

# Section 504

## GENERAL INFORMATION ABOUT SECTION 504

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SAMPLE

Model operating procedures created by



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# General Information about Section 504

## What is Required

Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 (“Section 504”) is a federal law designed to prohibit discrimination against individuals with a disability. Section 504 provides: “No otherwise qualified individual with a disability in the United States...shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance...” Section 504 is a broad antidiscrimination law that protects the rights of individuals with disabilities in any public school or other institution receiving federal funds to provide persons with disabilities, to the greatest extent possible, an opportunity to fully participate with their peers. For example, all qualified elementary and secondary public school students who meet the definition of an individual with a disability under Section 504 are entitled to receive regular or special education and related aids and services that are designed to meet their individual educational needs as adequately as the needs of students without disabilities are met. 34 CFR § 104.33. Section 504 also requires, among other things, that a student with a disability receive an equal opportunity to participate in athletics and extracurricular activities, and to be free from bullying and harassment based on disability.

## **Free Appropriate Public Education**

Section 504 requires the District to provide a free appropriate public education (“FAPE”), to each qualified student with a disability within the District’s jurisdiction, regardless of the nature or severity of the disability. Under Section 504, FAPE is the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of non-disabled students are met and are based on adherence to procedures governing educational setting, evaluation and placement, and procedural safeguards. 34 CFR §104.33.

Section 504 requires the District to meet the needs of students with disabilities as adequately as it does for students without disabilities. Specifically, “the quality of the educational services provided to students with disabilities must equal that of the services provided to nondisabled students.” This is a comparative standard, meaning that the focus is not on whether the services provided meet the identified needs of the student but on whether the District meets the needs of the student with a disability as adequately as the needs of students without disabilities.

Key features of FAPE under Section 504 include:

- Evaluation and placement procedures that guard against misclassification or inappropriate placement of students [34 CFR §104.35];

- Periodic reevaluation of students who have been provided special education or related services and prior to a significant change in placement [34 CFR §104.35(d)];
- Provision of regular or special education and related aids and services that are designed so that the individual educational needs of students with disabilities are met as adequately as the needs of non-disabled students are met [34 CFR §104.33(b)(1)(i)];
- Education of students with disabilities with non-disabled students to the maximum extent that this arrangement is appropriate for the needs of students with disabilities [34 CFR §104.34(a)];
- A system of procedural safeguards that is designed to inform parents of a school district's actions or decisions and to provide parents with a process for challenging those actions or decisions that includes notice; an opportunity for parents to review their child's records; an impartial due process hearing with an opportunity for participation by the student's parents or guardians and representation by counsel; and a review procedure [34 CFR §104.36].

The District is responsible for providing any reasonable accommodations or related aids or services that a student with a disability under Section 504 needs to ensure that the student has equal access to the services, programs and activities offered by the District, unless doing so would fundamentally alter the nature of the program or create an undue burden on the District. However, an undue burden is determined on a case-by-case basis, and cost considerations alone generally may not limit the District's responsibility to provide reasonable accommodations to qualifying students under Section 504. Neither the fundamental alteration nor undue burden defense may excuse the District of its obligation to provide students with disabilities a FAPE under Section 504. Rather, the District must make a reasonable, timely, and good-faith effort to identify reasonable accommodations, aids, or services to enable those students to have equal access to existing activities.

## Who is Protected Under Section 504?

A student with a physical or mental impairment that substantially limits a major life activity or major bodily function, as defined by law, and who does not otherwise qualify for special education services, may qualify for accommodations under Section 504. See [DETERMINATION OF ELIGIBILITY]. The District may not exclude a qualified student with a disability from its programs if the student can, with minor adjustments, be provided an appropriate education within the scope of the program or activity.

Under Section 504, the phrase "qualified person with a disability" means any person who has a **physical or mental impairment** that **substantially limits** one or more **major life activities**, who has a **record of such type of impairment**, or who is **regarded as** having

such an impairment.

- Section 504 defines “**physical or mental impairment**” as

(A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Examples of **physical or mental impairments** include, but are not limited to, contagious or noncontagious diseases and conditions, such as the following: orthopedic, visual, speech, and hearing impairments; cerebral palsy, epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; intellectual disability; emotional illness; dyslexia and other specific learning disabilities; attention deficit hyperactivity disorder; human immunodeficiency virus infection (whether symptomatic or asymptomatic); tuberculosis; drug addiction; and alcoholism.

- **Substantially limits** is not specifically defined by Section 504. The Section 504 Committee should consider the nature and severity of the disability as well as how long the disability is expected to last. The condition must restrict the individual in the conditions, manner or duration under which they can perform the major life activity such that they would be unable or significantly limited in ability to perform the activity compared to most people. The Section 504 Committee should use the following principles to make the determination:
  - A disability is present if the student’s physical or mental impairment “substantially limits” the ability of the student to perform a major life activity as compared to the average student in the general population (e.g., if it regularly takes a student with an impairment three hours to finish a type of homework assignment that takes other students only one hour to complete).
  - An impairment may be substantially limiting even if it does not prevent, significantly restrict, or severely restrict the individual from performing the activity.
  - An impairment may be substantially limiting but is considered minor or temporary/transitory if the duration lasts or is expected to last fewer than six months.
- A “**major life activity**” includes, but is not limited to, the following activities: caring for oneself, performing manual tasks, walking, seeing, hearing, eating, sleeping, standing, lifting, speaking, breathing, learning, concentrating, thinking,

communicating, interacting with others, and working. Determining whether the impairment substantially limits a student's learning is often critical to the Section 504 eligibility decision. However, major life activities include activities other than learning. Therefore, a student may be achieving academically and still have a qualifying disability if it limits another major life activity. For example, a student with asthma may be achieving academically, but still qualifies as eligible under Section 504 due to a substantial limitation in breathing.

- **Record of or regarded as having an impairment** - Section 504 may also protect students who do not have a handicapping condition but are treated as though they do because they have a history of, or have been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities. This is typically seen in students with histories of mental or emotional illness, cancer, etc. While these students may not have a Section 504 plan, such students are still protected from discrimination under Section 504 based on disability insofar as they allege a discriminatory action based on that history or perception.

## **Hidden Disabilities**

Students may also have hidden disabilities, which are physical or mental impairments that are not readily apparent to others. This includes, but is not limited to, conditions and diseases such as specific learning disabilities, anxiety, diabetes, epilepsy, poor hearing, low vision, heart disease, ulcers, and allergies. District and Campus Professionals must pay attention to whether a student may have a hidden disability and need services or support under Section 504. For example, a child exhibiting negative behaviors in the classroom or struggling academically may have an undiagnosed hidden disability.

## **Compliance and Enforcement**

The District must implement Section 504 plans and accommodations as written. No Campus or District Administrator or Personnel may alter or otherwise interpret the plan or deny accommodations granted to the student in the Section 504 plan. Any change to a student's Section 504 plan must be agreed upon by the student's Section 504 Committee in a Section 504 meeting. See [SECTION 504 COMMITTEE] and [SECTION 504 PLAN].

The Office for Civil Rights ("OCR") within the U.S. Department of Education has jurisdiction to enforce Section 504 in instances of discrimination, harassment, or retaliation against anyone based on disability. Section 504 may be enforced through the Department's administrative process or through the federal court system. See [OCR COMPLAINTS].

## **Examples of Disability Discrimination under Section 504**

Discrimination under Section 504 typically involves specific prohibited actions or affirmative obligations, such as:

- Denying a student with a disability the opportunity to participate in or benefit from an aid, benefit, or service provided by the District;
- Affording a student with a disability an opportunity to participate in or benefit from an aid, benefit, or service provided by the District that is not equal to that offered to others by the District;
- Providing a student with a disability an aid, benefit, or service that is not as effective as that provided to other students;
- Providing different or separate aids, benefits, or services to students with disabilities unless necessary to provide aides, benefits, or services that are as effective as those provided to other students; and
- Providing significant assistance to another agency, organization, or individual that discriminates on the basis of disability in providing an aid, benefit, or service to beneficiaries of the District's program.

### **Notice of Non-Discrimination**

The District must provide a general *Notice of Non-Discrimination* to stakeholders, indicating that it does not discriminate on the basis of disability or handicap. Specifically, the Notice should state that the District does not discriminate on the basis of disability in admission or access to or treatment or employment in its programs and activities. It must also identify the Section 504 Coordinator (i.e., the employee designated by the District to coordinate compliance with Section 504). Furthermore, the Notice should address the entire population of individuals with disabilities, not just individuals with specific impairments or types of impairments. Otherwise, OCR may find the District to be in violation of Section 504.

Methods of notification may include posting the Notice; publishing the Notice in newspapers and magazines; placing the Notice in District publications, including printed, electronic, and digital publications and media; and distributing memoranda or other written communications. The District must also include the Notice in any bulletins, announcements, catalogs, application forms, or other recruitment materials that are provided to participants, beneficiaries, applicants, or employees. The Notice should be published on the District's website and made available through the website's "search" function, where applicable, and should be included in the District's Parent/Student Handbook.

The District may incorporate this Notice into a single *Notice of Non-Discrimination* statement, which also includes discrimination on the basis of race, religion, sex, national origin, age, etc., to cover all applicable federal laws so long as the Notice contains all required information. The District may consult with OCR for assistance in drafting and/or revising the Notice to ensure compliance.

## Section 504 Coordinators

If the District has fifteen (15) or more employees, it must have at least one (1) designated Section 504 Coordinator tasked with compliance. The name of the Section 504 Coordinator, as well as his or her phone number, email address, and office address, must be identified, at a minimum, in the *Section 504 Parent Rights, Notice of Non-Discrimination*, Parent/Student Handbook, and District website.

Generally, the Section 504 Coordinator is responsible for coordinating and monitoring the District's compliance with Section 504, as well as state laws related to discrimination and harassment on the basis of disability. The Section 504 Coordinator also will be responsible for receiving, responding to, and investigating complaints alleging violations of Section 504 and other allegations of disability discrimination or harassment. See [SECTION 504 COMPLAINTS]. Finally, the Section 504 Coordinator oversees the Section 504 Chairpersons at each campus and coordinates and/or provides on-going staff development on Section 504 policies and procedures and program accommodations and modifications.

### Campus Section 504 Chairperson

Additionally, each campus shall have a designated Campus Section 504 Chairperson to be in charge of the Section 504 responsibilities on the campus. The Campus Section 504 Chairperson generally has the following responsibilities:

- Providing notice and consent forms, see [SECTION 504 PARENT RIGHTS];
- Coordinating Section 504 referrals, see [CHILD FIND AND REFERRAL];
- Determining who serves on a student's Section 504 Committee, see [SECTION 504 COMMITTEE];
- Developing Section 504 plans in compliance with the law, see [SECTION 504 PLAN];
- Communicating with Campus Personnel about students' Section 504 plans and individual needs;
- Monitoring the implementation of Section 504 plans on the campus to ensure compliance;
- Scheduling annual reviews of Section 504 plans, see [ANNUAL REVIEWS];
- Serving as a Section 504 resource, advisor, and liaison for the campus;
- Attending Section 504 trainings provided by the District and other



agencies/organizations;

- Ensuring that all relevant District and Campus Personnel are appropriately trained in Section 504 rules; and
- Maintaining records and documentation for all eligible Section 504 students on the campus in compliance with Section 504.

## **Relationship Between IDEA and Section 504**

Both the Individuals with Disabilities Education Act (“IDEA”) and Section 504 are federal statutes designed to protect students with disabilities within the District. A student who qualifies for special education services under the IDEA is also a qualified student with a disability under Section 504. However, a qualified student with a disability under Section 504 is not necessarily eligible for identification under the IDEA. In fact, programs and services provided by the District that are deemed to be appropriate to provide a student FAPE under the IDEA are to also be considered appropriate under Section 504. Thus, if a student with a disability is eligible under the IDEA, then the student is adequately accommodated for the purposes of Section 504. For this reason, it is generally not necessary or appropriate to provide an IDEA student with a Section 504 Plan since compliance with the IDEA is compliance with Section 504. However, if a student is determined not to be eligible under IDEA, the evaluation team should consider whether the student would, nevertheless, qualify under Section 504.

Both the IDEA and Section 504 mandate the provision of FAPE by the District, and courts have frequently held that the standard of FAPE under Section 504 is similar to the standard of FAPE under the IDEA. However, there are key differences between these two provisions. While FAPE is provided to students under the IDEA through special education and related services and implemented through an IEP document, FAPE under Section 504 consists of general *or* special education and related aids and services and may be implemented by any appropriate means, including, but not limited to, an IEP. The requirement to provide FAPE under Section 504 encompasses both students receiving services under the IDEA and pursuant to a Section 504 plan. Unlike the IDEA, once the District has offered a student FAPE, it has no duty under Section 504 to provide services to a student not enrolled in the public school program based on the personal choice of the parent.

Whereas the Office of Special Education and Rehabilitation Services (“OSERS”), another component of the U.S. Department of Education, administers the IDEA, OCR enforces Section 504. Moreover, while the IDEA is a grant statute that attaches many specific conditions to the receipt of federal IDEA funds, Section 504 is an antidiscrimination law that does not provide any type of funding to the District. And, unlike under the IDEA, Section 504 regulations do not require an individual to file a complaint with OCR and exhaust his or her administrative remedies before filing a private lawsuit.

The following IDEA and Section 504 Comparison Chart explains some of the main

differences between the IDEA and Section 504:

IDEA and 504 Comparison Chart		
Component	IDEA	Section 504
<b>Purpose</b>	Is a federal statute whose purpose is to ensure a free appropriate public education (FAPE) for children with disabilities who fall within one of the specific disability categories as defined by the law.	Is a broad antidiscrimination law that protects the rights of individuals with disabilities in any agency, school, or institution receiving federal funds to provide persons with disabilities, to the greatest extent possible, an opportunity to fully participate with their peers.
<b>Eligibility and Who is Protected</b>	<p>Covers eligible students ages <u>3-21</u> who have been identified as having a <u>particular disability</u> (specific disabilities defined under 34 CFR 300.8) and whose disability <u>adversely affects their educational performance</u> and/or ability to benefit from general education.</p> <p>Specific disabilities include: Autism, Deaf-blindness; Deafness, Emotional Disturbance, Hearing Impairment, Intellectual Disability, Multiple Disabilities, Orthopedic Impairment, Other Health Impairment, Specific Learning Disability, Speech Impairment, Traumatic Brain Injury, Visual Impairment including blindness.</p> <p>Decision of eligibility for IDEA is made by ARD Committee upon the completion of the administration of assessments and other evaluation measures. The ARD Committee is made up of the parent of the student; at least one general education teacher and one special education of the student; a district representative who is qualified to provide, or supervise, the provision of specially designed instruction to meet the unique needs of students with disabilities, is knowledgeable about the general education curriculum, and is knowledgeable about the availability of district resources; an individual who can interpret the instructional implications of evaluation results, any other individuals who have knowledge or special expertise regarding the student; and, whenever appropriate, the student.</p>	<p>Broader, or more inclusive than IDEA.</p> <p>Covers all persons with a “disability” from discrimination in educational settings based solely on their disability.</p> <p>“Disability” is defined as an individual with a physical or mental impairment that substantially limits one or more major life activities.</p> <p><u>Examples of Major Life Activities:</u> Seeing, hearing, eating, sleeping, standing, lifting, speaking, breathing, learning, reading, thinking, communicating and concentrating.</p> <p>Decision of eligibility is made by a Section 504 Committee upon the completion of the relevant assessments and other evaluation measures. The 504 Committee is made up of persons knowledgeable about the student, evaluation data, and available educational placement options.</p>
<b>Services</b>	FAPE: (1) Provides individual supplemental special education and related services and supports in addition to what is provided to students in the general curriculum to ensure that the child has access to and benefits from the	Requires schools to eliminate barriers that would prevent the student from participating fully in the programs and services offered in the general curriculum.

### IDEA and 504 Comparison Chart

Component	IDEA	Section 504
	<p>general curriculum. (2) Education and services provided free of charge to the parent. (3) Services must meet the standards of the State Education agency and services are provided (4) in accordance with an individualized education plan (IEP). (5) Services include an appropriate preschool, elementary, or secondary school education.</p>	<p>FAPE: (1) a recipient that operates a public elementary or secondary education program (2) shall provide a free appropriate public education to each qualified person with a disability who is in the district, regardless of the nature of the severity of the person’s disability.</p>
<p><b>Requirements for Delivering Services</b></p>	<p>Requires a written Individualized Education Program (IEP) with specific content addressing the disability directly and specifying educational services to be delivered (“special education” and related services) mandating transition planning for students 14 and over in Texas, as well as a Behavior Intervention Plan (BIP) for any child with a disability that has a behavioral issue.</p> <p>According to <i>Andrew F.</i>, a district must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. Only IDEA requires that the services provided meet the standards of the state education agency.</p>	<p>Does <u>not</u> require a written IEP but does require a documented plan. “Appropriate education” means comparable to the one provided to general education students. Requires the school to provide reasonable accommodations, supports, and auxiliary aides to allow the child with a disability to participate in the general curriculum.</p> <p>Services are often provided under a Section 504 plan.</p> <p>The quality of education services provided to students with or without disabilities must be equal.</p>
<p><b>Funding</b></p>	<p>Provides additional funding to states and local school districts to help cover the excess costs of providing special education to eligible students.</p>	<p>Does not provide any additional funding to states or local school districts. Additionally, IDEA funds may not be used to serve children found eligible under Section 504 only. State funding mechanisms must not result in placements that violate FAPE requirements under Section 504.</p>
<p><b>Evaluation Procedures</b></p>	<p>A full evaluation is required, using a variety of assessment tools and strategies to gather relevant functional and developmental information, including information provided by the parent that may assist the team in determining whether the child has a disability and the need for special education. Multiple assessment tools must be used to assess the child in all areas of the suspected disability.</p> <p>Written consent is <u>necessary</u> by parent or guardian before an initial evaluation is conducted.</p> <p>The initial evaluation must be conducted within 45 school days of receiving parental consent for the evaluation, as established by Texas law.</p>	<p>Concept of an evaluation under Section 504 is essentially the same as that of the IDEA. Evaluation draws on information from a variety of sources in the area of concern.</p> <p>Section 504 has no express requirement for obtaining written consent; OCR has concluded parental consent is necessary for the initial evaluation.</p> <p>No set timelines on how long a district has to conduct an initial evaluation.</p>

### IDEA and 504 Comparison Chart

Component	IDEA	Section 504
	<p>Requires a reevaluation every 3 years by IEP team to determine if services are still needed to address student disability unless the parent and other members of the IEP team agree through a Review of Existing Evaluation Data (“REED”) it is not necessary.</p> <p><u>Child Find under the IDEA:</u> Obligation to evaluate extends to all children with disabilities who are homeless children, children who are wards of the State, and children with disabilities attending private schools if those children reside in their jurisdiction. Not required to test all children for whom evaluations are requested. If district has no reasonable basis for suspecting that the student has a disability, it may refuse to conduct an evaluation.</p> <p><u>Parentally placed private school students:</u> IDEA requires the district in which the <i>private school is located</i> to evaluate the child. The home district must still evaluate the student’s IDEA eligibility upon the parent’s request, even if the student attends a private school in another school district.</p>	<p>Requires district to establish procedures for “periodic” reevaluation of eligible students. Reevaluation procedures, consistent with the IDEA, are one means of meeting the requirement.</p> <p><u>Child Find under Section 504:</u> Annually undertake to identify and locate every qualified person with a disability residing in the district’s jurisdiction who is not receiving a public education. In addition, districts must take appropriate steps to notify students with disabilities and their parents or guardians about this child find duty. Obligation to evaluate extends to privately enrolled students and also to those children residing in hospitals and universities. Homeless children within district boundaries are also included. Like the IDEA, district is <u>not</u> required to test all children for whom evaluations are requested.</p> <p><u>Parentally placed private school students:</u> Section 504 regulations state that the <u>district of residence</u> (based on parental residence) is responsible for child find and evaluations.</p>
<b>Independent Evaluation</b>	Allows parents to request an Independent Educational Evaluation (IEE) at the school district’s expense if parent/guardian disagrees with the evaluation obtained by the school district. The Independent Evaluator must meet the same criteria as the district requires for their employees and must be approved by all parties.	Does not expressly allow independent evaluations at the district’s expense or the ability to request an independent educational evaluation. OCR has ordered reimbursement of the costs of an IEE as a remedy for the district’s failure to evaluate.
<b>Procedural Safeguards</b>	<p>Requires written notice to parent/guardian prior to identification, evaluation, and/or placement of child.</p> <p>Written notice prior (referred to as Prior Written Notice/PWN) to change placement or change in services.</p>	<p>Requires districts to extend to the parents of a student with a disability in connection with identifying, evaluating, or determining an educational placement of a child the following:</p> <ul style="list-style-type: none"> <li>• Notice</li> <li>• An opportunity for the parents to examine relevant records;</li> <li>• An impartial hearing with an opportunity for participation by the parents and representation by counsel; and a</li> <li>• Review procedure.</li> </ul>
<b>Least</b>	Must ensure that to the <i>maximum extent</i>	Does not use the term LRE, but does provide that

### IDEA and 504 Comparison Chart

Component	IDEA	Section 504
<b>Restrictive Environment</b>	appropriate, children with disabilities are educated with their nondisabled peers, and special classes or separate schooling only occurs if the <i>nature or severity of the disability</i> is such that education in regular classes with the use of supplementary aids and services <i>cannot be achieved satisfactorily</i> ; requires an express <i>continuum</i> of alternative placements.	a district shall place a student with a disability in the general education environment unless the district demonstrates the education of the student in the general environment with the use of supplementary aids and services cannot be satisfactorily achieved. Requirement of comparable facilities. No express continuum of alternative placements provision, but same general concepts have been applied under Section 504 through OCR interpretations.
<b>Placement Decisions</b>	<p>Requires schools to use information from a variety of sources, consider all documented information, and use a team approach to make placement decisions.</p> <p>Team members are specifically identified under IDEA, and must be knowledgeable about the child, evaluation data, and the continuum of placements and services available. Parents are a necessary member of the IEP team.</p> <p>Requires that student receives a <i>free appropriate public education</i> with his/her nondisabled peers in the <i>least restrictive environment (LRE)</i>. IEP meeting is required before any change in placement or services is made.</p> <p>Placement decision is (1) determined at least annually; is (2) based on the child's IEP, and (3) is as close as possible to the child's home.</p>	<p>Requires schools to use information from a variety of sources, consider all documented information, and use a team approach to make eligibility decisions.</p> <p>Team members should be knowledgeable about the child, evaluation data, and the continuum of placements and services available. (Section 504 Committee decision). Unlike the IDEA, Section 504 does not specifically identify individuals who must participate in the decision-making process.</p> <p>The student must receive a <i>free appropriate public education (FAPE)</i> with his/her nondisabled peers.</p> <p>The "placement decision" under Section 504 is the determination of eligibility, the special education programming, related services, and accommodations that a student with a disability must receive in order to receive FAPE and the setting in which he/she will be educated.</p>
<b>Due Process</b>	<p>Requires districts to provide resolution sessions and due process hearings (impartial hearing) for parents/guardians who disagree with identification, evaluation, and/or implementation of an IEP or student's Least Restrictive Environment (LRE) placement.</p> <p>Parents can also utilize the state educational agency's complaint resolution process.</p>	<p>Requires districts to provide a grievance procedure (impartial hearing) for parents and students who disagree with identification, evaluation, implementation of plan, or LRE placement. 504 Coordinator identified.</p> <p>Due process hearing not required before Office for Civil Rights (OCR) involvement or court action unless student is also covered by IDEA.</p>
<b>Remedies</b>	Circuit Courts consistently have held that the IDEA does not allow parents to recover monetary damages for a denial of FAPE.	Monetary damages may be available for a denial of FAPE under Section 504.
<b>Discipline/MDR</b>	The IDEA sets forth the following requirements	An MDR is conducted in substantially the same

### IDEA and 504 Comparison Chart

Component	IDEA	Section 504
	<p>for conducting a MDR: Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the child's IEP team (as determined by the parent and the LEA) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine:</p> <ol style="list-style-type: none"> <li>1. If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or</li> <li>2. If the conduct in question was the direct result of the LEA's failure to implement the IEP</li> </ol> <p>Districts must continue to provide educational services for IDEA students who have been suspended for more than 10 school days or expelled.</p>	<p>way, regardless of whether the student is IDEA-eligible or covered only under Section 504.</p> <p>Unlike the IDEA, Section 504 has no explicit provision stating districts must provide FAPE to students with disabilities who are suspended or expelled.</p>

### **Application to Charter Schools**

Any charter school receiving federal financial assistance directly or indirectly from the District is obligated to comply with Section 504. Thus, these provisions are equally applicable to charter schools.

**[ADD ADDITIONAL DISTRICT PROCEDURES AS APPROPRIATE]**

### **Evidence of Implementation**

- Policies and Procedures Relating to Child Find and Referrals for Section 504
- Published *Notice of Non-Discrimination*
- Section 504 Plans
- Designated Section 504 Coordinator
- Section 504 Training Provided to Campus Personnel, including Campus Section 504 Chairperson
- Section 504 Training Provided to Section 504 Coordinator
- Documentation of Section 504 Committee Meetings

- Documentation of Implementation of Section 504 Plans
- Provision of FAPE to Qualified Students under Section 504
- Section 504 Evaluations and Reevaluations
- *Section 504 Parent Rights*
- Section 504 Notices
- [DISTRICT FORMS]

## **Resources**

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

[Protecting Students With Disabilities: FAQs about Section 504 and the Education of Children with Disabilities - U.S. Department of Education](#)

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

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

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

[Notice of Non-Discrimination - U.S. Department of Education](#)

[The Civil Rights of Students with Hidden Disabilities Under Section 504 - U.S. Department of Education](#)

[Dear Colleague Letter - U.S. Department of Education \(Jan. 25, 2013\)](#)

[Letter to Williams - U.S. Department of Education \(Mar. 14, 1994\)](#)

[Letter to Zirkel - U.S. Department of Education \(Aug. 23, 1993\)](#)

[Educator’s Quick Reference for Section 504 - Region 20](#)

[Keys to Understanding Section 504 & IDEA - Region 20](#)

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

[ADDITIONAL DISTRICT RESOURCES]

## **CITATIONS**

Board Policy FB; 29 USC 794; 42 USC 12102; 28 CFR 108(c); 34 CFR 104.31, 104.33(a), Appendix A to 34 CFR 104.33, 104.37, 104.4, 104.7, 104.8(a)