



CONSOLIDATED SCHOOL DISTRICT OF NEW BRITAIN

Board Policy Statement

4114/4214 - Employees and Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990

Revised December 12, 2023 - Approved on January 8, 2024

Section 504 of the Rehabilitation Act of 1973 (“Section 504”) and Title II of the Americans with Disabilities Act of 1990 (“Title II” or “ADA”) (collectively, “Section 504/ADA”) prohibit discrimination on the basis of disability. For the purposes of Section 504/ADA, the term “disability” with respect to an individual means: (a) a physical or mental impairment that substantially limits one or more major life activities of such individual; (b) a record of such an impairment; or (c) being regarded as having such an impairment.

In order to fulfill its obligation under Section 504/ADA, the New Britain Board of Education (the “Board”) recognizes a responsibility to avoid discrimination in policies and practices regarding its personnel, students, parents/guardians and members of the public who participate in school sponsored programs within the Consolidated School District of New Britain (the “District”). In this regard, the Board prohibits discrimination against any person with a disability in any of the services, programs or activities of the school system.

Employees who are interested in requesting or discussing reasonable accommodations for a disability should contact:

[Talent Department, 272 Main Street New Britain, Connecticut - 860-827-2200]

Any employee may file an internal grievance/complaint regarding discrimination on the basis of disability by or within the district by utilizing the grievance/complaint procedures outlined in the Board’s Administrative Regulations Regarding Employees and Section 504 of Rehabilitation Act of 1973 and Title II of Americans with Disabilities Act, and/or may file a complaint with the Office for Civil Rights, U.S. Department of Education (“OCR”):

Office for Civil Rights, Boston Office
U.S. Department of Education
8th Floor
5 Post Office Square
Boston, MA 02109- 3921
(617) 289-0111

Employees may also file a complaint regarding employment discrimination on the basis of disability with the Equal Employment Opportunity Commission, Boston Area Office, John F. Kennedy Federal Building, 15 New Sudbury Street, Room 475, Boston, MA 02203-0506

(TELEPHONE NUMBER 800-669-4000).

Employees may also file a complaint with the Connecticut Commission on Human Rights and Opportunities, 450 Columbus Blvd., Hartford, CT 06103-1835 (TELEPHONE NUMBER 800-477-5737).

Anyone who wishes to file a grievance/complaint with the district, or who has questions or concerns about this policy, should contact _____, the Section 504/ADA Coordinator for the Consolidated School District of New Britain Public Schools, at phone number_____.

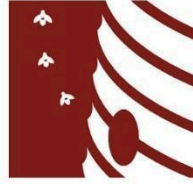
Legal References/Citations

29 U.S.C. §§ 705, 794

34 C.F.R. Part 104

42 U.S.C. § 12101 et seq.

28 C.F.R. Part 35



CONSOLIDATED SCHOOL DISTRICT OF NEW BRITAIN

Administrative Procedures

4114/4214 - Employees and Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990

Revised December 12, 2023 - Approved on January 8, 2024

I. Purpose

Section 504 of the Rehabilitation Act of 1973 (“Section 504”) and Title II of the Americans with Disabilities Act of 1990 (“Title II” or “ADA”) (collectively, “Section 504/ADA”) prohibit discrimination on the basis of disability. For the purposes of Section 504/ADA, the term “disability” with respect to an individual means: (a) a physical or mental impairment that substantially limits one or more major life activities of such individual; (b) a record of such an impairment; or (c) being regarded as having such an impairment.

In order to fulfill its obligation under Section 504/ADA, the New Britain Board of Education (the “Board”) recognizes a responsibility to avoid discrimination in policies and practices regarding its personnel, students, parents/guardians and members of the public who participate in school sponsored programs within the Consolidated School District of New Britain (the “District”). In this regard, the Board prohibits discrimination against any person with a disability in any of the services, programs or activities of the school system.

II. Definitions

As used in this ADA policy, the following terms have the indicated meaning:

- **Disability**: A physical or mental impairment that substantially limits one or more major life activities of the individual, a record of such an impairment, or being regarded as having such an impairment.
- **Substantially limiting**: In accordance with the ADA final regulations, the determination of whether an impairment substantially limits a major life activity requires an individualized assessment, and an impairment that is episodic or in remission may also meet the definition of disability if it would substantially limit a major life activity when active. Some examples of these types of impairments may include epilepsy, hypertension, asthma, diabetes, major depressive disorder, bipolar disorder and schizophrenia. An impairment, such as cancer that is in remission but that may possibly return in a substantially limiting form, is also considered a disability under the final ADA final regulations.
- **Major life activities**: include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing,

learning, reading, concentrating, thinking, communicating, interacting with others, and working. A major life activity also includes the operation of a major bodily function, such as the 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 systems. The operation of a major bodily function includes the operation of an individual organ within a body system.

- **Physical or mental impairment:** (a) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems, such as: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine;(b) any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disability; or (c) an impairment that is episodic or in remission if it would substantially limit a major life activity when active. Physical or mental impairment includes, but is not limited to, contagious and noncontagious diseases and conditions such as the following: orthopedic, visual, speech, and hearing impairments, and cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, dyslexia and other specific learning disabilities, Attention Deficit Hyperactivity Disorder, Human Immunodeficiency Virus infection (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.
- **Direct threat:** A significant risk to the health, safety or well-being of individuals with disabilities or others when this risk cannot be eliminated by reasonable accommodation.
- **Qualified individual:** An individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.
- **Reasonable accommodation:** Includes any changes to the job, work environment, or hiring process and may include making existing facilities readily accessible to and usable by individuals with disabilities, job restructuring, part-time or modified work schedules, telecommuting, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.
- **Undue hardship:** An action requiring significant difficulty or expense by the employer. In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include:
 - The nature and cost of the accommodation.
 - The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, the effect on expenses and resources, or the impact of such accommodation on the operation of the facility.
 - The overall financial resources of the employer; the size, number, type and location of facilities.
 - The type of operations of the District, including the composition, structure and functions of the workforce; administrative or fiscal relationship of the particular facility involved in making the accommodation to the employer.

- **Essential functions of the job:** Those job activities that are determined by the employer to be essential or core to performing the job; these functions cannot be modified.

The examples provided in the above terms are not meant to be all-inclusive and should not be construed as such. They are not the only conditions that are considered to be disabilities, impairments or reasonable accommodations covered by the ADA/ADAAA policy.

III. Job Accommodations

A. The District will make reasonable accommodations to the known physical or mental limitations of a qualified applicant or employee with a disability to enable him or her to perform essential job duties unless such accommodation would impose an undue hardship on the operations of the District.

B. The District will remove architectural barriers to an employee's workplace accessibility and usability where such removal is needed and is readily achievable, i.e., easily accomplishable and able to be carried out without much difficulty or expense.

C. An employee's direct/immediate supervisor will work with the Personnel and Talent Department to ensure that employee accommodations are reasonably implemented.

D. The following modifications may be made to an individual employee's job under appropriate circumstances:

a. Modification of an individual employee's job duties by reassigning, reallocating, or redistributing nonessential, marginal functions.

b. Modification of an individual's work schedule. c. Modification of the work environment, or the manner or circumstances under which the job is customarily performed, including workflow and/or procedures affecting an employee's job functions, if reasonable.

E. All employees are required to comply with the District safety standards. Current employees who pose a direct threat to the health or safety of themselves or other individuals in the workplace will be placed on leave until an organizational decision has been made in regard to the employee's immediate employment situation. D. Individuals who are currently using illegal drugs are not considered an individual with a disability.

IV. Accommodation Transfers

A. Accommodation transfers will be considered only when accommodation within the individual's current position would pose an undue hardship on the operations of the District.

B. An employee who can no longer perform, with or without accommodation, his or her current position because of a disability, will be placed, on a lateral basis, in an existing vacant position (or in a position that will become vacant within a reasonable time) if he or she is qualified for and can perform the essential job duties of that position, with or without accommodation, unless such placement would pose an undue burden on the operations of the District.

C. If such vacancy exists and the employee declines such placement, the employee will be placed in an existing vacant position (or in a position that will become vacant within a reasonable time) on successively lower levels if he or she is qualified for and can perform the essential job duties of that position, with or without accommodation, unless such placement would pose an undue burden on the operations of the District.

D. Employees in need of an accommodation transfer will be given first consideration (before posting) for such vacancies on a lateral or downgrade basis. If no such vacancies exist, or the employee declines such placement, the employee will be terminated.

VI. Employee Requests

Any employee in need of accommodation for workplace accessibility or usability, to perform essential job duties, to participate in District sponsored programs and activities, or who needs alternative accessible formats for District communications, should make such needs known to his or her immediate supervisor.

After appropriate discussion and consideration in consultation with the Director of Talent and Equity, the affected employee will be informed as to what, if any, reasonable accommodation will be made. If the request for an accommodation is denied, the employee will have an opportunity to appeal the decision to the Superintendent.

VII. Confidentiality

All employee accommodation requests and related information will be treated as confidential to the maximum extent possible. The District will maintain all information regarding the medical condition or history of applicants, employees, and employees' dependents on separate forms and in separate locked medical files, and treat such information as a confidential medical record to be utilized only as permitted by law.

VIII. Procedures for Grievances/Complaints Alleging Discrimination on the Basis of 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 disability (including differential treatment, harassment and retaliation) may submit a written complaint to the district's designated Section 504/ADA Coordinator (see contact information below) within thirty (30) school days of the alleged occurrence.
- B. Timely reporting of complaints facilitates the prompt investigation and resolution of such complaints. If a complaint is filed relating to alleged discrimination occurring more than thirty (30) school days after the alleged occurrence, the ability of the District to investigate the allegations may be limited by the passage of time. Therefore, complaints received after thirty (30) school days of the alleged occurrence shall be investigated to the extent possible, given the passage of time and the impact on available information, witnesses and memory. If a complaint is made verbally, the individual taking the complaint will reduce the complaint to writing. Individuals wishing to make a complaint about discrimination against students on the basis of

disability should be referred to the district's Section 504/ADA policies and regulations regarding students.

- 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 retaliation that occurs as a result of the good faith reporting or complaint of disability-based discrimination or as a result of an individual's participation or cooperating in the investigation of a complaint. The district will take necessary actions to prevent retaliation as a result of filing a complaint or the participation in an investigation of a complaint.
- D. If the Section 504/ADA Coordinator is the subject of the complaint, the complaint should be submitted directly to the Superintendent who may conduct the investigation or appoint a designee to conduct the investigation in accordance with these procedures. If the Superintendent is the subject of the complaint, the District shall designate an appropriate party 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. The complaint should contain the following information:
 - 1. The name of the complainant;
 - 2. The date of the complaint;
 - 3. The date(s) of the alleged discrimination;
 - 4. The names of any witnesses or individuals relevant to the complaint;
 - 5. A detailed statement describing the circumstances in which the alleged discrimination occurred; and
 - 6. The remedy requested.

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

- G. Upon receipt of the complaint, the individual investigating the complaint shall:
 - 1. Provide a copy of the written complaint to the Superintendent of Schools;
 - 2. Meet separately with the complainant and the respondent within ten (10) school days to discuss the nature of the complaint, identify individuals the complainant and respondent believe have relevant information, and obtain any relevant documents the complainant may have;
 - 3. Provide the complainant and respondent with a copy of the applicable Board Section 504/ADA Policy and these administrative regulations;

4. Consider whether and which interim measures might be appropriate for an alleged victim and the respondent pending the outcome of the District's investigation;
 5. Conduct an investigation of the factual basis of the complaint that is adequate, reliable, and impartial, including conducting interviews with individuals with information and review of documents relevant to the complaint;
 6. Maintain confidentiality to the extent practicable throughout the investigative process in accordance with state and federal law;
 7. Communicate the outcome of the investigation in writing to the complainant, and to the respondent (to the extent permitted by state and federal confidentiality requirements), within fifteen (15) school days from the date the complaint was received by the Section 504/ADA Coordinator or Superintendent. The written notice shall include a finding as to whether the complaint was substantiated and if so, shall identify how the District will remedy any identified violations of Section 504/ADA. The investigator may extend this deadline for no more than fifteen (15) additional school days if needed to complete the investigation. The complainant and the respondent shall be notified of any such extension;
 8. If a complaint is made during summer recess, the complaint will be reviewed and addressed as quickly as possible given the availability of staff and/or other individuals who may have information relevant to the complaint, and no later than fifteen (15) school days after the start of the following school year. The complainant and the respondent will receive notice if the investigation has been impeded by the summer recess, and interim measures may be implemented as necessary (see sub-paragraph 4);
 9. Ensure that appropriate corrective action is taken whenever allegations are verified. When allegations are verified, ensure that measures to remedy the effects of the discrimination and prevent its recurrence are appropriately considered, and offered, when appropriate. Corrective action should include steps to avoid continuing discrimination;
 10. In the event the investigator concludes that there is no violation of Section 504/ADA, the district may attempt to resolve the complainant's ongoing concerns, if possible.
- H. If the complainant or respondent is not satisfied with the findings and conclusions of the investigation, the appealing party may request review and reconsideration of the conclusion of the complaint within thirty (30) days of receipt of the written outcome. In requesting review, the appealing party must submit the complaint, the written outcome of the complaint, and explain why he/she believes the factual information relied upon by the investigator was incomplete, the analysis of the facts was incorrect, and/or the appropriate legal standard was not applied, *and* how this information would change the investigator's determination in the case. Failure to provide all such information may result in the denial of the review.
- Upon review of a written request from the appealing party, the Superintendent shall review the investigative results of the investigator and determine if further action and/or investigation is

warranted. Such action may include consultation with the investigator and other relevant witnesses, a meeting with appropriate individuals to attempt to resolve the complaint or a decision affirming or overruling the investigator's conclusions or findings. The Superintendent shall provide written notice to the appealing party and other party of his/her decision within ten (10) school days following the receipt of the written request for review. When a written request for review is received during summer recess, the Superintendent conducts the review as quickly as possible given the availability of staff and/or other individuals who may have information relevant to the review, and no later than ten (10) school days after the start of the following school year. The Superintendent's decision shall be final.

IX. The Section 504/ADA Coordinator for this district is:

[Talent Department, 272 Main Street New Britain, Connecticut - 860-827-2200]

X. Complaints to Federal or State Agencies

At any time, the complainant has the right to file a formal complaint with the U.S. Department of Education, Office for Civil Rights, 8th Floor, 5 Post Office Square, Suite 900, Boston, MA 02109-0111 (TELEPHONE NUMBER (617) 289-0111); <http://www2.ed.gov/about/offices/list/ocr/docs/howto.html>. Employees may also file a complaint regarding employment discrimination on the basis of disability with the Equal Employment Opportunity Commission, Boston Area Office, John F. Kennedy Federal Building, 15 New Sudbury Street, Room 475, Boston, MA 02203-0506 (TELEPHONE NUMBER 800-669-4000), or the Connecticut Commission on Human Rights and Opportunities, 450 Columbus Blvd., Hartford, CT 06103-1835 (TELEPHONE NUMBER 800-477-5737).