



NEW HEIGHTS
CHARTER SCHOOL
of **BROCKTON**

New Heights Charter School of Brockton
Special Education Handbook
2020-2021

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Handbook Purpose:

The purpose of the Special Education Department Staff Handbook is to assist school personnel so that their practice is consistent with Federal, State, and District requirements. This handbook has been developed as a resource for the New Heights Charter School 6-12th Staff, Administration and Community. It references state and federal regulations and the procedures of the New Heights Charter School. The following policies and procedures are aligned with The Massachusetts Department of Education, Massachusetts General Laws ch. 71B, et seq., Special Education Regulations 603 CMR 28.00 et. seq. and IDEA 2004. The IDEA closely to the The Every Student Succeeds Act (ESSA), helping to ensure equity, accountability and excellence in education for children with disabilities.

LEGAL REFERENCES

- Massachusetts Special Education Regulations 603 CMR 28.00 <http://www.doe.mass.edu/sped/regs.htm>
- Individuals with Disabilities Improvement Act of 2004 (IDEA)
<http://www2.ed.gov/policy/speced/guid/idea/idea2004.html>

School Mission:

New Heights Charter School's students excel as both students and citizens because of a culture of continuous improvement, a supportive school climate, active engagement of families and community, and celebration of personal and collective achievement.

Preparing students for college. Period!

Special Education Programming

The Special Education Department at New Heights provides a variety of programming to support the success and academic achievement of all learners. Every special education student is assigned a case manager who coordinates services for each grade level (6th-12th), schedules meetings, and regularly communicates with parents/guardians. While it is the goal for all students to receive as much of their education in the general education setting, New Heights also offers services outside of the classroom.

Services delivered in the general education setting are provided by a Special Education Teacher or General Education Teacher dependent upon the service provider stipulated in a student's Individualized Education Program ("IEP"). The service provider "pushes into" the classroom to provide accommodations, modifications, goal centered learning and specialized instruction. Special Education and General Education teachers regularly collaborate to provide instruction to students.

Services delivered outside of the classroom take place in the Resource Room. The Resource Room offers a small classroom environment with a low teacher to student ratio to maximize learning. Students in the Resource Room take either English Language Arts, Mathematics or both according to their IEPs. All classroom instruction is delivered by a licensed special education teacher.

Instructional Groupings

When eligible students are assigned to instructional groupings outside of the general education classroom for 60% or less of the students' school schedule, New Heights ensures that these classrooms include appropriate instructional group sizes and abide by appropriate age span. If a classroom contains 8 students these students will be serviced by a certified special educator, if the class size increases to 12 students the students must be serviced by a certified special educator as well as a classroom aide. In the event that there is a need for an increase in the size of an instructional grouping (this cannot exceed more than two students) and it is identified that students have compatible instructional needs, the Director of Student Services will provide written notification to the Department and the parents of all students of the decision to increase the instructional group size and the reasons for such decision. If approved, the increased instructional group sizes shall be in effect only for the year in which they are initiated. The district shall take all steps necessary to reduce the instructional groups to the sizes outlined in 603 CMR 28.06(6)(c) and (d) for subsequent years. The ages of the students in the classroom of the youngest and oldest students shall not differ more than 48 months. If a student who exceeds 48 months is considered for the classroom, The Director of Students Services must submit a written request for approval of a wider age range may to the Department of Education, which may approve such request.

Related Services

Academic Support

New Heights provides Academic Support both inside and outside of the classroom to build and develop students' executive functioning skills. Students are supported with regard to organization skills, time management, work completion and homework completion to best prepare them for college success.

Speech Language Pathology

New Heights has an outside contract with a speech language pathologist who provides evaluations and/or therapy for students presenting with communication weaknesses in the areas of speech, articulation, language, fluency, voice disorders and social pragmatics. The speech language pathologist supports students both inside and outside of the general education classroom to meet IEP goals.

Occupational Therapy

New Heights has an outside contract with an occupational therapist who provides evaluations and/or therapy for students to reduce barriers that limit student participation within the school environment. The occupational therapist can deliver services both inside and outside of the general education classroom to meet IEP goals.

Social Skills

New Heights provides social skills to students to develop skills for social pragmatics, communication, interpersonal relationships, self-advocacy and self-awareness. Social Skills is delivered by a Speech Language Pathologist in small groups..

Translation Services:

New Heights Charter School of Brockton is required to provide translation services for families who speak a language other than English. These services may include interpreters at team meetings, as well as providing translated documents to parent(s)/guardian(s). All special education documentation that is sent to the home is translated for the family. This would include, for example, N1s, Evaluation Consent Forms, Meeting Invitations, Assessments, and IEPs.

*Please note that through the registration process, parent(s)/guardian(s) are required to complete a Home Language Survey which notes which languages are spoken at home and provides families with the opportunity to request and identify needs for translations.

Child Find

New Heights Charter School will identify, locate, and evaluate all children with disabilities within their geographic boundaries who are in need of special education and related services. This includes: students who are homeless; students who are highly mobile, including migrant children; students who are wards of the state. New Heights Charter School will identify, locate and evaluate all children with disabilities within their population served who are in need of special education and related services. Child find also includes students who are suspected of being a child with a disability and in need of special education, even though: they are advancing from grade to grade. New Heights will maintain a record of students who are receiving special education and related services.

Students Enrolling to the School

For students that are newly enrolled and come to New Heights with an IEP, New Heights will implement the IEP written by the former school district and accepted by the parent without delay until a new IEP is developed and accepted. The IEP must be delivered within a comparable setting.

Changes in residence between states

For students that are newly enrolled and transferring from an out of state school district, New Heights will implement special education services comparable to those in the IEP from the former state, in consultation with the parents. These comparable services will be implemented until New Heights determines if it will accept the finding of eligibility and/ or the current IEP developed for the student in the former state of residence. If the district determines that the finding of eligibility and the IEP appropriate, then New Heights will continue to implement the IEP. If New Heights determines that a new evaluation is necessary, or if a parent or requests an evaluation, written notice will be provided to the parents (N1 and evaluation consent form).

The Referral Process

Referral for an Evaluation to Determine Eligibility for Special Education

A parent/guardian or any other person in a caregiver or professional position concerned with a student's development can make a referral for an evaluation to determine eligibility for special education services. If a parent and/or guardian contacts any NHCSB employee to request services, mentions a disability or previous supports, the Director of Student Services should be notified immediately. The Director of Student Services will follow up with the concern and schedule a meeting or phone conversation with the parent/guardian. If the parent decides to move forward with an evaluation the Director will then review specific assessments that will be completed based upon the area of suspected needs as part of the initial IEP Evaluation process.

If a referral is made in writing NHCSB will respond within five (5) school days by sending a notice to the parent/guardian, seeking permission to conduct an Initial Evaluation to determine if the student is eligible for special education services. If a parent/guardian's first language is not English (as noted in the home language survey) all correspondence will be translated into their native language.

Initiating a Referral for Special Education Eligibility

School Referral– After the principal/designee determines that all efforts have been made to meet the needs of the student within the general education program and these efforts have not been successful, a student shall be referred by the school personnel for an evaluation to determine eligibility for special education services.

Parent Referral- If a parent/guardian expresses concerns about their child’s progress, the principal or his/her designee of the student’s school shall immediately arrange a meeting with the parent to discuss concerns and offer general education instructional support services. If this meeting results in a request for an evaluation, the Director of Student Services is notified and the referral is processed.

Any person who believes that a student has or may have a disability and requires special education and related services may make a formal request for a special education assessment. This request must be in writing and sent to the Director of Student Services.

Initial Evaluation

Upon signature of signed consent for evaluation the Director of Student Services or Lead Special Education Teacher will notify the Special Education Case Manager and other related service providers to complete testing. A meeting will be scheduled within 45 days from the signed consent to present assessments and determine eligibility for Special Education services.

Annual reviews and Three-year reevaluations

NHCSB will review the IEPs and the progress of each eligible student at least annually. Additionally, every three years, or sooner if necessary, the School will, with parental consent, conduct a full three-year reevaluation consistent with the requirements of state and federal law.

The school district recommends that a re-evaluation be conducted for each student with a current IEP every three years or more frequently if requested. **Keeping in mind best practices, re-evaluations may not occur more frequently than once a year unless both parents and LEA agree that evaluation is needed.** Please refer to the section on initial evaluations for required assessments. A student must be evaluated prior to terminating services, including consults.

Evaluation Components

Upon signed consent of a parent/guardian, NHCSB will provide or arrange for the evaluation of the student by a multidisciplinary team within **30 school days**. The Director of Student Services will notify and assign the Educational Assessment to the Special Education Case Manager and other necessary test administrators (School Psychologist, SLP, OT, PT).

The assessments used must be adapted to the age of the student and all testing will meet the evaluation requirements set out in state and federal law. The tests will be administered by appropriately credentialed and trained specialists.

(a) Required assessments

1. An assessment in all areas related to the suspected disability.
2. An **Educational Assessment**.

The Educational Assessment must also include the following:

- a. A history of the student's educational progress in the general curriculum. Such assessment shall include information provided by a teacher(s) with current knowledge regarding the student's specific abilities in relation to learning standards of the Massachusetts Curriculum Frameworks and the district curriculum; and
- b. An assessment of the student's attention skills, participation behaviors, communication skills, memory, and social relations with groups, peers, and adults. The school district shall also thoroughly evaluate and provide a narrative description of the student's educational and developmental potential.

(b) Optional assessments

The Director of Student Services may recommend or a parent may request one or more of the following:

1. A comprehensive health assessment by a physician that identifies medical problems or constraints that may affect the student's education. The school nurse may add additional relevant health information from the student's school health records.
2. A psychological assessment by a licensed school psychologist, licensed psychologist, or licensed educational psychologist, including an individual psychological examination.
3. A home assessment that may be conducted by a nurse, psychologist, social worker, guidance or adjustment counselor, or teacher and includes information on pertinent family history and home situation and may include a home visit, with the agreement of a parent.

The assessors will summarize in writing the procedures employed, the results, and the diagnostic impression, and shall define in detail and in educationally relevant and common terms, the student's needs, offering explicit means of meeting them. The assessor may recommend appropriate types of placements, but shall not recommend specific classrooms or schools. Summaries of assessments shall be completed prior to discussion by the Team and, **upon request, shall be made available to the parents at least two days in advance** of the Team discussion at the meeting occurring pursuant to 603 CMR 28.05(1).

If the district receives an evaluation consent form within thirty to forty-five days prior to the end of the school year, the Team Chairperson will make sure that a Team meeting is scheduled prior to the end of the school year. However, if the district receives an evaluation consent form fewer than thirty school days prior to the end of the school year, the timeline of the evaluation process starts at receipt of consent, but stops on the last day of school and then restarts at the start of the following school year. (603 CMR 28.05)

Extended Evaluations

If the Team finds the evaluation information insufficient to develop an IEP, the Team, with parental consent, may agree to an extended evaluation period. Per Massachusetts regulations (603 CMR 28.05) the extended evaluation shall not be considered a placement. The purpose of the extended evaluation is to gather additional information to enable the Team to write an IEP for the student. It is not to be used to complete the required assessments that should have been completed within the 45 days after receiving parental consent. The extended evaluation may last longer than one week but shall not exceed eight school weeks.

Consent Refusal

The school must try to obtain informed parental consent before performing its first evaluation for a child with suspected disabilities. The parent does not need to consent to any or every evaluation proposed; the parent can consent to certain evaluations. In addition, parental consent to an evaluation does not obligate the parent to agree to proposed services or proposed placement of the child in special education.

Unscheduled evaluations for medical reasons.

If, in the opinion of the student's physician, an eligible student is likely to remain at home, in a hospital, or in a pediatric nursing home **for medical reasons** and for more than 60 school days in any school year, the Administrator of Special Education shall, **without undue delay, convene a Team to consider evaluation needs** and, if appropriate, to amend the existing IEP or develop an IEP suited to the student's unique circumstances.

The Team Process and Development of the IEP

Within 45 school working days after receipt of a parent's written consent to an initial evaluation or reevaluation, the School shall: provide an evaluation; convene a Team meeting to review the evaluation data, determine whether the student requires special education and, if required, develop an IEP in accordance with state and federal law; and provide the parent with two copies of the proposed IEP and proposed placement, except that the proposal of placement may be delayed according to the provisions of 603 CMR 28.06(2)(e).

If the Team determines that the student is not eligible for special education, the school district shall send a written explanation of the finding that the student is not eligible. The evaluation assessments shall be completed within 30 school working days after receipt of parental consent for evaluation.

Eligibility Determination

School districts determine student eligibility for special education services at the initial and three-year re-evaluation meetings. At these meetings the Team will review all evaluation data and determine whether the student qualifies or continues to qualify for special education services. Special Education Case Managers and teachers are prepared to discuss their assessments, findings and recommendations. The Massachusetts

Department of Elementary and Secondary Education created a flowchart for Team members to use as a guide in the eligibility process. The flowchart is intended as worksheet and not an official form.

The first step in the eligibility process is that the Team must determine whether a student has a disability. Massachusetts has identified ten disabilities listed below (603 CMR 28.02):

- **Autism** - A developmental disability significantly affecting verbal and nonverbal communication and social interaction. The term shall have the meaning given it in federal law at 34 CFR §300.8(c)(1).
- **Intellectual Impairment** - The permanent capacity for performing cognitive tasks, functions, or problem solving is significantly limited or impaired and is exhibited by more than one of the following: a slower rate of learning; disorganized patterns of learning; difficulty with adaptive behavior; and/or difficulty understanding abstract concepts. Such term shall include students with mental retardation.
- **Sensory Impairment - The term shall include the following:**
 - **Hearing Impairment or Deaf** – The capacity to hear, with amplification, is limited, impaired, or absent and results in one or more of the following: reduced performance in hearing acuity tasks; difficulty with oral communication; and/or difficulty in understanding auditorily-presented information in the education environment. The term includes students who are deaf and students who are hard- of-hearing.
 - **Vision Impairment or Blind** - The capacity to see, after correction, is limited, impaired, or absent and results in one or more of the following: reduced performance in visual acuity tasks; difficulty with written communication; and/or difficulty with understanding information presented visually in the education environment. The term includes students who are blind and students with limited vision.
 - **Deafblind** - Concomitant hearing and visual impairments, the combination of which causes severe communication and other developmental and educational needs.
- **Neurological Impairment** - The capacity of the nervous system is limited or impaired with difficulties exhibited in one or more of the following areas: the use of memory, the control and use of cognitive functioning, sensory and motor skills, speech, language, organizational skills, information processing, affect, social skills, or basic life functions. The term includes students who have received a traumatic brain injury.
- **Emotional Impairment** - As defined under federal law at 34 CFR §300.8(c)(4), the student exhibits one or more of the following characteristics over a long period of time and to a marked degree that adversely affects educational performance: an inability to learn that cannot be explained by intellectual, sensory, or health factors; an inability to build or maintain satisfactory interpersonal relationships with peers and teachers; inappropriate types of behavior or feelings under normal circumstances; a general pervasive mood of unhappiness or depression; or a tendency to develop physical symptoms or fears associated with personal or school problems. The determination of disability shall not be made solely because the student's behavior violates the school's discipline code, because the student is involved with a state court

or social service agency, or because the student is socially maladjusted, unless the Team determines that the student has a serious emotional disturbance.

- **Communication Impairment** - The capacity to use expressive and/or receptive language is significantly limited, impaired, or delayed and is exhibited by difficulties in one or more of the following areas: speech, such as articulation and/or voice; conveying, understanding, or using spoken, written, or symbolic language. The term may include a student with impaired articulation, stuttering, language impairment, or voice impairment if such impairment adversely affects the student's educational performance.
- **Physical Impairment** - The physical capacity to move, coordinate actions, or perform physical activities is significantly limited, impaired, or delayed and is exhibited by difficulties in one or more of the following areas: physical and motor tasks; independent movement; performing basic life functions. The term shall include severe orthopedic impairments or impairments caused by congenital anomaly, cerebral palsy, amputations, and fractures, if such impairment adversely affects a student's educational performance.
- **Health Impairment** - A chronic or acute health problem such that the physiological capacity to function is significantly limited or impaired and results in one or more of the following: limited strength, vitality, or alertness including a heightened alertness to environmental stimuli resulting in limited alertness with respect to the educational environment. The term shall include health impairments due to asthma, attention deficit disorder or attention deficit with hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, and sickle cell anemia, if such health impairment adversely affects a student's educational performance.
- **Specific Learning Disability** - The term means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. Use of the term shall meet all federal requirements given in federal law at 34 CFR §§300.8(c) (10) and 300.309.

When the federal government reauthorized the Individuals with Disability Education Act (IDEA) in 2004, new regulations were added in terms of process by which to determine the presence of a specific learning disability (34 CFR §300.7 and §300.541). Thus, Massachusetts has developed a consistent set of criteria regarding whether a student has a specific learning disability in addition to the definition listed above. Although Teams may still use the discrepancy model (significant gap between cognitive abilities and academic skills), the group must also consider response to intervention measures and the use of alternative research-based methods.

If the Educational Assessment administrator based on low testing scores believes that a student may have a Learning Disability, the following information must be gathered, shared and used as a basis of consideration to inform the IEP Team's decision.

The Team may determine if the student has a specific learning disability in one or more of the following areas:

- oral expression,

- listening comprehension,
- written expression,
- basic reading skills,
- reading fluency,
- reading comprehension,
- mathematical calculations; and
- mathematical problem solving.

The determination of a specific learning disability may not be primarily due to any one of several variables:

- a visual,
- hearing or motor disability,
- intellectual impairment,
- emotional disturbance,
- cultural factors,
- limited English proficiency,
- environmental as well as
- economic disadvantages.

The Team may also take into consideration the student's inability to meet school discipline code and/ or social maladjustment in determining whether the student has a specific learning disability.

The Team must ensure that the significant gap in skills is not due to lack of appropriate instruction in reading or math, and that data shows that the student was provided with adequate instruction in the general education setting by qualified personnel.

Once it is determined that a student has one or more of the disabilities defined above (603 CMR 28.02(7)) the Team must consider the following for eligibility:

1. If, as a result of the disability(ies), the student is unable to progress effectively in the general education program without the provision of specially designed instruction, or is unable to access the general curriculum without the provision of one or more related services.
2. The student's inability to progress is a result of the disability(ies) and not a result of an inability to meet the school discipline code, limited English proficiency, social maladjustment, or lack of instruction in reading or math.

If it is determined that based on the disability(ies), the student is unable to progress effectively in the general education program without the provision of specially designed instruction, or is unable to access the general curriculum without the provision of one or more related services, The Team shall determine that the student is eligible.

- a. Once eligibility has been determined, the type of disability of the student shall not be used to provide a basis for labeling or stigmatizing the student. Additionally, the type of disability shall not define the needs of the student and shall in no way limit the services, programs, or inclusion opportunities provided to the student.
- b. If the Team determines that the student is an eligible student, the Team will then develop an IEP.

Finding of No Eligibility

If the Team determines that the student is not eligible, the Team chairperson shall record the reason for such finding, list the meeting participants, and provide written notice to the parent of their rights in accordance with federal requirements within ten days of the Team meeting.

Evaluation information is inconclusive

If the Team finds the evaluation information insufficient to develop an IEP, the Team, with parental consent, may agree to an extended evaluation period.

1. The extended evaluation period shall not be used to deny programs or services determined to be necessary by the Team. If, prior to the extended evaluation, the Team determines that sufficient information is available to identify some necessary objectives and services, the Team shall write a partial IEP that, if accepted by the parent, shall be immediately implemented by the district while the extended evaluation is occurring.
2. The extended evaluation period shall not be used to allow additional time to complete the required assessments under 603 CMR 28.04(2)(a).
3. If the parent consents to an extended evaluation, the Team shall document its findings and determine what evaluation time period is necessary and the types of information needed to develop an IEP, if appropriate. The Team may decide to meet at intervals during the extended evaluation, but in all cases shall reconvene promptly to develop or complete an IEP when the evaluation is complete.
4. The extended evaluation may extend longer than one week, but shall not exceed eight school weeks.
5. The extended evaluation shall not be considered a placement.

Independent Evaluations

At the eligibility meeting, the Team Chairperson will ask the parent(s)/ guardian(s) if they are satisfied with the district's evaluation. If the parent(s)/guardian(s) disagree with a particular initial or reevaluation completed by the district, then the parent may request an independent educational evaluation at public expense. Massachusetts has specific requirements pertaining to independent evaluations as noted (Cited below per Massachusetts Regulations 603 CMR 28.04):

1. All independent evaluations must be conducted by individuals who are registered, certified, licensed, or otherwise approved.

2. The evaluator must follow the rates set by the state. There may be unusual circumstances to justify a rate higher than normally allowed.
3. If the school district agrees to the independent evaluation, then funding is based on a sliding scale.
4. Parent(s)/guardian(s) may seek an independent evaluation in one or more assessments conducted by the school district. This pertains to evaluations conducted within sixteen months of the date of the assessment in which the parent disagrees.
5. If a parent(s)/guardian(s) request an assessment in an area not evaluated by the district, the student doesn't meet income requirements, or the family does not provide financial information, the district will respond within five school days by either agreeing to pay for the independent evaluation or filing a Request for Hearing with the Bureau of Special Education Appeals seeking a determination that the district's evaluations were comprehensive and appropriate.
6. The district will not pay an independent evaluator unless the evaluator has first entered into a contract with the district.
7. Parent(s)/guardian(s) may fund an evaluation at any time at their own expense. They are encouraged to share the written report with their child's Team Chairperson.
8. If the district pays for all or part of the independent evaluation, the written report should, when possible, be sent to parent(s)/guardian(s) and school district within thirty days after the evaluation is requested.
9. The report should be sent to the Director of Student Services.
10. Upon receipt of an Independent evaluation either at public or private expense, the district has ten school days from the receipt of the report in which to meet, review, and consider the assessment(s).
11. The district may propose to conduct additional assessments in response to the information presented in the independent evaluation.
12. If the district receives an independent evaluation and the student has not qualified for special education services and is not on an Individualized Education Program, New Heights Charter School will view the outside evaluation as a request for an initial evaluation to determine whether a student is eligible for special education services. As part of the evaluation process, the district may propose additional assessments.
13. If the district recommends additional evaluations, the Director of Student Services or Designee will send the parent(s)/guardian(s) an evaluation consent form accompanied by a "Notice of Action" (N1) form.
14. Parent(s)/guardian(s) may submit outside evaluations per private expense to the Team Chairperson. The Team must meet to review and consider the evaluation within ten school days.

The Individualized Education Program (IEP)

If a student meets the criteria for special education services, then the Team develops an IEP. The development of the IEP must be completed within forty-five days of receipt of the written consent form. After the completion of the meeting, the Director of Student Services and Lead Special Education Teacher will send two copies of the IEP and other necessary documents to the parent(s)/guardian(s) (or student over age eighteen, pending age of majority decision). The parent(s)/guardian(s) is asked to sign and return one copy of the IEP within thirty days.

The IEP is a legal document which is designed to outline the student's special education needs as well as those goals and special education services required in order for the student to access the curriculum and make effective progress.

IEP development is a team effort and should be done in collaboration with those at the meeting. The IEP Team will meet prior to the annual date listed on the IEP (generally within a year from the previous meeting). The IEP meeting date should never be after the annual anniversary date. Team members include the parent, student (14 years and older), Team chairperson, special education teacher, general education teacher, and related service providers. Evaluators should be present at initial and reevaluation meetings. With written permission under certain circumstances, the parent may excuse specific Team members from attending the meeting. Although in-person attendance is desired, Team members can participate via phone. Team members must sign-in on the meeting Attendance Sheet. If a Team member is excused in the meeting the parent must complete and sign the IEP Team member excusal form.

The IEP is comprised of several key parts as outlined below.

Parent/Student Concerns

The concerns section lists areas that the parent and student want to see addressed to enhance the education. Parents and students should think about what are the greatest areas of concern that need to be addressed in order to be able to progress effectively and access the curriculum.

Student Strengths and Key Evaluation Results Summary

This section provides background information regarding the student's strengths and needs. This should be written in a user-friendly manner and is beneficial to all service providers involved with the student. This section asks Team members to describe the student's strengths, interest areas, personal attributes, and accomplishments. The Team must also note the type of disability, and it is helpful to describe how the disability impacts performance in the classroom. The student's performance in the general education setting should also be described as well as any standardized testing. It is also essential to summarize the results of the evaluation process so that others are aware of the student's level of skills and overall abilities.

Special Education Case Managers must update the Student Strengths Section annually to reflect new information from the Annual IEP meeting in student performance. The Student strength section should include detailed information that describes a student's progress throughout the general curriculum. All assessment

summaries reviewed at a Team meeting must be placed by the Special Education Case Manager in the Student Strengths section.

Vision Statement

The vision statement could be considered the driving force of the IEP. The Team is asked to note the vision of the student within the next one to five years.

For students who are 13 turning 14 within the IEP date period, the Team should complete a Transition Planning Form to address skills needed for the student to be able to transition to the next grade level and to access the curriculum. As a student becomes older (at least age 14), the Team should complete the form to include the student's career preferences, interests and desired goals in relation to post-secondary pursuits, work, and living arrangements.

Present Levels of Educational Performance (PLEP) A and B

PLEP A and PLEP B describes the impact of the disability on the areas of general education and other areas of education performance and lists accommodations and/or modifications needed in order for the student to access the curriculum and make effective progress. The PLEP sections should be based on a variety of sources, including data obtained from the assessments.

PLEP A

The first section of PLEP A asks the Team to note what areas are affected: English, history/social studies, science/technology, mathematics and other areas. The team must describe how the student's disability impacts progress in the particular area. Then, the Team members must list accommodations/modifications required for the student to make effective progress.

Accommodations/modifications listed in this area must be implemented in the general curriculum areas listed at the top of the page.

PLEP B

In addition to the classroom setting, the Team must also consider the ways in which the disability will impact **other areas**. PLEP B addresses areas outside of the general education that require specialized accommodations. Typically students who receive PLEP B accommodations and modifications have a specific behavioral, emotional or communication diagnosis.

The Team should note whether the student would need accommodations in relation to physical education, braille, social emotional skills, assistive technology, communication, language needs, behavior, nonacademic activities (i.e. lunch) and skill development related to vocational preparation/experiences. This section also asks team to consider age specific concerns such as transitional periods. Accommodations and modifications should be listed for the areas noted above.

Accommodations and Modifications

As part of the IEP process, students may receive accommodations and/or modifications to assist them in school.

An accommodation **does not change the nature of the content or alter the expectations of the curriculum** (i.e. fifty percent more additional time to complete tests, reduce the number of homework items, or allow break periods).

The Team must also note the type of specifically designed instruction needed, and whether any modifications to the curriculum are necessary. Modifications may allow students greater access to the classroom activities and materials. **Modifications do change the content or information that a student is required to know.** (i.e. Students are required to identify rectangles from other shapes while other students may be required to calculate the area of a rectangle).

Pursuant to state and federal regulations, all students need to be provided with the accommodations and/or modifications listed in their IEPs.

More About Present Levels A: General Curriculum

1. General Curriculum Area(s) Affected by Student's Disability(ies):

Team determines which subject or subjects in the general curriculum areas that are affected by the student's disability.

2. How does the disability(ies) affect progress in the curriculum area(s)?

Explanation of how the disability affects progress in the general curriculum areas. This should not be a reiteration of the profile.

3. Necessary accommodations

These are developed by the service providers in conjunction with the general education teacher(s). NOTE: If the student is included with non-disabled peers, **input from general education teachers is mandatory as they are responsible for the carry through on the accommodations.**

Accommodations: Changes in course/test presentation, location, timing, student responses or other attributes that are necessary to provide access for a student with a disability to participate and which do not fundamentally alter or lower the standard of expectations.

4. Types of specially designed instruction (modifications)

Team must consider how Content, Methodology/Delivery of Instruction will be modified from the general education resource.

Performance Criteria reflects the modification of the content of the performance or the test by the student.

Modifications: Changes in course/test presentation, location, timing, student responses or other attributes that are necessary to provide access for a student with a disability to participate BUT which also fundamentally alter and/or lower the standard of expectations.

Current Performance Level and Measurable Annual Goals and Objectives

Prior to an IEP meeting the Special Education Teachers, School Adjustment Counselors, Speech Language Pathologist, Occupational Therapist or Physical Therapist should prepare current performance to share and prepare goals and objectives to propose and share at the IEP meeting. Goals from the current IEP should be reflected upon before introducing proposed goals.

The goals and objectives portions of the IEP are very important as these sections serve as a road map in terms of student progress. First, the service provider along with the Team must describe what the student can do at this time (i.e. Student is able to read fifty sight words and decode words with one syllable.)

The goals should be measurable and related to the student's disability. An individualized goal on an IEP should define an overall area to be measured and be written in a way that the specific skills can be measured separate from the objectives. There are no rules regarding the number of goals in an IEP. However, the goals should be addressed throughout the time period stated per IEP. Thus, the Team should consider whether there are too many or too few goals. **The goals also need to be focused on particular skill areas that the Team would like to improve.**

In creating objectives, the Team and service provider should consider what tasks need to be completed in order to work on the skills noted in the goals. Similar to goals, objectives or benchmarks need to be measurable and consist of a condition, target behavior, and criteria. Objectives are short-term in nature. Specific programs should never be mentioned in goals or objectives.

Measurable Annual Goal Components

- Target Behavior - The skill or behavior in need of change.
- Condition – The circumstances under which the target behavior is to occur.
- Criteria – the acceptable level of performance of the target behavior.

Service Delivery Grid

The service delivery grid section lists the specific services, the location of the services, the frequency/duration and the start/end date . The services listed on this grid should be designed to help the student reach their goals. When deciding upon services, the Team may consider what services are needed for the student to achieve the goals noted in the IEP, be involved in the general education curriculum, and progress in the general education setting. The grid is divided into three sections:

- **A Grid-** Grid A lists consultation services which are indirect services to school staff and parent(s)/guardian(s). Examples of consultative services might be a speech and language therapist consulting with a special education teacher.
- **B-Grid-** Grid B lists services provided in the general education classroom.

- **C Grid-** Grid C lists direct services that occur outside of the general education classroom. The Team should carefully consider Grid C services as this requires removal from the general education setting. Usually, there are significant needs that would warrant Grid C services. Examples of Grid C services include reading instruction or speech and language therapy. (It is important to note that both examples could be provided in the general education classroom as well under Grid B.)

Services and Consideration of Least Restrictive Environment

When the Team is determining services for the student, it is essential to keep in mind the least restrictive environment for the child. Massachusetts regulations 603 CMR 28.03 offer specific guidelines:

Least Restrictive Environment (LRE): The school district shall ensure that, to the maximum extent appropriate, students with disabilities are educated with students who do not have disabilities, and that special classes, separate schooling, or other removal of students with special needs from the general education program occurs only if the nature or severity of the disability is such that education in general education classes, with the use of supplementary aids and services, cannot be achieved satisfactorily.

Nonparticipation Justification

After noting services on the Grid, the Team must consider which services are listed in Grid C and state the reasons why it is necessary to remove the student from the general education setting. Federal regulations cite that in this section, “IDEA 2004 Regulation 20 U.S.C. §612 (a) (5).550:”... removal of children with disabilities from the regular educational environment occurs only when the nature or severity is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily (Emphasis added.)” (Taken from Massachusetts IEP Form)

Extended School Year

The Team must determine whether a student substantially regresses or falls behind during break periods in the school year (regression). The Team should also determine whether there is a substantial amount of time needed for the student to get back to the level of skills they were prior to the break period (recoupment).

Teams must also consider other factors, such as the degree of the impairment, rate of progress, behavioral and physical issues, availability of alternative resources, as well as the transitional needs of the student (Department of Elementary and Secondary Education Memo 2002).

In order to make an informed decision at the Team meeting, data (i.e. observations, assignments, informal assessments) should be collected throughout the school year. Teachers should monitor progress made on goals and objectives and indicate whether a student falls behind.

A meeting will be scheduled with the IEP Team to determine if eligible for Extended School Year.

Transportation

The Team shall determine whether the student requires transportation because of his or her disability in order to benefit from special education. As stated in 603 CMR 28.00:

(a) Regular transportation. If the student does not require transportation as a result of his or her disability, then transportation shall be provided in the same manner as it would be provided for a student without disabilities. In such case, the IEP shall note that the student receives regular transportation, and if the school district provides transportation to similarly situated students without disabilities, the eligible student shall also receive transportation.

1. If regular transportation is noted on the student's IEP and the student is placed by the school district in a program located at a school other than the school the student would have attended if not eligible for special education, the student is entitled to receive transportation services to such program.

2. If regular transportation is noted on the student's IEP and the student is enrolled by his or her parents in a private school and receiving services under 603 CMR 28.03(1)(e), such student is not entitled to transportation services unless the school district provides transportation to students without disabilities attending such private school.

(b) Special transportation. If the Team determines that the student's disability requires transportation or specialized transportation arrangements in order to benefit from special education, the Team shall note on the student's IEP that the student requires special transportation. In such circumstances, transportation is a related service.

1. The Team shall determine necessary modifications, special equipment, assistance, need for qualified attendants on vehicles, and any particular precautions required by the student and shall document such determinations in the student's IEP. If specialized arrangements can be provided on regular transportation vehicles, the school district shall make such arrangements.

a. The district shall arrange to have eligible students who use wheelchairs transported in vehicles that do not require such students to be removed from their wheelchairs in order to enter or leave the vehicles; provided, however, that this requirement shall not be applicable where a Team or the student's physician recommends that the student regularly transfer in and out of conventional vehicles to or from a wheelchair for therapeutic or for independence training reasons.

b. The Team shall specify whether the student requires assistance in or out of the home, on or off of the vehicle, and in or out of the school. If such assistance is specified, the district shall ensure that it is provided.

c. The Team shall specify if the student has a particular need or problem that may cause difficulties during transportation, such as seizures, a tendency for motion sickness, behavioral concerns, or communication disabilities.

2. If special transportation is noted on the student's IEP, the student is entitled to receive transportation services to any program provided by the public school and in which the student participates.

3. If special transportation is noted on the student's IEP and the student is enrolled by his or her parents in a private school and receiving services under 603 CMR 28.03(1)(e), the school district's obligation to provide transportation shall be limited to transportation services within the geographic boundaries of the school district.

(c) In no event shall a school district allow transportation considerations to influence, modify, or determine the educational program required by any student in need of special education.

State/District Wide Assessment/Accommodations

The Team needs to determine how a student with special education services will participate in state and district-wide assessments. If no assessments are planned during a particular IEP period, the Team should note that no testing will occur. Testing accommodations outlined in IEP must be consistent with accommodations students generally receive in their curriculum as listed in PLEP A.

It is important to note that a student should only receive a non-standard accommodation if it is in accordance with their disability. For example, a Non-Standard accommodation of a read aloud on the ELA MCAS should only be provided to a student with a diagnosed reading deficit.

MCAS Alternate Assessment (MCAS-ALT)

Students who require alternative assessments will continue to be evaluated through the MCAS-Alt until otherwise advised by the Massachusetts Department of Elementary and Secondary Education. It should be noted that students who complete an MCAS-Alt do not qualify for a highschool diploma. The decision to engage in an MCAS Alternative assessment should be carefully considered. The Massachusetts Department of Elementary and Secondary Education has a flow chart for Teams to use as guidance in determining whether a student should take the MCAS or MCAS Alt.

Additional Information

The Additional Information section includes details about the meeting that may not fit in other sections. information regarding medications/eyeglasses. If a student has a behavioral plan it may be noted here. If a meeting has been rescheduled it should be noted here.

There are sections within Additional Information to provide information regarding Age of Majority (that it has been discussed and the date it occurred) and if 688 referral has been made to an outside agency (DMH, DDS, MRC) it also should be noted here. The Bullying Statement is also located within the Additional Information section.

Age of Majority

Massachusetts and federal regulations (34 CFR 300.520 and 603 CMR 28.07) note that when a student turns eighteen years old, all of the decision-making rights in terms of special education services transfer to them. The student who is aged eighteen or over shall make decisions regarding their educational program unless they have

delegated this task to their parent(s)/guardian(s) or a court has appointed a legal guardian. One year prior to the student's eighteenth birthday, the Director of Student Services may notify the student and parent(s)/guardian(s) about the transfer of rights and the impact on educational decision making. The Director of Student Services may give the student and parent(s)/guardian(s) an "age of majority packet" which includes a description of the transfer of rights. Prior to age eighteen, the student is required to decide whether

- (1) they will assume all decision making,
- (2) share decision making with their parents or
- (3) the parent(s)/guardian(s) will continue to make decisions.

The student will be asked to complete a form which identifies their choice. Parent(s)/guardian(s) of the adult student who qualifies for special education services will continue to receive required notices from school and can inspect educational records in accordance with 603 CMR 23.07(2).

Bullying Prevention

Massachusetts Bullying Prevention and Intervention Law, G.L. c. 71, § 37O, has a direct impact on the IEP process. The law requires that the Team considers whether a student's disability makes them vulnerable to bullying at every IEP meeting. If the Team concludes that the student's disability would impact their ability to deal with bullying, *then Team members should address the skills needed to respond to situations either through accommodations and/or goals and objectives in the IEP.* The Team may feel that the student's disability does not interfere with the student's ability to deal with bullying and thus intervention is not needed outside of the general education bullying prevention curriculum. A bullying statement must be included in the additional information section of the IEP. If it is determined that a student is at risk for being an aggressor or victim of bullying an intervention must be documented in the IEP.

Autism Considerations

For students diagnosed with Autism, the Team must consider the following questions as cited below per G. L.c. 71B, §3 :

- The verbal and nonverbal communication needs of the student.
- The need to develop social interaction skills and proficiencies.
- The needs resulting from the student's unusual responses to sensory experiences.
- The needs resulting from resistance to environmental change or change in daily routines.
- The needs resulting from engagement in repetitive activities and stereotyped movements.
- The need for any positive behavioral interventions, strategies and supports to address any behavioral difficulties resulting from autism spectrum disorder.
- Other needs resulting from the student's disability that impact progress in the general curriculum, including social and emotional development (e.g. organizational support, generalizing skills, practicing skills in multiple environments).

Transition Planning

The federal law defines transition services as a "coordinated set of activities designed to be within a results-oriented process that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post- school activities."(IDEA, 2004 as cited in *Technical Assistance Advisory SPED 2009-1: Transition Planning to Begin at Age 14, September 3, 2008*).The coordinated set of activities should keep the student's interests and preferences in mind.

New Heights Charter School of Brockton would like students to have a plan when they transition out of high school. Planning for the transition to adult life depends on a variety of factors including the nature and severity of the disability along with the student's vision. When a student has reached fourteen years of age, they are asked to think about future plans in terms of career choices, living situations, and skills needed for daily living. Moreover, all students who are at least fourteen years of age are invited to their Team meetings. The student, along with the other members of the Team, are asked to create a vision statement based on needs and postsecondary pursuits. The Team may also wish to consider transition services needed to support the student's vision. This plan is documented via the Transition Planning Form (TPF)

The Special Education Case Manager is responsible for creating the Transition Planning Form based on input from the meeting.

It is recommended that the Special Education Case Manager discuss the student's vision with the student prior to the meeting in order to support the student in fostering independence and ownership of their goals at the meeting.

Depending on the disability, students may be linked to outside agencies such as the Massachusetts Rehabilitation Commission and Department of Developmental Services in order to assist the student in transitioning to adult life. This important linkage usually occurs two to three years prior to graduation via the Chapter 688 Referral. Once the referral from the outside source has been approved, the representative from the agency is encouraged to meet with the student and family. Some agency representatives may also be invited to Team meetings.

Partial IEP

There may be times in which the student qualifies for an IEP, but the Team does not have sufficient information to write a full IEP. The Team may opt to write a partial IEP. If the Team writes a partial IEP, a parent/guardian may consent to the proposed partial program prior to completion of the full IEP. In such a case, the partial program shall be implemented immediately upon receipt of the signed partial IEP.

Also in the case of a partial IEP, it is recommended that an extended evaluation be proposed in order to obtain additional information that would be beneficial in creating a full IEP. The extended evaluation form would be completed at the IEP meeting.

Placement

After the IEP has been developed, the Team should consider the needs of the student, services and the extent to which the student can be educated in the general education classroom. The student's placement is noted on Placement Consent Form (PL 1). The Team should first consider in-district settings, starting with the general education classroom environment. As noted per Massachusetts regulations 603 CMR 28.06, "If an in-district setting is able to deliver the services on the IEP, the Team shall identify such placement and include such determination with the proposed IEP". If the Team cannot identify an in-district placement that would meet the needs of the student satisfactorily, then they may consider an out-of-district program. However, the Team should state why the student could not be serviced in the in district setting which would be the least restrictive environment, even with supplementary aids and services. In complex cases, the Team may need more time to determine a placement after the IEP has been developed. If faced with this situation, the Team has ten school days in which to reconvene and determine a placement.

In considering placement, the Team should also review the additional factors as noted by Massachusetts regulations 603 CMR 28.06:

- Least restrictive environment (LRE). The school district shall ensure that, to the maximum extent appropriate, students with disabilities are educated with students who do not have disabilities, and that special classes, separate schooling, or other removal of students with special needs from the general education program occurs only if the nature or severity of the disability is such that education in general education classes with the use of supplementary aids and services cannot be achieved satisfactorily.
- Types of services, setting and service providers.
- Consideration of any harmful effect on the student or quality of services.

All Massachusetts public charter schools are **required** to accept, enroll, and serve students with disabilities and to provide a free and appropriate public education to those students in the least restrictive educational environment. New Heights cannot consider a student's disability or their services in admission. New Heights may have difficulty meeting the needs of a student with a disability due to the nature or severity of that student's disability. If New Height's IEP Team determines that a student **may be in need of an out-of-district program**, the IEP Team will **conclude the meeting without identifying a specific placement** and move forward as follows:

- Within **two school days**, the IEP Team will **schedule** another meeting to consider the student's placement(the "placement meeting") and will **invite** a representative of the student's SDOR to attend and participate as a member of the IEP Team during the placement phase of the IEP development process.
- The SDOR must be given at least **five school days' notice of the placement meeting, which must be held within ten school days following the IEP meeting at which the potential need for an out-of-district program was initially determined.**
- Invite sending district to join the charter school in seeking to problem solve

Proposed IEP

After the IEP meeting, the Case Manager will utilize notes and information discussed during the IEP meeting to create the IEP. The Case Manager will notify the Director of Student Services of its completion and the IEP will be reviewed by the Director of Student Services. Once approved, The Director of Student Services or Lead Special Education Teacher is responsible for sending the parent(s)/guardian(s) and/ or student over age 18 (pending age of majority form) two copies of the IEP.

If a copy of notes are given to the parent/guardian or student over 18 (pending age of majority form), then the IEP is sent home within 10 school days. The notes are provided must have the following: “a completed IEP service delivery grid describing the types and amounts of special education and/or related services and a statement of major goal areas associated with the services” (DESE memorandum on the implementation of 603 CMR 28. 05(7), updated December 6, 2006). The Case Manager will complete the IEP within 5 school days and notify the Director of Student Services and Lead Special Education Teacher. Once approved, the Director of Student Services and Lead Special Education Teacher will send two copies of the IEP home within 10 school days of the meeting.

If the parent/guardian or student over 18 (pending age of majority form) does not receive a copy of notes at the meeting, the IEP is sent home within 5 school days. The Case Manager will complete the IEP within 3 school days and notify the Director of Student Services and Lead Special Education Teacher. Once approved, the Director of Student Services and Lead Special Education Teacher will send two copies of the IEP home within 5 school days of the meeting.

Educational services in home or hospital.

Upon receipt of a **physician's written order** verifying that **any student enrolled in a public school** or placed by the public school in a private setting **must remain at home** or in a hospital on a day or overnight basis, or any combination of both, **for medical reasons** and for a period of not less than **fourteen school days** in any school year, the principal shall arrange for provision of educational services in the home or hospital.

Such services shall be **provided with sufficient frequency** to allow the student to continue his or her educational program, as long as such services do not interfere with the medical needs of the student.

The principal shall coordinate such services with the Director of Student Services for eligible students.

Such educational services shall not be considered special education unless the student has been determined eligible for such services, and the services include services on the student's IEP.

Graduation Options

Students may either earn a high school diploma or certificate of attainment. In order to earn a high school diploma, students must satisfy all course requirements, including passing the MCAS state tests in the 10th grade. If students do not meet the requirements for a high school diploma, then they will receive a certificate of

attainment. Students who qualify for special education services are eligible to receive a free and appropriate education (FAPE) until they graduate with a diploma or until s/he reaches twenty-two years of age.

Progress Reports

Progress reports are to be sent home as often as students without IEPs are notified of their progress. The New Heights Charter School of Brockton will send IEP progress reports home around the time in which report cards are issued.

Per Massachusetts and federal regulations, the progress reports *must* answer the following:

- What is the student's progress towards the annual goal?
- Is the progress sufficient to enable the student to achieve the annual goal by the end of the IEP period? (taken from IEP process guide, 2001)

It is strongly *recommended* that progress reports contain the following information:

- Specifics in terms of what the student is currently working on in terms of skill area
- List what the student has achieved
- Indicate any obstacles in terms of progress (*You must specifically state if a student is not making progress*)
- Estimate when student will reach annual goal if progress continues at current pace
- A well written progress report would contain the description of student progress and the adjustments to existing in-class strategies needed to address any lack of progress.

(taken from IEP Process Guide, 2001).

Special Education teachers and related service providers are required to complete progress reports for all students' goals that they provide services for. The student's case manager is responsible for printing all progress reports for all students' on their caseload and printing two copies by the deadline given by the Director of Student Services and Lead Special Education Teacher. One copy will be sent home with student Report Cards and the Case Manager is responsible for putting the 2nd copy into the student's file.

Parent response to proposed IEP and proposed placement

When signing the IEP, parent(s)/guardian(s) have several options. They may accept the IEP and/or placement in full. Alternatively, the parent(s)/guardian(s) may reject the IEP or portions of the IEP (partial rejection). Parent(s)/ guardian(s) may also reject the placement.

The signed IEP should be returned to the Director of Student Services within 30 days of receipt of the IEP. Once accepted in part or full, the IEP must be implemented immediately . The Case Manager is responsible for

promptly notifying all school professionals responsible for implementation of the IEP including changes made to the IEP. This communication should be printed and put in the student's file.

Teams shall immediately inform the parent/guardian in writing of any delayed services, reasons for delay, actions that the school district is taking to address the lack of space or personnel and offer alternative methods to meet the goals on the accepted IEP. Upon agreement from a parent, the school district shall implement alternative methods immediately until the lack of space or personnel issues are resolved.

If a Special Education Case Manager receives an IEP that is rejected or partially rejected they must notify the Director of Student Services immediately.

Revisions and Amendments to the IEP

At times, it is necessary to make minor revisions to the IEP. Minor revisions do not change the overall placement or substantially alter the IEP. For minor revisions, the Team may write an amendment to the IEP. An amendment can be conducted via phone contact with the parent(s)/guardian(s) if Parents waive a Team meeting to accomplish the same. Please note that an amendment cannot extend the length of the IEP, nor can an amendment change placement. An unsigned, rejected, or partially rejected IEP cannot be amended – any changes made to an unsigned IEP are considered “revisions” to a proposed IEP and should be marked accordingly and re-proposed. Please note that if the Team is considering a change in placement or substantial revisions to the IEP, then a new IEP will be created in accordance with the date the meeting was held.

Declining Special Education Services

If, after accepting IEP services, a parent chooses to decline those services, the parent(s)/guardian(s) should notify the Team Chairperson in writing (with a valid signature).

Parent/Guardian Classroom Observations

Parent(s)/guardian(s) have the right to observe (per 603 CMR 28.07 (1)(a) (3)) any program(s) proposed for their child if the child is identified as eligible for special education services. Parent(s)/guardian(s) may request a classroom observation or have outside personnel observe their child in school. In order to request an observation, the parent/guardian may write a letter to the building principal and Director of Student Services. The Director of Student Services or Designee will accompany parent(s)/guardian(s) or their designee during the scheduled observation period. In fairness to the students, observations times exceeding three hours may be held over several days or broken down into shorter chunks of time so as not to disrupt the learning process.

The procedures for the observations are outlined as follows:

- All requests for classroom observations must be received by the building principal at least 72 hours prior to the date of the proposed visit.
- Any observer who is not a legal parent(s)/guardian(s) must have written permission from the parent or legal guardian to observe their child.

- Observers will be given a start time and an end time that must be followed. At the discretion of the building principal and or administrator a prescheduled observation may be rescheduled if the participant is late for their observation period.
- The length of the observation period will be determined by the building principal and or/administrator. The administrator has complete authority to decrease or lengthen this period.
- A single outside observer only will be allowed in the classroom during any observation period unless authorized by the building principal.
- School staff will accompany the outside observer during the entire time of the observation period.
- The building principal and /or administrator will have complete authority to end, extend, or deny the observation request at his/her discretion.
- Observers may not use any electronic devices such as videos, audio recorders, or cell phones during the observation or in the school building. Parent(s)/guardian(s) have the right to observe (CMR 28.07 (1)(a) (3) any program(s) proposed for their child if the child is identified as eligible for special education services.
- In the event that personally identifiable or confidential information about other children/students is obtained during the course of the observation, it may not be disclosed. Observers may be required to sign a related statement of agreement prior to the observation.

Due Process Rights (Procedural Safeguards)

At times, a parent(s)/guardian(s) may not agree with the Team's/district's proposed action. If a parent(s)/guardian(s) rejects a proposed IEP in its entirety or portions thereof, the signature pages are sent to the Bureau of Special Education Appeals (BSEA) within five days of receiving the parent/guardian's response.

There are several ways in which to settle disputes.

First, parent(s)/guardian(s) may request a meeting with school personnel at any time. The Team Chairperson of your child's school is available to discuss your concerns. Please note that communicating with local school staff shall not be used to delay or deny a parent/guardian's right to access other dispute resolution methods outlined below per Massachusetts regulations 603 CMR 28.08. Department Procedures. The Department of Elementary and Secondary Education maintains a Problem Resolution System that provides for the investigation of complaints and the enforcement of compliance with 603 CMR 28.00, as well as with other statutes and regulations relating to the provision of publicly funded education. The Department can make findings on procedural issues and issues related to implementation of requirements. Any party wishing to file a complaint may do so through the Department. Use of the Department Problem Resolution procedures shall not prevent a party from requesting alternative administrative remedies of mediation or hearing on any matter, at any time. Copies of the Problem Resolution System Guidelines and Procedures are available from the Department upon request. Findings and orders issued by the Department on complaints and the Department's processing of a complaint are not reviewable by the Bureau of Special Education Appeals. Additionally, the pendency of a

complaint before the Department does not make the Department a necessary party to actions on related issues pending before the Bureau of Special Education Appeals.

Bureau of Special Education Appeals

Jurisdiction. In order to provide for the resolution of differences of opinion among school districts, private schools, parents/guardians, and state agencies, the Bureau of Special Education Appeals, pursuant to G.L. c. 71B, §2A, shall conduct mediations and hearings to resolve such disputes. The jurisdiction of the Bureau of Special Education Appeals over state agencies, however, shall be exercised consistent with 34 CFR §300.154(a). The hearing officer may determine, in accordance with the rules, regulations and policies of the respective agencies, that services shall be provided by the Department of Children and Families, the Department of Developmental Disabilities, the Department of Mental Health, the Department of Public Health, or any other state agency or program, in addition to the IEP services to be provided by the school district. Mediations and hearings shall be conducted by impartial mediators and hearing officers who do not have personal or professional interests that would conflict with their objectivity in the hearing or mediation and who are employed to conduct those proceedings.

(a) A parent/guardian or a school district, except as provided in 603 CMR 28.08(3)(c) and (d), may request mediation and/or a hearing at any time on any matter concerning the eligibility, evaluation, placement, IEP, provision of special education in accordance with state and federal law, or procedural protections of state and federal law for students with disabilities. A parent/guardian of a student with a disability may also request a hearing on any issue involving the denial of the free appropriate public education guaranteed by Section 504 of the Rehabilitation Act of 1973, as set forth in 34 CFR §§104.31-104.39.

(b) No later than five days after receipt of a request for hearing or notice that an IEP, or proposed placement, or finding of no eligibility for special education has been rejected by the parent/guardian, the school district shall send a copy of such request or notice to the Bureau of Special Education Appeals. The Bureau of Special Education Appeals shall then give notice in writing to the parties of the rights of the parents/guardians and school district to request mediation and a hearing.

(c) A school district may not request a hearing on a parent/guardian's failure or refusal to consent to initial evaluation or initial placement of a student in a special education program, or on a parent/guardian's decision to revoke consent to the continued provision of all special education and related services to his or her child under 603 CMR 28.07(1)(a)(4).

(d) A school district may request a hearing to appeal the Department's assignment of school district responsibility under 603 CMR 28.10 according to the procedures in 603 CMR 28.10(9).

Mediation

A voluntary dispute resolution procedure, called mediation, shall be provided by mediators employed by the

Bureau of Special Education Appeals and may be used by parents/guardians and school districts to seek resolution of their dispute. Mediations shall be provided at no cost to the parties. No parent, nor the school district, shall be required to participate in mediation.

(a) Within thirty days of receipt of a request for mediation, the mediator shall schedule a mediation session at a time and place convenient to the parties. The mediation shall include the parents/guardians, any representative of the parents/guardians' choosing, and a representative(s) of the school district, with one representative who is authorized to resolve the dispute on behalf of the school district. When the parties reach agreement, it shall be set forth in written form. Concurrent with a request for mediation or if no agreement is reached, the parents/guardians or school district may request a hearing.

(b) All discussions that occur during mediation are confidential and may not be used as evidence in a hearing. Parents/guardians and school districts may request a hearing without participating in mediation.

Hearings

Five (days after receipt of a written request for hearing, the Bureau of Special Education Appeals shall notify the parties in writing of the name of the assigned hearing officer and, as appropriate, shall provide either a date for the hearing or a statement of federally required procedures to be followed before a hearing date can be assigned.

(a) The Bureau of Special Education Appeals shall issue Rules that state the parties' rights and obligations as to the hearing process, which shall be consistent with all state and federal laws. Such Rules shall be available to the public on request.

(b) Except as provided otherwise under federal law or in the administrative rules adopted by the Bureau of Special Education Appeals, hearings shall be conducted consistent with the formal Rules of Administrative Procedures contained in 801 CMR 1.00.

(c) The Special Education Appeals hearing officer shall have the power and the duty to conduct a fair hearing; to ensure that the rights of all parties are protected; to define issues; to receive and consider all relevant and reliable evidence; to ensure an orderly presentation of the evidence and issues; to order additional evaluations by the school district or independent education evaluations at public expense when necessary in order to determine the appropriate special education for the student; to reconvene the hearing at any time prior to the issuance of a decision; to take such other steps as are appropriate to assure the orderly presentation of evidence and protection of the parties' rights at the hearing; to ensure a record is made of the proceedings; and to reach a fair, independent, and impartial decision based on the issues and evidence presented at the hearing and in accordance with applicable law.

Hearing Decision

The decision of the hearing officer of the Bureau of Special Education Appeals shall be implemented immediately and shall not be subject to reconsideration by the Bureau of Special Education Appeals or the Department, but may be appealed to a court of competent jurisdiction.

(a) The written findings of fact and decision of the hearing officer along with notification of the procedures to be followed with respect to appeal and enforcement of the decision shall be sent to the parties and their representatives.

(b) A party contending that a Bureau of Special Education Appeals decision is not being implemented may file a motion with the Bureau of Special Education Appeals contending that the decision is not being implemented and setting out the areas of non-compliance. The hearing officer may convene a hearing at which the scope of the inquiry shall be limited to the facts on the issue of compliance, facts of such a nature as to excuse performance, and facts bearing on a remedy. Upon a finding of non-compliance, the hearing officer may fashion appropriate relief, including referral of the matter to the Legal Office of the Department or other office for appropriate enforcement action. The possibility of enforcement action does not make the Department a necessary party in matters pending before the Bureau of Special Education Appeals.

Student's right to IEP services and placement

In accordance with state and federal law, during the pendency of any dispute regarding placement or services, the eligible student shall remain in their then current education program and placement unless the parents/guardians and the school district agree otherwise.

(a) If the parents are seeking initial placement in the public school, and the child is at least five years old, however, the child shall be placed in the public-school program.

(b) For children three and four years of age, rights to services from the public-school district are limited to children who have been found eligible for special education and have an IEP and placement proposed by the public school district and accepted by the parent.

(c) A hearing officer may order a temporary change in placement of an eligible student for reasons consistent with federal law, including but not limited to when maintaining such student in the current placement is substantially likely to result in injury to the student or others.

(d) Except as provided in 603 CMR 28.08(7) (a through c) above, any party seeking to change the eligible student's placement during the pendency of proceedings before the Bureau of Special Education Appeals or in subsequent judicial proceedings shall seek a preliminary injunction from a state or federal court of competent jurisdiction, ordering such a change in placement

Special Education Parent Advisory Council (SEPAC)

The New Heights Charter School SEPAC is an organization of parents, guardians, teachers and administrators who have or would like to join together to provide information, support and partnership with the goal of providing an educational environment where scholars with learning challenges have equal access to educational opportunities. The New Heights Charter School SEPAC will meet at the start of the school year to provide and introductory presentation in which families are invited to join, annual presentation regarding Parent/Guardian Rights within Special Education and will then continue to meet as the SEPAC deems appropriate.

SECTION 504

New Heights Charter School of Brockton acknowledges its responsibility under Section 504 of the Rehabilitation Act of 1973 to avoid discrimination in policies and practices regarding its personnel and students. No discrimination against any person with a disability shall knowingly be permitted in any program or practices in the school district.

Section 504 covers qualified students with disabilities who attend schools receiving Federal financial assistance. Section 504 requires that school districts provide a free appropriate public education (FAPE) to qualified students in their jurisdictions who:

- (1) have a physical or mental impairment that substantially limits one or more major life activities; or
- (2) have a record of such an impairment; or
- (3) be regarded as having such an impairment.

- Students who are considered for a 504 DO NOT need to provide a doctor or medical documentation.
- Students can also be placed on a 504 without parent consent.

A physical or mental impairment is defined as 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; genito-urinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. This list is not exhaustive.

Major life activities include 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 ADA Amendments Act 2008 Congress provided additional examples of general activities that are major life activities, including eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, and communicating. Congress also provided a non-exhaustive list of examples of "major bodily functions" that are major life activities, such as the functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. An impairment that is episodic or in remission, is also considered a disability if it would substantially limit a major life activity when active.

Under Section 504, the school has the responsibility to identify, evaluate, and if the student is determined to be eligible under Section 504, to afford access to appropriate educational services.

Student Discipline at New Heights

Discipline of Special Education Students

All students are expected to meet the requirements for behavior set forth in the student handbook. However, students eligible for special education are entitled to certain additional protections under state and federal law. Specifically, these laws include G.L. c. 71B and its implementing regulations (603 CMR 28.00) and 20 USC 1401 et.seq. ("the IDEA") and its implementing regulations (34 CFR 300 et. seq.).

Students eligible for special education who violate school rules are subject to removal from their current educational placement for up to ten school days per school year, to the extent that such removal would be applied to students without disabilities, without prior determination as to whether the misconduct is related to the student's disability. Anytime school personnel seek to remove a student from his or her current educational placement for more than ten school days in a school year, this constitutes a "change of placement" and invokes certain procedural rights including but not limited to a review by the IEP Team of the relationship between the student's disability and the behavior subject to the disciplinary action, which is referred to as a Manifestation Determination. The principal or designee will notify the Director of Student Services of the suspendable offense of a special needs student and a record will be kept of such notices.

If the behavior is a manifestation of the student's disability the student's Team will conduct a Functional Behavior Assessment and develop a Behavior Support Plan, provided that such an assessment was not already conducted before the behavior occurred. In the situation where an assessment was already conducted and a Behavior Support Plan is already in place, the Team will review the plan and revise it accordingly. The student will also be returned to his educational placement unless the parent and the school agree otherwise.

If the behavior is not a manifestation of the student's disability, then the student may be removed from his educational placement to the same extent that a regular education student would be removed. The special education student must continue to receive his special education services in order to participate in the general education curriculum although in another setting, and to continue to progress toward meeting the goals set out in the student's IEP. Additionally, the student should receive, as appropriate, a functional behavioral assessment and behavior support plan to prevent the behavior from happening again.

There are certain situations in which school personnel may order a change in placement of a special education student without regard to whether the student's behavior is determined to be a manifestation of the student's disability.

These situations include when a special education student:

- Carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of a State or local educational agency

- Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of a State or local educational agency; or
- Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of a State or local educational agency.

In these situations, school personnel may remove the special education student to an appropriate Interim Alternative Educational Setting (IAES) for not more than forty- five (45) school days without regard to whether the student's behavior is determined to be a manifestation of the student's disability. If a special education student commits an offense which causes the student to be expelled from school, the school district continues to be responsible for providing the student with a free appropriate public education in another educational setting.

Discipline of Students Not Yet Eligible for Special Education

A Student who has not been determined to be eligible for special education and related services and who has engaged in behavior that violates a code of student conduct, may assert any of the protections provided for special education students if the school had knowledge (as determined by the IDEA) that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred.

The school district may be considered to have prior knowledge if, before the behavior that resulted in the disciplinary action occurred.

- The parent of the student expressed concern in writing to supervisory or administrative personnel of the student's school or to a teacher of the student that the student is in need of special education and related services.
- The parent requested an evaluation of the student; or
- District staff expressed, directly to the special education director or other supervisory personnel, specific concerns about a pattern of behavior demonstrated by the student.

The district may not be deemed to have had knowledge if the parent has not consented to an evaluation of the student or has refused special education services, or if an evaluation of the student was completed and resulted in a determination of ineligibility. If the district had no knowledge that the student is a student with a disability prior to taking disciplinary action, the student may be subjected to disciplinary measures applied to students without disabilities. However, if an evaluation is requested during the time period in which the student is subjected to these disciplinary measures, the district must conduct the evaluation in an expedited manner.

Until the evaluation is completed, the student remains in the educational placement determined by the district, which can include suspension or expulsion without educational services. If, after the evaluation, the student is determined to be eligible the district must provide special education and related services in accordance with the IDEA.

Discipline of Students on 504 Plans

School personnel may not suspend a student on a 504 plan for more than ten consecutive school days without a manifestation determination. Procedural protections for eligible 504 students are the same as those afforded to special education students.

Confidentiality

Record Requests

A parent/guardian or eligible student may have access to view or request a copy of their special education or 504 record at any time. Upon request, the Lead Special Education Teacher will provide the parent or student a copy of the record.

If a student or parent requires translation, a request can be made to meet with the Director of Student Services and to have any of the contents of the student record interpreted.

If a third party wishes to have access to the information included in the student record, consent from the parent or eligible student must first be obtained. When granting consent, the eligible student or parent has the right to designate which parts of the student record will be released to the third party. A copy of this consent will be provided to the eligible student or parent and a copy of this consent will be placed in the student's record.

In order to best serve our scholars, authorized school personnel have access to the student's special education and 504 records for the students to whom they are providing services. As access to these records is required in the performance of their official job duties, consent is not required prior to accessing.

Transfer of Records

When a student transfers to New Heights from another school a record request is sent to the sending school district. New Heights must receive "a complete school record," including but not limited to, transcripts, grades, health record, discipline, IEP and Special Education information, MCAS Scores and English Language service records or testing results.

If a student is planning to leave or has left New Heights, authorized school personnel will forward the student's record to the school district the student is transferring to or seeks to transfer to with an authorization for release of records form.

