



Section 504 Guide

Policy and Procedures Manual

Pickens County School District Section 504 Guide Policy and Procedures Manual

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Pickens County School System Section 504 Policy

The Pickens County School System does not discriminate based on race, color, national origin, sex, or disability in any student program. It is the policy of the Board of Education to comply fully with the requirements of Title VI, Title IX, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, and all accompanying regulations. The District intends to ensure that students who are disabled under Section 504 of the Rehabilitation Act of 1973 are identified, evaluated, and provided with appropriate educational services.

Under Section 504, due process rights are guaranteed in the Pickens County School System for students with disabilities.

Pickens County Schools strictly prohibits any form of retaliation, intimidation, threats, coercion, or discrimination against any student, parent, employee, or community member for the purpose of interfering with any right or privilege secured by Section 504. This protection extends to anyone who makes a complaint, testifies, assists, or participates in any manner in an investigation, proceeding, or hearing regarding a Section 504 matter.

To ensure continuous communication of this nondiscrimination policy, Pickens County Schools provides annual public notification of its commitment to Section 504 and the Americans with Disabilities Act. This notice is published continuously on the district website, included in all student and employee handbooks, and made available in the administrative offices of every school building.

Local Grievance Procedure

Pickens County Schools maintains a local grievance procedure to ensure prompt and equitable resolution of complaints alleging violations of Section 504. Parents or guardians are encouraged to resolve concerns informally at the school level by contacting the Building Level Section 504 Coordinator. If the issue remains unresolved, a formal written grievance may be submitted to the District Section 504 Coordinator within thirty (30) days of the alleged violation. The District Coordinator will conduct an adequate, reliable, and impartial investigation of the complaint, providing both parties the opportunity to present witnesses and evidence. A written decision detailing the outcome of the investigation will be issued to the grievant within fifteen (15) school days of receiving the complaint. Utilizing this internal grievance procedure does not prevent a parent or guardian from requesting an impartial due process hearing or filing a complaint directly with the Office for Civil Rights at any time.

For questions related to Section 504, you may contact:

Seth Youngblood
108 DB Carrol Street
Jasper, GA 30175
706-253-1700

Section 504 Overview

Definition of Section 504: Section 504 is short for Section 504 of the Rehabilitation Act of 1973 and is a federal civil rights law that prohibits discrimination against qualified individuals with disabilities in programs and activities that receive federal funds. Section 504 guarantees that qualified disabled individuals receive a Free Appropriate Public Education (FAPE). This compliance is overseen by the United States Department of Education Office for Civil Rights (OCR).

While this manual primarily outlines the procedures and safeguards regarding student education and accommodations, the Pickens County Schools nondiscrimination policy applies to all district operations. The district ensures that qualified applicants, employees, and community members with disabilities are provided reasonable accommodations and equal access to district employment opportunities, facilities, and public programs. Questions regarding facility accessibility or employee accommodations should be directed to the District Section 504 Coordinator.

Who is eligible under Section 504?

To be protected under Section 504, a student must be determined to: a) have a physical or mental impairment which substantially limits one or more major life activities, b) have a record of such an impairment, or c) be regarded as having such an impairment.

a) Has a physical or mental impairment which substantially limits one or more major life activities:

- **What is a physical or mental impairment?** A physical or mental impairment includes any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting any of the body systems or any mental or psychological disorder. The term 'physical or mental impairment' is not limited to any specific diseases or categories of medical conditions.
- **What is a major life activity?** A major life activity includes functions such as self-care, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, and communicating. Also provided is a non-exhaustive list of major bodily functions that include functions of the

immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. The list of examples of major life activities is not exclusive, and an activity or function not specifically listed can nonetheless be a major life activity.

- **What is a substantial limitation?** The physical or mental impairment does not constitute a disability under Section 504 unless its severity substantially limits one or more major life activities. There is no definition of "substantially limits" in Section 504 regulations, so this determination must be made by the school district. It is not meant to be a demanding standard. An impairment is a disability if it substantially limits the ability of an individual to perform a major life activity when compared to most people in the general population. Example: a person with a substantial limitation of a major life activity may be a person with Rheumatoid Arthritis which causes severe back and joint pain and may limit a person's ability to walk. If this person can walk only a very short distance before having to rest, and the average person can walk 1 mile before having to rest, then this would be a substantial limitation of walking. The impairment need not prevent, or significantly or severely restrict a student in performing a major life activity to be considered 'substantially limiting.'
- **Mitigating Measures:** The determination of whether an impairment substantially limits a major life activity must be made without regard to the ameliorative effects of mitigating measures. Mitigating measures used by a student to help manage an impairment or lessen the impact of an impairment include: a) medication, medical supplies, equipment, appliances, low-vision devices (devices that magnify, enhance, or augment a visual image, but not including ordinary eyeglasses or contact lenses), prosthetics (including limbs and devices, hearing aid(s), cochlear implant(s), or other implantable hearing devices), and oxygen therapy equipment and supplies, b) use of assistive technology, c) reasonable accommodations or auxiliary aids or services, d) learned behavioral or adaptive neurological modifications, or e) psychotherapy, behavioral therapy, or physical therapy. Note: While the ameliorative effects of mitigating measures cannot be considered when making the disability determination, such effects can be considered in determining whether a student needs a 504 Plan (ex: the team could find that a student does not need a 504 plan because his/her educational needs are being met as adequately as the needs of his/her nondisabled peers. However, he/she would still be considered disabled and could not be discriminated against based upon the disability). The Section 504 Review Committee cannot take the position that a student does not have a disability under Section 504 because the student has a "correctable" condition or conditions that can be resolved through the use of mitigating measures. Example: If a student is on ADHD medication, then the determination of a "substantial limitation" and whether the student would be considered "disabled" under Section 504 needs to be made based on evidence (if there is any) on how the student performs in regard to major life activities when not on medication.

- **Temporary Impairments:** A temporary impairment does not constitute a disability for purposes of Section 504 unless its severity results in a substantial limitation of one or more major life activities for an extended period of time. This must be resolved on a case-by-case basis, taking into account the duration (or expected duration) of the impairment as well as the extent to which it limits a major life activity of the affected individual. Example: If a right-hand dominant student breaks his left arm and the break is expected to heal normally, without complications, this would probably not constitute a disability. However, if a right-hand dominant student breaks his right arm causing an impaired ability to perform manual tasks, such as writing, this probably would constitute a temporary disability under Section 504.
- **Episodic Impairments:** An impairment that is episodic or in remission is considered a disability if it substantially limits a major life activity when active.

b) Has a record of such an impairment:

This protects individuals from discrimination based upon a "record of a past impairment. It is the negative action taken based on the record that entitles an individual to protection against discrimination based on the assumption of others. In order to be entitled to a Section 504 Plan, a student must have a present impairment that requires the implementation of a Section 504 Plan.

c) Is regarded as having such an impairment:

A student cannot be discriminated against because the school system "regards" him/her as having an impairment. A student meets these criteria if he or she has been subjected to an action prohibited under the Act because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

What is a Free Appropriate Public Education (FAPE) under Section 504?

FAPE is the provision of regular or special education and related aids and services that are designed to meet the individual education needs of students with disabilities as adequately as the needs of students without disabilities. The quality of educational services provided to students with disabilities must be equivalent to the services provided to non-disabled students. This is based upon adherence to procedures that satisfy the requirements pertaining to educational setting, evaluation and placement, and procedural safeguards. Related aids and services are any aid or service that a student needs to participate in and benefit from the educational program.

Roles and Responsibilities

District Section 504 Coordinator

- Oversees district-wide compliance with Section 504 and the Americans with Disabilities Act.
- Provides ongoing training and guidance to building-level coordinators and administrative staff.
- Serves as the primary consultant for complex eligibility determinations, manifestation determination reviews, and legal inquiries.
- Manages access and structural updates for district compliance platforms, including GO504 and Infinite Campus.
- Investigates and responds to formal local grievances and Office for Civil Rights (OCR) complaints.

Building Level Section 504 Coordinator

- Serves as the primary point of contact for Section 504 referrals, parent inquiries, and teacher concerns at the school building.
- Updating all team members as needed. This includes adding new teacher(s) and removing previous teacher(s).
- Distributes and collects all necessary documentation, including parent consent forms, medical reports, and teacher input forms.
- Schedules Section 504 meetings, ensures required team members are invited, and leads the meetings.
- Drafts the Section 504 Plan based on team consensus and evaluation data.
- Uploads all completed and signed forms into GO504.
- Updates and maintains the appropriate 504 flag in Infinite Campus.
- Distributes the finalized Section 504 Plan to appropriate school personnel and collects the Documentation of Receipt of Section 504 Plan.

General Education Teachers and School Staff

- Implement all designated accommodations outlined in a student's Section 504 Plan with strict fidelity.
- Collect and provide objective academic and behavioral data when requested for an initial evaluation, reevaluation, or manifestation determination.

- Attend and actively participate in Section 504 meetings when requested.
- Review assigned student 504 Plans at the beginning of each term, signing and returning the Documentation of Receipt to the building coordinator.
- Maintain strict confidentiality regarding student diagnoses and educational plans.

The Section 504 Process

Summary of District Section 504 Procedures

The Pickens County School System follows a consistent process to ensure compliance with Section 504 requirements. This process includes:

1. Receipt of a referral or request for review by a parent, guardian, or school staff member
2. Collection and review of information from multiple sources to determine the need for an evaluation
3. Signed consent to evaluate from parent
4. Completion of an evaluation based on relevant data
5. Convening a Section 504 eligibility meeting when warranted
6. Development and implementation of a Section 504 Plan when a student is determined eligible, and accommodations are required.

Child Find Obligation

The Pickens County School System has an ongoing obligation under Section 504 to identify, locate, and evaluate all students who are suspected of having a disability and who may need accommodations or related services, regardless of the severity of the disability. This obligation applies to all students enrolled in the district, including those advancing from grade to grade and those who are highly achieving academically.

The district's Child Find obligation includes students who are advancing from grade to grade, students with health conditions, students returning from disciplinary removal, and students who may be suspected of having a disability even if they are academically successful.

Student Referrals

Referrals may be made by anyone (parents, teachers, or other knowledgeable professionals) and at any time. Referrals should be completed on the Section 504 Referral Form and submitted to the building-level 504 Coordinator. Prior to completing the written referral, school staff should contact

the 504 Coordinator at the building level, who will then contact the 504 Coordinator at the district office level to seek input and/or guidance regarding the need for a referral. The building level 504 Coordinator will provide the written referral form to the parent or staff, will assist the parent and/or staff in gathering appropriate student data, and will provide parents with appropriate notification. The building level 504 Coordinator will present these written referrals to the Section 504 Review Committee for determination of educational need. Note: The Section 504 Review Committee is composed of persons knowledgeable about the student. They will give input regarding the student's school history, the student's individual needs, the meaning of the evaluation information, and educational options.

A staff member should refer a student for an evaluation under Section 504 if it is suspected that the student not only has a physical or mental impairment, but that the impairment also substantially limits one or more major life activities.

A referral for review under Section 504 initiates an evaluation process and does not automatically result in an eligibility meeting or the development of a Section 504 Plan. Upon receipt of a referral, the Building Level Section 504 Coordinator shall ensure that sufficient information is gathered to determine whether an evaluation is warranted. This includes collecting data from multiple sources prior to convening a Section 504 eligibility meeting.

Evaluation

An evaluation is usually initiated by a request from a classroom teacher and/or parent. The school district is only required to evaluate the student if it has reason to believe the student has a mental or physical impairment that substantially limits one or more major life activities. If an evaluation is refused, notice must be given to the parent explaining the refusal along with the 504 due process rights.

Required Evaluation Data

In determining whether a student has a physical or mental impairment that substantially limits one or more major life activities, the Section 504 evaluation shall be based on information from multiple sources. Evaluation data may include, but is not limited to, parent input, teacher input, classroom observations, academic records, attendance data, behavioral data, health or medical information when provided, and other relevant educational records.

Teacher input shall be documented using a district-approved form and is used to describe observable classroom impact, including the conditions under which difficulties occur, the manner in which they present, and their frequency or duration when compared to same-age peers. Teacher input does not determine eligibility and does not identify accommodations.

Any student who is being considered for an initial Section 504 determination must have a Notice and Consent for Section 504 Evaluation completed and signed by the parent. The Notice of Rights of Students and Parents under Section 504 must be given and explained to the parent as well. These must be offered to the parent at every Section 504 meeting. The parent may waive their right to take them and/or may waive their right to have them explained. To determine if the child is disabled under Section 504, an evaluation must be completed, or assessment information reviewed after consent is received. Parents will be given the opportunity to participate and provide input.

The assessment information may include, but is not limited to: medical reports that document a physical or mental impairment; IQ scores; achievement scores; adaptive information; observations; reviewing existing school records (grades/standardized test scores/anecdotal information); behavioral data; prior individual assessments (if available); information provided by the parent/guardian; and/or other data. The evaluation process is determined by the type of suspected disability and must be sufficient to accurately and completely assess the nature and extent of the suspected disability in order to recommend appropriate services. Section 504 does not provide an automatic entitlement to an independent educational evaluation at public expense. However, parents may obtain independent evaluations at their own expense, and the district will consider such information as part of the evaluation process.

Standard Timelines for the 504 Process

To ensure prompt and equitable resolution of student needs, Pickens County Schools adheres to the following internal timelines for the Section 504 process:

- **Referral Response:** Within ten (10) school days of receiving a formal referral from a parent or staff member, the Building Level Coordinator must provide the parent with the Notice of Rights and the consent to evaluate form (or a written notice of refusal to evaluate).
- **Evaluation and Eligibility:** An evaluation and initial eligibility meeting should be completed within sixty (60) calendar days of receiving signed parental consent.
- **Plan Distribution:** Once a Section 504 Plan is developed or amended, the Building Level Coordinator must distribute the plan to the student's teachers within three (3) school days.
- **Annual Review:** Each active Section 504 Plan must be reviewed by the team at least once per calendar year to determine continued eligibility and appropriateness of accommodations.

The Section 504 Meeting

Section 504 eligibility and placement decisions shall be made by a group of persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. At a minimum, the Section 504 team shall include the Building Level Section 504 Coordinator, at least one of the

student's current classroom teachers, and the parent or guardian. The student shall be included when appropriate based on age and individual circumstances.

Before the meeting, the building-level 504 Coordinator will send home the Section 504 Meeting Invitation. They will invite the appropriate Section 504 Review Committee personnel relevant to the individual needs of the student. Mandatory 504 committee members include: building level 504 Coordinator, student's teacher(s), and student as appropriate. Parents must be afforded a meaningful opportunity to participate, and meetings should be scheduled to facilitate parent attendance whenever possible. If there are dietary needs or food allergies, the Director of School Nutrition must be notified before the meeting takes place.

The Section 504 Review Committee is responsible for determining eligibility and appropriate modifications and related aids and services. The group will review the nature of the disability, how it affects the student's education, and then decide what, if any, services are necessary for the provision of FAPE.

At the meeting, if the parent is in attendance, provide them with a copy and explanation of the Notice of Rights of Students and Parents under Section 504. The team will then complete and provide copies to the parent of the Section 504 Evaluation/Reevaluation Review Meeting and Disability and 504 Plan Determination Form. Please be sure that all relevant information is brought to the meeting for the Section 504 Review Committee to review. The Section 504 Plan, if needed, should be written at this time as well. A copy of the Section 504 Plan should be provided to the parent. It is also important for someone to complete the Notes from Section 504 Meeting and provide a copy to the parent.

If the parent states that they cannot attend the meeting, then after the meeting the building level 504 Coordinator will send home a copy of the Notice of Rights of Students and Parents Under Section 504, Section 504 Evaluation/Reevaluation Review Meeting and Disability and 504 Plan Determination Form, Section 504 Plan (if written), and the Notes from Section 504 Meeting.

Eligibility

The diagnosis of a medical condition does not necessarily mean a student is eligible for Section 504. The condition must also substantially limit one or more major life activities. The physician's diagnosis establishes the existence of the physical or mental impairment, and the Medical Report Form for Section 504 can serve as documentation of the physical or mental impairment. The parent may sign the Section 504 Authorization to Release Information, and the school will fax the Medical Report Form, or the Medical Report Form may be given to the parent to take to the doctor. Any copies of prior psychological and/or psychiatric reports will help establish the existence of an impairment.

To be eligible for Section 504, the student must have a physical or mental impairment which substantially limits one or more major life activities. The Section 504 eligibility and the need for a Section 504 Plan are separate determinations. A student may meet the definition of disability under Section 504 yet not require accommodations at a given time. When a student is determined eligible but does not require a plan, documentation must clearly reflect the basis for that determination and the data reviewed. When a student is eligible for Section 504, but no plan is needed (there is no disability need to be addressed or accommodated), the student receives a manifestation determination, procedural safeguards, reevaluations as needed, and nondiscrimination protections of Section 504. If the need for a Section 504 plan develops, the team will reconvene and develop an appropriate Section 504 plan at that time.

The Section 504 Evaluation/Reevaluation Review Meeting and Disability and 504 Plan Determination Form will guide the team in determining if 1) there is a physical or mental impairment that substantially limits one or more major life activities and 2) if there is a need for a Section 504 plan.

- **a) Not Eligible/No Plan:** If the team determines that there is not a physical or mental impairment that substantially limits one or more major life activities, then the student is not eligible for Section 504, and a Section 504 plan is not written at this time.
- **b) Eligible/Plan:** If the team determines that there is a physical or mental impairment that substantially limits one or more major life activities and services are needed in order to meet the student's educational needs as adequately as those of non-disabled peers, then the student is eligible for Section 504, and a Section 504 plan will be developed.
- **c) Eligible/No Plan:** If the team determines that there is a physical or mental impairment that substantially limits one or more major life activities, but the student does not need a Section 504 plan because the student's educational needs are met as adequately as those of non-disabled peers, then the student is eligible for Section 504, but a plan is not developed. While the student is not in need of a Section 504 plan, it is understood that the student is protected under Section 504's antidiscrimination provisions and cannot be discriminated against on the basis of the disability.
- **d) Episodic Impairments:** If the student is disabled due to an episodic impairment that, when active, substantially limits a major life activity, and services are needed so the student's educational needs are met as adequately as those of non-disabled peers, then a Section 504 Plan will be developed. This will be implemented when the impairment is active. When the impairment is not active, the Section 504 Plan will not be implemented; however, it is understood that the student is protected under Section 504's antidiscrimination provisions and cannot be discriminated against on the basis of the disability.
- **e) Disabilities in remission:** If the student is disabled due to an impairment that is in remission, but when active, substantially limits a major life activity, and services are needed so

the student's educational needs are met as adequately as those of nondisabled peers, then a Section 504 Plan will be developed. This will be implemented if/when the impairment is out of remission. When the impairment is not active, the Section 504 Plan will not be implemented; however, it is understood that the student is protected under Section 504's antidiscrimination provisions and cannot be discriminated against on the basis of the disability.

Section 504 Plan

A student who is eligible for Section 504 and requires a Section 504 Plan in order for his/her educational needs to be met as adequately as those of nondisabled peers will have a Section 504 Plan developed.

The goal of the Section 504 Plan is to provide accommodations that ensure that students with a disability have the opportunity to participate and access the general education curriculum and extracurricular activities to the same extent as an average, nondisabled peer. Section 504 requires the provision of regular or special education and related aids and services designed to meet the individual educational needs of students with disabilities as adequately as the needs of nondisabled students are met, consistent with 34 C.F.R. §104.33. Section 504 ensures equal access and opportunity, not a guarantee of specific outcomes.

The school is required to provide services and related aids. The services and related aids will be individualized to the student, and they will have a direct relationship to data that demonstrate the disability-related need. The student data must be collected to determine student needs.

- The accommodations used must be based on information and data that are used in the evaluation and eligibility determination process. The accommodation must be matched to the student's needs.
- The same types of accommodations should be provided for both classroom assignments and assessments. Accommodations for both classroom testing and standardized testing must be addressed when developing the Section 504 Plan, and these testing accommodations must be specified in the plan. If there are dietary needs or food allergies, the Director of School Nutrition must be notified before the meeting takes place.

Once eligibility is determined and the Section 504 Plan is written (if needed), the following should be provided to the parent: Notice of Rights of Students and Parents Under Section 504, Section 504 Evaluation/Reevaluation Review Meeting and Disability and 504 Plan Determination Form, Section 504 Plan (if written), Notes from Section 504 Meeting, and Medical Report Form for Section 504 (if applicable).

Once eligibility is determined and the Section 504 Plan is written (if needed),

1. All forms should be in GO504
2. Appropriate 504 flag added to Infinite Campus
3. Provide Plan to appropriate school personnel
4. They have signed off on the Documentation of Receipt of Section 504 Plan
5. The form should then be uploaded into the student's documents in GO504

System Workflows and Implementation Expectations

Start-of-Term Procedures

At the beginning of each school year and at the start of any new semester or grading period where a student's schedule changes, the Building Level Coordinator must distribute active 504 Plans to all newly assigned teachers. Teachers must sign and return the Documentation of Receipt of Section 504 Plan within the first five (5) school days of the term.

Substitute Teacher Notification

Classroom teachers are responsible for ensuring that substitute teachers are made aware of any necessary accommodations for students with 504 Plans. Information must be kept in the substitute folder or lesson plans in a secure, confidential manner that protects the student's privacy while ensuring accommodations are met during the teacher's absence.

Platform Management

Building Level Coordinators must ensure that all original forms are kept in the student's 504 file and that digital copies are uploaded into the student's documents in GO504 immediately following a meeting. The 504 flag in Infinite Campus must be added or removed within two (2) school days of an eligibility change.

This form must be signed and uploaded each time a student is assigned to a different teacher and when a new Section 504 Plan is written or amended. All originals should be kept in the student's 504 file.

- The 504 Team will review the 504 Plan periodically as warranted (e.g., needs have changed; 504 accommodations are not successful; request made for reevaluation or changes; upcoming change in school; etc.)
- Section 504 requires periodic reevaluations of students with disabilities. While no specific timeline is mandated, the district will review each Section 504 Plan at least annually to determine continued eligibility and the appropriateness of accommodations. A reevaluation must be conducted prior to any significant change in placement. Significant changes in placement include, but are not limited to: expulsion; a series of removals totaling more than

ten (10) school days in a school year that constitute a pattern; transfer to homebound instruction; graduation; or other substantial changes to the student's educational program.

- When a student transfers into the Pickens County School System with a Section 504 Plan from another district, a Section 504 meeting needs to be scheduled to review the previous Section 504 Plan, discuss the student's needs, and determine whether or not a new Section 504 Plan is needed.

Discipline

Discipline practices for students with disabilities should be determined on a case-by-case basis. It is important that students with disabilities are not denied services based solely on their disabilities. Students should not be discriminated against or punished for a behavior that was caused by or is a manifestation of their disability. Before a significant change in placement occurs as a result of a disciplinary infraction (long-term suspension or any suspension(s) that totals more than 10 days in a school year), a determination must be made that the behavior is or is not a manifestation of the student's disability.

The Section 504 Team will hold a Manifestation Meeting and determine if the behavior is or is not a manifestation of the student's disability. The student's records will be reviewed along with any other pertinent information. The Manifestation Determination for Section 504 will be completed at this time. Parents must be provided a copy of the Notice of Rights of Students and Parents Under Section 504, Section 504 Procedural Safeguards, along with a copy of the Manifestation Determination for Section 504 once the decision is made by the Section 504 Team. The Manifestation Determination for Section 504 must be uploaded into GO504.

If it is determined that the behavior **IS NOT** a manifestation of the student's disability,

1. The student can be disciplined as a non-disabled student would be for the same infraction.
2. The Section 504 Plan accommodations should be reviewed to determine need for revisions at this time.
3. The 504 team should consider the need for a formal behavior plan to be written. When a student's behavior significantly interferes with his/her ability to benefit from his/her education, a behavior plan may assist in maintaining that student's placement in the least restrictive environment to meet educational needs.

If it is determined that the behavior **IS** a manifestation of the student's disability,

1. The Section 504 Team may rescind some or all of the remaining days of suspension.
2. The Section 504 Plan accommodations should be reviewed to determine need for revisions at this time.

3. The 504 team should consider the need for a formal behavior plan to be written. When a student's behavior significantly interferes with his/her ability to benefit from his/her education, a behavior plan may assist in maintaining that student's placement in the least restrictive environment to meet educational needs.

Section 504 does not require continuation of educational services following a lawful expulsion or suspension if a nondisabled student would not receive services under the same circumstances, provided that required manifestation and procedural safeguards have been completed.

This provision does not eliminate the school district's obligation to conduct a manifestation determination prior to any significant change in placement, nor does it relieve the district of its responsibility to ensure that disciplinary actions are nondiscriminatory and consistent with the protections afforded to students under Section 504.

Section 504 Procedural Safeguards

Pickens County Schools has adopted the Section 504 Procedural Safeguards that were developed by the Georgia Department of Education.

1. **Overview:** Any student, parent or guardian ("grievant") may request an impartial hearing due to the school system's actions or inactions regarding your child's identification, evaluation, or educational placement under Section 504. Requests for an impartial hearing must be in writing to the school system's Section 504 Coordinator; however, a grievant's failure to request a hearing in writing does not alleviate the school system's obligation to provide an impartial hearing if the grievant orally requests an impartial hearing through the school system's Section 504 Coordinator. The school system's Section 504 Coordinator will assist the grievant in completing the written Request for Hearing.
2. **Hearing Request:** The Request for the Hearing must include the following:
 - a. The name of the student.
 - b. The address of the residence of the student.
 - c. The name of the school the student is attending.
 - d. The decision that is the subject of the hearing.
 - e. The requested reasons for review.
 - f. The proposed remedy sought by the grievant.
 - g. The name and contact information of the grievant.

Within 10 business days from receiving the grievant's Request for Hearing, the Section 504 Coordinator will acknowledge the Request for Hearing in writing and schedule a time and

place for a hearing. If the written Request for Hearing does not contain the necessary information noted above, the Section 504 Coordinator will inform the grievant of the specific information needed to complete the request. All timelines and processes will be stayed until the Request for Hearing contains the necessary information noted above.

3. **Mediation:** The school system may offer mediation to resolve the issues detailed by the grievant in his or her Request for Hearing. Mediation is voluntary and both the grievant and school system must agree to participate. The grievant may terminate the mediation at any time. If the mediation is terminated without an agreement, the school system will follow the procedures for conducting an impartial hearing without an additional Request for Hearing.

4. Hearing Procedures:

- a. The Section 504 Coordinator will obtain an impartial review official who will conduct a hearing within 45 calendar days from the receipt of the grievant's Request for Hearing unless agreed to otherwise by the grievant or a continuance is granted by the impartial review official.
- b. Upon a showing of good cause by the grievant or school system, the impartial review official, at his or her discretion, may grant a continuance and set a new hearing date. The request for a continuance must be in writing and copied to the other party.
- c. The grievant will have an opportunity to examine the child's educational records prior to the hearing.
- d. The grievant will have the opportunity to be represented by legal counsel at his or her own expense at the hearing and participate, speak, examine witnesses, and present information at the hearing. If the grievant is to be represented by legal counsel at the hearing, he or she must inform the Section 504 Coordinator of that fact in writing at least 10 calendar days prior to the hearing. Failure to notify the Section 504 Coordinator in writing of representation by legal counsel shall constitute good cause for continuance of the hearing.
- e. The grievant will have the burden of proving any claims he or she may assert. When warranted by circumstances or law, the impartial hearing officer may require the recipient to defend its position/decision regarding the claims (i.e., a recipient shall place a disabled student in the regular educational environment operated by the recipient unless it is demonstrated by the recipient that the education of the person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. 34 C.F.R. §104.34). One or more representatives of the school system, who may be an attorney, will attend the hearing to present the evidence and witnesses, respond to the grievant's testimony, and answer questions posed by the review official.
- f. The impartial review official shall not have the power to subpoena witnesses, and the strict rules of evidence shall not apply to hearings. The impartial review official shall have

the authority to issue pre-hearing instructions, which may include requiring the parties to exchange documents and names of witnesses to be present.

- g. The impartial review official shall determine the weight to be given any evidence based on its reliability and probative value.
- h. The hearing shall be closed to the public.
- i. The issues of the hearing will be limited to those raised in the written or oral request for the hearing.
- j. Witnesses will be questioned directly by the party who calls them. Cross-examination of witnesses will be allowed. The impartial review official, at his or her discretion, may allow further examination of witnesses or ask questions of the witnesses.
- k. Testimony shall be recorded by court reporting or audio recording at the expense of the recipient. All documentation related to the hearing shall be retained by the recipient.
- l. Unless otherwise required by law, the impartial review official shall uphold the action of the school system unless the grievant can prove that a preponderance of the evidence supports his or her claim.
- m. Failure of the grievant to appear at a scheduled hearing unless prior notification of absence was provided and approved by the impartial review official or just cause is shown shall constitute a waiver of the right to a personal appearance before the impartial review official.

- 5. **Decision:** The impartial review official shall issue a written determination within 20 calendar days of the date the hearing concluded. The determination of the impartial review official shall not include any monetary damages or the award of any attorney's fees.
- 6. **Review:** If not satisfied with the decision of the impartial review official, any party may pursue any right of review, appeal, cause of action or claim available to them under the law or existing state or federal rules or regulations. Parents may at any time request mediation or involvement by the Office for Civil Rights (OCR), the federal agency charged with enforcement of Section 504. All efforts should be made to assist parents to resolve disputes at a local level as a first priority.

The Office for Civil Rights may be contacted at:

Office for Civil Rights
Atlanta Office
US Department of Education
61 Forsyth Street S.W.
Suite 19T10
Atlanta, GA 30303-8927
404-974-9406 (phone)
404-974-9471 (fax)
OCR.Atlanta@ed.gov

NOTICE OF RIGHTS OF STUDENTS AND PARENTS UNDER SECTION 504

Section 504 of the Rehabilitation Act of 1973, commonly referred to as "Section 504," is a nondiscrimination statute enacted by the United States Congress. The purpose of Section 504 is to prohibit discrimination and to assure that disabled students have educational opportunities and benefits equal to those provided to non-disabled students.

The implementing regulations for Section 504 as set out in 34 CFR Part 104 provide parents and/or students with the following rights:

1. Your child has the right to an appropriate education designed to meet his or her individual educational needs as adequately as the needs of non-disabled students. 34 C.F.R. §104.33.
2. Your child has the right to free educational services except for those fees that are imposed on non-disabled students or their parents. Insurers and similar third parties who provide services not operated by or provided by the recipient are not relieved from an otherwise valid obligation to provide or pay for services provided to a disabled student. 34 C.F.R. §104.33.
3. Your child has a right to participate in an educational setting (academic and nonacademic) with non-disabled students to the maximum extent appropriate to his or her needs. 34 C.F.R. §104.34.
4. Your child has a right to facilities, services, and activities that are comparable to those provided for non-disabled students. 34 C.F.R. §104.34.
5. Your child has a right to an evaluation prior to a Section 504 determination of eligibility. 34 C.F.R. §104.35
6. You have the right to not consent to the school system's request to evaluate your child. 34 C.F.R. §104.35.

7. You have the right to ensure that evaluation procedures, which may include testing, conform to the requirements of 34 C.F.R. §104.35.
8. You have the right to ensure that the school system will consider information from a variety of sources as appropriate, which may include aptitude and achievement tests, grades, teacher recommendations and observations, physical conditions, social or cultural background, medical records, and parental recommendations. 34 C.F.R. §104.35.
9. You have the right to ensure that placement decisions are made by a group of persons, including persons knowledgeable about your child, the meaning of the evaluation data, the placement options, and the legal requirements for least restrictive environment and comparable facilities. 34 C.F.R. §104.35.
10. If your child is eligible under Section 504, your child has a right to periodic reevaluations, including prior to any subsequent significant change of placement. 34 C.F.R. §104.35.
11. You have the right to notice prior to any actions by the school system regarding the identification, evaluation, or placement of your child. 34 C.F.R. §104.36.
12. You have the right to examine your child's educational records. 34 C.F.R. §104.36
13. You have the right to an impartial hearing with respect to the school system's actions regarding your child's identification, evaluation, or educational placement, with opportunity for parental participation in the hearing and representation by an attorney. 34 C.F.R. §104.36.
14. You have the right to receive a copy of this notice and a copy of the school system's impartial hearing procedure upon request. 34 C.F.R. §104.36
15. If you disagree with the decision of the impartial hearing officer (school board members and other district employees are not considered impartial hearing officers), you have a right to a review of that decision according to the school system's impartial hearing procedure. 34 C.F.R. §104.36.
16. You have the right to, at any time, file a complaint with the United States Department of Education's Office for Civil Rights.
17. You have the right to be free from retaliation, intimidation, threats, or coercion for exercising any of your rights under Section 504, filing a grievance, or participating in an investigation.

Section 504 Frequently Asked Questions

Is Section 504 Required?

Yes. Every public-school system meets the requirements of Section 504. Each year, the Superintendent signs an 'Assurance of Compliance' as a condition of the receipt of federal funds. The Office for Civil Rights (OCR) has the authority to enforce these laws in all programs and activities that receive federal funds.

We don't get any money to comply with Section 504, so can we be punished if we don't comply?

Yes. The Office for Civil Rights (OCR) can/will seek to remove all federal funding from a school system if they do not comply with Section 504. Also, actions for money damages are commonly brought against individual school personnel for 'intentional' or 'willful' discrimination under Section 504.

If learning is not limited, do we have to consider Section 504?

Yes. Learning is not the only major life activity that must be considered when determining eligibility under Section 504. When evaluating a student, the Section 504 team must consider whether the student's impairment substantially limits any major life activity, including but not limited to concentrating, thinking, communicating, regulating behavior, breathing, eating, sleeping, or other major bodily functions. The team must document which major life activities were considered and the basis for its determination, even when academic performance appears adequate.

The student was referred for a special education evaluation, but did not qualify. Since the team 'regarded' the student as disabled because they suspected a disability, does that mean the student automatically qualifies for Section 504?

A student who is not eligible for Special Education does not immediately qualify for a 504 plan. The MTSS process does not replace or delay a Section 504 evaluation when the district suspects that a student may have a disability under Section 504. If the district has reason to believe that a student has a physical or mental impairment that substantially limits a major life activity, a Section 504 evaluation must be initiated promptly.

Are students determined as 'slow learners' covered under Section 504?

Students who are experiencing academic or behavioral difficulties may receive supports through MTSS. However, the MTSS process does not replace or delay a Section 504 evaluation when the district suspects a disability. A student must not be denied or delayed access to a Section 504 evaluation due to participation in MTSS.

If a parent requests an evaluation under Section 504, do we have to do it?

The duty to evaluate arises when school staff believes or has reason to believe that there is a disabling condition and the student needs services. If an evaluation is refused, notice must be given to the parent explaining the refusal along with the 504 due process rights.

If a student does poorly on standardized testing, can we make the student eligible for Section 504 and provide testing accommodations?

A Section 504 Plan should never be written solely for the purpose of providing standardized testing accommodations. If the student does not need accommodations during the school day to address their disabling condition, then it is not appropriate to write a Section 504 Plan only for

standardized testing accommodations. Accommodations should never be introduced for the first time during a statewide assessment.

Are students in special education covered under Section 504?

All students who qualify for special education services under IDEA are also eligible under Section 504 and cannot be discriminated against on the basis of their disability. IDEA provides much more in terms of FAPE and has more extensive and specific protections than Section 504 does.

If a student has a Health Care Plan, does that mean the student is eligible for Section 504?

A student with a Health Care Plan is not automatically eligible under Section 504. The team should go through the Section 504 evaluation process and determine whether a student qualifies for Section 504. The medical condition must substantially limit a major life activity to be eligible for Section 504.

If a student has a Health Care Plan, does that mean we don't need to determine eligibility for Section 504?

The development of a Health Care Plan does not, by itself, satisfy the district's obligations under Section 504. When a student has a medical condition, the district must determine whether the condition substantially limits a major life activity and whether accommodations or related aids and services are required to ensure FAPE. All evaluation, placement, and procedural safeguard requirements must be followed.

We are trying to have a Section 504 meeting and cannot get the parent to come to the meeting. What do we do?

Parents must be provided prior notice and a meaningful opportunity to participate in all Section 504 meetings regarding identification, evaluation, eligibility, and placement. While a meeting may proceed after documented good-faith attempts to secure parent participation, the district must ensure procedural safeguards are provided and that parent input is considered.

What happens if a student is caught using drugs at school?

A student who is currently engaging in the illegal use of drugs or alcohol is not protected from disciplinary action for such use under Section 504 to the same extent as a nondisabled student. The district may apply its standard disciplinary policies. However, the district must still ensure that actions are nondiscriminatory and consistent with federal law.

Can a student be placed on a Section 504 Plan without parental consent?

Section 504 regulations do not require parental consent for the provision of services; however, parental consent is required for initial Section 504 evaluations. Prior to implementing a Section 504 Plan, the district must complete an evaluation, provide appropriate notice, and afford parents a meaningful opportunity to participate in the Section 504 process. If a parent refuses consent for an initial evaluation and the district believes the student may have a disability, the district must continue to meet its child find obligations and may pursue due process procedures as appropriate.

A student has a disability. Can they play sports?

The Office for Civil Rights (OCR) states that districts must make an effort to ensure that students with disabilities have equal access to extracurricular activities/athletic programs. Students with disabilities do not have a right to join a particular team or play in every game; however, decisions about their participation must be based on the same nondiscriminatory criteria that are applied to all prospective players. School districts do have an obligation to offer reasonable modifications/accommodations for students with disabilities. If a modification/accommodation is necessary, the school district must offer it unless it would fundamentally alter the activity or give the student an unfair advantage. These decisions need to be made on a case-by-case basis. If the requested modification/accommodation is determined to be unreasonable, the school district must consider whether a different modification/accommodation would be appropriate.

Do accommodations for athletic programs need to be written on the Section 504 Plan?

The Section 504 Plan is designed to provide regular or special education and related services to meet the educational needs of a student with a disability as adequately as the needs of a student without a disability. Section 504 Plans are developed to address a student's educational needs. However, Section 504 protections extend to extracurricular and nonacademic activities. The district must provide students with disabilities equal opportunity to participate in such activities and must provide reasonable modifications unless doing so would fundamentally alter the nature of the activity or provide an unfair competitive advantage.

Although this is not an issue with FAPE, the school system cannot discriminate against an 'otherwise qualified' student in regard to extracurricular and other nonacademic activities. All students with disabilities will have equal opportunity to try out for and be judged by the same criteria that students without disabilities are judged by for participation in extracurricular and nonacademic activities.