**Baconton Community**

**Charter School**

**Section 504**

**Procedures Manual**

Updated and Approved, May, 2019

***Purpose of Section 504***

Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, is designed to eliminate discrimination based on disability in any program or activity receiving federal financial assistance. This act requires that no qualified student who demonstrates a physical or mental impairment that substantially limits one or more major life activities (e.g., self-care, performing manual tasks, walking, seeing, hearing, speaking, breathing, working, learning, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, operation of a major bodily function, and communicating) shall be excluded from participation in, be denied the benefit of, or be subject to discrimination in any program or activity offered by Baconton Community Charter School (BCCS) . An impairment that is episodic or in remission is a disability if it substantially limits a major life activity when active.

The determination of a limitation to one or more major life activities must be made without regard to any ameliorative effects of mitigating measures (e.g., medication, medical supplies, equipment, low-vision devices, prosthetics, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies).

BCCS shall offer a free appropriate public education (FAPE) to each qualified student with a disability. Services provided to qualified students are not required to produce identical results or level of achievement with nondisabled peers. Services must be designed to offer an equal opportunity to gain the same benefit within the most integrated setting appropriate.

A student who is not disabled, but has a record of, or is regarded as, having a disability under Section 504 is protected from discrimination based on disability insofar as an alleged discriminatory action based on that history or perception. The fact that a student has a “record of” or is “regarded as” having an impairment is insufficient by itself to require accommodations.

BCCS School Board designates procedures for the implementation of Section 504 at BCCS and has set a March 1st deadline for all non-emergency 504 plan requests,

***Identification and Evaluation Procedures***

BCCS has a responsibility to identify and evaluate those students who are believed to qualify as disabled under Section 504. FCPS also has a responsibility to provide notice to a student’s parent(s) or guardian prior to evaluation, identification, reevaluation, and/or placement.

***Referral***

When there is reason to suspect that a general education student has a disability and is in need of accommodations, modifications, and/or services in order to access the programs and activities offered by BCCS, a referral shall be made to the local screening committee (LSC) for review.

Referrals can be made either orally or in writing; both types of referrals are documented on a referral form. If parents make an oral referral, they should be asked ifthey want to complete the form or the principal or designee shall complete it on their behalf.

If parents make a referral to a teacher, they should be directed to the principal or designee selected to receive referrals. Whether provided orally or in writing, the date the referral is received must be noted on the referral form. The form must be completed by the student’s classroom teacher, or other appropriate school staff member if the student has more than one teacher.

***504 Eligibility Team***

For all referrals, the team should consist of the following members, at a minimum:

• Principal or designee

• School psychologist

• Special education teacher

• General education teacher

• Referral source, except if inclusion of the referral source would breach the confidentiality of the student

The parents must be invited to the team meeting orally and in writing. The parents must be notified of the meeting early enough to ensure they have an opportunity to participate; however, the meeting must be held within ten business days of the referral date. If parents cannot attend the meeting, school staff members should consider alternative ways for the parents to participate (e.g., conference call).

During the team meeting, the committee shall review information from a variety of sources. The information reviewed should pertain to the student’s functioning in the school environment and should include, as available, the referral; educational records such as aptitude and achievement

tests, report cards, and/or teacher recommendations; oral or written observations; evaluations of adaptive behavior; social and cultural background; medical, psychological, and/or other specialty reports; and parent information. Following this review, the eligibility team may do the following:

• Determine that there is a need for an evaluation for qualification under Section 504.

• Determine whether the student qualifies as disabled under Section 504.

***Making Initial Qualification Decisions***

The eligibility team shall complete the necessary forms for students suspected of having a disability under Section 504. The forms include:

• Identification of the physical and/or mental impairment(s):

– “Physical or mental impairment” means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine, or any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disability.

• The major life activity (or activities) limited by the impairment(s).

– “Major life activity” includes, but is not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, and communicating.

– A major life activity also includes the operation of a major bodily function, including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

– An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

• Description of the limitation of the student’s impairment on the identified major life activity (or activities).

– An impairment that is episodic or in remission is a disability if it substantially limits a major life activity when active.

– Individuals being considered for qualification under Section 504 should not be disqualified solely because they manage their own adaptive strategies or receive accommodations (including informal or undocumented ones) that have reduced or eliminated the effects of a physical or mental impairment.

– The determination of limitation to one or more major life activities must be made without regard for any ameliorative effects of mitigating measures that include, but are not limited to, a student health care plan (HCP), medication, medical supplies,

equipment, low-vision devices, prosthetics, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy equipment and supplies, assistive technology, accommodations, auxiliary aids or services; or learned behavioral or adaptive neurological modifications.

• The eligibility teams determination of Section 504 qualification.

• A list of the team members participating in the determination. The parents and or guardians (and student, if appropriate) should also be included in this list if they are present at the meeting. All participants should provide their signature next to their printed name and role or title. It should be explained that parent consent for qualification is not required and the signatures only indicate participation.

[**Please also note** that the Office for Civil Rights (OCR) has stated that school divisions need not require extensive documentation to identify that students with the following impairments are qualified under Section 504 and the ADA: diabetes, epilepsy, bipolar disorder, and autism (*Dear* *Colleague Letter*, 58 IDELR 79 (OCR 2012).]

A copy of this form, along with the *Local Screening Committee Report* and the *Section 504 of the* *Rehabilitation Act of 1973 Procedural Safeguards* (SS/SE-92), shall be provided to the parent.

**Knowledgeable Committees and 504 Plans**

***Knowledgeable Committee Membership***

If the student qualifies as a student with a disability under Section 504, a committee of knowledgeable people shall develop a 504 Plan. Typically, the knowledgeable committee is made up of staff members who work directly with, or supervise, the student in the educational setting. The 504 Plan is a statement of the required accommodations, modifications, and/or services that FCPS will provide to a student.

The knowledgeable committee must include the following people:

• Principal or designee

• Teacher(s) who are, or will be, working with the student

(Whenever possible, the committee should include those persons who will be responsible for implementing the proposed accommodations, modifications, and/or services.)

Other committee members such as the school psychologist, school social worker, school counselor, and/or related service provider may be included as appropriate to the needs of the student.

Parents and/or guardians must be invited to the Section 504 meeting. In addition, schools should, whenever possible, work with the student to solicit his or her feedback regarding 504 Plan supports, and invite the student to participate in the meeting as appropriate.

***Plan Development***

Parents and/or guardians must be invited to the meeting. A copy of the *Section 504 of the Rehabilitation Act of 1973 Procedural Safeguards* (“504 Procedural Safeguards”) must be sent with the notice.

During the 504 Plan meeting, the knowledgeable committee reviews the specific needs of the student in the educational setting and completes a *504 Plan* form. The 504 Plan includes accommodations, modifications, and/or services, including medication administration, necessary to provide the student an equal opportunity to access programs and activities and to demonstrate achievement. The accommodations, modifications, and/or services shall do the following:

• Reflect the unique needs of the student.

• Relate directly to the area of impairment.

• Address only what is necessary to ensure that the student has the opportunity to access programs and activities provided by the school system.

• Be specific enough in description to clearly indicate when and where the accommodations, modifications, and/or services will be provided during the school day and during school-related and/or sponsored activities.

The focus is on what is **necessary for the student as a result of the limitation of his or her** **impairment on one or more major life activities. It shall not include any services that are naturally offered to all students as part of common teacher strategies.**

The knowledgeable committee shall determine whether the student who qualifies as a student with a disability under Section 504 requires classroom testing accommodations and whether those accommodations or modifications should be provided for any state and/or district-wide assessments. Testing accommodations should be consistent with the classroom instruction accommodations that are already part of the student’s 504 Plan.

If the knowledgeable committee determines that there is currently no specific impairment-related limitation that requires accommodations, modifications, and/or services, this should be noted on the 504 Plan. This decision shall be reviewed by the knowledgeable committee on an annual basis (or more frequently, as needed).

A copy of the 504 Plan shall be provided to the parent and/or guardian following its completion. Parental consent is not required prior to the implementation of a 504 Plan for a student. The principal is responsible for adherence to the overall procedures and implementation of a 504 Plan. Each individual working with or supervising the student shall be provided access to the 504 Plan and will comply with the applicable components. The Plan remains in effect as specified until either a new 504 Plan is developed, at least annually, or the knowledgeable committee determines through reevaluation that the student no longer qualifies as a student with a disability under Section 504.

***Plan Review and Revision***

The principal or designee (generally, this is the 504 School Based Coordinator (SBC)) is responsible for ensuring that 504 Plans are reviewed at least annually or more frequently as conditions warrant. The purpose of this review is to determine the appropriateness of the Plan and to make any needed modifications. The participants in 504 Plan meetings should be those individuals relevant to the discussion of the student’s accommodations, modifications, and/or services. At minimum, the committee must consist of at least one of the student’s teachers and a principal or designee.

***Discipline Procedures***

The knowledgeable committee shall convene to assess whether the behavior requiring disciplinary action was caused by or directly related to a qualified student’s disability when the following is true:

• A decision is made to remove a Section 504-qualified student from school for more than ten consecutive school days in a school year.

• The Section 504-qualified student is subjected to a series of removals during a school year will accumulate to more than ten school days.

Parents and/or guardians should be notified with sufficient time to allow them the opportunity to attend, participate, and provide input at the Section 504 causality hearing. A principal must be present if there is a recommendation for expulsion or exclusion. The following scenarios apply:

• If a student is qualified under Section 504, and the committee determines that there is a causal (or direct and substantial) relationship between the disability and the behavior resulting in disciplinary action, the committee shall determine whether the student’s educational program should be modified.

• If a student is qualified under Section 504 and there is no causal relationship between the disability and the behavior resulting in disciplinary action, the student may be disciplined in the same manner as a nondisabled student, including the cessation of services.

• If a student qualified under Section 504 is receiving disciplinary action based on the illegal use and/or possession of illegal drugs, alcohol or tobacco/vape, a committee of knowledgeable persons is not required to convene, reevaluate the student, or determine whether there is a causal relationship between the behavior and the disability.

***Transfers***

When a student transfers into BCCS and is qualified as disabled under Section 504, a knowledgeable committee shall review the existing 504 Plan within 30 calendar days of the student’s enrollment to determine the Plan’s appropriateness to the current educational setting. The receiving school is required to implement the existing 504 Plan, as written, until the knowledgeable committee convenes to review the student’s needs and recommend any required changes within an updated BCCS 504 Plan.

***Reevaluation***

The knowledgeable committee shall conduct a reevaluation of each student’s qualification as a student with a disability under Section 504:

• Every three years

• More frequently, as necessary

The date of the student’s initial or most-recent reevaluation of Section 504 qualification is documented on the 504 Plan. The reevaluation date is then calculated by adding three years to the initial or most-recent reevaluation review date. Prior to the reevaluation review date, information should be collected from teachers and other school staff members who work with the student for review at the reevaluation meeting.

The knowledgeable committee shall convene a reevaluation meeting with the purpose of reviewing evaluation information and determining if the student continues to qualify as a student with a disability under Section 504. Upon completion of assessments, the knowledgeable committee will reconvene and consider continued qualification under Section 504.

**BCCS Operating Procedures for Section 504 Impartial Hearings**

BCCS or the parent or guardian of a student (or an adult student) with a disability as defined by Section 504 may request an impartial hearing to resolve any disagreement regarding the identification; evaluation; accommodations, modifications, and/or services; provision of FAPE; or causality determination of the student with a disability. Requests for a hearing that raise issues pursuant to both Section 504 and IDEA may, at the discretion of the hearing officer, be heard together through the IDEA hearing procedures provided by federal and state law, regulations, and BCCS policies.

***Requesting an Impartial Hearing***

Requests for an impartial hearing shall be made in writing and delivered to the coordinator of Due Process and Eligibility. The request shall include the name of the student, the address of the residence of the student (or available contact information in the case of a homeless student), the name of the school the student is attending, a description of the nature of the problem with supporting facts, and a proposed resolution of the problem.

If the request does not include all of the required information, it may be returned to the parents within ten school days of receipt by the coordinator with a request to provide the missing information within five additional school days. The remaining procedures will not proceed until the additional information is received from the parents.

A hearing may only be requested within one year of the date the parents knew, or should have known, about the alleged actions or facts that form the basis of the complaint.

BCCS will provide a written response to the request for hearing. The response will be delivered to the parents within 15 school days of receipt of a request for a hearing that includes all of the required information. If BCCS requests an impartial hearing, parents will have the same option to respond.

Assistance will be provided to persons who may need it in order to comply with the requirements to file a written request for an impartial hearing.

***Pre-Hearing Procedures***

Prior to the hearing, the hearing officer shall do the following:

• Convene a prehearing conference with the parties, unless the hearing officer determines such a conference is unnecessary.

• Identify the specific issues to be addressed during the hearing based on the request for hearing and any response provided by the other party.

• Schedule a hearing date and location with input from the parties, and notify the parties in writing of such information.

• Ascertain whether the parties will be represented by counsel.

• Ascertain from the parents whether the hearing will be open or closed.

• Ensure that the hearing will be accurately recorded by a court reporter who is paid for his/her attendance by the school system.

• Have the authority to require that the student be evaluated.

• Require the parties to exchange a list of witnesses and any documents to be presented during the hearing at least five business days in advance of the hearing unless otherwise permitted by the hearing officer for good cause shown, with a copy provided to the hearing officer as well.

***Hearing Procedures***

The parties have the following rights in the hearing:

• To be represented by counsel with each party being responsible for its own attorneys’ fees.

• To present evidence and cross-examine witnesses.

• To request that the hearing officer prohibit the introduction of evidence or the testimony of a witness that had not been disclosed five business days in advance of the hearing.

• To obtain, at their own expense, a copy of the transcript of the hearing.

The hearing officer shall ensure the following in connection with the hearing:

• An atmosphere conducive to impartiality and that fairness exists.

• The issues raised in the hearing are limited to those identified in the request for a hearing and any response filed, or to any subsequent amendment to the request or the response when allowing such amendment is mutually agreed to by the parties or as otherwise permitted by the hearing officer for good cause shown.

• The parties and their attorneys, advocates, or advisors comply with the special education hearing officer's rules, and with relevant laws and regulations, and are not permitted to pursue hostile or irrelevant pursuits in questioning.

• Actions are taken to move the case to conclusion, including dismissing the pending proceeding if either party refuses to comply in good faith with the special education hearing officer's orders.

• An accurate record of the proceedings is maintained. The party requesting the hearing has the burden of proof.

• The hearing is completed within 45 calendar days of receipt of the request for a hearing or of a subsequent agreed upon amendment, unless an extension is granted at the request of either party for good cause or by mutual agreement of the parties.

The hearing officer shall issue a decision:

A written decision shall be issued to all parties setting forth findings of facts and conclusions of law based on the evidence presented in the hearing. The decision shall be issued within 15 business days of the conclusion of the hearing. The decision is final and binding unless either party files a timely appeal in an appropriate court.

Any questions regarding these procedures should be directed to the coordinator of Due Process and Eligibility.