

SECTION: PROGRAMS

TITLE: NONDISCRIMINATION  
DISABILITY

ADOPTED: November 9, 1995

REVISED: June 9, 2005

# Palmyra Area School District

	<p style="text-align: center;">104. NONDISCRIMINATION DISABILITY</p> <p>The provisions of Section 504 of the United States Rehabilitation Act of 1973 (Public Law 93-112) apply to all school districts receiving federal funds. These provisions, as amplified by regulations promulgated by the United States Department of Health and Human Services, generally:</p> <ol style="list-style-type: none"><li>1. Prohibit discrimination against qualified disabled persons in all aspects of school district employment solely on the basis of disability;</li><li>2. Require that facilities, programs, and activities of a school district be accessible, usable and open to qualified disabled persons;</li><li>3. Require that a free appropriate public education at the elementary and secondary levels is provided each qualified disabled person, including non-academic and extracurricular services and activities;</li><li>4. Prohibit exclusion of any qualified disabled person solely on the basis of disability from participation in any preschool education or day care program or activity or an adult education or vocational program or activity offered by a school district; and</li><li>5. Require that each qualified disabled person be provided the same health, welfare, or other social services as a school district provides other persons.</li></ol> <p>2. Authority</p> <p>This school district receives federal financial assistance. In order to continue receiving such federal financial assistance, this school district must comply with Section 504 of the United States Rehabilitation Act of 1973 and the regulations implementing Section 504 promulgated through the United States Department of Health and Human Services. If any program or activity of this school district fails to comply with Section 504, or the federal regulations implementing Section 504, public hearings would be held by the federal</p>
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<p>3. Definitions</p>	<p>government which could result in the termination of federal funds to this school district.</p> <p>In addition to the sanction of nonreceipt of federal funds, however, the Board is of the general view that:</p> <ol style="list-style-type: none"><li>1. Discrimination against a qualified disabled person solely on the basis of disability is unfair; and</li><li>2. To the extent reasonably possible qualified disabled persons should be in the mainstream of life in a school community.</li></ol> <p>Accordingly, employees of the school district are required by this policy to comply with the provisions of:</p> <ol style="list-style-type: none"><li>1. This policy as in the case of any rule or regulation adopted by the Board of this school district; and</li><li>2. Section 504 of the United States Rehabilitation Act of 1973 and the regulations promulgated thereunder by the United States Department of Health and Human Services, as Part 84, Title 45, U. S. Code, as such regulations are applicable to this school district, and the Americans With Disabilities Act.</li></ol> <p>For purpose of interpreting this policy, the following definitions are summarized:</p> <ol style="list-style-type: none"><li>1. “Disability” is a physical or mental impairment that substantially limits one or more major life activities of a person. Any person who actually has such an impairment, or had a record of such impairment, or is regarded, as having such an impairment is a person with a “disability” under this policy.</li><li>2. “Qualified Disabled Person” is a person with a disability who:<ol style="list-style-type: none"><li>a. With respect to employment can, with reasonable accommodations, perform the job in question;</li><li>b. With respect to public preschool, elementary, secondary, or adult educational services, is of an age during which nondisabled persons are provided such services, or is of any age during which it is mandatory under state law to provide such services to disabled persons, or to whom a state is required to provide a free appropriate public education under Section 612 of the United States Education for All Handicapped Children Act of 1975 (20 U. S. Code 1401);</li><li>c. With respect to vocational educational services, meets the academic and technical standards requisite to admission or participation in the program or activities; and</li></ol></li></ol>
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- d. With respect to all other services, meets the essential eligibility requirements for the receipt of such services.
- 3. “Free” appropriate public education is an educational program or activity operated by the school district that is designed to meet individual educational needs of qualified disabled persons as adequately as the needs of nondisabled persons are met by the school district.
  - a. Is conducted in the regular school environment, as programs and activities for nondisabled persons are, unless the school district can demonstrate that education of the qualified disabled person in the regular school environment with the use of supplementary aids and services cannot be achieved satisfactorily;
  - b. Includes provisions for testing and evaluation of qualified disabled persons under validated standards and procedures that accurately reflect aptitude or achievement level; and
  - c. Operates in conjunction with a system of procedural safeguards to ensure proper placement of each qualified disabled person.”

Application to Specific School District Programs and Activities – The prohibitions of requirements of this policy on discrimination against a qualified disabled person solely on the basis of disability applies to the following school district programs conducted by this school district:

1. Employment:

- A. No qualified disabled person shall, on the basis of disability, be subjected to discrimination and the school district shall not limit, segregate, or classify any applicants for employment or any employee in any way that adversely affects their opportunities or status of disability.

This prohibition applies to all aspects of employment from recruitment to promotions and includes fringe benefits and other elements of compensation.

- B. The school district shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified disabled applicant or employee unless it is clear that an accommodation would impose an undue hardship on the operation of a school district program. Such reasonable accommodations may include:
  - 1. Making facilities used by employees readily accessible to and usable by disabled persons; and

	<p>2. Job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provisions of readers or interpreters, and other similar actions.</p> <p>C. The district shall not make use of any employment test or criteria that screens out disabled persons unless:</p> <ol style="list-style-type: none"><li>1. The test or criteria is clearly and specifically job-related; and</li><li>2. Alternative tests or criteria that does not screen out disabled persons are not available.</li></ol> <p>D. While the school district may not make pre-employment inquiry as to whether an applicant has a disability or as the nature and severity of any such disability, it may inquire into an applicant's ability to perform job related functions.</p> <p>2. Facilities:</p> <p>A. No qualified disabled person shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination in any school district program on the basis that school district facilities are inaccessible to or unusable by disabled persons.</p> <p>B. As to existing facilities, the school district shall conduct its programs or activities so that, when viewed in their entirety, they are readily accessible to disabled persons. While the school district is not required to make every facility accessible to disabled persons, careful planning should be done so that disabled persons may participate in all programs or activities. Toward that end, if structural changes are necessary, the school district shall immediately develop a transition plan setting forth the changes deemed necessary. This transition plan shall be developed with the advice and counsel of disabled persons. Such work shall be in conformance with applicable state and federal law.</p> <p>3. Educational Programs:</p> <p>A. The school district shall formulate an outreach program that annually shall:</p> <ol style="list-style-type: none"><li>1. Attempt to identify and locate every qualified disabled person residing within the school district who is not receiving a public education; and</li><li>2. Notify such persons or their parents of the right to a free appropriate education.</li></ol>
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- B. The school district shall provide a free appropriate public education to each qualified disabled person residing in the school district, including providing free transportation to and from home and school. Where such education is residential placement, the program, including non-medical care and room and board, shall be provided free.
- C. The school district shall formulate evaluation procedures for the best placement of disabled persons in educational programs. To the maximum extent possible, such placement shall be in the regular educational environment. Such procedures also shall require periodic re-evaluations and a process for appeal by which a disabled person or his/her parents can have placement they object to reviewed by the Superintendent.
- D. All nonacademic and extracurricular services and activities also shall be made available to disabled students, including but limited to counseling, physical education, health services, clubs and recreation. Non-academic and extracurricular services shall be offered to disabled students on an equal opportunity basis with other students.
- E. Qualified disabled persons shall not be excluded on the basis of disability from preschool or adult education programs or activities. Such programs and activities shall take into account the needs of qualified disabled persons.

4. Health, Welfare and Social Services:

- A. Any programs of health, welfare and social services for students and employees offered by the school district shall be provided to qualified disabled persons on a nondiscriminatory basis.

Grievance Procedure for Section 504 of the Rehabilitation Act of 1973  
(Public Law 93-112)

If a grievance, as hereinafter defined, should arise between the parties, it should be resolved in the following manner:

1. Definitions:

- A. The word “grievance” shall mean a complaint by an employee(s) that there has been a violation or misinterpretation of Section 504 of the Rehabilitation Act of 1973 or the Americans With Disabilities Act.
- B. An “aggrieved person”, as used in this policy, shall mean the employee(s) making a complaint.

C. The term “day”, as used in this policy, shall mean weekdays, excluding weekends and legal holidays.

2. General Procedures:

- A. At all levels of the grievance procedure, the aggrieved person shall have the right to call witnesses to testify on his/her behalf.
- B. An aggrieved person may withdraw from the procedure at any time.
- C. Failure at any step of the grievance procedure to communicate the decision in writing to the aggrieved person within the specified time limit shall permit the aggrieved person to proceed to the next step. Failure at any step of the grievance procedure to appeal a grievance to the next step within the specified time limits shall be deemed to be acceptance of the decision rendered at that step.
- D. Forms for processing grievances shall be prepared by the Superintendent.
- E. Conferences and hearings under the grievance procedure shall not be conducted in public and shall be attended only by parties in interest and necessary witnesses.
- F. Nothing contained in this policy shall be interpreted so as to prevent an employee from discussing, informally, with any member of the administration, any matter including an alleged violation or misinterpretation of the terms of the policy specifically related to Section 504 of the Rehabilitation Act of 1973 or the Americans With Disabilities Act.

3. Initiation and Processing:

A. Level I

- 1. The aggrieved person shall first discuss the grievance with his/her immediate superior with the objective of resolving the matter informally.
- 2. In the event that informal discussions with the aggrieved person’s immediate superior do not resolve the grievance, the aggrieved person shall within five (5) days following the termination of informal discussions, or within ten (10) days from the date on which the aggrieved person originally discovered the alleged grievance, whichever is first to occur, file a written notice of the grievance, on the form specified, with his/her immediate superior and with the Section 504 Coordinator.

3. If requested by the aggrieved person or the immediate superior of the aggrieved person, the aggrieved person's immediate superior shall schedule a conference to be held within five (5) days of the receipt of the grievance notice. If a conference is not held, the aggrieved person's immediate superior shall send his/her decision to the aggrieved person, in writing, within ten (10) days from receipt of the grievance notice.

B. Level II

1. Within ten (10) days of receipt of the decision of the aggrieved person's immediate superior, said decision may be appealed by the aggrieved person to the building principal, when an individual is assigned to a building for work or to a specific building for faculty meetings, (a person not assigned to a building or to a building for faculty meeting purposes will go on to Level III to the Superintendent as the next step). Such appeal shall be filed in writing on the form provided for such purpose and shall include a copy of the decision of the aggrieved person's immediate superior and a short statement of the grounds for regarding the decision as incorrect. Such appeal shall also state the names of all persons officially present at any conference held by the aggrieved person's immediate superior and copies of the appeal shall be served on all such persons.

C. Level III

1. Within ten (10) days of receipt of the decision of the aggrieved person's immediate superior, said decision may be appealed by the aggrieved person to the Superintendent. Such appeal shall be filed in writing, on the form provided for such purpose and shall include a copy of the decision of the aggrieved person's immediate superior and a short statement of the grounds for regarding decision as incorrect. Such appeal shall also state the names of all persons officially present at any conference held by the aggrieved person's immediate superior and copies of the appeal shall be served on all such persons.
2. Within fifteen (15) days of receipt of an appeal, the Superintendent, or his/her delegate, shall hold a hearing. Written notice of the time and place of the hearing shall be given at least five (5) days prior to the hearing to the aggrieved person and to all persons officially present at any prior conference.
3. Within ten (10) days following the hearing of the appeal, the Superintendent, or his/her delegate, shall communicate to the aggrieved person and all other parties officially present at the hearing, his/her written decision, which shall include supporting

reasons thereof.

D. Level IV

1. Within ten (10) days of receipt of the decision rendered by the Superintendent or his/her delegate, said decision may be appealed to the Board. The appeal shall be filed on the form provided and shall be addressed to the President of the Board ( and a copy to the Secretary of the Board) who shall schedule a hearing on said appeal to be held within twenty (20) days from receipt of the appeal.
2. Within fifteen (15) days following the hearing on the appeal, the President of the Board, or his/her delegate, shall communicate, in writing, the decision of the Board to the aggrieved person and all other parties officially present at the hearing to include the Superintendent.

Other Cities

Title VI

Title IX

29 CFR

P. L. 101-336

ADA of 1990

School Code

5001-5010

Board Policy

326, 426,

526
