



Growing Possibilities...

## Section 504 Due Process Hearing Procedures

**Right to Due Process:** In the event a parent or guardian [hereinafter “parent”] wishes to contest an action or omission on the part of the Union County Public Schools [hereinafter “UCPS”] with regard to the identification, evaluation, or placement of a disabled child under §504 of the Rehabilitation Act of 1973 [“§504”], the parent has a right to an impartial hearing before an impartial Hearing Officer. Omissions on the part of UCPS with regard to a disabled child might include, for example, failure to identify a child eligible for services under §504.

**Requesting a Due Process Hearing.** A parent who wishes to challenge an action or omission with regard to the identification, evaluation, or placement of a disabled child under §504 must submit a written Request for a Due Process Hearing to UCPS Superintendent’s Designee. The written request may be made on the form provided by UCPS for that purpose. If the parent’s intent to seek a due process hearing under §504 is not clear from the face of a Request, the Superintendent’s Designee may contact the parent to clarify the Request and ascertain whether the parent wishes to initiate a §504 Due Process Hearing. The Designee may also assist the parent in clarifying any questions regarding due process rights under §504.

**Hearing Officer.** UCPS shall obtain as a Hearing Officer an individual who is not an employee of UCPS to preside over the hearing and issue a decision. The Hearing Officer shall be familiar with the requirements of §504, and the Americans with Disabilities Act [hereinafter “ADA”]. Section 504 regulations do not require the selection of the hearing officer to be a mutually agreed upon decision between UCPS and the parent, guardian or eligible student.

**Parent Participation & Representation.** A parent 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 is to be represented by an attorney at the due process hearing, he or she must inform the UCPS Superintendent’s Designee and the appointed hearing officer of that fact in writing at least seven (7) calendar days prior to the hearing date. Failure to notify the Superintendent’s Designee and the appointed hearing officer of that fact in writing may cause the hearing date to be delayed.

**Scheduling of Hearing.** The appointed Hearing Officer shall schedule a Hearing date in writing at his or her earliest opportunity at a mutually agreeable time and place for the hearing.

**Conduct of Hearing.** The hearing shall be conducted in an informal, non-adversarial manner. The parties shall address the Hearing Officer by name (i.e. Mr. or Ms.). The hearing shall be closed. The parties are free to provide the Hearing Officer with information or opinion as to the validity and weight to be given the information presented to him or her. Formal rules of evidence and civil procedure will 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 his or her discretion, however, the Hearing Officer may reasonably limit testimony and introduction of documentary exhibits for reasons of relevance.

**Recording.** Instead of a formal written transcript, the entire due process hearing will be audio recorded. The parent may obtain a copy of the recording at his or her request. In order for an accurate recording to be made, the parties and witnesses shall introduce themselves at the beginning of their presentations.

**Witnesses.** Witnesses will present their information in narrative form, without the traditional question and answer format of legal proceedings. Cross-examination of witnesses will not be allowed, but a party may request that the Hearing Officer, at his or her discretion, ask a witness a certain question.

**Format for Presentations.** The parent will present his or her case first, by making an opening statement which outlines the parent's position on all issues, presenting personally, calling additional witnesses, and making a closing argument. At the end of UCPS's presentation, the Parent may offer a short response to the UCPS's case. The above format is not required, but may be helpful in organizing the presentation of the case to the Hearing Officer.

**Submission of Documentary Exhibits and Written Arguments.** As part of their presentations, the parties may submit any reports, evaluations, correspondence, notes, or any other documents that may support their positions and that the Hearing Officer will admit at his or her discretion. Each separate documentary exhibit submitted to the Hearing Officer by either party must be marked numerically (i. e., Parent 1, Parent 2; UCPS 1, UCPS 2, etc.). The Hearing Officer may, in the exercise of his or her discretion, reasonably limit the number of documents to be submitted for his or her review, as well as the number of witnesses and the length and/or scope of their presentations or statements. The parties may submit, at the Hearing Officer's discretion, a written statement summarizing and characterizing the information presented at the hearing, and providing legal authority in support of their position.

**Closing of Hearing.** At the conclusion of all presentations, the Hearing Officer will close the hearing and set a date for the issuance of the written decision. The Hearing Officer will issue a written recommendation to the Superintendent of UCPS, the 504 Coordinator and the parents regarding the issues raised and recommending what corrective action, if any, UCPS must take. The decision of the Hearing Officer is binding on all parties, with the exception that the decision is subject to review by the Office of Civil Rights.

**Decision Time line.** A decision must be issued within forty-five (45) days after the date the Request for a Due Process Hearing is received by UCPS, unless the time period is extended by the Hearing Officer.

**Remedies and Relief.** The Hearing Officer must confine his or her orders and rulings to those matters that involve identification, evaluation, or placement of children under §504 and to the provisions of the regulations implementing §504.

**Review Procedure.** If not satisfied by the final decision, a parent may seek review of the hearing decision in a court of competent jurisdiction, generally the closest federal district court.

**Complaints to the Office for Civil Rights (OCR).** At any time, a parent may file a complaint with OCR if he or she believes that UCPS have violated any provision or regulation of §504. The filing of a complaint does not affect the hearing process or the time lines set forth above. OCR addresses §504 complaints separately and independently of the local hearing process, in accordance with the guidelines set forth in OCR's Complaint Resolution Manual.

**The OCR office is located at:**

Office for Civil Rights  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1475  
Telephone: 202-453-6020  
FAX: 202-453-6021; TDD: 877-521-2172  
Email: [OCR.DC@ed.gov](mailto:OCR.DC@ed.gov)



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### Request for Section 504 Due Process

Student's Full Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Student's Address: \_\_\_\_\_

School Student Attends: \_\_\_\_\_ Current Grade: \_\_\_\_\_

Parent or Guardian's Full Name: \_\_\_\_\_

Parent or Guardian's Address: \_\_\_\_\_

Parent or Guardian's Phone Number: \_\_\_\_\_ E-Mail: \_\_\_\_\_

I am requesting that a Section 504 Due Process Hearing be scheduled regarding the following issues:

Section 504 Identification: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Section 504 Evaluation: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Section 504 Placement: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Manifestation Determination: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**I declare that the foregoing is true and correct to the best of my knowledge after reasonable diligent inquiry.**

\_\_\_\_\_  
Parent/Guardian/Authorized Representative Signature

\_\_\_\_\_  
Date

Return this form by E-mail or Mail to:

Dr. Brad Breedlove  
Union County Public Schools  
400 North Church Street  
Monroe, NC 28112  
Phone: 704.296.1003  
Email: [william.breedlove@ucps.k12.nc.us](mailto:william.breedlove@ucps.k12.nc.us)