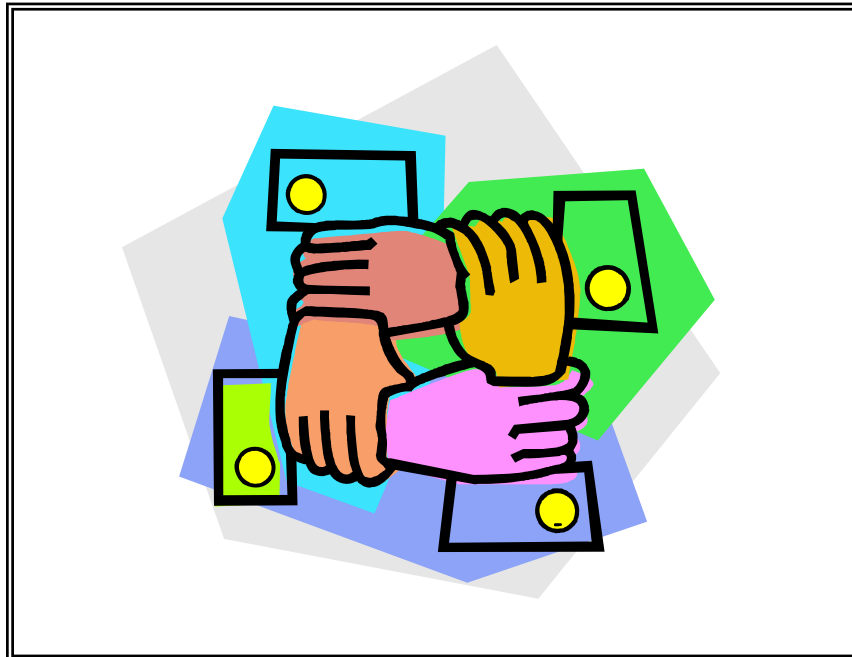


# Administrative Guidelines

# Section 504



Department of Academic Services

Revised April 2008



**ADMINISTRATIVE GUIDELINES  
GOVERNING THE IMPLEMENTATION  
OF SECTION 504  
OF THE REHABILITATION ACT OF 1973**

***SCHOOL BOARD MISSION***

*The mission of the Newport News Public Schools is to provide a quality education that encourages every student to realize his/her fullest potential.*



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## **GUIDELINES FOR MANAGING THE SECTION 504 PROCESS**

Newport News Public Schools is committed to the principle of education for all children and the belief that every disabled child is entitled to educational opportunities consistent with his/her ability to learn.

The purpose of these guidelines is to clarify and define the building administrators' responsibilities in protecting each disabled student's rights under Section 504 of the Rehabilitation Act of 1973. Compliance with these procedures will ensure disabled students equal access to, and benefit from, the educational opportunities available within Newport News Public Schools.

**ADMINISTRATIVE GUIDELINES  
GOVERNING THE IMPLEMENTATION  
OF SECTION 504  
OF THE REHABILITATION ACT OF 1973**

Introduction.....	1
Who is Protected? .....	1
Child Find .....	2
Procedural Safeguards .....	2
Impartial Due Process Hearing Procedures .....	3
Referral/Record Review for Section 504.....	4
Termination of Qualification .....	4
Procedural Safeguards .....	4
Committee Composition .....	4
Assessment.....	4
Information .....	5
Participation .....	5
Plan Development.....	5
Selecting Accommodations and Developing the Plan.....	5
Definition of Accommodations .....	6
Transfer Students .....	6
Discipline/Suspension/Expulsion .....	7

Appendices.....9

Responsibilities of 504 Building Coordinators

504 Students by School via e-SIS

Section 504 Schema (Flow Chart)

Parent/Guardian/Adult Student's Rights under Section 504

Notice to Parent/Adult Student of Section 504 Meeting

504 Screening/Eligibility Committee Report

Section 504 Plan

Section 504 Accommodation Worksheet

Section 504 Accommodation Sheet (SOL's)

Section 504 Addendum

Section 504 Letter of Notification to Parent/Adult Student  
That Student Is Not Qualified

Teacher Acknowledgement of Students with 504 Plans

Section 504 Manifestation Meeting Minutes

Record of Attempts to Secure Participation in the  
Section 504 Conference

Newport News 504 Grievance Process

References and Resources

# INTRODUCTION

The Section 504 Administrative Guidelines define the responsibilities of building administrators in protecting the rights of each student who meets the definition of disability under Section 504 of the Rehabilitation Act of 1973.

Section 504 specifically states...

*No otherwise qualified individual with a disability...shall, solely by reason of the disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.*

The statute ensures that a qualified student with a disability receives **reasonable accommodations** necessary for that student to access education or school-related programs and activities. School divisions that receive federal funds, including NNPS, are responsible for following this mandate.

## **WHO IS PROTECTED UNDER SECTION 504?**

Protected individuals include any student with an impairment who may be discriminated against solely because of having the impairment. A team of individuals knowledgeable about the student determines if the student qualifies for Section 504.

A PERSON **MAY** BE CONSIDERED DISABLED UNDER THE DEFINITION IN SECTION 504 IF THE INDIVIDUAL:

- a. has a mental or physical impairment which *substantially limits* one or more of the individual's *major life activities*,
- b. has a record of such an impairment, or
- c. is regarded as having such impairment,

**Physical impairment** – 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, respiratory, genitourinary, hemic or lymphatic, skin and endocrine.

When a condition does not substantially limit a major life activity, the individual **does not** qualify for services under Section 504.

**Mental impairment** – any mental or psychological disorders, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

### **What is a major life activity?**

The statutory definition of “major life activity” includes functions such as: caring for one’s self, performing manual tasks, walking, hearing, seeing, breathing, working, or learning. The list is not exhaustive. Often timelines can be major life activities for purposes of Section 504. For example, court decisions have added other functions such as sitting, stooping, reaching, and eating.

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## **What does the term “substantially limits” mean?**

“Substantially limits” means that the individual: (1) cannot perform a major life activity that the average person in the general population can perform; or (2) is significantly restricted as to the condition, manner, or duration under which the individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform the same major life activity. This determination is made only on a case-by-case basis.

## **Making the Eligibility Decision**

Referral for Section 504 consideration/services does not necessarily mean the student is eligible for Section 504 services. A child’s identified disability does not automatically result in eligibility for Section 504 services. Students who are found ineligible for special education and related services may not be automatically eligible for Section 504 services. It is the school Section 504 Committee’s responsibility to make an eligibility determination for each student.

## **CHILD FIND**

At least annually, the school division shall make an effort to identify and locate every eligible child with a disability. Appropriate steps must be taken to find any eligible child and to notify the child’s parent, and the student if appropriate, of the school division’s responsibilities under Section 504. This notification typically occurs through the school division’s use of Child Find procedures (e.g., record reviews, general screenings, preschool advertisements, distribution of information in the community) or through any other means necessary to comply with this requirement under Section 504.

## **PROCEDURAL SAFEGUARDS**

***(Definition: The term parent means biological parent, guardian, adult student or surrogate for this document.)***

The parent must be given Section 504 rights under the law. Once a student is being considered for Section 504 via the Child Study Committee, the school must notify the student’s parent. Every student has the right to a free appropriate public education (FAPE). Students are to be educated with non-disabled children to the maximum extent appropriate.

The parent must also be made aware of his or her right to: (1) file a grievance; (2) have an evaluation that draws from a variety of sources; (3) be informed of any proposed actions related to qualification under Section 504 and provision of a plan for services; (4) examine all relevant records; (5) receive all information in their native language and primary mode of communication; (6) a periodic re-determination of qualification and an assessment before any significant change in program/service modifications (e.g., prior to transitioning from the elementary to the middle school level, or from the middle to high school level); (7) request an impartial hearing if there is disagreement with the school division’s proposed action; and (8) be represented by counsel. (See Parent/Student Rights under Appendices).

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## **NEWPORT NEWS 504 GRIEVANCE PROCESS**

(see appendices)

### **IMPARTIAL DUE PROCESS HEARING**

1. The parent of a child determined or believed to be disabled under Section 504 shall have the right to initiate a hearing, as does the school division, when a disagreement occurs on matters relating to identification, evaluation or educational placement of the child or the provision of a Free Appropriate Public Education to the child. Hearing procedures will be those specified for IDEA due process hearings. Either party may initiate due process to appeal refusals for evaluation or provision of special education and related services. Note that parental consent is required before a Section 504 Plan is implemented.
2. If there is an appeal of the decision of the hearing officer by either party, the state education agency shall appoint a reviewing officer to conduct an impartial review of the hearing.
3. A further option, bringing a civil action in the appropriate court, is available upon completion of all administrative procedures.
4. There are time lines for hearings and reviews.
5. During any administrative or judicial proceedings regarding an appeal, unless the local school division and the parent agree otherwise, the student must remain in his/her present educational placement.

### **PLACEMENT**

If the parent, without the school division's agreement, decides to place his/her child in an approved private nonsectarian school, the school division shall not be responsible for the cost of the placement, if it is proven by the due process procedure that the school division's proposed placement does provide a Free Appropriate Public Education in the least restrictive environment for his/her child (see procedure above).

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## **REFERRAL/RECORD REVIEW FOR SECTION 504**

Newport News Public Schools has established procedures to ensure compliance with Section 504. The school-based Child Study Committee determines if an evaluation for eligibility under Section 504 is required. The committee may also recommend accommodations apart from an evaluation. If an evaluation under Section 504 is recommended, the child study committee refers the case to the appropriate evaluators to gather the assessment information. This committee is responsible for determining:

- a. whether the student is disabled,
- b. the type of disability, and
- c. the effect the disability has on the student in the school setting.

If a student is determined eligible under Section 504, a school-based committee develops a plan outlining the services which the student may require to ensure that no otherwise qualified disabled individual shall, by the reason of his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program offered by Newport News Public Schools. **Written parental approval is required before the plan is initiated.**

## **TERMINATION OF QUALIFICATION**

If any individual suspects that a student no longer requires an accommodation plan, that individual should make a referral to the school's Section 504 Committee.

## **COMMITTEE COMPOSITION**

The members of the Section 504 Eligibility and Review Committees should include:

1. the principal/designee,
2. central office representative for 504 Eligibility meetings only,
3. one or more of the student's teachers,
4. the student's parents (must be invited, but not required to attend),
5. the student (if appropriate),
6. school social worker, school psychologist, school nurse (if appropriate).

## **ASSESSMENT**

1. Written permission must be granted by the parent before a student is given individual tests or evaluations.
2. Parents must be informed of the nature of the tests and evaluations used by the school division to assess their child.
3. Parents have the right to have their child assessed in a non-discriminatory manner; thus tests and evaluations must not be discriminatory either culturally or racially.

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## **INFORMATION**

1. Parents of a disabled child must be given written notice before the school division proposes (or refuses) to initiate or change the identification, evaluation or educational placement of their child.
2. Parents have the right to obtain, upon request, information regarding free or low cost legal services and information as to where an independent educational evaluation might be obtained.

## **PARTICIPATION**

1. The parent must have an opportunity for participation in all conferences regarding the development of a 504 Plan. Participation is not required.
2. The parent has a right to receive a copy of the written 504 Plan.

## **PLAN DEVELOPMENT**

Qualified students receive a written plan that must be developed at the end of the determination meeting, or within a reasonable timeframe (usually within 30 calendar days).

If the Plan will be developed at a later date, the principal/designee shall establish a date for the meeting. Written notification of intent to develop the plan shall be forwarded to the parents or adult student. Parental or adult student attendance at the plan development meeting is not required, but is strongly encouraged. Accommodations shall be included in the Plan. Educational services, testing accommodations, and extracurricular activities must be considered during the decision-making process. Accommodations and adaptations must not lower or, substantially or fundamentally, alter the school division's standards. ***The direct intent of accommodations is to equalize access to programs/activities and, as such, does not necessarily ensure academic success.***

## **Selecting Accommodations and Developing the Plan**

The Section 504 Committee should develop or select accommodations that enable the student to have equal access to school programs and activities. During deliberations to select accommodations, the committee will consider if barriers are created for the student due to an impairment, and how academic and extracurricular areas are affected. The accommodations or services provided will be determined by the consensus of the committee. ***The principal/designee will ensure that all the student's teachers are made aware of the content of the Plan and their role in the Plan implementation process. The student's teachers are to sign a form indicating they are aware of the Plan and will implement interventions. (see Appendices)***

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### **Accommodations (Defined as):**

An accommodation as used in this document allows a student to complete the same assignment or test as other students, but with a change in the timing, formatting, setting, scheduling, response and/or presentation. This accommodation does not alter in any significant way what the test or assignment measures. (*see References and Resources at the back of this document*)

### **Reviewing the Plan**

The Plan shall be reviewed annually (prior to its anniversary date). If after reviewing the Plan, the Committee determines that no changes of any kind are needed, the committee may sign-off on such a decision.

If an eligible student's accommodations require specialized instruction which substantially or fundamentally alters the curriculum, the student also should be referred to the Child Study Committee.

## **TRANSFER STUDENTS**

When a student transfers into the school division with a Section 504 Plan, the administrator/designee at the school site shall convene a Section 504 Committee meeting for review, and development of NNPS Plan that is consistent with local 504 guidelines. The 504 Plan shall be written within 30 school days of the eligibility determination. Participants in this meeting shall include the school's Section 504 administrator/designee, the student's parents, the student (if appropriate), and at least one other individual (e.g., student's teacher, guidance counselor, assistant principal, etc.) who shall ensure that a plan is developed in a manner consistent with local Section 504 guidelines. The site-level administrator/designee shall communicate the requirements of the Plan to any of the student's teachers unable to attend the meeting and have them sign-off on the appropriate form.

## **DISCIPLINE/SUSPENSION/EXPULSION**

Any time a student is barred from school by school officials, the action should be regarded as a suspension. (Refer to Rights and Responsibility Handbook) These procedures apply to students identified as disabled only under Section 504 of the Rehabilitation Act of 1973. If a student has been identified as disabled under both the Individuals with Disabilities Education Act (IDEA) and Section 504, the student will be disciplined exclusively under the IDEA procedures. In addition to the requirements set forth in these procedures, the regular disciplinary procedures must also be followed. The parent or adult student must be invited to attend all Manifestation Determination meetings using the Section 504 Notice Form.

### **Short Term Suspensions (of 10 days or less)**

Section 504 students may receive suspensions of ten days or less under the same disciplinary procedures applicable to all students. Additional procedures may be required in cases of cumulative short-term suspensions exceeding ten days in a school year when these suspensions  
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constitute a change in placement. Factors to consider in determining whether the multiple short-term suspensions amount to a change in placement include: (1) the length of each suspension; (2) the proximity of the suspension to each other; and (3) the total amount of time the student will be excluded from school.

If in considering these factors, the Section 504 Committee finds that additional suspensions will result in a change of placement, then the procedures applicable to long term suspension and expulsion must be followed.

### **Long Term Suspension and Expulsion**

Prior to imposing a long-term suspension or expulsion of a student with a Section 504 plan, a committee must convene to determine if the misconduct giving rise to the disciplinary action was a manifestation of the student's disability and whether the student's plan was appropriate at the time of this misconduct. The committee members must be knowledgeable about the student, and the student's disability through direct observation or review of the records. The committee's composition should include: a central office representative and other individuals as appropriate; principal/designee; student's teacher(s); parent(s); student (if appropriate); and staff knowledgeable about the student's functioning and the meaning of the qualification data. The parent or adult student must be invited to participate in the Manifestation Determination Committee meeting. Minutes should be kept of the individuals attending the meeting, information considered by the committee, the decision of the committee, and the rationale for the committee's decision using the Section 504 Manifestation Form. Either party may tape record the meeting. The parent or adult student may obtain a copy of any tape made by the Committee during the meeting.

If the committee determines that no manifestation exists, the student may be disciplined by utilizing the regular disciplinary procedures.

If the committee determines that the misconduct is a manifestation of the student's disability, the student **may not** receive a long-term suspension or expulsion. However, the student may receive a short-term suspension provided that such action does not result in a change of placement.

### **Exception to Section 504 Discipline Procedures**

Students who have been identified as disabled under Section 504 and are recommended for discipline arising from the current use or possession of alcohol, illegal drugs, or a weapon may be disciplined by using the procedures applicable to regular education students. These cases do not require the use of the additional procedures outlined above. The disciplinary action taken must be consistent with the disciplinary action applied to regular education students for these same offenses. Students to who these situations apply may not utilize the Section 504 hearing procedures.

**Provision of Educational Services While on Suspension or Expulsion**

Section 504 students are not entitled to receive educational services while on suspension or expulsion unless educational services are provided to non-disabled students under the same circumstances. **“Stay put” provisions available under the Individuals with Disabilities Education Act (IDEA) are not applicable to Section 504 students.**

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