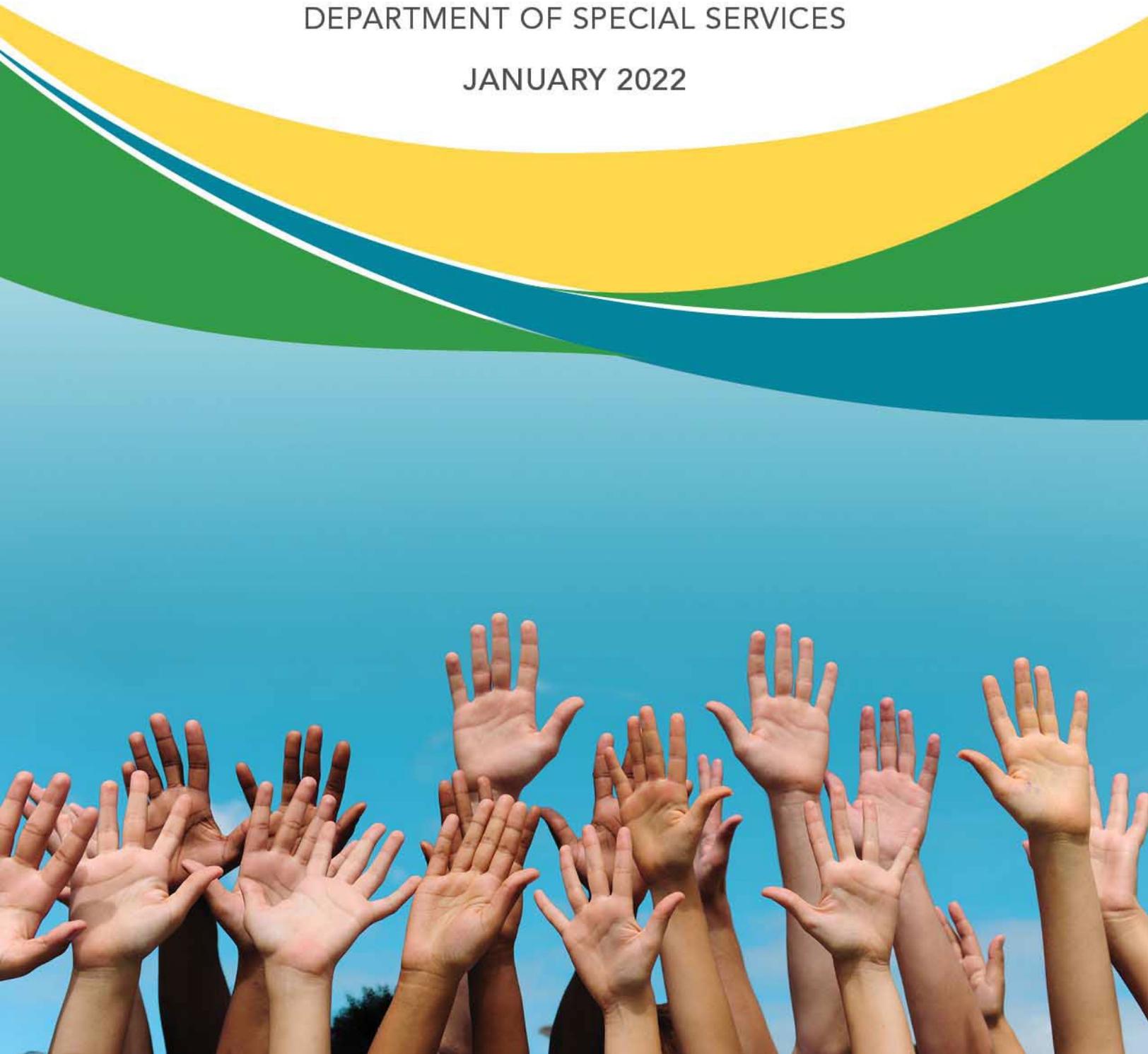




# Section 504 Procedures Manual

DEPARTMENT OF SPECIAL SERVICES

JANUARY 2022



# Table of Contents

<b>Purpose of Section 504</b> .....	<b>3</b>
<b>Identification and Evaluation Procedures</b> .....	<b>4</b>
Referral.....	4
Local Screening Committee .....	4
Making Initial Qualification Decisions .....	5
<b>504 Plans</b> .....	<b>8</b>
Knowledgeable Committee Membership.....	8
504 Plan Development.....	8
Plan Review and Revision.....	9
Discipline Procedures.....	10
Transfers .....	10
<b>Reevaluation</b> .....	<b>12</b>
<b>Records</b> .....	<b>13</b>
<b>FCPS Operating Procedures for Section 504 Impartial Hearings</b> .....	<b>14</b>
Requesting an Impartial Hearing.....	14
Appointment of Hearing Officer .....	14
Pre-Hearing Procedures.....	14
Hearing Procedures .....	15
<b>Appendix A</b> .....	<b>17</b>
Forms .....	17
<b>Appendix B</b> .....	<b>23</b>
IDEA and Section 504 .....	23
<b>Appendix C</b> .....	<b>24</b>
504 Fact Sheet.....	24
<b>Appendix D</b> .....	<b>26</b>
Section 504 Procedural Safeguards .....	26
<b>Appendix E</b> .....	<b>27</b>
Section 504 Frequently Asked Questions .....	27
General Questions .....	27
504 Data Review and Evaluation .....	29
504 Qualification (Initial and Reevaluation).....	32
504 Plan .....	33
Additional FAQs.....	36
<b>Appendix F</b> .....	<b>40</b>
Resources .....	40
<b>Appendix G</b> .....	<b>41</b>
Acronyms .....	41

## **Purpose of Section 504**

Section 504 of the Rehabilitation Act of 1973 (Section 504), 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 activity (e.g., 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, 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 a limitation to one or more major life activity must be made without regard to any ameliorative effects of mitigating measures (e.g., 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, etc.).

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, having a disability under Section 504 is protected from discrimination based on disability 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 accommodations. A student qualifies for services under Section 504 when that individual meets the definition of disability under Section 504, and is determined to be eligible by a knowledgeable committee.

FCPS School Board Regulation 1454, Declaration of Nondiscrimination—Students With Disabilities, designates procedures for the implementation of Section 504 in FCPS.

## Identification and Evaluation Procedures

FCPS has a responsibility to identify and evaluate those students who are believed to qualify as disabled under Section 504. FCPS also has a responsibility to provide notice to a student's parent(s) and/or guardian prior to evaluation, identification, reevaluation, and/or placement.

### Referral

When there is reason to suspect that a general education student has a disability and is in need of accommodations, modifications, and/or services in order to access the programs and activities offered by FCPS, a referral shall be made to the local screening committee (LSC) 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 the principal or designee shall 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 of the *Multipurpose Referral* form (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.

### Local Screening Committee (LSC)

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

For all referrals, the LSC 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 LSC meeting orally and in writing by way of a *Notice of Local Screening Meeting* (SS/SE-83). This notice letter should be accompanied by the following documents: *Virginia Special Education Procedural Safeguards Requirements* (SS/SE-4), *Section 504 of the Rehabilitation Act of 1973 Procedural Safeguards* (SS/SE-92), and the *Parent Information* form (SS/SE-127). Schools are advised to contact the parents by telephone or in person to explain the local screening process prior to the provision of these documents. 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. If parents cannot attend the meeting, school staff members should consider alternative ways for the parents to participate (e.g., conference call).

During the LSC meeting, the committee shall 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 LSC may do the following:

- Determine that an evaluation for special education services under the Individuals with Disabilities Education Act (IDEA) is not warranted at this time.
- Refer the student to another resource such as child study team (CST), teacher assistance team (TAT), multi-tiered systems of support (MTSS) team, professional learning community-response team (PLC-RT), etc.
- Determine that there is a need for an evaluation for special education services under IDEA.
- Determine that there is a need for an evaluation for qualification under Section 504.
- Determine whether the student qualifies as disabled under Section 504.

### **Making Initial Qualification Decisions**

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

In some cases, the LSC may determine that while a special education evaluation is warranted, there may be sufficient existing information to consider whether the student would qualify with a disability under Section 504. In these cases, the *Local Screening Committee Report* will reflect that the committee chose to "Conduct Evaluation" [for special education], and the committee will determine recommended assessments for special education. The LSC will then indicate on the *Local Screening Committee Report* that it will move forward to consider initial Section 504 qualification.

If the LSC chooses to reconvene at a later date to hold the 504 initial qualification determination meeting, a *Notice of Section 504 Meeting* (SS/SE-281) will be completed and sent to the parent and/or guardian (and student, if appropriate) along with a copy of the *Section 504 of the Rehabilitation Act of 1973 Procedural Safeguards* (SS/SE-92).

The LSC shall complete a *Section 504 Qualification* form (SS/SE-85) for students suspected of having a disability under Section 504. The *Section 504 Qualification* form has two pages: page one includes data review and evaluation, and page two includes the qualification criteria (504 eligibility).

Page one of the *Section 504 Qualification* form must document the following:

- Demographic information
- Names and titles of knowledgeable committee members
- Presenting problem

- Data review (sources of evaluation and current information considered)
- Evaluation (considering the need for additional data in order to determine 504 qualification)
- If additional data is needed, the knowledgeable committee will recommend required assessments.
- Parental consent (required for all initial 504 evaluations as well as any formal assessments).

In order to move forward to consideration of an initial 504 qualification, written parent consent must be provided for the evaluation (whether or not formal assessments are required). If the parent refuses to give consent to a 504 evaluation, the committee will not move forward to page two of the form and will not make a decision regarding Section 504 qualification.

If formal assessments are recommended and parental consent is provided, the meeting will adjourn and members will reconvene within 65 business days of the referral to allow time for the completion of assessments. ***Please note that all assessments must be completed within 65 business days of the LSC referral date.***

In the event that there is sufficient data to utilize for an evaluation, and the parent has given consent for an initial 504 evaluation, the knowledgeable committee may immediately move forward to 504 qualification consideration.

Page two of the *Section 504 Qualification* form must document the following:

- **Identification of the physical and/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 intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disability.
- **The major life activity (or activities) limited 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 limitation of the student’s impairment on the identified major life activity (or activities)**
  - 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 disqualified solely because they manage their own adaptive strategies or receive accommodations (including informal or undocumented ones) that have reduced or eliminated the effects of a physical or mental impairment.

- The determination of limitation to one or more major life activity must be made without regard for any ameliorative effects of mitigating measures that include, but are not limited to, a student health care plan (HCP), medication, medical supplies, equipment, low-vision devices<sup>1</sup>, prosthetics, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy equipment and supplies, assistive technology, accommodations, auxiliary aids or services; or learned behavioral or adaptive neurological modifications.
- **The LSC’s determination of Section 504 qualification**  
The LSC will state whether or not the student qualifies with a disability under Section 504.
- **A list of the LSC members participating in the determination**  
The parent(s) and/or guardian (and student, if appropriate) should also be included in this list if they are present at the meeting. All participants should provide their signature next to their printed name and role or title. It should be explained that parent consent for qualification is not required and the signatures only indicate participation. In the event that the meeting was held virtually (online), participation signatures will not be required.

[**Please note** that the Office for Civil Rights (OCR) has stated that school divisions are not required to obtain extensive documentation to identify that students with the following impairments are qualified under Section 504 and the ADA: diabetes, epilepsy, bipolar disorder, and autism (*Dear Colleague Letter*, 58 IDELR 79 (OCR 2012).)]

A copy of the *Section 504 Qualification* form (SS/SE-85), along with the *Local Screening Committee Report* (SS/SE-14) and the *Section 504 of the Rehabilitation Act of 1973 Procedural Safeguards* (SS/SE-92), shall be provided to the parent. (**Please also note that in the online platform [“SEA-STARS”], the 504 process documents for a first-time 504 qualification are obtained by selecting the “504 Initial Qualification” process in the dropdown menu.**)

---

<sup>1</sup> 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.

## 504 Plans

### Knowledgeable Committee Membership

If the student qualifies with a disability under Section 504, a committee of knowledgeable people shall develop a 504 Plan within 30 calendar days following the initial qualification. Typically, the knowledgeable committee is made up of staff members who work directly with, or supervise, the student in the educational setting. The 504 Plan is a statement of the required accommodations, modifications, and/or services that FCPS will provide to a student.

The knowledgeable committee must include the following people:

- 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, modifications, and/or services.)

Other committee members such as the school psychologist, public health nurse, school social worker, school counselor, and/or related service provider(s) may be included as appropriate to the needs of the student.

The parent(s) and/or guardian must be invited to the Section 504 meeting. In addition, schools should, whenever possible, work with the student to solicit his or her feedback regarding 504 Plan supports and invite the student to participate in the meeting as appropriate.

### 504 Plan Development

Use the *Notice of Section 504 Meeting* (SS/SE-281) to invite the parent(s) and/or guardian to the meeting. A copy of the *Section 504 of the Rehabilitation Act of 1973 Procedural Safeguards* ("504 Procedural Safeguards") (SS/SE-92) must be sent with the notice, along with a copy of the *504 Plan Meeting Agenda* (SS/SE-339). The meeting notice, procedural safeguards, and agenda should be sent to the parents no less than 3 days in advance of the meeting, to allow the parents adequate time to review and prepare for the meeting.

During the 504 Plan meeting, the knowledgeable committee reviews the specific needs of the student in the educational setting and completes a *504 Plan* form (SS/SE-86), using the *504 Plan Meeting Agenda* to help ensure that the committee is addressing all of the student's pertinent disability-related needs. The 504 Plan includes accommodations, modifications, and/or services, including medication administration, necessary to provide the student an equal opportunity to access programs and activities and to demonstrate achievement. The accommodations, modifications, and/or services shall do the following:

- 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 provided by the school system.
- Be specific enough in description to clearly indicate when and where the accommodations, modifications, and/or services will be provided during the school day and during school-related and/or sponsored activities.

The focus of the 504 Plan is on what is **necessary for the student as a result of the limitation of his or her impairment on one or more major life activity.**

The knowledgeable committee shall determine whether the student who qualifies as a student with a disability under Section 504 requires classroom testing accommodations and whether those accommodations or modifications should be provided for any state and/or district-wide assessments. These decisions shall be recorded on the appropriate *504 Plan Accommodations* form (SS/SE-86A, 86B, or 86D).

If the knowledgeable committee considers the read aloud (for the English: Reading Standards of Learning [SOL] assessment) or calculator accommodations, the committee must use the *Read Aloud or Audio Accommodation Criteria Form* (SS/SE-274) and/or the *504 Plan Calculator Criteria Form* (SS/SE-272) to determine whether the student meets the criteria to utilize the specific accommodation on the SOL tests.

In addition, discussions by a knowledgeable committee regarding the option to pursue credit accommodations can begin at any point after the student's 8th grade year. Committees shall use the *Credit Accommodation Eligibility Form* (SS/SE-353) to document their decision-making.

Federal law requires an annual English Language Proficiency (ELP) assessment to be administered to all students identified as English Learners (ELs) in grades K-12 ELP levels 1-5 and 9. ELs whose parent(s) and/or guardians have refused English for Speakers of Other Languages (ESOL) services are still required by federal law to participate in the annual assessment. The *WIDA ACCESS for ELLs* (English-language learners) and certain alternate tests are approved by the Virginia Department of Education (VDOE) to meet this requirement. For those ELs who also have a documented disability, IEP/504 Plan committees must work collaboratively with ESOL staff, utilizing the *WIDA ACCESS for ELLs Accommodations Selections* form (RF 7).

If the knowledgeable committee determines that there is currently no specific impairment-related limitation that requires accommodations, modifications, and/or services, this should be noted on the 504 Plan. This decision shall be reviewed by the knowledgeable committee on an annual basis (or more frequently, as needed), and the determination shall be noted on a current *504 Plan* document (SS/SE-86). **(Please note that in SEA-STARS, the 504 process documents for 504 Plans are obtained by selecting the "504 Plan" process in the dropdown menu.)**

A copy of the 504 Plan shall be provided to the parent and/or guardian following its completion. Parental consent is not required prior to the implementation of a 504 Plan 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 access to the 504 Plan and will comply with the applicable components. The 504 Plan remains in effect as specified until either a new 504 Plan is developed, at least annually, or the knowledgeable committee determines through reevaluation that the student no longer qualifies as a student with a disability under Section 504.

## **Plan Review and Revision**

The principal or designee (generally, this is the 504 school-based coordinator [SBC]), is responsible for ensuring that 504 Plans are reviewed at least annually or more frequently as conditions warrant. 504 case managers are responsible for planning and facilitating these meetings. The purpose of this review is to determine the appropriateness of the Plan and to make any needed modifications. The participants in 504 Plan meetings should be those individuals relevant to the discussion of the student's

accommodations, modifications, and/or services. At minimum, the committee must consist of at least one of the student's teachers and a principal or designee. Use the *Notice of Section 504 Meeting* (SS/SE-281) to invite the parent and/or guardian to the meeting. A separate SS/SE-281 may be used to invite the student, as well. A copy of the *Section 504 of the Rehabilitation Act of 1973 Procedural Safeguards* ("504 Procedural Safeguards") must be sent with the notice, along with a copy of the *504 Plan Meeting Agenda* (SS/SE-339).

## Discipline Procedures

The knowledgeable committee shall convene for a Section 504 Causality Hearing to assess whether the behavior requiring disciplinary action was caused by or directly related to a qualified student's disability when the following is true:

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

Parent(s) and/or guardians should be notified with sufficient time to allow them the opportunity to attend, participate, and provide input at the Section 504 causality hearing. The school shall use the *Parent Notice of Section 504 Causality Hearing* (SS/SE-220A) to notify the parent(s) and/or guardian of the meeting. A copy of the *504 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. The following scenarios apply:

- If a student is qualified under Section 504, and the committee determines that the student's conduct was caused by or had a direct and substantial relationship to the child's disability, and/or the student's conduct was a direct result of the school division's failure to implement the 504 Plan, then the determination is that the conduct is a manifestation of the student's disability. The student may not be disciplined in the same manner as a nondisabled student. The committee shall determine whether the student's educational program should be modified.
- If a student is qualified under Section 504, and it is determined that the student's conduct is not a manifestation of the student's disability, 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 illegal 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 direct and substantial relationship between the behavior and the disability.

## Transfers

When a student transfers into an FCPS school and/or program with a 504 eligibility and/or Plan, the 504 school based coordinator (SBC) must complete a 504 transfer process for the student, as soon as practicable, but no later than five school days following enrollment and/or first day of attendance. **(In SEA-STARs, the 504 Transfer document is obtained from the 504 Process menu.)** The receiving school is required to implement the existing 504 Plan, as documented within the 504 transfer

document, until the knowledgeable committee convenes to review the student's needs and develops an FCPS 504 Plan within 30 calendar days of the student's enrollment.

## Reevaluation

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

- Every three years
- More frequently, as necessary

The date of the student's initial or most-recent reevaluation of Section 504 qualification 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* form (SS/SE-22) should be used to assist in data collection, along with a review of additional, relevant 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 a student with a disability under Section 504. The *Section 504 Qualification* form (SS/SE-85) is used to guide the committee's review and determination. **(Note: In the SEA-STARS system, documentation specific to the reevaluation process is utilized. The 504 reevaluation documents may be accessed via the 504 tab, "Make Decision" button.)** If existing data is sufficient to use for purposes of considering continued Section 504 eligibility, no parental consent is required for the reevaluation. However, if additional individual assessments are needed in order to determine if the student continues to qualify, written parent consent for formal assessments is required. Upon completion of assessments, the knowledgeable committee will reconvene and consider continued qualification under Section 504 (no more than 65 days following the referral).

## Records

Forms documenting the referral, evaluation, initial qualification, reevaluation, 504 Plan, and any causality hearings for a student considered for and/or qualified with a disability under Section 504 should be maintained in the student's scholastic record. Commonly-used 504 forms, and translated versions, are available online at [fcps.edu/academics/academic-overview/special-education-instruction/special-education-procedural-support-12](https://fcps.edu/academics/academic-overview/special-education-instruction/special-education-procedural-support-12).

504-related records may include the following forms:

- *Multipurpose Referral* (SS/SE-5, 5A)
- *Notice of Local Screening Meeting* (SS/SE-83)
- *Section 504 of the Rehabilitation Act of 1973 Procedural Safeguards* (SS/SE-92)
- *Local Screening Committee Report* (SS/SE-14)
- *Notice of Section 504 Meeting* (SS/SE-281)
- *Section 504 Qualification* (SS/SE-85)
- *504 Plan* (SS/SE-86)
- *504 Plan (Testing) Accommodations*:
  - *Elementary Accommodations* (SS/SE-86A)
  - *Middle School Accommodations* (SS/SE-86B)
  - *High School Accommodations* (SS/SE-86D)
- *Section 504 Causality Hearing* (SS/SE-220)
- *Parent Notice of Section 504 Causality Hearing* (SS/SE-220A)
- *504 Plan Read Aloud or Audio Accommodation Form* (SS/SE-274)
- *504 Plan Calculator Criteria Form* (SS/SE-272)
- *Credit Accommodations Eligibility Form* (SS/SE-353)
- *Special Permission Locally Awarded Verified Credit Accommodation (SPLAVC-A) Criteria Form* (SS/SE-348)
- *Section 504: Parent Consent for Individualized Assessment* (SS/SE-86G)
- *Consent to Exchange Confidential Student Information* (SS/SE-79A)

If a student transfers to another school within FCPS, the file is to be forwarded to the new school in accordance with regulations. Please refer to the *Management of the Student Scholastic Record*, Appendix A, regarding organization of student records.

The student's parent or guardian may examine his or her child's educational record upon request (see *Management of the Student Scholastic Record* manual). Electronic records pertaining to a student, including those created within or added to the FCPS online platform for special education and Section 504 processes ("SEA-STARS"), are considered to be a part of the student's scholastic record.

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

FCPS or the parent or guardian of a student (or an adult student) with a disability as defined by Section 504 may request an impartial hearing to resolve any disagreement regarding the identification, evaluation, accommodations, modifications, and/or services; provision of FAPE; or causality determination of the student with a disability. Requests for a hearing that raise issues pursuant to both Section 504 and 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.

### **Requesting an Impartial Hearing**

Requests for an impartial hearing shall be made in writing and delivered to the coordinator 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 five business days of receipt by the coordinator with a request to provide the missing information within five additional business 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 form the basis of the complaint.

FCPS will provide a written response to the request for hearing. The response will be delivered to both the parents and the hearing officer within 10 business 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.

Assistance will be provided to persons who may need it in order to comply with the requirements to file a written request for an impartial hearing.

### **Appointment of Hearing Officer**

An impartial hearing officer will be appointed by the coordinator 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 business days of receipt of a request for a hearing that includes all of the required information for filing a request for a hearing and will follow up as necessary until a hearing officer is appointed.

### **Pre-Hearing Procedures**

Prior to the hearing, the hearing officer shall do the following:

- Convene a prehearing conference with the parties, unless the hearing officer determines such a conference is unnecessary.

- Identify the specific issues to be addressed during the hearing based on the request for hearing and any response provided by the other party.
- Schedule a hearing date and location with input from the parties and notify the parties in writing of such information.
- Ascertain whether the parties will be represented by counsel.
- Ascertain from the parents whether the hearing will be open or closed.
- Ensure that the hearing will be accurately recorded by a court reporter who is paid for his/her attendance by the school system.
- Have the authority to require that the student be evaluated.
- 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.

## **Hearing Procedures**

The parties have the following rights in the hearing:

- To be represented by counsel with each party being responsible for its own attorneys' fees.
- To present evidence and cross-examine witnesses.
- 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.
- To obtain a copy of the transcript of the hearing.

The hearing officer shall ensure the following in connection with the hearing:

- An atmosphere conducive to impartiality and that fairness exists.
- 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.
- The parties and their attorneys, advocates, or advisors comply with the impartial hearing officer's rules, and with relevant laws and regulations, and are not permitted to pursue hostile or irrelevant pursuits in questioning.
- 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 impartial hearing officer's orders.
- An accurate record of the proceedings is maintained. The party requesting the hearing has the burden of proof.
- 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.

The hearing officer shall issue a decision:

A written decision shall be issued to all parties setting forth findings of facts 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 civil action in an appropriate court.

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

# Appendix A

## Forms

All forms related to Section 504 and cited in this document may be found in the electronic forms cabinet on the FCPS Employee Hub: [hub.fcps.edu/forms](http://hub.fcps.edu/forms). [Currently, schools are expected to use the SEA-STARS online platform to complete 504 Initial Qualification, Plan, Reevaluation, and Transfer processes.](#)

Forms documenting the referral, evaluation, initial qualification, reevaluation, 504 Plan, transfer, and any causality hearings for a student considered for and/or qualified with a disability under Section 504 should be maintained in the student's scholastic record.

### Section 504 of the Rehabilitation Act of 1973 "Procedural Safeguards" (SS/SE-92)

- [se92](#)  
Parents are provided a copy of the 504 procedural safeguards notice prior to evaluation, Child Find, identification, reevaluation, and/or placement.
- [se92 \(Arabic\)](#)  
Section 504 of the Rehabilitation Act of 1973 Procedural Safeguards (Arabic)
- [se92 \(Chinese\)](#)  
Section 504 of the Rehabilitation Act of 1973 Procedural Safeguards (Chinese)
- [se92 \(Farsi\)](#)  
Section 504 of the Rehabilitation Act of 1973 Procedural Safeguards (Farsi)
- [se92 \(Korean\)](#)  
Section 504 of the Rehabilitation Act of 1973 Procedural Safeguards (Korean)
- [se92 \(Spanish\)](#)  
Section 504 of the Rehabilitation Act of 1973 Procedural Safeguards (Spanish)
- [se92 \(Urdu\)](#)  
Section 504 of the Rehabilitation Act of 1973 Procedural Safeguards (Urdu)
- [se92 \(Vietnamese\)](#)  
Section 504 of the Rehabilitation Act of 1973 Procedural Safeguards (Vietnamese)

### Notice of Section 504 Meeting (SS/SE-281)

- [se281](#)  
This notice is sent to parents prior to their child's 504 Initial Qualification, 504 Plan, or 504 Reevaluation meeting.
- [se281 \(Arabic\)](#)  
Notice of Section 504 Meeting (Arabic)

- [se281 \(Chinese\)](#)  
Notice of Section 504 Meeting (Chinese)
- [se281 \(Farsi\)](#)  
Notice of Section 504 Meeting (Farsi)
- [se281 \(Korean\)](#)  
Notice of Section 504 Meeting (Korean)
- [se281 \(Spanish\)](#)  
Notice of Section 504 Meeting (Spanish)
- [se281 \(Urdu\)](#)  
Notice of Section 504 Meeting (Urdu)
- [se281 \(Vietnamese\)](#)  
Notice of Section 504 Meeting (Vietnamese)

#### 504 Plan (SS/SE-86)

- [se86](#)  
SS/SE-86 504 Plan  
The 504 Plan form is completed by the knowledgeable committee during a student's 504 plan meeting. Accommodations, modifications, and/or services necessary to afford the student the equal opportunity to access school programs and activities are addressed with the 504 Plan document.
- [se86 \(Arabic\)](#)  
504 Plan (Arabic)
- [se86 \(Chinese\)](#)  
504 Plan (Chinese)
- [se86 \(Farsi\)](#)  
504 Plan (Farsi)
- [se86 \(Korean\)](#)  
504 Plan (Korean)
- [se86 \(Spanish\)](#)  
504 Plan (Spanish)
- [se86 \(Urdu\)](#)  
504 Plan (Urdu)

- [se86 \(Vietnamese\)](#)  
504 Plan (Vietnamese)

#### **504 Plan - Test Accommodations (Elementary School) (SS/SE-86A)**

- [se86a](#)  
Elementary School Accommodations
- [se86a \(Arabic\)](#)  
Elementary School Accommodations (504 Plan) (Arabic)
- [se86a \(Chinese\)](#)  
Elementary School Accommodations (504 Plan) (Chinese)
- [se86a \(Farsi\)](#)  
Elementary School Accommodations (504 Plan) (Farsi)
- [se86a \(Korean\)](#)  
Elementary School Accommodations (504 Plan) (Korean)
- [se86a \(Spanish\)](#)  
Elementary School Accommodations (504 Plan) (Spanish)
- [se86a \(Urdu\)](#)  
Elementary School Accommodations (504 Plan) (Urdu)
- [se86a \(Vietnamese\)](#)  
Elementary School Accommodations (504 Plan) (Vietnamese)

#### **504 Plan - Test Accommodations (Middle School) (SS/SE-86B)**

- [se86b](#)  
Middle School Accommodations (504 Plan)
- [se86b \(Arabic\)](#)  
Middle School Accommodations (504 Plan) (Arabic)
- [se86b \(Chinese\)](#)  
Middle School Accommodations (504 Plan) (Chinese)

- [se86b \(Farsi\)](#)  
Middle School Accommodations (504 Plan) (Farsi)
- [se86b \(Korean\)](#)  
Middle School Accommodations (504 Plan) (Korean)
- [se86b \(Spanish\)](#)  
Middle School Accommodations (504 Plan) (Spanish)
- [se86b \(Urdu\)](#)  
Middle School Accommodations (504 Plan) (Urdu)
- [se86b \(Vietnamese\)](#)  
Middle School Accommodations (504 Plan) (Vietnamese)

**504 Plan - Test Accommodations (High School)(SS/SE-86D)**

- [se86d](#)  
High School Accommodations (504 Plan)
- [se86d \(Arabic\)](#)  
High School Accommodations (504 Plan) (Arabic)
- [se86d \(Chinese\)](#)  
High School Accommodations (504 Plan) (Chinese)
- [se86d \(Farsi\)](#)  
High School Accommodations (504 Plan) (Farsi)
- [se86d \(Korean\)](#)  
High School Accommodations (504 Plan) (Korean)
- [se86d \(Spanish\)](#)  
High School Accommodations (504 Plan) (Spanish)
- [se86d \(Urdu\)](#)  
High School Accommodations (504 Plan) (Urdu)
- [se86d \(Vietnamese\)](#)

High School Accommodations (504 Plan) (Vietnamese)

**Read Aloud or Audio Accommodation Criteria Form (SS/SE-274)**

- [se274](#)  
504 Plan Read Aloud or Audio Accommodation Criteria
- [se274 \(Arabic\)](#)  
Read Aloud or Audio Accommodation Criteria Form - Arabic
- [se274\(Chinese\)](#)  
Read Aloud or Audio Accommodation Criteria Form - Chinese
- [se274 \(Farsi\)](#)  
Read Aloud or Audio Accommodation Criteria Form (Farsi)
- [se274 \(Korean\)](#)  
Read Aloud or Audio Accommodation Criteria Form (Korean)
- [se274 \(Spanish\)](#)  
Read Aloud or Audio Accommodation Criteria Form (Spanish)
- [se274 \(Urdu\)](#)  
Read Aloud or Audio Accommodation Criteria Form (Urdu)
- [se274 \(Vietnamese\)](#)  
Read Aloud or Audio Accommodation Criteria Form (Vietnamese)

**Special Permission Locally Awarded Verified Credit Accommodation (SPLAVC-A) Criteria Form (SS/SE-348)**

- [SE348](#)  
SS/SE348 Special Permission Locally Awarded  
Verified Credit Accommodation (SPLAVC-A) Criteria Form
- [Special Permission Locally Awarded Verified Credit Accommodation \(SPLAVC-A\) Criteria Form \(se348\) - Arabic](#)
- [Special Permission Locally Awarded Verified Credit Accommodation \(SPLAVC-A\) Criteria Form \(se348\) - Chinese](#)
- [Special Permission Locally Awarded Verified Credit Accommodation \(SPLAVC-A\) Criteria Form \(se348\) - Farsi](#)

- [Special Permission Locally Awarded Verified Credit Accommodation \(SPLAVC-A\) Criteria Form \(se348\) - Korean](#)
- [Special Permission Locally Awarded Verified Credit Accommodation \(SPLAVC-A\) Criteria Form \(se348\) - Spanish](#)
- [Special Permission Locally Awarded Verified Credit Accommodation \(SPLAVC-A\) Criteria Form \(se348\) - Urdu](#)
- [Special Permission Locally Awarded Verified Credit Accommodation \(SPLAVC-A\) Criteria Form \(se348\) - Vietnamese](#)

Additional forms related to Section 504 are listed below. **For more information on Section 504 forms or related documents please contact the Section 504 school-based coordinator (SBC) at your school.**

- 504 Plan Calculator Criteria Form (SS/SE-272)
- 504 Plan Meeting Agenda (SS/SE-339)
- 504 Plan Read Aloud or Audio Accommodation Form (SS/SE-274)
- 504 Plan (Testing) Accommodations:
  - Elementary Accommodations (SS/SE-86A)
  - Middle School Accommodations (SS/SE-86B)
  - High School Accommodations (SS/SE-86D)
- Consent to Exchange Confidential Student Information (SS/SE-79A)
- Credit Accommodation Eligibility Form (SS/SE-353)
- Local Screening Committee Report (SS/SE-14)
- Multipurpose Referral (SS/SE-5, 5A)
- Notice of Local Screening Meeting (SS/SE-83)
- Notice Not to Evaluate (SS/SE-13)
- Parent Information (SS/SE-127)
- Parent Notice of Section 504 Causality Hearing (SS/SE-220A)
- Section 504 Causality Hearing (SS/SE-220)
- Section 504: Parent Consent for Individualized Assessment (SS/SE-86G)
- Section 504 Plan Credit Accommodations Eligibility Form (SS/SE-86H)
- Section 504 Qualification (SS/SE-85)
- Section 504 Transfer Student Documentation (SS/SE-86T)
- Special Permission Locally Awarded Verified Credit Accommodation (SPLAVC-A) Criteria Form (SS/SE-348)
- Student Audit Trail (SS/SE-8)
- Student Observation (SS/SE-23)
- Teacher Narrative (SS/SE-22)
- Virginia Special Education Procedural Safeguards Requirement (SS/SE-4)

If a student transfers to another 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 his or her child's educational record upon request (see *Management of the Student Scholastic Record* manual).

## Appendix B

### IDEA and Section 504

#### Brief Overview of Differences

IDEA	Section 504
<b>Primary Focus</b>	
Educational <i>benefit</i>	Equal <i>access</i> for students with disabilities
<b>Who is Covered</b>	
Handicapping conditions defined. Those with impairments that adversely affect educational performance and require special education and related services.	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 <i>student</i> (what the <i>student</i> will do).	Accommodations, modifications, and/or services provided to the eligible student by the <i>teacher(s)</i> or <i>relevant school staff members</i> (what the teacher or staff member will do).
<b>Consent</b>	
Parent consent is required for eligibility, initial services, and changes in placement.	Parent consent is required for initial Section 504 evaluations and any formal assessments. Parents are invited to participate in the evaluation meeting and in the development of the plan.
<b>Regulations</b>	
IDEA – many specifics	OCR (Office for Civil Rights) – few specifics
<b>Parent Participation</b>	
Procedural rights to participate.	Invite parent participation; procedural rights to notice of all meetings.
<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 receive federal funding.	No federal funding.
<b>Monitoring</b>	
Virginia Department of Education (VDOE) is required to develop regulations and to monitor the provision of special education. United States Department of Education (USDOE) oversees implementation.	Office for Civil Rights (OCR) monitors Section 504 compliance.

# Appendix C

# 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 major life activity.
- \* Those individuals for whom there is a record of impairment, or who are regarded as having an impairment (but who are not currently identified with an impairment under Section 504) are protected from discrimination, but are not considered “qualifying students.”

### 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 accommodations, adaptations, modifications, and/or services that provides the student an equal opportunity to participate.
- \* Each school must provide equal opportunities to students under Section 504 to obtain the same result, to gain the same benefits, or to reach the same level of achievement. However, this does not mean that the student WILL obtain the same result, gain the same benefit, or reach the same level of achievement.
- \* Transfers: If a student who is qualified with a disability under Section 504 transfers into FCPS from a non-FCPS school, the 504 school-based coordinator (SBC) must complete a 504 transfer process for the student, as soon as practicable but **no later than five school days** following enrollment and/or first day of attendance. The 504 transfer document shall be implemented until a knowledgeable committee at the receiving school convenes and develops an FCPS 504 Plan **within 30 calendar days** of the student’s enrollment.

### Qualifying Factors:

- \* The local screening committee (LSC) determines initial Section 504 qualification. Written parent consent is required for all initial 504 evaluations and for any formal assessments.
- \* The LSC must identify the presence of a physical or mental impairment and the major life activity limited by the impairment.
- \* The knowledgeable committee conducts reevaluations of a student’s Section 504 qualification at least once every three years or more frequently as circumstances warrant.
- \* 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, modifications, and/or services 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, and update as appropriate.
- \* The knowledgeable committee determines if the student no longer qualifies as a student with a disability under Section 504.

### **Disciplinary Protections:**

- \* The knowledgeable committee must conduct a causality hearing following a decision to remove a student from school for **more than ten days** in a school year.
- \* If there is not a direct and substantial 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 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 (571-423-4470) or the Section 504 specialist (571-423-1304).

## Appendix D

Below is a screenshot of form SS/SE-92 (Section 504 Procedural Safeguards). This document is available online at [fcps.edu/sites/default/files/media/forms/se92.pdf](http://fcps.edu/sites/default/files/media/forms/se92.pdf).



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

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, Child Find, identification, reevaluation, and/or placement.
- Decisions regarding the identification, evaluation, accommodations, modifications, and/or services 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 records.
- The recipient to which this subpart applies shall establish standards and procedures for the evaluation and placement of persons who, and will, because of handicap need or are believed to need special education or related services, ensure the following:
  - 1) Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by the producer.
  - 2) Tests and other evaluation material include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.
  - 3) Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are factors that the test purposes to measure).
- 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 Section 504-qualified student from school for more than ten consecutive school days or when the Section 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, modifications, services, or causality determination in a discipline case. The parent(s) or guardian may request an administrative review, mediation, and/or impartial hearing. Administrative review and mediation are voluntary and do not need to be completed prior to a request for an impartial hearing. The impartial hearing consists of an opportunity for participation by the student's parent(s) or guardian and representation by counsel and a review of the impartial hearing decision.

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 (571-423-4470), when it concerns student programs and activities. Appeals should be sent to the coordinator of Due Process and Eligibility. Additional information is available in Regulation 1454.

*Information from the Fairfax County Public Schools student scholastic record is released on the condition that the recipient agrees not to permit any other party to have access to such information without the written consent of the parent or eligible student.*

SS/SE-92 (5/18)



## Appendix E

### Section 504 Frequently Asked Questions

#### General Questions

- **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 this is an initial 504 evaluation, and/or the team believes that formal assessment is required prior to making a determination, then written parental consent must first be obtained.

- **Which team determines whether a child qualifies under Section 504?**

In FCPS, the local screening committee (LSC) makes the initial determination of Section 504 qualification. Reevaluation of Section 504 qualification is determined by the knowledgeable committee.

- **What happens if a child is qualified as a student with a disability under Section 504?**

A 504 Plan is developed to document accommodations, modifications, and/or services that are necessary for the student.

- **Which 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 504 Plan development. As appropriate, the student should be included on the team. Additional members may be solicited to join the knowledgeable committee, by request of the school or the parent, to ensure that it is truly a “knowledgeable” committee.

- **What goes into a 504 Plan?**

A 504 Plan should include only those accommodations, modifications, and/or services that are required for the student to have equal access to the benefits of school programs and activities, to include nonacademic programs, extracurricular activities, field trips, etc. In elementary and secondary level public schools, the 504 Plan must include all supports necessary to provide a free appropriate public education (FAPE) for qualifying students.

- **How often should the 504 Plan be reviewed?**

The 504 Plan must be **reviewed at least annually**.

- **What happens if a student no longer requires accommodations, modifications, and/or services to access school-related programs and activities?**

The knowledgeable committee can meet at any time and make a determination that accommodations, modifications, and/or services should be added, adjusted, reduced, or eliminated altogether. However, a student can remain qualified as disabled under Section

504 and not require accommodations or services on a 504 Plan.

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

Yes. The knowledgeable committee must convene to conduct a causality hearing. 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.

- **Are there procedural safeguards?**

Yes. *Section 504 Procedural Safeguards* (SS/SE-92) 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 hearing.

## 504 Data Review and Evaluation

- **If a parent cannot be present or refuses to attend an initial 504 evaluation meeting, does this mean parent consent has not been given and we cannot proceed with a 504 qualification determination?**

The committee will need to complete the first part (Data Review/Evaluation) of the *Section 504 Qualification* form (SS/SE-85) and then send home the form for parent consent. Should the parent not consent to an initial 504 evaluation, the team **will not** proceed to make a 504 qualification decision.

- **How does the local screening committee determine if the team should be recommending a Section 504 evaluation rather than an evaluation for special education?**

The local screening committee has the obligation to evaluate a student for special education if there is a suspicion that the student may have a disability under the Individuals with Disabilities Education Act (IDEA). If the student is ultimately found eligible for special education, an individualized education program (IEP) is developed. Sometimes, the LSC may determine that a student should be evaluated under Section 504 prior to the conclusion of the special education evaluation process, if there is a strong likelihood that there is enough current data to move forward with 504 qualification. If the LSC does not choose to consider 504 initial qualification at the same time that it is evaluating the student for special education, and the student is found ineligible for special education, and/or there is no suspicion of a disability under IDEA, the student's qualification under Section 504 may be considered.

- **Who is responsible for completing a 504 reevaluation: the local screening committee or the 'knowledgeable committee'?**

Every 504 reevaluation is completed by a knowledgeable committee. A school may choose to hold the meeting during the local screening agenda time in order to have access to certain individuals, such as a school psychologist, school social worker, or related service provider, if they are needed as members of the knowledgeable committee. The knowledgeable committee may meet at any time that is mutually convenient for the team members, including the parent and student.

- **Who runs the meeting for the initial 504 qualification?**

The local screening committee will work as a team to decide which individual(s) will facilitate this meeting or set of meetings. However, in general, the psychologist and/or LSC chair typically serve as the chair of the initial 504 qualification meeting. The 504 school-based coordinator (SBC) may assist with meeting facilitation, when needed.

- **If a parent provides a doctor's note or a prescription for 504 qualification, or recommendations for accommodations, how does this influence the decision of the school based team?**

All relevant information, including available private assessments and school-based information regarding the student, should be reviewed and considered by the committee when making a 504 qualification determination. The team should ensure that multiple data points

are considered when reviewing 504 qualification, and look for patterns, trends, and alignments among the data. It may be helpful for the school team to speak with the doctor (once parent consent is received) to qualify the information provided in the original doctor's note.

- **Is a medical or psychological diagnosis required for a student to qualify with a disability under Section 504?**

Per the Office for Civil Rights (OCR):

A physician's medical diagnosis may be considered among other sources in evaluating a student with an impairment or believed to have an impairment which substantially limits a major life activity. Other sources to be considered, along with the medical diagnosis, include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior. Section 504 regulations require school districts to draw upon a variety of sources in interpreting evaluation data and making placement decisions. ([www2.ed.gov/about/offices/list/ocr/504faq.html](http://www2.ed.gov/about/offices/list/ocr/504faq.html))

Should a knowledgeable committee determine that a medical evaluation is warranted, the parent must be given the option of either using his or her own physician (at parent's expense) or a physician with whom FCPS contracts (at FCPS' expense). For further information and guidance regarding medical evaluations for students with suspected (or current) disabilities, please contact the Due Process & Eligibility office at 571-423-4470.

- **If existing data is sufficient on its own for use in the evaluation phase, in order to move forward with 504 qualification, and the parent is in agreement, does the school need to solicit the parent's written consent?**

For an initial evaluation, the parent must give consent for the team to use existing data to move forward with a 504 qualification decision. However, for a reevaluation, parental consent to use existing data is not required.

- **Do we have to accept a parent's request for assessments if the school-based members of the team believe there is sufficient existing data?**

For an initial Section 504 qualification consideration, if the committee believes that the existing data is sufficient to use for the evaluation and to move forward to Section 504 qualification, but the parent disagrees and requests formal assessment, the team will consider that the parent is refusing consent for an initial 504 evaluation and the process stops pending resolution through appeal. For a Section 504 reevaluation, the team may use existing data to complete the evaluation, without parent consent. The parent may contact the Due Process and Eligibility office for further information about filing an appeal in either situation.

- **How does the knowledgeable committee determine whether a mental or physical impairment exists?**

School teams have the responsibility to consider all available and relevant data to make 504 qualification decisions. If appropriate data is not available, teams are obligated to recommend additional information and/or informal or formal assessments necessary to make an eligibility determination and help address the unique disability-related needs of the student.

Please be mindful of your selection of knowledgeable committee members. Members should be chosen based on their ability to address the needs of the student as these relate to the identified impairment.

- **Is there a specific timeline for completion of 504 testing?**

The school team must complete the assessments and return to a 504 initial qualification or reevaluation meeting in **no more than 65 business days** following receipt of the local screening committee (LSC) referral, or in the case of a 504 reevaluation, no more than 65 days following the written notice of 504 meeting, but no later than the three-year reevaluation due date. In most cases, it is expected that the formal assessments will be completed in less than 65 working days.

## 504 Qualification (Initial and Reevaluation)

- **If a student is not performing to his or her perceived potential, does that qualify as an impairment of a major life activity?**

It depends. All information about a student's functioning and performance needs to be considered when determining whether a major life activity is being significantly limited based on that student's identified impairment. It is important that teams objectively consider all available and relevant information when making 504 qualification determinations.

- **If a parent provides a private assessment which indicates that an impairment exists, but school-based data does not reflect the same concerns, would the student still qualify under Section 504 as an individual with a disability?**

All relevant information, including available private assessments and school-based information about the student, should be reviewed and considered by the committee when making a 504 qualification determination. The team should ensure that multiple data points are considered when reviewing 504 qualification, and look for patterns, trends, and alignments among the data.

- **What happens if the parent provides documentation of an impairment, such as attention deficit hyperactivity disorder (ADHD), but no major life activity is limited by the impairment? For example, consider a case in which the student is earning A's and B's in honors classes, but the parent disagrees with the knowledgeable committee and believes that his or her child should be 504 qualified and should receive a 504 Plan.**

Teams are reminded that in order to determine whether or not a given impairment substantially limits a major life activity, the nature of the limitation needs to be assessed as to how the student functions in the absence of mitigating measures. For example, it is possible that a student with a mental or physical impairment could be obtaining good grades in part due to the mitigating measures of medication and/or informal accommodations already being provided by the classroom teacher. In the absence of those mitigating measures, the student in this example may indeed show evidence of substantial limitation to one or more major life activities. Furthermore, teams need to keep in mind that a student's course grades are only one measure of potential limitation(s) caused by his or her impairment.

If a parent disagrees with a 504 qualification, reevaluation, or 504 Plan decision by the committee, and attempts have been made to come to consensus with the rest of the team, that parent may appeal through the Due Process and Eligibility Office.

## 504 Plan

- **What is the difference between *reasonable* and *necessary* accommodations?**

The term ***reasonable accommodation*** is a phrase that is appropriate for use in the postsecondary setting or in the workplace for individuals with disabilities who might require supports. In the public school setting, we should be providing ***necessary*** accommodations, modifications, and/or supports to Section 504 qualified students, in order for them to receive a free appropriate public education and have equal access and opportunity.

- **What is a “service” within Section 504?**

A service is a practice or program, or any related service for which the student has been evaluated and it has been determined the student requires to receive a free appropriate public education (FAPE). It is important to note that if a student with a disability receives a Section 504 evaluation and is found to have intensive needs, it would be prudent for the local screening committee to consider whether that individual should be recommended for a special education evaluation.

- **What is the general education teacher’s role and responsibility in managing the 504 Plan?**

General education teachers, along with other relevant staff members working with a 504 qualified student, are required to implement the 504 Plan.

- **Is it appropriate to use the terms “as needed” or “when requested by the student” to modify an accommodation?**

The knowledgeable committee has the obligation to ensure that all disability-related accommodations and supports identified in a student’s 504 Plan are those that are required for the student to have equal opportunity to access FCPS programs and activities. Once an accommodation and/or support is agreed upon by the knowledgeable committee, it is assumed that it is something that is required for access. Therefore, the expectation is that if the accommodation requires further definition in order for staff to implement it appropriately, the knowledgeable committee will further define the *when/where/how* of the accommodation on the 504 Plan. Best practice is to not simply state “as needed” or “when requested,” but to further define how staff can best deliver the accommodation, support, and/or service.

- **Is it appropriate to identify, within the 504 Plan itself, the individual staff/specialists who will implement the 504 accommodations/supports/services?**

The 504 Plan must be clear about the manner in which individual supports will be implemented. Although in most cases, the student’s teachers will be the primary implementers of the 504 Plan, there may be situations in which other professional staff might appropriately implement part or all of a 504 Plan. The nature of a student’s disability-related needs, and the corresponding 504 Plan supports, will help guide decisions about which staff should be implementing the 504 Plan.

- **If a student is qualified under Section 504, can that student access related services (such as speech/language, occupational therapy, physical therapy, counseling, etc.) on his or her 504 Plan?**

Yes, related services may be included on 504 Plans. If the knowledgeable committee, including the related service provider, has considered relevant evaluative data and has determined that a student requires a related service in order to access and participate in FCPS programs and activities, the committee must document the service requirement on the Plan and then implement accordingly.

Should a school team suspect that a particular student may be eligible for special education, the team is strongly advised to make a referral to the local screening committee to consider whether a special education evaluation is appropriate to pursue at this time.

- **How should the knowledgeable committee proceed with the annual review of a student's 504 Plan when that student is in the middle of a special education evaluation?**

Until an IEP has been consented to by the parents, the 504 knowledgeable committee should continue with the annual review of the 504 Plan.

Should a student become special education eligible during the 504 Plan year, and an IEP is implemented, the 504 knowledgeable committee will not continue to meet for annual 504 Plan reviews or periodic (at least every 3 years) reevaluations. Rather, it now becomes the responsibility of the IEP team to ensure that the student receives a FAPE per their disability-related needs. In effect, the IEP will now be the guiding document rather than the 504 Plan.

- **How should the knowledgeable committee proceed when the parent no longer wants a 504 Plan in place for their child?**

The knowledgeable committee is advised to convene a reevaluation meeting, including the parent, to determine whether the child continues to qualify as a student with a disability under Section 504. Should the student no longer qualify under Section 504, the 504 qualification paperwork will be sufficient documentation for discontinuing implementation of the 504 Plan.

Should the student continue to qualify under Section 504, the knowledgeable committee, with the parent, should review the current 504 Plan. Perhaps there may be a way to compromise with the family to ensure that the student's disability-related needs are met while finding ways to gradually reduce the degree of external support.

- **How should the school respond to a parent's request for additional supports to be provided to his or her student in an honors-level or AP/IB course?**

504 qualified students have a range of academic interests and capabilities. Some of these students will benefit from advanced academic offerings. Schools are required to ensure that they are providing equal access and opportunity to the programs and activities that FCPS offers. FCPS is responsible for ensuring that each student is being provided the opportunity to access the courses appropriate for that student's interests and aptitudes. It is never appropriate to deny access to an advanced course solely due to a student's need for disability-related accommodations.

- **How should the school respond when teachers are reporting that a 504-qualified student is not accessing the accommodations in their 504 Plan?**

If staff are documenting a pattern of refusal related to the accommodations and/or supports/services delineated in the student's 504 Plan, it is recommended that the parents be notified of their child's refusal to access these supports, and in addition, the 504 knowledgeable committee should convene a 504 Plan meeting to review and possibly modify the current Plan.

- **What is the procedure for schools to follow when a student transfers into FCPS with a 504 Plan?**

When a student transfers into FCPS with a 504 Plan from a non-FCPS public school, the 504 school-based coordinator (SBC) is expected to complete the 504 transfer process in the online system. Until the 504 knowledgeable committee meets and reviews the Plan (and completes an FCPS 504 Plan), the expectation is that the school provides "comparable services" to what the incoming plan outlines. The receiving school must hold a 504 Plan meeting within **30 calendar days** of the student's first day of enrollment. Should the student be due for a reevaluation, or the school team has concerns about the student's 504 eligibility, the knowledgeable committee should also complete a 504 reevaluation meeting.

While there is no requirement for the school to immediately update a 504 Plan that comes from another FCPS school, in many cases, school teams may choose to do so as differences in environments and/or resources may warrant some adjustments to ensure the student continues to have his or her disability-related needs addressed within the new setting.

## ADDITIONAL FAQs

### Transition Issues

- **What is in place for students with disabilities in the post-secondary environment?**

Nearly every college today has a disabilities services office that is a contact point for students with a disability who previously may have had an IEP or 504 Plan, and who may require accommodations/supports in college. The IEP or 504 Plan does not “transfer over” so much as it provides documentation (along with any assessment data) that the college can use to help determine how to support the student’s needs in the college environment. In the K-12 environment, we are required to provide FAPE and accommodations/services that are necessary for the student to obtain equal access/opportunity to the school system’s programs and activities. In the college or work environment, this shifts to the provision of “reasonable accommodations.”

### Private School

- **What is FCPS’ obligation to assess private school students for Section 504 eligibility?**

FCPS is required to complete the Child Find process for any child from birth–21 within its boundaries (including students who attend private school within Fairfax County) who may be a child with a disability. If a student is found to be 504 qualified, we should offer an initial 504 Plan for the child that would be implemented should the child enroll in FCPS.

If the family of a private school student with a 504 Plan requests that FCPS hold another 504 Plan meeting for their child, the child’s base school should hold this meeting. FCPS is responsible for completing timely reevaluations (occurring at least once every 3 years) for 504-qualified children, including private and home-schooled students. FCPS is not required to hold annual 504 Plan meetings, beyond the initial 504 Plan meeting, for a private or homeschooled student. Should a parent of a non-enrolled 504-qualified student who lives in Fairfax County request a 504 Plan meeting for their child, FCPS staff are encouraged to comply with that request.

### Temporary Impairments

- **Should we be writing a 504 Plan for a student with a broken limb, or other conditions such as a concussion that are likely to be temporary?**

You do not need to move through the 504 Qualification/Plan process for students presenting with temporary impairments. Schools may offer informal accommodations to these students. In situations in which a student may require gradual phasing-in of their return to school following an injury or illness, convene a school-based team to develop a “return to learn” plan for the student. Also, in terms of the potential need for accommodations during SOL tests or other state/division-wide testing, please contact your school’s test coordinator or testing coach for more information regarding “temporary impairment” accommodations during testing. Please note that if a student’s condition that initially appeared to be temporary is now worsening or becoming longer lasting, a referral to LSC should be initiated.

## **Moving From a 504 Plan to an IEP**

- **How should a school proceed when a student on a 504 Plan becomes eligible for special education and will be on an IEP?**

Continue to implement the 504 Plan until the student's parents consent to the IEP. As soon as the parent consents to the IEP, the 504 Plan remains in the record, but it becomes an inactive document. Students should not be on IEPs and 504 Plans simultaneously.

In the future, should the student be found ineligible for special education, the school will then need to complete a 504 Reevaluation, to determine if the student continues to be eligible under Section 504, and if so, an updated 504 Plan will need to be developed at that time.

## **When Dyslexia is Suspected**

- **A student who is performing on grade level, but struggles with spelling and writing, was evaluated and found to not have a decoding deficit. A computer is available for him to use for all writing tasks, and he is also receiving a word study intervention. Would the teacher's documentation of this student's spelling and writing challenges (without use of a word processor) be sufficient grounds to state that he shows signs of dyslexia in the area of writing?**

If there is a suspicion that this student may qualify under Section 504, please refer him to the LSC for an initial 504 qualification consideration.

While a medical, psychological, or educational diagnosis is not necessary for a student to qualify with a disability under Section 504, please note that the mere existence of a relative academic weakness does not necessarily lead to the finding of a mental or physical impairment. It is likely that in this type of situation, the LSC may need to gather additional data to complete a 504 evaluation. For example, additional information regarding this student's information processing and executive functioning skills may need to be obtained.

## **Accommodations for Students Identified with Dyslexia**

- **What are the "allowable" accommodations for students who have been identified with dyslexia?**

There is no exhaustive list of accommodations/services that may be selected for a student with dyslexia, or for that matter, for a student with any particular disability. Accommodations are chosen after the knowledgeable committee has done an appropriate evaluation of the student and his or her needs, based on disability. That evaluation may include informal and/or formal data.

## **Read Aloud or Audio Accommodations for Standards of Learning (SOL) Assessments**

- **Must the 504 knowledgeable committee review the "Read Aloud" criteria form every time we wish to consider this accommodation for a student?**

The *Read Aloud or Audio Accommodation Criteria Form (SS/SE-274)* is meant to be utilized by the knowledgeable committee only when determining whether a student requires a read-aloud

or audio accommodation for the English: Reading SOL. It is not necessary for a student to meet the criteria on this form in order to receive read aloud/audio for a content (non-reading) SOL test. It would not be uncommon for a student with dyslexia, or a student with some other disability that substantially limits the student's ability to access text, to be considered for read aloud/audio for content tests, in order to ensure that they are able to demonstrate their knowledge of the subject area without the confound of having to read and understand all of the directions/prompts first. However, many students with dyslexia or other disabilities will not have a severe enough degree of decoding difficulty, or visual impairment, needed to qualify for read aloud/audio for the English: Reading SOL – which is why there is a criteria form required for this accommodation.

### **“Small Group” Testing**

- **Are there any plans to add “small group” to the test accommodations section of the 504 Plan?**

Several years ago, VDOE discontinued “group size” (which encompasses small group) as a test accommodation for SOL tests. It is now considered to be a “test adjustment” that is available to ANY student (general education, Section 504 eligible, or special education eligible).

The test accommodations section of the 504 Plan includes the accommodations that VDOE allows for the SOL tests. It does not include any test adjustments that are universally allowed.

### **IEP vs. 504 Plan Accommodations**

- **We have a student who has “teacher directed breaks during classroom assessments” on his 504 Plan. Are we allowed to also have this accommodation in place for SOL tests? We have provided this accommodation to students on IEPs, but we do not have experience providing this same accommodation to students on 504 Plans.**

The issue is whether a student with a documented disability requires a particular accommodation in order to fairly access an SOL test, regardless of whether the student has a 504 Plan or IEP. If the student requires this accommodation during classroom assessments, it seems likely that the student may also require it for SOL assessments. The knowledgeable committee will need to convene a 504 Plan meeting to consider whether this accommodation is warranted. If there is consensus on the appropriateness of this accommodation, the committee will document its selection on the test accommodation section of the 504 Plan (#31B – frequent breaks).

### **Functional Behavior Assessment and Behavior Intervention Plan**

- **What is the expectation for schools when completing a Functional Behavior Assessment (FBA) and Behavior Intervention Plan (BIP) for a student on a 504 Plan?**

The FBA and BIP for a student on a 504 Plan should be developed by the knowledgeable committee, including staff who typically support these processes (e.g., school psychologist, social worker, behavior intervention teacher, etc.) Please use the SS/SE-217 and SS/SE-218 forms to complete this work.

The 504 Plan committee should reference the existence of an FBA and BIP within the 504 Plan. Copies of the FBA and BIP should be attached in SEA-STARS (historical documents)

as well as in the hard-copy scholastic record (see the Management of the Student Scholastic Record manual (<https://www.fcps.edu/sites/default/files/media/forms/Management%20of%20the%20Student%20Scholastic%20Record.pdf>) for the organization of Section 504 records).

### **Homebound Services**

- **If a student on a 504 Plan becomes eligible for homebound services, how should the 504 knowledgeable committee proceed?**

During the period of time that the student continues to be eligible for homebound services, the 504 knowledgeable committee should convene at least once every 9 weeks to ensure that the 504 Plan is being implemented with fidelity, and to discuss any changes to services that may be warranted. If the 504 knowledgeable committee determines a change in service is required, the student's 504 case manager (after consulting with the 504 school based coordinator) is responsible for sending the updated 504 Plan to the Office of Out of School Support.

## Appendix F

### Resources

The Section 504 Regulations (34 C.F.R. Part 104):

[www2.ed.gov/policy/rights/reg/ocr/edlite-34cfr104.html](http://www2.ed.gov/policy/rights/reg/ocr/edlite-34cfr104.html)

United States Department of Justice Civil Rights Division: Information and Technical Assistance on the Americans with Disabilities Act at [ada.gov/](http://ada.gov/)

United States Department of Education: Frequently Asked Questions About Section 504 and the Education of Children with Disabilities at [www2.ed.gov/about/offices/list/ocr/504faq.html](http://www2.ed.gov/about/offices/list/ocr/504faq.html)

Council of Educators for Students with Disabilities: Section 504 Resources:  
<https://www.504idea.org/cesd-home/resources-for-new-section-504-coordinators/>

Fairfax County Public Schools, Section 504 Information (public site):  
<https://www.fcps.edu/academics/academic-overview/special-education-instruction/special-education-procedural-support/Section-504-information>

## Appendix G

### Acronyms

<b>ACRONYM</b>	<b>EXPLANATION</b>
504 SBC	School Based Coordinator
ADA	Americans With Disabilities Act
ADHD	Attention Deficit Hyperactivity Disorder
CST	Child Specific Team
DPE	Due Process and Eligibility
ELs	English Learners
ELLs	English Language Learners
ELP	English Language Proficiency
EOC	End of Course
ESOL	English for Speakers of Other Languages
FAPE	Free Appropriate Public Education
FCPS	Fairfax County Public Schools
HCP	Health Care Plan
IDEA	Individuals With Disabilities Education Act
IEP	Individualized Education Program
LSC	Local Screening Committee
OCR	Office for Civil Rights
MTSS	Multi-Tiered Systems of Support
PLC-RT	Professional Learning Community-Response Team
POC	Point of Contact
PSL	Procedural Support Liaison
SOL	Standards of Learning
SWD	Students With Disabilities
TAT	Teacher Assistance Team
VDOE	Virginia Department of Education