

Notice of Rights of Students and Parents Under Section 504

Section 504 of the Rehabilitation Act of 1973, commonly referred to as "Section 504," is a nondiscrimination statute enacted by the United States Congress. The purpose of Section 504 is to prohibit discrimination and to assure that students with disabilities have educational opportunities and benefits equal to those provided to students without disabilities.

For more information regarding Section 504, or if you have questions or need additional assistance, please contact the Richmond County School System's Section 504 Coordinator at the following address:

Dr. Ed Sanderson
Director of Student Services
Richmond County School System
864 Broad Street
Augusta, Georgia 30901
(706) 826-1000
sanded@boe.richmond.k12.ga.us

The implementing regulations for Section 504 as set out in 34 CFR Part 104 provide parents and/or students with the following rights:

1. Your child has the right to an appropriate education designed to meet his or her individual educational needs as adequately as the needs of students without disabilities. 34 CFR 104.33.
2. Your child has the right to free educational services except for those fees that are imposed on students without disabilities or their parents. Insurers and similar third parties who provide services not operated by or provided by the School System are not relieved from an otherwise valid obligation to provide or pay for services provided to a student with disabilities. 34 CFR 104.33.
3. Your child has the right to participate in an educational setting (academic and nonacademic) with students without disabilities to the maximum extent appropriate to his or her needs. 34 CFR 104.34.
4. Your child has a right to facilities, services, and activities that are comparable to those provided for students without disabilities. 34 CFR 104.34.
5. Your child has a right to an evaluation prior to a Section 504 determination of eligibility. 34 CFR 104.35.
6. You have the right to refuse consent to the School System's request to evaluate your child. 34 CFR 104.35.7. You have the right to ensure that evaluation procedures, which may include testing, conform to the requirements of 34 CFR 104.35.

7. You have the right to ensure that the School System will consider information about the student from a variety of sources as appropriate, which may include aptitude and achievement tests, grades, teacher recommendations and observations, physical conditions, social or cultural background, adaptive behavior, medical records, and parental recommendations. 34 CFR 104.35.
8. You have the right to ensure that decisions regarding eligibility and placement are made by a group of persons, including persons knowledgeable about your child, the meaning of the evaluation data and the placement options. 34 CFR 104.35.
9. If your child is eligible under Section 504, your child has a right to periodic reevaluations, including prior to any subsequent significant change in placement. 34 CFR 104.35.
10. You have the right to notice prior to any actions by the School System regarding the identification, evaluation, or placement of your child. 34 CFR 104.36.
11. You have the right to examine your child's educational records. 34 CFR 104.36.
12. You have the right to an impartial hearing with respect to the School System's actions regarding your child's identification, evaluation, or educational placement, with opportunity for parental participation in the hearing and representation by an attorney. 34 CFR 104.36.
13. You have the right to receive a copy of this Notice and a copy of the School System's impartial hearing procedure upon request. 34 CFR 104.36. [SEE SECTION 504 PROCEDURAL SAFEGUARDS.]
14. If you disagree with the decision of the impartial hearing officer (Local Board of Education members and other School System employees are not considered impartial hearing officers), you have a right to a review of that decision according to the School System's impartial hearing procedure. 34 CFR 104.36. [SEE SECTION 504 PROCEDURAL SAFEGUARDS.]
15. You have the right, at any time, to file a complaint with the United States Department of Education's Office for Civil Rights.

Section 504 Procedural Safeguards

1. **Overview:** Any student, parent or guardian may request an impartial hearing due to a School System's alleged actions or inactions regarding their child's identification, evaluation, or educational placement under Section 504. Requests for an impartial hearing must be in writing to the School System's Section 504 Coordinator; however, a parent or guardian's failure to request a hearing in writing does not alleviate the School System's obligation to provide an impartial hearing if the parent/guardian orally requests an impartial hearing through the School System's Section 504 Coordinator. As needed, the School System's Section 504 Coordinator will assist the parent/guardian in completing the written Request for Hearing, but may not provide legal advice to the Parent/Guardian.

To request an impartial hearing or for more information regarding Section 504, please contact the School System's Section 504 Coordinator at the following address:

Dr. Ed Sanderson
Director of Student Services
Richmond County School System
864 Broad Street
Augusta, Georgia 30901
(706) 826-1000
sanded@boe.richmond.k12.ga.us

2. **Hearing Request:** The Request for the Hearing must include the following:
- a. The name of the student.
 - b. The address of the residence of the student.
 - c. The name of the school the student is attending.
 - d. The decision that is the subject of the hearing.
 - e. The requested reasons for review.
 - f. The proposed remedy sought by the parent/guardian.
 - g. The name and contact information of the parent/guardian.

Within 10 business days from receiving the parent/guardian's Request for Hearing, the Section 504 Coordinator will acknowledge the Request for Hearing in writing and schedule a time and place for a hearing. If the written Request for Hearing does not contain the necessary information noted above, the Section 504 Coordinator will inform the parent/guardian of the specific information needed to complete the request. All timelines and processes will be stayed until the Request for Hearing contains the necessary information noted above.

3. **Mediation:** The School System may offer mediation to resolve the issues detailed by the parent/guardian in his or her Request for Hearing. Mediation is voluntary, and both the parent/guardian and School System must agree to participate. Either party may terminate the mediation at any time. If the mediation is terminated without an agreement, the School System will follow the procedures for conducting an impartial hearing without an additional Request for Hearing.

4. **Hearing Procedures:**

- a. The Section 504 Coordinator will obtain an impartial review official who will conduct a hearing within 45 calendar days from the receipt of the Request for Hearing unless agreed to otherwise or unless a continuance is granted by the impartial review official.
- b. Upon a showing of good cause by either party, the impartial review official, at his or her discretion, may grant a continuance and set a new hearing date. The request for a continuance must be in writing and copied to the other party.
- c. The parent/guardian will have an opportunity to examine the child's educational records prior to the hearing.
- d. The parent/guardian will have the opportunity to be represented by legal counsel at his or her own expense at the hearing and participate, speak, examine witnesses, and present information at the hearing. If the parent/guardian is to be represented by legal counsel at the hearing, he or she must inform the Section 504 Coordinator of that fact in writing at least 10 calendar days prior to the hearing. Failure to notify the Section 504 Coordinator in writing of representation by legal counsel shall constitute good cause for continuance of the hearing.
- e. The parent/guardian will have the burden of proving any claims he or she may assert. When warranted by law, the impartial hearing officer may require either party to defend its position/decision regarding the claims. One or more representatives of the School System, who may be an attorney, will attend the hearing to present the evidence and witnesses, respond to the parent/guardian testimony and answer questions posed by the impartial review official.
- f. The impartial review official shall not have the power to subpoena witnesses, and the strict rules of evidence shall not apply to hearings. The impartial review official shall have the authority to issue pre-hearing instructions, which may include requiring the parties to exchange documents and to provide the names of witnesses each party expects to appear at the hearing.
- g. The impartial review official shall determine the weight to be given any evidence based on its credibility, reliability and probative value, according to applicable legal standards.
- h. The hearing shall be closed to the public.
- i. The issues of the hearing will be limited to those raised in the written request for the hearing.

- j. Witnesses will be questioned directly by the party who calls them. Cross-examination of witnesses will be allowed. The impartial review official, at his or her discretion, may allow further examination of witnesses or ask questions of the witnesses.
- k. Testimony shall be recorded by court reporting or audio recording at the expense of the School System. All documentation related to the hearing shall be retained by the School System.
- l. Unless otherwise required by law, the impartial review official shall uphold the action of the School System unless the parent/guardian can prove that a preponderance of the evidence supports his or her claim. A “preponderance of evidence,” while determined by the impartial review official, has been described as just enough evidence to make it more likely than not that the fact that the parent/guardian seeks to prove is true.
- m. Failure of the parent/guardian to appear at a scheduled hearing (unless prior notification of absence was provided and approved by the impartial review official or unless just cause is shown) shall constitute a waiver of the parent/guardian’s right to a personal appearance before the impartial review official.

5. **Decision:** The impartial review official shall issue a written determination within 20 calendar days of the date the hearing concluded. The determination of the impartial review official shall not include any monetary damages or the award of any attorneys’ fees.

6. **Review:** If not satisfied with the decision of the impartial review official, any party may pursue any right of review, appeal, cause of action or claim available to them under the law or existing state or federal rules or regulations.