

**2017-2018
JEFFERSON COUNTY
SCHOOLS**

**SECTION 504
of
The Rehabilitation Act
of 1973
MANUAL**

**Jefferson County Schools
Section 504 Of The
Rehabilitation Act of 1973**

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**SECTION 504 OF THE
REHABILITATION ACT OF 1973**

“No otherwise qualified individual with disabilities in the United States shall solely by reason of her or his handicap, as defined in section 706(8) of this title, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance or under any program or activity conducted by an executive agency or by the United States Postal Service.” (20 U.S.C. Section 794)

DEFINITIONS

Individual and disabilities	“...any individual who (i) has a physical or mental disability which substantially limits one or more of such person’s major life activities, (ii) has a record of such disability or (iii) is regarded as having such a disability.”
Physical or mental disability	“... (A) any physiological disorder of 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;hermic 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.” (34 Code of Federal Regulations Part 104.3)
Major life activities	“...functions such as caring for one’s self, performing manual tasks, walking, seeing hearing, speaking, breathing, learning and working.” (34 Code of Federal Regulations Par 104.3)
Has a record of such an impairment	“... has a history of, or has been classified as having, a mental or physical impairment that substantially limits one or more major life activities,” (34Code of Federal Regulations Par 104.3)
Is regarded as having an Impairment	“... (A) has a physical or mental impairment that does not substantially limit major life activities but is treated by a recipient as a constituting such a limitation; (B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment;or (C) has none of the impairments defined but is treated by a recipient as having such an impairment.

ADA Amendments Act of 2008
PUBLIC LAW 110-325
SEPTEMBER 25, 2008

(Effective January 2009) Pg. 1

To restore the intent and protections of the Americans with Disabilities Act of 1990.

"SEC. 3. DEFINITION OF DISABILITY. "As used in this Act:

"(1) Disability.--The term `disability' means, with respect to an individual--

"(A) a physical or mental impairment that substantially limits one or more major life activities of such individual;

"(B) a record of such an impairment; or

"(C) being regarded as having such an impairment (as described in paragraph (3)).

"(2) Major life activities.--

"(A) In general.--For purposes of paragraph (1), major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

"(B) Major bodily functions.--For purposes of paragraph (1), 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, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

"(3) Regarded as having such an impairment.--For purposes of paragraph (1)(C):

"(A) An individual meets the requirement of `being regarded as having such an impairment' if the individual establishes that he or she has been subjected to an action prohibited under this Act because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

"(B) Paragraph (1)(C) shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

ADA Amendments Act of 2008

PUBLIC LAW 110-325

SEPTEMBER 25, 2008

(Effective January 2009) Pg. 2

"(4) Rules of construction regarding the definition of disability.--The definition of `disability' in paragraph (1) shall be construed in accordance with the following:

"(A) The definition of disability in this Act shall be construed in favor of broad coverage of individuals under this Act, to the maximum extent permitted by the terms of this Act.

"(B) The term `substantially limits' shall be interpreted consistently with the findings and purposes of the ADA Amendments Act of 2008.

"(C) An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

"(D) An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

"(E)(i) The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as--

"(I) medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;

"(II) use of assistive technology;

"(III) reasonable accommodations or auxiliary aids or services; or

"(IV) learned behavioral or adaptive neurological modifications.

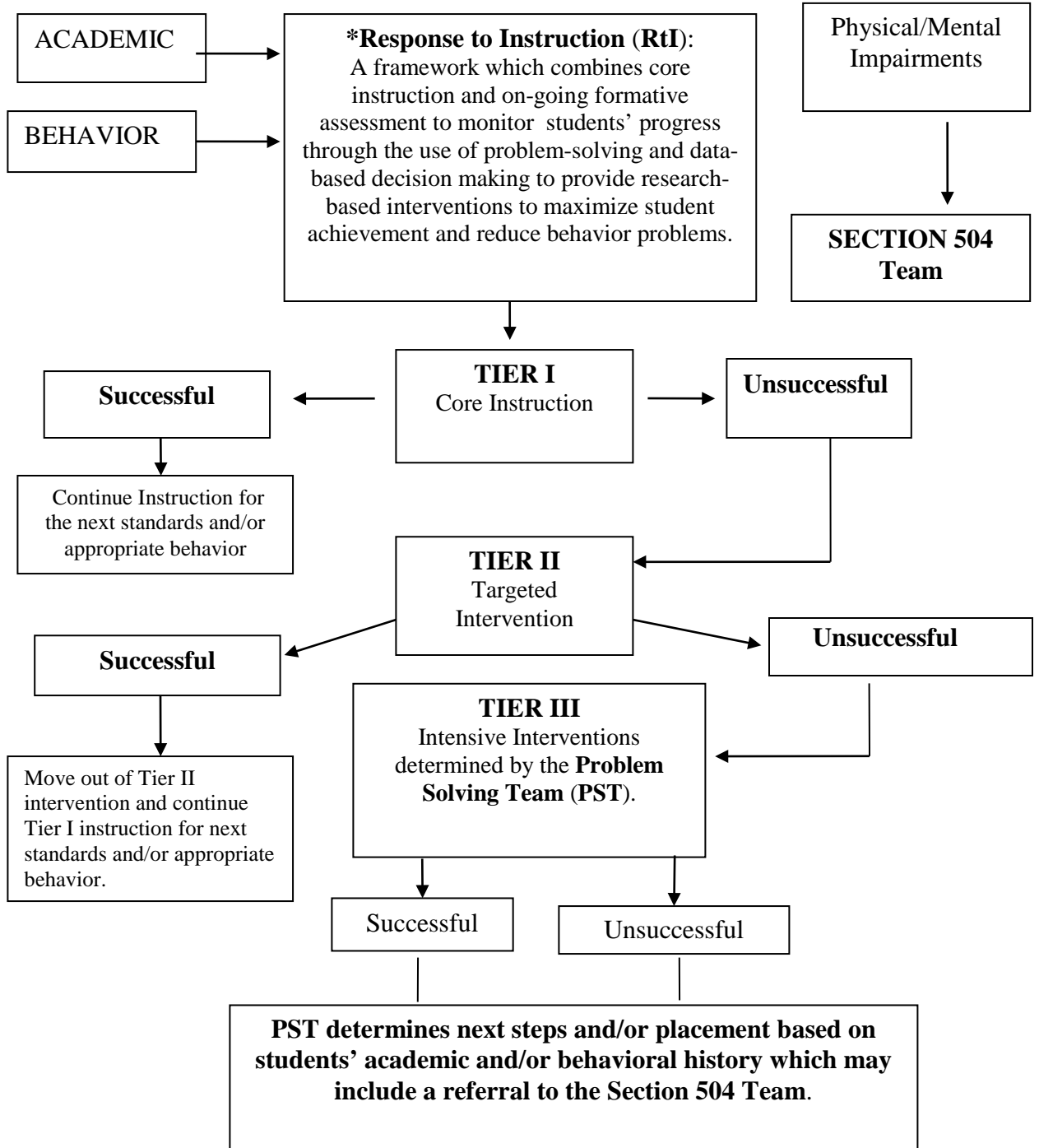
WHEN SCHOOL STAFF SHOULD CONSIDER THE EXISTENCE OF A DISABILITY AND POSSIBLE SECTION 504 PROTECTION

- When suspension or expulsion is being considered for any student.
- When retention is being considered for any student.
- When a student shows a pattern of not benefiting from the instruction being provided.
- When a student returns to school after a serious illness or injury.
- When a student is evaluated and is found not to qualify for special education services under the IDEA.
- When a student exhibits a chronic health condition.
- When a student is identified as “at risk” or exhibits the potential for dropping out of school.
- When a disability of any kind is suspected.
- When a new building or remodeling is being considered.

JEFFERSON COUNTY SCHOOLS

**SECTION 504
REFERRAL PROCESS**

*A parent may request an evaluation for Section 504 services at any time throughout the RTI process.



**Guidelines for the Section
504 Placement Team
Decision Making Process**

Section 504 Eligibility placement decisions are made by a group of persons:

- Who are knowledgeable about the child,
- Who have interpreted the meaning of the evaluation data, and
- Who are knowledgeable of placement options.

In interpreting evaluation data and in making placement decisions, the 504 Team members shall:

- Draw upon information from a variety of sources, including, but not limited to, aptitude and achievement tests, teacher recommendations, cultural, environmental, and economic background data, physical condition and adaptive behavior data, and
- Establish procedures to ensure that information obtained from all such sources is documented and carefully considered.

Student's Name _____

School Name _____

Section 504 of the Rehabilitation Act of 1973
PARENT RIGHTS

The purpose of this notice is to inform you of the rights granted to parents and students under Section 504 of the Rehabilitation Act and the federal regulations that implement the act. You have the right to:

1. Receive written notice from the school district of your rights under Section 504, as provided in this document.
2. Have your child receive an appropriate education designed to meet his or her educational needs as adequately as the needs of non-disabled students are met.
3. Receive notice with respect to any action regarding the identification, evaluation, or placement of your child.
4. Refuse consent for initial evaluation or services.
5. Have evaluation, educational, and placement decisions made based upon a variety of information sources, and by persons who are knowledgeable about the student, evaluation data, and placement options.
6. Have your child educated in facilities and receive services comparable to those provided non-disabled students.
7. Have your child educated with non-disabled students to the maximum extent appropriate, including placement in regular classes, unless your child's educational needs cannot be adequately met in the regular class setting, even with supplementary aids and services.
8. Have your child receive educational and related services without cost, except those costs that are normally also paid by the parents of non-disabled students.
9. Examine all relevant documents and records regarding your child, including those related to identification, evaluation, educational program, and placement.
10. Receive a response from the school district to reasonable requests for explanations and interpretations of your child's records.
11. Submit a complaint to the 504 Supervisor for review and informal resolution.
12. Request an impartial due process hearing concerning your child's identification, evaluation, educational program, or placement under Section 504. You must submit the hearing request on the *Section 504 Complaint Form* to the district's Section 504 Supervisor within 45 calendar days of the act or omission giving rise to your complaint. Failure to make a timely hearing request may result in the loss of your opportunity to pursue a due process hearing on the matter. You have the right to participate personally at the hearing and to be represented by your attorney if you choose.
13. File a complaint with the Office for Civil Rights (OCR) of the U.S. Department of Education.

Questions regarding Section 504 compliance issues, as well as complaints and hearing requests under Section 504, may be addressed to:

Ms. Dawna Hill, Section 504 Supervisor
2100 18th Street, South,
Birmingham, AL 35209
(205) 379-2214

Signature of Parent/Guardian

Date

COMPLAINT PROCEDURES

I. Complaint Procedures

When a parent/guardian disagrees with the Section 504 Team's decision regarding their child's identification, evaluation, educational program, or placement, they have the right to challenge the decision by submitting their concerns in writing to the Section 504 Supervisor for informal resolution or by requesting an impartial due process hearing by submitting a *Section 504 Complaint Form*. A parent/guardian may also file a civil rights complaint with the U.S. Department of Education's Office for Civil Rights (OCR).

II. Informal Complaint

Parents/guardians who believe their child's Section 504 rights are being violated are encouraged to submit their complaints in writing to the district's Section 504 Supervisor for review and resolution. Jefferson County Board of Education's Section 504 Supervisor is Mrs. Dawna Hill. Address: 2100 18th Street South, Birmingham, AL 35209 Telephone: (205) 379-2214.

III. Impartial Due Process Hearing

An impartial due process hearing will be utilized to resolve differences between the parent and the district when such differences cannot be resolved by means of a less formal procedure. A Section 504 due process hearing may be initiated by the district or by the parent of an affected student. The proceeding will be presided over and decided by an impartial hearing officer appointed by the district at no expense to the parent.

A. Initiating an Impartial Due Process Hearing

Either the parent or the district may initiate an impartial due process hearing on matters related to the identification, evaluation, or placement of the disabled student.

Parents may request an IMPARTIAL DUE PROCESS HEARING by making the appropriate selection on the district's *Section 504 Complaint Form* and submitting the request to the Section 504 Supervisor at the following address: Mrs. Dawna Hill, 2100 18th Street South, Birmingham, AL 35209. The request for a hearing must be submitted within forty-five (45) days of the action or omission giving rise to the complaint.

The hearing shall begin no later than sixty (60) days after receipt of the request for a hearing unless extended by agreement by the parent and the district.

Jefferson County School System
Section 504 of the Rehabilitation Act of 1973

COMPLAINT PROCEDURES

Parents shall be provided written notification of the hearing as soon as practicable, but not less than fifteen (15) days prior to the date set for the hearing. The notice shall contain:

- a. A statement of time, place, and nature of the hearing.
- b. A short and clear statement of the matters asserted.
- c. A statement of the right to be represented by counsel.

B. Hearing Procedures

The hearing officer shall preside at the hearing and shall conduct the proceedings in an impartial manner. Each party may be presented by legal counsel.

Each party shall have an opportunity to present argument and evidence, including expert testimony, as appropriate. The hearing is not a formal court proceeding and is not governed by rules of evidence or procedure that would be applicable in a court of law. However, the hearing officer may reasonably limit testimony and introduction of documentary exhibits for reasons of relevance.

The hearing officer shall review relevant facts and render a decision on the issue presented for review.

C. Decision of the Hearing Officer

A copy of the hearing officer's decision shall be delivered to the district and the parent within thirty (30) days of completion of the hearing.

D. Record of Hearing

A recording or written record of the Section 504 due process hearing shall be made and maintained at the district office for no less than six (6) months after the hearing and will be available for review upon request of the parent.

E. Review Procedure

If not satisfied by the decision of the hearing officer, a parent may seek review of the hearing decision in a court of competent jurisdiction, generally the closest federal district court.

IV. Complaint to Office for Civil Rights

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

Jefferson County Board of Education
Section 504 of the Rehabilitation Act of 1973

Section 504 Complaint Form

Last Name:	First Name/MI:
Street Address/Apt. #:	
City, State, Zip Code:	
Home Phone: ()	
Message/Work Phone: ()	

Concerning:	Student:	School:
Relationship to Student:		

Please check below- This complaint concerns allegations of:

- A violation of Section 504 policy/procedure.
- A disagreement with the District's Section 504 decisions to identify, evaluate, and/or to make accommodations for a student (within 45 days of receiving the decision notice).
- Disability-based discrimination/harassment.

1. Please give facts about the complaint. Provide details such as names of those involved, dates, whether witnesses were present, etc., that might be helpful to the complaint investigator.

2. Please supply copies of any written documents that may be relevant to/supportive of your complaint.
I have attached documents: _____ Yes _____ No

3. Please state the resolution you are seeking.

4. Have you discussed with or brought your complaint to any District personnel? If you have, to whom did you take your complaint, including date, and what was the result?

5. Please choose ONE of the following courses of action:

- I am requesting review and resolution of this matter by the 504 Supervisor.
- I am requesting an IMPARTIAL DUE PROCESS HEARING on this matter.

I certify that the above is true and correct:

Signature

Date

For office use only:	Date received:		Initial:	
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Attach additional sheets for details if needed. Mail or deliver complaint/documents to:
Dawna Hill, Section 504 Supervisor
Jefferson County Board of Education
2100 18th Street So, Birmingham, AL 35209
(205) 379-2214

**Jefferson County Schools
Section 504 Disciplinary
Guidelines**

*A Behavior Intervention Plan (BIP) is required whenever a student's behavior interferes with his or her own learning or the learning of others.

*When a violation of school district rules occurs, a manifestation determination must take place to determine whether the student's misconduct is a manifestation of the student's disability.

Manifestation Determination

A Manifestation Determination must be conducted by the Section 504 team if the following condition exists:

A 504 student commits a violation of the school behavior code which results in excess of ten cumulative days of suspension or expulsion or a series of suspensions that constitutes a change in placement.

During the Manifestation Meeting:

- (1) Discuss the recommendation for discipline.
- (2) Discuss if disciplinary action would constitute a change in placement.
- (3) Discuss if the behavior is directly related to the disability.
- (4) If the behavior is caused by the disability, then discuss if there is a need to modify the current educational placement and/or modify accommodations and/or develop a Behavior Intervention Plan (BIP).
- (5) If the behavior is not caused by the disability, then the school may initiate normal disciplinary procedures.

**Question, comments or complaints
regarding compliance with
requirements under Section 504
concerning students with disabilities,
should be directed to:**

**Dawna Hill
SECTION 504 Supervisor
Jefferson County Board of Education
2100 18th Street South
Birmingham, Alabama 35209**

**Telephone Number:
379-2214**

Email: dhill@jefcoed.com