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MTCS Policy 535
MTCS Orig. 1995

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535 SECTION 504 POLICY EDUCATION OF STUDENTS WITH DISABILITIES UNDER SECTION 504 OF THE REHABILITATION ACT

I. PURPOSE

The purpose of this policy is to set forth Minnesota Transitions Charter Schools' (MTCS) obligations under Section 504 of the Rehabilitation Act of 1973 and to articulate the school's commitment to prohibit discrimination against students with disabilities and to provide a free appropriate public education to eligible students as required by the Act.

II. POLICY STATEMENT

It is the policy of MTCS to fully comply with the requirements of Section 504 of the Rehabilitation Act of 1973.

III. POLICY

Section 504 prohibits discrimination based on an individual's disability in any program receiving federal financial assistance. Section 504 of the Rehabilitation Act of 1973 provides that "no qualified person with a disability shall, on the basis of a disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance."

MTCS will not discriminate on the basis of disability in the admission to, access to, or operations of its programs, services, or activities. MTCS will comply with the provisions of Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.

A. A student is disabled under the definition of Section 504 if he or she:

1. Has a physical or mental impairment that substantially limits one or more of such person's major life activities (Examples of "major life activities" include, but are not limited to, functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, eating, sleeping, standing, lifting, bending, reading, concentrating, and thinking. "Major life activities" also includes the operation of major bodily functions, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, or reproductive functions.)

2. Has a record of such an impairment; or
3. Is regarded as having such an impairment.

B. It is the responsibility of MTCS to identify and evaluate students who, within the intent of Section 504, need services, accommodations, or programs in order to receive a free appropriate public education.

C. Students may be protected from disability discrimination and be eligible for services, accommodations, or programs under the provisions of Section 504 even if they are not eligible for special education pursuant to the Individuals with Disabilities in Education Act.

D. **Direct Threat.** In accordance with the Americans with Disabilities Act (“ADA”), MTCS 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, MTCS 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. MTCS will ask a student’s parents to provide any information they believe may be relevant to conducting the direct threat analysis.

E. Persons who have questions, comments, or complaints should contact the Special Education Director, 2872 26th Avenue South, Minneapolis, MN 55406; 612-235-5932. This individual is MTCS’ ADA/Section 504 Coordinator. 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. Alternate means of filing complaints, such as personal interviews or a tape recording of the complaint will be made available for persons with disabilities upon request.

IV. EMPLOYEES TO SUPPORT IMPLEMENTATION

Every employee of MTCS must support the implementation of this Policy.

V. GRIEVANCE PROCEDURE

This grievance procedure is established to meet the requirements of Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the

provision of services, activities, programs, or benefits, or in employment practices and policies, by MTCS.

Filing of Complaint

- A. If a student's parent or guardian, or a student who has reached 18 years of age (i.e., an 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 Superintendent.
- B. MTCS 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 MTCS, 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.
- C. MTCS 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.

Investigation of Complaint

- 1. By authority of MTCS, 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 MTCS or by a third party designated by MTCS.
- 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, MTCS 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 MTCS' investigation to the ADA/Section 504 Coordinator, who shall forward the report to the Superintendent. If the ADA/Section 504 Coordinator (as opposed to some other individual designated by MTCS) conducted the investigation, the report shall be filed directly with the Superintendent. 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 MTCS' investigation will be reported in writing to the parent, guardian, or eligible student by MTCS 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, as explained below.

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 ADA/Section 504 Coordinator. If the ADA/Section 504 Coordinator (as opposed to some other individual designated by MTCS) conducted the investigation, the appeal may be filed directly with the Superintendent. Any appeal must be made in writing within ten (10) school days of receipt of the written result of the MTCS s investigation.

Review of Appeal

The ADA/Section 504 Coordinator 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 parent, guardian, or eligible student to the extent allowed by law. If the ADA/Section 504 Coordinator conducted the investigation, this review shall be conducted by the Superintendent. The decision of the ADA/Section 504 Coordinator (or of the Superintendent if that individual conducted the review) is final but does not prohibit the parent, guardian, or eligible student from pursuing alternative complaint procedures as discussed below.

MTCS ACTION

Upon completion of an investigation (or appeal) that determines a violation of this policy has occurred, MTCS 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. MTCS action taken for violation of this policy will be consistent with requirements of applicable Minnesota and

federal law and MTCS policies and procedures.

VI. RETALIATION OR REPRISAL

MTCS will discipline or take appropriate action against any student, teacher, administrator, or other school personnel, or agent of MTCS, 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. NOTICE OF PARENT AND STUDENT RIGHTS UNDER SECTION 504

MTCS will annually take appropriate steps to notify students with disabilities and their parents of MTCS' duties and their rights under the Act. The Notice will contain, at a minimum, the following information:

NOTICE

The Rehabilitation Act of 1973, commonly referred to as "Section 504," is a nondiscrimination statute enacted by the United States Congress. The purpose of the Act is to prohibit discrimination and to assure that students with disabilities have educational opportunities and benefits equal to those provided to non-disabled students.

Below is a description of the rights granted by Section 504 to eligible students with disabilities and the parents of those students.

1. You have a right to be informed by the school of your rights under Section 504. (The

purpose of this Notice is to advise you of those rights). 34 CFR 104.32.

2. Your child has the right to an appropriate education designed to meet her/his individual educational needs as adequately as the needs of non-disabled students are met. 34 CFR 104.33.
3. Your child has the right to free educational services except for those fees that are imposed on non-disabled students or their parents. Insurers and similar third parties are not relieved from an otherwise valid obligation to provide or pay for services provided to a student with a disability. 34 CFR 104.33.
4. Your child has a right to placement in the least restrictive environment. 34 CFR 104.34.
5. Your child has a right to facilities, services, and activities that are comparable to those provided for non-disabled students. 34 CFR 104.34,
6. Your child has a right to an evaluation prior to an initial Section 504 placement and any subsequent significant change in placement. 34 CFR 104.35.
7. Testing and other evaluation procedures must conform to the requirements of 34 CFR 104.35 as to validation, administration, areas of evaluation, etc. The school will consider information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, adaptive behavior, physical or medical reports, student grades, progress reports, parent observations, and anecdotal reports. 34 CFR 104.35.
8. Placement decisions must be made by a group of persons who are knowledgeable about your child, about the meaning of the evaluation data, the placement options, and the legal requirements for least restrictive environment and comparable facilities. 34 CFR 104.35.
9. If eligible under Section 504, your child has a right to periodic reevaluations, generally every three years. 34 CFR 104.35.
10. You have the right to notice prior to any action by the school in regard to the identification, evaluation, or placement of your child. 34 CFR 104.36.
11. You have the right to examine relevant records. 34 CFR 104.36.
12. You have the right to an impartial hearing with respect to the school's actions regarding your child's identification, evaluation, or educational placement, with opportunity for parental participation in the hearing and representation by an attorney. 34 CFR 104.36.
13. If you wish to challenge the actions of the Section 504 Committee with regard to your child's identification, evaluation, or educational placement, you should file a written Notice of Appeal with MTCS' Section 504 Administrator at 2872 26th Avenue South, Minneapolis, MN 55406; 612-235-5932 within 15 calendar days from the time you received written notice of the Section 504 Committee's action(s). A hearing will be

scheduled before an impartial hearing officer and you will be notified in writing of the date, time, and place for the hearing.

14. If you disagree with the decision of the impartial hearing officer, you have a right to a review of that decision by a court of competent jurisdiction. 34 CFR 104.36.
15. On Section 504 matters other than your child's identification, evaluation, and placement, you have a right to file a complaint with the school's Section 504 Administrator (or designee), who will investigate the allegations as described in MTCS' Section 504 Policy.
16. You also have a right to file a complaint with the Office for Civil Rights. The address of the Regional Office that covers Minnesota is:

ATTN: OCR Regional Manager
Office for Civil Rights, Chicago Office
U.S. Department of Education
Citigroup Center
500 W. Madison St., Suite 1475
Chicago, IL 60661-7204