



Section 504

Rehabilitation Act of 1973

A Toolkit for Schools

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This manual is meant to serve as a practical guide for implementing Section 504. It is not intended to state new law or supplant any federal or state laws, regulations, or requirements. Nothing in this manual should be seen as having the force of law. This manual should not be cited as law or as imposing any additional requirements or obligations outside the requirements of existing law. Systems, schools, and parents are not required to adhere to this manual, but only to the requirements of Section 504 of the Rehabilitation Act of 1973 and the guidance issued by the United States Department of Education Office for Civil Rights, and the rules of the State of Michigan and the State Board of Education.

INTRODUCTION

Section 504 of the Rehabilitation Act of 1973 (commonly referred to as “504”) prohibits discrimination against students on the basis of their disability. The purpose of this manual is to inform Detroit Public School Community District (DPSCD) employees about Section 504 and to provide procedures that have been developed to comply with the requirements of Section 504. DPSCD administrators and employees should become knowledgeable about DPSCD’s procedures concerning Section 504, with a particular emphasis on parent and student rights.

If you have questions regarding this toolkit or Section 504 as it relates to student matters, please contact:

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Section 504 has broad coverage and protects students and non-students alike. Section 504 prohibits discrimination against people based on disability. If you have a question or concern regarding a disability, please contact:

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Section 504 Overview

Section 504 of the Rehabilitation Act of 1973 is a federal law which prohibits discrimination against persons with disabilities. The law provides:

No otherwise qualified individual with a disability...shall solely by reason of her or his 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....

29 U. S. C. § 794

Section 504 is based on the principle that students with disabilities shall not be denied access to educational facilities, programs and opportunities on the basis of their disability.

For a student to qualify for Section 504 protection, the student must have or be regarded as having: **(1) a mental or physical impairment**, a record of such impairment, or is regarded as having such an impairment **(2) which substantially limits (3) one or more major life activities**. All three criteria must be met before the student is eligible for Section 504 protection.

Section 504 requires that DPSCD offer a Free Appropriate Public Education (FAPE) to each eligible student who has a physical or mental impairment that substantially limits a major life activity. Under Section 504, an appropriate education consists of the provision of regular or special education and related aids and services that are designed to meet the student's individual educational needs as adequately as the needs of non-disabled students, and in accordance with Section 504 requirements pertaining to educational settings, evaluation, placement and procedural safeguards. The FAPE obligation extends to all students described in this paragraph, regardless of the nature or severity of their disability. The provision of a free education is the provision of educational and related services without cost to the person with a disability or to his or her parents or guardian, except for those fees that are imposed on non-disabled persons or their parents or guardian.

Definition of Terms: Section 504

Free Appropriate Public Education (FAPE) – A free appropriate public education is the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of disabled persons as adequately as the needs of non-disabled persons are met and are based upon adherence to procedures that satisfy the requirements of 34 C.F.R. §§ 104.34, 104.35, and 104.36.

Individual with a disability – An individual with a disability is a person who:

1. Has a physical or mental impairment which substantially limits one or more of such person's major life activities;
2. Has a record of such impairment; or,
3. Is regarded as having such impairment.

Major Life Activities – A major life activity includes but is not limited to functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. Major life activities also include standing, lifting, bending, reading, concentrating, thinking and communicating. The term also includes the operation of a major bodily function, including but not limited to functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

Physical or mental impairment – a physical or mental impairment is:

1. 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; genitourinary; hemic and lymphatic; skin; and endocrine; or
2. Any mental or psychological disorder such as cognitive impairment, organic brain syndrome, emotional or mental illness and specific learning disabilities.

Substantially Limits – A student who has a physical or mental impairment that *substantially limits* a major life activity may be found to have a disability under Section 504. This determination is made on a case-by-case basis.

Except for ordinary eye glasses or contact lenses, the effects of mitigating measures (*e.g.*, medications, prosthetics, hearing aids, *etc.*) may not be considered when assessing whether a student has an impairment that substantially limits a major life activity. To the extent feasible, only the impact the impairment has on a major life activity without mitigating measure may be considered when determining whether the disability substantially limits a major life activity.

If a student has an impairment that is episodic or in remission, DPSCD must consider whether the impairment, *when active*, would substantially limit a major life activity. If so, then the student meets the definition of a student with a disability.

Policy of Non-Discrimination

DPSCD does not discriminate on the basis of race, color, national origin, sex, disability, age, religion, height, weight, citizenship, marital or family status, military status, ancestry, genetic information, or any other legally protected category, in its educational programs and activities, including employment and admissions opportunities.

The following staff member has been designated to handle inquiries regarding the non-discrimination policies:

Kristen Howard, Chief of Staff
Civil Rights Coordinator
Office of Equity, Advocacy, & Civil Rights
3011 W. Grand Blvd., Floor 14
Phone: (313)-240-4377
Email: dpscd.compliance@detroitk12.org

It is the responsibility of DPSCD and the Board of Education to identify, evaluate and provide a free appropriate public education to each qualified student with a disability within its jurisdiction regardless of the nature or severity of the disability.

A grievance procedure has been established for addressing complaints of discrimination on the basis of disability. This procedure and other relevant information may be obtained by contacting DPSCD's Schools Section 504 Coordinator or the Office of Equity, Advocacy, & Civil Rights. A copy of the procedure can be found on page 18 and is also available electronically at detroitk12.org/compliance.

The building level administrator (the principal or his/her designee) is ultimately responsible for the implementation of plans by the appropriate staff who work with the student.

Child Find

DPSCD attempts to identify and locate every student residing in the District who may be a student with a disability under Section 504, regardless of whether he or she is currently receiving a public education. DPSCD will notify those students and their parents of their rights under Section 504.

DPSCD may satisfy the Section 504 notification obligation by advertising, by posting notices in places likely to be visited by qualified students with disabilities and their parents, by including notices in DPSCD's publications and on its web site, and by directly contacting parents of students DPSCD believes may be eligible.

DPSCD will also ensure that the information in its Section 504 notices is written in a manner that would reasonably be easily understandable to a parent. The notices will contain the name and contact information for DPSCD's Schools Section 504 coordinator.

A parent has a right to refuse to provide consent for evaluation or for services or to not respond to district requests. In the circumstance in which a parent refuses consent for an initial evaluation or initial provision of special education and related services, the district has the option, but not the obligation, to pursue the Section 504 evaluation or initial placement by using due process. DPSCD is not relieved of duties to identify, locate, and evaluate all children with disabilities, including those children whose parents revoked services. Child Find is an ongoing process, and expectations are that children whose parents revoke consent will be identified, located, and offered an evaluation in the same manner as any other child if the child is suspected of having a disability and needing services.

Multi-Tiered Systems of Support (MTSS) and Resource Coordinating Team (RCT) Interventions

DPSCD uses Multi-Tiered Systems of Support (MTSS) as a systematic procedure to provide supplemental and individualized instruction to address needs in foundational basic skills. Student progress is closely monitored with adjustments in instructional interventions based on student learning rates. Parents must be informed of the data used to measure student progress, the strategies used with their child, and their rights to request an evaluation at any time.

Resource Coordinating Team (RCT) processes are also utilized in which individualized strategies are offered to the parents and teachers of students who are experiencing difficulties in school. Classrooms are naturally multi-tiered and multi-skilled environments. The implementation of personalized strategies helps teachers be more intentional in the possible instructional and behavioral methodologies and expectations, and, by so doing: (1) Assists teachers with students who present a wide variety of educational and behavioral needs and; (2) Strengthens educational opportunities within the general education program.

It must be emphasized that RCT procedures are **not** intended to impede any necessary referrals for consideration of eligibility under the Individuals with Disabilities Education Act (IDEA) or Section 504. If, at any time, a teacher, counselor, administrator, or other professional staff member suspects that the student's difficulties are attributable to a disability, the student should be referred for an evaluation. If a parent/guardian at any time requests an evaluation, DPSCD must either honor that request or notify the parent/guardian of the District's refusal to evaluate and notify the parent/guardian of his/her due process rights under IDEA, or Section 504, as applicable.

Parental Rights

Section 504 guarantees certain rights to parents of students with disabilities. The intent of these procedural protections is to keep the parent/guardian fully informed concerning educational decisions about their child, and to inform the parent/guardian of their rights if they disagree with any of these decisions. At age 18, these rights transfer to the student. The Notification of Parent Rights should be used every time you plan to meet for purposes of Section 504 evaluation, plan development, or change in programs. Use the Parent Invitation to Section 504 Meeting to document your invitation to meetings.

The Section 504 Process

The Section 504 Process consists of four steps: (A) Referral; (B) Evaluation; (C) Eligibility Determination; and (D) the Section 504 Plan. For eligible students with a plan, the district must also provide regular reviews of the plan, reviews to support changes in program and/or transitions across grade levels and conduct re-evaluations.

The referral to the school may be made by a parent, teacher, other certified school employee(s), or the adult-aged student him/herself. DPSCD must conduct a timely evaluation to determine the student's eligibility under Section 504. From the date a signed consent to evaluate is received from the parent/guardian, a time frame of thirty (30) school days is recommended for completion of the identification, evaluation, and, if necessary, development of a Section 504 Plan for each student who is referred pursuant to DPSCD's Section 504 policy.

The determination of eligibility is based on the evaluation and is a team decision that includes persons knowledgeable of the student, the interpretation of the evaluation data and placement options. In interpreting evaluation data and in making placement decisions, the District will (1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior, and (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered. Parental consent is required for initiation of placement of services. If determined to be eligible, an appropriate plan is developed. DPSCD is responsible for the implementation and regular review of the appropriateness of the plan. Contingent upon a re-

evaluation, a Section 504 plan may be revised or discontinued at any time. The plan should be reviewed at least annually and updated, as needed, based on changes in student status and the context at school. A Section 504 plan review is also necessary when there is a change in program or building assignment.

A. Referral

A student who, because of a suspected mental or physical impairment that substantially limits one or more major life activities, is believed to be in need of special education or related services under Section 504, may be formally referred by a parent, teacher, other certified school employee(s), or the adult-aged student him/herself. The referral and evaluation process involves:

- Referral received from any of the abovementioned parties – notify Schools 504 Coordinator by forwarding via email or fax
- Proper documentation of the presenting concerns (from physician or from the school)
- Consent to evaluate from the parent/guardian if the school is proceeding with an evaluation
- Notice of procedural safeguards provided to parents
- Consulting with all involved parties (parents, students, teachers, medical) to provide data from multiple sources to ensure a thorough evaluation and eligibility determination

Throughout the process, parents will be provided with the opportunity to clarify the process, terms, timelines, and procedural safeguards. If the student is found to be eligible under Section 504 and accommodations are to be implemented, the building 504 coordinator will provide parents with a copy of the referral, consent forms, procedural safeguards, and accommodation plan within one week after the date of the eligibility meeting. The building 504 coordinator will tag the student in the student information system (SIS) and their accommodation plan (only) will be uploaded into the SIS for teacher and parent reference.

B. Evaluation

A determination of Section 504 eligibility (*i.e.*, a physical or mental impairment that substantially limits a major life activity) must be based on a multi-source evaluation. The evaluation procedures to be followed may, but need not, include all of those which are followed in evaluating students under the Individuals with Disabilities Education Act (“IDEA”). The nature and extent of the information needed to make a Section 504 eligibility decision is determined on a case-by-case basis by a group of persons knowledgeable about the student, including parents and guardians, and the interpretation of evaluation data and the placement options.

The evaluation process should begin with a thorough review of the student’s educational records. Evaluation standards require that assessments are (1) used for the purposes they were developed;

(2) administered by qualified personnel; (3) tailored to assess the specific area of concern and not to provide a global ability score; and (4) selected and administered to ensure the test accurately reflects the student's abilities rather than reflecting the impairment. The following sources of information may be considered as appropriate evaluation methods; however, this is not an exhaustive list. Evaluators should draw upon information from a variety of sources, including but not limited to:

- Aptitude and achievement tests, including standardized tests or other assessments by school staff
- Physical condition
- Social or cultural background
- Adaptive behavior
- Observations of the student
- Parent/Student/Teacher interviews
- Behavior rating scales or other checklists
- Pertinent medical information
- Information provided by the parent

If a student is suspected of having a physical impairment and DPSCD does not already have a current diagnosis documented by a physician, input from a physician may be sought as part of the evaluation process. **Please note that a diagnosis of a physical or mental impairment does not, in and of itself, determine eligibility under Section 504.** As mentioned above, there must also be separate findings that the impairment substantially limits a major life activity.

Medical evaluations are NOT required under Section 504. DPSCD may NOT require the parent to provide medical information or evaluation. If the evaluation team determines that a medical evaluation is necessary, the district must pay for it. *Letter to Veir, 20 IDELR 864 (OCR, 1993)*. If alternative assessment methods meet the evaluation criteria these methods may be used in lieu of a medical assessment. *Id.*

C. Eligibility Determination

The eligibility determination should be made by the group of persons who developed and executed the 504 consent document. Once the consent to evaluate is signed by the parent/guardian, the district should complete the evaluation within 30 school days. That group will conduct the evaluation, determine eligibility, and develop a plan for the eligible student, if needed. Appropriate team members may include the classroom teacher, the student, parent/guardian, and appropriate

related services staff, if needed. Use the Parent Invitation to Section 504 meeting, the Notification of Parent Rights, and the Parent Consent for Section 504 Evaluation. Additional considerations are offered to assist the district in making appropriate eligibility determinations.

Substantial Limitation: The Office for Civil Rights (OCR) does not endorse a single formula or scale that measures substantial limitation. See *Protecting Students with Disabilities: Frequently Asked Questions about Section 504 and the Education of Children with Disabilities* (<https://www2.ed.gov/about/offices/list/ocr/504faq.html>, September 2018). The determination must be made on a case by case basis with respect to the individual student. An impairment need not prevent or severely/significantly restrict a major life activity to be considered substantially limiting.

Major Life Activities: Some individuals interpret this to mean that a student must have a substantial limitation in the area of learning to be eligible under Section 504 and use this criteria to exclude students from eligibility. This would be an oversimplified understanding of this provision in the law. A student may have a disability that in no way affects their ability to learn, yet they may need extra help of some kind for them to access learning. *Letter to McKeithan, 23 IDELR 504 (OCR 1995)*. Physical or mental impairments may substantially limit major life activities other than learning that interfere with the student's ability to access and benefit from the school's programs and activities. For instance, a child may have very severe asthma (affecting the major life activity of breathing) that requires regular medication and regular use of an inhaler while in school. Without regular administration of the medication and inhaler, the child cannot remain in school.

Mitigating Factors: In the phrase "a physical or mental impairment that substantially limits a major life activity," the term "substantially limits" must be interpreted without regard to the ameliorative effects of mitigating measures, other than ordinary eyeglasses or contact lenses. Mitigating measures are things like medications, prosthetic devices, assistive devices, or learned behavioral or adaptive neurological modifications that an individual may use to eliminate or reduce the effects of an impairment. These measures cannot be considered when determining whether a person has a substantially limiting impairment. For example, a student who has an allergy and requires allergy shots to manage that condition would be covered under Section 504 if, without the shots, the allergy would substantially limit a major life activity.

Episodic or In Remission Disabilities: An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. A temporary impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period. The issue of whether a temporary impairment is substantial enough to be a disability must be resolved on a case-by-case basis, taking into consideration both the

duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity of the affected individual.

Section 504 Is NOT Interchangeable with IDEA: Section 504 eligibility is NOT automatically bestowed on a student who is referred for a special education evaluation and who is subsequently determined not IDEA eligible. *Letter to Veir, 20 IDELR 864 (OCR 1993)*. Parents may not avoid having a child labeled as special education by “opting” for a Section 504 plan. *Letter to McKethan, 25 IDELR 295 (OCR 1996)*. Similarly, a district does not have the flexibility to opt to provide Section 504 services when the student is IDEA eligible. *Yankton Sch. Dist. v. Shramm, 24 IDELR 704 (8th Cir. 1, 1996)*. The District’s School Based and/or District-wide 504 Coordinators are responsible for ensuring a smooth transition between considerations for all federal program options.

No Automatic Eligibility: A medical diagnosis of an illness does not automatically mean a student can receive services under Section 504. The illness must cause a substantial limitation on the student’s ability to learn or another major life activity. See *Protecting Students with Disabilities: Frequently Asked Questions about Section 504 and the Education of Children with Disabilities* (<https://www2.ed.gov/about/offices/list/ocr/504faq.html>, September 2018).

Access NOT Advantage: Section 504 is not designed to improve grades, raise test scores, or reduce homework responsibilities. The goal of Section 504 is to provide students with disabilities an equal opportunity to achieve.

Prevent Over-Identification: Recognize there are other factors that could adversely affect student learning, such as socioeconomic status, educational disadvantage, poor early instruction, difficult family situation, gang involvement, truancy, or limited English proficiency. Invest in training of staff to learn about Section 504. Explain to staff that it can be a violation to identify a student as a student with a disability when in fact the difficulty stems from other factors. For example, bilingual students will be given full consideration of English proficiency during evaluation to ensure that language proficiency is not regarded as a disability. Should you have the concern that language is creating a barrier for a student ability to achieve, please contact the Office of Bilingual Education and Related Programs at 313-873-4171.

Prevent Misconceptions Leading to Violations: It is a misconception to assume that general education accommodations supplant the need for Section 504 eligibility or services. Another misconception is that a student must fail in all classes to be eligible. It is important to recognize that a student who continues to struggle, with intervention, may indeed have a substantial limitation. Intervention courses should not be used to delay or replace an evaluation and placement of services for a student with a suspected disability.

Also, these courses may require additional skills that are impacted by the student's impairment. A student who continues to consistently struggle may need formal support.

D. Section 504 Plan

Where a student is found to be eligible, a Section 504 Plan will be developed, if the student needs accommodations. It is possible for the student to be found eligible for a section 504 plan and not need accommodations. In this case, the building 504 coordinator would make relevant staff members aware that the student has a section 504 plan with no accommodations. The 504 coordinator will continue to monitor the student's progress and follow the suggested timeline for annual review and re-evaluation.

The building Section 504 Team must be led by the building administrator or his/her designee. The name of each building's 504 team lead must be provided to the Schools Section 504 Coordinator. The building Section 504 team, which includes the parents, will be responsible for the placement of related aids and services that are needed to ensure that the student receives a free appropriate education. The Plan will specify how services will be provided and by whom.

The Section 504 Plan shall be signed by both the Building Administrator and parent/guardian. Parental consent is required prior to initial placement. Prior to implementation, a copy of the Plan shall be provided to the parent(s)/guardian(s) within one week following the eligibility meeting, which indicates DPSCD's intent to implement the plan. Parent must always be provided a copy of the Notification of Parental Rights.

If a Section 504 Plan is developed for a student, only school personnel with implementation responsibilities shall be informed of the existence and particulars of the plan, including, but not limited to, substitute teachers, bus drivers, field trip staff chaperones, before/after school staff, club advisors, and coaches. Staff should be informed on the contents of the plan when the plan is created, revised, and at points of transition, including transfers between buildings, or changes in schedule, staff, or program. Student medical confidentiality should always be considered. Students with 504 plans will be identified in the student information system and their accommodation plans (only) will be uploaded for teacher and parent reference.

When a student enrolls in DPSCD after the school year has started or transfers into DPSCD from another district, staff assisting with enrollment should inquire with the parent if the student has an education plan, such as a 504 plan or an IEP. If parent acknowledges the presence of an existing plan, proper staff should be notified (building 504 coordinator or special education staff). If the student has an existing 504 plan, the school will immediately follow the current accommodations from the previous school as closely as possible. The building 504 coordinator will work with the parent and 504 team to determine the needs of the student at the current school and develop a new plan within 30 school days of enrollment. The building 504 coordinator will make appropriate staff aware of the student's 504 accommodations. When students are transitioning between levels - elementary to middle school, middle school to high school – building 504 coordinators will access

a list of new students in their building with 504 plans at the beginning of the school year through the student information system (SIS) and coordinate services accordingly.

E. Annual Review

The teacher or other person(s) designated by the Section 504 Team shall monitor the student's progress and the effectiveness of the student's plan. The teacher or other designated person will meet with the parent(s) at least annually to determine whether the Section 504 Plan continues to be appropriate or whether any changes are thought to be necessary. A Section 504 team meeting will be convened at any time to review the changes in student need or other appropriate concerns.

F. Reevaluation

A multi-source evaluation should be completed periodically (recommended every three years) to re-determine eligibility under Section 504 and/or before any significant changes are made in the Section 504 Plan. A school district shall not require outside evaluations or examinations as a condition of eligibility or plan continuance. Although medical evaluations are NOT required under Section 504, if the District determines, based on the facts and circumstances of the individual case, that a medical assessment is necessary to make an appropriate evaluation consistent with 34 C.F.R. § 104.35(a) and (b), the District must ensure that the child receives this assessment at no cost to the parents. *Letter to Veir, 20 IDELR 864 (OCR, 1993).*

Service Animals

DPSCD permits a qualified individual with a disability to use a service animal on public premises. The individual with a disability shall be permitted to be accompanied by a service animal in all areas of a public entity's facilities where members of the public; participants in services, programs or activities; or invitees (as relevant) can go. A definition of a service animal is limited to dogs and miniature horses. The provisions of this requirement are not extended to other species of animal.

A dog is a service animal if the following criteria are met:

- The dog was individually trained
- To do work or perform tasks
- For the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability

Schools may consider four factors when determining their ability to make reasonable modifications in policies, practices, or procedures to permit the use of the miniature horse as a service animal. The four factors include:

The type, size, and weight of the miniature horse and whether the facility can accommodate these features; whether the handler has sufficient control of the miniature horse; whether the miniature horse is housebroken; and whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

There are questions that the school may and may not ask to establish the reasonableness of the use of the service animal. The school may ask if the animal is required of the disability and what tasks the animal has been trained to perform. The school may not ask about the use of the service animal in obvious contexts (For example, a visually impaired person using a trained leader dog). It is unlawful to request any documentation for the animal, require that the dog demonstrate its task, or inquire about the nature of the person's disability.

Listed below are examples of tasks that may be performed by a service animal:

- Assist blind/visually impaired to navigate
- Alert deaf/hearing impaired to presence of people or sounds
- Pull a wheel chair
- Provide seizure assistance
- Alert to presence of allergens
- Retrieve items (medicine, telephone)
- Provide physical support, balance and stability to individuals with mobility disabilities
- Prevent or interrupt impulsive or destructive behavior of persons with psychiatric and neurological disabilities

A public entity may ask an individual with a disability to remove a service animal from the premises if:

- The animal is out of control *and* the animal's handler does not take effective action to control it;
- There are legitimate safety concerns;
- The animal is not housebroken; OR
- The animal's presence fundamentally alters the nature of the program, service or activity (i.e. access to general education curriculum and/or interaction with normal developing peers).

Under Title II, the school is NOT responsible for the care or supervision of the service animal. If a school properly excludes a service animal, the individual with a disability must be given the opportunity to participate in the service, program, or activity without having the service animal on the premises. If the animal causes damage while on the premises, the service animal handler may be charged for damage caused by the service animal to the extent it normally charges individuals for the damage they cause.

Suspension and Expulsion of Students Served Under Section 504

Students who are eligible under Section 504 have certain additional protections when charged with a violation of the Code of Student Conduct which may result in a suspension or expulsion. Similar to suspension or expulsion of a student with a disability under the IDEA, it is necessary to conduct a manifestation determination review for a Section 504 disabled student when:

- The suspension or expulsion will be for more than ten (10) consecutive school days. As is true under IDEA, a suspension/expulsion of more than ten (10) consecutive days constitutes a significant change in placement and requires DPSCD to determine if the cause of the behavior is the disability identified in the student's Section 504 plan.
- A series of suspensions that total more than ten (10) school days in a school year may create a pattern of exclusion. If cumulative suspensions/expulsions for a student on a Section 504 Plan total more than ten (10) school days in a school year, it must be determined if a significant placement change has occurred. This decision is made on a case-by-case basis. If a group of short suspensions creates a pattern of exclusion, then this constitutes a change in placement and DPSCD must conduct a manifestation determination meeting before further suspensions or expulsions occur. The Office for Civil Rights has identified some of the key factors in determining the existence of a pattern of exclusion; these include the length of each suspension, the proximity of one suspension to another, the similar or dissimilar nature of the behavior, and the total amount of time the student is excluded from school.

Section 504 allows a student to be disciplined, without going through the manifestation determination review process, where the student is charged with and found to be currently engaging in the illegal use of drugs or alcohol, in violation of the DPSCD Student Rights and Responsibilities & Code of Conduct (the "Code of Conduct").

The manifestation determination process will determine if the violation was due to the student's disability. The review must also consider the appropriateness of the student's plan of supports and services under Section 504. Appropriate actions should include consideration for a referral for IDEA evaluation when the manifestation determines the behavior is likely related to the disability. In those situations, in which the student committed an infraction leading to state mandated removal from school, the review process must consider the obligations to provide FAPE under IDEA.

In situations in which the manifestation determination process determines the behavior is NOT related to the disability, the student is to be given the same treatment or sanctions as the nondisabled students, consistent with the Code of Conduct and district policy. The provisions of FAPE do not apply during the period of discipline or removal from school. The student may apply for reinstatement following the same policy as nondisabled peers.

Complaints & Grievances

DPSCD is committed to handling all complaints and grievances in a fair, equitable, and prompt manner. Students, parents, employees, or third parties who utilize this procedure will not be retaliated against. A person who believes that he/she has been discriminated against by DPSCD based on his/her disability may pursue a grievance/complaint with the District-Wide 504 Coordinator through DPSCD's Grievance/Complaint Procedure (as highlighted on the District's procedural safeguard notice). Contact:

Dr. Anne Meirow

Schools Section 504 Coordinator

<http://detroitk12.org/content/section-504>
Detroit Public Schools Community District
Office of Exceptional Student Education
3011 W. Grand Blvd
Detroit, MI 48202
9th Floor
Phone: (313) 870-3480
Fax: (313) 873-3274
504.coordinator@detroitk12.org

Grievances/complaints may also be filed online at <http://detroitk12.org/compliance/>. It is important to note that a person is not required to use this procedure and may instead file a complaint directly with the U.S. Department of Education's Office for Civil Rights.

While DPSCD must also offer a process for addressing complaints and grievances, the parent or adult student should not be delayed or denied in their exercise of due process. DPSCD strictly prohibits any form of retaliation against persons who utilize these Grievance/Complaint Procedures.

The complaint or grievance process is outlined below:

1. Grievances must be submitted to the Office of Equity, Advocacy & Civil Rights or the District-Wide Section 504 Coordinator. A complaint may be submitted in person, via email at dpscd.compliance@detroitk12.org, on the District website at <https://www.detroitk12.org/compliance>, or by phone at (313) 240-4377.
2. Complaints should set forth a description of the alleged discrimination and the remedy or relief sought.

3. The District-Wide Section 504 Coordinator will coordinate with the Schools Section 504 Coordinator and Building Administration, when necessary, to conduct an investigation of the complaint. This investigation may be informal, but it must be thorough, affording all interested persons an opportunity to identify witnesses and submit evidence relevant to the complaint. Should the District-Wide Section 504 Coordinator be the subject of the complaint, the Superintendent (or designee) shall coordinate the investigation.
4. The District-Wide 504 Coordinator (or designee) will maintain the files and records relating to the complaints filed.
5. The District-Wide 504 Coordinator (or designee) will issue a written decision on the grievance no later than 30 school days after its filing. If discrimination is found to have occurred the District will take the necessary steps to remedy the discrimination and prevent a recurrence. The District-Wide 504 Coordinator (or designee) will monitor these steps to ensure compliance and resolution.
6. If dissatisfied with the outcome, the impacted party may appeal the determination of the District-wide Section 504 Coordinator to the Superintendent for final review of the grievance.
7. Within 15 school days of receipt of the appeal, the Superintendent or his/her designee, will review the grievance file and any other documentation available (in his/her discretion), and prepare a written summary of findings and recommendations to share with all parties.¹
8. At any time, the complainant may file a complaint with the OCR at the following address:

Office for Civil Rights
Cleveland Office
US Department of Education
1350 Euclid Avenue
Suite 325
Cleveland, OH 44115
Telephone: 216-522-4970
Fax: 216-522-2573; TDD: 800-877-8339
Email: OCR.Cleveland@ed.gov

Impartial Due Process Hearings

Parents or persons in a parental relationship who disagree with the district's actions regarding identification, evaluation, or placement for a student with a disability have the right to request an

¹ To the extent the Schools Section 504 Coordinator reviews the grievance in the first instance, the Superintendent may designate the District-Wide 504 Coordinator to review any appeal.

impartial due process hearing. Request for a Section 504 due process hearing must be made to the District-wide Section 504 Coordinator in writing and sent via e-mail or U.S. Mail to:

Kristen Howard, Esq,
3011 W. Grand Blvd., Floor 14
Detroit, MI 48202
Dpscd.compliance@detroitk12.org

Upon receipt of such a request, the necessary arrangements will be made by DPSCD, including the appointment of an impartial hearing officer. A hearing may not be conducted by a person who is an employee of DPSCD, or by any person having a personal or professional interest which would conflict with his or her objectivity in the hearing.

Any party to a hearing has the right to:

- Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;
- Present evidence and confront, cross-examine, and compel the attendance of witnesses;
- Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five days before the hearing;
- Request that the hearing officer bar as evidence any evaluation or recommendation completed but not disclosed to the other party at least five business days prior to the hearing;
- Obtain a written or electronic verbatim record of the hearing or obtain alternate forms of the verbatim record to be provided in the parent's native language; and
- Obtain written or electronic findings of facts, decisions, and other relevant records.

DPSCD will adhere to the following timeframes in the event of a request for a due process hearing:

- A hearing will be scheduled not less than fifteen (15), nor more than thirty (30) calendar days following receipt of a written request from the parent.
- The Hearing Officer will, not later than thirty (30) calendar days after the hearing, do both of the following:
 - Reach a final decision regarding the matter; and
 - Send a written copy of the decision to each party.

In the absence of an appeal, the decision of the Hearing Officer will be implemented by DPSCD within 20 school days of DPSCD's receipt of the decision.

References

Parent and Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools. <https://www2.ed.gov/about/offices/list/ocr/docs/504-resource-guide-201612.pdf>, December 2016

Protecting Students with Disabilities: Frequently Asked Questions about Section 504 and the Education of Children with Disabilities. <https://www2.ed.gov/about/offices/list/ocr/504faq.html>, September 2018