

Alternate Eligibility Options Policy for 10th-Grade Students with a Disability Who Wish to Participate in Career and Technical Education Classes through Postsecondary Options

I. Applicable Legal Standards

In accordance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act (ADA) of 1990 (Title II), 42 U.S.C. § 12132, and its implementing regulation, 28 C.F.R. Part 35, schools and state education agencies that receive federal funding from the U.S. Department of Education, as well as public entities, are prohibited from discriminating on the basis of disability.

In accordance with the Minnesota Human Rights Act set forth in Minnesota Statutes, Chapter 363A, discrimination directed toward students based upon their actual or perceived protected status in the education and employment setting is illegal.

Minnesota Statutes, section 363A.13, provides that it is an unfair discriminatory practice to exclude, expel, or otherwise discriminate against a person seeking admission as a student, or a person enrolled as a student because of her/his disability.

II. Purpose

The purpose of this policy is to ensure that 10th-grade students with a disability are not discriminated against on account of their disability status with regard to eligibility decisions related to their participation in Career and Technical Education (CTE) classes through the Postsecondary Enrollment Options (PSEO) Program. Currently, students who wish to attend CTE classes through PSEO can only qualify if they have received a “meets expectations” or “above expectations” on the 8th-grade Minnesota Comprehensive Assessment (MCA) for reading. This policy sets forth alternative options for students with disabilities to demonstrate reading proficiency.

III. Definitions

- A. Career and Technical Education (CTE). The term “CTE” means a program, class, or course that provides individuals with coherent, rigorous content aligned with academic standards and relevant technical knowledge and skills needed to prepare for further education and careers in current and emerging professions and provide technical skill proficiency, an industry-recognized credential, and a certificate, a diploma or an associate degree.
- B. Student with a disability. A “student with a disability” means a student (1) with a physical or mental impairment that substantially limits a major life activity; (2) with a record of

such an impairment; or (3) who is regarded as having such an impairment. ¹ Under the 2008 ADA Amendments Act, a student who meets the definition of student with a disability solely due to being regarded as having such an impairment is not eligible for reasonable modifications.

- C. Educational institution. The term "Educational institution" means a public or private institution and includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system and a business, nursing, professional, secretarial, technical, vocational school, and includes an agent of an educational institution.
- D. Postsecondary Enrollment Options (PSEO). The term "PSEO" means a program that allows 10th-, 11th- and 12th-grade students to earn college credit while still in high school, through enrollment in and successful completion of college-level courses. With traditional PSEO, these courses are generally offered on the campus of the postsecondary institution; some courses are offered online. Postsecondary institutions are not allowed to charge students for tuition, books or fees for items that are required to participate in a course.
- E. 10th-grade PSEO. The term "10th-grade PSEO" means that eligible 10th-grade students may enroll initially in one CTE course through PSEO. If the student earns a "C" or higher grade in this first course, she/he is eligible to take additional CTE courses while in 10th-grade.
- F. Applicant. Applicant means a student or student representative who is requesting a disability-related modification to the 10th-grade PSEO eligibility requirements.
- G. PSEO Eligibility Requirements for 10th-Graders. In order to be eligible, a 10th-grade student must have taken the 8th-grade MCA reading test and have met the composite proficiency level of "meets or exceeds." A student who did not take the 8th-grade MCA reading test may substitute another reading assessment accepted by the enrolling postsecondary institution. As set forth in the procedures, a student with a disability who did not receive "meets or exceeds" on her/his 8th-grade MCA reading test may request that MDE consider alternative eligibility options. Upon written request, MDE will determine whether the student has demonstrated, through alternative options, a similar reading proficiency level.
- H. Alternate Options to Demonstrate Reading Proficiency: Alternate Options to Demonstrate Reading Proficiency means alternate data provided to MDE which demonstrates the Applicant's reading proficiency at a similar level as the 8th-grade MCA reading test.
- I. Effective Date: Effective Date means the date in which the policy is in effect.

¹ This includes students with an IEP, 504 plan, and students who qualify for special education and related aids and services under Section 504.

IV. General Statement of Policy

A. MDE Review of Requests for Disability-Related Modifications to the 10th-Grade PSEO Eligibility Requirements

MDE shall make reasonable modifications to its policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless it can demonstrate that making the modification(s) would fundamentally alter the nature of the program.

B. Notice of MDE Requirements

MDE may require individuals requesting a disability-related modification to follow reasonable procedures to request and document the need for the modification.

C. MDE Review Process

Upon receipt of a request for a disability-related modification; MDE will engage in an interactive process with the Applicant(s).

MDE's evaluation of requests for disability-related modification will be based on an individualized assessment of the student's need for the requested modification.

D. MDE Decision and Notification of Decision

MDE will provide the Applicant with written notification of its decision, which will include an explanation of the factors considered and determinations made in support of the decision. The postsecondary institution shall accept MDE's decision as sufficient verification of the student's enrollment eligibility.

E. Policy Dissemination and Effective Date

This policy has been approved by the Office of Special Education Programs and is effective December 8, 2015, and will be disseminated on MDE's website.