

*Adopted:* July 27, 2017 \_\_\_\_\_

*MTCS Policy 402  
MSBA Orig. 1995  
Rev. 2015*

*Revised:* \_\_\_\_\_

## **402 EMPLOYEE DISABILITY NONDISCRIMINATION POLICY**

### **I. PURPOSE**

The purpose of this policy is to provide a fair employment setting for all persons and to comply with state and federal law.

### **II. GENERAL STATEMENT OF POLICY**

- A. Minnesota Transitions Charter School (MTCS) 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. MTCS 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. MTCS 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. MTCS 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 school district.
- D. Any job applicant or employee wishing to discuss the need for a reasonable accommodation, or other matters related to a disability or the enforcement and application of this policy, should contact Mary Becker, Director of Human Resources, 2872 26th Avenue South, Minneapolis, MN 55406, (612) 722-9013, [mbecker@emailmtcs.org](mailto:mbecker@emailmtcs.org). This individual is MTCS's appointed ADA/Section 504 coordinator.

### **III. REPORTING GRIEVANCE PROCEDURES**

- A. Any employee who believes he or she has been discriminated against in violation of this policy by a teacher, administrator, other school personnel, or agent of the school, including, but not limited to, volunteers, or any person with knowledge or belief of conduct which may constitute unlawful discrimination toward an employee should report the alleged acts immediately to an appropriate MTCS official designated by this policy or may file a grievance. MTCS encourages the

reporting party or complainant to make a report or file a grievance within thirty (30) days of the alleged violation whenever possible. MTCS encourages the reporting party or complainant to use the report form available from the principal of each building or available from the MTCS office, but oral reports shall be considered complaints as well. Nothing in this policy shall prevent any person from reporting unlawful discrimination toward an employee directly to a school human rights officer or to the Superintendent.

- B. In Each School Building. The building principal/director is the person responsible for receiving oral or written reports or grievances of unlawful discrimination toward an employee at the building level. Any adult MTCS personnel who receives a report of unlawful discrimination toward an employee shall inform the building principal/director immediately.
- C. Upon receipt of a report or grievance, the principal/director must notify the school human rights officer 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 will be forwarded as soon as practicable by the principal/director to the human rights officer. If the report was given verbally, the principal/director shall personally reduce it to written form within 24 hours and forward it to the human rights officer. Failure to forward any report or complaint of unlawful discrimination toward an employee as provided herein may result in disciplinary action against the principal/director. If the complaint involves the building principal/director, the complaint shall be made or filed directly with the Superintendent, or the school human rights officer by the reporting party or complainant.
- D. The MTCS Board hereby designates the Human Resources Director as the MTCS human rights officer to receive reports, complaints or grievances of unlawful discrimination toward an employee. If the complaint involves a human rights officer, the complaint shall be filed directly with the Superintendent.
- E. The school shall conspicuously post the name of the ADA/Section 504 Coordinator and human rights officer(s), including office mailing addresses and telephone numbers.
- F. Submission of a good faith complaint, grievance or report of unlawful discrimination toward an employee will not affect the complainant or reporter's future employment, grades or work assignments.
- G. Use of formal reporting forms is not mandatory.
- H. MTCS 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 MTCS's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations.

## **IV. INVESTIGATION**

- A. By authority of MTCS, the human rights officer, upon receipt of a report, complaint or grievance alleging unlawful discrimination toward an employee shall promptly undertake or authorize an investigation if deemed appropriate. The investigation may be conducted by MTCS officials or by a third party designated by MTCS.
- B. 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.
- C. 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.
- D. In addition, MTCS may take immediate steps, at its discretion, to protect the complainant, pupils, teachers, administrators or other school personnel pending completion of an investigation of alleged unlawful discrimination toward an employee.
- E. The investigation will be completed within thirty (30) days of receipt of the complaint, unless good cause exists for a longer period of time. The school human rights officer or the individual designated to conduct the investigation shall make a written report upon completion of the investigation. The report shall include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy.
- F. The result of MTCS's investigation of each complaint filed under these procedures will be reported in writing to the complainant by MTCS in accordance with state and federal law regarding data or records privacy.
- G. 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 rights officer. If the human rights officer (as opposed to some other individual designated by MTCS) conducted the investigation, the appeal may be filed directly with the Superintendent. An appeal must be made within ten (10) school days of receipt of MTCS's report in writing.
- H. The human rights officer shall conduct a review of the 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

rights officer conducted the investigation, this review shall be conducted by the Superintendent. The decision of the human rights officer (or of the Superintendent if that individual conducted the review) is final but does not prohibit a complainant from pursuing alternative complaint procedures as discussed in Section VII below.

- I. Nothing in this policy prohibits a complainant from pursuing alternative complaint procedures as discussed in Section VII below.

## **V. SCHOOL ACTION**

Upon conclusion of the investigation and receipt of a report, MTCS will take appropriate action. Such action may include, but is not limited to, warning, suspension, transfer, remediation, termination or discharge. School action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, Minnesota and federal law and school policies.

## **VI. REPRISAL**

MTCS will discipline or take appropriate action against any pupil, 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 who testifies, assists or participates in a proceeding or hearing relating to such unlawful discrimination. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment.

## **VII. 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, initiating civil action or seeking redress under state criminal statutes and/or federal law, or contacting the Office of Civil Rights for the United States Department of Education or the Equal Employment Opportunity Commission.

U.S. Department of Education  
Office for Civil Rights, Region V  
500 W. Madison Street – Suite 1475  
Chicago, IL 60661  
Tel: 312-730-1560  
Fax: 312-730-1576  
Email: [OCR.Chicago@ed.gov](mailto: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](mailto:Info.MDHR@state.mn.us)

Equal Employment Opportunity Commission  
330 S. 2<sup>nd</sup> Avenue, Suite 720  
Minneapolis, MN 55401  
Tel: 1-800-669-4000

Fax: 612-335-4044

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

- A. This policy shall be made available to all students, parents/guardians of students, staff members, employee unions, and organizations.
- B. MTCS shall review this policy and MTCS's operation for compliance with state and federal laws prohibiting discrimination on a periodic basis.

**Legal References:** Minn. Stat. Ch. 363A (Minnesota Human Rights Act)  
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

**Cross References:** MTCS Policy 521 (Student Disability Nondiscrimination)