



SECTION 504 FREQUENTLY ASKED QUESTIONS

- **What is Section 504?**
Part of the Rehabilitation Act of 1973, Section 504 is a civil rights law to protect disabled individuals from discrimination.
- **Who is disabled under Section 504?**
A qualified individual with a disability under Section 504 is an individual with an impairment that substantially limits a major life activity.
- **What is an "impairment" as used in Section 504?**
An impairment as used under Section 504 may include any disability, long-term illness, or various disorder that "substantially" reduces or lessens a student's ability to access learning in the educational setting because of a learning, behavior or health related condition. There is no list of eligible or ineligible disabilities. However, examples include: AD/HD, dyslexia, cancer, diabetes, severe allergies, chronic asthma, Tourette's Syndrome, digestive disorders, cardiovascular disorders, depression, conduct disorder, oppositional defiant disorder, HIV/AIDS, behavior disorders, and temporary disorders such as broken limbs.
- **What is the difference between an impairment and a disability?**
Many people have impairments. An impairment is only considered a disability under Section 504 when it reaches the level that it is limiting a major life activity.
- **Are there any impairments that automatically qualify someone for Section 504?**
No, each decision on eligibility is made on an individual basis.
- **What is a substantial limitation?**
Although not defined in the regulations, OCR has interpreted it to mean "unable to perform a major life activity that the average person in the general population can perform; or restricted as to the condition, manner, or duration under which an individual can perform a major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity."
- **Who determines whether a student is "substantially limited?"**
According to the federal regulations: "...placement decisions are to be made by a group of persons who are knowledgeable about the child, the meaning of the evaluation data, placement options, least restrictive environment requirements, and comparable facilities" [34 C.F.R. §104.35(c)(3)]. Unlike Special Education, the federal regulations for Section 504 do not require or even mention that parents are to be a part of the decision-making committee. In Rockwall ISD, parents are notified of meetings, but are not required members of the committee.

- What is a major life activity?

A major life activity is an activity that is of central importance to the daily life activity of the average person in the general population. Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. It also includes the operation of a major bodily function.

- What do I do if I suspect my child has a disability?

First and foremost, discuss your concerns with your child's classroom teacher. He or she may be able to reassure you that your child is making appropriate progress. If you continue to be concerned about your child's progress, contact your child's assistant principal in writing, expressing your concerns. All referrals are processed through the Student Success Team (SST). The SST will meet and recommend intervention strategies for the classroom teacher to use in order to help your child. Based on the results of these interventions, your child may or may not be referred on to dyslexia testing, Section 504 or Special Education.

- What are my rights as a parent under Section 504?

As a parent or legal guardian, you have the right to:

1. Receive notice regarding the identification, evaluation, and/or placement of your child;
2. Examine relevant records pertaining to your child;
3. File a complaint with your school district Section 504 Coordinator;
4. Request an impartial hearing with respect to the district's actions regarding the identification, evaluation, or placement of your child;
5. File a complaint with the appropriate regional Office for Civil Rights.

- Are all students with dyslexia eligible for Section 504?

No, not necessarily. According to The Dyslexia Handbook, Revised 2010, not all students with dyslexia are automatically eligible for Section 504. Students with dyslexia may be eligible for special education, Section 504, a school plan, RTI or no services at all, depending on the individual needs of the student.

- My child's physician has written a note saying that my child is eligible for accommodations under Section 504, doesn't the school district have to follow my doctor's orders?

Section 504 committees must consider information from a variety of sources, including medical information provided by a physician. However, a doctor's note alone cannot be the basis of eligibility for Section 504.

- How is Section 504 different than special education?

Section 504 is similar to special education in some ways, yet very different in other ways. Section 504 eligibility is broader than special education, in that special education limits eligibility to 13 categories of "disabilities" and requires an educational need for services. Section 504 law does not specify a list of impairments that may qualify a student and requires a substantial limitation to a major life activity, which may or may not be learning. In addition, most services (typically

accommodations) that students receive in Section 504 are provided within the classroom by the classroom teacher. Section 504 procedures, paperwork and parental rights are also very different than in special education. However, contrary to popular misconception, Section 504 is not "special education light" or a consolation to students who are not eligible for special education.

- **Does a child need to fail a class or TAKS/STAAR to be eligible for Section 504?**

No. Low class grades and TAKS scores may indicate a substantial limitation in the area of learning, but Section 504 covers other major life activities as well. For instance, if a child has a hearing impairment, the Section 504 committee would focus on how the child's hearing is compared to other children of the same age or grade. However, if a learning disability is suspected, the Section 504 committee would focus on how the child's learning is affected. Grades and TAKS scores are an important reflection of learning, but are still not the only factor considered.

- **Can my child be disciplined if he or she is eligible for Section 504?**

Students eligible for Section 504 may still be disciplined in the same manner as their peers, unless the discipline becomes a significant change in placement. A significant change in placement is when the student is suspended or expelled for more than 10 days. In this case a Section 504 committee must determine whether the student's conduct is a manifestation, or caused by, the identified disability. If it is a manifestation, the student remains in his or her placement. If the conduct is not a manifestation, the student will receive the same discipline that a non-disabled student would receive. In cases where the student is under the influence of drugs or alcohol at school, the student is not entitled to this manifestation determination.

- **Can my child receive accommodations in advance level courses such as Pre-AP and AP classes?**

Students with disabilities are allowed the same opportunity to participate in Pre-AP and AP classes as their non-disabled peers. In order to receive an accommodation in an advanced class, the student must be eligible to receive the accommodation in a regular class. For example, if the student needs the use of an electronic keyboard in a regular class setting, the student would also be allowed to use an electronic keyboard in an advanced class. Conversely, if a student does not need additional time to complete tests in a regular class, but needs additional time to complete tests in an advanced class, the student could not receive the accommodation. One other factor to be considered when determining appropriate accommodations is the unique nature of advanced classes. If the accommodation would alter the content or academic standards of the Pre-AP or AP class, it would not be allowable in the advanced class. Reduced assignments would be an example of an alteration of content.