



## **SECTION 504 HANDBOOK**

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## **Introduction**

### **The Mission of Montgomery County Public Schools (“MCPS”):**

MCPS is an innovative educational community. We value diversity, and we are committed to equity and inclusion. MCPS empowers learners to realize success in an ever-changing global society through collaboration with communities, families, staff, and students. MCPS provides a safe, engaging learning environment and intentional exposure to positive social, emotional, and academic experiences.

In carrying out this mission, the Montgomery County Public School district takes affirmative steps to implement the provisions of Section 504 of the Rehabilitation Act of 1973, as amended (“Section 504”), based on MCPS educators’ belief that all students can learn in order to pursue their dreams. By creating trusting relationships, working together, and building on the strengths of our diversity, we strive to establish a strong educational community. We recognize the importance of providing equitable access to educational opportunities, so that each student can realize his or her potential and contribute to the larger community.

The purpose of this handbook is to provide information and guidance concerning Section 504 to MCPS students, parents and educators. This handbook focuses on those portions of Section 504 that pertain to preschool, elementary and secondary public schools. It is not intended to provide a comprehensive overview of Section 504, nor is it intended to be used as a substitute for legal counsel.

### **Background of Section 504**

During the past thirty years, the United States Congress has passed three major pieces of federal legislation that impact and govern the education of students with disabilities. One of these laws, Section 504 of the Rehabilitation Act of 1973, P.L. 93-516, codified at 29 U.S.C. 794 (“Section 504”), prohibits discrimination on the basis of disability. It reads in relevant part:

*No otherwise qualified individual with a disability in the United States, . . .*

*shall, solely by reason of her or his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.*

Although Section 504 governs the provision of job and training opportunities for adults with disabilities, access to public facilities, and other non-educational issues, it also applies to the provision of public educational services. Broadly speaking, Section 504 prohibits the denial of participation in or enjoyment of the benefits offered by public school programs to students with disabilities. One of the law's purposes is to ensure that all children with disabilities have equal access to an education.

Two years after Congress passed Section 504, it passed the Education for All Handicapped Act, P.L. 94-142, codified at 20 U.S.C. 1400, and later renamed the Individuals with Disabilities Education Act ("IDEA"). A stated requirement of IDEA is to ensure that each qualified student with a disability who requires special education and related services receives what the law refers to as a "free appropriate public education" ("FAPE").

In 1990 Congress passed the third piece of major legislation that afforded protections to students with disabilities, the Americans with Disabilities Act, P.L. 101-336, codified at 42 U.S.C. 12101 ("ADA"). The ADA extended already existing protections to entities that do not receive federal funds.

While these three laws interact and at times overlap, the purpose of this handbook is to assist the Montgomery County Public School ("MCPS") education community in understanding Section 504. As it pertains to education, Section 504's initial purpose was to provide meaningful access to the public schools for students with disabilities.

Section 504's antidiscrimination protection extends to students who are guaranteed certain services and rights under IDEA, as well as to those students who might be considered "pure Section 504" students. Eligible students are entitled to FAPE under both statutes, but the definitions of FAPE are different under each statute. Criteria used to determine student eligibility under each act also differ. Students may be disabled and qualify for services under Section 504, but not be eligible for services under IDEA. Because the procedural and substantive protections provided under IDEA are similar to, and arguably more stringent than those in Section 504, compliance with IDEA generally will mean that a school division is in compliance with Section 504.

This handbook attempts to assist students, parents and educators in understanding the process by which MCPS determines student eligibility and services under Section 504. It is not meant to serve as a definitive or exhaustive

discussion of Section 504. MCPS strives to implement procedures that are consistent with both the letter and the spirit of Section 504. Persons with further questions or concerns should contact MCPS Supervisor of School Counseling and Section 504, Jane Greenough, at (540) 382-5100, ext. 1021 or should consult legal counsel.

### **Eligibility**

It is helpful to think of Section 504 as providing two distinct student rights or protections. The first right is eligibility to receive a free appropriate public education (“FAPE”) for qualified students with disability. Students determined eligible to receive FAPE under Section 504 may require the provision of specific accommodations and related aids and services designed to meet their educational needs as well as the needs of students without disability are met. For a student to qualify for FAPE under Section 504, he or she must be what the law refers to as a “qualified handicapped person”.

A “handicapped person” under Section 504 is a person who:

- (1) has a physical or mental impairment which substantially limits one or more major life activities;
- (2) has a record of such impairment; or
- (3) is regarded as having such an impairment.

For Montgomery County public preschool, elementary or secondary programs, a “qualified handicapped person” is a person who is:

- (1) of an age during which nondisabled persons are provided educational services; or
- (2) of any age during which it is mandatory under Virginia law to provide educational services to disabled persons; or
- (3) to whom Virginia is required to provide a free appropriate public education under the Education for All Handicapped Act (now IDEA).

It is important to realize that only students with a *current* disability are eligible to receive FAPE. Because students with a history of disability or those who are perceived as having a disability do not currently have a disability, they are not eligible to receive FAPE under Section 504.

Under Section 504, a “**physical or mental impairment**” means:

- (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; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- (2) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disability.

**The term “major life activities”** refers to functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, communicating, and working. The term also refers to major bodily functions such as functions of the immune, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive systems, and normal cell growth.

Assuming that a student is a qualified handicapped person as described above, he or she shall receive a free appropriate public education (FAPE), regardless of the nature or severity of his or her disability. An “appropriate education” is the provision of regular or special education and related aids and services that are:

- (1) designed to meet individual educational needs of disabled persons as adequately as the needs of nondisabled persons are met; and
- (2) based upon adherence to procedures set forth in Section 504.

To be determined eligible for FAPE under Section 504, a student need not be limited only in the major life activity of learning. For example, a student with asthma may be substantially limited in the major life activity of breathing and may be eligible for a Section 504 plan.

The term “**noticeably restricted**” is not defined in the implementing regulations for Section 504. Schools have turned for guidance to implementing regulations for the Americans with Disabilities Act (“ADA”), which also protects qualified disabled persons who have an impairment that substantially limits one or more major life activities. Under the ADA, a major life activity is noticeably restricted when a person is:

- (1) unable to perform a major life activity that the average person in the general population can perform; or
- (2) noticeably restricted as to the condition, manner or duration under which the individual can perform a particular major life activity as compared to the condition, manner or duration under which the average person in the general population can perform the same major life activity.

An example of the first situation might be a paraplegic person who is substantially limited in the major life activity of walking. An example of the second situation might be a person who is only able to walk for brief periods of time or a person who loses his balance and/or falls every few steps.

When making determinations regarding a student's eligibility under Section 504, the student's team members should consider each situation on a case-by-case basis. Eligibility teams should begin with the determination of an impairment, such as ADHD or cancer, as the necessary starting point. However, the mere presence of an impairment is not enough. Next, a determination must be made that the impairment limits a major life activity. An array of measures, such as report card grades, standardized test scores, medical data, and observations of the student, should be considered when making a judgment about whether an impairment has noticeably restricted a student's ability to perform a major life activity.

The second right or protection afforded persons with disability under Section 504 is the law's prohibition against excluding persons with disability from participation in, or denying them the benefits of educational services, or in any other manner discriminating against them, because of their disabilities. Montgomery County Public Schools will not:

- (1) deny a qualified disabled person the opportunity to participate in or benefit from any aid, benefit or service it provides;
- (2) afford a qualified disabled person an opportunity to participate in or benefit from the aid, benefit or service it provides that is not equal to that afforded others;
- (3) provide a qualified disabled person an aid, benefit or service that is not as effective as that provided to others;
- (4) provide different or separate aids, benefits or services to disabled

persons or to any class of disabled persons unless such action is necessary to provide qualified disabled persons with aids, benefits or services that are as effective as those provided to others;

- (5) aid or perpetuate discrimination against a qualified disabled person by providing significant assistance to any agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit or services to beneficiaries of MCPS programs or activities;
- (6) deny qualified disabled persons the opportunity to participate as a member of planning or advisory boards; or
- (7) otherwise limit a qualified disabled person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit or service from MCPS. Note that to be considered “equally effective”, aids, benefits and services are NOT required to produce the identical result or level of achievement for disabled and nondisabled persons, but must afford disabled persons 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.

### **Compliance**

Montgomery County Public Schools (“MCPS”) adheres to the requirements of Section 504. Our Section 504 compliance program includes a process by which children with disabilities who may be in need of Section 504 services are identified, evaluated, and placed by a team of knowledgeable persons, including the student’s parents, in accordance with the child’s educational needs to ensure that the child has equal access to and the opportunity to progress in the classroom.

The Montgomery County School Board has approved written policies that advise parents and their children with disabilities of the school district’s responsibility to identify, evaluate and, where appropriate, provide a free appropriate public education (“FAPE”) to children with disabilities under either the Individuals with Disabilities Education Act or Section 504. (See Montgomery County School Board Policy 7-1.2; Educational Services for Persons with Disabilities.) In order to meet Section 504’s procedural mandates, MCPS utilizes a system of procedures that includes:

- (1) appropriate notice to parents regarding all phases of identification,



evaluation, placement and educational services / program development for eligible Section 504 students;

(2) an opportunity for parents to review all relevant records;

(3) an impartial hearing system with the opportunity for participation by parents and, if they choose, representation by counsel; and

(4) a review procedure.

MCPS has designated a district-wide Section 504 Compliance Officer as well as a Supervisor of Section 504 to oversee its' Section 504 compliance efforts. In addition, each MCPS principal designates a Section 504 Building Representative to coordinate Section 504 efforts at the building level. Finally, MCPS offers workshops and information sessions to educators and others who work with Section 504 students.

### **The Section 504 Process**

#### **Child Find**

Montgomery County Public Schools ("MCPS") maintains what are commonly referred to as on-going "child find" activities. At least annually, MCPS undertakes to locate and identify qualified students with disabilities and to advise the public of the school district's responsibilities under Section 504 and the Individuals with Disabilities Education Act ("IDEA"). MCPS will make every reasonable effort to identify and locate every qualified disabled student residing in Montgomery County who is not receiving a public education and shall inform the parents of those potentially qualified students who may be attending private schools or who may be home schooled of its duties under Section 504.

#### **Referral**

Persons who may refer a student for Section 504 evaluation include parents, teachers, counselors, support personnel, administrators, and other persons knowledgeable about the student, who suspect that the student has a disability and may be eligible for services under Section 504. The referral should be made in writing (Form 504/1, Section 504 Referral) to the Section 504 Building Representative.

Once a referral is made, the Section 504 Building Representative will notify the student's parents in writing (Form 504/2, Notice of a Section 504 Meeting) of the date, time and location of the Section 504 meeting during which the team will

initially consider the referral.

## **Section 504 Team**

Each Montgomery County public school has a Section 504 Building Representative, who will convene an appropriate Section 504 team, whenever necessary. The Section 504 team's role is to process Section 504 referrals, make eligibility determinations, and develop, implement and revise Section 504 plans. Section 504 teams are composed of persons knowledgeable about the meaning of evaluation data and the placement options available for eligible students and should include at least one person knowledgeable about the student, such as the student's teacher or another service provider (such as a school nurse).

When convened to consider a Section 504 referral, a Section 504 team will follow a process that may result in its taking one of three actions. The team may determine that:

- (1) the student should receive a Section 504 evaluation because he or she might be in need of Section 504 accommodations and/or services due to a disability that noticeably restricts one or more of the child's major life activities;
- (2) impairments in remission or episodic qualify as disabilities if when active they noticeably restricts a major life activity
- (3) noticeably restricts determination is to be made without regard to measures instituted to lessen the severity or intensity of the disability mitigating measures may include: medication, medical supplies, low-vision devices, hearing aids and other implantable hearing devices, mobility devices, oxygen therapy equipment/supplies, assistive technology, "reasonable accommodations", auxiliary aids/services, learned behavioral or adaptive neurological modifications [internal coping mechanism(s) used to compensate for a disability]
- (4) the student should be evaluated as a student with a disability for special education services under IDEA, in which case the Section 504 Building Representative should promptly, and in no case later than five days, forward the minutes of the Section 504 team meeting to the special education consulting teacher in the student's school; or
- (5) the student should not be evaluated for Section 504 eligibility in which case the team shall document the reasons why the initial referral did

not result in a Section 504 evaluation and that it provided the student's parents with a copy of the procedural safeguards.

### **Section 504 Building Representative**

The Section 504 Building Representative in each Montgomery County public school has a number of roles and responsibilities for complying with Section 504 requirements, including:

- (1) providing parents with advanced written notice of the date, time and location of any Section 504 team meeting
- (2) providing parents with an explanation of the purpose and specific components MCPS proposes to use during the evaluation process;
- (3) providing parents with a copy of procedural safeguards for the Section 504 eligibility process
- (4) obtaining written permission from parents for evaluating their child and, when necessary, for releasing and/or exchanging information regarding their child with outside education and/or health providers.
- (5) coordinating all efforts of the Section 504 team, including maintaining all appropriate documents and sending a copy of completed Section 504 forms to the MCPS Supervisor of Section 504, as needed.

### **Evaluation**

Evaluations do not necessarily include formal testing. Generally, evaluation refers to the gathering of information from a variety of sources and may include medical information, psychological information, educational evaluations or other information from the student's educational file, sociological information, and other relevant information.

After the student's parents have provided written permission to evaluate, the Section 504 team shall determine what evaluations need to be completed. If the Section 504 team determines that additional testing is required, the Section 504 Building Representative will provide parents with an explanation of the purpose and specific components of such additional testing. The Section 504 Building Representative shall also provide parents with a copy of procedural safeguards for the Section 504 eligibility process and obtain written permission from parents to release and/or exchange information regarding their child with outside education and/or health providers, if necessary.

MCPS ensures that tests and evaluation materials:

- (1) are validated for the specific purpose for which they are used and are administered by trained personnel in accordance with instructions provided by the tests' producers;
- (2) include those tests tailored to assess specific areas of educational need and not merely those which are designed to provide a single intelligence quotient; and
- (3) are selected and administered 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).

The Section 504 evaluation process should take no longer than 65 business days after receipt of the parent's written permission to evaluate. The Section 504 Building Representative will coordinate the completion of all evaluation components and collect documents necessary to do so. Once they are completed, the Section 504 Building Representative will notify the student's parents in writing of the date, time and location of the meeting during which the Section 504 team will determine the student's eligibility for Section 504 services.

In determining the student's eligibility for Section 504 services, the Section 504 team will:

- (1) draw upon information from a variety of sources, including aptitude and achievement testing, teacher recommendations, information about physical condition, social or cultural background, and adaptive behavior and parent input; and
- (2) make a decision regarding eligibility that is based on whether or not the student has a current physical or mental impairment that substantially limits a major life activity. The mere existence of a physical or mental impairment alone does not mean that a student automatically qualifies to receive Section 504 services.
- (4) document its eligibility decision and notify parents of the evaluation results, if they did not attend the eligibility meeting.

## **Re-Evaluation**

MCPS re-evaluates students who have received Section 504 eligibility every three years, unless the parent and/or school personnel request an earlier re-evaluation. The Section 504 team will convene with notice to the student's parents to decide if additional information is required to determine continued eligibility under Section 504. In some cases, review of existing data and other information will be sufficient. If the team determines that new evaluations are necessary, the Section 504 Building Representative shall obtain written parental permission for their completion and/or exchange of confidential information. If the student's parents do not attend the re-evaluation meeting, the Section 504 Building Representative shall provide the parents with written notification of the team's determination.

## **Section 504 Plan / Placement**

If the Section 504 team determines that a student is eligible to receive services or accommodations under Section 504, the team shall develop and implement a Section 504 Plan (VA IEP). The 504 Plan should describe accommodations and/or services to be provided for the student. The team may consider and review such areas as modification to the student's academic program, adaptations to testing procedures, behavioral intervention strategies, or other specialized services. (Note that accommodations used for state and district-wide testing must be those used in the classroom on an on-going basis.)

The Section 504 Building Representative shall notify the student's parents in writing of the date, time and location of the meeting at which the Section 504 team will develop the student's Section 504 Plan. The Section 504 team may develop the 504 Plan immediately following the student's eligibility as a qualified person to receive Section 504 accommodations and/or services, or may schedule another meeting for this purpose. The 504 Plan should be developed within 30 calendar days following the team's eligibility determination.

In determining what services will be included in the student's Section 504 Plan, the Section 504 team should consider the following:

(1) Least Restrictive Environment:

- a. The team shall create a placement for the Section 504 student that ensures the provision of educational services with persons who are not disabled to the maximum extent possible

appropriate to the needs of the qualified student.

- b. The team shall presume that the regular classroom is the appropriate placement, unless it is demonstrated that the qualified student's education in the regular classroom with the use of supplementary aids and services cannot be achieved satisfactorily. If the team places a qualified student in a setting other than the regular classroom, it shall be appropriate to meet the student's needs.
- c. All 504 accommodations must be related to the qualifying disability.

(2) Free Appropriate Public Education:

- a. The Section 504 team ensures that the services are designed to meet the individual needs of the Section 504 student as adequately as the needs of students without disability are met.
- b. A qualified student's educational program under Section 504 is provided without cost to the parent of the qualified student, regardless of where those services are provided or by whom.
- c. If MCPS has made available a free appropriate public education as required by Section 504 and the qualified student or his/her parents choose to place the student in a private school, MCPS is not required to pay for the qualified student's education in the private school or provide the Section 504 services in the private school. MCPS may consider, with parental consent, sharing the plan with the private school.
- d. Section 504 students are entitled to access opportunities for nonacademic services and extracurricular activities that are equal to those offered to their nondisabled peers.

The Section 504 Building Representative shall provide a copy of the Section 504 Plan to the student's parents, and shall provide to teachers and other service providers a copy of the 504 Plan's provisions that each is expected to implement. The 504 Plan shall be implemented within five school days of its development. Any delay in the implementation of services described in the 504 Plan shall be documented in writing to the parents with an explanation of what steps will be taken to compensate the student for the delay. The Section 504 Building Representative, with assistance from the MCPS Supervisor of Section

504, when requested shall:

- (1) monitor compliance with the student's Section 504 Plan;
- (2) ensure that teachers and other service providers receive any necessary training in order to assist them in fulfilling their responsibilities to implement provisions of the student's 504 Plan;
- (3) ensure that the Section 504 requirements for a free appropriate public education are followed;
- (4) track timelines associated with the Section 504 process; and
- (5) ensure the transition of the student's Section 504 Plan when the student moves to the next school setting.

### **Annual Review**

The Section 504 team shall review the student's Section 504 Plan at least annually, but more frequently when revisions are necessary or if the student's parents make a reasonable request for the team to review and/or revise the 504 Plan. The Section 504 Building Representative shall convene a meeting of the student's team for the purpose of reviewing his or her Section 504 Plan. At this meeting team members shall review the student's plan and make changes, if necessary.

Parents should be invited to this meeting with notice. Secondary students and students who have reached the age of majority are encouraged to participate in developing their plan. Following this meeting, the Section 504 Building Representative shall provide a copy of the new Section 504 Plan to parents and all staff members who will be expected to carry out provisions of the plan.

### **Termination of Section 504 Services**

A qualified student's teacher, parent, the student, or a school administrator may request the Section 504 team convene to determine if a student continues to be eligible for Section 504 services. In reviewing such a request, the Section 504 team shall:

- (1) consider all current assessments and other relevant information;

- (2) determine if any updated formal evaluations are necessary; and
- (3) determine the student's eligibility as a qualified Section 504 student. In so doing, the Section 504 team shall ensure that:
  - a. the student's parents receive notice of the team's meeting
  - b. it documents its decision and
  - c. The parents receive written communication of the team's decision and a copy of the Section 504 Procedural Safeguards document.

If the Section 504 team determines that a student is no longer eligible under Section 504 and therefore no longer requires a Section 504 Plan, the Section 504 Building Representative shall provide written notice of the student's non-eligibility to the parents and to the Supervisor of Section 504.

### **Notice**

All notices to the student's parents regarding meetings identified in these procedures will be provided by the Section 504 Building Representative in writing and in sufficient time for the parent to attend the meetings. The notices will contain the date, time, location, and purpose of the meetings. Reasonable alternative arrangements shall be provided to the parent to receive the information if the parent cannot attend the meetings, including rescheduling the meetings at the parent's request.

If the parent's dominant language is not English, MCPS will make a good faith effort to provide notices to the parent in the parent's native language and an opportunity for effective parent participation in the Section 504 process through other means. MCPS ensures that no qualified disabled person shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any MCPS program or activity.

The Section 504 Building Representative shall also provide qualified students' parents with copies of Section 504 Procedural Safeguards.

### **Student Records**

Copies of all forms, documents, evaluations, and other pertinent student



record information are maintained in the student's file, located at their school. MCPS protects the confidentiality of all student records as provided by applicable law and provides parents with the opportunity to examine all relevant records.

## **Discipline**

The following procedures apply to qualified students receiving Section 504 services who are involved in disciplinary incidents. Also please refer to the flowchart, "Disciplinary Procedures for 504 Students", which follows in this section.

- (1) Disciplinary removals for fewer than 10 school days (short-term removals) are subject to the same requirements as found in the federal and state regulations governing eligible students under the Individuals with Disabilities Education Act ("IDEA");
- (2) Disciplinary removals for more than 10 school days (long-term removals) and series of short-term removals in excess of 10 school days that establish a pattern of removal are subject to the same requirements as found in the federal and state regulations governing eligible students under the IDEA, except:
  - a. A qualified student who currently is engaging in the illegal use of drugs or in the illegal use of alcohol may be removed from his/her educational placement for a drug or alcohol offense to the same extent that such disciplinary action is taken against nondisabled students in Montgomery County Public Schools (MCPS).
  - b. In such an instance, no Section 504 evaluation, manifestation determination procedure, or due process hearing shall be conducted. Educational services will be provided only to the same extent as they are to nondisabled students following such disciplinary action.
  - c. A qualified student, who is simply in possession of, but not currently using illegal drugs or alcohol, is entitled to all procedural protections. The Section 504 team will convene to conduct a manifestation determination review.

When expulsion or long-term suspension of a student with a Section 504 Plan is being considered, the student's Section 504 team should convene to evaluate the relationship between the student's disability and misbehavior in order to determine whether the misbehavior was or was not a manifestation of the

student's disability. Team members should have available current information that will give them understanding of the student's misbehavior, such as attendance and academic records, psychological evaluation data, behavior plans, discipline records, staff observations and annotative records when making this determination.

Those making the manifestation determination will decide whether the current educational placement is appropriate by considering:

- (1) Are the accommodations in the student's Section 504 Plan appropriate as they serve the student's educational needs?
- (2) Were the accommodations in place at the time of the alleged infraction?

If the plan is determined to be both appropriate and in place, the team will next consider if the misconduct was caused by or had a direct and substantial relationship to his/her disability.

The team's determinations should be documented in writing (Form 504/8, Evaluation and Manifestation Determination Report) and sent to the student's parents along with a copy of 504 procedural safeguards (Form 504/3, Procedural Safeguards), if they did not attend the meeting.

If the team determines that the misconduct was not a manifestation of the student's disability, the school can impose whatever long-term suspension or expulsion it would impose under the same circumstances if a student without disability were the offender. The school is not required to provide educational services to a Section 504 student during this period of suspension or expulsion, if such services are not provided to students without disability during such suspensions/expulsions.

If it is determined that the misconduct was a manifestation of the student's disability, the student may not be suspended or expelled, and the team should revise the student's Section 504 Plan to meet the student's current needs.

School personnel may remove a student with a disability to an appropriate interim alternative educational setting for the same amount of time that a student without a disability would be subject to discipline, but for not more than 45 calendar days, if:

- (1) The student carries a weapon to or possesses a weapon at school or at a school function.

(2) The student knowingly possesses or uses illegal drugs or sells or solicits sale of a controlled substance while at school or at a school function.

In such a situation, the interim alternative educational setting shall be determined by the Section 504 team and must be selected so as to enable the student to:

(1) Continue to progress in the general curriculum, although in another setting;

(2) Continue to receive those services and modifications including those described in the student's current Section 504 Plan; and

(3) Include services and modifications that address the behavior and are designed to prevent the behavior from occurring.

**Disciplinary Procedures for 504 Students  
Student referred for disciplinary action**

**Administrator refers to student information data system or consults with 504 Building Representative to identify if student has 504 eligibility**

**If the student is not a 504 student, check the student information data system or with a Special Education consulting teacher to see if the student has special education eligibility. If neither 504 nor special education eligibility exists for student, proceed with routine disciplinary procedures and disregard the rest of this chart.**

**If a student is eligible under Section 504, obtain the student's discipline records to determine the number of cumulative days suspended during the current school year.**

**Follow Disciplinary Procedures for Students with Disabilities  
(Special Education)**

**If less than ten, continue routine disciplinary procedures. Consult student's 504 plan to determine if accommodations are necessary during administration of these procedures.**

**If ten or more cumulative days, call or email the Building 504 Representative to set a date and time for a Manifestation Determination and re-evaluation meeting. Make every effort for this meeting to occur prior to the 11<sup>th</sup> day that the student is removed from school.**

**504 Building Representative will notify parent/guardian of the date, time, and location of this meeting.**

**Middle and high schools should have the student present at the meeting when possible. A printout of the student's total discipline record with descriptions of the infractions and current 504 plan should be available. Supervisor of 504 will facilitate the meeting process. The outcome of the Manifestation Determination will determine what follow-up procedures are required.**

**Dispute Resolution and Grievance Procedure**

Montgomery County Public Schools ("MCPS") is committed to working with parents whose children attend our schools and with our students. To this end MCPS has in place policies and dispute resolution and grievance procedures regarding identification, evaluation and placement of a student with a disability (Policy 7-1.2 Educational Services for Persons with Disabilities and harassment/discrimination based on Policy 7.1.1. )

Parents or students who wish to challenge decisions regarding identification, evaluation and placement of a student with a disability should complete the Complaint of Discrimination Form and send it to the MCPS Section 504 Coordinator.

Parents and students may also file a written complaint at any time with the federal Office for Civil Rights (“OCR”). For a copy of OCR’s complaint form and procedures, contact:

Office for Civil Rights  
U. S. Department of Education  
400 Maryland Avenue, S.W.  
Washington, D. C. 20202-1475

Telephone:  
(202)-453-6020  
1-800-421-3481

### **Procedural Information**

Montgomery County Public Schools (“MCPS”) ensures that the parents of a student qualified to receive services under Section 504 are provided with a copy of the procedural safeguards document, that includes provisions for notice, an opportunity for the parent of a qualified student to examine relevant records, an impartial hearing with an opportunity for participation by the student's parent and representation by an attorney, and a review procedure. MCPS at a minimum provides this procedural safeguards document to parents when their child is:

- (1) referred to a Section 504 team;
- (2) determined not to be eligible as a qualified student under Section 504;
- (3) whenever the student’s parents request a copy of the document.