

**Section 504 - Procedure Manual: Referral, Evaluation, and
Placement**

Hadley Public Schools

Limitations on use of this manual and disclaimer

The purpose of this operating and procedural manual is to provide support and guidance to the management and staff of Hadley Public Schools. Nothing in this manual is intended to create nor does it create any additional enforceable rights, remedies, entitlements or obligations outside of those established by law. The Hadley Public Schools reserves its right to change or suspend any or all parts of this manual at the district's discretion to ensure full compliance with Section 504 of the Rehabilitation Act of 1974 and regulations of the Massachusetts Department of Elementary and Secondary Education.

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I. Hadley Public Schools Statement of the Rights of People with Disabilities

Hadley Public Schools believes that every person can make valuable contributions to our schools, our district, and our community. Having a school system that includes people with diverse backgrounds, languages, identities, and abilities creates a vibrant and enriching educational experience for all children. Our district welcomes all children with disabilities and their families. The different ways of learning and communicating and the different skills and strengths people with disabilities bring to the district augment the learning environment. We appreciate and value all of the ways in which students learn. We recognize the unique strengths, talents, and knowledge of every student; and we welcome everyone. Hadley School Committee policy prohibits discrimination. The School Committee, administrators, educators, and staff of Hadley Public Schools believe public schools have the responsibility to overcome, insofar as possible, any barriers that prevent children from achieving their potential. The Committee's policy of nondiscrimination extends to students, staff, the general public, and individuals with whom it does business. No person shall be excluded from or discriminated against in admission to a public school of this town or in obtaining the advantages, privileges, and courses of study of such public school on account of race, color, sex, gender identity, religion, national origin, sexual orientation, pregnancy or pregnancy related conditions, or disability.

Any student, parent/guardian/caregiver, or staff member who believes that they may have been discriminated against or believes that the district/school is not in compliance with Section 504 should contact the appropriate Section 504 Coordinator, the Director of Student Services, the Title IX Coordinator, or the Superintendent. Contact information for these individuals is included in Section XIV of this guide, "How to Obtain Further Assistance and Information."

II. Introduction

Section 504 of the Rehabilitation Act of 1973 is a civil rights statute which provides: "No otherwise qualified individual with a disability in the United States...shall, solely by reason of his or her disability, 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 . . ." *29 USC Section 794*. Hadley Public Schools receives Federal funding, and therefore must comply with Section 504. All qualified elementary and secondary public school students who meet the definition of an individual with a disability under Section 504 are entitled to receive regular or special education and related aids and services that are designed to meet their individual educational needs as adequately as the needs of students without disabilities are met. Section 504 also requires that a student with a disability receive an equal opportunity to participate in athletic and extracurricular activities, and to be free from bullying and harassment based on disability.

III. Frequently Used Terms

Eligibility - A student is eligible if the student: (a) is a person aged three through 21 who has not attained a high school diploma or its equivalent; (b) has a physical or mental impairment which substantially limits one or more major life activities; (c) has a record of such an impairment; or (d) is regarded as having such an impairment.

Equal Access - An equal opportunity for a qualified person with a disability to participate in or benefit from educational aids, benefits, or services.

Free Appropriate Public Education (FAPE) - Refers to the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of students with disabilities or impairments as is consistent with Federal and state laws and regulations, and which meet the education standards established by statute or established by regulations promulgated by the board of education. Local Educational Agency's (LEAs) must provide FAPE to each qualified disabled or impaired person in their jurisdiction. FAPE must be provided without cost.

Hidden Disabilities - Physical or mental impairments that are not readily apparent to others. They include such conditions and diseases as specific learning disabilities, diabetes, epilepsy, allergy, or chronic illnesses. A chronic illness involves a recurring and long-term disability such as heart disease, kidney or liver disease, high blood pressure, or ulcers.

Local Educational Agency – Hadley Public Schools.

Major Bodily Functions - Pursuant to the Americans with Disabilities Act Amendments Act of 2008 (ADAAA), such functions include immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. This list is not exhaustive.

Major Life Activity - Functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. This list is not exhaustive. In the ADAAA, additional examples include eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, and communicating. See also Major Bodily Functions.

Manifestation Determination - Meeting of the review committee to determine whether the student's behavior is caused by, or has a direct and substantial relationship to, his/her disability or impairment subsequent to a violation of disciplinary rules by the student.

Parent – For purposes of this manual: a biological or adoptive parent or guardian, surrogate parent, someone acting in place of a parent (including a grandparent, stepparent, or other relative) with whom the student lives, or someone who is legally responsible for the student.

Physical or Mental Impairment - (a) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary;

hemic and lymphatic; skin; and endocrine; or (b) any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness and specific learning disabilities. A physical or mental impairment does not constitute a disability unless its severity is such that it results in a substantial limitation of one or more major life activities.

Procedural Safeguards - A system of procedures established and implemented by the LEA that provides the parent or guardian with notice, an opportunity to examine relevant records, an impartial hearing with parental participation and representation by counsel, if desired, and a hearing when there is a disagreement between the parents and the LEA regarding the identification, evaluation or educational placement of an eligible student.

Related Services - Assistive and supportive services including psychological counseling, speech therapy, physical therapy and transportation. This is not an exhaustive list.

Section 504 Coordinator - A responsible employee of a recipient of federal funds who coordinates compliance efforts.

Section 504 Review Committee - A group of persons knowledgeable about the student, knowledgeable about the meaning of the evaluation data, the placement options, the legal requirements to place a disabled student in the least restrictive environment, and the legal obligation to provide comparable facilities to disabled students. The committee shall include the coordinator or designee, parents, and professionals knowledgeable about the student.

Significant Change in Placement - A substantial and fundamental change in a student's educational program. Whether a change in facilities is a significant change in placement must be determined on a case by case basis. If a student is receiving the same services and programming in substantially the same environment, there has not been a significant change in placement. Transfers made due to age considerations, including graduation, are significant changes in placement.

Student Services/Section 504 Plan - A written document developed by a review committee that states the nature of the concern, the specific modifications, and the related support services to be provided to an eligible student.

Substantially Limits - means: (a) the inability to perform a major life activity that the average person in the general population can perform; or (b) substantial limitation as to the condition, manner or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration which the average person in the general population can perform that same major life activity. OCR has declined to formally interpret the term in non regulatory guidance. Decisions should be made by the review committee on a case by case basis.

IV. Section 504 Process Flow Chart

The purpose of this guide is to provide detailed information about each step in the 504 process. This flow chart provides a visual overview of the 504 process.

Section 504
Process



Notifications

- Form B- Notice of Meeting
- Form C- Notice of Action/ Consent
- Form D- Notice of Procedural Safeguards
- Form E- Student/ Parent Rights



After Meeting

- Form H- 504 Plan
- Form I Complaint/ Grievance Procedure
- Form J- Complaint/Grievance Form
- Form K- Due Process Hearing Procedure
- Form L- Request for Due Process Hearing
- Form SB-1 Parent/Guardian Signature Form
- Form SB-2 Teacher/ Staff Acknowledgement



Annual Review Notice

- Form M- Annual Review Notice

V. The Meaning of Disability Under Section 504

- A. Under Section 504, an **individual with a disability** is defined as a person who: (1) has a physical or mental impairment that substantially limits a major life activity; (2) has a record of such an impairment; or (3) is regarded as having such an impairment. The determination of whether a student has a physical or mental impairment that substantially limits a major life activity must be made on a case by case basis.
- B. When determining if a person has a disability, a school cannot consider the ameliorative effects of **mitigating measures** when determining how the impairment impacts the major life activities under consideration. The use of ordinary eyeglasses or contacts is the one exception to the mitigating measures rule.
- C. The determination of **substantial limitation** must be made on a case by case basis with respect to each individual student. Section 504 requires that a group of knowledgeable persons draw upon information from a variety of sources in making this determination. The group of knowledgeable persons is often called a Section 504 Team.
- D. If an **impairment** is **episodic**, that is to say it only occurs periodically or is in remission, it is a disability if, when in an active phase, it would substantially limit a major life activity.
- E. To meet the Section 504 definition of an individual with a disability, a student could also have a **record of a disability**. Having a record of a disability means that a person either has a history of a disability or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities. A student who has a record of a disability may or may not need special education or related aids and services. Section 504 does not obligate a school district to provide aids or services that a student does not need. But, even if a student with a disability does not need services, the student is protected from disability-based discrimination under Section 504's general non-discrimination requirements.
- F. A student could also meet the definition of an individual with a disability by being **regarded as a person with a disability**. An individual does not fall within the definition as someone regarded as having a disability if the physical or mental impairment is transitory (having an actual or expected duration of six months or less) and minor.
- G. A student with a disability is a **qualified individual with a disability** if the student is of an age at which: (1) students without disabilities are provided elementary and secondary educational services; or (2) it is mandatory under State law to provide elementary and secondary educational services to students with disabilities; and (3) the student has not yet attained a high school diploma or its equivalent.

VI. Free and Appropriate Public Education (FAPE)

- A. *Who is entitled to FAPE?* All qualified persons with disabilities (see previous section) within the jurisdiction of a school district are entitled to a free and appropriate public education. In general, all school-age children who are individuals with disabilities as defined by Section 504 and IDEA are entitled to FAPE.
- B. *What is FAPE?* FAPE is special education and related services that - (A) have been provided at public expense, under public supervision and direction, and without charge; (B) meet the standards of the State educational agency; (C) include an appropriate preschool, elementary, or secondary school education in the state involved; and (D) are provided in conformity with the individualized education program. An appropriate education may comprise education in regular classes with or without the use of related aids and services, or special education and related services in separate classrooms for all or portions of the school day. An appropriate education will include:
- a. Education services designed to meet the individual education needs of students with disabilities as adequately as the needs of nondisabled students are met.
 - i. Teachers of students with disabilities must be trained in the instruction of individuals with disabilities
 - b. ii. Students with disabilities shall have an equal opportunity to participate in after-school programs or extracurricular activities. Reasonable modifications shall be made to provide appropriate aids, supports, and services that are necessary to ensure an equal opportunity to participate. The education of each student with a disability with nondisabled students, to the maximum extent appropriate to meet the needs of the student with a disability
 - i. The school district must conduct or arrange for an individual evaluation at no cost to the parents before any action is taken with respect to the initial placement of a child who has a disability, or before any significant change in that placement
 - c. Evaluation and placement procedures established to guard against misclassification or inappropriate placement of students, and a periodic reevaluation of students who have been provided special education or related services.
 - d. Establishment of due process procedures that enable parents and guardians to:
 - i. Receive required notices;
 - ii. Review their child's records; and
 - iii. Challenge identification, evaluation and placement decisions.
- C. Student Evaluation and Placement Under Section 504
- a. School districts must conduct an evaluation, in accordance with established standards and procedures, in a timely manner of any

student who needs or is believed to need special education or related services because of a disability. When a school is aware of a student's disability, or has reason to suspect a student has a disability, and the student needs or is believed to need special education or related services, the District shall send out a written notice to the parents/guardians requesting their consent for evaluation. Evaluation procedures must ensure that tests and other evaluation materials:

- i. Have been validated for the specific purposes for which they are used, and are administered by trained personnel in conformance with the instructions provided by their producer
 - ii. Are tailored to assess specific areas of education need and are not designed merely to provide a single general intelligence quotient
 - iii. Are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).
- b. The 504 Team must draw upon a variety of sources in the evaluation and placement process. All significant factors related to the learning process must be considered. Information may include reports from physicians, observations from parents, teachers, school personnel, results from standardized tests, etc.
 - c. Information from all sources must be documented and considered by a group of knowledgeable persons, and procedures must ensure that the student is placed with nondisabled students to the greatest extent appropriate.
 - d. Periodic reevaluation is required. Reevaluation must occur minimally every three years (unless the parent and school district agree reevaluation is unnecessary) or more frequently if conditions warrant, or if the child's parent or teacher requests a reevaluation.
- D. Accommodation Plan
- a. The Section 504 Team shall determine whether the student is disabled under Section 504, and, if so, develop a written educational plan describing what accommodations, services or programs will be provided to meet the student's needs. The student's parent or guardian shall be notified in writing of the Section 504 Team's determination and recommendations.

- b. The school administrator or designee is responsible for notifying the student's parent/guardian and for overseeing the development of the written plan if a student is found eligible.
- E. Nonacademic Services and Activities
- a. The school district must provide equal opportunity in areas such as counseling, physical education, recreation, athletics, transportation, health services, recreational activities, special interest groups or clubs, referrals to other agencies, and employment.
 - b. These regulations give students with disabilities an equal opportunity to participate in extracurricular services and extend the least restrictive environment mandate to extracurricular activities.
 - c. The district must provide counseling services without discrimination on the basis of disability. The district may not counsel students with a disability toward more restrictive post-secondary objectives.
 - d. School districts must afford qualified students with disabilities an equal opportunity for participation in extracurricular athletics in an integrated manner to the maximum extent appropriate to the needs of the student. This requirement means that a school district must make reasonable modifications to its policies, practices, or procedures whenever such modifications are necessary to ensure equal opportunity, unless the school district can demonstrate that the requested modification would constitute a fundamental alteration of the nature of the extracurricular athletic activity. The fact that a student has a disability does not mean that the student must be allowed to participate in any selective or competitive program offered by a school district. Rather, school districts may require a level of skill or ability of a student in order for that student to participate in a selective or competitive program or activity, so long as the selection or competition criteria are not discriminatory.
- F. Additional Considerations for Placement and Services Under Section 504
- a. Students who are identified as having a disability and needing special education and/or related aids and services are entitled to special education and a broad range of supplemental and related aids and services, as needed, such as tutors, note-takers, or one-on-one aides; assistive technology, psychological and counseling services; or related therapies.

VII. Physical Accessibility

School districts are required to ensure that students and others with disabilities, including parents, are not denied access to the school's programs or activities because of inaccessible facilities, including academic buildings, walkways, restrooms, athletic facilities, and parking spaces. Under Section 504, for facilities constructed prior to June 4, 1977, program access is required. In general terms, program access means that, although the facility or parts of the facility may not be physically accessible, the public school must still make its programs and activities

available to students with disabilities. Under Section 504, facilities (such as buildings) that were built or altered on or after June 4, 1977, are referred to as new construction. Specific construction and design standards apply to these facilities.

VIII. Additional Protections from Discrimination

A. Bullying and Harassment

- a. Section 504 prohibits disability-based harassment by peers that is sufficiently serious to deny or limit a student’s ability to participate in or benefit from the school’s education programs and activities (in other words a hostile environment). When the district knows or reasonably should know of possible disability-based harassment, it must take immediate and appropriate steps to investigate or otherwise determine what occurred. If an investigation reveals that the harassment created a hostile environment, the district must take prompt and effective steps reasonably calculated to end the harassment, eliminate the hostile environment, prevent the harassment from recurring, and, as appropriate, remedy its effects.
- b. Harassment of a student by another student on the basis of his or her disability may take many forms, such as a student remarking another student with a disability does not belong in a class or the school, exclusion, and physical and/or verbal intimidation. Harassment does not have to include intent to harm, be directed at a specific targeted student, or involve repeated incidents in order for it to be considered discriminatory.
- c. If an employee believes a student with a disability is the subject of bullying and/or harassment, the employee should report it immediately to the building principal and the Director of Student Services.

IX. Section 504 and IDEA Similarities and Differences

Individuals with Disabilities Education Improvement Act (IDEA)	Section 504
Purpose: Provides remedial and appropriate special education and related services to students with disabilities who are eligible under the thirteen specific disability categories	Purpose: Prohibits discrimination on the basis of disability and provides otherwise qualified disabled students with appropriate educational accommodation and/or services designed to meet the individual needs of the student to the same extent as the needs of students without disabilities
Eligibility: Student has a qualifying disability, is not making effective progress due to the disability, and requires specially designed instruction	Eligibility: Student has a disability that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment

<p>Evaluation:</p> <ul style="list-style-type: none"> ● Parent or guardian must provide written consent ● Assessments are conducted by a multi-disciplinary special education team in all areas of suspected disability ● Special education team determines if disability exists; identifies type of disability; establishes if limited progress is due to disability; determines specific specialized instruction if eligible ● IEP goals and objectives must be reviewed annually ● A reevaluation must be performed every three years 	<p>Evaluation:</p> <ul style="list-style-type: none"> ● Parent or guardian must provide written consent ● The Section 504 team is comprised of persons knowledgeable about the student, evaluation data, and disability ● Multiple sources of information must be considered in the area of concern to determine eligibility ● The Section 504 team determines whether a disability exists, whether its effect on a major life activity is substantial, and if accommodations/services are required ● A Section 504 plan must be reviewed annually and modified as needed
<p>What is an IEP? An IEP directly addresses the student's disability, specialized instruction required, specific services with goals and objectives, and provides transition planning for students 14 and older</p>	<p>What is a Section 504 plan? A Section 504 plan ensures a qualified individual has access to academic and extra-curricular programs and services to the same extent as non-disabled peers by providing specific accommodations and/or services to address as student's disability and major life activities affected</p>
<p>Independent Evaluation: IDEA allows parents/guardians to request an independent evaluation at the school district's expense in accordance with the law</p>	<p>Independent Evaluation: Section 504 does not allow independent evaluations at the district's expense</p>
<p>Dispute Resolution: Parents/guardians who disagree with identification, evaluation, implementation of IEPs or placement may initiate mediation or due process hearings at the Bureau of Special Education Appeals.</p>	<p>Dispute Resolution: Parents/guardians who disagree with identification, evaluation, implementation of 504 plan or placement may initiate mediation or due process hearings at the Bureau of Special Education Appeals.</p>
<p>Procedural Safeguards: Requires written notice regarding identification, evaluation, and placement. Notice requirements are specifically spelled out. Prior written notice required before any change in placement.</p>	<p>Procedural Safeguards: Written notice is not required although it is recommended. Notice required before a significant change in placement.</p>
<p>Evaluations: Consent required prior to an initial evaluation. Reevaluations must be conducted at least every three years. Not required before a change in placement.</p>	<p>Evaluations: Notice, consent required prior to initial evaluation. Periodic reevaluations are required. Reevaluation required before a significant change in placement.</p>
<p>Due Process Hearings: Requires impartial</p>	<p>Due Process Hearings: Requires impartial</p>

hearing. Rules are almost identical.	hearing. Rules are almost identical.
Exhaustion: Must pursue administrative hearing before seeking redress in court.	Exhaustion: Not required.
Enforcement: Compliance monitored by DESE. DESE will resolve complaints.	Enforcement: Enforced by OCR. OCR will investigate complaints.
Transition Services: IDEA requires the development of a transition plan within the IEP process beginning at age 14.	Transition Services: No requirement.
Independent Educational Evaluation: Required	Independent Educational Evaluation: Not required.

X. Procedural Safeguards and Notice Section 504

A parent or guardian have the following legal rights according to Section 504 of the Rehabilitation Act of 1973.

A. Referral and Evaluation Process

Any student who needs or is believed to need special accommodations, related services or programs under Section 504 of Rehabilitation Act of 1973, may be referred to the Section 504 Committee for evaluation. The Section 504 Committee shall be composed of persons knowledgeable about the student’s school history, the student’s individual needs, the meaning of evaluation data, and the placement options.

The student’s parent or guardian shall be notified of the Section 504 Committee meeting at least 5 calendar days prior to the meeting and shall be invited to participate in the meeting.

The Section 504 Committee shall consider all relevant information on the student to determine whether he or she is disabled under Section 504. Information may include reports from physicians, observations from parents, teachers, school personnel, results from standardized tests, etc.

The Section 504 Committee has the responsibility to refer a student to Special Education if it is felt that the student may have an educational disability and may be eligible for special education.

B. Accommodation Plan

The Section 504 Committee shall determine whether the student is disabled under Section 504, and if so, develop a written educational plan describing what accommodations, services or programs will be provided to meet the student’s needs. The student’s parent/guardian shall be notified in writing of the Section 504 Committee’s determination and recommendations.

C. Review of the Student’s Evaluation and Plan

The Section 504 Committee shall meet periodically to review the student's evaluation and plan. In addition, prior to any significant change in the plan, a review or reassessment of the student's needs shall be conducted.

D. Procedural Safeguards

The parent/guardian has a right to receive a copy of a notice of procedural rights when the district identifies, evaluates, refuses to evaluate, makes a new educational placement, denies a new educational placement or makes any significant change in the placement of the student because of the student's disability or suspected disability.

The parent/guardian shall be notified in writing of any district decision concerning the identification, evaluation, and placement of a student.

The parent/guardian has the right to an evaluation of the student if the school district has reason to believe that the student has a mental or physical impairment that substantially limits learning or some other major life activity.

The parent/guardian has the right to this evaluation before any plan for accommodation and before any subsequent significant change in the educational placement of the child. An example of a significant change in placement is a referral for expulsion.

The student has the right to a free and appropriate public education. The parent/guardian is responsible for the same costs as the parents/guardians of children who are not disabled.

The parent/guardian shall have the right to examine school records.

Parents/guardians who disagree with the identification, evaluation or placement of a student with disabilities shall have the right to request an impartial due process hearing. The request for the hearing shall be made in writing, within thirty (30) days of receipt of the Section 504 Committee's determination. The request shall state the reasons the hearing is being requested and be sent to the Bureau of Special Education Appeals (BSEA), 75 Pleasant Street, Malden, MA 02148-4906 or by fax to the BSEA at 781-338-3398. This written request for hearing must also be submitted to the attention of the Superintendent of Schools, Hadley Public Schools, 125 Russell Street, Hadley, MA, 01035. If the parent/guardian ultimately disagrees with the decision of the hearing officer, they have the right to seek review of that decision by filing a complaint with federal district court.

E. Procedures to Follow at the Hearing

A Section 504 due process hearing may be called at the request of the school district or parent/guardian. The proceedings shall be presided over and decided by an impartial hearing officer. Requests for a due process hearing must be submitted in writing to the district and BSEA. Parents/guardians shall be notified of the hearing at least 7 days prior to the date set for the hearing. The notice shall contain:

- A statement of time, place, and nature of the hearing;
- A statement of the legal authority and jurisdiction under which the hearing is being held;
- A statement of the legal matters asserted;

- A statement of the right to be represented by counsel; and
- A statement of the right to examine relevant records. All communication to the parent/guardian shall be in English or in the native language or mode of communication of the parent/guardian. At the hearing each party shall have an opportunity to present relevant information and outside expert testimony. A copy of the hearing officer's decision shall be delivered to the school district and the parent/guardian within 45 days following the completion of the hearing. The decision of the hearing officer is binding on all parties involved; it is subject to review by the State Review Officer as appropriate, and by a federal court of competent jurisdiction.

F. Parent's Rights for Inspecting and Reviewing Educational Records Under Section 504

Parents or eligible students must be given the right to inspect and review education records collected, maintained, or used for purposes of referring, evaluating, placing, or educating the student receiving accommodations. LEAs must comply with a parent's request to access records within a reasonable period of time, but no more than 45 calendar days after receiving the request. Records must be made available for inspection and review at a mutually agreeable time. Reasonable requests for explanations and interpretations of the records must be granted. If circumstances effectively prevent the person or eligible student from exercising the right to inspect and review the record, the LEA must provide the parent or student with a copy of the requested records.

XI. Section 504 Process Best Practices

A. Steps to Take When Requesting a Referral:

- a. Contact your child's administrator or designee.
- b. The administrator will send you a consent form seeking your permission to evaluate and Notice of Procedural Safeguards.
- c. Once the school administrator or designee is in receipt of the signed consent form, they will notify staff responsible for evaluating your child.
- d. The school administrator or designee will convene a Section 504 Team comprised of people who are knowledgeable about your child, the disability, and the evaluation data.
- e. Once the assessments and/or review of information is complete, the administrator or designee will schedule an Eligibility meeting.
- f. The school administrator or designee will send you an Invitation Notice detailing the date, time, and place of the Eligibility meeting. (You may choose to invite physicians, mental health professionals, and counselors).
- g. During the Eligibility meeting, the Section 504 Team will consider multiple sources of information, review evaluation results and determine if your child is eligible to receive accommodations and/or related services under Section 504.

- h. You will be provided with a copy of the Notice of Procedural Safeguards at the meeting.
 - B. If a Student is Found Eligible:
 - a. The Team will develop a Section 504 Plan that clearly states the disability and the major life activity impacted by the disability.
 - b. The Section 504 Plan will list the accommodations, materials, and/or services required to ensure the student has equitable access to curricular and extracurricular activities.
 - c. The administrator or designee will monitor the implementation of the student's plan.
 - d. A liaison may be assigned by the administrator or designee as a contact person regarding a student's Section 504 Plan.
 - e. Parents/Guardians will be provided a copy of the Section 504 Plan.
 - C. If A Student is Not Found Eligible:
 - a. Parents/Guardians will be provided with a copy of the Section 504 Non-Eligibility Form.
 - D. Annual Reviews
 - a. The school administrator or designee is responsible for ensuring that Section 504 Plans are reviewed at least annually, or more frequently as conditions warrant. The purpose of this review is to determine the appropriateness of the current 504 Plan and to make necessary modifications.
 - E. Three Year Reevaluations
 - a. The school administrator or designee is responsible for initiating the Section 504 reevaluation process to determine continued eligibility every three years or more frequently if conditions warrant.
 - b. The process for reevaluation is the same as the process for initial evaluation.

XII. Section 504 Frequently Asked Questions

1. *What is Section 504?* Section 504 of the Rehabilitation Act of 1973 is a civil rights statute which prohibits an otherwise qualified individual with a disability from being discriminated against, excluded from participation in or denied the benefits of any program or activity that receives federal financial assistance. Section 504 is enforced by the U.S DOE, Office of Civil Rights, and the Massachusetts Bureau of Special Education Appeals. Students who are eligible for Section 504 Plans are provided with appropriate educational accommodations and/or services designed to meet their individual needs to the same extent as the needs of students without disabilities.
2. *How is a student qualified under Section 504?* Eligibility for accommodation plans and/or services under Section 504 is based upon a review of documentation from multiple sources to determine whether a student has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment or is regarded as having

such an impairment. Each eligibility determination is based on individual inquiry.

3. *What is a physical or mental impairment?* There is no complete list of impairments that are covered by Section 504. A sampling of physical or mental impairments that may be considered eligible under Section 504 include:
 - a. Emotional and Behavioral Disorders
 - b. Developmental Delay
 - c. Attention Deficit Disorder
 - d. Specific Learning Disability
 - e. Physical Disabilities or Impairments
 - f. Auditory Disabilities or Impairments
 - g. Visual Disabilities or Impairments
 - h. Medical Conditions
4. *What are major life activities?* Section 504 defines major life activities to include a wide variety of daily activities, such as:
 - a. Caring for oneself
 - b. Performing manual tasks
 - c. Seeing
 - d. Hearing
 - e. Eating
 - f. Sleeping
 - g. Walking
 - h. Standing
 - i. Lifting
 - j. Bending
 - k. Speaking
 - l. Breathing
 - m. Learning
 - n. Working
 - o. Reading
 - p. Concentrating
 - q. Thinking
 - r. Communicating
 - s. Operation of a major bodily function
5. *When does impairment “substantially limit a student’s major life activity”?* In general, “substantially limits” means being unable to perform a major life activity that most people can perform or having considerable difficulty with respect to the condition, manner or duration for which an individual can perform a major life activity as compared to most people.
6. *Does the school administrator or designee have to consider multiple and varied sources of information (parent/guardian and school documentation) in order to determine if a student is eligible for accommodations and/or services*

under Section 504? Yes. Section 504 requires that “information from a variety of sources be considered and documented.”

7. *Who is responsible for conducting the multidisciplinary assessment and determining eligibility for accommodations and/or services under Section 504?* The school administrator or designee is responsible to convene a 504 Team that is knowledgeable about the student, the meaning of the evaluation data, and the placement options. The meeting is chaired by the school administrator or designee. The parent/guardian of the student is also a member of the 504 Team. If the student is 14 years old or older, the student should be invited to attend.
8. *Does a physician’s diagnosis (e.g., ADD, ADHD, etc.) automatically result in a student being eligible for Section 504?* No. A physician’s diagnosis alone does not automatically result in eligibility under Section 504. A physician’s diagnosis should be considered as one piece of evidence when evaluating the student’s eligibility under Section 504 as part of a multi-disciplinary evaluation process. The key to eligibility under Section 504 is whether the student’s disability substantially limits a major life activity.
9. *If a student with a physical or mental impairment is found ineligible under IDEA, is s/he automatically covered under Section 504?* No. The student must be referred to a Section 504 Team to determine if s/he meets eligibility requirements under Section 504.
10. *If a student is age 18 must all Section 504 correspondence be sent to the student rather than the parent/guardian? Must this student attend Section 504 meetings rather than the parents/guardians?* Yes. Once the student reaches the age of 18, all rights accorded to the parents/guardians transfer to the student. Once the child is 18 s/he must be invited to attend all Section 504 meetings and be given all correspondence, unless the parents/guardians have taken steps to become the student’s educational guardian and/or the student has provided express written consent for the parents/guardians to be invited to attend team meetings and/or receive copies of all correspondence. The Office of Student Services will mail a letter to all students who will turn 18 during the upcoming school year notifying parents/guardians and students that all rights accorded to parents/guardians under Section 504 law will transfer to the 18 year old student. The letter reinforces the fact that the parents/guardians retain the right to review the student’s educational records. A copy of the Notice of Rights under Section 504 will accompany this letter.
11. *Are written 504 Plans required for eligible students?* Yes.
12. *What happens if parents/guardians do not sign a consent form for an Initial Evaluation?* After three attempts to obtain consent for an initial evaluation from the parents/guardians, no further action with regard to the proposed initial evaluation is required by the school administrator or designee.

13. *Are parents/guardians required to sign a 504 Plan before it can be implemented?* No, however, Hadley Public Schools generally attempts to gain the parent/guardian signature on the 504 Plan.
14. *What happens if a student refuses an accommodation and/or service from a teacher?* Teachers cannot force a student to accept accommodations or services but teachers are obliged to keep a log of which accommodations or services a student refused and under what circumstances.
15. *If a student transfers from another district, can the team meet to modify the Plan?* Yes, after the 504 Team has implemented the 504 Plan for a period of time, the 504 Team may meet to add accommodations and/or services if the 504 Team deems it necessary.
16. *Are there “stay put” rights under Section 504?* No, there is no express provision affording students “stay put” rights pending an appeal in connection with a dispute regarding a Section 504 plan nor should any stay put requirement be implemented.
17. *What can parents/guardians do if they are dissatisfied with the way schools are serving students who are eligible for Section 504 protections?* Parents/guardians should request to meet with the student’s school administrator or designee and/or reconvene the Section 504 Team. If the issues are not resolved the parents/guardians should contact Pamela Haywood, Director of Student Services. If issues are still unresolved, parents/guardians should contact the Superintendent of Schools.

XII. Sample Section 504 Accommodations

Section 504 accommodations are based on the unique needs of the student identified during the evaluation process. The following is a non-exclusive list of potential 504 accommodations:

Evaluation Accommodations

- Allowing extended time during tests
- Allowing extended time to complete assignments
- Assessments read aloud
- Use of a calculator
- Spelling errors noted but not evaluated
- Testing at a specific time of day
- Allowing for verbal responses instead of written responses

Environmental Accommodations

- Preferential seating
- Limiting amount of assignments and papers handed out at one time
- Special lighting or acoustics
- Providing a space with minimal distractions

Content Accommodations

- Allowing use of assistive tech tools to assist with reading and writing
- Providing classroom notes from the teacher and/or peers
- Using audio books

- Allowing extra guided practice when necessary
- Providing written material in large print
- Reducing the number of items per page or line

Physical Accommodations

- Use of an elevator
- Student is allowed to go to nurse or counselor for check ins during the day
-

XIV. How to Obtain Further Assistance and Information

Hopkins Academy Section 504 Coordinator

April Camuso, Principal

131 Russell Street

Hadley, MA 01035

413-584-1107

acamuso@hadleyschools.org

Hadley Elementary Section 504 Coordinator

Jennifer Dowd, Principal

21 River Drive

Hadley, MA 01035

413-584-5011

jdowd@hadleyschools.org

District Section 504 Coordinator

Anne McKenzie, Superintendent

125 Russell Street

Hadley, MA 01035

413-586-0822

amckenzie@hadleyschools.org

If you would like more information about Section 504 and the other laws enforced by the Office of Civil Rights, information about how to file a complaint, or information about how to obtain technical assistance contact OCR's New England Office:

U.S. Department of Education

8th Floor

5 Post Office Square

Boston, MA 02109-3921

Telephone: (617) 289-0111

TTY#: (800) 877-8339

Facsimile: (617) 289-0150

Email: OCR.Boston@ed.gov

XV. District Forms

Form A- Section 504 Referral and Recommendations
Form B- Notice of Meeting
Form C- Notice of Action/ Consent
Form D- Notice of Procedural Safeguards
Form E- Student/ Parent Rights
Form F- Sign-in Sheet
Form G- Receipt of Notices of Procedural Safeguards
Form H- 504 Plan
Form I- Complaint/ Grievance Procedure
Form J- Complaint/ Grievance Form
Form K- Due Process Hearing Procedures
Form L- Request for Due Process Hearing
Form SB-1- Parent/Guardian Signature Form
Form SB-2- Teacher/ Staff Acknowledgement
Form M- Annual Review Notice

Form A
Section 504 Referral and Recommendations

Referral Date _____
Student _____ DOB _____
Last First M.I. Parent/Guardian _____ Telephone _____
School _____ Grade _____ Teacher _____
Referral made by _____ Position _____
Reason for Referral _____

Provide information to substantiate concern(s) (i.e., pre-referral data, disciplinary information, screening instruments, observations, anecdotal data, reports, achievement/aptitude test (TCAP), examples of student's work):

Describe interventions already used in attempting to resolve concern(s):

To be completed by the Section 504 Team

Date of Section 504 Team Meeting _____

Recommendations

_____ Refer for Comprehensive Evaluation under IDEA

_____ Screen/evaluate for Section 504 eligibility

_____ Other, Specify _____

Section 504 Team member responsible to inform parent/guardian of recommendations:

Form B Notice of Section 504 Committee Meeting

Student Name: _____

DOB: _____ Student ID No.: _____ Grade: _____

School: _____ Teacher: _____

The Section 504 Committee will be meeting on _____ to discuss referral and evaluation information. If it is determined the student has a disability, the student's educational needs will be discussed and any applicable programs or modifications will be considered.

Section 504 of the Rehabilitation Act of 1973, is a civil rights statute, which prohibits discrimination against persons with a disability in any program or activity receiving federal financial assistance. The statute defines a person with a disability as anyone who:

- Has a mental or physical impairment which substantially limits one or more major life activities (major life activities include activities such as caring for one's self, performing manual tasks, walking, seeing, hearing speaking, breathing, learning, and working) or major bodily functions (such functions include immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions); and
- Has a record of such impairment; or
- Is regarded as having such impairment.

In order to fulfill its obligation under Section 504, the (LEA) recognizes a responsibility to avoid discrimination in policies and practices regarding its personnel and students. No discrimination against any person with a disability will knowingly be permitted in any of the programs or activities in the (LEA). The (LEA) has specific responsibilities under Section 504, which include the responsibility to identify, evaluate, and if the student is determined to be eligible under Section 504, to afford access to appropriate educational services. If the parent/guardian disagrees with the determination made by the professional staff of the (School System), s/he has a right to a hearing with an impartial hearing officer. The Family Educational Rights and Privacy Act (FERPA) also specify rights related to educational records. FERPA gives parents/guardians the right to:

- Inspect and review his/her student's educational records;

- Make copies of his/her student's educational records;
- Receive a list of all individual(s) having access to his/her student's educational records;
- Ask for an explanation of any item in the records;

Form B

- Ask for an amendment to any report on the grounds that it is inaccurate, misleading, or violates the student's rights; and
- A hearing on the issues if the school refuses to make the amendment.

If you wish to have further information or have any questions please contact:

Section 504 Building Coordinator: _____

Telephone Number: _____

Date Sent: _____

Form C

Notice of Action/Consent

To: _____ Date: _____

(Parent/guardian)

Student's name: _____ DOB: _____

Student ID No.: _____

- I. Notice of Action. The purpose of this written notice is to inform you that we are:
____ proposing to ____ initiate
____ refusing ____ change

The following (mark all items that apply):

____ evaluation ____ Section 504 plan ____ disciplinary action
____ eligibility ____ reevaluation ____ other: _____

Description of the proposed or refused action:

Reason why we are proposing or refusing to take action is:

_____ Date: _____

(Name of building Section 504 coordinator)

- II. Parent Consent (Only required for initial evaluation.)

____ Yes, I do consent to an initial evaluation for my student.

____ No, I do not consent for an initial evaluation for my student.

Signature: _____ Date: _____

(Parent/guardian)

Signature: _____ Date: _____

(Parent/guardian)

Copies to: ____ Parent/guardian
____ School Section 504 file
____ LEA Section 504 coordinator

Form D

Notice of Procedural Safeguards

SECTION 504, THE REHABILITATION ACT OF 1973

The Rehabilitation Act of 1973, commonly referred to as Section 504, is a federal nondiscrimination statute. The purpose of the Act is to prohibit discrimination and to assure that disabled students have educational opportunities and benefits equal to those provided to nondisabled students.

An eligible student under Section 504 is a student who (a) has, (b) has a record of having, or (c) is regarded as having, a physical or mental impairment which substantially limits a major life activity (such as learning, self-care, walking, seeing, hearing, speaking, breathing, working and performing manual tasks) or a major bodily function (such functions include immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions).

The purpose of this Notice is to delineate the procedural rights assured by Section 504. The enabling regulations for Section 504 at 34 CFR Part 104, entitle students to the following rights:

1. Your student has the right to an appropriate education designed to meet his/her individual educational needs as adequately as the needs of nondisabled students are met. 34 CFR § 104.33.
2. Your student has the right to free educational services except for those fees that are imposed on nondisabled students or their parents. Insurers and similar third parties are not relieved from an otherwise valid obligation to provide or pay for services provided to a disabled student. 34 CFR § 104.33.
3. Your student has a right to placement in the least restrictive environment. 34 CFR § 104.34.
4. Your student has a right to facilities, services, and activities that are comparable to those provided to nondisabled students. 34 CFR § 104.34.
5. Your student has a right to an evaluation prior to an initial Section 504 placement and any subsequent change in placement. 34 CFR § 104.35.
6. Testing and other evaluation procedures must conform to the requirements of 34 CFR § 104.35 as to validation, administration, areas of evaluation, etc. The LEA shall consider information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, adaptive behavior,

physical or medical reports, student grades, progress reports, parent observations, anecdotal reports, and assessment scores. 34 CFR § 104.35.

7. Placement decisions must be made by a group of persons (i.e., Section 504 Committee), including persons knowledgeable about your student, the meaning of the evaluation data, the placement options, and the legal requirements for least restrictive environment and comparable facilities. 34 CFR § 104.35.

8. If eligible under Section 504, your student has a right to periodic reevaluations, generally every three (3) years. 34 CFR § 104.35.

9. You have the right to notice prior to any action by the LEA in regard to the identification, evaluation, or placement of your student. 34 CFR § 104.36.

10. You have the right to examine relevant records. 34 CFR § 104.36.

11. You have the right to an impartial hearing with respect to the LEA's actions regarding your student's identification, evaluation, or educational placement, with opportunity for parental participation in the hearing and representation by an attorney. 34 CFR § 104.36.

12. If you wish to challenge the actions of the LEA's Section 504 Committee in regard to your student's identification, evaluation, or educational placement, you should file an oral or written request for a due process hearing with the LEA's Section 504 Coordinator. 34 CFR § 104.7.

13. If you disagree with the decision of the impartial hearing officer, you have a right to a review of that decision by a court of competent jurisdiction. 34 CFR § 104.36.

14. You also have a right to file a complaint with the Office for Civil Rights. The address of the regional office with jurisdiction over Massachusetts is:

U.S. Department of Education Office for Civil Rights

8th Floor

5 Post Office Square

Boston, MA 02109-3921

Telephone: (617) 289-0111

15. You may seek reimbursement for attorney fees.

My signature indicates that I have received this Notice of Procedural Safeguards.

Signature

Date

Copies to: _____ Parent/guardian

_____ School Section 504 file

_____ LEA Section 504 coordinator

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Form E

Parent/Student Rights in Identification, Evaluation, and Placement

The following is a description of the rights granted to students with a disability by Section 504 of the Rehabilitation Act of 1973, a civil rights statute, which prohibits discrimination against persons with a disability in any program or activity receiving federal financial assistance. The intent of the law is to keep you fully informed concerning decisions about your student and to inform you of your rights if you disagree with any of these decisions.

You have the right to:

1. Have the student take part in, and receive benefits from public education programs without discrimination because of his/her disability;
2. Have your LEA advise you of your rights under federal law;
3. Receive notice with respect to identification, evaluation, or placement of the student;
4. Have the student receive a free appropriate public education. This includes the right to be educated with non-disabled students to the maximum extent appropriate. It also includes the right to have the school LEA make reasonable accommodations to allow your student an equal opportunity to participate in school and school-related activities;
5. Have the student educated in facilities and receive services comparable to those provided nondisabled students;
6. Have the student receive special education and related services if s/he is found to be eligible under the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act;
7. Have evaluation, education, and placement decisions made based upon a variety to information sources, and by persons who know the student, the evaluation data, and placement options;
8. Have the student afforded an equal opportunity to participate in nonacademic and extracurricular activities offered by the LEA;
9. Examine all relevant records relating to decisions regarding the student's identification, evaluation, education program, and placement;
10. Obtain copies of education records at a reasonable cost, unless the fee would effectively deny you access to the records;

11. A response from the school LEA to reasonable requests for explanations and interpretations of the student's records;

12. Request the amendment of the student's educational records if there is reasonable cause to believe that they are inaccurate, misleading, or otherwise in violation of the privacy rights of your student. If the LEA refuses this request for amendment, it shall notify you within a reasonable time, and advise you of the right to a hearing on the matter of a record amendment;

13. File a local grievance;

14. Request an impartial due process hearing related to decisions or action regarding the student's identification, evaluation, educational program or placement. You and the student may take part in the hearing and have an attorney represent you. Written hearing requests must be submitted to the 504 Coordinator/designee of the LEA. The hearing must be held no less than 15 days from the date a hearing officer is appointed or later if the hearing officer grants a continuance. Reasons for the due process hearing request: a) Denied identification, evaluation or educational placement; b) Placed in a setting which is not the least restrictive environment; c) Denied appropriate services due to inaccessibility of programs; d) Denied modifications to regular education program because of identified disability; or, e) Denied participation in extracurricular and nonacademic activities because of disability.

15. Request payment of reasonable attorney fees. Awards of attorney fees are discretionary in Section 504 hearings. The person in (LEA) who is responsible for ensuring compliance with Section 504 is:

Anne S. McKenzie
413-586-0822

Form G

Receipt of Notice of Procedural Safeguards and Rights

Student Name: _____

DOB: _____ Student ID No.: _____

Grade: _____ School: _____ Teacher: _____

This is to verify that I have received copies of the Section 504 Notice of Procedural Safeguards and Parent and Student Rights in Identification, Evaluation, and Placement, which inform me of my rights throughout the educational process. The rights have been explained to me by:

Name _____	Position _____
on _____.	

I understand that my rights include the right to receive:

- (1) This and all other written notices in the language that I understand (primary language or, if needed, a translation of such orally, in sign language, or Braille, as appropriate, and
- (2) Answers from school personnel to additional questions. My signature below indicates that I received a copy of the Section 504 Parent and Student Rights in Identification, Evaluation, and Placement and understand its contents.

_____ Signature of Parent/Guardian	_____ Date
---------------------------------------	---------------

_____ Signature of Parent/Guardian	_____ Date
---------------------------------------	---------------

Copies to:

- _____ Parent/guardian
- _____ School Section 504 file
- _____ LEA Section 504 coordinator

504 Plan

Form H

Student _____

DOB: _____

Date: _____

1. Is the student disabled under Section 504?

Yes

No

2. Does the student have a physical or mental impairment which substantially limits one or more of his/ her major life activities?

Yes

No

If yes, indicate areas of limitation:

Caring for Self Performing Manual Tasks

Walking Seeing

Breathing Hearing

speaking Working

Learning Other

If yes, indicate primary disability _____

3. Briefly document the basis for determining disability:

Describe how the disability affects a major life activity

Accommodations

School, Classroom, Medical and Transportation Accommodations

Accommodations for Standardized and State Testing

Additional Information

Parent Responses

Parent/Guardian Statements:

_____ I have received a written notice of my rights under Section 504

_____ I have received notice of the Section 504 evaluation and accommodation plan meeting.

_____ I agree with the Section 504 Plan as written

_____ I understand that, if I disagree with the content of this plan, I have the right to ask for a Section 504 review meeting by filing a written request with the school principal, building 504 coordinator, or designee.

Parent/ Guardian Signature

Date

Form I

Policy – Section 504 Complaint/Grievance Procedures

The LEA acknowledges that it is desirable to resolve employee allegations of discrimination through free and informal communications. A request for an informal conference must be made by the grievant within 10 calendar days after an alleged violation has occurred. A conference must be convened within five calendar days after receipt of the request. If the informal process fails to satisfy the grievant, a grievance may be processed as follows:

Step 1: Within five calendar days following the informal conference, the grievant shall file a grievance on the form provided by the central office. The grievant should present the grievance orally or in writing to the Section 504 Coordinator. Oral complaints will be reduced to writing. Within 20 calendar days of the receipt of the grievance, the coordinator shall conduct a hearing regarding the complaint. All parties involved in the grievance shall be given a five calendar day notice of the date, time and place of the hearing. The parties shall be granted appropriate due process rights as required by law including the right to be represented by counsel, offer testimony, present evidence, cross examine witnesses, and appeal rulings. Within 15 calendar days of the adjournment of the hearing, the coordinator shall render a written decision regarding the grievance.

Step 2: If the grievant is not satisfied at Step 1, the grievant may refer the grievance to the director of schools within 10 calendar days after receipt of the Step 1 answer. The director or his designee shall hold a de novo hearing following the same procedures as in the previous hearing.

Step 3: If the grievant is not satisfied at Step 2, the grievant may within 10 days request a Due Process Hearing. This hearing shall follow the same procedures as required in the cases involving parents and students.

Definitions:

A “grievance” shall mean any claim by an employee that there has been a violation, misinterpretation, or misapplication of the terms of Section 504.

Advanced Step Filing: Grievances may be initially filed at Step 1 thereby eliminating the informal conference.

No Reprisals: No reprisals shall be taken by the Board or its agents against any individual because of participation in this process.

Withdrawal: A grievance may be withdrawn at any level without establishing a precedent.

Time Limitations: An extension of the time limits is permissible by mutual consent of the parties at any level

Form J

Section 504 Complaint/Grievance Form

Date _____ School _____

Name _____ Phone _____

Address _____

Person(s) who discriminated against you/student (Please include the individual's title):

Please provide a brief description of what happened, when it happened, and who was involved.
(Please attach additional pages, if necessary).

Explain what steps, if any, you have already taken to resolve this matter:

Describe how you would like to see this matter resolved:

Signature

Print

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*Please attach any documents or other information you think will help with the investigation of your complaint.

Form K

Due Process Hearing Procedures

Section 504 of the Rehabilitation Act of 1973 provides parents with the right to an impartial due process hearing to contest any action of the LEA with regard to a student's identification, evaluation or placement. 34 CFR §104.36. The parent has the right to personally participate and to be represented by at the hearing by an attorney at the parent's expense.

Request for Due Process

A parent who wishes to challenge the LEA's action or omission with regard to the identification, evaluation or placement of a student who has or is believed to have a disability, shall make an oral or written request for a due process hearing to the LEA's Section 504 coordinator. If a request is received orally, it should be reduced to writing or the parent/guardian should be provided a form for such purpose. The written request must clearly state that the parent is seeking a Section 504 due process hearing. The LEA cannot refuse a parent's due process hearing request. The LEA cannot unilaterally determine whether a due process hearing is warranted, as such decisions are reserved to the impartial hearing officer.

Hearing Officer

The LEA will appoint an impartial hearing officer to preside over the hearing and issue a decision. Such appointment will be made within 15 calendar days of the date of receipt of a request for a due process hearing. The hearing officer will be hired by the LEA as an independent contractor at no expense to the parent. The hearing officer cannot be a current employee of the LEA, and cannot be related to any member of the LEA's board of education. The hearing officer need not be an attorney, but must be familiar with the requirements of Section 504 and the LEA's hearing procedures. The LEA's choice of an impartial hearing officer is final and may not be presented as an issue at the due process hearing, since such an issue would not relate to the identification, evaluation, or placement of a student. If a parent disputes the impartiality of the hearing officer, the parent may raise such issue in a review of the hearing officer's written opinion by a court of competent jurisdiction or in a complaint to the Office for Civil Rights. The regional office which covers Massachusetts is:

U.S. Department of Education Office for Civil Rights
8th Floor
5 Post Office Square
Boston, MA 02109-3921
Telephone: (617) 289-0111

Scheduling of Hearing

The appointed hearing officer must issue a written order setting hearing date. The date for the hearing must be within 15 calendar days of the date of the hearing officer's appointment. The order must set a mutually agreeable time and place for the hearing. Upon a showing of good

cause the hearing officer may grant a continuance of the hearing date and set a new hearing date. The LEA and parent may be represented by an attorney at each party's expense.

Pre-Hearing Conference

The hearing officer may order a pre-hearing conference during which the parent or the parent's attorney will state and clarify the issues to be addressed at the hearing. The pre-hearing conference will also serve to resolve preliminary matters, clarify jurisdictional issues, and answer the parties' questions regarding the hearing process. The pre-hearing conference can be held via telephone.

Dismissals

If, following the pre-hearing conference, the hearing officer determines that the parent, as a matter of law, alleges no claims or issues within the jurisdiction of Section 504, the hearing officer may dismiss the hearing request and issue an order to that effect explaining the basis for such finding.

Hearing

The hearing should be conducted in an informal manner. The hearing should be closed or open to the public at the parent's request. The hearing officer may reasonably limit testimony and introduction of documentary exhibits.

Recording

The due process hearing may be audio or video tape-recorded. The parent may obtain a copy of the tape-recording. The parties and witnesses should introduce themselves at the beginning of their presentations. If a parent or LEA appeals the due process hearing decision to a court of competent jurisdiction, the LEA will prepare a written transcript of the hearing for the court at no expense to the parent.

Format of Presentation

Each side will have an equal amount of time to present their positions to the hearing officer, who will make the determination as to time constraints based upon the issues involved. The parent will present his/her case first. The LEA will present its case next. All of the preceding may be done either personally or through an attorney. At the conclusion of the LEA's case, the parent may offer a brief rebuttal.

Submission of Documentary Exhibits

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 /her discretion. Exhibits submitted to the hearing officer by either party must be marked. The hearing officer may, in the exercise of discretion, reasonably limit the number of documents to be submitted for review, as well as the number of witnesses and the length and/or scope of their presentations or statements.

Closing Argument/Briefs

The hearing officer may allow or request written briefs summarizing and characterizing the information presented at the hearing including legal authority in support of each party's position. The hearing officer will set time lines for the submission of briefs at the conclusion of the hearing.

Decision

The hearing officer may make an oral ruling at the conclusion of the hearing or take the case under advisement, but, in all cases, the hearing officer shall issue a written opinion addressing and ruling on all issues raised by the parties, indicating what corrective action, if any, the LEA must take. Formal findings of fact and conclusions of law are required. Any issue or claim raised by the parent that is left unaddressed by the hearing officer will be deemed to have been denied. The written decision must be issued within 45 calendar days of the date the request for a due process hearing is received by the LEA. The hearing officer may award attorneys' fees to the prevailing party.

Review Procedure/Appeal

Parties not satisfied by the decision of the hearing officer may appeal the decision to state or federal court.

Complaints to the Office for Civil Rights (OCR)

A parent may file a complaint with the Office for Civil Rights (OCR) if the parent alleges that the LEA violated any provision or regulation of Section 504. The filing of a complaint does not affect the hearing process or the time lines set forth above. OCR addresses Section 504 complaints separately and independently of the local hearing process, in accordance with the guidelines set forth in OCR's Case Processing Manual. A parent should contact OCR or consult its Case Processing Manual concerning timeframes for filing OCR complaints.

The OCR National Headquarters is:

U.S. Department of Education

Office for Civil Rights, Lyndon Baines Johnson Department of Education Bldg 400

Maryland Avenue, SW Washington, DC 20202-1100

Telephone: 800-421-3481 FAX: 202-453-6012; TDD: 877-521-2172

Email: OCR@ed.gov

Form L

Request for Section 504 Due Process Hearing

Student's Name: _____ Date of Birth: _____

Student's Address: _____

School: _____

Parent/Guardian's Name: _____

Parent/Guardian's Address: _____

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

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:

Parent/Guardian/Authorized Representative Signature

Date

Return this form by FAX or MAIL to:
Anne McKenzie, LEA Section 504 Coordinator
125 Russell Street, Hadley, MA 01035
PHONE: 413-586-0822 FAX: 413-582-6453

Section 504 Review Notice

RE:

You are invited to a meeting to discuss the above-named student. Your participation is essential. The purpose and details of the meeting are printed below. Other invited participants are as follows:

Name	Subject/Service

The school district values your input and hopes that you will make every effort to attend this meeting. Your input on your child’s interests and characteristics is invaluable to this process. Please call the listed contact person to request another meeting time if you cannot attend this meeting, and we will reschedule the meeting when possible. We look forward to working cooperatively with you on behalf of this student.

MEETING PURPOSE: INITIAL 504/504 REVIEW/3 YEAR RE-EVALUATION

MEETING DATE:

MEETING TIME:

MEETING LOCATION:

CONTACT PERSON: April A. Camuso, Principal Hopkins Academy

CONTACT INFORMATION: (413) 584-5011