

## Section 504 Policy

### I. PURPOSE AND SCOPE

The District of Columbia Public Schools (DCPS) seeks to become an anti-racist school district that is trauma-responsive and aligned to a whole child approach, one that supports educators in meeting each child's individual and holistic needs. This means creating an environment in which we eliminate opportunity gaps, interrupt institutional bias, and remove barriers to academic and social success, particularly for students of color. DCPS actively strives to provide access, inclusion, and affirmation and offer the most support where the most significant disparities have persisted.

This policy conveys DCPS requirements related to Section 504 of the Rehabilitation Act of 1973 (Section 504) and the Americans with Disabilities Amendment Act of 1990, as amended (ADA). DCPS is committed to ensuring that no student is denied an educational benefit or opportunity or discriminated or retaliated against on the basis of a disability.

This policy rescinds and supersedes all previous policy, memoranda, and guidance promulgated by DCPS on this subject matter.

### II. AUTHORITY AND APPLICABLE LAW<sup>1</sup>

Source	Citation
Federal Law	<ul style="list-style-type: none"> <li>- Section 504 of the Rehabilitation Act of 1973, as amended (Section 504), 29 U.S.C. § 701, <i>et seq.</i></li> <li>- Title II of the Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12131, <i>et seq.</i></li> <li>- Individuals with Disabilities Education Improvement Act of 2004 (IDEA), 20 U.S.C. § 1400</li> </ul>
Federal Regulations	<ul style="list-style-type: none"> <li>- 28 C.F.R. Part 35 (ADA)</li> <li>- 34 C.F.R. Part 104 (Section 504)</li> <li>- 34 C.F.R. Part 300 (IDEA)</li> </ul>
District of Columbia Law	<ul style="list-style-type: none"> <li>- D.C. Official Code § 2-1401.01 (DC Human Rights Act of 1977, as amended) (general prohibition of discrimination)</li> <li>- D.C. Official Code § 38-236.05 (exclusion of students with disabilities)</li> </ul>
District of Columbia Municipal Regulations	DC Public Schools (DCPS) <ul style="list-style-type: none"> <li>- 5-B DCMR § 2500 (student discipline general policy)</li> <li>- 5-B DCMR § 2510 (proposed discipline of a student with a disability)</li> </ul>

<sup>1</sup> Nothing in this policy shall supersede federal, state, or local law.

### III. KEY TERMS AND DEFINITIONS

**504 Team** means the group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options who conduct and interpret evaluations and make placement decisions, as required by Section 504 (34 C.F.R. § 104.35(c)).

**Disability** means, with respect to an individual, any person who has (1) a physical or mental impairment that substantially limits one or more major life activities of such individual; (2) a record of such an impairment; or (3) is regarded as having such an impairment (34 C.F.R. § 104.3(j)(1)). Unless a student has an impairment that substantially limits a major life activity, the fact that a student has a “record of” or is “regarded as” disabled is insufficient, in itself, to trigger those Section 504 protections that require the provision of a free appropriate public education. The phrases “has a record of disability” and “is regarded as disabled” are meant to address situations in which a student either does not currently have or never had a disability, but is treated in a discriminatory manner by others as such.<sup>2</sup>

**Evaluation** means the gathering of data regarding the student from a variety of sources and the consideration of that data by the 504 team to determine eligibility under Section 504 and appropriate placement (See 34 C.F.R. § 104.35(c)). DCPS must individually evaluate a student before taking any action with respect to initial placement or any subsequent significant changes in placement (34 C.F.R. § 104.35(a)).

**Least Restrictive Environment** means the placement and education of a qualified student with a disability alongside their nondisabled peers to the maximum extent appropriate based on the student’s needs, as required by Section 504. A district may not remove a student with a disability from the general education setting unless it cannot satisfactorily educate the student in that setting with the use of supplemental aids and services (34 C.F.R. § 104.34(a)).

**Major Life Activities** means any activity important in daily life or necessary for the student to access the education, opportunities for learning, and school activities that are accessed by other students in the school. Examples include caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working (34 C.F.R. § 104.3(j)(2)(ii)).

**Manifestation Determination Review (MDR)** means the mandatory meeting that must be held prior to any disciplinary decision to remove a student with a disability from his or her current placement (34 C.F.R. §§ 104.35(a), 300.530(c)).<sup>3</sup> The purpose of this meeting is to determine whether the conduct in question was caused by, or had a direct and substantial relationship to, the child’s disability<sup>4</sup> and/or the student’s behavior occurred because the school failed to implement the student’s 504 plan.

<sup>2</sup> U.S. Department of Education Office for Civil Rights, *Protecting Students with Disabilities*, available at <https://www2.ed.gov/about/offices/list/ocr/504faq.html>.

<sup>3</sup> OCR interprets Section 504 regulations as requiring a district to comply with the procedural safeguards set out at 34 C.F.R. § 104.35 when subjecting a student to a significant change of placement, including conducting a reevaluation of the student. OCR interprets a suspension of more than ten (10) consecutive school days as such a change. OCR Staff Memorandum, 16 IDELR 491 (OCR 1989).

<sup>4</sup> U.S. Department of Education Office for Civil Rights, *Parent and Educator Resource Guide to Section 504*, available at <https://www2.ed.gov/about/offices/list/ocr/docs/504-resource-guide-201612.pdf>.

**Placement** means the general or special education programming in which a student receives educational and/or related services (U.S. Department of Education Office for Civil Rights, *Protecting Students with Disabilities: Frequently Asked Questions about Section 504 and the Education of Children with Disabilities*).

**Significant Change in Placement** means a substantial and fundamental change in programming, including any disciplinary action resulting in any removal beyond ten (10) accumulated school days throughout the school year (OCR Staff Memorandum, 16 IDELR 491 (OCR 1989)).

**Suspension** means the denial of the right of a student to attend any DCPS school or program, including all classes and school activities, except in an approved Alternative Educational Setting (5-B DCMR § 2599.2).

## IV. REQUIREMENTS

### A. General / Nondiscrimination

Section 504 of the Rehabilitation Act of 1973, as amended (Section 504) and Title II of the Americans with Disabilities Act of 1990, as amended (ADA) both prohibit discrimination against individuals with disabilities in any program or activity receiving federal financial assistance.<sup>5</sup>

DCPS is required to provide a free appropriate public education (FAPE) to qualified students with disabilities that is designed to meet the individual needs of students with disabilities as adequately as the needs of students without disabilities are met. Section 504 requires schools to provide academic and nonacademic services and supports (e.g., transportation, school counseling, school health services, and physical access to facilities) in order to provide students with disabilities an equal opportunity for participation in DCPS' services, programs, and activities.

Section 504 requires districts to educate qualified students with disabilities in the least restrictive environment and presumes a regular classroom placement for students with disabilities. While this presumption also exists under IDEA, it is even stronger under Section 504. A placement other than the regular education classroom is only appropriate if the student cannot be educated satisfactorily in the regular education classroom with supplementary aids and services.<sup>6</sup>

Title II of the ADA prohibits discrimination on the basis of disability in all services, programs, and activities administered by DCPS.<sup>7</sup> Under Title II, DCPS cannot refuse to allow a person with a disability to participate in a service, program, or activity because of the person's disability.<sup>8</sup> Schools must ensure persons with disabilities have equal access to enjoy services, programs, or activities they provide and must provide reasonable modifications in policies, practices, or procedures when necessary to avoid

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<sup>5</sup> Section 504 prohibits discrimination on the basis of disability by any program or activity that receives federal funding, including schools (29 U.S.C. § 794). Title II of the ADA extends this prohibition to all state and local government services, regardless of federal funding (42 U.S.C. § 12131).

<sup>6</sup> 34 C.F.R. § 104.34(a).

<sup>7</sup> 42 U.S.C. § 12131 *et seq.*

<sup>8</sup> 28 C.F.R. § 35 *et seq.*

discrimination on the basis of disability, unless doing so would fundamentally alter the nature of the service, program, or activity.<sup>9</sup>

The ADA and Section 504 employ the same definition of “disability,” with respect to an individual: “(A) a physical or mental impairment that substantially limits one or more major life activities; (B) a record of such an impairment; or (C) being regarded by others as having such an impairment.”<sup>10</sup> Students who qualify under definitions (B) and (C) are protected from discrimination based on their past or perceived disability, but these additional definitions do not create an obligation for DCPS to identify, assess, or place students who qualify only under these definitions.<sup>11</sup>

### **B. Referrals**

DCPS is responsible for locating and identifying students who may qualify as students with disabilities under Section 504.<sup>12</sup> DCPS fulfills this requirement by referring for evaluation any DCPS student suspected of being a child with a disability under IDEA or a qualified student with a disability under Section 504. For students with disabilities who are not enrolled in public schools, DCPS fulfills this requirement by providing public notice of the DCPS Section 504 Program and through the broader child find activities of the DCPS Centralized IEP Support Unit.

Referrals initiate the DCPS 504 process. Referrals may be made by a student’s parent/guardian, a teacher, the school nurse, another school staff member, or any other person who is knowledgeable about the student. Students who have a diagnosed or suspected physical or mental impairment that may substantially limit a major life activity must be referred to the school-based 504 coordinator. See Section IV.C.1 below for additional information on physical or mental impairments.

Referrals for evaluation may be submitted a variety of ways: by using the Section 504 Referral Form,<sup>13</sup> in writing to the school (including via email), or orally via a phone or in-person conversation. Referrals made by school staff must be submitted to the school’s 504 coordinator. If any other DCPS staff member receives a referral, they should either have the referrer complete the 504 Referral Form or complete the form themselves and submit it to their school-based 504 coordinator.<sup>14</sup> The school-based 504 coordinator must document all referrals in writing at the time of the referral and must input the referral information in the 504 Referral event in Frontline/Accelify, the DCPS database of record for Section 504, within three (3) school days of receipt.

Those referring a student are not required to use the word “referral,” and any reference by a parent/guardian or any other individual knowledgeable about the student to Section 504 or a disability shall be considered as a referral to Section 504. DCPS school staff should immediately alert the school-based 504 coordinator of the referral.

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<sup>9</sup> 42 U.S.C. § 12182.

<sup>10</sup> 42 U.S.C. § 12102; 29 U.S.C. § 705.

<sup>11</sup> U.S. Department of Education Office for Civil Rights, *Protecting Students with Disabilities*, available at <https://www2.ed.gov/about/offices/list/ocr/504faq.html>.

<sup>12</sup> This requirement is essentially the same as the “Child Find” requirement under the Individuals with Disabilities Education Improvement Act (IDEA).

<sup>13</sup> A copy of the form is available at <https://dcps.dc.gov/node/1178953>.

<sup>14</sup> Each DCPS school principal is responsible for designating at least one (1) staff member to serve as the school-based 504 coordinator.

### C. Evaluation and Eligibility

DCPS must conduct an evaluation of any student who, because of a disability, needs or is believed to need accommodations and services, and DCPS must individually evaluate a student before taking any action with respect to initial placement or any subsequent significant changes in placement.<sup>15</sup> See Section IV.E below for additional information on monitoring, review, and reevaluation.

Upon receipt of any referral, the school-based 504 coordinator will secure written consent from the parent/guardian for the 504 evaluation and schedule the 504 eligibility meeting to be held within fifteen (15) school days of the referral date. The school-based 504 coordinator will attempt to invite the parent/guardian to any 504 meeting at least three (3) different times and make reasonable efforts to convene the meeting at a time that is convenient for the parent/guardian. If the parent is unresponsive or declines to participate, the 504 team may proceed to hold the meeting as long as the student's parent/guardian has previously provided written consent for the 504 evaluation and at least one (1) person knowledgeable about the child, the meaning of the evaluation data, and the placement options are present at the meeting.

Prior to the 504 eligibility meeting, the 504 coordinator will collect the available supporting evaluation documentation. The supporting documentation used in the evaluation process must draw upon information from a variety of sources including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior.<sup>16</sup> DCPS may consider grades, attendance, standardized test scores, teacher/staff reports, evaluations, health/medical records, letters/reports from a doctor, or psychoeducational evaluations. The teacher/staff reports may occur in person, via telephone, or via written testimonial. Information from all sources must be documented and considered, although the weight given to each is determined by the 504 team and the student's individual circumstance. No single source of information, including a medical diagnosis, is sufficient as an evaluation to determine eligibility.<sup>17</sup>

For all tests and other evaluation materials, the 504 team must ensure that:

1. Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer;
2. Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and
3. Tests are selected and administered so as best to 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 other 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).<sup>18</sup>

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<sup>15</sup> 34 C.F.R. § 104.35(a).

<sup>16</sup> 34 C.F.R. § 104.35(c).

<sup>17</sup> U.S. Department of Education Office for Civil Rights, *Protecting Students with Disabilities*, available at <https://www2.ed.gov/about/offices/list/ocr/504faq.html>.

<sup>18</sup> 34 C.F.R. § 104.35(b).

If the 504 team determines that additional supporting evaluation data is needed in order to make an eligibility determination, then the meeting may be postponed for a maximum of twenty (20) school days from the date of the first eligibility meeting.

A child is eligible for a 504 plan if the 504 team determines, based on available data and documentation, that the student has a physical or mental impairment that substantially limits one or more major life activities. For additional information on developing 504 plans, see Section IV.D below.

### 1. Physical or Mental Impairment

A physical or mental impairment is:

- 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, genito-urinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.<sup>19</sup>

#### a. Eligibility Without Medical Documentation

Although medical documentation is not required to establish that a student has a physical or mental impairment, documentation from a medical professional may be accepted by the 504 team as a source of evidence that the student has a physical or mental impairment.<sup>20</sup> If the 504 team has reason to suspect that a student may have a physical or mental impairment, the school shall proceed with the 504 eligibility determination process even if the parent/guardian does not have medical documentation.

The Office for Civil Rights' guidance clarifies that the determination of whether a student has a disability under Section 504 need not demand extensive analysis. However, if the 504 team determines that a medical assessment or formal diagnosis is necessary to conduct a 504 evaluation, DCPS must ensure that the student receives this assessment at no cost to the student's family.<sup>21</sup>

#### b. Temporary Injuries and Episodic Impairments

Section 504 protects students with disabilities, not temporary injuries. A temporary injury or impairment does not constitute a disability for purposes of Section 504 unless it is severe enough to result in a substantial limitation of one or more major life activities for an extended period of time.<sup>22</sup> In general, students with temporary injuries are not eligible to receive accommodations or services under Section 504 because the law expressly omits "impairments that are transitory and minor."<sup>23</sup> Such impairments

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<sup>19</sup> 34 C.F.R. § 104.3(j)(2).

<sup>20</sup> Medical documentation may take many forms, from formal diagnoses to informal notes from a doctor. Medical professionals may include medical doctors, nurse practitioners, physician assistants, mental health clinicians, etc.

<sup>21</sup> U.S. Department of Education Office for Civil Rights, *Dear Colleague Letter and Resource Guide on Students with ADHD*, available at <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201607-504-adhd.pdf>.

<sup>22</sup> U.S. Department of Education Office for Civil Rights, *Protecting Students with Disabilities*, available at <https://www2.ed.gov/about/offices/list/ocr/504faq.html>.

<sup>23</sup> 42 U.S.C. § 12102(3)(B).

are any impairments with an expected duration of six (6) months or less.<sup>24</sup> However, in some rare instances of severe temporary impairments, a student may be eligible to receive a 504 plan. These determinations shall be made on a case-by-case basis by the 504 team. Students with episodic impairments or impairments that are in remission may be found eligible if the impairment “would substantially limit a major life activity when active.”<sup>25</sup>

c. Drug or Alcohol Addiction

Drug or alcohol addiction may be considered a “physical or mental impairment” for eligibility under Section 504 if (1) the student has been rehabilitated or is engaged in a rehabilitation program and (2) is no longer engaged in the use of illegal drugs or alcohol. This eligibility ends if the student is found to be currently engaged in the use of drugs or alcohol. While alcoholism or drug addiction may be considered a “physical or mental impairment” for eligibility under Section 504, schools may take disciplinary action against students with disabilities using drugs or alcohol to the same extent as students without disabilities.<sup>26</sup>

2. Substantial Limitation of Major Life Activity

If the 504 team determines that a student has a physical or mental impairment, the team must then determine, based on available data and documentation, whether the student’s disability substantially limits their ability to perform a major life activity.<sup>27</sup>

a. Major Life Activities

In the school setting, a major life activity is any activity important in daily life or necessary for the student to access the education, opportunities for learning, and school activities that are accessed by other students in the school. Major life activities include, but are not limited to:<sup>28</sup>

- Bending
- Breathing
- Caring for Oneself
- Concentrating
- Communicating
- Eating
- Hearing
- Learning
- Lifting
- Operation of a major bodily function
- Performing manual tasks
- Reading
- Seeing
- Sleeping
- Speaking
- Standing
- Thinking
- Walking
- Working

b. Substantial Limitation

The 504 team uses a variety of sources of information to determine the extent to which a major life activity is limited by the student’s disability (e.g., no restriction, mild, moderate, substantial, severe, or unable to perform). If the student has (1) a physical or mental impairment and (2) one or more major life

<sup>24</sup> 42 U.S.C. § 12102(3)(B).

<sup>25</sup> 42 U.S.C. § 12102(4)(D).

<sup>26</sup> 29 U.S.C. § 20(C)(iv).

<sup>27</sup> 29 U.S.C. § 705(20)(B), 42 U.S.C. § 12102.

<sup>28</sup> 42 U.S.C. §§ 12102(2)(A)-(B).

activities are substantially/severely limited or unable to be performed, the student is eligible for Section 504 services.

In making this determination, the 504 team shall consider the student's ability to complete the major life activities compared to most people in the general population.<sup>29</sup>

The 504 team shall also consider the student's ability to complete the major life activities as if the student did not have access to the following mitigating measures:

- Medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;
- Use of assistive technology;
- Reasonable accommodations or auxiliary aids or services; or
- Learned behavioral or adaptive neurological modifications.<sup>30</sup>

The only mitigating measures that can be considered in determining the degree of limitation are ordinary eyeglasses and contact lenses.

### **D. 504 Plans**

The 504 team shall come to a consensus to determine the specific accommodations and related services that the student requires in order to be able to access the general education curriculum and other educational activities to the same extent as the student's nondisabled peers. Each accommodation and related service must directly address the specific limitation(s) that the student experiences due to their disability. If a parent disagrees with the determination, they may request an impartial hearing. For additional information on impartial hearings, see Section VI below.

Care shall be taken to ensure that the curriculum is not being modified, as this would constitute special education, which is not available through a 504 plan. If a school staff member suspects a student requires special education or fields a request from a parent or other interested person to evaluate a student for special education, the staff member must refer the student to their school's IEP (Individualized Education Program) team to determine if the student is eligible to receive an IEP.

Accommodations and services may include classroom and in-school accommodations, classroom and standardized testing accommodations, transportation, assistive technology, and modified behavior management plans. Related services may include, but are not limited to, Behavior Support Services, Occupational Therapy, Physical Therapy, Audiology, and Speech services. For related services to be included in a 504 plan, a related service provider representing that discipline must be present at the 504 meeting to determine eligibility for the service.

Once the plan has been developed, the 504 coordinator shall distribute a copy of it electronically within five (5) school days of completion to the parent/guardian, the student (if developmentally appropriate), and all school staff members who regularly work with the student. The 504 coordinator shall provide a hard copy of the 504 plan to the parent/guardian or any school staff member upon request. If the

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<sup>29</sup> 28 C.F.R. § 35.108(d)(1)(v).

<sup>30</sup> 42 U.S.C. § 12102(4)(E)(i).



parent's/guardian's preferred correspondence language<sup>31</sup> meets the covered language threshold<sup>32</sup> under the DC Language Access Act, the student's 504 plan must be translated into the parent's/guardian's preferred language in a timely manner. For parents/guardians who do not speak one of the covered languages, translation of the 504 plan will be provided upon request, as capacity allows. For more information about language access, please visit <https://dcps.dc.gov/page/language-access-families>.

### **E. Monitoring, Review, and Reevaluation**

As students with 504 plans are general education students, they receive standard DCPS educational monitoring, including progress reports, report cards, district-wide assessments (e.g., PARCC), and parent-teacher conferences. In addition, the 504 team must reconvene annually and as needed in order to review the 504 plan and triennially in order to review the 504 eligibility determination.

#### **1. Annual Review of 504 Plan**

The 504 team must reconvene at least annually in order to review the 504 plan and make any necessary revisions. This meeting shall be held no later than one (1) year minus one (1) day from the date of the most recent 504 plan. Annual review meetings may be conducted as early as desired. At the annual review meeting, the 504 team will consider the available documentation about the student in order to determine whether any of the existing accommodations or related services in the student's 504 plan need to be altered or removed and whether any additional accommodations or related services need to be added.

#### **2. Triennial Review of the 504 Eligibility Determination**

The 504 team must review the student's eligibility for 504 accommodations at least triennially. This meeting shall be held no later than three (3) years minus one (1) day from the date of the most recent 504 eligibility determination. Reviews of the eligibility determination may be conducted as early as desired. At the triennial review meeting, the 504 team will consider the available documentation to determine if the student continues to meet the criteria under Section 504 of being an individual with a physical or mental impairment that substantially limits a major life activity.

#### **3. Significant Change in Placement**

DCPS must reevaluate students for Section 504 eligibility prior to any significant change in placement. For example, placement determinations must be reviewed when the student receives a suspension for ten (10) consecutive school days or cumulative school days in a given school year. See Section IV.I below for additional information on discipline of students with 504 plans.

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<sup>31</sup> Information about a parent's/guardian's preferred language for correspondence can be found in the student's Aspen record under the "Student" tab.

<sup>32</sup> Currently, Amharic, Chinese, and Spanish meet the threshold for covered languages.

### 4. Meeting Requests

Any parent/guardian or member of the 504 team may request a meeting to review and revise the 504 plan at any time. Requests should be directed to the school-based 504 coordinator, who will organize the meeting to review the 504 plan.

### F. Procedural Safeguards

DCPS must provide a notice of parent/guardian and student rights under Section 504 at the beginning of every meeting related to Section 504.<sup>33</sup> Parents/guardians have the right to receive notice of decisions about their child with respect to the identification, evaluation, educational program, or placement of the child. Written parental consent is required prior to initial student evaluation procedures for the identification, diagnosis, and prescription of specific educational services.<sup>34</sup>

For additional information on resolving disputes related to Section 504, see Section VI below on dispute resolution and complaints.

### G. Exiting a Student from 504 Placement

In some cases, students may be exited from 504 placement. This occurs when a student is found ineligible to receive services under Section 504 during an eligibility review meeting, when a parent/guardian revokes consent, or when the student is found to be eligible to receive special education services under IDEA.

#### 1. Student Found Ineligible at Triennial Review

At the time of the triennial review, the 504 team may determine that a student no longer qualifies as an individual with a physical or mental impairment that substantially limits one or more major life activities. If this is the case, then the student will be exited from the 504 program and the 504 plan will no longer be in place.

#### 2. Revocation of Parental Consent

At any time, a parent/guardian of a student with a 504 plan may revoke their consent for a student's placement in the 504 program. This request should be documented in writing. If such a request is received, then the school shall immediately discontinue implementing the 504 plan and exit the student from the 504 program. Schools may never require a parent/guardian to revoke consent for placement in the 504 program as a condition of the student being able to participate in any other DCPS program or service.

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<sup>33</sup>A copy of the notice is available at <https://dcps.dc.gov/node/1178915>.

<sup>34</sup> U.S. Department of Education Office for Civil Rights, *Protecting Students with Disabilities*, available at <https://www2.ed.gov/about/offices/list/ocr/504faq.html>.

### 3. Student Becomes Eligible for Special Education under IDEA

If a student becomes eligible for special education under IDEA, the student must be exited from 504 placement. Students who are found eligible for special education will receive all necessary accommodations and modifications through an IEP and shall not have a concurrent 504 plan.

#### H. Roles and Responsibilities

##### 1. School Principal

Each school principal is responsible for designating a school-based 504 coordinator prior to the start of each school year and notifying the Central Services Section 504 and Student Accommodations Team of any changes throughout the year. If at any point a school-based 504 coordinator is not designated, the school principal will assume the role until a new designation is made.

As the instructional leader in the school building, the school principal (or administrative designee) is responsible for monitoring the implementation of the 504 plan. Students with 504 plans are general education students, and the monitoring of the implementation of the plans shall occur by the same individual who oversees all general education instruction. 504 coordinators are not responsible for 504 plan implementation.

##### 2. School-Based 504 Coordinator

The school-based 504 coordinator is responsible for serving as the school's main point of contact for questions from students, parents/guardians, and school staff regarding accommodations and related services under Section 504. The coordinator also manages the Section 504 process, including:

- **Referrals:** Receiving and documenting referrals in an appropriate and timely manner for students who may be eligible for Section 504.
- **Eligibility:** Ensuring timely eligibility decisions for all referred students by organizing and hosting eligibility determination meetings; gathering the relevant documents (e.g., outside medical information, grades, teacher reports) and DCPS staff members needed to make an eligibility determination; coordinating with related service providers and Central Services on related services and other evaluations, as needed; documenting all required information in Frontline/Accelify, the 504 system of record; and hosting a review of students' 504 eligibility at least every three (3) years.
- **504 Plans and Annual Reviews:** Developing 504 plans for all newly eligible students and hosting a review meeting at least annually for all pre-existing 504 students to review the plan and make revisions as necessary; and collaborating with related services providers and other teams from Central Services to arrange for transportation, assistive technology, testing accommodations, and additional accommodations or services as required by students' 504 plans.
- **Discipline:** Organizing and hosting a manifestation determination review meeting when a student with a 504 plan is suspended for more than ten (10) consecutive or cumulative school days.
- **Parent/Guardian or Student Grievances:** Working with the school principal or other administrator to facilitate resolutions to parent/guardian or student complaints on accommodations or services under Section 504.

- **Timelines and Documentation:** Ensuring all DCPS Section 504 policy timelines are met and all required information is documented in Frontline/Accelify (the DCPS 504 system of record), Aspen (the DCPS student information system of record), and Student Behavior Tracker (SBT) (the DCPS behavior system of record).

### 3. Central Services Section 504 and Student Accommodations Team

The Central Services Section 504 and Student Accommodations Team supports schools in the development and implementation of 504 plans. This team also monitors compliance and regularly communicates with schools to provide general and targeted supports and ensure continued compliance with the law. School personnel may contact the team for support at any time at [504@k12.dc.gov](mailto:504@k12.dc.gov).

#### I. Discipline of Students with 504 Plans

School administrators are required to take special consideration regarding the exclusion from school of a student with a disability.<sup>35</sup> Among other factors, disciplinary responses must be logical, appropriate, and instructive. Responses must consider the educational needs of the student to be disciplined, including those specifically described in their 504 plan.<sup>36</sup>

When a student with a disability, or a student with a suspected disability, is removed from their current placement for more than ten (10) cumulative school days for disciplinary reasons, DCPS must continue to provide the accommodations and related services that are specified in the student's 504 plan<sup>37</sup> and the school-based 504 team must hold a manifestation determination review (MDR)<sup>38</sup> prior to enacting the suspension to determine whether the behavior is a manifestation of the student's known or suspected disability<sup>39</sup> or the result of the district's failure to properly implement the 504 plan.<sup>40</sup> If either of these is the case, then the student may not be suspended and the 504 plan must be revised and the 504 team should consider whether any further evaluations are necessary. If the behavior is determined not to be a result of the student's disability and the student's 504 plan has been found to be properly implemented, the suspension may proceed.

A student with a disability may be suspended prior to an MDR meeting if they create an emergency situation in the school. For an emergency condition to exist, the student's infraction must meet at least one of the following criteria:

1. The student carries a weapon to school or to a school function;
2. The student knowingly possesses or uses illegal drugs or solicits the sale of a controlled substance while at school or at a school function; or

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<sup>35</sup> D.C. Official Code § 38-236.05(a). Exclusion means the removal of a student from the student's daily class schedule for disciplinary reasons and includes a suspension (both in-school and out-of-school) or a disciplinary unenrollment.

<sup>36</sup> 5-B DCMR § 2500.9(j).

<sup>37</sup> 5-B DCMR § 2510.6.

<sup>38</sup> The U.S. Department of Education Office for Civil Rights interprets the Section 504 regulations to require a manifestation determination review prior to a suspension of more than ten (10) cumulative or consecutive days.

<sup>39</sup> All of a student's disabilities of which the school had knowledge shall be considered in a manifestation determination review (D.C. Official Code § 38-236.05(b)).

<sup>40</sup> 5-B DCMR § 2510.9

3. The student has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of DCPS.<sup>41</sup>

## V. POLICY IMPLEMENTATION REQUIREMENTS

All DCPS employees are required to comply with the requirements set forth in this policy. Questions or concerns regarding this policy should be directed to the Central Services Section 504 and Student Accommodations Team by emailing [504@k12.dc.gov](mailto:504@k12.dc.gov). Additional Section 504 forms and resources are available at <https://dcps.dc.gov/page/section-504-resources>. For any concerns about or violations of this directive, contact the Chief Integrity Officer by completing the Online Referral Form<sup>42</sup> or sending an email to [dcps.cio@k12.dc.gov](mailto:dcps.cio@k12.dc.gov).

## VI. DISPUTE RESOLUTION AND COMPLAINTS

For any questions or concerns about a 504 plan or the Section 504 process, parents/guardians and students are encouraged to speak with their school-based 504 coordinator or principal. Parents/guardians and students may also contact the DCPS Central Services Section 504 and Student Accommodations Team at [504@k12.dc.gov](mailto:504@k12.dc.gov) or (202) 442-5485.

If a parent/guardian, student, or school visitor believes that they have been subjected to discrimination related to a disability or has a complaint related to the Section 504 process, they may file a grievance. Each school has a designated Grievance Point of Contact, and schools should make every attempt to resolve grievances on the school level. For more information about the grievance process, please visit <https://dcps.dc.gov/page/studentparentvisitor-grievance-process>. Grievance referrals can be sent via email to [dcps.grievance@k12.dc.gov](mailto:dcps.grievance@k12.dc.gov).

A parent/guardian, adult student, or DCPS may also request an impartial hearing to resolve differences involving the identification, evaluation, and placement of students with disabilities entitled to protection under Section 504.<sup>43</sup> The hearing request must be made within one (1) year of the date the parent/guardian knew or should have known about the alleged facts that form the basis of the request.<sup>44</sup>

Complaints regarding discrimination under Section 504 and Title II of the ADA may also be filed with the U.S. Department of Education's Office for Civil Rights. Complaints may be filed online, by mail, by fax, and by email. For more information, please visit <https://www2.ed.gov/about/offices/list/ocr/docs/howto.html>.

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<sup>41</sup> 5-B DCMR § 2510.5(b).

<sup>42</sup> Available at <https://dcps.dc.gov/page/office-integrity>.

<sup>43</sup> DCPS and adult students may request an impartial hearing with regards to any 504-related issues and disputes for which a parent/guardian may request a hearing. See *Procedures for Impartial Hearings under Section 504*. Available at: <https://dcps.dc.gov/sites/default/files/dc/sites/dcps/publication/attachments/504-Impartial-Hearing-Procedures.pdf>.

<sup>44</sup> *Procedures for Impartial Hearings under Section 504*. Available at <https://dcps.dc.gov/sites/default/files/dc/sites/dcps/publication/attachments/504-Impartial-Hearing-Procedures.pdf>.