

Regulation 1101-00

Non-Discrimination - Definitions

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When addressing unlawful discrimination pursuant to Policy 1201, the following federally protected classifications are addressed and defined as stated. The descriptions below only outline some, but not all of the protections of these laws:

Section 504 of the Rehabilitation Act of 1973

- Section 504 of the Rehabilitation Act of 1973 prohibits disability discrimination. This applies to any individual who has a condition that substantially limits one or more major life activity.
- Section 504 applies to educational programs and facilities that receive federal financial aid from the U.S. Department of Education.
- Pursuant to Section 504, educational institutions must make reasonable accommodations to help disabled students perform at acceptable levels, with a goal that disabled students have equal access to those without disabilities.
 - Section 504 is a different law than the Individuals with Disabilities in Education Act (IDEA). Both laws require a school district to provide a free appropriate public education (FAPE), but Section 504 defines FAPE more broadly. Also, IDEA requires a school district to develop an Individualized Education Program (IEP) for each eligible student with a disability that sets out, among other information, the student's program of special education and related services. Under Section 504, however, the implementation of an IEP is one way of complying with the Section 504 FAPE standard.
- School districts are required to ensure that students and others with disabilities, including parents, are not denied access to programs or activities because of inaccessible facilities, including buildings, walkways, restrooms, playgrounds, and parking spaces. The precise requirements schools must meet to ensure physical accessibility depends on the date a facility was initially built or altered. For more information about accessibility requirements, please visit www.ada.gov (<http://www.ada.gov>). -Even if a building does not have to be made fully physically

accessible because of its age, Section 504 and Title II require that every program or activity of the school district be made “program accessible.” A common way this is done is to relocate the program to an accessible portion of the building or to another building that is accessible.

Title II of the Americans with Disabilities Act of 1990

- Title II of the Americans with Disabilities Act prohibits discrimination on the basis of disability, regardless of whether or not the entity received federal financial support.
- Title II requires state and local governmental entities, such as the District, to provide an equal opportunity to people with disabilities to use the Districts programs, services, and activities.
- A public entity, such as the District, must make reasonable modifications when the modifications are necessary to avoid discrimination based on disability unless it can demonstrate that the modification would fundamentally alter the nature of the service or program. Under Title II failure to construct new buildings in accordance with appropriate guidelines and to appropriately update older buildings, as applicable, may be a violation of the ADA.
- In general, Section 504 and Title II nondiscrimination standards are the same, and in general, actions that violate Section 504 also violate Title II. However, where Title II requirements exceed Section 504 requirements, school districts must also comply with the Title II requirements.

Title I of the Americans with Disabilities Act – prohibits employers with 15 or more employees from disability discrimination in hiring, promotions, training, or other privileges of employment. It also bars asking questions about an applicant’s disability. Title I requires that employers make a reasonable accommodation to the known physical or mental limitations of otherwise qualified individuals with disabilities unless it results in undue hardship.

Title VI of the Civil Rights Act of 1964

- Title VI of the Civil Rights Act of 1964 is a federal law that protects civil rights by prohibiting discrimination on the basis of race, color and national origin in employment, housing, voting, public accommodations and education.
- Title VI applies to educational programs, such as the District, that receive federal financial aid from the US Department of Education.

The Age Discrimination Act of 1975

- The Age Discrimination Act of 1975 states that no person on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance, including educational programs.

- This Act is a broader federal law than the Age Discrimination in Employment Act, referenced below. This Act applies to a broader range of people affected by federally funded programs including students and employees.
- Although the statute forbids discrimination on the basis of age, certain restrictions may be considered appropriate if the age distinction is necessary for the normal operations of the activity or program or if there are factors other than age that have a key relationship to the activity or program.

Age Discrimination in Employment Act of 1967 – protects certain applicants and employees 40 years of age or older from discrimination on the basis of age. This law applies solely to employment practices such as providing equal employment opportunities.

Title IX of the Education Amendments of 1972

- Title IX of the Education Amendment of 1972 prohibits educational institutions from discriminating against anyone (students, staff, or others) on the basis of gender.
- Title IX requires the District provide equal opportunities for both genders in all aspects of education including but not limited to athletics, school sponsored activities, course offerings, employment, financial aid.
- Title IX violations may also include pregnancy discrimination, sexual harassment and sexual assault. Educational institutions that fail to follow Title IX risk a loss of federal funding.
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Retaliation

- In addition to prohibiting discrimination, each of these civil rights laws also prohibits retaliation against individuals who assert their rights, including filing a discrimination complaint and/or participating in the complaint process. The District is prohibited from intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by federal civil rights laws.

Non-Discrimination - Civil Rights Grievance Policy and Complaint Procedure

It is the policy of the District to provide a learning and working environment free from unlawful discrimination and harassment. Accordingly, any form of illegal discrimination or harassment of any of the protected classifications detailed herein is prohibited. This Civil Rights Grievance Policy is provided as a method for the expeditious processing of grievances and a means to eliminate unlawful discrimination or harassment within the District.

Anyone who believes that they have been the recipient of or subject to illegal discrimination or harassment, based on race, ethnicity, sex, religion, color, national origin, ancestry, immigration status, physical or mental disability, medical condition, military and veteran status, age, or association with a person or group with one or more of these characteristics pursuant to Federal law or the Idaho Human Rights Act, may file a grievance in accordance with this policy.

Numerous types of complaints or grievances are addressed through policies/procedures other than this Civil Rights Grievance Policy and Complaint Procedure:

- If a complaint alleges a violation of Title IX, the provisions of Policy 403.80 will be applied to the complaint.
- If a complaint alleges a violation of student's Section 504 education/denial of FAPE, complaints shall be addressed by Policy 602.63.
- If a complaint alleges a violation of IDEA, complaints shall be addressed pursuant to the District's [Special Education Manual \(https://core-docs.s3.amazonaws.com/documents/asset/uploaded_file/2699/WASD/2045872/Early_Childhood_Special_Education_Parent_Manual.pdf\)](https://core-docs.s3.amazonaws.com/documents/asset/uploaded_file/2699/WASD/2045872/Early_Childhood_Special_Education_Parent_Manual.pdf).
- Certified staff with a workplace grievance (as the term is defined in such policy) should refer to Regulation 401.18.
- Classified staff with a workplace grievance (as the term is defined in such policy) should refer to Regulation 402.10, Grievance Procedures for Non-Certificated Employees.
- Policy 1203, Accommodating Individuals with Disabilities, [Section 504 of the Rehabilitation Act \(https://www.ada.gov/resources/disability-rights-guide/\)](https://www.ada.gov/resources/disability-rights-guide/) and [Title II of the Americans with Disabilities Act \(https://www.ada.gov/resources/disability-rights-guide/\)](https://www.ada.gov/resources/disability-rights-guide/).
- [Web Accessibility Compliance Procedure \(https://www.westada.org/o/wasd/page/web-accessibility-statement\)](https://www.westada.org/o/wasd/page/web-accessibility-statement)
- Policy 502.70 Student Harassment/Relationship Abuse
- Policy 403.71 Harassment (Employment)
- Policy 0903.50 Service Animals in Schools

Filing of a Complaint/Grievance

Any individual, whether a student, employee or other individual may file a complaint/grievance, if such individual believes that the individual has been subjected to illegal discrimination, harassment, bullying or retaliation on the basis of race, ethnicity, sex, religion, color, national origin, ancestry, immigration status, physical or mental disability, medical condition, military and veteran status, marital status, age, or association with a person or group with one or more of these characteristics. Such may likewise be filed by the complainant's representative or parent/guardian.

If a District Employee becomes aware of an allegation of illegal discrimination or harassment based on race, ethnicity, sex, religion, color, national origin, ancestry, immigration status, physical or mental disability, medical condition, military and/or veteran status, age, or association with a person or group with one or more of these characteristics pursuant to Federal law or the Idaho Human Rights Act, such employee shall communicate with their District Administrator or direct supervisor.

Whether learning of the event from an employee or through independent knowledge, the District's Administrator or supervisor shall contact Dr. Shana Hawkins, the District's Civil Rights coordinator, in order to address such concern. Depending on the factual situation, the District Administrator may be directed to formally document and submit the events utilizing the District's Discrimination and/or Harassment Reporting Form. The employee, District Administrator and/or supervisor may also direct the student or the parent or legal guardian of the student to the District's website to make a direct report through the District's formal reporting process.

With regard to Section 504 and/or Title II, complainants are not restricted to individuals who have disabilities. While such a complaint may be filed by an individual with a disability, such may also be filed by a third party, such as a parent without a disability filing a complaint alleging that playgrounds are inaccessible to students with disabilities.

Such complaint shall be filed, in writing, to the appropriate District designated Non-Discrimination Coordinator or Compliance Officer through use of the District's Discrimination and/or Harassment Reporting Form which can be found on the District's Non-Discrimination page of its website or in writing with the District's Director of Accountability and Support. Such may also be filed with Dr. Shana Hawkins, the District's Civil Rights Coordinator - <https://www.westada.org/page/notice-of-non-discrimination> (<https://www.westada.org/page/notice-of-non-discrimination>).

At minimum, a written complaint shall include the following information:

- The nature of the grievance
 - What occurred
 - When it occurred
 - Where it occurred
 - Who was involved
 - Any known witnesses
- The remedy requested
- The signature of the grievant/reporting party and the date

Such complaint/grievance must be filed within one-hundred eighty (180) calendar days of the alleged violation/discrimination. A grievance will not be accepted or reviewed if it is submitted more than 180 days after the alleged civil rights violation, or from the date the grievant could reasonably become aware of such an occurrence.

This policy does not deny the right of a grievant to file formal complaints with other state or federal agencies or to seek private counsel for complaints alleging discrimination or harassment. Possible appropriate state or federal agencies include:

Idaho Human Rights Commission
317 West Main Street
Boise, ID 83735- 0660
phone: (208) 334-2873
fax: (208) 334-2664

U.S. Department of Education
Office for Civil Rights, Seattle Office
915 Second Avenue Room 3310
Seattle, WA 98174-1099
phone: (206) 607-1600
fax: (206) 607-1601
TTD: 1-800-877-8339

Idaho State Department of Education (complaints relating to the
District's child nutrition program)
Child Nutrition Program Director
P.O. Box 83720
Boise, Idaho 83720-0027

The District, through the Director of Accountability and Support, a Non-Discrimination Coordinator, or Non- Discrimination Compliance Officer shall contact the complaining party within a period of no greater than fourteen (14) operational school days (days when school is in session) to confirm receipt of the complaint/grievance. During such communication, discussion may occur regarding possible informal resolution as well as the investigation process.

Parent Notification

Pursuant to the Idaho Parental Rights Act, Section 33-6001, Idaho Code, the District's Director of Accountability and Support or designee shall review a complaint/grievance filed in relation to a minor child and consistent with such provisions of the Idaho Code, notify the parent(s)/guardian(s) of the child of allegations of harassment/discrimination involving their student, and/or in order to protect the student's mental, physical or emotional well-being.

Investigation

It shall be the responsibility of the designated Non-Discrimination Coordinator or Compliance Officer to investigate the alleged violation/alleged discrimination.

- Such investigation shall be completed within one hundred twenty (120) calendar days of the District's receipt of the written grievance/complaint.
- The investigation may include, but not necessarily be limited to interviews with the complaining party, witnesses and a review of any related documentation, video, recording, or other item relating to the complaint/grievance.

- The investigator will allow for both the complaining party and any responsive party to provide any written statements of any witnesses or other documentation or tangible evidence that they wish to produce. It shall be the responsibility of the investigator to decide whether such is relevant to the investigation and complaint/grievance.
- The investigator shall issue a written finding. A copy of the investigation report and proposed remedy, if any, shall be provided to the complainant/grievant, with appropriate redactions as applicable. Such finding may include:
 - A clear statement of the allegations of the grievance and remedy sought
 - A statement of the facts as presented by each of the parties
 - A statement of facts as found by the Director of Accountability and Support or designee and identification of evidence to support each fact
 - A list of all witnesses interviewed and documents reviewed during the investigation
 - A narrative describing attempts to resolve the grievance
 - A conclusion as to whether the allegations in the grievance have merit

Appeal/Submission of Additional Information

If the complaining party or responding party does not agree with the written findings at the conclusion of the investigation, the party shall have a period of fifteen (15) calendar days to provide additional information to the applicable Non-Discrimination Coordinator or Compliance Officer for additional consideration or to appeal the findings to the District Superintendent.

- If additional materials are provided, the investigator shall consider such additional materials and determine if an amended report need be issued. There shall only be one opportunity for the parties to provide additional materials.
- If an appeal is advanced during the fifteen (15) calendar days after the initial written findings are released or upon fifteen (15) calendar days after an amended written findings are issued, the Superintendent has sole discretion in the manner and method of which the appeal shall be reviewed and decided.
- Upon conclusion of any appeal, the Superintendent shall issue a final written report. Retaliation

Retaliation

Intimidation, harassment, or retaliation against any person filing a grievance/complaint, participating in the investigation process, and/or who assert their rights under these laws (e.g., opposing unlawful discrimination in a school meeting), is a violation of the law and District Policy, and constitutes the basis for filing a separate grievance/complaint. See also <https://www2.ed.gov/policy/rights/guid/ocr/retaliationoverview.html> (<https://www2.ed.gov/policy/rights/guid/ocr/retaliationoverview.html>) for more information.

District students, employees, or visitors shall not retaliate against an individual who in good faith reports, associates with the reporting individual, participates in an investigation, or conducts the investigation of a grievance filed in accordance with this policy.

Any person engaged in retaliatory actions may be subject to disciplinary action up to and including termination of staff, expulsion of students, or a trespass or other consequences for those who are otherwise present on the school's property. Depending on the situation of a finding of retaliatory actions, a complaint may be filed with the Idaho Professional Standards Commission and/or appropriate law enforcement.

Corrective Action/Remedy if Discrimination is Found

The Superintendent or designee will review the grievance in relation to current District and/or school policies and practices, determining if there are steps which the District should take to prevent a recurrence of a similar type of discrimination or harassment. Where a complaint is substantiated, the District, through the Superintendent or designee will take steps to remedy the discriminator effects on the individual student.

The Superintendent or designee shall be responsible for reporting on matters associated with this procedure, including proposed remedies, if any, to the District's Board of Trustees.

Records

All records compiled pursuant to the grievance shall be maintained by the District for a period of not less than three (3) years.

In the event an investigation reveals a violation of this policy by an employee or student, any disciplinary action taken as a result of the investigation will be placed in the appropriate employee or student file.

Upon separation of employment, any investigative file maintained pursuant to this policy involving an employee shall be moved into the personnel file and shall be redacted as required by Idaho Code 33-1210.

Training

Appropriate District personnel shall receive periodic training on civil rights and compliant procedures in accordance with applicable federal law and regulations for the programs in which they work. Employee Actions

All employees of the District shall be responsible for acting in accordance with this policy.

Accommodating Individuals with Disabilities - Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act

Section 504 of the Rehabilitation Act of 1973 as well as Title II of the Americans with Disabilities Act of 1990 prohibits discrimination on the basis of an individual's disability. The Board is dedicated to fostering a working and learning environment that is free from such unlawful discrimination.

Pursuant to Section 504 and Title II of the Americans with Disabilities Act of 1990, individuals with disabilities shall be provided an opportunity to participate in all school-sponsored services, programs, or activities on a basis equal to those without disabilities and will not be subject to illegal discrimination. Pursuant to the provisions of Section 504 and Title II, and consistent with District Policy 1201, Non-Discrimination, the District will provide accessible facilities and services. In general, Section 504 and Title II nondiscrimination standards are the same, and in general, actions that violate Section 504 also violate Title II. However, where Title II requirements exceed Section 504 requirements, school districts must also comply with the Title II requirements.

The District may provide auxiliary aids and services where necessary to afford individuals with disabilities an equal opportunity to participate in or enjoy the benefits of a service, program, or activity.

1. The District has designated Dr. Dave Reinhart, the District's Director of Operations as the Title II ADA Coordinator and Section 504 Coordinator with regard to Facilities and Guest issues. In that capacity, the Director of Operations is directed to:
 1. Oversee the District's compliance efforts and recommend necessary modifications to the Board.
 2. Institute plans to make information regarding Section 504 and Title II's protection available to any interested party.
 3. Accept and work to resolve accessibility complaints under Section 504 and Title II.

Individuals should notify Dr. Reinhart with any inquiries seeking information about the existence and location of the District's accessible services, activities, and facilities - [Notice of Non-Discrimination \(https://www.westada.org/page/notice-of-non-discrimination\)](https://www.westada.org/page/notice-of-non-discrimination). It is requested that this notification should occur as soon as possible in advance of the school-sponsored function, program, or meeting.

Dr Reinhart shall also be responsible for responding to inquiries associated with requests for accessibility-related assistance and complaints about inaccessible services, activities, and facilities.

1. The District has designated Ramona Lee, the District's Director of Special Services as the District's Section 504 Compliance Officer. - [Notice of Non-Discrimination \(https://www.westada.org/page/notice-of-non-discrimination\)](https://www.westada.org/page/notice-of-non-discrimination)

The District's 504 Compliance Officer is responsible for the coordination of the District's compliance with Section 504 and Title II of the ADA with the District's other assigned 504 and Title II Coordinators

1. If an employee needs accommodation associated with a disability to allow them to perform the essential functions of their position, the employee should contact Renee Senander, the District's Chief Human Resources Officer, who has been designated as the District's ADA Compliance Officer. Ms. Senander has also been designated as the District's Section 504/ADA Title II Coordinator for Personnel Issues. [Notice of Non-Discrimination \(https://www.westada.org/page/notice-of-non-discrimination\)](https://www.westada.org/page/notice-of-non-discrimination)

The District's Section 504/Ada Title II Coordinator for Personnel issues is responsible for the coordination of the District's compliance with Section 504 and Title II of the ADA with regard to personnel matters. Such individual shall work in conjunction with the District's Section 504 Compliance Officer with regard to coordinating the District's compliance with Section 504 and Title II of the ADA along with the District's other assigned 504 and Title II Coordinators.

1. For matters involving student program, services, activities, access, and educational accommodation please see District Policy 602.63 – Section 504 of the Rehabilitation Act of 1973. The District has designated Kylee Bendorf, Administrator of Student Support Services, as the District's Section 504ADA Title II Coordinator for all student implementation and processes. [CLICK HERE](#)

The District's Section 504/Title II Coordinator for student issues is responsible for the coordination of the District's compliance with Section 504 and Title II of the ADA with regard to student matters. Such individual shall work in conjunction with the District's Section 504 Compliance Officer with regard to coordinating the District's compliance with Section 504 and Title II of the ADA along with the District's other assigned 504 and Title II Coordinators.

Individuals may allege a violation of this policy or federal law by reporting such to the designated Compliance Officer or Coordinator as identified above or through the filing of a grievance or complaint through use of the District's [Discrimination and Harassment Reporting Form \(https://survey.k12insight.com/survey/form?k=RQsVYRRsQYSSsPsPsP&lang=0\)](https://survey.k12insight.com/survey/form?k=RQsVYRRsQYSSsPsPsP&lang=0) or by filing a complaint pursuant to District Policy 1201 Non- Discrimination Policy.
