

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



Handbook for Parents and Students

**UNION COUNTY PUBLIC SCHOOLS
NORTH CAROLINA
2014-2015**

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.

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

February 18, 2014

***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/ PROCEDURAL SAFEGUARDS
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.* School districts are required to establish and implement procedural safeguards that include notice, an opportunity for parents to review relevant records, an impartial hearing with opportunity for participation by the student's parents or guardian, representation by counsel and a review process. 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:

Dr. 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:

Mr. Shelton Jefferies
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.

Revised February 18, 2014

Union County Public Schools

SECTION 504 GRIEVANCE PROCEDURES

Union County Public Schools (UCPS) acknowledges the dignity and worth of all students and employees and strives to create a safe, orderly, caring and inviting school environment to facilitate student learning and achievement. UCPS does not tolerate any form of harassment or discrimination on the basis of disability in its educational or employment activities. UCPS has adopted an internal grievance procedure for providing for prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) of the U.S. Department of Health and Human Services regulations implementing the Act. Section 504 prohibits discrimination on the basis of disability in any program or activity receiving Federal financial assistance. The Law and Regulations may be examined in the office of Dr. Debbie J. Taylor, Director of K-5 Student Support Service/Section 504 Coordinator, (704)296-1005, who has been designated to coordinate the efforts of UCPS to comply with Section 504.

Any person who believes she or he has been subjected to discrimination on the basis of disability may file a grievance under this procedure. It is against the law for UCPS to retaliate against anyone who files a grievance or cooperates in the investigation of a grievance.

PROCEDURE

- Grievances must be submitted to the Section 504 Coordinator within ten calendar days of the date the person filing the grievance becomes aware of the alleged discriminatory action.
- A complaint must be in writing, containing the name and address of the person filing it. The complaint must state the problem or action alleged to be discriminatory and the remedy or relief sought.
- The Section 504 Coordinator (or her/his designee) shall promptly, thoroughly, and impartially conduct an investigation of the complaint. This investigation may be informal, but it must afford all interested persons an opportunity to submit evidence relevant to the complaint. The Section 504 Coordinator will maintain the files and records of UCPS relating to such grievances.
- The Section 504 Coordinator will issue a written decision on the grievance no later than 30 days after its filing.
- The person filing the grievance may appeal the decision of the Section 504 Coordinator by writing to the Superintendent's designee, Mr. Shelton Jefferies, within 15 days of receiving the Section 504 Coordinator's decision. The superintendent's designee shall issue a written decision in response to the appeal no later than 30 days after its filing.
- The availability and use of this grievance procedure does not prevent a person from filing a complaint of discrimination on the basis of disability with the U. S. Department of Health and Human Services, Office for Civil Rights.

UCPS will make appropriate arrangements to ensure that disabled persons are provided other accommodations, if needed, to participate in this grievance process. Such arrangements may include, but are not limited to, providing interpreters for the deaf, providing taped cassettes of material for the blind, or assuring a barrier-free location for the proceedings. The Section 504 Coordinator will be responsible for such arrangements.

SECTION 504 GRIEVANCE FORM

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:

Dr. Debbie J. Taylor
Union County Public Schools
400 North Church Street
Monroe, NC 28112
Phone: 704.296.1005 Fax: 704.282.2171

Student Name: _____ School: _____

Parent/Guardian Name(s) _____

Address: _____

Phone Number(s) _____

1. Summary of Grievance – What is the problem? What are the facts?

2. How can the problem be solved?

3. Who have you spoken to or met with at the school to address this situation? _____

What was the result of this contact? _____

4. Please describe any corrective action you wish to see taken with regard to this grievance.

Please attach any additional information or documentation you wish the district to consider. You also have the right to file a complaint with the regional office of the U. S. Department of Education's Office for Civil Rights (OCR) without going through the district's grievance procedures.

Signature of Parent: _____ Date: _____

Received by: _____ Date: _____

C: Parents, Student File, District and School Section 504 Coordinator File

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.

Section 504 and Food Allergies

According to the USDA, “when in the licensed physician’s assessment, food allergies may result in severe, life-threatening (anaphylactic) reactions, the child’s condition would meet the definition of ‘disability’.”

The Americans with Disabilities Act (ADA) recommends that parents of children with food allergy create, in collaboration with their school, a written food allergy management plan. One type of plan is called a 504 Plan, which is available under a federal civil rights law, **Section 504 of the Rehabilitation Act of 1973**. **Section 504** applies to any school that receives federal money (i.e., all public schools and many private schools), and applies to a variety of health conditions, including a life-threatening food allergy. The U.S. Department of Education’s Office for Civil Rights lists allergy as an example of a **hidden disability** for the purpose of Section 504, and also **further explains** how a food allergy, for many children, would be considered a disability under 504.

What is more, the USDA states in its **guidelines** for accommodating students with special dietary concerns that when a physician diagnoses a food allergy as potentially causing life-threatening reactions, the child’s condition meets the definition of a disability under Section 504.

The Office for Civil Rights has also published an informative **Q & A** on Section 504 and recent amendments to the Americans with Disabilities Act, and food allergy is addressed in Questions 4 and 13. Section 504 allows you to create, in collaboration with the school, a 504 Plan, which is a written management plan outlining how the school will address the individual needs of your child, and allow your child to participate safely and equally alongside his/her peers during all normal facets of the school day.

To begin the 504 process, you need to contact the school’s 504 Coordinator. The 504 Coordinator will help assemble a 504 Team that will determine if your child qualifies for protection under Section 504. Typically, a 504 Team includes key members of the school staff such as the school nurse, teachers, food service personnel, coaches, counselors, and others.

In making their determination, the 504 Team will rely on medical information. As a result, you may be asked to obtain specific medical information or medical recommendations from your child’s allergist and/or pediatrician for the Team to review.

Once the 504 Team finds your child eligible, the Team will create an accommodation plan (or 504 Plan), which may include a number of components such as an Individual Healthcare Plan (IHP) and a **Food Allergy & Anaphylaxis Emergency Care Plan**.

Written management plans such as 504 Plans have become increasingly more common over the past decade, especially for children with food allergy and diabetes. These written plans come in a variety of shapes and sizes, ranging from a one-page, handwritten form to a 20-page plan made up of multiple components (IHP, Food Allergy & Anaphylaxis Emergency Care Plan, Cafeteria Procedures, a Transportation Plan, and a Staff Education Plan).

If you experience difficulty with your school concerning a 504 Plan, 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:

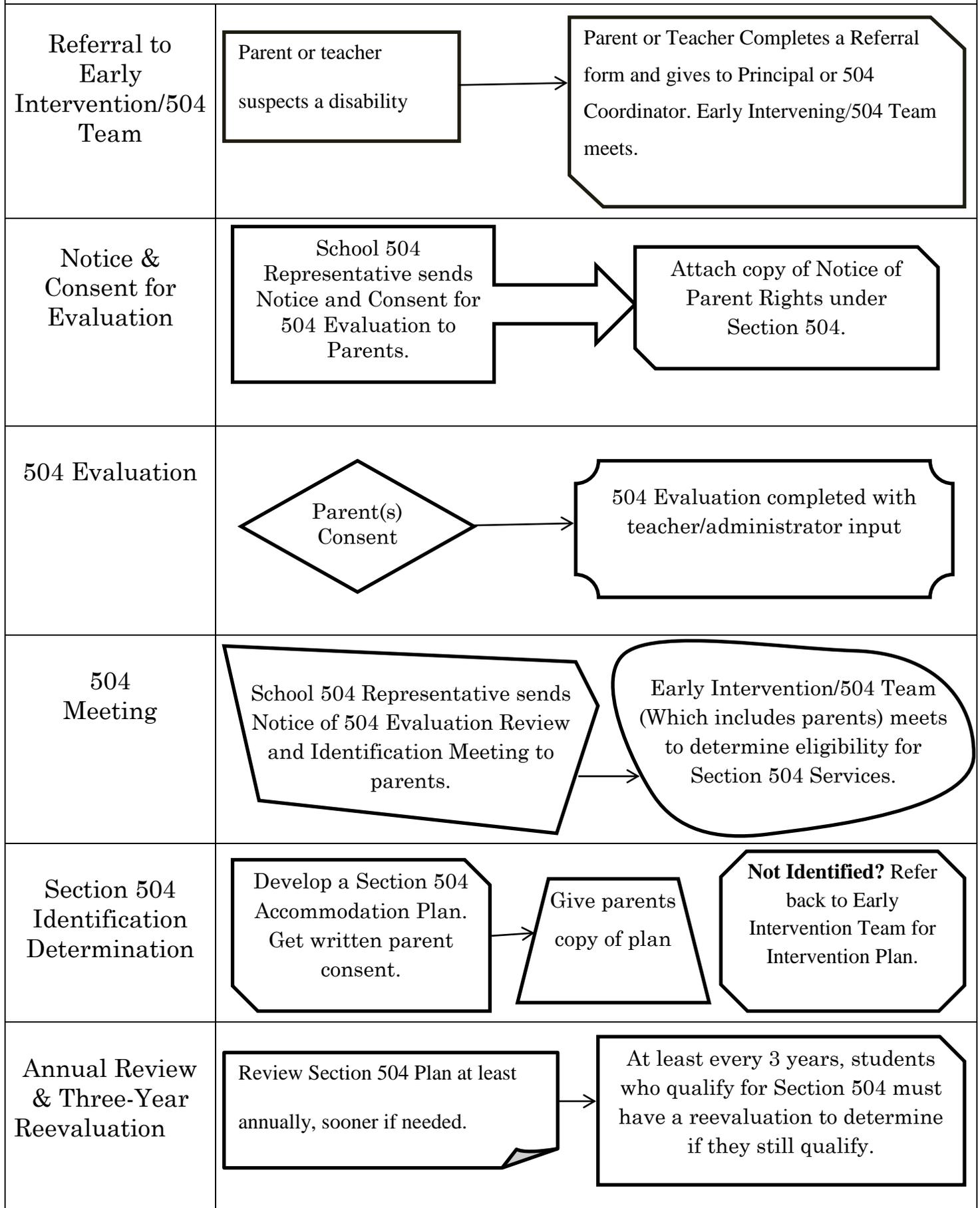
Dr. Debbie J. Taylor
Union County Public Schools
400 North Church Street
Monroe, NC 28112
Phone: 704.296.1005

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

The Americans with Disabilities Act (ADA) extends the protections provided by 504 to private schools and private child care centers. Children with food allergies have received protection under ADA. For example, in a **public settlement agreement** under the ADA, a private child care facility was ordered to enroll children with food allergies, and to take appropriate steps to assure that the facility was prepared to recognize an allergic reaction, and respond appropriately. Sometimes, private religious schools are exempt from the ADA. However, this depends on the relationship between a particular religion and the inner workings of the school.

GENERAL OVERVIEW OF SECTION 504 PROCESS



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.”