



CATEGORY: **School District, Nondiscrimination**

EFFECTIVE: **5-03-2002**

SUBJECT: **Nondiscrimination on the Basis of Disability**

REVISED:

A. PURPOSE AND SCOPE

- 1. To outline administrative procedures governing implementation of federal and state laws which mandate nondiscrimination on the basis of disability in educational institutions.
- 2. **Related Procedures:**
 - Equal opportunity in employment 0100
 - Nondiscrimination on the basis of disability,
 - Employee/applicants 0110
 - Employee complaints alleging harassment or discrimination 7110
 - Agency complaints alleging discrimination 0120
 - Criteria for instruction and for adoption and use of instructional material 4050

B. LEGAL AND POLICY BASIS

- 1. **Reference:** Board policy: A-3500, F-2510, F-2515, F-2520, F-2530, I-1050, I-1700, I-1800, I-5500; Section 504 of the Rehabilitation Act of 1973; 34 Code of Federal Regulations Part 104; Individuals with Disabilities Education Act; 34 C.F.R. Part 300; Education Code Sections 260; 56000 *et seq.*
- 2. **Section 504 of the Rehabilitation Act of 1973** states, in pertinent part, that:

No otherwise qualified individual with handicaps in the United States . . shall, solely by reason of his or her handicap, 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
- 3. **Board Policy A-3500:**

No student shall be excluded from participation in, be denied the benefits of, or otherwise be discriminated against in district educational programs by reason of his/her race, religion, creed, color, marital status, sex, sexual orientation, national or ethnic origin, or *disability*.
(Emphasis added.)

C. GENERAL

1. **Originating Office.** Suggestions or questions concerning this procedure should be directed to the Special Education Programs Division, Institute for Learning.
2. **Definitions**
 - a. **Individual with a disability:** [A]ny person who (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment. The term "individual with a disability" does not include an individual who is *currently* engaging in the illegal use of drugs, when a covered entity acts on the basis of such use. (Emphasis added.)
 - b. **Major life activities:** Means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
 - c. **Harassment:** The district prohibits all disability harassment that has the purpose or effect of having a negative impact on the student's academic performance or of creating an intimidating, hostile, or offensive educational environment. Conduct that may be considered disability harassment includes, but is not limited to, any verbal, written, or physical conduct directed at the characteristics of a person's disabling condition, such as imitating manner of speech or movement, or interference with necessary equipment.

D. IMPLEMENTATION

1. All staff is responsible for ensuring compliance with federal and state laws, and district policies prohibiting discrimination, including harassment, on the basis of disability.
2. **Reporting of Complaint.** All district employees shall report any discrimination on the basis of disability, including any observation/report of student conduct or circumstance that may constitute disability harassment, promptly to their supervisor. The supervisor will explain to the student and parents/guardians the steps for filing a complaint. Upon notice of possible discrimination, the responsible school or department official will contact the student and parent/guardian affected to discuss what actions the student or parents/guardians are seeking in response to the discrimination. All parties will agree to measures to ensure the student's immediate safety, pending the results of the investigation. Supervisors shall attempt to resolve all

complaints alleging discrimination on the basis of disability against students informally at the local level whenever possible (i.e., by the principal).

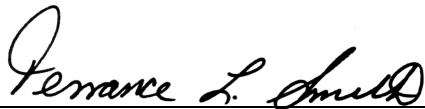
3. **Filing a Complaint.** A complaint alleging a violation of this procedure may be filed by a student or parent/guardian on the "Uniform Complaint Form" (E.1.). See Uniform Complaint Procedure, Procedure 1700. This form may be obtained from the Office of General Counsel located at the Eugene Brucker Education Center, 4100 Normal Street, Room 2148, San Diego, CA 92103. The Office of General Counsel may be contacted by phone at (619) 725-5630. The completed form should be filed with the principal at the complaining student's school.
4. **Retaliation.** No person shall retaliate or threaten retaliation against another person for reporting discrimination or harassment, or participating in any investigation or proceeding relating to a complaint of discrimination or harassment.

E. FORMS AND AUXILIARY REFERENCES

1. Uniform Complaint Form, available from the Office of General Counsel

F. REPORTS AND RECORDS

G. APPROVED BY



Chief of Staff, Terrance L. Smith
For the Superintendent of Public Education