

INTRODUCTION

Section 504 of the Rehabilitation Act of 1973 as amended, is a civil rights statute which prohibits discrimination against individuals with disabilities. Title II of the Americans with Disabilities Act of 1990 (ADA) reauthorized as the ADAAA of 2006 extends this prohibition against discrimination to the full range of state and local government services, programs, or activities. Together, GCS refers to these laws as “Section 504.” In this resource guide, the term parent includes guardians and others with the authority to act on behalf of and in the interest of a student.

Section 504 protects students against discrimination on the basis of disability. Disability-based discrimination could come in different forms. For example, a qualified student with a disability is entitled to receive an equal opportunity to participate in educational programs, athletics, and extracurricular activities to the same extent as their non-disabled peers. Students with disabilities are also entitled to be protected from bullying and harassment based on their disability. This resource guide is intended to assist parents in following GCS’s processes for ensuring that students with disabilities are free from disability-based discrimination.

SECTION 504 COORDINATORS

Each school has its own school-level Section 504 Coordinator who is responsible for coordinating identification, evaluation, and placement decisions for students who are eligible under Section 504. Each school should have information available to parents regarding the contact information for the school-level Section 504 Coordinator. GCS also has a district-wide coordinator, the “GCS Section 504 Coordinator.” The contact information for the GCS Section 504 Coordinator is:

Melissa Carino, M.A. C.A.S.
Office of Student Support Services
Guilford County Schools
2500 Lees Chapel Road
Greensboro, NC 27405
Phone Number: 336-375-2394
Email: carinom@gcsnc.com

PARENT RIGHTS

Parents are entitled to the following procedural safeguards under Section 504:

- Notice of any action related to the identification of their child as a student with a disability
- Notice regarding any evaluation of their child to determine eligibility under Section 504
- Notice regarding the accommodations plan or placement for their child under Section 504
- Notice regarding changes in the identification, evaluation, or placement of their child
- An opportunity to review records relevant to their child's identification, evaluation, or placement under Section 504
- An impartial hearing to contest a school decision regarding the identification, evaluation, or placement of their child, with opportunity for participation by the parent with or without representation by counsel
- An opportunity for an impartial review of the impartial hearing officer's decision

For more information regarding these procedural safeguards, see Appendix A.

DIFFERENCE BETWEEN SECTION 504 and IDEA

Please note that Section 504 is different from the Individuals with Disabilities Education Act ("IDEA"). Both IDEA and Section 504 guarantee students with disabilities access to a free and appropriate public education. However, there are major differences between them, specifically in the criteria used to determine eligibility and the definition of a free and appropriate public education. IDEA provides more specific categories of disabilities, including autism, deaf-blindness, deafness, developmental delay, serious emotional disability, hearing impairment, intellectual disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, and visual impairment including blindness. Section 504 has a much broader definition of disability, as any mental or physical impairment that substantially limits a major life activity.

For a student to receive special education services under IDEA, the student's educational performance must be adversely affected by the disability and the child must be in need of special education services (i.e. specially designed instruction). Section 504 is not limited to specific disability categories and does not require evidence that the disability adversely affects the student's educational performance; however, the definition states that in order to be eligible, the student must have a disability as defined by Section 504. Students who are found not to be eligible for services under IDEA may be eligible for accommodations under Section 504.

While students who are eligible under IDEA are also often considered to be students with disabilities protected from discrimination under Section 504, all accommodations for the student's disability are made through the IDEA process. That is, a student should not have both an Individualized Education Program or "IEP" under the IDEA and also a 504 Plan.

ELIGIBILITY UNDER SECTION 504

Students who have a disability, have a record of having a disability, or who are regarded as having a disability, are all protected under Section 504. However, accommodations through a 504 Plan are only available to students who currently have a disability. Therefore, eligibility depends on whether the student's condition meets the definition of "disability" under Section 504.

Under Section 504, a "disability" is a physical or mental impairment that substantially limits a major life activity. Therefore, to determine eligibility, the 504 Team will consider first whether the student has a physical or mental impairment and then whether such impairment substantially limits a major life activity.

1. A physical or mental impairment means: a physiological disorder or condition, a cosmetic disfigurement, an anatomical loss, or a mental or psychological disorder.
2. A major life activity is any act a person does to function, which includes but is not limited to: hearing, speaking, lifting, performing bodily functions, breathing, thinking, caring for oneself, bending, performing manual tasks, seeing, breathing, eating, reading, sleeping, concentrating, walking, standing, or communicating.

The determination of eligibility is made without regard to mitigating measures, such as medicines or aids – that is, the student still is considered to have a disability even if a medicine prevents the impairment from substantially limiting a major life activity.

A transitory impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period of time. For example, a cold or flu or in many cases a broken arm, would be a transitory impairment that does not qualify for protection under Section 504. However, while it would be unusual for a temporary injury or illness with an expected duration of 6 months or less to qualify as an impairment that substantially limits a major life activity, temporary illnesses or injuries can qualify as a disabling condition, and must be considered on a case-by-case basis. Factors that impact the decision regarding a temporary disability or illness include the duration or expected duration of the impairment, as well as the extent to which the impairment actually limits a major life activity.

If a condition is episodic, meaning that it does not occur constantly, the condition may nonetheless qualify. Determination of whether a disabling condition substantially impairs a major life activity must consider the impact of the condition at times when the condition is active, regardless of whether the student is currently in a state of remission or is asymptomatic.

PROCESS FOR DETERMINING ELIGIBILITY

Parents, school personnel, or students themselves may initiate an eligibility determination by making a Section 504 referral if the student has or is suspected to have a disability. Referrals should be directed to the school-level Section 504 Coordinator who will convene a 504 team to determine if the student is eligible under Section 504. The 504 team should consider evaluations or diagnoses provided by the parents, evaluations and assessments that may have previously been conducted by GCS for eligibility consideration under the IDEA, and any other evaluation conducted by GCS if appropriate and necessary to the eligibility determination process. The 504 team may also consider information provided by the parent, rating scales, teacher reports on classroom performance, standardized test results, academic achievement, discipline reports, work samples, and attendance information. While the 504 team considers the recommendations of doctors or other professionals who work with the child, it is the 504 team's responsibility to review the multiple sources of information to determine Section 504 eligibility.

SECTION 504 PLANS

In general, a Section 504 Plan describes the regular or special education and related aids and services a student needs and the appropriate setting in which to receive those services. If the 504 team determines that the student is eligible under Section 504, the 504 team should then decide whether a “504 Plan” is necessary. Not all students with disabilities need a 504 Plan. In some cases, students need only a healthcare plan, and in other cases, the disability is such that the student does not need any particular accommodations while at school.

If a 504 Plan is necessary, the 504 team should consider accommodations to enable the student to access the educational environment in a manner similar to non-disabled peers. Appropriate accommodations must be selected based on the individual needs of the student. Accommodations must be reasonable, and the school is not required to offer an accommodation that would fundamentally alter a program or impose an undue burden on the school. Accommodations that include an instructional component should be written so the integrity of the course content is maintained.

Accommodations may need to be altered from time to time and parents and school personnel should monitor the student’s progress to determine if and when modifications to the 504 plan should be made. If a student consistently refuses to use an accommodation, the school-level Section 504 Coordinator should contact the parent and schedule a meeting to determine if there is a need for this accommodation to continue. The 504 team should meet at least annually to determine any changes to the student’s eligibility and/or to the 504 Plan.

The school-level Section 504 Coordinator is responsible for distributing the 504 Plan to the relevant teachers and relevant staff.

DISCIPLINE

If a student with a disability under Section 504 is recommended for long-term suspension, or subject to a series of short-term suspensions that amount to more than ten (10) school days and constitute a change in placement, a 504 team must be convened to determine if the student’s behavior that led to the out-of-school suspension is a manifestation of the student’s disability. If the 504 Team concludes that the behavior that led to the suspension is a manifestation of the student’s qualifying disability, the student cannot be suspended and the student returns to school. At the manifestation determination review, the 504 Team should review any 504 Plan to determine if changes are appropriate, or consider whether a 504 Plan is appropriate, if one does not already exist.

COMPLAINT PROCESSES UNDER SECTION 504

GCS encourages parents to raise concerns with the school-level Section 504 Coordinator and/or the school principal, and to resolve issues informally. However, two different processes are available to parents who have concerns that their student has faced discrimination based on disability. First, parents may challenge any school decision relating to the identification, evaluation, or placement of their student under Section 504 by requesting an impartial hearing. The procedures for this hearing and form for requesting a hearing appear in Appendix A. Second, parents may file complaints of any other kind of discrimination based on the student’s disability through GCS’s Discrimination, Harassment, and Bullying Complaint Procedure. This procedure and complaint form appear in Appendix B.

APPENDIX A

SECTION 504 IMPARTIAL HEARING PROCEDURE

Regulation Code: **1730/4022/7231-R**

In accordance with Section 504 of the Rehabilitation Act and the Americans with Disabilities Act (hereinafter collectively referred to as “Section 504”), this regulation provides a process by which a parent, guardian, or legal custodian (“parent or guardian”) may challenge a decision regarding the identification, evaluation, or placement of a child under Section 504. GCS encourages parents or guardians and school personnel to resolve disagreements at the school level. However, in cases where a resolution to the issues cannot be reached regarding the identification, evaluation, or placement of a student with disabilities, the parent or guardian has a right to a due process hearing before an impartial hearing officer. This regulation describes the rights afforded to parents or guardians as part of this impartial hearing process and the rules that will govern a hearing. These hearing procedures will not be available if the remedy requested by the parent or guardian is available through the due process procedures set forth in the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. § 1415 (f).

A. SECTION 504 COORDINATOR

Each school has its own Section 504 Coordinator. Guilford County Schools has a district-wide Section 504 Coordinator who is charged with implementing this procedure. The name and contact information for the Guilford County Schools Section 504 Coordinator (“GCS 504 Coordinator”) are:

Melissa Carino, MA, CAS
Office of Student Support Services
Guilford County Schools
2500 Lees Chapel Road
Greensboro, NC 27405
Phone Number: 336-375-2394
Email: carinom@gcsnc.com

B. RIGHT TO REVIEW RECORDS

Parents or guardians have the right to review records relevant to any identification, evaluation, or placement decision related to their student. Parents or guardians should request records through the Section 504 Coordinator at their child’s school.

C. INFORMAL RESOLUTION OF DISAGREEMENTS

If a parent or guardian disagrees with a decision regarding the identification, evaluation, or placement of their child, the parent or guardian is encouraged to resolve the disagreement informally. The parent or guardian can resolve disagreements informally by raising the concerns with the principal. The principal, in collaboration with the school’s 504 coordinator, will review the request and determine an appropriate response.

If the parent or guardian continues to be dissatisfied, the parent or guardian is encouraged to notify

the GCS 504 Coordinator. The GCS 504 Coordinator will meet with the parent or guardian and school staff, gather relevant information, and make a determination as to the appropriate response.

D. DUE PROCESS HEARING

The parent or guardian has the right to request an impartial due process hearing as described below. The request must be submitted to the GCS 504 Coordinator within one year of any decision at the school level which forms the basis for a complaint regarding the identification, evaluation, or placement of their child under Section 504. These hearing procedures will not be available if the remedy requested by the parent or guardian is available through the due process procedures set forth in the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. § 1415 (f). These procedures are also not available to address complaints of discrimination, harassment, or bullying based on a child’s disability. All complaints of disability-based discrimination not covered by this procedure or the Individuals with Disabilities Education Act are governed by Regulation Code 1710/4021/7230.

1. **Requesting a Due Process Hearing.** To seek a due process hearing with regard to an identification, evaluation, or placement decision, the parent or guardian must submit a written request to the GCS 504 Coordinator. The written request must be made on the form provided by GCS for that purpose. The GCS 504 Coordinator will assist any parent or guardian in completing the required form and assist the parent or guardian in clarifying any questions regarding due process rights under Section 504.
2. **Hearing Officer and Hearing Costs.** GCS will appoint an impartial Hearing Officer who is not a GCS employee to preside over the hearing and issue a decision. The Hearing Officer shall be familiar with the requirements of Section 504 and the Americans with Disabilities Act. GCS is responsible for the compensation of the Hearing Officer. GCS is not responsible for the costs of a parent’s or guardian’s legal counsel or any other parent or guardian representative or parent- or guardian-secured witness.
3. **Parent or Guardian Participation & Representation.** A parent or guardian has the right to participate, speak, and present information at the due process hearing, and to be represented by legal counsel or any other type of advocate or representative of their choice at their expense. If a parent or guardian is to be represented by an attorney at the due process hearing, the parent or guardian must inform the GCS 504 Coordinator and the appointed Hearing Officer of that fact in writing at least ten calendar days prior to the hearing date. Failure to notify the GCS 504 Coordinator and the appointed Hearing Officer of that fact in writing may cause the hearing date to be delayed.
4. **Scheduling and Pre-Hearing Procedures.** The appointed Hearing Officer shall schedule a hearing date in writing at the hearing officer’s earliest opportunity at a mutually agreeable time. The Hearing Officer shall attempt to schedule the hearing within 45 calendar days of the parent’s or guardian’s formal request for a hearing.

The Hearing Officer may conduct a pre-hearing telephone conference to identify and, if disputed, resolve the issues for hearing. The Hearing Officer will also identify the date the parties will exchange witness lists and proposed exhibits. This exchange shall occur no later than seven calendar days prior to the hearing.

5. **Conduct of Hearing.** The hearing shall be conducted in an informal, non-adversarial manner. Formal rules of evidence and civil procedure do not apply. The Hearing Officer is not required to entertain any legal evidentiary objections to the admissibility, authenticity, or probative value of either oral testimony or documentary exhibits offered at the hearing. In the exercise of discretion, however, the Hearing Officer may reasonably limit testimony and introduction of documentary exhibits for reasons of relevance. The Hearing Officer may consider any relevant evidence that is of a kind commonly relied on by reasonably prudent persons in the conduct of serious matters. The hearing shall be limited to issues raised in the hearing request and the Hearing Officer shall exclude any issues that are not related to identification, evaluation, and placement under Section 504.
6. **Recording.** The entire due process hearing will be audio recorded. The GCS 504 Coordinator will arrange for the audio recording. The parent or guardian may obtain a copy of the recording upon request. The parent or guardian may also make their own audio recording of the hearing.
7. **Format for Presentations.** Each party will be afforded up to two and one-half hours to present their case, including presentation, direct examination, cross examination, and argument. The parties may also submit any reports, evaluations, correspondence, notes, or any other documents that may support their positions and that the Hearing Officer will admit at the hearing officer's discretion. The party seeking relief bears the burden of persuasion and the burden of proof.
 - a. The Hearing Officer will begin the hearing with introductory remarks, addressing the purpose for the hearing, determining whether parties have complied with disclosure requirements, identifying any stipulations on the record, identifying the issue for the hearing on the record, and reminding the parties of time limits.
 - b. The Hearing Officer will provide an opportunity for each party to present evidence through calling witnesses and referencing exhibits. The Hearing Officer may ask questions of a witness. The party requesting the hearing will present evidence first, followed by the responding party. A party may choose to reserve a portion of its time for closing or rebuttal.
 - c. After all evidence has been presented, the Hearing Officer may ask for closing statements. The Hearing Officer may request that the parties submit written closing statements within a specified number of days after the hearing.
 - d. The Hearing Officer will conclude the hearing, addressing the timeline for a decision and a statement on the record that the hearing is concluded.

8. **Hearing Officer Decision.** Within thirty calendar days of the conclusion of the hearing, the Hearing Officer will issue a written decision with findings of fact and conclusions of law. The Hearing Officer must confine the orders and rulings to those matters that involve identification, evaluation, or placement of children under Section 504 and to the provisions of the regulations implementing Section 504. A Hearing Officer may not award attorneys' fees or reimbursement as a part of relief granted to a parent or guardian. The Hearing Officer also issues recommendations to the Superintendent regarding the issues raised and recommending what corrective action, if any, the district should take. The decision of the Hearing Officer is binding on all parties.

E. REVIEW OF HEARING OFFICER'S DECISION

If not satisfied by the final decision, a parent or guardian may seek review of the hearing decision from a second independent hearing officer. The request for review by a second independent hearing officer must be received by the GCS 504 Coordinator no later than thirty (30) calendar days from the date that the initial hearing officer issues the final decision. The second independent hearing officer's decision will be a review on the record, which will include the written request for the hearing, the hearing transcript, any hearing exhibits, the Hearing Officer's decision, the District's Procedures for Section 504 Due Process Hearings, any written argument provided by the parent or guardian regarding the decision, and any additional written argument submitted by the District regarding the decision. The second independent hearing officer may reverse the Hearing Officer's decision if there was an error in the application of Section 504, an error of procedure that prejudiced the outcome of the hearing, the decision was arbitrary and capricious, or the decision was not supported by substantial evidence in view of the entire record. Substantial evidence refers to relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

Revised: October 2, 2020



REQUEST FOR SECTION 504 IMPARTIAL HEARING

SUBMIT TO GCS 504 Coordinator

This form is to request an impartial hearing challenging a decision of Guilford County Schools regarding an identification, evaluation, or placement of your child under Section 504 of the Rehabilitation Act. To file a Request for Section 504 impartial Hearing, please fill out the form completely and submit it in person, by email, or by U.S. Mail to the GCS 504 Coordinator.

1. Name: _____ Today's date: _____
2. Student's name: _____ School: _____
3. Street address: _____ City, State: _____ Zip: _____
4. Home phone: _____ Cell phone: _____ Other phone: _____
5. Email: _____
6. The name of the school system employee or other individuals whose decision or action is at issue:

7. Please state your reasons for seeking an impartial hearing regarding the identification, evaluation, or placement of your child, including the particular violations, facts, and witnesses if any, to support your request(attach additional sheets if needed): _____

8. Date of the event or series of events covered in this request: _____
9. Please describe the specific resolution desired: _____

10. If you will be represented by a lawyer at the due process hearing, please identify the person representing you:
Name: _____
Organization's name (if applicable): _____



Address: _____

Phone: _____ Email: _____

Signature of Parent/Guardian

Date

Method of Delivery

Submit to the Guilford County Schools Section 504 Coordinator

**Melissa Carino, MA, CAS
Office of Student Support Services
Guilford County Schools
2500 Lees Chapel Road
Greensboro, NC 27405
Phone Number: 336-375-2394
Email: carinom@gcsnc.com**

APPENDIX B

DISCRIMINATION, HARASSMENT, AND BULLYING COMPLAINT PROCEDURE

Regulation Code: 1710/4021/7230-R

This complaint procedure is designed for those individuals who believe that they may have been discriminated against, bullied, or harassed in violation of policy 1710/4021/7230, Prohibition Against Discrimination, Harassment, and Bullying, or policy 1730/4022/7231, Nondiscrimination on the Basis of Disabilities. Individuals who have witnessed or who have reliable information that another person has been subject to discrimination, harassment, or bullying should also use this process to report such violations. In addition, this procedure should be used to report a violation of policy 4040/7310, Staff-Student Relations.

This procedure is not intended for raising allegations regarding or related to the identification, evaluation, educational placement, or free appropriate public education of a student under Section 504 or the IDEA. Such allegations may be raised through Policy 1730/4022/7231 Nondiscrimination on the Basis of Disabilities and associated Administrative Regulation 1730/4022/7231-R Nondiscrimination on the Basis of Disabilities Complaint Procedure or any subsequent procedure adopted on this topic).

A. DEFINITIONS

1. Alleged Offender

The alleged offender is the individual alleged to have discriminated against, harassed, or bullied the complainant.

2. Complaint

A complaint is an oral or written notification made by a person who believes he or she is the victim of discrimination, harassment, or bullying.

3. Complainant

The complainant is the individual complaining of being discriminated against, harassed, or bullied.

4. Days

Days are the working days, exclusive of Saturdays, Sundays, vacation days, or holidays, as set forth in the school calendar. In counting days, the first day will be the first full working day following receipt of the complaint. When a complaint is submitted on or after May 1, time limits will consist of all weekdays (Monday – Friday) so that the matter may be resolved before the close of the school term or as soon thereafter as possible.

5. Investigative Report

The investigative report is a written account of the findings of the investigation conducted in response to a complaint.

6. Investigator

The investigator is the district official responsible for investigating and responding to the complaint.

7. Report

A report is an oral or written notification that an individual, other than the reporter, is a suspected offender or victim of discrimination, harassment, or bullying.

B. REPORTING BY EMPLOYEES OR OTHER THIRD PARTIES

1. Mandatory Reporting by District Employees

Any employee who witnessed or who has reliable information or reason to believe that a student or other individual may have been discriminated against, harassed, or bullied in violation of policy 1710/4021/7230 or policy 1730/4022/7231, or that an employee has violated policy 4040/7310, Student/Staff Relations must report the offense immediately to the student's principal or other school administrator, or to the employee's own supervisor or to an appropriate individual designated in subsection C.1., below. An employee who does not promptly report possible discrimination, harassment, or bullying shall be subject to disciplinary action.

2. Reporting by Other Third Parties

All members of the school community including students, parents, volunteers, and visitors are also strongly encouraged to report any act that may constitute an incident of discrimination, harassment, or bullying. Reports should be made to the school principal if the alleged act occurred in a location under the jurisdiction of the principal, such as at the school or other location of a school-related activity. If the alleged act occurred elsewhere, such as at the central office, the incident should be reported to the Chief Human Resources Officer or the Executive Director for Human Resources.

3. Electronic Reporting

Reports that a student may have been discriminated against, harassed, or bullied may also be made electronically through a portal on the district's web site.

4. Anonymous Reporting

Reports of discrimination, harassment, or bullying may be made anonymously, except mandatory reporting by district employees, but formal disciplinary action

may not be taken solely on the basis of an anonymous report. Consequently, signed reports are preferable.

5. Investigation of Reports

Reports of discrimination, harassment, or bullying will be investigated sufficiently by district officials to determine whether further action under this complaint procedure or otherwise is necessary, and district officials shall take such action as appropriate under the circumstances, regardless of the alleged victim's willingness to cooperate. At the option of the alleged victim, the report may be treated as a complaint by the alleged victim under this procedure.

C. COMPLAINTS BROUGHT BY ALLEGED VICTIMS OF DISCRIMINATION, HARASSMENT, OR BULLYING

1. Filing a Complaint

a. Students

Students who believe they have been discriminated against, harassed, or bullied by a school employee(s) or by another student(s), should notify a teacher, counselor, principal, or other school administrator. If the student's complaint is made to a teacher or counselor, the teacher or counselor shall notify the principal or other designated school administrator without delay. Alternatively, a student or student's guardian may file a complaint electronically through a portal on the district's website.

b. Employees

Employees who believe that they have been discriminated against, harassed, or bullied at the worksite or as a result of employment with the district are encouraged to file a complaint orally or in writing. The complaint should include the specific facts of the alleged incident(s) and the name(s) of the alleged offender(s) and should be made to:

- 1) the employee's immediate supervisor; or
- 2) if the immediate supervisor is directly involved or if the employee is more comfortable discussing the concern with someone in Human Resources, the complaint should be made to the Chief Human Resources Officer or the Executive Director for Human Resources; or
- 3) if a member of the Board, the Superintendent, or any senior staff member is involved, the complaint should be made to the Board attorney.

c. Students and Employees

A complaint of discrimination in violation of state or federal laws may also be filed with the GCS Compliance Officer. The name and contact information for the Compliance Officer is:

Guilford County Schools Compliance Officer

Name: James Kim

Office Address: 120 Franklin Street, Greensboro, NC 27401

Phone Number: 336-370-8154

Email: kimj@gcsnc.com

2. Format for the Complaint

Complaints may be made orally or in writing on the designated reporting form available from the Human Resources office. An electronic version of the reporting form is available on the district website for incidents in which the alleged victim is a student. Complaints may be made anonymously; however, a signed complaint is preferable because formal disciplinary action cannot be taken solely on the basis of an anonymous complaint.

If the complaint is made orally, the employee receiving the complaint should assist the complainant in completing a report form, or if the complainant is unable to do so, the employee shall complete the form on the complainant's behalf using the information provided by the complainant and have the complainant sign it. The information must be as thorough and detailed as reasonable.

3. Time Period for Filing a Complaint

A complaint should be filed as soon as possible but no later than 30 days after disclosure or discovery of the facts giving rise to the complaint. Complaints submitted after the 30-day period may be investigated; however, individuals should recognize that delays in reporting may significantly impair the ability of district officials to investigate and respond to such complaints.

4. Informal Resolution

Many complaints may be addressed informally through such methods as conferences or mediation and the use of informal procedures such as mediation are encouraged to the extent possible; however, mediation or other informal procedures will not be used to resolve complaints alleging sexual assault or sexual violence, complaints by a student of sexual harassment perpetrated by an employee, or when otherwise inappropriate. Informal procedures may be used only if the parties involved voluntarily agree.

If an informal process is used, the principal or other designated personnel must (1) notify the complainant that he or she has the option to end the informal process and begin formal procedures at any time and (2) make a copy of this complaint procedure and any relevant policies available to the complainant. Any informal process should be completed within a reasonable period of time, not to exceed 30 days unless special circumstances necessitate more time. If informal procedures fail to resolve the matter in a reasonable period of time or are inappropriate, or if the complainant requests formal procedures, the complaints will be investigated promptly, impartially, and thoroughly according to the procedures outlined in the remainder of this procedure.

5. Other Resources

Individuals may also contact the Office for Civil Rights at the U.S. Department of Education.

D. PROCESS FOR ADDRESSING COMPLAINTS OF ALLEGED INCIDENTS OF DISCRIMINATION, HARASSMENT, OR BULLYING

1. Initiating the Investigation

a. Whoever receives a complaint of discrimination, harassment, or bullying pursuant to subsection C.1. shall immediately notify the appropriate investigator who shall respond to the complaint and investigate. When a complaint received by school staff involves allegations made against an employee, the principal or relevant supervisor shall promptly consult with Human Resources to provide notice of the complaint and to determine the appropriate investigator. The investigator of a complaint is determined as follows.

- 1) If the alleged offender is a student, the investigator is the school principal.
- 2) If the alleged offender is an employee other than the Chief Human Resources Officer, another member of the Superintendent's senior staff, or the Superintendent, the employee's supervisor shall conduct the investigation and report his or her findings and conclusions to the Chief Human Resources Officer or the Executive Director for Human Resources for further investigation as needed and/or action in accordance with this complaint procedure.
- 3) If the alleged offender is the Chief Human Resources Officer or another member of the Superintendent's senior staff, or a Board member, the Board attorney is the investigator. In such cases, whoever receives a complaint of discrimination, harassment, or

bullying shall immediately notify the Superintendent who will direct the Board attorney to respond to the complaint and investigate. Unless the Board Chair is the alleged offender, the Superintendent will also notify the Board Chair of the complaint.

- 4) If the alleged offender is the Superintendent, the Board attorney is the investigator. In such cases, whoever receives a complaint of discrimination, harassment, or bullying shall immediately notify the Chief Human Resources Officer, who shall notify the Board Chair without delay. The Board Chair will direct the Board attorney to respond to the complaint and investigate.
 - 5) If the alleged offender is a volunteer, visitor, or other third party, the principal is the investigator if the alleged conduct occurred under the jurisdiction of the principal. Otherwise, the Chief Human Resources Officer of designee shall be the investigator.
- b. The investigator shall immediately notify the GCS Compliance Officer of the complaint, and, as appropriate, may designate the Compliance Officer to conduct or assist with the investigation.
 - c. The investigator shall explain the process of the investigation to the complainant and inquire as to whether the complainant would like to suggest a course of corrective action. The investigator shall also determine whether steps to support and/or protect the complainant from further discrimination, harassment, or bullying are necessary pending the investigation.
 - d. Written documentation of all reports and complaints, as well as the district's response, must be maintained in accordance with policy 1710/4021/7230.
 - e. Failure to investigate and/or address claims of discrimination, harassment, or bullying shall result in disciplinary action.
2. Conducting the Investigation
- a. The investigator is responsible for determining whether the alleged act(s) constitutes a violation of policy 1710/4021/7230, policy 1730/4022/7231, or policy 4040/7310. In so doing, the investigator shall impartially, promptly, and thoroughly investigate the complaint. The investigator shall interview all individuals who may have relevant information, including, (1) the complainant; (2) the alleged offender(s); (3) individuals identified as witnesses by the complainant or alleged offender(s); and (4) any other individuals, including other possible victims, who may have relevant information. The alleged offender shall be notified of the general nature of the allegations and shall be allowed to respond. The investigation will

include a review of all evidence presented by the complainant or alleged offender.

- b. If the investigator, after receipt of the complaint, an interview with the complainant, and consultation with the Board attorney, determines that the allegations submitted, even if factual, do not constitute discrimination, harassment, or bullying as defined in policy 1710/4021/7230, policy 1730/4022/7231, or policy 4040/7310, the matter will be treated outside the scope of this procedure. Information regarding the investigator's determination and the process for addressing the complaint will be provided to the complainant.
- c. The complaint and investigation will be kept confidential to the extent possible within the context of a thorough investigation and the need to initiate disciplinary action when there is a reasonable belief that conduct has occurred in violation of board policy. Information may be shared only with individuals who need the information in order to investigate and address the complaint appropriately and those with a legal right to access the information. Any requests by the complainant for further confidentiality will be evaluated within the context of the legal responsibilities of the district. Any complaints withdrawn to protect confidentiality must be recorded in accordance with policy 1710/4021/7230.
- d. The investigator shall review the factual information gathered through the investigation to determine whether, based on a preponderance of the evidence, the alleged conduct occurred and constitutes discrimination, harassment, or bullying, considering all factual information, the context in which the alleged incidents occurred, the age, and maturity of the complainant and alleged offender(s), and any other relevant circumstances. The investigator shall submit a written investigative report to the Superintendent and to the GCS Compliance Officer.

3. Notice to Complainant and Alleged Offender

- a. The investigator shall meet with the complainant and provide written notification to the complainant of the results of the investigation within 15 days of receiving the complaint, unless additional time is necessary to conduct an impartial, thorough investigation. The investigator shall specify whether the complaint was substantiated and, if so, shall also specify:
 - 1) reasonable, timely, age-appropriate, corrective action intended to end the discrimination, harassment, or bullying, and prevent it from recurring;
 - 2) as needed, reasonable steps to address the effects of the discrimination, harassment, or bullying on the complainant; and

- 3) as needed, reasonable steps to protect the complainant from retaliation as a result of communicating the complaint.

The complainant shall advise the investigator of any continuing discrimination, harassment, or bullying within a reasonable period of time so that district officials can take appropriate steps to address it.

- b. If required by federal law, information regarding specific disciplinary action imposed on the alleged offender(s) will be given to the complainant, such as when the information relates directly to the complainant (e.g., an order requiring the offender not to have contact with the complainant). District officials are encouraged to consult with the Superintendent and Board attorney before releasing such information, however.
- c. If the investigator determines that the complaint was substantiated, the offender(s) shall be subject to discipline or other corrective steps, as described in policy 1710/4021/7230. If the corrective steps involve actions outside the scope of the investigator's authority, the Superintendent must be notified so that responsibility for taking the corrective steps may be delegated to the appropriate individual.
- d. Each alleged offender will be provided with a written summary of the results of the investigation in regard to whether the complaint was substantiated, whether the alleged offender violated relevant law or Board policies by his or her actions, and what, if any, disciplinary actions or consequences will be imposed upon the offender in accordance with Board policy. The offender may appeal any disciplinary action or consequence in accordance with Board policy and law. However, an appeal by the offender of disciplinary action does not preclude district officials from taking appropriate action to address the discrimination, harassment, or bullying.

4. Appeal

If the complainant is dissatisfied with the results of the investigation, he or she may file a grievance using the grievance process established in regulation 1740/4010-R, Student and Parent Grievance Procedure, or regulation GAE-P, Grievance Procedure for Employees. The grievance must be submitted in writing within five days of receiving notice of the results of the investigation.

E. TIMELINESS OF PROCESS

The number of days indicated at each step of the process should be considered a maximum. Every effort should be made to expedite the process.

If any district official charged with investigating the complaint or reviewing the

investigation fails at any step in the process to communicate a decision within the specified time limit, the complainant will be entitled to appeal the complaint to the next step unless the official has notified the complainant of the delay and the reason for the delay, such as the complexity of the investigation, review, or report. The district official shall make reasonable efforts to keep the complainant apprised of progress being made during any period of delay. Delays that interfere with the exercise of any legal rights are not permitted.

Failure by the complainant at any step in the process to appeal a complaint to the next step within the specified time limit will be considered acceptance of the decision at that step, unless the complainant has notified the investigator of a delay and the reason for the delay and the investigator has consented in writing to the delay.

F. GENERAL REQUIREMENTS

1. No reprisals or retaliation of any kind will be taken by the Board or by an employee of the district against the complainant or other individual on account of his or her filing a complaint or report or participating in an investigation of a complaint or report filed and decided pursuant to policy 1710/4021/7230, policy 1730-4022-7231, or this complaint procedure, unless the person knew or had reason to believe that the complaint or report was false or knowingly provided false information.
2. All meetings and hearings conducted pursuant to this complaint procedure will be private.
3. District officials will consider requests to hear complaints from a group, but the officials have the discretion to hear and respond to complainants individually.
4. The complainant may be represented by an advocate, such as an attorney, at any meeting with district officials. Should the complainant choose to be represented by an attorney, the complainant should notify district officials in advance so that an attorney for the district may also be present.
5. Should, in the judgment of the Superintendent or designee, the investigation or processing of a complaint require that an employee be absent from regular work assignments, such absences will be excused without loss of pay or benefits. This will not prevent the Superintendent or designee from suspending the alleged offender without pay during the course of the investigation.

G. RECORDS

Records will be maintained as required by policy 1710/4021/7230.

Supersedes: GAMA-P (revised August 10, 2010); GAMAA-P (revised April 26, 2007); JCDAD-P (issued April 8, 2008); JCDAE-P (revised March 20, 2008)

Issued by the Superintendent:



HARASSMENT, BULLYING OR DISCRIMINATION REPORTING FORM

Directions: Harassment, bullying, and discrimination are serious and will not be tolerated. This is a form to report alleged harassment, bullying, or discrimination of a student in violation of Guilford County Board of Education Policy Code 1710/4021/7230, which provides information regarding the prohibition and definitions described in this form.

The following definitions apply when evaluating an allegation of harassment, bullying, or discrimination:

Discrimination means any act or failure to act, whether intentional or unintentional, that unreasonably and unfavorably differentiates treatment of others based on an individual’s real or perceived race, color, creed, political belief, ancestry, national origin, religion, linguistic and language differences, sex, gender, sexual orientation, gender identity/expression, socioeconomic status, academic status, height, weight, physical characteristics, pregnancy, marital status, parental status, disability, or age.

Harassment or bullying is conduct intended to intimidate, discredit, injure, or disturb another person or a group of persons. Such conduct violates this policy when any pattern of gestures or written, electronic, or verbal communications, or any physical act or any threatening communication: (1) places a student in actual and reasonable fear of harm to his or her person or damage to his or her property; or (2) creates or is certain to create a hostile environment by substantially interfering with or impairing a student’s educational performance, opportunities, or benefits. “Hostile environment” means that the victim subjectively views the conduct as harassment or bullying and that the conduct is objectively severe or pervasive enough that a reasonable person would agree that it is harassment or bullying. A hostile environment may be created through pervasive or persistent misbehavior or a single incident, if sufficiently severe.

REPORTING FORM

Today’s date: _____/_____/_____

School: _____

Place an X in the appropriate box: alleged Victim Student Parent/Guardian
 Anonymous School Staff Other _____

Person Reporting Incident (Note: If this is an anonymous report, leave name and telephone number blank.) Name: _____ Telephone: _____

1. Name of alleged student victim: _____ Grade level: _____
(Please print)

2. Name(s) of alleged offender(s) (if known): _____ Grade level: _____ School (if known): _____ Is he/she a student?
(Please print) Yes No

(Please print) Yes No

3. Were you an eyewitness to this behavior? Yes No

Name(s) of other witnesses (if known): _____ Grade level: _____ School (if known): _____ Is he/she a student?
(Please print) Yes No

(Please print) Yes No

4. On what date(s) did the incident happen? _____/_____/_____ _____/_____/_____ _____/_____/_____
Month Day Year Month Day Year Month Day Year

5. Place an X next to the statement(s) that best describes what happened (choose all that apply):
- Any bullying, harassment, or intimidation that involves physical aggression
 - Teasing, name-calling, making critical remarks, or threatening, in person or by other means
 - Getting another person to hit or harm the student
 - Making rude and/or threatening gestures
 - Demeaning and making jokes about the victim
 - Intimidating (bullying), extorting, or exploiting
 - Excluding or rejecting the student
 - Spreading harmful rumors or gossip
 - Retaliation for reporting
 - Other (specify) _____
 - Electronic Communication (specify) _____

Specify:

6. Where did the incident happen (choose all that apply)?

- On school property
- At a school-sponsored activity or event off school property
- On a school bus
- On the way to/from school
- Other _____

7. What did the alleged offender(s) say or do? _____

(Attach a separate sheet if necessary)

8. What factors contributed to the harassment, bullying or discrimination? _____

9. How has the student been impacted by this incident? _____

10. Has the climate of the school been impacted by this incident? Yes No

11. Was the alleged student victim absent from school as a result of the incident? Yes No
If yes, how many days was the student absent from school as a result of the incident?

12. Is there any additional information you would like to provide? (Attach a separate sheet if necessary)

I agree that all information on this form is accurate and true to the best of my knowledge.

Note: If this is an anonymous report, no signature is required.

Signature: _____ Date: _____

In compliance with federal laws, Guilford County Schools administers all educational programs, employment activities and admissions without discrimination because of race, religion, national or ethnic origin, color, age, military service, disability or gender, except where exemption is appropriate and allowed by law. Refer to the Board of Education's Prohibition against Discrimination, Harassment, and Bullying Policy 1710/4021/7230 for a complete statement. Inquiries or complaints should be directed to the Guilford County Schools Director of Social and Emotional Learning, 120 Franklin Boulevard, Greensboro, NC 27401; 336-370-8397.