

*Policies and Procedures  
Related to the Education of  
Disabled Students According to  
Section 504 of the  
Rehabilitation Act Of 1973 And  
Amendments To The Act Effective  
January 1, 2009*

*Brazos School for Inquiry and Creativity  
410 Bethel Lane  
Bryan, TX 77802*

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## **Section 504 of the Rehabilitation Act of 1973 Regulation**

No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance.

29U.S.C.§794(a)(1973)

**Brazos School for Inquiry and Creativity  
Section 504 Contact List**

**Section 504 Coordinator  
Title IX Coordinator**

Brian Rosas, M.Ed.  
Director of Special Education  
Brazos School for Inquiry and Creativity  
410 Bethel Lane  
Bryan, Texas 77802  
Phone (979) 775-2152

**504 COORDINATORS  
2012-2013**

Bryan/College Station

Christopher Osgood, Principal

Tidwell

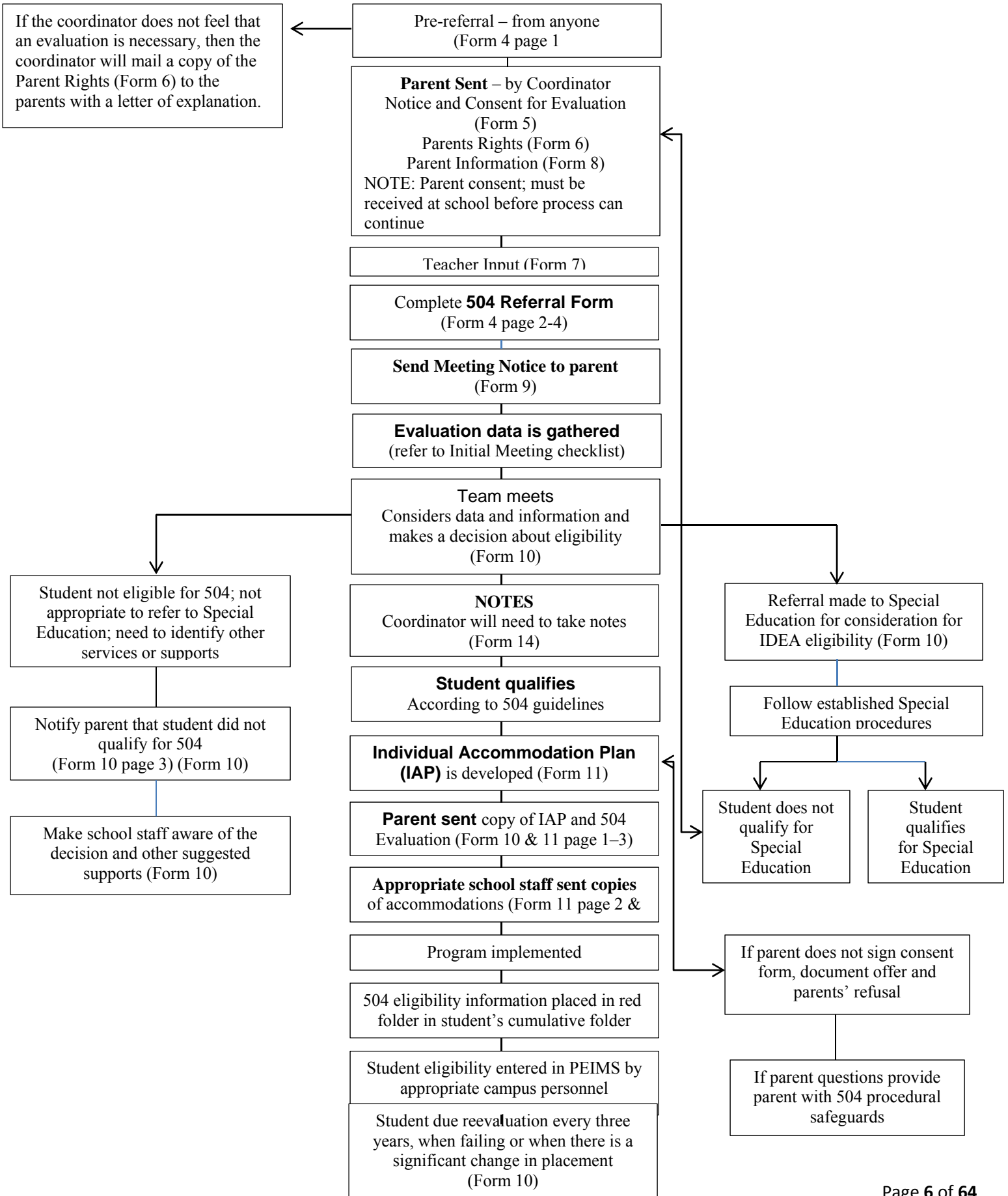
Barry Ward, Principal

Southwest

Tiffany Rock, Principal

# **Section 504 Procedures**

## Section 504 Procedural Flowchart



## Decision-Making Process by the 504 Committee

### **I. Describe the child – Parent to receive notice, rights, and sign consent for evaluation data to be gathered**

- Evaluation Data (Vision/Hearing form to be included)
- Information from Team Members
- Strengths
- Weaknesses
- Performance

Do we have all the information we need?

### **II. Is the child disabled under 504?**

Any person who has (1) a physical or mental impairment which (2) substantially limits one or more of such persons' major life activities

or

has a record of such impairment\*

is regarded (perceived) as having such an impairment\*

\*District only has the duty to not discriminate against these students. There is no duty to refer, evaluate, or place them.

### **III. Is there a substantial limitation related to the educational process? (Student can have a qualifying condition without the substantial limitation)**

### **IV. If yes, what does the student need in order to be afforded access to a free appropriate education?**

- Interventions
- Modifications

### **V. What support will provide the student with the appropriate services determined above?**

- Least restrictive environment
- Comparable facilities

### **VI. Who will be responsible for providing services, follow-up, case management, etc.?**

### **VII. How will progress be reviewed?**

- Follow-up
- Reevaluation
- Change in placement

### **VIII. Campus 504 coordinator will contact the parent and make sure the consent form for services is signed before school staff is notified.**

### **IX. Campus 504 coordinator notifies appropriate school personnel and distributes modifications/behavior plans.**

## Procedure Checklist

- Pre-referral from
  - o Date Received \_\_\_\_\_
- Parental Consent and Information (Form 5, 6 & 8)
  - o Date Sent \_\_\_\_\_
  - o Date Received \_\_\_\_\_
- Teacher Input from each teacher (Form 7)
- Student Referral Form completed by coordinator and nurse (Form 4 page 2-4)
- Decide on date for meeting and invite committee members to attend.  
*Members include but are not limited to: Administrator, counselor, teacher and student (secondary). Other staff members may be included on an as needed basis i.e. Nurse, Cafeteria personnel, LSSP, assistive technology coordinator etc.*
- Send Notice of Section 504 Meeting sent to parent (Form 9)

### Initial Meeting Checklist

- Complete Section 504 Evaluation (Form 10)
- Attendance Report
- 1st Semester and Second Semester Grades
- Transcript (if applicable)
- Complete Notes (Form 11 page 5)
- Accommodation Plan (Form 11 page 1-3)
- Mail home final documents (Form 10 and 11 page 1-3)
- Distribute Accommodation Plan to appropriate staff (Form 11 page 7)

### Folder Information

- Staple Documentation of Parent Guardian Contact to the front of red student folder (Form 11 page 6)
- Staple Notes page to the back of red student folder (Form 11 page 5)
- PEIMS information is entered by appropriate campus personnel. *NOTE this is how the information is placed into E-School plus*
- Place all completed forms (above) in red student folder.

Student Name: \_\_\_\_\_

Meeting Date: \_\_\_\_\_

Coordinator: \_\_\_\_\_



# **Section 504 Operational Guidelines**

## **Operational 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 or homeschool) 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/or place the Notice in locations likely to be seen by parents of eligible students (such as supermarkets, pediatrician's offices, etc.). Additionally, every teacher within the District should have information regarding the District's overall early intervention process, understand how to initiate a §504 Referral and know how to identify students who should be referred.

**2. Referral.** When a §504 referral has been initiated (using the district 504 pre-referral form), the Section 504 Referral Form [hereinafter, "Referral Form"] should be completed by the Campus §504 Coordinator [hereinafter "Coordinator"]. The Referral Form is designed to gather information about the student. Most of the information will be found in the student's cumulative folder; however the nurse will probably have this information. From that basic information, the Coordinator will determine whether a §504 Evaluation is necessary. If no §504 Evaluation is required, the Coordinator shall forward the Parent Rights form to the parents, with a note explaining why the Referral did not lead to a §504 Evaluation at this time.

**3. Consent for Evaluation.** If a §504 Evaluation is necessary, the Coordinator should send to the parent Notice of Parent Rights under §504 [hereinafter, "Parent Rights"], together with a Notice and Consent for Initial Evaluation under §504 Form [hereinafter, "Notice and Consent"], and a Parent Input for Section 504 Evaluation Form [hereinafter, "Parent Input"]. If no parental consent is received for §504 Evaluation, the Coordinator should remind the parent every semester (or at other intervals as determined by the District) of the District's continued desire to conduct an Evaluation under §504.

**4. Evaluation.** When the consent is received from the parent, the Coordinator should:

- a. Gather evaluation data and coordinate/direct the completion of the various Input Documents. The evaluation data consists of information from a variety of sources, including efforts and results of early intervention activities, aptitude and achievement testing, current grades, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; the Teacher Input form to be completed by one or more teachers, and the Parent Input form with information about the student's activities/behaviors at home, together with any other data the parent would like the Committee to consider. 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:
  - 1) 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;
  - 2) Include those tailored to assess specific areas of educational need and are not merely designed to provide a single intelligence quotient;

3) 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. Determine who will be in the group of knowledgeable people [hereinafter, the "§504 Committee" or "Committee"] (including persons with knowledge of the child, the meaning of the evaluation data and the placement options). Brazos School for Inquiry and Creativity (BSIC) members include but are not limited to: Administrator, counselor, teacher and student. Other staff members may be included on an as needed basis i.e. Nurse, Cafeteria personnel, LSSP, assistive technology coordinator etc.

d. Schedule a §504 Evaluation by the Committee.

e. Give the parents notice of the time and place of the evaluation meeting, inviting the parent to attend, however the meeting will still take place if the parent is unable to attend. Written notice, while not required, is preferred, and can be accomplished utilizing the Notice of Section 504 Meeting form.

At the §504 Evaluation, 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 the Parent and Teacher/Administrator input forms;

b. Ensure that all information reviewed in the evaluation is documented and carefully considered;

c. Complete the Section 504 Evaluation form. If the student is determined to be eligible [hereinafter, "eligible student"], the Committee moves on to the Section 504 Student Accommodation Plan [hereinafter, "Accommodation Plan"] form to develop accommodations. If no eligibility is found, the parents are so informed in writing.

At the conclusion of the Evaluation/Placement meeting, the Coordinator provides notice to the parent (Notice of Section 504 Evaluation Results form) of the 504 Committee's findings, and copies of the completed Evaluation form and the Accommodation Plan (if eligible).

**5. Records.** Brazos School for Inquiry and Creativity Section 504 records, including any evaluation data, shall be kept in a separate §504 folder under the control of the Coordinator. The District will maintain the confidentiality of §504 records as required by the Family Educational Rights and Privacy Act (FERPA). Where §504 records are kept separately from the cumulative folder, a reference to the records and their location will be placed in the cumulative folder to ensure that the campus with responsibility for the student is aware of its §504 obligations to the eligible student and that personnel and third-party contractors who have a duty to implement the plan have access to necessary records including the plan itself.

**6. Free Appropriate Public Education (FAPE).** No eligible student may be excluded by the District from receiving a public elementary or secondary education. When considering the educational placement for eligible students, the 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. The Committee may place an eligible student in a program that the District does not operate in order to satisfy this requirement, but in so doing, the District remains responsible for ensuring that the requirements of §504 are met.
- 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. Should the Committee determine that placement in a program not operated by the District is required for the eligible student to receive FAPE, the District shall ensure that adequate transportation is provided to and from the program at no greater cost than would be incurred by the eligible student or his or her parents or guardians if the student were placed in the program operated by the District. 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 athletic events, purchases of yearbooks, gym clothes, etc.). When the District has made available a FAPE as required by §504, and the eligible student or his or her parents or guardians 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. Least Restrictive Environment (LRE).** The 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 possible appropriate to the needs of the eligible student. The 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 Committee place an eligible student in a setting other than the regular classroom, it shall take into account the proximity of the alternative setting to the eligible student's home.

**8. Nonacademic Services & Extracurricular Activities.** The District shall ensure that the provision of nonacademic 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 handicapped persons, 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 service and activities.
- b. Eligible students participate with nondisabled students to the 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 District 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.

Disabled students 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 District will offer disabled students 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 courses that are not separate or different.

**Comparable Facilities.** If the District operates a facility that is identifiable as being for disabled students, the District will ensure that the facility and the services and activities provided there are comparable to the other facilities, services and activities of the District.

**9. Implementation of the Accommodation Plan.** The Coordinator (or designee) should ensure that the student's Accommodation Plan is delivered to each teacher, campus administration, and any other employee with or third-party contractor who has responsibility to implement the plan. Monitoring of Accommodation Plan implementation should be accomplished through the Districts teacher appraisal process, and through walkthroughs and informal checks of the student's academic, behavioral and social progress by the Coordinator.

**10. Re-Evaluation.** Annually (preferably at the end of each school year), the 504 Committee should meet to conduct a re-evaluation. Give the parents notice of the time and place of the re-evaluation meeting, inviting the parent to attend. Written notice, while not required, is preferred, and can be accomplished utilizing the Notice of Section 504 Meeting form. If the student remains eligible, the Committee should focus on the student's changing needs due to the effects of different classroom subject matter, school demands and other factors for the school year to come. Should the Committee determine that the student is no longer eligible; the Committee should dismiss the student from 504. The parent shall be given notice of the results of the re-evaluation.

**11. Discipline.** Should the District attempt 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 conduct an evaluation. Prior to the evaluation, the Coordinator shall give the parents notice of the time and place of the evaluation meeting, inviting the parent to attend if that is the district's policy.

Written notice, while not required, is preferred, and can be accomplished utilizing the Notice of Section 504 Meeting form. The Committee's evaluation should determine: (1) was the conduct in question caused by, or directly and substantially related to the student's disabilities?; and (2) was the conduct in question the direct result of the school's failure to implement the student's §504 plan? If a link is found, a disciplinary removal of longer than ten consecutive school days cannot occur.

Removals for less than ten days can be effected without §504 Committee approval, 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). The Committee will meet to conduct an evaluation prior to the tenth cumulative day of removals during a school year, to determine: (1) was the conduct in question caused by or directly and substantially related to the student's disabilities? and (2) was the conduct in question the direct result of the school's failure to implement the student's 504 plan? Prior to the evaluation, the Coordinator shall give the parents notice of the time and place of the evaluation meeting, inviting the parent to attend if that is the district's policy. Written notice, while

not required, is preferred, and can be accomplished utilizing the Notice of Section 504 Meeting form. If at the evaluation meeting a link is determined, the disciplinary removal cannot occur.

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

**12. Interaction with Special Education.** Each student referred and evaluated for special education who does not qualify and each student dismissed from special education shall be evaluated for possible 504 eligibility. If at any time the §504 Committee determines that the disabled student needs special education or related aids and services in order to receive educational benefit, a special education referral should be initiated.

**13. Interaction with Texas Dyslexia Program.** In accordance with State Board of Education Rule and the Revised Procedures Concerning Dyslexia (Blue Book), prior to testing a student individually for Dyslexia and/or prior to placing a student in the Dyslexia Instructional Program, the District must refer and evaluate under Section 504, utilizing forms 10 and 13. Placement of a §504-eligible student into the Dyslexia Instructional Program may only be accomplished by a properly constituted §504 Committee. If at any time the §504 Committee determines that the disabled student needs special education and related services in order to receive educational benefit, a special education referral should be initiated. Should a student already be special education eligible, a dyslexia evaluation for that student must occur under the direction of the student's ARD Committee.

**14. Interaction with regular education Early Intervention efforts.** In an effort to meet the needs of struggling students as early as possible, and to reduce the over-identification and misidentification of students in both Section 504 and special education, the District uses an early intervention process, referred to as Response To Intervention (RTI). This simple, campus-based process is designed to assist students struggling for any number of reasons (family issues, lack of motivation, poverty, etc.) and in any number of ways (academically, socially, behaviorally) by providing, appropriate to the student's needs, differentiated instruction, as well as additional regular education programs, services and opportunities that may vary from campus to campus. Data from these efforts is shared with the parent, and will become part of any Section 504 or special education evaluation. These efforts are available to all students, including students with disabilities. Should regular education, together with these early intervention efforts be insufficient to meet the disability-related needs of the struggling student, the District will seek parental consent for an evaluation under Section 504 or special education, as appropriate to the student.

**15. 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 disabled students. The system shall include notice, an opportunity for the parent or guardian of the disabled student to examine relevant records, an impartial hearing with opportunity for participation by the student's parent or guardian and representation by counsel, and a review procedure. The impartial hearing is governed by the District's Procedures for §504 Due Process Hearings. Parents of eligible students may also present grievances to the Section 504 Coordinator.

**16. Parent Language.** If the District determines that the dominant language of the parent is Spanish, the District will ensure 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.

**17. Duty to Not Discriminate.** The District shall ensure 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 any District program or activity.

**18. Retaliation prohibited.** No District officer, employee, or contractor shall retaliate against any person because of his or her exercise of rights under Section 504.

**19. 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 harassment is found pursuant to an investigation, and the District believes that the harassment has adversely impacted upon the ability of a disabled student to have equal access to the District's programs or activities, or the disabled 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 the student's accommodation plan are required.

**20. Review Procedure.** Should the parent disagree with the identification, evaluation, or placement decision of a §504 Committee or the decision of a §504 hearing officer, the parent may appeal to state or federal court, or seek relief pursuant to a grievance to the District's §504 Coordinator.

## **Brazos School for Inquiry and Creativity Red File Procedures**

All BSIC Campuses shall have an administrator designated as Chair of the 504 Committee.

**Identification:** Annually, each campus shall compile and maintain a report listing the names of all currently identified 504 students assigned to their building adding those who may enter during the school year.

**Coding in TxEIS:** All 504 Administrators will instruct the appropriate staff person on their campus to ensure that the 504 indicators on the district defined screen in TXEIS are correctly marked. Note that a student with a disability/504 status is not automatically coded as being in an at-risk situation. Students are coded “at risk” only if they meet one or more of the statutory criteria for being in an at-risk situation (see TEC §29.081, Compensatory and Accelerated instruction).

**Newly Identified 504 Students:** As new 504 students are identified during the year on your campus, their electronic files must also be updated to reflect 504 status on the district defined screen in order to ensure accuracy of the report system. Additionally the Red Sheet (see file maintenance below) indicating existence of a 504 file should be placed in the student’s cum file.

**No Shows:** After the beginning of the school year, if a campus 504 Administrator determines that a 504 file belongs to a student who is a “no show” (student has not enrolled in Brazos School for Inquiry and Creativity and campus has not received a request for records) both the student cum and 504 files should be transferred back to the District office—again using secure transfer/sign off methods to provide documentation.

**File Maintenance:** Red—504 folders will be stored separately from the student cum folders under the supervision of the campus 504 Administrator (note that 504’s may be stored in the same records room location as the cumulative folders but in a different section, or in a different room location in lockable storage as determined by the 504 Administrator. A notice (preferably Red sheet of paper) should be placed in the cumulative file to indicate location of the 504 file and access information. Campuses may either replace the red sheet in cum files arriving from a prior school with a new red sheet indicating location and access procedures for campus 504 files, or a label with that information may be placed on the existing red sheet. Records must be kept identifying persons accessing files from agencies and other non-school personnel. A list of the 504 Administrators for each campus will be made available to campuses (and in the 504 file on the z: drive) and updated annually.



## Section 504 Due Process Hearing Procedures

**Right to Due Process.** In the event a parent or guardian [hereinafter “parent”] wishes to contest an action or omission on the part of the District with regard to the identification, evaluation, or placement of a disabled child under §504 of the Rehabilitation Act of 1973 [“§504”], the parent has a right to an impartial hearing before an impartial hearing officer. Omissions on the part of the District with regard to a disabled child might include, for example, the District's 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 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 expense. If a parent is to be represented by a licensed attorney at the due process hearing, he or she must inform the District's §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 §504 Coordinator and the appointed hearing officer of that fact in writing shall constitute good cause for a continuance of the hearing date. (*See "Continuances" below*).

**Initiation of Due Process Procedures.** A parent who wishes to challenge a 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's §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. The written request may be made on a form provided by the District for that purpose. If an intent to seek a due process hearing under §504 is not clear from the face of a Request, the District's §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 toll the time lines set forth in these procedures (meaning that such time will not count toward the time line days specified in these procedures). If after such communication, the District 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. (*See "Pre-Hearing Conferences" below*).

**Appointment of a Hearing Officer.** Within fifteen (15) days of the date of receipt of a clear Request for a Due Process Hearing, the District 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 issue in a review of the Hearing Officer's opinion by a court of competent jurisdiction (*See "Review Procedure" below*), or in a complaint to the appropriate Office for Civil Rights regional office (*See "Complaints to the Office for Civil Rights (OCR)" below*).

**Scheduling of Hearing.** The appointed Hearing Officer shall issue an Order Setting Hearing Date to the parent and the District's §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) 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 bases 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. (*See also "Submission of Documentary Exhibits" below*).

**Recording.** Instead of a formal written transcript produced by a court reporter, the entire due process hearing will be tape-recorded. The parent may obtain a copy of the tape recording 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 (*See "Review Procedure" below*), the District will prepare a written transcript of the hearing tape 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, ask a witness a certain question.

**Format for Presentations.** The parent will present its case first, by making an opening statement which 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. Time lines 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 Time line.** 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 time lines 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.

**§504 Child Find Notice**  
[To be placed on District letterhead]

Pursuant to Section 504 of the Rehabilitation Act of 1973, the District has a duty to identify, refer, evaluate and if eligible, provide a free, appropriate public education to disabled students. For additional information about the rights of parents of eligible children, or for answers to any questions you might have about identification, evaluation and placement into Section 504 programs, please contact the District's Section 504 Coordinator \_\_\_\_\_ at \_\_\_\_\_ (telephone number) or by mail at \_\_\_\_\_.

**Aviso Sobre La Identificación de Estudiantes Incapacitados  
bajo la Sección 504**

Bajo la Sección 504 del Decreto de Rehabilitación de 1973, el Distrito Escolar esta obligado a identificar, referir, evaluar, y proporcionar servicios educativos apropiados y gratuitos a estudiantes incapacitados que califican para recibir servicios bajo esta ley. Si usted desea mas información sobre los derechos de padres de niños incapacitados, o si tiene preguntas sobre la identificación, evaluación, y colocación de niños en el programa de Sección 504, favor de ponerse in contacto con el Coordinador de 504 del Distrito al numero \_\_\_\_\_, o por correo a la siguiente dirección:  
\_\_\_\_\_.

# **Section 504 Referral Forms**

### Section 504 Pre-referral

Date: \_\_\_\_\_ Campus \_\_\_\_\_

Name of Student: \_\_\_\_\_ Birth Date: \_\_\_\_\_

ID#: \_\_\_\_\_ Grade: \_\_\_\_\_

The above named student is being referred for Section 504 Review by:  
(Please complete blanks with the appropriate information)

Name: \_\_\_\_\_ Position: \_\_\_\_\_

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The student may be eligible for protection under Section 504 as a disabled student.

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Nature of suspected disability (if known):

- Dyslexia
- ADD/ADHD
- No longer served under IDEA
- At-Risk
- Chronic Suspension
- Other: \_\_\_\_\_

How is the disability affecting a major life activity?

- Failure in classroom
- Low ability in Reading, math and Language Arts
- Low attention span
- Other: \_\_\_\_\_

Education Modifications needed: \_\_\_\_\_

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<b>Discipline Information</b> (Attach copies of any behavioral plan or contract)			
Identify the behaviors exhibited by the student (check all that apply)			
Poor attention and concentration		Shifts from one uncompleted task to another	
Often loses things necessary for tasks		Interrupts or intrudes on others	
Excessively high/low activity level		Difficulty working with peers	
Difficulty following directions		Difficulty remaining seated	
Fidgets, squirms or seems restless		Confrontational/assaultive	
Dress code violations		Leaves class without permission	
Brings inappropriate items to school		Other	
In response to these behaviors, what behavior management techniques have been attempted?			
Results of these techniques:			
Has this student been suspended, expelled or removed to DAEP during the previous or current school year?		No	Yes (see below)
If yes, explain and attach copies of <i>all</i> disciplinary referrals (including those that resulted in discipline other than suspension, expulsion, or DAEP), and PEIMS report totaling removal days.			

<b>Early Intervention &amp; Alternative Program</b> (attach relevant plans or other documentation)			
What types of efforts have been attempted to meet the student's needs? (check all that apply)			
Alternative Learning Setting		Title I	Summer School
ESL/Bilingual Ed. Program		Tutoring	TAKS remediation
Mentoring		Other	Dyslexia
If the student received assistance from the campus' early intervention team (CST, SST, Core Team), please attach plans created for the student and data gathered on student's response.			
List services or programs considered and rejected for this student? Why?			
Has the student ever been special education eligible?		No	Yes, please attach dismissal ARD
Has the student ever been referred to special education?		No	Yes, please attach eligibility ARD

<b>Evaluation Data from State Assessment (TAKS)</b>								
TAKS Latest Administration School Year:			TAKS Previous School Year:			TAKS Previous School Year:		
Subject	Pass? (Y/N)	Scaled Score	Subject	Pass? (Y/N)	Scaled Score	Subject	Pass? (Y/N)	Scaled Score
Reading			Reading			Reading		
Mathematics			Mathematics			Mathematics		
Writing			Writing			Writing		
Science			Science			Science		
Social Studies			Social Studies			Social Studies		
English/LA			English/LA			English/LA		



Over time, this student's test scores: (check the appropriate box)			
have become better each year	have stayed about the same each year	have become worse each year	
dropped suddenly in ___ grade	data not available		
Compared to the mean of the district, this student's test scores: (check the appropriate box)			
have become better each year	have stayed about the same each year	have become worse each year	
district mean not available			

<b>Health Information</b>		Person conduction screening:	
Attach information relating to any doctor's order, diagnoses, or evaluation pertaining to disability (example, medical reports, psychological reports, ADD/ADHD diagnostic information, etc.)			
Does student exhibit any signs of health or medical problems?	No	Yes. If yes, attach observations.	
Is there a need for further assessment of referral of a medical problem?	No	Yes (see below)	
If further assessment is necessary, please describe what new data is necessary.			
Is student receiving any medication at school?	No	Yes, list medications	
Does the student require adaptive equipment or facility adaptation?	No	Yes, attach list of needs	

<b>Vision</b>	Type of screening:	Date of screening
<i>(Vision examination must have been administered within a year from the date of referral)</i>		
Visual acuity before correction:	Right _____ Left _____	
Visual acuity with correction:	Right _____ Left _____	
Interpretation of results:		
Does student exhibit any signs problems? of health or medical problems?	No	Yes. If yes, attach observations.
Is there a need for further assessment of a medical problem?	No	Yes (see below)
If further assessment is necessary, please describe what new data is necessary.		
As a result of the screening, is there any indication of a need for further assessment or adjustment?	No	Yes, please explain.
Has any follow-up treatment been recommended?	No	Yes, please explain.

<b>Hearing</b>	Date of most recent screening:	Type of screening:
Results:		
Interpretation of results:		
As a result of the screening, is there any indication of a need for further assessment or adjustment?	No	Yes. If yes, explain.
Has any follow-up treatment been recommended?	No	Yes, please explain.

Initial as completed  
\_\_\_\_ 2 Copies sent to parent  
\_\_\_\_ 1 Copy signed & returned  
\_\_\_\_ Notice of Rights Included

### Notice and Consent for Initial Section 504 Evaluation

<b>Date Sent/Mailed:</b>	<b>Student's Name:</b>	
Campus:	Grade:	Student ID #:
Parents:		
Address:		
Home Phone:	Work Phone:	

We have carefully reviewed your child's school records and information from teachers. Additional information is necessary to determine your child's educational needs and whether he/she might be eligible for assistance in the regular classroom under Section 504. We ask that you consent to an evaluation under §504 for the following reasons

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

In many cases, the §504 evaluation may simply consist of the Section 504 Committee reviewing and interpreting existing school records, including anecdotal evidence, observations, prior testing, grades, standardized test scores, and other data, in order to determine if your child qualifies for accommodations in the regular classroom. For students who have been involved in the early intervention process, the 504 evaluation will include a review of the classroom assistance and interventions provided the results of those efforts, and any other data generated by that process. In addition to reviewing the data described above, the district desires to conduct the following assessments:

\_\_\_\_\_ Dyslexia assessment

\_\_\_\_\_ Other (please describe) \_\_\_\_\_

Please review the enclosed document entitled "Notice of Parent Rights," which informs you of your rights under Section 504. If you consent to the evaluation, sign and return one copy of this letter. Keep the other copy and the Notice of Parent Rights for future reference.

Please call \_\_\_\_\_ (Coordinator) at \_\_\_\_\_ if you have any questions.

\_\_\_\_\_  
School Staff person

\_\_\_\_\_  
Telephone Number

As the parent/legal guardian of the above referenced student, having received notice of my Section 504 parent rights, I hereby consent to an evaluation under Section 504. I understand that this is *not* a Special Education evaluation.

\_\_\_\_\_ I hereby CONSENT to an evaluation under Section 504

\_\_\_\_\_ I hereby REFUSE consent to an evaluation under Section 504

\_\_\_\_\_  
Parent/Guardian signature

\_\_\_\_\_  
Parent/Guardian printed name

## **Notice of Rights 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 he or she suffers from a physical or mental impairment that substantially limits one or more of their major life activities, such as learning, walking, seeing, hearing, breathing, working, and performing manual tasks. Section 504 also applies to students with a record of having a substantially-limiting impairment, or who are regarded as being disabled even if they are truly not disabled. Students can be considered disabled, and can receive services under §504, even if they do not qualify for, or receive, special education services.

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 student and their parents, to the following rights:

- 1.** You have a right to be informed about your rights under §504. [34 CFR 104.32] The 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 the 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].
- 3.** Your child has the right to free educational services, with the exception of certain costs normally also 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 the District demonstrates that his or her 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 nondisabled students. [34 CFR 104.34].
- 6.** The 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].
- 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]. The District will 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, and scores on TAKS tests, 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 nondisabled children. [34 CFR 104.35].
- 9.** If your child is eligible for services under §504, he or she has a right to periodic evaluations to determine if there has been a change in educational need. Generally, an evaluation will take place at least every three years. [34 CFR 104.35].
- 10.** You have the right to be notified by the 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 §504). [34 CFR 104.36].
- 12.** You have the right to an impartial due process hearing if you wish to contest any action of the 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.

**Brian Rosas, §504 Coordinator  
410 Bethel Lane  
Bryan, Texas 77802  
(979) 775-2152**

- 14.** If you disagree with the decision of the hearing officer, you have a right to seek a review of that decision before a court of competent jurisdiction (normally, your closest federal district court).
- 15.** You also have a right to present a grievance or complaint to the District's §504 Coordinator (or designee), who 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.
- 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 this school district is:

Director, Office for Civil Rights, Region VI  
1999 Bryan Street, Suite 1620, Dallas, Texas 75201-6810, Tel. 214-661-9600

## **Aviso a Padres de Estudiantes Incapacitados de sus Derechos Legales bajo la Sección 504 del Decreto de Rehabilitación de 1973**

El Decreto de Rehabilitación de 1973, conocido generalmente como la “Sección 504,” es una ley federal legislada por el Congreso de los Estados Unidos. El propósito de esta ley es de prohibir discriminación contra estudiantes incapacitados y asegurar que tengan oportunidades y beneficios educativos tan adecuados como los de estudiantes sin incapacidades.

Bajo la Sección 504, un estudiante es considerado incapacitado si padece de un impedimento o condición física o mental que limita substancialmente una de sus actividades vitales, como la de aprender, caminar, ver, oír, hablar, respirar, trabajar y desempeñar tareas manuales. La ley también protege a estudiantes que han tenido un impedimento o condición física o mental substancial en el pasado, o que son considerados incapacitados aunque realmente no lo son. Estudiantes pueden ser considerados incapacitados bajo la Sección 504 y pueden recibir asistencia educativa bajo esa ley aunque no reciban educación especial.

El propósito de este Aviso es de explicarle los derechos legales garantizados bajo la Sección 504 a estudiantes incapacitados y a sus padres. Los reglamentos federales que dan efecto a la Sección 504 (los cuales se encuentran en el Título 34, Parte 104 del Código Federal de Reglamentos, o CFR) otorgan a los padres de familia y a estudiantes incapacitados los siguientes derechos:

- 1.** Usted tiene derecho a ser informado de sus derechos bajo la Sección 504. [34 CFR 104.32]. El distrito escolar debe darle información escrita sobre sus derechos (este Aviso precisamente sirve para informarle de sus derechos). Si necesita que le expliquen o clarifiquen cualquier de los siguientes derechos, los dirigentes apropiados del distrito escolar le ayudarán a resolver sus preguntas.
- 2.** Bajo la Sección 504, su hijo/a tiene derecho a una educación apropiada diseñada para satisfacer sus necesidades educativas individuales tan adecuadamente como las de estudiantes sin incapacidades. [34 CFR 104.33].
- 3.** Su hijo/a tiene derecho a servicios educativos gratuitos, con la excepción de gastos que normalmente se les cobran también a estudiantes sin incapacidades (o a sus padres). Compañías de seguros, y otras terceras personas similares, no son libres de sus obligaciones normales para proporcionar o pagar por servicios para un estudiante considerado incapacitado bajo la Sección 504. [34 CFR 104.33]. El recibir asistencia educativa bajo la Sección 504 no disminuye su derecho a recibir otra asistencia pública o privada de cualquier tipo.
- 4.** Su hijo/a tiene derecho a ser colocado en el ambiente educativo que permita máximo contacto y relaciones con estudiantes sin incapacidades. [34 CFR 104.34]. A menos que sus necesidades educativas no puedan ser satisfechas ahí, su hijo/a será colocado en clases regulares.
- 5.** Su hijo/a tiene derecho a equipo, clases, edificios, servicios y actividades comparables a las que son proporcionadas a estudiantes sin incapacidades. [34 CFR 104.34].
- 6.** Su hijo/a tiene derecho a una evaluación antes de determinar una colocación educativa o programa de asistencia bajo la Sección 504, y también antes de cualquier cambio importante en colocación subsecuente. [34 CFR 104.35].
- 7.** Procedimientos utilizados para administrar pruebas y otras evaluaciones educativas deben cumplir con los requisitos de la Sección 504 en cuanto a la validez de las pruebas, su forma de administración, y las áreas necesarias de evaluación. [34 CFR 104.35]. El distrito considerará información de diversas fuentes y orígenes, incluyendo, por ejemplo: pruebas de aptitudes y aprovechamiento, recomendaciones de maestros, reportes de condición física, antecedentes sociales y culturales, análisis de comportamiento adaptado, reportes médicos, calificaciones, reportes de progreso, observaciones de los padres, anécdotas de maestros, y calificaciones en los exámenes estatales, entre otras. [34 CFR 104.35].

**8.** Las decisiones de colocación educativa deben realizarse por un grupo de personas (llamado el comité 504) que conocen la situación de su hijo/a, el significado de los resultados de las evaluaciones, las opciones de colocación, y la obligación legal de asegurar el ambiente educativo que permita el máximo contacto con estudiantes no incapacitados. [34 CFR 104.35].

**9.** Si es considerado incapacitado bajo la Sección 504, su hijo/a tendrá derecho a que se le den nuevas pruebas y evaluaciones a ciertos tiempos, para determinar si sus necesidades educativas han cambiado. Generalmente evaluaciones educativas se pondrán al corriente para cada niño incapacitado por lo menos cada tres años. [34 CFR 104.35.]

**10.** Usted tiene derecho a que el distrito escolar le avise antes de tomar cualquier acción en relación a la identificación, evaluación o colocación educativa de su hijo/a. [34 CFR 104.36].

**11.** Usted tiene derecho a examinar archivos y documentos relacionados a la educación de su hijo/a (normalmente archivos y documentos con relación a la identificación, evaluación o colocación educativa de su hijo/a). [34 CFR 104.36].

**12.** Usted tiene derecho a una audiencia imparcial si no esta de acuerdo con las acciones del distrito en relación a la identificación, evaluación, o colocación educativa de su hijo/a. Usted tiene la oportunidad de participar personalmente en tal audiencia y de ser representada por un abogado, si desea contratarlo. [34 CFR 104.36].

**13.** Si desea protestar o disputar las acciones del Comité 504 del distrito a través de una audiencia imparcial, debe presentar un Aviso de Apelación escrito ante el Coordinador 504 del distrito, en la siguiente dirección. Se fijará una fecha para una audiencia ante un oficial imparcial, y serán notificados por escrito de la fecha, hora, y lugar de la audiencia.

**Brian Rosas, §504 Coordinator  
410 Bethel Lane  
Bryan, Texas 77802  
(979) 775-2152**

**14.** Si usted está en desacuerdo con la decisión final del oficial imparcial de audiencia, tiene derecho a apelar esa decisión a una corte de jurisdicción adecuada; normalmente, la corte federal local. [34 CFR 104.36].

**15.** También tiene el derecho de presentar una queja local al Coordinador de §504 del Distrito Escolar (o su dirigente), quien investigara la situación, considerara los temas de la queja y todo factor necesario, y respondera apropiadamente a usted en un plazo de tiempo razonable.

**16.** Usted también tiene el derecho a presentar una queja ante la Oficina de Derechos Civiles de el Departamento de Educación de los Estados Unidos. La dirección de la Oficina Regional a la cual pertenece a este distrito es:

Director, Office for Civil Rights, Region VI  
1999 Bryan Street, Suite 1620, Dallas, Texas 75201-6810, Tel. 214-661-9600

## Teacher Input for Section 504 Evaluation

<b>Student Name:</b>	Student ID #:	Grade:
Teacher's Name:	Subject:	Date:

Instructional Rating													
Rate the concerns you have about this student. For each skill, mark:													
1= Poor   2=Below Average   3=Average   4=Above Average   5=Superior   N=Not observed													
	1	2	3	4	5	N		1	2	3	4	5	N
Reading Skills							Tests						
Math Skills							Follows oral directions						
Written Expression							Follows written directions						
Spelling							Organizational skills						
Classroom work							Interaction with staff						
Homework													

Behavioral Rating							
Rate this student's behavior in relation to other students of the same age. For each behavior, mark:							
1= Poor   2=Below Average   3=Average   4=Above Average   5=Superior   N=Not observed							
	1	2	3	4	5	N	
Generally cooperates or complies with teacher requests.							
Adapts to new situations without getting upset.							
Accepts responsibility for own actions.							
Makes and keeps friends at school.							
Works cooperatively with others.							
Has an even, usually happy, disposition							
Appropriate attention and concentration							
Compliance with teacher directives							
Brings necessary materials to class							
Fidgets, squirms or seems restless							
Completes tasks on time							
Stays on task, is easily redirected							
Remains seated							
Takes turns, waits for turn							

What have you done differently in your classroom to meet this student's educational/behavioral student's needs?
What were the results of these efforts?

### Parent Information

The information requested will greatly assist the §504 Committee in evaluation of your child. If you have additional information which you want the Committee to consider (and that is not requested here) please feel free to attach additional pages. Disregard any question that makes you uncomfortable. If you would prefer to provide this information by phone, please contact \_\_\_\_\_ at \_\_\_\_\_.

Name \_\_\_\_\_ ID \_\_\_\_\_ Grade \_\_\_\_\_

School \_\_\_\_\_ Age \_\_\_\_\_ DOB \_\_\_\_\_

Address \_\_\_\_\_ City, State, Zip \_\_\_\_\_ Phone # \_\_\_\_\_

Parents were contacted by  Letter  Telephone  Conference  Email

Parents were contacted by \_\_\_\_\_ on \_\_\_\_\_  
(School staff) (Date)

#### Family

With whom does the student live?
Who has legal authority to make educational decisions for this child?

Primary language spoken in the home \_\_\_\_\_ Other languages spoken \_\_\_\_\_

Father's name	Age	Occupation	Mother's name	Age	Occupation
Father's employer	Work phone number		Mother's employer	Work phone number	
Father's highest grade completed:			Mother's highest grade completed:		
Father's learning, attention, behavior, or medical problems? If so, please specify:			Mother's learning, attention, behavior, or medical problems? If so, please specify:		
Other children in the home	Age	Relationship	Other adults in the home	Age	Relationship



Have any of your blood relatives experienced problems similar to those your child is experiencing?

Yes  No

If yes, please describe:

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**Child Behaviors**

What are some of your child's strengths?

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Do you feel that your child is experiencing problems in school? What kind of problems?

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When were you first aware of the problem?

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What do you think is causing the problem?

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Has your child mentioned problems with school? How does he/she feel about the problem?

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Please describe your child's behavior at home. (For example, is he/she generally well-behaved? Have there been any recent changes in behavior? How does he/she get along with other family members, neighbors, and friends?)

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What does your child do when not in school? (For example, watch TV, read, do chores, work at part-time job, play with other children.)

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What activities does the family do together? (For example, watch TV, go camping, participate in hobbies, sports.)

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What methods of discipline are used with your child at home? (For example, spanking, extra chores, early bedtime, removal of TV and other privileges, rewards for good behavior.)

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What is your child's reaction to discipline?

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Have there been any important changes within the family? (For example, parent job changes, moves, births, deaths, illnesses, accidents, separations, divorce, remarriage, abuse incidents.)

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Is your child receiving services from another agency (e.g., tutoring, counseling, probation monitoring, etc.)?

Yes    No   If yes, please explain.

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Briefly discuss any other important information about your child.

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### **Health and Developmental History**

Were there any problems before, during, or immediately after birth?    Yes    No

If yes, please explain.

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Compared with other children in the family, the child's development has been:

slower    about the same    faster

Describe any problems during infancy or early childhood with feeding, sleeping, or other areas such as difficulty being comforted, excessive restlessness or irritability, colicky, etc.

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Circle below the characteristics of your child's temperament when he/she was an infant and a toddler.

Activity level	Low	Average	High
Attention level	Low	Average	High
Adaptability—Dealing with changes	Poor	Good	Very good
Approach/withdrawal—Responding to new things (e.g., places, people, food, etc.)	Poor	Good	Very good
Mood—What was your child's basic mood?	Unhappy	Average	Very happy
Regularity—How predictable was your child in patterns of sleep, appetite, etc.?	Not predictable	Somewhat predictable	Very predictable

Briefly describe any childhood illnesses (e.g., measles, chicken pox, chronic ear infections, allergies, high fevers, or seizures), accidents (e.g., head injury, broken bones, stitches), and hospitalizations. Please give your child's age at the time of illness, accident, or hospitalization.

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<b>Childhood &amp; Medical History</b>				
Has your student ever had the following?	Never	Began at age?	Ended at age?	Still has problem
Frequent fevers				
Frequent earaches				
Frequent vomiting				
Thumb sucking				
Nightmares				
Sleepwalking				
Head banging				
Rocking of body				
Teeth grinding				
Bedwetting				
Fingernail biting				
Temper tantrums				
Run away from home				
Lost consciousness				
Convulsions				
<b>Current Medical Treatment &amp; Medication</b>				
<p>Doctor's reports, letters and diagnoses can be very helpful to the 504 Committee. Please attach the student's medical records so that the Committee can have a more complete picture of your child. If you would prefer, you may give the District written consent to seek those records from your doctors directly. Please notify Brian Rosas (504 Coordinator) at (979) 775-2152 to get the necessary form.</p>				
<p>Please identify any medical problem for which your student is currently receiving medical care:</p>				
<p>Does your student appear to have any other physical health problems for which the student is not currently receiving medical care?</p>				
<p>Please list all medications currently taken by your student (over the counter and prescription).</p>				
<p>Please describe any side effects the student experiences from these medications.</p>				
<p>Please identify any medication(s) taken by your student for over 1 year:</p>				
<p>Please describe any hospital stays by your student, including the date, reason for the stay, the duration, and the result of treatment.</p>				
<p>Has your child ever been evaluated before for neurological, psychological, psychiatric, speech language, learning, hearing, vision, or physical problems in the past?    <input type="checkbox"/> Yes    <input type="checkbox"/> No    If yes, please explain and indicate dates of assessments.</p>				

Is there any other information about your student or family that you would like the Section 504 Committee to consider when evaluating your student for Section 504 eligibility? If so, please provide it here.

Parent Signature \_\_\_\_\_ Date \_\_\_\_\_

Signature and Position of \_\_\_\_\_ Date \_\_\_\_\_  
person assisting (if any)

# **Brazos School for Inquiry and Creativity**

## **Section 504 Evaluation/Assessment Process**

## Notice of Section 504 Meeting

Date \_\_\_\_\_

Student's Name \_\_\_\_\_

ID # \_\_\_\_\_

Campus \_\_\_\_\_

Dear Mr./Mrs./Ms. \_\_\_\_\_  
Parent/Guardian/Surrogate/Adult Student

This letter is to inform you that the Section 504 Committee is planning a meeting to discuss your child's educational needs. We have scheduled a meeting at (time) \_\_\_\_\_, on (date) \_\_\_\_\_, at (location) \_\_\_\_\_. While parents are not required members of Section 504 Committees, we would very much appreciate your input. Your insights and contributions will be quite helpful to us in effecting the best decisions possible.

The meeting is scheduled for the following reason[s]:

Initial evaluation for eligibility

Annual review

Three-year re-evaluation

Manifestation Determination (prior to disciplinary removal constituting a change in placement)

Other: \_\_\_\_\_

Following the meeting, we will notify you of the 504 Committee's decision in writing. Please call me at \_\_\_\_\_ if you have any questions.

Sincerely,

Section 504 Coordinator

## Section 504 Evaluation

<b>Student:</b>	<b>Student ID #:</b>	<b>Date of Birth:</b>
Grade:            Campus:	Previous Campus:	
Referred by:	Position/Relation to Student:	
Date of Referral:	Date of Evaluation:	

<b>Procedural Checklist:</b>							
<b>Four things must be verified before the §504 evaluation can occur (check when completed)</b>							
	Verify that the parent consented to §504 initial evaluation						
	Verify that the parent received Notice of Parent Rights under §504						
	Verify the method by which the parent was informed of the date, time, and place for this evaluation						
		in writing		by phone		in person	Other?
	Verify membership of the Section 504 Committee, which must include persons with knowledge of each of the following three areas: (1) the student (2) the meaning of the evaluation data, and (3) the placement options. (See below)						
<b>NOTE: If the Committee is also evaluating the student for eligibility in the Texas Dyslexia Program, please also complete Form 13 to ensure compliance with the Texas Dyslexia Law. If the Committee is considering General Education Homebound, please also complete Form 14.</b>							

<b>§504 Committee Membership:</b>			
List each member attending and check the area of knowledge they provide (attach an additional sheet if necessary). Each area of knowledge must be present on the committee.			
Name	Position/Title	Knowledge of ....	
		<input type="checkbox"/>	Child
		<input type="checkbox"/>	Evaluation data
		<input type="checkbox"/>	Placement options
		<input type="checkbox"/>	Child
		<input type="checkbox"/>	Evaluation data
		<input type="checkbox"/>	Placement options
		<input type="checkbox"/>	Child
		<input type="checkbox"/>	Evaluation data
		<input type="checkbox"/>	Placement options
		<input type="checkbox"/>	Child
		<input type="checkbox"/>	Evaluation data
		<input type="checkbox"/>	Placement options
		<input type="checkbox"/>	Child
		<input type="checkbox"/>	Evaluation data
		<input type="checkbox"/>	Placement options

<b>Evaluation Data Considered from a Variety of Sources</b>			
The Committee reviewed and carefully considered the following data gathered from a variety of sources, including the Referral Document. [Please check each that applies, or attach copies of the data.]			
	Parent input		Student work portfolio
	Grade reports		Special education records (specify)
	Standardized Tests and Other Tests		Disciplinary records/referrals
	Early Intervention data		Medical evaluations/diagnoses
	Teacher/Administrator Input		Other
	School Health Information		Other

**NOTE:** If information from a conversation or other data in unwritten form was considered, please document that oral data relied upon by attaching written notes summarizing the conversation or data.)



<b>504 Eligibility Determination</b>			
Does the student have a physical or mental impairment? If so, please identify the impairment in the box below <i>Note: This is an educational determination only, and not a medical diagnosis for purposes of treatment.</i>	<b>Question 1</b>		
	Yes	<input type="checkbox"/>	No
If you answered “yes” to Question 1, identify the impairment here.			
Does the physical or mental impairment affect one or more major life activities? If so, identify the major life activity or activities affected in the box below.	<b>Question 2</b>		
	Yes	<input type="checkbox"/>	No
If you answered “yes” to Question 2, identify the major life activity (ies) impacted here.			
Does the physical or mental impairment substantially limit a major life activity? If yes, describe the substantial limitation in the box below.	<b>Question 3</b>		
	Yes	<input type="checkbox"/>	No
If you answered “yes” to Question 3, describe how the student is substantially limited here.			
Does the student need Section 504 services in order for his/her educational needs to be met as adequately as those of non-disabled peers? (Note: if the student’s needs are so extreme as to require special education and related services, a referral to special education should be considered.)	<b>Question 4</b>		
	Yes	<input type="checkbox"/>	No
If all four questions are answered “Yes”, the student is eligible for a free, appropriate public education under §504, and the Accommodation Plan should be developed. If any answer is “No”, the student is not eligible.			

<b>Section 504 Committee’s Decision</b>	
The Section 504 Committee’s analysis of the eligibility criteria as applied to the evaluation data indicates that at this time: (check only one)	
<input type="checkbox"/>	The student is not eligible for services under Section 504.
<input type="checkbox"/>	The student is eligible under Section 504, and will receive an Accommodation Plan that governs the provision of a free appropriate public education to the student.
<input type="checkbox"/>	The student remains eligible under Section 504, and will receive an updated Accommodation Plan that governs the provision of a free appropriate public education to the student. (Annual and 3-yr evaluations)
<input type="checkbox"/>	The student is no longer eligible for Section 504 and is exited from the program. The student will now receive regular education without Section 504 services. (Dismissal)
<input type="checkbox"/>	The student has been determined special education eligible by an ARD Committee/IEP Team. Consequently, the student is no longer served through a Section 504 Committee and is exited from the program. The student will receive a free appropriate education through the ARD Committee/IEP Team.
<input type="checkbox"/>	As part of the §504 evaluation, the Committee considered your student’s eligibility for the Texas Dyslexia Program. The student <u>      </u> is <u>      </u> is not eligible for services in the Dyslexia Program.
<input type="checkbox"/>	Other (please describe)

**[Use this form to ensure that parents are provided with notice of the results of each evaluation/reevaluation meeting. Attach the evaluation document together with the 504 Plan (if the student is eligible)]**

**Notice of Section 504 Evaluation Results**

Date

Dear Parent/Guardian/Adult Student,

This letter is to inform you that the Section 504 Committee had a meeting on \_\_\_\_\_ to discuss your student \_\_\_\_\_ (student's name). A copy of the evaluation form is attached. After careful review of relevant evaluation data indicated on page 1, the Section 504 Committee analyzed the data to answer the Section 504 eligibility questions on page 2. While the evaluation document provides more detail on the Committee's decision, by way of summary, the Committee determined that \_\_\_\_\_

\_\_\_\_\_ (provide brief summary of decision).

A copy of the 504 Committee's evaluation is enclosed. If your student was determined 504-eligible, a copy of the 504 Plan is also attached.

If you have any questions concerning this decision, please call me at (979) 775-2152.

I will be more than happy to discuss any questions that you may have.

Sincerely,

Section 504 Coordinator

Encl. (1) Completed Evaluation  
(2) 504 Accommodation Plan (if eligible)

# **Section 504 Individual Accommodation Plan**

### Section 504 Student Accommodation Plan

**[Please Note: If the student's placement is General Education Homebound, services for the student should be documented on Form 14. This form is not to be used for General Education Homebound.]**

Date:
-------

<b>Student Name:</b>	Date of Birth:
Student ID:	Phone:
School:	Grade:

Type of meeting generating initial plan or changes to 504 plan	
	Initial Evaluation
	Annual Review
	Failure or Discipline Review
	Three Year Reevaluation
	Other:

<b>Certificate of Plan Distribution</b> (Please indicate date distributed to parent and each person responsible for plan implementation, or N/A as appropriate)			
Date	Person Responsible	Date	Person Responsible
	Parent/Adult Student		Administrator
	English/Language Arts teacher		Counselor
	Math teacher		Other:
	Science teacher		Other:
	Social Studies teacher		Other:
	PE teacher		Other:
	Fine Arts teacher		Other:
	Vocational teacher		Other:
Signature of 504 Coordinator or other person verifying delivery of plan:			

<b>Matching of Need and Accommodations.</b> Please use the following tool to ensure that each of the student's needs identified in the evaluation are addressed in the accommodation plan. (Attach additional pages where necessary).	
Each student need identified by the evaluation	Accommodation(s) designed to address the need
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	

## Section 504 Accommodation Plan

**Date:** \_\_\_\_\_ **Campus** \_\_\_\_\_  
**Name of Student:** \_\_\_\_\_ **Birth Date:** \_\_\_\_\_  
**ID#:** \_\_\_\_\_ **Grade:** \_\_\_\_\_  
**Accommodation Date:** \_\_\_\_\_ **To:** \_\_\_\_\_

Each teacher/employee who serves this student shall review and implement these accommodations under the supervision of the designated administrator or campus §504 coordinator. **For questions or concerns about the §504 plan, contact** \_\_\_\_\_.

<b>All Classes</b>	Testing Extended Time %
Accommodation(s):	
<b>Reading</b>	Testing Extended Time %
Accommodation(s):	
<b>English</b>	Testing Extended Time %
Accommodation(s):	
<b>Math</b>	Testing Extended Time %
Accommodation(s):	
<b>Science</b>	Testing Extended Time %
Accommodation(s):	
<b>Social Studies</b>	Testing Extended Time %
Accommodation(s):	
<b>Other</b>	Testing Extended Time %
Accommodation(s):	

**TAKS Testing Accommodations**

(Must be routinely done in the classes)

- None needed
- Oral administration
  - o Level 1
  - o Level 2
  - o Level 3
- TAKS Dyslexia Bundle
- Other:

- Small group
  - o English
  - o Math
  - o Science
  - o Social Studies
  - o All

- Extended time

NOTE: The test is untimed. If the student needs more than one day to complete the test then it will require TEA approval. Please contact your testing coordinator for forms and information.

**Regular Discipline?** Yes \_\_\_\_\_ No \_\_\_\_\_ [If no, behavior plan (form 11, page 3) must be completed and attached]

**Additional/Related Supports** (provide detail information on notes page)

**THIS PLAN IS CONFIDENTIAL** and should only be made available to individuals with a legitimate educational interest or as otherwise allowed by FERPA.

## BRAZOS SCHOOL FOR INQUIRY AND CREATIVITY §504 COMMITTEE SUMMARY

Date: \_\_\_\_\_ Campus \_\_\_\_\_

Name of Student: \_\_\_\_\_ Birth Date: \_\_\_\_\_

ID#: \_\_\_\_\_ Grade: \_\_\_\_\_

Referred By \_\_\_\_\_

Reason for §504 referral \_\_\_\_\_

\_\_\_\_\_

Disability \_\_\_\_\_

The committee reviewed \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Accommodations \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Committee Members:	Agree/Disagree	Date
	Agree/Disagree	
	Agree/Disagree	
	Agree/Disagree	
	Agree/Disagree	
	Agree/Disagree	

Re-Evaluation Due: \_\_\_\_\_

Parent/Student Rights:

Given \_\_\_\_\_ Sent \_\_\_\_\_ Date \_\_\_\_\_

**504**  
**ACKNOWLEDGMENT OF RECEIPT**

Each teacher/employee who serves this student shall review and implement these accommodations under the supervision of the designated administrator or campus §504 coordinator. **For questions or concerns about the §504 plan, contact \_\_\_\_\_.**

**Student:** \_\_\_\_\_

**ID #:** \_\_\_\_\_

**Grade:** \_\_\_\_\_

**STAFF:** Please sign and date the box with your name, indicating that you have received the 504 accommodations for the above student.

<b>Staff Name</b>	<b>Signature</b>	<b>Date</b>

**\*\*\*Signing this form indicates that you are in possession of this student's 504 accommodation sheet\*\*\***



# **Section 504 Discipline**

## Section 504 Behavior Intervention Plan

*[This form must be used when the §504 Committee determines that regular discipline is inappropriate.]*

<b>Student Name:</b>		Student ID:			
School:					
Date of Plan:					
Please list below each behavior, reinforcement, consequence and person responsible for administering the reinforcement or consequence. Appropriate intervention is based on assessment data, discipline history, social history, parent reports and other data.					
<b>Behaviors targeted for intervention:</b>					
<b>Please select or add the appropriate behavior interventions for this student. Please use the notes and information page to explain choices and to ensure compliance.</b>					
<input type="checkbox"/>	Clearly defined limits	<input type="checkbox"/>	Journal of daily behaviors	<input type="checkbox"/>	Proximity seating
<input type="checkbox"/>	Frequent reminder of rules	<input type="checkbox"/>	Reinforce appropriate behavior	<input type="checkbox"/>	Cooling off period
<input type="checkbox"/>	Reduce distracting stimuli	<input type="checkbox"/>	Supervised unstructured time	<input type="checkbox"/>	Peer intervention
<input type="checkbox"/>	Consistent routine	<input type="checkbox"/>	Behavioral contract (attach)	<input type="checkbox"/>	Other
<input type="checkbox"/>	Other	<input type="checkbox"/>	Other	<input type="checkbox"/>	Other
<b>Communicate behavioral progress or status with parents through (check one):</b>					
<input type="checkbox"/>	Weekly tracking form	<input type="checkbox"/>	Notes home	<input type="checkbox"/>	Phone call
<input type="checkbox"/>	Daily tracking form	<input type="checkbox"/>	Email	<input type="checkbox"/>	Parent conference
When a communication other than a tracking form is chosen, describe the frequency of required contact here (when particular behaviors occur, every two weeks, etc.).					
<b>When a targeted behavior occurs, the following occurs:</b>					
Targeted Behavior	Reward for desired behavior	Consequence for undesired behavior	Person responsible for Reward or consequence		

## Section 504 Manifestation Determination Evaluation

<b>Procedural Checklist:</b>			
<b>Both boxes must be checked before the §504 evaluation for manifestation determination can occur.</b>			
Verify how the parent was informed of the date, time, and place for this evaluation			
	in writing	by phone	in person
			Other?
Verify membership of the Section 504 Committee, which must include persons with knowledge of each of the following three areas: (1) the student (2) the meaning of the evaluation data, and (3) the placement options. (See below)			

Student	Student ID #
Campus	Date of Evaluation

<b>§504 Committee Membership:</b>		
List each member attending and check the area of knowledge they provide (attach an additional sheet if necessary). Each area of knowledge must be present on the committee.		
Name	Position/Title	Knowledge of ....
		Child
		Evaluation data
		Placement options
		Child
		Evaluation data
		Placement options
		Child
		Evaluation data
		Placement options
		Child
		Evaluation data
		Placement options
		Child
		Evaluation data
		Placement options

<b>Evaluation Data Considered from a Variety of Sources</b>		
The Committee reviewed and carefully considered the following data gathered from a variety of sources, including the Referral Document. [Please check each that applies, or attach copies of the data.]		
		Student work portfolio
Grade reports		Special education records (specify)
Standardized Tests and Other Tests		Disciplinary records/referrals
Early Intervention data		Medical evaluations/diagnoses
Teacher/Administrator Input		Witness statements
School Health Information		Other
NOTE: If information from a conversation or other data in unwritten form was considered, please document that oral data relied upon by attaching written notes summarizing the conversation or data.)		

<b>Behavior subject to disciplinary action</b> (The 504 Committee does not address whether or not the alleged behavior occurred):			
<b>List each of the student's Section 504 qualifying physical or mental impairments:</b>			
<b>The Section 504 Committee reviewed and discussed the data listed above. Based on this review, the Committee has made the following determinations:</b>			
Question #1: Was the conduct in question caused by, or directly and substantially related to the student's disabilities?		Yes	No
Question #2: Was the conduct in question the direct result of the school's failure to implement the student's Section 504 plan?		Yes	No
<b>Results:</b> If either of the questions are answered "yes," the behavior must be considered to be a manifestation of the student's disability. In that event, the student cannot be expelled or placed in the school's disciplinary alternative education setting (DAEP) for more than 10 school days.			

**Committee Notes:**

**Signature 504 Committee Members:**

Signature	Position/Title	Date

**Notice of Section 504 Manifestation Determination Evaluation Results**

[Use this form to ensure that parents are provided with notice of the results of the manifestation determination evaluation meeting. Attach the completed manifestation determination Form 12 together with the §504 Plan (if the student's plan was changed)]

Date

Dear Parent/Guardian/Adult Student,

This letter is to inform you that the Section 504 Committee had a meeting on \_\_\_\_\_ to discuss your student \_\_\_\_\_ (student's name). A copy of the manifestation determination evaluation form is attached. After careful review of relevant evaluation data indicated on page 1, the Section 504 Committee analyzed the data to answer the manifestation determination questions on page 2. While the evaluation document provides more detail on the Committee's decision, by way of summary, the Committee determined that \_\_\_\_\_. (provide brief summary of decision)

A copy of the 504 Committee's manifestation determination evaluation is enclosed. If your student's Section 504 plan was changed during the meeting, a copy of the new §504 Plan is also attached.

If you have any questions concerning this decision, please call me at \_\_\_\_\_.

I will be more than happy to discuss any questions that you may have.

Sincerely,

Section 504 Coordinator

- Encl. (1) Completed Manifestation Determination Evaluation Form  
(2) §504 Accommodation Plan (if changed made)

# **A Simplified Method for Understanding Discipline And Manifestation Determination under §504**

by

Jose L. Martin, Attorney at Law RICHARDS LINDSAY &  
MARTIN, L.L.P., 9801 Anderson Mill Road, Suite 230  
Austin, Texas 78750  
(512) 918-0051  
jose@rimedlaw.com

## **BASIC METHOD**

### **1. Learn to identify a short-term disciplinary removal under §504.**

A short-term removal occurs when a campus administrator removes a child from his normal setting for less than 10 consecutive school days for disciplinary purposes. The most common example is a suspension to the home (in Texas, limited to 3 school days per offense). In-school suspension (ISS) should be considered a short-term removal, unless the “smart ISS” criteria discussed below is met, in which case the removal days may not “count” as disciplinary removal days.

### **2. Learn to identify along-term disciplinary removal under §504.**

A long-term removal is one of over 10 consecutive school days, usually in the form of a removal to a disciplinary alternative education program (AEP) or expulsion.

### **3. Do not mix up the rules for long-term and short-term removals-learn and apply the rules separately.**

It’s easy to get confused if you try to learn and apply the separate rules for long and short-term removals as simultaneous concepts. Rather, learn and apply these rules as two separate sets of rules. This eliminates a lot of mixed-up §504 discipline questions, such as “is it 10 cumulative or 10 consecutive days?” There are really two sets of rules that involve a 10-day timeline, and trying to learn them simultaneously frequently causes confusion.

### **4. For short-term removals involving §504 students, campuses start the year with 10 “free” removal days at their disposal.**

At the start of the school year, imagine the school is given 10 “free” removal days for each §504-eligible student. These days are “free” under §504 because they can be used without the need to convene a §504 committee meeting, without a manifestation determination, and generally, without worrying about any §504 procedure or safeguard. They can be imposed as they would be in the case of a nondisabled student who commits the same disciplinary offenses.

### **5. Although schools may go over the 10-day total, at a certain point the accumulated removals will constitute a “pattern of exclusion,” which triggers the manifestation requirement.**

At a certain point, accumulations of too many short-term removals’ will become a “pattern of exclusion” (in Office for Civil Rights (OCR) lingo), which is considered an overall long-term removal that first requires a manifestation determination. OCR developed this rule over time, and it was also exported into the IDEA discipline regulations. Whether accumulations of short-term removals after the 10-day mark constitute a “pattern of exclusion” depends on how long each removal is, how close they are to each other, and how many they add up to overall. The rule might be designed vaguely in order to promote caution among school administrators who are considering disciplinary removals. Generally, it’s good advice for schools to limit forays into the over-10-total-school-days danger zone. And, obviously, the higher the number of removals after the 10-day total is reached, the more precarious the school’s legal position becomes.

**6. Before short-term removals add up to 10 total school days, have a §504 meeting to address behavior.**

The best preventive measure in §504 disciplinary matters is to convene a §504 meeting before short term removals add up to 10 total days. The §504 committee can decide to develop a BIP, provide regular counseling, evaluate the student further, or make other adjustments to the student's §504 plan. The idea is to take action before a disciplinary issue becomes a major problem.

**7. For long-term removals, proceed to a manifestation determination §504 meeting as soon as you can, and before the removal reaches 10 consecutive school days.**

As soon as possible after the campus initiates a long-term disciplinary removal, an §504 committee meeting must be convened to determine if the student's alleged offense was directly related to their disability. This is called the manifestation determination. In addition, the rule also requires the §504 committee to determine whether the behavior is related to an inappropriate §504 program. The meeting must definitely take place before the long-term removal reaches its 10th consecutive day. The right to a manifestation determination in instances of threat of long-term removal is the primordial safeguard of §504 disciplinary procedures. It is a doctrine that was first developed in federal court cases starting in the late-70's, and later adopted by the Department of Education as policy in the 80's.

The manifestation determination essentially decides whether the student can be subjected to long term removal or not. If the §504 committee properly determines that the behavior in question is not related to disability, then the student can be subjected to regular disciplinary procedures, as in the case of a similarly-situated nondisabled student. If the §504 committee determines that the behavior is related to disability, then a long-removal cannot take place. Thus, the quality of the manifestation determination is crucial to a long-term removal: §504 members are well-advised to prepare and pre-staff for manifestation determinations.

## ADDITIONAL IMPORTANT DISCIPLINE ISSUES

- **For drug offenses, the §504 committee should first determine whether the student is a “current user.”**

Students eligible under §504 lose the right to a manifestation determination and due process hearing if they violate drug or alcohol rules and are determined to be “current users.” *See* 29 U.S.C. §706(8)(B) (iv). Thus, if there is evidence that the student is a current drug or alcohol user, the §504 committee can skip the manifestation determination, and the student is subject to the regular disciplinary process that would take place in the case of a drug or alcohol offense by a nondisabled student. If the committee does not believe that the student is a current user, it must proceed to make the manifestation determination. OCR has determined that mere possession is not itself evidence of current use of drugs or alcohol. *See, e.g.*, 17 EHLR 609, 611 (OCR 1991).

- **Report criminal behavior to law enforcement if you would do so for a non-disabled student’s behavior under your policies, but make sure you have implemented the BIP, if there is one.**

IDEA makes clear that schools may report criminal offenses committed by special education students at school. This is also the case under §504, as long as school administrators ensure that resort to law enforcement occurs in a non-discriminatory fashion, for nondisabled and disabled students alike. In addition, staff must ensure that the student’s BIP, if any, is fully implemented before the police are called, if at all possible. Reports to law enforcement cannot be undertaken instead of complying with the requirements of a BIP or §504 plan. Although in many cases, it is clear that the conduct is also a crime, campus administrators are well-advised to research or get information from law enforcement authorities about what type of conduct constitutes criminal conduct in Texas.

- **Explore development of a “smart ISS” option on your campus to help minimize suspensions to home.**

The commentary to the final IDEA regulations states that in-school suspension (ISS) would not be considered true removal days as long as the child is given the opportunity to continue to appropriately progress in their curriculum, continue to receive their IEP services, and continue to participate with nondisabled children to the extent they would have in their usual placement. DOE commentary to the 1999 IDEA regulations-64 ‘Fed. Reg. 12619 (March 12, 1999)). By this guidance, the feds are obviously creating an incentive for schools to use in-school forms of suspension rather than out-of school suspensions, which can have adverse side-effects. A review of recent OCR decisions appears to indicate that this is OCR’s position under §504 as well. OCR will probably find that 188 days are not true “removals” under §504 as long as students are provided an equal opportunity to continue progressing in the regular curriculum, and receive their §504 accommodations, in ISS.

The higher the degree of continuity of educational services at the ISS facility, the better your chance of successfully arguing that these are not true removal days. The more “traditional” your in-school suspension program (i.e. supervision-only while students allegedly work independently, or minimal services), the more likely that OCR will find that removals to your in-school suspension program in fact constitute disciplinary removals that “count” toward the 10-day mark. It is important to be able to show that the student received all of the work done in the regular classes, and that the §504 accommodations continued to be implemented in the ISS setting. Even better-have the regular teachers check with the students in ISS to see if they are having problems with the classwork.

- **An §504 should address the need for a behavior intervention plan (BIP) when students’ behaviors get to the point that they impede their learning or the learning of others.**

Early development and consistent implementation of a BIP can help both reduce inappropriate behavior and protect the campus legally. §504 committees should act early to develop BIPs to address student’s behavior problems. You can’t get in trouble for doing one too early, but many schools have suffered the consequences of developing a BIP too late, or not at all. When a BIP is developed, the §504 committee should monitor the implementation and effect of the BIP, and use the information to revise the BIP as needed, especially if behavior problems escalate.



- **There is no duty to provide educational services during an expulsion unless the school normally provides services to nondisabled expelled students.**

Unlike under IDEA, schools in Texas are under no duty to provide educational services to expelled §504 students, unless they normally provide services to nondisabled expelled students. This is due to a federal court decision applicable to Texas schools.

- **Discipline-like exclusions nonacademic activities from extracurricular and nonacademic activities**

Although not disciplinary removals from school, a campus' decision to exclude a §504 student from an extracurricular activity, field trip, or other nonacademic activity also raises potential discrimination issues. Under §504, disabled students must be provided an equal opportunity to participate in extracurricular activities. 34 C.F.R. §104.37(a)(1). Disabled students may try out for any extracurricular activity they desire, but they must generally meet the regular performance standards applied to all students. Although some accommodations may be required of schools in this area, it appears that students must submit to the general behavioral, academic, and performance standards applied to nondisabled students. Clearly, disability does not offer a "free ride" to participate in competitive sports. Some accommodations to non-essential requirements, however, may be required in order for students to, have an "equal opportunity to participate." Schools may not condition the provision of the nonacademic service on the parent's attendance or provision of a babysitter, exclude disabled students, or charge a higher cost than that charged nondisabled students' parents.

## **A PROPOSED MANIFESTATION DETERMINATION PROCEDURE**

1. **Gather all available information** about the offense (referral forms, staff statements, student statements, verbal information from administrators and other staff, etc...).
2. Send **notice** to parents of §504 committee meeting to conduct the manifestation determination: Verify that they have also received notice of rights, including the right to request a due process hearing.
3. At the meeting, begin with a brief **review of existing §504 evaluation data** and the student's disabilities.
4. Determine whether the committee has the **information necessary to make the manifestation determination.**
5. **Determine whether the §504 plan is appropriate** and has been properly implemented.
6. Determine whether the student is **capable of** understanding the impact and consequences of the behavior.
7. Determine whether the student is **capable of controlling** the behavior.
8. Briefly summarize the **basic underlying rationale** by which the committee is reaching its determination.
9. **Notify the campus and the parents of** the committee's determination (either at the meeting or afterwards, if they did not attend).
10. If the student is removed to an AEP, **ensure that the §504 accommodations continue to be implemented.**

## Other Manifestation Determination Issues

- **The “impulsivity” argument**

A popular manifestation determination argument, especially in cases of students with ADHD or other behavioral disorders, is that the student’s behavior was related to their disability because the offense was impulsive. In these situations it is crucial to have detailed information about the offense, particularly the timeframe for the behavior and the degree of planning that was involved. The longer the timeframe of the behavior, and the higher the degree of planning that must have been involved, the less likely that the behavior was impulsive, or without thought.

- **Foreseeability**

In manifestation determinations, an important question is **whether the existing evaluation data would lead one to predict that a certain behavior might be exhibited**. If from the evaluation data, a reasonable person would conclude that the behavior is likely to take place, the §504 committee should find that the behavior is related to disability.

- **Degree of link**

An important federal court decision addresses the issue of the degree of relationship between disability and behavior that is required for a finding that the behavior is related to disability. *Doe v. Maher*, 793 F.2d 1470 (9th Cir. 1986). In a footnote to that opinion, the court indicated that an essential component to finding that a behavior is linked to handicapping condition is whether the disability “**significantly** impairs the child’s behavioral controls.” The Court stated that this definition did not “embrace conduct that bears only an attenuated relationship to the child’s handicap,” such as conduct allegedly caused by low self-esteem in turn caused by the handicap.

- **The manifestation determination is an evaluation under §504**

The starting point for undertaking the “link” inquiry is the child’s existing evaluation data. Under §504, the evaluation data might not include formal psychological assessments, but it may include behavioral checklists, teacher observations, anecdotal evidence, disciplinary reports, incident reports, police reports, etc. When a §504 Committee gathers, reviews, and interprets data about a disciplinary infraction, together with a review of the child’s existing data, it is conducting a valid §504 evaluation under §504. *See* 34 C.F.R. §104.35(a). It is on the basis of this evaluation that the committee makes the manifestation determination.

# **Section 504 Campus References**





## **Instructional Accommodations Tool Box**

1. Change pace of instruction
2. Taped texts
3. Highlighted texts
4. Taping lectures
5. Note taking assistance
6. Extended time assignments
7. Shortened assignments
8. Assignment notebooks
9. Study aids/manipulatives
10. Repeated review
11. Reduce written task
12. Calculator
13. Preferential seating
14. Interpreter for the deaf
15. Frequent breaks
16. Defined physical space
17. Cooling-off period
18. Concrete Reinforces
19. Positive Reinforces
20. Behavior management plan
21. Oral directives
22. Special instruction/adaptive equipment
23. Change in TEKS
24. Change in project report requirements
25. Change in tool, equipment/ machinery used in classroom
26. Check of understanding
27. Modify assignments requiring copying in a timed situation
28. Leave class for assistance/go to CMC
29. Emphasize teaching methodology auditory visual tactile multi
30. Individual/small group instruction
31. Emphasize critical information/key concepts
32. Pre-teach vocabulary
33. Advanced organizers/study guides
34. Give directions in short sequences
35. Use written backup for oral directions
36. Lower reading level of assignment
37. Break assignment into a series of smaller assignments
38. Read directions/worksheets to student
39. Avoid penalizing for spelling errors
40. Emphasize study/organizational skills
41. Before or after school tutoring

### **Classroom testing**

1. Oral tests
2. Modified testing
3. Adjusted reading level
4. Adjusted time for completion

### **TAKS Testing Levels**

- Level 1** – A few words or phrases  
**Level 2** – Reading any number of sentences  
**Level 3** – Reading the test in its entirety

# **Bibliography**

## **Bibliography**

Richards Lindsay & Martin, L.L.P., CESD Section 504 Compliance System Forms and Procedures. 2008.  
[http://www.504idea.org/Council\\_Of\\_Educators/Welcome.html](http://www.504idea.org/Council_Of_Educators/Welcome.html)

### **CESD Section 504 Compliance System Forms and Procedures**

**RICHARDS LINDSAY & MARTÍN, L.L.P.**

13091 Pond Springs Road, Suite 300 • Austin, Texas 78729

Telephone (512) 918-0051 • Facsimile (512) 918-3013 • [www.504idea.org](http://www.504idea.org)

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