



## Voyager Academy Section 504: Student and Parent Rights

Questions about Section 504 or related needs may be directed to:

- **Dr. Monique Link, School Social Worker / Voyager Academy Section 504 Coordinator**  
mlink@voyageracademy.net  
919-433-3301 X 146  
100 Hock Parc  
Durham, NC 27704

You may also direct your questions or needs to your building-level 504 Coordinator:

- **Elementary School – Mrs. Melissa Meckes**  
[mmeckes@voyageracademy.net](mailto:mmeckes@voyageracademy.net)  
919-433-3301 X 188  
4210 Ben Franklin Blvd  
Durham, NC 27704
- **Middle School – Mrs. Tonya Farrish**  
[tfarrish@voyageracademy.net](mailto:tfarrish@voyageracademy.net)  
919-433-3301 X 206  
101 Hock Parc  
Durham, NC 27704
- **High School – Ms. Jill O’Kane**  
[jokane@voyageracademy.net](mailto:jokane@voyageracademy.net)  
919-433-3301 X 326  
4302 Ben Franklin Blvd  
Durham, NC 27704
- **Part-time Middle School and Part-time High School – Ms. Savannah Purdy**  
[spurdy@voyageracademy.net](mailto:spurdy@voyageracademy.net)  
919-433-3301 X 144  
101 Hock Parc (Middle School) or 4302 Ben Franklin Blvd (High School)  
Durham, NC 27704

The following is a description of student and parent rights under Section 504 of the Rehabilitation Act of 1973. The law requires that you be kept fully informed concerning decisions about your child and that you be informed of your rights if you disagree with any of these decisions.

### **Section I: Rights**

You have the right to:

1. Have your child take part in and receive benefits from public education programs without discrimination based on a disability;
2. Have the school district advise you as to your rights under federal law;
3. Receive notice with respect to evaluation, identification, or placement of your child;
4. Have your child receive a free appropriate public education, including being educated with other non-disabled students to the maximum extent appropriate and having the school district make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities;
5. Have your child educated in facilities and receive services comparable to those provided to students without disabilities;
6. Have evaluation, identification, and placement decisions made based upon a variety of information sources, and by individuals who know the student, the evaluation data, and placement options;
7. Give your child an equal opportunity to participate in non-academic and extra-curricular activities offered by the school district;
8. Examine all relevant records relating to decisions regarding your child's evaluation, identification, educational program, and placement;
9. Obtain copies of educational records at a reasonable cost;
10. Receive a response from the school district to reasonable requests for explanations and interpretations of your child's record;
11. Request amendment of your child's educational records if there is reasonable cause to believe that they are inaccurate, misleading, or otherwise in violation of the privacy rights of your child and receive notification and advice about your right to a hearing if the school district refuses this request; and
12. Request mediation or a grievance hearing related to decisions regarding your child's evaluation, identification, educational plan, or placement as described in Section II below, in which you and your child may take part and have an attorney represent you.

### **Section II: Grievance Procedure**

The 504 Appeals Procedure may be used for any disagreement with respect to actions regarding identification, evaluation, educational services, or education program of students who, because of disability, need or are believed to need Section 504 plans and are not eligible under the IDEA, except in the case of long-term suspension.

**Step 1 – Principal Conference:** A student, parent, or guardian (hereafter referred to as “complainant”) wishing to invoke the Section 504 appeals process shall make a written request

for a conference with the principal to discuss the grievance and seek resolution. The request shall fully describe the grievance. The following additional guidelines shall be observed in Step 1:

- A grievance shall be filed as soon as possible but not longer than 30-days after disclosure of the facts giving rise to the grievance.
- The principal shall grant the conference with five (5) days following receipt of the request.
- The principal will state in writing, his/her position on the question to the complainant within five (5) school days following the conference.
- Only the complainant or someone acting in loco parentis shall be permitted to join or represent the student in the conference with the principal.

**Step 2 – Appeal to the Managing Director:** If the complaint is not resolved at Step 1, the following guidelines shall be observed at this time:

- Within five (5) school days of receipt of the Step I decision, the complainant may appeal (in writing) for further review by Voyager’s Managing Director.
- The Managing Director may meet with the parent/guardian or decide the matter based upon the written record. If the Managing Director convenes a meeting with the parent/guardian, only the complainant or someone acting in loco parentis shall be permitted to join or represent the student in the conference.
- The Managing Director shall issue a written decision within five (5) school days of the meeting referenced above or the date on which s/he informed the parents that the decision would be made on the written record without a meeting.

**Step 3 – Appeal for a Section 504 Due-Process Hearing:** If the complaint is not resolved at Step 2, an appeal may be made for a hearing before an independent Hearing Officer. The following guidelines shall be observed at this time:

- The appeal must be made in writing, to the Voyager Academy Section 504 Coordinator within five (5) school days following the written decision of the Managing Director.
- Upon receipt of the written request for a hearing, the Voyager Academy Section 504 Coordinator will arrange for an independent Hearing Officer to hear the case.
  - The Hearing Officer shall be familiar with the requirements of Section 504 and the Americans with Disabilities Act.
  - Voyager Academy will be responsible for the compensation of the Hearing Officer; however, Voyager Academy will not be responsible for the costs of a parent/guardian’s legal counsel or any other parent representative or parent-secured witness(es).
- The student is entitled to have his or her parent/guardian participate, speak, and present information at the hearing, and to be represented by legal counsel or any other type of advocate or representative of their choice at their expense.
  - If a parent/guardian is to be represented by an attorney at the due process hearing, he or she must inform the Voyager Academy Section 504 Coordinator and the appointed Hearing Officer of the fact in writing at least ten (10) calendar days prior to the hearing date.

- Failure to notify the Voyager Academy Section 504 Coordinator and the appointed Hearing Officer may cause the hearing date to be delayed.
- The appointed Hearing Officer shall schedule a hearing date in writing, at his or her earliest opportunity, and at a mutually agreeable time.
  - The Hearing Officer shall attempt to schedule the hearing within 45-days of the complainant's request for a hearing. At the Hearing Officer's discretion, the hearing may be held virtually.
  - The Hearing Officer may conduct a pre-hearing telephone conference to identify and, if disputed, resolve the issues for hearing.
  - The Hearing Officer will also identify the date the parties will exchange witness lists and proposed exhibits. This exchange shall occur no later than five (5) business days prior to the hearing.
- The hearing shall be conducted in an informal, non-adversarial manner. Formal rules of evidence and civil procedure do not apply.
  - The Hearing Officer is not required to entertain any legal evidentiary objections to the admissibility, authenticity, or probative value of either oral testimony or documentary exhibits offered at the hearing.
  - In the exercise of his or her discretion however, the Hearing Officer may reasonably limit testimony and introduction of documentary exhibits for reasons of relevance.
  - The Hearing Officer may consider any relevant evidence that is of a kind commonly relied on by reasonably prudent persons in the conduct of serious matters.
  - The hearing shall be limited to issues raised in the hearing request and the Hearing Officer shall exclude any issues that are not related to the identification, evaluation, placement, or educational services under Section 504.
- The entire due process hearing will be audio recorded.
  - The parent/guardian may obtain a copy of the recording at his or her request.
  - The parent/guardian may also make his or her own audio recording of the hearing.
- Each party will be afforded up to one and one-half (1.5) hours to present its case, including presentation, direct examination, cross examination, and argument.
  - The parties may also submit any reports, evaluations, correspondence, notes, or any other documents that may support their positions and that the Hearing Officer will admit at his or her discretion.
  - The party seeking relief bears the burden of persuasion and the burden of proof.
- The Hearing Officer will begin the hearing with introductory remarks, addressing the purpose of the hearing, determining whether parties have complied with disclosure requirements, identifying any stipulations on the record, identifying the issue for the hearing on the record, and reminding the parties of time limits.
- The Hearing Officer will provide an opportunity for each party to present evidence through calling witnesses and referencing exhibits.
  - In his or her discretion, the Hearing Officer may ask questions of a witness.

- The party requesting the hearing will present his or her evidence first, followed by the responding party.
- A party may choose to reserve a portion of its time for closing or rebuttal.
- After all evidence has been presented, the Hearing Officer may ask for closing statements.
  - The Hearing Officer may, in his or her discretion, request that the parties submit written closing statements within a specified number of days after the hearing.
- The Hearing Officer will conclude the hearing, addressing the timeline for a decision and a statement on the record that the hearing is concluded.
- The Hearing Officer will inform the complainant in writing, of the decision within thirty (30) days of the hearing. This will include a written decision with findings of fact and conclusions of law.
  - The Hearing Officer must confine his or her orders and rulings to those matters that involve the identification, evaluation, placement, or educational services of children under Section 504 and to the provisions of the regulations implementing Section 504.
  - The Hearing Officer also issues recommendations to the Managing Director regarding the issues raised and recommending what corrective action, if any, the School should take.
  - A Hearing Officer may not award attorneys' fees or reimbursement as a part of the relief granted to a complainant.
  - The decision of the Hearing Officer is binding on all parties unless appealed to a court of competent jurisdiction.

### **Section III: Discipline of Students Eligible under Section 504**

Section 504 requires that students with disabilities be re-evaluated prior to any significant change in placement, which would include a disciplinary change in placement. A disciplinary change in placement is defined as a removal from the student's regular education program for more than ten (10) consecutive days or more than ten days cumulatively during one school year under circumstances that suggest a pattern of related behavior. When a student who has been found eligible under Section 504 is recommended for a disciplinary removal that constitutes a change of placement, a Manifestation Determination Review (MDR) meeting must be conducted to evaluate whether the misconduct was caused by or substantially related to the student's disability.

If it is determined that the student's behavior **WAS** caused by or substantially related to his or her disability, the Section 504 Team will review the student's current educational placement and current 504 plan to determine if it is appropriate and make changes, as deemed suitable.

- The student **may not** face long-term disciplinary consequences for conduct found to be caused by or substantially related to his or her disability.

However, if the student's misconduct **WAS NOT** caused by or substantially related to his or her disabling condition, then the school **may** impose normal disciplinary procedures, including, but not limited to, long-term suspension or exclusion.

Services and/or accommodations during a period of disciplinary consequences will depend upon the nature of the suspension/removal as well as the student's Section 504 plan.

**Note:** An exception to the foregoing disciplinary procedure exists for Section 504 students who violate the Voyager Academy drug and alcohol policy. If a disabled student violates a school rule pertaining to the use, possession, or distribution of drugs and/or alcohol, the student may be disciplined for the violation as if he or she were not disabled (unless the disability itself is substance-related).

#### **Section IV: Board Policies**

##### **Non-Discrimination, Equal Opportunity, and Anti-Harassment Policies**

Voyager Academy provides equal education opportunities to all students and prohibits discrimination and harassment of any type without regard to race, color, religion, age (40 years or older), sex (including pregnancy), national origin, disability status, genetics, protected veteran status, sexual orientation, gender identity or expression, or any other characteristic protected by federal, state or local laws. Voyager adheres to the legal obligations and requirements under all state and federal laws, including without limitation, Title IX, section 504 of the Rehabilitation Act of 1973 and the Individuals with Disabilities Education Act Amendments of 1997, including identification, evaluation, and provision of an appropriate education. The policy of equal opportunity includes a prohibition against any and all unlawful discrimination including but not limited to, harassment, including sexual harassment, or retaliation.

It always has been and continues to be Voyager Academy's policy that students and employees should be able to enjoy a work environment free from all forms of unlawful discrimination. All decisions regarding recruiting and enrollment of students will be made without unlawful discrimination on the basis of race, color, national origin, ancestry, sex, sexual orientation, gender identity or expression, religion, age, pregnancy, disability status, work-related injury, covered veteran status, genetic information, marital status, or any other factor that the law protects from discrimination.