

521 STUDENT DISABILITY NONDISCRIMINATION

I. PURPOSE

- A. The purpose of this policy is to protect students with disabilities 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 services, accommodations, or programs in order that such learners may receive a free appropriate public education.

II. GENERAL STATEMENT OF POLICY

- A. Students with disabilities who meet the criteria of Paragraph C. below are protected from discrimination on the basis of a disability.
- B. The responsibility of the school district is to identify and evaluate learners who, within the intent of Section 504, need services, accommodations, or programs in order that such students may receive a free appropriate public education. 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.
- C. 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.
- D. Direct Threat. In accordance with the Americans with Disabilities Act ("ADA"), the school does not need to permit an individual to participate in or benefit from its services, programs, or activities when that individual poses a direct threat to the health or safety of others. In determining whether the individual poses a direct threat for purposes of the ADA, the school district will conduct 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. The school will ask a student's parents to provide any information they believe may be relevant to conducting the direct threat analysis.

III. ADMINISTRATIVE LIAISON

Persons who have questions, or comments, or complaints should contact the Director of Student Services at St. Cloud Area School District 742, 1201 S. Second Street, Waite Park, MN 56387 regarding grievances or hearing requests regarding disability issues. This person is the school district's Section 504 Administrative Liaison.

IV. GRIEVANCE PROCEDURE

A. File Complaint with School Section 504 Administrative Liaison

1. If a student's parent or guardian, or a student who has reached 18 years of age (i.e., eligible student), has a complaint of discrimination on the basis of the student's disability, the parent, guardian, or eligible student may file a local grievance (also referred to as a complaint) with the Section 504 Administrative Liaison. Any school principal, other administrator, or other employee who receives a report of discrimination prohibited by this policy shall inform the Section 504 Administrative Liaison immediately. If the complaint relates to the Section 504 Administrative Liaison, then the complaint may be submitted to the Superintendent of Schools.
2. The school encourages the parent, guardian, or eligible student to file a complaint within thirty (30) days of the alleged violation whenever possible. Upon filing a complaint with the school, the parent, guardian, or eligible student will be asked to provide a brief description of the alleged discriminatory action, the date of the alleged action, and the name of the person(s) responsible for the alleged action.
3. The school encourages the parent, guardian, or eligible student to use the Discrimination, Harassment, and Bullying Report Form, but oral reports will be considered complaints as well. Use of the Report Form is not mandatory.
4. Submission of a good faith complaint of disability discrimination will not affect the complainant's future employment, grades, work assignments, or work or educational environment.
5. False accusations or complaints of discrimination against another person are prohibited.

B. Investigation of Complaint

1. By authority of the school, the Section 504 Administrative Liaison, upon receipt of a complaint, shall promptly undertake or authorize an investigation. The investigation may be conducted by school officials or by a third party designated by the school.
2. The investigation may consist of personal interviews with the parent, guardian, or eligible student, 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 documents deemed pertinent by the investigator.
3. In determining whether alleged conduct constitutes a violation of this policy, the school should consider 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.
4. The investigation will be completed within thirty (30) days of receipt of the complaint, unless good cause exists for a longer period of time. Upon completion of the investigation, the Section 504 Administrative Liaison shall make a written report of the result of the investigation. The report shall include a determination of whether the allegations have been substantiated and whether they appear to be violations of this policy. The result of the school's investigation will be reported in writing to the parent, guardian, or eligible student by the school in accordance with state and federal law regarding data or records privacy. The parent, guardian, or eligible student will also be informed of the right to appeal per paragraph C below.

C. Appeal of Complaint

In the event the parent, guardian, or eligible student does not believe that the complaint has been resolved to his or her satisfaction, he or she may appeal to the Superintendent of Schools. Any appeal must be made in writing within ten (10) school days of receipt of the written result of the school's investigation.

D. Review of Appeal

The Superintendent shall conduct a review of a timely appeal and within ten (10) school days of receipt of the appeal, shall investigate further if necessary, and shall respond in writing to the parent, guardian, or eligible student to the extent allowed by law. The decision of the Superintendent is final but does not prohibit the parent, guardian, or eligible student from pursuing alternative complaint procedures as discussed below in Sections VI.

V. SCHOOL ACTION

Upon completion of an investigation (or appeal) that determines a violation of this policy has occurred, the school will take appropriate action. Such action may include, but is not limited to, warning, suspension, exclusion, expulsion, transfer, remediation, or termination of employment. Disciplinary consequences will be sufficiently severe to try to deter violations and to appropriately discipline prohibited behavior. School action taken for violation of this policy will be consistent with requirements of applicable Minnesota and federal law and school policies and procedures.

VI. RETALIATION OR REPRISAL

The school will discipline or take appropriate action against any student, teacher, administrator, or other school personnel, or agent of the school, including, but not limited to, volunteers, who commits an act of reprisal or who retaliates against any person who asserts, alleges, or makes a good faith report of alleged discrimination prohibited by this policy, or who testifies, assists, or participates in an investigation, proceeding, or hearing relating to such discrimination or retaliation. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment. Disciplinary consequences will be sufficiently severe to deter violations and to appropriately discipline the individual(s) who engaged in the retaliation or reprisal.

VII. RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES

These procedures do not deny the right of the parent, guardian, or eligible student to pursue other avenues of recourse at any time 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, or contacting the Office for Civil Rights for the United States Department of Education.

U.S. Department of Education
Office for Civil Rights, Chicago Office
500 W. Madison Street – Suite 1475
Chicago, IL 60661
Tel: 312-730-1560
Fax: 312-730-1576
Email: OCR.Chicago@ed.gov

MN Department of Human Rights
Freeman Building
625 Robert Street North
St. Paul, MN 55155
Tel: 651-539-1100
Toll-free: 1-800-657-3704
Fax: 651-296-9042
Email: Info.MDHR@state.mn.us

VIII. PROCEDURAL SAFEGUARDS

This Section VIII applies to students who have been identified as eligible for Section 504 services or students believed to be eligible for Section 504 services. If a student's parent or guardian or an eligible student disagrees with the school's decisions or actions regarding the student's identification, evaluation, educational program, or placement under Section 504, please refer to the Notice of Procedural Safeguards and Parent and Student Rights – Section 504 of the Rehabilitation Act of 1973 found on the District website at <https://www.isd742.org/Student Services/Section 504>.

XI. DISSEMINATION OF POLICY AND EVALUATION

- A. This policy shall be made available electronically or upon request to students, parents and guardians, staff members, and employee organizations.
- B. The school shall review this policy and the school's operation for compliance with state and federal laws prohibiting discrimination on a periodic basis.

Legal References: Pub. L. 110-325, 122 Stat. 3553 (ADA Amendments Act of 2008, § 7)
29 U.S.C. § 794 et seq. (Rehabilitation Act of 1973, § 504)
34 C.F.R. Part 104 (Section 504 Implementing Regulations)

Cross References: Policy 402 (Disability Nondiscrimination)

BOARD POLICY 521 St. Cloud Area School District 742 St. Cloud, Minnesota

Adopted: August 22, 1996
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