

POPLAR SCHOOLS

400 4th Avenue West, Poplar, MT 59255 406.768.6601
www.poplarschools.com

DOUG MAROTTEK
Chairman

HILARY GOURNEAU
Vice-Chairman

LARAE CROWLEY
Trustee

DENVER ATKINSON
Trustee

TATUM EVENSON
Trustee

Section 504 and ADA Grievance Procedure

The Poplar School District has adopted internal grievance procedures providing for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973 (Section 504) and the Americans with Disabilities Act (ADA) as amended. Section 504 and the ADA prohibit the discrimination against individuals on the basis of disability or handicap.

Section 504 and the ADA prohibit a school district from excluding an “otherwise qualified individual with a disability” from participation in, or be denied the benefits of, or be subjected to discrimination on the basis of that disability. Under Section 504 and the ADA, an individual with a disability qualifies for protection under the act if that individual: (1) has a physical or mental impairment which substantially limits one or more major life activities; (2) has a record of such an impairment; or (3) is regarded as having such an impairment. All references to “disability” refer to disability or handicap and encompasses both Section 504 and the ADA.

Section 504 and ADA Coordinator

Inquiries concerning discrimination under Section 504 and the ADA may be referred to the building administrator or:

Patti Jo Black/Special ED Director/406-768-6844/patti.black@poplarschools.com

Inquiries may also be referred to the Office of Civil Rights, United States Department of Education.

Filing a Complaint

An individual believing that he or she has been the victim of disability discrimination should file a complaint with the building administrator or the Section 504/ADA Coordinator within 30 days of the incident(s) giving rise to the allegations. If the individual wishes to invoke the formal complaint procedures (see formal complaint procedures section), the complaint should be made in writing. An individual wishing to invoke the informal resolution process may make a complaint in writing or verbally.

An individual wishing to make a complaint will be provided with a copy of these procedures.

Informal Resolution

An individual alleging disability discrimination by an employee, student, or third party may access an informal mechanism to attempt to resolve the situation. The individual making the complaint is not required to invoke any informal mechanisms to resolve the situation. The decision to invoke the informal resolution process is voluntary.

If the individual wishes to attempt to work out the problem directly with the alleged perpetrator, a school representative will be available to assist. The individual may also request

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mediation with a designated mediator present to assist the individual and alleged perpetrator reach a resolution.

The individual has the right to end the informal resolution process at any time. If the individual wishes to end the informal process prior to reaching a resolution or is not satisfied with the resolution reached, the individual has the right to commence a formal complaint at any time.

Formal Complaints

An individual may make a formal complaint of disability discrimination in accordance with the procedures described above. The complaint should be in writing and should specify the allegations which the individual believes constitute disability discrimination. The individual has the right to contact law enforcement to determine if criminal activity occurred.

Investigation

The District shall conduct an adequate, reliable, and impartial investigation into the allegations. Even if no formal complaint has been filed, the District may still conduct an investigation to determine whether disability discrimination has occurred when it has knowledge of allegations of disability discrimination. Any investigation by the District shall be in addition to any criminal investigation that may occur. Determinations resulting from the investigation shall be made on a preponderance of the evidence standard (i.e., it is more likely than not that disability discrimination occurred).

Parties (the alleged victim and alleged perpetrator(s)) will have an equal opportunity to present relevant witnesses and other evidence. The investigation shall allow for both the alleged victim and alleged perpetrator to provide information separately. If written statements are provided, each party shall have the opportunity to review such statements, subject to the disclosure of such information under the Family Educational Rights Privacy Act ("FERPA") and Montana law.

Either party may have a representative or lawyer present during the investigations; however, the representative or lawyer is not allowed to speak or ask questions during any investigatory interviews. The representative or lawyer may request clarification of any questions, but may not answer, advise his or her client how to answer, or ask any substantive questions.

Notice of Outcome

Both the alleged victim and alleged perpetrator shall be notified in writing regarding the outcome of the investigation. Subject to FERPA and Montana law, an alleged victim may be notified about sanctions imposed on another individual found to have engaged in discrimination or harassment when that sanction directly relates to the individual. This may include an order that the perpetrator stay away from the victim.

Time Frames

The District shall complete its investigation within 60 days of receipt of the complaint or knowledge of allegations of disability discrimination. With the consent of the parties and the

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Superintendent, the investigation may be extended for an additional 15 days in extenuating circumstances. The investigator shall contact both parties once it appears that the investigation will require a longer period of time. The Notice of the Outcome of the investigation will be sent within that 60-day period, unless extended as described herein.

Appeals

Any party who is not satisfied with the findings from the investigation may appeal to the Superintendent. The appeal should be made within ten (10) days of receipt of the Notice of Outcome. Within three (3) days of receipt of any appeal by either party, the Superintendent shall notify the nonappealing party regarding the appeal. Within five (5) days of receipt of notice of any appeal, the nonappealing party may present argument opposing the appeal in writing. Within twenty (20) days of receipt of the initial appeal, regardless of whether the nonappealing party has submitted any opposition to the appeal, the Superintendent shall issue a written decision to both parties affirming or rejecting the investigation findings.

If either party is not satisfied with the Superintendent's written decision, that party may submit a written appeal to the Board of Trustees within ten (10) days of receipt of the Superintendent's decision. The Board shall hold a hearing to determine whether the Superintendent's decision shall be affirmed or rejected. Depending on the unique circumstances of the complaint, the Board may arrange for alternative means of participation for one of the parties. The Board shall issue a written decision within thirty (30) days of the hearing affirming or rejecting the Superintendent's decision.

Remedies

The District shall take all reasonable and necessary prevent the recurrence of any harassment and to correct its discriminatory effects on the individual and others. Any individual participating in a disability discrimination investigation shall notify the building administrator or Section 504 Coordinator if he or she believes that he or she is being retaliating against for participating in the investigation. The District prohibits retaliation against individuals making complaints under these procedures and participating in any investigation that may ensue.

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