

## **521 STUDENT DISABILITY NONDISCRIMINATION**

### **I. PURPOSE**

The purpose of this policy is to protect disabled students from discrimination on the basis of disability and to identify and evaluate learners who, within the intent of Section 504 of the Rehabilitation Act of 1973 (Section 504), need special services, accommodations, or programs in order that such learners may receive a free appropriate public education.

### **II. GENERAL STATEMENT OF POLICY**

- A. Disabled students who meet the criteria of Paragraph C. below are protected from discrimination on the basis of a disability.
- B. It is the responsibility of the Albany Area School District to identify and evaluate learners who, within the intent of Section 504, need special services, accommodations, or programs in order that such learners may receive a free appropriate public education.
- C. For this policy, a learner who is protected under Section 504 is one who:
  - 1. has a physical or mental impairment that substantially limits one or more of such person's major life activities; or
  - 2. has a record of such an impairment; or
  - 3. is regarded as having such an impairment.
- D. Learners may be protected from disability discrimination and be eligible for services, accommodations, or programs under the provisions of Section 504 even though they are not eligible for special education pursuant to the Individuals with Disabilities Education Act.

### **III. COORDINATOR**

Persons who have questions, comments, or complaints should contact the District's 504 Coordinator regarding grievances or hearing requests regarding disability issues. This person is the School District's Americans with Disabilities Act/Section 504 Coordinator.

**Legal References:** Pub. L. 110-325, 122 Stat. 3553 (ADA Amendments Act of 2008, § 7) 29 34 C.F.R. Part 104 (Implementing Regulations)

## **GRIEVANCE PROCEDURES FOR COMPLAINTS OF HARASSMENT AND DISCRIMINATION**

The following grievance procedures apply to any claims of harassment or discrimination.

- A. Any employee or student who believes he or she has been the victim of unlawful discrimination or harassment or any person with knowledge or belief of conduct that may constitute unlawful discrimination or harassment toward an employee or student shall report the alleged acts immediately to an appropriate school district official designated by this policy. The complaint must be filed within 30 calendar days of the alleged violation.
- B. The Human Rights Officer is responsible for receiving oral or written complaints of unlawful discrimination or harassment toward an employee or student. However, nothing in this policy shall prevent any person from reporting unlawful discrimination or harassment toward an employee or student directly with the Human Rights Officer, the school board or other school district official.
- C. While the school board has designated the Human Rights Officer receive complaints of unlawful discrimination or harassment, if the complaint involves the Human Rights Officer, the complaint shall be made to the superintendent. If the Human Rights Officer is the superintendent then the complaint shall be made directly to the school board.
- D. Upon receipt of a complaint, the Human Rights Officer shall immediately notify the superintendent. If the superintendent is the subject of the complaint, the Human Rights Officer shall immediately notify the school board.
- E. The Human Rights Officer may request but not insist upon a written complaint. Alternative means of filing a complaint, such as through a personal interview or by tape recording, shall be made available upon request for qualified persons with a disability. If the complaint is oral, it shall be reduced to writing within 24 hours and forwarded to the superintendent. Failure to do so may result in disciplinary action. The school district encourages the reporting party to complete the complaint form for written complaints. It is available from the principal of each building or the school district office.
- F. The school district shall respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses, consistent with the school district's legal obligations to investigate, take appropriate action, and comply with any discovery or disclosure obligations.

### **INVESTIGATION**

- A. The Human Rights Officer, upon receipt of a complaint alleging unlawful discrimination or harassment toward an employee or student, shall promptly undertake an investigation if deemed appropriate. The investigation may be conducted by the Title IX coordinator for complaints of sex discrimination or sexual

harassment or the Section 504 Coordinator for complaints of disability discrimination or disability harassment, or a school district official or neutral third party designated by the Title IX coordinator or Section 504 coordinator or Human Rights Officer and shall be completed within 30 days of the complaint, unless impracticable.

- B. The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of other methods deemed pertinent by the investigator.
- C. In determining whether the alleged conduct constitutes a violation of this policy, the school district shall consider the facts and surrounding circumstances such as the nature of the behavior, past incidents or continuing patterns of behavior, the relationships between the parties involved and the context in which the alleged incident occurred.
- D. The school district may take immediate steps to protect the parties involved in the complaint process, pending completion of an investigation of alleged unlawful discrimination or harassment of an employee or student.
- E. Upon completion of the investigation, the school district investigator shall make a written report to the Human Rights Officer. If the complaint involves the Human Rights Officer, the report may be filed directly with the superintendent or school board. The report shall include the facts, a determination of whether the allegations have been substantiated, whether a violation of this policy has occurred as well as a description of any proposed resolution which may include alternative dispute resolution.
- F. The district shall comply with federal and state law pertaining to retention of records.

## **APPEAL**

If the grievance has not been resolved to the satisfaction of the complainant, s/he may appeal to the Human Rights Officer within ten (10) school days of receipt of the findings of the school district investigation. The school district investigator shall conduct a review of the appeal and within ten (10) school days of receipt of the appeal, shall affirm, reverse, or modify the findings of the report. The decision of the school district investigator is final.

## **SCHOOL DISTRICT ACTION**

- A. Upon conclusion of the investigation and receipt of the findings, the school district shall take appropriate action. If it is determined that a violation has occurred, such action may include, but is not limited to, warning, suspension, expulsion, transfer, remediation or termination. School district action taken for violation of this policy shall be consistent with the requirements of applicable collective bargaining agreements, Minnesota and federal law and school district policy.

- B. The result of the school district's investigation of each complaint filed under these procedures shall be reported in writing to the complainant by the school district in accordance with state and federal law regarding data or records privacy.

## **RETALIATION**

The school district shall take appropriate action against any student, teacher, administrator or other school personnel who retaliates against any person who reports alleged unlawful discrimination or harassment toward an employee or student or any person who testifies, assists or participates in an investigation or hearing relating to such unlawful sex discrimination. Retaliation includes, but is not limited to, any form of intimidation or harassment.

## **CONFLICT OF INTEREST**

If there is a conflict of interest with respect to any party affected by this policy, appropriate accommodations shall be made such as, but not limited to, appointing or contracting with a neutral third party investigator to conduct the investigation or recusal from the process by the person for whom a conflict or potential conflict of interest exists.

## **DISSEMINATION OF POLICY**

The school district shall make this policy available to all students and employees.

## **RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES**

These procedures do not deny the right of any individual to pursue other avenues of recourse, which may include filing charges with the agencies below or initiating action in state or federal court.

For claims of discrimination/harassment:

**U.S. Department of Education**  
Office for Civil Rights, Region V  
500 W. Madison Street - Suite 1475  
Chicago, IL 60661  
Tel: 312-730-1560  
TDD: 312-730-1609

**MN Department of Human Rights**  
190 E. 5<sup>th</sup> Street St. Paul, MN 55101  
800-657-3704  
Tel: 651-296-5663  
TDD: 651-296-1283