

Policies, Procedures, and
Implementation Handbook

SECTION 504

of the

Rehabilitation Act

of 1973

and the Americans with

Disabilities Act Amendments of

2008 (ADAA2008)

Jackson County Public Schools

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JACKSON COUNTY PUBLIC SCHOOLS

SECTION 504 PROCEDURES

FOREWORD:

This Handbook has been developed as an aid to those administering Section 504 of the Rehabilitation Act of 1973 (Section 504) in Jackson County Public Schools and as a guide to parents of disabled children who are covered under Section 504. The intent of this Handbook is to reaffirm Jackson County Public Schools' commitment to serving disabled children as mandated by Section 504.

SECTION 504 OF THE REHABILITATION ACT OF 1973

PROCEDURES HANDBOOK

SECTION 504: POLICY STATEMENT

It is the policy of the Jackson County Board of Education to provide a free and appropriate public education to each student with a disability within its jurisdiction, regardless of the nature or severity of the disability.

It is the intent of the district to ensure that students who are disabled within the definition of Section 504 are identified, evaluated and provided with appropriate educational services and reasonable accommodations for access to all programs and activities of Jackson County Schools.

SECTION 504: THE LAW

Section 504 of the Rehabilitation Act of 1973 requires that:

No otherwise qualified individual with a disability in the United States, as defined in 29 U.S.C. Sec. 705(20), shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or activity conducted by any Executive agency or by the US Postal Service (29 U.S.C. Sec. 794)

Section 504 provides protection for all students who have a physical or mental impairment that substantially limits one or more major life activities, have a record of such an impairment, or are regarded as having such an impairment.

Major life activities include life functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, eating, sleeping, standing, lifting, bending, speaking, breathing, learning, working, reading, concentrating, thinking, and communicating. In addition, major life activities include the operation of major bodily functions such as the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions.

To comply with the duty to eliminate discrimination, school districts must examine their policies, programs and practices to ensure students are not excluded from programs and services solely on the basis of their disability. Secondly, school districts must take steps to locate, evaluate, and place eligible students with disabilities under either IDEA or Section 504. Section 504 of the Act requires an analysis of student needs in comparative terms to the average student. Section 504 is not an aspect of special education, rather it is a civil rights law. **Therefore, the process of identifying students and determining necessary accommodations is a regular education function.**

SECTION 504: EXCLUSIONS

Section 504 specifically **excludes** the following conditions from qualifying a student as disabled: substance abuse disorders resulting from illegal use of drugs, kleptomania, pyromania, exhibitionism, pregnancy, missing teeth, lactose intolerance, sick building syndrome, voyeurism, gender identity issues not resulting from physical impairment, or other sexual disorders/differences. A student with an educational deficit caused by economic, cultural or environmental disadvantages should not be considered to have an impairment under Section 504, nor should a student with educational deficits due to limited English proficiency.

The parent or guardian must be provided with notice of actions affecting identification, evaluation, or placement of the student and is entitled to an impartial hearing if he/she disagrees with district decisions in these areas.

The Rehabilitation Act of 1973 is a civil rights act, enforcement of Section 504 is the responsibility of the Office of Civil Rights.

Local Contact Information:

Kelly Doppke
Jackson County Public Schools
504 Coordinator
398 Hospital Road
Sylva, NC 28779
Tel. No. (828) 586-2311 ext. 1928
Fax No. (828) 586-5751

REFERRALS:

Any person or agency, including a teacher or a parent, that feels a child should be considered for protection under Section 504 should present in writing the reason(s) for referring the child for such consideration. The referral should be directed to the school-level 504 Chair or to the school principal who will refer it to the school-level 504 Chair. The referral should include the specific problem and the child's current strengths and weaknesses. Referrals will be reviewed by a 504 Committee within the student's school. Parents will be notified about the referral and provided a copy of the Parental Rights document.

ELIGIBILITY:

If a student has a physical or mental impairment, that impairment must "substantially limit" one or more major life activities. "Substantially limits" is to be construed broadly; it cannot be interpreted to mean that the impairment must prevent or significantly restrict the performance of the major life activity. The student will be evaluated to determine whether the physical or mental impairment limits a major life activity as compared to a similarly situated student. The 504 Committee will consider information from a variety of sources (i.e., grades, disciplinary referrals, health information, adaptive behaviors, language surveys, parent information, standardized test scores, teacher comments, etc.) to determine if the child is eligible for Section 504 protection. All

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information considered shall be documented. If a student is considered ineligible for Section 504 protection, the school-level 504 Chair shall inform the parent as to the reasoning of the decision and maintain proper documentation as to the 504 Committee's decision of ineligibility under Section 504.

504 COMMITTEES:

Each student's 504 Committee shall be a school-based multi-disciplinary team which includes persons knowledgeable about the student, the meaning of the evaluation data, and the placement options available, including teachers, administrators, other Jackson County employed staff, parents and health professionals. The make-up of a 504 Committee shall be determined on a case-by-case basis according to the needs of the student and shall include the parents of the student whenever possible. The school-level's 504 Chair will be the chairperson of each 504 Committee unless a designee of the 504 Coordinator is designated to serve.

504 Committees are responsible for reviewing all referrals and making decisions concerning eligibility and reasonable accommodations. Committees should meet in a timely manner that is responsive to the individual needs of each child referred. Members will review all available information regarding the child's disability and determine if there is sufficient evidence to make informed decisions. Committees will request tests/evaluations to be performed only if it is necessary to obtain additional information that is vital in making an informed decision concerned eligibility and accommodations. The school-level 504 Chair is to notify the referring person as to the Committee's decision. Should additional testing/evaluations be needed, parental permission must be obtained prior to administering further evaluations. If gathered information and/or evaluations indicate a disability that substantially limits a major life activity, then the 504 Committee must notify parents(s) that their child is eligible for the 504 program. The 504 Committee is responsible for subsequently developing an individualized 504 Accommodation Plan and formally placing the child under Section 504.

The school-level 504 Chair is to inform the local school staff of Section 504 legal procedures. This will prevent discrimination by excluding those covered under Section 504 from participation in, or denial of benefits of, any program or activity receiving or benefiting from Federal financial assistance. Students may not be denied participation in, or benefit from, services which are afforded nondisabled students.

EVALUATIONS:

Evaluations will accurately and thoroughly assess the nature and extent of the disability and focus on the specific area(s) of physical, mental, or educational impairment(s). Information from a variety of resources will be used.

The specific evaluation procedures employed are determined by the type of disability suspected and the type of services that may be needed. Use of existing evaluation data, review of school or medical records, social and cultural data, and observational/anecdotal information will frequently suffice in determining a disability under Section 504. Students experiencing learning difficulties must be evaluated using approved aptitude and achievement assessments.

Parent(s) will receive prior written notice concerning 504 Committee meetings. The local school

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must receive permission from the child's parent(s) prior to the administration of any formal evaluation that may be required during either the initial evaluation, or any subsequent re-evaluation(s), that are conducted by Jackson County Public Schools and all results will be shared with parents before eligibility is determined.

RE-EVALUATIONS:

Re-evaluations must be conducted at least every 3 years, or more often if necessary, and prior to any significant change in placement. Students must continue to be eligible under Section 504 to receive services. Re-evaluations of students with obvious disabilities, such as wheel-chairs, may only require documentation that the disability still exists. 504 Committees will review all re-evaluation materials to determine if the student remains eligible for 504 services.

FREE APPROPRIATE PUBLIC EDUCATION:

Eligible students with a disability, ages 3-21, must be provided a free appropriate public education. Section 504 recognizes that an appropriate education might be provided through the provision of regular education with reasonable accommodations. Accommodations may take many forms in that they are specific to the child's impairment to assure that the child has access to an education comparable to that of children without disabilities.

The following are examples of broad categories of reasonable accommodations that the local school could consider for implementation into the regular classroom:

- Facilitate parent, student, teacher, staff, school, and/or community agency communication.
- Provide organization/management changes needed during the instructional day, within the classroom, or associated with district policies/procedures (e.g., excused medical absences, transportation arrangements, homebound instruction).
- Provide alternate teaching methods, testing procedures and instructional materials.
- Provision of classroom/building precautions specific to the child's disability (e.g. dietary restrictions)

ACCOMMODATION PLANS:

The 504 Committee shall develop a 504 Accommodation Plan for each 504 eligible student. These plans should be reviewed by the school 504 Committee whenever the child has a classroom schedule change and/or change of placement. Plans may be amended as deemed necessary by the 504 Committee. Parent(s) are to be encouraged to participate in developing the plan and must be informed of any changes to the 504 Accommodation Plan.

DISCIPLINARY ACTION:

Cumulative suspensions of more than ten (10) days in a school year are considered a significant change in placement and require parental notification. Students who are protected under Section 504 may not be suspended for more than 10 days during the academic year unless the 504

Committee determines that either the student's misconduct is unrelated to their identified disability or the behavior relates to current drug/alcohol use. 504 Committees, under the direction of the 504 Coordinator, are to make manifestation determinations concerning disciplinary actions involving those protected under Section 504. These determinations must be made before the eleventh cumulative day of suspension during a school year. If the behavior is determined to be a manifestation of the disability, then normal discipline procedures may not be followed and the behavior should be addressed by the 504 Committee in the student's 504 Accommodation Plan. If the behavior is not a manifestation of the disability, then normal discipline procedures may be followed and services do not need to be provided during the suspension. Parents should be invited to the manifestation determination meeting and must be properly notified as to this process. Parents may follow the grievance procedure if they are in disagreement with the actions taken or decisions made by the 504 Committee.

PARENTAL INVOLVEMENT:

Parents/guardians are encouraged to participate in all aspects of their child's educational life. It is extremely important for parents to provide information that is required in evaluating and determining eligibility of a child for the 504 program. Collaboration of parents and other relevant individuals during the development of the Accommodation Plan will contribute to a unified, informed, individualized, and comprehensive educational program for the child. Parents will be offered a copy of the Parental Rights document, if they do not already have one, each time an action or decision is taken or made with respect to their child.

PARENTAL NOTIFICATION/PRIOR NOTICE:

Parents/guardians must be provided with notice of actions affecting the identification, evaluation, accommodations, or placement of the student and are entitled to file a complaint if they disagree. A minimum 10 day advance notice prior to formulating an Accommodation Plan, conducting re-evaluations and/or changing placement is required for meetings conducted without the parent(s) in attendance unless parents have provided written permission to meet in their absence. A long-term suspension is viewed as a significant change in placement and requires parental notification. Notices must inform the parent of the time, location and purpose of the meeting. Parents may request more convenient times and locations if needed. Every good faith effort should be made to include parent(s) in the initial formulation and any subsequent changes to the Accommodation Plan. Copies of notifications should be retained in students' files.

GRIEVANCE PROCEDURES:

If a student, parent/guardian of a student or employee ("complainant") alleges discrimination on the basis of a handicapping condition or disability, the complainant may file a complaint pursuant to the Board's grievance procedure outlined in Policy Code [1720/4015/7225](#), a copy of which is attached hereto. In addition to the grievance procedure, the complainant also has the right to an impartial hearing for issues regarding the identification, evaluation or educational placement of a student with a disability.

Any questions generally regarding Section 504 or specifically regarding the Section 504 grievance

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procedure should be directed to the Jackson County Public Schools 504 Coordinator:

Jackson County Public Schools
Kelly Doppke, 504 Coordinator
398 Hospital Road
Sylva, NC 28779
Tel. No. (828) 586-2311 ext. 1928

If, at the end of the grievance procedure or impartial hearing, the complainant is dissatisfied with the Board or hearing officer's decision, the complainant may file an appeal with the Office for Civil Rights, Department of Education, 400 Maryland Ave. SW, Washington, D.C., 20202-1475.

DOCUMENTATION AND ACCESS TO RECORDS:

Records for students receiving services under Section 504 are to be located within students' cumulative files. These are confidential records and may only be viewed by appropriate Jackson County School staff members. These records are to include, but are not limited to, the following:

- Section 504 Student Referral
- Prior Notice/Invitation to Conference/Parental Rights Form
- 504 Eligibility Determination
- Student Placement Form
- 504 Student Parent Placement Form
- Parent Permission for Section 504 Evaluation, if indicated
- Section 504 Accommodation Plan

Pursuant to School Board Policy Code 4700: A parent, guardian or eligible student (one who is at least 18 years old or is married) will be allowed access to the student's records upon proper request. Upon request by the parent or eligible student to the principal or guidance office of the student's school, an appointment will be scheduled as soon as possible, but not later than 45 days after the request. A formal review of a student's complete records will be conducted only in the presence of the principal or a designee competent to explain the records. School personnel will not destroy any educational records if there is an outstanding request to inspect or review the records.

School officials may only destroy student records in accordance with state and federal law and the *Records Retention and Disposition Schedule for Local Education Agencies*. Upon notifying parents, student records may be destroyed when they are no longer needed to provide educational services to the student or to protect the safety of the student or others. Student records must be destroyed if the parent or eligible student requests their destruction and such records are no longer needed to provide educational services to the student or to protect the safety of the student or others.

INSTRUCTIONS FOR COMPLETING NOTICE OF SECTION 504 ELIGIBILITY

- A. **Demographic Information**: In the spaces provided, enter the student's name, student identification number, birth date, school name, gender, race and current grade.
- B. **Evaluation Information**: The purpose of this section is to document the consideration of information from a variety of sources. A check mark is entered in the block beside each type of information considered by the team. A copy of all information considered should be placed in the student's 504 folder or cumulative folder.
- C. **Eligibility Analysis**: Using information from a variety of sources, the 504 team will answer questions and provide descriptions about the presence of a mental or physical impairment, whether an impairment is temporary, episodic or in remission and whether or not the impairment substantially limits one or more MLA/BF.
1. Determining the eligibility requires the 504 team to first establish whether there is a mental or physical impairment. The team must answer the "Yes-No" question about the presence of a mental or physical impairment. A "yes" answer requires the team to indicate the data that identifies the impairment. If there is no impairment, the team answers "no," and then goes to the Eligibility Determination section.
 2. The second step is for the 504 team to consider whether cultural, economic or environmental (CEE) factors account for the student's inadequate learning and behavioral function. Section 504 does not cover limitations of MLA/MBF caused by CEE factors. The 504 team will indicate whether or not CEE factors account for limitations.
 3. In this section, the 504 team describes the impairment and determines whether or not the impairment is temporary or whether it is episodic, intermittent or in remission by checking "yes" or "no". A "yes" answer is followed by a description of the impairment in terms of frequency, intensity, and duration.
 4. The 504 team will answer "yes" or "no" to the question asking whether or not the impairment limits a MLA/BF. If the team answers "no" the 504 team will it should skip to the Eligibility Determination. If the answer is "yes," the team should (1) indicate the MLA/BFA, 2) describe the how and the degree to which the MLA/MBF is limited and (3) indicate whether the impairment is negligible, mild/moderate, substantial or severe.
 5. The purpose of this section is to first consider whether or not the student substantially limited in a **major life activity** or **major bodily function**. If so, the 504 team the team answers "yes" and goes to the Eligibility Determination section. Secondly, if the team determines that there is no substantial limitation, it should answer "no" and then consider whether the lack of a substantial limitation is due the corrective effects of any mitigating measure the student may be using (1) indicating the mitigating measure, (2) describing the extent of the limitation prior to use of mitigating measures and (3) indicate whether the impairment is negligible, mild/moderate, substantial or severe.
- D. **Eligibility Determination**: The 504 team will choose from among three eligibility options based on the preponderance of the evaluation information. The first option is that the student is not section 504 eligible and as a consequence is not eligible for an EEOP. If the student is not eligible, the 504 team may want to consider referring the student to a student support team for a Personal Education Plan or Health-Care Plan. The second option is that the student is

eligible but an EEOP is not needed because of either the corrective effects of mitigating measures or because the impairment is episodic or in remission. The third eligibility option is that the student is eligible and entitled to an Section 504 Equal Education Opportunity Plan (EEOP). If it is determined the student is Section 504-eligible, the team develops a Section 504 Equal Opportunity Education Plan (EEOP).

- E. **Team Signatures/Title.** Each individual participating in the eligibility determination process must sign the notice, indicate the date and indicate their position, e.g., classroom teacher, psychologist, nurse, etc. In addition, each person should indicate their area of expertise, e.g., knowledgeable of the student, knowledgeable of the meaning of evaluation information, etc. Make sure that school personnel who attended the meeting on the day the eligibility determination was made should sign off on the notice. If the eligibility determination required two or more meetings, indicate in meeting summary that certain teachers attended earlier meetings but did not participate in the meeting at which the eligibility decision was made.

- F. **Parental Notice.** After an eligibility decision has been reached, provide the parent with an opportunity to sign the completed Notice of Section 504 Eligibility form, provide the parents with a notice of Section 504 rights and provide parents a copy of the completed notice. Occasionally parents who are not satisfied with the decision will not sign the Notice. On those occasions, the chair of the 504 team should annotate the bottom of the form with a note indicating that the parent elected not to sign the form and that the parent was provided with a copy of the notice and Section 504 rights.

