

Texans Can!

Austin Can!, Dallas Can!, Fort Worth Can!, Houston Can!, & San Antonio Can!

SECTION 504

POLICIES & PROCEDURES

Board Adopted November 2004

TOPICS

General Section 504 Responsibilities

Facilities Issues

FACILITIES ISSUES

45 FR 30936, May 9, 1980; 45 FR 37426, June 3, 1980,
as amended at 55 FR 52138, 52141, Dec. 19, 1990

I. Discrimination prohibited (Sec. 104.21)

No qualified disabled person shall, because a recipient's facilities are inaccessible to or unusable by disabled persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which this part applies.

II. Existing facilities (Sec. 104.22)

(a) Program accessibility. A recipient shall operate each program or activity to which this part applies so that the program or activity, when viewed in its entirety, is readily accessible to disabled persons. This paragraph does not require a recipient to make each of its existing facilities or every part of a facility accessible to and usable by disabled persons.

(b) Methods. A recipient may comply with the requirements of paragraph (a) of this Section through such means as redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of health, welfare, or other social services at alternate accessible sites, alteration of existing facilities and construction of new facilities in conformance with the requirements of Sec. 104.23, or any other methods that result in making its program or activity accessible to disabled persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this Section. In choosing among available methods for meeting the requirement of paragraph (a) of this Section, a recipient shall give priority to those methods that offer programs and activities to disabled persons in the most integrated setting appropriate.

(c) Small health, welfare, or other social service providers. If a recipient with fewer than fifteen employees that provides health, welfare, or other social services finds, after consultation with a disabled person seeking its services, that there is no method of complying with paragraph (a) of this Section other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the disabled person to other providers of those services that are accessible.

(d) Time period. A recipient shall comply with the requirement of paragraph (a) of this Section within sixty days of the effective date of this part except that where structural changes in facilities are necessary; such changes shall be made within three years of the effective date of this part, but in any event as expeditiously as possible.

(e) Transition plan. In the event that structural changes to facilities are necessary to meet the requirement of paragraph (a) of this Section, a recipient shall develop, within six months of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including disabled persons or organizations representing disabled persons. A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum:

(1) Identify physical obstacles in the recipient's facilities that limit the accessibility of its program or activity to disabled persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve full program accessibility and, if the time period of the transition plan is longer than one year, identify the steps of that will be taken during each year of the transition period; and

(4) Indicate the person responsible for implementation of the plan.

(f) Notice. The recipient shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and useable by disabled persons.

III. New construction (Sec. 104.23)

(a) Design and construction. Each facility or part of a facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by disabled persons, if the construction was commenced after the effective date of this part.

(b) Alteration. Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after the effective date of this part in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by disabled persons.

(c) Conformance with Uniform Federal Accessibility Standards.

(1) Effective as of January 18, 1991, design, construction, or alteration of buildings in conformance with Sections 3-8 of the Uniform Federal Accessibility Standards (UFAS) (Appendix A to 41 CFR subpart 101-19.6) shall be deemed to comply with the requirements of this Section with respect to those buildings. Departures from particular technical and scoping requirements of UFAS by the use of other methods are permitted where substantially equivalent or greater access to and usability of the building is provided.

(2) For purposes of this Section, Section 4.1.6(1)(g) of UFAS shall be interpreted to exempt from the requirements of UFAS only mechanical rooms and other spaces that, because of their intended use, will not require accessibility to the public or beneficiaries or result in the employment or residence therein of persons with physical disabilities.

(3) This Section does not require recipients to make building alterations that have little likelihood of being accomplished without removing or altering a load-bearing structural member.

IV. Grievance Procedures (Section 104.7)

- Students, parents, and employees are entitled to file grievances. However, the grievance process may not be used to override decisions about a child's program made by the group of knowledgeable persons. 34 CFR §104.7(b)
- Grievances should be filed with the campus Principal who will investigate and make a determination within 10 school days following the filing.
- If the outcome is unsatisfactory, grievances will then be filed with the District Section 504 Coordinators who will investigate and make a determination within 10 school days following the filing.
- If the outcome is unsatisfactory, grievances will then be filed with the Superintendent who will investigate and make a determination within 10 school days following the filing.
- If the outcome is unsatisfactory, a request for a hearing will then be filed with the Superintendent.

V. Hearings

A hearing may be initiated by the parent or adult student to challenge a proposal or refusal relating to identification, evaluation or educational placement of a child in Section 504 program after the grievance process has been completed. A written request will be filed with the Superintendent and the school representative. The school is available to assist the parent or adult student by providing necessary information if the parent requests assistance in filing a due process hearing. Texans Can! Academy will provide an impartial person who is not connected with the school district to serve as hearing officer. (Section 104.36) Hearings will be conducted informally. All hearings will begin within 30 school days of being filed with the Superintendent. All decisions of the hearing are final and non-appealable.

VI. Complaints

- All parties may file complaints alleging a violation of Section 504 at:

Texas OCR Enforcement Office The Office for
Civil Rights Dallas Regional Office 1999
Bryan, Suite 2600 Dallas, Texas 75201

Telephone ~ (214) 880-2459

Fax ~(214) 880-3082 ~ TDD (214) 880-2456