

WINNETKA PUBLIC SCHOOLS DISTRICT 36

SECTION 504 POLICY, PROCEDURES, AND PROCEDURAL SAFEGUARDS

1. Statement of Policy

The Winnetka Public Schools District 36 (“the District”) does not discriminate on the basis of disability in its programs, services, and activities, including but not limited to enrollment decisions. It is the intent of the District to ensure that students who are disabled within the definition of Section 504 of the *Rehabilitation Act of 1973* are identified, evaluated, and provided with a free, appropriate public education, consistent with the requirements of 34 C.F.R. §104.33. Equal educational and extracurricular opportunities shall be available for all students and students will not be denied access to the District’s programs or services on the basis of disability.

2. Location of and Notice to Students with Disabilities

On an annual basis, the District will attempt to identify and locate every qualified student with a disability who resides within the District who is not receiving a free appropriate public education, and will take appropriate steps to notify such students and their parents or guardians of the District’s duties under Section 504 of the *Rehabilitation Act of 1973*.

3. Evaluation of Students with Known or Suspected Disabilities

Staff or parents/guardians of District students make a request for an evaluation of a student whom they know or suspect may have a disability, and may be in need of special education or related aids and services or modification to regular education because of such disability, under Section 504 as follows:

- a. Send a written request for an evaluation to the District’s Section 504 Coordinator that includes the following:
 - (i) student’s name;
 - (ii) student’s date of birth;
 - (iii) an explanation of the reason(s) for the request; and
 - (iv) any relevant records, reports, or other information.

The District’s Section 504 Coordinator is:

Name and Title: Beth Martin, Director of Student Services
Office Address: 1235 Oak Street

Winnetka, IL 60093
E-mail address: bethmartin@winnetka36.org
Telephone: (847) 501-2622

- b. Contact the Coordinator or School Principal if assistance is needed in requesting an evaluation.

Within ten (10) days after the Coordinator's receipt of a written request for evaluation, the District will:

- (i) review the request, the student's records, and input from school personnel;
- (ii) determine if an evaluation is warranted; and
- (iii) provide the referring party with written notice of and the reason(s) for the decision, with a copy of the Parents' Rights in Brief.

In evaluating students who need or are believed to need special education and/or related aids and services designed to meet their individual educational needs, the District will establish standards and procedures to ensure that:

- (i) A parent's informed written consent is obtained prior to any initial evaluation or reevaluation;
- (ii) A reevaluation is conducted prior to any significant change in placement, including disciplinary removals that constitute a significant change in placement;
- (iii) Tests and other evaluation materials used have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer;
- (iv) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not solely those which are designed to provide a single general intelligence quotient; and
- (v) Tests are selected and administered so as best to ensure that the test results accurately reflect the student's aptitude or achievement level or whatever factor(s) the test purports to measure, rather than the student's impaired skills (except where those skills are the factors that the test purports to measure).

4. Placement of Students with Disabilities

In interpreting evaluation data and in making placement decisions, the District will establish procedures to ensure that:

- a. Information is drawn from a variety of sources, including parent input, aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;
- b. Information obtained from all sources is documented and carefully considered;
- c. The placement decision is made by a group of persons that includes persons knowledgeable about the child, the meaning of evaluation data, and the placement options; and
- d. Students with disabilities are educated and participate in nonacademic and extracurricular services and activities, to the maximum extent appropriate, in settings with students who are not disabled.

5. Reevaluation of Students with Disabilities

The District will periodically reevaluate students who have been provided Section 504 services, consistent with the requirements of Paragraphs 2 and 3 herein.

6. Manifestation Determination Review

- a. If a student is removed from his/her current placement for more than ten school days in a school year and the removal constitutes a significant change in placement, the Section 504 team must meet to conduct a manifestation determination review.
- b. When conducting a manifestation determination review, the team will review relevant information, including, for example, staff observations, evaluation, diagnostic results, and the student's most recent Section 504 evaluation and plan, to determine:
 - (i) if the misconduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
 - (ii) if the misconduct in question was the direct result of the District's

failure to implement the Section 504 plan.

If the team determines that either of the above statements apply, then the misconduct is a manifestation of the student's disability.

- c. If the team determines that the misconduct was not a manifestation of the child's disability, then the District's regular disciplinary procedures will apply.
- d. If the team determines that the conduct was a manifestation of the child's disability:
 - (i) the team will conduct a functional behavioral assessment ("FBA") and implement a behavior intervention plan ("BIP"), if this has not already been done prior to the current misconduct;
 - (ii) if a FBA and BIP have already been developed, the team will review and modify them, as necessary, to address the misconduct in question; and
 - (iii) the team will review the student's current Section 504 plan and educational placement to determine if it remains appropriate. If the team believes that a significant change in placement may be necessary, the team must initiate a reevaluation of the student.

7. Procedural Safeguards

- a. With respect to identification, evaluation, placement, or provision of a free appropriate public education to students who need or are believed to need Section 504 services, and with regard to complaints alleging discrimination by school employees, other students or third parties, the District, through the Section 504 Coordinator, has established and implemented a system of procedural safeguards that includes:
 - (i) notice;
 - (ii) an opportunity for the parents or guardian of the student to examine relevant records;
 - (iii) an impartial hearing with opportunity for participation by the student's parents or guardian and representation by counsel; and

- (iv) a review procedure.
- b. The District's impartial hearing and review procedures are as follows:
 - (i) Complaint/Impartial Hearing Procedure
 - (a) A student or parent/guardian complaint regarding the District's identification, evaluation, or educational placement of a student under Section 504 may be filed with the Section 504 Coordinator by requesting an impartial hearing.
 - (b) The complaint and request for an impartial hearing must be in writing, signed and dated by the complainant (or, in the case of a student under age 18, his or her parent or guardian). It must include a description of the facts and circumstances of the complaint, as well as a description of the relief being sought. The Coordinator will be available to provide assistance to the complainant as needed in the preparation and processing of the complaint and in the review procedures. A complaint form may be requested from the Coordinator or from the School office.
 - (c) Upon receipt of the complaint, the Coordinator will promptly (i) provide the complainant with a copy of these Procedural Safeguards, and (ii) conduct an investigation, including, but not limited to, interviews with District employees and/or students and a review of all relevant documents. The Coordinator will complete such investigation within ten (10) school days of receipt of the complaint, unless there are extenuating circumstances which warrant an extension of this timeline. "School days" is defined as days, or portions of days, in which students are in attendance for instructional purposes.
 - (d) The Coordinator will confer with the complainant upon completion of such investigation to determine if the complaint can be resolved informally. If such informal resolution is not possible and the complainant wishes to proceed with a hearing, the Coordinator will provide the complainant with a list of three (3) impartial hearing officers. The complainant will indicate in writing his or her selection of an impartial hearing officer, in order of preference (with

#1 being the most preferred and #3 being the least preferred). The complainant will return the list of impartial hearing officers, with order of preference indicated in writing, to the Coordinator within five (5) school days of receipt of the list from the Coordinator.

- (e) The Coordinator will, upon receipt of the complainant's selections, promptly notify the first choice hearing officer of the pending case. In the event that the first choice hearing officer cannot hear the case, the second choice officer will be contacted. In the event that the second choice officer cannot hear the case, the Coordinator will contact the complainant's third choice officer. If none of the officers contacted can hear the case, the complainant will be asked to select/prioritize three additional hearing officers from another list which will be provided by the Coordinator to the complainant within five (5) days of the notice of decline from the third hearing officer.
- (f) A hearing will be scheduled by the hearing officer within fifteen (15) school days after the date that the hearing officer agrees to accept the appointment, unless the complainant and the Coordinator agree otherwise or there are extenuating circumstances which warrant an extension of this timeline.
- (g) The District and the complainant will have the right to present evidence relevant to the issue raised in the complaint. The District and the complainant will have the right to be represented by counsel.
- (h) The hearing officer will limit his/her decision to the issue or issues presented by the complainant in the written complaint. The hearing officer's decision must be written and will include a summary of the evidence and the reasons for the decision. The decision is to be based solely on the hearing officer's interpretation of the meaning or application of Section 504.
- (i) The hearing officer will send a copy of the decision to the complainant and the Coordinator within five (5) school days after the conclusion of the hearing.
- (j) The decision of the hearing officer will be final unless appealed pursuant to Paragraph 5(e)(ii) (see below).

(ii) Review Procedure

- (a) Any party aggrieved by the decision of the hearing officer may appeal the decision to the District's Board of Education by making a written request to the Superintendent (address: 1235 Oak Street, Winnetka, IL 60093). The aggrieved party's request for a review must be in writing, signed and dated, and be filed by mail or personal service no later than ten (10) school days after receipt of the hearing officer's decision.
- (b) A request for a review will state that an appeal of the hearing decision is being requested, the reason for the request for review, and the relief being sought.
- (c) The Superintendent will gather from the Coordinator and promptly forward all materials relevant to the complaint and appeal to the Board of Education.
- (d) Within thirty (30) school days, the Board of Education will affirm, reverse or amend the hearing officer's decision unless there are extenuating circumstances that warrant an extension of this timeline.
- (e) Within five (5) school days of the Board of Education's decision, the Superintendent will inform the parties of the Board's action.
- (f) The decision of the Board of Education is final.

c. Right to File Complaint with Office for Civil Rights

A complainant may end his/her complaint process with the Complaint Manager, impartial hearing officer or Board of Education at any time and initiate a formal complaint with the Office for Civil Rights (OCR). A complainant may file a complaint with OCR as an alternative to the District's impartial hearing and review procedures. OCR may be contacted as follows:

U.S. Department of Education
Office for Civil Rights
Midwestern Division, Chicago Office
500 West Madison Street, Suite 1475
Chicago, Illinois 60661-4544
Telephone: (312) 730-1560

Facsimile: (312) 730-1576

d. Retaliation Prohibited

Retaliation is prohibited against any person who requests an evaluation, reports disability discrimination, utilizes the District's impartial hearing and review procedures, or files a complaint with the OCR.

LEGAL REFERENCES: Section 504 of the *Rehabilitation Act of 1973*, 29 U.S.C. §794; 34 C.F.R. Part 104; *Americans with Disabilities Act of 1990* (Title II), 42 U.S.C 12132; 28 C.F.R. Part 35.

CROSS REFERENCES: Board Policy 6:120
Board Policy 2:260