CURRICULUM/INSTRUCTION

Education of Students with Disabilities Under Section 504 of the Rehabilitation Act of 1973

A. Free Appropriate Public Education

The District will provide a free appropriate public education (regular or special education and related aids and services) to school-age children with disabilities in the District’s jurisdiction, except for those fees and/or charges that are imposed on non-disabled students and their parents. Section 504 Plans and related services, supports, and accommodations are designed to meet the individual educational needs of disabled students as adequately as the needs of the non-disabled students are met. Section 504 Plans will be based upon adherence to the evaluation, placement and procedural safeguard provisions below.

Students whose disabilities adversely impact them to the degree that they need specially designed instruction in order to access the general education curriculum are entitled to special education services and the procedural safeguards under the federal Individuals with Disabilities Education Act (“IDEA”). See Board Policy 2161.

B. Childfind

The District will annually undertake to identify and locate every qualified disabled student residing in the District’s jurisdiction who is not receiving a public education and take appropriate steps to notify disabled children and their parents or guardians of the District’s responsibilities under Section 504.

C. Equal Educational Opportunity

The District will provide students with disabilities an equal opportunity to participate in and benefit from the educational services it provides to non-disabled students. The teachers of disabled students will meet comparable standards for certification that teachers of non-disabled students meet. Facilities will be of comparable quality and appropriate materials and equipment will be available.

D. Confidentiality of Information

The confidentiality of student records will be maintained throughout the period of time when such records are collected, stored, disclosed or destroyed by the District.

E. Parent Involvement

The District will obtain the informed consent of parents or guardians before conducting an initial evaluation of a student under these procedures. The District will notify parents or guardians of the evaluation results and any programming and placement recommendations. The District will further notify parents or guardians before initially placing a disabled student, conducting subsequent evaluations of the student, or implementing a significant change in the student’s placement. The District will notify parents or guardians of their right to review and challenge the District’s program and placement decisions if they disagree with them. Unlike the IDEA, Section 504 does not require parental participation in meetings during which their child’s program is designed and placement is determined. However, the District will strive to invite parents to any such meetings as a matter of practice.

F. Participation in the Least Restrictive Environment

1. Academic setting. To the maximum extent appropriate to the needs of disabled students, the District will educate disabled students with non-disabled students. In order to remove a child from the regular educational environment, the District must demonstrate that education of the student in the regular
environment with the use of supplementary aids and services cannot be achieved satisfactorily for the disabled student. Whenever the District places a student in a setting other than the regular education environment pursuant to this paragraph, it will take into account the proximity of the alternate setting to the student’s home.

2. Non-academic setting. In providing or arranging for the provision of non-academic and extra-curricular services and activities, including meals, recess periods and the services and activities set forth in 34 CFR 104.37, the District will ensure that disabled students participate with non-disabled students in such activities and services to the maximum extent appropriate to the needs of the disabled student in question.

G. Referral and Screening

If a student, parent, teacher, counselor or administrator believe that a student needs accommodations, special education and/or related services and supports at school due to substantially limited performance in one or more major life activity that is believed to be caused by a known or suspected disability, the concerned individual should complete a referral form.

A designated building team will review referrals to determine if an evaluation is appropriate. The District will obtain the informed consent of parents or guardians before conducting an initial evaluation (or subsequent reevaluation) of a student and will provide parents with a written statement of their rights under Section 504. If the team determines that an evaluation is not necessary, it will provide written notice to parents or guardians, along with a written statement of their rights under Section 504.

H. Evaluations

1. If a student with a disability needs or is believed to need accommodations, special education and/or related services due to the adverse impacts of the student’s disability, the District will evaluate the student before initial placement of the student.

2. It is the responsibility of the District to determine the scope of each student’s Section 504 evaluation. As a general rule, the scope of a student’s Section 504 evaluation should be broad enough to enable the District to determine whether a student is disabled under Section 504 and an appropriate placement for such student that will enable the student to participate in and benefit from the District’s educational program to the same extent as his or her non-disabled peers.

3. In conducting Section 504 evaluations, to the extent determined appropriate, the District will use tests and other evaluation materials that:
   a. Have been validated and are administered by trained personnel;
   b. Are tailored to assess educational need and are not merely based on IQ scores; and
   c. Reflect aptitude or achievement or whatever else the tests purport to measure and do not reflect the student’s impaired sensory, manual or speaking skills (unless the test is designed to measure these particular deficits).

4. A student is disabled under Section 504 if he or she:
   a. Has a physical or mental impairment that substantially limits a major life activity;
   b. A record of such impairment; or
   c. Is regarded as having such an impairment.

5. The determination of whether a student is substantially limited in a major life activity by his or her impairment will be made without regard to any ameliorative effects of mitigating measures, which include, but are not limited to: medication, medical supplies, equipment, low-vision devices, prosthetics, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy equipment and supplies, assistive technology, reasonable accommodations, auxiliary aids or services; or learned behavioral or adaptive neurological modifications.

6. Low vision devices do not include ordinary eyeglasses or contact lenses. The ameliorative effects of ordinary eyeglasses or contact lenses may be considered in determining whether the student’s impairment substantially limits a major life activity.
7. A major life activity is broadly defined to include such activities as caring seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communication, or performing manual tasks. Major life activity also includes such major bodily functions as functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

8. A student with a temporary impairment falls within the scope of Section 504 if the temporary impairment is severe enough that it substantially limits one or more of the student’s major life activities. A temporary impairment is one with an actual or expected duration of six months or less.

9. A student with an episodic impairment or a disease in remission qualifies as disabled under Section 504 if the impairment would substantially limit a major life activity when active. For example, a student with bipolar disorder would be disabled under Section 504 if, during manic or depressive episodes, the student is substantially limited in a major life activity (e.g., thinking, concentrating, neurological function, or brain function).

I. Placement Procedures

The membership of a Section 504 team will vary depending on the needs of each student. The composition of a Section 504 team is fluid and may change within a school year or between school years as a student’s needs and/or services change. A Section 504 team must consist of at least two people and must include persons knowledgeable of the student, the meaning of the student’s evaluation data, and placement options. The team will convene to review all evaluation results, determine eligibility as a student with a disability under Section 504, determine whether or not the student needs accommodations, special education, and/or related services and supports, and document the team’s considerations and decision(s) in writing.

After determining a student has a disability, but as part of its determination as to whether or not the student needs accommodations, special education, and/or related services and supports due to that disability, the team may consider the student’s use of mitigating or ameliorative measures.

In interpreting evaluation data and in making placement decisions, the District will (1) draw upon information from a variety of sources, as appropriate, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background and adaptive behavior; (2) ensure that information obtained from all such sources is documented and carefully considered; and (3) ensure that the student is educated with his/her non-disabled peers to the maximum extent appropriate.

In regard to out-of-District placements, if the District affords a free appropriate public education to a disabled student but the parent chooses to place the student elsewhere, the District is not responsible for the cost of the student’s out-of-District placement.

J. Re-Evaluations

The District will provide for periodic reevaluation of disabled students. At a minimum, the District will reevaluate Section 504-eligible students every 3 years. A reevaluation is also required before any “significant change of placement” of such students.

Examples of “significant change in placement” include:
1. Expulsion;
2. Long-term suspensions which exceed ten consecutive days in a school year;
3. Cumulative short-term suspensions which create a pattern of exclusion;
4. Transferring a student to home instruction; and/or
5. Significantly changing the student’s access to non-disabled peers, in either his or her academic or non-academic settings.
K. Programming to Meet Academic Needs of Section 504-Eligible Students

To adequately meet individual needs, academic and related services for students with disabilities may need to be significantly different in character from those offered to students without disabilities. A documented Section 504 Plan, developed by a team of educational professionals knowledgeable about the student and his or her evaluation results, will therefore be developed to describe the accommodations or related aids or services the student needs to receive a free, appropriate public education.

L. Non-Academic Services

The District will provide non-academic and extracurricular services and activities in such a manner as is necessary to afford disabled students an equal opportunity for participation in such services and activities. Nonacademic and extracurricular services and activities may include counseling services, physical recreation, athletics, transportation, health services, recreational activities, and interest groups or clubs sponsored by the District. The District will observe reasonable health and safety standards for all students.

1. Counseling Services. In providing personal, academic or vocational counseling, guidance or placement services to its students, the District will provide these services without discrimination on the basis of disability. The District will ensure that qualified students with disabilities are not counseled toward more restrictive career objectives than are non-disabled students with similar interests and abilities.

2. Physical education and athletics. In providing physical education courses and athletics and similar programs and activities to any of its students, the District will not discriminate on the basis of disability. If the District offers physical education courses and operates or supports interscholastic, club or intramural athletics, it will provide an equal opportunity for qualified students with disabilities to participate in these activities. The District may offer to disabled students physical education and athletic activities that are separate or different from those offered to non-disabled students only if separation or differentiation is consistent with the requirements of 34 CFR §104.34 and qualified disabled students will not be denied the opportunity to compete for teams or to participate in courses that are not separate or different.

M. Preschool And Adult Education Programs

In the operation of preschool education, or day care program or activity, the District will not, on the basis of disability, exclude qualified students with disabilities from the program or activity and will take into account the needs of such persons in determining the aid, benefits or services to be provided under the program or activity.

N. Disciplinary Exclusion

1. Students with disabilities protected under Section 504 may not be improperly excluded from school for disciplinary reasons. Certain disciplinary exclusions of disabled students from school constitute a significant change in the student’s educational placement. Such disciplinary exclusions cannot be implemented until the District has satisfied the required change of placement procedures. (See Section H)

2. Qualified disabled students should be recognized as having a disabling condition before discipline is imposed on them, especially before imposing long-term suspension (a suspension of more than 10 days duration) or regular expulsion upon a qualified disabled student. The school principal or educational staff person responsible for the imposition of discipline must ensure that a group of qualified professionals determine whether or not there is a causal relationship between the student’s misconduct and his or her disability. They are also to consider the appropriateness of the student’s current placement and program. This determination will take into account the student’s current evaluation and Section 504 Plan. For students considered disabled under Section 504, there is no obligation to provide educational services during periods of long-term suspension or expulsion when the student’s misconduct has been properly determined not to be disability-related and not the result of an inappropriate placement or program. When a student’s misconduct is determined to be causally related to his/her disabling condition, procedures at #3 below will be instituted in lieu of either long-term suspension or expulsion.
3. When a student has engaged in misconduct which is causally related to his or her disability, expulsion and/or long term suspension should not be imposed if it would result in more than ten lost school days. Lost school days will be measured cumulatively over the period of the entire school year, with any short term suspensions counting toward the cumulative total.

When a student’s misconduct is related to a disability, additional evaluations and/or a change of placement agreed upon by the student’s parents/guardian should be considered in lieu of expulsion/suspension. In this circumstance, the principal or designee responsible for the imposition of discipline and a team of professionals from the school who are knowledgeable about the student and the meaning of the evaluation data will meet to determine if there is a need for further evaluation or a change of program or placement. If further evaluation is recommended, it will be conducted as soon as possible.

4. Consistent with the District’s IDEA procedures, a student may be removed to an interim alternative educational setting for up to 45 school days, if, at school, on school premises, or at a school function, the student carries a weapon to or possesses a weapon or has inflicted serious bodily injury upon another person, even if the conduct is related to the student’s disability.

5. Students and their parent/guardian will be notified of the results of the decision regarding the causal relationship of the misconduct and the student’s disability and of their right to challenge this decision. Students/parents/guardians objecting to procedures used by the District to evaluate the misconduct are entitled to exercise their rights under Section 504 to file a grievance or initiate a due process hearing.

6. Students who are considered disabled under Section 504 are subject to the same disciplinary processes and results as non-disabled students for misconduct regarding the use, sale or possession of drugs or alcohol at school or school-sponsored events or activities. In such circumstances, the procedural safeguards and requirements regarding change of placement do not apply. (See Section S)

O. Transportation

If the District places a student in a program not operated by the District, the District will assure that adequate transportation to and from the program is provided at no greater cost to the parent than would otherwise be incurred by the parent if the District placed the student in a program operated by the District. Because the District provides transportation to all its students within a certain geographic area, it will not discriminate in its provision of transportation to students with disabilities.

If the District proposes to terminate a qualified disabled student’s bus transportation for inappropriate bus behavior, the District will first determine the relationship between the student’s behavior and his or her disbling condition, the appropriateness of the related service of transportation and the need for reevaluation. The parent or guardian will be provided with notice of the results of such determinations and of their right to challenge such determinations.

P. Procedural Safeguards

The District will ensure compliance with the requirements of Section 504 by doing the following:

1. Provide written assurance of non-discrimination whenever the District receives federal money.
2. Designate an employee to coordinate the District’s Section 504 compliance activities. The Section 504 Coordinator for the District is the Executive Director of Special Programs and Services.
3. Provide procedures to resolve complaints of discrimination under Section 504. Students, parents or employees are entitled to file such complaints with the Section 504 Coordinator. The complaint procedures for the District are set out in the Procedure for Board Policy 3210, Nondiscrimination.
4. Provide notice to students, parents, employees, unions and professional organizations of the District’s nondiscrimination policy in admission and access to programs and activities, and in treatment and employment. Notice will also specify the Section 504 Coordinator for the District. Notice will also be included in the District’s student/parent handbooks.
5. Annually identify and locate all Section 504 qualified disabled children in the District’s geographic area who are not receiving a public education.
6. Establish, implement, and provide the following procedural safeguards to parents/guardians with respect to actions regarding the identification, evaluation or educational placement of persons who, because of disability, need, or are believed to need, accommodations, special instruction or related services. Procedural safeguards will include:
   a. Notice of parent/guardian procedural rights;
   b. An opportunity to examine their student’s relevant records;
   c. An impartial hearing, initiated by either the parents/guardian or the school District, with opportunity for participation by the student’s parents/guardians. The student/parent/guardian is entitled to have representation by legal counsel; and
   d. A review procedure regarding the District’s compliance with these procedural rights.

   NOTE: Hearing or mediation requests must be made directly to the District’s Section 504 Coordinator. The District is responsible for arranging for hearing officer and mediator expenses.

Q. Appropriate Funding

The District recognizes that the regular education funding of the District is the funding source for serving students who are qualified as disabled under Section 504 only. However, if students are dual identified as Section 504 and IDEA eligible, state and federal special education funds can be used. The District will not use money appropriated by the IDEA to serve students found disabled under Section 504 but not the IDEA. The District may use the IDEA money to evaluate a student if the District believes that the student may also be eligible under the IDEA.

R. Accessibility

1. Facilities that were constructed prior to June 3, 1977 need not necessarily be made accessible so long as the program or activity, viewed in its entirety, is readily accessible to persons with disabilities.
2. Buildings or additions constructed since June 3, 1977 must be designed and constructed to allow disabled persons the ability to access and use them readily.
4. A District can redesign equipment, reassign classes or other services to accessible buildings, assign aides to students, deliver services at alternate accessible sites or alter existing facilities. So long as there are other methods which are as effective in achieving compliance, a District need not undertake structural changes to a building.
5. A District recognizes that some forms of accommodation are unacceptable such as: carrying a student upstairs; segregating all students with mobility impairments due to the inaccessibility of other buildings; having disabled students eat on a separate floor due to an inaccessible cafeteria; denying participation in certain programs such as music, art or assemblies because these programs are inaccessible.

S. Special Issues Related to Drug or Alcohol Addicted Students

If a District suspects that the drug or alcohol problem of a student may be substantially limiting a major life activity such as learning, the District is obligated to recommend an evaluation. If the evaluation verifies the existence of a disabling condition that substantially limits a major life activity, the student is considered disabled under Section 504 and should be planned for appropriately.

Section 504 excludes persons who are “currently engaging in the illegal use of drugs” from the definition of individuals with disabilities. Therefore, the District is not required to consider whether a current illegal drug user could successfully participate in the District’s education programs. Furthermore, the District is not required to make accommodations for the student if he or she is currently using drugs. The District can treat the student as it treats non-disabled students.
Unlike students addicted to drugs, students whose alcoholism constitutes a disabling condition under Section 504 and who continue to use alcohol are protected by Section 504. However, the District may take disciplinary action against any disabled student engaged in the illegal use of drugs or in the use of alcohol at school or school-sponsored events or activities to the same extent that such disciplinary action is taken against non-disabled students. Furthermore, the change of placement procedures and procedural safeguards set forth above will not apply to such disciplinary actions.

T. Special Considerations for Students Having AIDS or HIV Infection

Students with Acquired Immune Deficiency Syndrome (AIDS), AIDS Related Complex (ARC) or otherwise infected with Human Immunodeficiency Virus (HIV-infected) are individuals with disabilities under Section 504. They either qualify as actually having a physical impairment that substantially limits a major life activity or are regarded as having such a disabling condition. Depending on the nature of the disease and the student’s other conditions, the student may also qualify for services under the IDEA.

As with other students eligible for protections under Section 504, placement of the student must be made by a group of persons knowledgeable about the child, the meaning of the evaluation and medical information and placement options. A public health representative may be invited to be a member of the student’s team.

Revision Date: October 1, 2012