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# Section 504

## Guidelines and Practices Manual

This Section 504 Guidelines & Practices Manual was developed by  
The Woodstock Academy in conjunction with the Connecticut  
State Department of Education.

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The school district has a specific requirement under the Rehabilitation Act of 1973, which includes the responsibility to identify, evaluate and if the child is determined to be eligible under Section 504, to afford access to free and appropriate educational services. Section 504 of the Rehabilitation Act of 1973 is a federal statute which states, in part, "No otherwise qualified individual, shall solely on the basis of handicap, be excluded from participation in, be denied benefits of, or be subject to discrimination under any program or

activity receiving federal financial assistance." This requirement not to discriminate in educational programs and activities also extends to employment. Each school has a designated Section 504 Coordinator. Initial inquiries relating to Section 504 should be directed to the building-based Section 504 Coordinator, Director of Student Support.<sup>1</sup>

## What is Section 504?

Section 504 is a federal civil rights law that prohibits discrimination against individuals with disabilities. It requires schools that receive federal funding to provide all students with a free and appropriate education (FAPE). FAPE comprises regular or special education and related services designed to meet the student's individual educational needs as adequately as the needs of nondisabled students are met.

## What is a 504 Plan?

A 504 plan is a specific plan outlining services and/or changes to the environment that ensure a child can access learning in school. It will outline specific services, accommodations or modifications and those staff members responsible for implementing the plan.

## Definitions and Explanations of Common Terms

The following terms are defined in the IDEA and state statutes and implementing regulations.

- Accommodations are changes to instruction (such as materials, content enhancements, and tasks) that change how a student learns. Accommodations may include assistive technology devices and services. Accommodations do not fundamentally alter the grade level requirements or course expectations.
- Adult Student is an eligible student who has reached the age of majority under state law.
- Adverse Effect exists when educational performance is negatively affected because of the manifestation of the student's disability. Evidence must exist that supports a relationship between the manifestation of the student's disability and decreased educational performance. While adverse effect on educational performance may imply a marked difference between the student's academic performance and reasonable (not optimal) expectations of performance, the definition of educational performance cannot be limited to academics.
- Child/Student means any person under 21 years of age.
- Child Find is an IDEA requirement that states, and districts identify, locate, and evaluate students ages birth to 21, who may need 504 Plan and related services.
- Consent means that the parent or adult student: Has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication. Understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and understands that the granting of consent is voluntary and may be revoked at any time. If a parent/adult student revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).
- Education Record means a student's record containing personally identifiable information maintained by an educational agency or institution, or by a party acting for the agency or institution, which may include, but is not limited to virtual files, print, handwriting, computer media, video, or audio tape, and/or film.

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<sup>1</sup> (Section 504, Rehabilitation Act of 1973, n.d.)

- Evaluation means the summative results of the evaluation procedures, including assessments, used to determine whether a student is a student with a disability and the nature and extent of a 504 Plan and related services that the student needs.
- Evaluation Procedures means the use of a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student, including information provided by the parent that may assist in determining whether the student is a student with a disability and, if so, inform the content of the student's Plan.
- Free Appropriate Public Education (FAPE) the Individuals with Disabilities Education Act (IDEA) is a federal law that makes FAPE available to eligible students with disabilities throughout the United States and ensures Section 504 services and related services to those students.
- Language and Communication Plan (LCP) is required any student identified as deaf or hard of hearing, the 504 Team is responsible for developing the LCP and completing form (ED638). <sup>2</sup>
- Least Restrictive Environment (LRE) is the IDEA requirement that students with disabilities, including those in public or private institutions or other care facilities, be educated with students who are nondisabled to the maximum extent appropriate.
- Major Life Activities include an exhaustive list of both physical and cognitive activities. Examples include reading, writing, communicating, speaking, hearing, seeing, and numerous other activities.
- Manifestation Determination is a determination by the parent and relevant members of the student's Educational Team about whether the conduct in question was caused or had a direct and substantial relationship to the student's disability or if the conduct in question was the direct result of the school district's failure to implement the student's 504 Plan.
- Modifications are changes to the content, which affect what the student learns. Modifications include changes in the curricular content standards or the performance expectations.
- Native Language when used with respect to an individual who has limited English proficiency, means: the language normally used by that individual, or, in the case of a student, the language normally used by the parents of the student. In all direct contact with a student (including evaluation of the student), the native language would be the language normally used by the student in the home or learning environment.
- Nonacademic and Extracurricular Services and Activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by Woodstock Academy, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by Woodstock Academy and assistance in making outside employment available.
- Parent/Guardian(s) means a biological or adoptive parent, guardian, surrogate parent as defined by Connecticut statute, or an individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the student lives or an individual who is legally responsible for the student's welfare. The rights of the parent shall transfer to a student who has reached the age of 18, except as provided in the state regulation about the transfer of rights.
- Personally Identifiable Information includes but is not limited to, the student's name, name of the parent or other family member; the student's or parent's address; a personal identifier, such as the student's social security number or student number; or a list of personal characteristics or other information that would make it possible to identify the student with reasonable certainty.
- Supplementary Aids and Services means aids, services, and other supports that are provided in general education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable students with disabilities to be educated with nondisabled students to the maximum extent appropriate.

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<sup>2</sup> [https://portal.ct.gov/-/media/SDE/Special-Education/Language\\_and\\_Communication\\_Plan.pdf?la=en](https://portal.ct.gov/-/media/SDE/Special-Education/Language_and_Communication_Plan.pdf?la=en)

# Child Find and Eligibility Process

## Child Find Responsibility

The Woodstock Academy has a student identification process “Child Find” for all students with a disability from approximately 13 years of age through age 21 (grades 9-12), regardless of the severity of the disability, and who are in require of accommodations/modifications under Section 504.

The Woodstock Academy’s Child Find responsibilities apply to all children who attend The Woodstock Academy. This responsibility includes cooperating and collaborating with other agencies to identify children with disabilities. The Woodstock Academy has policies and procedures for conducting Child Find activities (i.e., identifying, locating, and evaluating) for all students who are suspected of having a disability, even though the student is:

- Advancing from grade to grade.
- A ward of the state.
- Highly mobile, such as migrant and homeless children.

The Student Service Department coordinates all activities related to Child Find. The Woodstock Academy uses community resources and conducts systematic activities in an effort to identify children who may require Section 504 services.<sup>3</sup>

## Eligibility

All students with disabilities are protected under Section 504. When determining if students require an accommodation plan, 504 teams consider the following:

- Is there a physical or mental impairment?
- Does it substantially limit a major life activity?
- Does the student require a 504 plan to access school programming and / or the educational program?
- A substantial limitation exists when a person is unable to perform a major life activity that the average person in the general population can perform, or when a person is significantly restricted in the condition, manner, or duration under which they can perform the same major life activity.

## Evaluation Process

504 teams consider multiple sources of information when determining student eligibility. This may include, but is not limited to the following:

- parent/caregiver reports
- teacher reports and student
- performance
- medical documentation
- evaluation results
- degree of impact

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<sup>3</sup> The District’s Child Find obligations will include those activities that target children whose families are homeless, highly mobile, whose primary language is not English and who participate in public and private early childhood programs.

Standardized testing instruments are not necessarily part of the eligibility process under Section 504. The School Counseling Department Team reviews referrals for standardized testing.

## Section 504 Plan

A Section 504 Plan describes the regular and related aids and services a student needs and the appropriate setting in which to receive those services. Though not explicitly required by the Department's Section 504 regulations, school districts often document the elements of an individual student's FAPE under Section 504 in a document (Plan), typically referred to as a Section 504 Plan.

The Woodstock Academy will provide a written Section 504 Plan as a way to document that a process to identify and address the needs of a student with a disability and to communicate, to school personnel, the information needed for successful implementation was used.

## Student Discipline Under Section 504 of the Rehabilitation Act of 1973

Under Section 504, schools must make reasonable modifications to their criteria, policies, practices, or procedures when necessary to avoid discrimination on the basis of disability. In the discipline context, reasonable modifications could include not applying a particular policy to a student with a disability for disability-based behavior or adapting a school policy to support a student's behavioral needs.<sup>4</sup>

### Disciplinary Removals resulting in a Change of Placement

The Woodstock Academy will consider any "unique circumstances" on a case-by-case basis when considering a disciplinary change in placement, consistent with all other state and federal requirements, is 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 District code of student conduct.

A change in placement occurs if the District removes the student for more than 10 consecutive days (i.e., an expulsion) or if District has removed the student in excess of 10 days cumulatively constituting a pattern of removals. When determining whether the removals constitute a pattern, the District will consider (1) whether the behavior for which the student was disciplined was substantially similar to the conduct that resulted in prior removals and (2) other factors such as length of each removal, total time the student has been removed, and the proximity of the removals to each other. The District will make this determination on a case-by-case basis. If the parent of the student disagrees with the determination, the parent may file for an expedited due process hearing. If the District determines that the cumulative removals do not result in a change of placement and the current removal is more than 10 school days, District staff, in consultation with at least one of the student's teachers will determine the extent to which educational services are needed to enable the student to continue to participate in the general education curriculum.

The District will provide prior written notice to the parent on the date on which the decision is made to remove the student resulting a change of placement, and also provide a copy of the procedural safeguards.

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<sup>4</sup> <https://www2.ed.gov/about/offices/list/ocr/docs/504-discipline-guidance.pdf>

The District will conduct a manifestation determination if the District is considering expelling a student, removing the student to an IAES, or any other change in placement.

## Manifestation Determination

Before expelling a student, removing the student to an Interim Alternative Educational Setting (IAES)\*, or any other disciplinary removals resulting in a change of placement, the District will convene a meeting to make a manifestation determination. During the time period before the manifestation determination is completed, the District may remove the student through a suspension and will provide educational services for the duration of the removal. The student's educational Team will determine the setting and educational services that are required so as to enable the student to continue in the general education curriculum.<sup>5</sup>

If the manifestation determination team determines that the misconduct in question is a manifestation of the student's disability, an Educational Team may:

- Conduct a functional behavioral assessment unless the district has conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the student; or
- Developed or review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and
- Return the student to the placement from which the student was removed unless the parent and the district agree a change of placement as part of the modification of the behavioral intervention plan.

If the manifestation determination team determines that the misconduct in question is not a manifestation of the student's disability, school personnel may apply the relevant disciplinary procedures to the student in the same manner and for the same duration as the procedures would be applied to a student without disabilities.

## Unilateral removal:

School personnel may remove a student to an interim alternative educational setting ("IAES") for not more than 45 school days without regard to whether the behavior is a manifestation of the student's disability, in cases where a student:

- Carries or possesses a weapon at school, on school premises, or at a school function.
- Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function; or
- Inflicts serious bodily injury upon another person while at school, on school premises, or at a school function.

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<sup>5</sup> A manifestation determination hearing will be held for a student with an IEP or 504 plans prior to any decision to recommend the student for expulsion in accordance with federal statutes 29 U.S.C. § 705(20)(C)(iv) and 20 U.S.C. § 1415 (k)(E)(i)

# Grievance Procedures (34 CFR, 104(7)(b))

## General Information

If any person believes that The Woodstock Academy or any of its staff have inadequately applied the regulations of Section 504 of the Rehabilitation Act of 1973, they may initiate a grievance with The Woodstock Academy's Section 504 Coordinator. The grievance procedures must explicitly state and make clear to the individual(s) involved that a complaint can be made to the regional office of the U.S. Department of Education's Office for Civil Rights (OCR) without going through The Woodstock Academy's grievance procedures. The grievance procedures are meant to provide for a prompt and equitable resolution of a complaint.<sup>6</sup>

## The Woodstock Academy Grievance Procedures

The Section 504 Coordinator, on request, will provide a copy of The Woodstock Academy's grievance procedures and investigate all complaints in accordance with these procedures. In order to be prompt and equitable, the district/charter school should incorporate the following:

- Notice of the grievance procedures provided to students and parents/guardians,
- Procedures that afford an opportunity for adequate, reliable, and impartial investigation, including a description of the investigative appeals process,
- Timeframes that are reasonably prompt that have been established for various stages of the complaint process,
- Notice of the outcomes of the complaint provided to the parties, and
- An assurance that any violations will be addressed, and steps that will be taken to prevent a recurrence.

The person(s) who believes they, or their student, have been discriminated against based on disability shall discuss the grievance with, and give the completed grievance form to the Section 504 Coordinator who shall, in turn, investigate and reply to the complainant.

## Mediation

In good faith The Woodstock Academy should attempt to resolve any differences between The Woodstock Academy and parents/guardians before a complaint is filed and/or before the OCR is contacted. Mediation can be requested by either party.

Mediation is not required under Section 504 and is considered a best practice. The purpose is to partner with parents/guardians and school staff on issues regarding the complaint (i.e., eligibility, program, and placement) of students with disabilities. The mediator is a neutral third party and, therefore, has no power to

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<sup>6</sup> The State Department of Education takes the position that the compliant/grievance procedures it has created under (§10-76h) is the responsibility of the individual school district to adopt complaint and hearing procedures to address these obligations. For discussion of these procedures, see Parent and Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools at 35 (December 2016) <https://www2.ed.gov/about/offices/list/ocr/docs/504-resource-guide-201612.pdf>; see also, 34 C.F.R. § 104.36.

make a decision regarding the dispute. The mediator will listen to the views of each party and will assist the parties in developing their solution to the problem.

Mediation is completely voluntary. It does not interfere with any procedural safeguards, including filing a grievance with The Woodstock Academy requesting a due process hearing or filing a complaint with OCR.

## Mediation Process/Timeline

Step 1. A written grievance form signed by the complainant shall be submitted to the Section 504 Coordinator. The Coordinator will acknowledge the receipt of the grievance/complaint in writing to the parents/guardians.

Step 2. The Coordinator shall further investigate the matters of grievance and/or facilitate a meeting with the parents/guardians, Associate Head of School, Director of Student Affairs and 504 Coordinator to review the and discuss the grievances.

Step 3. The Coordinator shall provide, in writing, to the complainant within 10 (ten) business days the results of the investigation.

Step 4. If the complainant wishes to appeal the decision of the Section 504 Coordinator, they may submit a signed statement of appeal to the Head of School within 10 business days after receipt of the Coordinator's response. The Head of School shall meet with all parties involved, formulate a conclusion, and respond in writing to the complainant within 10 business days.

Step 5. If the complainant is not satisfied with the Head of School's decision/recommendation, they may submit a written appeal to the Board of Trustees within fifteen (15) days of the Head of School's decision.

With at least five (5) days' notice given prior to the hearing, the Board of Trustees shall inform all parties involved of the date, time, and place of the hearing and of the right to present witnesses and to have legal counsel or other representation, if desired. The Board of Trustees shall hear all aspects of the appeal and shall reach a decision within twenty (20) days of receipt of the written appeal. The decision shall be presented in writing to the complainant at its next regularly scheduled meeting.

## Due Process Hearing

Due process is defined as an opportunity to resolve a dispute between parents/guardians and The Woodstock Academy over the decisions made and/or procedures used by The Woodstock Academy under Section 504. A Section 504 due process hearing (CFR 104.36) may be called at the request of The Woodstock Academy or a parent/guardian, or surrogate parent of the student. It is required that parents/guardian be notified of their right to request a hearing regarding a dispute over the identification, evaluation, or educational placement of a student with disabilities being served or considered for Section 504.

Section 504 of the Rehabilitation Act of 1973 provides the right to an impartial due process hearing if a parent wishes to contest any action of the school system with regard to a child's identification, evaluation, and placement under Section 504.

## Procedural Safeguards

Procedural Safeguards provide informed guidance for parents/caregivers and can be viewed plan education and/or related services. [Parent and Educator Resource Guide.](#)<sup>7</sup>

### Frequently Asked Questions:

1. Can a student be “eligible” with a disability under Section 504, but not require a specific accommodation?  
Yes. The disability might impact a major life activity but may not currently have a significant impact on school programming and/or the educational process.
2. What is the primary difference between a 504 Plan and an IEP?  
Students with an IEP are found eligible under IDEA and require modifications to the curriculum and specialized instruction in order to access their education. A 504 Plan includes accommodations and/or services which help students to access school programming and/or the educational process.
3. What if a student has a short-term injury?  
Short term injuries are addressed on a case-by-case basis with focus on key factors such as the intensity and expected duration of the injury.

## Contact & Resources Information

Director of Student Support- 504 Coordinator

Shannon VanderSwaagh- [svanderswaagh@woodstockacademy.org](mailto:svanderswaagh@woodstockacademy.org) T: (860) 928-6575 ext. 1132

Organizations and agencies which you may contact to obtain assistance grievance procedures, but are not limited to, the following:

- Federal: Office of Civil Rights, Boston Region Office, Telephone: (617) 233-9662
- Low-Cost Legal Services- Legal Aid Society of Hartford County, Inc., Telephone: (203) 541-5000

Office of Civil Rights, Post Office and Court House Building, 2<sup>nd</sup> Floor, Post Office Square, Boston, MA 02109.<sup>8</sup>

United States Department of Education- Region 1 – office of Civil Rights John W. McCormack Post office and Courthouse – Room 222 Boston, MA 02109-4557  
(617) 223-9662

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<sup>7</sup> <https://www2.ed.gov/about/offices/list/ocr/docs/504-resource-guide-201612.pdf>

<sup>8</sup> Any such complaints must be filed within 180 days of the possible act of discrimination.