

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 Section 504 of the Rehabilitation Act of 1973 ["Section 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 Section 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 Section 504 must submit a written Request for a Due Process Hearing to UCPS Superintendent's Designee: Chief of School Performance, Dr. Jonathan Tyson, Phone: 704-296-1002; email: jonathan.tyson@ucps.k12.nc.us. 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 Section 504 is unclear 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 Section 504 Due Process Hearing. The Designee may also assist the parent in clarifying any questions regarding due process rights under Section 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 Section 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. 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) business days before 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 their 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 will involve the presentation of student information; therefore, the hearing shall be closed. The parties are free to provide the Hearing Officer with information or opinion on the validity and weight of 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. **The Hearing Officer shall exclude any evidence not relating to identification, evaluation, placement, or implementation under Section 504.**

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. 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 specific question.

Format for Presentations: If the parent requested the hearing, then the parent has the burden of proving the issues raised. The parent has 60 minutes to present his/her case and will present evidence first by making an opening statement that outlines the parent's position on all issues, and then testifying personally (if applicable), calling additional witnesses, and making a closing argument. UCPS shall then have 60 minutes to present evidence/witnesses. At the end of UCPS's presentation, the Parent may offer a five-minute closing summary, and UCPS may offer a 5-minute closing summary. As an option, the Party may waive a closing summary and instead may use these 5 minutes to add onto their presentation.

Submission of Documentary Exhibits and Written Arguments: As part of their presentations, the parties may submit any reports, evaluations, correspondence, notes, or other documents that may support their positions 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.). In the exercise of his or her discretion, the Hearing Officer may reasonably limit the number of documents to be submitted for his or her review, the number of witnesses, and the length and/or scope of their presentations or statements. The Parties must provide to each other and the Hearing Officer a list of witnesses and the documents they seek to present during the hearing at least five (5) business days prior to the hearing. Documentary evidence must be directly related to the specific issues identified in this letter. The Hearing Officer has the authority to exclude any documentary evidence that was not provided at least five (5) business days prior to the hearing, as well as prevent any testimony of witnesses not identified at least five (5) business days before the hearing. 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 to support their position. These shall be provided at least forty-eight (48) hours prior to the hearing.

Closing of Hearing: After 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 District 504 Administrator, and the parents regarding the issues raised and recommend 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 Timeline: A decision must be issued within forty-five (45) days after the date UCPS receives the Request for a Due Process Hearing unless the Hearing Officer extends the time period.

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 Section 504 and to the provisions of the regulations implementing Section 504. A Hearing Officer may not award attorneys' fees or other monetary relief, including reimbursement, as part of relief granted to the parents/guardians.

Review Procedure: If not satisfied by the final decision, a parent may seek a 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 has violated any provision or regulation of Section 504. The filing of a complaint does not affect the hearing process or the timelines set forth above. OCR addresses Section 504 complaints separately and independently of the local hearing process, per OCR's Complaint Resolution Manual guidelines.

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: 800-421-3481; TTY: 800-877-8339

In compliance with federal law, UCPS administers all educational programs, employment activities and admissions without discrimination against any person on the basis of gender, race, color, religion, national origin, age or disability.

REQUEST FOR SECTION 504 DUE PROCESS

Student's Full Name: _____ Date of Birth: _____

Student's Address: _____

School Student Attends: _____ Current Grade: _____

Parent/Guardian's Full Name: _____

Parent/Guardian's Address: _____

Parent/Guardian's Phone Number(s): _____ Parent/Guardian's Email: _____

I am requesting that a Section 504 Due Process Hearing be scheduled regarding the following issues (attach pages as necessary):

- Section 504 Identification: _____
- Section 504 Evaluation: _____
- Section 504 Placement: _____
- Manifestation Determination: _____

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

Parent/Guardian/Authorized Representative Signature

Date

RETURN THIS FORM BY EMAIL OR MAIL TO:

Dr. Jonathan Tyson
Union County Public Schools
400 North Church Street
Monroe, NC 28112
Email: jonathan.tyson@ucps.k12.nc.us