bend Independent School District with regard to your child's identification, evaluation, or placement under §504. [34 CFR 104.36]. You have the right to participate personally at the hearing, and to be represented by an attorney, if you wish to hire one.
13. If you wish to contest an action taken by the §504 committee by means of an impartial due process hearing, you must submit a Notice of Appeal or a Request for Hearing to the District's §504 Coordinator at the address below. A date will be set for the hearing, and an impartial hearing officer will be appointed. You will then be notified in writing of the hearing date, time, and place.

**Catharine Jacobson, (281) 634-5301, 540 Dulles Ave. Sugar Land, TX 77477**

14. If you disagree with the decision of the hearing officer, you have the right to seek a review of the decision by making a written request to Fort Bend Independent School District's Section 504 Program Manager, and/or you may seek relief in state or federal court as allowed by law.
15. You also have a right to present a grievance or complaint through Fort Bend Independent School District's local grievance process. The district will investigate the situation, take into account the nature of the complaint and all necessary factors, and respond appropriately to you within a reasonable time. Parents may contact the District's Section 504 Program Manager for more information about the district's grievance process.
16. You also have a right to file a complaint with the Office for Civil Rights (OCR) of the Department of Education. The address of the OCR Regional Office that covers Fort Bend Independent School District is:

**Kansas City Office  
Office for Civil Rights  
U.S. Department of Education  
One Petticoat Lane  
1010 Walnut Street, 3rd floor, Suite 320  
Kansas City, MO 64106**

**Telephone: 816-268-0550  
FAX: 816-268-0599; TDD: 800-877-8339  
Email: OCR.KansasCity@ed.gov**

## Appendix A—Section 504 Due Process Hearing Procedures

**Right to Due Process:** In the event a parent or guardian wishes to contest an action or omission on the part of the Fort Bend ISD with regard to the identification, evaluation, or placement of a disabled child under §504 of the Rehabilitation Act of 1973, the parent or guardian has a right to an impartial hearing before an impartial hearing officer. Omissions on the part of the district regarding a disabled child might include, for example, the failure to identify a child eligible for services under §504. Thus, a child's identification as eligible for services under §504 is not an absolute prerequisite to the right to due process.

**Parent Participation & Representation:** A parent or guardian has the right to participate, speak, and present information at the due process hearing and to be represented by legal counsel or any other type of advocate or representative of their choice at their own expense. If a parent is to be represented by a licensed attorney at the due process hearing, he or she must inform the District §504 Coordinator and the appointed hearing officer of that fact in writing at least seven (7) calendar days prior to the hearing date. Failure to notify the District §504 Coordinator and the appointed hearing officer of that fact in writing shall constitute good cause for a continuance of the hearing date.

**Initiation of Due Process Procedures:** A parent or guardian who wishes to challenge the district's action or omission with regard to the identification, evaluation, or placement of a disabled child must submit a written Request for a Due Process Hearing to the District §504 Coordinator. Such a written request must make clear that the parent is seeking a due process hearing under §504 before an impartial §504 Hearing Officer. If an intent to seek a due process hearing under §504 is not clear from the face of the request, the District 504 Coordinator may contact the parent to clarify the request and ascertain whether the parent wishes to initiate a §504 due process hearing. The Coordinator may also assist the parent in clarifying any questions regarding due process rights under §504. The reasonable time involved in ascertaining whether an ambiguous or unclear request seeks a due process hearing under §504 shall follow the timelines set forth in these procedures (meaning that such time will not count toward the timeline days specified in these procedures). If after such communication, the District §504 Coordinator is still unsure whether the parent is requesting a due process hearing under §504, the district shall initiate due process procedures, and the appointed Hearing Officer will hold a pre-hearing conference to decide whether the parent is seeking a due process hearing under §504, and whether the Hearing Officer has jurisdiction to entertain the claims and issues raised by the parent.

**Appointment of a Hearing Officer:** Within fifteen school (15) days of the date of receipt of a clear Request for a Due Process Hearing, Fort Bend ISD will appoint an impartial Hearing Officer to preside over the hearing and issue a decision. The Hearing Officer will be hired by the district as an independent contractor at no expense to the parent. The Hearing Officer shall not be a current employee of the district and shall not be related to any member of the District's Board of Trustees to a degree prohibited under the Texas Nepotism Statute. The Hearing Officer need not be an attorney,

but shall be familiar with the requirements of §504 and the District's Hearing Procedures under §504. The district's choice of an impartial Hearing Officer is final and may not be made an issue at the due process hearing, since such an issue would not relate to the identification, evaluation, or placement of a disabled child under §504. If a parent disputes the impartiality of the appointed Hearing Officer, he or she may raise such an issue in a review of the Hearing Officer's opinion by a court of competent jurisdiction or in a complaint to the appropriate Office for Civil Rights regional office.

**Scheduling of Hearing:** The appointed Hearing Officer shall issue an Order Setting Hearing Date to the parent and the District §504 Coordinator in writing at his or her earliest opportunity. Such Order shall set a date for a hearing to be held within **fifteen (15) school days** of the date of issuance of the Hearing Officer's Order. The Order shall also set forth a mutually agreeable time and place for the hearing.

**Pre-Hearing Conference:** The Hearing Officer may also order a Pre-Hearing Conference at which the parent or his or her representative will state and clarify the issues to be addressed at the hearing. The Pre-Hearing Conference can also serve to resolve preliminary matters, clarify jurisdictional issues, and answer the parties' questions regarding the hearing process.

**Dismissals:** If, after the Pre-Hearing Conference, the Hearing Officer finds that the parent, as a matter of law, alleges and raises no factual claims or legal issues that come within his or her jurisdiction as a §504 Hearing Officer, he or she may dismiss the hearing and issue an order to that effect explaining the basis for such finding.

**Continuances:** Upon a showing of good cause, the Hearing Officer, at his or her discretion, may grant a continuance of the hearing date and set a new hearing date by issuing a written Amended Order Setting Hearing.

**Conduct of Hearing:** The hearing shall be conducted in an informal, non-adversarial manner. The parties shall address the Hearing Officer by name (i.e., Mr. or Ms.). The hearing shall be closed or open to the public at the parent's request. The parties are free to provide the Hearing Officer with information or opinion as to the validity and weight to be given the information presented to him or her. Neither the Federal nor Texas Rules of Evidence or Civil Procedure, however, will apply. The Hearing Officer is not required to entertain any legal evidentiary objections to the admissibility, authenticity, or probative value of either oral testimony or documentary exhibits offered at the hearing. In the exercise of his or her discretion, however, the Hearing Officer may reasonably limit testimony and introduction of documentary exhibits for reasons of relevance.

**Recording:** Instead of a formal written transcript produced by a court reporter, the entire due process hearing will be recorded by the district. A copy of the recording will be provided to the parent at his or her request. In order for an accurate recording to be made, the parties and witnesses shall introduce themselves at the beginning of their presentations. If a parent proceeds to a review of the due process hearing decision to a court of competent jurisdiction, the District will prepare a written transcript of the hearing recording to be offered to the court as an exhibit.

**Witnesses:** Witnesses will present their information in narrative form, without the traditional question and answer format of legal proceedings. Cross-examination of witnesses will not be allowed, but a party may request that the Hearing Officer, at his or her discretion, asks a witness a certain question.

**Format for Presentations:** The parent will present their case first, by making an opening statement that outlines the parent's position on all issues, presenting personally, calling additional witnesses, and making a closing argument. All of the preceding may be done either personally or through counsel, except for personal presentations or statements. At the end of the district's presentation, the parent may offer a short response to the district's case. The above format is not required, but may be helpful in organizing the presentation of the case to the Hearing Officer.

**Submission of Documentary Exhibits:** As part of their presentations, the parties may submit any reports, evaluations, correspondence, notes, or any other documents that may support their positions and that the Hearing Officer will admit at his or her discretion. Each separate documentary exhibit submitted to the Hearing Officer by either party must be marked numerically (i.e., Parent 1, Parent 2, District 1, District 2, etc.). The Hearing Officer may, in the exercise of his or her discretion, reasonably limit the number of documents to be submitted for his or her review as well as the number of witnesses and the length and/or scope of their presentations or statements.

**Written Closing Arguments or Briefs:** The parties may submit, at the Hearing Officer's discretion, a written Closing Argument summarizing and characterizing the information presented at the hearing, and providing legal authority in support of their position. Timelines for the submission of Closing Arguments shall be set by the Hearing Officer at the conclusion of the hearing.

**Closing of Hearing:** At the conclusion of all presentations, the Hearing Officer will close the hearing and set a date for the issuance of the written decision. The Hearing Officer may make an oral ruling at the conclusion of the hearing or take the case under advisement, but must in all cases issue a written opinion addressing and ruling on all issues raised by the Petitioner and indicating what corrective action, if any, the district must take. Formal findings of fact and conclusions of law, however, are not required. Any issue or claim raised by the parent that is left unaddressed by the Hearing Officer in his or her decision will be deemed to have been denied to the parent. ***The decision must be issued to both parties within fifteen (15) days after the hearing.***

**Decision Timeline:** A decision must be issued within forty-five (45) days after the date the Request for a Due Process Hearing is received by the district.

**Remedies and Relief:** The Hearing Officer must confine his or her orders and rulings to those matters which involve identification, evaluation, or placement of children under §504 and to the provisions of the regulations implementing §504. If a parent has raised issues or claims outside of the areas of identification, evaluation, or placement, that are not within the Hearing Officer's jurisdiction, the Hearing Officer will make appropriate findings to that effect either in the written decision or at any time prior to the issuance of a decision (for example, at a Pre-Hearing Conference). A Hearing Officer may not award attorneys' fees as a part of relief granted to a parent.

**Review Procedure:** If not satisfied by the decision of the Hearing Officer, a parent may seek review of the hearing decision in a court of competent jurisdiction, generally the closest federal district court.

**Complaints to the Office for Civil Rights (OCR):** At any time, a parent may file a complaint with OCR if he or she believes that the district has violated any provision or regulation of §504. The filing of a complaint does not affect the hearing process or the timelines set forth above. OCR addresses §504 complaints separately and independently of the local hearing process, in accordance with the guidelines set forth in OCR's Complaint Resolution Manual. See “[Questions and Answers on OCR’s Complaints Process](#)” for additional information and guidance.