1) **What is Section 504?**

Section 504 of the Rehabilitation Act is a civil rights law that prohibits discrimination based on disability in any program receiving federal funds. It applies to both workplaces and school settings. This legislation defines a person with a disability as anyone who:

- Has a mental or physical impairment which substantially limits one or more major life activities;
- Major life activities include: bending, breathing, caring for one’s self, communicating, eating, hearing, learning, concentrating, reading, operation of major bodily functions (including but not limited to functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions), performing manual tasks, speaking, sleeping, seeing, standing, thinking, walking, and working;
- Has a record of such impairment; or
- Is regarded as having such impairment.

2) **What is a 504 evaluation or reevaluation?**

Unlike the special education process, the 504 evaluation does not necessarily mean “test”. Instead it means the gathering of data from a variety of sources so the committee can make the required determinations. No formal testing is required. Common sources of evaluation data for 504 eligibility include, but are not limited to, grades, disciplinary referrals, health information, language surveys, parent information, standardized test scores, teacher comments, etc. An evaluation is required prior to developing a 504 plan and prior to any significant change of placement.

Reevaluations are also required periodically. The reevaluation is a re-gathering of information from a variety of sources to verify eligibility and to determine if revisions to the 504 plan are needed. *Reevaluations should be conducted annually.*
3) Is learning the only major life activity that a school district must consider in determining if a student has a disability under Section 504?

NO. A common misconception in 504 is that a student must possess a physical or mental impairment that substantially limits the major life activity of learning. Actually, a student may have a disability that in no way affects learning per se, yet he/she may need extra help to access learning. For example, a child may have severe asthma (affecting the major life activity of breathing) that requires regular medication and regular use of an inhaler at school.

Other examples include: 1) a student with a visual impairment who cannot read regular print with glasses is substantially limited in seeing; 2) a student with an orthopedic impairment who cannot walk is substantially limited in walking; and 3) a student with ulcerative colitis is substantially limited in the operation of a major bodily function, the digestive system.

4) When a child is no longer eligible for special education and related services, is he/she automatically eligible for Section 504?

YES & NO. Eligibility under Section 504 depends on whether the child has a current physical or mental impairment that substantially limits one or more major life activities. This often occurs when a student is no longer eligible under the specific learning disabilities category of the IDEA. The 504 Committee should review relevant data and make its decision after that review.

It is important to note that when a student is dismissed from special education, he/she has a record of a disability and is protected by the anti-discrimination provision of 504. Should the student later demonstrate the need for services or modification due to a physical or mental impairment, the student should be referred to the 504 Committee.

5) Do parents have the right to be members of the 504 Committee?

NO. 504 does not require the attendance of parents at 504 meetings. However, parent involvement in the 504 process should always be encouraged.
6) What if parents refuse a Section 504 evaluation and/or accommodations for their child and the district believes they are necessary to provide a free appropriate public education (FAPE); does the district have any recourse?

**YES.** The district may request a due process hearing. In addition, if a child is receiving services and the parent decide they no longer want the student to receive those services, the district may initiate the Section 504 due process hearing requirements.

7) If the school staff already provides the necessary accommodations for the student with a disability, does the school still have to go through the procedural steps of 504?

**YES.** If the student qualifies for 504, doing the accommodations without providing a family with procedural protections is a violation.

8) Can a parent choose 504 over IDEA services for his/her IDEA-eligible child?

**NO.** Occasionally the parent of an IDEA-eligible student may want all that IDEA has to offer but demands those services be provided under 504. The Office of Civil Rights (OCR) has rejected this notion, finding that when a child qualifies under the IDEA, the District satisfies the provisions of 504 through the development of an IEP. Therefore, when parents reject that IEP developed under the IDEA, they would essentially be refusing what would be offered under 504 as well. The parent could not compel the district to develop an IEP under Section 504.

9) How should the district respond when a teacher fails to implement accommodations specified in a student’s 504 Plan?

The student’s 504 Plan is required by federal law to be implemented as developed. Should a teacher refuse to implement the plan, the teacher is in violation of federal law, thereby creating potential liability for the district. All employees must abide by state and federal laws and school district policies. Failing to comply with a 504 may result in disciplinary actions, including termination, should the employee refuse to implement a 504 plan.
10) **Should school staff pay particular attention when the target of bullying has a Section 504 Plan?**

**YES.** Disability harassment is prohibited by Section 504. Should bullying occur, school staff should respond promptly and adequately to students’ and/or parents’ complaints.

11) **Are we obligated to maximize a student’s potential under 504?**

**NO.** Section 504 does not require a potential-maximizing education. Its purpose is to level the playing field through the provision of appropriate accommodations.

12) **Should accommodations have an impact on how assignments are graded?**

School assignments and tests completed with accommodations should be graded the same way as those completed without accommodations. After all, accommodations are meant to "level the playing field," provide equal and ready access to the task at hand, and not meant to provide an undue advantage to the user.

13) **Can a student be dismissed from 504?**

**YES.** Once a student no longer meets eligibility requirement (i.e., he/she no longer has a physical or mental impairment that substantially limits one or more major life activities), the 504 Committee can withdraw him/her from 504. *While the child is not longer eligible for 504 services, since he/she is a child with a record of a disability, the student continues to receive protection under 504 from discrimination.* No further 504 Committee meetings are required for this child unless the student is found to be eligible for services at a later date.

In light of the notion of *having a record of a disability*, it is essential that Fayette County Schools maintain accurate 504 eligibility records. It is the responsibility of individual schools to ensure accurate recordkeeping as well as the transmission of 504 information between schools (e.g., when students transition from one programmatic level to the next; when students transfer from one school to another).