

EDNA INDEPENDENT SCHOOL DISTRICT

**504
Handbook**

Updated 9/21/2015

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EDNA INDEPENDENT SCHOOL DISTRICT OBLIGATION FOR ELEMENTARY AND SECONDARY EDUCATION SECTION 504 SERVICES AND OPTIONS

Educational Setting

Edna ISD will educate students with disabilities with nondisabled students to the maximum extent appropriate to the needs of the students with disabilities. In order to remove a student from the regular educational environment, Edna ISD must demonstrate that educating the student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily.

Free Appropriate Education

Edna ISD will provide a free appropriate education (regular or special education and related aids and services) to Section 504 disabled school-age children who reside within the district. Instruction will be individually designed to meet the needs of these students as adequately as the needs of nondisabled students are met.

Note: The Section 504 standard of what is appropriate differs from the IDEA “appropriate” standard, which requires the district to design a program reasonably calculated to confer educational benefit. Section 504 requires that persons with disabilities be provided aids, benefits, or services that are as effective as those provided nondisabled persons.

Section 504 does not require school districts to develop an individual educational plan (IEP). However, Edna ISD will document what evaluations were performed and/or decisions were made regarding each student considered under Section 504.

The quality of educational services provided to students with disabilities must be equivalent to the services provided to nondisabled students. Teachers must be trained in the instruction of persons with the disability in question and appropriate materials and equipment must be available.

Note: A child does not have to need special education in order to be qualified under Section 504.

Transportation

If Edna ISD places a student in a program not operated by the district, the district assures that adequate transportation to and from the program is provided at no greater cost than the parent would have paid to transport the child to the district-operated program.

Edna ISD will not discriminate in its provision of transportation to students with disabilities, if the district provides transportation to all its students within the geographic areas that the students with disabilities reside.

If Edna ISD proposes to terminate a qualified student’s bus transportation for inappropriate bus behavior, the district must first determine the relationship between the student’s behavior and his/her disabling condition and provide the parent with notice of his/her rights. If the behavior is related to the disabling condition, the district may not terminate services, but must provide an alternative mode of transportation.

Note: The length of the bus ride for students with disabilities should not be longer than that of nondisabled students.

Residential Placement

Residential placement must be provided at no cost to the parent only if necessary to provide a free appropriate education.

Nonpublic School Placements Made by Parents

If the district has made available a free appropriate education to a student which conforms to the requirements of Section 504, but the parent chooses to place the child elsewhere, the district is not responsible for any costs incurred.

Evaluations

If a student with a disability needs or is believed to need special education or related services, Edna ISD will evaluate the student prior to initial placement in a “regular or special education program and any subsequent significant change in placement.” A full evaluation is not required when neither the district nor the parent believes that the child with a disability is in need of special education or related services.

The district has policies and procedures for evaluation and placement, which assures that tests and other evaluation materials:

- have been validated and are administered by trained personnel;
- are tailored to assess educational need and are not based solely on IQ scores; and
- reflect aptitude, achievement, or whatever else the tests measure and do not reflect the student’s impaired sensory, manual, or speaking skills (unless the test is designed to measure these particular deficits).

Note: There is no right to an independent evaluation under Section 504.

Placement Procedures

In interpreting evaluation data and making placement decisions, the district must:

- draw upon information from a variety of sources;
- ensure that all information is documented and considered;
- ensure that the placement decision is made by a group of persons including those who are knowledgeable about the child, the meaning of the evaluation data, and placement options; and
- ensure that the student is educated with his/her nondisabled peers to the extent appropriate, and that any facilities identifiable as being for persons with disabilities are comparable to facilities provided other students.

Re-evaluations

Section 504 requires “periodic” re-evaluations. There is no specified time frame, however, Edna ISD will re-evaluate the 504 students every three years. Additionally, Section 504 requires a re-evaluation before any significant change in placement. Re-evaluation may require retesting.

Examples of significant changes in placement which require re-evaluation include:

- expulsion
- single suspensions which exceed ten consecutive calendar days
- transfer of a student to home instruction
- graduation from high school
- significant change in the amount or type of education (e.g., changing the student from one period to three periods a day in the resource room or moving the student from full-time regular education to part-day resource room).

Nonacademic Services

Edna ISD will provide equal opportunity in areas such as counseling, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs, referrals to other agencies, and employment.

- Counseling: Edna ISD will not counsel students with disabling conditions toward more restrictive career objectives.
- Physical education and athletics: Edna ISD will provide equal opportunity for students with disabilities to participate. The district may offer these activities separately for students with disabilities only if necessary. The district may not deny a student with a disability the opportunity to compete in activities, which are not separate.

Section 504 Committee

The Section 504 coordinator and members of the Section 504 committee shall receive training in the procedures and requirements for identifying and providing educational and related services to those students who have disabilities, but who are not in need of special education in accordance with the Individuals with Disabilities Education Act (IDEA). [See EHBA] The Section 504 committee shall be composed of at least two persons- including a counselor and teacher/administrator.

State Assessments

Modifications in taking the state-mandated assessments may be made for a Section 504 student when the modifications have been determined not to destroy the validity of the test, are necessary for the student to take the test, are consistent with modifications provided the student in the classroom, and are approved by TEA. [See EKB]

EDNA INDEPENDENT SCHOOL DISTRICT REMOVALS OF THE SECTION 504 STUDENT

Review of the Accommodation Plan

As with a student in special education, before a board or its designee suspends a Section 504 student, the designee must review the student's accommodation plan to ascertain whether it sets forth a method to address this type of behavior. Prior to suspending or removing a Section 504 student to an AEP, the designee should consult with qualified staff that can interpret assessment data as to whether either of the actions would be appropriate for the student in light of his disability. If these actions are deemed appropriate, the student may be removed in the same manner as a non-disabled student for a period not to exceed three (3) consecutive days or removed to an alternative education program for a period not to exceed sixteen (16) consecutive school days, without a meeting.

504 Committee Action

If the placement in an AEP will exceed 16 days, this constitutes a significant change in placement and requires a meeting of the Section 504 Committee to determine whether the misbehavior is related to the disability and whether the current placement is appropriate. If it is related, the Section 504 Committee must review the plan and determine what action is necessary to meet the student's needs. If the student is to be removed for more than three (3) consecutive days, that constitutes an expulsion and requires the district to follow the expulsion procedures for Section 504 student.

OCR has limited the total number of days for removal to ten under Section 504; however, SB1 states that students may not be removed for more than sixteen (16) days, without a meeting. Consequently, the Section 504 Committee should meet whenever the number of days for suspensions, assignments to an alternative education program, and emergency removals approaches a total of ten (10) days.

Notice to Parents of Final Action

If a student is suspended, the district must notify the parents or guardians of the student of the suspension and inform them that it is their responsibility to provide adequate supervision for the student during the period of suspension.

Emergency Removals

As the term suggests, a school district can remove a student from his or her regular classes or from the campus for non-disciplinary health, safety, or welfare reasons when an "emergency" exist.

What reasons constitute an "emergency?"

According to the rules, reasons which may be considered an emergency include, but are not limited to: (1) when a student is under the influence of alcohol or drugs, (2) a student is highly agitated, (3) a student is suffering from any other condition which temporarily threatens his or her welfare, (4) other individual's welfare is threatened, or (5) the efficient operation of the school is threatened. As the phrase denotes, this option should only be used by a district if a true emergency exists. Otherwise, the administrator may utilize the disciplinary methods available to it such as suspension or removal to an alternative educational program.

EXPULSIONS AND THE SECTION 504 STUDENT

As with a student in special education, certain procedures must be followed before a Section 504 student may be expelled. The Section 504 procedures are similar to the special education requirements. Failure to adhere to these procedures could result in the school district being held in violation of the Act by the Office of Civil Rights.

Manifestation Determination

Prior to any consideration of expulsion, the Section 504 Committee must meet and determine if the misbehavior is a manifestation of a student's disability. What is a "manifestation determination"? It simply means that the Section 504 Committee members must meet to determine whether there is a link between the misconduct and the disability. If the misbehavior is not a manifestation of the disability, then the student can be expelled by following the regular education expulsion procedures. If the misbehavior is a manifestation of the disability, the student cannot be expelled.

Members of the Committee

The members of the committee must be professional employees who are personally familiar with the child and are knowledgeable about Section 504. One member of the committee should have the ability to interpret and understand assessment and evaluation data.

Information Used by the Committee

The Section 504 Committee must have available information that competent professionals would require, such as psychological evaluation data related to behavior. The information must be recent enough to afford an understanding of the child's current behavior. When the student's disability is behavior related it is advisable to have an assessment staff member prepare a report as to whether the misbehavior is a manifestation of the disability prior to holding the Section 504 Committee meeting.

Need for New Assessment

The Section 504 Committee should consider whether the student's behavior warrants new assessment or evaluation data. The Section 504 Committee can be adjourned to obtain the new assessment or evaluation data. If the Section 504 Committee agrees that new documentation is necessary, make sure that it is completed promptly. Once the new documentation is obtained, the Section 504 Committee must meet to review the data and make a manifestation determination.

Expulsion Procedure

Once the determination is made that the misbehavior was not a manifestation of the disability or the result of an inappropriate placement, the school district should proceed with the regular education expulsion procedures.

NOTICE OF PARENT AND STUDENT RIGHTS UNDER SECTION 504, THE REHABILITATION ACT OF 1973

The Rehabilitation Act of 1973, commonly referred to as “section 504”, is a nondiscrimination statute enacted by the United States Congress. The purpose of the Act is to prohibit discrimination and to assure that disabled students have educational opportunities and benefits equal to those provided to nondisabled students.

An eligible student under section 504 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 such as learning, self-care, walking, seeing, hearing, speaking, breathing, working, and performing manual tasks.

DUAL ELIGIBILITY: Many students will be eligible for educational services under both section 504 and Individuals with Disabilities Education Act (IDEA). Students who are eligible under the IDEA have many specific rights that are not available to students who are eligible solely under section 504. A *Parents Rights Handbook* prepared by the Texas Education Agency is available through the school district’s Special Education Department and sets out the rights assured by the IDEA. It is the purpose of this Notice form to set out the right assured by section 504 to those disabled students who do not qualify under the IDEA.

The enabling regulations for section 504 as set out in 34 CFR Part 104 provide parents and/or students with 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]. You have the right to refuse consent for services at any time.
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 non-disabled 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]. You have the right to refuse consent for initial evaluation.

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 appropriately 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, statewide assessment scores, and mitigating measures, 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 non-disabled children. [34 CFR 104.35].

9. If your child is eligible under §504, he or she has a right to periodic reevaluations. A reevaluation must 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.

**Madalyn Maresh, 601 North Wells, Edna, Texas 77957
361-782-3573**

14. If you disagree with the decision of the hearing officer, you have a right to seek a review of the decision by making a written request to the District's Section 504 Coordinator, and/or you may seek relief in state or federal court as allowed by law.

15. You also have a right to present a grievance or complaint through the District's local grievance process. The District 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. Parents may contact the District's Section 504 Coordinator for more information about the District's grievance process.

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**

Edna ISD
120901

EQUAL EDUCATIONAL OPPORTUNITY

FB
(LOCAL)

The Superintendent shall serve as coordinator for purposes of District compliance with antidiscrimination laws, except as provided below.

TITLE IX AND
SECTION 504
COORDINATOR

The District designates the following employee to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as amended, and Section 504 of the Rehabilitation Act of 1973:

Name: Madalyn Maresh

Position: Director of Human Resources and Federal Programs

Address: 601 North Wells Street, Edna, TX 77957

Telephone: (361) 782-3573

COMPLAINTS

Allegations of unlawful discrimination shall be directed to the appropriate coordinator and shall be heard through FNG (LOCAL). Reports regarding prohibited harassment, including sexual harassment, shall be made according to FFH (LOCAL).

RECORDS
RETENTION

Copies of reports alleging discrimination or prohibited harassment, including sexual harassment; investigation reports; and related records shall be maintained by the District for a period of at least three years. If the person alleged to have experienced discrimination or prohibited harassment was a minor, the records shall be maintained until the person reaches the age of 21.

SECTION 504
COMMITTEE

The Section 504 coordinator and members of the Section 504 committee shall receive training in the procedures and requirements for identifying and providing educational and related services to those students who have disabilities, but who are not in need of special education in accordance with the Individuals with Disabilities Education Act (IDEA). [See EHBA]

The Section 504 committee shall be composed of at least two persons, including persons knowledgeable about the student, the meaning of the evaluation data, the placement options, and the legal requirements regarding least restrictive environment and comparable facilities for students with disabilities.

REFERRALS

A student may be referred by parents, teachers, counselors, administrators, or any other District employee for evaluation to determine if the student has disabilities and is in need of special instruction or services.

PARENTAL CONSENT	The Section 504 coordinator shall notify parents prior to any individual evaluation conducted to determine if their child has disabilities or to determine what educational or related services should be provided to the student. Parental consent shall be obtained before the initial student evaluation procedures for the identification, diagnosis, and prescription of specific education services.
NOTICE TO PARENTS	Parents shall be given written notice of the District's refusal to evaluate a student or to provide specific aids and services the parents have requested.
PREPLACEMENT EVALUATION	The results of the evaluation shall be considered before any action is taken to place a student with disabilities or make a significant change in placement in an instructional program. The evaluation shall include consideration of adaptive behavior. Adaptive behavior is the effectiveness with which the individual meets the standards of personal independence and social responsibility expected of his or her age and cultural group.
IMPARTIAL HEARING	Parents shall be given written notice of their due process right to an impartial hearing if they have a concern or complaint about the District's actions regarding the identification, evaluation, or educational placement of a student with disabilities. The impartial hearing shall be conducted by a person who is knowledgeable about the issues involved in Section 504 and who is not employed by the District or related to a member of the Board in a degree that would be prohibited under the nepotism statute [see DBE]. The impartial hearing officer is not required to be an attorney.
STATE-MANDATED ASSESSMENTS	Modifications in taking the state-mandated assessments may be made for a Section 504 student when the modifications have been determined not to destroy the validity of the test, are necessary for the student to take the test, are consistent with modifications provided the student in the classroom, and are approved by TEA. [See EKB]

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