

## 5020.3 STUDENTS WITH DISABILITIES PURSUANT TO SECTION 504

( ) Required

**(X) Local**

**(X) Notice**

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, is prohibited in all school programs, activities, and events sponsored by the district. All officers, supervisory personnel, employees, and students of the district will be given a copy of the policy and training regarding its terms, procedures, protection,s and penalties.

### Statement of Policy

1. The district is committed to maintaining an environment free from all discrimination and harassment on the basis of disability.
2. No qualified individual with a disability will, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of the district, or be subjected to discrimination by the district.
3. No qualified individual with a disability will, on the basis of disability, be subjected to discrimination in employment under any service, program, or activity conducted by the district, including all academic, athletic, and school-sponsored activities.
4. The district will administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.
5. The district will 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.
6. The district will 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.
7. The district will investigate all formal and informal complaints of discrimination and harassment on the basis of disability.

All employees of the district who observe acts of discrimination or harassment on the basis of disability are required to intervene to address such alleged discrimination or harassment on the basis of disability and promptly report the incident to the district's compliance coordinator, Assistant Superintendent for Curriculum, Instruction, and Equity Dr. Darrell Stinchcomb. The district will investigate and resolve any reports promptly and effectively.

The district will not permit anyone who makes a report, opposes any unlawful act, or assists in any investigation to be subjected to coercion, intimidation, interference, or retaliation.

The district designates Assistant Superintendent for Curriculum, Instruction, and Equity Dr. Darrell Stinchcomb, to coordinate all compliance and investigative matters arising under this policy. He can be reached by contacting the district offices at 914-693-1500 or by email at [stinchcomb@dfsd.org](mailto:stinchcomb@dfsd.org).

## 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).
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 Substances 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 will be objective, based upon the viewpoint of a reasonable person, and subjectively perceived to be so by the complainant. Disciplinary consequences for engaging in disability harassment will be imposed in accordance with the District's Code of Conduct and applicable law, and may range from a letter of reprimand, suspension, or termination, as may be deemed legally and factually appropriate.

### **Disability Discrimination in School District Employment is Prohibited**

Disability discrimination against an individual who has been identified as having 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 district, including social and recreational programs; and (i) any other term, condition, or privilege of employment.

The district will make reasonable accommodations 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 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 will 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.

### **Disability Discrimination in Access to School District Programs is Prohibited**

The district will 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 district, in its discretion, may accomplish accessibility 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 district will give priority to those methods that offer services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate.

### **Communications**

The district will ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others. The district will 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 district.

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

### **Construction of New Facilities**

Each facility or part of a facility constructed by, on behalf of, or for the use of the district will 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.

## **Disputes**

Disputes by parents or students relating to decisions of the Section 504 team will be made in writing within 30 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.

Disputes between a student and/or the parent or guardian of a student and the district, regarding whether the recipient district has made a free appropriate education available, will be heard by an impartial hearing officer. Parents will have an opportunity to participate in the hearing, be represented by counsel, call witnesses, and present evidence.

The impartial hearing officer will be directed to issue a written decision following the close of the hearing. A copy of the decision will be sent to both the Section 504 Compliance Coordinator and the parent(s)/guardian and/or student.

A parent may appeal the hearing officer's decision within 30 days following the parent's receipt of the hearing officer's decision to the board of education.

Complaints may also be made to the United States Department of Education, Office of Civil Rights. The regional office is located at 32 Old Slip, 25<sup>th</sup> Floor, New York, New York 10005. Phone: 646-428-3906. Website: [www2.ed.gov/OCR](http://www2.ed.gov/OCR).

## **Additional Complaint Procedure**

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

Any individuals who believe they have been subjected to disability discrimination by an officer, employee, student, or business invitee are encouraged to address the matter with the district's compliance coordinator or designee, who will promptly conduct an intake interview and explain the following options for resolution:

1. registering an informal complaint orally or in writing;
2. registering a formal complaint orally or in writing;
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 designee is 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 their discretion. The district's compliance coordinator or designee will also ensure that complainants are informed of their rights and have an opportunity to discuss available resources. In addition, the compliance coordinator will explain that the complainant will not be subject to retaliation or retribution by reason of making the complaint and that confidentiality will be maintained throughout the process, except as necessary to ensure fair and due process. The compliance coordinator will take whatever interim actions necessary to ensure the safety of the complainant and the school community during the investigation, such as issuing directives to cease and desist particular actions or to limit contact between the complainant, the accused, and any potential witnesses.

### Informal Complaints

An informal complaint will be promptly reviewed by the district's compliance coordinator or designee, who will issue a written report to the superintendent within seven (7) days. The superintendent will 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 must be made in writing or reduced to writing by the compliance coordinator or designee, who will conduct a full and fair investigation of the complaint, make written findings of fact, and, where warranted, recommend a resolution to the superintendent. The superintendent will advise the complainant and the subject of the complaint of the disposition of the complaint, which 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 will appoint an alternate compliance officer when the compliance officer is the subject of a complaint and may designate several formal complaint investigators and alternates. If the complaint is about the superintendent, the board will stand in the superintendent's place for review activities, and any appeal will be assigned to an impartial hearing officer.

### Appeal of Formal Complaints

If a formal complaint has not 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, which will promptly appoint an impartial hearing officer to hear the appeal and make formal recommendations to the board.

The board will 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, and the board of education will, 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. In the interest of due process, the subject of the complaint will be informed of the identity of the person who made the complaint. Both the complainant and the subject of the complaint will be given a copy of the findings in the matter of a formal complaint.

### **Corrective Action**

The superintendent will recommend, and the board will 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 that discrimination or harassment has occurred. The district will also offer counseling and academic support services, as necessary and appropriate, to any person found to be subjected to discrimination or harassment on the basis of disability and, where appropriate, counseling to the person(s) who committed the discrimination or harassment on the basis of disability.

### **Selection of Contractors**

The 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 district will evaluate its current services, policies, and practices, and the effects thereof, for their effect on disabled individuals as required by law. The district will 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 district will distribute this policy annually to all school administrators, teachers, other employees of the district, parents/guardians, 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. This policy will also be available on the district's website.

## **Application of this Policy**

In applying this policy, the 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. The board directs the superintendent to develop regulations to guide the implementation of this policy.

Ref:

Section 504 of the Rehabilitation Act of 1973

Adoption date: November 5, 2009

Revised: March 3, 2026

**Dobbs Ferry Union Free School District**