

MINNETONKA PUBLIC SCHOOLS

Policy 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 Minnetonka 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. ADMINISTRATOR

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

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 (Implementing Regulations)

Reviewed: February 16, 2017, March 16, 2017

Approved: April 6, 2017

Attachment: Grievance Procedures for Complaints of Harassment, Discrimination and/or Retaliation

GRIEVANCE PROCEDURES FOR COMPLAINTS OF HARRASSMENT, DISCRIMINATION AND/OR RETALIATION

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 target or victim of unlawful discrimination or harassment on the basis of disability, by a student, teacher, administrator, or other District personnel, or any person with knowledge or belief of conduct that may constitute unlawful discrimination or harassment prohibited by this policy, toward an employee or student or anyone who believes they have been retaliated against because they have made a complaint or participated in a complaint under Policy 521, shall report the alleged acts immediately to an appropriate District official designated by this policy. A person may report conduct which may constitute harassment, discrimination or retaliation anonymously. However, the District may not rely solely on an anonymous report to determine discipline or remedial responses. The complaint must be filed within 30 calendar days of the alleged violation.
- B. The District encourages the reporting party or complainant to use the report form available from the principal or building supervisor of each building or available from the District office, but oral reports shall be considered complaints as well.
- C. The building principal, or the principal's designee (hereinafter the "building report taker") is the person responsible for receiving oral or written reports of harassment, discrimination or retaliation prohibited by this policy at the building level. Any adult District personnel who receives a report of conduct prohibited by this policy shall inform the building report taker immediately. If the complaint involves the building report taker, the complaint shall be made or filed directly with the Superintendent or the District Human Rights Officer by the reporting party or complainant. The building report taker shall ensure that this policy and its procedures, practices, consequences, and sanctions are fairly and fully implemented and shall serve as a primary contact on policy and procedural matters.

The building report taker's contact information for each school in the District is as follows:

MHS: Jeff Erickson, jeffrey.erickson@minnetonkaschools.org 952-401-5702

MMW: Paula Hoff, paula.hoff@minnetonkaschools.org 952-401-5305

MME: Pete Dymit, peter.dymit@minnetonkaschools.org 952-401-5205

Clear Springs: Curt Carpenter, curtis.carpenter@minnetonkaschools.org 952-401-6953

Deephaven: Bryan McGinley, bryan.mcginley@minnetonkaschools.org 952-401-6903

Excelsior: Stacy DeCorsey, stacy.decorsey@minnetonkaschools.org 952-401-5653

Groveland: David Parker, david.parker@minnetonkaschools.org 952-401-5602

Minnewashta: Cindy Andress, cindy.andress@minnetonkaschools.org 952-401-5503

Scenic Heights: Joe Wacker, joey.wacker@minnetonkaschools.org 952-401-5405

MCEC: Tim Litfin, tim.litfin@minnetonkaschools.org 952-401-5043

- D. A teacher, school administrator, volunteer, contractor, or other school employee shall be particularly alert to possible situations, circumstances, or events that might include acts of harassment unlawful discrimination or retaliation prohibited by this policy. Any such person who witnesses, observes, receives a report of, or has other knowledge or belief of conduct prohibited by this policy shall make reasonable efforts to address and resolve the conduct and shall inform the building report taker immediately. District personnel who fail

to inform the building report taker of conduct prohibited by this policy or who fail to make reasonable efforts to address and resolve the conduct prohibited by this policy in a timely manner may be subject to disciplinary action.

- E. Upon receipt of a report, the building report taker must notify the District Human Rights Officer immediately, without screening or investigating the report. The building report taker may request, but may not insist upon, a written complaint. A written statement of the facts alleged will be forwarded as soon as practicable by the building report taker to the Human Rights Officer. If the report was given verbally, the building report taker shall personally reduce it to written form within 24 hours of its receipt and forward it to the Human Rights Officer. Failure to forward any complaint as provided herein may result in disciplinary action against the building report taker.
- F. The District designates the Executive Director of Human Resources as the District Human Rights Officer to receive reports or complaints of conduct prohibited by this policy. If the complaint involves the Human Rights Officer, the complaint shall be filed directly with the Superintendent.
- G. The District shall conspicuously post the name of the Human Rights Officer, including mailing addresses and telephone numbers. The District's Human Rights Officer's current contact is Tim Alexander (Tim.Alexander@minnetonkaschools.org, 952-401-5015).
- H. Submission of a good faith complaint or report of harassment or unlawful discrimination on the basis of disability prohibited by this policy will not affect the complainant or reporter's future employment, grades, work assignments, or educational or work environment.
- I. Use of formal reporting forms is not mandatory.
- J. Reports of harassment or unlawful discrimination on the basis of disability prohibited by this policy are classified as private educational and/or personnel data and/or confidential investigative data and will not be disclosed except as permitted by law.
- K. Retaliation against a victim, good faith reporter, or a witness of unlawful discrimination on the basis of disability or harassment is prohibited.
- L. False accusations or reports of unlawful discrimination on the basis of disability or harassment against another person are prohibited.
- M. The 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 conduct prohibited by this policy, 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 Administrator for complaints of disability discrimination or disability harassment, or a District official or neutral third party designated by the Title IX Coordinator or Section 504 Administrator or Human Rights Officer and shall be completed within 30 days of the complaint, unless impracticable.

- B. The Human Rights Officer, within three (3) business days of the receipt of a report or complaint alleging conduct prohibited by this policy, shall undertake or authorize an investigation.
- C. 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 and documents deemed pertinent by the investigator. Persons making a complaint under Policy 521 and persons alleged to have violated the policy must be given a reasonable opportunity to present statements, documents or other evidence that is relevant to the complaint.
- D. In determining whether the alleged conduct constitutes a violation of this policy, the 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. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.
- E. In addition, the District may take immediate steps, at its discretion, to protect the target or victim, the complainant, and students, teachers, administrators, or other District personnel pending completion of an investigation of conduct prohibited by this policy.
- F. The alleged perpetrator of the act(s) of harassment or unlawful discrimination on the basis of disability shall be allowed the opportunity to present a defense during the investigation or prior to the imposition of discipline or other remedial responses.
- G. The investigation will be completed as soon as practicable. The District Human Rights Officer shall make a written report to the Superintendent upon completion of the investigation. If the complaint involves the Human Rights Officer, the report may be filed directly with the Superintendent or School Board. If the complaint involves the Superintendent, the report may be filed directly with the Board. The report shall include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy, as well as a description of any proposed resolution which may include alternative dispute resolution.
- H. 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 District investigation. The Human Rights Officer will within three (3) business days forward the appeal to the Superintendent or a designee of the Superintendent to conduct a review of the appeal. The

Superintendent or designee of the Superintendent shall conduct a review of the appeal and within ten (10) business days of receipt of the appeal, shall affirm, reverse, or modify the findings of the report. The decision of the Superintendent or their designee is final.

SCHOOL DISTRICT ACTION

- A. Upon completion of an investigation that determines a violation of this policy has occurred, the District will take appropriate action. Such action may include, but is not limited to, warning, suspension, exclusion, expulsion, transfer, remediation, termination, or discharge. Disciplinary consequences will be sufficiently severe to try to deter violations and to appropriately discipline prohibited behavior. District action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, Minnesota and Federal law, and applicable District policies and regulations.
- B. Generally, the District is not authorized to disclose private educational or personnel data regarding a complainant or an alleged perpetrator who is a student or employee of the District. School officials will notify complainants or their parents and the parent(s) or guardian(s) of alleged perpetrators of the outcome of the investigation or their appeal of the investigators' findings.
- C. In order to prevent or respond to conduct prohibited by this policy against a child with a disability, the District shall, where determined appropriate by the child's individualized education program (IEP) or Section 504 team, allow the child's IEP or Section 504 plan to be drafted to address the skills and proficiencies the child needs as a result of the child's disability to allow the child to report, respond to and/or to advocate for themselves in response to conduct prohibited by the policy.

RETALIATION

The District will discipline or take appropriate action against any student, teacher, administrator, or other District personnel who commits an act of reprisal or who retaliates against any person who asserts, alleges, or makes a good faith report of conduct prohibited by this policy, who testifies, assists, or participates in an investigation, or who testifies, assists, or participates in a proceeding or hearing relating to conduct prohibited by this policy. Retaliation includes, but is not limited to, any form of intimidation, reprisal, harassment, or intentional disparate treatment. Disciplinary consequences will be sufficiently severe to deter violations and to appropriately discipline the individual(s) who engaged in conduct prohibited by this policy. Remedial responses shall be tailored to the particular incident and nature of the conduct.

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

- A. This policy shall be conspicuously posted throughout each school building in areas accessible to students and District personnel.
- B. This policy shall be given to each District employee and independent contractor who regularly interacts with students at the time of initial employment with the District.
- C. This policy shall appear in the student handbook.
- D. The District will develop a method of discussing this policy with students and employees.
- E. The District may implement discrimination/harassment prevention and character development education to prevent and reduce policy violations. Such programs may offer instruction on character education including, but not limited to, character qualities such as attentiveness, truthfulness, respect for authority, diligence, gratefulness, self-discipline, patience, forgiveness, respect for others, peacemaking, and resourcefulness.
- F. This policy shall be reviewed at least annually for compliance with State and Federal law.

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 U.S. Department of Education-Office of Civil Rights, the Minnesota Department of Human Rights, or requesting an impartial hearing under Section 504 or initiating civil action, or seeking redress under State criminal statutes and/or Federal law.

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. 5th Street
St. Paul, MN 55101
800-657-3704
Tel: 651-296-5663
TDD: 651-296-1283

District's Human Rights Officer
Minnetonka Public Schools
5621 County Road 101
Minnetonka, MN 55345
Tel: 952-401-5015

District's Section 504 Administrator
Minnetonka Public Schools
5621 County Road 101
Minnetonka, MN 55345
Tel: 952-401-5017

Legal References:

Minn. Stat. § 120B.232 (Character Development Education)
Minn. Stat. § 121A.03, Subd. 2 (Sexual, Religious, and Racial Harassment and Violence Policy)
Minn. Stat. § 121A.031 (School Student Bullying Policy)
Minn. Stat. Ch. 363A (Minnesota Human Rights Act)
Minn. Stat. § 609.341 (Definitions)
Minn. Stat. § 626.556 et seq. (Reporting of Maltreatment of Minors)
20 U.S.C. §§ 1681-1688 (Title IX of the Education Amendments of 1972)
29 U.S.C. § 621 et seq. (Age Discrimination in Employment Act)
29 U.S.C. § 794 (Rehabilitation Act of 1973, § 504)
42 U.S.C. § 1983 (Civil Action for Deprivation of Rights)
42 U.S.C. § 2000d et seq. (Title VI of the Civil Rights Act of 1964)
42 U.S.C. § 2000e et seq. (Title VII of the Civil Rights Act)
42 U.S.C. § 12101 et seq. (Americans with Disabilities Act) Cross References:

Policy 401 (Equal Employment Opportunity)
Policy 406 (Public and Private Personnel Data)
Policy 414 (Mandated Reporting of Child Neglect or Physical or Sexual Abuse)
Policy 427 (Harassment and Violence)
Policy 506 (Student Discipline and Code of Conduct)
Policy 514 (Bullying Prohibition Policy)
Policy 515 (Protection and Privacy of Pupil Records)
Policy 524 (Electronic Technologies Acceptable Use Policy)
Policy 526 (Student Use of Cellular Phones and Other Personal Electronic Devices)
Policy 542 (Civility of Students)
Policy 604 (Inclusive Education Program)

Reviewed: March 16, 2017

Approved: April 6, 2017

INDEPENDENT SCHOOL DISTRICT NO. 276
POLICY 521: STUDENT DISABILITY NONDISCRIMINATION REPORT FORM

General Statement of Policy Prohibiting Discrimination on the Basis of Disability

Minnetonka Independent School District No. 276 maintains a firm policy prohibiting all forms of discrimination. Harassment or violence against students or employees or groups of students or employees on the basis of race, color, creed, religion, national origin, sex, gender, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability is strictly prohibited. All persons are to be treated with respect and dignity. Harassment or violence on the basis of race, color, creed, religion, national origin, sex, gender, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability by any pupil, teacher, administrator, or other school personnel, which create an intimidating, hostile, or offensive environment will not be tolerated under any circumstances.

Complainant _____
Home Address _____
Work Address _____
Home Phone _____ Work Phone _____ Cell Phone _____

Date of Alleged Incident(s) _____

Basis of Alleged Discrimination/Harassment/Violence - circle as appropriate: race \ color \ creed \ religion \ national origin \ sex \ gender \ age \ marital status \ familial status \ status with regard to public assistance \ sexual orientation \ disability

Name of person you believe discriminated, harassed or was violent toward you or another person or group.

If the alleged discrimination, harassment or violence was toward another person or group, identify that person or group.

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 when did the incident(s) occur?

List any witnesses that were present.

This complaint is filed based on my honest belief that _____ has discriminated, harassed or has been violent to me or to another person or group. 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)