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DISTRICT ADMINISTRATION OFFICE

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SUPERINTENDENT'S REGULATION

REGULATION: No. 103.1-AR

103.1-AR. NONDISCRIMINATION - QUALIFIED STUDENTS WITH DISABILITIES

Definitions

ADA - Americans With Disabilities Act of 1990.

Chapter 15 - Pennsylvania Board of Education Regulations which implement the requirements of Section 504 of the Rehabilitation Act.

Section 504 - Section 504 of the Rehabilitation Act of 1973.

Disability - With respect to **a** student, a physical or mental impairment that substantially limits one or more major life activities; **a** record of such an impairment; or being regarded as having such an impairment.

Physical or Mental Impairment - Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Substantially Limits - The student is unable to perform a major life activity that the average student of approximately the same age can perform or that the student is significantly restricted as to the condition, manner or duration under which a particular life activity is performed as compared to the average student of approximately the same age.

Record Of Such An Impairment - The student has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

Regarded As Having Such An Impairment - The student establishes that s/he has been subjected to an action prohibited under law because of an actual or perceived physical or mental

impairment whether or not the impairment limits or is perceived to limit a major life activity. This shall not apply to impairments that are transitory and minor. A transitory **impairment** is an impairment with an actual or expected duration of six (6) months or less.

Episodic Impairment - An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

Temporary Impairment - A condition that does not constitute a disability unless its severity is such that it results in a substantial limitation of one or more major life activities for an expected duration of six (6) months or more.

Major Bodily Function - A major life activity includes the operation of a major bodily function, including the functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

Major Life Activities - The list includes caring for one's self, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

Mitigating Measures - Includes but is not limited to the use of medications; medical supplies, **equipment or** appliances; low-vision devices; prosthetics (including limbs and devices); hearing aids and cochlear implants or other implantable hearing devices; mobility devices; oxygen therapy equipment and supplies; assistive technology; reasonable accommodations, auxiliary aids or services; or learned behavioral or adaptive neurological modifications.

Low-Vision Devices - Devices that magnify, enhance, or otherwise augment a visual image.

Ordinary Eyeglasses or Contact Lenses - Lenses that are intended to fully correct visual acuity or eliminate refractive error.

Section 504 Service Agreement (Service Agreement) - An individualized plan for a qualified student with a disability which sets forth the specific related aids, services, or accommodations needed by the student, which will 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.

Section 504 Team - A group of individuals who are knowledgeable about the student, the meaning of the evaluation data and the placement options for the student. This could include, as appropriate, documentation or input from classroom teachers, counselors, school nurses, psychologists, outside care providers and the student's parents/guardians.

<u>Identification</u>

A parent/guardian, teacher, or other knowledgeable person may submit a written request or a referral to the school's Section 504 building administrator, if s/he suspects a student should be

identified as a qualified student with a disability or should no longer be identified as such.

If the request originates with the district, the district will provide the parent/guardian with written notice in the parent's/guardian's native language or mode of communication, unless it is clearly not feasible to do so.

If the request originates with the parent/guardian, the district will review the information submitted by the parent/guardian and respond within twenty-five (25) days of receipt of written request.

The district's response will be in the parent's/guardian's native language or mode of communication, unless it is clearly not feasible to do so, and will state whether or not the parent's/guardian's request is being granted or denied in whole or in part.

Evaluation

The Section 504 Team, as part of the preliminary evaluation, will draw upon, document, and carefully consider pertinent information from a variety of sources and factors, which may include student work samples; aptitude and achievement tests; teacher, parent/guardian, and physician recommendations; physical condition; social and cultural background; and adaptive behaviors.

The district may request and keep on file relevant and current medical information provided by the student's parent/guardian, physician, psychologist, psychiatrist, or other professional.

If the district requires a formalized evaluation, the district must obtain written consent from the parent/guardian. The district may use the procedural safeguards to override a parent's/guardian's denial of consent.

The district's eligibility analysis will take into account the following criteria:

Step 1 - Does the student have a physical or mental impairment?

If not, the analysis ends, the student is not a qualified student with a disability under Section 504.

If so, the Section 504 Team must specify the mental or physical impairment. If the impairment is related to current use of illegal drugs or alcohol, the student is not eligible for Section 504.

Step 2 - Does the impairment affect one or more of the student's major life activities such that the student is excluded or substantially limited in participation in any programs or activities of the district?

The Section 504 Team cannot consider the ameliorative effects of mitigating measures

in determining whether a student has a physical or mental impairment that substantially limits a major life activity. The use of ordinary eyeglasses or contact lenses can be considered.

If no major life activity is affected by the physical or mental impairment, the analysis ends, the student is not a qualified student with a disability under Section 504.

If so, the Section 504 Team must document how the major life activity is affected.

Step 3 - Is the student substantially limited in the identified major life activity(ies)? If the team determines the student's impairment does not substantially limit the identified major life activity, the analysis ends, the student is not a qualified student with a disability under Section 504.

Step 4 - Is an aid, service, or accommodation needed as a result of the disability to enable a student to attend or participate in an educational program, nonacademic service or extracurricular activity in a manner consistent with attendance and participation of a student without a disability?

If the Section 504 Team answered "yes" to all four (4) eligibility questions, the student is a qualified student with a disability and is entitled to aids, services, and accommodations under Section 504.

Service Agreement

If the student is determined to be a qualified student with a disability, a written Section 504 Service Agreement will be developed and executed by the district and parent/guardian. The Service Agreement will describe the specific related aids, services, or accommodations the district will provide as well as the date the services will begin, the date the services will be discontinued, and, if appropriate, the procedures to be followed in the event of a medical emergency.

If the parent/guardian and the district cannot agree on the terms of the Service Agreement, either party may use the procedural safeguards specified in Board policy to resolve the dispute.

The district will provide a written copy of the Service Agreement to the parent/guardian.

The Section 504 Team will review the Service Agreement annually.

Placement

Residential Placement — Residential placement, including non-medical care and room and board, must be provided by the district at no cost to the parent/guardian only if necessary to provide a free and appropriate public education (FAPE).

Private Placement — If the district has made available a free appropriate public education, which conforms to the requirements of Section 504, but the parent/guardian chooses to place the student elsewhere, the district is not responsible for the student's educational expenses such as tuition incurred by the parent/guardian.

Under some circumstances, through use of dual enrollment in public and private schools provided for in 24 P.S. §5-502 or provision of auxiliary services required by 24 P.S. §9-972.1, a district may have the obligation to provide certain services to qualified students with disabilities who are attending private school. Specific circumstances must be reviewed to determine whether and in what manner such services are to be provided.

Transportation — If the district places a student in a program not operated by the district, the district must assure that adequate transportation to and from the program is provided at no greater cost than the parent/guardian would have paid to transport the student to the district-operated program.

Counseling Services — The district may not counsel students with disabilities toward more restrictive career objectives than students without disabilities with similar interests and abilities.

Physical Education And Athletics — The district must provide equal opportunity for students with disabilities to participate in physical education courses and interscholastic, club, or intramural athletics without discrimination and to the maximum extent appropriate to the student's needs. The district may offer these activities separately for students with disabilities only if necessary.

Reevaluation

The district will reevaluate qualified students with disabilities every three (3) years or more frequently if conditions or the student's Service Agreement warrant, or if the student's parent/guardian or district staff request a reevaluation. Findings will be documented in writing. The district will update assessments as needed to ensure that eligibility and accommodation planning is based on information that defines the student's disability accurately and reflects the student's current needs.

If significant changes in eligibility, services or placement are proposed, the district will first evaluate current information and conduct additional evaluations as necessary to support such changes.