



# Section 504 Procedures Manual

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Department of Special Services  
Fairfax County Public Schools  
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## **Purpose of Section 504**

Section 504 of the Rehabilitation Act of 1973, as amended, is designed to eliminate discrimination based on disability in any program or activity receiving federal financial assistance. This act requires that no qualified student who demonstrates a physical or mental impairment that substantially limits one or more major life activities, (i.e. self-care, performing manual tasks, walking, seeing, hearing, speaking, breathing, working, learning, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, operation of a major bodily function, and communicating) shall be excluded from participation in, be denied the benefit of, or be subject to discrimination in any program or activity offered by Fairfax County Public Schools (FCPS). An impairment that is episodic or in remission is a disability if it substantially limits a major life activity when active.

The determination of impact to one or more major life activity must be made without regard to any ameliorative effects of mitigating measures (i.e. medication, medical supplies, equipment, low-vision devices, prosthetics, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies).

FCPS shall offer a free appropriate public education (FAPE) to each qualified student with a disability. Services provided to qualified students are not required to produce identical results or level of achievement with nondisabled peers. Services must be designed to offer an equal opportunity to gain the same benefit within the most integrated setting appropriate.

A student who is not disabled, but has a record of, or is regarded as, disabled is protected under Section 504 insofar as an alleged discriminatory action based on that history or perception. The fact that a student has a “record of, or is “regarded as” having an impairment is insufficient by itself to require reasonable accommodations.

FCPS School Board Regulation 1454 designates procedures for the implementation of Section 504 in FCPS.

## Identification and Evaluation Procedures

FCPS has a responsibility to identify and evaluate those children who are believed to qualify as disabled under Section 504.

### 1. Referral:

When there is reason to suspect that a student has a disability and is in need of accommodations within the general education classroom, a referral can be made to the local screening committee for review.

Referrals can be made either orally or in writing; both types of referrals are documented on a *Multipurpose Referral* form (SS/SE-5). If parents make an oral referral, they should be asked if they want to complete the *Multipurpose Referral* form, or have the principal or designee complete it on their behalf.

If parents make a referral to a teacher, they should be directed to the principal or designee selected to receive referrals. Whether provided orally or in writing, the date the referral is received must be noted on the *Multipurpose Referral* form. Page two (SS/SE-5A) must be completed by the student's classroom teacher or other appropriate school staff member, if the student has more than one teacher.

### 2. Local Screening Committee:

The local screening committee must convene within ten business days following the receipt of a referral. The date the referral was received and the date on which the local screening committee convened are logged on the *Student Audit Trail* (SS/SE-8).

For all referrals, the local screening committee must consist of the following members, at a minimum:

- Principal or designee
- School Psychologist
- Special education teacher
- General education teacher
- Referral source, except if inclusion of the referral source would breach the confidentiality of the student

The parents must be invited to the local screening committee meeting orally, and in writing by way of a *Notice of Local Screening Meeting* form (SS/SE-83). The parents must be notified of the meeting early enough to ensure they have an opportunity to participate; however, the meeting must be held within ten business days of the referral date.

During the local screening committee meeting, the committee should review information from a variety of sources. The information reviewed should pertain to the student's functioning in the school environment, and should include, as available: the referral; educational records such as aptitude and achievement tests, report cards and/or teacher recommendations; oral or written observations; evaluations of adaptive behavior; social and cultural background; medical, psychological, and/or other specialty reports; and parent information. Following this review, the local screening committee may:

- Determine that an evaluation is not warranted at this time.
- Refer the student to another resource such as child specific team (CST), teacher assistance team (TAT), professional learning community response team (PLC-RT), etc.
- Determine there is a need for an evaluation for special education services under the Individuals with Disabilities Education Act (IDEA). In this case, the local screening committee shall proceed in accordance with the FCPS Referral, Evaluation, and Eligibility Procedures (2006 interim) manual.
- Determine whether the student qualifies as disabled under Section 504 of the Americans with Disabilities Act (ADA) Amendments Act of 2008.

### 3. Making Initial Qualification Decisions:

If, upon review of the *Multipurpose Referral* form and available information, the local screening committee determines that there is insufficient evidence to suspect that a disability warrants an evaluation for special education under IDEA, but considers qualification as disabled under Section 504, the committee will complete a *Notice Not to Evaluate* form (SS/SE-13) to indicate the decision not to evaluate for special education eligibility. The *Local Screening Committee Report* form (SS/SE-14) will reflect "Do not conduct evaluation" and "Pursue the following action" with a notation that the committee will consider qualification under Section 504.

If the local screening committee determines that individual assessments should be conducted in order to determine qualification under 504, the *Local Screening Committee Report* form (SS/SE-14) will reflect “Do not conduct evaluation” and “Pursue the following action” with notes indicating that the committee recommends individual assessments for the purpose of determining qualification under 504. The *Parent Consent for Individualized Assessment* form (SS/SE-91) shall be completed and signed by the parent prior to the administration of any assessments. Upon completion of assessments, the local screening committee will reconvene and consider qualification under 504.

The local screening committee shall complete a *Section 504 Qualification Criteria* (SS/SE-85) form for students being considered as disabled under Section 504. The information listed on this form must document:

- Concerns leading to the referral.
- Identification of the physical or mental impairment(s):
  - “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; 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 disability.
- The major life activity impacted by the impairment(s):
  - “Major life activity” includes but is not limited to: caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, and communicating.
  - A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.
  - An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

- Description of the impact of the student’s impairment on the identified major life activity:
  - An impairment that is episodic or in remission is a disability if it substantially limits a major life activity when active.
  - Individuals being considered for qualification under Section 504 should not be penalized because they manage their own adaptive strategies or receive accommodations (including informal or undocumented ones) that have lessened the deleterious impact of the disability. The determination of impact to one or more major life activities must be made without regard to any ameliorative effects of mitigating measures which include, but are not limited to: medication, medical supplies, equipment, low-vision devices\*, prosthetics, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy equipment and supplies, assistive technology, reasonable accommodations, auxiliary aids or services; or learned behavioral or adaptive neurological modifications.
- Information provided and considered by the committee.
- The committee’s determination of qualification.
- A list of the committee members participating in the determination.

A copy of this form, along with the *Local Screening Committee Report* and the *Section 504 of the Rehabilitation Act of 1973 Procedural Safeguards* (SS/SE-92), shall be provided to the parent.

\* Note – Low-vision devices do not include ordinary eyeglasses or contact lenses. The ameliorative effects of ordinary eyeglasses or contact lenses may be considered in determining whether the impairment substantially limits a major life activity. Ordinary eyeglasses are those that are intended to fully correct visual acuity or eliminate refractive error: and low-vision devices are those that magnify, enhance, or otherwise augment a visual image.

## Knowledgeable Committees and 504 Plans

### 1. Knowledgeable Committee Membership:

The 504 plan is a statement of the required accommodations and services that FCPS will provide to a student. If the student qualifies as disabled under Section 504, a committee of knowledgeable people shall develop a 504 plan. Typically, the knowledgeable committee is comprised of staff members who work directly with, or supervise the student in the educational setting.

The knowledgeable committee must include:

- Principal or designee.
- Teacher(s) who are, or will be, working with the student  
(Whenever possible, the committee should include those persons who will be responsible for implementing the proposed accommodations).

Other committee members, such as the school psychologist, public health nurse, school social worker, or counselor, may be included as appropriate to the needs of the student.

The school is not required to include the parent in the development of the 504 plan, but it is best practice to invite the parent to participate and provide input.

### 2. Plan Development:

The knowledgeable committee reviews the specific needs of the student in the educational setting and completes a *504 Plan* form (SS/SE-86). Accommodations necessary to provide the student an equal opportunity to access programs and activities and to demonstrate achievement are included in the 504 plan. The reasonable accommodations shall:

- Reflect the unique needs of the student.
- Relate directly to the area of impairment.
- Address only what is necessary to ensure that the student has the opportunity to access programs and activities in the school setting.
- Be specific enough in description to clearly indicate when and where the accommodation(s) will be provided during the school day.

The focus is on **reasonable accommodations**.

The knowledgeable committee shall determine whether the student that qualifies as disabled under Section 504 requires classroom testing accommodations, and whether those accommodations should be provided for any state and districtwide assessments. These decisions shall be recorded on the appropriate *504 Plan Accommodations* form (SS/SE-86A, 86B, 86D). Testing accommodations should be consistent with the classroom instruction accommodations that are already part of the student's 504 plan.

The knowledgeable committee shall determine whether the student that qualifies as disabled under Section 504 should be considered for the Virginia Grade Level Alternative (VGLA) or Virginia Substitute Evaluation Program (VSEP). The appropriate VGLA or VSEP criteria form (SS/SE-86E, 86F) shall be completed to determine if the student meets the state criteria for participation in the alternative assessment program.

If the knowledgeable committee determines that there is currently no specific educational impact that requires accommodations, this should be noted on the *504 Plan* form (SS/SE-86). This decision should be reviewed if concerns are noted by either the parent or school staff members.

A copy of the 504 plan shall be provided to the parent following its completion. Parental consent is not required prior to the provision of accommodations for a student.

The principal is responsible for adherence to the overall procedures and implementation of a 504 plan.

Each individual working with or supervising the student shall be provided a copy of the 504 plan and will comply with the applicable components.

The plan remains in effect as specified until either a new plan is developed, or the knowledgeable committee determines through reevaluation that the student no longer qualifies as disabled under Section 504.

### 3. Plan Review and Revision:

The principal or designee is responsible for ensuring that 504 plans are reviewed at least annually or more frequently as conditions warrant. The purpose of this review is to determine the appropriateness of the plan and to make any needed modifications. The participants in the annual meeting should be those individuals relevant to the discussion of the student's accommodations. At minimum, the committee must consist of at least one of the student's teachers and a principal or designee. It is best practice to invite the parent(s) to the annual plan review.

If the previous 504 plan remains appropriate, a new *504 Plan* form does not need to be completed in its entirety. Demographic information, dates, and committee member signatures are required, along with a statement that the previous plan, dated *XX/XX/XXXX*, remains appropriate and should continue to be implemented as written.

If the committee determines that the existing plan requires modification, a new *504 Plan* form must be completed.

### 4. Discipline Procedures:

The knowledgeable committee shall convene to assess whether the behavior requiring disciplinary action is related to a qualified student's disability when:

- A decision is made to remove a 504-qualified student from school for more than 10 consecutive school days in a school year.
- The 504-qualified student is subjected to a series of removals during a school year that accumulates to more than 10 school days.

While not required, it is best practice to invite the parent to participate and provide input at the causal hearing. Parents should be notified with sufficient time to allow them the opportunity to attend. The school may use the *Parent Notice of Section 504 Causality Hearing (SS/SE-220A)* form to notify the parent of the meeting. A copy of the *Section 504 of the Rehabilitation Act of 1973 Procedural Safeguards (SS/SE-92)* shall be included with the meeting notification letter. The knowledgeable committee

shall complete a *Section 504 Causality Hearing* form (SS/SE-220) and forward it to the Superintendent's Hearing Officer when there is a recommendation for expulsion or exclusion:

- If a student is qualified under Section 504 and there is a causal relationship between the disability and the behavior resulting in disciplinary action, the committee shall determine whether the student's educational program should be modified.
- If a student is qualified under Section 504 and there is no causal relationship between the disability and the behavior resulting in disciplinary action, the student may be disciplined in the same manner as a nondisabled student, including the cessation of services.
- If a student qualified under Section 504 is receiving disciplinary action based on the illegal use and/or possession of drugs or alcohol, and the individual is currently engaging in the illegal use of drugs or alcohol, a committee of knowledgeable persons is not required to convene, reevaluate the student, or determine whether there is a causal relationship between the behavior and the disability.

#### 5. Transfers:

When a student transfers into a school and is qualified as disabled under Section 504, a knowledgeable committee in the receiving school shall review the existing 504 plan to determine the plan's appropriateness to the current educational setting. The knowledgeable committee may decide to implement the plan as received, write a new plan more appropriate to the current educational setting, or reevaluate the student in order to consider if the student no longer qualifies as disabled under Section 504.

### **Reevaluation**

The knowledgeable committee shall conduct a reevaluation of each student's qualification as disabled under Section 504:

- Every three years.
- More frequently if conditions warrant.

The date of the student's initial or most recent reevaluation of qualification as disabled under Section 504 is documented on the 504 plan. The reevaluation date is then calculated by adding three years to the initial or most recent reevaluation review date. Prior to the reevaluation review date, information should be collected from teachers and other school staff members who work with the student for review at the reevaluation meeting. The *Teacher Narrative* (SS/SE-22) or *Educational Impact Questionnaire* can be used to collect this information.

The knowledgeable committee shall convene a reevaluation meeting with the purpose of reviewing evaluation information and determining if the student continues to qualify as disabled under Section 504. If it is determined that additional individual assessments are needed in order to determine if the student continues to qualify, the *Parent Consent for Individualized Assessment* form (SS/SE-91) shall be completed and signed by the parent prior to the administration of any assessments. Upon completion of assessments, the knowledgeable committee will reconvene and consider continued qualification under 504.

The knowledgeable committee shall complete a *Section 504 Qualification Criteria* (SS/SE-85) form using all available information in order to determine if the student continues to qualify as disabled under Section 504.

### **Records**

Forms documenting the referral, evaluation, qualification, and accommodation plan of a student under Section 504 should be maintained in the student's scholastic record. These forms may include:

- *Multipurpose Referral* (SS/SE-5 & 5A))
- *Notice of Local Screening Meeting* (SS/SE-83)
- *Local Screening Committee Report* (SS/SE-14)
- *Notice Not to Evaluate* (SS/SE-13)
- *Parent Consent for Individualized Assessment* (SS/SE-91)
- *Section 504 Qualification Criteria* (SS/SE-85)
- *504 Plan* (SS/SE-86)
- *504 Plan Accommodations* (SS/SE-86A, 86B, 86D, 86E)
- *Section 504 Causality Hearing* (SS/SE- 220)
- *Parent Notification of Section 504 Causality Hearing* (SS/SE-220A)

If a student transfers to another public school within FCPS, the file is to be forwarded to the new school in accordance with regulations.

The student's parent or guardian may examine their child's educational record upon request (see *Management of the Student Scholastic Record* manual).

The principal or designee is responsible for keeping a record of those students for whom a 504 plan has been developed, along with the anticipated review date for each student's 504 plan, and the date of each student's reevaluation. The date of the 504 plan shall be entered in Schools Administration Student Information (SASI) or any subsequent school-based information system, for each qualified student. This information shall be reviewed and updated at the beginning of each school year.

### **FCPS Operating Procedures for Section 504 Impartial Hearings**

Fairfax County Public Schools or the parent or guardians of a student (or an adult student) with a disability as defined by Section 504 of the Rehabilitation Act of 1973 ("Section 504") may request an impartial hearing to resolve any disagreement regarding the identification, evaluation, accommodations and/or modifications, provision of FAPE, or causality determination of the student with a disability. Requests for a hearing that raises issues pursuant to both Section 504 and the Individuals with Disabilities Education Act ("IDEA") may, at the discretion of the hearing officer, be heard together through the IDEA hearing procedures provided by federal and state law, regulations, and FCPS policies.

#### **1. Requesting an Impartial Hearing**

Requests for an impartial hearing shall be made in writing and delivered to the coordinator, Office of Due Process and Eligibility. The request shall include: the name of the student, the address of the residence of the student (or available contact information in the case of a homeless student), the name of the school the student is attending, a description of the nature of the problem with supporting facts, and a proposed resolution of the problem.

If the request does not include all of the required information it may be returned to the parents within 10 school days of receipt by the coordinator

with a request to provide the missing information within five additional school days. The remaining procedures will not proceed until the additional information is received from the parents.

A hearing may only be requested within one year of the date the parents knew or should have known about the alleged actions or facts that forms the basis of the complaint.

FCPS may provide a written response to the request for hearing. Should FCPS elect to provide such a response it should be delivered to both the parents and the hearing officer within 15 school days of receipt of a request for a hearing that includes all of the required information. If FCPS requests an impartial hearing parents will have the same option to respond.

## 2. Appointment of Hearing Officer

An impartial hearing officer will be appointed by the coordinator, Office of Due Process and Eligibility, from the list of special education due process hearing officers maintained by the Office of the Executive Secretary of the Supreme Court of Virginia. The coordinator will contact the Office of the Executive Secretary to request the name of a hearing officer within five school days of receipt of a request for a hearing that includes all of the required information identified in paragraph 1, and will follow up as necessary until a hearing officer is appointed.

## 3. Pre-Hearing Procedures

Prior to the hearing, the hearing officer shall:

- a. Convene a prehearing conference with the parties, unless the hearing officer determines such a conference is unnecessary;
- b. Identify the specific issues to be addressed during the hearing based on the request for hearing and any response provided by the other party;
- c. Schedule a hearing date and location with input from the parties, and notify the parties in writing of such information;
- d. Ascertain whether the parties will be represented by counsel;
- e. Ascertain from the parents whether the hearing will be open or closed;

- f. Ensure that the hearing will be accurately recorded by a court reporter who is paid for his or her attendance by the school system;
- g. Have the authority to require that the student be evaluated; and
- h. Require the parties to exchange a list of witnesses and any documents to be presented during the hearing at least five business days in advance of the hearing unless otherwise permitted by the hearing officer for good cause shown, with a copy provided to the hearing officer as well.

#### 4. Hearing Procedures

- a. The parties have the following rights in the hearing:
  - (1) To be represented by counsel with each party being responsible for their own attorneys fees;
  - (2) To present evidence and cross-examine witnesses;
  - (3) To request that the hearing officer prohibit the introduction of evidence or the testimony of a witness that had not been disclosed five business days in advance of the hearing;
  - (4) To obtain, at their own expense, a copy of the transcript of the hearing.
- b. The hearing officer shall ensure in connection with the hearing that:
  - (1) An atmosphere conducive to impartiality and fairness exists;
  - (2) The issues raised in the hearing are limited to those identified in the request for a hearing and any response filed, or to any subsequent amendment to the request or the response when allowing such amendment is mutually agreed to by the parties or as otherwise permitted by the hearing officer for good cause shown;
  - (3) The parties and their attorneys, advocates, or advisors comply with the special education hearing officer's rules, and with relevant laws and regulations, and are not permitted to pursue hostile or irrelevant pursuits in questioning;
  - (4) Actions are taken to move the case to conclusion, including dismissing the pending proceeding if either party refuses to

comply in good faith with the special education hearing officer's orders;

- (5) An accurate record of the proceedings is maintained;
  - (6) The party requesting the hearing has the burden of proof; and
  - (7) The hearing is completed within 45 calendar days of receipt of the request for a hearing or of a subsequent agreed upon amendment, unless an extension is granted at the request of either party for good cause or by mutual agreement of the parties.
- c. Hearing Decision:
- A written decision shall be issued to all parties setting forth findings of fact and conclusions of law based on the evidence presented in the hearing. The decision shall be issued within 15 business days of the conclusion of the hearing. The decision is final and binding unless either party files a timely appeal in an appropriate court.

Any questions regarding these procedures should be directed to the coordinator, Office of Due Process and Eligibility.

## Forms

All forms related to Section 504 and cited in this document may be found in the electronic forms cabinet on the FCPS intranet site  
[http://fcpsnet.fcps.edu/it/offices/eis/doc\\_mgmt/information/forms.shtml](http://fcpsnet.fcps.edu/it/offices/eis/doc_mgmt/information/forms.shtml)

SS/SE-5	<a href="#">Multipurpose Referral (pdf)</a>
SS/SE-5A	<a href="#">Multipurpose Referral (page 2) (pdf)</a>
SS/SE-8	<a href="#">Student Audit Trail (pdf)</a>
SS/SE-13	<a href="#">Notice Not to Evaluate (pdf)</a>
SS/SE-14	<a href="#">Local Screening Committee Report (pdf)</a>
SS/SE-22	<a href="#">Teacher Narrative (doc)</a>
SS/SE-83	<a href="#">Notice of Local Screening Meeting (pdf)</a>
SS/SE-85	<a href="#">Section 504 Qualification Criteria (pdf)</a>
SS/SE-86	<a href="#">504 Plan (pdf)</a>
SS/SE-86A	<a href="#">504 Plan Elementary Accommodations (doc)</a>
SS/SE-86B	<a href="#">504 Plan Middle School Accommodations (doc)</a>
SS/SE-86D	<a href="#">504 Plan High School Accommodations (doc)</a>
SS/SE-86E	<a href="#">504 VGLA (doc)</a>
SS/SE-86F	<a href="#">504 Plan Virginia Substitute Evaluation Program (VSEP) Criteria (pdf)</a>
SS/SE-91	<a href="#">Parent Consent for Individual Assessment (pdf)</a>
SS/SE-92	<a href="#">Section 504 of The Rehabilitation Act of 1973 Procedural Safeguards (pdf)</a>
SS/SE-220	<a href="#">Section 504 Causality Hearing (pdf)</a>
SS/SE-220A	<a href="#">Parent Notice of Section 504 Causality Hearing (pdf)</a>

**IDEA and 504  
Brief Overview of Differences**

IDEA	504
<b>Primary Focus</b>	
Educational <i>benefit</i>	Equal access for students with disabilities
<b>Who is Covered</b>	
Handicapping conditions are defined Adversely affects educational performance and requires special education and related services	There are no eligibility categories Those with impairments that substantially limit a major life activity
<b>Purpose of the Plan</b>	
Goals and objectives outlined for the <b>student</b> . (What the <i>student</i> will do.)	Reasonable accommodations provided to the eligible student by the <b>teacher(s) or relevant school staff members</b> . (What the <i>teacher</i> or staff member will do.)
<b>Consent</b>	
Parent consent required for eligibility, for initial services, change in placement.	Parent consent is not required. Parents are invited to participate.
<b>Regulations</b>	
IDEA—many specifics	OCR – few specifics
<b>Parent Participation</b>	
Procedural rights to participate	Best practice to invite parent participation
<b>Due Process</b>	
Due process rights	Right to an Impartial Hearing
<b>Stay Put</b>	
Last agreed-upon placement	No stay-put provisions
<b>Funding</b>	
All states receiving funding	No funding
<b>Monitoring</b>	
VDOE is required to develop regulations and to monitor the provision of special education. USDOE oversees implementation.	VDOE has no responsibility for—or jurisdiction over—LEA’s implementation of 504 Plans. OCR oversees implementation.

## 504 FACT SHEET

## 504 Fact Sheet


**Section 504 of the Rehabilitation Act of 1973  
FCPS Regulation 1454**

**Section 504 is designed to eliminate discrimination against any student with a disability in any program offered by the school division.**

**Who is Covered:**

- ★ Any student who has, has a record of, or is regarded as having, a physical or mental impairment that substantially limits one or more of life's major activities.

**What is Required:**

- ★ Qualifying students must have an opportunity to access all activities and programs, and cannot be denied participation because of their disability.
- ★ Qualifying students with a disability must be offered a free appropriate public education (FAPE). FAPE is the provision of reasonable accommodations, adaptations, or modifications to the environment or activity that allows the student equal opportunity to participate.
- ★ Accommodations must be designed to offer equal opportunity to gain the same benefit as non-disabled peers, within the most integrated setting appropriate, but are not expected to produce identical results or the same level of achievement.
- ★ Transfers: If a student that is disabled under Section 504 transfers schools, a knowledgeable committee at the receiving school should convene and review the 504 plan to determine if it is appropriate for the current educational environment.

**Qualifying Factors:**

- ★ The Local Screening Committee (LSC) determines initial Section 504 qualification.
- ★ The LSC must identify the presence of a physical or mental impairment and the major life activity limited by the impairment.
- ★ Current illegal use of drugs or alcohol is not an impairment protected under Section 504.

**The Plan:**

- ★ A knowledgeable committee composed minimally of the principal or designee and a teacher of the student develops the 504 Plan for qualified students.
- ★ The parent is invited, but does not have to attend or approve of the plan.
- ★ The 504 Plan should reflect the unique needs of the student and relate directly to the impairment. Only the accommodations necessary for the student to have an equal opportunity to access programs and activities should be included.
- ★ The knowledgeable committee must meet at least once a year to review the 504 Plan.
- ★ The knowledgeable committee determines if the student no longer qualifies as disabled under Section 504.

**Disciplinary Protections:**

- ★ The knowledgeable committee must conduct a causal review following a decision to remove a student from school for more than 10 days in a school year.
- ★ If there is no causality, the student may be disciplined in the same manner as a non-disabled student, including cessation of educational services.
- ★ Causality determination is not required if the student is engaging in the illegal use of drugs or alcohol, and is being disciplined for the use or possession of illegal drugs or alcohol.

**Procedural Safeguards:**

- ★ Parents and qualified students are entitled to certain procedural safeguards.
- ★ Inquiries may be directed to Due Process and Eligibility (703-317-3000).

## Procedural Safeguards



### SECTION 504 OF THE REHABILITATION ACT OF 1973 PROCEDURAL SAFEGUARDS

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No qualified student with a disability in Fairfax County Public Schools shall, on the basis of that disability, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity offered by the school division. In respect to actions regarding the identification, evaluation, and/or placement of students with disabilities under Section 504, the following procedural safeguards shall be provided:

- Notice shall be provided to a student's parent(s) or guardian prior to evaluation, reevaluation, and/or significant change in placement.
- Decisions regarding the identification, evaluation, and accommodations and/or modifications for a student qualified under Section 504 shall be made by a committee of individuals who are knowledgeable about the student.
- The parent(s) or guardian shall have the opportunity to examine the student's educational record.
- An evaluation may consist of a review of existing records and/or information from a variety of sources, such as observations, teacher reports, and results of informal and/or formal assessments. If formal assessments are used, they shall be administered in the student's primary language or mode of communication, unless it is clearly not feasible to do so; validated for the purposes for which they are used; and administered by trained personnel in conformance with the instructions provided by the publisher. Assessments shall be fair and nondiscriminatory and, if requested by the local screening committee or 504 knowledgeable committee, shall be provided at no cost to the parent. Parental consent shall be obtained prior to the initiation of assessments.
- The student shall be re-evaluated prior to reconsideration of qualification as a student with a disability under Section 504.
- For acts of misconduct, when a decision is made to remove a 504-qualified student from school for more than ten consecutive school days or when the 504-qualified student is subjected to a series of removals during a school year that constitute a pattern and accumulates more than ten school days, a knowledgeable committee shall convene to determine whether the student's conduct was caused by the student's disability.
- The student's parent(s) or guardian shall have the opportunity to appeal decisions concerning the student's identification, evaluation, accommodations and/or modifications, or causality determination in a discipline case. The parent(s) or guardian may request an administrative review, mediation, and/or impartial hearing.

Compliance with Section 504 is coordinated by the director, Office of Design and Construction Services (571-423-2200), when it concerns access to facilities, and by the coordinator, Due Process and Eligibility section (703-317-3000), when it concerns student programs and activities. Appeals should be sent to the coordinator, Office of Due Process and Eligibility.

## 504 Questions and Answers

**Q. What is Section 504?**

In 1973 when the Rehabilitation Act was passed, the intent was to encourage participation and equal access to federally funded programs by the disabled. As applied to schools, the language of the Act broadly prohibits the denial of public education participation, or enjoyment of the benefits offered by public school programs because of a child's disability. The law was enacted to "level the playing field" for disabled students.

**Q. Who is covered under Section 504?**

A student "qualifies" if he or she has a mental or physical impairment which substantially limits one or more major life activities. The list of major life activities is not exhaustive, but includes functions such as seeing, hearing, learning, breathing, walking, speaking, ability to care for oneself, performing manual tasks, sleeping, standing, lifting, bending, speaking, reading, concentrating, thinking, communicating, and working. Major life activities also include the operation of a major bodily function including but not limited to: functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

**Q. Does Section 504 qualification occur only after an evaluation?**

Yes. However, "evaluation" does not necessarily mean a formal test or assessment. The evaluation is the process of gathering information from a variety of sources to help the team make a determination regarding qualification. If the team believes a formal test/assessment is required prior to making a determination, then parental consent must first be obtained.

**Q. What team determines whether a child qualifies under Section 504?**

In Fairfax County Public Schools (FCPS), the local screening committee makes that determination.

**Q. What happens if a child is qualified as disabled under Section 504?**

A 504 Plan is developed to document reasonable accommodations that are necessary for that student.

**Q. What team develops a 504 Plan?**

A 504 Plan is developed for a student by a knowledgeable committee within the student's school. Minimally, this is a team composed of a principal or designee, and at least one teacher of the student. The parent is not a required member of the team, but it is best practice for the parent to be involved in the discussion regarding accommodations.

**Q. What goes into a 504 Plan?**

A 504 Plan should include only those reasonable accommodations and modifications to the regular classroom or educational environment that are required for the student to have equal access to the educational benefits of the school program.

**Q. How often should the 504 Plan be reviewed?**

The 504 Plan must be reviewed at least annually.

**Q. What happens if a student no longer requires accommodations in the school setting?**

The knowledgeable committee can meet at any time and make a determination that accommodations can be added, reduced, or eliminated altogether. However, a student can remain qualified as disabled under Section 504 and not require accommodations.

**Q. In the discipline process, must a school conduct a causality hearing for a 504 qualified student who is being suspended for more than 10 consecutive school days in a school year or a series of suspensions that total more than 10 school days in a school year?**

Yes. The knowledgeable committee must convene to conduct a causality determination. The one exception is if the student is a current user of illegal drugs or is currently using alcohol and is being disciplined for the use or possession of illegal drugs or alcohol. No causality determination is required in this case.

**Q. Are there procedural safeguards?**

Yes. Procedural safeguards are provided to parents at several points during the process. They are provided prior to initial evaluation, during reevaluation, with the 504 Plan, and during any disciplinary action that may require a causality meeting.

**Resources**

<http://www.ada.gov/>

<http://www2.ed.gov/about/offices/list/ocr/504faq.html>

[http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110\\_cong\\_bills&docid=f:s3406enr.txt.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_bills&docid=f:s3406enr.txt.pdf)