

Providence Creek Academy

Section 504 of the Rehabilitation Act Policy

Policies and Procedures Manual

APPROVED BY THE BOARD OF DIRECTORS JULY 28, 2014

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Providence Creek Academy
Section 504 of the Rehabilitation Act
Mission Statement

The purpose of Section 504 is to afford students who qualify with medical, cognitive, physical, behavioral and learning differences with equal opportunities to obtain the same results, to gain the same benefits, or to reach the same level of achievement as their peers. At Providence Creek Academy Charter School (PCA) we believe that all students should have an equal opportunity to succeed. It is the goal of PCA to provide reasonable accommodations for identified students. It is our mission to collaborate with parents/guardians to inform them of their rights under Section 504 and make decisions in the best interest of students.

Section 504 of the Rehabilitation Act Laws and Definitions

Introduction

The PCA procedural manual is intended to provide an overview of the rules and procedures used to implement Section 504 of the Rehabilitation Act of 1973 (Section 504) at PCA. The information contained herein is not an exhaustive statement of all the rules and procedures, but is instead an effort to assist staff, parents/guardians, and other users in understanding how Section 504 is addressed at PCA. Since PCA's policies are intended to be co-existent with the requirements of applicable laws, nothing contained herein is intended to provide less substantive benefits or procedural protections than is required by law. Likewise, nothing contained herein is intended to provide greater substantive benefits or procedural protections than are required by law. Practical considerations of style and a desire to present information to the PCA community in a useful, efficient manner dictate that the precise wording of applicable laws is not restated verbatim in all provisions contained herein. The specific language of such laws and controlling interpretations thereof are incorporated by reference herein. In the event there is a discrepancy between such legal authority and the information contained herein, the legal authority shall control.

The Law

General Information

Section 504 is a civil rights statute that prohibits discrimination against individuals with disabilities. This law is enforced by the Office for Civil Rights (OCR) and the EEOC (Equal Employment Opportunities Commission). Both agencies enforce Title II of the Americans with Disabilities Act of 1990 (ADA) reauthorized as the Americans with Disabilities Act Amendments Act (ADAAA) of 2008. The reauthorization extends the prohibition against discrimination to the full range of state or local government services (including public schools), programs, or activities regardless of whether they receive federal funding or not.

Section 504 covers students with diagnosed, certified, or classified disabilities who attend public and some private schools. A student is "disabled" under the Section 504 regulations if the student meets any one of the three prongs of eligibility listed in 34 CFR 104.3(j)(1).

To be protected under Section 504, a student must be determined to:

- 1) Have a physical or mental impairment that substantially limits a major life activity or
- 2) Have a record of such impairment, or
- 3) Be regarded as having such impairment

The ADAAA (2008) did not change the actual language of the three prongs, but it did change how the various phrases used in the three prongs are understood. Congress provided, as part of its rules of construction in the ADAAA, that "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.” This statement should guide the school’s Section 504 team’s evaluation of the potentially eligible student. The school’s Section 504 team is defined as a group of persons knowledgeable about the student, the meaning of the evaluation data, and the placement options (34 CFR §104.35(c)).

Section 504 requires that school districts provide a free and appropriate public education (FAPE) to students in their jurisdiction who have a physical or mental impairment that substantially limits at least one major life activity or major bodily function. All students are entitled to FAPE in Delaware.

Major life activities include functions such as:

Caring for Oneself	Sleeping
Working	Learning
Performing Manual Tasks	Walking
Communicating	Breathing
Seeing	Standing
Thinking	Speaking
Hearing	Lifting
Concentrating	Bending
Eating	
Reading	

This is not an exhaustive list. The term includes basic activities that the average person in the general population can perform with little or no difficulty. A number of bodily functions are considered major life activities (i.e., functions of the immune system, digestion, neurological functions, respiratory functions, and brain functions). In the school setting, for purposes of deciding if a student requires accommodations and/or services, major life activities may include those basic activities that are necessary to access learning or other aspects of the schools programs. Although IDEA addresses disabilities that limit the student’s ability to learn, Section 504 addresses other activities that may be limited. Even if there is no limitation on the ability to learn, the student may still qualify if another major life activity is limited. For example, a student may have a disability under Section 504 and need a Section 504 Plan even though he is doing well academically.

Relationship between Section 504 and the ADAAA

The Americans with Disabilities Act (ADA), enacted in 1990 and amended in 2008 as the ADAAA and the Rehabilitation Act of 1973 (Section 504) are civil rights laws that protect individuals with disabilities from discrimination. The primary difference is that while Section 504 applies only to organizations that receive federal funding, the ADAAA applies to a much broader population. As of January 1, 2009, however, whatever applies to the ADAAA applies to Section 504 as well.

Virtually every violation of Section 504 is also a violation of the ADAAA in the educational arena. In the event that a complainant alleges that the school has violated one statute, OCR and the EEOC will likely investigate for violations of the other statute.

Section 504/ADAAA compared to the Individual with Disabilities Education Act (IDEA)

Eligibility for protections and services under Section 504 is not the same as eligibility for IDEA. Section 504 has a much broader definition of disability than IDEA. Special education is the provision of IDEA while Section 504 is the provision that protects the civil rights and “levels the playing field” for students with mild to moderate disabilities in a general education setting who do not need special education. Students covered under IDEA with an Individualized Education Plan (IEP) do not need a separate Section 504 plan as provisions covered under Section 504 would be contained under IDEA.

Eligibility

The critical, overarching question to consider for eligibility under Section 504:

“Does a student have a physical or mental impairment that substantially limits a major life activity or major bodily function?”

Physical or Mental Impairments

Section 504 defines 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; genito-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

The regulation does not set forth an exhaustive list of specific diseases or categories that may constitute physical or mental impairments. The definition of *physical or mental impairment* under Section 504 is broad, including students with life-threatening health conditions that will put a student in danger of death during the school day, if medication or treatments are not in place.

Substantial Limitation

A physical or mental impairment substantially limits a major life activity if the student’s ability to perform a major life activity or major body function is decreased as compared to the student’s non-disabled age/grade peers. There is no single formula or scale that measures substantial limitation. Impairment need not prevent, or significantly or severely restrict a student in performing a major life activity to be considered substantially limiting. Title II provides three (3) factors to consider when determining whether or not the disability *substantially limits* a major life activity or major bodily function:

1. Nature and severity of the impairment;
2. Duration or expected duration of the impairment; **AND**
3. Permanent, long-term impact or expected impact of the impairment.

The determination of whether a student has a physical or mental impairment that substantially limits a major life activity or major body function must be made by the Section 504 team. The

ADAAA (2008) expanded the definition of substantial limitation to ensure it reaches a broad spectrum of individuals without the consideration of mitigating measures such as medications and surgical interventions. Eyeglasses and corrective lenses are an exception to this rule (i.e. 504 teams may take into account a student's eyeglasses when making eligibility determination).

Mitigating Measures

As mentioned above, mitigating measures may be used by a disabled student to manage his or her impairment or lessen the impact of his or her impairment. Mitigating measures include medication, medical devices, related aids and/or services. These mitigating measures must be disregarded when determining whether a student's impairment constitutes a disability under Section 504. However, the mitigating measures/supports may be considered when writing a student's accommodation/support plan.

Otherwise Qualified

If a person with a disability wants to participate in an activity in which the individual is not *otherwise qualified* to participate, disallowing participation does not constitute discrimination. For example, a 16-year-old boy with attention deficit hyperactivity disorder (ADHD) tries out for the basketball team but cannot dribble, shoot, or pass. As a result, the coach does not allow the boy to play on the team. This is not discrimination under Section 504 because the boy is not *otherwise qualified* to be on the team.

Transitory Impairments

A transitory impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period of time (usually 6 months or less). The issue of whether a transitory impairment is substantial enough to be a disability must be resolved on a case-by-case basis, taking into consideration both the expected duration of the impairment and the extent to which it actually limits a major life activity. Contact the School Section 504 Coordinator for further information.

Transfer Students

A student with an active Section 504 plan who enrolls at Providence Creek Academy from an outside district must be reevaluated within a reasonable time upon entry (recommended time frame is within 45 school days, 90 calendar days). A Section 504 team may accept the student's current plan on a temporary basis while waiting to reevaluate the student. Upon evaluation, if the Section 504 team determines that the student's mental or physical impairment no longer substantially limits his/her ability to learn or perform any other major life activity, the student is no longer eligible for services under Section 504.

A student who reenrolls at Providence Creek Academy must also be reevaluated to determine if the student continues to meet eligibility requirements. Once again, the Section 504 team may accept the student's former plan on a temporary basis while waiting to reevaluate the student. The only exception would be if the student was exited from a Section 504 plan prior to withdrawal from PCA. In this case, the Section 504 team would begin the process for referring a student for eligibility determination.

Impairments that are Episodic or in Remission

The ADAAA declares that “An impairment that is episodic or in remission is a disability only if it would substantially limit a major life activity when active.” Although the language covers two different types of impairments with similar treatment, these impairments are better analyzed separately as there are significant differences between the two. Students who have impairment that may be considered episodic or in remission may be determined eligible under Section 504 as a student with a disability, but may not need an active Section 504 plan at this time. School teams should monitor these students to activate a plan if the student’s condition becomes active and substantially limits the student’s functioning.

Episodic Impairments

Some students have physical or mental impairments that vary in severity. Conditions such as seasonal allergies or asthma, migraines, rheumatoid arthritis, and cystic fibrosis are good examples of impairments that may be substantially limiting at times (in hot weather, when the student is stressed, when irritants or trigger factors are present) and have little impact at other times. Schools commonly qualify students under Section 504 if their condition, though not constant, episodically rises to the level of substantial limitation of a major life activity. Students should not be denied eligibility simply because the disability, at the moment of evaluation, is not substantially limiting, especially when the school knows from past experience that substantial limitation will likely occur. School Section 504 teams should look carefully at the range of data over a period of time and not just the student’s current level of performance. The timing of the evaluation should not function to preclude eligibility for students whose impairments are episodic and who are not substantially limited at the time of evaluation.

Impairments in Remission

The ADAAA language on impairments in remission is the same as episodic impairments: “An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.” An example is a student who had cancer that is now in remission. The student would be eligible if the cancer substantially limited when it was active in the past.

Students who are receiving services under Exceptional Children Education (EC)

A student with a disability who is eligible for the protections and provisions of FAPE under the IDEA is not eligible to receive Section 504 services. Once a student is eligible under the IDEA, the IEP team is responsible for the whole child (although still entitled to the Section 504 protections against discrimination and equal access). The school has no flexibility or discretion to provide services and accommodations under Section 504 when a student is IDEA-eligible.

Related Services: Occupational Therapy, Physical Therapy, & Audiology

Section 504 requires that related services be provided for students with disabilities, if these services are essential to meet the student's educational needs. A related service can be provided under Section 504 to children who do not receive any other special education services or interventions.

The PCA related services consist of speech therapy and occupational therapy. Related services staff must be contacted to assist in evaluating a student before services are provided. To request an evaluation, the student support or Section 504 team must contact the Related Services Person. The Section 504 coordinator will be contacted by the related services staff to schedule the evaluation.

Students who receive a related service must receive progress monitoring to determine the effectiveness of the accommodations provided. Monitoring must be completed each quarter and reported to the student's parent or guardian.

Equipment assigned to a student must be maintained and kept in working order. Equipment that is not in working order may compromise the implementation of a student's Section 504 Plan. When a problem is noted with any equipment, notify the Section 504 Coordinator or the related service provider immediately.

Inclusion

Section 504, like the IDEA, requires that students with disabilities be educated with their non-disabled peers to the maximum extent appropriate while meeting the needs of students with disabilities. Schools should always place students with disabilities with their non-disabled peers, unless the school can demonstrate that the student's education program cannot be achieved satisfactorily, with or without supplementary aids and services in the general education setting. This mandate also applies to extracurricular activities such as field trips.

Section 504 Procedures

Providence Creek Academy's Section 504 process has specific requirements for the identification, evaluation, placement and procedural safeguards of students. Upon receipt of a Section 504 referral, a 504 Committee shall be formed which comprises of the regular education teacher(s), Section 504 Coordinator, parent/ guardian and any other members that know that student and can help determine if the child is eligible for a Section 504 Plan.

Referral

The responsibility for identifying and locating students with disabilities, also known as Child Find, rests with PCA and its teachers. In order to remain compliant, the school must annually undertake efforts to "identify and locate" every qualified individual with a disability. Child Find is a continuous process at PCA.

If a parent/ guardian or agency representative suspects that a child may qualify under Section 504, they should complete the Parent/ Guardian Referral Form. This form should be returned to the Section 504 Coordinator of PCA. The Section 504 Coordinator will then provide the Teacher Referral Form to all of the student's teachers and request all necessary documentation that will be used in the evaluation process such as STAR reports, student grades, etc.

If a teacher suspects that a child may qualify under Section 504, they should complete the Teacher Referral Form and submit it to PCA's Section 504 Coordinator. A copy of the Parent/ Guardian Referral Form will then be sent home by the Section 504 Coordinator and a copy of the Notice of Section 504 Committee Meeting to the student's parent/guardians.

Upon receipt of a Section 504 Referral the committee must meet within twenty business days for the referral to be screened by the Section 504 Committee. The parent/ guardian should be notified and should be given a copy of their rights and procedural safeguards. Reasonable efforts should be made to schedule a meeting at a mutually convenient time for parents/ guardians and staff. If parents/ guardians are unable or unwilling to attend, the committee may proceed to meet as long as notice has been provided and efforts made. All efforts to communicate with parents/ guardians should be documented.

PCA shall screen each referred child to determine what action, if any, is required in response to the referral. It is possible that a referred student may be taken through screening, eligibility determination, and if found eligible, the writing of a draft or final 504 plan may occur in a single meeting. As meetings are scheduled, this should be taken into consideration and sufficient time should be allowed. This is the most efficient way to ensure that student needs are met promptly and to reduce the imposition of multiple meetings on families and staff.

Screening/Determination of Eligibility

As stated previously, the Section 504 Committee should meet within twenty business days of the receipt of the referral to review the information presented by the person making the request for screening. Scheduling the meeting for the twentieth business day should be the exception, not the rule. If parent or guardian is unable to attend the meeting in person or participate by phone after exhausting all efforts to accommodate their schedule, the meeting may be held without him/her. In addition to the referral, the committee should review all information available in the student's educational records and other relevant material; such as, work samples, results of aptitude and achievement tests, observation reports, medical information, anecdotal records, Response to Intervention reports, etc.

A 504 Committee should consist of the following members; staff who are knowledgeable about the requirements of Section 504, people who are knowledgeable about the student (teachers, parents/guardians), staff who have expertise in the area of suspected disability and in interpreting data, and other staff as deemed appropriate by the 504 Coordinator. In some cases, it may be appropriate to include the student as part of the 504 Committee.

The committee may meet as many times as required to determine the students needs and should strive for consensus. The parent/guardian should be invited to attend all of the meetings (Notice to parent of Section 504 Meeting), and procedural safeguards should accompany each invitation. Subsequent to the meeting, a copy of the Determination of Eligibility Form and any other attachments should be sent to the parents/ guardians. Minutes of all proceedings, recommendations and supporting documents must be maintained in the student's educational record with a copy forwarded to the Section 504 Coordinator. Additionally data entry should take place during the meeting, or immediately following, to ensure that the student's identification under Section 504 is documented in PCA's database. This includes students who were screened, but not identified.

Following the screening process, the Section 504 Committee may determine one of the following:

1. No further 504 action needed at this time. The Section 504 Committee may determine on the basis of existing documentation (gathered by school staff and/ or provided by outside sources) that there is no reason to believe that the student has a disability.
2. Collect additional data. The 504 Committee may determine, after review of existing documentation, that additional information is needed to determine eligibility. Additional information will be collected by the school. This option may be appropriate if the Committee decides it needs to collect information to supplement documentation provided by outside sources. If additional information is necessary as part of an initial assessment or reassessment, parents/ guardians should be notified, and consent must be obtained.

Note: Determination of a disability should not require extensive analysis. If choosing this option, teams should clearly indicate what information needs to be gathered.

3. Other. As determined by the committee. The committee may make a referral for consultation with school staff (such as school counselor, social worker, or psychologist). The committee may agree to meet again at a future date to review the students functioning in school, which may be particularly helpful during times of transition. A time frame should be indicated.

Information used to determine eligibility should come from a variety of sources and must be documented in the Determination of Eligibility Form. No determination of eligibility will be made by the Section 504 Committee without first inviting the parent/ guardian of the student to participate in a meeting concerning such determination. This determination will be made by the committee in writing and notice of the decision shall be provided to the parent/ guardian.

If a parent/ guardian disagrees with a decision made through the assessment or reassessment process, the parent/ guardian can appeal the decision as described in PCA's 504 Rights and Procedural Safeguards.

In all cases, whether initial assessment or reassessment, Determination of Eligibility Form should be completed, including:

- The sources of all information used and considered in making the determination;
- The nature of the mental or physical impairment(s);
- The nature and extent of the major life activities which are substantially limited by the impairment(s)
- Essential deliberations, including any mitigating factors that were considered; and
- The specific accommodations and/ or services being recommended so that general education programs may accommodate the student's needs.

Reevaluation/ Review of Eligibility

A reassessment to determine continued eligibility is required at least once every three years. If a "significant change in placement" (removal from the school environment, change to a more restrictive setting, etc) is being considered, a reassessment should be conducted before the change is made.

As with initial eligibility, the 504 Committee making the determination of continued eligibility, must be comprised of a group of persons qualified to do so, according to the student's unique needs and the current placement. That is, membership of the committee completing the reevaluation process parallels that of the group who made the initial placement decision. The 504 Committee must have available to it information that is both sufficient and recent enough to

afford an understanding of the child's current functioning. When considering the child's current functioning, specifically when considering dismissal from Section 504, teams should be mindful that a student's improved functioning may be the result of effective accommodations, and not necessarily lack of need. The committee may request assessments if needed. However, in most cases they may make decisions based on available information. Any information provided by parents/ guardians will be considered by the committee.

The review process should offer the opportunity for teachers and parents/guardians to have input into the plan. Since academic and behavioral expectations change from grade to grade, and students mature from year to year, it is natural to expect that the number and type of necessary accommodations may also change. The need for state testing accommodations should be discussed each time the plan is reviewed. Although all of a student's teachers or parents/guardians may not be able to attend a review meeting in person, they should be notified of the review and given the opportunity to provide input.

If additional individual testing is needed, parent consent should be obtained prior to conducting the additional testing.

If parents/ guardians refuse to consent to additional assessments for reevaluation, the Section 504 Committee may determine continued eligibility based on available information, including recent classroom observations and records. If parent/ guardian does not respond for consent for additional testing regarding reassessment, the committee should document all attempts (at least 3) to obtain such consent, and then proceed with reassessment meeting based on available information. Documentation may include copies of dated letters mailed to the parents/ guardians, and administrators may choose to use registered U.S. mail to further document their efforts to obtain parental consent.

If the committee determines that a student is no longer eligible and the parents/ guardians challenge that determination, the student continues to receive the benefits of the Section 504 plan until the matter has been resolved. The 504 Committee can hold another meeting to try to resolve the matter; either party may make a referral for a grievance process, or either party may request an impartial due process hearing.

Plan and Placement

Following determination of a disability/ eligibility, PCA may develop an individualized plan (also referred to as a "program") to meet a student's educational needs.

When accommodations or services are warranted, PCA will use the Section 504 Accommodations Plan to document the accommodations and services that will be provided to the student in the general education environment. The student's parents/ guardians should be

invited to participate in the Section 504 Plan development and must be provided with a copy of the PCA Section 504 Rights and Procedural Safeguards. If parents/ guardians cannot attend the meeting after efforts have been made to accommodate their schedule, the meeting should be held without them.

The program provided to an eligible student through Section 504 will be at no expense to the parents/ guardians. The school cannot charge parents/ guardians for special equipment, materials, transportation or other services that are required in order for the student to access educational opportunities. The school may only issue charges that are allotted to all students for items such as yearbooks, school pictures etc.. While the “no cost” regulations specifically provide for out-of-district placements, this type of placement will only be made if a decision is made that the student’s educational needs cannot be met within the school. Should a student’s disability require this level of program, it is likely that the student will qualify under IDEA.

If the parent/ guardian of an IDEA eligible student desires that all that special education has to offer, but requests that PCA provide the same program under Section 504 to avoid “labeling the student as ‘in need of special education’.” IF the student is determined to require special education services, and the parent/ guardian agrees, but does not want services through an IEP, the school does not have to provide them under a 504 Plan. IF the school believes that the student requires special education services but the parent only gives consent for the student to receive accommodations and services under Section 504, the 504 Committee should contact the Director of Special Education.

If the 504 Committee determines that testing accommodations are required, then such accommodations must be provided for both classroom and standardized tests. If parents/ guardians decline testing accommodations for their child, they must be informed of the possible implications. They should be asked to write or otherwise provide a statement declaring their decision to refuse testing accommodations and affirming their understanding of possible consequences.

Disability- No Plan

Some students though eligible for protection under Section 504, may not require accommodations or services, and therefore do not need a Section 504 plan. For these students the Section 504 Committee should reconvene at least annually to review the need for a plan.

Manifestation Determination Procedures

Manifestation determination: Within ten (10) school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the 504 Coordinator, the parent, and relevant members of the child's 504 Team shall review all relevant information in the student's file, including the child's 504, any teacher observations, and any relevant information provided by the parents to determine:

30.5.1: If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or

30.5.2: If the conduct in question was the direct result of the 504's failure to be properly implemented.

30.5.3: The conduct shall be determined to be a manifestation of the child's disability if the members of the 504 Team determine that a condition in either 30.5.1 or 30.5.2 was met.

30.5.4: If the members of the 504 Team determine the condition described in 30.5.2 was met, the 504 Team shall take immediate steps to remedy those deficiencies.

30.6: Determination that the behavior was a manifestation: If the members of the 504 Team make the determination that the conduct was a manifestation of the child's disability, the 504 Team shall either;

30.6.1: Conduct a functional behavioral assessment, unless the 504 Team had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child;

Or

30.6.2: If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and

30.6.3: Except as provided in 30.7, return the child to the placement from which the child was removed, unless the parent and the 504 Team agree to a change of placement as part of the modification of the behavioral intervention plan.

30.7: Special circumstances- School personnel may remove a student to an interim alternative educational setting for not more than forty five (45) school days without regard to whether the behavior is determined to be a manifestation of the child's disability:

30.7.1: Carries a weapon to or possesses a weapon at school, on premises, or to or at a school function.

30.7.2: Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function.

30.7.3: Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function.

30.8 Notification: The 504 Team shall ensure that the parents, guardian or Relative Caregiver of each child with disabilities receive written notice of the rules and regulations applicable to such children with respect to discipline, suspension, expulsion, and exclusion as a treatment procedure at the beginning of each school year or upon entry into a special education program during the school year; and

30.8.1: On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the 504 Team shall notify the parents of that decision, and provide the parents the procedural safeguards.

Definitions:

“Controlled substance” means a drug or other substance identified under schedules I, II, III, IV, or V in section 202c of the Controlled Substances Act

“Illegal drug” means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.

“Serious bodily injury” has the meaning given the term “serious bodily injury” under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.

“Weapon” has the meaning given the term “dangerous weapon” under paragraph (2) of subsection (g) of section 930 of title 18, United States Code.

Manifestation Determination Appeal Process

A student may appeal any long term out-of-school suspension (greater than five days) or expulsion. Any appeal must be submitted in writing to the Head of School and/or the school's Director of Finance and Personnel within 48 hours of original disciplinary action. The school board will convene as soon as reasonably possible and provide a written response to the student.

Grievance Procedure

Section 504 of the Rehabilitation Act of 1973

Providence Creek Academy has established the following local grievance procedure to resolve complaints of discrimination arising under Section 504:

1. An alleged grievance under Section 504 must be filed in writing setting out in detail the circumstances giving rise to such grievance.
2. Such claims must be made in writing and filed with the 504 Coordinator within 30 days of alleged discrimination.

504 Coordinator
Providence Creek Academy Charter School
273 West Duck Road
PO Box 265
Clayton, DE 19938
PH: 302-653-6276 FX: 302-653- 7850

3. A hearing will be conducted according to the procedures outlined in the regulations based upon the Family Educational Rights and Privacy Act (FERPA) and due process rights that are afforded to the student and family who filed the grievance.
4. The coordinator will appoint a compliance officer who will conduct the hearing within 30 days after the request was received.
5. The coordinator shall give the parent, student, or employee reasonable advance notice of the date, time, and place of the hearing.
6. The hearing must be conducted by any impartial individual who is knowledgeable about Section 504 and who does not have a direct interest in the outcome of the hearing.
7. Providence Creek Academy shall give the parent, student or employee full and fair opportunity to present evidence relevant to the issues raised. The parent, student, or employee may, at their own expense, be assisted or represented by individuals of their choice, including an attorney.
8. The impartial individual shall make his/her decision in writing within fifteen (15) days after the hearing.
9. The decision must be based solely on the evidence presented at the hearing and shall include a summary of the evidence and reasons for the decision.

NOTICE OF PARENT/STUDENT RIGHTS IN IDENTIFICATION EVALUATION AND PLACEMENT OF INDIVIDUALS WITH DISABILITIES

In compliance with the procedural requirement of Section 504 of the Rehabilitation Act of 1973, the following list of rights are given to insure the parent/guardian's awareness of the regulations about the evaluations of and/or special instruction which may be offered to his/her child. The parent also has the right to meet with the superintendent or designee and/or the local school board to resolve any objections to either the evaluation or educational placement of the student.

I. Organizations and agencies which the parent/guardian may contact to obtain assistance with evaluation and/or placement questions include, but are not limited to the following:

Disabilities Law Program

Kent County

840 Walker Road

Dover, DE 19904

302-674-8503

Toll Free: 1-800-537-8383

Sussex County

144 East Market Street

Georgetown, DE 19947

302-856-3742

Toll Free: 1-800-462-7070

Parent Information Center of DE, Inc.

Kent/Sussex Counties

600 N. DuPont, Suite 100

Georgetown, DE 19947

302-856-1852

**Governor's Advisory Council for
Exceptional Citizens**

21 the Green, Suite 1

P O Box 1401, Dover, DE 19901

302-739-4553

**Exceptional Children &
Early Childhood Group**

Director

P O Box 1402, Dover, De 19903

302-739-5471

II. The following is a description of the rights granted by federal law to individuals 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:

A. Have your child take part in and receive benefits from education programs without discrimination because of his/her disability.

- B. Have the school district or charter school advise you of your rights under federal law.
- C. Receive notice with respect to the identification, evaluation or placement of your child.
- D. Have your child receive a free, appropriate public education. This includes the right to be educated with nondisabled students to the maximum extent appropriate. It also includes the right to have the school district make reasonable accommodation to allow your child an equal opportunity to participate in school and school-related activities.
- E. Have your child educated in facilities and receive services comparable to those provided to nondisabled students.
- F. Have your child receive special education and related services if s/he is found to be eligible under the Individuals with Disabilities Education Act (IDEA), and/or general education interventions/modifications outside of special education under Section 504 of the Rehabilitation Act of 1973.
- G. Have evaluation, educational and placement decisions made based upon a variety of information and sources, and by persons who know the student, evaluation data and placement options.
- H. 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 school district.
- I. Have your child given an equal opportunity to participate in nonacademic and extracurricular activities offered by the school district.
- J. Examine all relevant records at a reasonable cost unless the fee would effectively deny you access to the records.
- K. Obtain copies of educational records at a reasonable cost unless the fee would effectively deny you access to the records.
- L. A response from the school district to reasonable requests for explanations and interpretations of your child's records.
- M. 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 so notify you within a reasonable time and advise you of the right to a hearing.
- N. Request mediation, an impartial hearing and an appeal of any decisions or actions taken by the school district regarding your child's identification, evaluation, educational program or placement. The costs for these due process procedures will be borne by the school district.

You and your student may take part in these proceedings and have an attorney represent you. Requests for due process must be made to the Head of School or the Section 504 coordinator. The following details the procedures:

1. If the parent/guardian disagrees with the identification, evaluation, educational placement or with the provision of a free, appropriate public education for his/her child, the parent/guardian may make a written request for a hearing to the superintendent, indicating the specific reason(s) for the request.
2. The school district or charter school may initiate a hearing regarding the identification, evaluation, educational placement of the student or the provision of a free appropriate public education to the student. The school district or charter school shall notify the parent/guardian of the specific reason(s) for the request.
3. Such hearings shall be conducted within 20 instructional days after the request is received, unless the hearing officer grants an extension, and at a time and place reasonably convenient to the parent/guardian. Upon receipt of a request for a hearing, the superintendent shall appoint the independent hearing officer. The school district or charter school shall bear all costs pertaining to the hearing, including the transcription, hearing officer fee and expenses, but shall not be responsible for the fees and expenses incurred by the parent/guardian except for those detailed below. The parent/guardian involved in a hearing shall be given the right to have the child who is the subject of the hearing present, open the hearing to the public, and be represented by counsel or any other representative.
4. During the pendency of an administrative or judicial proceeding, unless the school district and the parent/guardian of the child agree otherwise, the child involved in the proceeding shall remain in his/her present educational placement. If there is a dispute regarding this present placement, the hearing officer shall order an interim placement. The present educational placement of the child shall include normal grade advancement if the proceedings extend beyond the end of the school year. If the issues involve an application to initial admission to school, the child, with the consent of the parent/guardian, shall be placed in the school until the completion of the proceedings. In the absence of an agreement, the hearing officer shall determine the child's placement during the proceedings.
5. The child and the parent/guardian shall have the right to legal counsel and/or other representation of their own choosing. The school district shall inform the parent/guardian of any free or low-cost legal services available in the area if the parent/guardian requests the information or if the school district initiates a hearing. The school district shall bear the burden of proof as to the appropriateness of any placement, transfer or the denial of same.

6. A tape recording or other verbatim record of the hearing shall be made and transcribed and, upon request, shall be made available to the parent/guardian or representative, at the school district's expense. At a reasonable time prior to the hearing during school hours, the parent/guardian or representative shall be given access to all records of the school district, and any of its agents or employees, pertaining to the child, including all tests and reports upon which the proposed action may be based. The parent/guardian or representative shall have the right to compel the attendance, to confront or to cross-examine any witness who may have evidence upon which the proposed action may be based. The parent/guardian or representative and school district shall have the right to present evidence and testimony, including expert medical, psychological or educational testimony. Introduction of any evidence at the hearing that has not been disclosed to both parties at least five (5) days before the hearing is prohibited, subject to the discretion of the hearing officer.

Within 45 instructional days after the hearing, the hearing officer shall render a decision in writing. Such decision shall include findings of fact, conclusions of law, and orders, if necessary, which will be binding on all parties. The dated decision shall be sent by mail to the parent/guardian and the superintendent of the school district, and shall contain notice of the right to appeal the decision. The decision shall be implemented no later than 10 instructional days following the date of the decision, unless review is sought by either party. Should the parent/guardian be represented by legal counsel and ultimately prevail on the issues at administrative and/or judicial proceedings, the parent/guardian may be entitled to payment of all or part of the attorney fees and other costs incurred by the parent/guardian.

- O. Request a review (appeal) of the hearing should you not prevail. The following details the procedure:
 1. A petition to review (appeal) the decision of the hearing officer may be made by any party to the hearing. The request must be in writing, filed with the superintendent and the opposing party, be specific as to the objection, and be filed within 10 instructional days of the date the hearing officer's decision is received. The school district is responsible for the appointment of an independent appeals officer to conduct an impartial review of the record as a whole and may, at his/her election, conduct the review with or without oral argument. Such review shall be conducted within 20 instructional days of the receipt of the petition to review, unless either party requests an extension of time.

2. The appeals officer shall insure that a transcript of the review is prepared and made available to any party upon request.
 3. Any party disagreeing with the decision of the appeals officer may appeal to a civil court with jurisdiction.
 4. A parent/guardian represented by legal counsel during the proceedings of a due process hearing, appeal, or civil action may be entitled to reimbursement of legal fees if the parents ultimately prevail.
- P. Ask for payment of reasonable attorney fees if you are successful on your claim.

Section 504 Parent/ Guardian Referral Form

*Return form to 504 Coordinator or Providence Creek main office.

Student: _____ Date: _____

Grade: _____ DOB: _____

Parent/ Guardian: _____

Address:

Phone: (H) _____ (W) _____

Person Requesting 504 Screening:

Relationship to Student:

Reason for Referral: (attach additional sheets that the committee will review in determining the eligibility for a 504.)

Signature: _____

Date: _____

This section to be completed by the 504 Coordinator or designee receiving this referral.

- Teacher Referral Form has been provided to teachers for completion.
- Notice of Committee Meeting has been provided to parent/guardian.
- Procedural Safeguards have been provided to parent/ guardians.

Date of schedule Section 504 Eligibility Committee Meeting: _____

Section 504 Teacher Referral Form

Student Name: _____

Completed by: _____ Date: _____

Directions: Circle a rating of this student's performance on a scale from 1 to 5.

	Unsatisfactory		Average		Excellent
Classwork	1	2	3	4	5
Homework	1	2	3	4	5
Test Performance	1	2	3	4	5
Written Expression	1	2	3	4	5
Oral Expression	1	2	3	4	5
Following Directions	1	2	3	4	5
Attention	1	2	3	4	5
Organization	1	2	3	4	5
Attendance	1	2	3	4	5
Interpersonal Relations	1	2	3	4	5
Other: _____	1	2	3	4	5
Other: _____	1	2	3	4	5

Directions: Please fill in student's current grades or attach current grades. Also include student detail reports for subjects that the student struggles in.

Subject	Grade

List instructional modifications and alternatives required by this student on a consistent, regular basis and the reasons for these modifications. (e.g., modified instruction or materials, reduced assignments, expanded deadlines, etc.)

Modification	Reasons

Are these effective? If not, please describe any barriers:

Please list any other factors which appear to affect this student's academic or behavioral performance: (e.g., anxiety, distractibility, etc.)

Comments:

504 Conference Minutes

Date:

Reason for meeting:

Minutes:

The following people as indicated by their signatures have participated in the 504 conference and agree to the above minutes:

POSITION	SIGNATURE	DATE

Section 504 Determination of Eligibility Form

Student: _____ Grade: _____ DOB: _____

Sex: _____ Date: _____ Parent/ Guardian: _____

Address:

Phone: (H) _____ (W) _____ (C) _____

Please attach copies of all documentation used for determination of eligibility.

EVALUATION INFORMATION

Academic Data Reviewed	
_____ Report Card	_____ Portfolio/ Work Samples
_____ Teacher Referral Form	_____ DCAS Assessment
_____ Individual Achievement Test	_____ School Record
_____ Other: _____	_____ Other: _____

Social/ Emotional/ Behavioral Data Reviewed	
_____ School Record	_____ Psychological Evaluation
_____ Teacher Reports	_____ Parent Information Request
_____ Other: _____	_____ Other: _____

Medical/ Physical/ Sensory Data Reviewed	
_____ Medical Report	_____ Psychological Evaluation
_____ Parent Information Request	_____ Neurological Evaluation
_____ Other: _____	_____ Other: _____

Additional Assessments	
Assessment	Date

ELIGIBILITY DETERMINATION

Does the student have a handicap/ impairment that substantially limits a major life activity?

_____ YES or _____ NO

Is the handicap/ impairment mental or physical? MENTAL or PHYSICAL

What is the nature of the handicap/ impairment?

Is the impairment temporary _____ No _____ Yes (If yes, describe frequency, intensity or expected duration)

Is the impairment episodic, intermittent or in remission? _____ No _____ Yes (If yes, describe frequency, intensity, or expected duration)

When in an active state, does the impairment substantially limit a major life activity/ major life function when compared to how the average, non-disabled student performs the same major life activity?

_____ yes (if yes, go to the eligibility determination section)

_____ no (if no, respond to the following)

A. Is the student using any measures or other modifications to reduce or control the effect of the impairment?

_____ No _____ Yes

B. What is the mitigation measure(s)?

C. Describe the extent to which a major life activity/ major life function is limited if the student was not using a mitigating measure.

Taking into account the evaluation information, check the best descriptor of the major life activity limitation.

_____ Negligible _____ mild _____ moderate _____ substantial _____
severe

D. Summarize supporting evaluation information:

What is the major life activity impacted?

___ seeing ___ working ___ breathing ___ hearing ___ speaking ___ standing
___ caring for one's self ___ walking ___ learning ___ performing manual tasks ___ lifting
___ bending ___ reading ___ concentrating ___ thinking ___ communicating ___ eating
___ sleeping ___ bowel functions ___ bladder functions ___ digestive functions ___ other:

ELIGIBILITY DETERMINATION

Based on an analysis of the evaluation data, does the student have a disability that substantially limits a major life activity?

_____ NO, the student is not eligible.

_____ YES, the student is Section 504 eligible but does not require a Section 504 Plan because (1) of the corrective effects of mitigating measures or (2) the impairment is episodic or in remission. The Section 504 Team will re-convene at least annually or more frequently, if requested by school personnel or parents.

_____ YES, the student is Section 504 eligible and requires a Section 504 Plan.

The following people as indicated by their signatures have participated in the review of evaluation information, the determination of eligibility and the eligibility outcome:

POSITION	SIGNATURE	DATE

To the Parent:

Please sign and return this form to _____.

I have reviewed this eligibility determination. I am in agreement with this decision.

Parent/Guardian Signature: _____ Date: _____

I have received a copy of the PARENT/ STUDENT RIGHTS UNDER SECTION 504.

Parent/Guardian Signature: _____ Date: _____

Notice to Parents of Section 504 Committee Meeting

Date: _____

Notice Number: _____

Method Received: sent home with student telephoned sent by mail other: _____

Dear _____,

Student's Full Name

This notice is to inform you that we have scheduled a meeting of the Section 504 Committee to discuss your child's educational program for the following purpose(s):

Purpose of Conference (check all that apply):

<input type="checkbox"/> Initial Screening Meeting (to review existing information and consider options, which may include determination of Section 504 eligibility or requesting additional data).	<input type="checkbox"/> at your request to discuss:
<input type="checkbox"/> Review Results of Evaluations or Other Additional Data Collected (which may lead to a determination of Section 504 Eligibility)	<input type="checkbox"/> to discuss disciplinary action.
<input type="checkbox"/> Develop a Section 504 Plan (if your child is determined to be eligible)	<input type="checkbox"/> to discuss a change in placement.
<input type="checkbox"/> Review an existing Section 504 Plan (which may include re-evaluation of eligibility or exiting your child from the Section 504 program).	<input type="checkbox"/> other:
<input type="checkbox"/> to discuss disciplinary related manners.	

This conference has been schedule for:

Date: _____

Time: _____

Location: _____

Other persons who have been invited to attend this meeting include:

_____ Mrs. Audrey Erschen, Head of School/ Principal _____ Student

_____ Dr. Jody Williams, School Psychologist _____ Cindy Daniels, Nurse

_____ _____, General Education Teacher

_____ Other: _____

_____ _____, General Education Teacher

_____ _____, General Education Teacher

_____, General Education Teacher
_____, General Education Teacher
____ Mrs. Joan Messick, School Interventionist/ 504 Coordinator

You are welcome to bring any information, including formal or informal test results, work samples, etc. to the meeting. Additional persons may attend at your request; however, we request that you provide the school with the person(s) name and their role prior to the scheduled meeting.

A copy of Providence Creed Academy's Section 504 Rights and Procedural Safeguards is included with this letter.

If you would like to schedule a conference at a different time/ date, have questions about this notice, or if you require an interpreter, please:

Contact: _____ Telephone number :

Sincerely

Request for Permission of Additional Evaluation Form

Date _____

Dear _____,

Providence Creek Academy would like to provide an evaluation for _____ to determine the need for possible accommodations to his/ her educational program.

The student has been referred for a 504 evaluation for the following reasons:

The general education interventions attempted and options considered were:

The proposed assessments/ procedures include:

The evaluation will be conducted within a reasonable length of time following the return of this form. If this evaluation shows that _____ is eligible for Section 504 services, we will ask for your assistance in preparing an accommodation plan.

Enclosed for your information is a copy of the Notice of Parent/Student Rights. Please return this letter within ten days of receipt. Thank you for your cooperation.

Sincerely,

Name

Position

telephone number

YES, If you AGREE to an evaluation as outlined above, please sign here.

NO, If you do NOT AGREE to an evaluation as outlined above, at this time, please sign here.

Date: _____