

PROCEDURE TITLE: <b>COMPLAINT PROCEDURES FOR VIOLATIONS OF THE AMERICANS WITH DISABILITIES ACT; SECTION 504 OF THE REHABILITATION ACT OF 1973 AND THEIR IMPLEMENTING REGULATIONS</b>		
ADOPTION/EFFECTIVE DATE: October 12, 2015	MOST RECENTLY AMENDED::	MOST RECENTLY REAFFIRMED:
POLICY/PROCEDURE MANUAL SUMMARY CATEGORY:		

## I. Purpose

The purpose and scope of these procedures are as follows.

- A. Provision of information regarding the ADA and Section 504.
- B. Adoption of complaint procedures for the prompt and equitable resolution of complaints which allege a violation of the ADA, Section 504 and their implementing regulations.
- C. Designation of persons responsible to coordinate efforts to comply with the ADA or Section 504 and their implementing regulations.

## II. Definitions

- A. **ADA** means the Americans With Disabilities Act codified at 20 United States Code (U.S.C.) Section 12101, *et seq.*; and its implementing regulations codified at 29 Code of Federal Regulations (“C.F.R.”) 1630.1 to 1630.16 and 28 CFR Section 35.101 to 35.140.
- B. **Section 504** means Section 504 of the Rehabilitation Act of 1973 codified at 29 U.S.C. Section 794 and its implementing regulations codified at 34 CFR Section 104.1 to 104.39.
- C. **Complainant** means any person who files a complaint under these procedures.
- D. **Designated Person** means the person holding the job position responsible for the coordination of these procedures either in whole or in part.

E. **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 any academic, extra- curricular, research, occupational training, or other education program or activity operated by HCPS; or,
2. 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 HCPS; or,
3. being subject to harassment as defined below.

F. **Disability 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 used as the basis or a condition for decisions affecting a student's or other person's participation in academic programs, services or activities provided by HCPS.
2. being subject to conduct by a member of the school community that is based on the person's disability, is severe or pervasive and is objectively offensive so that it deprives a student with a disability or other person with a disability access to, participation in, or benefit from programs, services or activities provided by HCPS.
3. 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.
4. being subject to conduct by a 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.

- G. **Complaint** means a written or verbal statement which sets forth the nature and basis of an allegation that a person has been discriminated against; subject to retaliation, or unlawfully denied a reasonable accommodation, by a member of the school community in violation of the ADA or Section 504.
- H. **Days** means calendar days.
- I. **HCPS** means Harford County Public Schools.
- J. **Member Of School Community** means:
1. A Board of Education member.
  2. An employee of Harford County Public Schools (“HCPS”)
  3. An HCPS volunteer.
  4. A student.
  5. A person who participates in activities of HCPS or is present on HCPS grounds or premises and is under the authority or control of HCPS.
- K. **Retaliation** means:
1. unfavorable differential treatment imposed by a member of the HCPS school community upon a person because that person has opposed any act or practice which is unlawful under the ADA or Section 504 or has made a charge, testified, assisted or participated in an investigation, proceeding or other matter pursuant to the ADA or Section 504; or
  2. being subject to coercion, intimidation or interference by a member of the school community because a person has opposed any act or practice which is unlawful under the ADA or Section 504 or has made a charge, testified, assisted or participated in an investigation, proceeding or other matter pursuant to the ADA or Section 504.

### III. Procedures

#### A. ADA or Section 504 Protections

1. Employment Discrimination – Any person who believes a member of the school community has discriminated against him/her on the basis of disability or retaliated against him or her in violation of the ADA or Section 504 with respect to matters relating to employment may file a complaint with the Designated Person for ADA/Section 504 employment discrimination identified herein.
  
2. Programs; activities; services accessibility discrimination
  - a. Any person who believes a member of the school community has discriminated against him or her or retaliated against him or her on the basis of disability in violation of the ADA/Section 504 with respect to access to HCPS programs, activities or services may file a complaint with the Designated Person for access to services, programs and activities identified herein.
  
  - b. Any person who believes a member of the school community has discriminated or retaliated against him/her on the basis of disability against him or her in violation of the ADA/Section 504 with respect to physical accessibility to HCPS programs, activities or services may file a complaint with the Designated Person for physical accessibility to programs, activities or services identified herein.
  
3. Student Instruction/Services

Any complaints regarding the identification, evaluation or

educational placement of a student under Section 504 are addressed under separate procedures issued by the Office of Student Services and should be submitted to the Director of Student Services.

### **B. Inquiries**

Any person with an inquiry regarding the ADA or Section 504 may contact the persons designated below.

### **C. Complaint Procedure**

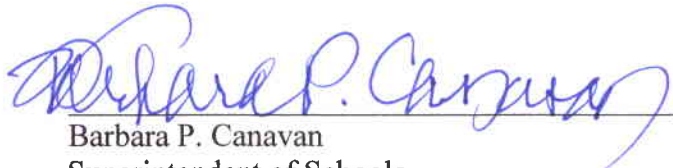
1. A Complainant shall file a complaint within ninety (90) days of the date the alleged act of disability discrimination occurred.
2. The Designated Person shall attempt to informally resolve a complaint within thirty (30) Days of the receipt of same.
3. If an informal resolution cannot be reached, the Designated Person shall issue a written decision setting forth in concise fashion his /her decision regarding the complaint and the reasons for the decision. Such written decision shall be issued within sixty (60) days of receipt of the complaint.
4. All decisions of the Designated Person may be appealed to the Superintendent pursuant to section 4-205 of the Education Article of the Maryland Annotated Code.
5. The complaint procedure described herein is in addition to any other administrative or judicial action the Complainant may pursue.

### **D. Designated Persons**

1. Employment Discrimination – Assistant Superintendent for Human Resources, 102 South Hickory Avenue, Bel Air, Maryland, 21014, at 410-588-5226; or,

2. Service, Program or Activity Discrimination (including complaints regarding physical accessibility or architectural barriers) – Risk Manager, 102 South Hickory Avenue, Bel Air, Maryland, 21014, at 410-588-5286, or Director of Student Services, 102 South Hickory Avenue, Bel Air, Maryland, 21014, at 410-588-5334; or,
3. Identification, Evaluation of or Educational Placement of Students Under Section 504 – Director of Student Services, 102 South Hickory Avenue, Bel Air, Maryland, 21014, at 410-588-5334.

Approved By:

  
Barbara P. Canavan  
Superintendent of Schools

10/12/15  
Date

Procedure Action Dates					
ACTION	DATE	ACTION	DATE	ACTION	DATE
Adopted	10-12-2015				

Responsibility for Procedure Maintenance & References	
LAST EDITOR/DRAFTER NAME: Patrick P. Spicer, Esquire	JOB POSITION OF LAST EDITOR/DRAFTER: General Counsel
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DESIGNEE NAME:	DESIGNEE POSITION:
PROCEDURE NUMBER PRIOR TO NOVEMBER 1, 2005:	

## REFERENCES<sup>1</sup>

References are set forth in the procedure.

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<sup>1</sup> All references are to specific federal or Maryland statutes or regulations. References are provided for convenience and informational purposes only and are not to be considered as exhaustive or as precluding Harford County Public Schools from relying upon any other statutes or regulations in support of a policy.