

# CENTENNIAL SCHOOL DISTRICT

SECTION: PROGRAMS

TITLE: NONDISCRIMINATION –  
QUALIFIED STUDENTS WITH  
DISABILITIES

ADOPTED: May 10, 2016

REVISED:

<p>1. Authority 22 Pa. Code § 4.4, 12.1, 12.4, 15.1 et seq 29 U.S.C. § 794 42 U.S.C. § 12101 et seq 28 CFR Part 35 34 CFR Part 104 Pol. 103</p> <p>2. Definitions 22 Pa. Code § 15.2</p>	<p style="text-align: center;">103.1. NONDISCRIMINATION – QUALIFIED STUDENTS WITH DISABILITIES</p> <p>The Board declares it to be the policy of this District to ensure that qualified students with disabilities are free from discrimination, unlawful harassment, unlawful intimidation and unlawful retaliation with respect to all District programs and practices. The Board recognizes its responsibility to provide academic and nonacademic services and programs equally to students with and without disabilities. Unlawful discrimination, harassment, intimidation and retaliation is prohibited.</p> <p>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) in accordance with Applicable Law. This includes provision of education and related aids, services, or accommodations which are needed to afford each qualified student with a disability the 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, in accordance with Applicable Law.</p> <p>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.</p> <p>The Board directs that complaints of discrimination or harassment shall be investigated promptly, and corrective action be taken for substantiated allegations.</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> <p><b>Qualified student with a disability</b> - a student who has a physical or mental impairment which substantially limits or prohibits participation in or access to an aspect of the District’s educational programs, nonacademic services or</p>
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<p>42 U.S.C. § 12102</p>	<p>extracurricular activities. The term shall have the same meaning as provided in Applicable Law.</p>
<p>22 Pa. Code § 15.1 et seq 34 CFR, Part 104</p>	<p><b>Section 504 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>22 Pa. Code § 15.7</p>	<p><b>Section 504 Service Agreement (Service Agreement)</b> - 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.</p>
<p>Pol. 248</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 § 104.7</p>	<p>In order to maintain a program of nondiscrimination practices that is in compliance with Applicable Law and regulations, the Board designates the Superintendent as the District’s Section 504 Coordinator.</p> <p>In addition, the Principal of each school within the District is hereby designated as the Section 504 building administrator.</p>
<p>22 Pa. Code § 15.4 34 CFR § 104.32</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 website, if available, 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.</p>
<p>4. Guidelines  34 CFR § 104.32 Pol. 113</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>22 Pa. Code § 15.5, 15.6</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, should no longer be identified</p>

34 CFR § 104.35	as a qualified student with a disability, or requires a change in or modification to the student’s current Service Agreement, the parent/guardian or the District shall provide the other party with written notice.
34 CFR § 104.35	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.
34 CFR § 104.35	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.
	The District shall establish procedures for evaluation and placement that assure tests and other evaluation materials:
	<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>
	<u>Service Agreement</u>
22 Pa. Code § 15.7	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 in accordance with Applicable Law.
22 Pa. Code § 15.7	The District shall not implement a Service Agreement until the written agreement is executed by a representative of the District and a parent/guardian.
22 Pa. Code § 15.5	The District shall not modify or terminate a student’s current Service Agreement without the parent’s/guardian’s written consent, unless the Service Agreement expires by its own terms and conditions.
	<u>Educational Programs/Nonacademic Services/Extracurricular Activities</u>
22 Pa. Code § 15.3 34 CFR § 104.34	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

<p>22 Pa. Code § 15.3 34 CFR § 104.34, 104.37 Pol. 112, 122, 123, 810</p>	<p>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>22 Pa. Code § 15.6, 15.7, 15.8 34 CFR § 104.35</p>	<p>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.</p>
<p>22 Pa. Code § 15.9 Pol. 216</p>	<p><u>Parental Involvement</u></p>
<p>Pol. 218, 233</p>	<p>Parents/Guardians have the right to inspect and review all relevant school records of the student in accordance with Applicable Law, 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>
<p>SC 1303-A 22 Pa. Code § 10.2 35 P.S. § 780-102</p>	<p><u>Confidentiality Of Student Records</u></p>
<p>SC 1302.1-A 22 Pa. Code § 10.2, 10.21, 10.22, 10.23,</p>	<p>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 other Applicable Law.</p>
	<p><u>Discipline</u></p>
	<p>When necessary, the District shall discipline qualified students with disabilities in accordance with Applicable Law and the Code of Student Conduct.</p>
	<p><b><u>Referral To Law Enforcement And Reporting Requirements</u></b></p>
	<p><b>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; or conduct that constitutes an offense listed under the Safe Schools Act.</b></p>
	<p><b>The Superintendent 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</b></p>

<p><b>10.25, 15.2, 15.3, 15.7, 15.9</b>  <b>Pol. 113.2, 218, 218.1, 218.2, 222, 227, 805.1</b></p>	<p><b>disability, including a student for whom an evaluation is pending, to the local police department 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 local law enforcement, and Board policies. The Superintendent shall respond in a manner that is consistent with the student’s Service Agreement and Behavior Support Plan, if applicable.</b></p>
<p><b>22 Pa. Code § 10.22, 15.1</b>  <b>Pol. 103, 805.1</b></p>	<p><b>In making a determination of whether to notify the local police department of a discretionary incident committed by a qualified student with a disability, including a student for whom an evaluation is pending, the Superintendent shall use the same criteria used for students who do not have a disability.</b></p>
<p><b>22 Pa. Code § 10.23, 15.7</b></p>	<p><b>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.</b></p>
<p><b>SC 1303-A</b>  <b>Pol. 805.1</b></p>	<p><b>In accordance with state law, the Superintendent shall annually, by July 31, report to the Office for Safe Schools, 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.</b></p>
<p><b>PROCEDURAL SAFEGUARDS</b></p>	
<p><b>22 Pa. Code § 15.8</b>  <b>34 CFR § 104.36</b></p>	<p><b>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.</b></p>
<p><b>22 Pa. Code § 15.6</b></p>	<p><b>A student or parent/guardian filing a claim of discrimination need not exhaust these procedures prior to initiating court action under Section 504.</b></p> <p><u>Parental Request For Assistance</u></p>
<p><b>22 Pa. Code § 15.8</b></p>	<p><b>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:</b></p>

<p>22 Pa. Code § 15.8</p>	<p>1. The District is not providing the related aids, services and accommodations specified in the student’s Service Agreement.</p> <p>2. The District has failed to comply with Applicable Law.</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>22 Pa. Code § 15.8</p>	<p><u>Informal Conference</u></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>
<p>22 Pa. Code § 14.162, 15.8</p>	<p><u>Formal Due Process Hearing</u></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>22 Pa. Code § 15.8</p>	<p><u>Judicial Appeals</u></p> <p>The decision of the impartial hearing officer may be appealed to a court of competent jurisdiction.</p>
<p>Pol. 103</p>	<p style="text-align: center;"><b>COMPLAINT PROCEDURE</b></p> <p><u>Complaints and Reports Encouraged.</u> The Board encourages students who have been subject to unlawful discrimination, unlawful harassment, or unlawful retaliation to report such incidents promptly to designated employees or officials. The Board encourages students, employees and others who may have witnessed unlawful discrimination, unlawful harassment, or unlawful retaliation to report such incidents promptly to designated employees or officials.</p>

In order to maintain a program of nondiscrimination practices that is in compliance with Applicable Law, the Board designates the Superintendent as the District's 504 Coordinator.

The 504 Coordinator shall publish and disseminate this policy and complaint procedure at least annually to students, parents/guardians, employees and the public. The annual notice shall include the position, office address and telephone number of the 504 Coordinator.

The 504 Coordinator is responsible to monitor the implementation of nondiscrimination procedures in the following areas:

1. Training - Provision of training for students and staff to identify and alleviate problems of discrimination and harassment.
2. Student Access - Review of programs, activities and practices to ensure that all students have equal access and are not segregated except when permissible by Applicable Law or regulation.

The 504 Coordinator may be assisted in these duties by forming a District committee of appropriate representatives.

The 504 Coordinator shall inform the Board of any lack of compliance with this policy within the District.

Principals are required to report any complaints or reports of discrimination, harassment or retaliation promptly to the Compliance Officer and shall be responsible to complete the following duties when receiving a complaint of discrimination:

1. Inform the student or witness of the right to file a complaint and the complaint procedure.
2. Inform the student or witness s/he may be accompanied by his/her parent or guardian, guidance counselor, legal counsel or a union representative, as applicable during all steps of the complaint procedure.
3. Refer the student or witness to the 504 Coordinator.
4. Submit a written report describing the information received, identifying the alleged perpetrator, identifying the complainant or witness and describing what steps the Principal took.

**Complaint Procedure**

Step 1 – Reporting

In addition to the rights set forth earlier in this policy, a student who believes that he or she has been the victim of unlawful discrimination, unlawful harassment, or unlawful retaliation or that he or she has witnessed unlawful discrimination, unlawful harassment, or unlawful retaliation is encouraged to report the incident to the building Principal and/or the 504 Coordinator immediately; however, a complaint will be accepted at any time regardless of when the unlawful conduct is alleged to have occurred.

A school employee who suspects, witnesses or is notified that a student has been subject to conduct that constitutes unlawful discrimination, unlawful harassment, or unlawful retaliation shall immediately report the incident to the building Principal.

If the building Principal is the subject of a complaint, the student, third party or employee may file the complaint directly with the 504 Coordinator, an Assistant Principal of the school, and/or the Solicitor of the School District.

The complainant or reporting employee or individual is encouraged to use the report form available from the building Principal, but oral complaints shall be acceptable.

Upon receiving a complaint, the Principal, Assistant Principal, Solicitor or any other employee, shall notify the 504 Coordinator immediately and shall document that the 504 Coordinator has been notified with a written notice to the 504 Coordinator.

Step 2 – Investigation

The 504 Coordinator shall ensure that an investigation is conducted promptly. The 504 Coordinator may utilize the services of the Solicitor or other legal counsel authorized by the School Board in order to investigate the complaint or report and may direct the Principal or Assistant Principal to conduct the investigation. The investigation shall consist of such investigative techniques as will ensure a prompt and thorough investigation.

If the investigation results in a determination that the conduct being investigated may involve a violation of criminal law, the 504 Coordinator shall inform law enforcement authorities about the incident(s).

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.



Step 3 – Investigative Report

Upon the completion of the investigation, the 504 Coordinator shall ensure that a written report is promptly prepared. The report shall include a summary of the investigation, a determination of whether the complaint has been substantiated as factual and whether the conduct at issue is in violation of this policy, and a recommended disposition of the complaint.

The 504 Coordinator shall ensure that a written report is provided to the complainant or victim, as may be appropriate, and the accused, as may be appropriate. To the extent that there are interests of confidentiality that should be recognized, the report that is provided to the complainant, victim or accused may be modified from the written report prepared following the investigation.

Step 4 – District Action

If the investigation results in a finding that the complaint is factual and constitutes a violation of this policy, the 504 Coordinator shall ensure that the School District takes prompt corrective action reasonably calculated to ensure that such conduct ceases and will not recur.

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

Step 5—Appeal Procedure

1. If the complainant or victim is not satisfied with a finding of no violation of the policy or with the corrective action recommended in the report, s/he may submit a written appeal to the 504 Coordinator within fifteen (15) days.
2. The 504 Coordinator shall review the investigation and the investigative report and may also conduct a further investigation.
3. The 504 Coordinator shall prepare a written response to the appeal within fifteen (15) days, unless additional time is reasonably necessary. The results of the appeal decision shall be disseminated as appropriate.

Confidentiality. Confidentiality respecting any complaint, report, complainant, witness to the investigation, and the results or action taken as a result of the investigation or complaints shall be maintained and no information may be disclosed by any employee or official of the School District that is related to the complaint, the complainant, the report, the witness, the investigation, the facts surrounding the complaint, or the actions taken as a result of the complaints and investigation except: (1) as reasonably necessary to conduct the investigation or

to end unlawful conduct; or (2) when anyone has a legal right or duty to make a disclosure. This provision is not to be construed to prohibit disclosure to the Superintendent, legal counsel, the School Board or any other administrator or person as part of or necessary for the investigation or corrective action.

Investigation and Corrective Action. The Board directs that complaints and reports of unlawful discrimination, unlawful harassment and/or unlawful retaliation shall be investigated promptly, and that corrective action reasonably calculated to end unlawful conduct be taken when allegations are substantiated.

References:

School Code – 24 P.S. §§ 13-1302.1-A, 1303-A

PA Controlled Substance, Drug, Device and Cosmetic Act – 35 P.S. § 780-102

State Board of Education Regulations – 22 PA Code §§ 4.4, 10.2, 10.21, 10.22, 10.23, 10.25, 12.1, 12.4, 14.162, 15.1 et seq.

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

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

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

Nondiscrimination on the Basis of Disability, 28 CFR Part 35

Family Educational Rights and Privacy Act 34 CFR Part 99

Nondiscrimination on the Basis of Handicap, 34 CFR Part 104

Board Policy – 103, 112, 113, 113.2, 122, 123, 216, 218, 218.1, 218.2, 222, 227, 233, 248, 805.1, 810

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