

ORGANIZATION, PHILOSOPHY, AND GOALS

Philosophy and Goals

Declaration of Nondiscrimination—Students With Disabilities

This regulation supersedes Regulation 1454.5.

I. PURPOSE

To implement the School Board's nondiscrimination policy pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, and the Americans With Disabilities Act. This regulation is designed to eliminate discrimination against students on the basis of disability in any program or activity offered by the school division.

II. SUMMARY OF CHANGES SINCE LAST PUBLICATION

- A. In section I., reference to the Americans With Disabilities Act was added.
- B. In section III., the definition of "major life activities" was expanded.
- C. In section IV., language under Requirements was clarified.
- D. In section V., language under Program Accessibility was clarified.
- E. Section VII. was changed to delineate departmental responsibilities for the Section 504 Procedural Manual.
- F. Section VIII. was added to address rights of students in adult education programs.
- H. Section X. was added to address compliance responsibilities.

III. DEFINITION

Under this regulation, a student with a disability is defined as any student who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.

- A. "Physical or mental impairment" means one of the following:

1. 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.
 2. Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- B. The current illegal use of drugs or alcohol is not an impairment protected under Section 504.
1. The term “illegal use of drugs” means the use of alcohol or illegal drugs, the possession or distribution of which is prohibited by law.
 2. A student who has successfully completed a supervised drug rehabilitation program or who is participating in such a program and no longer engages in illegal drug use is not considered to be a current user of illegal drugs.
- C. “Major life activities” means functions such as caring for one’s self, performing manual tasks, seeing, hearing, speaking, breathing, learning, working, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, and communicating. A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

IV. REQUIREMENTS

No student shall, on the basis of a disability, be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity offered by the school division.

V. PROGRAM ACCESSIBILITY

Program managers shall take appropriate action to ensure that all programs or activities, within FCPS, when viewed in the entirety, are accessible to students with a disability.

VI. PUBLIC NOTICE

- A. The school division staff shall use a variety of materials and media to conduct a child find and other public awareness program to identify students with disabilities.
- B. A declaration of nondiscrimination shall be published annually in designated publications.

VII. RESPONSIBILITIES

The Department of Special Services shall be responsible for:

- A. The design, implementation, and maintenance of the Section 504 Procedures Manual.
- B. Issuing and updating the manual as required.

VIII. RIGHTS OF STUDENTS IN ADULT EDUCATION PROGRAMS

No student may be denied enrollment in an adult education program on the basis of disability. FCPS shall take into account the needs of such persons in determining the aid, benefits, or services to be provided.

IX. RIGHTS OF STUDENTS IN PRESCHOOL, ELEMENTARY, SECONDARY SCHOOLS

A. Free Appropriate Public Education

1. FCPS shall offer a free appropriate public education to each qualified student with a disability within the jurisdiction who is aged 2 to 21, inclusive.
 - a. The provision of an appropriate education involves services designed to meet the individual needs of the student with a disability through education in regular classes, or in regular classes with the use of supplementary services, or through special education and related services.
 - b. FCPS is not required to fund or provide educational services to a student with a disability who chooses not to enroll in FCPS if FCPS has a free appropriate education available for the student.
2. A free education is the provision of educational and related services without cost. This, however, does not exempt students with disabilities or their parents or guardians from paying any fees that are also imposed on nondisabled peers.
3. Services provided to a qualified student with a disability shall be designed to meet the student's individual needs as adequately as the needs of nondisabled peers are met.
4. Services provided to a qualified student with a disability are not required to produce identical results or levels of achievement with nondisabled peers to be considered equally effective. Services must be designed to offer an equal opportunity to gain the same benefit within the appropriate setting.
5. In providing for nonacademic and extracurricular services and activities, including meals and recess periods, a student with a disability shall participate with students without disabilities to the maximum extent appropriate to the needs of the student.

B. Identification and Evaluation

1. A student suspected of being qualified as an individual with a disability shall be referred to the school local screening committee.

- a. If the student is suspected of requiring special education services, the local screening committee shall proceed according to evaluation, eligibility, and placement procedures for special education.
- b. If the student is not suspected of requiring special education services, the local screening committee shall proceed according to Section 504 Procedures Manual and review all pertinent information, if needed, and determine whether the student qualifies as a student with a disability in accordance with the definition in this regulation.
- c. The parents shall be notified of the decision of the local screening committee and of their procedural rights.

C. 504 Plans

For each qualified student, a group of knowledgeable persons shall develop a 504 plan that specifies those accommodations to his or her educational program necessary to allow the student the opportunity to participate in or benefit from the programs and activities of the school division to the same extent as students who are not disabled.

D. Records

1. Records related to a student's disability are confidential and shall be maintained in accordance with the current version of Regulation 2701. Parents or guardians shall be permitted to examine their child's educational record.
2. The local school shall maintain a list of students with current 504 plans.

E. Procedural Safeguards

In the context of disciplinary actions, a committee of knowledgeable people shall convene to determine whether the student's conduct was caused by the student's disability when: (a) a decision is made to remove a 504-qualified student from school for more than ten (10) consecutive school days (expulsion and exclusion recommendations), or (b) the 504-qualified student is subjected to a series of removals during a school year that constitute a pattern and accumulate more than ten (10) school days.

- a. If a student is qualified only under Section 504, but not the Individuals With Disabilities Education Act (IDEA) and the student's conduct was caused by the student's disability, the committee of knowledgeable people shall determine whether the student's current education program should be modified.
- b. If a student is qualified only under Section 504, but not IDEA, and the student's conduct was not caused by the student's disability, the student may be disciplined in the same manner as a nondisabled student would be disciplined.

- c. The school division may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student qualified under Section 504 to the same extent that such disciplinary action is taken against students without disabilities if the student currently is engaging in the illegal use of drugs or alcohol. In such a case, a committee of knowledgeable people is not required to convene to determine whether there is a causal relationship between the behavior and the student's disability.

X. COMPLIANCE RESPONSIBILITIES

Compliance with Section 504 and the ADA is coordinated by the director, Office of Design and Construction Services, when it concerns access to facilities; by the director, Office of Equity and Compliance, when it concerns employment and personnel policies; and by the coordinator, Office of Monitoring and Compliance, when it concerns student programs and activities. Concerns, complaints, or inquiries about FCPS' compliance with its responsibilities under Section 504 and the ADA may be presented to the appropriate office listed above for resolution.

Legal Reference: Americans With Disabilities (ADA) Act Amendments Act of 2008.
Section 504 of the Rehabilitation Act of 1973.

Regulation 2701, Student Personal Data
Regulation 2670, Free, Appropriate Education for Student With Disabilities