

# SECTION 504: ENSURING EQUITABLE SERVICES FOR ALL

## UNDERSTANDING THE CURRENT DEMOGRAPHIC COMPOSITION OF STUDENTS RECEIVING 504 SERVICES

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**QUESTIONS: What is the current demographic composition of students receiving 504 services in North Carolina? Is there a correlation between race, gender, and poverty and a students' ability to access Section 504 educational services?**

### BACKGROUND

504 plans ensure students with disabilities have access to learning at school. By evaluating the distribution of 504 plans across the state of North Carolina, we can understand trends to ensure an equitable distribution and equal protection under the law for students with disabilities.

The Rehabilitation Act of 1973 codified Section 504 which prohibits discrimination based on disability (*29 U.S.C. § 701*). This marked the first federal civil rights protection for individuals with disabilities in the United States.<sup>1</sup> Section 504 ensures that all students receive a free, appropriate public education regardless of disability. Section 504 also guarantees the needs of the disabled are met as adequately as the non-disabled.<sup>2</sup> The Office of Civil Rights holds jurisdiction over maintaining school's compliance.

Most schools adopt 504 plans to ensure they are in compliance with federal law. A student with an impairment that substantially reduces the student's ability to access learning in the educational setting is provided a 504 plan. The plan details how a student with a disability or impairment will have access to learning at school. 504 plans provide accommodations and changes to the learning environment to ensure the student can access his or her educational program. Determination of eligibility is made by each school district and depends on the condition of each student. It is important to note that eligibility for 504 plans are more broad than an Individualized Education Program (IEP) where a child must have one or more of the 13 specific disabilities listed in the Individuals with Disability Education Act (IDEA).<sup>3</sup> The following are examples of 504 plans:

- A child with dyslexia that might need extra time to take a test
- A child with asthma may need the flexibility to get up during the middle of instruction to get her inhaler during class
- A child with ADHD might need a fidget toy at their desk or a clock, to help them concentrate and complete assignments on time
- A child might have difficulty with written assignments, so the student will have the opportunity to type assignments instead of writing assignments.

<sup>1</sup> Cone, K. (2013). Short History of the 504 Sit in. Retrieved from <http://dredf.org/504-sit-in-20th-anniversary/short-history-of-the-504-sit-in/>

<sup>2</sup> Ali, R. (2010). Free Appropriate Public Education for Students with Disabilities: Requirements Under Section 504 of the Rehabilitation Act of 1973 (United States of America, U.S. Department of Education, Office of Civil Rights). Alexandria, VA: Ed Pubs.

<sup>3</sup> Lee, A. M. (2014, June 27). The Difference Between IEPs and 504 Plans. Retrieved August 13, 2016, from <https://www.understood.org/en/school-learning/special-services/504-plan/the-difference-between-ieps-and-504-plans>

Some parents might confuse 504 plans and IEPs. It is important to note that there are several differences. Figure 1 highlights the differences between IEPs and 504s. Parents might be more inclined to pursue a 504 plan versus an IEP because 504s have no standard documentation process and local educational agencies (LEAs) have greater flexibility over 504 recipients.<sup>4</sup> IEPs are more structured educational services compared to 504s; some parents might find it easier to receive a 504 compared to an IEP because of the lack of structure. Figure 2 details recipients of 504s versus IEPs. Parents might also be reluctant to seek an IEP plan versus a 504 plan because of the level of stigmatization that might occur by placing a “special education” label on a child when they receive an IEP. Parents might believe that labels carry stigmas or the association that their child might be considered deficient if they receive special education services through an IEP.<sup>5</sup>

Any student is eligible to receive instructional accommodations, however, students with IEPs and 504 plans are also eligible to receive testing accommodations. Accommodations are changes in the way a student accesses the curriculum. Accommodations are not intended to change the construct of the assignment, nor are they intended for score enhancement.<sup>6</sup> Accommodations are primarily concerned with changing how a student learns the material. An accommodation can range from a student listening to an audio recording of a text or a student typing assignments instead of writing assignments. The NC Department of Public Instruction (DPI) issued considerations regarding accommodations; DPI

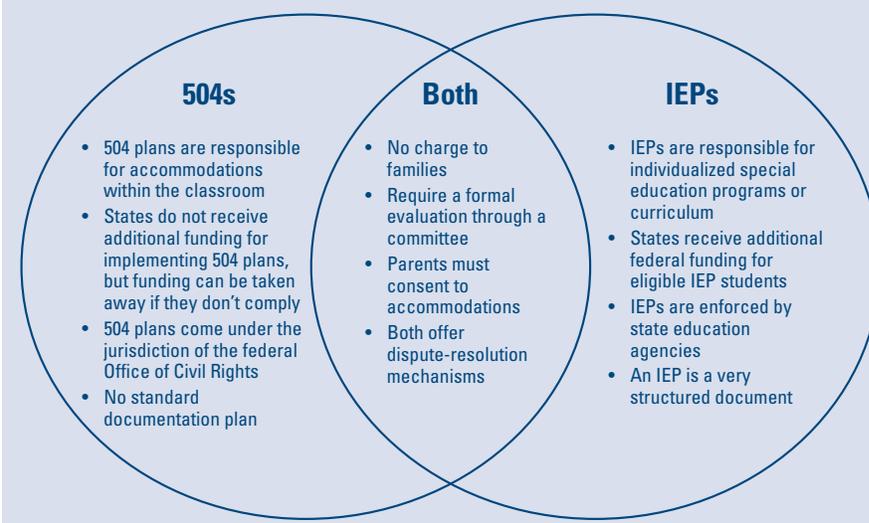
suggests students should be using accommodations routinely during instruction and similar classroom assessments, defining routine use as at least 30 days prior to test date.<sup>7</sup>

Several teachers were asked to share quotes regarding their current perception of 504s. The quotes listed below illustrate there appears to be a discrepancy between students receiving 504 plans and the students who teachers think should have 504 plans. Teachers said:

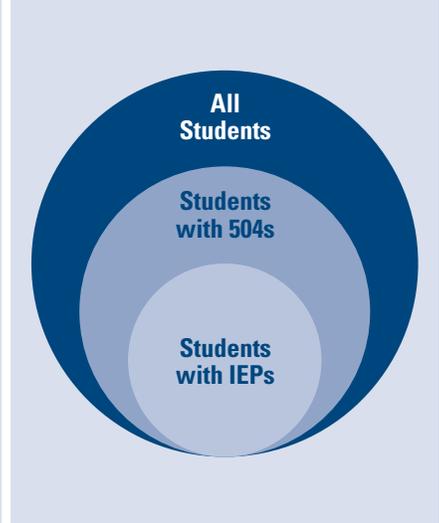
- “The stakes are higher nowadays. It’s something that doesn’t necessarily push a label on their child for extra services. It’s the hushed way of saying my child deserves more.”
- “It’s not a super hard process especially if your parents are affluent and know what they want”
- “The process for getting a 504 and additional accommodations is too simple. Parents take advantage of anything they can take advantage of. And that’s the truth.”
- “It’s really difficult as a teacher to see students who are meeting the standards and expectations but to have parents who are asking for a 504s. There are so many students that are in need of support and the fact that their parents are not aware of how the system works, these students do not get the support they need. It is truly unfair.”

This topic is all the more relevant as the Office of Civil Rights just released an addendum regarding 504 plans and students with ADHD. There were 16,000 complaints alleging discrimination on the basis of disability and the distribution

**Figure 1. Differences Between 504s and IEPs.**



**Figure 2. Recipients of 504s and IEPs**



<sup>4</sup> Lee, A. M. (2014, June 27). The Difference Between IEPs and 504 Plans. Retrieved August 13, 2016, from <https://www.understood.org/en/school-learning/special-services/504-plan/the-difference-between-ieps-and-504-plans>

<sup>5</sup> Henley, M., Ramsey, R., & Algozzine, R. (2010, July 20). *Characteristics and Strategies for Teaching Students with Mild Disabilities. Labeling and Disadvantages of Labeling.* Retrieved from <http://www.education.com/reference/article/advantages-disadvantages-labeling>

<sup>6</sup> Perkins, C. (2010). Accommodations: Decide, Document, Monitor (Rep.). NC: NCDPI Division of Accountability Services.

<sup>7</sup> Ibid. (2010)

of 504 plans. The Office of Civil Rights believes schools made inappropriate decisions about accommodations that the students received.<sup>8</sup> This report details the fine line that schools must tread when determining eligibility for 504 services.

## METHODS

This report is an analysis of current descriptive statistics of students receiving 504 services during the 2014-2015 academic year. This project is concerned with evaluating the distribution of 504 services across North Carolina to determine whether disparities exist that would prevent an equitable distribution. The Office of Civil Rights began asking state education agencies to collect 504 recipient data beginning in 2011. The database from 2014-2015 is the first full snapshot of recipient data. In order for a child with a 504 to receive testing accommodations, schools must complete the Section 504 Plan Testing Accommodations Chart (Appendix 1). PowerSchool is North Carolina's statewide student information system. The information recorded in PowerSchool tracks the testing accommodations 504 recipients receive. Using this information, we will analyze current demographic information of recipients receiving 504 services.

This report will analyze the following information:

- racial composition,
- School Performance Grades,
- percentage of students in each grade with a 504,
- percentage of students living impoverished,
- gender composition, and
- current testing accommodations received by students.

PowerSchool will calculate the total percentage of students with 504s, the racial and composition of a school, and the current testing accommodations received by students with 504s. The percentage determining the School Performance Grade is calculated by aggregating 80 percent of a school's achievement score and 20 percent of the students' academic growth.<sup>9</sup> The percentage of students living in poverty is calculated through the composite score assigned to schools through the Community Eligibility Provision (CEP). CEPs determine the poverty level of a school by averaging the number of students who are classified as homeless, runaway, migrant, foster, Head Start, Even Start to determine schools of high poverty.<sup>10</sup>

## FINDINGS

The study revealed that only three percent of students in North Carolina have a 504. This compares to 12 percent of students with IEPs in North Carolina.<sup>11</sup> A quick snapshot reveals that students identifying as white and male are vastly overrepresented when it comes to the number of students with 504s. The data did not find a consistent correlation between the school performance grade and the likelihood of receiving a 504 and the poverty percentage at a school. The data also tells us that number of students with 504s increases the most when students begin testing in the third grade.

### RACE

The study revealed that while students identifying as white compose 51 percent of the total population of North Carolina's public schools, they are vastly overrepresented in the 504 population. Of the students receiving 504 services, 66 percent identify as white. Figure 3 details the racial demographic of individuals receiving 504 services. Students identifying as Hispanic, Black, and other (Two or more races, Native Hawaiian or other Pacific Islander, Native American, and Asian) are underrepresented in the 504 student composition. Students with IEPs appear to more adequately reflect their racial category (with the exception of students identifying as black) in North Carolina's public schools compared to 504s.

The study also revealed that correlation tests confirm the disparity between students' identifying race and the number of students receiving 504s in a school. A Pearson's product-moment correlation assessed the relationship between the percentage of students with 504s and a students' identifying race at a school. There was a small positive correlation between identifying as white and receiving a 504,  $r(1027) = .119, p < .0001$  (Appendix 2). There was a small negative correlation between identifying as Hispanic and receiving a 504,  $r(1027) = -.151, p < .0000$  (Appendix 3).

**Figure 3. Racial Distribution of 504 and IEP Services**

	NC Public Schools	Students with 504s	Students with IEPs <sup>12</sup>
White	51%	66%	47%
Black	26%	22%	33%
Hispanic	15%	6%	15%
Other	8%	6%	5%

<sup>8</sup> Lhamon, C. E. (2016, July 26). Students with ADHD and Section 504: A Resource Guide (United States of America, U.S. Department of Education, Office for Civil Rights). Retrieved from <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201607-504-adhd.pdf>

<sup>9</sup> Howard, T., Dulaney, D., & Jeter, V. (2015, January). 2014 Ready Accountability Background Brief Supplement: North Carolina School Performance Grades (Rep.). Retrieved <http://www.dpi.state.nc.us/docs/accountability/reporting/spgbckgrndpack15.pdf>

<sup>10</sup> Community Eligibility Provision. (n.d.). Retrieved August 24, 2016, from <http://www.dpi.state.nc.us/program-monitoring/titleIA/community-eligibility/>

<sup>11</sup> Cortiella, C., & Horowitz, S. H. (2014). The State of Learning Disabilities: Facts, Trends, and Emerging Issues (3rd ed., Rep.). New York, NY: National Center for Learning Disabilities.

<sup>12</sup> Ibid. (2014).

## SCHOOL PERFORMANCE GRADE

The study revealed there was *no consistent* correlation between the school performance grade and whether that increases the likelihood of an individual receiving 504 services. Figure 4 illustrates the discrepancy that occurs across the various subcategories and the correlation of receiving a 504 and the school's performance grade. It is interesting to note that in schools with a school performance grade of "F", there was a strong correlation between identifying as white and receiving a 504 is higher than any other subcategory (Appendix 4).

## GRADE

The study revealed that the number of 504s in a school increases the most when students enter the 3rd grade. Figure 5 reveals the distribution of 504s across North Carolina's public schools. This grade could correspond when teachers and parents begin to notice disabilities previously unnoticed and / or could correspond when testing begins in North Carolina's public schools. The greatest percent change occurs when students move from the 2nd to 3rd grade whereas the percentage increase is 117 percent (Appendix 5).

Figure 4. Correlation Between School Performance Grade Students with a 504

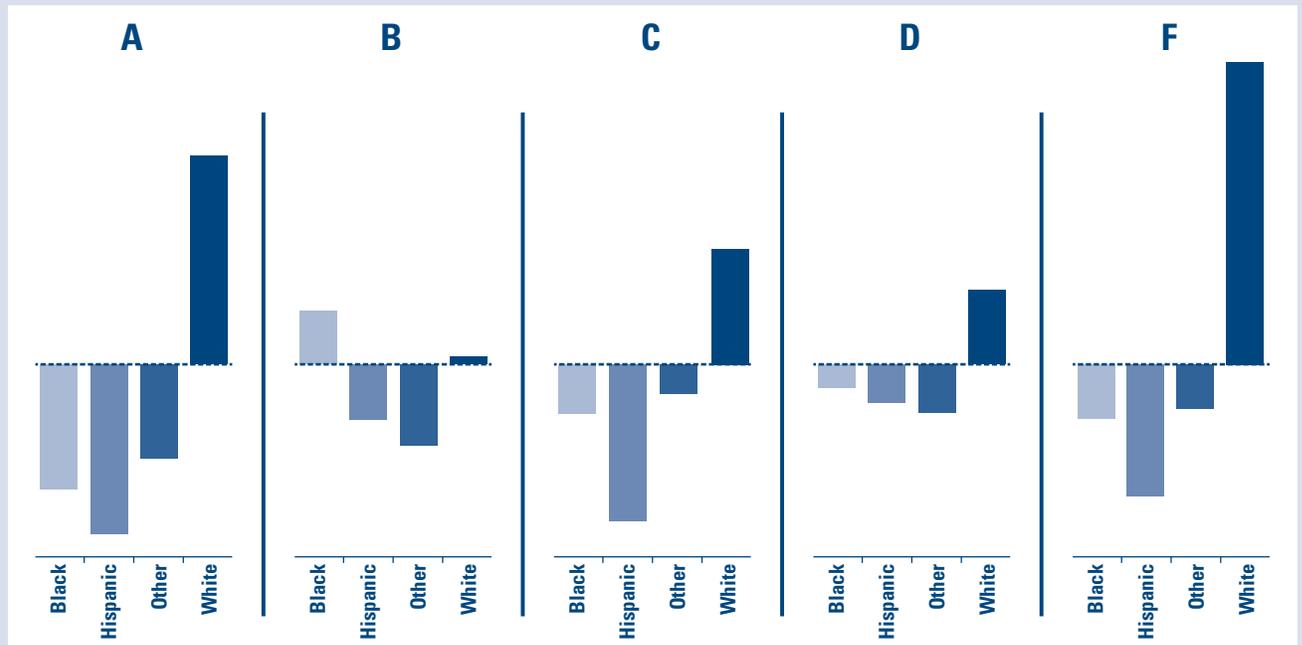


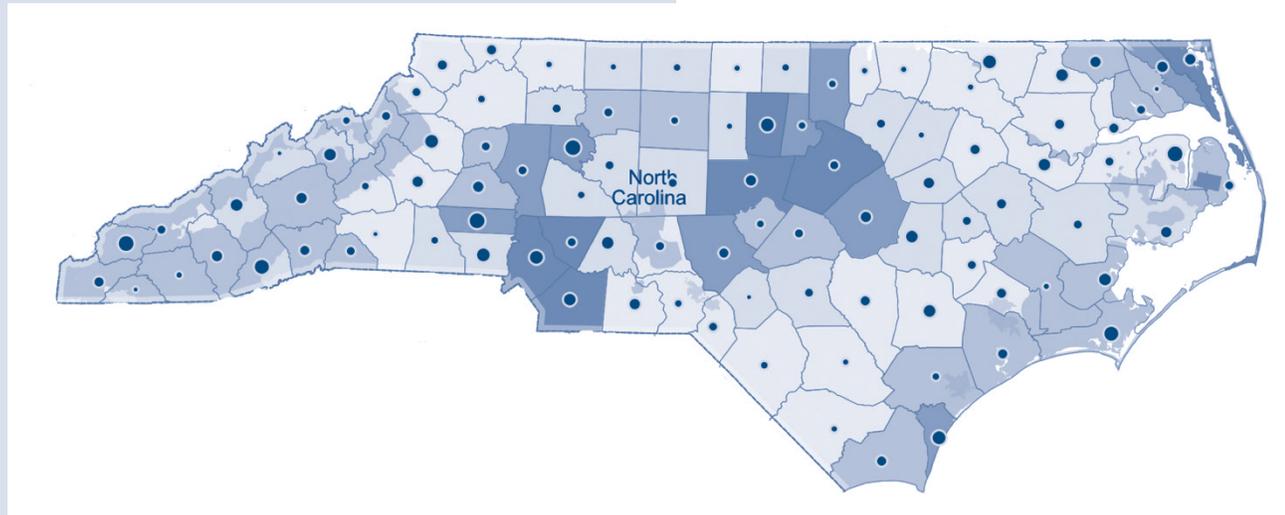
Figure 5. Percent of Students with 504

	Students with 504s
Kindergarten	0.18%
1st	0.45%
2nd	0.94%
3rd	2.03%
4th	3.02%
5th	3.43%
6th	3.75%
7th	3.69%
8th	3.60%
9th	3.35%
10th	3.22%
11th	3.18%
12th	3.26%

## POVERTY

The study also revealed that there is no statistically significant correlation between the percent of students living in poverty at a school and the number of 504s in a school. Figure 6 illustrates a random distribution of the average percent of 504 recipients in a school and the average household income.

**Figure 6. Household Income and Average Percent of 504s**



## GENDER

The study revealed that males were vastly overrepresented in the dataset. Males made up 66 percent of the total 504 population data. Figure 7 illustrates the 504 population versus that of current enrolled students in North Carolina's public schools.

**Figure 7. Gender and 504s**

	NC Public Schools	Students with 504s
Male	51%	63%
Female	49%	37%



## ACCOMMODATIONS

Currently, state testing policies require schools to record 504 testing accommodations. Many students with 504s, have classroom accommodations in addition to testing accommodations that are not recorded because of this policy. The top four accommodations are detailed in Figure 8.

**Figure 8. 504 Testing Accommodations.**

	Percent of Students with Accommodation
Extended Testing Time	27%
Testing in Separate Room	24%
Mark Answers in Testing Booklet	13%
Multiple Testing Sessions	10%

## CONCLUSIONS

The study revealed that several categories seemed to have strong correlations with the likelihood of receiving a 504, while other subcategories had no bearings. The strongest positive correlation occurred when a student identified as white and received a 504. Subsequently, the strongest negative correlation occurs when a student identifies as Hispanic and seeks 504 services. The data reveals that whites are vastly overrepresented compared to other racial subcategories. This suggests that race can influence students' likelihood of receiving 504 services. There could be cultural implications or stereotypes that make it more difficult for

students identifying as black, other, or Hispanic to receive 504 services compared to their white peers. There could also be a chasm between access to resources and wealth that gives white students an unfair advantage towards receiving these services.

It is interesting to note the greatest percentage increase of students with 504s occurs between 2nd and 3rd grade when testing officially starts. Some developmental disabilities might take longer to be recognized in a child or the pressure of high-stakes testing could influence a parent's decision towards seeking out 504 services for their child.

The study also revealed no statistically significant correlation between students' gender and the likelihood of receiving a 504. However, males are overrepresented with 63 percent of males composing the 504 population.

One of the limitations with this study was the distribution of the data. The data did not have a normal distribution and a lot of variability existed between different subcategories. The percent enrollment of students in a school with a 504 plan ranged from 0 percent to 54 percent.

It is important to note that while several conclusions might suggest that some parents are exploiting Section 504 to receive educational benefits to provide unfair advantages to their children, it does not go as far as suggesting that *all* recipients of 504 plans are taking advantage of this service. The findings could also suggest that several categories of parents are not aware of educational resources, like 504 plans, available to all students. The conclusions gathered from this project are primarily concerned with making sure this is an equitable service and that underrepresented groups are well-informed regarding educational services that are offered in public schools.

## RECOMMENDATIONS

Based on this research we have five recommendations for the State Board of Education to consider:

1. The State Board of Education may consider establishing future research of 504 services to ensure access to this educational service is equitable.
  - Initial background research suggests there has been little empirical research conducted evaluating the distribution of Section 504 special education services. Additionally 504 research, specifically launching a longitudinal study, could reveal interesting information that could help ensure 504s are an equitable service. This research should evaluate trends across races concerning 504 enrollments. The research should specifically target Hispanic populations and measure Hispanic enrollment in 504 programs across North Carolina's public schools.
2. The State Board of Education may consider encouraging districts and 504 case managers to hold a parent-student conference before initiating the 504 process to discuss educational aims and parental concerns.
  - These conferences could help teachers become more aware of parental concerns and teachers could create classroom modifications that could help students in the classroom. This would also help to ensure that testing accommodations are in compliance with the recommendation that accommodations are to be used routinely during instruction and similar classroom assessments.
3. The State Board of Education may consider creating and distributing information regarding individual and specialized educational plans available to all students.
  - These plans should specifically target Hispanic populations by offering a translated Spanish version to all parents.
  - The publications should also target schools with high concentrations of highly impoverished students.
  - Local health clinics should also be given more information regarding 504 and IEP services. By specifically targeting clinics, DPI will be able to ensure that knowledge of special education plans and resources for parents are reaching a more diverse audience versus information available for clients that visit a specialist, like a pediatrician.
4. The State Board of Education may consider encouraging schools to guarantee that recipients follow OCR guidelines of demonstrating a record of an impairment that *substantially reduces* a student's ability to access learning in the educational setting
  - Ultimately, schools are the deciding body over the educational services received by each student. By deferring to teachers' judgement when deciding what student receives 504 services, schools are following the process established by the Office of Civil Rights. Schools should also ensure that recipients of 504 services have a demonstrated record of an impairment that substantially reduces a student's ability to access the curriculum. It is important to note that parents are still offered a remedy if they disagree with the committee's ruling.
5. The State Board of Education may consider establishing best practices and model forms that create clear, detailed, and individualized Section 504 Plans so that school districts and parents both understand what each individual plan requires
  - Currently, LEAs and schools hold jurisdiction over determining eligibility for 504 services. Unlike IEPs, 504 plans are very unstructured documents that vary from school to school. DPI could provide a template of a form for LEAs to adopt that would provide some uniformity to ensure 504s are equitable across school districts. The State Board of Education should expand recording of accommodations received by 504 recipients to include testing and classroom accommodations.

# APPENDIX 1. SECTION 504 PLAN TESTING ACCOMMODATIONS CHART

## SECTION 504 PLAN Testing Accommodations Chart

Student Name: \_\_\_\_\_ Duration From: \_\_\_/\_\_\_/\_\_\_ To: \_\_\_/\_\_\_/\_\_\_

### North Carolina Testing Program

Select the appropriate state assessment(s) and testing accommodations that will allow the student to demonstrate his/her knowledge. Accommodations that are listed on the Section 504 Plan must be used routinely in classroom instruction and on similar classroom assessments. Select testing accommodations that correlate to instructional accommodations used routinely throughout the academic year. For specifics regarding accommodation use and availability for specific tests, refer to the *Testing Students with Disabilities* publication, available at <http://www.ncpublicschools.org/accountability/policies/tswd>.

Section 504 teams must select only those accommodations that will not invalidate the score on an assessment.

<input type="checkbox"/> Student WILL Participate in the Standard Test Administration WITHOUT Accommodations  NC Testing Program State-Approved Testing Accommodations	Grades 3-8 <sup>1</sup>		Grades 5 & 8 <sup>1</sup>		Course Assessments <sup>1</sup>			CTE Post-assessments <sup>2</sup>	Tests of English Language Proficiency Grades K-12 <input type="checkbox"/> W-APT™ <input type="checkbox"/> ACCESS for ELLs®				North Carolina Final Exams <sup>1</sup>			
	BOG3	ELA Reading <sup>2</sup>	Mathematics <sup>2</sup>	Science <sup>2</sup>	English II <sup>2</sup>	Math I <sup>2</sup>	Biology <sup>2</sup>		Reading	Writing	Listening	Speaking	English <sup>2</sup>	Math <sup>2</sup>	Science <sup>2</sup>	Social Studies <sup>2</sup>
Braille Edition																
Large Print Edition (not for online assessments)																
One Test Item Per Page Edition (not for online assessments)																
Assistive Technology Devices: Specify _____																
Braille Writer/Slate and Stylus (Braille Paper)																
Cranmer Abacus																
Dictation to a Scribe																
Interpreter/Transliterator Signs/Cues Test																
Magnification Devices																
Word-to-Word Bilingual (English/Native Language) Dictionary/Electronic Translator (LEP only) <sup>3</sup>																
Student Marks Answers in Test Book (not for online assessments)																
Student Reads Test Aloud to Self																
Test Administrator Reads Test Aloud (in English)	<input type="checkbox"/> Read Everything															
	<input type="checkbox"/> Read by Student Request															
	<input type="checkbox"/> Other _____															
Computer Reads Test Aloud—Student Controlled (for online assessments only)																
Multiple Testing Sessions	<input type="checkbox"/> More Frequent Breaks (Every ___ Min.)															
	<input type="checkbox"/> Over Multiple Days (Number of Days ___)															
	<input type="checkbox"/> Other _____															
Scheduled Extended Time	<input type="checkbox"/> Approximately ___ minutes															
	<input type="checkbox"/> Other _____															
Testing in a Separate Room	<input type="checkbox"/> Small Group (group size ___)															
	<input type="checkbox"/> One-on-One															
Other (specify): <sup>4</sup>																

<sup>1</sup> The online testing program is available for end-of-grade (EOG) tests at grades 5 and 8 Science, grades 7 and 8 English Language Arts/Reading and Mathematics; end-of-course (EOC) tests of English II, Math I, and Biology; and the North Carolina Final Exams (NCFEs).

<sup>2</sup> Dependent upon the platform used to provide the student's general assessment (online vs. paper-and-pencil), some accommodations may be nonapplicable or unavailable.

<sup>3</sup> Only students with disabilities who are also identified as limited English proficient (LEP) and have scored below Level 5.0 Bridging on the reading subtest of the W-APT™/ACCESS for ELLs® are eligible for this accommodation.

<sup>4</sup> In order to be used on the state assessment, "other" accommodations must be approved by the North Carolina Department of Public Instruction (NCDPI). To request approval, an Accommodation Notification Request Form (available from the school test coordinator) must be submitted to the LEA test coordinator.

## APPENDIX 2. IDENTIFYING AS WHITE WITH A 504 PLAN

. pwcorr pct\_504 whitepercentage, obs sig star(5)

	pct_504 whitepercentage	
pct_504	<b>1.0000</b>	
	<b>1029</b>	
whitepercentage	<b>0.1188*</b>	<b>1.0000</b>
	<b>0.0001</b>	
	<b>1029</b>	<b>1029</b>

## APPENDIX 3. IDENTIFYING AS HISPANIC WITH A 504 PLAN

. pwcorr pct\_504 hispanicpercentage, obs sig star(5)

	pct_504 hispanicpercentage	
pct_504	<b>1.0000</b>	
	<b>1029</b>	
hispanicpercentage	<b>-0.1510*</b>	<b>1.0000</b>
	<b>0.0000</b>	
	<b>1029</b>	<b>1029</b>

## APPENDIX 4. CORRELATION BETWEEN RACE AND SCHOOL PERFORMANCE GRADE

	Black	Other	Hispanic	White
A	-0.150574114	-0.111544369	-0.202569442	0.249098107
B	0.06454221	-0.097645626	-0.064505482	0.008467036
C	-0.057686085	-0.035004955	-0.186371209	0.138709162
D	-0.02792778	-0.057539545	-0.045711161	0.089851824
F	-0.065656713	-0.053251969	-0.158588091	0.363188509

## APPENDIX 5. PERCENT CHANGE

	Students with 504s
1st Grade to 2nd Grade	109.55%
2nd Grade to 3rd Grade	116.93%
3rd Grade to 4th Grade	48.51%
4th Grade to 5th Grade	13.49%
5th Grade to 6th Grade	9.29%
6th Grade to 7th Grade	-1.52%
7th Grade to 8th Grade	-2.51%
8th Grade to 9th Grade	-6.76%
9th Grade to 10th Grade	-4.07%
10th Grade to 11th Grade	-1.09%
11th Grade to 12th Grade	2.34%



By Dylan Russell

The Financial and Business Services Area is in its tenth year of the Research Intern Program. The Program is designed to help build a quality research program within NCDPI to supplement and supply data for discussions related to procedural, process, and policy changes. This year's program included students from Duke University's Master of Public Policy program and the University of North Carolina at Chapel Hill's Master of Public Administration programs. The intern program is managed by Eric Moore (919-807-3731) | intern\_research@dpi.nc.gov.

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