

SECTION 504 PROCEDURAL SAFEGUARDS

Waynesboro Public Schools are committed to providing full educational opportunity to all qualified disabled students under Section 504. A wide variety of accommodations, modifications, and services are available to children with special needs. These services are provided in the least restrictive environment and at no cost to the parents. Alternative education programs are developed to meet the specific needs of each eligible child to provide him/her a free, appropriate public education.

Referrals are accepted from any source either within or outside the school division. A committee comprised of professionals in the school division will screen all referrals to determine whether evaluations are needed. If so, the referral process will begin and testing will follow shortly.

To be found eligible for services under Section 504, children must be assessed on current educational performance that includes identifying instructional strengths and weaknesses. This report will include summary of standardized test data, attendance information and samples of classroom performance. Other information such as medicals, psychological, speech/language, PT/OT, audiological, developmentals, vision reports, etc. should be utilized where appropriate and/or necessary. All of these are provided by the school division at no cost. After these have been completed, an Eligibility Committee will meet to determine whether the student is eligible for services, accommodations and/or modifications. If so, a 504 Alternative Education Program will be developed with the parents' help, and then the needed services, accommodations and/or modifications will be provided.

Many different types of accommodations, modifications and services are available throughout the school division. They include, but are not limited to, modification of curricular content, adaptive equipment, accommodations for accessibility and such services as speech/language and PT/OT services. Each program is designed to meet the student's specific needs as identified in his/her 504 Alternative Education Program (AEP). Each student's progress is reviewed annually by school staff and parents and future goals and objectives are determined. For more information contact:

504 Coordinator
Waynesboro Public Schools
301 Pine Avenue
Waynesboro, VA 22980
946-4600

DEFINITIONS

An individual with a disability under 504 is any person who (1) has a physical or mental impairment which substantially limits one or more major life activities; (2) has a record of such an impairment; (3) is regarded as having such an impairment.

Physical or mental impairment is defined as:

- A. 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; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- B. Any mental psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- C. This definition is not exhaustive.

Major life activity is defined as:

- A. Functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, reading, concentrating, thinking, communicating, bending, lifting, standing, sleeping, and eating..

Substantially limits is defined as:

- A. An impairment which substantially limits an activity if it restricts the person's ability to perform that activity in relation to the average person.

Has a record of physical or mental impairment is defined as:

- A. Includes persons who have a history of a handicapping condition but no longer have the condition;
- B. Persons who have been incorrectly classified as having such a condition.

Regarded as having a physical or mental impairments is defined as:

- A. Persons who do not meet the definition of being disabled but are perceived and treated by others as being disabled.

Temporary disabilities

- A. A student with a temporary disability (e.g., burns, broken limbs, short-term illness, etc.) might be eligible under Section 504.
- B. Temporary disabilities must be resolved on a case-by-case basis, taking into consideration the duration of the disability and the extent to which it limits a major life activity.

Persons Excluded from Eligibility

An individual who is currently engaged in illegal use of drugs is excluded from eligibility. Three possible exceptions for individuals no longer engaging in drug use are:

- 1. The individual has successfully completed a supervised drug rehabilitation program and is no longer using drugs, or the individual has been rehabilitated and is no longer using drugs;
- 2. The individual is currently participating in a supervised rehabilitation program and is no longer using drugs; and
- 3. The individual has been erroneously regarded as engaging in the use of drugs but is not engaging in such use.

The term individual with a disability does not include:

- 1. Homosexuality or bisexuality;
- 2. Sexual behavior disorders;
- 3. Compulsive gambling, kleptomania, or pyromania;
- 4. Psychoactive substance use disorders resulting from current illegal drug use.

Free Appropriate Public Education is defined as:

- A. Regular or special education and related aids and services that are designed to meet individual educational needs of disabled persons as adequately as the needs of nondisabled persons.

Location and Notification

Waynesboro Public Schools annually conducts a public awareness campaign to inform the community of a person's right to a free appropriate education and the availability of services and/or accommodations to each qualified disabled person as previously defined. Procedures for informing the community will evidence the use of a variety of materials and media, and will provide for personal contacts with community groups and public and private agencies and organizations.

Waynesboro Public Schools maintains an active and continuing child find program design to identify, locate, and evaluate those children from 2 to 21, inclusive, who are in need of special services and/or accommodations under 504. Where such children are determined to be eligible for services/accommodations under 504, Waynesboro Public Schools will offer appropriate programs and placements consistent with each child's needs as determined by the 504 AEP.

Waynesboro Public Schools maintains procedures to assure the identification of qualified persons requiring services/accommodations under 504. All procedural safeguards shall be maintained during the identification, evaluation, eligibility, placement and re-evaluation process. These include (a) notice, (b) an opportunity for parents to examine relevant records, (c) an impartial hearing with opportunity for participation by parents and representation by counsel and, (d) a review procedure.

Evaluation/Eligibility

There will be a formal child study in each school to review records and other performance data of those children referred under 504. All referrals shall be made to principal and designee. The committee shall consist of at least three (3) persons, to include but not limited to principal/designee, teacher, referring source, and specialists. Parent should be included in the child study process.

The Child Study Committee shall meet within a reasonable period following referral. Action by the committee shall be documented in writing and include information upon which the decision is based. No formal assessment components shall be collected prior to referral for 504 evaluation and parental consent has been obtained. It is the responsibility of the child study committee to notify parents of the referral, obtain permission for evaluation and provide copies of procedural safeguards prior to submission of paperwork to the Coordinator of 504.

The Coordinator will record data, implement procedures for maintaining confidentiality of all data, initiate formal assessment procedures, and notify appropriate parties of meeting times for eligibility.

Waynesboro has procedures for evaluation under 504 which include:

- A. Written prior notification;
- B. Assignment of surrogate parent when necessary;
- C. Opportunity for an impartial hearing;
- D. Confidentiality;
- E. Opportunity for examination of records; and
- F. Nondiscriminatory testing.

These procedures will be the same as those stipulated in the A Special Education Services, Policies and Procedures@ manual.

The eligibility of children for services under 504 is based upon assessment involving educational performance. Specifically there must be a written report describing current educational performance that includes identifying instructional strengths and weaknesses. It is suggested that this report include, but not limited to, the summary of current classroom work. Other information such as medicals, psychological, speech/language, PT/OT, audiologicals, developmentals and vision reports, etc., should be utilized where appropriate and/or necessary.

The minimum assessment component(s) shall be completed by qualified professionals prior to review by the eligibility committee. Evaluation materials should be appropriate for intended use and reflect areas of educational need and not merely IQ. Selection and administration of tests should accommodate sensory, manual and speaking deficiencies.

Eligibility

Eligibility of children for services provided under 504 shall be determined by an eligibility committee within 65 days of receipt of referral by the Coordinator of 504. Membership of the eligibility committee shall include, but not be limited to, school division personnel representing the disciplines providing assessment components, classroom teacher and administrative designee. The eligibility committee shall review the assessment components, any pertinent information reported by an agency assigned legal custody of the child, and any other special reports to determine if (1) the child is an individual with a disability under 504 and (2) the type of disability and (3) the effect of any disability on the student in the school setting.

The eligibility committee shall follow due process procedures in the determination of eligibility and in ensuring the confidentiality of records.

The eligibility committee shall have a written summary which consists of essential deliberations supporting its findings as to the eligibility of each child for services/accommodations under 504. The summary shall be signed by each eligibility committee member present. The written summary shall be maintained in the child's confidential file(s). A statement shall be forwarded to the 504 AEP committee.

Placement/AEP

Waynesboro Public Schools will provide services/accommodations under 504 for eligible students. Placement and services will be determined by the 504 AEP committee within thirty (30) days of identification. The AEP committee will consist of, but not limited to, principal or designee, classroom teacher, parent and student where appropriate. No placement in special services by may be made prior to the development of the 504 AEP.

In determining placement/services, the AEP committee should:

- A. Draw upon information from a wide variety of sources;
- B. Ensure that all information regarding services is documented and considered;
- C. Ensure that placement decisions are made by a knowledgeable group of people; and
- D. Ensure that the least restrictive environment, maximum integration and comparable facilities are implemented.

The AEP shall consist of:

- A. A description of the mental/physical impairment;
- B. A statement of the impact on major life activity(ies);
- C. Description of the instructional adaptations, modifications or modifications provided.

The AEP should be reviewed annually. Procedural safeguards regarding the 504 AEP are detailed on page 4 of this document. Changes in placement for identified 504 students which result from disciplinary action shall be handled in the following manner:

A. Short-Term Suspensions:

1. Are for 10 school days or less;
2. Are not considered a significant change in placement;
3. Do not require a manifestation determination review;
4. The procedural safeguards notice does not have to be provided prior to suspension.

B. Long-Term Suspensions:

1. Are for more than 10 school days, or cumulative short-term suspensions exceeding 10 days that constitute a pattern;
2. Are considered a significant change in placement, thus requiring a re-evaluation and procedural safeguards notice;
3. The first step in the re-evaluation is to conduct an Manifestation Determination Review (MDR);
 - a. If it is determined that the misconduct does not arise from the disability, the disabled student may be suspended in the same manner as nondisabled students;
 - b. If it is determined that the misconduct is caused by the disability, the student cannot be suspended, and the re-evaluation must continue in order to determine if the student's current placement is appropriate.

C. In-School Suspension:

1. If, during the in-school suspension, the student's educational program or services are interrupted, and the suspension totals more than 10 school days, then in-school suspension would be considered a significant change in placement thus requiring an MDR.

Re-Evaluation

Students will be evaluated for continued eligibility of services every three (3) years, or more frequently if warranted, and when a significant change in placement is being considered. Notice must be given to the parent prior to assessment.

The following procedural safeguards under 504 include the right to:

- A. Notice;
- B. An opportunity to examine relevant records;
- C. An impartial hearing with the opportunity for participation by parents and representative by counsel, and;
- D. A review procedure.

Confidentiality/Maintenance of Student's Scholastic Records

Procedures for confidentiality and maintenance of students' scholastic records will be consistent with current practices and procedures.

Hearing Procedures under 504

1. Issues Giving Rise to a Hearing.

A hearing may be requested by any current student or employee over any complaint alleging discrimination based on disability including complaints concerning the identification, evaluation, and educational placement of students.

2. Requesting a Hearing.

Requests for hearings shall be made in writing and directed to the Coordinator. A hearing must be requested within ninety (90) days of the dispute giving rise to the hearing.

3. Appointment of a Hearing Officer.

A hearing officer will be appointed on a rotating basis by the Coordinator. The hearing officer must be appointed within ten (10) days of receipt of a request for a hearing and may not be an employee of Waynesboro Public Schools and will not be related to the complainant.

Pre-Hearing Procedures

- 1. The hearing officer is responsible for the following matters prior to the hearing;
 - a. Scheduling the hearing date and location and notification to the parties;

- b. Ascertaining whether the parties will be represented at the hearing;
- c. Insuring that the hearing is accurately recorded either by recording equipment or by a court reporter.

Hearing Procedures

1. The parties have the following rights in a hearing:
 - a. To be represented by counsel;
 - b. To present evidence and question witnesses;
 - c. To prohibit the introduction of evidence that has not been disclosed in advance;
 - d. To be obtained a copy of the transcript or a tape recording of the hearing (the cost of the transcript to be borne by the requesting party).
2. For hearings requested on behalf of students; the student may attend the hearing.
3. The hearing officer shall insure in connection with the hearing the following matters:
 - a. An atmosphere conducive to impartiality and fairness;
 - b. The appointment of a surrogate parent by the school division, if appropriate;
 - c. Maintenance of an accurate record of the proceedings;
 - d. 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.
 - e. The decision must be issued within forty-five (45) calendar days of receipt of the request for a hearing unless continued for good cause at the request of a party.

Review Procedures

1. An appeal may be noted by an aggrieved party by filing a written notice with the Coordinator within thirty (30) days of the date of the decision issued by the hearing officer.
2. A reviewing officer will be appointed by the Coordinator within ten (10) days of receipt of the request for review.

3. The reviewing officer shall:
 - a. Examine the record of the hearing;
 - b. Seek additional evidence, if necessary;
 - c. Afford the opportunity for written or oral argument;
 - d. Advise the parties of the right to be represented by counsel during the review proceedings; and
 - e. Issue a written decision.
4. 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.
5. The reviewing officer's decision must be issued within thirty (30) days of receipt of the request for an appeal, unless continued for good cause at the request of a party. A copy of the decision must be sent to all parties.
6. The record of the administrative hearings shall be sent by the reviewing officer to the Coordinator upon the issuance of the decision.
7. The Coordinator is responsible for maintaining all records of hearings and transmittal to court in the event of judicial proceedings.

At any time during these proceedings a complaint may be filed with the Office of Civil Rights for the United States Department of Education.

Mediation

Nothing under Section 504 prohibits the use of mediation. A request for mediation will be made in writing to the Coordinator. The Coordinator will initiate mediation.