

Inclusion in Life of the School Outside of the School Day Activities-Policy

Background

The Public Schools of Brookline are committed to sustaining inclusive classrooms, schools, and systems that foster a sense of belonging for all students, including PSB out-of-district students, to participate in the life of their home schools. The PSB recognizes that participation in school extracurricular activities, outside of the school day - such as clubs, arts programs, music, school spirit events, sports, dances, and more enrich our students' lives, provide stability of care, and increase their sense of belonging in their school community. To this end, the district adheres to all state and federal mandates¹ allowing regarding system-wide access to all school activities, with the provision of reasonable accommodations based on individual student need. The level of accommodation to be provided shall be determined by the Office of Student Services, in consultation with parents/caregivers and the Individualized Education Program (IEP) team.

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Under Section 300.107 of the Individuals with Disabilities Education Act (IDEA):

"Each public agency must take steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities."

In other words, every student has a right to equal access to school-sponsored activities such as clubs, arts programs, music, school spirit events, sports, and dances. Any activity hosted by the school or district falls into this category. The Individuals with Disabilities Education Act does not explicitly define extracurricular activities, however lists generalized examples, including "athletics," "recreational activities," and "special interest groups or clubs."

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Some activities and programs that are typically considered to be ~~extra-curricular-outside of the school day~~ include (these are examples and not to be considered exhaustive):

- extended day programs
- plays, choir, band, or other grade or school-wide performances,
- sports teams or clubs,
- ~~choir or band,~~
- clubs or enrichment programs for cooking, math, photography, and other subjects, and
- school newspapers or yearbook committees.

Accommodations to be Provided Outside of the School Day

PSB is committed to providing the needed accommodations to access these activities and programs to the greatest extent possible. The level of accommodation to be provided shall be determined by the Office of Student Services, in consultation with parents/caregivers and the student's Individualized Education Program (IEP) team.

In the case of competitive programs such as athletics and some choir and theater productions, participation may be determined through a try-out process, which means a student will need to perform at a certain level to join the program or team. However, even in competitive programs, a student with disabilities has a right to try out with reasonable accommodations as determined by that student's IEP team. For example, if a hard of hearing student wants to join the track team, it is reasonable for the coach to wave a flag rather than blow a whistle to signal to the runners that the race is starting.

In the case of programs that are less than full-year, accommodations should consider explicitly the feasibility of staffing.

IDEA and ADA Third-Party Compliance Limits on student rights for extracurricular activities with this policy

Third-Party providers include service providers who operate in one or more PSB buildings, before or after the school day, exclusively or primarily serving PSB students: e.g., extended days, PTOs, enrichment programs, Brookline Music School, and Brookline Recreation. This definition excludes organizations/individuals that rent space in PSB buildings but do not primarily or exclusively serve PSB students. Private companies and third-party providers, including nonprofits, are not required to follow IDEA regulations or to provide Free Appropriate Public Education (FAPE). However, other anti-discrimination laws do apply, such as the Americans with Disabilities Act. Furthermore, a student cannot be denied access on the basis of disability. If an activity is provided on-campus by a third-party, or is provided off-campus by the district, the PSB may be required to provide the supports and modifications listed in a child's

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~~IEP. Private providers may not have to provide services if the activity is not sponsored by the school, or if it is off campus.~~

Recognizing that the requirements for ~~private companies and~~ third party providers may be less rigorous than those for the PSB, depending on the extent of the bidirectional relationship with the third party provider, the onus shall not be on parents and caregivers to navigate the complexities of legal responsibility. Rather, the PSB shall work with each third party provider who operates at one or more PSB property to ensure awareness of and compliance with the IDEA and ADA state and federal regulations, so that no child entitled to accommodations is left out of after school programs, ~~including Extended Day~~, on account of disability.

In the case of Extended Days, which are vital for many working families, and which without, many families would face hardship, the Office of Student Services shall work proactively with each program before the start of the school year to identify students whose IEPs require accommodations for participation. Staffing or other requirements resulting from that planning shall be the responsibility of the district to either provide the staff or provide funding to the Extended Day to pay for the accommodations. OSS shall also work with each program to evaluate any needed accommodations for students who transition onto IEPs during the school year.

In the interest of transparency, the Deputy Superintendent of Student Services, or designee(s), shall submit an annual report to school committee by December 31st of each year confirming that the district has met with each third-party provider for that fiscal year to review the provider's obligations under state and federal law, this policy, and to assess student participation needs written plan for how each program intends to comply with the IDEA and ADA. In addition, all future contracts to be negotiated with PSB partners running extracurricular programs shall include a non-discrimination clause that allows the district to terminate a contract based on the failure of the third-party provider to comply with IDEA and ADA obligations. ~~this policy.~~

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As the ability for the ~~Public Schools of Brookline~~ PSB to terminate a contract with a non-complying ~~program~~ third-party provider in and of itself will not make an adversely impacted individual student whole, the ~~Public Schools of Brookline~~ district will work with any adversely impacted student and/or their caregivers to promptly provide that student with the necessary ~~supports~~ accommodations either in the non-complying program, or in a comparable one.

~~ask each private and third party provider who operates at one or more PSB property to provide the PSB with a written plan for how it intends to comply with the Americans with Disabilities Act (ADA), as well as the extent to which the program intends to voluntarily comply with the spirit of IDEA regulations. Any future contracts to be negotiated with PSB partners shall set as a condition of partnership public disclose of the foregoing information. This paragraph shall become effective immediately upon the School Committee's adoption of this policy.~~

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~~For programs where the PSB are not required to provide accommodations (e.g. for general education students who reside within 1.5 miles of their home school), the PSB shall nevertheless retain the option to endeavor to voluntarily offer such accommodations in the spirit of fostering maximal inclusivity. Where the location of a townwide after school program is logistically challenging for a subset of students, the district shall develop a written transportation plan to facilitate participation and consider opening other program locations more convenient to the program participants. Parents and caregivers shall also have the option to of independently provide necessary accommodations beyond minimum level requirements, such as a 1:1 aide, as long as the PSB and/or third party provider is not charged based on the decision of the parent or caregiver, and the program not fundamentally altered.~~

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Districtwide/Offsite Programs

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The policies laid out above also apply to programs for PSB students outside of their home school, e.g. districtwide chorus, offsite extended days serving multiple schools.

Further, for these districtwide/offsite programs where the PSB are not required to provide accommodations (e.g. for general education students who reside within 1.5 miles of their home school), the PSB shall nevertheless endeavor to voluntarily offer participation supports in the spirit of fostering maximal inclusivity, such as transportation offerings or multiple sites.

Notification

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As inclusion in life of the school activities necessitates regular communication, all district notifications regarding event cancellations, public emergencies affecting operation of one or more PSB schools, or changes to contracted transportation services, shall be disseminated to all students (including out-of-district students) potentially participating in ~~of potentially impacted schools~~ activities, including to out of district students for whom the potentially impacted schools serve as their home schools.