

SECTION 504 EMPLOYEE HANDBOOK/GRIEVANCE PROCEDURES

I. Purpose

The purpose of this document is to provide information regarding Section 504; to explain the St. Mary's County Public Schools (SMCPS) employee grievance procedures that were adopted for the prompt and equitable resolution of complaints alleging a violation of Section 504 and its implementing regulations; and to identify the employee responsible for coordinating efforts to comply with Section 504 and its implementing regulations.

II. Definitions

A. Discrimination means:

1. being, on the basis of disability, unlawfully subject to exclusion from participation in, denial of the benefits of, or unfavorable differential treatment with respect to employment, recruitment, consideration or selection for employment by SMCPS; or
2. being subject to harassment as defined below.

B. Grievance means a written statement setting forth the nature and basis of an allegation that an employee has been discriminated against; harassed; subjected to retaliation; or unlawfully denied a reasonable accommodation, by a member of the school community in violation of Section 504.

C. Grievant means any person who files a grievance pursuant to Section III.C.

D. Harassment means:

1. being subject to conduct by a member of the school community that is based on a person's disability, is unwelcome, and submission to such conduct is made a condition of a person's employment or any aspect of the individual's employment; or
2. being subject to conduct by member of the school community that is based on a person's disability, is unwelcome, is severe or pervasive, that is hostile and/or abusive to the degree that such conduct would alter the conditions of employment of a reasonable person.

E. Member of the School Community means:

1. A Board of Education Member
 2. A full-time or part-time benefitted employee of SMCPS
 3. An approved/registered SMCPS volunteer
 4. A SMCPS student
 5. A person who participates in activities of SMCPS, or is present on SMCPS grounds or premises, and is under the authority or control of SMCPS.
- F. **Responsible Employee** is the SMCPS employee holding the job position responsible for the coordination of the SMCPS Section 504 employment-related compliance efforts.
- G. **Retaliation** means:
1. unfavorable differential treatment imposed by a member of the SMCPS school community upon an employee because that employee has opposed any act or practice which is unlawful under Section 504, or has made a charge, testified, assisted or participated in an investigation, proceeding or other matter pursuant to Section 504; or
 2. being subject to coercion, intimidation or interference by a member of the school community because an employee has opposed any act or practice which is unlawful under Section 504, or has made a charge, testified, assisted or participated in an investigation, proceeding or other matter pursuant to Section 504.
- H. **SMCPS** means St. Mary's County Public Schools.
- I. **Section 504** means Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794, and its implementing regulations codified at 34 CFR Section 104.1 through 104.39.

III. **Procedures**

- A. **Section 504 Employment Discrimination Protections**—Any person who believes that a member of the school community has discriminated against him/her on the basis of disability, harassed, or retaliated against him/her in violation of Section 504 may file a grievance with the Responsible Employee for Section 504 employment-related matters identified below.

- B. **Inquiries**—Any person with an inquiry regarding Section 504 employment-related matters may contact the Responsible Employee identified below.
- C. **Grievance Procedure**—Any person who believes that he or she has been subjected to discrimination, harassment or retaliation on the basis of disability may file a grievance under these procedures.
 - 1. **Required Contents of the Grievance**—A grievance must be in writing, and at a minimum contain:
 - a. the nature of the grievance;
 - b. the facts upon which the grievance is based, including a list of all witnesses;
 - c. the remedy requested;
 - d. the Grievant's signature and the date the grievance is filed.

The grievance must be filed with the Responsible Employee identified below.

- 2. **Timing of the Grievance**—The grievance must be filed as soon as possible, within thirty (30) days of the occurrence, except under extraordinary circumstances.
- 3. **Responsible Employee Investigation**—The first stage of the Section 504 grievance resolution process shall consist of an adequate, reliable, and impartial investigation of the allegations by the Responsible Employee or his/her designee to determine whether SMCPs is in compliance with Section 504.
 - a. **Conduct of the Investigation**—The Responsible Employee or his/her designee will afford the parties the opportunity to present witnesses and other evidence, including verbal and written evidence during the course of the investigation.
 - b. **Timing of the Investigation**—The Responsible Employee or his/her designee will provide a written report of the investigation within (30) business days of receipt of the grievance. An extension of the thirty (30) business day deadline for the submission of the written report of the investigation may apply if necessary as determined by the Responsible Employee. The parties will be notified in writing of the extended time frame.

- c. **Content of the Investigative Report**—The report should include the following information:
- i. A statement of the Grievant's allegations and the remedy sought;
 - ii. A statement of the facts as contended by each party;
 - iii. A list of the witnesses interviewed and the documents reviewed during the investigation;
 - iv. A statement of the facts as determined by the investigator with reference to the evidence to support each fact;
 - v. The investigator's conclusion as to whether the allegations are valid;
 - vi. If the investigator determines that the allegations are valid, the report should include any corrective action recommended or determined by the investigator; and
 - vii. An assurance and description of the steps to be taken if necessary to prevent the recurrence of the prohibited actions and to correct any discriminatory effects on the Grievant and others, if appropriate.

4. **Appeal to Third Party Hearing Examiner**--The second stage of the Section 504 grievance resolution process shall consist of an appeal to an independent third party hearing examiner.

a. **Timing of Appeal Request**—The parties shall have the opportunity to appeal the decision of the Responsible Employee or his/her designee in writing to an impartial third party hearing examiner within ten (10) business days of the date of the Responsible Employee's investigative report. The appeal request must be submitted in writing to the Responsible Employee identified below.

b. **Conduct of Hearing Examiner Appeal**—The parties, including the employee and association representative, will have an opportunity to participate in the appeal. The hearing examiner will review the Responsible Employee's investigative report, as well as any evidence submitted by the parties in conjunction with the Hearing Examiner Appeal, and will respond in writing within thirty (30) days of receiving

the appeal request. An extension of the thirty (30) business day deadline for the submission of the decision on appeal may apply if necessary as determined by the Hearing Examiner. The parties will be notified in writing of the extended time limit. The Hearing Examiner shall either affirm or reverse the decision of the Responsible Employee or his/her designee.

- D. **Responsible Employee**—The Responsible Employee for Section 504 employment-related matters is the Director of Human Resources, 23160 Moakley Street, Leonardtown, Maryland 20650.

- E. **U.S. Department of Education Office for Civil Rights Complaint**—The SMCPS Section 504 grievance procedures are voluntary, and the Grievant has the right to file a complaint at any time with the U.S. Department Office for Civil Rights (OCR) without going through the SMCPS grievance process.