

# Section 504 Guide

Section 504 of The Rehabilitation Act of 1973

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This manual provides guidelines for St. Mary's County Public Schools (SMCPS) staff in determining disability eligibility under Section 504 of the Rehabilitation Act of 1973. Definitions related to eligibility determination are provided, as are the legal requirements for conducting a Section 504 evaluation.

### Section 504 Defined

Section 504 of the Rehabilitation Act of 1973 is a federal civil rights statute that prohibits discrimination against persons with disabilities in programs receiving federal financial assistance. The primary purpose for the law is to ensure that qualified students with impairments/disabilities do not experience discrimination. As St. Mary's County Public Schools (SMCPS) receives federal funds, the school system is subject to the provisions of the Rehabilitation Act of 1973. In particular, SMCPS is subject to the following provision of the law commonly known as Section 504.

*“No otherwise qualified individual with a disability in the United States, as defined in section 705(8) of this title, shall, solely by reason of her or his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by an Executive agency or by the United States Postal Service....” -29 U.S.C.794(a) (1973).*

Under Section 504, SMCPS is responsible for the identification, evaluation, and determination of eligibility for the purpose of providing access to appropriate educational services through a written accommodation plan. This plan includes modifications and/or services as deemed necessary to meet a student's educational needs as adequately as the needs of nondisabled students are met.

#### *Special Note*

Prior to considering a student for Section 504 eligibility and accommodations, there should be a record of interventions that have already been attempted in the classroom. Many students have “conditions” that can be accommodated in the general education classroom without a formalized plan. Formal accommodations may not be needed with effective instruction and a classroom instructor who differentiates to meet the needs of the students. Students whose learning needs can be met through informal accommodations do not need a 504 plan. Instead, they should continue to be reviewed by the Pupil Services Team as a means of instructional and intervention problem-solving.

## **Eligibility Determination**

### **Referral**

A student who has a suspected disability that does not meet special education eligibility may be referred for a Section 504 evaluation by the student's parent(s)/legal guardian(s) or school staff member. The student is referred to the 504 Team Chairperson for a Section 504 evaluation. The parent(s)/legal guardian(s) are notified of the referral and a meeting is scheduled to review all relevant information pertaining to the student's suspected disability and any educational concerns.

### **Conducting the Section 504 Evaluation Meeting**

Section 504 regulations require that decision-making under Section 504 be conducted by a "group of persons," knowledgeable about the child, the meaning of the evaluation data, and school resources. When Section 504 eligibility is being considered, principals are responsible for staffing the 504 Team with individuals who meet Section 504 requirements. Membership of the team will vary depending on the impairment under consideration. For example, the school nurse and/or physical therapist may be a required member when a physical or medical impairment is being considered. Likewise, a school psychologist would be a required member when a mental impairment is being considered. The team reviews existing student information such as aptitude and achievement assessments; report cards and teacher reports; observations; educational and health records; evaluations of adaptive behavior; medical, psychological, and developmental reports; and results of IEP decisions, if appropriate. The team provides the parent(s)/legal guardian(s) an opportunity to discuss the child's impairment and explains and follows the Section 504 eligibility requirements.

### **In order to be found eligible under Section 504, there must be evidence that:**

1. the student has a physical or mental impairment;
2. the physical or mental impairment affects a major life activity; and
3. the physical or mental impairment substantially limits a major life activity; the substantial limitation is determined by comparing the student's performance with the major life activity to that of an average nondisabled student of the same age or grade level in the general population.

### **Determining whether the student has a physical or mental impairment**

Section 504 defines a "physical or mental impairment" as "any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin and endocrine; or any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities."

### **Determining whether a major life activity is affected by the impairment**

Section 504 defines "major life activities" as "functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, standing, lifting,

bending, reading, concentrating, thinking, and communicating.”

### **Determining whether the physical or mental impairment substantially limits a major life activity of the student**

American Disabilities AADAAA revisions require that the consideration of a substantial limitation be “broadly interpreted.” The basic definition of disability has not changed; however, the intent of eligibility has been clarified such that “an impairment that substantially limits a major life activity” should be broadly interpreted. A student must still have an impairment that substantially limits a major life activity. The impairment, however, does not have to prevent or severely restrict the student from performing the major life activity. The team must consider available documentation concerning the major life activity in question and what limitations have an impact on that activity.

### **Substantial Limitation**

If a student has a disability, he or she must be substantially limited by it. The data the Section 504 team is considering must show that the student’s disability is so great that informal, routine accommodations in the classroom designed to diversify instruction are not enough. The impairment does not need to, “prevent, or significantly or severely restrict” the performance of a major life activity to be substantially limiting. This determination does not require extensive analysis of information. In order to evaluate for a substantial limitation, Section 504 Teams should ask the following question.

*When compared to his same age and grade peers, does the student require accommodations that are substantially greater than what is typically provided in a classroom?*

Once the team has established that the student has a disability, and it is substantially limiting, the team must establish what if any major life activity is impacted. 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, standing, lifting, bending, reading, concentrating, thinking, and communicating.

### **Mitigating Measures**

Mitigating measures are as follows: medication; medical supplies, equipment, or appliances; low-vision devices (not including ordinary eyeglasses or contact lenses); prosthetics (including limbs and devices); hearing aids and cochlear implants or other implantable hearing devices; mobility devices; and oxygen therapy equipment and supplies. Section 504 Teams are no longer allowed to consider the effects of mitigating measures when determining if a student has a disability. This means when considering if a student has a disability, the team must ignore the effects of anything in place, with the exception of ordinary eyeglasses or contact lenses. An example would be medication for an individual with Attention-Deficit/Hyperactivity Disorder (A-D/HD). When deciding if the student qualifies, the Section 504 Team is to disregard the presence of any medication. Instead, based on the data the team has illustrating the student’s performance in school to that point, does he or she meet the requirement of being substantially limited?

### **Disabilities that are Episodic or in Remission**

Impairments that are episodic or in remission do qualify as a disability under Section 504 if they

substantially limit one or more of a student's major life activities when active.

### **Temporary Disabilities**

Temporary and non-chronic impairments with an actual or expected duration of six months or less may be considered to be a disability under Section 504. For example, a broken leg is not commonly regarded as a disability, however, in rare circumstances the degree of the limitation and its expected duration may be substantial.

### **Special Considerations**

1. Attention deficit disorders: When considering whether a student has attention deficit disorder or attention deficit disorder with hyperactivity, a school psychologist must be a member of the team.
2. Temporary disabilities: Under Section 504, the proper eligibility inquiry is not whether a disability is temporary or permanent. The issue of whether a temporary physical or mental impairment is significant enough to be a disability must be addressed on a case-by-case basis, taking into consideration either the duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity of the student.
3. Highly able students: Because a student is highly able and enrolled in Advanced Placement, Honors, or International Baccalaureate-level classes does not automatically preclude Section 504 eligibility. Highly able students may have physical or mental impairments that substantially limit a major life activity other than learning. Any accommodations provided to such a student should "level the playing field," not provide the means by which the student becomes eligible for Advanced Placement or Honors courses. A highly able student should not be automatically denied accommodations under Section 504. This student might be eligible if the student's disability prohibits him/her from accessing appropriate-level courses.
4. Students attending private schools: SMCPs 504 Teams should not conduct Section 504 evaluations for non-SMCPs students. Parent(s)/legal guardian(s) who request Section 504 evaluations for such students should be directed to discuss their concerns with the private school administrator and told should they choose to enroll a student in SMCPs, the student's potential Section 504 eligibility will be considered.
5. Assistive Technology: A school system must purchase technology determined to be a necessary accommodation to a student's 504 plan; however, the 504 Team should consider an Assistive Technology Assessment prior to making technology equipment a part of the accommodation plan.

### Developing a Section 504 Plan

This section provides guidelines for developing a Section 504 plan. When a student is determined

eligible under Section 504, the Section 504 Team develops a Section 504 plan. This legally binding plan outlines the accommodations for the unique needs of a student as a result of his/her impairment. The plan is a statement of the required accommodations and services that SMCPS will provide to the student.

The principal is responsible for staffing the school's Section 504 Team with individuals who meet the Section 504 requirements. Section 504 regulations require that decision making under Section 504 be made by a "group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and placement options." The team must include:

- principal or designee,
- teacher(s) who are or who will be working with the student, and additional staff who may be appropriate, such as the school psychologist, school counselor, pupil personnel worker (PPW), school nurse, and any other persons responsible for the plan's implementation. For example, if the student's impairment is asthma, the school nurse would be a required member of the team. The parent(s)/legal guardian(s) is also invited to participate in the development of the 504 plan.

### **SMCPS Forms:**

#### Initial Evaluation/Eligibility

- ✓ Section 504 - Meeting Notice and Invitation
- ✓ Parent Rights
- ✓ Section 504 - Eligibility
- ✓ Section 504 - Plan
- ✓ Section 504 - Manifestation Determination Review, if needed
- ✓ Request for Transportation - 504 Students, if needed (PS 167)

#### Periodic Review

- ✓ 504 Student Review - Data Collection form (PS 309)

#### Annual Review

- ✓ Section 504 - Meeting Notice and Invitation
- ✓ Parents Rights
- ✓ Section 504 - Plan
- ✓ Request for Transportation - 504 Students, if needed (PS 167)

In preparation for developing the plan, the team should review the student's current information, including, but not limited to:

- report card data;
- teacher reports;
- school-based testing;

- curriculum-based assessments;
- formal evaluations;
- current health records and/or medical updates;
- documentation of response to interventions, including functional behavioral assessments (FBA), behavior intervention plans (BIP), and behavior contracts;
- previous interventions;
- and oral and written documentation of observations.

### **Writing the Section 504 Plan**

The plan is divided into two major sections:

Part I: Background Information

Part II: Section 504 Plan

#### **Part I: Background Information**

The date the student was determined eligible by the 504 Team committee should be recorded on each plan. The plan should identify the following:

- Specific impairment identified at the eligibility meeting.
- Major life activity that is substantially limited by the impairment.
- Educational needs identified.

#### **Part II: Section 504 Plan**

The plan may include accommodations, program modifications, instructional approaches, and the use of supplemental services that afford the student an opportunity to benefit from programs and activities to the same extent as students without disabilities. Any recommended accommodations should do the following:

- Relate to the area of impairment.
- Reflect the unique needs of the student.
- Enable the student to have an opportunity equal to that of his/her nondisabled peers to learn or otherwise perform, depending on the disability; be reasonable for the student to have equal access to the curriculum, and an equal opportunity to demonstrate achievement.
- Be specific enough in description to indicate when and where the plan is to be implemented (location) and indicate the person(s) responsible for implementation.

Accommodations need to be directly related to the student's impairment. Additional accommodations not related to the impairment that limits the student's opportunity to access education and/or activities should not be incorporated in the 504 plan but may be provided by the teacher(s) as a matter of best practice.

When developing a 504 plan, the team must recommend accommodations that are supported with documented evidence of need based on the substantial limits of the student's mental or physical impairment. Additionally, the team should identify testing accommodations that are provided on a regular instructional basis and determine whether the accommodations should be provided during any county or state assessments. Accommodations must be related to the area of the student's

mental or physical impairment.

### **Concluding the Meeting**

The team concludes the meeting with the following:

- Identifying a review date, within one year.
- Identifying a case manager.
- Obtaining signature from the parent(s)/legal guardian(s). If the parent(s)/legal guardian(s) refuses to sign the initial plan, it cannot be implemented; however, the team should develop and implement any best practice strategies and always be available for the parent(s)/legal guardian(s) to revisit the decision.
- Providing parent(s)/legal guardian(s) with the Due Process Safeguards Information if a second copy is desired by the parent(s)/legal guardian(s)

### **Functional Behavioral Assessment**

A Functional Behavioral Assessment (FBA) is a type of psychological evaluation that examines the relationship between four things:

- The function of the behavior
- Antecedent (trigger) events
- Consequences
- The behavior in question

Three Functions of a behavior are:

- Seeking
- Avoiding
- Sensory Stimulation

Behavior occurs because of one or a combination of the three functions. The information from a FBA is used to create and or revise the behavioral interventions listed on the 504 accommodation plan. Replacement behaviors are ones that serve the same function as the inappropriate behavior. For example, a student leaves class to avoid classwork. Providing the student with the ability to earn a “homework pass” serves the same function of avoidance but in a more appropriate behavior.

### **Case Management**

Schools that identify students as eligible under Section 504 are accountable for monitoring and maintaining the accommodations provided within the 504 Plan. Schools are expected to have a 504 Chairperson in place who will be responsible for the following:

- Maintaining student 504 documents in the Special Programs online platform
- Ensuring that the 504 program is checked/unchecked in eSchool for each student, as appropriate, and the start and end dates are current
- Facilitate the articulation of students with 504 plans from one level to another - grade level to grade level, school to school, and semester to semester
- Review annually all 504 Plans for accuracy and efficacy
- Provide staff with periodic in-service on Section 504 as needed
- Participate in system-wide Section 504 training opportunities

- Ensure that implementers of the 504 Plan receive, sign for, and are implementing the 504 Plan

### **Progress Review**

The 504 Team must review each 504 annually. Documentation of medical conditions should be updated every three years. When reviewing the 504 Plan the 504 Team should consider the following:

- Does the identified disability still exist? The 504 Team should look at all available data to determine if the disability still exists, and if additional data is necessary to support the team's decision.
- Does the disability continue to “substantially limit” a major life activity that impacts the student's access to education? If so, how? The 504 Team must consider the student's performance in his/her school based on current data. In order to be considered “substantially limiting,” the disability must continue to present a barrier to the student's disability to access the same educational opportunities as those afforded to nondisabled students.
- Does the 504 Plan continue to be appropriate? The classroom teacher(s) needs to complete the 504 Student Review - Data Collection form, PS 309, to provide feedback on a student's classroom performance and determine their current needs. Such information is helpful in determining which accommodations are appropriate, which need to be revised, and which need to be deleted.

### **Removal of a Section 504 Plan**

The 504 Team must conduct a re-evaluation before determining that a student no longer qualifies for a Section 504 Plan.

- The team must review information from a variety of sources when determining whether a student continues to qualify for services under Section 504.
- The team must address whether the student, without formalized accommodations, is the student with a 504 Plan able to equally access SMCPS' educational programs and activities as compared to the average student in the general population.
- If the 504 Team determines that the student no longer qualifies for services under Section 504, they must reflect this decision and the evidence supporting their decision on the Section 504 Plan in Special Programs and remove the 504 flag from the student's eSchool record. Minutes from the 504 meeting, reflecting the student's removal from Section 504 services, must be sent to the parent(s)/legal guardian(s).

All decisions to remove a 504 plan should be based on the review of documented evidence. Referencing the three qualifying criteria and the follow-up questions listed below, the 504 Team should briefly describe the reasons for terminating the student's Section 504 plan.

#### **Follow-up questions**

1. Does the student have a physical or mental impairment/disability (a history of having a physical or mental impairment/disability) that *substantially* limits one or more major life activities?

2. Without formalized accommodations, is the student with a 504 plan able to access educational programs and activities as compared with the average person in the general population?

## **Discipline Procedures For Students With Section 504 Plans**

### **Overview**

Generally speaking, students with Section 504 plans are entitled to the same protections in the disciplinary context as those provided for under the Individuals with Disabilities Education Act (IDEA).

### **Suspension**

#### **10 Days or Less**

A student with a Section 504 Plan may be disciplined in the same manner as a general education student, including being suspended for ten (10) or less consecutive school days.

Please contact the Director of Student Services before imposing any suspension in the case of a Pre-K through 2nd Grade student with a Section 504 Plan.

### **Extended Suspension/Expulsion**

#### **10 Days or More (Significant Change in Placement)**

If a student with a Section 504 Plan is suspended or expelled for more than ten (10) consecutive school days, it is considered a “significant change in placement” under Section 504.

### **Pattern Rule**

A series of suspensions that are each ten (10) days or fewer in duration may create a pattern of exclusion that also constitutes a significant change in placement. The determination of whether the series of suspensions creates a pattern of exclusion that constitutes a significant change in placement must be made on a case-by-case basis, and take into consideration the following factors: 1) the length of each suspension during the **current** school year; 2) the proximity of the suspensions to one another; and 3) the total amount of time that the student has been excluded from school.

### **Re-Evaluation Meeting Requirement (whenever there is a Significant Change in Placement)**

Before a student with a Section 504 Plan can be suspended for more than ten (10) consecutive school days, or subjected to a pattern of shorter suspensions adding up to more than ten (10) school days, the school 504 Team must conduct a re-evaluation of the student. The Parent or Guardian must be given notice, and receive an invitation to participate in the re-evaluation meeting.

### **Conduct of Re-Evaluation Meeting**

The re-evaluation meeting must be conducted by the student’s Section 504 Team. The Team must consist of a group of individuals who are knowledgeable about the student, and must consider evaluation data that is recent enough to afford an understanding of the student’s current behavior.

As part of the re-evaluation meeting process, the Team must determine whether the student's conduct was a manifestation of his/her disability.

### **Manifestation Determination**

In making the manifestation determination, the 504 Team must decide whether the student's conduct was 1) caused by, or did it have a direct and substantial relationship to the student's disability; or 2) the direct result of the school's failure to implement the student's Section 504 Plan? If the 504 Team determines that the answer to either question is yes, the student's misconduct must be treated as a manifestation of his/her disability, and the student may not be suspended/expelled for more than ten (10) school days. The 504 Team should also modify the student's Section 504 Plan and accommodations, as appropriate, and return the student to his/her current placement. However, if the 504 Team determines that the student's conduct was not a manifestation of his/her disability, the student may be disciplined in the same manner as a student without a disability, including possibly being suspended/expelled for more than ten (10) consecutive school days.

### **Special Considerations**

#### **Firearms**

Similar to the IDEA, a Section 504 student who carries a firearm to or possesses a firearm at school, on school premises, or to or at a school function may be removed to an interim alternative educational setting (IAES) for not more than forty-five (45) school days, without regard to whether the conduct is determined to be a manifestation of the child's disability. However, if the 504 Team determines that the student's conduct was not a manifestation of his/her disability, the student may be disciplined in the same manner as a student without a disability.

#### **Other Weapons**

Section 504 does not expressly provide that a student who carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function, **other than a firearm**, may be removed to an interim alternative educational setting (IAES) for not more than forty-five (45) school days, without regard to whether the conduct is determined to be a manifestation of the child's disability. Please contact the Director of Student Services before attempting to place such a student in an alternative educational setting, or requesting an extended suspension/expulsion conference if the 504 Team determines the conduct was a manifestation of the child's disability. However, if the 504 Team determines that the student's conduct was not a manifestation of his/her disability, the student may be disciplined in the same manner as a student without a disability.

#### **Serious Bodily Injury**

Section 504 does not expressly provide that a student who inflicts serious bodily injury upon another person while at school, on school premises, or at a school function, may be removed to an interim alternative educational setting (IAES) for not more than forty-five (45) school days, without regard to whether the conduct is determined to be a manifestation of the child's disability. Please contact the Director of Student Services before attempting to place such a student in an alternative educational setting, or requesting an extended suspension/expulsion conference if the 504 Team determines the conduct was a manifestation of the child's disability. However, if the

504 Team determines that the student's conduct was not a manifestation of his/her disability, the student may be disciplined in the same manner as a student without a disability.

### **Illegal Drugs/Controlled Substance**

Section 504 does not expressly provide that a student who possesses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function, may be removed to an interim alternative educational setting (IAES) for not more than forty-five (45) school days, without regard to whether the conduct is determined to be a manifestation of the child's disability. Please contact the Director of Student Services before attempting to place such a student in an alternative educational setting, or requesting an extended suspension/expulsion conference if the 504 Team determines the conduct was a manifestation of the child's disability.

### **Current Illegal Use of Drugs or Alcohol**

In certain circumstances, a student with a Section 504 Plan who is **currently** illegally using drugs or alcohol may be disciplined for the use or possession of drugs or alcohol, respectively, in the same manner as students without a disability. The Office of Civil Rights has defined the term current illegal use of drugs as having "occurred recently enough to justify a reasonable belief that a person's drug use is current or that continuing use is a real and ongoing problem." Possession, standing alone, may not suffice. Please contact the Director of Student Services before requesting an extended suspension/expulsion for such a student.

### **Educational Services**

There is no express right to receive educational services under Section 504 during any period of suspension or expulsion, except to the extent they are required for students without disabilities under Maryland law.

### **Short-Term Suspensions**

Under Maryland law, students who are suspended for three (3) school days or less must be afforded the opportunity to complete the academic work they miss during the suspension period without penalty; and be provided with the contact information for the staff member who will be responsible for ensuring that the foregoing requirement is met. All other aspects of the process for suspended students receiving missed assignments, completing missed assignments, and making up tests shall be identical with each school's established policy and practice for makeup work in the event of any other excused absence.

### **Suspensions of More than Three (3) School Days/Expulsions**

Students who are suspended for more than three (3) school days or expelled, but not placed in an alternative education program, shall receive daily classwork and assignments from each teacher, which shall be reviewed and corrected by teachers on a weekly basis and returned to the student. In addition, each principal shall assign a school staff person to serve as the liaison between the teachers and the student while on out-of-school suspension or expulsion, and to communicate weekly with the student and his/her parent about classwork assignments and school-related issues by phone or email.

### **Suspensions of More than Ten (10) Days/Expulsions**

If a student is suspended for more than ten (10) school days or expelled, the student must be provided comparable educational services and behavioral support services designed to facilitate the student's return to his/her regular academic program, which may include: positive behavior interventions and supports; a behavior intervention plan; a referral to a student support team; a referral to an individualized education program team; and/or a referral for appropriate community-based services.

### **Appeal Rights and Student Placement during the Appeal Process**

If a Section 504 student's parent(s)/legal guardian(s) disagree with a decision regarding change in placement for disciplinary purposes, the parent(s)/legal guardian(s) may appeal the determination and/or placement. If an appeal is requested, the procedures set forth in the Internal Grievance Procedures section will be followed.

### **Students Not Previously Identified**

If a student not previously identified as disabled is suspended for more than ten (10) school days per school year or expelled and there is reason to believe that the student may have a disability under Section 504, then the student shall be immediately referred to the 504 Chairperson for a 504 evaluation. The team shall request parent(s)/legal guardian(s) permission to initiate, within ten (10) days of the exclusion, an evaluation to determine whether the student is disabled. The disciplinary action can be implemented before the team reaches its decision; however, if the student is out of school due to an extended suspension, parental permission for a Section 504 evaluation will be requested and a subsequent evaluation should be completed expeditiously to determine if a Section 504 Plan is warranted.

### **Internal Grievance Procedures – Grievances, Investigations, Notice**

It is the policy of the SMCPS not to discriminate on the basis of disability. SMCPS has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any discrimination and harassment prohibited by Section 504 of the Rehabilitation Act of 1973 (20 U.S.C. 794). Section 504 prohibits discrimination on the basis of disability in any program or activity receiving Federal financial assistance. Discrimination and Harassment on the basis of disability is conduct relating to an individual's disability that creates an intimidating, hostile, or offensive educational environment or substantially or unreasonably interferes with an individual's education or is otherwise sufficiently serious to limit a student's educational opportunities.

Any person who believes he or she has been subjected to discrimination and harassment on the basis of disability may file a grievance under this procedure. This grievance procedure applies to complaints alleging disability discrimination carried out by students, employees, or third parties. This grievance procedure is meant to provide a prompt and equitable resolution of a complaint. It is against the law for SMCPS to retaliate against anyone who files a grievance or cooperates in the investigation of a grievance.

A grievance must be in writing and at minimum contain (1) the nature of the grievance; (2) the facts upon which the grievance is based, including a list of all witnesses; (3) the remedy requested; and (4) the complainant's signature and the date the grievance is filed. The written grievance must

be filed with the Section 504 Coordinator in the SMCPS' Department of Student Services at the following address:

Section 504 Coordinator  
St. Mary's County Public Schools  
23160 Moakley Street  
Suite 104  
Leonardtown, MD 20650

Grievances must be filed with the Section 504 Coordinator in the SMCPS' Department of Student Services as soon as possible, within thirty (30) calendar days of the occurrence, except for extraordinary circumstances.

The Section 504 Coordinator or a designee will conduct an adequate, reliable, and impartial investigation of the allegations to determine whether SMCPS is in compliance with Section 504. The parties will have an opportunity to present witnesses and other evidence, including verbal and written evidence, during the course of the investigation. The Section 504 Coordinator or designee will provide a written report of the investigation within thirty (30) school days of receipt of the grievance. The report should include the following information:

- A statement of the complainant's allegations and the remedy sought;
- A statement of the facts as contended by each party;
- A list of the witnesses interviewed and the documents reviewed during the investigation;
- A statement of the facts as determined by the investigator with reference to the evidence to support each fact;
- The investigator's conclusion as to whether the allegations are valid; and
- If the investigator does determine that the allegations are valid, the report should include any corrective action recommended and/or determined by the investigator.
- 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 complainant and others, if appropriate.

An extension of the thirty (30) school day deadline for the submission of the written report of the investigation may apply if necessary as determined by the Section 504 Coordinator. The parties will be notified in writing of the extended time frame.

The parties shall have an opportunity to appeal the decision of the Section 504 Coordinator or designee in writing to an impartial third-party hearing examiner within ten (10) school days of the date of the written report of findings. The appeal should be submitted in writing to the Section 504 Coordinator. The parties including the parent or guardian or other representative, will have an opportunity to participate in the appeal. Following an appeal, the hearing examiner will review the appeal along with the written report of findings and then respond in writing within thirty (30) school days of receiving the appeal. The hearing examiner shall either affirm or reverse the decision.

An extension of the thirty (30) school day deadline for the submission of the decision on appeal may apply if necessary as determined by the Hearing Officer or designee. The parties will be notified in writing of the extended time limit.

The Complainant has the right to file a complaint at any time with the U.S. Department of Education Office for Civil Rights (OCR) without going through the SMCPS internal grievance procedures.

## **OVERVIEW OF THE 504 PROCESS**

### **Step 1. Refer Student to 504**

- Staff member completes the Pupil Services Team Referral and submits it to the 504 Chairperson.
- The 504 Chairperson or designee schedules the 504 meeting and sends a Section 504 - Meeting Notice and Invitation and the Parents Rights document to the parent(s)/legal guardian(s).
- The 504 Chairperson or designee provides the parent(s)/legal guardian(s) a copy of the documentation to be reviewed five days prior to the scheduled meeting.

### **Step 2. Hold the 504 Meeting and Identify Concerns**

- The 504 Chairperson provides introductions and sets meeting expectations.
- Allow the person initiating the 504 referral to review/discuss the reason for the referral and present documentation (i.e., medical diagnosis, evaluation report) relevant to determining the existence of a disability.

### **Step 3. Inventory Student Strengths and Challenges**

- Discuss and record the student's strengths and challenges as well as how the disability substantially limits the student's access to learning. This information is valuable to the development of accommodations.

Essential Questions:

- What are some things that this student does well or enjoys doing around the classroom?
- Please tell us a few of the student's strengths, challenges, and positive qualities that might be useful in designing accommodations for him or her.

### **Step 4. Review Specific Student Data**

- To get a comprehensive view of the student's achievement, attendance, and behavioral concerns.

Essential Questions:

- Where is the student currently functioning according to the information provided?
- Is or has attendance been an issue?
- Given the information shared, does the student have a physical or mental impairment which is substantially limiting in one or more major life activities?

### **Step 5. Review Previous Interventions**

- To review previous interventions for the purposes of drafting accommodations.

Essential Question:

- What were the results of your previous interventions in terms of successes and challenges?

### **Step 6. Design a 504 Plan**

- Select at least one accommodation to address each of the targeted concerns.
- Review the intervention(s) with the teacher to ensure that the plan is acceptable.

Essential Questions:

- What accommodations would best meet this student's needs?
- Do the purposed accommodations relate directly to the area of impairment?
- Will the accommodations enable the student to have equal access to the learning opportunities?
- Does the plan specify (when, how, where, by whom) the accommodation(s) is/are to be implemented?
- Are testing accommodations identified for regular classroom instruction and county or state assessments, as appropriate?

### **Step 7. Progress Monitoring**

This step is to be utilized each time a currently active 504 Plan is reviewed by the team. Prior to the meeting, staff members should complete the 504 Student Review - Data Collection form (PS 309). Each time the 504 Plan is reviewed and updated, a new Section 504 - Plan) should be completed. Additionally, the 504 minutes should reflect the meeting discussion and sent to the parent(s)/legal guardian(s).

Essential Questions:

- Does the monitoring method document accurate implementation of the 504 Plan?
- Does the student still demonstrate evidence of a disability?
- Does the disability substantially limit one or more major life activities?
- Has there been any change in the student's performance?
- Is the student using the accommodations provided?
- Should the accommodations be modified?