

What is Section 504?

Section 504 of the Rehabilitation Act of 1973 is a federal law that prohibits discrimination on the basis of disability. Unlike the Individuals with Disabilities Education Act (IDEA) that governs special education, Section 504 is not an education, service, or funding statute. The purpose of Section 504 is to ensure that individuals with disabilities are given the same opportunity to participate in programs and activities as are their nondisabled peers.

It is the responsibility of Katy Independent School District to identify and serve students who, within the intent of Section 504 of the Rehabilitation Act of 1973, are considered disabled and who, because of disability need special services/accommodations within the general education program.

Who is Eligible Under Section 504?

Students may qualify for protection under Section 504 if they have a mental or physical impairment that **substantially limits** one or more of life's major activities. A label, disability, or diagnosis, alone, does not make a student eligible under Section 504. The disability must substantially limit the student's performance as compared to the performance of the average student in the general population.

If a student does not qualify under Section 504 but requires instructional and/or behavioral interventions beyond those available in general education, the District will meet the student's needs through its Response to Intervention (RTI) process.

Students may be eligible for services under Section 504 even though they do not meet the eligibility criteria for one of the disabling conditions covered by the Individuals with Disabilities Education Act (IDEA). Students eligible for services under IDEA are not addressed in these guidelines.

What is Meant by "Substantially Limits"?

Under judicial interpretation, a major life activity is substantially limited when a person is "unable to perform a major life activity that the average person in the general population can perform."

In referencing the "general population", the intent of the law was to compare each person's performance against the general population in the community and the nation – not the population at a particular school.

What is a Major Life Activity?

Major life activities refer to functions such as, but not limited to, caring for oneself, eating, sleeping, reading, walking, seeing, hearing, bending, standing, speaking, breathing, thinking, concentrating, communicating, and performing manual tasks. Major life activities also include major bodily functions of the immune system, bladder, bowel, brain, respiratory, circulatory, and endocrine functions, as well as, normal cell development.

Where Does RTI Fit in the 504 Process?

Katy ISD uses a tiered Response to Intervention (RTI) model as a system for gathering data to determine whether a student may have need for referral to 504. It is through the RTI process that campuses document a student's response to interventions for academic, physical, or behavioral difficulties.

All students receive differentiated instruction in their general education classes at Tier I. A student, who makes minimal or no progress academically at Tier I, may be referred to an RTI Collaborative Team to determine whether the student requires targeted supplementary intervention at Tier II. For elementary students, this involves a second class in a content area. Secondary students, on the other hand, may need an academic intervention elective. Tier II is still a part of the general education program. If the student does not make progress at this level, the student may require more intensive interventions at Tier III and/or a referral to 504.

Students with physical and/or behavioral needs are typically served within the general education classroom with appropriate levels of support from an LSSP or campus nurse.

Participation in student support or Response to Intervention systems does not exclude students from Section 504 referral, even if a student is successful given the intervening services. Utilization of RTI should not DELAY, DENY, or PREVENT students from access to Section 504 evaluation. Referral to Section 504 should occur when a school or parent suspects a disability is present (or has knowledge a disability has been identified) and the student may be in need of services due to the disability.

What are the Referral Procedures?

- ◆ In most cases, students referred to a Campus 504 Coordinator will have been served previously through the RTI process.

- ◆ Any student may be referred for a 504 evaluation by a parent, teacher, counselor, administrator, or other District employee who is knowledgeable about the student and has reason to believe that the student has a disability that is substantially limiting one of life's major activities.
- ◆ All referrals must be submitted in writing to an official Campus 504 Coordinator who will prepare and send all required notices.
- ◆ The District complete the evaluations within 45 school days following receipt of parents' consent to evaluate.

What Constitutes an Evaluation Under Section 504?

An evaluation under Section 504 does not normally involve testing. It may consist of a review and analysis of existing records such as vision and hearing screening, test scores, attendance records, discipline records, educational history, current academic performance, teacher observations, and behavior. Data provided from external sources is also considered but within the context of the school.

A 504 Committee is responsible for gathering, reviewing and analyzing the evaluation data and for making decisions regarding a student's eligibility **based upon current legal standards**.

Who Makes Up the Membership of the 504 Committee?

The federal regulations governing Section 504 do not specify the titles or classifications of individuals who must participate in a 504 Committee. The regulations do state that the 504 Committee must include "a group of persons knowledgeable about the child, the meaning of the evaluation data, and the placement options."

While parents are not required members of a 504 Committee in federal regulations, Katy ISD encourages parent participation.

How is Placement Defined?

In the context of 504, "placement" refers to the general education classroom or program with individually planned accommodations or interventions. Placement may include such things as tutorials, math lab, block math classes, or reading improvement classes. In other words, an eligible 504 student is entitled to the same access to programs and activities as any other student. The District is not required to alter

requirements or standards for participation. There is no modification of the essential knowledge and skills for 504 students. Eligibility under Section 504 is not intended to reduce expectations for students with disabilities. The intent of 504 is to provide eligible students with reasonable accommodations that will give them an equal chance to achieve.

Can Eligible 504 Students Take an Alternative STAAR Test?

No. Unlike students with disabilities who are eligible under the special education umbrella (IDEA), 504 students cannot be given an alternate or modified STAAR test. Therefore, since graduation is conditioned on passing STAAR and/or End-of-Course exams, eligible 504 students must be held accountable for the same curriculum requirements and standards as their nondisabled peers. To do otherwise would not give eligible 504 students an equal opportunity to earn a diploma. Eligible 504 students may be entitled to limited testing accommodations as allowed by TEA or the testing manufacturer, as appropriate.

What if a Parent Refuses IDEA Services and Requests 504 Instead?

The Office of Civil Rights, the agency responsible for enforcement of Section 504 regulations, has made it clear that students eligible for services under IDEA should be served under that statute. If a parent refuses special education services for an eligible student, Katy ISD may have no obligation to offer the student services and/or accommodations under Section 504.

What Rights Do Parents Have Under Section 504 in Katy ISD?

Participation in student support or Response to Intervention systems does not exclude students from Section 504 referral, even if a student is successful given the intervening services. Utilization of RTI should not DELAY, DENY, or PREVENT students from access to Section 504 evaluation. Referral to Section 504 should occur when a school or parent suspects a disability is present (or has knowledge a disability has been identified) and the student may be in need of services due to the disability.

1. Parents have a right to written notification on an individual basis with regard to:
 - (a) referral for evaluation or reevaluation;
 - (b) decisions regarding eligibility;
 - (c) services available;
 - (d) placement; and

(e) any significant change in placement.

2. A right to receive a copy of this notice upon the district's identification, evaluation, refusal to provide an evaluation, educational placement, denial of educational placement, and any significant change in said placement of their child.
3. A right to an evaluation of their child if the District has reason to believe that the child has a mental or physical impairment that substantially limits learning or some other major life activity
 - (a) before the initial placement; and
 - (b) before any subsequent significant change in placement.
4. A right to an opportunity to examine all relevant records for their child.
5. A right to participate in an impartial hearing with representation by counsel, concerning the identification, evaluation or educational placement of their child.
6. A right to appeal the final decision of the impartial hearing officer to a court of competent jurisdiction.

Written requests for local mediation or impartial hearings shall be made to:

Mrs. Bonnie Holland
Associate Superintendent for Administration,
Governance and Legal Affairs
Katy Independent School District
P.O. Box 159
Katy, Texas 77492-0159
(281) 396-2318

The hearing officer for the impartial hearing will not be an employee of Katy ISD, shall not be a member of the Board of Trustees, and shall not be related to any member of the Board of Trustees in a degree that would be prohibited under the nepotism statute.

Mediation conferences and/or impartial hearings will be conducted in an informal and nonadversarial manner.

OCR Complaints

Parents or guardians who believe that the District has violated the provisions of Section 504 are entitled to file a complaint with the Office of Civil Rights (OCR) which has jurisdiction in Texas. The address is as follows:

Director – Department of Education
Office of Civil Rights
1999 Bryan Street, Suite 1620
Dallas, Texas 75201
(214) 661-9600

Special Services 06/27/2017

Section 504: A Parent's Guide

KATY INDEPENDENT SCHOOL DISTRICT



It is the policy of Katy ISD not to discriminate on the basis of sex, disability, race, religion, color, gender, age or national origin in its educational programs and/or activities, including career and technology program, nor in its employment practices and to provide equal access to the Boy Scouts and other designated youth groups.