WALWORTH POLICY 113

SECTION 504/ADA PROHIBITION AGAINST DISCRIMINATION BASED ON DISABILITY

Pursuant to Section 504 of the Rehabilitation Act of 1973 (“Section 504”), the Americans with Disabilities Act of 1990, as amended (“ADA”), and the implementing regulations (collectively “Section 504/ADA”), no otherwise qualified individual with a disability shall, solely by reason of his/her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. The Board of Education does not discriminate in admission or access to, or participation in, or treatment in programs or activities. As such, the Board's policies and practices will not discriminate against students with disabilities and will make accessible to qualified individuals with disabilities its facilities, programs, and activities. No discrimination will be knowingly permitted against any individual with a disability on the sole basis of that disability in any of the programs, activities, policies, and /or practices in the District.

“An individual with a disability” means a person who has, had a record of, or is regarded as having, a physical or mental impairment that substantially limits one (1) or more major life activities. Major life activities are functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, eating, sleeping, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

Major life activities also include the operation of a major bodily function, including, but not limited to, functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, hemic, lymphatic, musculoskeletal and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

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

The determination of whether an impairment substantially limits a major life activity must be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, equipment or appliances, low-vision devices (not including ordinary eyeglasses or contact lenses), prosthetics (including limbs and devices), hearing aids and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy equipment or supplies, assistive technology, reasonable accommodations or auxiliary aids or services, or learned behavioral or adaptive neurological modifications.

With respect to public preschool, elementary and secondary educational services, a qualified person with a disability means a disabled person:

1. Who is of an age during which nondisabled persons are provided educational services
2. Who is of any age during which it is mandatory under Wisconsin law to provide educational services to disabled persons
3. Whom the state is required to provide a free appropriate public education pursuant to the Individuals with Disabilities Education Improvement Act (IDEIA).

With respect to vocational education services, a qualified person with a disability means a disabled person who meets the academic and technical standards requisite to admission or participation in the vocational program or activity.

District Compliance Officer

The District Administrator will designate a District 504 Compliance Officer/ADA Coordinator (“hereinafter referred to as the CO”). The name and contact information of the CO will be published annually on the District’s website.

The main functions of the CO are to coordinate the District’s efforts to comply with and fulfill its responsibilities under Section 504 and Title II of the ADA. The CO will also oversee the investigation of any complaints of discrimination based on disability, which may be filed pursuant to the Board’s adopted internal complaint procedure, and will attempt to resolve such complaints. The CO will oversee the training of employees of the Board so that all employees understand their rights and responsibilities under Section 504 and the ADA, and are informed of the Board’s policies, administrative guidelines and practices with respect to fully implementing and complying with the requirements of section 504/ADA.

Facilities

No qualified person with a disability will, because the District’s facilities are inaccessible to or unusable by persons with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which Section 504/ADA applies.

Education

The Board of Education is committed to identifying, evaluation, and providing a free appropriate public education (“FAPE”) to students within its jurisdiction who are disabled within the definition of Section 504, regardless of the nature or severity of their disabilities.

If a student has a physical or mental impairment that significantly limits one or more major life activities, the Board will provide the student with a free appropriate public education. An appropriate education may include regular or special education and related aids and services to accommodate the unique needs of students with disabilities. For disabled students who are not eligible for specially designed instruction under the Individuals with Disabilities Education Improvement Act (“IDEIA”), the related aids and services (including accommodations/modifications/interventions) they need in order to have their needs met as adequately as the needs of nondisabled students are met, shall be delineated, along with their placement, in a Section 504 Plan.

Investigation and Complaint Procedure

The CO shall investigate any complaints brought under this policy. Throughout the course of the process, the CO shall keep the parties informed of the status of the investigation and the decision making process.

Informal Resolution  
Any person who feels discrimination has taken place shall report his/her concern to the building principal or designee. He/she shall meet with the parties involved to discuss the concern and shall try to resolve the matter accordingly. The building principal or designee may consult with the appropriate District-level administrator regarding District nondiscrimination policies and the discrimination complaint process. If the concern is not resolved to the satisfaction of the complainant through this process, he/she may initiate a formal complaint in accordance with the procedures listed below.

Formal Procedures

Persons may provide a written discrimination complaint to the District’s CO. All written complaints are receipt dated.

Upon receiving a written discrimination complaint the District’s CO, or designee, shall investigate the alleged discrimination and make a written decision regarding the case within forty-five (45) working days of the submitted complaint.

Copies of the written decision shall be mailed or delivered to the complainant.

If additional time is needed to complete the investigation and/or report, a letter will go out to the complainant explaining the need for additional time. The letter must be postmarked within forty-five (45) working days of the complaint. Extensions for additional time to complete investigations should not exceed seventy (70) working days.

If the CO or their designee determines the individual and/or District is in compliance with state and federal laws and regulations, the CO or designee shall state the reason in writing to the complainant.

If the CO or designee finds probable cause to believe that the individual and/or District is discriminating and in violation of state and federal laws and regulations, the CO or designee shall state in writing to the complainant the steps that will be taken to bring the individual and/or District into compliance, including timelines and persons responsible for the action steps.

If the complainant is dissatisfied with the decision of the CO, they may appeal the decision in writing to the District Administrator. The District Administrator shall investigate the alleged discrimination and make a written decision regarding the case. The written decision shall include a notice to the complainant of his/her right to appeal the determination to the Board of Education. Copies of the decision shall be mailed or delivered to the complainant, the CO and other appropriate District administrators.

If the complainant is dissatisfied with the decision of the District Administrator, they may appeal the decision in writing to the Board of Education. The Board of Education, or their designee, shall investigate the alleged discrimination and make a written decision regarding the case. The written decision shall include a notice to the complainant of his/her right to appeal the determination to the State Superintendent of Public Instruction. Copies of the decision shall be mailed or delivered to the complainant, the CO and other appropriate District administrators.

Appeals beyond the Board of Education may be made, in writing, to the State Superintendent of Public Instruction within 30 days of the Board of Education’s decision.

Exceptions

Complaints relating to the identification, evaluation, educational placement or the provision of a free appropriate public education of a student with a disability shall be processed in accordance with established appeal procedures outlined in the District's Special Education Policy and Procedure Manual.

Complaints relating to programs specifically governed by federal law or regulation (e.g., EDGAR complaints) shall be referred directly to the State Superintendent of Public Instruction.

Nothing in these procedures shall prevent an individual from filing a complaint directly with a state or federal agency as authorized by law. For example, complaints involving alleged violations of federal laws such as Title IX of the Education Amendments of 1972, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990 or Section 504 of the Rehabilitation Act may be filed at any time with the Office of Civil Rights, U.S. Department of Education, 111 N. Canal Street, Room 1053, Chicago, IL 60606.

Maintenance of Complaint Records

Records of all discrimination complaints shall be kept for the purpose of documenting compliance and past practices. The records shall include information on all levels of the complaint and any appeals. The records should include:

* 1. The name of the complainant and his/her title or status.
  2. The date the complaint was filed.
  3. The specific allegation made and any corrective action requested by the complainant.
  4. The name(s) of the respondents.
  5. The levels of processing followed, and the resolution, date and decision-making authority at each level.
  6. A summary of facts and evidence presented by each party involved.
  7. A statement of the final resolution and the nature and date(s) of any corrective or remedial action taken.

The District will make available a 504 Guidelines document with the purpose of describing procedures that shall be followed when referring, identifying, and providing services to eligible students under Section 504. Records will be kept in accordance with state regulations.

Nondiscrimination Prohibiting Discrimination on the Basis of Disability

*No otherwise qualified individual with a disability in the United States shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. 29 U.S.C. § 794(a).*

To ensure compliance with federal and state statutes, the school district will:

1. Prohibit discrimination against a qualified individual with a disability that denies him or her the opportunity to participate in or benefit from the aid, benefit, or service of any aspect of school district programs or activities solely on the basis of disability, including the prohibited use of criteria that unnecessarily screens out or tends to screen out an individual with a disability from the use and enjoyment of goods and services;
2. Make facilities, programs, and activities accessible, usable, and open to qualified individuals with disabilities;
3. Ensure that qualified students with disabilities are identified, located, evaluated, and provided with a free appropriate education;
4. Provide free appropriate public education at the elementary and secondary levels, including nonacademic and extracurricular services and activities to all qualified students with disabilities;
5. Prohibit exclusion of any qualified person with a disability solely on the basis of the disability from participation in any school district preschool or day care program or activity, or any adult education or vocational program or activity; and
6. Provide each qualified person with a disability with the same health, welfare, and other social services as the school district provides other persons.

Retaliation shall be prohibited. It shall be unlawful to discriminate, coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected under Section 504 or ADA.

Walworth Jt. District #1 does not discriminate on admissions to any school, class, program, or activity on the basis of sex, race, religion, national origin, creed, pregnancy, marital status, parental status, sexual orientation, or physical, learning, emotional, or mental disability. All discrimination complaints shall be processed in accordance with established procedures.

**LEGAL REFERENCES:** Section 504 of the Rehabilitation Act of 1973, as amended

(29 U.S.C. § 794; 34 C.F.R. Part 104, Subpart D)

Americans with Disabilities Act of 1990

(42 U.S.C. §§ 12101 et seq.)

Individuals with Disabilities Education Act, as amended

(20 U.S.C. §§ 1400 et. seq.)

Family Educational Rights and Privacy Act (FERPA)

(20 U.S.C. § 1232g; 34 C.F.R. Part 99)

State Pupil Discrimination Prohibited

(Wis. Stat. § 118.13; Wis. Admin. Code § PI 9)

State Pupil Records (Wis. Stat. § 118.125)

**POLICY APPROVED:** June 18, 1992

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