

McDowell County Schools  
Parent/Student Rights in Identification, Evaluation and  
Placement To Section 504 of the Rehabilitation Act

Please Keep This Explanation for Future Reference

The following is a description of the rights granted by this federal law to students with disabilities. The intent of the law is to keep you fully informed concerning decisions about your child and to inform you of your rights if you disagree with any of these decisions.

You have the right to:

1. Have your child take part in, and receive benefits from public education programs without discrimination because of his/her disability
2. Have the school district advise you of your rights under this federal law;
3. Receive notice with respect to identification, evaluation, or placement of your child;
4. Have your child receive a free appropriate public education. This includes the right to be educated with non-disabled students to the maximum extent appropriate. It also includes the right to have the school district make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities.
5. Have your child educated in facilities and receive services comparable to those provided non-disabled students;
6. Have your child receive special education and related services if s/he is found to be eligible under the Individuals with Disabilities Education Act (PL 101-476) of Section 504 of the Rehabilitation Act;
7. Have evaluation, educational, and placement decisions made based upon a variety of information sources, and by a group of persons, including persons who know the student, the evaluation data and placement options;
8. Have transportation provided to and from an alternative placement setting at no greater cost to you than would be incurred if the student were placed in a program operated by the district.
9. Have your child given an equal opportunity to participate in nonacademic and extracurricular activities offered by the district;
10. Examine all relevant records relating to decisions regarding your child's identification, evaluation, educational program and placement.
11. Obtain copies of your child's educational records at a reasonable cost unless the fee would effectively deny you access to the records;
12. Receive a response from the school district to reasonable requests for explanations and interpretation of your child's records.
13. Request amendment of your child's educational records if there is reasonable cause to believe that they are inaccurate, misleading or otherwise in violation of the privacy rights of your child. If the school district refuses this request for amendment, it shall notify you within a reasonable time, and advise you of the right to a hearing;
14. File a local grievance.
15. Request mediation or an impartial due process hearing related to decisions or actions regarding your child's identification, evaluation, educational program or placement. You and the student may take part in the hearing and have an attorney represent you. Hearing requests must be made to the Superintendent of McDowell County Schools.

The Section 504 Coordinator for McDowell County Schools is \_\_\_\_\_, Director of Student Services; 334 South Main St., Marion, NC 28752; 828-652-4535 ext. 300.

## Section 504/ADA Grievance Procedure

### General Statement

McDowell County Schools does not discriminate on the basis of race, religion, sex, national origin, age or handicapping condition. The grievance procedure is established to assist students when they or their family feel they have been discriminated against under Section 504 of the Rehabilitation Act of 1973. This process is designed to resolve issues at the local level. This grievance procedure is not mandatory. Students/parents may file a complaint directly with the Office of Civil Rights and/or pursue a civil complaint in a court of competent jurisdiction, if warranted by applicable law, at any time.

A "grievance" is a complaint alleging unlawful discrimination made by a student entitled to an education within the district or a parent of such a student. The district has designed this grievance procedure as a means of reaching, at the lowest possible administrative level, a fair and equitable settlement of differences and issues relating to possible discrimination under the Rehabilitation Act of 1973 (Section 504) and/or the Americans with Disabilities Act. These laws prohibit a public agency like McDowell County Schools from discriminating in its provision of its programs or activities against a qualified disabled person solely by reason of that person's disability.

The 504 appeals procedure may be used for any disagreement with respect to actions regarding the identification, evaluation, placement, educational services, or educational program of students, who, because of disability, need or are believed to need Section 504 plans and are not eligible under the IDEA, except in the case of long term suspensions where the provision of Board Policy/MCS Student Code of Conduct apply. A student, parent, or guardian may initiate the procedure when they believe that a violation, misapplication, or misinterpretation of board policy, or state or federal law or regulation has occurred.

Questions about particular Section 504 issues may be directed to the following individuals:

For grievances related to facilities: Assistant Superintendent for Administrative Services

For grievances related to Section 504/ADA student evaluations and accommodation plans: Director of Student Services

**STEP I: School Level Review Conference:** A student, parent, or guardian wishing to invoke the 504 appeals process shall make a written request for a conference with the principal to discuss the grievance and seek resolution. The request shall fully describe the grievance. The following additional guidelines shall be observed in Step I:

- A. A grievance shall be filed as soon as possible but not longer than thirty days after disclosure of the facts giving rise to the grievance.
- B. The principal shall grant the conference at a mutually agreed upon time within five days following receipt of the request. The principal will state in writing his/her position on the question to the individual within five school days following the conference.
- C. Only the parent, guardian, or someone acting in loco parentis shall be permitted to join or represent the student in the conference with the principal.

**STEP II: System Level Review:** If the grievance is not resolved at Step 1, within five days of receipt of the Step 1 decision, the Aggrieved may refer the grievance to the system-level 504 Coordinator for review by a System 504 Review Committee. The coordinator will arrange for a meeting to take place within five days of the appeal. The Aggrieved and principal will be provided with a decision within five days after the meeting.

**STEP III: Appeal to the Superintendent:** If the grievance is not resolved in Step II, the student, parent, or guardian may appeal the review committee's decision in writing to the superintendent or designee. The appeal must be made within five school days following receipt of the review committee's decision. The Aggrieved, principal, and review committee will be provided with a decision within five days after the review.

**STEP IV: Appeal for a Section 504 Due-Process Hearing (This level hearing is available only for actions regarding the identification, evaluation, or educational placement of students with a disability.)** If the grievance is not resolved at Step III, an appeal may be made for an independent hearing. The appeal must be made in writing within ten school days following the written response from the superintendent in Step III. Upon receipt of the request for a hearing, the superintendent or designee will arrange for an independent hearing officer to hear the case. The individual is entitled to have his/her parent/guardian participate in the hearing and be represented by counsel at his/her expense. The hearing officer will inform the parent/guardian of the decision within thirty days of the hearing. Grievances or complaints regarding identification, evaluation, placement, or the services rendered under the Individuals with Disabilities Education Act (IDEA) must use the process outlined in the North Carolina Policies Governing Services for Children with Disabilities.

**STEP V:** Upon request of the Aggrieved or the Administration, the Board of Education will conduct a review of the decision of the independent hearing officer and will adopt, reject, or modify that decision.

At the conclusion of the grievance process, the Aggrieved may elect to file a civil complaint in a court of competent jurisdiction, if warranted by applicable law.