



## **Section 504 and ADA Procedures Manual Identification, Evaluation, and Provision of Support to Students with Disabilities**

### **I. Purpose of Section 504**


Section 504 of the Rehabilitation Act of 1973 (“Section 504”) is an anti-discrimination statute that prohibits discrimination against individuals with disabilities. Specifically, Section 504 reads: “No otherwise qualified individual with a disability in the United States . . . 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(a).) The District is a recipient of Federal financial assistance, and thus, is subject to Section 504. This law also provides that identified individuals with disabilities shall be placed in the least restrictive educational environment. (34 C.F.R. § 104.34(a).

### **II. Purpose of the Americans with Disabilities Act**

The Americans with Disabilities Act (“ADA”) was signed into law on July 26, 1990, and was amended by the Americans with Disabilities Act Amendments Act (“ADAAA”) in







commonly referred to as the District's "child find" obligation. Therefore, it is important that students who are or may be disabled are referred to the school site Section 504 Coordinator/Case Manager, so that the evaluation process may be initiated, as appropriate. Some *examples* of students who should be considered for referral include, but are not limited to, the following:


- A student with medical conditions such as severe asthma, diabetes, severe allergies or ADHD;
  - A student who uses a wheelchair or other mobility device on a non-temporary basis;
  - A student with a degenerative neurological disorder, a student who is missing a limb, or a student with other impaired manual skills;
  - A student with poor or failing grades over a lengthy period of time;
  - A student with frequent referrals for behavioral problems;
  - A student who has excessive physical or mental health-related absences.
5. It is important to note that a student need not necessarily be struggling *academically* in school, in order for a District's child find obligation to arise. This is because a student could have a substantial limitation in major life activity other than learning, concentrating, reading, etc. For example, the student could be substantially limited in the function of their endocrine system if they have diabetes and, thus, be eligible, or technically eligible, under Section 504.

## **V. Initial Evaluation Procedures**

### **1. Review of Existing Data ("RED") Meeting**

- a. Within **20 school days** of receipt of the completed Section 504 Referral (Form A), the school site Section 504 Coordinator/Case Manager shall **schedule and convene** a multidisciplinary 504 team to review existing data for the student. The 504 Coordinator/Case Manager shall utilize the **Section 504 Meeting Notice (Form C)** to notify Parents of the initial 504 meeting.
- b. If the Section 504 referral was generated as a result of a doctor, psychiatrist or other private provider's recommendation, the Section 504 Coordinator/Case Manager shall provide Parents with a **release of information, as soon as possible and, prior to the RED meeting**, to gather additional information from those individuals or agencies. The **Medical Provider Questionnaire (Form L)** may also be used to gather relevant information in conjunction with, or in lieu of, the release of information.
- c. Also prior to the RED meeting, the Section 504 Coordinator/Case Manager shall provide each of the student's teachers with a teacher input form. The options include **Teacher Input Form (Form B1) and/or Input forms provided through your Initial/Triennial Meeting Checklist**. Choose the form that best fits your





consent shall be obtained for any formal assessments determined necessary for the student. If Parents refuse to provide such consent, the student shall be considered to be non-disabled under Section 504 and shall remain a regular education student. The District may, but is not required to, utilize the due process procedures identified in the District's 504 Procedural Safeguards to obtain consent to an initial assessment request.


- Parents must provide consent to the entire assessment plan and may not agree to only some of the requested assessments or areas of assessment.
  - However, Parents may request modification to the assessment plan. If such a request is made, the Section 504 Coordinator/Case Manager shall send Parents a **Notice of Action (Form H)**, within **10 school days**, agreeing or disagreeing with Parents' proposed modification. If the modification is agreed upon, a new (re dated) copy of the Section 504 Formal Assessment Plan shall be prepared and attached to the Notice of Action.
  - As part of the District's formal assessment and, within the assessment plan, Parents may be asked to provide a written release to speak with and/or obtain information from the student's physician, psychologist, or other health care providers. If such information is necessary to complete the assessment process, and Parents withhold such consent, the District shall treat such refusal as a refusal to consent to the initial assessment, and the student shall be considered to be non-disabled under Section 504 and shall remain a general education student.
  - The information that can be obtained when a release of information for medical information is sought through an assessment plan is limited to only that which is necessary to 1) determine the existence of a mental/physical impairment; 2) which major life activities are impacted; 3) the degree of limitation such an impairment causes upon those major life activities; and/or 4) recommended school-based supports and/or accommodations, and the rationale for such recommendations.
  - A release of information for medical information may only be sought through an assessment plan from student's "relevant" medical providers. A "relevant" provider is defined as one who has already provided some documentation to the District and/or a provider Parents have previously referenced in conjunction with a request for a 504 evaluation.
- d. For students requiring additional formal assessment in order to make an eligibility determination, the District shall ensure, in accordance with 34 C.F.R. § 100.35, that:
- 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;
  - 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
  - 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).

- e. The evaluation of the student, whether through a review of existing data alone, or through formal assessment, must be sufficient for the Section 504 Team to accurately and completely describe: (a) the nature and extent of the disabilities; (b) the student's special needs; and (c) what regular or special education and/or related aids and services are appropriate to ensure that the student receives a free appropriate public education. All significant factors relating to the learning process for that student, including adaptive behavior and cultural and language background, must be

alone



for the student to have equitable access to the educational environment.

3. Each agreed-upon Section 504 accommodation or support must be **reasonably linked**, both to the identified impairment(s) AND to the major life activity or activities








**504 Plan (Form G)** for the student.

Annual Review meetings may not be necessary, so long as all of the following steps provided in the above section related to Eligible students.

3. Parent Consent to Annual Section 504 Plan. Parent consent to implement a student's annual Section 504 Plan should actively be sought and efforts should be documented by the Section 504 Coordinator/Case Manager. **However, a student's annual Section 504 Plan may be implemented, without Parent consent, after 60 days**





of only a review of existing data do not require parental consent.

2. A re-evaluation must also occur before any subsequent significant change in placement. Some examples of a significant change of placement include, but are not limited to:
  - A. Disciplinary sanctions are imposed as follows (see also Section XI below):
    - A student is up for expulsion; or
    - A student is subject to a series of short-term suspensions that, together, create a pattern of exclusion.
    - Removal of eligibility is being proposed;
  - B. A student is offered placement in a setting outside of general education.
3. If the student's Section 504 multidisciplinary team determines that the student requires formal assessment as part of the re-evaluation, Parental consent must be obtained to an assessment plan. If Parents refuse to consent to a re-evaluation assessment plan, per guidance from the Office for Civil Rights, the District must initiate due process procedures to obtain parental consent.


## **X. Transfer Procedures**

1. **Internal Transfers**: When Section 504 students transition between schools in the District, each school site Section 504 Coordinator/Case Manager shall contact the receiving school's site Section 504 Coordinator/Case Manager to discuss whether a re-evaluation is necessary and/or whether the student's Section 504 Plan should be revised to address the changing educational environment. If so, the student's Section 504 multidisciplinary team shall be convened to address these issues and to discuss the educational impact of the transfer.
2. **External Transfers**: When Section 504 students transition in from another school district, the District shall request records from the sending school district, including copies of any 504 evaluations, eligibility determinations and Section 504 Plans. Upon receipt of such records, the school site Section 504 Coordinator/Case Manager shall determine whether to initiate a re-evaluation. In all cases of external transfers, a Section 504 multidisciplinary team should be convened within **30 school days** of receipt of the student's prior Section 504 Plan to discuss any necessary changes. Any existing Section 504 Plan from another school district must be implemented until the District convenes its own Section 504 meeting.

## **XI. Private School Students:**

For students who are still residing within the District's boundaries but attending a private





possession AND simultaneously, also for another offense (for example, bullying), the Section 504 team must still conduct a manifestation determination for the second **non** - drug/alcohol - related offense.

### **XIII. Transitory and Minor Impairments**

Impairments that are **both** transitory (having an actual or expected duration of 6 months or less) AND minor, do not constitute a disability under Section 504. For example, if a student sustains a broken arm that is expected to heal in 2 months, the student may need to use speech to text and have a set of textbooks for home. The District may voluntarily accommodate a student's transitory and minor impairment without the student being "regarded as" having a disability under Section 504. Should the District wish to do this, the school team may utilize **District Form J** to document such voluntary supports and/or accommodations. Staff should monitor the transitory and minor impairment status, as sometimes such impairments can become disabilities. For example, while a mild concussion may be a transitory and minor impairment, it could result in post-concussive syndrome, thereby warranting a Section 504 evaluation.

### **XIII. Section 504 Due Process Hearing Procedures**

1. The District has designated the following person as its District-wide Section





however, the Parent may challenge that presumption with the hearing officer by filing





Compliance Officer” for students who require accommodations under the ADA.

4. Upon receipt of the ADA Referral, the District’s Section 504 (and ADA) Compliance Officer should determine whether the student should be referred back to his/her IEP team, Section 504 team, or, if the student’s pertinent multidisciplinary team has

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