Book	Policy Manual
Section	100 Programs
Title	Nondiscrimination - Qualified Students With Disabilities
Code	103.1 Vol I 2025
Status	

Authority

The Board declares it to be the policy of this district to provide all district programs and practices 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.[1][2][3][4][5][6][7][8][9][10]

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 (FAPE). This includes provision of education and related aids, services or accommodations which 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, in accordance with Board policy.[10]

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 and its employees are prohibited from intimidating, threatening, coercing, discriminating or retaliating against any individual for the purpose of interfering with any right or privilege secured by this policy.

Definitions

Qualified student with a disability - a student who has a physical or mental disability which substantially limits or prohibits participation in or access to an aspect of the district's educational programs, nonacademic services or extracurricular activities.[11][12]

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, psychologists, school nurses, outside care providers and the student's parents/guardians.[4][9]

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 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.[13]

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.[10]

Delegation of Responsibility

In order to maintain a program of nondiscrimination practices that is in compliance with applicable law and regulations, the Board designates the[14]

Director of Student Services & Special Education

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 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.[15][16]

Guidelines

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 Individuals with Disabilities Education Act (IDEA) child find efforts, in order to not duplicate efforts.[16][17]

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.[18][19][20]

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.[20]

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.[20]

The district shall establish procedures for evaluation and placement that assure 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.
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 FAPE.[13]

The district shall not implement a Service Agreement until the written agreement is executed by a representative of the district and a parent/guardian.[13]

The district shall not modify or terminate a student's current Service Agreement without the parent's/guardian's written consent.[18]

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.[21][22]

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, counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs, and referrals to agencies which provide assistance to individuals with disabilities.[21][22][23][24][25][26][27]

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 any and 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.[13][19][20][28]

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.[29][30][31][32]

Discipline

When necessary, the district shall discipline qualified students with disabilities in accordance with state and federal laws and regulations and Board policies.[33][34]

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 products; or conduct that constitutes an offense listed in the school safety and security provisions of School Code.[35][36][37]

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 law enforcement agency 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 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.[11][13][21][31][33][35][38][39][40][41][42][43][44][45][46][47][48]

In making a determination of whether to notify the law enforcement agency 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.[10][40][48][49]

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.[13][41]

In accordance with state law, the Superintendent shall annually, by July 31, report to the PA Department of Education on the required form all new incidents committed by qualified students with disabilities, including students for whom an evaluation is pending, which occurred on school property, at any school-sponsored activity or on a conveyance providing transportation to or from a school or school-sponsored activity.[35][38][48]

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.[28][50]

A student or parent/guardian filing a claim of discrimination need not exhaust these procedures prior to initiating action in federal court under Section 504.[19]

Parental Request for Assistance

Parents/Guardians may file a written request for assistance with the PA Department of Education if one (1) or both of the following apply:[28]

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.

The PA Department of Education 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.[28]

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.[28][51]

Judicial Appeals

The decision of the impartial hearing officer may be appealed to a court of competent jurisdiction.[28]

COMPLAINT PROCEDURE

This complaint procedure is in addition to and does not prevent parents/guardians from using any option in the procedural safeguards system.[10]

Step 1 – Reporting

A student or parent/guardian who believes the student has been subject to conduct by any student, employee or third party that constitutes a violation of this policy is encouraged to immediately report the incident to the Section 504 building administrator. Any person with knowledge of conduct that may violate this policy, is encouraged to immediately report the matter to the Section 504 building administrator.

A school employee who suspects or is notified that a student has been subject to conduct that constitutes a violation of this policy shall immediately report the incident to the Section 504 building administrator, as well as properly making any mandatory law enforcement or child protective services reports required by law.[48][52]

If the Section 504 building administrator is the subject of a complaint, the student, parent/guardian or employee shall report the incident directly to the district's Section 504 Coordinator.

The complainant or reporting employee may be encouraged to use the district's report form, available from the Section 504 building administrator or Section 504 Coordinator, or to put the complaint in writing; however, oral complaints shall be accepted, documented and the procedures of this policy implemented. The person accepting the oral or written complaint may provide factual information on the complaint and the investigative process, the impact of choosing to seek confidentiality and the opportunity to report the incident(s) to law enforcement. In all other respects, the person accepting the complaint shall handle the report objectively, neutrally and professionally, setting aside personal biases that might favor or disfavor the complainant or those accused of a violation of this policy.

Step 2 – Investigation

The Section 504 Coordinator shall ensure that the individual assigned to investigate the complaint has an appropriate understanding of the relevant laws pertaining to discrimination issues and this policy and how to conduct investigations.

The Section 504 building administrator or Section 504 Coordinator and other appropriate individuals will promptly implement appropriate measures to protect the complainant and others as necessary from violation of the policy throughout the course of the investigation.

The investigator shall work with the Section 504 Coordinator to assess the anticipated scope of the investigation, who needs to be interviewed and what records may be relevant to the investigation.

The investigator shall conduct an adequate, reliable and impartial investigation. The complainant and the accused may suggest additional witnesses and provide other evidence during the course of the investigation. When the initial complaint involves allegations relating to conduct which took place away from school property, school-sponsored activities or school conveyances, the investigation may include inquiries related to these allegations to determine whether they resulted in continuing effects such as harassment in school settings.

The investigation may consist of individual interviews with the complainant, the accused and others with knowledge relative to the allegations. The investigator may also evaluate any other information and materials relevant to the investigation. The person making the report, parties, parents/guardians and witnesses shall be informed of the prohibition against retaliation for anyone's participation in the process and that conduct believed to be retaliatory should be reported. All individuals providing statements or other information or participating in the investigation shall be instructed to keep the matter confidential and to report any concerns about confidentiality to the investigator.

If the investigation reveals that the conduct being investigated may involve a violation of criminal law, the investigator shall promptly notify the Section 504 Coordinator, who shall promptly inform law enforcement authorities about the allegations.[10][48][52][53][54]

The obligation to conduct this investigation shall not be negated by the fact that a criminal or child protective services investigation of the allegations is pending or has been concluded. The investigator should coordinate with any other ongoing investigations of the allegations, including agreeing to requests for a short delay in fulfilling the district's investigative responsibilities during the fact-finding portion of a criminal or child protective services investigation. Such delays shall not extend beyond the time necessary to prevent interference with or disruption of the criminal or child protective services investigation, and the reason for such delay shall be documented.

Step 3 – Investigative Report

The investigator shall prepare and submit a written report to the Section 504 Coordinator within twenty (20) days of the initial report of alleged discrimination, unless the nature of the allegations, anticipated extent of the investigation or the availability of witnesses requires the investigator and the Section 504 Coordinator to establish a different due date. The parties shall be notified of the anticipated date the investigative report will be completed and of any changes to the anticipated due date during the course of the investigation.

The report shall include a summary of the investigation, a determination of whether the complaint has been substantiated as factual, the information and evaluation that formed the basis for this determination, whether the conduct violated this policy and of any other violations of law or Board policy which may warrant further district action, and a recommended disposition of the complaint. An investigation into disability harassment shall consider the record as a whole and the totality of circumstances in determining whether a violation of this policy has occurred, recognizing that persistent and pervasive conduct, when taken together, may be a violation even when the separate incidents are not severe.[10]

The complainant and the accused shall be informed of the outcome of the investigation, for example, whether the investigator believes the allegations to be founded or unfounded, within a reasonable time of the submission of the written report, to the extent authorized by the Family Educational Rights and Privacy Act (FERPA) and other applicable laws. The accused shall not be notified of the individual remedies offered or provided to the complainant.[29][30][31][32]

Step 4 – District Action

If the investigation results in a finding that some or all of the allegations of the complaint are established and constitute a violation of this policy, the district shall take prompt, corrective action designed to ensure that such conduct ceases and that no retaliation occurs. The district shall promptly take appropriate steps to prevent the recurrence of the prohibited conduct and to address the discriminatory effect the prohibited conduct had on the complainant and the school or school program environment. District staff shall document the corrective action taken and, where not prohibited by law, inform the complainant. The Section 504 Coordinator shall follow up by assessing the effectiveness of the corrective action at reasonable intervals.

If the investigation results in a finding that a different policy was violated separately from or in addition to violations of this policy, or that there are circumstances warranting further action, such matters shall be addressed at the conclusion of this investigation or through disciplinary or other appropriate referrals where further evaluation or investigation is necessary.

Disciplinary actions shall be consistent with the Code of Student Conduct, Board policies and administrative regulations, district procedures, applicable collective bargaining agreements and state and federal laws.[33][34][55][56]

Appeal Procedure

1. If the complainant or the accused is not satisfied with a finding made pursuant to the policy or with recommended corrective action, they may submit a written appeal to the district's Section 504 Coordinator within fifteen (15) days.

2. The Section 504 Coordinator shall review the investigation and the investigative report and may also conduct a reasonable supplemental investigation to assess the sufficiency and propriety of the prior investigation.

3. The Section 504 Coordinator shall prepare a written response to the appeal within twenty (20) days. Copies of the response shall be provided to the complainant, the accused and the investigator who conducted the initial investigation.

PSBA Revision 7/24 ©2024

Legal

1. 22 PA Code 4.4
2. 22 PA Code 12.1
3. 22 PA Code 12.4
4. 22 PA Code 15.1 et seq
5. 29 U.S.C. 794
6. 42 U.S.C. 12101 et seq
7. 28 CFR Part 35
8. 28 CFR Part 36
9. 34 CFR Part 104
10. Pol. 103

11. 22 PA Code 15.2
12. 42 U.S.C. 12102
13. 22 PA Code 15.7
14. 34 CFR 104.7
15. 22 PA Code 15.4
16. 34 CFR 104.32
17. Pol. 113
18. 22 PA Code 15.5
19. 22 PA Code 15.6
20. 34 CFR 104.35
21. 22 PA Code 15.3
22. 34 CFR 104.34
23. 34 CFR 104.37
24. Pol. 112
25. Pol. 122
26. Pol. 123
27. Pol. 810
28. 22 PA Code 15.8
29. 20 U.S.C. 1232g
30. 34 CFR Part 99
31. 22 PA Code 15.9
32. Pol. 216
33. Pol. 218
34. Pol. 233
35. 24 P.S. 1319-B
36. 22 PA Code 10.2
37. 35 P.S. 780-102
38. 24 P.S. 1306.2-B
39. 22 PA Code 10.21
40. 22 PA Code 10.22
41. 22 PA Code 10.23
42. 22 PA Code 10.25
43. Pol. 113.2
44. Pol. 218.1
45. Pol. 218.2
46. Pol. 222
47. Pol. 227
48. Pol. 805.1
49. 22 PA Code 15.1
50. 34 CFR 104.36

51. 22 PA Code 14.162

52. Pol. 806

53. 18 Pa. C.S.A. 2709

54. Pol. 815

55. Pol. 113.1

56. Pol. 317

103_1-Attach-District-InitiatedEvalNotice.doc (45 KB)

103_1-Attach-ReportFormComplaints.doc (45 KB)

103_1-Attach-ProceduralSafeguards.doc (51 KB)

103_1Attach-Parent_GuardianRequest-PermissionToEvaluate.doc (73 KB)