

Section

504

Procedural Safeguards

***A Guide for
Parents of Students
with Disabilities***

Revised August, 2016

**Anne Arundel County Public Schools
*Division of Student Services***

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My School Contact for Section 504 Compliance

If, after reading this guide, you have more questions, contact the school-based Section 504 facilitator or principal in your child's school. If you need further assistance, please consult the Anne Arundel County Public Schools' website (www.aacps.org/section504) or the Section 504 Resource Pupil Personnel Worker (PPW).

Name of my school contact:

Phone:

The Section 504 Resource PPW for Anne Arundel County Public Schools can be contacted at:

Student Service Satellite Office at Annapolis Middle School
Section 504 Office
1399 Forest Drive
Room 123-B
Annapolis, MD 21403

Phone: 410-626-0207/0208

Fax: 410-626-0209

Overview

Section 504 falls under the purview of the Office of Pupil Personnel. One of the responsibilities of the Office of Pupil Personnel is to ensure and monitor the implementation of Section 504. This office maintains internet resources for parents at www.aacps.org/section504.

What is Section 504?

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

Section 504 states,

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

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

How is a student referred to a Section 504 Team?

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

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

Who is part of the Section 504 Team?

The Section 504 Team is comprised of:

- The school administrator or designee
- The parent
- Persons knowledgeable about the child, the meaning of the evaluation data, and the placement options (teachers, counselor, nurse, psychologist, PPW, outside clinicians, etc).

What is an evaluation?

Eligibility by the Section 504 Team is determined by means of an *evaluation*.

Evaluation refers to a gathering of data or information from a variety of sources so that the Section 504 Team can make the required eligibility determination. This information can include data from student records, grades, teacher and staff observations, disciplinary referrals, anecdotal reports, teacher reports, individual and group tests, aptitude and achievement tests, medical information, nursing assessment, occupational or physical therapist assessment, physician’s orders, emergency care plans, and adaptive behavior assessment.

Who is eligible under Section 504?

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

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

Major Life Activities

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

Substantial Limitation

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

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

What is a Section 504 Plan?

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

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

The team will review the student's Section 504 Plan on a periodic basis to ensure its effectiveness. A parent may request, at any time, that a plan be reviewed and/or revised as needed.

If the Section 504 Team suspects that the student is in need of special education and related services, the Section 504 Team will make a referral to the school's IEP (Individualized Education Program) team chairperson.

What are the disciplinary procedures for Section 504 disabled students?

Suspensions Totaling Ten Days or Fewer

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

Suspension Totaling More Than Ten Days

In disciplinary cases where a Section 504 student with a disability has been suspended for over 10 cumulative days for the school year, a Section 504 Team meeting must be held. The Section 504 Team must determine whether the conduct that prompted the disciplinary action was a manifestation of the student's disability. If the behavior that resulted in the disciplinary action was not the result of the

student's disability, the recommendation for suspension/expulsion stands and the school will follow regular disciplinary procedures. If the behavior that resulted in the disciplinary action was a result of the student's disability, the suspension or expulsion is discontinued, and the student may return to school.

For students disciplined for the use, possession or distribution of drugs and/or alcohol, a Manifestation Determination Review meeting must be held prior to suspending for more than ten school days or consideration of an extended suspension.

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

Conflict Resolution Procedures for Section 504 Disputes

- If a parent/guardian disagrees with the decisions of the Section 504 Team, he/she has the right to request an *Administrative Review*.
- If a parent/guardian is not satisfied with the findings of the *Administrative Review*, he/she has the right to request an *Impartial Hearing*.
- A parent/guardian must complete an *Administrative Review* prior to filing for an *Impartial Hearing*.

What is an Administrative Review?

If a parent/guardian of a student wishes to contest an action or omission on the part of the school system with regard to the identification, evaluation, or program/ placement of a disabled student under Section 504 of the Rehabilitation Act of 1973, the parent/guardian must first request, in writing, an *Administrative Review* to be held at the student's school with a Pupil Personnel Worker. The parent/guardian will leave the *Administrative Review* meeting with a written summary of the outcome and decisions made at the meeting.

Step 1: Requesting an Administrative Review

The *Request for Administrative Review* shall be made, in writing, as soon as possible or within 45 calendar days of the date the parent/guardian knew or should have known about the alleged action that is the reason for the *Administrative Review*.

A parent/guardian must submit the written *Request for Administrative Review* to the Anne Arundel County Public School's Section 504 Resource Pupil Personnel Worker. The written request should be made on the form included in this guide and submitted to:

Section 504 Resource PPW

Student Services Satellite Office at Annapolis Middle School
Section 504 Office
1399 Forest Drive, Room 123-B
Annapolis, MD 21403

Step 2: The Administrative Review

The Section 504 Office will schedule a review of the complaint within 30 calendar days from the receipt of the request. Attorneys for either party are not permitted to attend the administrative review without mutual agreement.

Review Rights

If a parent/guardian is dissatisfied with the results of the *Administrative Review*, he/she may request an *Impartial Hearing* under Section 504.

What is an Impartial Hearing?

If a parent/guardian of a student is not satisfied with the findings of an *Administrative Review*, he/she may request a hearing before an impartial *Hearing Officer*, who is not an employee of the Anne Arundel County Public School System.

Step 1: Requesting an Impartial Hearing

The parent/guardian must submit a written request for a Section 504 *Impartial Hearing* to the Anne Arundel County Public Schools Section 504 Resource Pupil Personnel Worker within 45 calendar days of the *Administrative Review*. The written request should be made on the form included in this guide and submitted to:

Section 504 Resource PPW

Student Services Satellite Office at Annapolis Middle School
Section 504 Office
1399 Forest Drive, Room 123-B
Annapolis, MD 21403

Step 2: The Dispute Resolution Hearing

Within 30 calendar days of receipt of the parent's/ guardian's *Impartial Hearing* request, the parties must attend a *Dispute Resolution* meeting with the County Section 504 Resource Pupil Personnel Worker.

The parents/guardians will leave the *Dispute Resolution* meeting with a written summary of the outcome and decisions made at the meeting.

If the parent/guardian is dissatisfied, the case will proceed to be heard by an impartial Hearing Officer.

Step 3: The Appointment of Impartial Hearing Officer

Upon notice of an unsuccessful outcome at a *Dispute Resolution* Meeting, Anne Arundel County Public Schools will refer the case to an impartial Hearing Officer to preside over the hearing and issue a decision. The Hearing Officer shall not be an employee of the Anne Arundel County Public School System.

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Step 4: The Scheduling of the Hearing

The Impartial Hearing Officer will conduct a hearing within 45 calendar days after the date of the *Dispute Resolution* meeting. After the referral to the Hearing Officer, all subsequent matters regarding the scheduling of the hearing, and matters pertaining to the issues and disposition of the case will be addressed by the Impartial Hearing Officer.

Step 5: The Pre-Hearing Conference

The Hearing Officer may order a *Pre-Hearing Conference* with the parties. During this conference, the parent/guardian or his/her representative may be asked to state and clarify the issues to be addressed at the hearing. The *Pre-Hearing Conference* can also serve to resolve preliminary matters, jurisdiction issues, and answer the parties' questions regarding the hearing process.

Step 6: The Hearing

Any party to an *Impartial Section 504 Hearing* has the right to:

- Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of the student;
- Present evidence and confront, cross-examine, and request the attendance of witnesses;
- Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five calendar days before the hearing;
- Prohibit the testimony of any witnesses that have not been disclosed to that party at least five calendar days before the hearing;
- Upon request, obtain a verbatim record of the hearing, the cost of which will be paid for by the requesting party.
- Obtain a written decision from the Hearing Officer.

The Hearing Officer may bar any party that fails to comply with the five day disclosure requirement from introducing relevant documentary or testimonial evidence at the *Impartial Hearing* without the consent of the other party.

Step 7: The Hearing Decision

After the hearing is held, the Hearing Officer must issue a written decision on substantive grounds based on a determination of whether the student was denied his/her rights under Section 504 of the Rehabilitation Act of 1973 (as amended by the ADA). The Hearing Officer must confine his or her orders or rulings to those

matters which involve the identification, evaluation, or placement of children under Section 504 and the regulations implementing Section 504. This is the scope of the Hearing Officer's jurisdiction. Any party may raise objections or move to dismiss any claims that do not fall under Section 504.

The Hearing Officer shall issue a written decision within 30 calendar days of the completion of the hearing and/or the closing of the record, unless a waiver of this period is agreed to by the parties.

Review Rights

If either party is not satisfied by the final decision of the Hearing Officer, the party may seek review of the hearing decision in a court of competent jurisdiction.

Complaints to the Office for Civil Rights (OCR)

Anne Arundel County Public Schools' Conflict Resolution Procedures do not deny the right of the parent/guardian to file a formal complaint with the Office for Civil Rights if the parent/guardian believes that the school system has violated any provision or regulation of Section 504. The Office for Civil Rights is an investigatory office of the United States Department of Education, and it handles Section 504 complaints separately and independently of the local hearing process, and in accordance with the guidelines set forth in OCR's Complaint Resolution Manual.

Complaints to the Office for Civil Rights can be sent to:

Office for Civil Rights, Philadelphia Office
US Department of Education
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323

Section 504 Grievance Procedures for Students Pursuing a Disability Discrimination Complaint

The following procedures are available to students and/or their parent/guardian and applies to disability discrimination and harassment carried out by students, employees or third parties.

How do you file a complaint of disability discrimination?

Incidents occurring in a school or at a school-sponsored activity should be reported in writing to the school administrator in charge when the alleged violation took place. All written complaints will be reviewed.

Incidents occurring at other AACPS locations shall be reported in writing to the Division of Human Resources (410-222-5286).

Assurance

AACPS will take steps to prevent the recurrence of any prohibited action and to correct its discriminatory effects on the complainant and others, if appropriate.

What are the procedures for student complaints?

1. Complaints must be filed in writing within 180 calendar days of the alleged discrimination, or 90 days after the complaining party becomes aware of the alleged discrimination. There is no standard form for entering a complaint. However, all complaints must contain the following:
 - a. Name and address of the complaining party;
 - b. A description of the violation of the law or unlawful discriminatory act; and
 - c. The date of the alleged act and the name of all persons alleged to be responsible.

Complaints may be filed by the student alleging discrimination or by his/her parent/guardian.

2. Adequate, reliable, and impartial investigations, including the opportunity to present witnesses and other evidence shall be conducted with respect to all timely filed complaints of discrimination.
3. Complaints shall be resolved within 60 calendar days of their filing with written notice delivered to the complaining party and the respondent of the outcome of the investigation and basis for decision.



Request for an Administrative Review

I understand that this is a mandatory review in Anne Arundel County Public School's Conflict Resolution Process. I understand that the Section 504 Office will schedule a review of my complaint within 30 calendar days from the receipt of this request

Student Information		
Student Name	Birth Date	School

Person Filing the Request		
Name	Relationship to Student	Work Phone
Address		Home Phone
Email:	Fax	Cell Phone

Brief description of the problem(s) and relevant facts. Attach additional pages as needed.

Brief description of the proposed remedy or solution. Attach additional pages as needed.

<input type="checkbox"/> I am requesting an Administrative Review	<i>Applicant's Signature</i>	<i>Date</i>
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Send completed request to: Section 504 Office
 Student Services Satellite Office at Annapolis Middle School
 1399 Forest Drive, Room 123-B, Annapolis, MD 21403
 Phone: 410-626-0207/0208 Fax: 410-626-0209

Summary of Legal Rights for Parents

You have the right to:

1. Have the school system advise you of your rights under *Section 504*.
2. Have your child with disabilities take part in, and receive benefits from, public education programs without discrimination because of the disability.
3. Receive all information in your native language or other primary mode of communication.
4. Have your child receive a free, appropriate public education (FAPE).
5. Have your child be given an equal opportunity to participate in school programs and extracurricular activities sponsored by the school.
6. Receive notice before the school identifies or evaluates your child or changes your child's educational placement.
7. Inspect and review all of your child's educational records, including the right to obtain copies at a reasonable cost. You will not be charged for a copy of your child's record if the cost would prevent you from inspecting and reviewing the records.
8. Request an amendment to the record if you believe information contained in the record is inaccurate or misleading or violates your child's privacy or other rights. If the school system refuses to amend the record, you have the right to request a hearing and/or to place in the record a statement of why you disagree with the information it contains.
9. Have educational evaluation and placement decisions based on information from a variety of sources and by persons who know your child's educational needs, the meaning of the evaluation information, and the placement options available in the school system.
10. Have the Section 504 Plan reviewed at least annually, if one is developed, and have the student re-evaluated every three years or before any significant change is made in your child's placement.
11. Be included in decisions or actions regarding your child's identification, evaluation, educational program or educational placement.
12. Appeal any decision made by the Section 504 Team through the AACPS Conflict Resolution Procedures and/or to the Office for Civil Rights.

Section 504 Resource PPW

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at Annapolis Middle School
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Office for Civil Rights

Office for Civil Rights, Philadelphia Office
U.S. Dept. of Education
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
Phone: 215-656-8541
Fax: 215-656-8605



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COUNTY PUBLIC SCHOOLS

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