


HOWARD GARDNER MULTIPLE INTELLIGENCE CHARTER SCHOOL

	Special Education	SP22-0301
	Nondiscrimination of Qualified Students with Disabilities	ADOPTED DATE: March 15, 2022 REVIEWED DATE: REVISED DATE:

**Purpose**

The Board of Trustees recognizes that in accordance with applicable state and federal laws, including Chapter 711 of Title 22 of the Pennsylvania Code and the Individuals with Disabilities Education Act (IDEA), every eligible child has the right to a Free and Appropriate Public Education (FAPE).

**Authority**

The Board declares it to be the policy of this school to ensure that all school 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.

The school shall provide to each qualified student with a disability enrolled in the school, 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 parents/guardians who believe they have been subjected to discrimination or harassment to promptly report such incidents to designated employees.

The Board directs that any 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 school’s legal and investigative obligations.

The school 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.

**Delegation of Responsibility**

In order to maintain a program of nondiscrimination practices that is in compliance with applicable law and regulations, the Board designates the school counselor as the school’s Section 504 Coordinator.

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The school shall publish and disseminate this policy and complaint procedure on or before the first day of each school year by posting it on the school's website, if available, and in the student handbook. The school shall notify parents/guardians of students residing in the school of the school's responsibilities under applicable law and regulations, and that the school does not discriminate against qualified individuals with disabilities.

### **Guidelines**

#### Identification and Evaluation

The school shall conduct an annual child find campaign to locate and identify every school student with a disability thought to be eligible for Section 504 services and protections. The school may combine this search with the school's IDEA child find efforts, in order to not duplicate efforts.

If a parent/guardian or the school 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 school shall provide the other party with written notice.

The school 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.

The 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.

The school 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 needs 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**

If a student is determined to be a qualified student with a disability, the school shall develop a written Service Agreement for the delivery of all appropriate aids, services, or accommodations necessary to provide the student with FAPE.

The school shall not implement a Service Agreement until the written agreement is executed by a representative of the school and a parent/guardian.

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The school shall not modify or terminate a student's current Service Agreement without the parent's/guardian's written consent.

### **Educational Programs/Nonacademic Services/Extracurricular Activities**

The 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 school 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.

The school 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.

### **Parental Involvement**

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**

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.

### **Discipline**

When necessary, the school shall discipline qualified students with disabilities in accordance with state and federal laws and regulations and Board policies.

### **Referral to Law Enforcement and Reporting Requirements**

For reporting purposes, the term incident shall mean an instance involving an act of violence; the possession of a weapon; the possession, use, or sale of a controlled substance or drug paraphernalia as defined in the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act; the possession, use, or sale of alcohol or tobacco; or conduct that constitutes an offense listed under the Safe Schools Act.

The CEO or designee shall immediately report required incidents and may report discretionary incidents committed on school property, at any school-sponsored activity or on a conveyance providing transportation to or from a school or school-sponsored activity by a qualified student with a disability, including a student for whom an evaluation is pending, to the local police department that has jurisdiction over the school's property,

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in accordance with state and federal laws and regulations, the procedures set forth in the memorandum of understanding with local law enforcement, and Board policies. The CEO or designee shall respond in a manner that is consistent with the student's Service Agreement and Behavior Support Plan, if applicable.

In making a determination of whether to notify the local police department of a discretionary incident committed by a qualified student with a disability, including a student for whom an evaluation is pending, the CEO or designee shall use the same criteria used for students who do not have a disability.

For a qualified student with a disability who does not have a Behavior Support Plan as part of the student's Service Agreement, subsequent to notification to law enforcement, the school, in consultation with the student's parent/guardian, shall consider whether a Behavior Support Plan should be developed as part of the Service Agreement to address the student's behavior.

In accordance with state law, the CEO shall annually, by July 31, report to the Office for Safe Schools on the required form all new incidents committed by qualified students with disabilities, including students for whom an evaluation is pending, which occurred on school property, at any school-sponsored activity or on a conveyance providing transportation to or from a school or school-sponsored activity.

### **PROCEDURAL SAFEGUARDS**

The school 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.

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**

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 school is not providing the related aids, services and accommodations specified in the student's Service Agreement.
2. The school has failed to comply with the procedures and state regulations.

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 school 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.

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### **Informal Conference**

At any time, parents/guardians may file a written request with the 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 shall convene an informal conference. At the conference, every effort shall be made to reach an amicable agreement.

### **Formal Due Process Hearing**

If the matters raised by the school or parents/guardians are not resolved at the informal conference, the school 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.