INSTRUCTION

Section 504 Identification, Evaluation, Placement, and Hearing Procedures

I. General

Prince William County Public Schools (PWCS) is responsible for locating and identifying students with disabilities. In furtherance of this regulation, PWCS shall insure that:

A. Students with disabilities are located and identified.
   1. Efforts are to be made annually to locate and identify qualified persons with disabilities residing in the School Division who are not receiving a free appropriate public education.
   2. Notice of the availability of services and the types and location of services should be sent to nearby private schools, pediatricians, and the Health Department.

B. Parents or guardians of students with disabilities are to be given notice of their rights.
   1. Parents or guardians of students with disabilities are notified of their rights at least annually, prior to their student’s evaluation and placement.
   2. Parents or guardians of students with disabilities are to be notified of their rights prior to any significant change in their student’s placement.

C. Appropriate educational opportunities are to be made available to students with disabilities.
   1. Each qualified student with disabilities is entitled to a free appropriate public education.
   2. To the maximum extent appropriate, the student with disabilities shall be educated with non-disabled students.
   3. An evaluation of the student is to be made prior to providing services.
4. Periodic evaluations are to be made when necessary and, in every case, prior to a significant change of placement.

5. A review of student records may be considered to be an evaluation if the student’s educational record contains sufficient information to make a determination of eligibility and of the needed educational services.

D. Parents have the right to:

1. Notice of these procedural safeguards;

2. An opportunity to examine their student’s educational record, in accordance with Regulation 790-1, “Definition and Amendment of Student Educational Records”;

3. An impartial hearing with the opportunity for participation including being represented by counsel; and


II. Identification and Evaluation

A. Those eligible students of school age residing in the School Division who are suspected of being disabled shall be referred to the Director or designee using Section 504 Referral Form.

B. An evaluation of the student’s educational needs is made if it appears that the student might be a student with a disability.

C. Some or all of the following written components may be conducted:

1. Medical;

2. Psychological;

3. Educational;

4. Socio-cultural; and

5. Others as appropriate to the student’s suspected disability.
D. Tests utilized for the evaluation process must be properly validated, administered by trained personnel, and assess areas of educational needs.

E. Following completion of the evaluations, a Section 504 Committee shall be composed of individuals who can interpret the various evaluation components and others as designated by the Director. One of the members must have knowledge of the student; one must be knowledgeable of program options.

F. Parents should be invited to attend the meeting.

G. The parents shall be encouraged to present relevant information for consideration by the Evaluation Committee.

H. There is no right to an independent evaluation in Section 504.

I. The Section 504 Committee is responsible for determining whether the student has a physical or mental impairment that substantially limits one or more major life activities.

III. Placement

A. For students who are identified as disabled by the Section 504 Committee, a Section 504 Accommodation Plan shall be developed to incorporate the services that the student requires in the educational setting.

B. The Section 504 Accommodation Plan shall be developed with the participation of a team that is knowledgeable about the student, evaluation data, and the placement options.

C. No placement in special services may be made prior to the development of the Section 504 Accommodation Plan.

IV. Disciplinary Actions

A. When considering a long-term disciplinary removal that constitutes a change of placement for a student who qualifies for Section 504, the 504 team and other qualified personnel must review the relationship between the behavior and the student’s disability. (CFR §300.523)
B. The 504 team will convene to conduct a Manifestation Determination Review (MDR) to determine if the behavior that is resulting in the disciplinary action is a manifestation of the student’s disability.

C. There is no obligation to provide continuing services for properly expelled or long-term removed students unless those services are provided in these instances to non-disabled students.

D. If a parent claims that a disciplinary action was a manifestation of a previously unidentified disability, the student will receive an expedited evaluation to determine eligibility under Section 504.

Complaints to the Office of Civil Rights (OCR)

At any time, a parent may file a complaint with OCR if he or she believes that PWCS has violated any provision or regulation of Section 504. The filing of a complaint does not affect the hearing process or the timelines set forth above. OCR addresses Section 504 complaints separately and independently of the local hearing process, in accordance with the guidelines set forth in OCR’s Complaint Resolution Manual.

V. Section 504 Grievance Procedures

A. Issues Giving Rise to a Hearing

PWCS or the parents/guardians of students with disabilities may request a central office review or due process hearing to resolve a disagreement concerning the identification, evaluation, or educational placement of the student with disabilities, who, because of disability, needs or is believed to need special instruction or related services.

Complaints of adult students, or parents/guardians on behalf of students, who believe that they are being discriminated against in matters other than identification, evaluation, educational placement, or the provision of a free appropriate public education, are not covered by this Regulation. Such complaints shall be processed in accordance with Policy 738, “Non-Discrimination and Harassment of Students,” and Regulation 738-1, “Complaint Procedures for Student Claims of Discrimination or Harassment.”
B. Requesting a Hearing

Request for a hearing shall be made in writing and directed to the Director of Special Education. A hearing must be requested within one year of the dispute giving rise to the hearing.

C. A Hearing Officer Will Be Appointed.

An impartial hearing officer will be appointed by the Director of Special Education. The hearing officer should be appointed within five school days of receipt of a request for a hearing.

D. 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. Ascertaining whether the hearing will be open or closed; and
   d. Insuring that the hearing is accurately recorded either by recording equipment or by a court reporter.

2. A list of documents and witnesses must be exchanged by the parties five business days prior to the hearing and copies provided to the hearing officer.

3. Pre-hearing conferences shall be held, unless the impartial hearing officer deems such conference unnecessary.

E. Hearing Procedures

1. The parties have the following rights in a hearing:
   a. To be represented by counsel with each party being responsible for its own attorney fees;
   b. To present evidence and cross-examine witnesses;
c. To request that the impartial hearing officer prohibit the introduction of evidence that has not been disclosed in advance of the hearing; and

d. To obtain a copy of the transcript or a tape recording of the hearing (the cost of the transcript shall be borne by the requesting party).

2. The student should only attend the hearing if that is the wish of the parents or the student is an adult.

3. The hearing officer shall ensure 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. The impartial hearing is completed within 45 calendar days of receipt of the request of the hearing, unless an extension is granted at the request of either party for good cause;

   e. 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;

   f. The decision must be issued within 45 calendar days of receipt of the request for a hearing, unless continued for good cause at the request of a party, and is final and binding unless either party files an appeal in the appropriate court; and

   g. Assignment of the burden of proof to the party requesting the hearing.

The Associate Superintendent for Student Learning and Accountability (or designee) is responsible for implementing and monitoring this regulation.

This regulation and related policy shall be reviewed at least every five years and revised as needed.