

Marietta City Schools  
Section 504  
Procedures Manual



A Georgia Charter System

250 Howard Street  
Marietta GA 30060  
(770) 422-3500

Our vision is for all students to learn to their fullest potential.

Each school has a 504 contact. For more information regarding section 504, or if you have questions or are in need additional assistance, please contact the local school 504 coordinator or the following staff:

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Marietta City Schools  
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Marietta, GA 30060

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Section 504 falls under the jurisdiction of the US Department of Education's  
Office for Civil Rights (OCR).

<https://www2.ed.gov/about/offices/list/ocr/index.html>

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Office for Civil Rights  
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## Table of Contents

<b>Chapter I: An Overview of Section 504 .....</b>	<b>6</b>
What is Section 504?.....	7
Who is Eligible for Section 504? .....	7
How Does Section 504 Define A Physical or Mental Impairment? .....	7
How Does Section 504 Define a Major Life Activity?.....	8
What Does It Mean For A Disorder To Limit A Major Bodily Function?.....	9
How Is Substantial Limitation Determined? .....	9
What Does “Record Of” Or “Regarded As” Having A Disability Mean?.....	9
Record Of A Disability .....	9
Regarded As Having A Disability.....	10
What Is An Evaluation Under Section 504?.....	10
Eligibility Determination.....	11
Mitigating Measures .....	11
Key Eligibility Question.....	12
Determination Of Need For A Section 504 Plan .....	12
Eligibility Options .....	12
Section 504 Accommodations .....	13
Testing Accommodations.....	14
What Is the Difference Between A Section 504 Plan and IDEA?.....	15
<b>Chapter 2: Section 504 Referral Procedures .....</b>	<b>16</b>
Section 504 Referrals.....	17
Teacher/Staff Referrals .....	18
Parent Referrals .....	18
Parental Consent and Involvement.....	18
Eligibility Process .....	19
Determination of Need for A Section 504 Plan.....	20
Eligibility Options.....	20
Accommodation Plan.....	21
Roles and Responsibilities.....	22
System Section 504 Coordinator .....	22
Principal/Assistant Principal .....	22
Section 504 Building Coordinator .....	22
School Psychologist.....	22

School Nurse .....	22
Teachers.....	23
Parents .....	23
<b>Chapter 3: Discipline .....</b>	<b>24</b>
Change in Placement.....	25
Manifestation Determination .....	25
Suspension .....	26
<b>Chapter 4: Continuations, Terminations, and Grievances.....</b>	<b>27</b>
Process for Transfer Students .....	28
Terminating a Section 504 Plan .....	28
Responding to Section 504 Discrimination Complaints .....	29
Grievance Procedures .....	30
Procedures to Request an Impartial Hearing.....	31
Hearing Request .....	31
Mediation .....	32
Hearing Procedures .....	32
Decisions .....	34
Review/Appeal.....	34
<b>Appendices .....</b>	<b>35</b>
Appendix A – Parental Rights & Procedural Safeguards.....	36
Appendix B – Section 504 Manifestation Determination Form.....	45
Appendix C – Hearing Request.....	47
Appendix D – Hearing Request/Checklist Timeline .....	48

## Chapter 1: An Overview of Section 504

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What Is Section 504?

Who Is Eligible Under Section 504?

How Does Section 504 Define A Physical Or Mental Impairment?

How Does Section 504 Define A Major Life Activity?

What Does It Mean For A Disorder To Limit A Major Bodily Function?

How Is Substantial Limitation Determined?

What Is An Evaluation Under Section 504?

Eligibility and Section 504

The Categories of Eligibility on the 504 Plan are:

Mitigating Measures

What is The Difference between Section 504 Eligibility and Eligibility under IDEA?

## What is Section 504?

Section 504 of the Rehabilitation Act of 1973 is a civil rights law designed to protect the rights of individuals with disabilities in programs and activities that receive federal funding from the United States Department of Education (USDOE, 2016).

Section 504 ensures that no otherwise qualified individual with a disability in the United States solely by reason of his or her disability be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

The Office of Civil Rights enforces Section 504 in public school systems. Section 504 regulates that school systems provide a free and appropriate public education (FAPE) to each qualified student with a disability, regardless of the nature or severity of the disability.

## Who Is Eligible Under Section 504?

Under Section 504, an individual with a disability is defined as a person who:

1. Has a physical or mental impairment that substantially limits a major life activity, or
2. Has a record of such an impairment, or
3. Is regarded as having such an impairment (USDOE, 2016)

## How Does Section 504 Define A Physical Or Mental Impairment?

A physical or mental impairment is defined as any of the following:

- Physiological disorder or condition
  - Diabetes
  - Muscular Dystrophy
  - Rheumatoid Arthritis
- Anatomical Loss
  - Loss of one or more limbs
  - Blindness

- Deafness
- Cosmetic disfigurement
  - Cleft Lip
  - Cranio-Facial Condition
  - Physical injuries such as burns, accidents and car crash injuries
- Mental or psychological disorders
  - Intellectual Disability
  - Emotional Disability
  - Specific Learning Disability
  - Attention Deficit Hyperactivity Disorder

Please note: the above list is not exhaustive due to the extensive number of medical conditions and diseases that exist and continue to emerge. Marietta City Schools will consider all documented medical conditions presented by parents and/or medical professionals when determining Section 504 eligibility.

### How Does Section 504 Define A Major Life Activity?

Major life activity as defined by Section 504 include, but are not limited to the following:

Caring for oneself	Walking	Seeing
Hearing	Speaking	Breathing
Performing Manual Task	Learning	Working
Eating	Sleeping	Standing
Lifting	Bending	Reading
Concentrating/Focusing	Thinking, and communicating	Operation of a Major Bodily Function

When a disability significantly interferes with a student's ability to engage in one or more of the above-mentioned activities, it is considered to substantially limit a major life activity.



Additionally, any disorder that impacts normal cell growth or the function of the immune, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and/or reproductive systems to considered to substantially limit a major life activity.

### What Does It Mean For A Disorder To Limit A Major Bodily Function?

Major bodily functions as defined by Section 504 include, but are not limited to the following systems, organs, or abilities:

Neurological	Endocrine	Musculoskeletal
Special Sense Organs	Respiratory	Speech Organs
Cardiovascular	Skin	Digestive
Intellectual Ability	Reproductive	Emotional Stability
Genito-urinary	Learning Ability	Hemic Lymphatic

When a disability significantly interferes with one or more of the above-mentioned systems, organs or abilities, it is considered to substantially limit a major life activity.

### How is Substantial Limitations Determined?

According to the US Department of Education (2016), the determination of substantial limitation must be made on a case-by-case basis with respect to each individual student. Section 504 requires that a group of knowledgeable persons draw upon information from a variety of sources when making this determination.

### What Does “Record of” or “Regarded As” Having a Disability Mean?

Record of a Disability:

A student may have a history of an impairment or has been misclassified as having, a mental or physical impairment that substantially limits one or more life activities.

Therefore, they should not be discriminated against based upon a recorded past impairment.

### Regarded As Having a Disability:

A student could also meet the definition of an individual with a disability by being regarded as a person with a disability. This could mean, for example, that the student does not have any impairment, but is treated by others as having a disability (US DOE, 2016).

### Under Section 504, a student:

- May have a physical or mental impairment that does not substantially limit major life activities, **BUT** is treated by others as having a disability.
- May have a physical or mental impairment that does substantially limit major life activities **ONLY** as a result of the attitudes of others towards such an impairment.

### What is An Evaluation under Section 504?

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An evaluation under Section 504 draws upon a variety of sources including, but not limited to a review of the students:

- Standardized test data
- Classroom test data
- Current and previous grades
- School discipline data
- Medical documentation
- Data from private providers
- Attendance history, and
- Teacher observation

Note: An evaluation under Section 504 does not require a psychological evaluation by a school psychologist. Section 504 requires that test and all other evaluation materials be tailored to evaluate the student's specific area of need and not those designed to identify a specific intelligence quotient (US DOE, 2016).

### Eligibility Determination:

Eligibility for Section 504 is determined by a multi-disciplinary team. The team may consist of parents, teachers, school administrators, district administrators, counselors, MTSS facilitator, and etc. for Marietta City Schools and all other personnel that are able to make knowledgeable decisions regarding whether or not a student has disability that substantially limit's a major life activity. 29 C.F.R. § 1630 (j) (4).

Eligibility for Section 504 cannot be obtained solely from a physician's or a psychologist's medical diagnosis. Although the Section 504 team will consider medical documentation, a diagnosis alone is insufficient for eligibility under Section 504.

The 504 team should gather information from a variety of sources in the evaluation process and determine the student's eligibility using the Section 504 eligibility tab within Aspen.

### Mitigating Measures:

A mitigating measure is defined as anything that is administered or worn to level access to an event or opportunity. Examples of mitigating measures are as follows:

Medication	Oxygen therapy equipment
Medical supplies	Assistive Technology
Prosthetics	Learned behavioral or adaptive neurological modifications
Hearing aids and Cochlear implants or other implanted devices	Reasonable accommodations or auxiliary aids or services
Mobility devices	Glasses

This means the Section 504 team must determine the impact of a student's disability without the use of mitigating measures (i.e. if a student takes medication to treat a diagnosis of depression or ADHD, the Section 504 team must determine how the diagnosis would impact the student if he or she were not taking medication). In some cases, there may be documentation of a student's behavior and or educational

performance prior to the introduction of the mitigating measure. If so, this information can prove vital in the eligibility determination.

Exception: ordinary eyeglasses or contact lenses can be considered when determining if an impairment limits a major life activity.

#### Key Eligibility Questions:

The Section 504 Eligibility Form will help guide the team in their review of the evaluation data and help the team answer the following questions to determine whether the student is a student with a disability under Section 504:

1. Does the student have a physical or mental impairment?
2. Does the physical or mental impairment substantially limit a major life activity?

The answers to these questions will help determine the student's Section 504 eligibility and their need for a 504 Accommodation Plan.

#### Determination of Need for a Section 504 Plan

Based upon all the evaluative information reviewed and answers to the questions in the Section 504 Eligibility Form, the 504 team will determine one of the following:

#### Eligibility Options:

- The student is not disabled because there is no physical or mental impairment that substantially limits a major life activity.
- The student is disabled because there is a physical or mental impairment that substantially limits a major life activity and services are needed in order that the student's educational needs are met as adequately as those of nondisabled peers. A Section 504 Plan will be developed.
- The student is disabled because there is a physical or mental impairment that substantially limits a major life activity, but the student does not need a Section 504 plan because the student's educational needs are met as adequately as those of nondisabled peers and no services are needed.

While the student currently is not in need of a Section 504 Plan, it is understood that the student is protected by Section 504's antidiscrimination provisions and that the school cannot discriminate against the student on the basis of the disability.

For Episodic Disabilities:

The student is disabled because there is an episodic physical or mental impairment that when active, substantially limits a major life activity, and services are needed in order that the student's educational needs are met as adequately as those of non-disabled peers.

For Intermittent Disabilities:

The student is disabled because there is a physical or mental impairment that is in remission but when active, substantially limits a major life activity, and services are needed in order that the student's educational needs are met as adequately as those of nondisabled peers.

The need for a Section 504 plan will be addressed if/when the impairment comes out of remission. When the impairment is inactive, it is understood that the student is protected by Section 504's antidiscrimination provisions and that the school cannot discriminate against the student on the basis of disability.

### Section 504 Accommodations

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Section 504 accommodations or services must meet the needs of the person as adequately as the needs of non-disabled individuals are met, but should not fundamentally alter the nature of the activity or provide a student with an unfair advantage (J. Weatherly "*It's 504 Somewhere*", 2016)

The accommodations should be specific and unique to the needs of each student (J. Weatherly, 2018).

### Testing Accommodations:

Testing accommodations should not be made that interfere with the valid measurement of what is being assessed or alter the nature of the activity. For example, if the purpose of the test is to measure reading comprehension, reading the test aloud as an accommodation may not be appropriate since doing so would alter the assessment and not provide a valid measure of the skill being assessed (NASP, 2010).

Standardized assessments, such as GMA or EOC or MAP, typically have strict requirements regarding allowable accommodations. The requirements can change periodically. Therefore, 504 teams should review and carefully consider accommodations on an annual basis.

## What is The Difference between a 504 Plan and an IEP under the IDEA?

Below are highlights of major differences between a 504 plan and an IEP:

Section 504	IEP
Governed by Civil Rights Law	Governed by Special Education Law
Must provide access to education	Must provide educational benefit
Student has no right to FAPE if expelled	Student must receive FAPE even if expelled
Student may receive an accommodation plan	Student has an IEP designed to allow for meaningful progress in the curriculum
Educational needs of the student must be met as adequately as other students. Student does not receive specialized instruction	Educational needs of the student are based upon the unique needs of the student. Student requires specialized instruction to may progress in the curriculum
Funded through General Education Program	Funded through General Education and Special Education Grants
School system receives no additional funding to support students who receive a 504 plan	School system receives additional funding to support students who have an IEP

## Chapter 2: Section 504 Referral Procedures

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### Section 504 Referrals

Teacher/Staff Referrals

Parent Referrals

### Eligibility Process

Determination of Need for Section 504 Plan

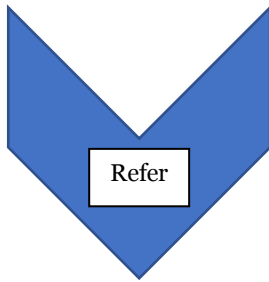
### Eligibility Options

Accommodation Plan

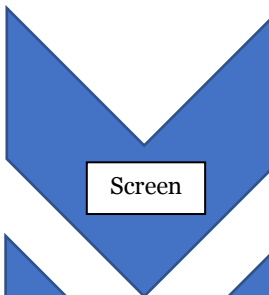
Roles and Responsibilities



## Section 504 Referrals



- The classroom teacher contact the 504 building level coordinator to make them aware of the referral/concerns.
- The coordinator and classroom teacher will work together to schedule a meeting with the parent and school team
- The coordinator will send home a notice of meeting and will obtain verbal confirmation of meeting date from the parent.
- The classroom teacher/coordinator will send home the consent to screen H/V. If consent is on file (and current), it does not need to be updated
- The coordinator will facilitate the discussion of the suspected disabling concerns and review procedural safeguards for Section 504



- Screen the student's V/H if needed. If V/H is on file, it does not need to be updated
- Conduct a classroom observation of the student during instructional time



Determination of 504 eligibility should be based upon but not limited to, a review of the following:

- |                            |                           |
|----------------------------|---------------------------|
| • Parent Input             | • Standardized Testing    |
| • Discipline/Behavior Data | • Teacher Observations    |
| • Grades                   | • Medical Documentation   |
| • Private Reports          | • Classroom Participation |
| • Medical Documentation    |                           |



Determine 504 Eligibility based upon relevant data



- Conduct an annual review the student's accommodation plan
- Conduct a triennial review of the student's eligibility plan

### Teacher/Staff Referrals:

A 504 referral can be initiated by any school team member. As always, teachers and other school staff should consult with the Section 504 coordinator at the local school regarding any concerns they have about a particular student's inability to access the curriculum.

### Parent Referrals:

When a parent makes a request for a 504 plan, the building level coordinator should schedule a 504 meeting with the parent and the team at a time mutually convenient to all. At all times unnecessary delays should be avoided.

### During the meeting:

1. Provide the parent with a copy of their rights under Section 504 of the ADA
2. Explain the Section 504 process and how students are afforded accommodations if found eligible
3. Determine the need to move forward with the 504 eligibility process or
4. The need to move forward with another, more appropriate process/program such as MTSS or special education services.

## Parental Consent and Involvement

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Section 504 regulations do not require parental consent to be obtained prior to the provision of 504 services or prior to conducting an evaluation for 504 eligibility. However, best practice is to include parents in the process by inviting them to attend and participate in the 504 consideration meeting as well as the service plan development (J. Weatherly, 2018).

If a parent does not wish to have their child evaluated or served under a 504 plan after being notified, the school may wish to discontinue the 504 process. Please consult with your System Section 504 Coordinator.

## Eligibility Process

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To document the presence of a disability, Marietta City Schools request all parents submit a physician's report to the school based 504 coordinator.

If a parent is unable to submit the requested documentation on the MCS form, the school based coordinator can accept a medical report, on the physician's letterhead that includes the documented diagnosis, prognosis, and etc. This information can be accepted from a physician or psychiatrist.

In the event the requested information is not received, a student can be considered for 504 eligibility plan if there is historical documentation of a disability, if the disability is apparent, or if the 504 team agrees the student displays symptoms or characteristics of students who do have a documented disability, therefore the 504 team regards the student in question as having a disability.

The 504 team should gather information from a variety of sources in the evaluation process and determine the student's eligibility using the Section 504 Eligibility form/tab within Aspen.

The Section 504 Eligibility form/tab will help guide the team in their review of the evaluation data and help the team answer the following questions to determine whether the student is a student with a disability under Section 504:

- Does the student have a physical or mental impairment?
- Does the physical or mental impairment substantially limit a major life activity?

The answers to these questions will help determine the student's eligibility for Section 504 as well as their needed 504 Accommodation Plan.

## Determination of Need for a Section 504 Plan

Based upon the evaluative information reviewed by the team as well as the answers to the questions in the Section 504 eligibility form, the 504 team will determine one of the following:

### Eligibility Options:

- The student is not disabled because there is no physical or mental impairment that substantially limits a major life activity.
- The student is disabled because there is a physical or mental impairment that substantially limits a major life activity and services are needed in order that the student's educational needs are met as adequately as those of nondisabled peers. A Section 504 Plan will be developed.
- The student is disabled because there is a physical or mental impairment that substantially limits a major life activity, but the student does not need a Section 504 Plan because the student's educational needs are met as adequately as those of nondisabled peers and no services are needed.
- While the student currently is not in need of a 504 Plan, it is understood that the student is protected by Section 504's antidiscrimination provisions and that the school cannot discriminate against the student on the basis of the disability.
- For Disabilities that are Episodic:
  - The student is disabled because there is an episodic physical or mental impairment that, when active, substantially limits a major life activity, and services are needed in order that the student's educational needs are met as adequately as those of nondisabled peers.
  - A Section 504 plan will be developed that will be implemented when the impairment is active. When the impairment is inactive, the 504 plan will not be implemented, but it is understood that the student will still be

protected by Section 504's antidiscrimination provisions and the school cannot discriminate against the student on the basis of disability.

- For Disabilities That Are in Remission:
  - The student is disabled because there is a physical or mental impairment that is in remission but, when active, substantially limits a major life activity, and services are needed in order that the student's educational needs are met as adequately as those of nondisabled peers.
  - The need for a Section 504 Plan will be addressed if/when the impairment comes out of remission. When the impairment is inactive, it is understood that the student is protected by Section 504's antidiscrimination provisions and that the school cannot discriminate against the student on the basis of disability.

### Accommodation Plan

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If a student is found to be eligible for a Section 504 Accommodation Plan, the accommodations must be developed by the 504 eligibility team and must be based on the student's unique needs.

Accommodations for Section 504 Plan are funded by the general education program, therefore accommodations that require services and/or equipment outside of what is traditionally provided by the classroom teacher, must be approved by a building administrator prior to making the recommendation. If the team recommends an accommodation that requires approval, the team can table the development of the accommodation plan for 7 days and reconvenes after discussing the recommendation with a building administrator.

## Roles and Responsibilities

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### System 504 Coordinator:

The system level coordinator will support each school in the district's compliance with the Office of Civil Rights (OCR). The system level coordinator will help to establish rules and procedures regarding Section 504 and provide training to building level coordinators as needed.

### Principal/Assistant Principal(s):

The principal and assistant principal(s) will oversee the individual school implementation of the Section 504 procedures and accommodations in coordination with the District Administrator.

### Section 504 Building Coordinator:

The teacher support specialist or designee will serve as a contact person when questions arise regarding Section 504 procedures and accommodations so that the school is following the district's policies and procedures regarding Section 504. School administrators will ensure teachers implement Section 504 accommodations and that the school follows the disciplinary procedures for students protected under Section 504.

### School Psychologist:

The school psychologist will aid in making appropriate recommendations regarding 504 accommodations, will provide school personnel with information to better understand the student's disability, and how that disability may impact the student educationally, socially, emotionally and/or behaviorally.

### School Nurse:

The school nurse plays a vital role in identifying health related limitations. The school nurse will collaborate with school personnel when a student has a disability that may impact his or her physical health. The school nurse will aid in identifying how a specific disability may impact a major life function and will help to recommended appropriate accommodations for those disabilities.

**Teachers:**

The teacher will inform and collaborate with the TSS if they identify students who may benefit from receiving Section 504 accommodations. The teacher will also help to facilitate 504 meetings after collaborating with the building coordinator and will ensure Section 504 accommodations are implemented with fidelity.

**Parents:**

The parent's role is to share their concerns with school personnel and serve as a member of the 504 team. Parents are encouraged to share pertinent information regarding their child's disability that may aid in the eligibility determination.

## Chapter 3: Discipline

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Changes in Placement

Manifestation Determination

Suspension



## Change in Placement

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When a student with a disability is suspended for 10 days or more, the Office of Civil Rights (OCR) usually, consider it a disruption to the district's obligation to provide the student with a free and appropriate education (FAPE). Prior to engaging in a change of placement, a manifestation determination must be completed by the 504 team.

## Manifestation Determination

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If a student protected under Section 504 has 10 days of in or out of school suspension, the school administrator must collaborate with members of the 504 team to determine if the student's misbehavior is a manifestation of his or her disability. The TSS or 504 coordinator, school psychologist, nurse or any related staff in the students' 504, should be included in this conversation.

The manifestation determination should take place within 5 days of any decision that might warrant consideration to change placement of a child who has violated the code of student conduct.

- The 504 team shall determine:
  - If the conduct in question was caused by or had a direct and substantial relationship to, the student's disability; or
  - If the conduct in question was the direct result of the school's failure to implement the 504 plan.

If the determination of the team is "Yes" to either of the above statements, the behavior must be considered a manifestation of the student's disability.

[See Appendix for the Manifestation Determination Form](#)

## Suspension

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If the 504 team determines a student's misbehavior is a manifestation of the student's disability, the student should not be expelled or suspended for more than 10 days. The district also recommends that the 504 team revise the student's accommodation plan to better address the student's specific needs as it pertains to their behavioral accommodations. If the student has not previously been referred to MTSS, the team may consider this action. Additionally, the classroom teacher should begin a Functional Behavioral Assessment in conjunction with all who teach the student. The Behavior Intervention Plan development should occur immediately following the completion of the FBA.

If the 504 team determines a student's misbehavior is not a manifestation of the student's disability, the team should follow the same disciplinary procedures used to discipline students who are not disabled. This means that the student can be suspended or expelled for more than 10 days.

When students violate the district's code of conduct, the Section 504 team must determine if the violation was a manifestation of the student's disability regardless of the number of the days the student has been suspended. The manifestation determination policy outlined above should be followed in these circumstances.

## Chapter 4: Continuations, Terminations and Grievances

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Process for Transfer Students

Terminating a Section 504 Plan

Responding to Section 504 Discrimination Complaints

Grievance Procedures

Procedures to Request an Impartial Hearing

Hearing Request

Mediation

Hearing Procedures

Decision

Review/Appeal

## Process for Transfer Students

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If a student transfers into Marietta City Schools with an existing 504 plan a copy of the plan must be given to the Teacher Support Specialist or designee.

The existing 504 plan should be honored until the school schedules a 504 meeting to review and accept or amend the plan. Supporting documentation should be obtained if necessary.

- 504 Review Meeting:
  - If the team determines that the 504 plan is appropriate, the school is required to implement the plan.
  - If the team determines that the 504 plan is inappropriate, then a 504 evaluation should be conducted in order to determine the student's eligibility. Depending on the eligibility determination, a more appropriate 504 plan will be created.

## Terminating a Section 504 Plan

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A Section 504 Accommodation Plan can be discontinued if the student no longer meets eligibility requirements or no longer needs an accommodation plan. To terminate a Section 504 plan, the teacher support specialist or designee must convene a meeting with the parent and the 504 team to complete a 504 Letter of Dismissal.

If a student qualifies for special education services under IDEA, the Section 504 plan will be discontinued and the IEP will address all areas of the student's disability.

## Responding to Section 504 Discrimination Complaints

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It is the policy of Marietta City Schools not to discriminate on the basis of disability. Marietta City Schools has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) of the U.S. Department of Health and Human Services regulations implementing the Act. Section 504 prohibits discrimination on the basis of disability in any program or activity receiving Federal financial assistance. The law and regulations may be examined in the Office of the school system's Section 504 Coordinator (See Below), who has been designated to coordinate the efforts of the Marietta City Schools to comply with Section 504.

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

For more information regarding Section 504, or if you have questions or need additional assistance, please contact your local system's Section 504 Coordinator at the following address:

Tasha Bowen  
Section 504 Coordinator  
Marietta City Schools  
250 Howard Street  
Marietta, Ga 30060

[tbowen@marietta-city.org](mailto:tbowen@marietta-city.org)

## Grievance Procedures

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- Grievances must be submitted to the System Section 504 Coordinator as soon as possible, but no later than 60 days from the date the person filing the grievance becomes aware of the alleged discriminatory action.
- A complaint must be in writing, containing the name and address of the person filing it. The complaint must state the problem or action alleged to be discriminatory and the remedy or relief sought.
- The 504 Coordinator (or his or her designee) shall conduct an investigation of the complaint. This investigation may be informal, but it must be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint. The Section 504 Coordinator will issue prior written notice in response to the grievance no later than 10 days of receipt and will issue a written decision on the grievance no later than 30 days after its filing.

The availability and use of this grievance procedure does not prevent a person from filing compliant of discrimination on the basis of disability with the U.S. Department of Health and Human Services, Office of Civil Rights.

## Procedures to Request an Impartial Hearing

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Any student, parent or guardian (grievant) may request an impartial hearing due to the school system's actions or inactions regarding a student's identification, evaluation or educational placement under Section 504.

Note: an impartial hearing can be requested at any time. A grievant must not be required to go through the grievance process first.

Request for an impartial hearing must be in writing to the school system's Section 504 Coordinator; however, a grievant's failure to request a hearing in writing does not alleviate the school systems obligation to provide an impartial hearing if the grievant orally request an impartial hearing through the school system's Section 504 Coordinator.

A school administrator and/or the school system's Section 504 Coordinator will assist the grievant in the completing the written Request for Hearing ([See Appendix](#)).

### Hearing Request:

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

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

### Mediation:

The school system may offer mediation to resolve the issues detained by the grievant in his or her request for hearing. Mediation is voluntary and both the grievant and school system must agree to participate. The grievant 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.

### Hearing Procedures:

- a. The Section 504 Coordinator will obtain an impartial review official who will conduct a hearing within 45 calendar days from receipt of the grievant's request unless agreed to otherwise by the grievant or a continuance is granted by the impartial review official.
- b. Upon a showing of good cause by the grievant of school system, 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 grievant will have an opportunity to examine the child's educational records prior to the hearing.
- d. The grievant 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 grievant 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 of that fact in writing of representation by legal counsel shall constitute good cause for continuance of the hearing.
- e. The grievant will have the burden of proving any claims he or she may assert. When warranted by circumstances or law, the impartial hearing officer may require the recipient to defend its position/decision regarding the claims (i.e. a recipient shall place a disabled student in the regular educational environment operated by the recipient unless it is demonstrated by the recipient that the



education of the person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. 34 C.F.R. § 104.34). 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 grievant testimony and answer questions posed by the 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 names of witnesses to be present.
- g. The impartial review official shall determine the weight to be given any evidence based on its reliability and probative value.
- h. The hearing shall be closed to the public.
- i. The issues of the hearing will be limited to those raised in the written or oral 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 recipient (Marietta City Schools). All documentation related to the hearing shall be retained by the recipient (Marietta City Schools).
- l. Unless otherwise required by law, the impartial review official shall uphold the action of the school system unless the grievant can prove that a preponderance of the evidence supports his or her claims.
- m. Failure of the grievant to appear at a scheduled hearing unless prior notification of absence was provided and approved by the impartial review official or just cause is shown shall constitute a waiver of the right to a personal appearance before the impartial review official.

**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 attorney's fees.

**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.

For more information regarding Section 504, or if you have questions or need additional assistance, please contact your local system's Section 504 Coordinator at the following address:

Tasha Bowen  
504 Coordinator  
250 Howard Street  
Marietta, GA 30060

[tbowen@marietta-city.org](mailto:tbowen@marietta-city.org)

## Appendices

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Appendix A – Parental Rights & Procedural Safeguards

Appendix B – Section 504 Manifestation Determination Form

Appendix C – Hearing Request

Appendix D – Hearing Request/Checklist Timeline

## Appendix A – Parental Rights (Page 1 of 2)



### 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 disabled students have educational opportunities and benefits equal to those provided to non-disabled students.

For more information regarding Section 504, or if you have questions or need additional assistance, please contact Marietta City Schools’ Section 504 Coordinator at the following address:

Tasha Bowen  
Marietta City Schools  
250 Howard Street  
Marietta, GA 30060  
[tbowen@marietta-city.org](mailto:tbowen@marietta-city.org)

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 non-disabled students. 34 DFR 104.33
2. Your child has the right to free educational services except for those fees that are imposed on non-disabled students or their parents. Insurers and similar third parties who provide services not operated by or provided by the recipient are not relieved from an otherwise valid obligation to provide or pay for services provided to a disabled student. 34 CFR 104.33
3. Your child has a right to participate in an educational setting (academic and nonacademic) with non-disabled students 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 non-disabled students. 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 not consent to the school system’s request to evaluate your child. 34 CFR 104.35

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Dr. John D. Barge, State School Superintendent  
February 13, 2011

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## Appendix A – Parental Rights (Page 2 of 2)



7. You have the right to ensure that evaluation procedures, which may include testing, conform to the requirements of 34 CFR 104.35
8. You have the right to ensure that the school system will consider information 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, medical records and parental recommendations. 34 CFR 104.35
9. You have the right to ensure that placement decisions are made by a group of persons, including persons knowledgeable about your child, the meaning of the evaluation data, the placement options, and the legal requirements for least restrictive environment and comparable facilities. 34 CFR 104.35
10. If your child is eligible under Section 504, your child has a right to periodic reevaluations, including prior to any subsequent significant change of placement. 34 CFR 104.35
11. 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
12. You have the right to examine your child's educational records. 34 CFR 104.36
13. 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
14. 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
15. If you disagree with the decision of the impartial hearing officer (school board members and other district 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
16. You have the right to, at any time, file a complaint with the United States Department of Education's Office for Civil Rights.

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## Appendix A – Procedural Safeguards (Page 1 of 3)



### Section 504 Procedural Safeguards

1. **Overview:** Any student or parent or guardian (“grievant”) may request an impartial hearing due to the school system’s actions or inactions regarding your 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 grievant’s failure to request a hearing in writing does not alleviate the school system’s obligation to provide an impartial hearing if the grievant orally requests an impartial hearing through the school system’s Section 504 Coordinator. Marietta City Schools’ Section 504 Coordinator, Tasha Bowen, ([tbowen@marietta-city.org](mailto:tbowen@marietta-city.org)) will assist the grievant in completing the written Request for Hearing.
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 request reason for review.
  - f. The proposed remedy sought by the grievant.
  - g. The name and contact information of the grievant.

Within 10 business days from receiving the grievant’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 grievant 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.

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## Appendix A – Procedural Safeguards (Page 2 of 3)



3. **Mediation:** The school system may offer mediation to resolve the issues detailed by the grievant in his or her Request for Hearing. Mediation is voluntary and both the grievant and the school system must agree to participate. The grievant may terminate the mediation at any time.  
If the mediation is terminated without 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 grievant's Request for Hearing unless agreed to otherwise by the grievant or a continuance is granted by the impartial review official.
  - b. Upon a showing of good cause by the grievant or school system, 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 grievant will have an opportunity to examine the child's educational records prior to the hearing.
  - d. The grievant 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 grievant 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 grievant will have the burden of proving any claims he or she may assert. When warranted by circumstances or law, the impartial hearing officer may require the recipient to defend its position/decision regarding the claims (i.e. A recipient shall place a disabled student in the regular educational environment operated by the recipient unless it is demonstrated by the recipient that the education of the person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. 34 C.F.R. §104.34). 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 grievant testimony and answer questions posed by the review official.

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## Appendix A – Procedural Safeguards (Page 3 of 3)



### Marietta city schools

- 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 names of witnesses to be present.
  - g. The impartial review official shall determine the weight to be given any evidence based on its reliability and probative value.
  - h. The hearing shall be closed to the public.
  - i. The issues of the hearing will be limited to those raised in the written or oral 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 recipient. All documentation related to the hearing shall be retained by the recipient.
  - l. Unless otherwise required by law, the impartial review official shall uphold the action of school system unless the grievant can prove that a preponderance of the evidence supports his or her claim.
  - m. Failure of the grievant to appear at a scheduled hearing unless prior notification of absence was provided and approved by the impartial review official or just cause is shown shall constitute a waiver of the 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 attorney's 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.

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## Appendix A – Procedural Safeguards – Spanish (Page 1 of 4)



### Procedimiento de Salvaguardia para Sección 504

1. **Resumen:** Cualquier estudiante o padre o madre o tutor (“reclamante”) puede solicitar una audiencia imparcial debido a acciones o la falta de ellas por parte del sistema escolar en relación con la identificación, evaluación, o ubicación educativa en Sección 504 de su niño/a. La solicitud de una audiencia imparcial debe ser por escrito al Coordinador de Sección 504 del sistema escolar; aunque la falta de solicitud por escrito por parte del reclamante no disminuye la obligación del sistema escolar de proveer una audiencia imparcial si el reclamante solicita verbalmente una audiencia imparcial a través del Coordinador de Sección 504. La Coordinadora de Sección 504 de las Escuelas de la Ciudad de Marietta, Tasha Bowen, ([tbowen@marietta-city.org](mailto:tbowen@marietta-city.org)) ayudará al reclamante a completar la Solicitud de Audiencia escrita.
  
2. **Solicitud de Audiencia :** La Solicitud de Audiencia debe incluir lo siguiente:
  - a. El nombre del estudiante.
  - b. La dirección de la residencia del estudiante.
  - c. El nombre de la escuela a la que asiste el estudiante.
  - d. La decisión que es tema para la audiencia.
  - e. La razón de la solicitud de revisión.
  - f. La proposición de solución que busca el reclamante.
  - g. El nombre e información para ubicar al reclamante.

Dentro de los 10 días laborales de recibir la Solicitud de Audiencia del reclamante, el Coordinador de Sección 504 acusará recibo de la Solicitud de Audiencia por escrito y concertará el lugar y la hora para una audiencia. Si la Solicitud de Audiencia no contiene la información necesaria indicada arriba, el Coordinador de Sección 504 informará al reclamante.

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## Appendix A – Procedural Safeguards – Spanish (Page 2 of 4)



la información específica necesaria para completar la solicitud. Todas las fechas de presentación y los procedimientos serán aplazados hasta que la Solicitud de Audiencia contenga la información necesaria indicada arriba.

3. **Mediación:** El sistema escolar puede ofrecer mediación para resolver la situación detallada por el reclamante en su Solicitud de Audiencia. La mediación es voluntaria y ambos, el reclamante y el sistema escolar deben estar de acuerdo en participar. El reclamante puede finalizar la mediación en cualquier momento. Si la mediación es finalizada sin acuerdo, el sistema escolar seguirá los procedimientos para llevar a cabo una audiencia imparcial sin una Solicitud de Audiencia adicional.

4. **Procedimientos de Audiencia:**

- a. El Coordinador de la Sección 504 obtendrá un oficial evaluador imparcial que llevará a cabo una audiencia dentro de los 45 días calendario de recibir la Solicitud de Audiencia del reclamante a menos que el reclamante este de acuerdo en hacer de otra manera o que el oficial evaluador imparcial otorgue una postergación.
- b. Luego de demostrar una buena causa por el reclamante o el sistema escolar, el oficial evaluador imparcial, según su criterio, puede otorgar una postergación y programar una nueva fecha para la audiencia. La solicitud para una postergación debe ser por escrito y una copia entregada a la otra parte.
- c. El reclamante tendrá una oportunidad de examinar los archivos educativos del niño/a antes de la audiencia.
- d. El reclamante tendrá la oportunidad de ser representado, a su propio costo, por un consejero legal en la audiencia y participar, hablar, interrogar testigos, y presentar información en la audiencia. Si el reclamante va a ser representado por un consejero legal en la audiencia, él o ella debe informar este hecho al Coordinador de Sección 504 por escrito por lo menos 10 días calendario antes de la audiencia. La falta de notificación por escrito al Coordinador de Sección 504 de la representación de un consejero legal puede constituir buena causa para posponer la audiencia.
- e. El reclamante tendrá la responsabilidad de proveer cualquier reclamo que él o ella pueda afirmar. Cuando lo permitan las circunstancias o la ley, el oficial imparcial de la audiencia puede requerir que el receptor defienda su posición/decisión referente al reclamo (esto es, el receptor debe ubicar un estudiante en el ambiente educativo regular

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## Appendix A – Procedural Safeguards – Spanish (Page 3 of 4)



- manejado por el recipiente, a menos que, se demuestre por parte del recipiente, que la educación de la persona en el ambiente regular, con el uso de ayuda y servicios suplementarios, no se puede lograr en forma satisfactoria. 34 C.F.R. §104.34). Uno o más representantes del sistema escolar, que puede ser un abogado, asistirá a la audiencia para presentar evidencia y testigos, responder a la declaración del reclamante y contestar preguntas hechas por el oficial evaluador.
- f. El oficial evaluador imparcial no debe tener el poder de citar testigos, y las reglas estrictas para evidencia no se deben aplicar en audiencias. El oficial evaluador imparcial debe tener la autoridad de emitir instrucciones previas a la audición, que pueden incluir el requerimiento de que las partes intercambien documentos y nombres de testigos que estarán presentes.
  - g. El oficial evaluador imparcial debe determinar el peso que se le da a cualquier evidencia basándose en su fiabilidad y valor probable.
  - h. La audiencia debe ser cerrada al público.
  - i. Los temas de la audiencia serán limitados a los que se hayan mencionado en la solicitud escrita o verbal de audiencia.
  - j. Los testigos serán interrogados directamente por quien los cita. Se permitirá interrogación cruzada de los testigos. El oficial evaluador imparcial, a su discreción, puede permitir prolongar el interrogatorio de los testigos o hacer preguntas a los testigos.
  - k. La declaración debe ser registrada por un taquígrafo judicial o grabación de audio a costo del recipiente. Toda la documentación relacionada con la audiencia debe ser mantenida por el recipiente.
  - l. A menos que la ley lo requiera de otra manera, el oficial evaluador imparcial debe sostener el accionar del sistema escolar a menos que el reclamante pueda probar que la preponderancia de la evidencia apoya su reclamo.
  - m. La falta de asistencia a la audiencia programada por parte del reclamante, a menos que se haya provisto notificación de ausencia previamente y haya sido aprobada por el oficial evaluador imparcial o se demuestre una causa justa, constituirá una renuncia al derecho de presentarse personalmente ante el oficial evaluador imparcial.

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## Appendix A – Procedural Safeguards – Spanish (Page 4 of 4)



5. **Decisión:** El oficial evaluador imparcial debe emitir una resolución escrita dentro de los 20 días calendario de la fecha en que concluyó la audiencia. La resolución del oficial evaluador oficial no debe incluir ningún daño monetario o la compensación de ningún honorario del abogado.
  
6. **Revisión:** Si no está satisfecho con la decisión del oficial evaluador imparcial, cualquiera de las partes puede hacer uso de cualquier derecho de revisión, apelación, causal de acción o reclamo a su disposición bajo la ley o reglas y regulaciones del estado o federales existentes.

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Appendix B – Section 504 Manifestation Determination Form (Page 1 of 2)



**Marietta City Schools**

**Section 504 Manifestation Determination**

Student Name: \_\_\_\_\_ Date: \_\_\_\_\_

School: \_\_\_\_\_

**THIS MANIFESTATION DETERMINATION MUST OCCUR WITHIN 10 DAYS OF ANY DECISION TO CHANGE THE PLACEMENT OF A CHILD WITH A DISABILITY DUE TO A VIOLATION OF THE CODE OF CONDUCT.**

The manifestation determination review is conducted by the child's parent and the relevant members of the student's 504 Team, as determined by the parent and the school system.

**NOTE:** No manifestation determination review is required when a student is removed from his/her current placement for NOT MORE THAN 10 SCHOOL DAYS to an interim alternative educational setting (IAES), another setting or via suspension, and for additional removals of not more than 10 cumulative days in that same school year for separate incidents of misconduct, as long as those removals do not constitute a pattern. Schools may make such short-term removals for violations of a code of student conduct to the extent that such alternative settings are also applied to students without disabilities. In addition, school may remove a student to an IAES for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability in cases where a student carries or possesses a weapon to or at school, on school premises or at a school function; 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; has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function.

**I. Description of the behavior incident that violated the code of conduct:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**II. Review of Relevant Information:**

IEP     Teacher Observations     Relevant Information Provided by Parent(s)     Other

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Appendix B – Section 504 Manifestation Determination Form (Page 2 of 2)

**III. Manifestation Determination:**

YES     NO    A. Was the conduct in question caused by or does it have a direct and substantial relationship to the student's disability?

YES     NO    B. Is the conduct in question a direct result of the system's failure to implement the student's 504 plan?

**If the answer to either question (III. A. or III B.) is YES, the conduct IS NOT a manifestation of the student's disability** and the student must be returned to the placement from which he/she was removed, unless:

1. The incident involves weapons or drug possession or infliction of serious bodily injury; or
2. The parent and the district agree to a change of placement as part of the modification of the student's behavioral intervention plan (BIP).

**If the behavior was a manifestation of the disability, the following must be considered:**

1. Has a functional behavioral assessment been conducted? In NOT, one must be conducted and a behavioral intervention plan must be developed and implemented.
2. If a behavioral intervention plan has been developed, what revisions are necessary to prevent the behavior from occurring again?

**If the answer to both questions (III. A. and III B.) is NO, the conduct IS a manifestation of the student's disability.** The relevant disciplinary procedures applicable to students without disabilities may be applied in the same manner to the student with a disability. The school system's FAPE obligations continue when the resulting change of placement exceeds 10 school days, except that FAPE may be provided in an interim alternative educational setting (IAES). The FAPE-related services must enable the student to continue to participate in the general education curriculum, although in another setting, and with the accommodations detailed in the student's 504 plan.

If the behavior was not a manifestation, the need for a functional behavioral assessment and a resulting behavioral intervention plan should be considered to prevent the behavior from recurring.

**TEAM MEMBERS** – The team must consist of the parent and relevant members of the 504 Team as determined by the system and the parent.

<u>NAME &amp; TITLE</u>	<u>NAME &amp; TITLE</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Appendix C – Section 504 Hearing Request



**Marietta City Schools**

**Section 504 Hearing Request**

Form to be completed by grievant or with the assistance of a school administrator.

**Student** \_\_\_\_\_

**School Attending** \_\_\_\_\_

**Name of Grievant** \_\_\_\_\_

**Address** \_\_\_\_\_

**Phone Number** \_\_\_\_\_

**Decision Subject of Hearing Request:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Requested Reason(s) for Review:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Proposed Remedy Sought by Grievant:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Would you be willing to participate in mediation prior to the hearing?**     Yes     No

**Grievant Signature** \_\_\_\_\_

**Received by System 504 Coordinator:**                      **Date:** \_\_\_\_\_

**Time:** \_\_\_\_\_

# Appendix D – Hearing Request/Checklist Timeline



## Marietta City Schools

### Section 504 Hearing Request/Checklist Timeline

Date/Time Hearing Request Received by Section 504 Coordinator: \_\_\_\_\_

**Within 10 business days**, receipt of request is acknowledged in writing and a hearing date is set

Date Acknowledged in Writing: \_\_\_\_\_

Date and Location of Hearing Set: \_\_\_\_\_  
(no later than 45 calendar days from hearing request)

Grievant Willing to Participate in Mediation?     Yes     No

If yes, schedule mediation within 20 calendar days of receipt of request.

Mediation Date: \_\_\_\_\_

If no, proceed to hearing within 45 calendar days of receipt of request.

Hearing Date: \_\_\_\_\_

Contact Impartial Hearing Officer – Date: \_\_\_\_\_

Hearing Held – Date: \_\_\_\_\_

Final Decision Must Be Written Within 20 Calendar Days of Hearing

Date Received: \_\_\_\_\_

Date Given to Parent: \_\_\_\_\_