

VISTA CHARTER PUBLIC SCHOOLS

601 North Fairview Street
Santa Ana, CA 92703
T: (714) 881-7407 | F: (714) 988-2747
www.vistacharterpublicschools.org

Collin Felch, Ed.D., Superintendent
Karen Amaya, Assistant Superintendent



SECTION 504: POLICY, PROCEDURES, AND PARENT RIGHTS REGARDING IDENTIFICATION, EVALUATION AND EDUCATION

A. SECTION 504 POLICY

The Board of Directors of the Vista Charter Public Schools (“VCPS” or the “Charter School”) recognizes its obligation to identify and evaluate students with disabilities in order to provide them with a free, appropriate public education (“FAPE”) and its legal responsibility to ensure that “no qualified person with a disability shall, solely by reason of their disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” This Policy, which includes the related administrative regulation has been developed to ensure the implementation of Section 504 of the Rehabilitation Act of 1973 (“Section 504”), and its implementing regulations as amended, which pertains to public schools. The intent is to ensure that all students with disabilities, who are eligible under Section 504, are identified and evaluated and have access to a FAPE.

Under Section 504, individuals with physical or mental impairments that substantially limit one or more major life activities, including learning, are entitled to receive regular or special education and/or related aids and services designed to meet their individual needs as adequately as the needs of nondisabled students are met. Major Life Activities include functions such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working, as well as the operation of a major bodily functions, including functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. Students may be disabled and entitled to services under Section 504 even though they are not eligible for services pursuant to the Individuals with Disabilities Education Act Improvement Act of 2004 (“IDEA”). An impairment need not prevent or severely restrict a major life activity to be considered “substantially limiting.”

The Charter School’s Section 504 Coordinator or designee shall ensure that this policy and set of procedures is implemented and followed. RCS will conduct an evaluation in accordance with relevant laws and regulations as well as the procedures below, of any student who, because of a disability, needs or is believed to need regular or special education and/or related aids and services.

VCPS shall convene a Section 504 Team meeting to determine the student’s need for special education and/or related aids and services. The Section 504 Team will include persons knowledgeable about the Section 504 standards, the student’s individual needs and school history, the meaning of evaluation data, and placement options. VCPS shall invite the student’s parent/guardian shall be invited to participate in this 504 Team and shall receive notice of procedural safeguards guaranteed by law.

If VCPS determines that an assessment is not appropriate a student after a parent has requested an assessment, the Charter School shall provide notice of the parent’s/guardian’s procedural safeguards and an explanation for the determination. VCPS shall not retaliate in any way against parents/guardians or students who exercise any rights under the procedural safeguards and/or Section 504.

If the student, due to disability, is found to require regular or special education and/or related aids and services under Section 504, the Section 504 Team shall develop a Section 504 plan for the provision of such services to the student. The student shall be educated with nondisabled students to the maximum extent appropriate based on evaluation of the student’s individual needs. The student’s parent/guardian shall be provided a copy of the Section

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504 Plan and notice of procedural safeguards guaranteed by law. VCPS shall review the student's progress and placement periodically and prior to any significant change in placement.

VCPS prohibits discrimination on the basis of disability or any other characteristic protected under law. VCPS will implement this policy through its corresponding procedures.

B. SECTION 504 PROCEDURES

A. Definitions

1. **Academic Setting** – the regular, educational environment operated by VCPS.
2. **Individual with a Disability under Section 504** – An individual who:
 - a. has a physical or mental impairment that substantially limits one or more major life activities;
 - b. has a record of such an impairment; or
 - c. is regarded as having such an impairment.
3. **Evaluation** – procedures used to determine whether a student has a disability as defined within these Procedures, and the nature and extent of the services that the student needs. The term means procedures used selectively with an individual student and does not include basic tests administered to, or procedures used with, all students in a school, grade or class.
4. **Section 504 Plan** – is a plan developed to identify and document the student's needs for regular or special education and related aids and services for participation in educational programs, activities, and school-sponsored events.
5. **FAPE** – the provision of regular or special education and related aids and services that are designed to meet the individual needs of persons with disabilities as adequately as the needs of persons without disabilities are met.
6. **Major Life Activities** - Functions such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working. A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, special sense organs and skin, normal cell growth, digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions.
7. **Physical or Mental Impairment** –
 - a. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory; including speech organs; cardiovascular; reproductive; digestive; genitor-urinary; hemic and lymphatic; skin; and endocrine; or
 - b. Any mental or psychological disorder, such as intellectual disability, organic brain syndrome,

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emotional or mental illness, and specific learning disabilities.

8. **504 Coordinator** – The Director of Special Education & Pupil Services shall serve as the Charter School's Section 504 Coordinator. The parents or guardians may request a Section 504 due process hearing from or direct any questions or concerns to the Section 504 Coordinator at:
Erika Najera
enajera@vistacharterps.org
601 North Fairview Street
Santa Ana, CA 92703
(714) 881-7407
9. **Has a record of such an impairment** - means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
10. **Is regarded as having an impairment** - means
 - a. An individual meets the requirement of 'being regarded as having such an impairment' if the individual establishes that they have been subjected to an action prohibited under this Act because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.
 - b. Being regarded as having an impairment shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

B. Referral, Assessment and Evaluation Procedures

1. VCPS will evaluate any student who, because of disability, needs or is believed to need regular or special education and/or related aids and services.
2. A student may be referred by anyone, including a parent/guardian, teacher, other school employee or community agency, for consideration as to whether the student qualifies as a student with a disability under Section 504. Requests for evaluation shall be made in writing, and a copy of said request will remain in the student's file regardless of the final determination. This referral should be made to the Section 504 Coordinator who will convene a 504 Team. Any requests made to another Charter School employee will be forwarded to the Section 504 Coordinator. Upon request, VCPS will assist a Parent to put their request for evaluation in writing.
3. The Charter School has the responsibility to ensure that students with disabilities are evaluated. Therefore, it is important that staff who believe a student has or may have a disability promptly refer the student to the Section 504 Coordinator so that the assessment process is initiated.
4. The Section 504 Team convened by the Section 504 Coordinator will be composed of the student's parents/guardians and other persons knowledgeable about the student (such as the student's regular education teachers), the student's school history, the student's individual needs (such as a person knowledgeable about the student's disabling condition), the meaning of evaluation data, the options for placement and services, and the legal requirements for least restrictive environment and comparable facilities.

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5. The Section 504 Team shall promptly consider the referral and determine what assessments are needed in all suspected areas of disability to evaluate whether the student is a student with a disability under Section 504 and what individual needs the student may have. The decision regarding what assessments shall be undertaken shall be based on a review of the student's school records, including academic, social and behavioral records, any relevant medical records, and consultation with the student's parent/guardian, the student's teachers, or other professionals, as appropriate, and analysis of the student's needs. Students requiring assessment shall be provided appropriate assessments administered by individuals qualified to complete the assessments.
6. The Section 504 Team will consider the following information in its evaluation of the student:
 - a. Tests and other evaluation materials that have been validated for the specific purpose for which they are used and are administered by trained personnel;
 - b. Tests and other evaluation materials including those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and
 - c. Tests are selected and administered so as to best ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure.)
7. The evaluation of the student must be sufficient for the Section 504 Team to accurately and completely describe: (a) the nature and extent of the disabilities; (b) the student's individual needs; (c) the impact upon the student's education; and (d) what regular or special education and/or related aids and services are appropriate to ensure that the student receives a FAPE. All significant factors relating to the learning process for that student, including adaptive behavior and cultural and language background, must be considered. The evaluation may include, but is not limited to, classroom and playground observation, performance-based testing, academic assessment information, and data offered by the student's teachers and parent/guardian.
8. The Section 504 Team must ensure that information obtained from all sources is documented and carefully considered. The Section 504 Coordinator, and any other knowledgeable team members, will confirm that the above-described evaluation documents the information obtained from all sources to allow the Section 504 Team to carefully consider all significant factors related to the student's suspected physical or mental impairment which may be substantially limiting major life activity.
9. Mitigating measures cannot be considered when evaluating whether or not a student has a substantially limiting impairment. Mitigating measures could include medications, prosthetic devices, assistive devices, or learned behavioral or adaptive neurological modifications a student uses to eliminate or reduce the effects of an impairment. The mitigating effects of ordinary eyeglasses/contact lenses shall be considered in determining if the student has a substantial limitation of a major life activity.
10. The determination of whether a student has a disability should not solely rely on grades and/or absences.

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11. The parents/guardians shall be given an opportunity in advance of 504 Team meetings to examine assessment results and all other relevant records.
12. If a request for evaluation is denied, the Section 504 Team shall inform the parents/guardians in writing of this decision and of their procedural rights as described below.

C. Section 504 Plan

1. When a student is identified as having a disability within the meaning of Section 504, the Section 504 Team shall determine what, if any, services are needed to ensure that the student receives a FAPE.
2. The Section 504 Team responsible for making the placement decision shall include the parents/guardians and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options.
3. For each identified eligible student, the Section 504 Team will develop a Section 504 Plan describing the student's disability and the regular or special education and/or related aids and services needed. The Section 504 Plan will specify how the special education and/or related aids and services will be provided to the eligible student and by whom. The Section 504 Plan will also identify the person responsible for ensuring that all the components of the Section 504 Plan are implemented.
4. The student's teacher and any other staff who are to provide services to the student or who are to make modifications in the classroom for the student shall be informed of the services or modifications necessary for the student and, if appropriate, provided a copy of the Section 504 Plan. A copy of this plan shall be kept in the student's cumulative file in a manner that limits access to those persons involved in the Section 504 process and/or the provision of services and modifications.
5. The eligible student shall be placed in the regular education environment unless it is demonstrated that the student's needs cannot be met in the regular education environment with supplementary aids and services. The student shall be educated with students who are not disabled to the maximum extent appropriate to their individual needs.
6. The referral, assessment, evaluation and placement process will be completed within a reasonable time. It is generally not reasonable to exceed sixty (60) school days in completing this process.
7. The parents/guardians shall be notified in writing of the final decision concerning the student's identification as a person with disabilities, the educational program and services to be provided, if any, and of the Section 504 procedural safeguards, as described below, including the right to an impartial hearing to challenge the decision.
8. If the Section 504 Team determines that the student has a disability but that no special education and/or related aids and services are necessary for the student, the Section 504 Plan shall reflect the identification of the student as a person with a disability under Section 504 and shall state the basis for the decision that no special education and/or related aids and services are presently needed.

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9. The Section 504 Plan shall include a schedule for annual review of the student's needs and indicate that this review may occur more frequently at the request of the parent/guardian or school staff, or if there is reason to suspect that the student's needs have changed and prior to any change in placement.
10. VCPS shall immediately implement a student's prior Section 504 Plan, when a student enrolls at the Charter School. Within thirty (30) calendar days of the student of starting school, VCPS shall schedule a Section 504 Team meeting to review the existing Section 504 Plan. VCPS shall request a copy of the prior Section 504 plan from both the prior school and the parent/guardian.
11. A parent, guardian, or VCPS shall have the right to audio record the proceedings of any team meetings held pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794). The parent or guardian or VCPS shall notify the members of the team of the parent's, guardian's, or VCPS's intent to audio record a meeting at least 24 hours before the meeting. If VCPS initiates the notice of intent to audio record a meeting and the parent or guardian objects or refuses to attend the meeting because it will be audio recorded, the meeting shall not be audio recorded.

D. Review of the Student's Progress

1. The Section 504 Team shall monitor the progress of the eligible student and the effectiveness of the student's Section 504 Plan. According to the review schedule set out in the student's Section 504 Plan, the Section 504 Team shall annually determine whether the student's Section 504 Plan is appropriate.
2. A reevaluation of the student's needs shall be conducted before any subsequent significant change in placement and when there is reason to suspect that the student's needs have changed.

E. Procedural Safeguards

1. Parents/guardians shall be notified in writing of all decisions regarding the identification, evaluation or educational placement of students with disabilities or suspected disabilities. Notifications shall include a statement of their rights to:
 - Examine relevant records
 - Have an impartial hearing with an opportunity for participation by the parents/guardians and their counsel
 - Have the right to file a Uniform Complaint pursuant to Charter School policy
 - Seek review in federal court if the parents/guardians disagree with the hearing decision.
2. Notifications shall also set forth the procedures for requesting an impartial hearing. Requests shall be made to the following:

Erika Najera
601 North Fairview Street
Santa Ana, CA 92703
(714) 881-7407

Notifications shall also advise that reimbursement for attorney's fees is available only as authorized

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by law.

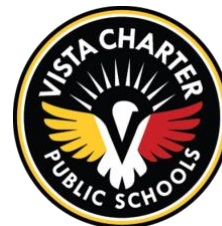
3. The Section 504 Coordinator or designee shall maintain a list of impartial hearing officers who are qualified and willing to conduct Section 504 hearings. To ensure impartiality, such officers shall not be employed by or under contract with VCPS, El Dorado SELPA, or LAUSD SELPA COP 3 in any capacity other than that of hearing officer and shall not have any professional or personal involvement that would affect their impartiality or objectivity in the matter.
4. If a parent/guardian disagrees with the identification, evaluation or educational placement of a student with disabilities under Section 504, the parent/guardian may request a hearing to initiate due process procedures. The parent/guardian shall set forth in writing their request for a hearing. A request for hearing should include:
 - The specific decision or action with which the parent/guardian disagrees.
 - The changes to the 504 Plan the parent/guardian seeks.
 - Any other information the parent/guardian believes is pertinent.
5. Within five (5) calendar days of receiving the parent/guardian's request for a hearing, the Charter School may offer the parent/guardian an optional alternative dispute resolution process. However, the timeline for the hearing shall remain in effect unless it is extended by mutual written agreement of the parent/guardian and the Charter School. Alternative dispute resolution options include:
 - Mediation by a neutral third party.
 - Review of the 504 Plan by the Section 504 Coordinator or designee.
6. Within ten (10) calendar days of receiving the parent/guardian's request, the Section 504 Coordinator or designee shall select an impartial hearing officer. These 10 days may be extended for good cause or by mutual agreement of the parent/guardian and Section 504 Coordinator or designee.
7. Within thirty-five (35) calendar days of the selection of the hearing officer, the due process hearing shall be conducted. These thirty-five (35) calendar days may be extended for good cause or by mutual agreement of the parent/guardian and Section 504 Coordinator or designee.
8. The parent/guardian and the Charter School shall be afforded the rights to:
 - Be accompanied and advised by counsel and by individuals with special knowledge or training related to the individual needs of students who are qualified as having a disability under Section 504.
 - Present written and oral evidence.
 - Question and cross-examine witnesses.
 - Receive written findings by the hearing officer.
9. The hearing officer shall issue a written decision within ten (10) calendar days of the hearing.
10. If desired, either party may seek a review of the hearing officer's decision by a federal court. The decision shall be implemented unless the decision is stayed, modified or overturned by a court.
11. VCPS shall not retaliate in any way against parents/guardians or students who exercise any rights under the procedural safeguards and/or Section 504.

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F. Suspension and Expulsion, Special Procedures for Students with Disabilities

VCPS shall follow the suspension and expulsion policy and procedures as set forth in the charter. A student who is qualified for services under Section 504 of the Rehabilitation Act of 1973 is subject to the same grounds for disciplinary action, including suspension and expulsion, and is accorded the same due process procedures applicable to general education students except when federal and state law mandates additional or different procedures. VCPS will follow Section 504 and all applicable federal and state laws when imposing any form of discipline on a student identified as an individual with disabilities or for whom the Charter School has a basis of knowledge of a suspected disability or who is otherwise qualified for such services or protections in according due process to such students. The following procedures shall be followed when a student with a disability is considered for suspension or expulsion. These procedures will be updated if there is a change in the law.

1. Services During Suspension

Students suspended for more than ten (10) school days in a school year shall continue to receive services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's 504 Plan; and receive, as appropriate, a functional behavioral assessment ("FBA") and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur. These services may be provided in an interim alternative educational setting.

2. Procedural Safeguards/Manifestation Determination

VCPS will conduct a manifestation determination before implementing a disciplinary removal that will result in a significant change in placement. Within ten (10) school days of a recommendation for expulsion, removal from class or school for longer than ten (10) consecutive school days, a series of removals from class or school that together total more than ten (10) school days in a school year and constitute a pattern of removals or any decision to change the placement of a child with a disability because of a violation of a code of student conduct, VCPS, the parent, and relevant members of the Section 504 Team shall review all relevant information in the student's file, including the child's Section 504 Plan, any teacher observations, and any relevant information provided by the parents to determine:

- a. If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
- b. If the conduct in question was the direct result of the local educational agency's failure to implement the Section 504 Plan.

If VCPS, the parent, and relevant members of the 504 Team determine that either of the above is applicable for the child, the conduct shall be determined to be a manifestation of the child's disability.

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If VCPS, the parent, and relevant members of the Section 504 Team make the determination that the conduct was a manifestation of the child's disability, the 504 Team shall:

- a. Conduct an FBA and implement a behavioral intervention plan ("BIP") for such child, provided that VCPS had not conducted such assessment prior to such determination before the behavior that resulted in a change in placement;
- b. If the child has a BIP, review the BIP and modify it, as necessary, to address the behavior; and
- c. Return the child to the placement from which the child was removed, unless the parent and VCPS agree to a change of placement as part of the modification of the BIP.

If VCPS, the parent, and relevant members of the Section 504 team determine that the behavior was not a manifestation of the student's disability and that the conduct in question was not a result of the failure to implement the Section 504 Plan, then VCPS may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to students without disabilities.

3. Appeals

The parent/guardian of a child with a disability under a 504 Plan who disagrees with any decision regarding placement, or the manifestation determination, or if the Charter School believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others, either party may request to utilize the appeal process outlined in the Procedural Safeguards section of these Procedures.

When an appeal relating to the placement of the student or the manifestation determination has been requested by either the parent or VCPS, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer in accordance with state and federal law, including 20 U.S.C. Section 1415(k), until the expiration of the forty-five (45) day time period provided for in an interim alternative educational setting, unless the parent and VCPS agree otherwise.

4. Special Circumstances

VCPS personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a child with a disability who violates a code of student conduct.

The Section 504 Coordinator or designee may remove a student to an interim alternative educational setting for not more than forty-five (45) days without regard to whether the behavior is determined to be a manifestation of the student's disability in cases where a student:

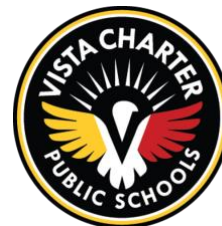
- a. Carries or possesses a weapon, as defined in 18 U.S.C. § 930, to or at school, on school premises, or to or at a school function;

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- b. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function; or
- c. Has inflicted serious bodily injury, as defined by 20 U.S.C. § 1415(k)(7)(D), upon a person while at school, on school premises, or at a school function.

5. Interim Alternative Educational Setting

The student's interim alternative educational setting shall be determined by the student's 504 Team.

C. PARENT/STUDENT RIGHTS IN IDENTIFICATION, EVALUATION, ACCOMMODATION AND PLACEMENT

The following is a description of the rights granted by federal law to students with disabilities. The intent of the law is to keep you fully informed concerning decisions about your child and to inform you of your rights if you disagree with any of these decisions. Please keep this explanation for future reference.

You have the right to:

1. Have your child take part in and receive benefits from public education programs without discrimination because of their disabling condition.
2. Have VCPS advise you of your rights under federal law.
3. Receive notice with respect to Section 504 identification, evaluation and/or placement of your child.
4. Have your child receive a FAPE. This includes the right to be educated with non-disabled students to the maximum extent appropriate. It also includes the right to have VCPS 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 non-disabled students.
6. Have your child receive special education and related services if your child is found to be eligible under the Individuals with Disabilities Education Improvement Act (IDEA 2004).
7. Have an evaluation, educational recommendation, and placement decision developed by a team of persons who are knowledgeable of the student, the assessment data, and any placement options. This includes the right to an evaluation before the initial placement of the student and before any subsequent significant change in placement.
8. Have your child be given an equal opportunity to participate in non-academic and extracurricular activities offered by VCPS.
9. Examine all relevant records relating to decisions regarding your child's Section 504 identification, evaluation, educational program, and placement.
10. Obtain copies of educational records at a reasonable cost unless the fee would effectively deny you access to the records.
11. Obtain a response from VCPS to reasonable requests for explanations and interpretations of your child's records.

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12. Request an amendment of your child's educational records if there is reasonable cause to believe they are inaccurate, misleading or otherwise in violation of the privacy rights of your child. If VCPS refuses this request for amendment, the Charter School shall notify you within a reasonable time and advise you of your right to an impartial hearing.
13. Request mediation or file a grievance in accordance with Charter School's Section 504 mediation grievance and hearing procedures, outlined above.
14. Request an impartial hearing regarding the Section 504 identification, evaluation, or placement of your child. You and the student may take part in the hearing and have an attorney represent you.
15. File a formal complaint pursuant to the Charter School's Uniform Complaint Policy and Procedures. Please ask the Section 504 Coordinator or designee for a copy of the Charter School's Uniform Complaint Policy and Procedures if you need one.
16. File a formal complaint with the U.S. Department of Education.

Office for Civil Rights
U.S. Department of Education
Seattle Office
Office for Civil Rights
U.S. Department of Education
915 Second Avenue Room 3310
Seattle, WA 98174-1099

Telephone: 206-607-1600
FAX: 206-607-1601; TDD: 800-877-8339
Email: OCR.Seattle@ed.gov

or

U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Bldg
400 Maryland Avenue, SW
Washington, DC 20202-1100

Telephone: 800-421-3481
FAX: 202-453-6012; TDD: 800-877-8339
Email: OCR@ed.gov

17. Be free from any retaliation from VCPS for exercising any of these rights.

Please contact Erika Najera, Section 504 Coordinator, c/o Vista Charter Public Schools 601 North Fairview Steet, Santa Ana, CA 92703 or at (714) 881-7407 with any questions regarding the information contained herein.

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