



BOLTON PUBLIC SCHOOLS

Section 504 Manual

January 2019

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## **Acknowledgements**

The Bolton Public Schools 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 Bolton Public Schools.

The revision to this document began in September 2018 and was completed in January 2019. The District reviewed several 504 Manuals used by other Connecticut School Districts and would like to acknowledge the work found in the Darien Public School 504 Manual as well as the Trumbull Public School 504 Manual, which served as a template for the District's final product. Credit is also given to the US Department of Education Parent and Educator Resource Guide to Section 504 in Public, Elementary, and Secondary Schools (2016).

## **Introduction**

Section 504 is a federal law that prohibits disability discrimination by recipients of Federal financial assistance. All public schools and school districts, as well as all public charter schools and magnet schools that receive Federal financial assistance from the Department of Education must comply with Section 504.

Section 504 provides a broad spectrum of protections against discrimination on the basis of disability. For example, all qualified elementary and secondary public school students who meet the definition of an individual with a disability under Section 504 are entitled to receive regular or special education and related aids and services that are designed to meet their individual educational needs as adequately as the needs of students without disabilities. Section 504 also requires, among other things, that a student with a disability receive an equal opportunity to participate in athletics and extracurricular activities, and to be free from bullying and harassment based on disability.

## CHAPTER ONE: ADMINISTRATION

### **Public Notice**

The Bolton 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 Bolton 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:**

It is the policy of the Board of Education that any form of discrimination or harassment on the basis of race, religion, color, national origin, sex, sexual orientation, marital status, age, disability (including pregnancy), genetic information, gender identity or expression, or any other basis prohibited by state or federal law is prohibited, whether by students, Board employees or third parties subject to the control of the Board. The Board's prohibition of discrimination or harassment in its educational programs or activities expressly extends to academic, nonacademic and extracurricular activities, including athletics. It is also the policy of the Board of Education to provide for the prompt and equitable resolution of complaints alleging any discrimination on the basis of protected characteristics such as race, color, religion, age, sex, sexual orientation, marital status, national origin, disability (including pregnancy), or gender identity or expression.

For the purposes of this policy, "genetic information" means the information about genes, gene products, or inherited characteristics that may derive from an individual or a family member. "Genetic information" may also include an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

For the purposes of this policy, "gender identity or expression" means a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose.

Any person having inquiries concerning the District's compliance with the regulations implementing Section 504 is directed to contact:

[Beth M. Goldsnider](#)

Director, Student Support Services  
Bolton Public Schools  
72 Brandy Street  
Bolton, CT 06043  
860-643-1569

The above named Director has been designated to coordinate the Board of Education's efforts to comply with the regulations implementing Section 504.

At any time, the complainant has the right to file a formal complaint [online](#) with the U.S. Department of Education Office of Civil Rights, or with their local field office. The OCR office for Connecticut is located at:

Boston Office  
Office for Civil Rights  
US Department of Education  
8th Floor  
5 Post Office Square  
Boston, MA 02109-3921

Telephone: 617-289-0111  
FAX: 617-289-0150; TDD: 800-877-8339  
Email: OCR.Boston@ed.gov

Employees may also file a complaint with the Connecticut Commission on Human Rights and Opportunities:  
Connecticut Commission on Human Rights and Opportunities located at:

450 Columbus Blvd.  
Hartford, CT 06103-1835  
800-477-5737

## **Contacts**

### **District Section 504/ADA Coordinator:**

[Beth M. Goldsnider](#)  
Director, Student Support Services  
Bolton Public Schools  
72 Brandy Street  
Bolton, CT 06043  
860-643-1569

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

- Implements appropriate Child Find procedures.
- Ensures that a free and appropriate public education is provided to each student with a disability.
- Ensures that all students with disabilities are given 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.



## **Building Level 504 Case Managers**

**Bolton Center School:** The school social worker and school counselor oversee the Section 504 procedures and serve as the Section 504 case managers for the building.  
108 Notch Rd.  
Bolton, CT 06043  
860-643-2411

**Bolton High School:** The school counselors oversee Section 504 procedures and serve as the Section 504 case managers for the building.  
72 Brandy St.  
Bolton, CT 06043  
860-643-2768

Questions for adults with disabilities working for the District or utilizing the buildings and programs of the Bolton Public Schools may be directed to the District 504 Coordinator.

Parents/guardians and other adults who may need assistance to access the facilities or programs of the Bolton Public Schools may also contact the Director of Student Support Services or school administrators for information.

## CHAPTER TWO: DISTRICT RESPONSIBILITIES

### **General Responsibilities**

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

1. Annually locate and identify all unserved students with disabilities residing in the District.
2. 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. These services are provided without cost (except for fees imposed on nondisabled students/parents).
3. Educate students with disabilities with non-disabled students to the maximum extent appropriate to the needs of the student with a disability.
4. 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.
5. Afford students with disabilities an equal opportunity to participate in nonacademic and extracurricular services and activities.
6. Establish nondiscriminatory evaluation and placement procedures to avoid inappropriate education that may result from the misclassification or misplacement of students.

### **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:

1. Have a physical or mental impairment that substantially limits one or more major life activities.
2. Have a record of such impairment.
3. 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 21** (with the bulk of the Child Find obligations for children ages Birth to Three falling to the states Birth to Three System). 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:

1. Have a disability (or combination of disabilities) defined in the IDEA.
2. The disability must adversely affect the student's educational performance.
3. 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.

Other circumstances where considerations for a disability under Section 504 should be considered include:

1. Recurrent suspensions or an expulsion.
2. Absence of student due to serious illness, accident, or hospitalization.
3. Return of student after a serious illness, accident, or hospitalization.
4. Pattern of not benefiting from instruction.
5. Chronic health condition/disease/disability (can be episodic or in remission).
6. High absenteeism.
7. Pattern of discipline referrals.
8. Suspected drug or alcohol abuse.
9. Other academic or behavioral issues.

**It is important to note that a medical diagnosis does not automatically render a student eligible under Section 504. Rather medical opinions and diagnoses are just some of the various factors to be considered by the Section 504 team in determining whether a student qualifies for protection under Section 504.**

## CHAPTER THREE: PROCEDURES

### 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 copy of the 504 referral form can be found [here](#), as well as a copy of the [504 Evaluation Consent](#) form.

A 504 Team will be convened to review the referral. The 504 Team will review 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. The parents or guardians will be informed 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.

If the 504 Team does not have reason to believe that the student needs accommodations, modifications, special education or related services, and it is determined that an evaluation is not needed, the District will notify the parents of their Procedural 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. Minor changes to the 504 plan may be made without convening a meeting if both the district and parents agree to the changes and agree to make the changes via an amendment. Please click here for a copy of the [Section 504 Request for Agreement to Amend Accommodation Plan without a Meeting](#) form.

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 impairment or is *regarded as having* such 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. The following terminologies are pertinent to identification.

1. *Physical or Mental Impairment:*
  - 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
  - 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 104.3\(J\)\(2\)\(i\)\(B\).](#)
2. *Substantially Limited:*
  - This is not clearly defined in the law. The Office of Civil Rights (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.

“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. 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 1630.2\(g\)\(1\)\(i\).](#)
3. *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.

## **Evaluation**

1. If a child needs or is believed to need accommodations under Section 504, the school district must evaluate the child.
2. Written parent consent is 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.

3. The Section 504 evaluation:
  - Should be based on information from a variety of sources to include but not be limited to teacher(s), other school staff members, parent/legal guardian, physician, nurse, other professionals, or persons in the community, pertaining to the suspected physical or mental impairment that may be substantially limiting a major life activity, and may include:
    1.
      - 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.
      - Individual testing measures appropriate for assessing the presenting concern.
    - 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.
    - Assessment/evaluation 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.

#### **Determining If the Student is Disabled under Section 504**

To determine whether the student is disabled as defined under Section 504 during the evaluation meeting, the team should consider the following:

1. All information relevant to the evaluation.
2. The identification of a physical or mental impairment:
  - The physical or mental impairment must be recognized in DSM-5 or other respected source if not excluded under 504/ADA (i.e. current illegal drug use).
3. The major life activity affected by the impairment.
4. Whether the impairment or condition substantially limits one or more major life activity:
  - 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.

The [Section 504 Worksheet To Assist With Student Eligibility Determination](#) form is used during this process.

### **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 student. 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*.

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 student with a disability who 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? (Section 504 Regulations, 34 CFR 104.33(b)).

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.

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 general 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 Accommodation 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**

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, but not be limited to, an occupational therapist, physical therapist, school nurse, speech and language pathologist, school psychologist, or school social worker. A Section 504 plan identifies strategies, accommodations and modifications in order to provide the student with a free appropriate public education. Therefore, required service personnel should be involved in the development of the plan whenever it is appropriate for them to be involved.

School-based therapies, 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.

Related service personnel contribute to the Section 504 team during the identification and evaluation process of students, by completing observations and 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 and/or 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 to provide interventions designed to meet the student's individual educational needs.



### **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 student's needs are being met.

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. Please click [here](#) for a copy of the 504 Reevaluation Consent form.

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.

## CHAPTER FOUR: 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 Bolton Board of Education. The Board has adopted student conduct policies, including, but not limited to Student Conduct, Suspension and Expulsion; Drugs, Tobacco, and Alcohol use by Students; Bullying Behavior in Schools; Safe School Climate Plan; Cyberbullying; Bus Conduct; Use of Electronic Devices; Student Dress and Grooming; Use of the District's Computer Systems and Internet Safety; and Weapons and Dangerous Instruments. Please [click here](#) to review Bolton Public School's Policy 5131: (Student Discipline).

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**

"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:

For students in preschool to grade two, inclusive, the administration determines the student's behavior on school grounds is of a violent or sexual nature that endangers persons.

For students in grades three through twelve, inclusive:

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:
  - Previous disciplinary problems that have led to suspensions or expulsion of the student.
  - 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 consecutive minutes (which is a suspension from school). Notification will occur within 24 hours of when 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 that 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.

For specific treatment of disciplinary offenses at the Bolton Center School and Bolton High School, please refer to the student handbooks, which are located on each of the school web sites.

## **IDEA Discipline Requirements**

### **The Process**

School personnel may remove a student with a disability from school for disciplinary reasons. The student may be placed in an appropriate interim alternative educational setting (IAES), 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 the 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.

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: If this occurs, 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 from

school is greater than 10 cumulative school days in a school year. This may cause 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 any period of exclusion from school. Please see below for further explanation of when 10 cumulative school days of exclusion is considered a change in placement.

- 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 any 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 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 in this manner 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.
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 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**

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:

1. The removal is for more than 10 consecutive school days; or
2. 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.
  - There are additional factors 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**

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 time 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. The student who is suspended shall be given the opportunity to complete any classwork including, but not limited to, examinations which such pupil missed during the period of suspension ([C.G.S. 10-233c](#)).

### **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:

1. The conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; or
2. 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:

1. 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.
2. 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.
3. 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.

**Behavior IS NOT a Manifestation of the Student's Disability:**

1. The student may be disciplined in the same manner and for the same duration as a student without a disability.
2. The student continues to receive educational services that enable the student to continue to participate in the general education curriculum.
3. The 504 Team may determine it is appropriate to conduct a functional behavioral assessment (FBA), and develop a behavioral intervention plan (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 student's age, whether or not it is the student's first expulsion and what the violation is. Bolton's code of student conduct ([BOE Policy 5131](#)) 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 (Section [10-76d-15](#) of the Connecticut General Statutes) may not be used as the sole option for providing the IAES or 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 an action for a removal of a student to an IAES by school personnel or by a hearing officer, or other removal that constitutes a change in placement, the District must notify the parents no later than the date the decision is made and provide the parents with a copy of the procedural safeguards notice.

#### **Disciplinary Removal DOES NOT CAUSE Change in Placement**

1. 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.
2. 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.
3. The student shall also receive, if the Section 504 Team determines it to be appropriate, a functional behavioral assessment (FBA) and behavioral intervention plan (BIP) designed to address the behavior violation so that it does not recur.

The services required may be provided in an Interim Alternative Educational Setting (IAES).

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. (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 and 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.

If the District reports a crime committed by a student with a disability to the appropriate authorities, the District transmits copies of the 504 and disciplinary records of the student for consideration by the authorities to whom the crime is reported to the extent allowed by the Family Educational Rights and Privacy Act (FERPA), which may require parental consent before the records are provided. Please see the chapter on "Confidentiality" for a further explanation of the requirements for transmitting educational records.

### **Special Circumstances: Removal to Interim Alternative Educational Setting**

School personnel may remove a student with a disability to an appropriate IAES not to exceed 45 school days, without regard to whether the behavior is a manifestation of the student's disability, if the student:

1. Carries or possesses a weapon at school, on school premises, or at a school function.
2. Knowingly possesses, uses, sells, or solicits the sale of a controlled substance while at school or a school function.
3. Has inflicted serious bodily injury upon another person at school, on school premises or at a school function.

***Serious bodily injury*** is defined as an injury that results in:

1. A substantial risk of death; or
2. Extreme physical pain; or
3. Protracted and obvious disfigurement; or
4. Protracted loss or impairment of the function of a bodily member, organ, or mental facility.

The PPT selects the IAES in which a student is to be placed by the District or a hearing officer for drugs/weapons/serious bodily injury violations. The IAES must be selected so as to:

1. Enable the student to continue to participate in the general curriculum, although in another setting.
2. Allow for the continuation of those services and modifications, including those described in the student's current IEP, that will enable the student to progress towards meeting the goals in the student's IEP.
3. Include services and modifications to address the behavior that resulted in the removal to the IAES or that are designed to prevent the behavior from recurring.

### **Behavior in the Community**

School personnel cannot remove a student to an IAES for a student's behavior in the community that involves either weapons or controlled substances. However, students may be suspended or expelled for behavior occurring in the community in accordance with the provisions of the general statutes and Bolton Board of Education Policy. (Refer to Section [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 or 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 or 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 whether:

1. The behavior happened close to school.
2. Other students from school were involved, or whether there was any gang involvement.
3. The conduct involved violence, threats of violence, or the unlawful use of a weapon.
4. Any injuries occurred.



5. The conduct involved the use of alcohol.

### **Individualized Behavior Management Plans**

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

The purpose of the behavior 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 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.

## CHAPTER 5: ADDITIONAL CONSIDERATIONS

### **Extra-Curricular 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 basis. 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 supplementary 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.

### **Individualized Health Care Plans**

Under Connecticut State Law ([C.G.S. 10-212c](#)), the District must develop and implement an individualized health care plan and food allergy action plan for:

1. Every student with a life-threatening food allergy.
2. 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 be, 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.

## CHAPTER 6: PROCEDURAL SAFEGUARDS

### **Procedural Safeguards Under Section 504**

Parents and guardians are afforded [Procedural Safeguards](#) under Section 504. It 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.

### **Complaint Resolution Procedures**

If the parent/guardian of a student disagrees with the decisions made by the professional staff of the school district with respect to the identification, evaluation, or educational placement of his/her child, the parent/guardian should file a complaint with the Section 504 Coordinator. However, at any time a complaint is filed, 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 outlined below.

In addition, a student or parent/guardian of a student may also file an internal grievance/complaint on these issues or any other type of discrimination on the basis of disability by or within the district by utilizing the grievance/complaint procedures outlined in the Board's Administrative Regulations Regarding Students and Section 504 of Rehabilitation Act of 1973 and Title II of Americans with Disabilities Act, and/or may file a complaint with the Office for Civil Rights, U.S. Department of Education.

The District 504 Coordinator is:

[Beth M. Goldsnider](#)

Director, Student Support Services

Bolton Public Schools

72 Brandy Street

Bolton, CT 06043

860-643-1569

### **Submission of Complaint to 504 Coordinator:**

1. 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.

2. 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.

All complaints will be investigated to the extent possible even if such information requested in #2 (above) is not included in the complaint. In such circumstances, additional information may be requested by the investigator as part of the investigation process.

3. 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.
4. Upon receipt of the complaint, the Section 504/ADA 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/ADA Coordinator shall consult 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 of 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/ADA Coordinator.
  - In the event that the Section 504/ADA 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**

1. If the complainant is not satisfied with the findings and/or resolution offered as a result of the Section 504/ADA Coordinator's review, the complainant 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 information would change the investigator's determination in the case. Failure to provide all such information may result in the denial of the review.

2. The Superintendent shall review the complaint and any relevant documents maintained by the Section 504/ADA Coordinator or other investigator and shall consult with the Section 504/ADA Coordinator or other investigator regarding attempts to resolve the complaint. The Superintendent shall also consult with the complainant. The Superintendent may attempt to resolve the complainant's concerns alone, or with another appropriate administrator.
3. 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.
4. 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 mediation or a hearing should be made within fifteen (15) school days of the Superintendent's decision. Mediation shall only occur by mutual agreement of the parties.

### **Mediation Procedures**

A parent/guardian or student aged 18 or older may request mediation with a neutral mediator to attempt to resolve a disagreement with the decisions made by the professional staff of the school district with respect to the identification, evaluation, or educational placement of the student. Please click [here](#) for a copy of the Section 504 Request for Mediation/Hearing form.

1. A request for mediation regarding a student's identification, evaluation, or educational placement under Section 504 should be forwarded to the District's Section 504/ADA Coordinator within thirty (30) school days of the alleged date that the dispute regarding the student's identification, evaluation, and/or education placement arose or within fifteen (15) school days of the Superintendent's decision in reviewing a complaint handled through the grievance/complaint procedure described in the section titled "Review by Superintendent of Schools" above.
2. The request for mediation concerning a disagreement relating to a student's identification, evaluation, 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.
3. Upon receipt of a request for mediation, the Section 504/ADA Coordinator shall:
    - Forward a copy of the request for mediation to the Superintendent of Schools.
    - Retain a neutral mediator who is knowledgeable about the requirements of Section 504/ADA and has an understanding of a free appropriate public education (FAPE) under Section 504 and the distinctions between and among Section 504, the ADA, and the Individuals with Disability Education Act (IDEA).
  4. The mediator shall inform all parties involved of the date, time, and place of the mediation and of the right to have legal counsel or other representation at the complainant's own expense, if desired.
  5. The mediator shall meet with the parties jointly, or separately, as determined by the mediator, and shall facilitate a voluntary settlement of the dispute between the parties, if possible.
  6. All statements, offers, discussions, and/or information shared during the mediation process, but not available from other means, shall be confidential, and may not be used in a subsequent hearing or other administrative or judicial proceeding related to the disagreement that is the subject of the mediation.
  7. If the parties are not able to reach a voluntary settlement of the dispute, the complainant may request an impartial hearing, as described below.

### **Impartial Hearing Procedures**

An impartial due process hearing is available to a parent/guardian of a student, or a student aged 18 years of age or older who disagrees with the decisions made by the professional staff of the school district with respect to the identification, evaluation, or educational placement of the student, or otherwise makes a claim of discrimination relating to the identification, evaluation, or educational placement of the student.

1. The request for mediation concerning a disagreement relating to a student's identification, evaluation, or educational placement should contain the following:
  - 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.

2. 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 the requirements of Section 504/ADA and has an understanding of a free appropriate education (FAPE) under Section 504 and the distinctions between and among Section 504, the ADA, and the Individuals with Disabilities Act (IDEA).
3. The impartial hearing officer shall schedule a prehearing conference with the District and the parent(s) or student aged 18 years of age or older (or legal counsel for the student) to identify the issue(s) for the hearing, set the hearing schedule, and address other administrative matters related to the hearing, including the option for mediation.
4. The impartial hearing officer shall inform all parties involved of the date, time, and place of the hearing and of the right to present witnesses, other evidence, and to be represented by legal counsel at each party's own expense, if desired.
5. The impartial hearing officer shall hear all aspects of the complainant's case concerning the identification, evaluation, 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/ADA Coordinator.
6. 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.
7. The time limits noted herein may be extended for good cause shown for reasons including, but not limited to, permitting more time for thorough review of the record, presentation of evidence, or opportunity for resolution.

At any time, the complainant has the right to file a formal complaint ([click here](#)) with the U.S. Department of Education, Office for Civil Rights, 8<sup>th</sup> Floor, 5 Post Office Square, Suite 900, Boston, MA 02109-0111 (telephone number 617-289-0111).

## CHAPTER 7: GRIEVANCE PROCEDURES UNDER SECTION 504

### Procedures for Grievances/Complaints

1. 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/ADA 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.
2. At any time, when a complaint involves discrimination that is directly related to a claim regarding the identification, evaluation, or educational placement of a student under Section 504, the complainant may request that the Section 504/ADA Coordinator submit the complaint directly to an impartial hearing officer and request a hearing. Complaints regarding a student's rights with respect to his/her identification, evaluation, or educational placement shall be addressed in accordance with the procedures set forth in [Chapter 6 \(Procedural Safeguards\)](#).
3. 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 reprisal or retaliation that occurs 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.
4. If the Section 504/ADA 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.
5. 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. Confidentiality will be maintained by all persons involved in the investigation to the extent possible.
6. The complaint should contain the following information:
  - a. The name of the complainant.
  - b. The date of the complaint.
  - c. The date(s) of the alleged discrimination.
  - d. The names of any witness or individuals relevant to the complaint.
  - e. A detailed statement describing the circumstances in which the alleged discrimination occurred.



- f. The remedy requested.

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.

- 7. Upon receipt of the complaint, the individual investigating the complaint shall:
  - a. Provide a copy of the written complaint to the Superintendent of Schools.
  - b. 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.
  - c. Provide the complainant with a copy of the applicable Board Section 504/ADA Policy and the administrative regulations.
  - d. 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.
  - e. Maintain confidentiality to the extent practicable throughout the investigative process in accordance with state and federal law.
  - f. 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/ADA Coordinator or Superintendent. The investigator may extend this deadline for not 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/ADA.
  - g. 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 timeframes cannot be met, the complainant will receive notice and interim measures may be implemented as necessary (see sub-paragraph f).
  - h. Ensure that appropriate corrective action is taken whenever allegations are verified. When allegations are verified, ensure that measures to remedy the effects of the discrimination are appropriately considered, and offered, when appropriate. Corrective action should include steps to avoid continuing discrimination.
  - i. In the event the investigator concludes that there is no violation of Section 504/ADA, the District may attempt to resolve the complainant's ongoing concerns, if possible.

8. If the complainant is not satisfied with the findings and conclusions of the investigation, the complainant may present the complaint and written outcomes to the Superintendent for review and reconsideration within thirty (30) calendar days of receiving the findings. This process provides an opportunity for the complainant 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 that factual information was incomplete, the analysis of the facts was incorrect, and/or the appropriate legal standard was not applied, and how this information would change the investigator's determination in the case. Failure to provide all such information 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 investigator 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.