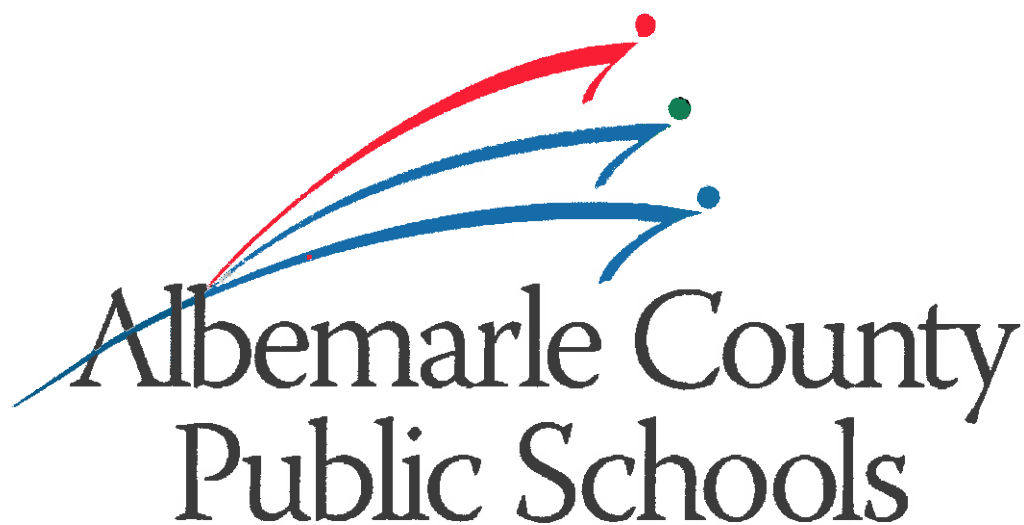




Section 504 and ADA Policy and Procedures

April, 2014

Albemarle County Public Schools does not discriminate on the basis of race, color, national origin, sex, disability, or age in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups. The following person has been designated to handle inquiries regarding the non-discrimination policies:

Director of Special Education and Student Services
Albemarle County Public Schools
401 McIntire Rd. – Room 323
Charlottesville VA, 22902
Ph: (434) 296-5885

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A NOTE ON SECTION 504 AND RTI

A student is found to be eligible under Section 504 if he/she has a documented disability and it is determined that he/she would be denied access to the same educational opportunity as the “typical” student in the school due to that disability if accommodations were not provided. Section 504 is anti-discrimination legislation related to equal access to educational opportunity; that is, a reasonable opportunity to participate in the school’s/district’s educational and extracurricular programs. The Checklist guides most procedures and indicates the paperwork that is necessary in developing a student’s 504 plan.

RtI is a general education initiative, providing tiered interventions to students who are struggling with academics and/or behavior, regardless of disability status, while Section 504 provides accommodations for students with “mental or physical impairments” who qualify for a Section 504 Accommodation Plan. Interventions and accommodations are not synonymous. Whereas interventions are always in the service of improving performance (either academic or behavioral), accommodations are always in the service of improving access to education and/or the educational environment.

If a student with Section 504 eligibility needs interventions to assist with academic and/or behavioral problems, he/she would be provided such under the auspices of general education (e.g., through the collaborative Problem Solving (CPS) team at the school), not through a Section 504 Plan. **If RtI is being done for other purposes than 504, RtI interventions may be provided simultaneously with the Section 504 evaluation.**

Please note:

RTI is to be considered a mitigating circumstance when considering eligibility for Section 504.

Evaluation

An evaluation conducted for purposes of establishing eligibility for Section 504 is valid for one full calendar year from the date it is completed. In the event a parent refuses Section 504 placement following the evaluation, but later changes his/her mind, the evaluation results are still valid if conducted within one calendar year.

If the District disagrees with the need for an evaluation, the parent is to be informed of the reasons for the disagreement and provided with notice of procedural safeguard rights.

This section modified from Section 504 / ADA Manual for School Liaisons, Broward County, Florida, 2012.

DEFINITION OF "DISABLED" UNDER SECTION 504 AND THE AMERICANS WITH DISABILITIES ACT

Section 504 of the Rehabilitation Act of 1973 and revised according to the ADA Amendments Act of 2008.

PURPOSE:

Section 504 policy and procedures in Albemarle County Public School is designed to meet the needs of disabled students as adequately as the needs of non-disabled are met.

DEFINITION OF AN "INDIVIDUAL WITH DISABILITIES" UNDER SECTION 504

An "individual with disabilities" under 504 is any person who:

1. Has a physical or mental impairment which substantially limits one or more major life activities;

a. "Physical or mental impairment"

- i. any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic skin, and endocrine, or
- ii. any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disability.
- iii. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

b. "Substantially limited"

Substantially Limits. The term "substantially limits" is not defined by Section 504. The determination of whether or not an impairment substantially limits a student's major life activity is determined on a case-by-case basis and is made by a Section 504 team (a group of persons knowledgeable about the student, the evaluation data, and the placement options).

The term "substantially limits" should be construed broadly. It should not be construed to require an inappropriately high level of limitation. 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 include:

- Medication
- Medical supplies, equipment, or appliances
- Low-vision devices (not including ordinary glasses and contact lenses)
- Prosthetics
- Hearing aides, implants, and devices

- Mobility devices
- Oxygen therapy equipment and supplies
- Assistive technology
- Reasonable accommodations
- Auxiliary aides or services, including interpreters for the hearing impaired and readers for the visually impaired
- Learned behavioral or adaptive neurological modifications

Thus, the effects of these mitigating measures may not be taken into account in determining whether a student's impairment is "substantially limiting." An impairment that substantially limits only one major life activity need not limit other major life activities to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. A student with such an impairment is entitled to FAPE.

An impairment is a disability within the meaning of this section if it substantially limits the ability of an individual to perform a major life activity as compared to most people in the general population. An impairment need not prevent, or significantly or severely restrict, the individual from performing a major life activity in order to be considered substantially limiting. Nonetheless, not every impairment will constitute a disability within the meaning of this section.

c. "Major life activities" include, but are not limited to:

- i. caring for one's self
- ii. performing manual tasks
- iii. walking
- iv. seeing
- v. hearing
- vi. speaking
- vii. breathing
- viii. learning
- ix. working
- x. sitting
- xi. stooping
- xii. reaching
- xiii. eating
- xiv. sleeping
- xv. standing
- xvi. lifting
- xvii. bending
- xviii. reading
- xix. concentrating
- xx. thinking
- xxi. communicating
- xxii. major bodily functions*

***“Major bodily function”** includes but is not limited to functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

2. Has a record of such an impairment; or

While a “record of” an impairment or being “regarded as having” an impairment by the recipient gives rise to anti-discrimination protection under §504, this factor alone (in the absence of the next item) does not trigger the school division’s obligation to provide a free appropriate public education or FAPE. “Logically, since the student is not, in fact, mentally or physically handicapped, there can be no need for special education or related aids and services.” *OCR Senior Staff Memo, 19 IDELR 894 (OCR 1992)*

3. Is regarded as having such an impairment.

- a. A “qualified” disabled person for public preschool, elementary, secondary, or adult education services is one who is an individual with a disability (defined above)

AND:

- b. is of an age during which persons without disabilities are provided such service(s);
- c. is of an age during which it is mandatory under state law to provide such services to persons with disabilities;
- d. is a resident of a state / county that is required to provide free and appropriate public education under IDEA
- e. is currently enrolled and participating in the public school for which services are being sought

An individual student may be “regarded as having a disability” if the student establishes that he or she has been subjected to an action prohibited under §504 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. “Regarded as having a disability” shall not apply to students with impairments that are transitory and minor, with an actual or expected duration of 6 months or less.

The corrective effects of mitigating measures cannot be considered in determining whether or not a person is disabled. Mitigating measures could include:

- medication
- medical supplies
- equipment,
- appliances,
- low-vision devices (which do not include ordinary eyeglasses or contact lenses),
- prosthetics including limbs and devices,
- hearing aids and cochlear implants or other implantable hearing devices,
- mobility devices,
- oxygen therapy equipment and supplies;

- use of assistive technology;
- reasonable accommodations or auxiliary aids or services; or
- learned behavioral or adaptive neurological modifications.

The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses (lenses that are intended to fully correct visual acuity or eliminate refractive error) shall be considered in determining whether an impairment substantially limits a major life activity. The term 'low-vision devices' means devices that magnify, enhance, or otherwise augment a visual image.

However, consideration of those effects may impact the necessary accommodations that are to be documented in a Section 504 plan, should one be required.

Further Clarification:

The fact that a student is receiving appropriate educational benefit, even though he or she may not be performing up to his or her potential is not sufficient reason alone for referral and evaluation for Section 504. Likewise, a student that has a medical condition that does not substantially limit a major life activity does not necessarily present grounds for referral and evaluation.

Children who require modifications that would be available to all students in the general education environment would not necessarily require section 504 services. However, students who are taking medication or using devices (except for ordinary eyeglasses or contact lenses) that reduce the impairment to levels less than "substantially" limiting a major life activity, may still qualify for section 504 services if the effect of their impairment without these supports would be considered to substantially limit a major life activity.

It is only when a qualified child with a disability needs a systematic, consistently implemented battery of modifications in order to have his needs met as adequately as non-disabled children that §504 becomes necessary.

Temporary conditions may qualify a student for Section 504 if the condition substantially impairs a major life activity and is of unknown origin.

Exceptions to "Physical or Mental Impairment."

Environmental, cultural, and economic disadvantage are not in and of themselves, covered. Examples of environmental, cultural or economic disadvantage include:

- Homelessness
- Migrant
- English as a second language
- Poverty
- Cultural factors
- Attendance problems / truancy
- Transiency
- Divorce
- Death of a family member or other family crisis
- Military deployment

Age or homosexuality are also not considered in and of themselves grounds for Section 504 protections. Of course, if a person who has any of these characteristics also has a physical or mental handicap, the person is included within the definition of a person with a disability.

Homosexuality and bisexuality are not considered impairments under §504. *1992 OCR Memorandum on Differences Between ADA Title II and §504 Regulations (OCR1992). Transvestitism was excluded under §504 by the Fair Housing Amendments Act of 1988. The following are not disabilities under ADA, and may or may not be disabilities under §504 (1)...pedophilia, exhibitionism, voyeurism, gender identity disorder not resulting from physical impairments, or other sexual behavior disorders; (2) compulsive gambling, (3) kleptomania, (4) pyromania. Americans With Disabilities Act, 42 U.S.C. §12211. 1992*

NOTIFICATION

Written notification is required each time the following is being considered:

- Identification / evaluation (Section 504 Eligibility Meeting)
- Educational Placement (Section 504 Planning)
- Disciplinary Procedures (Manifestation Determination, Functional Behavior Analysis)

PROCEDURAL SAFEGUARDS

The Section 504 Procedural Safeguards document is required to be sent to parent at least once a year AND whenever disciplinary action that requires due process procedures is appropriate (Manifestation Determination)

The document contains but is not limited to parental rights involving:

- Opportunity to review relevant records
- Impartial Hearing
 - o Opportunity for Participation by parents
 - o Representation by legal counsel
 - o A Review Procedure

WHEN TO FORMALLY CONSIDER A REFERRAL FOR SECTION 504 / ADA

The School Based Intervention Team (including the Section 504 Coordinator for the school) **must** schedule and conduct a formal SBIT when:

- A parent makes a request for a Section 504 Evaluation
- An impairment is suspected and data indicates students is / will not respond to intervention

The School Based Intervention Team (including the Section 504 Coordinator for the school) **should consider** scheduling and conducting a formal SBIT when:

- A student exhibits an on-going medical problem
- Student enrolls with a 504 plan from another district
- A student is chronically absent due to medical / health issues
- A student receives medication on school grounds

Referrals for Section 504 may be initiated by any individual who has concerns about a specific child or may be initiated by the child. Typical referring sources are parents, teachers or other school personnel such as principals, school guidance counselors or reading specialists. The process is consistent, regardless of the referring source or the age of the child.

If the referral is made to the Section 504 administrator or designee, the administrator shall within three business days:

- Initiate the Section 504 / ADA evaluation eligibility process; or
- Require that the school-based intervention team review and respond to the request.

NOTE:

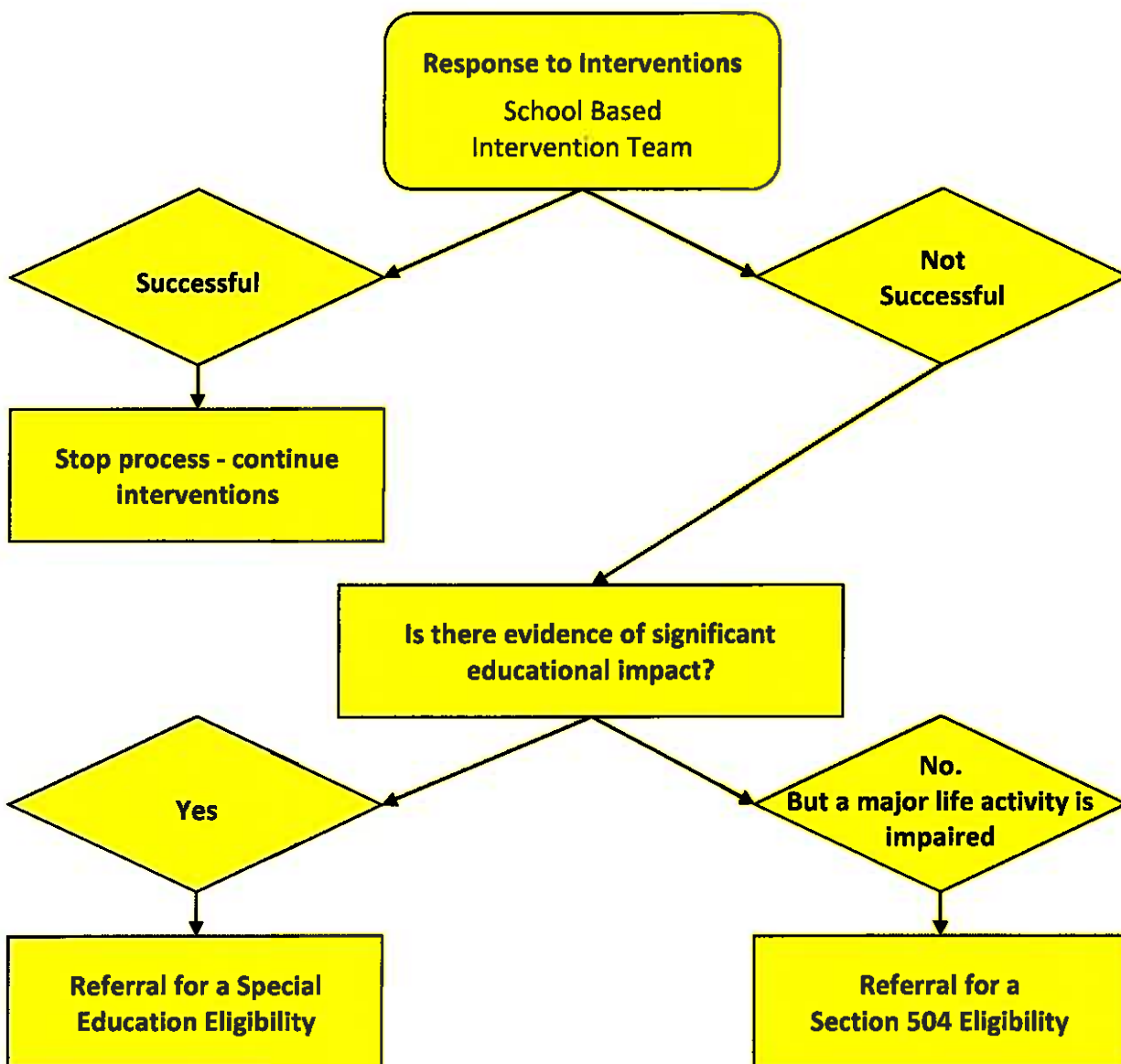
Schools may always use regular education intervention strategies to assist students with difficulties in school. Section 504 requires Albemarle County Public Schools to refer a student for an evaluation for possible special education or related aids and services or modification to regular education if the student, because of disability, needs or is believed to need such services.

PARENTAL REQUESTS FOR 504 EVALUATION

It is recommended that any request for a Section 504 / ADA evaluation be reviewed by the School Based Intervention Team that includes the school based Section 504 Coordinator. Schools are NOT required to conduct an evaluation upon parental demand. If the school does not agree with the parent and initiate an evaluation for Section 504/ADA, the school must inform the parent of their due process rights.

If the SBIT concurs with the request it will refer the student's case to the Section 504 Coordinator for the initiation procedures for a Section 504 / ADA eligibility process.

REFERRAL FLOW CHART – SECTION 504



***Note: Response to intervention is considered a mitigating circumstance.**

SECTION 504 ELIGIBILITY

The purpose of the Section 504 assessment is to provide accurate data; to determine whether or not a disabling condition exists; to determine if the student meets the definition of "qualified disabled person"; and to collect information that can be utilized to develop an appropriate Section 504 plan if the child is determined to require a 504 plan.

This process **is recommended to** be completed and eligibility determined within sixty-five (65) business days from the referral by the School Based Intervention Team. Written permission to evaluate shall be obtained from parents and a copy of the 504 Rights and Procedural Safeguards form shall be provided to them. A copy of this form shall be retained at the school in the child's educational record.

Once permission to conduct the Section 504 assessment is obtained, the principal/designee is responsible for ensuring that the assessment proceeds according to the established timelines.

Determinations regarding Section 504 eligibility and the provision of appropriate services may not be based on administrative convenience, staff shortages, and/or financial constraints. Any eligibility decision regarding a particular student must be made on an individual basis. When interpreting evaluation data and making placement decisions, the Division is required to "draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior." Information obtained from all such sources is to be documented and carefully considered. §104.35(c)(1)&(2)

The identification of students eligible for protection under Section 504 of the Rehabilitation Act will be conducted at the building level with consultation and support from the central office staff as appropriate. Under the direction of a building administrator, each school shall establish a Section 504 committee whose purpose shall be to process referrals for students suspected of having disabilities under Section 504.

The first step in the Section 504 eligibility process is a referral to the Section 504 Coordinator for the school. The process to initiate an evaluation for Section 504 eligibility can only begin with a referral from and documentation by the School Based Intervention Team. The Section 504 Coordinator is responsible for securing parental permission for an evaluation to be conducted.

CONSENT FOR EVALUATION

Albemarle County Public Schools does not violate the requirements to locate, identify and evaluate children of being children with disabilities if Albemarle County Public Schools chooses not to pursue an evaluation or reevaluation (i.e. pursue due process) to which the parent has refused or failed to consent.

Parental consent is required before reviewing existing data and/or administering an assessment as part of the evaluation process.

If Albemarle County Public Schools can demonstrate that it has taken reasonable measures to obtain that consent and the child's parent or parents have failed to respond, Albemarle County Public

Schools shall proceed **as** if consent has been given by the parent or parents. Reasonable measures shall include providing notice to the parent or parents in writing.

If the parent or parents refuse consent for an evaluation or reevaluation, Albemarle County Public Schools may continue to pursue those evaluations by using due process or mediation procedures.

THE 504 COMMITTEE

The Committee is a group of at least two persons that are employees of the school division, to include persons knowledgeable about the child, can interpret the meaning of the evaluation data, and is knowledgeable of the placement options. It is recommended that the 504 Committee include the 504 Coordinator for the school and the student's teacher.

Parents are not required members of the 504 Committee. However, best practices suggest that parental involvement be emphasized at every stage of the 504 planning process.

NOTIFICATION TO PARENTS OF ELIGIBILITY MEETING

Whenever a Eligibility Meeting or 504 Planning Conference Meeting is to be held, notification to Parents of Section 504 Eligibility Meeting must be sent to the parent via mail or physically given to the parent. The meeting should be scheduled at a mutually agreed upon time and place.

When a case is referred to the Section 504 Eligibility Committee the principal/designee will schedule a meeting, notify the parents/guardians, ensure written notification is delivered and encourage them to attend. A copy of the notification is kept in the student's educational record.

EVALUATION MATERIALS

- ☐ Evaluations materials are validated for their intended use
- Evaluations are administered in concordance with instructions provided by their producers.
- ☐ Evaluation materials are tailored to asses specific areas of need
- Test administration ensures that test results accurately reflect the student's aptitude or achievement level.

ELIGIBILITY DETERMINATION

- ☐ The Section 504 Team, in making an eligibility determination will:
 - Draw upon information from a variety of sources including, if appropriate, aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior.
 - Albemarle County Schools has developed procedures to ensure information is considered and documented.
 - Albemarle County Schools shall not conduct a reevaluation more than once a year unless the parent(s) and Albemarle County Schools agree otherwise.

IDENTIFICATION OF AN IMPAIRMENT

- ☐ Should a parent or student assert the existence of a disability, The Section 504 Professional Team will consider any documentation provided by a licensed medical physician to substantiate a physical or mental impairment.
 - Parental consent for a release of information with the physician is advised so that the team could inquire in more detail such claims.
- ☐ A licensed clinical psychologist or licensed clinical social worker could provide documentation to substantiate a mental impairment.

VERIFICATION OF A SUBSTANTIAL LIMITATION

The purpose of evaluation materials is to demonstrate that the student's academic and / or behavioral performance is less than that of the average non-disabled student in the general population.

- ☐ The Section 504 Team, in verifying a substantial limitation may review the following, if appropriate:
 - Scholastic records
 - Report cards
 - State assessment results
 - Structured observations
 - Psychological evaluation
 - Norm referenced educational assessment
 - Curriculum Based Assessment
 - Structured academic and behavioral interventions and results of monitoring
 - Social and health history
 - Information provided by the parent

CONDUCT SECTION 504 ELIGIBILITY MEETING

The purpose of the eligibility meeting is to determine

- a. whether or not a physical or mental impairment is present;
- b. whether or not the impairment results in a substantial limitation of a major life activity

The Section 504 Eligibility Committee should review all information presented and make a determination regarding the specific needs of the student as they relate to the definition of a qualified individual with disabilities under Section 504. *When interpreting evaluation data and making placement decisions, the District is required to "draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior." Information obtained from all such sources is to be documented and carefully considered. §104.35(c)(1)&(2).*

NOTE: "Evaluation" does not necessarily mean "test." In the §504 context, "evaluation" refers to a gathering of data or information from a variety of sources so that the committee can make the

required determinations. Since specific or highly technical eligibility criteria are not part of the §504 regulations, formal testing is not required to determine eligibility. *Letter to Williams, 21 IDELR 73 (OCR 1994).*

Common sources of evaluation data for §504 eligibility are the student's grades, disciplinary referrals, health information, language surveys, parent information, standardized test scores, teacher comments, work samples, etc. If formal testing is pursued, the regulations require that the tests are properly selected, non-discriminatory and performed by trained personnel in the manner prescribed by the test's creator. §104.35(b)(2).

COMPLETE SECTION 504 ELIGIBILITY MINUTES

A written summary of the proceedings during the eligibility meeting must be maintained. The written summary must include a brief statement reflecting the basis for the decision. The minutes must be signed by each eligibility member present.

1. Student Eligible

The Section 504 Team shall review the 504 eligibility information and determine whether the student is suspected of having a physical or mental impairment which substantially limits a major life activity – requiring a 504. If eligible, the Team will proceed with through the remainder of the planning process.

Should there not be time to complete the planning portion of the meeting – the document should reflect the decisions to that date and another planning meeting scheduled within 30 days of the determination of eligibility for Section 504.

2. Student Ineligible

All students referred for Section 504 eligibility will be deemed ineligible to receive a formalized Section 504 plan if there is no record of a mental or physical impairment or if there is a record of such an impairment, there is no evidence to substantiate the substantial limitation of a major life activity in the school setting. . This does not mean, however, that the individual does not have a “disability”, just that they are not going to receive a Section 504 Plan.

If the parent(s)/guardian(s) disagree with the Section 504 eligibility committee decision, they should be informed of their rights (given another copy of their parental rights under section 504) and advised that they may exercise their due process rights, including their right to a hearing.

Requests for a due process hearing must be made to the Division Section 504 Coordinator.

MAINTENANCE OF EDUCATIONAL RECORD

A copy of all correspondence, notification, and forms used in the Section 504 process should be kept in the student's educational record and maintained according to Albemarle County standards to ensure confidentiality.

RE-EVALUATION FOR SECTION 504 ELIGIBILITY

A re-evaluation of eligibility is recommended to be scheduled at least every three years. **It is recommended that the 504 Plan be reviewed annually.** Both the re-evaluation and **periodic** review of the 504 plan will be scheduled by the Building Level Section 504 Coordinator for the school in which the student is enrolled. The following is a breakdown of the sequence of steps to be used for the annual review.

- Notify Parents of Section 504 Plan Conference using written notification.
 - Should formal evaluation need to be conducted, include a component checklist and
 - Parent permission for evaluation forms with the notice.
- Section 504 Eligibility and Planning Meeting by the Section 504 Committee
 - Conduct Section 504 Eligibility and Planning Meeting
 - Complete Section 504 Eligibility Minutes
 - Print out the completed plan and provide the parent a copy.
 - Provide the parent a copy of the eligibility and planning document.
 - Place a copy of the eligibility and plan in the student's educational record.

INELIGIBLE UPON RE-EVALUATION

If the Section 504 team determines the student to be ineligible, no Section 504 plan is to be developed and the process is to be terminated and the meeting complete. Team consensus (not including the parent) is required to terminate Section 504 services / accommodations. A copy of the documentation and a copy of the Section 504 Parental Rights should be given to the parents.

CONTINUED ELIGIBILITY

Continue to Conduct Section 504 Plan

The Section 504 Plan Conference must determine the types of accommodations that are required to enable the student to receive a Free and Appropriate Education (FAPE). The Section 504 Plan describes the school's efforts to provide a free and appropriate education and sets forth in writing a commitment to the specific services necessary to ensure FAPE. Services will be coordinated by the building 504 Plan Coordinator.

SECTION 504 ACCOMMODATIONS- DEFINED

Accommodations are a consistently implemented battery of modifications that are directly related to the student's disability and designed to enable the student to access the curriculum, activity or environment in order to learn and demonstrate achievement. IEP accommodations "level the playing field" and are not implemented to enhance performance beyond providing equal opportunity. These are not designed as instruction and not intended to increase proficiency or skill.

Accommodations are an admission that a disabling condition cannot be remedied at its core and therefore the environmental conditions/ variables must be modified. Accommodations, by design are targeted to address the characteristics of the disabling condition that were justified, based on evidence, collected at the eligibility meeting.

Accommodations If IEP and Section 504 Teams are not careful, ill placed accommodations in an IEP can have a negative impact on students. Inappropriate or poorly written accommodations can cause dependency, undermine good instruction, lower expectations and set up school staff and parents for problems in the future.

Accommodation are supposed to...

- Allow the student to be engaged in class much like his/her peers.
- Allow the student to do what other students are doing but in another way/format.
- Directly address the disabling "barrier" while maintaining expectations in the regular education classroom

Accommodations are NOT supposed to...

- Remove curricular or behavioral responsibility from the student
- Alter the curriculum, basic requirements or alter the fundamental nature of the activity.
- Increase proficiency or skills

The objective of any 504 accommodation should always be to adapt the environment taking into account the student's impairments, not to water down scholastic or behavioral expectations or requirements. Teachers should apply the same standards to students with disabilities as they apply to other students in evaluating their work and assigning grades.

ACCOMMODATIONS TIPS

- The proposed accommodation is supported by existing evaluation data Check yourself – link the accommodation to the evidence presented in the eligibility meeting.
- The accommodations are clearly written with no room left for interpretation
- Clarify terminology (i.e. preferential seating, extended time)
- If you have more than 6-8 accommodations, you might be documenting strategies and not accommodations.
- AVOID:
 - o Open-ended accommodations
 - o Accommodations that give teachers discretion
 - o Accommodations that rely on student initiative
 - o Vague descriptions.

DO NOT USE

- frequencies like “as needed” or “when requested”. Remember if these are a consistently implemented battery of modifications—explain EXACTLY when these are required. If you can’t, chances are it’s a teacher modification and does not belong in the IEP.
- “Just in case” accommodations in a 504 plan (i.e. Let’s add teachers signs planner “just in case” he starts to get overwhelmed by homework assignments next year). Accommodations that are added to a Section 504 plan must be based on evidence vs. conjecture.

REMEMBER

- The 504 Plan must accurately describe the effect of the child’s disability on the child’s performance in any area of education that is affected (both academic and non-academic). The Section 504 eligibility must justify ANY and ALL 504 accommodations. It is the basis for determining which accommodations are needed.
- The 504 Plan is a legal agreement that is forged within the context of the Team Meeting. If as a member of the team disagree with a proposed 504 Accommodation, say “NO”, provide a reason and move on.

SUPPLEMENTARY AIDS AND SERVICES

The term 'supplementary aids and services' means, devices, training, services, and other assistance that is provided in regular education classes or other education-related settings to enable children with disabilities to be educated with non-disabled children to the maximum extent appropriate.

LEAST RESTRICTIVE ENVIRONMENT

The least restrictive environment is the setting that allows the student with disabilities the maximum exposure to non-disabled peers while still allowing the student to receive an appropriate education. The least restrictive environment presumes that each child with a disability can be educated in the regular classroom. Should the school segregate these students on buses, at recess, during lunch, class time, field trips, etc., the school must be able to demonstrate that the segregation was necessary for the child or children in question to benefit. The presumption is that the child with a disability will be educated with students who receive regular education.

PARENT APPROVAL/DISAPPROVAL OF THE 504 PLAN

Once the Section 504 Plan is developed, approval or disapproval from the parents is determined. Although the parents are not required to give permission to implement a 504 plan, best practices suggest that having their cooperation and approval of the 504 plan is advantageous for success.

If the parent(s)/guardian(s) disagree with the 504 Plan, they should be informed of their rights (given another copy of their parental rights under section 504) and advised that they may exercise their due process rights at this time, including the right to request a hearing.

The parent(s)/guardian(s) may request a due process hearing by notifying the Division 504 Coordinator in writing.

ENTERING DATA INTO STUDENT MANAGEMENT SYSTEM

It is advised that you work directly in the on-line management system. However, if you do use printed out forms and manually take notes, once the plan is completed, all of the appropriate information should be entered into the student's file electronically. The hard copy must be placed in the student's file. It is the responsibility of the local school 504 Coordinator to maintain this information.

MAINTENANCE OF EDUCATIONAL RECORD

A copy of all correspondence, notification, and forms used in the Section 504 process must be kept in the student's educational record and maintained according to Albemarle County standards to ensure confidentiality.

IMPLEMENTATION OF THE 504 PLAN

When the 504 planning meeting is complete, the Section 504 Plan should be shared with appropriate staff. Services, and/or accommodations, should be implemented as soon as possible.

TERMINATION OF SECTION 504 SERVICES

If school personnel suspect that services should be terminated (the 504 plan is no longer required for the student to access the general curriculum or environment), the 504 Coordinator in the building should be notified and a 504 Conference meeting scheduled to address the issue. The 504 Committee will determine if a student requires additional data or assessments prior to a re-evaluation of the 504 Plan. The 504 Committee will determine if the student continues to require services to participate in or benefit from his/her educational program. The procedures for the 504 Conference should be followed to ensure compliance with regard to documentation of this process.

MODIFICATION OF SECTION 504 SERVICES

If school personnel suspect that services should be added, changed or deleted from the Section 504 Plan, the 504 Coordinator in the building should be notified and a 504 meeting scheduled to address the issue. The procedures for conducting a 504 Planning meeting should be followed.

REFERRAL FOR SPECIAL EDUCATION SERVICES

If the team suspects that a student may have a disability that warrants special education services, the 504 Committee will work with the School Based intervention Team to design an intervention plan and collect progress monitoring data. This does not preclude referring the student for special education services immediately.

DISCIPLINE

Current drug users are excluded from the definition of handicapped under Section 504 and the Americans with Disabilities Act.

Current drug and alcohol users are subject to the same disciplinary action to the extent applied to non-handicapped student in similar situations.

SUSPENSION

A Student with a disability may be removed from the student's current educational setting for 10 cumulative days in a school year for any violation of school rules to the extent removal would be applied to a student without a disability. Albemarle County Public School Division is under no obligation to provide educational services to any student suspended or expelled who is eligible for Section 504 services.

DISCIPLINE DEFINITIONS

There are three types of suspension:

Short Term Suspension

A short term suspension occurs when a child is removed from class for 10 days or less (cumulative). It does not constitute a change in placement. The child is subject to normal disciplinary procedures whether or not there is a manifestation between the child's disability and the misconduct. **There are no mandated disciplinary procedures for the first 10 days of suspension (aggregate for the school year).**

Serial Suspension

A series of short term suspensions that aggregate to more than 10 days constitutes a serial suspension. A student with a disability may be removed from the student's educational setting for a period of time that cumulatively exceeds 10 school days in a school year for separate incidents of misconduct as long as the removals do not constitute a pattern. A serial suspension may be considered a significant change in placement that requires reevaluation and procedural protection.

Once a serial suspension goes over the 10th day for the school year, the school must, (for each suspension after the 10th day):

- Schedule, notify parents and conduct a Manifestation Determination immediately, if possible, but no later than 10 school days after the decision to take disciplinary action is made.
- If a Functional Behavior Assessment and Behavior Intervention Plan already exists, review it.

Long Term Suspension or Expulsion

A long term suspension or expulsion occurs when a child is removed from class for more than 10 consecutive days. If an identified student with a disability as defined under Section 504 is referred for long term suspension or expulsion, a Section 504 Plan committee must be convened immediately to determine whether a manifestation exists between the child's disability and his/her misconduct.

School must:

- Schedule, notify parents and conduct a Manifestation Determination immediately, if possible, but no later than 10 days after the decision to take disciplinary action is made. The Section 504 Plan committee must make its determination within 10 school days of the school's formal recommendation for long term suspension or expulsion.
- If a Functional Behavior Assessment and Behavior Intervention Plan already exist, review it.
- Discipline may not be imposed if a manifestation exists.

Drug and Alcohol Violations

Current Drug/Alcohol Exception to the Procedural Safeguard. “Local educational agencies may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against *any disabled Section 504 student who currently is engaging in the illegal use of drugs or in the use of alcohol to the same extent that such disciplinary action is taken against non-disabled students. Furthermore, the due process procedures at 34 C.F.R. 104.36, Procedural Safeguards shall not apply to such disciplinary action.*” 29 U.S.C. §706 (8)(C)(iv) (*italics added*).

OCR has interpreted this phrase to mean that if a student is currently using illegal drugs or alcohol, and is to be disciplined by the school for use or possession, the student loses the procedural protections provided by §504, including the manifestation determination prior to a change in placement for disciplinary reasons even if the child has another disability (for example, AD(H)D) that could be related to the misconduct. *1991 OCR Policy Memo on ADA Amendments to §504 (OCR 1991).*

MANIFESTATION DETERMINATION

Manifestation Determination Review must take place if the school determines that a change of placement has occurred.

Should it be determined that a change of placement has occurred, a Manifestation Determination Review must be conducted immediately, if possible, but no later than 10 days after the decision to take disciplinary action is made. In addition, the following procedures are required:

- Give notice of the disciplinary decision and of the procedural safeguards to the parents not later than the date on which the decision is made to take disciplinary action.
- Notify parent(s) in writing, immediately, if possible, but not more than 10 days after a decision to take action occurs, of Manifestation Determination Review.
- The purpose of the meeting is to determine whether there was a causal relationship between the incident for which the student was suspended and their disability.
- Notification should include identification of time, date and participants who will be in attendance.
- This meeting is, in essence, a Section 504 meeting. Parents should participate in the meetings; however, if they refuse to attend, they should be given a copy of the report.

☞ Complete demographic information and date of meeting.

- **Participants at meeting:** The names of each person present shall be recorded. Albemarle County shall ensure that each meeting includes the required participants of a Section 504 meeting. The Committee is a group of at least three persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options.

Parents are not required members of the 504 Committee. However, best practices suggest that parental involvement be emphasized at every stage of the 504 process.

- **Component Review:** The team must consider:
 - all relevant information in the student's file, including:
 - the child's Section 504 Plan,
 - any teacher observations,
 - and any relevant information provided by the parents
- **Incident Review:** This should include the who, what, when, where, why and how of the specific incident under review.
- **Committee Determination:** The committee must determine if the behavior is a manifestation of the student's disability. The team must determine, after the component and incident review that:
 - if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
 - if the conduct in question was the direct result of the local educational agency's failure to implement the Section 504 Plan.

MANIFESTATION OF THE DISABILITY

If the relevant members of the Section 504 Committee determine that the conduct is a manifestation of the child's disability, the student cannot be disciplined like his/her non-disabled peers.

As a result of the Section 504 Committee's determination of A MANIFESTATION OF THE DISABILITY:

- Schedule a formal Section 504 Meeting to conduct a Functional Behavioral Assessment and Behavioral Intervention Plan.

NOTE: *If the team is in agreement to conduct the FBA and BIP after the Manifestation Determination Meeting, complete the notification form and provide a copy to the parent prior to the meeting to conduct the FBA / BIP. Place a copy of the notice in the student's educational record.*

- Implement a Functional Behavioral Assessment
- Implement a Behavior Intervention Plan
- If a Behavior Intervention Plan exists, review it to make sure it addresses the behavior adequately

- If the Section 504 Team and other qualified personnel determine deficiencies in the student's 504 Plan or placement, Albemarle County Schools will take immediate steps to remedy those deficiencies through the Section 504 Process.

NOT A MANIFESTATION OF THE STUDENT'S DISABILITY

If the Section 504 Team and other qualified personnel determine that both conditions are "FALSE", the behavior is NOT A MANIFESTATION OF THE STUDENT'S DISABILITY.

As a result of the team's determination that the behavior is NOT A MANIFESTATION OF THE STUDENT'S DISABILITY:

- The relevant disciplinary procedures applicable to a student without a disability may be applied to the student with a disability in the same manner and for the same duration in which the procedures would be applied to a student without a disability.
- If the school initiates disciplinary procedures, providing rights that are applicable to all students, the Albemarle County School shall ensure that the Section 504 and disciplinary records of the student with a disability are transmitted for consideration by the person or persons making the final determination regarding the disciplinary action.

In order for the parent's to appeal the Manifestation Determination, a due process hearing request must be made. Please consult your Division Level Section 504 Coordinator for assistance.

Parents may appeal to the Superintendent the disciplinary action that was taken by using the regular disciplinary procedures outlined in Albemarle County Public School Policy.

FUNCTIONAL BEHAVIOR ANALYSIS

Functional Behavior Assessment

It is recommended that a Functional Behavior Analysis only be added to the Section 504 Plan if the behavior subject to disciplinary action is a manifestation of the student's disability.

Conducting a functional behavior assessment is the first step in a functional behavior analysis. The functional assessment gathers information about when, where and why challenging behavior occurs, so that interventions can be designed and put into action.

While functional assessments have been used for many years with students who have severe disabilities, they have recently been found to be helpful in addressing the inappropriate behavior of students with milder disabilities, when their behaviors do not improve with the use of typical school interventions.

The functional behavior assessment includes:

➤ ***Identifying the behavior(s) that needs to change***

It is important that Section 504 team members (including parents) clearly define the problem behavior in terms of specific observable actions. Often students may have more than one challenging behavior. It is best to focus on those behaviors that are destructive or disruptive in school--those that threaten the health or life of the student or others, interfere with learning, result in property destruction, or prevent the student from participating in daily activities.

➤ ***Gathering information about the behavior***

This can be done through interviews with school personnel and parents and by observing the student in different settings over time.

➤ ***Developing a hypothesis (best guess) about the reason for the behavior***

Figuring out the purpose of problem behaviors is one of the most important (and difficult!) steps in developing a plan for changing behavior. One reason is that some children may use one behavior for several different purposes (for example, hitting to get attention and to escape from a situation). Other children may use different problem behaviors for the same purpose. When we remember that many students have had years to develop and practice their problem behaviors, it's not surprising that their behavior can be so puzzling.

Behavior Intervention Plan

Developing a behavior intervention plan is the second part of the functional behavior analysis process to address behavior that gets in the way of learning, or the learning of others. The plan would spell out all the details and routines of an intervention to change behavior (From 90.08). The plan may include teaching new skills or changing the circumstances surrounding the behavior.

The plan includes who is responsible for the intervention and the dates a follow up meeting is to be conducted. The behavior intervention plan becomes a part of the 504 Plan.

Even though a functional assessment may take more time initially, it can make a difference for those students for whom typical interventions have not been successful. Developing an understanding of the cause of behavior may be key to helping them learn new behavioral skills. The Functional Behavior Assessment and Behavior Intervention Plan are required to be completed as part of the procedural safeguards for Section 504.

Should the student exhibit behaviors that are recurring or significantly impact upon education and do not seem to be diminishing under the regular discipline management plan, they need to be addressed in a Behavior Intervention Plan (BIP). Once developed, the BIP must be implemented to be in compliance with federal law as well as aide the student to benefit from his / her educational program in the least restrictive setting.

NON-ACADEMIC SERVICES

Albemarle County Schools ensures that students eligible for Section 504 have available to them non-academic services that are available to their non-disabled peers. These services include but are not limited to counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by Albemarle County Public Schools, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by Albemarle County Public Schools and assistance in making outside employment available.

GRIEVANCE PROCEDURES

Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act prohibit discrimination against students with a disability. No discrimination against any student with a disability will knowingly be permitted in any of the programs or activities of Albemarle County Public Schools. To ensure the division's compliance with Section 504 and the ADA, the following grievance procedures have been adopted.

1. If a student claims that he or she has been subjected to discrimination on the basis of disability, in violation of Section 504 or the ADA, or if the division has reason to believe that a student has a disability requiring special services (and the student is not eligible for services under the Individuals with Disabilities Education Act), the **Division Section 504 Coordinator** or administrative designee shall review and consider pertinent information related to the suspected disability. Information such as grades, classroom documentation, comprehensive assessment data and other relevant information should be considered. This review, resulting in a written summary to include conclusions and recommendations, will take place within fifteen (15) **school** days after the division receives a written statement describing the specific discriminatory conduct.
 - a. **The claim should include a written explanation of what happened; a way to contact the complainant (e-mail, address and/or phone number), identification of the person injured by the discrimination, and identification of the person or group that is alleged to have discriminated.**
2. If the student's parents disagree with the school's conclusion and recommendation, the parents shall be informed of their right to ask for an impartial hearing to decide the matter. Hearing requests shall be made in writing to the Division Level Section 504 Coordinator (the Director of Special Education and Student Services) within ninety (90) days of the alleged discriminatory act giving rise to the hearing. The request will give specific reasons describing discriminatory actions by the division and why the division's conclusions and recommendations are not appropriate. The hearing request shall include a list of accommodations requested by the parents and an explanation of why such accommodations are appropriate, along with copies of any documents upon which the parents rely for support.

3. An impartial hearing shall be held according to the Section 504 / ADA Impartial Hearing Procedures found in this manual on Page 25.
4. The division shall publish its policy of non-discrimination against persons with disabilities and shall inform parents of their rights under Section 504 and the ADA, including their right to examine records relevant to their child, the right to an impartial hearing with representation by counsel.
5. Procedural safeguards will be provided to parents of a student qualified for Section 504 services any time the school system takes action with regard to identification, evaluation or educational placement of a student with a disability.
6. The name and telephone number of the School and Division Section 504 Coordinator will be posted in each school. Parents should contact the School Section 504 Coordinator regarding any questions related to Section 504 and the ADA.
7. Claims giving rise to a grievance must be reported within 30 days of the discrimination with the opportunity to extend the timeframe due to exceptional circumstances.

SECTION 504 IMPARTIAL HEARING PROCEDURES

Issues Giving Rise to a Hearing

A hearing may be requested by any current student over any complaint alleging discrimination based on a disability, including complaints concerning the identification, evaluation, FAPE and educational placement of students. If the complaint relates to the Individuals with Disabilities Education Act, hearings should be conducted in accordance with the requirements of that statute and its implementing regulations. The hearing should take place within 45 calendar days.

Requesting a Hearing

Requests for hearings shall be made in writing and directed to the Division Level Section 504 Coordinator (Director of Special Education and Student Services). A hearing must be requested within **one hundred and eighty (180) days** of the alleged discriminatory act giving rise to the hearing, **unless there were exceptional circumstances preventing the complaining party from doing so.**

Appointment of a Hearing Officer

A hearing officer will be appointed by the Division Level Section 504 Coordinator or Designee from the list of special education hearing officers maintained by the Supreme Court of Virginia. The hearing officer must be appointed within **five business days** of receipt of request of a hearing.

I. PRE-HEARING PROCEDURES

A. The hearing officer is responsible for the following matters prior to the hearing:

1. Scheduling and hearing date and location and notification of parties.
2. Ascertaining whether the parties will be represented in the hearing.
3. Ascertaining whether the hearing will be open or closed.
4. Insuring that the hearing is accurately recorded either by recording equipment or by a court reporter.

- B. A list of documents and witnesses must be exchanged by the parties one week prior to the hearing and copies provided to the hearing officer.**
- C. A pre-hearing conference should be held if appropriate.**

II. HEARING PROCEDURES

- A. The parties have the following rights in a hearing:**
 - 1. To be represented by counsel.
 - 2. To present evidence and cross-examine witnesses.
 - 3. To prohibit the introduction of evidence that has not been disclosed in advance.
 - 4. To obtain a copy of the transcript or a tape recording of the hearing.
- B. The individual who is the subject of the hearing may attend the hearing.**
- C. The hearing officer shall ensure:**
 - 1. An atmosphere conducive to impartiality and fairness
 - 2. The appointment of a surrogate parent by the school division, if appropriate, pursuant to the regulations adopted by the State pursuant to the Individuals with Disabilities Education Act.
 - 3. Maintenance of an accurate record of the proceedings.
 - 4. Issuance of a written decision to all parties setting forth findings of fact and conclusions of law based on the evidence presented in the hearing.
 - 5. Issuance of the decision specified in (4.) above within forty-five (45) calendar days of receipt of the request for a hearing, unless the hearing has been continued beyond that date for good cause at the request of a party.
 - 6. Assignment of the burden of proof to the party requesting the hearing.
 - 7. Maintenance of all records for thirty (30) days after the issuance of a decision. In the event an appeal is noted, the Division Level Section 504 Coordinator will advise the hearing officer of the name and address of the reviewing officer. The hearing officer shall transmit the record to the reviewing officer within three (3) days of the request. In the event no appeal is made, the hearing officer shall return the record to the Division Level 504 Coordinator.

III. REVIEW PROCEDURE

- A. An appeal may be noted by an aggrieved party by filing a written notice with the Division Level 504 Coordinator within thirty (30) calendar days of the date of the decision issued by the hearing officer.**
- B. A reviewing officer must be appointed by the Division Level 504 Coordinator or Designee from the same list from which the initial hearing officer was appointed and within one week of receipt of the request for review.**

- C. The reviewing officer shall:
 - 1. Examine the record of the hearing.
 - 2. Seek additional evidence, if necessary.
 - 3. Afford the opportunity for written or oral argument.
 - 4. Advise the parties of the right to be represented by counsel during the review proceedings.
 - 5. Issue a written decision.

- D. The reviewing officer shall uphold the initial decision unless it is found to be arbitrary or capricious, contrary to law, or not supported by substantial evidence.

- E. The reviewing officer's decision must be issued within thirty (30) calendar days of receipt of the request for an appeal, unless the proceedings have been continued beyond the date for good cause at the request of a party. A copy of the decision must be sent to all parties.

- F. The record of the administrative hearings shall be sent by the reviewing officer to the Division Level 504 Coordinator upon the issuance of the decision.

- G. The Division Level 504 Coordinator is responsible for maintaining all records of hearings and transmittal to court in the event of judicial proceedings.

SECTION 504 CHECKLISTS

The checklists are modified from Section 504 / ADA Manual for School Liaisons, Broward County, Florida, 2012.

Basic Section 504 Procedures

Student Name: _____

Date of Birth: _____

Date checklist began: _____

- ☐ Request / Referral for Section 504 services received and documented.
- ☐ **Rights/Parent Consent** received (signed by parent).
- ☐ Documentation of a disability by an appropriate specialist (e.g., doctor's report/note, psychologist's report, audiologist's report, etc.) received.
- ☐ **Academic/Social/Behavioral Information** ratings completed by teacher(s), if there are concerns in any of these areas.
- ☐ Meeting to determine eligibility scheduled.
- ☐ **Meeting Notice / Rights** sent to parents (copy placed in educational record).
- ☐ 504 Team met and reviewed all data relevant to case.
- ☐ Eligibility determined at the meeting and **Section 504 Eligibility Form** completed (signed by all participating members).
- ☐ **504 Accommodation Plan** completed, if / when required.
- ☐ If the student has significant behavioral difficulties that interfere with learning, FBA/PBIP completed.
- ☐ If the student has a significant medical or health issue, a health plan is developed and attached.
- ☐ If student has any special transportation needs, they are included in the 504 Plan and a **Special Transportation Form** is completed and forwarded to the Special Education Office at Central Office.
- ☐ Parent(s) received copies of all relevant documents, including list of rights under Section 504 (on **Notification/Rights/Parent Consent**)
- ☐ Copies of **504 Accommodation Plan** (and FBA/PBIP, if completed) distributed to all personnel needing to provide accommodations.
- ☐ Data entered in 504 electronic database(s) and finalized.

Basic Section 504 Discipline Procedures

- ☐ A Functional Behavior Assessment (FBA) / Behavior Intervention Plan (BIP) may be completed and implemented whenever a student displays behaviors that interfere with their learning or the learning of their peers.
- ☐ If student is being considered for suspension (and it would result in more than 10 cumulative school days during one academic year), or for expulsion, Manifestation Determination Meeting must be scheduled to occur immediately but no longer than 10 business days from the date of the disciplinary incident.
- ☐ **Meeting Notice / Rights** sent to parents (copy placed in educational record).
- ☐ 504 Team met, reviewed all data relevant to case, and recorded their **Manifestation Determination Meeting** and outcome.
- ☐ If it was determined the behavior subject to disciplinary action WAS a manifestation of the student's disability, a FBA / BIP will be conducted and implemented. If it was NOT a manifestation of the student's disability a FBA / BIP may be conducted and implemented.

Basic Section 504 Transfer Procedures

- ☐ Meeting to review transfer student's 504 plan scheduled.
- ☐ **Notification/Rights/Parent Consent** sent to parent(s) informing them of meeting date (signed and returned by parent, parents given a copy)
- ☐ Meeting to review transfer student's 504 plan completed 504 Team considered eligibility for 504 services in light of Albemarle County requirements
- ☐ If eligible for 504 services, new **504 Accommodation Plan** completed and signed by all participants
- ☐ If needed, Functional Behavior Assessment (FBA) / Behavior Intervention Plan (BIP) completed
- ☐ If needed, Health Plan completed
- ☐ If needed, Special Transportation Request completed
- ☐ New plan(s) distributed to all personnel needing to provide accommodations
- ☐ Data entered in 504 electronic database(s) (a list of 504 codes is included in Section I-Forms and Procedures)

Basic Section 504/ ADA Grievance Procedures*

- ☐ A meeting to informally discuss/resolve the issues surrounding the dispute scheduled and completed.
 - ☐ If the dispute was not resolved through informal means, the principal provides the grievant(s) a **Grievance Filing Form** and consults with the Division Section 504 Coordinator.
 - ☐ The **Grievance Filing Form** is received by the principal who stamps the exact date received for purposes of ensuring timely response.
 - ☐ Division Section 504 Coordinator receives the **Grievance Filing Form**.
 - ☐ Division Section 504 Coordinator initiates an investigation that may include records review, interviews and observations that may be conducted either by the Division Section 504 Coordinator or a designee appointed by the Division Section 504 Coordinator.
 - ☐ The Division Section 504 Coordinator provides the grievant(s) with a **Grievance Resolution Notice** (no more than 15 school days after receipt of the written **Grievance Filing Form**).
-

*Although these actions complete the school's procedural obligations for a grievance, those involved should be aware that additional steps in the grievance process may occur. Grievant(s) who are not satisfied with the school's response have a right to file a complaint with the Superintendent, and to request an impartial hearing. As a party to the hearing, grievant(s) need to be provided with a full disclosure of their due process rights. When requested, school personnel may need to participate in the hearing process.

The complaint would be submitted to the Director of Special Education and Student Services:

Albemarle County Public Schools
401 McIntire Rd.
Room 323
Charlottesville, VA 22902-4596
Phone: 434-296-5885
Fax: 434-972-4157

As a party to the hearing, grievant(s) will be provided with a full disclosure of their due process rights, including the right to an impartial hearing. The Special Education and Student Services Department will conduct an investigation and make a determination as to whether probable cause exists that the student was, in fact, discriminated against. A determination of probable cause will include specific recommendations for corrective actions.

SECTION 504 / ADA FORMS

ALBEMARLE COUNTY PUBLIC SCHOOLS
Rights and Procedural Safeguards
Section 504 / ADA

You have the right to:

1. Have your child take part in, and receive benefits from, public education programs, including nonacademic and extracurricular activities offered by the district, without discrimination because of your child's disabling conditions.
2. Have the school district advise you of your rights under federal law.
3. Receive notice with respect to the identification, evaluation, or placement of your child, including changes or the discontinuation of services.
4. Have your child receive a free and appropriate public education. 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 are not relieved from an otherwise valid obligation to provide or pay for services provided to a disabled student.
5. Your child has a right to a free, appropriate public education (FAPE) designed to meet his or her individual needs as adequately as the needs of non-disabled students are met.
6. Have your child receive services and be educated in facilities comparable to those provided to nondisabled students.
7. Have evaluation, educational, and placement decisions determined based on a variety of information sources and by a group of persons who know the student and who are knowledgeable about the evaluation data and placement options.
8. Have your child, if eligible under 504/ADA, receive periodic re-evaluations, at least every three years.
9. Have transportation provided to and from an alternative placement setting (if the setting is a program not operated by the district) at no greater cost to you than if the student were placed in a program operated by the district.
10. Examine all records relevant to decisions regarding your child's identification, evaluation, and placement.
11. File an informal grievance. Procedures for filing a grievance are addressed in the District's Section 504/ADA Manual and in the Elementary and Secondary Student Code and Conduct Handbook.
12. Request mediation or an impartial hearing if you are not satisfied with the school's response. If an impartial hearing is requested, you have the right to participate personally at the hearing and to be represented by an attorney, if you wish to hire one. You must send a written request to the **Director of Special Education and Student Services, Albemarle County Public Schools, 401 McIntire Rd., Room 323, Charlottesville, VA 22902-4596 Phone: 434-296-5885**

**SECTION 504 OF THE REHABILITATION ACT OF 1973
and the AMERICANS WITH DISABILITIES ACT
(Section 504/ADA)**

GRIEVANCE FILING FORM

Grievant: _____ Date: _____

Name of Student: _____

School: _____

Parent/Guardian: _____

Address: _____

Telephone: Home: _____ Work: _____

Completed form should be submitted to the principal within **thirty (30)** school days of the occurrence. Within fifteen (15) school days of receipt of the written grievance, the Principal shall provide the grievant with a *Grievance Resolution Notice* that upholds, modifies or denies the resolution sought.

State the nature of your grievance. Please describe the policy or action you believe may be in violation of Section 504/ADA. Identify any person(s) you believe may be responsible.
(Use an additional sheet of paper if necessary.)

Please describe any corrective action you wish to see taken with regard to the possible violation. You may also provide other information relevant to this grievance.
(Use a separate sheet of paper if necessary)

Signature: Parent, Guardian, Student (18 or over)

Date

Signature of Person Accepting Grievance

Date Received

*Albemarle County Schools prohibits any policy or procedure which results in discrimination **on the basis of race, color, religion, age, sex, disability, national origin, pregnancy, or marital status.** Individuals who wish to file a discrimination and/or harassment complaint or wish to request accommodation under the Americans with Disabilities Act (ADA) should contact: (for Employees) Director of Human Resources at 434-296-5827
(for Students) Director of Special Education and Student Services at 434-296-5885*

Copies To: Grievant/Principal /Director of Special Education and Student Services

**SECTION 504 OF THE REHABILITATION ACT OF 1973
and the AMERICANS WITH DISABILITIES ACT
(Section 504/ADA)**

GRIEVANCE RESOLUTION NOTICE

Date: _____

Dear: _____
Parent/Guardian/Student (18 or over)

_____ At _____
Principal School

has reviewed your formal Section 504/ADA grievance and rendered the following decision:

- ☐ Corrective actions requested in your grievance is upheld.
- ☐ Corrective actions requested in your grievance is upheld with modifications.
- ☐ Your grievance request is denied.

A detailed explanation of the decision is provided below:
(Use a separate sheet of paper if necessary.)

If you are not in agreement with the decision, or want further clarification, contact:

School Principal: _____ at (School Phone) _____

If you are not satisfied with this response, you have the right to file a complaint with the Director of Special Education and Student Services, and to request an impartial hearing. When requested, school personnel may need to participate in the hearing process. The complaint would be submitted to:

*Director of Special Education and Student Services
Albemarle County Public Schools
401 McIntire Rd., Room 323
Charlottesville, VA 22902-4596
Phone: 434-296-5885 / Fax: 434-972-4157*

IMPORTANT NOTICE

This Grievance Resolution Notice is due back to the grievant within fifteen (15) **school** days of receipt of the Grievance Filing Form. Prior to sending the Grievance Resolution Notice to the grievant, the Principal **must** submit this document for review to:

**Director of Special Education and Student Services
Albemarle County Public Schools
401 McIntire Rd., Room 323
Charlottesville, VA 22902-4596
Fax: (434)972-4157**

*Albemarle County Schools prohibits any policy or procedure which results in discrimination **on the basis of race, color, religion, age, sex, disability, national origin, pregnancy, or marital status.** Individuals who wish to file a discrimination and/or harassment complaint or wish to request accommodation under the Americans with Disabilities Act (ADA) should contact: (for Employees) Director of Human Resources at 434-296-5827
(for Students) Director of Special Education and Student Services at 434-296-5885*