

Employee Disability Nondiscrimination

I. PURPOSE

Employees are protected from discrimination on the basis of disability pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), the Americans with Disabilities Act (ADA), and the Minnesota Human Rights Act. The purpose of this policy is to prohibit discrimination on the basis of disability in accordance with state and federal law.

II. GENERAL STATEMENT OF POLICY

A. The Academy shall not discriminate against qualified individuals with disabilities because of the disabilities of such individuals in regard to job application procedures, hiring, advancement, discharge, compensation, job training, and other terms, conditions, and privileges of employment.

B. The Academy shall not engage in contractual or other arrangements that have the effect of subjecting its qualified applicants or employees with disabilities to discrimination on the basis of disability. The Academy shall not exclude or otherwise deny equal jobs or job benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association.

C. The Academy shall make reasonable accommodations for the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless the accommodation would impose undue hardship on the operation of the business of the Academy.

D. The Academy may refuse to hire an applicant or may discharge an employee who poses a direct threat to the health or safety of himself/herself or others that cannot be eliminated or reduced by reasonable accommodation.

E. Any job applicant or employee wishing to discuss the need for a reasonable accommodation, other matters related to a disability, or the enforcement and application of this policy should contact the Human Resources Manager, 4260 Stagecoach Trail N, Stillwater, MN 55082, 651-395-5903.

F. The Academy's ADA/Section 504 Coordinator is the Special Education Director, 4260 Stagecoach Trail N, Stillwater, MN 55082, 651-395-5707. Persons who wish to make a complaint regarding a disability discrimination matter may use the accompanying Discrimination, Harassment, and Violence Report Form. The form should be given to the ADA/Section 504 Coordinator.

III. GRIEVANCE PROCEDURES

A. File Complaint with ADA/Section 504 Coordinator

1. Any employee who believes he or she has been discriminated against in violation of this policy by a teacher, administrator, other Academy personnel, or agent of the Academy, including, but not limited to, volunteers, or any person with knowledge or belief of conduct which may constitute unlawful disability discrimination toward an employee 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 Executive Director.

2. The Academy encourages the complainant to file a complaint within thirty (30) days of the alleged violation whenever possible. Upon filing a complaint with the Academy, the complainant 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 Academy encourages the complainant 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 toward an employee will not affect the complainant's future employment, work assignments, or work environment.
5. False accusations or complaints of discrimination against another person are prohibited.

B. Pre-grievance Contact

Prior to the submission of a grievance, the complainant may request a pre-grievance contact with the individual alleged to be directly responsible for the discriminatory action and/or with the persons having immediate supervisory authority related to the grievance. These persons may make reasonable efforts to meet with the Human Resources Manager to discuss the grievance that the complainant wishes to bring to their attention. Such a pre-grievance contact shall be at the option of the complainant; it shall not be a precondition for the submission of a grievance to the ADA/Section 504 Coordinator.

C. Investigation of Complaint

1. By authority of the Academy, the ADA/Section 504 Coordinator, upon receipt of a complaint, shall promptly forward the matter to the Human Resources Manager. Upon receipt of a complaint, the Human Resources Manager shall promptly undertake or authorize an investigation unless the matter can be resolved informally. The investigation may be conducted by Academy officials or by a third party designated by the Academy.

2. 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 any other methods and documents deemed pertinent by the investigator.

3. In determining whether alleged conduct constitutes a violation of this policy, the Academy 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 Academy's investigation to the Human Resources Manager, who shall forward the report to the Executive Director. If the Human Resources Manager (as opposed to some other individual designated by the Academy) conducted the investigation, the report shall be filed directly with the Executive Director. 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 Academy's investigation will be reported in writing to the complainant by the Academy in accordance with state and federal law regarding data or records privacy. The complainant will also be informed of the right to appeal per paragraph D below.

D. Appeal of Complaint

In the event the complainant does not believe that the complaint has been resolved to his or her satisfaction, he or she may appeal to the Human Resources Manager. If the Human Resources Manager (as opposed to some other individual designated by the Academy) conducted the investigation, the appeal may be filed directly with the Executive Director. Any appeal must be made in writing within ten (10) school days of receipt of the written result of the Academy's investigation.

E. Review of Appeal

The Human Resources Manager 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 respond in writing to the complainant to the extent allowed by law. If the Human Resources Manager conducted the investigation, this review shall be conducted by the Executive Director. The decision of the Human Resources Manager (or of the Executive Director if that individual conducted the review) is final but does not prohibit the complainant from pursuing alternative complaint procedures as discussed below in Section VI.

IV. ACADEMY ACTION



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

V. RETALIATION OR REPRISAL

The Academy will discipline or take appropriate action against any teacher, administrator, or other school personnel, or agent of the Academy, 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 toward an employee 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.

VI. RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES

These procedures do not deny the right of any individual 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 or the Equal Employment Opportunity Commission.

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

Equal Employment Opportunity Commission
330 S. 2nd Avenue, Suite 720
Minneapolis, MN 55401
Tel: 1-800-669-4000
Fax: 612-335-4044

VII. PRIVACY

The Academy 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 Academy’s legal obligations to investigate, to take appropriate action, and to comply with any discovery or disclosure obligations.

VIII. POST

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

IX. DISSEMINATION OF POLICY AND EVALUATION

A. This policy shall be made available to all staff members and employee organizations.



B. The Academy shall review this policy and the Academy's operation for compliance with state and federal laws prohibiting discrimination on a periodic basis.

Legal References:

29 U.S.C. 794 *et seq.* (Rehabilitation Act of 1973, § 504)
42 U.S.C., Ch. 126 § 12112 (Americans with Disabilities Act)
29 C.F.R. Part 32
34 C.F.R. Part 104