

**AMERICANS WITH DISABILITIES ACT OF 1990**  
**AND SECTION 504 OF THE REHABILITATION ACT OF 1973**

It is the policy of the School District to prohibit discrimination and harassment of students with disabilities as defined in Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990. This policy covers school programs, activities, and events sponsored by the School District. To that end, all officers, supervisory personnel, employees and students of the School District shall be given a copy of the District policy and training regarding its terms, procedures, protections and penalties.

**STATEMENT OF POLICY**

- 1) No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of the School District, or be subjected to discrimination by the School District.
- 2) No qualified individual with a disability shall, on the basis of disability, be subjected to discrimination in employment under any service, program, or activity conducted by the School District.
- 3) The School District shall administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.
- 4) The School District shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless making the modifications would fundamentally alter the nature of the service, program, or activity.
- 5) The School District shall not exclude or otherwise deny equal services, programs, or activities to an individual or entity because of the known disability of an individual with whom the individual is known to have a relationship or association.

All employees, teachers and administrative personnel are required to report any instance of alleged discrimination or harassment on the basis of disability immediately to the Assistant Superintendent of Schools. This will enable the School District to investigate and resolve any problems promptly and effectively. Investigations of disability discrimination, harassment, or other wrongful conduct will be treated with confidentiality appropriate under the circumstances, in light of the personal nature of these matters and the important privacy interests of all concerned. The School District will not permit anyone who objects to discrimination,

harassment, makes a complaint, opposes any unlawful act, or assists in any investigation to be subjected to coercion, intimidation, interference, or retaliation.

The School District designates the Director of PPS to coordinate all compliance and investigative matters arising under this policy.

## **DEFINITIONS**

1) Disability means, with respect to an individual, (a) a physical or mental impairment that substantially limits one or more of the individual's major life activities (such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working); (b) a record of such an impairment (i.e., having a history of, or being misclassified as having such an impairment); or (c) being regarded as having such an impairment (for example, being treated as having a physical or mental impairment that substantially limits major life activities, although the individual's existing physical or mental impairment does not substantially limit major life activities).

The term disability does not include (a) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders; (b) compulsive gambling, kleptomania, or pyromania; or (c) psychoactive substance use disorders resulting from current illegal use of drugs.

2) Physical or mental impairment means (1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; and (2) any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, learning disabilities, AIDS (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

3) Individual with a disability means a person who has a disability. It does not include an individual who is currently engaging in the illegal use of drugs (i.e., the illegal use of drugs that occurred recently enough to justify a reasonable belief that a person's drug use is current or that continuing use is a real and ongoing problem).

4) Illegal use of drugs means the use of one or more drugs (i.e., any controlled substance, as defined in schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. 812), the possession or distribution of which is unlawful under the Controlled Substance Act (21 U.S.C. 812).

5) Qualified Individual with a disability means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the School District. In employment, the term essential functions means the fundamental job duties of the employment position the individual with a disability holds or desires.

6) Disability discrimination is defined as discrimination against a student with a disability recognized under Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990 whereby such student is not afforded equal educational opportunities, access to educational programs, and/or access to extra- and co-curricular activities for which the student is otherwise qualified in accordance with law.

7) Disability Harassment is defined as conduct that creates a hostile learning or school environment that is either pervasive and/or severe conduct in the nature of: remarks, jokes, gestures, displayed materials or printed materials about the student's disability status or disabled individuals in general. The determination of a hostile learning or school environment shall be objective, based upon the viewpoint of a reasonable person and subjectively perceived to be so by the complainant.

## **DISCRIMINATION BECAUSE OF DISABILITY IN SCHOOL DISTRICT EMPLOYMENT IS PROHIBITED**

Discrimination on the basis of disability against a qualified individual with a disability with regard to any of the following is prohibited: (a) recruitment, advertising, and job application procedures; (b) hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring; (c) rates of pay or any other form of compensation and changes in compensation; (d) job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists; (e) leaves of absence, sick leave, or any other leave; (f) fringe benefits; (g) selection and financial support for training, including apprenticeships, professional meetings, conferences and other related activities, and selection for leaves of absence to pursue training; (h) any activity sponsored by the

School District, including social and recreational programs; and (i) any other term, condition, or privilege of employment.

The School District will make reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant or employee with a disability, unless making the accommodation would impose an undue hardship on the operation of the School District as defined by law.

No pre-employment inquiry (e.g., on an employment application or in an employment interview) will be made into an applicant's disability, into the nature or severity of an applicant's disability, or into prior workers' compensation claims that an applicant may have filed. Applicants may be asked, however, about their ability to perform job-related functions and/or to describe or to demonstrate how, with or without reasonable accommodation, the applicant will be able to perform job-related functions.

Medical examinations and/or inquiries may be required as a condition of employment only after an offer of employment is made but before employment begins, provided all entering employees in the same job category are subjected to such an examination or inquiry. Any information obtained pursuant to such an examination and/or inquiry shall be treated as a confidential medical record and kept separate and apart from any personnel file.

Supervisors may be informed regarding necessary restrictions on the work or duties of a disabled employee and necessary accommodations. Medical and Safety personnel may be informed, when appropriate, if the disability might require emergency treatment.

### **DISCRIMINATION BECAUSE OF DISABILITY IN ACCESS TO SCHOOL DISTRICT PROGRAMS IS PROHIBITED**

The School District shall operate each service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. The School District, in its discretion, may accomplish this through redesign of equipment, reassignment of services to accessible facilities, or any other methods that result in making its services, programs, or activities readily accessible to and usable by individuals with disabilities. In choosing among available options, the School District shall give priority to those methods that offer services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate.

Additionally, it is the policy of the School District to:

- a. Establish a team, comprised of a group of persons knowledgeable about the child and person(s) familiar with the meaning of the evaluative data and program access options. This team shall consider students eligibility for and recommend the provision of regular education and/or related aids and services and/or other accommodations, as appropriate to provide a student with a disability, a free appropriate public education. This team shall also determine whether disciplinary conduct which may result in a change in placement is a manifestation of a student's disability in order to enable non-discriminatory discipline to be meted out in accordance with the District's Code of Conduct.
- b. Implement procedures to ensure the dissemination of the contents of each student's 504 accommodation plan to the persons on the District's staff, who will be charged with implementing the program, accommodations, related services and/or aids recommended.
- c. Implement procedures and efforts to identify all school-age residents of the District who are not receiving a public education, who have or are suspected to have, a physical or mental impairment which substantially limits one or more major life activities.
- d. Provide a copy of this policy, together with the attached "Notice of Student Rights," at least annually to all families of students residing in the District, at the time of a student's referral, prior to the student's evaluation or reevaluation and prior to actions involving the education placement of a student.
- e. Implement procedures to insure that each student who is believed to have such a disability shall be evaluated prior to the provision of special education and/or related services and/or other reasonable accommodations and prior to any subsequent significant change in placement.
- f. Implement procedures to insure that students who receive related services and/or other reasonable accommodations pursuant to Section 504 of the Rehabilitation Act of 1973, shall be reevaluated at least once every three years.
- g. Provide students who have a physical or mental impairment which substantially limits one or more major life activities, placement and services, reasonable accommodations and transportation necessary to afford each student a free appropriate public education.
- h. Provide students who have a physical or mental impairment which substantially limits one or more major life activities, an equal opportunity to participate in

- non-academic and extracurricular services, pre-school and adult education to the extent offered to non-disabled person, to the maximum extent appropriate.
- i. Provide parents the right to inspect relevant student records.
  - j. Disputes by parents or students relating to decisions of the Section 504 team, shall be made in writing within thirty days of the decision complained of. A written description of the dispute should be sent by the parent, guardian or student to the District's Section 504 Coordinator.
  - k. Disputes between a student and/or the parent or guardian of a student, regarding whether the recipient has made a free appropriate education available, shall be heard by an impartial hearing officer. Parents shall have an opportunity to participate in the hearing and be represented by counsel.
  - l. The impartial hearing officer shall be directed to issue a written decision following the close of the hearing. A copy of the decision shall be sent to both the Section 504 Coordinator and the Parent(s)/Guardian and/or Student.
  - m. A parent may appeal the hearing officer's decision within thirty days following the parent's receipt of the hearing officer's decision to the Board of Education.
  - n. Complaints may also be made to the United States Department of Education, Office of Civil Rights, Washington, D.C. 20201.

## **COMMUNICATIONS**

The School District shall ensure that communications with applicants, participants and members of the public with disabilities are as effective as communications with others. The School District shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by the School District.

The School District will also post signage at all inaccessible entrances to each of its facilities, directing users to an accessible entrance or to a location at which they can obtain information about accessible facilities. Accessible entrances will be identified.

## **CONSTRUCTION OF NEW FACILITIES**

Each facility or part of facility constructed by, on behalf of, or for the use of the School District shall be designed and constructed in such a manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities.

## **ADDITIONAL COMPLAINT PROCEDURE**

In instances where allegations of disability discrimination or harassment which do not involve recommendations of the District's 504 team, this complaint procedure shall apply.

Any student who believes that he or she has been subjected to disability discrimination by an officer, employee, student or business invitee is encouraged to address the matter with the District's Compliance Coordinator, or his/her designee, who shall promptly conduct an intake interview and explain the following options for resolution:

- (1) registering an informal complaint verbally or in writing; or
- (2) registering a formal complaint verbally or in writing; or
- (3) engaging in mediation to arrive at a resolution of the matter; or
- (4) placing the District on notice of the objectionable conduct without seeking a resolution through the complaint process or mediation.

The District's Compliance Coordinator or his/her designee shall be authorized to proceed with a matter raised under paragraph (4) as if it had been filed as an informal complaint or a formal complaint at his/her discretion. The District's Compliance Coordinator or designee will also explain that the complaining student shall not be subject to retaliation or retribution by reason of making the complaint and that confidentiality shall be maintained throughout the process, except as necessary to assure fair and due process.

### Informal Complaints

An informal complaint will be promptly reviewed by the District's Compliance Coordinator or designee, who shall issue a written report to the Superintendent of Schools, within seven (7) days. The Superintendent shall take such further action necessary to reasonably deter any further act prohibited by this policy. Such further action may include referring the matter to a Complaint investigator as if it had been filed as a formal complaint.

### Formal Complaints

All formal complaints shall be received in writing or reduced to writing by the Compliance Coordinator or his/her designee, who shall conduct a full and fair investigation of the complaint, make written findings of fact and, where warranted, recommend a resolution to the Superintendent of Schools. The Superintendent of Schools shall advise the complainant and the subject of the complaint of the disposition of the complaint, that may include:

- (1) a finding that this policy has not been violated; or
- (2) a finding that this policy has been violated and appropriate corrective, disciplinary and/or other action has been taken.

### Alternates

The Board shall appoint an alternate Compliance Officer and may designate several formal Complaint investigators. If the complaint is about the Superintendent of Schools, the Board shall stand in the Superintendent's place for review activities and appeal shall lie to an impartial hearing officer.

### Appeal of Formal Complaints

If a formal complaint hasn't been processed to a satisfactory disposition by the Superintendent within 30 calendar days, or in the event that the Complainant is dissatisfied with the Superintendent's finding(s), the complainant may appeal in writing to the Board of Education who shall promptly appoint an impartial hearing officer to hear the appeal and make formal recommendations to the Board of Education.

The Board of Education shall review the record and the recommendations of the impartial hearing officer and either render a final determination or remand the matter for further investigation.



Confidentiality

The District's Compliance Officer and alternate, complaint investigators, the Superintendent of Schools and the Board of Education shall, to the maximum extent possible, maintain as confidential the transactions(s) underlying the proceedings or complaint, the outcome of a mediated agreement and action taken. The subject of the complaint, however, shall be informed of the identity of the person who made the complaint in order to provide fair and due process. Both the complainant and the subject of the complaint shall be given a copy of the findings in the matter of a formal complaint.

**CORRECTIVE ACTION**

The Superintendent shall recommend and the Board shall take appropriate corrective action including student and professional discipline in accordance with law, the District's Code of Conduct and applicable collectively negotiated agreements upon a determination of discrimination or harassment has occurred.

**SELECTION OF CONTRACTORS**

The School District, in the selection of contractors, will not use criteria that subject qualified individuals with disabilities to discrimination on the basis of disability.

**SELF-EVALUATION OF SCHOOL DISTRICT SERVICES, POLICIES AND PRACTICES**

The School District shall evaluate its current services, policies and practices, and the effects thereof, for their effect on disabled individuals as required by law. The School District shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the self-evaluation process by submitting comments.

**DISTRIBUTION**

The School District shall cause a copy of this policy to be distributed annually to all school administrators, teachers, other employees of the School District, parents and other members of the school community. In addition, a copy will be available upon request by contacting the Records Access Officer, at the District Offices.

**APPLICATION OF THIS POLICY**

In applying this policy, the School District will not take any action that would result in a fundamental alteration of the nature of a service, program, or activity or in undue financial and administrative burdens as defined by law.