

## ASPEN ACADEMY

Adopted: May 18, 2010

Revised: December 15, 2015, January 16, 2018

Reviewed: \_\_\_\_\_

### 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, 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, as defined in Paragraph II.C, 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 program 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.
- E. 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. COORDINATOR

Persons who have questions, comments, or complaints should contact Melanie Jiskra, Assistant Principal, 504 Coordinator at 14825 Zinran Avenue, Savage, MN 55378, 952-226-5940, regarding grievances or hearing requests regarding disability issues. This person is the school district's ADA/504 Coordinator.

#### **IV. GRIEVANCE PROCEDURES**

##### **A. File Complaint with School ADA/Section 504 Coordinator**

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 ADA/Section 504 Coordinator. Any school principal, other administrator, or other employee who receives a report of discrimination prohibited by this policy shall inform the ADA/Section 504 Coordinator immediately. If the complaint relates to the ADA/Section 504 Coordinator, then the complaint may be submitted to the Board Chair.
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 accompanying Discrimination, Harassment, and Violence 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 ADA/Section 504 Coordinator, upon receipt of a complaint, shall promptly undertake or authorize an investigation unless the matter can be resolved informally. 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 investigator shall make a written report of the result of the school's investigation to the ADA/Section 504 Coordinator. 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 D 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 Board Chair. 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 Board Chair 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 Board Chair 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 – Notice of Parent/Student Rights in Identification, Evaluation, and Placement under Section 504 must be given to parents at beginning of process.

## **IX. PRIVACY**

The school will respect the privacy of the student, parent, guardian, or eligible student, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the school's legal obligations to investigate, to take appropriate action, and to comply with any discovery or disclosure obligations.

## **X. POST**

The school shall conspicuously post the name of the ADA/Section 504 Coordinator, including office mailing address and telephone number.

## **XI. DISSEMINATION OF POLICY AND EVALUATION**

- A. This policy shall be made available to all 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.