

# Section 504



## Guidelines

## FRAMEWORK

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*Section 504 of the Rehabilitation Act of 1973 provides that —No otherwise qualified individual with a disability in the United States...shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance... Authority: 20 U.S.C. 794*

*The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, state and local government services, public accommodations, commercial facilities, and transportation. The current text of the ADA includes changes made by the ADA Amendments Act of 2008 (P.L. 110-325), which became effective on January 1, 2009.*

Note: Specific, additional guidelines regarding dyslexia services in Gonzales ISD are included in the Dyslexia Program Procedures document. You can find this document at [www.gonzalesisd.net](http://www.gonzalesisd.net) in the Special Services Department section.

## CHILD FIND

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As part of the on-going identification and referral process, GISD will make reasonable efforts to identify and locate every qualified disabled student residing within the district who is not receiving a public education. GISD shall inform the Parents or Guardians of these potentially eligible students (who may be attending private or homeschools) of the District's duties under Section 504. As part of the Child Find effort, Gonzales ISD 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 Section 504 Referral and know how to identify students who should be referred.

## TIMELINES

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- Initial Referral
  - Gonzales ISD has 15 school days from the written request from the parent/guardian to respond to the request. The response will include either a consent for assessment or a letter of decision not to complete the evaluation.
  - Gonzales ISD will complete the evaluation within 45 school days from the date that the parent/guardian signed consent.
  - A Section 504 meeting will be held on or before 30 calendar days from the date of the finalized evaluation.
- Continued Eligibility
  - For all students with 504 plans, a re-evaluation consideration meeting will occur every three years OR with a significant change in placement.
  - Less-formal reviews (snapshot) of current Section 504 plans will be completed yearly to make sure that the student's accommodation plan is appropriate based on the current class schedule and individual needs. In Gonzales ISD, parents will be consulted during a snapshot.

- The accommodation plan may be revised at any time during the school year if needed through a formal meeting or through an amendment to the 504 Plan.
- Reviews may be called by parents or staff at any time.

## REFERRAL

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A student can be referred for a Section 504/ADA evaluation by the parent/guardian or by school personnel.

## CONSENT FOR EVALUATION

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

## EVALUATION

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When the consent is received from the parent, the Campus 504 Coordinator will:

1. Gather evaluation data and coordinate/direct the completion of the various input documents. The evaluation data consists of information from a variety of sources, that may include: efforts and results of early intervention activities, aptitude and achievement testing, teacher recommendations, student's historical and current physical and mental condition (including data on conditions in remission and episodic conditions), social or cultural background, adaptive behavior, and mitigating measures. The teacher input form is to be completed by one or more teachers of the student. The parent input form should include information about the student's activities/behaviors at home, health and medical records if available, and 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.
2. Ensure that, should formalized testing be considered by the Section 504 Committee as -evaluation data, the tests:
  - a. 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;
  - b. Include those tailored to assess specific areas of educational need and are not merely designed to provide a single intelligence quotient;
  - c. 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).

3. Determine who will be in the group of knowledgeable people (the Section 504 Committee) that should include persons with knowledge of the student, the meaning of the evaluation data, and the placement options.
4. Schedule a Section 504 Evaluation by the Committee.
5. Give the parents/guardians notice of the time and place of the evaluation meeting, inviting the parent/guardian to attend. Written notice, while not required, is preferred and will be utilized in Gonzales ISD.

During the Section 504 Evaluation Meeting, the committee will:

1. 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 input forms;
2. Ensure that all information reviewed in the evaluation is documented and carefully considered, and that Section 504 decisions are made consistently with the Americans with Disabilities Act Amendments Act of 2008, including appropriate consideration of mitigating measure, recognition of changes made to major life activities, the appropriate consideration of impairments that are episodic or in remission, and Congressional declarations on the definition of substantial limitation.
3. Complete the Section 504 Evaluation documents. If the student is determined to be eligible and is determined to need accommodations, aids or services from the school, the Committee moves on to the Section 504 Plan forms to develop appropriate services and accommodations. If no eligibility is found, the parents are so informed in writing.
4. Should the parent/guardian refuse consent to the initial provision of Section 504 services by completing, signing, and returning signed consent to the Campus 504 Coordinator or to the Director of Special Programs, the 504 Plan should be appropriately annotated with the parent's refusal to consent. Section 504 services detailed on the Services Plan will not be provided to the student, but the completed Plan will serve as documentation of the Gonzales ISD's offer of FAPE to the student.

At the conclusion of the Evaluation/Placement meeting, the Campus 504 Coordinator provides notice to the parent of the 504 Committee's findings, and copies of the completed Evaluation form, the Services Plan (if eligible), and the Refusal of Consent Form (if appropriate).

## **PARENTAL RIGHTS TO REFUSE CONSENT & REVOKE CONSENT FOR SERVICES**

Gonzales ISD recognizes the parent/guardian's right to refuse consent for initial Section 504 Services as well as to revoke consent for continued Section 504 Services at any time. The parent/guardian may exercise the right to refuse consent or revoke consent by providing that request in writing to the

Campus 504 Coordinator or to the Director of Special Programs. In the absence of written refusal, Gonzales ISD will assume that the parent/guardian consents to Section 504 Services.

## ELIGIBILITY

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To be eligible under Section 504/ADA, a student must meet the following criteria:

1. Have a physical or mental impairment which substantially limits one or more major life activities;
2. Have a record of such an impairment; OR
3. Is regarded as having such an impairment.

As used above in this section, the phrase:

***Physical or mental impairment*** means:

Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin; and endocrine; OR any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

***Major life activities*** means:

Functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, reading, breathing, learning, and working.

***Has a record of such an impairment*** means:

Has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

***Is regarded as having an impairment*** means:

1. Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation; OR
2. Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; OR
3. Has none of the impairments defined in this section but is treated by a recipient as having such an impairment.

Once a student is determined eligible for Section 504/ADA, accommodations may be provided, if needed, to mitigate the student's impairment so that the student can participate in academic and extra-curricular activities.

In determining the need to develop a 504 service plan, the mere fact that a student has a "record of" or is "regarded as" disabled is insufficient, in itself, to trigger those Section 504 protections that require the provision of a free appropriate public education (FAPE). A student must actually have an impairment that substantially limits a major life activity to be entitled to FAPE.

## **IMPLEMENTATION OF THE SECTION 504 SERVICES PLAN**

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The Campus 504 Coordinator and the Director of Special Programs will ensure that the student's Services Plan is delivered to each teacher, administrator, and any other employee or third-party contractor with responsibility to implement the plan.

At the beginning of each school year, the Campus 504 Coordinator gives teachers access to a copy of the student's accommodation plan. If a plan is developed mid-year, the teachers are informed shortly after the Section 504 meeting. All 504 documentation will be entered into Skyward by the Campus 504 Coordinator.

Monitoring of the Services Plan implementation should be accomplished through parent input, the teacher appraisal process, review of teacher documentation, walkthroughs, and informal checks of the student's academic, emotional, behavioral, and social progress by the Campus 504 Coordinator and appropriate administrators.

## **PERIODIC THREE-YEAR RE-EVALUTION**

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At least every three years, the 504 Committee will meet to conduct a periodic re-evaluation of students on Section 504 Services Plans as well as those students who are eligible under Section 504 but not in need of a Section 504 Services Plan at this time.

Prior to a re-evaluation, Gonzales ISD will provide the parents with written notice of the time and place of the re-evaluation meeting. If the student remains eligible and in need of a Services Plan, the Section 504 Committee should focus on the student's changing needs due to the effects of different classroom subject matter, school demands and other factors. Should the Section 504 Committee determine that the student is no longer eligible, the Section 504 Committee should dismiss the Student from 504. The parent/guardian shall be given notice of the results of the re-evaluation.

## **NON-ACADEMIC SERVICES AND EXTRACURRICULAR ACTIVITIES**

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Gonzales ISD shall ensure that the provision of nonacademic and extracurricular services and activities (such as, but not limited to, 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:

1. Eligible students are afforded an equal opportunity to participate in such service and activities.

2. Eligible students participate with nondisabled students to the maximum extent appropriate to the needs of the eligible student.

## **DISCIPLINE**

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Children under Section 504 are still expected to follow the district's student code of conduct. However, when disciplining a child under Section 504, schools must consider the relationship between the disability and the misbehavior of the child. A Manifestation Determination Review is the process followed for a student under Section 504 whose disciplinary consequence will remove them from the regular setting more than 10 days.

The educational committee will meet within 10 school days of the discipline finding to determine if the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability. If there is more than one behavior incident that gave rise to a removal/change of placement, the committee will consider each incident separately. Parents are invited and encouraged to participate in the discussion. All relevant information will be considered, including the nature of the disability, outside evaluations, observations of the student, discipline history, the student's 504 plan, etc.

If the committee determines the behavior was a direct result of the impairment, or a result of the school's failure to follow the student's 504 Plan, appropriate discipline options will be considered, as will potential supports, such as an individual behavior intervention plan. If the committee finds the behavior is not a direct result of the impairment, the student will be subject to the same consequences as a student without a disability.

Even with a causal relationship, a student can be assigned to a DAEP placement if any of the following situations are true:

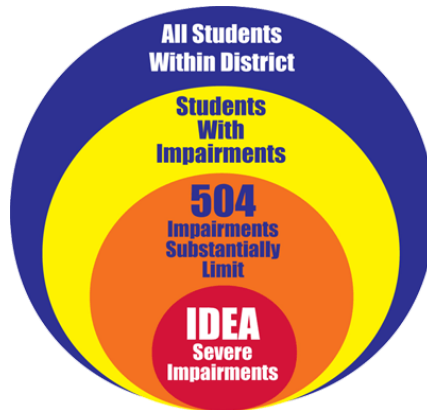
1. The parent agrees to the placement.
2. The incident involved illegal drugs.
3. The incident involved weapons.
4. The incident caused serious bodily injury.

## **SECTION 504 SERVICES OR SPECIAL EDUCATION SERVICES?**

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In order to receive IDEA/Special Education services, a student must have one of 13 specific qualifying disabilities which affects the student's education performance and/or ability to learn and benefit from the general education curriculum. What is considered a disability under Section 504 is much broader than that of Special Education.

The guidelines governing Section 504 eligibility and services are less clearly defined. Section 504 is an anti-discrimination law, protecting all individuals with disabilities, whether or not they need a Section 504 accommodation plan; Special Education students are also protected by Section 504.



## ACADEMIC EXPECTATIONS

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Section 504 is not a statute of reduced expectations for students. The expectation is grade level performance. Students are responsible for the state-required curriculum. Section 504 is not about reducing academic rigor or age-appropriate expectation but for providing the types of accommodations that will compensate for the disability so the students have an equal opportunity to access their education.

## RECORDS

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Section 504 records, including any evaluation data, shall be kept in a separate Section 504 folder under the control of the Campus 504 Coordinator. Regardless of location, Gonzales ISD will maintain the confidentiality of Section 504 records as required by the Family Educational Rights and Privacy Act (FERPA).

## COMPLAINTS

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A parent/guardian alleging that the school district has violated the provisions of Section 504/ADA may:

1. File a complaint with the Director of Special Programs, who will investigate the allegations to the extent warranted by the nature of the complaint in an effort to reach a prompt and equitable resolution;
- OR,
2. File a complaint with the Office for Civil Rights.