

SECTION 504 NONDISCRIMINATION POLICY AND COMPLAINT PROCEDURES

The Wise County School Board does not discriminate against individuals on the basis of disability. The Wise County School Board has established this policy as a way to provide prompt and impartial review of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973. This policy provides an optional resolution procedure for a complainant. This procedure is not a prerequisite before a complainant may directly pursue any other remedy available under state or federal law. However, the policy of Wise County School Board is for students, parents/guardians and employees to have the opportunity to make concerns known to the School Board and for the School Board to have the opportunity to respond to and resolve concerns as rapidly as practicable.

The goal of these procedures is to protect the substantive rights of interested persons, meet appropriate due process standards, assure School Board compliance with Section 504 of the Rehabilitation Act of 1973 and provide a prompt, equitable and impartial resolution of complaints alleging a violation of Section 504.

Any student or any parent or guardian of a student may be a complainant and may file a formal or informal grievance as provided below.

A. FORMAL PROCEDURE

1. Filing a Complaint

Any complainant should submit a complaint alleging discrimination as soon as possible to the compliance officer or to any other school or School Division staff. The complaint shall be submitted within 45 school days of the alleged discrimination. Any employee who has knowledge of conduct which may constitute discrimination shall immediately report such conduct to the Compliance Officer, the employee's supervisor, or to any other school or School Division staff. Any employee who receives a complaint under this policy shall immediately forward the complaint to the Compliance Officer.

The complainant should use the "Complaint of Discrimination" form (see end of this policy) to make a complaint of discrimination. However, oral complaints shall also be accepted. The complaint should be filed with the school principal, other school or school division staff, or the Compliance Officer. School or school division staff receiving a complaint of discrimination shall forward it to the school principal; who shall immediately forward the complaint of discrimination to the Compliance Officer. Any complaint that involves the Compliance Officer shall be reported to the Superintendent. Any complaint that involves the superintendent shall be reported to the School Board Chair.

The complaint and the identity of the complainant, the individual who is the subject of the complaint (if other than the complainant), and the persons allegedly responsible for the discrimination will not be disclosed except as required by law or policy, as necessary to fully investigate the complaint, or as authorized by the complainant.

2. Investigation

Upon receipt of a report or complaint of discrimination, the Compliance Officer shall immediately authorize or undertake an investigation. The investigation may be conducted by school staff or a third party designated by the School Division. The investigation shall be completed as soon as practicable, but not later than 15 school days after receipt of the complaint of alleged discrimination by the Compliance Officer unless the extension below is exercised. Within 3 school days of receiving the complaint, the Compliance Officer shall send written notice that the complaint has been received to the complainant and the person or persons allegedly responsible for the discrimination (the accused).

Also upon receiving the complaint, the Compliance Officer shall determine whether interim measures should be taken pending the outcome of the investigation. If the Compliance Officer determines that more than 15 school days will be required to investigate the complaint, the Compliance Officer will notify the complainant and the persons allegedly responsible for the discrimination of the reasons for the extended investigation and of the date by which the investigation is projected to be concluded, which will be no longer than an additional 15 days. The investigation may consist of personal interviews with the complainant, the persons allegedly responsible for the discrimination, and any others who may have knowledge of the alleged discrimination or the circumstances giving rise to the complaint. The investigation may also include the inspection of any documents or information deemed relevant by the investigator. The complainant and the accused shall have the right to identify witnesses and other relevant information as well as rebut evidence presented by opposing parties. The School Division shall take necessary steps to protect the complainant and others pending the completion of the investigation.

Whether a particular action or incident constitutes a violation of this policy requires a case by case determination based on all of the facts and circumstances revealed by a complete and thorough investigation.

The Compliance Officer shall issue a written report to the Superintendent upon completion of the investigation. If the complaint involves the Superintendent, then the report shall be sent to the School Board. The report shall include a determination of whether the allegations are substantiated, whether this policy was violated, and recommendations for corrective action, if any. The Compliance Officer's written report, and all written notices sent pursuant to this policy shall be maintained and distributed in accordance with the Family Educational Rights and Privacy Act. The report shall be issued to the superintendent, the complainant and the accused within 20 school days of receipt of the complaint, unless additional time was utilized for the investigation in which case the report shall be issued within 35 school days of receipt of the complaint.

3. Action by the Superintendent

Within 10 school days of receiving the Compliance Officer's report, the Superintendent or superintendent's designee shall issue a decision regarding: (1) whether this policy was violated and, if so (2) what action, if any, will be taken. This decision must be provided in writing to the complainant and the accused. If the Superintendent determines that discrimination occurred, the School Division shall take prompt, appropriate action to address and remedy the

harm and prevent any recurrence. Such action may include discipline up to and including recommending that a student be expelled or that an employee be discharged.

4. Appeal

If the Superintendent or designee determines that no discrimination occurred, the complainant may appeal this determination to the School Board within 5 calendar days of receiving the decision. Notice of appeal must be filed with the Superintendent, who shall forward the Compliance Officer's report and any documentation or information deemed relevant by the Compliance Officer during the course of the investigation to the School Board. The School Board shall make a decision within 30 calendar days of receiving the record. The School Board may require oral or written argument from the complainant, the person or persons accused of discrimination, the Superintendent, and any other individual it deems appropriate. An extension of the 30 calendar day time limit may occur if necessary as determined by the School Board Chair up to an additional 10 calendar days. The decision of the School Board shall be in writing and shall be provided to the complainant and the accused.

If the Superintendent or designee determines that discrimination occurred and discipline is imposed, the disciplined person (i.e. student or employee) may appeal the disciplinary sanction in accordance with existing School Board policies and regulations.

5. Compliance Officer

The School Board shall at all times designate a Compliance Officer responsible for identifying, preventing and remedying discrimination as well as receiving complaints under this Policy. The name and contact information for the Compliance Officer shall be posted on the Division's website at all times. The Compliance Officer may be contacted at mshortt@wisek12.org.

The Wise County School Board's Compliance Officer shall receive training and shall be knowledgeable about the requirements of Section 504 in order to impartially and equitably resolve complaints and ensure compliance with the law. In addition, the Compliance Officer shall:

- a. receive reports and complaints of discrimination,
- b. conduct or oversee the investigation of any alleged discrimination,
- c. assess the training needs of the School Division in connection with this policy and
- d. arrange necessary training to achieve compliance with this policy.

B. INFORMAL PROCEDURE

If the complainant and the persons allegedly responsible for the discrimination agree, the school principal, designee, or the Compliance Officer may arrange for them to resolve the complaint informally with the assistance of a counselor, teacher, or other school or School Division staff.

If the complainant and the persons allegedly responsible for the discrimination agree to attempt to resolve the complaint informally, they shall each be informed that they have the right to abandon the informal procedure at any time in favor of the initiation of the above formal procedures.

If the complaint is resolved informally, the counselor, teacher, or other school or School Division staff shall notify the School Principal of the resolution. The School Principal shall notify the complainant, the persons allegedly responsible for the discrimination, and the Compliance Officer in writing that the complaint has been resolved informally.

C. RETALIATION

Retaliation against students, school staff, or School Division staff who report discrimination or participate in the related proceedings is prohibited. The School Division shall take appropriate action against any student or employee who retaliates against another student or employee who reports alleged discrimination or participates in related proceedings.

D. FALSE CHARGES

Students, school staff, or School Division staff who make false charges of discrimination shall be subject to disciplinary action.

Amended: August 22, 2011
Updated: November 10, 2015 Compliance Officers
Amended: August 9, 2016

Legal Ref.: 29 U.S.C. § 794
34 CFR Part 104.7(b)

Cross Ref:	GCPD	Professional Staff Discipline
	JB	Equal Educational Opportunities/Nondiscrimination
	JFC-R	Standards of Student Conduct
	JGD/JGE	Student Suspension/Expulsion
	JO	Student Records

COMPLAINT OF DISCRIMINATION

Name of Complainant: _____

Student's School and
Class: _____

Address: _____

Email Address: _____ Phone Number(s): _____

Name(s) of Parent/Legal Guardian: _____

Address(es): _____

Email address(es): _____ Phone Number(s): _____

Dates of Alleged Discrimination: _____

Names of the persons you believe discriminated against you or others:

Please describe the disability that forms the basis of the complaint.

Please describe in detail the incidents of alleged discrimination, including where and when the incidents occurred. Please name any witnesses that may have information regarding the alleged discrimination. Attach additional pages if necessary.

Please describe any past incidents that may be related to this complaint.

Please identify any attempts you have made to discuss or resolve this issue with any school division staff, including the results of those discussions.

Please provide your suggestions about how the issue can be resolved.

I certify that the information provided in this report is true, correct and complete to the best of my knowledge.

Signature of Complainant _____ Date _____

Complaint Received By: _____
Compliance Officer _____ Date _____

SECTION 504 NONDISCRIMINATION POLICY AND GRIEVANCE PROCEDURES

Regulation

I. Reg. 504 Hearing Procedures

A. Issues Giving Rise to a Hearing

A hearing may be requested by any current student or employee over any complaint alleging discrimination based on a disability, including complaints concerning the identification, evaluation, and educational placement of students. If the student is eligible for special education under the Individual with Disabilities Education Act, hearings should be conducted in accordance with the requirements of that statute and its implementing regulations.

B. Requesting a Hearing

Requests for hearings should be made in writing and directed to the Section 504 Coordinator. A hearing must be requested within ninety (90) days of the alleged discriminatory act giving rise to the hearing.

C. Appointment of a Hearing Officer

A hearing officer will be appointed from the list of special education hearing officers maintained by the Supreme Court of Virginia. The hearing officer must be appointed within one week of receipt of a request for a hearing.

II. Pre-Hearing Procedures

A. The hearing officer is responsible for the following matters prior to the hearing:

1. Scheduling the hearing date and location and notification to the parties.
2. Ascertaining whether the parties will be represented at the hearing.
3. Ascertaining whether the hearing will be open or closed.
4. Ensuring that the hearing is accurately recorded either by recording equipment or by a court reporter.

B. A list of documents and witnesses must be exchanged by the parties one week prior to the hearing and copies provided to the hearing officer. C. Pre-hearing conferences should be held, if appropriate.

III. Hearing Procedures

A. The parties have the following rights in a hearing:

1. To be represented by counsel.
2. To present evidence and cross-examine witnesses.
3. To prohibit the introduction of evidence that has not been disclosed in advance.
4. To obtain a copy of the transcript or a tape recording of the hearing.

B. For hearings requested on behalf of students, the student may attend the hearing.

- C. The hearing officer shall insure:
1. An atmosphere conducive to impartiality and fairness.
 2. The appointment of a surrogate parent by the school division, if appropriate, pursuant to the regulations adopted by the State pursuant to the Individuals with Disabilities Education Act.
 3. Maintenance of an accurate record of the proceedings.
 4. Issuance of a written decision to all parties setting forth findings of fact and conclusions of law based on the evidence presented in the hearing.
 5. Issuance of the decision specified in (4) above within forty-five (45) calendar days of receipt of the request for a hearing, unless the hearing has been continued beyond that date for good cause at the request of a party.
 6. Assignment of the burden of proof to the party requesting a change in the status quo.
 7. That the officer holds all records of thirty(30) days after issuance of a decision. In the event an appeal is noted, the Coordinator will advise the hearing officer of the name and address of the reviewing officer. The hearing officer shall transmit the record to the reviewing officer within three (3) days of the request. In the event no appeal is made, the hearing officer shall return the record to the Coordinator.

IV. Review Procedure

- A. An appeal may be noted by an aggrieved party by filing a written notice with the Coordinator within thirty(30) days of the date of the decision issued by the hearing officer.
- B. A reviewing officer must be appointed by the Coordinator from the same list from which the initial hearing officer was appointed and within one week of receipt of the request for review.
- C. The reviewing officer shall:
1. Examine the record of the hearing.
 2. Seek additional evidence, if necessary.
 3. Afford the opportunity for written or oral argument.
 4. Advise the parties of the right to be represented by counsel during the review proceedings.
 5. Issue a written decision.
- D. The reviewing officer shall uphold the initial decision unless it is found to be arbitrary or capricious, contrary to law, or not supported by substantial evidence.
- E. The reviewing officer's decision must be issued within thirty (30) days of receipt of the request for an appeal, unless the proceedings have been continued beyond that date for good cause at the request of a party. A copy of the decision must be sent to all parties.
- F. The record of the administrative hearings shall be sent by the reviewing officer of the Coordinator upon the Issuance of the decision.
- G. The Coordinator is responsible for mainstreaming all records of hearings and transmittal to court in the event of judicial proceedings.

V. Student Regulation

Reg. 504 Identification, Evaluation and Placement Procedure

A. General

The Coordinator or designee is responsible for locating and identifying students with disabilities residing within the school division. In furtherance of this policy the Coordinator or designee shall insure:

1. Students with disabilities residing within the school division are located.
 - a. Efforts are made annually to locate and identify qualified persons with disabilities residing in the school division who are not receiving a public education presently.
 - b. Notice of the availability of services and the types and location of services should be sent to nearby private schools, pediatricians and the Health Department.
2. Parents or guardians of children with disabilities are given notice of their rights.
 - c. Parents or guardians of children with disabilities are notified of their rights at least annually, and, in all cases, prior to evaluation and placement.
 - d. Parents or guardians of children with disabilities are notified of their rights prior to any significant change in placement.
3. Appropriate educational opportunities are made available to students with disabilities.
 - a. Each qualified student with disabilities is entitled to a free appropriate public education.
 - b. To the maximum extent appropriate, the student with disabilities shall be educated with non disabled students.
 - c. Evaluations of the student are to be made prior to providing services.
 - d. Periodic reevaluations are to be made when necessary and, in every case, prior to a significant change in program.
4. Hearing procedures are available in the event of a dispute.
 - a. The School Board or parents or guardians may request a hearing over disputes concerning the identification, evaluation or educational placement of persons who because of a disability need, or are believed to need special instruction or related services.
5. The identification, evaluation and placement of students eligible for special education under the Individuals with Disabilities Education Act are carried out in accordance with that statute and its implementing regulations.

B. Identification and Evaluation

1. Those of school age residing in the school division suspected of having a disability shall be referred to the Coordinator or designee.
2. The Coordinator or designee shall see that an evaluation of the student's educational needs is made if it appears that the student might have a disability.
3. Tests utilized for the evaluation process must be properly validated, administered by trained personnel, and assess areas of educational needs.
4. The evaluation and identification process must be completed within sixty- five (65) administrative working days of the referral.
5. Following completion of the evaluations, a Section 504 Evaluation Committee shall meet. The Evaluation Committee shall be composed of individuals who represent various evaluation components and others as designated by the Coordinator or designee. Some of the members must be familiar with the student.
6. The parents shall be encouraged to present information relevant to the identification issue for consideration by the Evaluation Committee.
7. The Section 504 Evaluation Committee is responsible for determining the following:
 - a. Whether the student has a disability.
 - b. The type of disability.
 - c. The effect of any disability on the student in the school setting.
8. Minutes of the Section 504 Evaluation Committee meeting shall be maintained setting forth the justification for the decision.
9. Parents may be invited, in the decision of the Coordinator or designee, to attend the Section 504 Evaluation Committee meeting.

C. Placement

1. For students who are identified as having a disability by the Section 504 Evaluation Committee, a Section 504 Educational Plan ("Section 504 Plan") shall be developed to incorporate the services that the student needs in the educational setting.
2. The Section 504 Plan shall be developed with the participation of the parent, a school administrator, and a teacher.
3. If the parent attends the Section 504 Evaluation Committee meeting, the Section 504 Plan may be developed at that time by the Evaluation Committee.
4. The Section 504 Plan must be developed within thirty (30) days of identification of the student by the Section 504 Evaluation Committee.
5. No placement in special services may be made prior to the development of the Section 504 Plan.
6. Changes in placement for identified students with disabilities which result from disciplinary action shall be handled pursuant to the procedures utilized for students identified as having a disability under the IDEA.

Amended: July 3, 2003
Amended: August 22, 2011