

CHESTER COUNTY INTERMEDIATE UNIT 24

SECTION: PROGRAMS

TITLE: NONDISCRIMINATION –
QUALIFIED STUDENTS WITH
DISABILITIES

ADOPTED: January 18, 2012

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>2. Definitions Title 22 Sec. 15.2 42 U.S.C. Sec. 12102</p>	<p style="text-align: center;">103.1. NONDISCRIMINATION – QUALIFIED STUDENTS WITH DISABILITIES</p> <p>The Board adopts this policy to ensure that all Intermediate Unit programs and practices are 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.</p> <p>The Intermediate Unit shall provide to each qualified student with a disability participating in Intermediate Unit programs, 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 law and regulations.</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. Confidentiality of all parties shall be maintained, consistent with the Intermediate Unit’s legal and investigative obligations.</p> <p>The Intermediate Unit 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>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 Intermediate Unit’s educational programs, nonacademic services or extracurricular activities.</p>
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<p>Title 22 Sec. 15.1 et seq 34 CFR Part 104</p>	<p>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.</p>
<p>Title 22 Sec. 15.7</p>	<p>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 Intermediate Unit programs, in transit to and from Intermediate Unit programs, and in all services and procedures, so that the student has equal access to the benefits of the Intermediate Unit’s educational programs, nonacademic services, and extracurricular activities.</p>
<p>Pol. 248</p>	<p>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 Intermediate Unit’s educational programs, nonacademic services, or extracurricular activities.</p>
<p>3. Delegation of Responsibility 34 CFR Sec. 104.7</p>	<p>In order to maintain a program of nondiscrimination practices that is in compliance with applicable laws and regulations, the Board designates the Executive Director or designee as the Intermediate Unit’s Section 504 Coordinator.</p> <p>In addition, each separate Intermediate Unit building shall have a Section 504 building administrator.</p>
<p>Title 22 Sec. 15.4 34 CFR Sec. 104.32</p>	<p>The Intermediate Unit shall publish and disseminate this policy and complaint procedure on or before the first day of each school year by posting it on the Intermediate Unit’s web site and in student handbooks. The Intermediate Unit shall notify parents/guardians of students participating in Intermediate Unit programs of the Intermediate Unit’s responsibilities under applicable laws and regulations, and that the Intermediate Unit does not discriminate against qualified individuals with disabilities.</p>
<p>4. Guidelines</p>	<p>The following guidelines shall pertain to school-age students participating in programs operated by the Intermediate Unit other than those students who are identified as eligible for, or are thought to be eligible for, special education and related services under the Individuals with Disabilities Education Act (IDEA) and related state law. Concerning such students, nothing in these guidelines or in this policy in general shall be deemed or construed to establish the Intermediate Unit as the responsible local educational agency (LEA) for purposes of complying with the</p>

	<p>requirements of Section 504 of the Rehabilitation Act of 1973 or Chapter 15 of the regulations of the Pennsylvania State Board of Education or otherwise to shift LEA responsibilities from the school district of residence or charter school of any such student to the Intermediate Unit.</p> <p><u>Identification And Evaluation</u></p> <p>34 CFR Sec. 104.32 Pol. 113.1</p> <p>The Intermediate Unit may assist participating school districts and charter schools in conducting annual child find activities to locate and identify students with disabilities thought to be eligible for Section 504 services and protections. This search may be combined with IDEA child find activities, in order to not duplicate efforts.</p> <p>Title 22 Sec. 15.5, 15.6 34 CFR Sec. 104.35</p> <p>If a parent/guardian or the Intermediate Unit 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 Intermediate Unit shall provide the other party with written notice and the Intermediate Unit shall notify the school district of residence or the responsible charter school.</p> <p>34 CFR Sec. 104.35</p> <p>The Intermediate Unit shall coordinate with participating school districts and charter schools to 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>34 CFR Sec. 104.35</p> <p>The Intermediate Unit, in coordination with the school district of residence or responsible charter school, 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 Intermediate Unit, in coordination with the school district of residence or responsible charter school, shall establish procedures for evaluation and placement that assure tests and other evaluation materials:</p> <ol style="list-style-type: none"> 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).
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<p>Title 22 Sec. 15.7</p> <p>Title 22 Sec. 15.7</p> <p>Title 22 Sec. 15.5</p> <p>Title 22 Sec. 15.3 34 CFR Sec. 104.34</p> <p>Title 22 Sec. 15.3 34 CFR Sec. 104.34, 104.37 Pol. 112, 810</p> <p>Pol. 218, 233</p>	<p><u>Service Agreement</u></p> <p>If a student is determined to be a qualified student with a disability, the Intermediate Unit shall coordinate with the school district of residence to develop a written Service Agreement for the delivery of all appropriate aids, services, or accommodations necessary to provide the student with FAPE.</p> <p>The Intermediate Unit shall not implement a Service Agreement until the written agreement is executed by a representative of the Intermediate Unit, as authorized by the school district of residence or responsible charter school, and a parent/guardian.</p> <p>The Intermediate Unit shall coordinate with the school district of residence to modify or terminate a student’s current Service Agreement only with the parent’s/guardian’s written consent, when necessary.</p> <p><u>Educational Programs/Nonacademic Services/Extracurricular Activities</u></p> <p>The Intermediate Unit, in coordination with the school district of residence or responsible charter school, 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 Intermediate Unit 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>The Intermediate Unit shall not discriminate against any qualified student with a disability in its provision of nonacademic services and extracurricular activities.</p> <p><u>Discipline</u></p> <p>When necessary, the Intermediate Unit, in coordination with the school district of residence or responsible charter school, shall discipline qualified students with disabilities in accordance with state and federal laws and regulations and Board policies.</p>
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<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 Intermediate Unit and school district or charter 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>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 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. All such information, in whatever form maintained by the Intermediate Unit, shall be considered an educational record of the school district or charter school in which such student resides or is enrolled and shall be subject to disclosure to school district or charter school officials with a legitimate educational interest therein without parent consent. The transfer of any or all personally-identifiable information concerning a particular student to the responsible school district or charter school shall not be considered destruction of a student record for purposes of state or federal law.</p>
<p>Title 22 Sec. 15.8 34 CFR Sec. 104.36</p>	<p><u>Procedural Safeguards</u></p> <p>The Intermediate Unit shall coordinate with participating school districts and charter schools to 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.</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"> 1. The Intermediate Unit is not providing the related aids, services and accommodations specified in the student’s Service Agreement.

<p>Title 22 Sec. 15.8</p>	<p>2. The Intermediate Unit has failed to comply with the procedures and state regulations.</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, school district of residence and Intermediate Unit 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 school district of residence or the responsible charter school 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 school district of residence or responsible charter school shall convene an informal conference. At the conference, every effort shall be made to reach an amicable agreement. The Intermediate Unit shall make every effort to coordinate with the school district or charter school to participate as needed in such conference.</p>
<p>Title 22 Sec. 14.162, 15.8</p>	<p><i>Formal Due Process Hearing –</i></p> <p>If the matters raised at the informal conference are not resolved, the school district of residence, the charter school, or the parents/guardians of the student 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>Step 1 – Reporting</p> <p>A student or 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 Section 504 building administrator or program supervisor.</p>

An Intermediate Unit 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 or program supervisor.

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

The complainant or reporting employee is encouraged to use the report form available from the Section 504 building administrator or program supervisor, but oral complaints shall be acceptable. Oral complaints shall be documented by the Section 504 building administrator or program supervisor.

Step 2 – Investigation

Upon receiving a complaint of discrimination, the Section 504 building administrator or program supervisor shall immediately notify the Intermediate Unit's Section 504 Coordinator. The Section 504 Coordinator shall authorize the Section 504 building administrator or program supervisor to investigate the complaint, unless the Section 504 building administrator or program supervisor 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.

If the investigation results in a determination that the conduct being investigated may involve a violation of criminal law, the Section 504 building administrator or program supervisor shall inform law enforcement authorities about the incident.

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

The Section 504 building administrator or program supervisor shall prepare and submit a written report to the Section 504 Coordinator within fifteen (15) days, unless additional time to complete the investigation is required. The report 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.

The complainant and the accused shall be informed of the outcome of the investigation, including the recommended disposition.

Step 4 – Intermediate Unit Action

If the investigation results in a finding that the complaint is factual and constitutes a violation of this policy, the Intermediate Unit shall take prompt, corrective action to ensure that such conduct ceases and will not recur. Intermediate Unit staff shall document the corrective action taken and, where not prohibited by law, inform the complainant.

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

Appeal Procedure

1. If the complainant is not satisfied with a finding of no violation of the policy or with the recommended corrective action, s/he may submit a written appeal to the Intermediate Unit’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 investigation.
3. The Section 504 Coordinator shall prepare a written response to the appeal within fifteen (15) days. Copies of the response shall be provided to the complainant, the accused and the Section 504 building administrator or program supervisor who conducted the initial investigation.

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

Board Policy – 103, 112, 113, 113.1, 216, 218, 227, 233, 248, 810