

SECTION 504 NONDISCRIMINATION POLICY AND COMPLAINT PROCEDURES

The Essex County School Board does not discriminate against individuals on the basis of disability. The Essex 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 Essex County School Board is for students, parents/guardians and employees to have the opportunity to make concerns known to the Essex County 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 Essex County 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 Essex County Public Schools 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 are also accepted. The complaint should be filed with the school principal, other school or Essex County Public Schools Division staff, or the Compliance Officer. School or Essex County Public Schools 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 Essex County 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 immediately authorizes or undertakes an investigation. The investigation may be conducted by school staff or a third party designated by the Essex County Public Schools 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 sends written notice that the complaint has been received to the complainant and the person or persons allegedly responsible for the discrimination.

Also upon receiving the complaint, the Compliance Officer determines 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 person or 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 school days. The investigation may consist of personal interviews with the complainant, the person or 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 person or persons allegedly responsible for the discrimination have the right to identify witnesses and other relevant information as well as rebut evidence presented by others. The school division takes 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 Essex County 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 are maintained and distributed in accordance with the Family Educational Rights and Privacy Act and Policy JO Student Records. The report shall be issued to the superintendent, the complainant and the accused person or persons allegedly responsible for the discrimination 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 person or persons allegedly responsible for the discrimination. If the superintendent determines that discrimination occurred, the Essex County Public Schools Division takes 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 Essex County School Board. The Essex County School Board shall make a decision within 30 calendar days of receiving the record. The Essex County School Board may require oral or written argument from the complainant, the person or persons allegedly responsible for the 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 Essex County School Board Chair up to an additional 10 calendar days. The decision of the Essex County School Board shall be in writing and shall be provided to the complainant and the person or persons allegedly responsible for the discrimination.

If the superintendent or superintendent's 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 Essex County School Board policies and regulations.

5. Compliance Officer

The Essex County School Board designates 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 is posted on the Division's website at all times. The Compliance Officer may be contacted at

Essex County Public Schools
Director of Human Resources¹
P.O. Box 756
Tappahannock, VA 22560

The Essex County School Board's Compliance Officer receives training and is 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

- receives reports and complaints of discrimination,
- conducts or oversees the investigation of any alleged discrimination,
- assesses the training needs of the Essex County Public Schools Division in connection with this policy and
- arranges necessary training to achieve compliance with this policy.

B. INFORMAL PROCEDURE

If the complainant and the person or persons allegedly responsible for the discrimination agree, the school principal, principal's 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 Essex County Public Schools Division staff.

If the complainant and the person or 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 Essex County Public Schools Division staff shall notify the school principal of the resolution. The school principal shall notify the complainant, the person or persons

FOOTNOTES ARE FOR REFERENCE ONLY AND SHOULD BE DELETED FROM FINAL POLICY.

¹ To avoid changing the policy any time the Compliance Officer changes, a school board may designate the position by title and provide an email address established for that position. However, the division website MUST reflect the current, complete name and contact information for the Compliance Officer.

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 are subject to disciplinary action.

Adopted: April 9, 2012
Revised: April 3, 2017
August 9, 2021

Legal Ref.: 29 U.S.C. § 794

34 C.F.R. § 104.7

Cross Ref:	GCPD	Professional Staff Discipline
	JB	Equal Educational Opportunities/Nondiscrimination
	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 person or 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