

SECTION: PROGRAMS

# THE SCHOOL DISTRICT OF PHILADELPHIA

TITLE: NONDISCRIMINATION –  
QUALIFIED STUDENTS WITH  
DISABILITIES/PROTECTED  
HANDICAPPED STUDENTS

ADOPTED: August 24, 2011

REVISED:

<p>1. Authority Title 22 Sec. 4.4, 12.1, 12.4, 15.1 et seq 29 U.S.C. Sec. 794 42 U.S.C. Sec. 12101 et seq 28 CFR Part 35 34 CFR Part 104 Pol. 103</p>	<p style="text-align: center;">103.1. NONDISCRIMINATION – QUALIFIED STUDENTS WITH DISABILITIES/PROTECTED HANDICAPPED STUDENTS</p> <p>The School Reform Commission declares it to be the policy of this district to ensure that all district programs and practices are free from discrimination against all qualified students with disabilities/protected handicapped students. The SRC recognizes its responsibility to provide academic and nonacademic services and programs equally to students with and without disabilities.</p> <p>The district shall provide to each qualified student with a disability/protected handicapped student 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/protected handicapped student 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.</p> <p>The SRC encourages students and parents/guardians who believe they have been subjected to discrimination or harassment to promptly report such incidents to designated employees.</p> <p>The SRC directs that complaints of discrimination or harassment shall be investigated promptly, and corrective action be taken for substantiated allegations. Confidentiality of all parties shall be maintained, consistent with the district’s legal and investigative obligations.</p> <p>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.</p>
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<p>2. Definitions Title 22 Sec. 15.2 42 U.S.C. Sec. 12102</p> <p>Title 22 Sec. 15.1 et seq 34 CFR Part 104</p> <p>Title 22 Sec. 15.7</p> <p>Pol. 248</p>	<p><b>Qualified student with a disability/protected handicapped student</b> - 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.</p> <p><b>Charter 15 Team</b> - 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.</p> <p><b>Chapter 15 Service Agreement (Service Agreement)</b> - an individualized plan for a qualified student with a disability/protected handicapped student 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.</p> <p><b>Disability harassment</b> - 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.</p>
<p>3. Delegation of Responsibility 34 CFR Sec. 104.7</p> <p>Title 22 Sec. 15.4 34 CFR Sec. 104.32</p>	<p>In order to maintain a program of nondiscrimination practices that is in compliance with applicable laws and regulations, the SRC shall designate a district Chapter 15/Section 504 Coordinator.</p> <p>In addition, each school within the district shall have a Chapter 15/Section 504 building administrator.</p> <p>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 web site and in school calendars or brochures. The district shall notify parents/guardians of students residing in the district of the district’s responsibilities under applicable laws and regulations, and that the district does not discriminate against qualified individuals with disabilities.</p>

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<p>4. Guidelines</p> <p>34 CFR Sec. 104.32 Pol. 113</p> <p>Title 22 Sec. 15.5, 15.6 34 CFR Sec. 104.35</p> <p>Pol. 901</p> <p>34 CFR Sec. 104.35</p> <p>34 CFR Sec. 104.35</p> <p>Title 22 Sec. 15.7</p>	<p><u>Identification And Evaluation</u></p> <p>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, in order to not duplicate efforts.</p> <p>If a parent/guardian or the district has reason to believe that a student should be identified as a qualified student with a disability/protected handicapped student, should no longer be identified as a qualified student with a disability/protected handicapped student, 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.</p> <p>The district’s notices to the parents/guardians shall be in the parents’/guardians’ native language or mode of communication.</p> <p>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.</p> <p>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.</p> <p>The district shall establish procedures for evaluation and placement that assure tests and other evaluation materials:</p> <ol style="list-style-type: none"> <li>1. Have been validated and are administered by trained personnel.</li> <li>2. Are tailored to assess educational need and are not based solely on IQ scores.</li> <li>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).</li> </ol> <p><u>Service Agreement</u></p> <p>If a student is determined to be a qualified student with a disability/protected handicapped student, 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.</p>
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<p>Title 22 Sec. 15.7</p>	<p>The Service Agreement shall be in writing and signed by the principal and one parent/guardian. Oral agreements may not be relied upon.</p> <p>The Service Agreement shall set forth the date the services shall begin; the date the services shall be discontinued; when appropriate, the procedure to be followed in the event of a medical emergency; specific related aids, services or accommodations the student shall receive, or if an agreement is being modified, the modified services the student shall receive.</p>
<p>Title 22 Sec. 15.5</p>	<p>The district shall not modify or terminate a student’s current Service Agreement without the parent’s/guardian’s written consent.</p>
<p>Title 22 Sec. 15.3 34 CFR Sec. 104.34</p>	<p><u>Educational Programs/Nonacademic Services/Extracurricular Activities</u></p> <p>The district shall educate a qualified student with a disability/protected handicapped student with students who are not disabled to the maximum extent appropriate to the needs of the student. A qualified student with a disability/protected handicapped student 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.</p>
<p>Title 22 Sec. 15.3 34 CFR Sec. 104.34, 104.37 Pol. 112, 122, 123, 810</p>	<p>The district shall not discriminate against any qualified student with a disability/protected handicapped student 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.</p>
<p>Pol. 218, 233</p>	<p><u>Discipline</u></p> <p>When necessary, the district shall discipline qualified students with disabilities/protected handicapped students in accordance with state and federal laws and regulations and SRC policies.</p>
<p>Title 22 Sec. 15.6, 15.7, 15.8 34 CFR Sec. 104.35</p>	<p><u>Parental Involvement</u></p> <p>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.</p>

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<p>Title 22 Sec. 15.9 Pol. 216</p>	<p><u>Confidentiality Of Student Records</u></p> <p>All personally identifiable information regarding a qualified student with a disability/protected handicapped student 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 SRC policy.</p>
<p>Title 22 Sec. 15.8 34 CFR Sec. 104.36</p>	<p><u>Procedural Safeguards</u></p> <p>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/protected handicapped student, 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.</p>
<p>Title 22 Sec. 15.6</p>	<p>A student or parent/guardian filing a claim of discrimination need not exhaust these procedures prior to initiating court action under Section 504.</p>
<p>Title 22 Sec. 15.8</p>	<p><i>Parental Request For Assistance –</i></p> <p>Parents/Guardians may file a written request for assistance with the Pennsylvania Department of Education (PDE) if one (1) or both of the following apply:</p> <ol style="list-style-type: none"> <li>1. The district is not providing the related aids, services and accommodations specified in the student’s Service Agreement.</li> <li>2. The district has failed to comply with the procedures and state regulations.</li> </ol>
<p>Title 22 Sec. 15.8</p>	<p>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.</p>
<p>Title 22 Sec. 15.8</p>	<p><i>Informal Conference –</i></p> <p>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.</p>

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<p>Title 22 Sec. 14.162, 15.8</p>	<p><i>Formal Due Process Hearing –</i></p> <p>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.</p>
<p>Title 22 Sec. 15.8</p>	<p><i>Judicial Appeals –</i></p> <p>The decision of the impartial hearing officer may be appealed to a court of competent jurisdiction.</p>
<p>Pol. 103</p>	<p><u>Complaint Procedure</u></p> <p>This complaint procedure is in addition to and does not prevent parents/guardians from using any option in the procedural safeguards system.</p> <p><b>Step 1 – Reporting</b></p> <p>A student or his/her parent/guardian who believes s/he has been subject to conduct that constitutes a violation of this policy is encouraged to immediately report the incident to the Chapter 15/Section 504 building administrator or designee, or to any other member of the school staff, including teachers, guidance counselors, coaches and administrators.</p> <p>A school employee who witnesses, 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 Chapter 15/Section 504 building administrator or designee.</p> <p>If the Chapter 15/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 Chapter 15/Section 504 Coordinator.</p> <p>The complainant or reporting employee is encouraged to use the report form available from the Chapter 15/Section 504 building administrator, but oral complaints shall be acceptable. Oral complaints shall be documented by the Chapter 15/Section 504 building administrator.</p>

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**Step 2 – Investigation**

Upon receiving a complaint of discrimination, the Chapter 15/Section 504 building administrator or designee shall investigate the complaint, unless the Chapter 15/Section 504 building administrator or designee is the subject of the complaint or is unable to conduct the investigation.

The investigation may consist of individual interviews with the complainant, the accused, and others with knowledge relative to the incident. The investigator may also evaluate any other information and materials relevant to the investigation.

The investigator shall attempt to secure statements from all participants in, and witnesses to the complaint. The accused shall have the right of representation during his/her interview as required by the applicable collective bargaining agreement or practice.

The obligation to conduct this investigation shall not be negated by the fact that a criminal investigation of the incident is pending or has been concluded.

All investigations shall be completed by the assigned investigator within fourteen (14) days from the filing date of the complaint. Extenuating circumstances for not being able to comply with the deadline must be approved by the Compliance Officer. The extension must be a specified period of time not exceeding fourteen (14) days, and must be communicated to the complainant.

**Step 3 – Investigative Report**

The Chapter 15/Section 504 building administrator or designee shall prepare a written report which shall include a summary of the investigation, a determination of whether the complaint has been substantiated as factual and whether it is a violation of this policy, and a recommended disposition of the complaint.

Findings of the investigation shall be provided to the complainant, the accused, and the district's Chapter 15/Section 504 Coordinator.

**Step 4 – District Action**

If the investigation results in a finding that the complaint is factual and constitutes a violation of this policy, the district shall take prompt, corrective action to ensure that such conduct ceases and will not recur.

Complainants and the accused shall be notified of the final disposition/action taken by the district.

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Disciplinary actions shall be consistent with the Code of Student Conduct, SRC policies and administrative procedures, applicable collective bargaining agreements, and state and federal laws.

If it is concluded that a student has knowingly made a false complaint under this policy, such student shall be subject to disciplinary action.

References:

State Board of Education Regulations – 22 PA Code Sec. 4.4, 12.1, 12.4, 14.162, 15.1 et seq.

Family Educational Rights and Privacy Act – 20 U.S.C. Sec. 1232g

Section 504 of the Rehabilitation Act of 1973 – 29 U.S.C. Sec. 794

Americans With Disabilities Act – 42 U.S.C. Sec. 12101 et seq.

Nondiscrimination on the Basis of Disability, Title 28, Code of Federal Regulations – 28 CFR Part 35

Family Educational Rights and Privacy, Title 34, Code of Federal Regulations – 34 CFR Part 99

Nondiscrimination on the Basis of Handicap, Title 34, Code of Federal Regulations – 34 CFR Part 104

School Reform Commission Policy – 103, 112, 113, 122, 123, 216, 218, 227, 233, 248, 810, 901