

Administrative Guidelines for Section 504

September 2010



VIRGINIA BEACH CITY PUBLIC SCHOOLS

A H E A D O F T H E C U R V E

**ADMINISTRATIVE GUIDELINES
GOVERNING THE IMPLEMENTATION
OF SECTION 504
OF THE REHABILITATION ACT OF 1973**

VBCPS Vision Statement

Every student is achieving at his or her maximum potential in an engaging, inspiring and challenging learning environment.

VBCPS Mission Statement

The Virginia Beach City Public Schools, in partnership with the entire community, will empower every student to become a life-long learner who is a responsible, productive and engaged citizen within the global community.

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INTRODUCTION

The Section 504 Administrative Guidelines define the responsibilities of building administrators in protecting the rights of each and every student who meets the definition of disability under Section 504 of the Rehabilitation Act of 1973.

Section 504 specifically states...

No otherwise eligible individual with a disability . . . shall, solely on the basis of the disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Section 504 also requires the Virginia Beach City Public Schools (VBCPS) to offer a Free Appropriate Public Education (FAPE) to each eligible individual with a disability.

The statute ensures that an eligible student with a disability receives reasonable accommodations necessary for the student to access education, including school-related programs and activities.

Compliance with these procedures will ensure that these students have opportunities to access, and receive benefit from, school-related programs and activities available within the school division. Services provided to eligible students may not produce identical results or level of achievement with non-disabled peers, but they shall be designed to offer an equal opportunity to gain benefit.

WHO IS PROTECTED UNDER SECTION 504?

A PERSON MAY BE CONSIDERED TO HAVE A DISABILITY UNDER THE DEFINITION IN SECTION 504 IF THE INDIVIDUAL:

- a. has a mental or physical impairment which *substantially limits* one or more of the individual's *major life activities*,
- b. has record of such an impairment, or
- c. is regarded as having such impairment.

A team of individuals knowledgeable about the student determines if the student is eligible for Section 504. When a condition *does not* substantially limit a major life activity, the individual is **NOT** eligible for services under Section 504.

Physical impairment - any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, cardiovascular, reproductive, digestive, genitourinary, hemic or lymphatic, skin and endocrine.

Mental impairment— any mental or psychological disorders, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

WHAT DOES SUBSTANTIALLY LIMITS MEAN?

The Americans with Disabilities Amendments Act of 2008 (ADAAA) includes specific guidance for school divisions to use in determining whether an impairment “*substantially limits*” a major life activity. Substantially limits must be construed broadly.

The term “substantially limits” shall be interpreted consistently with the findings and the purpose of the act.

1. An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.
2. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. Thus, you must evaluate an impairment that is in remission as if an episode is occurring or the illness is in full force.
3. “Substantially limits” determination is to be made without regard to mitigating measures instituted to lessen the severity or intensity of the disability. *Mitigating measures* include: medication, medical supplies, low-vision devices, hearing aids and other implantable hearing devices, mobility devices, oxygen therapy equipment/supplies, assistive technology, reasonable accommodations, auxiliary aids/services, learned behavioral or adaptive neurological modifications (internal coping mechanism(s) used to compensate for a disability).

WHAT IS A MAJOR LIFE ACTIVITY?

Major life activity means functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, communicating, and major bodily functions.

In the school setting, consideration of major life activities includes those basic activities that are necessary to access learning. Even if there is no limit upon the ability to learn, the student may still be eligible if another major life activity is limited and that activity is necessary for the student to access opportunities for learning or other typically accessible school activities. The impairment need only limit one major life activity to be considered a disability under Section 504.

The corrective effects of mitigating measures (e.g., medicine, assistive technology, equipment, prosthetics, hearing aids, and mobility devices) cannot be considered in determining whether or not a student has a disability, except if the student wears eye glasses or contacts.

An impairment that is episodic or in remission is an impairment if it would substantially limit a major life activity when active. Thus, the Section 504 Committee shall evaluate an impairment that is in remission as if an episode is occurring or the illness is in full force.

CHILD FIND

The school division shall make an effort to locate every eligible child with a disability. Appropriate steps shall be taken to find any eligible child and notify the child’s parent/guardian and the student, if appropriate, of the school division’s use of Child Find procedures (e.g., record reviews, general

screenings, preschool advertisements, distribution of information in the community) or through other means necessary to comply with this requirement under Section 504.

REFERRAL/RECORD REVIEW FOR SECTION 504

I. Referral Process

1. When a teacher, the student's parent/guardian, private practitioner, agency representative, or other individual suspects that a student may have an impairment and may be eligible for services under Section 504, the school division shall respond by initiating the referral process.
2. The process should be initiated by the 504 Chairperson in response to any verbal, written, or electronic request initiated by any appropriate party familiar with the student's education. This information should be recorded in **Section I** of the **504-Referral** form when the referral is made.
3. The 504 Chairperson will establish a date for the Record Review Meeting and notify the student's parent/guardian or adult student to attend.
4. The meeting shall be held within ten (10) business days from the date of the referral. Written notification shall be sent using the **Section 504-Notice** form noting the intent to conduct a record review and to consider the student for eligibility under Section 504. Parental Rights/Procedural Safeguards shall be forwarded to the parent/guardian or adult student.
5. Parent/guardian/adult student permission is not required to review the records; however, every effort should be made to ensure the parent/guardian or adult student participates in the record review.
6. If it is suspected that a student requires specialized instruction under the Individuals with Disabilities Education Act (IDEA), the student shall be referred to the Special Education Committee.

II. Record Review Process

1. The members of the Section 504 Committee should include: (1) the principal/designee; (2) the 504 chairperson/guidance counselor (3) one or more of the student's teachers; (4) the parent/guardian; (5) the student, if appropriate; and (6) other staff knowledgeable of the student's functioning and the meaning of the data (e.g., school psychologist or school nurse, if appropriate).
2. Parent/guardian/adult students should be invited to participate as committee members. The Section 504 Committee can conduct the meeting if either the parent/guardian or the student cannot attend; however, it is incumbent that schools make multiple attempts to schedule the meeting at a mutually agreeable time and place in order to ensure the involvement of the parent/guardian or adult student. Use the **Section 504-Attempts** form to document attempts.
3. At the record review meeting, after the welcome, introductions, and explanation of Section 504 of the 1973 Rehabilitation Act, the principal/designee will review Parental Rights and Procedural Safeguards with the parent/guardian/adult student.

4. The Section 504 Committee shall document on **Section II** of the **504-Referral** form, the student's present level of performance, teacher reports and comments, health and development, and areas of concern.
5. Information on how the student functions in the school environment, as well as pertinent information from educational records (e.g., aptitude and achievement tests, report cards, medical, psychological, and other reports) should be reviewed and documented.
6. Input from the student's parent/guardian shall also be requested, presented, and considered by the committee and documented.
7. The committee shall decide whether the information available is sufficient to determine if the student has a mental or physical impairment, has a record of such impairment, or is regarded as having an impairment which substantially limits a major life activity.
8. If sufficient information exists to make a determination of eligibility, the committee will proceed to **Section IV** of the **504-Referral** form.
9. If additional information is required before a determination can be made, and the required information includes formal assessments, written, informed consent shall be obtained from the parent/guardian/adult student on the **Section 504-Consent** form. The requested assessments shall be completed, as well as a Section 504 determination of eligibility, within sixty-five administrative days of the referral date. The 504 Chairperson shall establish a date and time for the follow-up meeting to consider the results of the requested assessments. The parent/guardian/adult student shall be invited to the follow-up meeting using the **Section 504-Notice** form.

III. Follow-up Meeting

1. The Principal designee shall introduce all parties attending the follow-up meeting and state the purpose of the meeting. Representatives capable of reviewing and interpreting any conducted assessments should also be present.
2. Information from the conducted assessments as well as signatures of all persons participating in the follow-up meeting shall be documented in **Section III** of the **Section 504- Referral** form.

IV. Determination of Eligibility

1. The members of the Section 504 Committee should include: (1) the principal/designee; (2) the 504 chairperson/guidance counselor (3) one or more of the student's teachers; (4) the parent/guardian; (5) the student, if appropriate; and (6) other staff knowledgeable of the student's functioning and the meaning of the data (e.g., school psychologist or school nurse, if appropriate).
2. If the school division provides notice to the parent/guardian or adult student and the parent/guardian or student does not attend, the committee may proceed without the parent.

3. The Section 504 Committee will determine if the student meets the requirements of an eligible individual under Section 504 by discussing the following: (a) if a mental or physical impairment exists, (b) if the impairment substantially limits any of the student's major life activities, (c) how the impairment affects the student across the educational program, and (d) if the student is eligible for an accommodation plan.
4. A written summary of the meeting shall be maintained in **Section IV** of the **504-Referral** form. The summary shall include all points discussed.
5. If the student is eligible under Section 504 of the Rehabilitation Act, the team should move forward with developing the Section 504 Plan. If the parent/guardian or adult student does not attend, a copy of the Plan shall be sent home. Provision of the notice of the VBCPS Parental Rights and Procedural Safeguards will constitute adequate notice to the parent/guardian/adult student of his or her rights pursuant to Section 504 of the Rehabilitation Act of 1973.
6. Conditions primarily the result of cultural, environmental, or economic factors (e.g., homeless, migrant, ESL, poverty, cultural factors, attendance problems, transiency, divorce, death of family member and other family crises, or military deployments) may not be considered disabling conditions under Section 504. Furthermore, students under the influence of illegal drugs or alcohol are exempted from the protections of Section 504 eligibility.

V. Section 504 Plan Development

1. Eligible students receive a written Section 504 Plan that shall be developed at the end of the determination meeting, or within a reasonable timeframe (usually within 30 calendar days) and documented on the **Section 504-Plan** form.
2. If the Section 504 Plan will be developed at a later date and not at the same meeting where the student was found eligible, the 504 Chairperson will establish a date for the meeting. Written notification of the Section 504 Plan development meeting shall be forwarded to the parent/guardian/adult student using the **Section 504-Notice** form.
3. The Section 504 Committee can conduct the meeting if either the parent/guardian or the student cannot attend; however, it is incumbent that the school make multiple attempts (use **Section 504-Attempts** form) to schedule the meeting at a mutually agreed upon time and place in order to ensure the involvement of the parent/guardian or adult student.
4. Accommodations shall be included in the Section 504 Plan, along with any modifications or services the student needs. Educational services, testing accommodations, and extracurricular activities shall be considered during the decision-making process. Accommodations and adaptations shall not lower, or substantially or fundamentally, alter curricular standards. The purpose of accommodations or modifications is to *equalize access to programs/activities*, and as such, does not necessarily ensure academic success.
5. All students with disabilities shall be given the opportunity to participate in state and local assessment programs. The Section 504 Committee shall determine how such participation will occur. The manner of participation shall be indicated in **Parts II, III, and IV** of the **Section 504-Plan** form. The parent/guardian/adult student shall be given adequate notice and an opportunity to participate in decisions about any accommodations that will be used during

testing. This decision will be made at the time the Section 504 Plan is developed and yearly thereafter for as long as the student remains eligible under Section 504. Section 504 students and their parent/guardian will receive the same notification of tests or diagnostic programs given to students without disabilities.

COMPLETION OF THE SECTION 504 PLAN

1. The Section 504 Committee should develop or select accommodations that enable the student to have *equal access* to school programs and activities.
2. During deliberations to select accommodations, the committee will consider if barriers are created for the student due to an impairment, and how academic and extracurricular areas are affected.
3. The accommodations or services provided will be determined by a consensus of the committee. The committee will document the accommodations and/or modifications selected to address the student's needs in **Part II** of the **Section 504-Plan** form.
4. Student participation in the Standards of Learning (SOL) and Division-Wide Assessments will be determined and documented in **Part III** of the **Section 504-Plan** form.
5. Student participation in alternative assessments, such as the Virginia Grade Level Assessment (VGLA) and the Virginia Substitute Evaluation Program (VSEP) will be determined and documented in **Part IV** of the **Section 504-Plan** form.
6. A sample list of state approved accommodations can be found in the appendices of this document.
7. Signatures of participants at this meeting shall be recorded in **Part V** of the **Section 504-Plan** form. Parental consent is not required for a Section 504 Plan.
8. The Section 504 Chairperson will provide copies of the Section 504 Plan to all staff members directly involved with the student and the school's testing coordinator (if testing accommodations are included in the Plan.)

REVIEW PROCEDURES FOR SECTION 504 PLAN

1. Section 504 Plans shall be reviewed at least annually, prior to the anniversary date. The Section 504 Committee will meet to review student information, which may include: current grades, attendance data, student records (including group administered achievement tests), work samples (as appropriate), and any information the parents may provide. Revise the Section 504 Plan as needed based on the present level of functioning and confirm the re-determination date with the Section 504 Committee.
2. During the Section 504 annual review meeting, the Section 504 Committee will complete the **Section 504-Plan** forms following the guidelines in the Selection of Accommodations and Plan Development section of this document.

3. Signatures of all persons participating in the Section 504 annual review meeting shall sign **Part V** of the **Section 504-Plan** form.
4. The Section 504 Chairperson will provide copies of the Section 504 Plan to all staff members directly involved with the student and the school's testing coordinator (if testing accommodations are included in the Plan.)

REVIEW PROCEDURES FOR SECTION 504 REDETERMINATION

When the Section 504 Committee is re-considering eligibility, the team will complete the **Section 504-Referral** form, Parts I, II, and IV. Part III will be completed as needed.

TRANSFER STUDENTS

When a student transfers into VBCPS with a Section 504 Plan, the Section 504 Chairperson at the school shall schedule a Section 504 meeting within 10 business days. The Section 504 Committee will complete a records review and determination of eligibility in order to make a local decision as to whether the child is eligible and requires an accommodation plan. Until such meeting occurs, the transfer Section 504 Plan shall be implemented.

PARENTAL RIGHTS AND PROCEDURAL SAFEGUARDS

The parent/guardian/adult student shall be given the VBCPS Section 504 Parental and Procedural Safeguards under the law. Once a student has been referred to the Section 504 Committee, the school shall notify the student's parent/guardian, or the adult student prior to: (1) holding a screening meeting to review records, (2) determining eligibility, or (3) developing or revising a Section 504 Plan.

The parent/guardian or adult student shall also be made aware of their right to: (1) notice of proposed actions related to eligibility and/or a Section 504 Plan; (2) consent to the administration of any individually administered assessments; (3) be notified of the initial placement of their child; (4) have an assessment that considers information from more than one source; (5) have a committee knowledgeable about their child and assessment procedures to determine eligibility; (6) examine all relevant records of their child, to challenge that information, and to consent to the release of that information; (7) periodic re-assessments, including a re-assessment before any significant change in placement; (8) have his or her child educated in the least restrictive environment; (9) file a complaint with the Office for Civil Rights; (10) request an impartial hearing over disagreements and to be represented by counsel in the hearing; and (11) appeal the impartial hearing officer's decision to court.

IMPARTIAL HEARING PROCEDURES

The parent or an adult student with a complaint alleging discrimination based on a mental or physical impairment may request a hearing. Requests for a hearing must be made in writing and be directed to the Section 504 central office coordinator and received within forty-five (45) calendar days of the dispute that gave rise to the hearing. The Virginia Beach City Public Schools will appoint an impartial hearing officer within ten (10) calendar days of receipt of the request for a hearing.

Virginia Beach City Public Schools will be responsible for the costs of the hearing officer and for providing a location for the hearing.

When requested, Virginia Beach City Public Schools will provide a copy of the student's educational records to the hearing officer and the parent/guardian/adult student prior to the hearing. The school division will be responsible for making an audio recording of the impartial hearing. Either party may have the hearing transcribed by a court reporter, but the party hiring the court reporter will be responsible for the costs associated with the court reporter.

Each party will exchange witness lists at a date to be determined by the hearing officer. Should the parent/student request that a school division employee attend the hearing as a witness, the school division will arrange for the employee to attend the hearing if the employee's attendance at the hearing will not conflict with the employee's work responsibilities. Students will not be required to attend any hearing and will not be excused from instructional time to testify at a hearing. Any party that brings an expert witness will be responsible for the costs of the expert. If witnesses can not testify in person, other methods of obtaining the witnesses' information may be accepted. The hearing officer will resolve any disagreements regarding witnesses or evidence.

Hearing Procedures

The parties requesting a hearing have the right to: (1) representation by counsel, (2) present evidence, (3) prohibit the introduction of evidence that has not been disclosed in advance, and (4) obtain an audio recording of the hearing at cost.

Responsibilities of the Hearing Officer

Virginia Beach City Public Schools will secure a hearing officer. The hearing officer will determine all points of order and will determine what evidence may be accepted. The hearing officer will not be bound by legal rules of evidence or procedure. Either party may seek a review of the hearing officer's decision by a court of competent jurisdiction. It is the hearing officer's responsibility to ensure that, in connection with the hearing, there is an atmosphere conducive to impartiality and fairness. If necessary, the hearing officer also must ensure that a surrogate parent is appointed by the school division. An accurate record of the proceedings must be maintained. The hearing officer must provide all parties with a written copy of the findings of fact, and conclusions of law based on the evidence presented in the hearing, within forty-five (45) days of receipt of the request for a hearing unless the hearing is continued for good cause at the request of either party. The burden of proof is assigned to the party requesting the hearing.

DISCIPLINE/SUSPENSION/EXPULSION

Any time a student is barred from school by school officials, the action should be regarded as a suspension. Refer to School Board Policy 5-21 and School Board Regulations 5-21.1 dated 04/04/2006, 5-21.2 dated 06/05/2001, and 5-21.3 dated 06/20/2006 (as amended).

I. Applicability of Policy

These procedures apply to students identified under Section 504 of the Rehabilitation Act of 1973. In addition to the requirements set forth in these procedures, the VBCPS disciplinary procedures shall be followed.

II. Short -Term Suspensions (10 days or less)

Students with a Section 504 Plan may receive suspensions of 10 days or less under the same disciplinary procedures applicable to all students. Additional procedures may be required in cases of cumulative short-term suspensions exceeding 10 days in a school year when these suspensions constitute a change in placement. Factors to consider in determining whether the multiple short-term suspensions amount to a change in placement include: 1) the length of each suspension, 2) the proximity of the suspensions to each other, and 3) the total amount of time the student will be excluded from school. If in considering these factors the additional suspensions will result in a change in placement, then the procedures applicable to long-term suspensions and expulsion shall be followed.

III. Long-Term Suspension and Expulsion

Prior to imposing a long-term suspension or expulsion of a student with a Section 504 Plan, the Section 504 Committee shall convene a manifestation meeting to determine if the misconduct in question had a direct and substantial relationship to the impairment and if the misconduct was a direct result of the school's failure to implement the Section 504 Plan.

1. A manifestation meeting shall be conducted within 10 business days of the disciplinary action. The 504 Chairperson shall send a **Section 504-Notice** form to the Section 504 Committee members once a mutually agreed upon time and place has been arranged with the parent(s).
2. Convene a meeting with committee members comprised of those individuals knowledgeable about the student's impairment through direct observation or review of records. Document the proceedings on the **Section 504-Manifestation** form.
3. The committee's composition shall include a representative of the Office of Programs for Exceptional Children, the principal/designee, one general education teacher of the student, the parent/guardian, the student (if appropriate), and other staff knowledgeable about the student's level of functioning and the misconduct.
4. If it is determined that the misconduct is not caused by the student's impairment or the school's failure to implement the Section 504 Plan, the student may be disciplined in the same manner as are students without impairments. The **Section 504-Manifestation** Form shall be forwarded to the Office of Student Leadership as a component of the discipline packet for processing.
5. If it is determined that the misconduct of the student is caused by the impairment, the student may not receive a long-term suspension or expulsion and shall be returned to the current placement.
6. The parent/guardian/adult student shall be informed that, if he or she disagrees with a decision as to whether the misconduct was caused by an impairment or to a subsequent placement decision, he or she can challenge the decision through procedures outlined in the VBCPS **Section 504 Parental Rights and Procedural Safeguards**.

SECTION 504 ROSTER

Section 504 rosters will be required on a quarterly basis and shall be submitted by the 504 Chairperson to the Section 504 Coordinator in the Office of Programs for Exceptional Children. Due dates for roster submissions are: **November 10th, January 28th, April 7th, and June 30th for the 2010-2011 school year.**

SECTION 504 QUESTIONS AND ANSWERS

1. What is a Section 504 Plan?

A Section 504 Plan is designed by the Section 504 Committee to provide reasonable accommodations to assist an eligible student to access school related activities and programs. In contrast, students receiving special education and related services through an Individualized Education Program (IEP) are not typically provided a Section 504 Plan because the IEP should address the student's accessibility needs and other Section 504 protections, and therefore, satisfies the division's obligations under Section 504.

2. What is the Section 504 Committee?

Each school has a Section 504 Committee that is knowledgeable about the requirements of Section 504 and which operates under the direction of the building principal. When the Committee makes decisions particular to an individual student, persons who are knowledgeable about the student, who have expertise in the areas of suspected impairment, and who have expertise in interpreting data, are added as members. The membership may consist of the principal/designee, the Section 504 Chairperson, the child's general education teacher, the parent/guardian, the student (if appropriate), and specialists or other personnel deemed appropriate by the designee. The Section 504 Committee's purpose is to process referrals, to review assessment information, and to develop Section 504 Plans for the students who qualify under Section 504.

3. Does Section 504 require an evaluation?

Yes. An "evaluation" does not necessarily mean a "test" or "formal testing." Rather, under Section 504, it refers to the process of gathering data and/or information from a variety of sources so that the Section 504 Committee can make the required determinations. Common sources of evaluation data are grades, disciplinary referrals, health information, standardized test scores, teacher comments, observations, previous eligibility components, medical reports, etc. If individually administered, formal assessments are pursued, the Section 504 Chairperson must obtain written, informed parental consent.

4. When is the student eligible under Section 504?

The decision regarding whether or not a student is eligible under Section 504 is made on a case-by-case basis. The Section 504 Committee reviews each student's individual information to determine whether there is a physical or mental impairment that substantially limits a major life activity. The Committee considers the nature and severity of the impairment, its duration or expected duration, and the long-term impact of the impairment on the student's opportunity to access and benefit from programs and activities offered by VBCPS. If the student is eligible under the Individuals with

Disabilities Education Act (IDEA), the student meets the eligibility requirements under Section 504; however, the student's IEP satisfies the division's Section 504 obligations.

5. *Can a student with a temporary impairment be eligible for programs under Section 504?*

The U.S. Department of Education has determined that a temporary impairment that substantially limits a major life activity can constitute an impairment under certain circumstances such that a Section 504 Plan might be required. The proper inquiry is not "whether the impairment is temporary or permanent" but instead "whether the impairment will have a considerable and long-term impact" on the student's education. In some cases, a non-permanent impairment may have a significant impact on a student's education. This shall be determined on a case-by-case basis.

6. *Can a student be exited from Section 504?*

Yes. Once a student no longer meets eligibility requirements, the Section 504 Committee may exit the student from the Section 504 Plan with notice of procedural safeguards to the parents/guardian/adult student. This re-determination may consist of a review of existing information by the Section 504 Committee.

7. *What is the division's duty to serve students under Section 504 when placed by their parents/guardians in private or home schools?*

Once the division has offered the student a free appropriate public education, it has no duty under Section 504 to provide educational programs to students not enrolled in the public school program based on the personal choice of the parent/guardian. Parents retain the right to refer their child to their neighborhood/zoned, public school if they suspect an impairment.

8. *If a student has a Section 504 Plan, are accommodations for state standardized testing provided?*

If a student has testing accommodations listed on the Section 504 Plan as part of the general education instructional program, then accommodations for the state assessment programs should be considered by the Section 504 Committee. Testing accommodations are only provided to give the student an *equal opportunity to access the test and demonstrate achievement*, not an increased advantage to obtain a better score.

9. *Can the Section 504 Committee ensure accommodations to ACT/SAT/AP exams?*

No. If a student is eligible under Section 504 and the Section 504 Plan lists testing accommodations as part of the general education instructional program, parents can request that a school release information to the governing body/agency that governs the ACT/SAT/AP or other such exams.

The governing body/agency will review the accommodations a student is receiving under Section 504, and make its own independent determination of whether accommodations to college entrance/credit exams will be allowed.

10. *What are the school division's obligations to provide transition services or evaluations for students leaving VBCPS to enter the postsecondary setting?*

Virginia Beach City Public Schools is not required to provide transition services for students being served under a Section 504 Plan or evaluations for graduating students who have received accommodations or services through a Section 504 Plan. A parent/guardian/adult student has the right to request copies of the student's educational records, which may be helpful in seeking accommodations in college.

Students and their parents are encouraged to familiarize themselves with the protections under Section 504 offered in the college or other postsecondary educational setting. The Office for Civil Rights in the U.S. Department of Education enforces Section 504 and the Title II of the American with Disabilities Act. Its website, www.ed.gov/ocr, offers helpful information and resources.

11. *What are "care plans," "health care plans," and "medical alerts?" How are they different from Section 504 Plans?*

Many students with health conditions require an organized medical treatment plan to be implemented in the school setting. School nurses work with parents and school staff to ensure that the medical needs of such students are met. Often, a document that reflects the student's medical needs is created by the school nurse (in conjunction with parents and physicians). This document, frequently called a "health care plan," is maintained in the student's health record and is shared with the student's teachers, with parental permission, on an as-needed basis. Many students with asthma, diabetes, allergies, or other conditions have such plans. Occasionally, though, a student's health issues may have an academic impact or may affect his or her ability to participate in a typical school or classroom activity. In such cases, a Section 504 Plan may also be needed so that classroom teachers can make allowances, adjustments, or modifications to their instruction.

Essentially, the difference between a "health care plan" and a "Section 504 Plan" is that some action is required by the classroom teacher(s) in order for the student to have equal access to school related activities and programs. The existence of a health condition, in and of itself, does not necessitate the development of a Section 504 Plan.

Alternative formats of this publication that may include taped, Braille, or large print materials are available upon request for individuals with disabilities. Call or write the Office of Programs for Exceptional Children, 1413 Laskin Road, Virginia Beach, VA 23451. Telephone: (757) 263-2400 Fax: (757) 263-2067.

FORMS

Form List

- Checklist: 504 Referral/Eligibility/Plan Meeting
- VBCPS Section 504 Parental Rights and Procedural Safeguards
- Notice to Parent/Guardian/Adult Student of Section 504 Action/Procedures
- Records of Attempts to Secure Participation in the Section 504 Conference
- Section 504 Referral and Determination of Eligibility
- Parent/ Guardian/Adult Student Consent for Section 504 Evaluation
- Section 504 Plan
 - Accommodations
 - SOL and Division-wide Assessments
 - Alternative Assessments
- Sample List of Virginia Department of Education (VDOE) approved Accommodations
- Section 504 Manifestation Determination Review
- Section 504 Roster
- Functional Behavioral Assessment Records Review Worksheet
- Functional Behavioral Assessment Observation Worksheet
- Functional Behavioral Assessment Interview Worksheet
- Functional Behavioral Assessment Summary
- Behavioral Modification Plan



VIRGINIA BEACH CITY PUBLIC SCHOOLS

A H E A D O F T H E C U R V E

Office of Programs for Exceptional Children

CHECKLIST: 504 REFERRAL/ELIGIBILITY/PLAN MEETING

PRIOR TO MEETING THE 504 CHAIRPERSON WILL:

- ❑ At least 10 days prior to the projected meeting date contact the parent to secure a mutually agreed upon date and time for the meeting.
- ❑ Seven to ten calendar days prior to meeting, send written notification to the parent confirming the agreed upon date. Document attempts to secure parental participation on the **Section 504-Attempts** form.
- ❑ Notify all team members of time and place of meeting well in advance of the meeting date.

AT THE MEETING THE PRINCIPAL/DESIGNEE WILL:

- ❑ Welcome participants, make introductions, and review purpose of meeting.
- ❑ If necessary, complete the *Disclosure of Records* form and have the parent sign for any individual attending the meeting the parent has invited. Maintain the form in the student's record.
- ❑ Review VBCPS Parental Rights and Procedural Safeguards Notice pertaining to Section 504; provide a copy to the parent(s).
- ❑ Conduct a records review – document the present level of functioning in the educational setting such as grades, attendance, discipline record, most recent evaluations, local and state assessments, and other.
- ❑ In consideration of all information shared at the eligibility meeting, discuss and answer the following:
 - Does the student have a mental or physical impairment?
 - What major life activity is substantially limited?
 - Does the impairment substantially limit the major life activity?

NOTE: Consider the following factor in determining eligibility under the *Americans with Disabilities Amendments Act of 2008*.

- Environmental, cultural, and economic background are not themselves covered
 - Mitigating measures cannot be considered to exclude a student from eligibility, except in the case of eye glasses or contacts.
- ❑ If the answer to any of the eligibility questions is “no,” the student is **not** eligible under 504.
 - ❑ Complete eligibility documentation on Part IV of the Section 504-Referral Form.
 - ❑ Provide copies of all documents to parent/guardian/adult student.
 - ❑ If the student is found eligible under Section 504, a Section 504 Plan shall be developed within 30 calendar days. In the development of the Plan, consider reasonable accommodations necessary to provide an equal opportunity for the student to participate in the general curriculum.
 - ❑ Identify the case manager and share the Section 504 Plan with all necessary staff members directly involved with the student, including the testing coordinator, if appropriate.

VIRGINIA BEACH CITY PUBLIC SCHOOLS

SECTION 504

PARENTAL RIGHTS AND PROCEDURAL SAFEGUARDS

The Rehabilitation Act of 1973, commonly known in the schools as “Section 504,” is a federal law passed by the United States Congress with the purpose of prohibiting discrimination against persons with disabilities who may participate in, or receive benefits from, programs receiving federal financial assistance. In the public schools specifically, Section 504 applies to ensure that eligible students with disabilities are provided with educational benefits and opportunities equal to those provided to students without disabilities.

The purpose of this notice is to inform parents and students of the rights granted to them under Section 504 of the Rehabilitation Act of 1973. The intent of the law is to keep you fully informed concerning decisions about your child and to inform you of your rights if you disagree with any of these decisions.

There are several times during the planning process when parent/guardian/adult student should be provided his or her rights under Section 504:

- when a referral has been received,
- when a Section 504 Plan is developed, and
- before there is a significant change in eligibility or the Section 504 Plan.

You have the right to:

1. Notice of proposed actions related to eligibility and/or a Section 504 Plan;
2. Consent to the administration of any individually administered assessments and to be notified of the initial placement of your child;
3. Have an assessment that considers information from more than one source;
4. Have a committee knowledgeable about your child and assessment procedures determine eligibility;
5. Examine all relevant records of your child, to challenge that information, and to consent to the release of that information;
6. Periodic re-determination, before any significant change in placement;
7. Have your child educated in the least restrictive environment;
8. File a complaint with the Office for Civil Rights;
9. Request an impartial hearing over disagreements and to be represented by counsel in the hearing; and
10. Appeal the impartial hearing officer’s decision to court.
11. Contact the Virginia Beach City Public Schools’ Director of the Office of Programs for Exceptional Children, 1413 Laskin Road, Virginia Beach, VA 23451, Telephone: (757) 263-2400 Fax: (757) 263-2067 to file a complaint concerning discrimination based upon disability.

FOR ADDITIONAL INFORMATION, PLEASE CONTACT THE SECTION 504 COORDINATOR AT YOUR CHILD’S SCHOOL.

Parent/guardian/adult student should be notified of all meetings pertaining to the Section 504 process in regard to their child and be encouraged to participate in each step of the process. The Parent/guardian/adult student has the right to invite additional persons to attend these meetings. A copy of the meeting minutes and all evaluation reports will be made available at no cost.

Consent

Notification to parents is required prior to considering whether a student is a student with an impairment under Section 504. This notice should include a copy of these rights. Written, informed parental consent is

required prior to the administration of individually administered assessments to a student. If such evaluations and/or tests are being conducted as part of a re-determination, parent/guardian/adult student consent is also required. Parent/guardian/adult student consent is encouraged, but not required in order for the school to provide services in the general education setting.

VBCPS SECTION 504 PARENTAL RIGHTS AND PROCEDURAL SAFEGUARDS

Records

The Parent/guardian/adult student has the right to review and request copies of records at his or her expense. Information from the Section 504 meetings is confidential and can be released only upon written permission of the Parent/guardian/adult student. Records should be maintained in the student's educational record. The Parent/guardian/adult student has the right to request that information in these records be amended if they believe that the information is incorrect, misleading, or in violation of the child's right to privacy. The school division shall decide within a reasonable time of the request whether to allow such amendment. If the requested amendment is not agreed to by the school division, the parent/guardian/adult student has the right to request a hearing to challenge that decision. The hearing shall be held within a reasonable time of the request and may be conducted by any individual, including an official of Virginia Beach City Public Schools, who does not have a direct interest in the outcome of the hearing.

Office for Civil Rights

Parents also have the right to file a complaint with the Office for Civil Rights (usually the regional office), which in addition to technical assistance activities, conducts compliance reviews and complaint investigations. The complaint generally shall be filed within 180 days of the alleged discriminatory action. The address is:

Office for Civil Rights, District of Columbia Office
U.S. Department of Education
1100 PA Ave, NW., Rm. 316
P.O. Box 14620
Washington D.C. 20044-4620
(202) 786-0500; FAX (202) 208-7797; TDD (877) 521-2172

VIRGINIA BEACH CITY PUBLIC SCHOOLS
Notice to Parent/Guardian/Adult Student of Section 504 Action

Date _____ Student _____ DOB _____ School _____

Dear Parent/Guardian/Adult Student:

This is to notify you that a meeting for the above student has been scheduled. The purpose of this meeting is to (more than one item may be checked):

- Conduct a record review meeting to determine if your child, or you, as the adult student, may have a disability requiring a Section 504 Plan.
- Conduct a determination meeting to decide if your child, or you, as the adult student, meets the requirements for a qualified individual under Section 504.
- Conduct a Section 504 Plan meeting to decide what accommodations, if any, are required.
- Determine if your child, or you, as the adult student, continues to be eligible for a Section 504 Plan
- Conduct a review of the Section 504 Plan.
- Determine if recent misconduct which resulted in a recommendation for disciplinary action was a manifestation of your child's, or your disability, as the adult student.
- Other _____

This meeting has been scheduled for: Date _____ Time _____

Location _____

Representatives of the following positions are invited to attend and participate in the meeting:

Name	Position

Additionally, the parent/guardian/adult student and school division may invite other persons who have knowledge or special expertise regarding the student. The determination of the knowledge or special expertise of any individual is made by the person(s) extending the invitation to attend the meeting. Any such individual(s) should be able to participate in the meeting and provide information useful in making appropriate decisions about the student's educational program and individual needs. Prior to the meeting, please notify the school of any individuals you are inviting to ensure that the meeting space will accommodate all the team members. For information regarding these procedures, you may contact the principal or assistant principal of your child's school. You may also contact the Office of Programs for Exceptional Children, 1413 Laskin Road, Virginia Beach, VA 23451, Telephone: (757) 263-2400 Fax: (757) 263-2067.

If you cannot attend this meeting and wish to arrange an alternate date and time or if you have questions, please contact me at (757) _____. Also, please notify us if you will need any special accommodations for the meeting.

Sincerely,
Principal/Designee

**VIRGINIA BEACH CITY PUBLIC SCHOOLS
SECTION 504 REFERRAL**

1. REFERRAL: INITIAL REDETERMINATION TRANSFER

A. General Information:

School: _____ Date: _____
Student Name : _____ Genesis # _____ DOB: _____ Grade: _____
Address: _____ Zip Code: _____
Parent(s) Name(s): _____ Home Ph.: _____ Work Ph.: _____
Referring Individual: _____ Relationship to Student: _____

B. Referral Information: Student's disability: _____

- 1. Describe nature of concern(s) (What problems exist?) _____
- 2. In which setting is the problem manifested? _____

II. RECORDS REVIEW

Date of Meeting: _____

A. Review of Available Information (Include test scores, if appropriate)

- 1. Summarize present levels of performance (e.g., evaluations, attendance, grades, psychological reports, etc.):

- 2. Health and development (e.g., medication, medical reports, etc.):

- 3. Area(s) of concern (based on records' review and reports): _____
- 4. Is additional information needed? Yes No If yes, identify information needed _____

**If additional information includes evaluations or assessments, obtain consent below (Section IIB).

RECORD REVIEW MEETING (List participants)

_____ Principal/Designee	_____ Parent/Guardian/Adult Student	_____ Student
_____ Teacher	_____ Other	_____ Other

B. Parental Permission (Required prior to conducting any evaluations or assessments.)**

I _____ do _____ do not give consent for my child, _____ to receive the evaluations/assessments described above. I have been informed of my Section 504 due process rights and have received a copy of the VBCPS Section 504 Parental Rights and Procedural Safeguards. (Parent's/Guardian/Adult Student's Initial _____).

Date, time, and place to reconvene committee: _____

**VIRGINIA BEACH CITY PUBLIC SCHOOLS
SECTION 504 REFERRAL**

III. SECTION 504 FOLLOW-UP MEETING

Date of Meeting _____

Describe the result of additional information/evaluation requested:

Is there sufficient information to proceed to Section IV, **Determination of Eligibility**? _____ YES _____ NO

FOLLOW-UP MEETING (List participants.)

_____ Principal/Designee	_____ Teacher	_____ Parent/Guardian/Adult Student	_____ Other
_____ Teacher	_____ Teacher	_____ Teacher	_____ Teacher

IV. DETERMINATION OF ELIGIBILITY

Date of Meeting _____

- Does the student have a disability? _____ YES _____ NO If yes, what is it: _____
- Compared to other students in the general education environment, is the disability substantially limiting of one or more major life activities? _____ YES _____ NO
- Which major life activity is substantially limited? (Check all that apply:)
 seeing, walking, speaking, working, breathing, learning, sleeping
 reading, thinking, eating, hearing, major bodily functions other _____
- In what way is the major life activity substantially limited?

- Does the disability cause the student to be excluded from participation in, or denied the benefits of, the activities or educational programs (e.g., extracurricular activities, field trips, etc.)? If so, how?

- Other actions proposed or considered?

- Does the student qualify for a Section 504 Plan? YES NO ? If Yes, proceed to Section V.

SECTION 504 ELIGIBILITY DETERMINATION COMMITTEE (List participants.)

_____ Principal/Designee	_____ Parent/Guardian/Adult Student
_____ Teacher	_____ Teacher
_____ Teacher	_____ Teacher
_____ Other	_____ Other

VIRGINIA BEACH CITY PUBLIC SCHOOLS
Parent/Guardian/Adult Student Consent for Section 504 Evaluation

Date: ____/____/____

Student's Name: _____

DOB: ____/____/____

School: _____

Genesis #: _____

Grade: _____

- 1. Notice:** Additional evaluations have been requested in order to determine the cause, extent, or possible services for a suspected/documentated impairment. The reason for this referral is documented on the Section 504-Referral form (attached). The following evaluations are requested:

_____ **Educational/Developmental:** Written report based on education achievement testing.

_____ **Medical:** Written report based on information provided to the school nurse from a physician, including general medical history and any medical/health problems that may impede learning.

_____ **Psychological:** Written report from the school psychologist based on the use of a battery of appropriate instruments which may include individual intelligence test(s), psycho-educational tests, measures of perception, tests of personality and/or behavior, or other appropriate tests.

_____ **Classroom Observations/Record Review***

_____ **Other (list)** _____

*Classroom observations and record review do not require parent/guardian/adult student consent.

- 2. Permission:** A Section 504 Committee meeting will be held to discuss the results of the evaluations within 65 business days to determine educational program recommendations. I understand the reasons for the referral and the description of the assessment process.

_____ I give permission for the Section 504 evaluation

_____ I do **NOT** give permission for the Section 504 evaluation

_____ I have received a copy of the VBCPS Section 504 Parental Rights and Procedural Safeguards.

____/____/____
Month Day Year

Printed Name of Parent/Guardian/Adult Student

Signature of Parent/Guardian/Adult Student

VIRGINIA BEACH CITY PUBLIC SCHOOLS
Section 504-Plan (Cont.)

Part IV. Alternative Assessments

To qualify for the VGLA or VSEP, the 504 Committee shall answer the questions below for each content area or End-of-Course (EOC) SOL considered. A response of “No” for any question indicates that the student is NOT eligible for the VGLA for a specific content area or VSEP for a specific End-of-Course SOL.

Criteria for Participation in the Virginia Grade Level Assessment (VGLA):

1. Does the student have a current 504 Plan (or is one being developed)? **Yes** **No**
2. Does the student demonstrate his/her individual achievement of the Standards of Learning content by means other than multiple-choice test format? **Yes** **No**
3. As a result of a disability, is the student unable to demonstrate his/her individual achievement on the Standards of Learning test for the assigned course and grade level using available accommodations and/or formats? **Yes** **No**

Criteria for Participation in the Virginia Substitute Evaluation Program (VSEP):

1. Does the student have a current 504 Plan (or one is being developed)? **Yes** **No**
2. Is the student enrolled in a course or has passed a course that has an SOL EOC test and/or the student is pursuing a Modified Standard Diploma and is seeking certification to meet the literacy and/or numeracy requirements? **Yes** **No**
3. Does the impact of the student’s disability demonstrate to the 504 Committee that the student will not be able to access the SOL assessments even with accommodations and therefore requires a substitute evaluation? **Yes** **No**
4. Have all accommodations been considered for use with the student in the course/content submission area? **Yes** **No**

Does the student meet the participation criteria for the VGLA or VSEP? **Yes** **No** If yes, indicate the alternative assessment and the content areas or EOC SOL test (s) in which the student will be participating: _____ (Approval required by the Virginia Department of Education for VSEP. If student qualifies for VSEP contact the Section 504 Coordinator for additional forms.)

Part V. Section 504 Plan Development Participant Signatures:

Principal/Designee

Section 504 Chairperson

Teacher

Teacher

Teacher

Teacher

Other

Other

Other

VIRGINIA BEACH CITY PUBLIC SCHOOLS

SAMPLE LIST OF VDOE APPROVED TESTING ACCOMMODATIONS

- Flexible schedule (includes breaks during test within one school day)
- Group size (available to all students, as needed)
- Environmental modifications (e.g., special lighting, noise buffers, use of study carrel) (available to all students, as needed)
- Visual aids (e.g., magnifying glass, templates to show only one item at a time); for online, large computer monitor, screen magnifier
- Amplification equipment (e.g., hearing aid or auditory trainer)
- Large print test
- Assistance with directions (i.e., simplifying or clarifying directions) (available to all students, as needed)
- Extended test time
- Braille test/Braille answer document
- Reading of test items (except for the Reading SOL, unless otherwise meets qualification criteria)
- Audiotape version of test items (except for the Reading SOL, unless otherwise meets qualification criteria)
- Mark in test booklet or student responds verbally; for online, student responds verbally
- Math aids (e.g., abacus, manipulatives)
- Large diameter pencil, special pencil, pencil grip (available to all students, as needed)
- Respond by word processor, typewriter, Braille
- Augmentative communication device
- Spelling aids, spelling checker, spelling dictionary
- Calculator with additional functions like those routinely supplied to all students
- Plain English Mathematics test

VIRGINIA BEACH CITY PUBLIC SCHOOLS
SECTION 504 MANIFESTATION DETERMINATION REVIEW

Section 504-
Manifestation
Rev. 09-10

Name _____ DOB _____ Meeting Date _____

Genesis # _____ School _____ Grade _____

History of behavior in question as it relates to the misconduct: _____

Describe any interventions or strategies that have been implemented to deter the inappropriate behavior(s):

Questions:

Was the conduct in question caused by the student's disability, or did the conduct in question have a direct and substantial relationship to the student's disability? _____ Yes _____ No

Was the conduct in question a direct result of the school division's failure to implement the Section 504 Plan? _____ Yes _____ No

Decision:

After the review of the information and consideration of decision questions 1-2 (above), the committee determined:

The behavior of the student was not a manifestation of the student's disability, and relevant disciplinary procedures applicable to students without disabilities may be applied.

The behavior of the student was a manifestation of the student's disability; review of the Section 504 Plan will be determined.

If the misconduct was a manifestation of the student's disability and/or if the placement was inappropriate in relationship to the misconduct, the student may not be expelled or placed on a long-term suspension.

Action taken by the school division: (Check as applicable)

_____ Forward case to the Office of Student Leadership for disciplinary action.

_____ Refer to Section 504 Committee for revision of the Section 504 Plan.

Recommendations to the Section 504 Committee: _____

Manifestation Committee Participant Signatures:

Principal/Designee

Section 504 Chairperson

Central Office Coordinator

Teacher

Parent/Guardian/Adult Student

Other

Other

Other

I received a copy of the VBCPS Section 504 Parental Rights and Procedural Safeguards. _____
(Parent/Guardian/Adult Student Initials)

If the parent/guardian/adult student disagrees with the action taken by the school division, he/she should write a statement that explains this disagreement. The statement will be attached to these minutes.

VIRGINIA BEACH CITY PUBLIC SCHOOLS
FUNCTIONAL BEHAVIORAL ASSESSMENT
RECORDS REVIEW WORKSHEET

Student's Name _____ Date _____

1. Documents/records examined (list/summarize)

2. History of behavior problems

3. Previous interventions

4. Significant triggers/causes

5. Additional Comments

**SPECIAL EDUCATION SERVICES
FUNCTIONAL BEHAVIORAL ASSESSMENT
OBSERVATION WORKSHEET**

Student: _____ **Date:** _____

Observer: _____ **Setting:** _____

ANTECEDENT		BEHAVIOR	CONSEQUENCE	
Setting	Trigger		Result	Function
<i>Time, place, people, task, physical and/or emotional factors</i>	<i>What happened before the problem or desired behavior</i>	<i>Description of the problem behavior or appropriate behavior in observable, measurable terms</i>	<i>What happened after this behavior occurred</i>	<i>What did the student seem to obtain or avoid, by engaging in this behavior</i>

VIRGINIA BEACH CITY PUBLIC SCHOOLS
 FUNCTIONAL BEHAVIORAL ASSESSMENT
 INTERVIEW WORKSHEET

Student: _____ **Date:** _____

Interviewer: _____ **Respondent:** _____

Respondent's Relationship to Student

1. Describe the problem behavior.	
2. What interventions have already been tried?	With what results?
3. To what extent is the problem behavior predictable?	
4. When is the behavior most likely to occur?	When is the behavior least likely to occur?
5. Where is the behavior most likely to occur?	Where is the behavior least likely to occur?
6. With whom is the behavior most likely to occur?	With whom is the behavior least likely to occur?
7. What environmental conditions are most likely to trigger the behavior?	What environmental conditions are least likely to trigger the problem behavior?

VIRGINIA BEACH CITY PUBLIC SCHOOLS
FUNCTIONAL BEHAVIORAL ASSESSMENT
INTERVIEW WORKSHEET (Cont.)

8. How often does the behavior occur?	
9. How long does the problem behavior last?	How does it stop?
10. What happens after this behavior occurs?	
11. How do others react?	
12. Why does the student behave this way? What is the likely function (intent) of the behavior?	
13. What alternate (replacement) behaviors does the student already possess?	
14. What appropriate behaviors does the student need to learn?	
15. What is motivating/reinforcing to this student?	
16. Additional comments.	

VIRGINIA BEACH CITY PUBLIC SCHOOLS
FUNCTIONAL BEHAVIORAL ASSESSMENT SUMMARY

Student Name: _____ **DOB:** _____ **Genesis #:** _____

School: _____ **Current Placement:** _____

Purpose of Assessment: _____ **Case Manager:** _____

Record behavioral strengths and weaknesses for each assessment. Attach additional forms, as needed.

1. Records Review _____ Date of Review _____

2. Interviews

Person Interviewed _____ Date of Interview _____

Person Interviewed _____ Date of Interview _____

3. Observations

First Observation _____ Date of Observation _____

Second Observation _____ Date of Observation _____

4. Targeted Behaviors _____

VIRGINIA BEACH CITY PUBLIC SCHOOLS
BEHAVIOR MODIFICATION PLAN

Student Name: _____ **DOB:** _____

School: _____ **Grade** _____ **Date:** _____

Case Manager: _____

Target Behavior(s): _____

Baseline Data:

Evaluation of Plan: (persons responsible, data collection method, and frequency)

Prevention Activities:

Learning Activities:

Intervention Activities:

