Updates statutory definition of “disability”

SOUTH WASHINGTON COUNTY SCHOOLS
Independent School District 833
7362 East Point Douglas Rd S.
Cottage Grove, MN 55016
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521 STUDENT DISABILITY NONDISCRIMINATION

I. PURPOSE

The purpose of this policy is to protect students in need of accommodation 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. This policy applies to complaints of discrimination on the basis of disability raised by employees, students or third parties.

II. GENERAL STATEMENT OF POLICY

A. The district is committed to having a school environment free from all discrimination on the basis of disability.

B. The district prohibits disability discrimination on school premises as defined in this policy.

C. Students are encouraged to immediately report incidents of disability discrimination.

D. All employees, including faculty, staff, administrators, and coaches are required to promptly report incidences of disability discrimination. It is recommended that district staff who observe acts of discrimination intervene to stop the discrimination unless circumstances would make such intervention dangerous

E. The district will promptly investigate formal or informal complaints of disability discrimination. The school district will respond to each complaint and the results of its investigation as it deems appropriate under the circumstances.

F. It shall be a violation of this policy for any pupil, teacher, administrator or other school district personnel to discriminate against any pupil, teacher, administrator, or other school personnel on the basis of an actual or perceived disability.

G It is the responsibility of the 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.

H. 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 major life activities, including learning; or

2. has a record of such impairment; or

3. is regarded as having such impairment.

4. has an impairment that is episodic or in remission and would materially limit a major life activity when active.

I. 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. DEFINITIONS

A. Disability Discrimination; Definition

Disability discrimination generally means the differential treatment of an individual based on an actual or perceived disability in a manner that materially and substantially interferes with (1) the individual’s educational opportunities or performance or (2) the individual’s ability to participate in school functions or activities or receive school benefits, services, or privileges. Disability discrimination does not include any services or accommodations provided to a student in accordance with Section 504, the Individuals with Disabilities Education Act, the Minnesota Human Rights Act, or any other applicable law.

B. On School Premises; Definition

On school premises means all school district buildings, school grounds, school property (leased or owned), property immediately adjacent to school grounds, including the area of entrance or departure from school grounds, premises, and events; school bus stops, school buses, school vehicles, school contracted vehicles, or any other vehicles approved for school district purposes; and all school-related functions, school-sponsored activities, events, or trips. Depending on the circumstances, school district property also may mean a student’s walking route to or from school for purposes of attending school or school-related functions, activities, or events. While prohibiting disability discrimination at these locations and events, this policy shall not be construed as a representation that the school district will provide supervision at all of the locations and events outlined in this paragraph or assume liability for incidents that occur at these locations and events.

IV. REPORTING PROCEDURES

A. Any person who believes he or she has been the victim of discrimination on the basis of disability by a pupil, teacher, administrator or other school personnel of the school district, or any person with knowledge or belief of conduct which may

constitute disability discrimination, toward a pupil, teacher, administrator or other school personnel should report the alleged acts immediately to the principal of the building at which the conduct occurred. The school district encourages the reporting party or complainant to use the DISCRIMINATION, HARASSMENT AND VIOLENCE REPORT available from the principal of each building or available from the school district office, but oral reports shall be considered complaints as well. If the complaint involves a principal, the complaint may be filed with either of the school district’s Assistant Superintendents for Academic Excellence and Accountability, 7362 East Point Douglas Road South, Cottage Grove, MN 55016-3025, (651) 425-6203 or (651) 425-6208.

B. The building principal is the person responsible for receiving oral or written reports of disability discrimination. Any school district personnel who receives a report of disability discrimination must inform the building principal immediately. For purposes of this policy, immediately means as soon as possible, but no later than within 24 hours.

C. Upon receipt of a report, the principal must notify the Assistant Superintendent responsible for supervising the principal immediately, without screening or investigating the report. The principal may request, but may not insist upon a written complaint. A written statement of the facts alleged, along with a brief description of how the complaint was handled at the building level, will be forwarded as soon as practicable by the principal to the Assistant Superintendent responsible for supervising the principal. If the report was given verbally, the principal shall personally reduce it to written form as soon as possible, and by no later than within 48 hours and forward it to the Assistant Superintendent responsible for supervising the principal. Failure to forward any report of discrimination or complaint as provided herein may result in disciplinary action against the principal. If the complaint involves the building principal, the complaint shall be made or filed with either of the school district’s Assistant Superintendents, at the address listed above.

D. The School Board hereby designates the school district’s Assistant Superintendents for Academic Excellence and Accountability as the administrators ultimately responsible to receive reports or complaints of disability discrimination. If the complaint involves an Assistant Superintendent, the complaint shall be filed directly with the Superintendent.

E. The school district shall conspicuously post the names of the school district’s Assistant Superintendents for Academic Excellence and Accountability, including mailing addresses and telephone numbers.

F. Submission of a good faith complaint or report of disability discrimination will not affect the complainant or reporter’s future employment, grades or work assignments.

G. Use of formal reporting forms is not mandatory.

H. The school district will respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the school district’s legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. However, the school district is unable to guarantee confidentiality to any individual.

V. INVESTIGATION

A. By authority of the school district, the Assistant Superintendents, upon receipt of a report or complaint alleging disability discrimination, shall promptly undertake or authorize an investigation. The investigation may be conducted by school district officials or by a third party designated by the school district.

B. The investigation may consist of a review of written witness statements or 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 any other methods and a review of any documents deemed pertinent by the investigator. The scope of the investigation will depend on the circumstances of each complaint.

C. In determining whether alleged conduct constitutes a violation of this policy, the school district should consider, but is not limited to, the surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between the parties involved and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances and the district shall use a preponderance of the evidence standard in its determination.

D. In addition, the school district may take immediate steps, at its sole discretion, to protect the complainant, pupils, teachers, administrators or other school personnel pending completion of an investigation of alleged disability discrimination. Protective measures, if any, will be based on the circumstances of each situation and may include, but are not limited to, counseling, academic support, and scheduling changes for classes or extracurricular activities. Upon receipt of a complaint, the school district will engage in discussions with the complainant about whether any proactive measures are necessary. Any protective measures will be implemented at the discretion of the school district and will be designed by the school district to minimize the burden on a pupil’s educational program.

E. The investigator will make a written report upon completion of the investigation. The report shall include a determination of whether the allegations have been substantiated as factual using a preponderance of the evidence standard and whether they appear to be violations of this policy in accordance with the definitions outlined in this policy. The breadth and detail of the investigation

report will depend on the circumstances of each complaint.

VI. SCHOOL DISTRICT ACTION

A. Upon receipt of a report or in the event of a substantiated complaint of disability discrimination, the school district will take appropriate action. Such action may include, but is not limited to, warning, suspension, exclusion, expulsion, transfer, remediation, termination or discharge. School district action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, Minnesota and federal law and school district policies.

B. The result of the school district’s investigation of each complaint filed under these procedures will be reported in writing to the complainant and to the respondent, to the extent permitted by the Minnesota Government Data Practice Act, the Family Educational Rights and Privacy Act and any other applicable law.

VII. REPRISAL/RETALIATION

The school district will discipline or take appropriate action against any pupil, teacher, administrator, third party, or other school personnel who retaliates against any person who makes a good faith report of alleged disability discrimination, or any person who testifies, assists or participates in an investigation, or who testifies, assists or participates in a proceeding or hearing relating to such discrimination. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

VIII. 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 Minnesota Department of Human Rights, initiating civil action or seeking redress under state criminal statutes and/or federal law.

IX. DISSEMINATION OF POLICY AND TRAINING

A. This policy is available to the public in school board policy listings on the District website.

X. OTHER APPLICABLE RESOURCES

A. If appropriate under the circumstances, the school district may make district counseling and other district services, such as district nursing services for a student who becomes injured or ill as a result of an incident of disability discrimination, available to an individual who is the victim of disability discrimination. Such services, if any, will be made available at the district’s sole discretion.

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B. Individuals who have questions, comments, or complaints about this policy may contact:

1. The building principal or one of the school district’s Assistant Superintendents for Academic Excellence and Accountability to file a complaint under this policy. The Assistant Superintendents may be reached at 7362 East Point Douglas Road South, Cottage Grove, MN 55016-3025, (651) 425-6203 or (651) 425-6208.

2. The school district’s 504 Coordinator regarding accommodation requests and other special education issues. The school district’s 504 Coordinator is its Director of Special Services, 7362 East Point Douglas Road South, Cottage Grove, MN 55106, (651) 425-7201.

Legal References: Minn. Stat. § 363A.03, Subd. 12 (Definitions)
29 U.S.C. § 794 *et seq.* (Rehabilitation Act of 1973, § 504)
34 C.F.R. Part 104 (Implementing Regulations)
42 U.S.C. Ch. 126 (Equal Opportunity for Individuals with Disabilities)
~~Minn. Stat. Ch. 363A (Minnesota Human Rights Act)~~

Cross References: MSBA/MASA Model Policy 402 (Disability Nondiscrimination)

POLICY ADOPTED: February 17, 2009
POLICY REVISED: December 4, 2014, September 17, 2015, January 7, 2016, April 21, 2022

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INDEPENDENT SCHOOL DISTRICT NO. 833

DISCRIMINATION, HARASSMENT AND VIOLENCE REPORT FORM

General Statement of Policy Prohibiting Discrimination, Harassment and Violence

Independent School District No. 833 maintains a firm policy prohibiting discrimination, harassment and violence. All persons are to be treated with respect and dignity. The school district takes complaints of discrimination, harassment and violence seriously and will investigate such complaints in accordance with applicable policies and procedures. Complainants are encouraged to provide as much information as possible when reporting incidents of discrimination, harassment or violence using the form below.

Complainant_____

Home Address_____

Work Address_____

Home Phone_____Work Phone_____

Date of Alleged Incident(s)_____

Circle as appropriate: sexual \ racial \ religious \ disability \ other _____

Name of person you believe engaged in discrimination, harassment or violence._____

_____

Identify the victim(s) of the reported conduct._____

_____

Describe the incident(s) as clearly as possible, including such things as: what force, if any, was used; any verbal statements (i.e. threats, requests, demands, etc.); what, if any, physical contact was involved; etc. (Attach additional pages if necessary.) _____

_____

_____

Where and what time did the incident(s) occur?_____

_____

_____

List any witnesses that were present_____

This complaint is filed based on my honest belief that_____has engaged in discrimination, harassment or violence to me or to another person. I hereby certify that the information I have provided in this complaint is true, correct and complete to the best of my knowledge and belief.

_____ _____

(Complainant Signature) (Date)

Received by_____ _____

(Date)

Referred to Assistant Superintendent on _____.