

DAVIESS COUNTY PUBLIC SCHOOLS

504 PROCEDURES FOR THE EVALUATION, IDENTIFICATION, PLACEMENT AND PROVISION OF SERVICES TO STUDENTS

Definitions Relating to these Procedures

504 Team means a group of persons, including persons knowledgeable about the student, the meaning of the evaluation data and the placement options. The 504 team is composed of a chairperson, the student's regular classroom teacher, the parents, and others (i.e., school psychologist, school nurse, guidance counselor, student assistance coordinator), as appropriate. The 504 team reviews the nature of the disability, how it affects the student's access to the school environment or to school activities, curricular or extracurricular, determines whether specialized instruction, related aids or services, or program modifications are needed and if so, determines the 504 services to be provided. (*Special education staff should not have primary responsibility in 504 Teams.*)

504 Team Chairperson The Superintendent, in consultation with the district Section 504 Coordinator, will recommend to the Board for approval a list of 504 team chairpersons by job or position title. The Superintendent, or designee, may designate which specific staff member of that approved list will serve as the 504 team chairperson for any 504 team meeting.

Accommodations mean specialized instruction, related aids or services, or program modifications needed for a 504 eligible student to access the school environment or school activities (curricular or extracurricular).

The Act or **Section 504** means Section 504 of the Rehabilitation Act of 1973, as amended.

Accommodation Plan means a written document setting out specialized instruction, related aids or services, or program modifications needed to enable the student to access the school environment or school activities.

Adult Student means one who has reached the age of maturity under state law, has been emancipated by court order, or is, or has been, married.

Assistant Secretary means the Assistant Secretary for Civil Rights of the U.S. Department of Education.

DCPS means Daviess County Public Schools (the local school district).

Department means the U.S. Department of Education.

Drugs: Current illegal use of drugs exception to procedures:

(a) *In general:* The term “individual with a disability” does not include an individual who is currently engaging in the illegal use of drugs, when a covered entity acts on the basis of such use. *Current illegal use of drugs* means illegal use of drugs that occurred recently enough to justify a reasonable belief that a person’s drug use is current or that continuing use is a real and ongoing problem.

Illegal use of drugs means the use of one or more drugs, the possession or distribution of which is unlawful under the Controlled Substance Act (21 U.S.C. 812). The term illegal use of drugs does not include the use of drugs taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(b) *Rules of construction:* A public entity shall not discriminate on the basis of illegal use of drugs against an individual who is not engaging in current illegal use of drugs and who:

- (1) Has successfully completed a supervised drug rehabilitation program or has otherwise been successfully rehabilitated;
- (2) Is participating in a supervised drug rehabilitation program; or
- (3) Is erroneously regarded as engaging in such use

(c) It is not a violation of the law for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual who formerly engaged in the illegal use of drugs is not now engaging in the current illegal use of drugs. Nothing in this section shall be constructed to encourage, prohibit, restrict, or authorize the conduct of testing for the use of illegal drugs.

(d) A public entity shall not deny health services, or services provided in connection with drug rehabilitation, to an individual on the basis of that individual’s current illegal use of drugs. If the individual is otherwise entitled to such services.

(e) *Health and drug rehabilitation services:* A public entity shall not deny health services, or services provided in connection with drug rehabilitation, to an individual on the basis of that individual’s current illegal use of drugs, if the individual is otherwise entitled to such services.

Education of the Handicapped Act means that statute, as amended (now IDEA).

Equal Opportunity means the provision of equally effective aids, benefits, and services. To be equally effective does not require the identical result or level of achievement for an individual with a disability and nondisabled persons, but must afford an individual with a disability equal

opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting appropriate to the person's needs.

Facility means all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots, or other real or personal property including the site where the building, property, structure, or equipment is located.

Federal financial assistance means any grant, loan contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the U.S Department of Education provides or otherwise makes available assistance in the form of:

- (1) Funds;
- (2) Services of Federal personnel; or
- (3) Real and personal property or any interest in or use of such property, including:
 - (i) Transfers or leases of such property for less than fair market value or for reduced consideration; and
 - (ii) Proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal Government.

Individual with a Disability means one who: (i) has a physical or mental impairment, even if episodic or in remission, that substantially limits one or more major life activities when active.

Major Life Activities Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. These also include 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.

Parent means a natural, or adoptive, parent or a legal guardian of a student.

Placement means any accommodation that has been determined necessary for a student eligible for 504 services, including the setting (i.e., regular program or other environment) in which services will be delivered.

Physical or mental impairment includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech and hearing impairments cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether

symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism. The phrase ***physical or mental impairment*** does not include homosexuality or bisexuality.

Program or activity means all of the operations of Daviess County Public Schools (DCPS).

Qualified individual with a disability means: With respect to public preschool, elementary, and secondary educational services, an individual with a disability (i) of an age during which nondisabled persons are provided such services, (ii) of any age during which it is mandatory under state law to provide such services to handicapped persons, or (iii) to whom a state is required to provide a free appropriate public education under section 612 of the Education of the Handicapped Act (now IDEA).

Recipient means any state of its political subdivision, any instrumentality of a state of its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

Related Services means transportation and such developmental, corrective, or supportive services as are required to assist a 504 eligible student to benefit from specialized education or to access the school environment or school activities (curricular or extra-curricular).

School Day means any day when all DCPS students are scheduled to be in attendance for instructional purposes.

Section 504 Coordinator/Compliance Officer means the individual assigned to coordinate the DCPS's efforts to comply with Section 504 of the Rehabilitation Act in regards to student 504 services. (Employee/adult related 504 services are coordinated through the district Personnel Department.)

Student Evaluation means the gathering of data to determine (1) eligibility for 504 services and (2) the needs of eligible students.

Substantially limits means: (i) restricted in performing a major life activity as compared to most students in the general population. The 504 team may consider the condition, manner, or duration under which the student performs a particular major life activity as compared to most students in the general population. The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, except for ordinary eyeglasses or contact lenses. "Ordinary eyeglasses or contact lenses" means lenses that are intended to fully correct visual acuity or eliminate refractive error.

Work Day means Monday through Friday, except for DCPS holidays and days when DCPS school-based administrative staff are not contracted to work.

Daviess County Public Schools

Section 504 Procedures

Location and Notification: Child Find

The Section 504 Coordinator of DCPS shall annually:

- a) Undertake activities to identify and locate every qualified individual with a disability, age three (3) to twenty-one (21), residing in the DCPS jurisdiction who is not receiving a public education, or who may need 504 services; and
- b) Take appropriate steps to notify individuals with disabilities and their parents or guardians of DCPS's duty under Section 504.

Preplacement Evaluation Required

The DCPS shall conduct an evaluation of any student who, because of disability needs or is believed to need a 504 accommodation plan before taking any action with respect to the initial placement of the student in 504 and before any subsequent significant change of placement.

Referral and Evaluation

A referral may be initiated by a teacher, parent, administrator or other person inside or outside DCPS.

As soon as possible after the referral is completed, the appropriate 504 team chairperson determines if the student is emancipated, and therefore represents himself in educational decision-making or must be represented by an adult such as a natural, or adoptive, parent or legal guardian.

Data Collection for Evaluation

Requirements for the Section 504 evaluation placement process are determined by the type of mental or physical impairment believed to be present and the type of accommodations the student may need. On academic referrals, the school psychologist should be invited and informed of the process and on medical referrals; the school nurse should be consulted.

If there are medical concerns of the student has been diagnosed privately, then the following should be requested:

- Medical documentation from the treating physician, psychiatrist, or therapist supporting eligibility
- Copy of any private evaluation reports the parents may have already obtained for their child (example: psychological, psychiatric, neurological)

***Note:** A medical diagnosis alone does not determine eligibility.

This information should be supported by school data that supports “substantial” limitation in the educational setting.

Evaluation & Eligibility Determination

After reviewing available information and input from the parents, the 504 team shall identify what additional data, if any, is needed to determine whether the student is eligible for 504 services, and if eligible, any needed accommodations.

If additional data is needed, DCPS ensures 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.

The 504 team reconvenes within 60 school days after DCPS's receipt of written parent consent for initial evaluation to consider the evaluation data and determine eligibility for 504 services.

In determining Section 504 eligibility, a student must have either:

- (1) a current physical or mental impairment, or
- (2) an episodic or in remission impairment which, when active substantially limits major life activity, causing the student's ability to access the school environment or a school activity (curricular or extra-curricular) to be substantially limited.

For students, a temporary impairment does not constitute a disability under Section 504 unless its severity is such that it results in a substantial limitation on a major life activity for an extended period of time. The determination must be made on a case-by-case basis.

Accommodation Plan

A **504 Plan** will only be developed for students who have been evaluated and found eligible for accommodations. It is the responsibility of the 504 team to determine the accommodations needed in order for the student to receive a free appropriate public education (FAPE). Recommendations and/or requests made by parents and/or physicians should be taken into consideration, but the ultimate decision rests with the 504 team. If any changes need to be made to the 504 plan, a Section 504 Review Meeting must be scheduled. **NO CHANGES may be made outside of a formal meeting.**

Once developed, the 504 Plan must be distributed to teachers, administrators, and other school personnel who may be required to implement the plan.

Reevaluations

Section 504s will be reevaluated as determined necessary by the 504 team, or at least

every three years. A reevaluation procedure consistent of reviewing available data and consulting with parents, the 504 team should identify what, if any, additional information is needed to determine continued eligibility or ineligibility.

Annual Reviews

The school's Section 504 chairperson must distribute the 504 plans to teachers, administrators, and other necessary staff members by the first day of class.

An Annual Review Meeting must be scheduled to review the student's current progress and determine if changes need to be made to the accommodations. All meetings and 504 plan changes must be documented on **Section 504 Conference Summary and Accommodation Plan** form. Additional Section 504 plan review meetings may be scheduled throughout the year on an as needed basis.

Parents must be invited to all Section 504 meetings and be provided written notice of the meeting. Parental rights should be provided and explained annually.

Discipline

Section 504 students may be disciplined for violations of the student code of conduct in the same manner as any other student, as long as the disciplinary action does not result in a significant change of placement. A significant change of placement occurs when the student is removed from class for more than 10 days, either consecutively or cumulatively for the school year.

Before the student is removed for the 11th day in any school year and before each subsequent removal period during that school year, a **Manifestation Determination** review meeting must be held to determine if the behavior of the student was or was not a manifestation of the student's current Section 504 disability.

The Manifestation Determination review team should consider:

- a. In terms of the behavior subject to disciplinary action, all relevant information including evaluation and diagnostic results, relevant information supplied by the parents, observations of the student and the student's Section 504 plan.

- b. After the review of this information, the student's Section 504 plan are reviewed in relationship to the behavior subject to the disciplinary action to determine if the Section 504 plan was appropriate and if the accommodations, including needed behavior interventions, were provided consistent with the student's Section 504 plan; and
- c. The team determines if the student's disability directly impaired the ability of the student to understand the impact and consequences of the behavior and if the student's disability directly impaired the ability of the student to control the behavior.

Termination of a Section 504 Plan

If it is believed that a student is no longer eligible for Section 504, the review team must conduct a meeting with the parent and document that the student no longer meets the eligibility criteria. A copy of this form should be sent to the secretary at the DCPS Learning Center.

Responding to Section 504 Discrimination Complaints

Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Amendment Act prohibits discrimination against students with a disability. No discrimination against students with a disability will knowingly be permitted in any of the programs or activities of the Daviess County Public Schools System.

A parent who believes that their child has been discriminated against under Section 504 and ADA may file a grievance with the school, file a complaint with the Office of Civil Rights (OCR), request a due process hearing, OR file suit in federal court. See

Section 504 Impartial Hearing and Review Procedures Hearing Procedure