NONDISCRIMINATION

The District shall provide equal opportunities to all individuals within its jurisdiction or geographic boundaries. *Education Code 1.002(a)*

No officer or employee of the District shall, when acting or purporting to act in an official capacity, refuse to permit any student to participate in any school program because of the student's race, religion, color, sex, or national origin. *Civ. Prac. & Rem. Code 106.001*

The District may not deny services to any individual eligible to participate in its special education program, but it shall provide individuals with disabilities special educational services as authorized by law. *Education Code 1.002(b)*

FEDERAL FUNDING RECIPIENTS

No person shall be excluded from participation in, denied the benefits of, or subjected to discrimination by any district that receives federal financial assistance, on the basis of any of the following protected characteristics:

1. Sex.
2. Race, color, or national origin.
3. Disability, or relationship or association with an individual with a disability. [See EHB, EHBA series, and GA]

20 U.S.C. 1681 (Title VI); 42 U.S.C. 2000d (Title IX); 20 U.S.C. 1400 et seq. (Individuals with Disabilities Education Act); 29 U.S.C. 794 (Section 504); 42 U.S.C. 12132 (Americans with Disabilities Act [ADA])

SEXUAL HARASSMENT

Sexual harassment of students is discrimination on the basis of sex under Title IX. *Franklin v. Gwinnett County Schools, 503 U.S. 60 (1992)* [See also DIA and FFH]

HUMAN RIGHTS COORDINATOR

The District shall designate at least one employee to coordinate its efforts to comply with Title IX, Section 504, and the ADA. The District shall notify all students and employees of the name, office address, and telephone number of the employee(s) so designated.

GRIEVANCE PROCEDURES

The District shall adopt and publish grievance procedures for prompt and equitable resolution of student complaints alleging discrimination under these statutes. [See FNG]

34 CFR 106.8 (Title IX); 34 CFR 104.7 (Section 504)

RETALIATION

The District shall not coerce, intimidate, threaten, retaliate against, or interfere with any person who attempts to assert a right protected by the above laws or cooperates with investigation and en-

forcement proceedings under these laws. *34 CFR 100.7(e) (Title VI), 104.61 (Section 504), 106.71 (Title IX)*

STUDENTS WITH LEARNING DIFFICULTIES

The Texas Education Agency shall produce and provide to school districts a written explanation of the options and requirements for providing assistance to students who have learning difficulties or who need or may need special education. The explanation must state that a parent is entitled at any time to request an evaluation of the parent's child for special education services under Education Code 29.004. Each school year, the District shall provide the written explanation to a parent of each District student by including the explanation in the student handbook or by another means. *Education Code 26.0081*

DISABILITY DISCRIMINATION

ADA

Under the Americans with Disabilities Act (ADA), no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of the District, or be subjected to discrimination by the District. *42 U.S.C.A. 12132; 28 CFR 35.130*

SECTION 504

Under Section 504 of the Rehabilitation Act, no otherwise qualified individual with a disability shall, solely by reason of her or his disability, 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. *29 U.S.C.A. 794(a)*

DEFINITIONS

'STUDENT WITH A DISABILITY'

A "student with a disability" is one who has a physical or mental impairment that substantially limits one or more of the student's major life activities, has a record of having such an impairment, or is being regarded as having such an impairment.

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as medication, medical supplies, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics, hearing aids, mobility devices, oxygen therapy, assistive technology, or learned behavioral or adaptive neurological modifications.

An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

A student meets the requirement of being "regarded as" having an impairment if the student establishes that he or she has been subjected to a prohibited action because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. This provision does not

apply to impairments that are transitory or minor. A transitory impairment is one with an actual or expected duration of 6 months or less.

29 U.S.C. 705(20)(B), 42 U.S.C. 12102(1), (3)–(4)

'QUALIFIED INDIVIDUAL WITH A DISABILITY'

The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the District. *42 U.S.C. 12131(2)*

'MAJOR LIFE ACTIVITIES'

"Major life activities" include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. "Major life activity" also includes the operation of major bodily functions, including functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. *42 U.S.C. 12102(2)*

REASONABLE MODIFICATION

The District shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the District can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. *28 CFR 35.130(b)(7)*

DIRECT THREAT

"Direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services as provided below. *28 CFR 35.104*

The ADA does not require the District to permit an individual to participate in or benefit from the services, programs, or activities of the District when that individual poses a direct threat to the health or safety of others.

In determining whether an individual poses a direct threat to the health or safety of others, the District must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain:

1. The nature, duration, and severity of the risk;

2. The probability that the potential injury will actually occur; and

3. Whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

28 CFR 35.139

FREE APPROPRIATE PUBLIC EDUCATION (FAPE)

The District shall provide a free appropriate public education to each qualified student with a disability within the District's jurisdiction, regardless of the nature or severity of the student's disability.

A student with a disability is "qualified" if he or she is between the ages of three and 21, inclusive. *28 CFR 35.104(l)(2)*

An appropriate education is the provision of regular or special education and related services that are:

1. Designed to meet the student's individual educational needs as adequately as the needs of students who do not have disabilities are met; and

2. Based on adherence to procedures that satisfy federal requirements for educational setting, evaluation and placement, and procedural safeguards, as set forth below.

34 CFR 104.33(b)

Implementation of an individualized education program (IEP) under IDEA is one means for providing FAPE. *34 CFR 104.33(b)(2)*

Note: See EHBA series for policies regarding the provision of special education to students with disabilities under IDEA who require special education in order to benefit from a free appropriate public education.

EDUCATIONAL SETTING

The District shall place a student with a disability in the regular educational environment, unless the District demonstrates that education in the regular environment with the use of supplemental aids and services cannot be achieved satisfactorily. *34 CFR 104.34(a)*

In providing or arranging for nonacademic and extracurricular services and activities, the District shall ensure that a student with a disability participates with students who do not have disabilities to the maximum extent appropriate to the needs of the student with a disability. *34 CFR 104.34(b), 104.37*

EVALUATION AND PLACEMENT

The District shall establish standards and procedures for the evaluation and placement of persons who, because of disability, need or are believed to need special education and related services. The District shall conduct an evaluation before the initial place-

ment, or any significant change in placement, of the student. *34 CFR 104.35*

MILITARY DEPENDENTS

In compliance with the requirements of Section 504, and with Title II of the Americans with Disabilities Act (42 U.S.C. Sections 12131–12165), the District shall make reasonable accommodations and modifications to address the needs of incoming military dependents with disabilities, subject to an existing Section 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the District from performing subsequent evaluations to ensure appropriate placement of the student. *Education Code 162.002 art. V, § C* [See FDD]

PROCEDURAL SAFEGUARDS

The District shall establish a system of procedural safeguards with respect to the identification, evaluation, and educational placement of persons who need or are believed to need special instruction or related services.

The system shall include notice, an opportunity for the student's parent or guardian to examine relevant records, an impartial hearing with the opportunity for participation by the student's parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of IDEA is one means of meeting this requirement. *34 CFR 104.36*

HOMELESS CHILDREN

The District shall adopt policies and practices to ensure that homeless children are not stigmatized or segregated on the basis of their homeless status. [See FDC]

LIAISON

The District shall designate an appropriate staff person as the District liaison for homeless children. The District shall inform school personnel, service providers, and advocates working with homeless families of the duties of the liaison. [See FFC]

No Child Left Behind Act of 2001, 42 U.S.C. 11432(g)(1)(J)(i), (ii)

RELIGIOUS FREEDOM

The District may not substantially burden a student's free exercise of religion, unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. *Civ. Prac. & Rem. Code 110.003* [See also DAA and GA]

DISCRIMINATION ON THE BASIS OF SEX

No person in the United States shall, on the basis of sex, be excluded from participation in, denied the benefits of, or be subjected to discrimination by any district receiving federal financial assistance. *20 U.S.C. 1681(a)*

The District shall not provide any course or otherwise carry out any of its educational programs or activities separately on the basis of sex, or require or refuse participation therein on the basis of sex,

including health, physical education, industrial, business, vocational, technical, home economics, music, and adult education courses. *34 CFR 106.34*

SEPARATE FACILITIES

The District may provide separate toilet, locker room, and shower facilities on the basis of sex, but the facilities provided for one sex shall be comparable to the facilities provided for the other sex. *34 CFR 106.33*

HUMAN SEXUALITY CLASSES

Portions of classes in elementary and secondary school that deal exclusively with human sexuality may be conducted in separate sessions for boys and girls.

VOCAL MUSIC ACTIVITIES

The District may make requirements based on vocal range or quality that may result in a chorus or choruses of one or predominantly one sex.

34 CFR 106.34

SINGLE-SEX PROGRAMS

The District shall not, on the basis of sex, exclude any student from admission to an institution of vocational education or any other school or educational unit operated by the District unless the District otherwise makes available to the student, pursuant to the same policies and criteria of admission, comparable courses, services, and facilities. *34 CFR 106.35*

PREGNANCY AND MARITAL STATUS

A recipient shall not apply any rule concerning a student's actual or potential parental, family, or marital status that treats students differently on the basis of sex. *34 CFR 106.40* [See FND]

PHYSICAL EDUCATION CLASSES

The District may group students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex.

SKILLS ASSESSMENT

Where use of a single standard of measuring skill or progress in physical education classes has an adverse effect on members of one sex, the District shall use appropriate standards that do not have such effect.

CONTACT SPORTS

The District may separate students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact.

34 CFR 106.34

ATHLETIC PROGRAMS

The District shall not discriminate, on the basis of sex, in interscholastic or intramural athletics or provide any such athletics separately on such basis.

SINGLE-SEX TEAMS

The District may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but not for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try-out for the team offered unless the sport involved is a contact sport.

EQUAL ATHLETIC OPPORTUNITIES

A district that operates or sponsors interscholastic or intramural athletics shall provide equal athletic opportunity for members of both sexes. The following factors shall be considered in determining whether the District provides equal athletic opportunities:

1. Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;
2. Provision of equipment and supplies;
3. Scheduling of games and practice time;
4. Travel and per diem allowance;
5. Opportunity to receive coaching and academic tutoring;
6. Assignment and compensation of coaches and tutors;
7. Provision of locker rooms and practice and competitive facilities;
8. Provision of medical and training facilities and services;
9. Provision of housing and dining facilities and services; and
10. Publicity.

34 CFR 106.41