PROCEDURAL SAFEGUARDS

SECTION 504

A GUIDE FOR PARENTS OF STUDENTS WITH DISABILITIES
Overview

In Worcester County Public Schools, Section 504 falls under the purview of the Local Accountability Coordinator. All 504 processes are implemented in schools by school counselors, administrators, and teachers. Information is available to parents and students on the district website by visiting http://worcesterk12.org/cms/one.aspx?portalId=577441&pageId=1106598. Questions can be directed to Dr. Amy Gallagher, Coordinator of Accountability and Assessment at 410-632-5041 or adgallagher@worcesterk12.org.

What is Section 504?

Section 504 refers to a part of the Rehabilitation Act of 1973. The primary purpose of the Rehabilitation Act of 1973 is to ensure that persons with disabilities are not discriminated against.

Section 504 states,

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

This law requires that every public school in the United States identify, evaluate, and provide free appropriate public education to disabled individuals as defined by Section 504. In addition, procedural safeguards must be provided to the parents/guardians of identified students. The Office for Civil Rights of the U.S. Department of Education is responsible for enforcing Section 504.

How is a student referred to a 504 Team?

A student is referred to a school-based Section 504 Team, which will determine if the student is eligible under Section 504.

- A parent/legal guardian may refer a student to the Section 504 Team with written documentation supporting the suspected disability.
  
  —Written documentation may include medical, psychological, clinical, or other outside agency reports.

- A staff member shall refer a student to the Section 504 team when the staff member is suspicious of a disability.

Who is part of the 504 Team and how do they determine eligibility?

The 504 Team is comprised of:

- The school administrator or designee
- The parent
- Persons knowledgeable about the child, the meaning of the evaluation data, and the placement options (teachers, counselor, nurse, psychologist, PPW, outside clinicians, etc.).
Eligibility by the 504 Team is determined by means of an evaluation. Evaluation refers to a gathering of data or information from a variety of sources so that the 504 Team can make the required eligibility determination. This information can include data from student records, grades, teacher and staff observations, disciplinary referrals, anecdotal reports, teacher reports, individual and group tests, aptitude and achievement tests, medical information, nursing assessment, occupational or physical therapist assessment, physician’s orders, emergency care plans, and adaptive behavior assessment.

**Who is eligible under Section 504?**

A student suspected of having a disability should be considered for eligibility under Section 504 if he/she:

- has a physical or mental impairment which *substantially limits one or more major life activities*;
- has a record of such an impairment; or
- is regarded as having such an impairment.

**Major Life Activities**

*Major Life Activities* include *caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, sleeping, concentrating, reading, communicating, bending and major bodily functions (immune, digestive, respiratory, circulatory, endocrine, neurological, brain and reproductive systems, bowel and bladder functions, and normal cell growth)*. WCPS will adhere to current definitions and eligibility standards under Section 504 of the Rehabilitation Act of 1973, as amended by the ADA.

**Substantial Limitation**

*Substantial Limitation* is the inability to perform a major life activity that the average person in the general population can perform without the use of mitigating measures and may include impairments that are episodic or in remission.

A diagnosis of an impairment does not automatically qualify a student for eligibility under Section 504. School teams and parents who feel a student may meet the criteria for Section 504 eligibility may request that the student be recommended for review at a Section 504 team meeting.

**What is a 504 Plan?**

Students who meet the eligibility guidelines for Section 504 may have a *504 Plan* developed. The plan will specify the nature of the qualifying disability that substantially limits a major life activity, and the accommodations *reasonable* and *necessary* to mitigate the impacts of the disability and provide access based on the student’s needs. The plan will also include individual staff members responsible for implementing the accommodations.

Accommodations should be specific to the individual with regard to his/her disability and its limitation on the major life activity.

The team will review the student’s 504 Plan on an annual basis to ensure its effectiveness. A parent or the school system may request, at any time, that a plan be reviewed and/or revised as needed.
What student and parental rights protected under Section 504?

The following is a description of the rights granted by federal law to students with disabilities under Section 504 of the Rehabilitation Act of 1973. The intent of the law is to keep you fully informed concerning decisions about your child in identification, evaluation and placement and to inform you of your rights if you disagree with any of these decisions.

You have the right to:

1. Have your child take part in, and receive benefits from, public education programs without discrimination because of his/her disability.

2. Have the school district advise you of your rights under federal law.

3. Receive notice with respect to identification, evaluation, or placement of your child.

4. Have your child receive a free appropriate public education. This includes the right to be educated with nondisabled students to the maximum extent appropriate. It also includes the right to have the school district make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities.

5. Have your child educated in facilities and receive services comparable to those provided nondisabled students.

6. Have your child receive an individualized evaluation and receive specialized education services if s/he is found to be eligible under Section 504 of the Rehabilitation Act.

7. Have evaluation, educational and placement decisions made based upon a variety of information sources, and by persons who know the student, the evaluation data, and placement options.

8. Have transportation provided to and from an alternative placement setting, determined by the school district, at no greater cost to you than would be incurred if the student were placed in a program operated by the district.

9. Have your child be given an equal opportunity to participate in non-academic and extracurricular activities offered by the district.

10. Examine all relevant records relating to decisions regarding your child's identification, evaluation, educational program, and placement, and obtain copies of educational records at a reasonable cost, unless the fee would effectively deny you access to the records.

11. Receive a response from the school district to reasonable requests for explanations and interpretations of your child's records.

12. Request amendment of your child's educational records if there is reasonable cause to believe that they are inaccurate, misleading or otherwise in violation of the privacy rights of your child. If the school district refuses this request for amendment, it shall notify you within a reasonable time, and advise you of the right to a hearing.
13. File a local grievance (in accordance with procedures below).

14. Request mediation or an impartial due process hearing related to decisions or actions regarding your child's identification, evaluation, education program or placement. You and the student may take part in the hearing and have an attorney represent you at your own expense. The impartial Hearing Officer will be selected by the district. Hearing requests must be made in writing to the Supervisor of Special Education. This is the person in the district who is responsible for assuring the Worcester County Public Schools comply with Section 504 requirements.

What are the disciplinary procedures for Section 504 disabled students?

Suspensions Totaling Ten Days or Fewer

In any disciplinary case deemed to warrant suspension for less than 10 cumulative school days in a school year, a Section 504 student with a disability may be suspended in accordance with the procedures in the Code of Student Conduct.

Suspension Totaling More Than Ten Days

In disciplinary cases where a 504 student with a disability has been suspended for over 10 cumulative days for the school year, a 504 Team meeting must be held. The 504 Team must determine whether the conduct that prompted the disciplinary action was a manifestation of the student’s disability. If the behavior that resulted in the disciplinary action was not the result of the student’s disability, the recommendation for suspension/expulsion stands and the school will follow regular disciplinary procedures. If the behavior that resulted in the disciplinary action was a result of the student’s disability, the suspension or expulsion is discontinued, and the student may return to school.

The 504 Plan should be reviewed at this time to determine if the plan is appropriate, and if revisions are necessary.

Students who use, use/possess, or use/distribute illegal drugs, alcohol and/or weapons are not entitled to the protections of Section 504 in any disciplinary proceeding. As a result, the student will not receive a Manifestation Determination Meeting (MDR) prior to being disciplined for the behavior.

What procedures are established to resolve conflicts in the 504 process?

Worcester County Public Schools does not discriminate on the basis of race, religion, sex, national origin, age, or handicapping condition. The grievance procedure is established to assist students when they or their family feel they have been discriminated against under Section 504 of the Rehabilitation Action of 1973. Worcester County Public Schools desires to secure at the lowest possible level, equitable solutions to concerns that arise.
Definitions

Grievance – A formal written claim that a student has been subject to discrimination on the basis of race, religion, sex, national origin, age, or handicapping, condition.

Student – Any person currently enrolled as a student in Worcester County Public Schools.

Aggrieved – The student and/or guardian making the claim.

Days – The working days, exclusive of Saturdays, Sundays, vacation days or holidays, as set forth in the school system calendar. In counting days, the first day shall be the first full working day following the receipt of the grievance or appropriate documentation.

Time Limitations

All time limits shall consist of workdays scheduled in the school calendar. The number of days indicated at each level should be considered a maximum and every effort should be made to expedite the process.

With agreement from the Aggrieved, the beginning of the time limits may be postponed until the beginning of the next school year for a grievance arising after May 1st.

Procedures

It is desirable for any students and parents or guardians, and their teachers to resolve problems through free and informal communication. However, should such informal processes fail to resolve any discrimination under Section 504, a student and his or her parent or guardian may file a grievance pursuant to the steps set forth below. All grievances shall be made in writing within 90 days of the event that created the grievance. The written statement of grievance shall remain the same throughout all steps of the grievance procedure unless additional discrimination occurs or is identified.

Step 1: The Aggrieved shall present the grievance in writing to the school principal, using the form provided below. The written grievance shall describe the basis of alleged discrimination. The principal (or designee) shall provide the Aggrieved with a copy of this procedure and implement Step 2.

Step 2: A school-level 504 meeting will take place at a mutually agreed upon time within five (5) school days after receipt of the written grievance. The school-level 504 Committee will consist of the Aggrieved, principal (or designee), appropriate teacher(s) and/or school counselor and/or school psychologist and/or lead teacher. Other parties may attend as agreed upon by the Aggrieved and the principal. The principal will produce a written summary of committee decisions within three (3) school days of the meeting to be provided to the Aggrieved and system-level 504 Coordinator. In the event the principal (or designee) and the Aggrieved agree that a Step 2 review is inappropriate, the grievance procedure may originate at Step 3.

Step 3: If the grievance is not resolved at Step 2, within five (5) school days of receipt of the Step 2 decision, the Aggrieved may refer the grievance for review by a system-level 504 Review Committee. The system-level 504 Coordinator (or designee) shall serve as the chairperson of the review and shall arrange for a meeting with the Aggrieved to take place within five (5) school days of receipt of the appeal. The system-level 504 Review Committee will consist of the 504 system-level Coordinator (or designee), Special Needs Program Director (or designee), Aggrieved, principal (or designee), and other system-level administrators as appropriate. The 504 system-level Coordinator (or designee) shall provide the Aggrieved and principal with a written decision within five (5) school days after the meeting.
Step 4: If the grievance is not resolved at Step 3, the aggrieved parties may submit a written request to the Superintendent for an appeal to the Board of Education. This request must be submitted within ten (10) days of receipt of the Step 3 decision. The chairman of the Board may designate a committee of three (3) or more members to hear the grievance. Each party may have one (1) representative with them at the hearing before the Board or its committee. The Board shall arrange for a meeting with the Aggrieved to take place within ten (10) days of receipt of the appeal. The Board or its designated committee shall render a decision to the Aggrieved and the principal in writing, within five (5) school days after the meeting.

Step 5: If the grievance is not resolved at Step 4, the aggrieved parties may request an impartial hearing. The Superintendent (or designee) shall secure an impartial hearing officer that meets the following criteria:

1. is not a school system employee
2. is not from another school system or agency that shares a contractual arrangement for special education or 504 services with Worcester County Public Schools
3. is not involved in state policy making affecting students with disabilities
4. is not a parent of a handicapped child
5. is not known to have any personal or professional conflicts of interest.

The role of the hearing officer is to hear relevant evidence and make a ruling regarding the grievance. The hearing officer will establish specific hearing procedures including the hearing format and appropriate representatives for each party. The impartial hearing shall take place within ten (10) days of receipt of the appeal. The hearing officer shall render a decision in writing to the Aggrieved and the Superintendent within ten (10) days of the hearing.

Step 6: If the grievance is not resolved at Step 5, the aggrieved parties may file a complaint with the Office of Civil Rights.
Worcester County Public Schools Section 504 Grievance Form

Worcester County Public Schools pledges that the district complies with Section 504 regulations and that no discrimination on the basis of disability is permitted in the programs or activities operated by the district. If you believe that discrimination has occurred against a student because of a disability, please complete, sign and submit this form to your school’s principal within 90 days of the alleged event that created the grievance.

Date: __________________

On behalf of: ______________________________________

(Name of the Student with a Disability)

Complainant is:

☐ Student: ____________________________

☐ Student’s Parent(s): ______________________

☐ Other: _______________________________

Address: ______________________________________________________________________

______________________________________________________________________________

Telephone: ____________________________

Email Address: __________________________

1. Describe the alleged violation of Section 504 in specific terms. Include 1) the specific incident or activity that is viewed as discrimination; 2) the individuals involved; 3) dates, times, and locations involved; and 4) the disability that forms the basis of the complaint (attach additional pages if needed.)

2. Describe any communication that has already occurred, with whom and when, to address the issue.

3. Please describe how you propose to resolve this issue.