NESHANNOCK TOWNSHIP SCHOOL DISTRICT

SECTION: PROGRAMS

TITLE: NONDISCRIMINATION – QUALIFIED STUDENTS WITH DISABILITIES

ADOPTED: November 11, 2010

REVISED:

	103.1. NONDISCRIMINATION – QUALIFIED STUDENTS WITH DISABILITIES
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 Sec. 1681 et seq 34 CFR Part 104 Pol. 103	The Board declares it to be the policy of this district to ensure that all district programs and practices are free from discrimination against all qualified student with disabilities. The Board recognized its responsibility to provide academic and nonacademic services and programs equally to students with and without disabilities. 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). 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 laws and regulations. The Board encourages students and parent/guardians who believe they have been subject to discrimination or harassment to promptly report such incidents to designated employees. 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 district's legal and investigative obligations. 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.
2. Definitions Title 22 Sec. 15.2 42 U.S.C. Sec. 12102	**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 district's educational programs, nonacademic services or extracurricular activities.

Title 22 Sec. 15.1 et seq 34 CFR Part 104	**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.
Title 22 Sec. 15.7	**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 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.
Pol. 248	**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 school's educational programs, nonacademic services, or extracurricular activities.
3. Delegation of Responsibility 34 CFR Sec. 104.7	In order to maintain a program of nondiscrimination practices that is in compliance with applicable laws and regulations, the Board designates the Director of Pupil Services as the district' Section 504 Coordinator. In addition, each school within the district shall have a Section 504 building administrator.
Title 22 Sec. 15.4 34 CFR Sec. 104.32	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 web site, if available, and in the student handbook. The district shall notify parents/guardians of student residing in the district of the district's responsibilities under applicable laws and regulations, and that the district does not discriminate against qualified individuals with disabilities.
4. Guidelines	<u>Identification And Evaluation</u>
34 CFR Sec. 104.32 Pol. 113	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.

Title 22 Sec. 15.5, 15.6 34 CFR Sec. 104.35	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 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 district shall provide the other party with written notice.
34 CFR Sec. 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 Sec. 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: 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).
	Service Agreement
Title 22 Sec. 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 to provide the student with FAPE.
Title 22 Sec. 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.
Title 22 Sec. 15.5	The district shall not modify or terminate a student's Service Agreement without the parent's/guardian/s written consent.

	Educational Programs/Nonacademic Services/Extracurricular Activities
Title 22 Sec. 15.3 34 CFR Sec. 104.34	The district shall educate a qualified student with a disability with students who are not disabled to the maximum extend 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 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.
Title 22 Sec. 15.3 34 CFR Sec. 104.34, 104.37 Pol. 112, 122, 123, 810	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.
	Discipline
Pol. 218, 233	When necessary, the district shall discipline qualified students with disabilities in accordance with state and federal laws and regulations and Board policies.
	Parental Involvement
Title 22 Sec. 15.6, 15.7, 15.8 34 CFR Sec. 104.35	Parents/Guardians have the right to inspect and review all relevant school records of the student, 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.
	Confidentiality Of Student Records
Title 22 Sec. 15.9 Pol. 216	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.

	Procedural Safeguards
Title 22 Sec. 15.8 34 CFR Sec. 104.36	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.
Title 22 Sec. 15.6	A Student or parent/guardian filing a claim of discrimination need not exhaust these procedures prior to initiating court action under Section 504.
	Parental request for Assistance –
Title 22 Sec. 15.8	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: 1. The district is not providing the related aids, services and accommodations specified in the student's Service Agreement. 2. The district has failed to comply with the procedures and state regulations.
Title 22 Sec. 15.8	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.
	Informal Conference –
Title 22 Sec. 15.8	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.
	Formal Due Process Hearing –
Title 22 Sec. 14.162, 15.8	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.

Title 22 Sec. 15.8	*Judicial Appeals* The decision of the impartial hearing officer may be appealed to a court of competent jurisdiction.
Pol. 013	<u>Complaint Procedure</u> This complaint procedure is in addition to and does not prevent parents/guardians from using any option in the procedural safeguard system. **Step 1 – Reporting** 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. A school 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. If the Section 504 building administrator is the subject of a complaint, the student, parent/guardian or employee shall report the incident directly to the district's Section 504 Coordinator. **Step 2 – Investigation** Upon receiving a complaint of discrimination, the Section 504 building administrator shall immediately notify the district's Section 504 Coordinator. The Section 504 Coordinator shall authorize the Section 504 building administrator to investigate the complaint, unless the Section 504 building administrator 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 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 o the incident is pending or has been concluded.

Step 3 – Investigative Report

The Section 504 building administrator shall prepare a written report 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.

Findings of the investigation shall be provided to the complainant, the accused, and the district's Section 504 coordinator.

Step 4 – District Action

If the investigation results in a finding that the complaint is factual and constitutes a violation of this policy, the district shall take prompt, corrective action 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.

Appeal Procedure

1. If the complainant is not satisfied with a finding of no violation of the policy or with the corrective action recommended in the investigative report, s/he may submit a written appeal to the district'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 building principal 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 – 28CFR Part 35

Family Educational Rights and Privacy, Title 34, Code of Federal Regulations – 34 CFR Part 99

Non Discrimination on the Basis of Handicap, Title 34, Code of Federal Regulations – 34 CFR Part 104

Board Policy – 103, 112, 113, 122, 123, 216, 218, 227, 233, 248, 810