

Adopted: 4-12-2010

MSBA/MASA Model Policy 521

Orig. 1995

Revised: 12/12/2016

Rev. 2022

Revised: 5/9/2022

521 STUDENT DISABILITY NONDISCRIMINATION POLICY

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, need special services, accommodations, or programs in order that such learners may receive the required free appropriate public education.

II. GENERAL STATEMENT OF POLICY

- A. Disabled students are protected from discrimination on the basis of a disability.
- B. It is the responsibility of the school district to identify and evaluate learners who, within the intent of Section 504 of the Rehabilitation Act of 1973, need special services, accommodations, or programs in order that such learners may receive the required 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 major life activities, including learning; or
 - 2. Has a record of such impairment; or
 - 3. Is regarded as having such impairment.
- D. Learners may be protected from disability discrimination and be eligible for services under the provisions of Section 504 even though they do not require IEP services pursuant to the Individuals with Disabilities Education Act.

III. COORDINATOR

Persons who have questions, or comments, should contact The Director of Student Support Services and Equity. This person is the school district's ADA/504 Coordinator. Persons who wish to make a complaint regarding a disability discrimination matter may use the accompanying Student Disability Discrimination Grievance Form. The Form should be given to the ADA/Section 504 coordinator.

IV. GRIEVANCE PROCEDURES

- A. Any student who believes he or she has been the victim of unlawful disability Discrimination by a teacher, administrator or other school district personnel, or by another student, or any person with knowledge or belief of conduct that may constitute unlawful disability discrimination toward a 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 Section 504 coordinator is responsible for receiving oral or written complaints of unlawful disability discrimination toward a student. However, nothing in this policy shall prevent any person from reporting unlawful disability discrimination toward a student directly with the superintendent or the school board or other school district official.
- C. While the school board has designated the school district Section 504 coordinator to receive complaints of unlawful disability discrimination toward a student, if the complaint involves the Section 504 coordinator, the complaint shall be made to the superintendent or the alternate Section 504 coordinator.
- D. Upon receipt of a complaint, the Section 504 coordinator shall immediately notify the superintendent. If the superintendent is the subject of the complaint, the Section 504 coordinator shall immediately notify the school board.
- E. The Section 504 coordinator 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.

V. INVESTIGATION

- A. The Section 504 coordinator, upon receipt of a complaint alleging unlawful disability discrimination toward a student, shall promptly undertake an investigation if deemed appropriate. The investigation shall be completed within 30 days of the complaint unless impracticable.

- B. The investigation may consist of personal interviews with the complainant, the individual 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 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 the 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 disability discrimination of a student.
- E. Upon completion of the investigation, the school district Section 504 coordinator shall make a written report to the superintendent. If the complaint involves the superintendent, the report may be filed directly with the school board or a designated school district official. 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.

VI. APPEAL

If the grievance has not been resolved to the satisfaction of the complainant, s/he may appeal to the Section 504 coordinator within ten (10) school days of receipt of the findings. The Section 504 coordinator 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 Section 504 coordinator is final.

VII. 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 policies.

- 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.

VIII. 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 toward an employee or any person who testifies, assists or participates in an investigation or hearing relating to such unlawful discrimination. Retaliation includes, but is not limited to, any form of intimidation or harassment.

IX. 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.

X. DISSEMINATION OF POLICY

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

X. 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 or the Office for Civil Rights for the U. S. Department of Education or initiating action in state or federal court.

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
651.296.5663

This document provides general information and is not to be a substitute for legal advice. Changes in the law, including timelines for filing a complaint, may affect your rights.

Legal References:

Minn. Stat. Ch. 363 (Minnesota Human Rights Act)

29 U.S.C. § 794 et seq. (§ 504 of the Rehabilitation Act of 1973) 34

C.F.R. Part 104 (Implementing Regulations)

Legal References: *29 U.S.C. 794 et seq. (§ 504 of Rehabilitation Act of 1973)*
 34 C.F.R. Part 104 (Implementing Regulations)

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