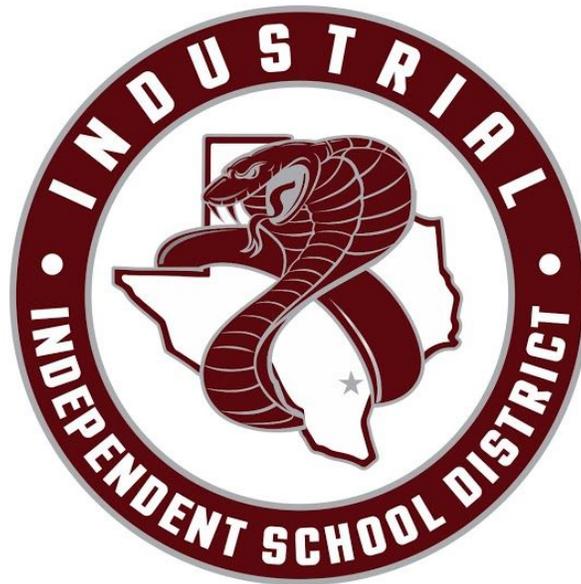


**INDUSTRIAL INDEPENDENT SCHOOL  
DISTRICT**

**SECTION 504**



**Updated June 5, 2018**

# **Industrial Independent School District**

## **Section 504**

### **Purpose of Section 504**

The purpose of the Act is to protect people with disabilities by eliminating barriers and allowing full participation in areas such as education and work. Under 504 disabled students must be provided equal opportunity to participate in extra-curricular activities.

### **Eligibility**

An eligible student is a student who (a) has, (b) has a record of having, or (c) is regarded as having a physical or mental impairment which substantially limits a major life activity.

### **What Is a “Major Life Activity?”**

Major life activities include walking, seeing, hearing, speaking, breathing, learning, working, and caring for oneself. This list is not exhaustive. The handicapping condition must substantially limit one major life activity for the student to be eligible.

### **Definition of Impairment**

“Physical or mental impairment” means (a) 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, genitourinary; hemic and lymphatic; skin; and endocrine; or (b) any mental or psychological disorder, such as mental retardation organic brain syndrome, emotional or mental illness, and specific learning disabilities.

### **Educational Need**

A substantial limitation on learning must be demonstrated by an educational need, i.e., a serious academic deficit and/or serious behavior problems resulting from the student’s disability and not from other causes.

### **Age**

Eligible disabled students between the ages of 3 and 21 who have not graduated are covered by these procedures.

### **Referrals**

Parents or guardians shall make a written referral to the Section 504 Coordinator/Curriculum Director, who will present their requests for educational services to a Section 504 Committee for determination. Campus counselors will handle referrals.

### **Parental Rights**

The Section 504 Coordinator will notify the parents of their rights under Section 504. Parent consent is required prior to initial evaluation.

### **Placement of Section 504-Only Students**

Students who meet the eligibility requirements for Section 504 only shall be placed in, and receive services through, regular education programs on the same basis as non-disabled students.

### **Section 504 Committee**

The Section 504 Committee shall be composed of one person(s) knowledgeable about the student, the meaning of the evaluation data, the placement options, the legal requirement to place a disabled child in the least restrictive environment, and the legal obligation to provide comparable facilities to disabled students.

### **Notice of Committee**

Prior to taking any action regarding the Section 504 identification, evaluation, or placement of a student believed to be in need of special instruction or related services, the school district will provide the parents or guardian with prior written Notice of Section 504 Committee Decision.

### **Meetings**

Counselor will set meetings for all 504 students and invite the nurse if it is a medical issue.

### **Preplacement Evaluation**

An evaluation shall be conducted before any action is taken to place a disabled student or make a significant accommodation in an instructional program.

Evaluation data may include, but is not limited to, formal and informal test instruments, aptitude and achievement tests, teacher recommendation, physical or medical reports, student grades, progress reports, parent observations, anecdotal reports, and STAAR/EOC scores.

### **Reevaluation**

Section 504 requires “periodic” reevaluations. There is not a specified time frame. However, school district will be in compliance if they reevaluate the student every three years. Section 504 requires a reevaluation before any significant change in placement.

### **Adaptive Behavior**

The evaluation shall include an adaptive behavior report to indicate the effectiveness with which the student meets the standards of personal independence and social responsibility expected of his or her age and cultural group.

### **Expulsion and AEP Placement**

Before an expulsion or AEP Placement, a “manifestation determination” to determine whether the student’s conduct was caused by his/her disabling condition should be held if it constitutes a significant change in placement. The Office of Civil Rights has ruled when the exclusion of a child with a disability is permanent (expulsion), or for an indefinite period, or for more than 10 consecutive school days, the exclusion constitutes a significant change in placement. Such a determination should be based on current evaluation data. The burden of proof is on the school to show that no relation exists between a child’s disability and the misconduct in question.

If it is determined by the Section 504 Committee that the misconduct is not caused by the student’s disabling condition, the student may be excluded from school in the same manner as similarly situated non-disabled students are excluded.

If it is determined by the Section 504 Committee that the misconduct is caused by the student's disabling condition, the student may not be expelled. The Section 504 Committee must then determine whether the student's current educational placement is appropriate.

- 1) May be held to the same standard of performance and behavior that non-disabled students are held to; and
- 2) May not be excluded from school if they can successfully participate in the educational program, comply with the rules, and their behavior does not impede the performance of other students.

Rules concerning use or possession of drugs and alcohol will be applied to substance abusers and will be enforced evenly with respect to all students, both disabled and non-disabled.

### **Drugs**

An exception to §504 (actually part of ADA amendments) states that schools may take disciplinary action in situations where students are "currently engaging [in] the illegal use of drugs or in the use of alcohol to the same extent that such disciplinary action is taken against non-handicapped students." 29U.S.C. §706(8)(B)(iv). In addition, in such a case the parents could not resort to a due process hearing under §504 to contest the disciplinary action.

### **Student Records**

The parents or guardians shall have the opportunity to examine relevant education records upon reasonable notice during school hours or at other mutually convenient times by prior arrangement.

### **Due Process Rights**

In the event of a disagreement between the parents or guardian and the school district in regard to the identification, evaluation, or educational placement of a disabled student, the parents or guardian have the right to an impartial hearing, with an opportunity to participate and be represented by an attorney.

### **Grievance Process**

Parents or guardians who wish to challenge a decision of the Section 504 Committee shall file a written Parents' Notice of Appeal with the Section 504 Coordinator within 30 calendar days of the date of the Notice of Section 504 Committee Decision.

Within 30 calendar days of the date of the Parents' Notice of Appeal, the district will schedule a hearing before an impartial hearing officer and provide the parents or guardian with a written Notice of Hearing that sets out the date, time, and place for hearing and advises them of their right to participate and be represented by an attorney. Upon good cause shown and at the discretion of the hearing officer, either party may receive a continuance of the scheduled hearing date.

The hearing will be conducted informally and in a non-adversarial manner. The Rules of Evidence and Procedure do not apply.

The district shall make an audio tape of the complete hearing. No written transcript will be required, but the parents or guardian shall be entitled to obtain a copy of the audio tape at reasonable cost.

The hearing officer will render a decision at the conclusion of the hearing, or, if it is imperative that the decision be taken under advisement, within 15 calendar days of the hearing. No written findings of fact or conclusions of law shall be required of the hearing officer.

The person who serves as the impartial hearing officer must not be an employee of the school district and may not be related to any member of the board of trustees in a degree that would be prohibited under the Nepotism Statute.

The hearing officer need not be an attorney at law but shall be familiar with the requirements of Section 504. The hearing officer will be paid by the school district as an independent contractor for services rendered in regard to the hearing. The hearing will be conducted without cost to the parents or guardian.

### **Review Procedure**

If the parents or guardian disagree with the decision of the impartial hearing officer, they may seek a review of the decision by a court of competent jurisdiction.

### **OCR Complaints**

Parents or guardians who allege that the school district has violated the provisions of Section 504 may file a complaint with the Office of Civil Rights. The address of the Regional Office which covers Texas is:

Office of Civil Rights, Region VI  
1200 Main Tower Building, Room 1935  
Dallas, Texas 75202