

**The Americans with Disabilities Act,
Section 504 Accommodation Plans,
and Public Schools**



Handbook for Parents and Students

**UNION COUNTY PUBLIC SCHOOLS
NORTH CAROLINA
2011-2012**

In compliance with federal law, Union County Public Schools administers all educational programs, employment activities and admissions without discrimination against any person on the basis of gender, race color, religion, national origin, age, or disability.

MESSAGE FROM THE SECTION 504 COORDINATOR

The Union County Public School System adheres to Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA) as amended. These major federal legislative acts are designed to protect the civil rights of individuals with disabilities. Their intent is to prevent any form of discrimination based on disabilities. Section 504 Accommodation Plans do not guarantee success for students with disabilities; it guarantees an equal opportunity for success.

The purpose of this handbook is to provide parents and school personnel with an overview of Section 504 and the ADA, and specific, practical guidelines for schools to use when working with children who are eligible for protections and services under Section 504 and the ADA.

**Debbie J. Taylor
Director of Elementary Student Support Services
District Section 504 Coordinator**

July 2011

***For Section 504 and/or ADA issues related to employment within UCPS, please contact Dr. David Clarke, Deputy Superintendent for Human Resources.**

NOTICE OF PARENT AND STUDENT RIGHTS
UNDER SECTION 504
REHABILITATION ACT OF 1973

Section 504 of the Rehabilitation Act of 1973 is a non-discrimination statute barring discrimination on the basis of one's disability. Section 504 states: *No otherwise qualified individual with a disability shall solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination any program or activity receiving Federal financial assistance.* Under Section 504, a person is considered disabled if s/he suffers from a physical or mental impairment that substantially limits one or more major life activities, including but not limited to learning, walking, breathing, eating, working, and seeing.

The purpose of this notice is to inform parents and students of their entitlement to the following rights under Section 504:

1. You have a right to be informed by the school district of your rights under Section 504. (The purpose of this document is to advise you of those rights.)
2. Your child has the right to a free appropriate public education designed to meet his/her individual educational needs as adequately as the needs of non-disabled students are met.
3. Your child has the right to free educational services except for those fees that are imposed on non-disabled students or their parents.
4. Your child has a right to be educated with children who are not disabled, to the maximum extent appropriate.
5. Your child has a right to facilities, services and activities that are comparable to those provided for non-disabled students.
6. Your child has a right to an evaluation prior to an Initial Section 504 placement and any subsequent significant change in placement. You also have the right to request such an evaluation.
7. You have the right to receive notice and offer consent with respect to decisions regarding formal identification, evaluation and placement of your child.
8. Evaluation and placement decisions must be made by a group of persons (i.e., the Section 504 Committee), including persons knowledgeable about your child, the meaning of the evaluation data, the placement options, and the legal requirements for least restrictive environment and comparable facilities.
9. If eligible under Section 504, your child has a right to periodic formal or informal re-evaluations, generally every three years.

10. You have the right to notice prior to any action by the district in regard to the identification, evaluation, or placement of your child.
11. You have the right to examine relevant records and documents regarding your child.
12. You have the right to file a grievance if you believe that your child is being discriminated against on the basis of a disability. You may file a grievance of complaint with the district's Section 504 Coordinator (or designee), who will investigate the allegations to the extent warranted by the nature of the complaint in an effort to reach a prompt and equitable resolution. Please also see Policy 4 – 7.

The Section 504 Coordinator for the Union County Public Schools is:

Ms. Debbie J. Taylor
Union County Public Schools
400 North Church Street
Monroe, NC 28112
Phone: 704.296.1005

13. You have the right to an impartial due process hearing with the Superintendent's designee in regard to your child's identification, evaluation, or educational placement under Section 504. You and your child may take part in the hearing and be represented by counsel, if you choose to hire one. To do so, you should file a written Notice of Appeal with the Superintendent's designee after you receive written notice of the Section 504 Committee's action (s).

The Superintendent's designee is:

Dr. Denise Patterson
Union County Public Schools
400 North Church Street
Monroe, NC 28112
Phone: 704.290.1557

14. You have a right to file an appeal in accordance with the following Union County Public Schools Policy 4 – 18.

15. You also have a right to file a complaint with the Office for Civil Rights.

Office for Civil Rights, U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1475
Telephone: 202-453-6020
FAX: 202-453-6021; TDD: 877-521-2172
Email: OCR.DC@ed.gov

In compliance with federal law, Union County Public School system administers all educational programs, employment activities, and admissions without discrimination because of race, religion, national or ethnic origin, color, age, military service, disability, or gender, except where exemption is appropriate and allowed by law.

What is the Section 504 of the Rehabilitation Act of 1973?

Section 504 of the Rehabilitation Act is major federal legislation that applies to entities, like school districts, that receive federal funding. It is civil rights legislation to protect qualified persons with disabilities from any form of discrimination based on disabilities.

Section 504 does not guarantee success for students with disabilities; it guarantees an equal opportunity for success.

Definition of Disability Under Section 504 and the ADA

Under Section 504, a person is considered to have a disability if that person (29 U.S.C. Sec. 706 (8):

- (1) has physical or mental impairment which substantially limits one or more such person's major life activities or bodily functions.**
- (2) has a record of such impairment, or**
- (3) is regarded as having such an impairment.**

The Act defines a physical or mental impairment 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; genitor-urinary; hemic and lymphatic; skin and endocrine; or**
- (b) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.**

Major life activities include: Caring for one's self, performing manual tasks, walking, breathing, seeing, hearing, speaking, learning, working, reading, concentrating, thinking, sleeping, eating, lifting, bending and communicating.

Bodily functions include: the immune system, normal cell growth, digestive, bowel, and bladder functions, respiratory function, circulatory function, endocrine function, reproductive function, brain and neurological function.

Record of or Regarded as:

- Requires discrimination as a result of having a record of such a disability**
- Requires discrimination as a result of being regarded as having such an impairment.**

Episodic conditions or those that are in remission would be considered disability if the condition would substantially limit a major life activity or bodily function when active.

Section 504 does not cover students with learning problems which are attributable to economic, environment and/or cultural disadvantages.

Determining Substantial Limitation

To determine substantial limitation, the comparison is to “most people”.

Nondiscrimination and Physical Accessibility

Section 504 and the ADA require that programs are physically accessible for persons with disabilities. In other words, students cannot be denied access to programs simply because the programs are located in a physically inaccessible location. For example, if a sophomore in high school, in a wheelchair, wants to take biology, the school cannot deny the student taking this course simply because the class is located on the second floor of an inaccessible building. In this situation, the school must make the biology class accessible to the student, either by moving the class to an accessible location or making the existing classroom accessible. The physical accessibility requirement of Section 504 and the ADA does not mean that all buildings in a school district have to be accessible. Rather, all programs offered by the district have to be accessible. Therefore, if a program is housed in a building that is not accessible, the program must be moved or the building must be made accessible. Program accessibility requires that certain modifications and accommodations be made for students with disabilities. Making programs accessible often requires the provision of accommodations and modifications in teacher, classroom organization, homework assignments, and test requirements.

SPECIAL NOTE ON SECTION 504 AND STUDENT DISCIPLINE

Section 504 requires the implementation of certain procedural safeguards prior to a change in placement (a long term suspension or a series of short term suspensions which result in a change in placement). Once a proposed disciplinary consequence has resulted in a change in placement, the Section 504 team will convene to hold a Manifestation Determination Review meeting to consider the causal link between the conduct and the disabling condition.

However, unlike the disciplinary procedures enumerated under the Individuals with Disabilities Education Act (IDEA), the following applies to students eligible under Section 504:

- There is no requirement under Section 504 that educational services be provided during a long term suspension even when the cumulative number of days exceeds ten in one school year;
- Students currently engaged in the illegal use of drugs (not alcohol) are not eligible under Section 504 unless they are enrolled in or have completed a supervised drug rehabilitation program and are no longer using; and
- The ADA, in amending Section 504, states that school districts “may take disciplinary action pertaining to the use or possession of drugs or alcohol against any student with a disability who is currently engaging in the illegal use of drugs or in the use of alcohol to the same extent that such action may be taken against non-disabled student.”