



SECTION 504 GRIEVANCE PROCEDURE (INS-P027)

Clarksville-Montgomery County School System

1.0 SCOPE:

- 1.1 This procedure outlines the process for responding to a grievance for Section 504 within CMCSS.

The online version of this procedure is official. Therefore, all printed versions of this document are unofficial copies.

2.0 RESPONSIBILITY:

- 2.1 District Section 504 Coordinator

3.0 APPROVAL AUTHORITY:

- 3.1 Chief Academic Officer

4.0 DEFINITIONS:

- 4.1 *Section 504 of the Rehabilitation Act of 1973* provides that: No otherwise qualified individual with handicaps in the United States....solely by reason of his/her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
- 4.2 Grievant: Any parent, guardian, or student who believes they have been discriminated against and requests a due process hearing.
- 4.3 Recipient: School district receiving federal assistance who the request for due process hearing has been filed.

5.0 PROCEDURE:

- 5.1 Any student, parent or guardian (referred to as 'grievant') may request an impartial hearing due to the school district's actions or inactions regarding a child's identification, evaluation, or educational placement under Section 504.
- 5.1.1 Request for an impartial hearing must be in writing to the school district's Section 504 Coordinator; however, failure to request a hearing in writing does not remove the school district's obligation to provide an impartial hearing if the request for a hearing is made orally to the district's Section 504 Coordinator. The Section 504 Coordinator will assist the grievant in completing a written request for hearing.
- 5.2 Within 10 business days of receiving a request for a hearing, the Section 504 Coordinator will acknowledge the request for hearing in writing and schedule a time and place for a hearing.
- 5.2.1 The school district may offer mediation to resolve the issues detailed in a request for hearing. Mediation is voluntary and both the grievant and the school district must agree to participate. The grievant may terminate the mediation at any time.
- 5.3 The Section 504 Coordinator will obtain an impartial review official who will conduct a hearing within 45 calendar days from the receipt of the grievant's request for hearing unless agreed to otherwise by the grievant or a continuance is granted by the impartial review official.



SECTION 504 GRIEVANCE PROCEDURE (INS-P027)

Clarksville-Montgomery County School System

- 5.4 Upon a showing of good cause by the grievant or school district, the impartial review official, at his/her discretion, may grant a continuance and set a new hearing date. The request or a continuance must be in writing and copied to the other party.
- 5.5 During the hearing the grievant
 - 5.5.1 will have an opportunity to examine the child's educational records prior to the hearing.
 - 5.5.2 may be represented by legal counsel at his or her own expense at the hearing. The Section 504 Coordinator must be notified in writing at least 10 calendar days prior to the hearing of the grievant intent to be represented by legal counsel. Failure to give proper notice shall constitute cause for a continuance of the hearing.
 - 5.5.3 will have the burden of proving any claims he or she may assert. When warranted by circumstances or law, the impartial hearing officer may require the school district to defend its position/decision regarding the claims. One or more representatives of the school district, who may be an attorney, will attend the hearing to present the evidence and witnesses, respond to the grievant testimony, and answer questions posed by the review official.
- 5.6 During the hearing the impartial review official
 - 5.6.1 does not have the power to subpoena witnesses, and the strict rules of evidence shall not apply to hearings. The impartial review official shall have the authority to issue pre-hearing instructions, which may include requiring the parties to exchange documents and names of witnesses to be present.
 - 5.6.2 shall determine the weight to be given any evidence based on its reliability and probative value.
- 5.7 The hearing
 - 5.7.1 shall be closed to the public.
 - 5.7.2 issues will be limited to those raised in the written or oral request for the hearing.
 - 5.7.3 witnesses will be questioned directly by the party who calls them. Cross-examination of witnesses will be allowed. The impartial review official, at his/her discretion, may allow further examination of witnesses or ask questions of the witnesses.
 - 5.7.4 testimony shall be recorded by court reporting or audio recording at the expense of the recipient. All documentation related to the hearing shall be retained by the recipient.
- 5.8 Unless otherwise required by law, the impartial review official shall uphold the action of the school district unless the grievant can prove that a preponderance of the evidence supports his or her claim.
- 5.9 Failure of the grievant to appear at the scheduled hearing, unless prior notification of absence was provided and approved by the impartial review official or just cause is shown, shall constitute a waiver of rights to a personal appearance before the impartial review official.



SECTION 504 GRIEVANCE PROCEDURE (INS-P027)

Clarksville-Montgomery County School System

5.10 The impartial review official shall issue a written determination within 20 calendar days of the date the hearing concluded.

5.10.1 The determination of the impartial review official shall not include any monetary damages or the award of any attorney's fees.

5.11 If not satisfied with the decision of the impartial review official, any party may pursue any right of review, appeal, cause of action or claim available to them under the law or existing state or federal regulations.

6.0 ASSOCIATED DOCUMENTS:

6.1 Request for Section 504 Due Process Hearing (TransAct Form)

6.2 Non-Discrimination ([HUM-A084](#))

6.3 Section 504 ([INS-A067](#))

7.0 RECORD RETENTION TABLE:

<u>Identification</u>	<u>Storage</u>	<u>Retention</u>	<u>Disposition</u>	<u>Protection</u>
Hearing Request	504 Coordinator Office	5 years	Shred	Locked Office

8.0 REVISION HISTORY:

<u>Date:</u>	<u>Rev.</u>	<u>Description of Revision:</u>
6/24/13		Initial Release
10/31/17	A	Updated 2.0. and associated documents.
4/19/2022		Revised title of position under Responsibility

*** * * E n d o f P r o c e d u r e * * ***