

SECTION 504 OF THE REHABILITATION ACT:
Nondiscrimination on Basis of Disability

Facts and Qualifying Factors:

Section 504 is a federal law making discrimination on the basis of disability illegal. A person with a disability is anyone who:

- Has a mental or physical impairment and/or a chronic health condition which substantially limits one or all major life activities (such as caring for one's self, performing manual tasks, walking, seeing, breathing, learning, working);
- Has a record of such impairment;
- Is regarded as having such an impairment.

Responsibility of WVDE:

The West Virginia Department of Education (WVDE) has the responsibility to prevent discrimination against persons with disabilities in its policies and practices involving employees, students and members of the public. Facilities, programs and/or policies must be accessible to all individuals including persons with disabilities. WVDE has the responsibility to identify, evaluate and provide free appropriate public education (FAPE) to students with disabilities in state operated programs including institutions and correctional facilities. All individuals (students and/or employees) with a disability have the rights to access and receive reasonable accommodations (i.e. accessible facilities, equipment and scheduling, academic and instruction modifications and accommodations) to better meet their needs, allowing them to achieve a free appropriate public education and/or successful employment.

Responsibility of County Board of Education:

The County Board of Education has the responsibility to prevent discrimination against persons with disabilities, (including employees, parents and students) as related to local school policies, practices, facilities and/or programs. The Board has the responsibility to identify, evaluate, and provide free appropriate public education (FAPE) to students with disabilities within their jurisdiction. All individuals (students and/or employees) with a disability have the rights to access and receive reasonable accommodations (i.e. accessible facilities, equipment and scheduling, academic and instruction modifications and accommodations) to better meet their needs, allowing them to achieve a free appropriate public education and/or successful employment.

Procedural Safeguards

Students with disabilities and their parents are entitled to procedural safeguards with respect to actions taken by the public agency providing educational services (county school board or state operated programs):

- Notice of any action taken with regard to identification, evaluation, or educational placement of a disabled student;
- An opportunity to examine relevant records;
- An impartial hearing with opportunity for participation by parents or guardians and representation by counsel;
- A review procedure.

All special education students with disabilities who have an IEP are also covered under the rights of Section 504. Students with disabilities who are not eligible as special education students have rights under Section 504 if they have a mental or physical impairment and/or chronic health condition which substantially limits a major life activity.