



SECTION: PROGRAMS

POLICY: 103.1

**TITLE: NONDISCRIMINATION –
QUALIFIED STUDENTS WITH
DISABILITIES**

ADOPTED: March 30, 2020

REVISED:

LAST REVIEWED:

I. PURPOSE

The Board declares that it is the policy of this district to ensure that all district programs and practices are free from discrimination against all qualified students with disabilities. The Board recognizes its responsibility to provide academic and nonacademic services and programs equally to students with and without disabilities.

II. DEFINITIONS

- A. Qualified student with a disability - a student who has a physical or mental disability that substantially limits or prohibits participation in or access to an aspect of the district's educational programs, nonacademic services, or extracurricular activities.
- B. Section 504 Team - a group of individuals who are knowledgeable about the student, the meaning of the student's evaluation data, and the placement options for the student. This could include, as appropriate, classroom teachers, counselors, psychologists, school nurses, outside care providers, and the student's parents/guardians.
- C. Section 504 Service Agreement (Service Agreement) - an individualized plan for a qualified student with a disability that sets forth the specific related aids, services, or accommodations needed by the student, which shall be implemented in school, in transit to and from school, and in all programs and procedures, so that the student has equal access to the benefits of the school's educational programs, nonacademic services, and extracurricular activities.
- D. Disability harassment - intimidation or abusive behavior toward a student based on disability that creates a hostile environment by interfering with or denying a student's participation in or receipt of benefits, services, or opportunities in the school's educational programs, nonacademic services, or extracurricular activities.

III. POLICY

The district shall provide to each qualified student with a disability enrolled in the district, without cost to the student or parent/guardian, a free and appropriate public education. This includes provision of education and related aids, services, or accommodations that are needed to afford each qualified student with a disability equal opportunity to participate in and obtain the benefits from educational programs and extracurricular activities without discrimination, to the same extent as each student without a disability, consistent with federal and state laws and regulations.

The Board encourages students and parents/guardians who believe they have been subjected to discrimination or harassment to promptly report such incidents to designated employees.

The Board directs that complaints of discrimination or harassment shall be investigated promptly, and corrective or preventative action be taken for substantiated allegations.

Confidentiality

Confidentiality of all parties, witnesses, the allegations, the filing of a complaint, and the investigation shall be maintained, consistent with the district's legal and investigative obligations.

Retaliation

The district shall not intimidate, threaten, coerce, discriminate, or retaliate against any individual for the purpose of interfering with any right or privilege secured by this policy.

Identification and Evaluation

The district shall conduct an annual child find campaign to locate and identify every district student with a disability thought to be eligible for Section 504 services and protections. The district may combine this search with the district's IDEA child find efforts.

If a parent/guardian or the district has reason to believe that a student should be identified as a qualified student with a disability, should no longer be identified as a qualified student with a disability, or requires a change in or modification of the student's current Service Agreement, the parent/guardian or the district shall provide the other party with written notice.

The district shall establish standards and procedures for initial evaluations and periodic re-evaluations of students who need or are believed to need related services because of a disability.

The district shall specifically identify the procedures and types of tests used to evaluate a student, and provide the parent/guardian the opportunity to give or withhold consent to the proposed evaluation(s) in writing.

The district shall establish procedures for evaluation and placement that ensure tests and other evaluation materials:

1. Have been validated and are administered by trained personnel;
2. Are tailored to assess educational need and are not based solely on IQ scores; and
3. Reflect aptitude or achievement or anything else the tests purport to measure and do not reflect the student's impaired sensory, manual; or speaking skills (except where those skills are what is being measured).

Service Agreement

If a student is determined to be a qualified student with a disability, the district shall develop a written Service Agreement for the delivery of all appropriate aids, services, or accommodations necessary to provide the student with a free and appropriate public education.

The district shall not implement a Service Agreement until the written agreement is executed by a representative of the district and a parent/guardian.

The district shall not modify or terminate a student's current Service Agreement without the parent's/guardian's written consent.

Educational Programs/Nonacademic Services/Extracurricular Activities

The district shall educate a qualified student with a disability with students who are not disabled to the maximum extent appropriate to the needs of the student with a disability. A qualified student with a disability shall be removed from the regular educational environment only when the district determines that educating the student in the regular educational environment with the use of related aids, services, or accommodations cannot be achieved satisfactorily. Placement in a setting other than the regular educational environment shall take into account the proximity of the alternative setting to the student's home.

The district shall not discriminate against any qualified student with a disability in its provision of nonacademic services and extracurricular activities, including but not limited to, school-based counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs, and referrals to agencies that provide assistance to individuals with disabilities.

Parental Involvement

Parents/guardians have the right to inspect and review all relevant school records of the student, meet with the appropriate school officials to discuss all issues relevant to the evaluation and accommodations of their child, and give or withhold their written consent to the evaluation and/or the provision of services.

Confidentiality of Student Records

All personally identifiable information regarding a qualified student with a disability shall be treated as confidential and disclosed only as permitted by the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, state regulations, and Board policy.

Discipline

When necessary, the district shall discipline qualified students with disabilities in accordance with state and federal laws and regulations and Board policies.

Referral to Law Enforcement and Reporting Requirements

For reporting purposes, the term "incident" shall mean an instance involving an act of violence; the possession of a weapon; the possession, use, or sale of a controlled substance or drug paraphernalia as defined in the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act; the possession, use, or sale of alcohol or tobacco; or conduct that constitutes an offense listed under the Safe Schools Act.

The Superintendent or designee shall immediately report required incidents and may report discretionary incidents committed on school property, at any school-sponsored activity or on a conveyance providing transportation to or from a school or school-sponsored activity by a qualified student with a disability, including a student for whom an evaluation is pending, to the local police department that has jurisdiction over the school's property, in accordance with state and federal laws and regulations, the procedures set forth in the memorandum of understanding with local law enforcement, and Board policies. The Superintendent or designee shall respond in a manner that is consistent with the student's Service Agreement and Behavior Support Plan, if applicable.

In making a determination of whether to notify the local police department of a discretionary incident committed by a qualified student with a disability, including a student for whom an evaluation is pending, the Superintendent or designee shall use the same criteria used for students who do not have a disability.

For a qualified student with a disability who does not have a Behavior Support Plan as part of the student's Service Agreement, subsequent to notification to law enforcement, the district, in consultation with the student's parent/guardian, shall consider whether a Behavior Support Plan should be developed as part of the Service Agreement to address the student's behavior.

In accordance with state law, the Superintendent shall annually, by July 31, report to the Office for Safe Schools on the required form all new incidents committed by qualified students with disabilities, including students for whom an evaluation is pending, that occurred on school property, at any school-sponsored activity, or on a conveyance providing transportation to or from a school or school-sponsored activity.

Procedural Safeguards

The district shall establish and implement a system of procedural safeguards that includes notice of rights to the parent/guardian of a student suspected of being a qualified student with a disability, an opportunity for the parent/guardian to review relevant records, an impartial hearing with an opportunity for participation by the student's parent/guardian, and a review procedure.

A student or parent/guardian filing a claim of discrimination need not exhaust these procedures prior to initiating court action under Section 504.

Parental Request for Assistance

Parents/Guardians may file a written request for assistance with the Pennsylvania Department of Education (PDE) if either or both of the following apply:

1. The district is not providing the related aids, services, and accommodations specified in the student's Service Agreement.
2. The district has failed to comply with the procedures and state regulations.

PDE shall investigate and respond to requests for assistance and, unless exceptional circumstances exist, shall, within sixty (60) calendar days of receipt of the request, send to the parents/guardians and district a written response to the request. The response to the parents'/guardians' request shall be in the parents'/guardians' native language or mode of communication.[28]

Informal Conference

At any time, parents/guardians may file a written request with the district for an informal conference with respect to the identification or evaluation of a student, or the student's need for related aids, services, or accommodations. Within ten (10) school days of receipt of the request, the district shall convene an informal conference. At the conference, every effort shall be made to reach an amicable agreement.

Formal Due Process Hearing

If the matters raised by the district or parents/guardians are not resolved at the informal conference, the district or parents/guardians may submit a written request for an impartial due process hearing. The hearing shall be held before an impartial hearing officer and shall be conducted in accordance with state regulations.

Judicial Appeals

The decision of the impartial hearing officer may be appealed to a court of competent jurisdiction.

IV. DELEGATION OF AUTHORITY

In order to maintain a program of nondiscrimination practices that is in compliance with applicable law and regulations, the Board designates the Director of Student Services as the district's Section 504 Coordinator.

In addition, each school within the district shall have a Section 504 building administrator.

The district shall publish and disseminate this policy and complaint procedure on or before the first day of each school year by posting it on the district's website, if available, and in the student handbook. The district shall notify parents/guardians of students residing in the district of the district's responsibilities under applicable law and regulations, and that the district does not discriminate against qualified individuals with disabilities.

V. REFERENCES

- 22 PA Code 12.1
- 22 PA Code 12.4
- 22 PA Code 15.1
- 22 PA Code 4.4
- 29 U.S.C. 794
- 42 U.S.C. 12101
- 22 PA Code 15.2
- 42 U.S.C. 12102
- 22 PA Code 15.7
- 34 CFR 104.7
- 22 PA Code 15.4
- 34 CFR 104.32
- 22 PA Code 15.5
- 22 PA Code 15.6
- 34 CFR 104.35
- 22 PA Code 15.3
- 34 CFR 104.34
- 34 CFR 104.37
- 22 PA Code 15.8
- 22 PA Code 15.9
- 20 U.S.C. 1232g
- 22 PA Code 10.2
- 24 P.S. 13-1303-A
- 35 P.S. 780-102
- 22 PA Code 10.21
- 22 PA Code 10.22
- 22 PA Code 10.23
- 22 PA Code 10.25
- 24 P.S. 13-1302.1-A
- 22 PA Code 15.1
- 34 CFR 104.36
- 22 PA Code 14.162
- 18 Pa. C.S.A. 2709