

## Section 504 Resource Guide for Families and Staff

### INTRODUCTION

Section 504 of the Rehabilitation Act of 1973 as amended, is a civil rights law which prohibits discrimination against individuals with disabilities. Title II of the Americans with Disabilities Act of 1990 (ADA) reauthorized as the ADAAA of 2008 extends this prohibition against discrimination to the full range of state and local government services, programs, or activities. Together, Austin Independent School District (AISD) refers to these laws as “Section 504.” To qualify under Section 504 the student must have “a physical or mental impairment that substantially limits one or more major life activities.” If the student is eligible under Section 504, the district shall develop a Section 504 plan.

### ELIGIBILITY UNDER SECTION 504

Students who have a disability, have a record of having a disability, or who are regarded as having a disability, are all protected under Section 504. However, accommodations through a Section 504 plan are only available to students who currently have a disability. Therefore, eligibility depends on whether the student’s condition meets the definition of “disability” under Section 504.

Under Section 504, a “disability” is a physical or mental impairment that substantially limits a major life activity. To determine eligibility, the Section 504 Team will consider first whether the student has a physical or mental impairment and whether the impairment substantially limits a major life activity.

1. A physical or mental impairment means: a physiological disorder or condition, a cosmetic disfigurement, an anatomical loss, or a mental or psychological disorder (e.g. a specific learning disability such as dyslexia, asthma, or attention deficit hyperactivity disorder).
2. A major life activity is any act a person performs to function, which includes but is not limited to: hearing, speaking, lifting, performing bodily functions, breathing, thinking, caring for oneself, bending, performing manual tasks, seeing, breathing, eating, reading, sleeping, concentrating, walking, standing, or communicating.

The determination of eligibility is made without regard to mitigating measures (exceptions include eyeglasses or contact lenses). A mitigating measure is any aid that alleviates the impact of the impairment such as medication, accommodations, or assistive technology. A transitory impairment, an impairment with an actual or expected duration of six months or less, does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period of time (e.g. cold, flu). If a condition is episodic, the condition may qualify. Determination of whether a disabling condition substantially impairs a major life activity must consider the impact of the condition at times when the condition is active, regardless of whether the student is currently in a state of remission or is asymptomatic.

## PROCESS FOR DETERMINING ELIGIBILITY

Parents, school personnel, or students themselves may initiate a Section 504 referral if the student has or is suspected to have a disability. Referrals should be directed to the school-level Section 504 Coordinator who will obtain parent consent and convene a Section 504 initial evaluation to determine if the student is eligible under Section 504. The campus Section 504 team should consider evaluations or diagnoses provided by the parents, evaluations that may have previously been conducted by AISD for eligibility consideration under the Individuals with Disabilities Education Act 2004 (IDEA), and a variety of sources of data as necessary in the eligibility determination process. Examples of data sources that may be considered include information provided by the parent, outside evaluations, medical reports, teacher input, standardized test results, discipline records, school health information, work samples, and attendance information. While the Section 504 team will consider the recommendations provided by doctors or other professionals who work with the child, it is the Section 504 team's responsibility to document the review of multiple sources of information to determine Section 504 eligibility.

## SECTION 504 PLANS

A Section 504 plan describes the unique, free appropriate public education (FAPE) that the student needs and the appropriate setting in which to receive those services. If the Section 504 team determines that the student is eligible under Section 504, the Section 504 team should then decide whether a Section 504 plan is necessary. Not all students with disabilities need a Section 504 plan. In some cases, the disability is such that the student does not need any particular accommodations while at school. An accommodation changes how a student participates in the educational environment in order to overcome challenges or barriers presented by their disability. If a Section 504 plan is necessary, the Section 504 team should consider, on an individual basis, accommodations to enable the student to access the educational environment.

Parents and school personnel should monitor their student's progress to determine if and when adjustments to the Section 504 plan should be made. It is AISD policy that students Section 504 plans be reviewed at least annually. Also, the Section 504 team must meet every three years at minimum to reevaluate the student's eligibility. Aside from the minimum requirements, parents may request meetings to review plans or consider additional eligibility as needed by contacting the campus Section 504 Coordinator. The school-level Section 504 Coordinator is responsible for distributing the Section 504 plan to teachers and staff with educational need to know.

## COMPLAINT PROCESSES UNDER SECTION 504

AISD encourages parents to raise concerns with the school-level Section 504 Coordinator and/or the school principal, and to resolve issues at the campus level. In addition, two processes are available to parents who have concerns that their student has faced discrimination based on disability. First, parents may challenge any school decision relating to the identification, evaluation, or placement of their student under Section 504 by requesting an impartial hearing. Second, parents may file complaints of any other kind of discrimination based on the student's disability through the AISD Grievance procedures. Complaints may be filed with the Office for Civil Rights alleging violation of Section 504.

## RELATIONSHIP WITH SECTION 504 AND IDEA

Please note that Section 504, a civil rights law, is different from the Individuals with Disabilities Education Act ("IDEA"), a funding statute. Both the IDEA and Section 504 guarantee students with disabilities access to a free and appropriate public education. However, there are major differences between them, specifically in

the criteria used to determine eligibility and the definition of a free and appropriate public education. For a

student to receive special education services under the IDEA, the student's educational performance must be adversely affected by the disability and the child must be in need of special education services (i.e. specially designed instruction). Section 504 is not limited to specific disability categories and does not require evidence that the disability adversely affects the student's educational performance. Students who are found not to be eligible for services under the IDEA may be eligible for accommodations under Section 504.

While students who are eligible under IDEA are also often considered to be students with disabilities protected from discrimination under Section 504, all accommodations for the student's disability are made through the IDEA process. Students who qualify for special education programs and services with a disability listed in the IDEA have their educational plan written in an IEP. That is, a student should not have an Individualized Education Program or "IEP" under the IDEA and also a 504 Plan. Moreover, the Section 504 plan usually outlines the accommodations and services that will allow a child to access the curriculum. A Section 504 plan is less specific than an IEP.

## PARENT RIGHTS

Parents are entitled to the following procedural safeguards under Section 504:

- Notice of any action related to the identification of their child as a student with a disability
- Notice regarding any evaluation of their child to determine eligibility under Section 504
- Notice regarding the accommodations plan or placement for their child under Section 504
- Notice regarding changes in the identification, evaluation, or placement of their child
- An opportunity to review records relevant to their child's identification, evaluation, or placement under Section 504
- An impartial hearing to contest a school decision regarding the identification, evaluation, or placement of their child, with opportunity for participation by the parent with or without representation by counsel
- An opportunity for an impartial review of the impartial hearing officer's decision

## SECTION 504 CAMPUS & DISTRICT COORDINATORS

Each AISD campus has its own school-level Section 504 Coordinator who is responsible for coordinating identification, evaluation, and placement decisions for students who are eligible under Section 504. Families may contact the campus principal for more information on Section 504 Services. District level contacts are provided below:

- Laura Wilk, District 504 Coordinator - Secondary Campuses, [Laura.Wilk@austinisd.org](mailto:Laura.Wilk@austinisd.org)
- Kim Pollard, District 504 Coordinator - Elementary Campuses, [Kimberley.Pollard@austinisd.org](mailto:Kimberley.Pollard@austinisd.org)
- Dr. Cherry Craig Lee, Section 504 and Dyslexia Director, [Cherry.Lee@austinisd.org](mailto:Cherry.Lee@austinisd.org)

## ADDITIONAL RESOURCES

U.S. Department of Education, Office for Civil Rights:

<https://www2.ed.gov/about/offices/list/ocr/504faq.html>

U.S. Department of Education, Parent Resources Guide to Section 504 in Public and Secondary School:

<https://www2.ed.gov/about/offices/list/ocr/docs/504-resource-guide-201612.pdf>