

Date Adopted: 12/14/87	File Number: Detroit Lakes Policy - 521
Date Revised: 02/10/03, 5/10/10; 1/24/22; <u>2/23/26</u>	

## **521 - STUDENT DISABILITY NONDISCRIMINATION**

*~~[Note: School districts are required by statute to have a policy addressing these issues.]~~*

### **I. PURPOSE**

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

### **II. DEFINITIONS**

- A. For purposes of this policy, "disability harassment" means unwelcome physical, verbal, or nonverbal conduct based upon a student's disability, perceived disability, or record of disability, and when the conduct has the purpose or effect of interfering with the student's educational performance; or of creating an intimidating, hostile, or offensive learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a student's current or past disabling condition or a perceived condition, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like. Such harassment may further occur where conduct is directed at or pertains to a student's genetic information.
- B. For purposes of this policy, "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.

### **III. GENERAL STATEMENT OF POLICY**

- A. Students with disabilities who meet the criteria of Paragraph C. are protected from disability harassment and disability discrimination.
- B. 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 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; or

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

3. \_\_\_\_\_

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.

D.

#### **IV. COORDINATOR**

Persons who have questions, comments, or complaints should contact the Superintendent regarding grievances or hearing requests regarding disability issues. The Superintendent's contact information is: Mark Jenson, 702 Lake Avenue, Detroit Lakes, MN 56501, (218) 847-9271, [markjenson@detlakes.k12.mn.us](mailto:markjenson@detlakes.k12.mn.us). This person is the school district's Americans with Disabilities Act Section 504 Coordinator.

#### **V. REPORTING PROCEDURES**

- A. Any person who believes he or she has been the victim of harassment or 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 Student Disability Discrimination Grievance Report Form available from the principal of each building, the school district office, and on the school district's website, but oral reports shall be considered complaints as well. If the complaint involves a principal, the complaint may be filed with the school district's Superintendent.
- B. The building principal is the person responsible for receiving oral or written reports of disability harassment 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 one business day.
- C. Upon receipt of a report, the principal must notify the Superintendent 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 Superintendent. 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 two business days and forward it to the Superintendent.
- D. The School Board hereby designates the school district's Superintendent as the administrator ultimately responsible to receive reports or complaints of disability discrimination. If the complaint involves the Superintendent, the complaint shall be filed directly with the School Board Chair.

- E. The school district shall conspicuously post the names of the Superintendent, including mailing address, email address, 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.

## **VI. INVESTIGATION**

- A. By authority of the school district, the Superintendent, upon receipt of a report or complaint alleging disability discrimination, shall immediately 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 will take immediate steps 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. To the extent practicable, the investigation will be completed within 30 days of the date the complaint was filed. 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.

## **VII. SCHOOL DISTRICT ACTION**

- A. Upon receipt of a report or in the event of a substantiated complaint of disability harassment or 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 within 30 days of the date the complaint was filed, to the extent practicable and to the extent permitted by the Minnesota Government Data Practice Act, the Family Educational Rights and Privacy Act and any other applicable law. In the event the report cannot be provided to the complainant and respondent within 30 days, the school district will notify both parties, and will provide an anticipated date of report completion.

## **VIII. 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.

**Legal References:** [Minn. Stat. § 363A.03, Subd. 12 \(Definitions\)](#)

42 U.S.C. Ch. 126 (Equal Opportunity for Individuals with Disabilities)

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

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

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