

SOUTHINGTON 504 PROCEDURES MANUAL

Policies and Procedures
Manual of the
Southington Public
Schools

Table of Contents

Acknowledgements

Introduction

Part A

Public Notice

Notice of Non-Discrimination

504 Coordinator Contact Information

Part B

General Responsibilities for Student with Disabilities under Section 504

General Responsibilities

Criteria for Finding as Student Protected under Section 504

Child Find Obligations: 504/IDEA overlaps

Administrative Procedures

Referral

Identification

Evaluation

Determining if a student is disabled under 504

Section 504 Accommodation Plan

Annual Review

Periodic Reevaluation

Educational Records

Participation of Related Services Personnel in the 504 Process

Additional Considerations for Qualified Students with Disabilities under Section 504

Related Services and Section 504

Discipline and Section 504

Referral to and Action by Law Enforcement and Judicial Authorities

Extra-Curricular Activities and Section 504

Students with Individual Health Care Plans and Section 504

Review of Educational Records under Section 504 and FERPA

Complaint Resolution Procedures involving a student's identification, evaluation, and/or educational placement

District 504 Coordinator Review- Process and Procedures

Superintendent Review-Process and Procedures

Mediation-Process and Procedures

Due Process Hearing-Process and Procedures

Filing Complaint with the Office for Civil Rights

Part C

Discrimination Claims under Section 504

District 504 Coordinator Review- Process and Procedures

Superintendent Review-Process and Procedures

Filing Complaint with the Office for Civil Rights

Appendices

1. Parent/Student Procedural Safeguards under Section 504
2. Section 504 Referral Form
3. Section 504 Meeting Notice
4. Section 504 Notice and Consent to Conduct Section 504 Evaluation/Re-evaluation
5. Section 504 Eligibility Determination Form/Meeting Summary
6. Section 504 Accommodation Plan
7. Manifestation Determination Worksheet
8. Section 504 Request for Mediation
9. Section 504 Request for Hearing
10. Section 504 Discrimination Complaint
11. Southington Public Schools Section 504 Compliance Plan
12. Frequently Asked Questions – OCR
13. OCR “Dear Colleague” Letter January 2013

Additional Resources

[Southington Public Schools Website](#)

[Connecticut State Department of Education Website](#)

[OCR Website](#)

Acknowledgements

The Southington Public School's Policies and Procedures Manual for Section 504 has been developed to provide educators, parents, guardians, community members and eligible students with helpful information regarding the implementation of Section 504 of the Rehabilitation Act of 1973 (29 USC §§ 791, -794 (2016); see also 34 C.F.R. § 104) in the Southington Public Schools.

Several Section 504 Manuals used in other Connecticut school districts were reviewed as a part of the drafting process and we would like to acknowledge the work found in Fairfield Public Schools. This document served as a springboard for this manual.

In addition, the Southington Public Schools would like to thank the law firm of Berchem Moses, specifically Attorneys Michelle Laubin and Herbert Rosen, who assisted by reviewing this document to ensure the information contained herein is consistent with federal and state law.

Introduction

Section 504 of the Rehabilitation Act of 1973 (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 is a federal law designed to protect the rights of people with disabilities in programs and activities that receive federal funds from the US Department of Education. The Office for Civil Rights (OCR), a sub-agency of the US 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 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 and appropriate public education (FAPE) for students with disabilities who attend the Southington 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 applies to students attending the Southington Public Schools.

Part A

Public Notice

The Southington 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 Southington Board of Education. Continuing notification may include the posting of notices, publication in local newspapers, placement of notices in district publications and student/parent handbooks and distribution of memoranda or other written communication.

Notice of Non-Discrimination

The Southington Public Schools shall promote nondiscrimination and an environment free of harassment based on an individual's race, color, religion, gender, sexual orientation, national origin, disability, marital status, or age or because of the race, color, religion, gender, sexual orientation, national origin, disability, marital status, or age of any other persons with whom the individual associates.

In keeping with requirements of federal and state law, the Southington Public Schools strive to remove any vestige of discrimination in employment, assignment and promotion of personnel; in educational opportunities and services offered to students; in assignment to schools and classes; in student discipline; in location and use of facilities; in educational offerings and materials; and in accommodating the public at public meetings.

The Superintendent shall appoint and make known the individuals to contact on issues concerning the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1974, Title VI, Title VII, Title IX, and other civil rights or discrimination issues. The Board will adopt, and the district will publish grievance procedures providing for prompt and equitable resolution of student and employee complaints.

Federal civil rights laws prohibit discrimination against any individual because he/she has opposed any discrimination act or practice or because that person has filed a charge, testified, assisted or participated in an investigation, proceeding or hearing. The ADA further prohibits anyone from coercing, intimidating, threatening, or interfering with an individual for exercising the rights guaranteed under the ADA.

District/Building Contacts

District Section 504 Coordinator

Rebecca Cavallaro, 504 Coordinator/ Director of Pupil Personnel Services
200 North Main Street
Southington, CT. 06489
(860)628-3200 ext. 10210

Email: rcavallaro@southingtonschools.org

Building 504 Coordinators

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

Derynoski Elementary School
Lindsey Hammell, Social Worker

240 Main St.
Southington, CT 06489
(860) 628-3286

Email: lhammell@southingtonschools.org

Oshana Elementary School
Andrew Collins, Social Worker

70 Church Street
Plantsville, CT 06478
(860)628-3450

Email: acollins@southingtonschools.org

Flanders Elementary School
Kara Fazzolari, Social Worker

50 Spring Lake Rd.
Southington, CT 06489
(860) 628-3372

Email: kfazzolari@southingtonschools.org

Strong Elementary School
Andrew Collins, School Counselor

820 Marion Ave.
Plantsville, CT 06479
(860) 628-3377

Email: acollins@southingtonschools.org

Hatton Elementary School
Sherry Baum, Social Worker

50 Spring Lake Rd.
Southington, CT 06489
(860) 628-3377

sbaum@southingtonschools.org

South End Elementary School
Shannon Vance, Social Worker

10A Maxwell Noble Dr.
Plantsville, CT 06479
(860) 628-3320

Email: svance@southingtonschools.org

Urbin T. Kelley Elementary School
Christiana Salerno, Social Worker

501 Ridgewood Road
Southington, CT 06489
(860) 628-3310

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Thalberg Elementary School
Melissa Volpe, Social Worker
145 Dunham Rd.
Southington, CT 06489
(860) 628-3370
Email: mvolpe@southingtonschools.org

Joseph A. DePaolo Middle School
Christine Gagnon, School Counselor
Kaeley Steinnagel, School Counselor
Heather O'Neill, School Counselor
385 Pleasant St.
Southington, CT 06489
(860) 628-3260
Email: cgagnon@southingtonschools.org
ksteinnagel@southingtonschools.org
honeill@southingtonschools.org

John F. Kennedy Middle School
Jessica Anthony
Emily Dickson
Michelle Cozzolino
1071 S. Main St.
Plantsville, CT 06479
(860) 628-3275
Email: janthony@southingtonschools.org
edickson@southingtonschools.org
mcozzolino@southingtonschools.org

Karen Smith Academy
Shannon Vance, Social Worker
242 Main St.
Southington, CT 06489
(860) 628-3379
Email: svance@southingtonschools.org

Southington High School
Jen Discenza, Director of School Counseling
720 Pleasant St.
Southington, CT 06489
(860) 628-3229
Email: jdiscenza@southingtonschools.org

Part B

DISTRICT RESPONSIBILITIES FOR STUDENTS IDENTIFIED WITH DISABILITIES UNDER SECTION 504

General Responsibilities

No child with a disability shall be excluded from any program offered or operated by the Southington Board of Education because of his or her disability. To that end, the Southington 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 (Child Find);
2. Establish non-discriminatory evaluation and placement procedures to avoid inappropriate education that may result from the misclassification or misplacement of students;
3. Provide every student who has a disability, as defined under Section 504, regardless of the nature or severity of the disability, with a ("FAPE"). The provision of FAPE under Section 504 means providing regular or special education, accommodations, modifications, and/or related services designed to meet the individual educational needs of a student with a disability as adequately as the needs of a students without disabilities are met and that such services are provided without cost to the parents (except for any fees imposed on nondisabled students/parents);
4. Integrate and educate students with disabilities with non-disabled students to the maximum extent appropriate to the needs of the student with a disability;
5. 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 the evaluation, identification, and placement decisions regarding their children; and
6. Afford students with disabilities an equal opportunity to participate in non-academic and extracurricular services and activities.

The Superintendent of Schools is responsible for designating a District Section 504 Coordinator. The District 504 Coordinator shall, in collaboration with the building administration, designate a Section 504 Coordinator at each building. See contact information in Part A.

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

- Develops Child Find procedures

- Provides FAPE to each student with a disability regardless of the nature of severity of the disability;
- Affords students with disabilities an equal opportunity to participate in non-academic and extracurricular activities;
- Establishes non-discriminatory 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; and
- Develops a system of reviewing Section 504 Accommodation Plans

The Building Section 504 Coordinator is responsible for ensuring that the school:

- Implements District Child Find Procedures;
- Provides each student identified under Section 504 a FAPE as defined by Section 504;
- Provides each student identified under Section 504 an equal opportunity to participate in non-academic and extracurricular activities;
- Participates in the District Compliance Plan;
- Disseminates the Procedural Safeguards to staff and families as appropriate;
- Communicates district-wide procedures to staff and parents; and
- Implements a system for reviewing building 504 plans for compliance.

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; or
3. Be regarded as having such impairment.

Section 504 requires that the Southington Public Schools provide a FAPE to qualified students in their jurisdiction who have a physical or mental impairment that substantially limits one or more major life activities.

Child Find Obligations: The Intersection of Section 504 and IDEA

Public school districts have various responsibilities to locate, evaluate, and identify students who may have a disability under Section 504 or eligible for, and in need of special education under the Individuals with Disabilities Education Act (“IDEA”). This process is known as “Child Find”. 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 the

purposes of Section 504, however NOT all students with a disability for purposes of Section 504 are eligible for and in need of special education under the IDEA.

Under the IDEA public schools are required to locate, evaluate and identify all children with disabilities from birth up until age 22 (with the bulk of the Child Find obligations for children ages birth to three falling on the Connecticut Birth to Three system which is operated by the Connecticut Office of Early Childhood). The Child Find mandate under 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) as defined in the IDEA, and the disability must adversely affect the student's educational performance, and because of BOTH the disability and its adverse impact on education performance, the student must require specially designed instruction.

Academic, behavioral, functional and/or health issues may raise concerns about whether or not a student may have a disability that would require a referral to a 504 Team for evaluation (or to a Planning and Placement Team ("PPT")) if it is believed that a child may qualify under the IDEA and be in need of specially designed instruction). There are also other circumstances which may raise a concern that a student might have a disability under Section 504 and prompt a referral to the 504 Team. These include, but are not limited to:

- Recurrent suspensions or expulsions
- Lengthy absence of a student due to serious illness, accident, or hospitalization
- Return of student after serious illness, accident, or hospitalization
- Pattern of not benefitting from instruction
- Chronic health condition/disease (can be episodic or in remission)
- High absenteeism (truancy with no known medical basis)
- Pattern of disciplinary referrals
- Life threatening allergies
- Diabetes
- Mental Illness
- Chronic Asthma
- ADD/ADHD
- Communicable diseases
- Behavioral Disorders
- Genetic Disorders
- Suspected drug or alcohol abuse**

ADMINISTRATIVE PROCEDURES

Section 504 of the Rehabilitation Act of 1973

Referral

If any member of the school staff has reason to believe that a student may have a physical or mental impairment or may need accommodations, modifications, or services not available through general education, they should make a referral to the school 504 team (or the PPT if the staff member(s) believe the child may be in need of specially designed instruction).

Team Composition

The Section 504 Team will be composed of persons knowledgeable about the student, the meaning of evaluation data, and the placement options. The Building Section 504 Coordinator shall review all referrals to the Section 504 Team and will compose the Team accordingly. The Building 504 Coordinator will monitor the composition of the Section 504 Team to ensure that qualified personnel participate. The Building 504 Coordinator shall appoint a Case Manager for every qualified student with a disability who will monitor implementation of the plan and who will be the primary contact person for the parent/eligible student in the event of a question or concern regarding the student's 504 eligibility or the implementation of the plan.

Parent Participation

Parental participation is an important part of the Section 504 referral, evaluation, identification, eligibility, and planning processes. Therefore, parents **must** be provided with notice of any Section 504 meeting and attempts should be made to convene the meeting at a mutually agreeable date and time. If a parent does not attend a Section 504 meeting, the Section 504 Coordinator and Case Manager shall ensure that the parents have been given their **Procedural Safeguards** and a copy of any documents developed at the meeting. (See appendix A – Procedural Safeguards under Section 504)

Once the referral is received a 504 Team will be convened to consider the referral and determine next steps. At this meeting the 504 Team will:

- Provide the parent/guardian with their procedural safeguards;
- review all of the student's relevant existing records which may include academic, social, behavioral, and/or health records (or any documents relevant to the referring concern);
- review and consider any information shared by the parents; and
- make a decision as to whether further evaluation is required; and
- if the 504 Team determines that **no further evaluation is required** to determine eligibility the Team may determine eligibility;
- if eligible, the Team will determine whether accommodations, modifications or services are needed in order to provide FAPE to the student;
- if accommodations, modifications or services are required in order to provide a FAPE, the Team will document the necessary accommodations, modifications or services in a 504 Plan and distribute the plan to all necessary parties; and
- provide the parent with written documentation of the decision of the 504 Team.

EVALUATION

The term "EVALUATION" under Section 504 is a very broad definition that primarily stems from a team of individual gathered together to review data and information about a child. The Section 504 evaluation should:

- be based on information from a variety of sources; e.g. teacher(s), other school staff members, parents/guardians, physicians, nurses, other professionals or persons with specific knowledge of the student within the community;
- document and consider all pertinent information, e.g., records, assessment data, medical reports, etc.;
- be reviewed by a team or group of persons knowledgeable about the child, the suspected handicapping condition, evaluation procedures, the meaning of evaluation data, and accommodation/placement options;
- use assessment materials, tests, and/or evaluation procedures tailored to assess specific areas of need, are valid and reliable for the specific purpose and are not racially or culturally biased.

The Section 504 evaluation may include:

- A review of school records (including all assessment data gathered in the general education process);
- A review of medical records;
- A review of attendance records;
- A review of disciplinary records;
- Interviews with persons knowledgeable about the child's functioning;

- Observations in school, home, or community environments; and
- Individual educational TESTING appropriate for assessing the presenting concern (including, but not limited to psychological testing, speech and language testing, psychiatric evaluation, OT/PT evaluation, vision, hearing, substance use evaluation, and/or drug/alcohol testing if warranted to determine eligibility).***

Determining if a Student is disabled under Section 504

In order to determine whether a student is a qualified student with a disability under Section 504, the 504 Team must answer the following questions:

1. Does the student have a physical or mental impairment?
 - a. Does the student currently have a physical or mental impairment that can be supported by the evaluative data reviewed by the 504 Team (the Team must consider information related to a physical or mental impairment that is episodic or in remission)?
 - b. A mental impairment must be recognized by the DSM-5 or other respected source if not excluded under 504/ADA (e.g. current illegal drug use).
2. Does the physical or mental impairment substantially limit a major life activity in the absence of mitigating measures?
 - a. Identify the major life activity(ies) that may be affected by the student’s impairment (including, but not limited to: caring for oneself, performing manual tasks, thinking, communicating, learning, breathing, speaking, seeing, hearing, walking, operation of major bodily function (e.g. immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions)).
 - b. 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 breathing). 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/grade in the general population.
 - c. 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, cochlear implants, mobility devices, assistive technology, 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 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.

- d. 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**.
3. does the student require reasonable accommodations in order to receive a free and appropriate public education (FAPE)?
- a. If the 504 Team determines that the student has a physical or mental impairment that, in the absence of mitigation measures, would substantially limit one or more major life activities, the 504 Team must then determine **IF, in the presence of mitigating measures**, the student requires accommodations, modifications and/or services in order to receive a FAPE as defined by Section 504.
 - i. If yes, the 504 Team must create a 504 Plan.
 - ii. The team may also determine. If so, the record of the Section 504 meeting **MUST** reflect the identification of the student as an individual with a disability and the basis for the decision that no accommodations, modifications, or services are presently needed.

Definition of Terms

1. **Physical or mental impairment** – (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 C.F.R. § 104.3(j)(2)(i)).
2. **Substantially Limited** – 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 Southington Public Schools defines the term as follows: In order to meet this standard of substantial limitation the student must be unable to perform a major life activity that the average person of the same age in the general population (national norms, not local norms) can perform. Alternatively, the student must be significantly restricted as to the condition, manner, or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person of the same age in the general population (national norms, not local norms) can perform the same major life activity.
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, 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.
4. **Mitigating Measures** – When determining whether a student is **ELIGIBLE** under Section 504, the 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, 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.
5. **Impairments that are episodic or in remission** – When determining eligibility for an impairment that is episodic or in remission the 504 team must consider whether the impairment would qualify the student as disabled with the impairment is active, i.e., whether the impairment substantially limits the major life activity when the student is having an episode.

Section 504 Accommodation Plan

If the student is determined to be **BOTH** a qualified person with a disability under Section 504 **AND** requiring accommodations, modifications, or services in order to receive a FAPE as defined by Section 504*, the 504 Team must develop a **written 504 Plan** which documents the accommodations, modifications and/or services that will be provided under specific circumstances in order to meet the educational needs of the student with a disability to the same extent that the needs of nondisabled students are met and protect the student from discrimination on the basis of a disability.

If the student is determined to be a qualified person with a disability under Section 504, the 504 Team must offer a **FAPE**. To determine if the student has been offered FAPE, the 504 Team should consider the following questions:

1. Are the accommodations, modifications, and services being provided to the student designed to meet the individual needs of the student as adequately as the needs of students without disabilities are met?
2. Is the student with a disability receiving an educational opportunity equal to the educational opportunity afforded to students without disabilities?
3. Has the 504 Team followed the requirements of Section 504 relating to providing the student with services in the least restrictive environment (integrated with students without disabilities to the maximum extent appropriate to allow equal access), adhered to the evaluation and placement requirements and provided services consistent with the Procedural Safeguards of Section 504?

Annual Reviews and Periodic Reevaluations

The 504 Team **MUST** convene a meeting to monitor the effectiveness of each student's plan at least once every year. This is called an **Annual Review**. The purpose of this annual meeting is to review the 504 Plan (if one exists) and determine whether accommodations, modifications, and/or services continue to be necessary and ensure that the disabled student's needs are being met as adequately as the needs of their non-disabled peers.

Periodic Reevaluation is also required by the Section 504 regulations. While the regulations provide no clear definition of "periodic" the Southington Public Schools will define periodic reevaluation in accordance with the IDEA regulations to meet this requirement. Therefore, reevaluations shall be conducted at least **once every three (3) years** (unless the parent and the District Coordinator mutually agree that reevaluation is unnecessary) or more frequently if conditions warrant, or if the student's parent or school staff requests a reevaluation, but not more than once per year. Reevaluation is also **required prior to any significant change in placement:**

- **Graduation;**
- **disciplinary removal for more than 10 school days in any one school year (including but not limited to expulsion); and**
- **transition from school to school (PreK-K, 5-6, 8-9).**

Additional Considerations for Students with Disabilities under Section 504

Related Services and Section 504

Upon receipt of the referral to the 504 Team, the Building 504 Coordinator shall review the concerns expressed in the referral to determine the composition of the student's 504 Team. Depending on the nature of the concerns, related services personnel including, but not limited to school nurses (medical concerns), the Town Medical Advisor (medical concerns), occupational therapists/physical therapists (gross/fine motor concerns), speech and language pathologists (communication concerns), school counselors (social/emotional/academic concerns), school psychologists (social, emotional, cognition, processing, behavioral concerns), and/or school social workers (social, emotional, behavioral concerns) may be asked to participate (and may be asked to be the student's Case manager). A well-developed 504 Plan frames successful implementation of accommodations, modifications, and/or services in order to provide the student with FAPE. As such, related service personnel should be involved in the determination of eligibility and the subsequent development of the 504 Plan whenever it is appropriate for them to be involved.

Discipline and Section 504

Students with disabilities, like ALL students, must abide by the rules and policies of the Southington Public Schools. Students with disabilities are subject to the full array of disciplinary actions that may be taken with students without disabilities up to and including suspension and expulsion from school. School Administration may remove a student with a disability from school for disciplinary reasons. The Administration may suspend a student with a disability from school for not more than ten (10) cumulative school days in a school year without triggering a set of specific procedural requirements aligned with IDEA and CT general statutes (see CT General Statutes 10-233 a-k inclusive). When a student with a disability engages in behavior that results in a suspension from school one of the three (3) scenarios below will likely occur:

- 1. Removal from school (suspension) for not more than 10 CUMULATIVE school days in a school year:** A student with a disability may be removed from school for disciplinary reasons for not more than ten (10) cumulative school days in a school year in the same way as students who do not have disabilities. During this time no educational services must be provided during the exclusion from school, although the student must be permitted to make-up any missed assignments. "Cumulative days" are calculated including partial day removals* from school for disciplinary reasons that when added

together equal a full school day and full day suspensions. **See note re: In-school Suspension. ****

2. **Current removal from school that when added with previous removals from school is greater than 10 cumulative school days in a school year:** School administrators must consider all prior removals from school in addition to the current offense to determine whether this removal, when added to all prior removals within the same school year would add up to a removal of greater than 10 cumulative school days in the same school year. If the number of cumulative days adds to more than 10 days within the school year it may be considered a “change in placement” (administration should consider factors such as the severity of the offense, and the type, frequency and/or duration of the prior removals). If considered a change in placement this would require an immediate 504 Team meeting to determine whether the behavior was a manifestation of the disability and if not, how FAPE would be provided during the period of removal from school.
3. **Removal from school for more than 10 consecutive school days (expulsion):** If a student with a disability is recommended for expulsion (typically a period of removal from school for more than 10 consecutive or cumulative school days) the 504 Team must meet within 10 days of notification of the recommendation for expulsion to determine whether the behavior for which the administration seeks disciplinary action was a **manifestation of the student’s disability**.

The Manifestation Determination Meeting

If a disciplinary removal may lead to a change in placement, the 504 Team must convene a meeting before the change in placement to conduct a manifestation determination in order 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 (typically a removal for more than 10 cumulative or consecutive school days in the same year).** During the period before the manifestation is complete, the District may remove the student from school through a suspension.

In order to consider whether a behavior is a manifestation of the child’s disability the 504 Team must consider the following questions:

1. Was the behavior for which the administration seeks disciplinary action by the child’s disability?
2. Did the behavior for which the administration seeks disciplinary action to the student’s disability?

3. Was the behavior for which the administration seeks disciplinary action a direct result of the school's the 504 Plan?

If the 504 Team determines that the behavior a manifestation of the student's disability, then the student returns to his/her educational program (or to an alternative program determined by the 504 Team) and the 504 Team considers any changes to the plan to decrease the likelihood that the behavior will recur. **This would include a Functional Behavioral Assessment (FBA) and a resulting Behavioral Intervention Plan (BIP).**

If the 504 Team determines that the behavior a manifestation of the student's disability the team informs the school administration and disciplinary procedures continue in the same way as with students who do not have disabilities. Alternative educational services are provided to 504 students in the same way as services provided to nondisabled students.

In determining whether the removal of a student with a disability to in-school suspension is counted toward days of suspension, the School Administration must examine the setting used and the services provided to students with disabilities. Practically speaking, the first two (2) criteria (participation in the general curriculum and receipt of accommodations, modifications, and/or services required by the 504 Plan) **CAN** be addressed in in-school suspension. Even though the Federal Department of Education has not provided any definitive guidance on this issue, it appears that if the school establishes an in-school suspension setting that is available to **BOTH** students with and without disabilities, the time with nondisabled peers criteria is met, even if on any given day the student with a disability is the only student placed in the in-school suspension setting or on any given day only students with disabilities are placed in in-school suspension.

Discipline and Behavior in the Community

Students may be disciplined (up to suspension and/or expulsion from school) for behavior occurring in the community in accordance with provisions in the CT General Statutes (Conn. Gen. Stat. §§ 10-233c; 10-233d).

In order to suspend a student for behavior occurring in the community, the administration must determine that the conduct off school grounds was in violation "of 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 (Independent Hearing Officer or "IHO"), through a formal administrative hearing,

must determine that the conduct off school grounds violated “a publicized policy of [the Board] and is seriously disruptive of the educational process...”.

The requirement to hold a manifestation determination as described above also applies to disciplinary action for conduct occurring off school grounds.

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, nor does it prevent or restrict law enforcement and/or judicial authorities from exercising their responsibilities under federal and state law. The District must treat the reporting of a crime allegedly committed by a student with a disability and the transmission of information regarding that student in the same fashion it would a nondisabled student.

Extracurricular Activities and Section 504

Students with disabilities must be provided with an equal opportunity to participate in extracurricular and nonacademic activities and programs sponsored by the school district. 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 based on individual inquiry. While the reasonable accommodations need not be determined by a 504 Team, relevant individuals to include in the accommodations inquiry include, as appropriate, the student, parent, coach, advisor, administrator, and teacher, nurse, etc. 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 he or her nondisabled peers.

The District may require a specific level of skill or ability for participation in a competitive program or activity such as, but not limited to 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 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 disabilities with an equal opportunity for participation in such extracurricular activities and services. (See appendix 13 - OCR Dear Colleague letter January 2013)

Individualized Health Care Plans and Section 504

Under Connecticut General Statute § 10-212c the District must develop and implement an Individualized Health Care Plan (IHCP) and Food Allergy Action Plan (also known as an Emergency Care Plan) for every student with a life-threatening food allergies and/or an IHCP and Glycogen Storage Disease Action Plan for every student with glycogen storage disease, irrespective of whether the student meets the definition of a disability under Section 504. Furthermore, students with other medical issues may have IHCPs and Emergency 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 meet the eligibility requirements for protection under Section 504. Eligibility decisions and the need for accommodations, modifications, and/or services under Section 504 for students with medical and/or health concerns, including life-threatening food allergies and glycogen storage disease shall be determined on an individual basis through the Section 504 referral process as outlined earlier in this document as appropriate.

Requests for Educational Records and Section 504

Section 504 and The Family Educational Rights and Privacy Act ("FERPA") treat requests for educational records in the same way. Each parent/eligible student has the right to review (make an appointment with the school, and visually inspect) their student's educational records. Requests to review a student's educational records should be submitted, in writing, to the school administration. The school must offer a date/time to review the records within a reasonable time period once the request has been received (no more than 45 days). Please note that a district employee must be present with the parent/guardian during the record review and at no time should the parent/eligible student be left alone with the record. Should the parent/eligible student request copies of any or all records the cost of copies is \$.50 cents per page. The parent/eligible student will be informed, **in writing**, of the cost before copies are made. If the parent requests a waiver of the charges all such requests for waiver should be submitted, **in writing**, to the Deputy Superintendent of Schools for consideration (copies of records are required to be provided only if the conditions of review and inspection impose a significant burden on the family).

Complaint Resolution Process and Procedures

Section 504 complaints regarding a student's identification, evaluation, and/or educational placement shall generally be handled by the procedures described below.

A. District 504 Coordinator Review

- a. 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 submitted, **in writing**, to the District Section 504 Coordinator within thirty (30) school days of the 504 Meeting dates where the student's identification, evaluation, and/or educational placement dispute arose. Timely reporting of complaints facilitates the resolution of potential educational disputes.
- b. The complaint concerning a student's identification, evaluation, and/or educational placement should contain the following information:
 - i. The student's full name, date of birth, grade level and school
 - ii. The Parents' name, address, and relevant contact information
 - iii. Date of the 504 Team meeting that caused the complaint
 - iv. Specific areas of disagreement relating to the student's identification, evaluation, and/or educational placement, and
 - v. The Remedy requested.
- c. Complaints will be investigated promptly within the 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.
- d. Upon receipt of the complaint, the Section 504 Coordinator shall:
 - i. Offer to meet with the complainant within 10 school days to discuss the nature of his/her complaint and determine if an appropriate resolution can be reached. If a complaint is made during school breaks or 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;
 - ii. If, following such a meeting, further investigation is deemed necessary, the Section 504 Coordinator shall promptly investigate the factual basis of the complaint, consulting with any individuals reasonably believed to have relevant information including the student and/or complainant; and

- iii. 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 15 school days from the date the complaint was received, in writing, by the Section 504 Coordinator unless otherwise specified by the District 504 Coordinator.
- B. Mediation Procedures: A parent/guardian (or eligible student aged 18 year 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, and/or educational placement of his/her student (or self in the case of student aged 18 or older).
 - a. A request for mediation regarding a student's identification, evaluation, and/or educational placement under Section 504 should be submitted in writing to the District Section 504 Coordinator within thirty (30) school days of the alleged date that the dispute regarding a student's identification, evaluation, and/or educational placement under Section 504 arose.
 - b. The request for mediation concerning a disagreement regarding a student's identification, evaluation, and/or educational placement under Section 504 should contain the following information:
 - i. The student's full name, date of birth, grade level and school
 - ii. The Parents' name, address, and relevant contact information
 - iii. Date when the alleged disagreement arose
 - iv. Specific areas of disagreement relating to the student's identification, evaluation, and/or educational placement, and
 - v. The Remedy requested.
 - c. Upon receipt of a request for mediation, the Section 504 Coordinator shall retain a neutral mediator who is knowledgeable about the requirements of Section 504
 - d. 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.
 - e. 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.
 - f. All statements, offers, or discussions and/or information shared during the mediation process, but not available from other means, shall be confidential,

and may not be used in any subsequent hearing or proceeding related to the disagreement that is the subject of mediation.

- g. If the parties are not able to reach a voluntary settlement of the dispute, the complainant may request an impartial hearing as described below.

D. Impartial Hearing Procedures

- a. An impartial due process hearing is available to the parent/guardian of a student (or eligible student aged 18 years or older) if the parent/guardian/eligible student 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.
- b. Upon receipt of a written request for an impartial due process hearing the District shall retain an IHO. The IHO must be someone who is knowledgeable about Section 504, have an understanding of a free appropriate public education (FAPE) under Section 504, and the distinctions between Section 504 and the regulations and requirement of the Individuals with Disabilities Education Act (IDEA).
- c. The IHO shall schedule a pre-hearing conference with the District/designee and the Parent/designee 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 parents' to have legal counsel or other representation at the hearing (at the complainant's expense), if desired.
- d. The IHO 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 have legal counsel or other representation at each parties own expense, if desired.
- e. The IHO shall hear all aspects of the complainant's complain and/or appeal concerning the identification, evaluation and/or educational placement of the student and shall reach a decision. The decision shall be presented in writing to the complainant and to the Section 504 Coordinator.
- f. An IHO under Section 504 does not have jurisdiction to hear claims alleging discrimination, harassment, or retaliation based on an individual disability unless such a claim is directly related to a claim regarding the identification, evaluation, or educational placement of a student under Section 504.
- g. The time limits noted herein may be extended for good cause shown, including but not limited to if more time is needed to permit the 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 for Civil Rights
US Department of Education
5 Post Office Square
8th Floor, Suite 900
Boston, Massachusetts 02109-3921
Phone: 617-289-0111
FAX: 617-289-0150
TDD: 877-521-2172

<http://www2.ed.gov/about/offices/list/ocr/complaintintro.html>

Part C

Grievance Procedures under Section 504

Procedures for filing a Grievance/Complaint Alleging Discrimination on the Basis of a Disability

- A. 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 a disability may submit a written complain to the District's Designated 504 Coordinator within thirty (30) school days of the alleged occurrence. Timely reporting of complaints facilitates prompt investigation and resolution of such complaints. If the complaint is made verbally, the individual taking the complaint will reduce the complaint to writing.
- B. At any time, when complaints involve discrimination that is directly related to a claim regarding 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 IHO and request a hearing in accordance with the Complaint Resolution Procedures, 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 the Complaint Resolution Procedures located in Part B of this manual.
- C. 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 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 participation in an investigation of a complaint.
- D. If the District 504 Coordinator is the subject of the complaint, the complaint she be submitted directly to the Superintendent who may conduct the investigation or appoint a designee to conduct the investigation in accordance with these procedures.
- E. 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
- F. All complaints of disability related discrimination should contain the following information:
 - I. The name and contact information of the complainant
 - II. The date of the complaint
 - III. The date(s) of the alleged discrimination

- IV. The names and contact information of any witness(es) or individuals relevant to the complaint
- V. A detailed statement describing the circumstances in which the alleged discrimination occurred; and
- VI. The remedy requested.

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

- G. Upon receipt of the complaint, the District 504 Coordinator shall:
 - I. 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/evidence the complainant may have;
 - II. Provide the complainant with a copy of the BOE Section 504 Policy and any applicable regulations;
 - III. 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;
 - IV. Maintain confidentiality to the extent practicable throughout the investigation process, in accordance with state and federal law;
 - V. 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 if needed to complete a thorough investigation. The complainant shall be notified of such extension. The written notice shall include a finding of whether the complaint was substantiated and if so, shall identify how the district will remedy any identified violations of Section 504;
 - VI. If the complaint is made during school breaks or 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;

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

Office for Civil Rights
US Department of Education
5 Post Office Square
8th Floor, Suite 900
Boston, Massachusetts 02109-3921
Phone: 617-289-0111
FAX: 617-289-0150
TDD: 877-521-2172

<http://www2.ed.gov/about/offices/list/ocr/complaintintro.html>

Appendix A

**Southington Public Schools
200 N. Main Street
Southington, CT 06489**

Section 504 Procedural Safeguards Notice

The Southington 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: Rebecca Cavallaro
Position: Director of Pupil Services
Phone Number: 860-628-3200 x10210
E-mail: rcavallaro@southingtonschools.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.