

Brookfield Public Schools



Section 504 of the Rehabilitation Act Manual

Revised 2023

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Acknowledgements

The Brookfield Board of Education's Section 504 Manual has been developed to provide educators and parents with general information regarding the implementation of Section 504 of the Rehabilitation Act of 1973, 29 USC SS 791, 793-794 (2006), **a federal civil rights law**, in the Brookfield Public Schools.

With the support from the Law Firm Chinni and Meuser (2021), this manual was developed by the Superintendent of Schools, Assistant Superintendent of Schools, and the Director of Special Education. This manual has been revised for directory information by the Director of Special Education February 2023.

Introductions

Section 504 provides that, "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"

Section 504 of the Rehabilitation Act of 1973 ("Section 504") is a federal law designed to protect the rights of people with disabilities in programs and activities that receive federal funds from the U.S. Department of Education. The Office for Civil Rights ("OCR"), a sub-agency of the U.S. Department of Education, is responsible for protecting the civil rights of students in federally assisted education programs and prohibiting discrimination on the basis of race, color, national origin, sex, disability, age, or membership in patriotic youth organizations.

In the setting of a public school, Section 504 applies to the employment of persons with disabilities, access to programs and services offered by the District to persons with disabilities, and the provision of a free appropriate public education to students with disabilities who attend the Brookfield Public Schools. The regulations implementing Section 504 have a series of requirements for each group of people who are protected by Section 504.

This manual is divided into three sections:

- **Part A:** Board of Education *Public Notice, Notice of Nondiscrimination and District/Building Coordinators/Contacts*;
- **Part B:** Procedures utilized by the District to *identify, evaluate, and provide services* for students who meet the criteria of disabled for purposes of Section 504, including information on student and educator support services, participation in extracurricular and nonacademic activities for identified students, and discipline for identified students;
- **Part C:** *Grievance procedures* for alleging violations of Section 504, unrelated to providing students with a free appropriate public education ("FAPE") under Section 504.

Section 1:

Part A

Part A **PUBLIC NOTICE**

The Brookfield Board of Education shall provide continuing notice to the public and the staff and students that it does not discriminate on the basis of disability with regard to admission or access to, or treatment or employment in programs and activities of the Brookfield Board of Education. Continuing notification may include the posting of notices, publication in local newspapers, placement of notices in school district publications and student/parent handbooks and distribution of memoranda or other written communication.

NOTICE OF NON-DISCRIMINATION

The Brookfield Public Schools (the District) is committed to a policy of equal opportunity/affirmative action for all qualified persons. The District does not discriminate in any employment practice, education program, or educational activity on the basis of **race, color, religious creed, sex, age, national origin, ancestry, marital status, sexual orientation, gender identity or expression, disability (including, but not limited to, intellectual disability, past or present history of mental disorder, physical disability, or learning disability), genetic information, or any other basis prohibited by Connecticut state and/or federal nondiscrimination laws. The District does not unlawfully discriminate in employment and licensing against qualified persons with a prior criminal conviction.**

Any person having inquiries concerning the District's compliance with the regulations implementing Section 504 is directed to contact the Director of Special Education. The Director of Human Resources has been designated to coordinate the Board of Education efforts to comply with the regulations implementing Section 504.

At any time, a complainant has the right to file a formal complaint with:

Office of Civil Rights
U.S. Department of Education
5 Post Office Square
8th Floor, Suite 900
Boston, MA 02109-3921
(617) 289-0111 - Phone
(617) 289-0150 - fax
(877) 521-2172-TDD

<https://www2.ed.gov/about/offices/list/ocr/504faq.html>

District/Building Contacts

District Sec. 504 Coordinator: Amy DeNicola-Hickman Director of Special Education
Brookfield Public Schools, 100 Pocono Road, Brookfield, CT 06804, 203-775-7748

Questions regarding services for students who may be disabled under the provisions of Section 504 may be directed to the following:

Center Elementary School, the Principal has designated **Rebecca Lyons, the School Social Worker** to oversee Section 504 procedures and act as the Section 504 Coordinator for the building.

Huckleberry Elementary School, the Principal has designated **Brooke Baldelli, School Social Worker and Danielle Rudl, the Assistant Principal**, to oversee Section 504 procedures and act as the Section 504 Coordinator(s) for the building.

Whisconier Middle School, the Principal has designated the **School Counselor(s)** to oversee Section 504 procedures and act as the Section 504 Coordinator(s) for the building.

Brookfield High School, the Principal has designated **Jen Giolio, School Counselor Team Leader**, to oversee Section 504 procedures and act as the Section 504 Coordinator.

Questions for adults with disabilities working for the District or utilizing the buildings and programs of the Brookfield Public Schools, may be directed to the **Human Resources. Phone Number: (203) 775-7623**

Parents/guardians and other adults who may need assistance to access the facilities or programs of the Brookfield Public Schools may also contact the following school administrators for information.

Brookfield High School: Mr. Marc Balanda
203-775-7730

Whisconier Middle School: Mr. Deane Renda
203-775-7720

Huckleberry Hill Elementary School: Dr. David Pepsoski
203-775-7680

Center Elementary School: Mrs. Debbie Farias
203-775-7655

SECTION 2

PART B

DISTRICT RESPONSIBILITIES FOR STUDENTS WITH DISABILITIES UNDER SECTION 504

General Responsibilities

No child with a disability can be excluded from any program offered or operated by the Brookfield Board of Education because of his or her disability. To that end, the Brookfield Public Schools are required by Section 504 to ensure that the following occurs:

- ❖ Annually locate and identify all unserved students with disabilities residing in the District;
- ❖ Provide every student who has a disability, as defined under Section 504, regardless of the nature or severity of the disability, with *a free appropriate public education* ("FAPE"). The provision of FAPE under Section 504 means providing regular or special education and related services designed to meet the individual education needs of a student with a disability as adequately as the needs of student without disabilities are met and that are provided without cost (except for fees imposed on nondisabled students/parents);
- ❖ Educate students with disabilities with non-disabled students to the maximum extent appropriate to the needs of the student with a disability;
- ❖ Establish procedural safeguards to enable parents and guardians to participate meaningfully in decisions regarding the evaluation and placement of their children and that allow them to object to evaluation and placement decisions regarding their children;
- ❖ Afford students with disabilities an equal opportunity to participate in nonacademic and extracurricular services and activities;
- ❖ Establish nondiscriminatory evaluation and placement procedures to avoid inappropriate education that may result from the misclassification or misplacement of students.

Each school district is responsible for designating a Section 504 Coordinator. The Section 504 Coordinator for the Brookfield Public Schools the Director of Special Education (see contact information in Part A).

The Section 504 Coordinator is responsible for ensuring that the District:

- ❖ Develops Child Find procedures
- ❖ Provides a free and appropriate public education to each student with a disability regardless of the nature or severity of the disability

- ❖ Affords students with disabilities an equal opportunity to participate in nonacademic and extracurricular activities
- ❖ Establishes nondiscriminatory evaluation and placement procedures
- ❖ Develops a district wide compliance plan
- ❖ Develops, implements, and disseminates procedural safeguards
- ❖ Locates and appoints building level designees
- ❖ Communicates district wide procedures to staff and parents
- ❖ Develops a system of reviewing 504 plans

Criteria for Finding a Student Protected Under Section 504

Section 504 covers students with disabilities who attend schools receiving federal financial assistance. To be protected under Section 504, a student must be determined to:

- ❖ Have a physical or mental impairment that substantially limits one or more major life activities;
- ❖ Have a record of such impairment; or
- ❖ Be regarded as having such impairment.

Section 504 requires that school districts provide a free appropriate public education to qualified students in their jurisdiction attending public schools who have a physical or mental impairment that substantially limits one or more major life activities.

Child Find Obligations: IDEA/504 Overlaps

Public school districts have varied responsibilities to locate, identify, and evaluate students ("Child Find") who may have a disability that would make that student a qualified disabled student under Section 504 or eligible for special education under the Individuals with Disabilities Education Act ("IDEA"). The Child Find obligations under Section 504 and IDEA overlap considerably. In addition, because of the broad definition of "disability" under Section 504, all students eligible for special education under the IDEA are also qualified students with a disability for purposes of Section 504; however not all students with a disability for purposes of Section 504 are eligible for special education under the IDEA. Under the IDEA public schools are required to locate, identify, and evaluate **all children** with disabilities from **birth through age 22** (with the bulk of the Child Find obligations for children ages Birth to Three falling to the state Birth to Three system operated by the Department of Developmental Services). The Child Find mandate under the IDEA applies to all children who reside within a state, including children who attend private schools and public schools, highly mobile children, migrant children, homeless children, and children who are wards of the state. (20 U.S.C. § 1412(a)(3)). In order to be eligible for IDEA services, the student must be found to have a disability (or combination of disabilities) defined in the IDEA, the disability must adversely affect the student's educational performance, and because of the disability and the adverse impact on educational performance, the student needs specially designed instruction.

Unlike the IDEA, the criteria for finding a student disabled for purposes of **Section 504 does not**

require finding that the student's disability adversely affects the student's educational performance, nor does it require a finding that because of the student's disability and the adverse impact on educational performance, the student needs specially designed instruction. The criteria for meeting the definition of "disability" under Section 504 are broader than under the IDEA. This is due to the fact that the purpose of Section 504 is to ensure that students with disabilities have *access to* and can participate in the programs and services of the public school and *are not discriminated against* because of their disability.

Academic and behavioral issues may raise concerns about whether or not a student may have a disability that would require a referral to either a 504 team or Planning and Placement Team (PPT) for evaluation. There are also *other circumstances* where a consideration that a student might be identified as disabled under Section 504 should be raised:

- ❖ Recurrent suspensions or an expulsion
- ❖ Absence of student due to serious illness, accident, or hospitalization
- ❖ Return of student after a serious illness, accident, or hospitalization
- ❖ Pattern of not benefiting from instruction
- ❖ Chronic health condition/disease/disability (can be episodic or in remission)
- ❖ High absenteeism
- ❖ Pattern of discipline referrals
- ❖ Suspected drug or alcohol abuse*

In addition to school age children who are eligible for special education services under the IDEA, students with communicable diseases, attention deficit disorders (ADD/ADHD), behavior disorders, chronic asthma, severe allergies, physical disabilities, diabetes, and any other physical or mental impairments that substantially limit one or more major life activities may be students with disabilities protected under Section 504.

***Active drug users are not entitled to any protections under Section 504. However conditions of addiction or alcoholism may constitute physical or mental impairments that substantially limits one or more life activities.**

ADMINISTRATIVE PROCEDURES

SECTION 504 OF THE REHABILITATION ACT OF 1973

Referral:

Anyone, including, but not limited to all staff members, parents, teachers, or school nurses, can refer a student for evaluation to determine if the student has a disability as defined in Section 504.

A 504 Team will be convened to consider the referral. The 504 Team will consider the referral and, based upon a review of the student's existing records, including academic, social, and behavioral records, make a decision as to whether an evaluation is required, and will inform the parents or guardian of this decision and of their procedural rights.

If the 504 Team has reason to believe the student needs or is believed to need accommodations, modifications, or services not available through general education, including special education or related services the District must evaluate the student to determine whether the student is disabled as defined by Section 504. (See *Protecting Students with Disabilities, Frequently Asked Questions About Section 504 and the Education of Children with Disabilities*, OCR, 12/19/13).

If the 504 Team does not have reason to believe that the student needs accommodations, modifications, special education or related services, and refuses to evaluate the student, the District will notify the parents of their due process rights.

Parents must be provided with notice of the Section 504 meeting and attempts should be made to convene the meeting at a mutually agreeable date and time as parental participation is important in the Section 504 referral and eligibility process. If a parent does not attend the initial eligibility meeting, the Section 504 coordinator for the school should ensure that the parents have been given their procedural rights and copies of any and all documents reviewed by the Section 504 team or developed at the meeting.

The Section 504 team will be composed of persons *knowledgeable about the student*, the meaning of evaluation data, and the placement options. The Section 504 Coordinator will monitor the composition of the Section 504 team to ensure that qualified personnel participate.

Identification

In determining whether a student qualifies under Section 504, the Section 504 team must conduct the following inquiry:

Does the student have a physical or mental impairment that substantially limits one or more of such student's major life activities?

The Section 504 team may develop and implement a Section 504 accommodation plan for a student who currently has a physical or mental impairment that substantially limits one or more of such student's major life activities. A written plan is not required for a student who has a physical or mental impairment that substantially limited a major life activity if, for example, the student is using mitigating measures to ameliorate the effect of the disability, or if the student's condition is in remission. A written plan is also not required for a student who has a record of such an impairment or is regarded as having such an impairment because the impairment is not currently substantially limiting one or more major life activities of the student. These students are, however, protected by Section 504 against discrimination. See OCR Memorandum to Senior Staff August 13, 1992 (19 IDELR 894).

Definition of Terms

Physical or Mental Impairment means (A) 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, genitourinary; hemic and lymphatic; skin; and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. (Section 504 Regulations at 34 CFR 104.3G)(2)(i)).

Substantially Limited is not clearly defined in the law. OCR has declined to define the term but has clarified that the determination of "substantial limitation" must be made on a case-by-case basis for each individual student. The District is using the definition of "substantially limited" found in the regulations developed for the Americans with Disabilities Act ("ADA"), which was significantly amended effective January 1, 2009. "An impairment is a disability [under Section 504] if it substantially limits the ability of an individual to perform a major life activity as compared to most people in the general population. An impairment need not prevent, or significantly or severely restrict, the individual from performing a major life activity in order to be considered substantially limiting. Nonetheless, not every impairment will constitute a disability within the meaning of this section." (See ADA Regulations at 29 CFR Section 1630.2G)(2).

Major Life Activities include, but are not limited to caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, **learning, reading**, concentrating, thinking, communicating, interacting with others, and working; and the operation of a major bodily function, including functions of the immune system, special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system. When determining whether a student is eligible under Section 504, the Section 504 team may not consider the ameliorative effects of mitigating measures. Examples of mitigating measures include: medication, medical supplies, appliances, low-vision devices, prosthetics, hearing aids, and mobility devices, assistive technology, learned behavioral or adaptive neurological modifications, psychotherapy, behavioral therapy, or physical therapy. The use of ordinary eyeglasses or contact lenses may be considered in determining whether there is a substantial limitation of a major life activity. When determining eligibility for an impairment that is episodic or in remission the team must consider whether the impairment would qualify the student as disabled when the impairment is active, i.e., whether the impairment substantially limits a major life activity when the student is having an episode. An impairment in and of itself is not a disability. The physical or mental impairment must substantially limit one or more life activities in order to be considered a disability under Section 504.

Evaluation

If a child needs or is believed to need special education, related services, and/or supplemental aids under Section 504, the school district must evaluate the child.

Written parent consent

- ❖ required before conducting an initial evaluation to determine eligibility under Section 504. The District also obtains written parent consent prior to conducting a reevaluation of the student to determine continued eligibility.

The Section 504 evaluation:

- ❖ Should be based on information from a variety of sources: e.g., teacher(s), other school staff members, parent/legal guardian, physician, nurse, other professionals, or persons in the community;
- ❖ Should document and consider all available pertinent information: e.g., records, assessment data, and medical reports related to the suspected physical or mental impairment that may be substantially limiting a major life activity;
- ❖ Should be conducted by a team or group of persons including those who are knowledgeable about the child, the suspected handicapping condition, evaluation procedures, the meaning of evaluative data, and accommodation/placement options;
- ❖ Should use assessment materials, tests, and/or evaluation procedures tailored to assess specific areas of educational need, are not racially or culturally discriminatory, and are validated for the specific purpose for which they are used.

Section 504 evaluation procedures may include:

- ❖ Review of school records
- ❖ Interviews with persons knowledgeable about the child's functioning
- ❖ Observations in the school, home, or community environments
- ❖ Administration of educational testing, and/or
- ❖ Individual testing measures appropriate for assessing the presenting concern

Determining If the Student Is Disabled under Section 504

The parent/legal guardian *must be invited* to participate in every Section 504 meeting, which includes the Evaluation Meeting where the results of the evaluation, the determination of disability, and possible accommodation/services will be discussed. Every effort should be made to hold this meeting at a time when the parent/legal guardian can attend. To determine whether the student is disabled as defined under Section 504 during the evaluation meeting, the team should consider the following steps:

Discuss evaluation material (which may include the following):

- ❖ Statements and information from teachers and other school staff members
- ❖ Assessment and/or testing information (e.g., behavioral observations, adaptive behavior, academic achievement, and cognitive functioning)
- ❖ Statements and information from health care providers, physicians or other professionals

- ❖ Input from parent/legal guardian and/or persons in the community
- ❖ Teacher log and/or baseline data
- ❖ Progress report (report card)
- ❖ Psychological evaluation
- ❖ Educational records
- ❖ Classroom teacher report
- ❖ Classroom observation
- ❖ Medical evaluation
- ❖ Language assessment
- ❖ Adaptive behavior
- ❖ Discipline record
- ❖ Developmental history
- ❖ Attendance record
- ❖ Social/cultural background Information
- ❖ Intervention strategies

Determine whether a physical or mental impairment can be identified

Does the student currently have a mental or physical impairment that can be supported by the evaluative data reviewed by the 504 Team? The physical or mental impairment must be recognized in DSM-5 or other respected source if not excluded under 504/ADA (e.g. current illegal drug use).

Identify the major life activity that is affected by the student's impairment:

For example, caring for oneself, performing manual tasks, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, communicating, learning, breathing, speaking, seeing, hearing, and walking are all examples of major life activities. This list is exemplary and not exhaustive. A major life activity also includes 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.

Determine whether the impairment or condition substantially limits one or more major life activities

"Substantial" relates to the limitation of a major life activity, not the condition or disability (e.g., a substantial limitation to learning). In determining the existence of a physical or mental impairment that substantially limits a major life activity, compare the functioning of the student with the impairment to the functioning of most students of the same age or grade in the general population. An impairment need not

prevent, or significantly or severely restrict, the student from performing a major life activity in order to be considered substantially limiting. The determination of whether an impairment substantially limits a major life activity must be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies and equipment, prosthetics, hearing aids or cochlear implants, mobility devices, assistive technology, reasonable accommodations, auxiliary aids and services, learned behavior or adaptive neurological modifications. Mitigating effects of ordinary eyeglasses or contact lenses may be considered in determining whether there exists a substantial limitation. Thus, for students who use mitigating measures, the Section 504 team must determine whether that student would be substantially limited in a major life activity without the use of such measures. If the decision is that the student would be substantially limited in a major life activity under those conditions, then the student is eligible under Section 504. A written plan is not required for a student who has a physical or mental impairment that substantially limited a major life activity if, for example, the student is using mitigating measures to ameliorate the effect of the disability.

An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when the impairment is active. An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. Close calls concerning whether a student has a disability or a substantial limitation should be resolved in favor of finding that the student has a disability and the Section 504 team should then focus on determining whether any accommodations or written plan(s) are needed in the school setting as a result of that condition.

Determine whether the student qualifies as disabled under Section 504

The student has a physical or mental impairment that substantially limits one or more major life activities for that person.

Section 504 Accommodation Plan:

If the student is determined to be disabled under Section 504 and requires accommodations, modifications, or services to be provided with free appropriate public education ("FAPE"), the Section 504 team must develop a written Section 504 Plan which documents the accommodations and/or services that will be provided in order to meet the educational needs of the disabled student. Please note: FAPE under Section 504 does not have the same meaning as FAPE under the Individuals with Disabilities Education Act. Under Section 504, FAPE means providing regular or special education and related services designed to meet the individual education needs of a student with a disability *as adequately as the needs of students without disabilities are met*.

If the student is determined to be disabled under Section 504, the student must be offered a FAPE. To determine if the student has been offered a FAPE, ask the following questions:

1. Is the general education or special education and related aids and services being provided to the student designed to meet the individual educational needs of the student as adequately as the needs of students without disabilities are met? Another way to think about this is whether the

student with a disability receives an educational opportunity equal to the educational opportunity afforded to students without disabilities.

2. Has the District followed the requirements of Section 504 relating to providing the student with services in the least restrictive environment, adhered to the evaluation and placement requirements and provided services consistent with the procedural safeguards of Section 504. (See Section 504 Regulations, 34 CFR 104.33(b))

The parents or guardian must be invited to participate in all Section 504 meetings, including a Section 504 team meeting where accommodations, modifications and/or services for the student will be determined. The parents must be given an opportunity to examine all relevant records concerning the student.

The Section 504 team will develop a written plan describing the disability and the accommodations and modifications needed to provide the student with a FAPE. The plan will specify how the accommodations and modifications or services are to be provided and by whom. In developing the plan the Section 504 team shall consider all available relevant information, drawing upon a variety of sources, including, but not limited to, comprehensive assessments done by the District's professional staff.

The team may also determine that no accommodations, modifications, or services are appropriate. If so, the record of the Section 504 team proceedings will reflect the identification of the student as an individual with a disability and will state the basis for the decision that no accommodations, modifications, or services are presently needed. It is important to remember that if the student is found to be disabled under Section 504 but is not provided with services, the student is protected from discrimination by virtue of the fact the student has a disability. The Section 504 team should continue to meet annually to review the student's progress and current needs.

A student with a disability shall be placed in the regular education environment with the use of the supplementary aids and services, unless the Section 504 team determines that such placement cannot be achieved satisfactorily. The student with a disability shall be educated with those who are not disabled to the maximum extent appropriate to the individual needs of the student.

Parents shall be provided with the written Section 504 Accommodations Plan developed by the team within a reasonable period of time after the Section 504 meeting. Parents shall also be notified of the procedural safeguards available to them, including the right to an impartial hearing.

If a plan for providing accommodations, modifications, or services is developed, *all school personnel who work with the student* shall be informed of the plan and a case manager will be assigned to monitor student progress.

School district staff, particularly general education staff, must be knowledgeable about Section 504 in view of the fact that many services to be provided to students found disabled under Section 504 are the responsibility of the general education teacher or services provider.

Participation of Related Service Personnel In The 504 Process

Before developing a Section 504 plan, the Section 504 Coordinator or the Section 504 Building Coordinator will determine the composition of the Section 504 team to ensure that it is made up of qualified personnel. Team members should be knowledgeable about the student, understand the meaning of evaluation data, and/or be knowledgeable about the placement options available for the student. Team members should participate in the evaluation process under Section 504 and, as applicable, the development of a Section 504 accommodation plan.

The Section 504 team may include related service personnel, a group that includes, but is not limited to, an occupational therapist, physical therapist, school nurse, speech and language pathologist, and school psychologist or school social worker. A well-developed Section 504 plan provides a blueprint of strategies; frames successful implementation of accommodations and modifications in order to provide the student with a free appropriate public education. As such, related service personnel should be involved in the development of the plan whenever it is appropriate for them to be involved.

Occupational therapy, physical therapy, speech therapy, or school-based counseling services, as related services, are quite different from therapies delivered in a hospital or clinic as they are educationally based versus medically or clinically based. School based therapists focus on identifying barriers to school performance (e.g., physical; emotional; social; and cognitive) and assist students in acquiring the functional abilities necessary to access educational materials and the educational environment to participate successfully. Collaboration with teachers and with school team members is the foundation for promoting the success and participation of students with disabilities in the general education environment.

Many students have conditions or disorders that are not readily apparent to others. Hidden impairments can result in 'substantial limitations,' which need to be addressed through a Section 504 accommodation plan for such students.

Related service personnel can bring expertise and specific knowledge about the student's disability and impairments. Such impairments and disabilities that related service personnel have specific expertise in include, but are not limited to:

- ❖ Medical and health concerns
- ❖ Orthopedic impairments
- ❖ Neuro-muscular impairments
- ❖ Mental health impairments
- ❖ Specific learning disabilities
- ❖ Visual, speech, or hearing impairments
- ❖ Social and emotional impairments

Related service personnel can and should contribute to the Section 504 team during the identification and evaluation process of students, by completing skilled observations/evaluations prior to the initial eligibility determination, as well as providing valuable information and insight into the development of a student's Section 504 accommodation plan. Under Section 504, no formalized testing is required. However, related

service personnel can use various assessment techniques and tools to look at the student's abilities in the natural context of the classroom and school to help determine whether the student is eligible under Section 504. The focus of assessment by related service personnel will be identifying impairments and determining if/how such impairment impacts the student in the educational setting. Prior to any evaluations being done, however, parental consent must be obtained in accordance with federal law.

Once it has been determined the student requires a Section 504 Accommodation Plan to receive a free appropriate public education, depending upon the student's specific disability and needs and to the extent that it is appropriate, related service personnel should contribute to determining meaningful accommodations, modifications and/or services.

It is important to note that the purpose of the accommodations, modifications, and/or services is not to 'rehabilitate' the student with a disability, but to provide interventions designed to meet the student's individual educational needs, just as adequately as the educational needs of their non-disabled peers are met in the general education setting.

Review of The Student's Progress

The Section 504 team will monitor the progress of the student with a disability and the effectiveness of the student's plan and convene ***at least once every year***. The purpose of this annual meeting is to review the Section 504 Accommodation Plan and determine whether accommodations, modifications, and/or services are appropriate and necessary, and ensure that the disabled student's needs are being met as adequately as the needs of non-disabled students.

Periodic **reevaluation** is required by Section 504 regulations. While there is no clear definition of "periodic" under the Section 504 regulations, reevaluation in accordance with the IDEA regulations is one means of meeting the Section 504 requirement. As such, reevaluations should be conducted at least every three years (unless the parent and the Board agree that reevaluation is unnecessary) or more frequently if conditions warrant, or if the student's parent or teacher requests a re-evaluation, but not more than once a year. Reevaluation is also required prior to any significant change in placement, which includes but is not limited to graduation, disciplinary removal of more than 10 days, and change in educational placement. Please note that a reevaluation may, but is not required to, consist of formal standardized testing; it may be sufficient for the Section 504 team to ensure that it has updated information regarding the student and review all existing data and evaluations to conduct the reevaluation.

Any student who the Section 504 team suspects of having a disability under IDEA will be referred to the Planning and Placement Team for consideration of additional evaluation(s) and a determination of eligibility for special education services under the IDEA.

Additional Considerations for Students with Disabilities Under Section 504 Discipline

There are specific procedures that must be followed when disciplining a student who is disabled under Section 504. The District will use the discipline procedures consistent with the IDEA, as appropriate, when disciplining students who are disabled under Section 504.

Overview

Students with disabilities, like their nondisabled peers, must abide by the student conduct policies adopted by the Brookfield Board of Education. Students with disabilities are subject to the full array of disciplinary actions that may be taken against students as described in the various policies of the Board of Education, including suspension or expulsion from school. The District must follow a set of specific procedural requirements in the event a student with a disability engages in a behavior that requires a disciplinary intervention and exclusion from school, which may result in a change in the student's placement.

General Discipline Considerations: Students with Disabilities

"Exclusion" in the Connecticut state statutes is defined as any denial of public school privileges to a student for disciplinary purposes. Exclusion from school privileges, or from transportation services only, for less than 10 consecutive school days, is a suspension. Any exclusion from school privileges for greater than 10 consecutive school days is an expulsion.

Connecticut law provides that all suspensions shall be in-school suspensions, unless at the informal hearing held prior to the student being suspended:

1. The administration determines that the student being suspended poses such a danger to persons or property or such a disruption of the educational process that the student will be excluded from school during the period of suspension; or
2. The administration determines that an out-of-school suspension is appropriate for the student based on evidence of:
 - a. Previous disciplinary problems that have led to suspensions or expulsion of the student; and
 - b. An effort by the administration to address such disciplinary problems through means other than out-of-school suspension or expulsion, including positive behavioral support strategies.

The District notifies parents, using an effective means, of any exclusion from school privileges exceeding 90 minutes. Notification will occur within 24 hours of the time the student was excluded. All students who are suspended shall be given an opportunity to complete any class work including, but not limited to, examinations the student missed during the period of suspension. This includes state assessments. In Connecticut, no student may be suspended more than 10 times, or a total of 50 school days in one school year, whichever results in fewer days of exclusion, unless they are provided with the opportunity for a formal administrative hearing prior to the suspension. If an emergency exists, the hearing is to be held as soon after the suspension as possible.

IDEA Discipline Requirements: How Disciplinary Exclusions from School Impact the Provision of FAPE to Students with Disabilities: Change in Placement

General Information: The Process

School personnel may remove a student with a disability from school for disciplinary reasons. The student may be placed in another setting, or the District may use suspension as a method of discipline for not more than 10 consecutive school days, to the same extent that those alternatives are applied to students without disabilities.

If the District and the parents of a student with a disability who has violated a school code of conduct are unable to agree on an appropriate placement, the limitations on the amount of time that student can be removed from his/her current placement will be determined as indicated in IDEA and state statutes (see Sections 10-233a to 10-233K, inclusive, of the Connecticut General Statutes).

The District may consider any and all "unique circumstances" on a case-by-case basis when considering a disciplinary change in placement for the student, consistent with all other state and federal requirements, as appropriate for a student with a disability who violates a code of conduct. "Unique circumstances" include consideration of factors such as the student's disciplinary history, ability to understand consequences, expression of remorse, and supports provided to a student with a disability prior to violation of the student code of conduct (taken from Q&A on Discipline Procedures, OSEP, Revised June 2009, Question B).

Students with disabilities may be removed for additional days (not more than 10 consecutive school days in the same school year for separate incidents or misconduct), as long as those subsequent removals from school do not constitute a change in placement. What constitutes a change in placement is discussed in greater detail below.

When a student with a disability engages in behavior that results in a disciplinary action being taken by the District, one of three scenarios occurs:

1. Removal from school by school personnel for not more than 10 cumulative school days in a school year: The student may be removed from school for not more than 10 cumulative school days in a school year. If this happens, the student may be disciplined in the same way as students who do not have disabilities. No educational services must be provided during the time the student is excluded from school, although the student must be permitted to make-up any missed assignments. This includes partial day removals from school that when added together equal a full school day and full-day suspension from school.
2. Current removal from school when added with previous removals is greater than 10 cumulative school days in the school year: The student with a disability may have already been removed from school during the school year, and this subsequent removal, when added to previous removals is greater than 10 cumulative school days in a school year. This causes a change in placement that requires certain actions be taken by the District to ensure the student receives FAPE during the

period of exclusion from school. Please see below for further explanation

3. Removal from school for more than 10 consecutive school days: The student with a disability is to be removed from school for more than 10 consecutive school days. This causes a change in placement that requires that certain actions be taken by the District before the removal occurs and to ensure the student receives FAPE during the period of exclusion from school.

Partial Day Exclusions

It is important to understand that partial day exclusions from school, such as sending the student home for the rest of the day, is a suspension from school if the student is excluded from school for more than 90 minutes. Partial day exclusions must be tracked to ensure that appropriate procedural safeguards are applied if the total amount of time the student is excluded ultimately constitutes a change in placement.

Exclusion from Bus Transportation

Exclusion from bus transportation is considered a suspension, whether the student receives regular transportation or receives transportation as a related service through a Section 504 Plan. The days the student is suspended from the bus do not count toward the 10-day total if during this period of bus suspension the District provides transportation to the student in some other manner.

Please note: if the student is receiving regular transportation, meaning transportation is not a related service listed in the Section 504 Plan, and the student has behavior issues that result in multiple suspensions from bus transportation, the Section 504 team should convene to discuss the student's behavior on the bus and what, if any, services the student may need while being transported.

In-School Suspension

If a student is removed from school to in-school suspension, an in-school suspension is counted toward days of suspension if the student is not provided with the opportunity to: (1) continue to appropriately participate in the general curriculum, (2) continue to receive the services specified in the student's Section 504 Plan, and (3) continue to participate with nondisabled students to the extent they would have in their current placement.

In determining whether the removal of a student with a disability to in-school suspension is counted toward days of suspension, districts must examine the setting used and the services provided to students with disabilities. Practically speaking, the first two criteria (participation in the general curriculum and receipt of services in the Section 504 Plan) can be addressed in school suspension.

The third criteria requires that a student with a disability participates with nondisabled students to the extent such student would have in his or her current placement. If the student with a disability will not have the same level of participation with nondisabled students to the extent they would have in their current placement, the time the student spends in in-school suspension will be counted toward days of suspension. Each situation must be judged individually. The student's time is assessed to determine if the time with nondisabled peers during periods of in school suspension is comparable to the time the student spends with nondisabled peers during a typical school day.

Although the special education office in the federal Department of Education has not provided any definitive guidance on this issue, it appears that if a district establishes an in-school suspension setting that is available to students with and without disabilities, the time with nondisabled peers criteria is met, even if on any given day that student with a disability is the only student placed in the in-school suspension setting.

Please refer to the guidelines published by the CSDE "Guidelines for In-School and Out-of School Suspensions," Revised December 2010, located on the CSDE website, and particularly Appendix D, Children with Disabilities.

Change in Placement

Disciplinary Removal from School CAUSES a Change in Placement

At the point when a student will be excluded from school for more than 10 (cumulative) school days in a school year, a change in placement may occur. If the student is excluded for more than 10 consecutive school days, a change in placement does occur.

- ❖ As defined, a change in placement occurs if:
- ❖ The removal is for more than 10 consecutive school days; or
- ❖ The student has been subjected to a series of removals that constitute a pattern because:
- ❖ The series of removals total more than 10 school days in a school year;
- ❖ The student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals; and
- ❖ There are additional factors to be considered such as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another.

Please refer back to the notes above on counting partial day removals from school. This is critical in determining if a change of placement has occurred with partial day removals.

Manifestation Determination: Role of the Section 504 Team, Timeline

If a disciplinary removal may lead to a change in placement, the Section 504 Team convenes before the change in placement to conduct a manifestation determination to review the relationship of the student's behavior to the student's disability. The manifestation determination must be performed within 10 school days of any decision to change the placement of a student with a disability. During the period before the manifestation determination is complete, the District may remove the student from school through a suspension only if such removal does not constitute a change in placement and must provide educational services. The Section 504 Team determines the setting and the educational services, so as to enable the student to continue to participate in the general education curriculum and to progress toward meeting the goals set out in the student's Section 504 plan.

Section 504 Team Determines The behavior IS a Manifestation of the Student's Disability

The student's behavior is a manifestation of the student's disability if the Section 504 Team determines:

- ❖ The conduct in question was caused by, or had a direct and substantial relationship to the student's disability; or
- ❖ The conduct in question was the direct result of the District's failure to implement the student's Section 504 Plan.

The Section 504 Team must review all relevant information in the student's file, including the student's Section 504 plan, any teacher observations, and any relevant information provided by the parents to determine if the behavior in question is a manifestation of the student's disability.

- ❖ If the Section 504 Team determines the student's conduct is a manifestation of the student's disability:
- ❖ The 504 Team must conduct a functional behavioral assessment (FBA) unless a FBA was conducted before the behavior that resulted in the change of placement occurred;
- ❖ The 504 Team must design and implement a behavioral intervention plan (BIP) if one has not already been implemented. If a BIP has been developed, it must be reviewed and modified as necessary to address the behavior; and
- ❖ The student must be returned to the placement from which the student was removed unless the parent and the District agree to a change in placement as part of the modification of the BIP.

If the 504 Team determines the student's conduct IS NOT a manifestation of the student's disability:

- ❖ The student may be disciplined in the same manner and for the same duration as a student without a disability;
- ❖ The student continues to receive educational services that enable the student to continue to participate in the general education curriculum, although in another setting (i.e., the alternative education opportunity described in Section 10-233d of the general statutes), and to progress toward meeting the goals set out in the student's Section 504 Plan; and
- ❖ The 504 Team may determine it is appropriate to conduct a functional behavioral assessment (FBA) and develop a behavioral intervention plan/services (BIP) and modifications to behavioral goals and objectives in the Section 504 Plan designed to address the behavior violation so that it does not recur.

Due to the specific requirements of the state expulsion statutes, educational services may or may not be required during the period of expulsion depending on the age of the student, whether or not it is the student's first expulsion, and what the violation is. Brookfield's code of student conduct explains in detail the provision of services during periods of expulsion. However, the state expulsion statute is clear that the exceptions to providing an alternative educational opportunity to students who are expelled do not apply to students eligible for special education who are expelled.

Homebound instruction may not be used as the sole option for providing the alternative educational opportunity: one hour of instruction a day for **GRADES K-6** and two hours a day for **GRADES 7-12** may not be sufficient to meet the criteria of #2 above. The 504 Team must determine on an individual basis the amount of instructional time to be provided to a student with a disability to ensure the services being offered to the student meets the criteria of #2 above.

Whenever the District is considering a removal that constitutes a change in placement, the District must notify the parents not later than the date on which the change of placement is made and provide the parents with a copy of the procedural safeguards notice.

Disciplinary Removal from School DOES NOT CAUSE a Change in Placement

- ❖ If the removal from school does not meet the criteria for a change in placement, a manifestation determination is not required and the student may be disciplined in the same manner as students without disabilities.
- ❖ If the current removal from school is not more than 10 school days, school personnel in consultation with at least one of the student's teachers determines the extent to which educational services are needed to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the IEP.
- ❖ The student shall also receive if the Section 504 team determines it to be appropriate, a functional behavioral assessment (FBA) and behavioral intervention plan/services (BIP) designed to address the behavior violation so that it does not recur.

If the District and the parents of a student with a disability who has violated a school code of conduct are unable to agree on an appropriate placement, the limitations on the amount of time the student can be removed from his/her current placement will be determined as indicated in IDEA and state statutes (see Sections 10-233a to 10-233k, inclusive, of the Connecticut General Statutes).

The District may consider any and all "unique circumstances" on a case-by-case basis when considering a disciplinary change in placement for the student, consistent with all other state and federal requirements, as appropriate for a student with a disability who violates a code of conduct. "Unique circumstances" include consideration of factors such as the student's disciplinary history, ability to understand consequences, expression of remorse, and supports provided to a student with a disability prior to violation of the student code of conduct (taken from Q&A on Discipline Procedures, OSEP, Revised June 2009, Question B-2).

Referral to and Action by Law Enforcement & Judicial Authorities

Section 504 does not prevent the District from reporting crimes committed by students with disabilities to appropriate authorities and does not prevent state law enforcement and judicial authorities from exercising their responsibilities under Federal and state law to crimes committed by a student with a disability. The District must treat the reporting of the crime of a student with a disability and the transmission of

information regarding that student in the same fashion it would a nondisabled student.

Behavior in the Community

Students may be suspended or expelled for behavior occurring in the community in accordance with the provisions of the general statutes. (Refer to Sections 10-233c(a) and Section 10- 233d(a)(1) of The Connecticut General Statutes.)

In order to suspend a student for behavior occurring in the community, the District administration must determine the conduct off school grounds violates a publicized policy of the Board of Education and is seriously disruptive of the educational process. In order to expel a student for behavior occurring in the community, the Board of Education, or a designee of the Board, through a formal administrative hearing, must determine the conduct off school grounds violates a publicized policy of the Board and is seriously disruptive of the educational process.

To find that the behavior is seriously disruptive of the educational process, the District administration or Board of Education or designee will review factors related to the behavior, including but not limited to whether:

- ❖ The behavior happened close to school;
- ❖ Other students from school were involved or there was any gang involvement;
- ❖ The conduct involved violence, threats of violence, or the unlawful use of a weapon;
- ❖ Any injuries occurred; and
- ❖ The conduct involved the use of alcohol.

Individual Behavior Management/Intervention Plans:

For a student with disabilities whose behavioral difficulties significantly interfere with his or her ability to benefit for his or her education, OCR has interpreted Section 504 as requiring districts to develop an individualized behavior management/intervention plan for the student.

The purpose of the behavioral management/intervention plan is to maintain the placement that the student's Section 504 team has determined to be appropriate to meet his or her educational needs in the least restrictive environment. If a student has an individual behavior management/intervention plan, district staff must make sure that the student is being disciplined in accordance with his or her plan. All school officials, administrators, and staff need to be aware of what is in the student's behavior plan and the plan must be followed.

EXTRACURRICULAR ACTIVITIES

Students with disabilities must be provided with an equal opportunity to participate in extracurricular and nonacademic activities and programs. Reasonable accommodations that are necessary to ensure that an otherwise qualified student is provided an equal opportunity to participate in the District's extracurricular programs, including athletic programs, will be provided to students with disabilities, provided such reasonable accommodations do not fundamentally alter the program.

All decisions regarding what constitutes reasonable accommodations made to a program will be determined on an individual inquiry. While the reasonable accommodations need not be determined by the

Section 504 team, relevant individuals to include in the accommodations discussion are, as appropriate, the student, parent, coach, advisor, administrator, and teacher. The District will also consider whether safe participation by a student with a disability can be assured through the provision of aids and services to provide the student with disabilities the same opportunity to participate in the program as his or her non-disabled peers.

The District may require a specific level of skill or ability for participation in a competitive program or activity such as specific athletic sports. OCR has provided guidance that equal opportunity does not mean, for example, that every student with a disability is guaranteed a spot on an athletic team for which the other students must try out. The District will ensure it provides nonacademic services and activities in such a manner that is necessary to provide students with a disability with an equal opportunity for participation in such extracurricular activities and services.

OCR has provided extensive guidance regarding extracurricular activities in its January 2013 Dear Colleague Letter, located at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201301-504.pdf>.

Individualized Health Care Plans

Under Connecticut State Law (see Section 10-212c) the District must develop and implement an individualized health care plan and food allergy action plan for every student with a life threatening food allergy, and an individualized health care plan and glycogen storage disease action plan for every student with glycogen storage disease, irrespective of whether the student meets the definition of disability for purposes of Section 504 or the IDEA. Further, other students with other medical issues may have individualized health care plans for a variety of reasons, including but not limited to managing and planning for emergency medical situations and medication needs.

A student with a medical or health concern may, but is not always, a student with a disability for purposes of Section 504. Eligibility and need for accommodations of students with medical or health concerns, including life-threatening food allergies and glycogen storage disease, shall be determined on an individual basis through the Section 504 process if a referral for such student is appropriate.

Procedural Safeguards Under Section 504

Parents and guardians are afforded procedural safeguards under Section 504. Appendix A contains the statement of parental rights, which includes, among other rights, the right of the parent/guardian to be informed of their rights under Section 504; the right for the student to have equal opportunities to participate in academic, nonacademic, and extracurricular activities in the school; and the right to be notified about referral, evaluation, and programs for the student. The District is also required to provide public notice of its policies of nondiscrimination, grievance procedures for Section 504 complaints, and the contact information for the District coordinator of Section 504 compliance. This information is contained in Part A and Part C of this Section 504 Manual.

Complaint Resolution Procedures for Complaints Involving A Student's Identification, Evaluation, and/or Educational Placement

Complaints regarding a student's identification, evaluation, and/or educational placement shall generally be handled using the procedures described below.

However, at any time, the complainant may request that the Section 504 Coordinator submit the complaint directly to an impartial hearing officer, and request a hearing in accordance with the provisions of subsection D (below).

The District 504 Coordinator is:

**Amy DeNicola-Hickman
Director of Special Education
Brookfield Public Schools
100 Pocono Road Brookfield, CT
06820 Phone: 203-775-7748**

Submission of Complaint to Section 504 Coordinator

In order to facilitate the prompt investigation of complaints, any complaint regarding a student's identification, evaluation and/or educational placement under Section 504 should be forwarded to the district's Section 504 Coordinator within thirty (30) school days of the alleged date that the dispute regarding the student's identification, evaluation and/or education placement arose. Timely reporting of complaints facilitates the resolution of potential educational disputes.

The complaint concerning a student's identification, evaluation and/or educational placement should contain the following information:

- ❖ Full name of the student, age, and grade level;
- ❖ Name of parent(s);
- ❖ Address and relevant contact information for parent/complainant;
- ❖ Date of complaint;
- ❖ Specific areas of disagreement relating to the student's identification, evaluation and/or placement;
- ❖ Remedy requested.

However, all complaints will be investigated to the extent possible even if such information is not included in the complaint. In such circumstances, additional information may be requested by the investigator as part of the investigation process.

Complaints will be investigated promptly within timeframes identified below. Timeframes may be extended as needed given the complexity of the investigation, availability of individuals with relevant information and other extenuating circumstances.

Upon receipt of the complaint, the Section 504 Coordinator shall:

- ❖ Forward a copy of the complaint to the Superintendent of Schools;
- ❖ Meet with the complainant within ten (10) school days to discuss the nature of his/her concerns and determine if an appropriate resolution can be reached. If a complaint is made during summer recess, the complaint will be reviewed and addressed as quickly as possible given the availability of staff and other individuals who may have information relevant to the complaint;
- ❖ If, following such a meeting, further investigation is deemed necessary, the Section 504 Coordinator shall promptly investigate the factual basis for the complaint, consulting with any individuals reasonably believed to have relevant information, including the student and/or complainant; and
- ❖ Communicate the results of his/her investigation in writing to the complainant and any persons named as parties to the complaint (to the extent permitted by state and federal confidentiality requirements) within fifteen (30) calendar days from the date the complaint was received by the Section 504 Coordinator.
- ❖ In the event that the person making the complaint contends that the Section 504 Coordinator has a conflict of interest that prevents him/her from serving in this role, the complaint shall be forwarded to the Superintendent who shall appoint an investigator who does not have a conflict of interest.

Review by Superintendent of Schools

- ❖ If the complainant is not satisfied with the findings and/or resolution offered as a result of the Section 504 Coordinator's review, he or she may present the complaint and the written statement of findings to the Superintendent for review and reconsideration within thirty (30) calendar days of receiving the findings. This process provides an opportunity for complainants to bring information to the Superintendent's attention that would change the outcome of the investigation. In submitting the complaint and written outcome for review, the complainant must explain why he/she believes the factual information was incomplete, the analysis of the facts was incorrect, and/or the appropriate legal standard was not applied, *and* how this would change the investigator's determination in the case. Failure to do so may result in the denial of the review.
- ❖ The Superintendent shall review the complaint and any relevant documents maintained by the Section 504 Coordinator/investigator and shall consult with the Section 504 Coordinator/investigator regarding attempts to resolve the complaint. The Superintendent also shall consult with the complainant. The Superintendent may attempt to resolve the complainant's concerns alone, or with another appropriate administrator.
- ❖ Following the Superintendent's review, he or she shall communicate his/her findings to the complainant within ten (10) school days following his/her receipt of the written request for review.
- ❖ If the complainant is not satisfied with the Superintendent's decision or proposed resolution, he/she may request that the Superintendent submit the matter to a neutral mediator or to an impartial hearing officer. This request for a hearing/mediation should be made within fifteen (15) school days of the Superintendent's decision.
- ❖ Mediation shall only occur by mutual agreement of the parties.

Impartial Hearing Procedures:

An impartial due process hearing is available to the parent or guardian of a student if the parent or guardian disagrees with the decisions made by the professional staff of the school district with respect to the identification, evaluation, and/or educational placement of his/her child, or otherwise makes a claim of discrimination relating to the identification, evaluation, or educational placement of the student.

- ❖ Upon receipt of a request for an impartial due process hearing, the Board shall retain an impartial hearing officer. The impartial hearing officer must be someone who is knowledgeable about Section 504, an understanding of a free appropriate public education ("FAPE") under Section 504, and the distinctions between Section 504 and the regulations and requirements of the Individuals with Disabilities Education Act (IDEA).

- ❖ The impartial hearing office shall schedule a pre-hearing conference with the District and the Parent (or his/her legal counsel) to identify the issue(s) for hearing, set the hearing schedule, and address other administrative matters related to the hearing, including the option for mediation, and the right of the right to have legal counsel or other representation at the complainant's own expense, if desired;
- ❖ The impartial hearing officer shall inform all parties involved of the date, time and place of the hearing and of the right to present witness(es), other evidence, and to have legal counsel or other representation at each party's own expense, if desired.
- ❖ The impartial hearing officer shall hear all aspects of the complainant's complaint and/or appeal concerning the identification, evaluation and/or educational placement of the student and shall reach a decision within forty-five (45) school days of receipt of the request for hearing. The decision shall be presented in writing to the complainant and to the Section 504 Coordinator.
- ❖ An impartial hearing officer under Section 504 does not have jurisdiction to hear claims alleging discrimination, harassment or retaliation based on an individual's disability unless such a claim is *directly related* to a claim regarding the identification, evaluation, or educational placement of a student under Section 504.
- ❖ The time limits noted herein may be extended for good cause shown, including but not limited to if more time is needed to permit thorough review, presentation of evidence, and opportunity for resolution.

At any time, the complainant has the right to file a formal complaint with the Office for Civil Rights:

Office of Civil Rights
U.S. Department of Education
5 Post Office Square
8th Floor, Suite 900
Boston, MA 02109-3921
(617) 289-0111 - Phone
(617) 289-0150 - fax
(877) 521-2172-TDD

<https://www2.ed.gov/about/offices/list/ocr/504faq.html>

Section 3

PART C

Part C: Grievance Procedures under Section 504

Procedures for Grievances/Complaints Alleging Discrimination on the Basis of Disability

- ❖ Any eligible person, including any student, parent/guardian, staff member or other employee who feels that he/she has been discriminated against on the basis of disability may submit a written complaint to the district's designated Section 504 Coordinator within thirty (30) school days of the alleged occurrence. Timely reporting of complaints facilitates the prompt investigation and resolution of such complaints. If the complaint is made verbally, the individual taking the complaint will reduce it to writing.
- ❖ At any time, when complaints involve discrimination that is directly related to a claim regarding the identification, evaluation, and/or educational placement of a student under Section 504, the complainant may request that the Section 504 Coordinator submit the complaint directly to an impartial hearing officer and request a hearing in accordance with the Complaint Resolution Procedures for complaints involving a student's identification, evaluation or educational placement, located in Part B of this manual. Complaints regarding a student's rights with respect to his/her identification, evaluation and/or educational placement shall be addressed in accordance with the procedures set forth in said Complaint Resolution Procedures located in Part B of this manual.
- ❖ Retaliation against any individual who complains pursuant to the Board's policy and regulations listed herein is strictly prohibited. The district will not tolerate any reprisals or retaliation that occur as a result of the good faith reporting or complaint of disability based discrimination, or as a result of an individual's participation or cooperating in the investigation of a complaint. The district will take necessary actions to prevent retaliation as a result of filing a complaint or the participation in an investigation of a complaint.
- ❖ If the Section 504 Coordinator is the subject of the complaint, the complaint should be submitted directly to the Superintendent who may conduct the investigation or appoint a designee to conduct the investigation in accordance with these procedures.
- ❖ Complaints will be investigated promptly within time frames identified below. Time frames may be extended as needed given the complexity of the investigation, availability of individuals with relevant information and other extenuating circumstances. Confidentiality will be maintained by all persons involved in the investigation to the extent possible.

The complaint should contain the following information:

- ❖ The name of the complainant;
- ❖ The date of the complaint;
- ❖ The date(s) of the alleged discrimination;
- ❖ The names of any witness(es) or individuals relevant the complaint;
- ❖ A detailed statement describing the circumstances in which the alleged discrimination occurred; and
- ❖ Remedy requested.

However, all complaints will be investigated to the extent possible, even if such information is not included in the complaint. In such circumstances, additional information may be requested by the investigator as part of the investigation process.

Upon receipt of the complaint, the individual investigating the complaint shall:

- ❖ Provide a copy of the written complaint to the Superintendent of Schools;
- ❖ Meet with the complainant within ten (10) school days to discuss the nature of the complaint, identify individuals the complainant believes have relevant information, and obtain any relevant documents the complainant may have;
- ❖ Provide the complainant with a copy of the Board's Section 504 Policy, and these administrative regulations;
- ❖ Conduct an investigation that is adequate, reliable, and impartial. Investigate the factual basis for the complaint, including conducting interviews with individuals with information and review of documents relevant to the complaint;
- ❖ Maintain confidentiality to the extent practicable throughout the investigative process, in accordance with state and federal law;
- ❖ Communicate the outcome of the investigation in writing to the complainant, and to any individual properly identified as a party to the complaint (to the extent permitted by state and federal confidentiality requirements), within fifteen (15) school days from the date the complaint was received by the Section 504 Coordinator or Superintendent. The investigator may extend this deadline for no more than fifteen (15) additional school days if needed to complete the investigation. The complainant shall be notified of such extension. The written notice shall include a finding whether the complaint was substantiated and if so, shall identify how the district will remedy any identified violations of Section 504;
- ❖ If a complaint is made during summer recess, the complaint will be reviewed and addressed as quickly as possible given the availability of staff and/or other individuals who may have information relevant to the complaint. If fixed time frames cannot be met, complainant will receive notice and interim measures may be implemented as necessary (see sub paragraph 6);
- ❖ Ensure that appropriate corrective action is taken whenever allegations are verified. When allegations are verified, ensure that compensatory services and/or other measures to remedy the effects of the discrimination are appropriately considered, and offered, when appropriate. Corrective action should include steps to avoid continuing discrimination.
- ❖ In the event the investigator concludes that there is no violation of Section 504, the District may attempt to resolve the complainant's ongoing concerns, if possible.

If the complainant is not satisfied with the findings and conclusions of the investigation, the complainant may present the complaint and written outcome to the Superintendent for review and reconsideration within thirty (30) calendar days of receiving the findings. This process provides an opportunity for complainants to bring information to the Superintendent's attention that would change the outcome of the investigation. In submitting the complaint and written outcome for review, the complainant must explain why he/she believes the factual information was incomplete, the analysis of the facts was incorrect, and/or the appropriate legal standard was not applied, *and* how this would change the investigator's determination in the case. Failure to do so may result in the denial of the review.

Upon review of a written request from the complainant, the Superintendent shall review the investigative results of the Section 504 Coordinator and determine if further action and/or investigation is warranted. Such action may include consultation with the investigator and complainant, a meeting with appropriate individuals to attempt to resolve the complaint or a decision affirming or overruling the investigator's conclusions or findings. The Superintendent shall provide written notice to the complainant of his/her decision within ten (10) school days following the receipt of the written request for review.

At any time, the complainant has the right to file a formal complaint with the Office for Civil Rights:

Office of Civil Rights
U.S. Department of Education
5 Post Office Square
8th Floor, Suite 900
Boston, MA 02109-3921
(617) 289-0111 - Phone
(617) 289-0150 - fax
(877) 521-2172-TDD

<https://www2.ed.gov/about/offices/list/ocr/504faq.html>

**Brookfield Public Schools
P. O. Box 5194
100 Pocono Road
Brookfield, CT 06804**

Section 504 Procedural Safeguards Notice

The Brookfield Public Schools does not discriminate on the basis of race, color, religion, sex, age, national origin, or disability in admission, access, treatment, or employment in its programs, services, and activities. Applicants, students, parents/guardians, employees, referral agencies, and all organizations holding agreements with the District are hereby notified of this policy. Any person with concerns regarding the District's compliance with the regulations implementing Title VI, Title IX, Section 504 or the Americans with Disabilities Act is directed to contact:

Name: Amy DeNicola-Hickman
Position: Director of Special Education
Phone Number: 203-775-7748
E-mail: denicola-hickmana@brookfieldps.org

This document summarizes the procedural protections and rights you have as the parent of student who may qualify for accommodations or services under Section 504 and the ADA.

INTRODUCTION. Section 504 of the 1973 Rehabilitation Act, along with the Americans with Disabilities Act, requires that the school district may not discriminate against students with disabilities. Accordingly, the district has adopted policies and procedures to ensure that discrimination does not take place. In the rest of this document, we will refer to these laws as "Section 504."

IDEA ELIGIBILITY. Many students who meet the definition of an "individual with a disability" under Section 504/ADA also qualify for services under the Individuals with Disabilities Education Act (IDEA). This document does not address these students or their parents. Such students are served pursuant to the requirements of the IDEA. The rest of this document addresses only the rights of parents of students who satisfy the definition of an individual with a disability under Section 504 but do not qualify under IDEA.

AN APPROPRIATE EDUCATION. If it is determined that your child meets the definition of an "individual with a disability" under Section 504, then your child will be entitled to a free and appropriate public education. This means that your child's education will be designed to meet his/her individual educational needs as adequately as the needs of nondisabled students are met. A "free" public education means that no fees will be imposed on you except for the same fees that are imposed on parents of nondisabled students. However, insurance companies and other third parties that are obligated to provide or pay for services to your child are still obligated to do so.

NOTICE. You have the right to be notified by the district prior to any action that would identify your child as having a disability, evaluate your child for services under Section 504, or place your child in a program based on a disability.

EVALUATION. Prior to conducting an evaluation of your child for purposes of services under Section 504, the district will seek your informed written consent. An evaluation will not be conducted unless you give consent. However, school officials may review existing records, test scores, grades, teacher reports, and recommendations and other such information without your consent to the same extent they would do so for nondisabled students.

If an evaluation is conducted, the school will make sure that

- All testing and other evaluation procedures are validated for the specific purpose for which they are used;
- They are administered by trained personnel in conformity with the instructions provided by the producer;

- They include tests and other evaluation materials designed to assess specific areas of educational need and not merely those designed to elicit a general IQ score; and
- Tests are selected and administered to best ensure that they accurately measure what the test seeks to measure, rather than any sensory, speaking, or manual impairments the student may have (except when the test is designed to measure sensory, speaking, or manual skills).

An evaluation that satisfies these requirements will be conducted prior to your child's initial placement and conducted or reviewed prior to any subsequent significant change in placement.

If your child is identified as an individual with a disability under Section 504 the school will periodically reevaluate your child as appropriate.

PLACEMENT. If your child is identified as an individual with a disability under Section 504, placement decisions about your child will be made by the school's 504 Team, who, are knowledgeable about your child, the meaning of the evaluation data, and the placement options. You will be invited to participate in any meeting of the 504 Team if your child's placement and/or services are to be discussed. The 504 Team will also ensure that your child is placed in the "least restrictive environment."

LEAST RESTRICTIVE ENVIRONMENT. If your child is identified as an individual with a disability under Section 504, your child will be placed and served in the "least restrictive environment." This means that your child will be served with nondisabled students in the regular education environment to the maximum extent appropriate. Prior to removing your child from the regular education environment due to his/her disability, the school will consider the use of supplementary aids and services. Your child will be removed from the regular education environment only if he/she cannot be served satisfactorily in that environment, even when supplementary aids and services are provided.

If it becomes necessary to serve your child in an alternate setting due to disability, the school will take into account the proximity of the alternate setting to your home.

EXAMINATION OF RECORDS. You have the right to see and examine any educational records that pertain to your child or are relevant in serving your child.

HEARINGS. If you disagree with a decision of the 504 Team regarding the identification, evaluation, or educational placement of your child you have the right to an impartial hearing. You have the right to participate in such a hearing and to be represented by a person of your choice, including an attorney.

If you wish to request a hearing, you must make a written request for a hearing within 30 calendar days from the time you receive the written notice of the decision of the 504 Team. Your request for a hearing must be filed with the district's Section 504 Coordinator.

Upon receipt of a timely request for a hearing, the district will notify you of the date, time, and location of the hearing. If you disagree with the decision of the hearing officer, you have the right to a review of that decision by a court of competent jurisdiction.

OTHER COMPLAINTS. You also have the right to file a complaint with the district's Section 504 Coordinator pertaining to harassment, retaliation or discrimination against your child in ways that do not involve your child's identification, evaluation, or educational placement.

OFFICE FOR CIVIL RIGHTS. You also have the right to file a complaint with the United State Office for Civil Rights.