

## **Discipline of Students Under Section 504 and ADA**

Under various federal and state laws and regulations, students with disabilities may not be discriminated against in discipline matters on the basis of their disability or impairment. In addition to those rights set forth in the Policies Handbook of the Worcester Public Schools, the following procedures will be implemented to comply with state and federal law and regulations regarding students with disabilities. Procedures for students eligible for special education services and/or 504 accommodations and/or related services are set forth in "Discipline of Special Needs Students" in this handbook.

### **1. Definition**

A student with a disability is a student who has had or is perceived to have a physical or mental impairment that materially limits one or more major life activities. This category includes students who are found to have such an impairment currently, have a record of having such an impairment, or who are perceived as having such an impairment.

### **2. Procedure**

In the event that a student is found to have violated a school rule after implementing the general due process procedures (notice and hearing) provided in this handbook or under other school policies, the principal or his/her designee shall ascertain whether the student has been identified as a student with a disability under Section 504.

- a. If the student has not been identified as disabled, the principal or his/her designee must consider whether the circumstances surrounding the disciplinary incident suggest the existence of a disability.
- b. In the event that the principal or his/her designee concludes that there is no reason to suspect a disability, the student may be disciplined according to the regular disciplinary sanction under the Worcester Public Schools Code of Conduct.
- c. If the circumstances suggest that the student may be disabled, the principal or his/her designee shall refer the student to the 504 Committee to evaluate whether the student has a disability.
- d. If the student is identified or has previously been identified as a student with a disability under Section 504, prior to taking disciplinary action which would result in a suspension of one (1) to ten (10) days the principal or his/her designee shall determine whether the student's misconduct is a manifestation of his/her disability and assure that all disciplinary actions are consistent with the mandates of Section 504.
- e. If the student is identified or has previously been identified as a student with a disability under Section 504 and/or is so identified upon an initial 504 evaluation and the disciplinary sanction, or cumulative disciplinary sanction could result in a suspension from school for more than ten (10) days, and the 504 Committee determines that:
  - (i) The student is, or continues to be, disabled and his/her misconduct has a direct and substantial relationship to his/her disability.
  - (ii) The violation of school rules is a direct result of a failure to accommodate the student's disability or an inappropriate or unimplemented 504 plan.

The student will not be suspended from school; provided, however, the 504 Committee may determine that the student's 504 plan should include modifications to address the student's misconduct including, but not limited to, delivery of educational services at an alternative site, behavioral modification or support plans, or any other appropriate modification or accommodation or disciplinary consequence consistent with Section 504.

- f. In the event that the student previously has been identified as a student with a disability under Section 504 and/or upon an initial 504 evaluation the 504 Committee determines that the student is, or continues to be, disabled but his/her violation of school rules is not related to his/her disability, a failure to accommodate or an inappropriate or unimplemented 504 plan, regular disciplinary sanctions under the Worcester Public Schools Code of Conduct may be imposed.

### **3. Evaluation/Re-evaluation**

Initial evaluations pursuant to this policy, and re-evaluations of students with disabilities under Section 504, who may be subject to suspension or expulsion for more than ten (10) cumulative days, shall be conducted pursuant to Section 504. Determination of disability and disability relatedness under Subpart 2 (a), (c), (d) and (e) of this Policy, by the 504 Committee pursuant to this policy, will be made prior to the imposition of a disciplinary sanction.