

DISCRIMINATION UNDER SECTION 504

The McDowell County Board of Education ensures that its policies, practices, procedures and working environment are free from discrimination on the basis of disability. The Board will not tolerate disability discrimination, which is a violation of state and Federal law. Any individual, including a parent, student or employee, may file a grievance if it is alleged that a policy, practice, procedure, or direct service provided by the Board has resulted in a violation of Section 504 or the Americans with Disabilities Act (ADA). The Board prohibits any retaliation or reprisal against individuals who file complaints or participate in the complaint process.

Definitions

Grievance - shall mean a complaint alleging a policy, procedure, practice, or direct service of the BOARD is in violation of Section 504 and/or the ADA.

Grievant - shall mean any individual, including a parent, student or employee, who files a grievance alleging that a policy, practice, procedure, or direct service provided by the Board has resulted in violation of Section 504 and /or of the ADA.

Disability- shall have the same meaning as is provided in the ADA, as amended.

Level 1: Section 504/ADA Director. A grievant may file a written grievance by writing a letter to the Board's Section 504/ADA Director, hereafter, the "Director:"

- 1) Stating the nature of the grievance; including the alleged violations of Section 504 or ADA and the facts upon which the allegations are based;
- 2) Stating the remedy requested; and
- 3) Bearing the signature of the grievant and the date filed.

The Level 1 written grievance must be filed with the Director within 120 calendar days of the event or incident complained of, or within 120 calendar days of the date the grievant became aware of such event or incident. If possible, the Director will resolve the grievance informally with the cooperation and agreement of the parties involved. If the parties cannot agree on a resolution within 15 days of receipt of the written grievance, the Director will conduct an adequate, reliable and impartial investigation as follows:

Within 10 days of receipt of the written grievance: The grievant will be notified in writing of receipt of the grievance and will be requested to submit any additional information relevant to the investigation, including submission of documents and other evidence, and submission of names of relevant witnesses. School employees directly involved in the alleged event or incident will be informed in writing of the grievance and will be requested to submit relevant documents and other evidence, including names of relevant witnesses. Parties will be given 20 days to submit documentation. The Director will conduct an investigation, which will consist of a review of all documentation submitted and interviews of individuals having information relevant to the investigation, including those witnesses named by the parties. The Director will issue a report within 90 calendar days of receipt of the written grievance containing: 1) a statement of the allegations, 2) the remedy sought by the grievant, 3) the individuals interviewed and documents reviewed; 3) a statement of the findings of fact, 4) a statement of the conclusions of the investigation, and 5) the actions to be taken to correct any violations found and to prevent the recurrence of such violations. With the agreement of the complainant and the county superintendent, the timeline for completing the investigation and issuing the report may be extended. A copy of the Director's report will be provided to the grievant, the office director or school principal in the affected office or school, and the central office administrator having responsibility for the affected office or school, if any.

Level 2: Superintendent. A party not satisfied with the conclusions of the report from Level I may make a written appeal to the county superintendent within 30 calendar days of the issuance of the Director's report. Within 10

working days of receipt of the request for a review of the Director's report, the county superintendent or designee shall notify all parties of the appeal and of their right to submit additional relevant information for consideration. The county superintendent or designee shall review the Director's report, review any additional information submitted and issue a written decision within 45 calendar days of receipt of the request for a review of the Director's report. The decision of the Superintendent is final.

Options for the Grievant.

Employees of the Board may file a grievance under the employee grievance procedure provided by West Virginia Code §6C-2-1 et seq. A grievant may also at any time file a complaint with the U.S. Department of Education, Office for Civil Rights, 3535 Market Street, Room 6300, Philadelphia, PA 19104-3326. A due process hearing may be filed for Section 504 issues with respect to actions regarding the identification, evaluation or educational placement of public school students who, because of disability, need or are believed to need special instruction or related services.

Adopted on August 24, 2011