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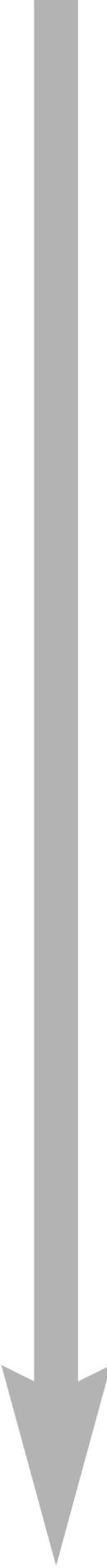
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NOTICE OF NONDISCRIMINATION

The Kansas State Board of Education does not discriminate on the basis of sex, race, color, national origin, disability, or age in admission or access to, or treatment or employment in, its programs or activities. Any questions regarding the Board's compliance with Title VI, Title IX, or Section 504 may be directed to the Title IX Coordinator, who can be reached at (913) 296-2424, 120 SE 10th Avenue, Topeka, Kansas 66612-1182, or to the Assistant Secretary for Civil Rights, U.S. Department of Education.



INTRODUCTION

The purpose of the following guidelines is to provide technical assistance to school staff regarding obligations under Section 504 of the Rehabilitation Act. Many of these same obligations are required by the Americans with Disabilities Act.

Section 504 of the Rehabilitation Act was enacted in 1973. Federal regulations implementing Section 504 were adopted in 1977, and have seven sections:

- Subpart A. General Provisions
- Subpart B. Employment Practices
- Subpart C. Program Accessibility
- Subpart D. Preschool, Elementary, and Secondary Education Requirements
- Subpart E. Post-Secondary Education Requirements
- Subpart F. Health, Welfare, and Social Services
- Subpart G. Procedures

“Handicapped individuals” will hereafter be referred to as “Individuals with disabilities” in order to be consistent with current terminology.

For many years, the main area of enforcement of Section 504 concerned employment issues for individuals with disabilities. However, within the last several years, the Office for Civil Rights (OCR) has become more active in enforcing the provisions of the regulations regarding the education of individuals with disabilities.

This federal statute prohibits discrimination against any individuals with disabilities by public schools receiving federal financial assistance.

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DISCRIMINATORY PRACTICES

A SCHOOL DISCRIMINATES WHEN IT:

1. Denies an individual with disabilities the opportunity to participate in or benefit from an aid or service that is afforded students without a disability; e.g., school practice of refusing to allow any student with a disability the opportunity to be on the honor roll; denial of credit to a student whose absenteeism is related to his/her disability; expelling a student for behavior related to his/her disability; refusing to dispense medication to a student who could not attend school otherwise. Dispensing medication should be a team decision, including the parents, school staff, and health care providers.
2. Fails to give the individual with disabilities an equal opportunity to participate in, or benefit from, the aid or service that is afforded others.
3. Fails to provide aids or services to the individual with disabilities that are as equally effective as those provided to individuals without disabilities. Note: "*Equally effective*" means *equivalent* as opposed to *identical*. Moreover, to be *equally effective*, an aid or service need not produce equal results; it must merely afford an equal opportunity to achieve equal results. (Comment to 34 CFR 104.4(b)(2))
4. Provides different or separate aids or services for students with disabilities unless such action is necessary for them to be as effective as the aids, benefits or services provided to other students; e.g., segregating students in separate classes, schools or facilities, unless necessary.
5. Denies a person with disabilities the opportunity to participate as a member of a planning or advisory board strictly because of his/her disability.
6. Otherwise limits the enjoyment of any right, privilege, advantage or opportunity enjoyed by others; e.g., prohibiting a person with a sensory impairment from using a dog guide or service dog at school.
7. In determining the site or location of a facility, makes selections that effectively exclude individuals with disabilities, denies them the benefits of, or otherwise subjects them to discrimination.

EXAMPLES OF DISCRIMINATION

1. A student with a disability is denied recognition as an honor roll student because one class is in the resource room.
2. A student is expelled from school for misbehavior that is related to his/her disability.
3. The school provides a school day that is shorter in duration than that provided to students without disabilities.
4. The school refuses to allow a student with a disability the opportunity to audition for athletic teams, cheerleading, or other extra- curricular activities.

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5. The school denies course credit to a student whose absenteeism is the result of a disability.
6. The school refuses to dispense medication to a student who needs it to benefit from education.
7. The high school counselor fails to provide information about the special provisions of college board examinations to students with disabilities.
8. The school refuses to provide a modified adaptive physical education program for a student who cannot participate in general physical education.
9. The school does not provide an interpreter for a deaf parent to attend a school meeting regarding his/her child.
10. An employee with cancer is assigned work hours that prevent access to chemotherapy treatments.

The next section provides common definitions and acronyms that are mentioned throughout this document.

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DEFINITIONS

THE FOLLOWING ARE TERMS AND DEFINITIONS COMMON TO SECTION 504 AND THE AMERICANS WITH DISABILITIES ACT.

ACCOMMODATIONS — Adjustments or modifications made by classroom teacher(s) and other school staff to enable the students to benefit from their educational program. In some cases a plan should be developed outlining services and / or accommodations.

AFFIRMATIVE ACTION — This concept involves a commitment to positive action to accomplish the purposes of a program. It may involve goals or timetables and specifically outlined steps that will be pursued to make certain that objectives are attained. Section 504 does not mandate affirmative action for disabled people. Rather, Section 504 requires that federal fund recipients ensure “non-discrimination.” In the context of civil rights for disabled people, affirmative action must be taken under Section 503, which requires affirmative steps and positive outreach by federal contractors in employment considerations.

AGENCY — This term refers to a federal department empowered to extend financial assistance §41.3, Appendix III: B of the government-wide Section 504 regulations.

AMERICANS WITH DISABILITIES ACT (ADA) — Prohibits discrimination on the basis of disability in employment, public services and transportation, public accommodations and telecommunications. The ADA, which applies to nearly all entities regardless of whether they receive federal funding, expanded the mandate of non-discrimination on the basis of disability established under Section 504.

AUXILIARY AIDS — Devices or services that compensate for a disabling condition. The term includes qualified interpreters or other means of communications such as telecommunications devices for the deaf (TDDs) for hearing-impaired people; qualified readers, taped texts or other devices for sight-impaired people; adaptive equipment; and other similar services and actions.

BARRIER-FREE ENVIRONMENT — An environment that contains no obstacles to accessibility and usability by people with disabilities. Section

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504, which emphasizes the concept of program accessibility, does not mandate a barrier-free environment in existing facilities. Barriers may exist under Section 504 as long as they do not impinge on program accessibility. New construction and alterations by federal funds recipients must feature a barrier-free environment, however.

CONTAGIOUS DISEASES — Contagious diseases, such as tuberculosis and AIDS, are considered disabilities under the Rehabilitation Act and the Americans with Disabilities Act. People with contagious diseases are protected by Section 504 against discrimination, provided they can perform their jobs and do not pose a threat to the health and safety of others. Congress amended Section 504 to reflect this when it passed the Civil Rights Restoration Act.

ELIGIBILITY — When a district learns that a student may have a disability, the district must decide whether the student is a qualified individual under Section 504. Therefore, the school district must have procedures for determining whether a student has a physical or mental impairment which substantially limits one or more major life activities. These procedures should include a review process and a decision point which answers the following questions:

- Does the student have a physical or mental impairment?
- Does the impairment affect a major life activity?

If the referral provides evidence as to the possibility of a mental or physical impairment, the school district must proceed with a review of the student's current educational performance, medical and educational records and reports from parents, teachers and administrators to determine if further evaluation is necessary.

The determination of appropriate education for a qualified individual must be made by a group of persons knowledgeable about:

- The student's individual needs;
- The student's school history;
- The meaning of evaluation data; and
- Placement options.

Depending on the type of disability present, the persons at this meeting may include a school counselor, school psychologist, or school nurse. Good sources of information include documentation of interventions in the general classroom, discipline records, scores on group achievement tests and special health care plans.

If the school district determines that the student does not have a physical or mental impairment which substantially limits one or more major life activities, and takes no further action, the school district must ensure that parents or guardians are informed of their procedural due process rights.

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EQUAL OPPORTUNITY — Equal opportunity for qualified people with disabilities is an objective of Section 504. This goal translates into the achievement of accessibility, the provision of benefits, services and aids that are equally effective for disabled and non-disabled people, and programs and activities that are otherwise free from discrimination based on disability. Equal opportunity, and not merely equal treatment, is essential to eliminating discrimination. Identical treatment will not in some cases afford people with disabilities the adjustments or accommodations required to achieve equal opportunities to work, learn or receive services.

FACILITY — All or any portion of buildings, structures, equipment, roads, walks, parking lots or other real or personal property or interest in such property (Appendix III: B: 1, §41.3 (f) of the government wide Section 504 regulations.)

This definition is not intended to be limiting, and unique problems of certain funding agencies (e.g., those that involve vessels) may require different accessibility standards. In addition, the Access Board interprets the term “facility” to mean an entire site, as opposed to a “building” that may be located on a particular site.

FEDERAL FINANCIAL ASSISTANCE — Any grant, loan, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the agency provides or otherwise makes available assistance in the form of: (1) funds; (2) services of federal personnel; or (3) real or personal property or any interest in or use of such property, including (a) transfers or leases of such property for less than fair market value or for reduced consideration; and (b) proceeds from a subsequent transfer or lease of such property if the federal share of its fair market value is not returned to the federal government (Appendix III: B: 1, §41.3(e) of the government-wide Section 504 regulations).

INDIVIDUALS WITH DISABILITIES — any person who: has mental or physical impairment which substantially limits one or more of a person’s major life activities; has a record of a physical or mental impairment that substantially limits one or more major life activities; or is regarded as having a physical or mental impairment that substantially limits one or more major life activities.

MAJOR LIFE ACTIVITY — Functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. When a condition does not substantially limit a major life activity, the individual does not qualify under Section 504.

MOST INTEGRATED SETTING APPROPRIATE — An overriding objective of Section 504 is participation in programs and activities by, and delivery of services to, individuals with disabilities in the most integrated setting appropriate. This requirement seeks to minimize the separate or different treatment of individuals with disabilities, except in individual cases where such treatment is necessary to ensure participation.

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Many individuals with disabilities will require few or no adjustments or modifications by the recipient to participate in programs and activities. Unnecessarily different treatment in such cases would violate Section 504. Thus, the most integrated setting appropriate for many disabled people will be the same setting in which non-disabled people function. For others, it will include changes and adjustments (as slight and as few as possible) necessary to achieve effective participation.

OFFICE FOR CIVIL RIGHTS — The Office for Civil Rights in the Department of Health, Education and Welfare wrote the first federal regulations to implement Section 504 and coordinated government-wide enforcement of the law. When HEW disbanded, the Departments of Education and Health and Human Services each formed an Office for Civil Rights, which are now responsible for enforcing Section 504.

The three primary responsibilities are: investigating complaints, conducting compliance reviews, and providing technical assistance. There are ten regional offices located throughout the United States. The regional office for Kansas is in Kansas City, Missouri, Region VII. Region VII serves Iowa, Kansas, Kentucky, Missouri, North Dakota, South Dakota, and Nebraska.

Office for Civil Rights	(816) 891 -8103
Department of Education	(816) 374-6461 TDD
10220 N. Executive Hills Blvd. 8th Floor	(816) 374-6467 FAX
Kansas City, Missouri 64153	

PHYSICAL OR MENTAL IMPAIRMENT — (1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (2) any mental or physical disorder, such as mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities. The term “physical or mental impairment” includes, but is not limited to, diseases and conditions such as orthopedic, visual, speech, and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; mental retardation; emotional illness; past drug addiction and alcoholism (Appendix III: B: 1, §41.31 of the government-wide 504 regulations).

PROGRAM ACCESSIBILITY — “Program accessibility” is perhaps the key term in Section 504 because federal funds recipients must ensure their programs and activities are accessible to and usable by persons with disabilities. Program accessibility is a flexible principle allowing recipients to comply based on individual responses to their existing conditions and the needs of their disabled participants. In many instances, programs and activities may be made accessible through slight modifications and adjustments in procedures, practices and

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policies. In others, building renovation or construction may be required. But structural change is required only if program accessibility cannot be achieved effectively through other means (Appendix III: B: 1, §41.56-41.57 of the government-wide Section 504 regulations).

PROGRAM OR ACTIVITY — In the context of Section 504, this includes all operations of state and local agencies that receive federal funds. This includes colleges, universities, and / or school systems.

PUBLIC NOTICE — All school districts are required to provide public notice and internal notice (i.e., to staff and students) stating they do not discriminate on the basis of a disability.

QUALIFIED INDIVIDUAL WITH A DISABILITY — An individual who (1) with respect to employment, is a disabled person who, with reasonable accommodation, can perform the essential functions of the job in question; and (2) with respect to services, is a disabled person who meets the essential eligibility requirements for the receipt of such services. Also, the final regulations for HHS recipients (Appendix III: C) define qualified disabled person with regard to education as a disabled person who meets the academic and technical standards requisite to admission or participation in the institution's program and activities.

Factors such as safety may be considered in determining whether an individual with disabilities is qualified. Such considerations are appropriate and are not considered violations of Section 504 as long as they are based on facts relating to the individual's qualifications, rather than assumptions or stereotypes.

Example: In its decision in *Southeastern Community College v. Davis*, the U.S. Supreme Court held that "a disabled person may be required to meet...the necessary physical qualifications" to be qualified for participation in a program or activity. The Court held that legitimate physical requirements may be taken into account in determining someone's qualifications for program participation, and stated that "[a]n otherwise qualified person is one who is able to meet all of a program's requirements *in spite of his handicap*" [emphasis added].

REASONABLE ACCOMMODATION — Is the principle by which an organization's employment opportunities must be made accessible to qualified individuals with disabilities. Under Section 504 (and the ADA), organizations are required to make certain adjustments to the known physical and mental limitations of otherwise qualified disabled applicants and employees, unless it can be demonstrated that the accommodation would impose an undue hardship on the operation of the program (see definition of "undue hardship"). For example, an employer might be required to rearrange office furniture to allow for passage of a wheelchair, relocate offices or classrooms to a ground floor or other accessible location, or relieve a deaf file clerk of phone responsibilities.

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Under Section 504, accommodations may be required to ensure equal employment or educational opportunities for individuals with disabilities. However, no essential job functions need be altered or new jobs created as an accommodation for individuals with disabilities (Appendix III: B: 1, § 41.53 of the government-wide Section 504 regulations).

SECTION 504 — Section 504 of the Rehabilitation Act guarantees specific rights in federally funded programs and activities to people who qualify as disabled. Section 504 states: “No otherwise qualified individual with a disability in the United States...shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance...”

SECTION 504 COORDINATOR — School districts employing 15 or more persons must assign a person to coordinate compliance with Section 504 regulations. It is recommended that all school districts appoint a 504 Coordinator. (It is also recommended that the same person serve as the ADA coordinator.)

SELF-EVALUATION — Section 504 requires federal fund recipients to evaluate their programs and activities to determine the extent to which they require modification to ensure participation by individuals with disabilities. This process of internal analysis has been termed the “self evaluation.” (See samples in the “Sample forms and Policy Section”)

STUDENT PROBLEM SOLVING TEAM — A group of individuals knowledgeable about the student who work together in trying modifications and accommodations to help assist the student succeed in their educational program. Every effort should be made to keep the student in the general education program. A referral is made for an evaluation after all efforts have failed.

SUBSTANCE ABUSE — Alcoholics and past drug addicts are considered to be individuals with disabilities and thus afforded employment discrimination protection under sections 503 and 504 of the Rehabilitation Act. However, this does not apply in cases where a person’s current use of alcohol prevents him or her from performing the duties of the job or whose employment, by reason of such current alcohol use, would constitute a direct threat to the property or safety of others.

The Americans with Disabilities Act amended Section 504 to only protect former drug abusers who have successfully completed (or are in) rehabilitation programs and people are mistakenly identified as drug users. Current users of illegal drugs are not covered.

TELECOMMUNICATIONS RELAY SYSTEM — Telephone transmission service that enables an individual with a hearing or speech impairment to communicate by wire or radio

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with a hearing individual in a manner that is functionally equivalent to the ability of someone who does not have a hearing or speech impairment.

TRANSITION PLAN — If a recipient determines that structural modifications are necessary to meet Section 504’s program accessibility requirements, it must develop a scheme specifying the steps and timetable necessary to complete such changes. This document is termed a “transition plan.”

UNDUE HARDSHIP — A recipient must make reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with disabilities applicant or employee unless it can demonstrate that such accommodation would impose “undue hardship” on the operation of its program. The regulations provide no precise criteria for determining when an accommodation becomes an undue hardship (Appendix III: B: 1, §41.53 of the government-wide Section 504 regulations).

UNIFORM FEDERAL ACCESSIBILITY STANDARDS (UFAS) — Are the standards the federal government uses to meet Section 504’s accessibility requirements for the design, construction and alteration of buildings. UFAS were issued in 1984 by the two federal agencies designated in the Architectural Barriers Act: Department of Defense (for Military bases); Department of Housing and Urban Development (for public housing). Federal funds recipients are considered to be in compliance with Section 504 if they follow UFAS, but only federal agencies are required to use them. Recipients may also satisfy Section 504 by following state, local or other codes.

COMMON ACRONYMS

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ADA - Americans with Disabilities Act

ADD - Attention Deficit Disorder

ADHD - Attention Deficit Hyperactive Disorder

AG - Annual Goal

AP - Accommodation Plan

BD - Behavior Disorder

CD - Cognitive Delay

CFR - Code of Federal Regulations

CHAPTER 1 - Chapter 1 of Title 1 of ESEA, provides financial assistance to states and eligible agencies to deliver supplemental services to at risk students.

D - Deaf

DD - Developmental Disabilities

ED - Emotionally Disturbed

ESY - Extended School Year

FAPE- Free Appropriate Public Education

FERPA - Family Educational Rights and Privacy Act

HI - Hearing Impaired

IDEA - Individuals With Disabilities Education Act

IFSP - Individualized Family Service Plan

LEA — Local Education Agency

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LRE — Least Restrictive Environment

LD — Learning Disability

OCR — Office for Civil Rights

OHI — Other Health Impaired

OT — Occupational Therapy

PT — Physical Therapy

RRC — Regional Resource Center

SEA — State Education Agency

STO — Short Term Objective

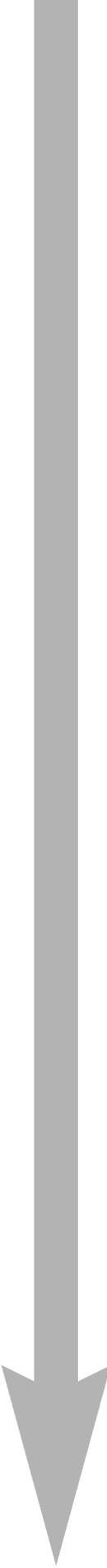
TAT — Teacher Assistance Team

TTY — A telecommunication device for the deaf (Teletypewriter)

VI — Visually Impaired

§504 — Section 504 of the Rehabilitation Act

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OVERVIEW

Section 504 is a civil rights statute aimed at discrimination. Like other statutes such as Title VI (race) and Title IX (gender), Section 504 focuses on discrimination. It prohibits discrimination based on disability.

If a school receives any federal financial assistance, all programs or activities of the school are covered by Section 504 obligations.

No state or federal funding is provided to assist in complying with Section 504. **All costs are the obligation of the local school.** Many schools have established a Section 504 line item in their general fund budget to cover necessary accommodations for individuals with disabilities.

ELIGIBILITY

The regulations implementing Section 504 have several major areas of emphasis: Subpart B — employment practices, Subpart C — program accessibility, and Subparts D and E— requirements for preschool, elementary, secondary, and post-secondary education. This manual will primarily focus on Subparts C and D.

SUBPART A: GENERAL PROVISIONS

This section outlines the non-discrimination responsibilities of schools that receive federal funds or is a public entity. No person, on the basis of a disability, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program that benefits from federal funding or is a public entity.

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ALL PUBLIC AGENCIES MUST COMPLY WITH THE FOLLOWING REQUIREMENTS:

- Provide written assurances of non-discrimination when applying for federal funds.
- Take steps to eliminate discrimination against individuals with disabilities.
- Appoint a 504/ADA coordinator for schools with 15 or more employees to coordinate efforts to comply with these laws.

— BEST PRACTICE —

Even if a school has less than 15 employees, they should appoint a Section 504/ADA Coordinator.

- Provide public notice regarding non-discrimination and responsibilities.
- Make available a grievance procedure.
- Conduct a self-evaluation of their programs and activities to ensure discriminatory practices are eliminated.

SUBPART B: EMPLOYMENT PRACTICES

No qualified person shall, on the basis of his/her disability, be subjected to discrimination in employment by any program or activity that receives federal funds or is a public entity.

The school must make reasonable accommodations for qualified applicants or employees with known physical and mental impairments unless the accommodation would impose an undue hardship on the operation of the school's program. Examples of reasonable accommodations would include: making facilities accessible to and usable by persons with disabilities, job restructuring, part time or modified work schedules, and acquisition or modification of equipment or devices.

THE REGULATIONS MENTION THE FOLLOWING FACTORS TO CONSIDER IN DETERMINATION OF "UNDUE HARDSHIP."

1. The overall size of the school's program with respect to the number of employees, number and type of facilities, and size of budget;
2. The type of the school's operation, including the composition and structure of its workforce; and
3. The nature and cost of the accommodation needed.
4. The burden of proof is always on the school.

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SUBPART C: PROGRAM ACCESSIBILITY

No individual with a disability shall be denied the benefits of, be excluded from participation in, or be otherwise subjected to discrimination under any program or activity because facilities are inaccessible or unusable. Building and program accessibility is applicable to any individual with disabilities accessing any activities or programs in that school building.

The regulation contains two standards to be used in determining whether programs and activities are accessible to individuals with disabilities. One standard deals with “existing” facilities; the other deals with “new” construction. The term “existing facility” means the facility was in existence or in the process of construction before June 3, 1977, the effective date of the regulation. The term “new construction” means groundbreaking that took place on or after the effective date of the regulation. Existing facility under ADA was January 26, 1992.

Leased facilities (mobile units) that are leased or constructed with federal funds are required to meet the standards of new construction. Other leased units are required to meet the standards of existing facilities.

The standard for a facility existing before June 3, 1977 for 504 or January 26, 1992 for ADA, requires that federally assisted programs or activities operated in that facility must, when viewed in their entirety, be readily accessible. *This standard does not require that every facility or part be accessible, so long as the program or activity as a whole is accessible.* Thus, recipients need not make structural changes to facilities that existed before June 3, 1977 for 504 or before January 26, 1992 for ADA, where other alternative methods are effective in making programs and activities accessible, so long as priority consideration is given to offering the services in the most integrated setting appropriate.

One example of an alternative method in a school would be the relocation of classes, activities or services to an accessible site. Facility alteration or new construction is required to achieve program accessibility only if sufficient relocation of classes, activities or services cannot be housed in an existing facility. In meeting the objective of program accessibility, the school must take precautions not to isolate or concentrate students with disabilities in settings away from students without disabilities.

The regulation requires that all new construction begun after June 3, 1977 for 504, or January 26, 1992 for ADA, as well as alterations to existing facilities, must be designed and constructed so as to make facilities accessible and usable by individuals with disabilities.

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SUBPART D: REQUIREMENTS FOR PRESCHOOL, ELEMENTARY, MIDDLE LEVEL, JUNIOR HIGH, SECONDARY EDUCATION, AND ADULT EDUCATION PROGRAM.

Preschool, elementary, middle level/junior high, secondary and adult education programs must take into account the needs of qualified persons with disabilities in determining the aid, benefits, or services to be provided under these programs or activities.

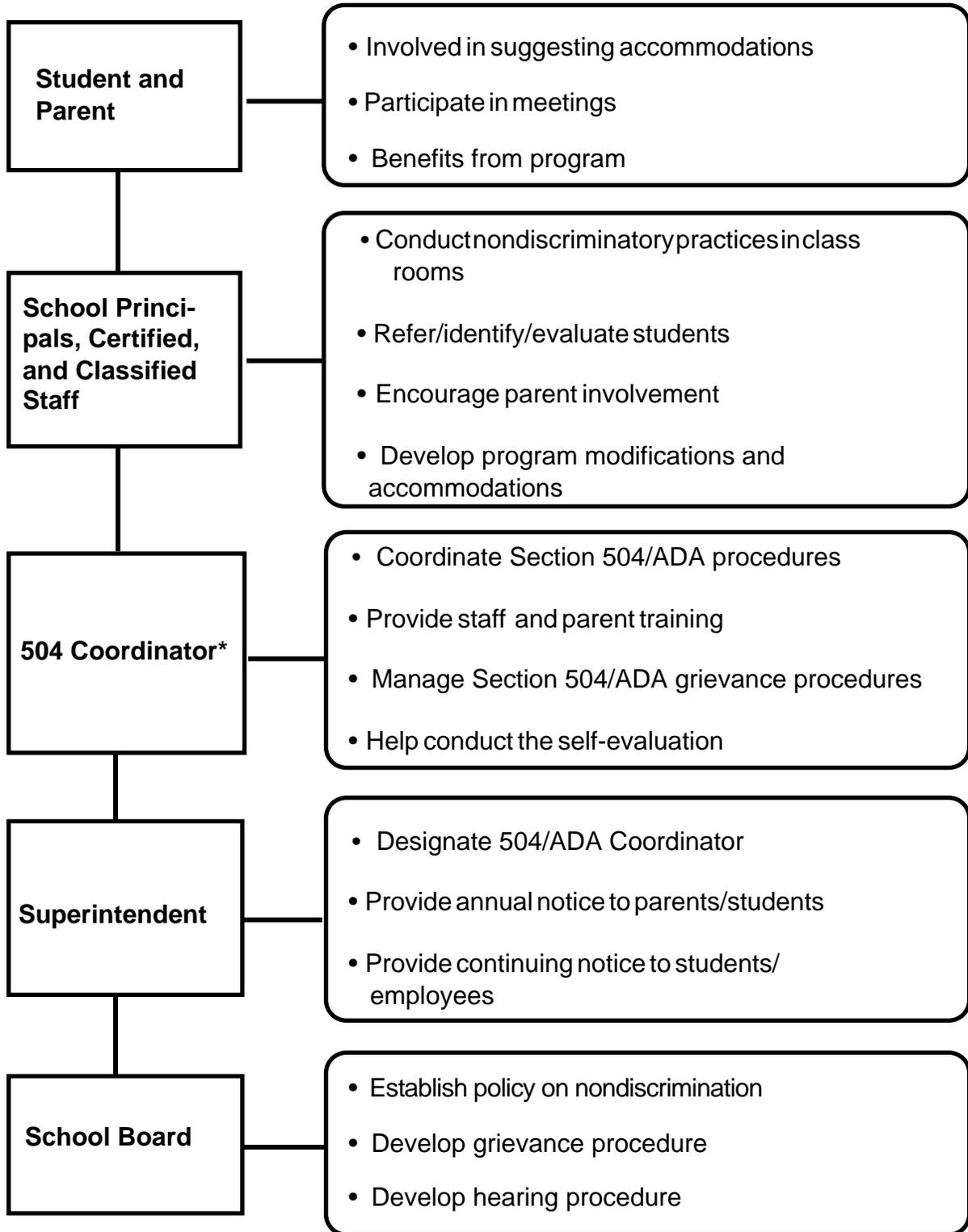
The school must provide a free appropriate public education to students with disabilities in its jurisdiction who are eligible under Section 504/ADA. Instruction must be individually designed to meet the needs of those students as adequately as the needs of students without disabilities. **This standard of what is “appropriate” differs from the IDEA “appropriate” standard which requires the school to design a program reasonably calculated to confer educational benefit. An appropriate education under Section 504/ADA requires that the services be effective and equal.**

Although Section 504/ADA does not require schools to develop an Individual Education Program with annual goals and objectives, it is required that the school document services and/or accommodations provided for each student eligible under Section 504/ADA. If the Building Level Support Team suspects a need for accommodation, a referral should be made, evaluations conducted, and eligibility determined by a team knowledgeable about the student.

The quality of educational services provided to individuals with disabilities must be equivalent to the services provided to individuals without disabilities. Teachers, administrators, staff, and parents should receive ongoing training in the instruction of individuals with disabilities and be knowledgeable about the disability, appropriate materials and equipment. The Section 504/ADA Coordinator will be responsible to develop and implement staff and parent training.

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504/ADA OBLIGATIONS



*Parents and school personnel must be notified as to who is the 504/ADA coordinator.

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RESPONSIBILITY

There has been much confusion regarding the relationship between Section 504/ADA and special education laws and regulations. It must be emphasized that Section 504/ADA falls under the *management of general education*. The figure on the previous page illustrates some obligations of general education under Section 504/ADA and their relationship with school personnel roles. The school staff and parents should collaborate to help guarantee that students are provided with necessary accommodations, related aids and auxiliary services. A student who is found to have a disability under Section 504/ADA should be served by the resources provided through general education. The exception to this standard is a student who has been determined eligible as having a disability under the Individuals with Disabilities Education Act (IDEA). Such a student could receive special education services under IDEA and accommodations required under Section 504/ADA. Some IEPs will include both areas.

GENERAL PROCEDURES: AN OVERVIEW

— BEST PRACTICE —

Parent participation should always be encouraged throughout the Section 504/ADA process.

If the school has reason to suspect that because of a disability a student needs either accommodations or related services in the general educational environment in order to have equally effective participation in the school program, the school must notify the parent of an individual evaluation, evaluate the student, and develop and implement a plan for the delivery of all necessary educational modifications. Requirements for the evaluation and placement process are determined by the type of disability suspected and the type of services needed by the student. The evaluation must be sufficient to assess the nature and extent of the educational impact of the disability so that appropriate educational services can be determined. A team knowledgeable about the student makes the decision based on evaluation data. Identification of services needed must be made by a group of persons knowledgeable about the student. Decisions about Section 504/ADA eligibility and services must be documented in the student's Section 504/ADA file and reviewed at least yearly and whenever any member of the team feels it necessary. A student's program must be provided in the least restrictive environment.

Under Section 504/ADA, parents or guardians must be provided with notice of any action that changes the identification, educational program, or placement of their child. Written consent would be considered a best practice. The parents should be included in the evaluation and placement process whenever possible. Parents or guardians have the right to file a grievance, ask for a hearing, or call the regional Office for Civil Rights in Kansas City, MO, if they disagree with the school.

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— BEST PRACTICE —

Every attempt should be made to resolve any differences between the school and parents before a grievance is filed or the Office for Civil Rights is contacted. Mediation may assist to resolve differences.

SUMMARY

In summary, it is important to keep in mind that some students who have physical or mental impairments that substantially limit their ability to participate in the education program are entitled to services under Section 504/ADA even though they may not fall into IDEA categories and be covered by the special education law. IT IS ALSO IMPORTANT TO REMEMBER THAT SECTION 504/ADA IS A RESPONSIBILITY OF THE GENERAL EDUCATION SYSTEM.

SUBPART E: POST-SECONDARY EDUCATION

ADMISSIONS

1. An individual with a disability cannot be denied admission to a program solely on the basis of his/her disability. Recruitment efforts by a post-secondary school must avoid any discrimination against individuals who have a disability.
2. A test cannot be used that discriminates against an individual with disabilities. All tests should be validated and normed for the population to which it is given and for the purpose it is intended.
3. The school must provide internal and external public notice stating the program does not discriminate on the basis of a disability.

TREATMENT OF STUDENTS

1. No qualified student with a disability can be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination in any academic, research, occupational training, housing, health insurance, counseling, financial aid, physical education, athletics, recreation, transportation, other extracurricular, or other post-secondary education program or activity.
2. A post-secondary program may not exclude any qualified student from any course of study, or other part of its education program on the basis of a disability. A disability, however, may render an individual unqualified.

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ACADEMIC ADJUSTMENTS

1. Adjustments to academic requirements may be necessary to ensure that such requirements do not discriminate on the basis of disability.
2. Modifications may include changes in the length of time permitted for the completion of a degree, substitution of specific courses required for the completion of the degree, and accommodations in the manner in which specific courses are conducted.
3. Academic adjustments could include tape recorders in classrooms, guide dogs or service dogs in campus buildings, and special arrangements for administering examinations.
4. Auxiliary aids could include taped texts, interpreters or other effective methods of making orally delivered materials available to students with hearing impairments, readers in libraries for students with visual impairments, classroom equipment adapted for use by students with manual impairments, and other similar services and actions.
5. The school should provide comparable, convenient, and accessible housing to individuals with disabilities at the same cost as to others.

FINANCIAL AND EMPLOYMENT ASSISTANCE

1. In providing financial assistance to qualified individuals with disabilities, a school may not provide less assistance than is provided to nondisabled persons, limit eligibility for assistance, or otherwise discriminate.
2. A school that assists any agency, organization, or person in providing employment opportunities to any of its students shall assure that such employment opportunities are made available to all students.

NON-ACADEMIC SERVICES

1. A school that offers physical education courses or that operates or sponsors intercollegiate, club, or intramural athletics should provide an equal opportunity to participate in these activities to a qualified individual with a disability.
2. A school that provides personal, academic, or vocational counseling, guidance, or placement services to students should make these services available to individuals with disabilities.

**COMPARISON OF SPECIAL
EDUCATION,
SECTION 504 AND ADA**



KANSAS STATE DEPARTMENT OF EDUCATION

RELATIONSHIP

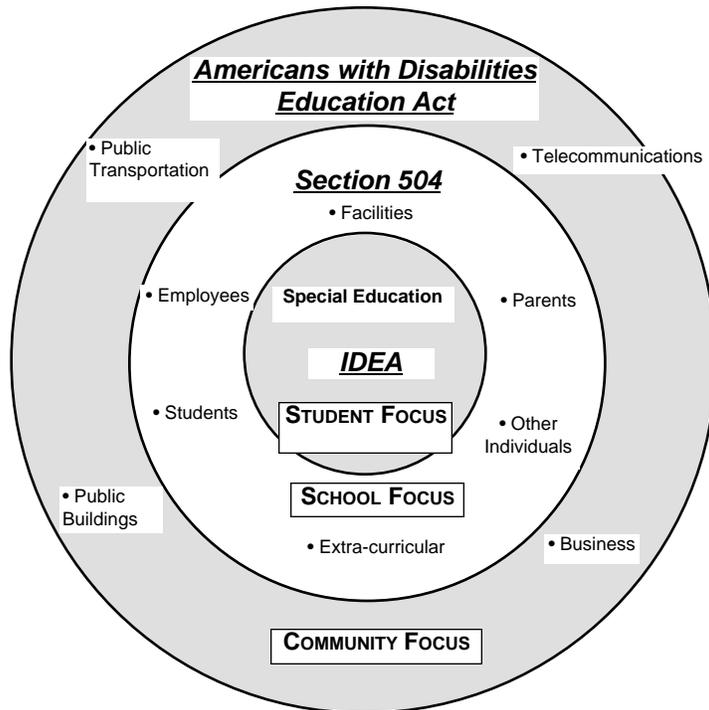
Section 504, while intended to be consistent with the Individuals with Disabilities Education Act (IDEA), is more encompassing. All individuals who receive special education and related services under IDEA are also considered to be qualified individuals under Section 504. However, all individuals who qualify for Section 504 services may not qualify for special education under IDEA.

The figure below gives a visual representation of the relationship between Section 504, special education, general education, and the Americans with Disabilities Act.

The relationship between general education, Section 504, Individuals with Disabilities Education Act and the Americans with Disabilities Act.

Special education defines as eligible only students who have certain specific types of disabilities and who, because of those conditions, need special education and related services. The Section 504 definition of a disability is much broader, including any physical or mental disability that substantially limits one or more major life activity, including, but not limited to, learning. Section 504 covers all students who meet this definition, even if they do not fall within a special education category and do not need special education. Section 504 also covers school employees with disabilities.

Section 504 regulations concerning provision of a free appropriate public education closely parallel requirements of special education. Individuals who qualify for Section 504 educational services may require individualized accommodations and services. The eligibility for Section 504 services must be based upon evaluations conducted by a team of individuals knowledgeable about the student.





Section 504/ADA













KANSAS STATE DEPARTMENT OF EDUCATION

PROCEDURAL REQUIREMENTS



KANSAS STATE DEPARTMENT OF EDUCATION

GUIDELINES FOR EDUCATORS

PROCEDURAL REQUIREMENTS OF SECTION 504/ADA*

TO BE IN COMPLIANCE WITH SECTION 504/ADA, SCHOOLS MUST DO THE FOLLOWING:

PROCEDURE

1. Provide *written assurance of nondiscrimination* whenever the school receives federal money (e.g., on the LEA application). [34 CFR § 104.5(a)] **(see Page 38)**
2. Designate an *employee to coordinate compliance* with Section 504/ADA (if there are more than 15 employees). [34 CFR § 104.7(a)] **(see Page 38)**
3. Provide *grievance procedures* to resolve complaints of discrimination (if more than 15 employees). This does not apply to denial of employment. [34 CFR § 104.7(b)] **(see Page 38–40)**. Mediation, complaint process and due process hearings **(Pages 41–43)**
4. Provide *notice* to students and parents. A separate notice should be available for employees, unions, and professional organizations of nondiscrimination in admission or access to, treatment and employment in its programs or activities (if more than 15 employees). Notice must be included in student/parent handbook. [34 CFR §104.8] **(see Page 44)**
5. The school will identify and locate qualified children with disabilities within their jurisdiction. **(see Page 45)**
6. Annually *notify* persons with disabilities and their parents or guardians of the school's responsibilities under Section 504/ADA. [34 CFR §104.32(b)] **(see Page 46)**
7. *Provide parents or guardians with procedural safeguards:* **(see Page 47)**
 - a. notice of their rights;
 - b. an opportunity to review relevant records;
 - c. an impartial hearing. It is important that parents or guardians be notified of their right to request a hearing regarding the identification, evaluation, or educational placement of individuals with disabilities. [34 CFR §104.36]; and
 - d. review procedures. Compliance with the procedural safeguards under special education is one way of meeting these requirements.
8. Conduct a *self-evaluation* of the school facilities, programs, and policies to ensure that discrimination is not taking place. (34 CFR §104.6 (c). This study should be conducted with the assistance of interested persons, including persons with disabilities. **(see Pages 48–50)**

**Adapted from Perry Zirkel*

THE NEXT FEW PAGES WILL OUTLINE THE PROCESS FOR COMPLYING WITH REQUIREMENTS UNDER SECTION 504/ADA

KANSAS STATE DEPARTMENT OF EDUCATION

PROCEDURE ONE: WRITTEN ASSURANCE OF NONDISCRIMINATION

Whenever a school applies for state or federal monies it must assure that it does not discriminate on the basis of race, sex, color, national origin, age, or disability. This requirement is done routinely by all schools.

PROCEDURE TWO: SECTION 504 COORDINATION

The general provisions of Section 504/ADA, together with other federal nondiscrimination laws, require the designation of a person to coordinate the school's efforts to comply with these laws. Coordination activities could include some or all of the following:

SUGGESTED RESPONSIBILITIES OF THE SECTION 504/ADA COORDINATOR:

- Establish and monitor a Section 504/ADA referral/identification/review process.
- Maintain data on Section 504/ADA referrals.
- Provide staff and parent awareness and training activities concerning Section 504/ADA requirements.
- Implement Section 504/ADA grievance procedures.
- Monitor Section 504/ADA budget.
- Consult with the Director of Special Education.
- Serve as a school liaison with the state Section 504/ADA Coordinator.
- Serve as the school liaison with the Regional Office for Civil Rights.

The Section 504/ADA coordinator could be someone already employed by the school. The Coordinator could be a general education administrator or school counselor who is knowledgeable about these federal laws and regulations.

PROCEDURE THREE: GRIEVANCE PROCEDURES

SECTION I

If any person believes that the school or any of the school's staff have inadequately applied the regulations of (1) Title VI of the Civil Rights Act of 1964, (2) Title IX of the Education Amendment Act of 1972, or (3) Section 504 of the Rehabilitation Act of 1973, or (4) Americans with Disabilities Act, he/she may bring forward a complaint, which shall be referred to as a grievance, to the school's Section 504/ADA coordinator. It should be understood by the individual(s) involved that a complaint can be made to the Office for Civil Rights without going through the school's grievance procedures. The grievance procedures are to provide for a prompt and equitable resolution of a complaint.

GUIDELINES FOR EDUCATORS

SECTION II

The school 504 coordinator, on request, will provide a copy of the school's grievance procedure and investigate all complaints in accordance with this procedure. The grievance procedure should include a statement that a copy of each of the acts and the regulations on which this notice is based, may be found in the coordinator's office.

The person who believes they have been discriminated against based on disability shall discuss the grievance and give the completed grievance form to the school Section 504/ADA coordinator who shall in turn investigate the complaint and reply with an answer to the complaint.

Step 1

A written statement of the grievance signed by complainant shall be submitted to the school Section 504/ADA coordinator within ten (10) business days of receipt of answers to the informal complaint. The coordinator shall further investigate the matters of grievance and reply in writing to the complainant within ten (10) business days.*

Step 2

If the complainant wishes to appeal the decision of the school Section 504/ADA coordinator, he/she may submit a signed statement of appeal to the superintendent of schools within ten (10) business days after receipt of the coordinator's response. The coordinator and superintendent cannot be the same individual. The superintendent shall meet with all parties involved, formulate a conclusion, and respond in writing to the complainant within ten (10) business days.*

Step 3

If the complainant remains unsatisfied, he/she may appeal through a signed written statement to the school Board of Education within ten (10) business days of his/her receipt of the superintendent's response in Step Two. In an attempt to resolve the grievance, the Board shall meet with the concerned parties and their representative within forty (40) days of the receipt of such an appeal. A copy of the Board's disposition of the appeal shall be sent to each concerned party within ten (10) business days of this meeting.

Step 4

The complainant may file a complaint with the Office for Civil Rights at any time before or during the grievance procedures: Office of Civil Rights, Department of Education, 10220 N. Executive Hills Blvd., 8th Floor, Kansas City, Missouri 64153, (816) 891 -8103, (816) 374-6461 TDD, (816) 374-6467 FAX.

* *If the superintendent also serves as the Section 504/ADA Coordinator, the appeal must go to another individual or the school board.*

KANSAS STATE DEPARTMENT OF EDUCATION

**SECTION 504/ADA
DISCRIMINATION/GRIEVANCE
FILING FORM**

Date: _____

Name of Grievant: _____ Title: _____

School: _____

Address: _____

Phone: _____

SUMMARY OF GRIEVANCE:

If others are affected by the possible violation, please give their names and/or positions: _____

Please describe any corrective action you wish to see taken with regard to the possible violation. You may also provide other information relevant to this grievance.

Signature of Grievant

Date

Signature of Person Receiving Grievance

Date

GUIDELINES FOR EDUCATORS

MEDIATION

Most of the time parents and school staff agree upon issues regarding evaluation, eligibility, program and placement of students with disabilities. However, there are times when disagreement occurs.

Conflict is often inevitable, but it need not produce negative results. If the parent and school are unable to resolve a conflict concerning a student with a disability, then mediation is an available option to a long and expensive due process hearing.

Conflict is often inevitable, but it need not produce negative results.

The mediator is a neutral third party and, therefore, has no power to make a decision regarding the dispute. He or she will listen to the views of each party and will assist in developing an acceptable solution to the problem. The mediator has been trained to handle special education and Section 504 disputes.

Mediation is completely voluntary.

Mediation is completely voluntary. It should not interfere with any procedural safeguards, including a request for a due process hearing or filing a complaint with OCR.

Mediation in Section 504/ADA is a process to assist parents and schools in resolving disagreements regarding a student with disabilities education program.

A trained mediator works with both parties to guide them toward a mutually satisfactory solution in the best interest of the student. This occurs at a non-adversative meeting which is more structured than a parent-school conference, but less formal than a due process hearing.

Mediation is a voluntary process. It is **optional** for **both** parties. The mediation session is completely confidential and encourages open communication.

If you have any questions after reviewing these materials, please do not hesitate to contact the school Section 504/ADA Coordinator or the Kansas State Department of Education.

Parents and schools are encouraged to try mediation before relying on more formal procedures such as the grievance procedures, complaints to OCR or due process hearings.

A trained mediator works with both parties to guide them toward a mutually satisfactory solution in the best interest of the student.

KANSAS STATE DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS COMPLAINT PROCESS

An individual or an organization may file a complaint with the regional Office for Civil Rights (OCR) in Kansas City, Missouri. An OCR complaint must be filed, in writing, within 180 days after the violation has occurred. In certain cases OCR will consider complaints where more than 180 days have elapsed.

Anyone wishing to file a formal complaint with OCR should submit the following information in a letter or on the Discrimination Complaint Form available from OCR regional offices.

- Your name and address (a telephone number where you may be reached during business hours is helpful, but not required);
- A general description of the person(s) or class of persons injured by the alleged discriminatory act(s) (names of the injured person(s) are not required);
- The name and location of the school that allegedly committed the discriminatory act(s); and
- A description of the alleged discriminatory act(s) in sufficient detail to enable OCR to understand what occurred, when it occurred, and the basis for the alleged discrimination (race, sex, color, national origin, age or disability).

A recipient may not retaliate against any person who has made a complaint, testified, assisted, or participated in any manner in an investigation or proceeding arising from the filing of a complaint.

GUIDELINES FOR EDUCATORS

SECTION 504 DUE PROCESS HEARING PROCEDURE

The impartial due process hearing is to resolve differences involving the education of Section 504 qualified students with disabilities when such differences cannot be solved by means of a less formal procedure.

DUE PROCESS is defined here as an opportunity to present objections and reasons for the objections to the decisions and/or procedures used by the school under Section 504. A Section 504 due process hearing may be called:

At the request of the school, or a parent, a guardian, or a surrogate parent of the student.

The proceedings will be presided over and decided by an impartial hearing officer.

An impartial hearing officer is a person selected to preside at a due process hearing to assure that *proper procedures are followed and to assure the protection of the rights of both parties.*

A copy of the hearing officer's decision shall be delivered to the school and the parent or guardian following completion of the hearing.

A written or verbatim recording of the due process hearing should be on file at the school office and should be available for review upon request to the parents or involved parties.

It is important that PARENTS OR GUARDIANS be notified of their right to request a hearing regarding the identification, evaluation, or educational placement of persons with disabilities.

KANSAS STATE DEPARTMENT OF EDUCATION

PROCEDURE FOUR: NOTICE TO STUDENTS, PARENTS, AND EMPLOYEES

SECTION 504 OF THE REHABILITATION ACT AND AMERICANS WITH DISABILITIES ACT

NOTICE OF NON-DISCRIMINATION

Applicants for admission and employment, students, parents, persons with disabilities, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the _____ are hereby notified that this school does not discriminate on the basis of race, sex, color, national origin, age, or disability in admission or access to, or treatment or employment in, its programs and activities. Any person having inquiries concerning the school's compliance with the regulations implementing Title VI, Title IX, The Americans with Disabilities Act (ADA) or Section 504 is directed to contact:

who has been designated by the school to coordinate efforts to comply with the regulations regarding nondiscrimination, or to the Assistant Secretary for Civil Rights, U.S. Department of Education.

***RECOMMENDATIONS FOR NOTICE PLACEMENT**

- Staff, parent and student handouts
- Letterheads
- Staff workrooms
- Bulletin boards
- Included on professional contracts
- Included on job announcements
- Annual mailing to staff

GUIDELINES FOR EDUCATORS

PROCEDURE FIVE: LOCATE AND IDENTIFY

The school shall maintain a continual program to find unserved children who might qualify for special education or Section 504/ADA services. To encourage the use of services and ongoing assistance at the earliest age possible, the following methods could be used to identify unserved children:

- a series of spot announcements on all local news media.
- a series of posters to be placed in post offices, city hall, schools, and other public buildings.
- distribution of a referral form to such public and private agents as hospital administrators, public health officers, social welfare offices, private medical practitioners, public nursery schools, and/or child-care and Head Start directors. Referrals should be made to the special education director, or Section 504/ADA coordinator, for appropriate action.

KANSAS STATE DEPARTMENT OF EDUCATION

PROCEDURE SIX: ANNUAL NOTICE TO INDIVIDUALS WITH DISABILITIES AND PARENTS

NOTICE

PROGRAMS FOR STUDENTS WITH DISABILITIES UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973 AND THE AMERICANS WITH DISABILITIES ACT OF 1990

Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act prohibits discrimination against persons with a disability in any program receiving federal financial assistance. Section 504/ADA defines a person with a disability as anyone who:

Has mental or physical impairment which substantially limits one or more of a person's major life activities; has a record of a physical or mental impairment that substantially limits one or more major life activities; or is regarded as having a physical or mental impairment that substantially limits one or more major life activities.

The school has the responsibility to provide adjustments, modifications and provide necessary services to eligible individuals with disabilities.

The _____ acknowledges its responsibility under Section 504/ADA 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 practice in the school.

***RECOMMENDATIONS FOR NOTICE PLACEMENT**

- Staff, parent and student handouts
- Letterheads
- Staff workrooms
- Bulletin boards
- Included on professional contracts
- Included on job announcements
- Annual mailing to staff

GUIDELINES FOR EDUCATORS

PROCEDURE SEVEN: PARENTS AND STUDENT RIGHTS UNDER SECTION 504/ADA

School : _____ Date: _____

The following is a description of student and parent rights granted by federal law. The intent of the law is to keep you fully informed concerning decisions about your child and to inform you of your rights if you disagree with any of these decisions.

YOU HAVE THE RIGHT TO:

1. Have your child take part in and receive benefits from public education programs without discrimination based on a disability.
2. Have the school advise you of your rights under federal law.
3. Receive notice with respect to identification, evaluation, educational services, or placement of your child.
4. Written consent is considered best practice before the initial evaluation and placement for services for your child.
5. Have your child receive a free appropriate public education. This includes the right to be educated with other students to the maximum extent appropriate. It also includes the right to have the school make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities.
6. Have your child educated in facilities and receive services comparable to those provided students without disabilities.
7. Have your child receive regular or special education and related services if she/he is found to be eligible under Section 504 of the Rehabilitation Act of 1973.
8. Have evaluation, educational, and placement decisions made based upon a variety of information sources, and by individuals who know the student, disability, evaluation data, and placement options.
9. Have transportation provided to a school placement setting at no greater cost to you than would be incurred if the student were placed in a program operated by the school.
10. Have your child receive an equal opportunity to participate in non-academic and extracurricular activities offered by the school.
11. Examine all records relating to decisions regarding your child's identification, evaluation, educational program, and placement.
12. File a grievance with your school if you feel your child is being discriminated against because of his/her disability.

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13. Request a due process hearing to resolve issues with the school.
14. Request the assistance of a mediator to help resolve issues with the school.
15. File a formal complaint with the regional office for civil rights. The office is part of the U. S. Department of Education. The regional office is located at 10220 N. Executive Hills Blvd., 8th Floor, Kansas City, Missouri 64153, (816) 891-8103, (816) 374-6461 TDD, (816) 374-6467 FAX.

PROCEDURE EIGHT: SELF-EVALUATION

A self-evaluation to determine possible discrimination involving school facilities, programs, activities, and policies is a requirement of both Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. Any school that employs fifteen or more employees shall conduct such an evaluation and develop a transition plan that outlines how the school will eliminate any form of discrimination. The self-study should be on file and available for public inspection.

THE FOLLOWING ARE KEY CONSIDERATIONS WHEN CONDUCTING THE SELF-EVALUATION:

- Evaluate facilities, programs and policies;
- Involve other individuals, including persons with disabilities;
- Develop a Section 504/ADA transition plan that outlines any modifications that will be necessary. This plan identifies facilities, programs and policies that could be discriminatory, and how the school intends to solve the problems;
- Modify any policies, facilities, or practices that do not meet the requirements of Section 504 or ADA, after consultation with others, including persons with disabilities;
- Take appropriate remedial steps to eliminate the effects of any discrimination resulting from policies and practices;
- Keep a copy of the self-evaluation on file for public inspection; and
- Conduct periodic re-evaluations as needed.

GUIDELINES FOR EDUCATORS

SAMPLE FORM

SELF-EVALUATION FOR SECTION 504/ADA

Besides the physical evaluation of the school district, the self evaluation should examine the following:

A. PROCEDURAL REQUIREMENTS

1. Prior to the beginning of each school year does your school district advise students, parents, employees, and the general public that all educational opportunities will be offered without regard to disability? _____ Yes _____ No

a) Is this notice available to persons who are visually or hearing impaired?
_____ Yes _____ No

2. Does your school district comply with the following notice requirement?

a) Notice must be given to applicants for:

- admission and employment, elementary and secondary school students and their parents; _____ Yes _____ No
- employees, sources of referrals for applicants; _____ Yes _____ No
- union and professional organizations holding collective bargaining or professional agreements with the recipient. The notice must contain a statement of the recipient's policy of nondiscrimination provisions of Section 504/ADA, and the name of the Section 504/ADA Coordinator. _____ Yes _____ No

The notice of the policy of nondiscrimination must appear in bulletins, catalogs, application forms and other materials for both students and employees.

_____ Yes _____ No

3. Coordinator

a) Has your school district designated an employee(s) to coordinate the recipient's compliance activities and to investigate complaints alleging noncompliance with the provisions of Section 504/ADA? _____ Yes _____ No

4. Grievance Procedure

a) Has your school district adopted a grievance procedure for the prompt and equitable resolution of complaints of discrimination by students and employees?
_____ Yes _____ No

b) Has your school district adopted a due process hearing procedure for the resolution of complaints? _____ Yes _____ No

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5. Self-Evaluation

- a) Has your school district conducted a self-evaluation of your policies and practices in consultation with persons with disabilities or organizations representing persons with disabilities to determine whether they discriminate on the basis of disability?

_____ Yes _____ No

B. COUNSELING

1. Are counseling materials and activities free from discrimination on the basis of disability?
_____ Yes _____ No

2. Are student program selections, career and employment selections, and promotion and recruitment efforts free from discrimination on the basis of disability?

_____ Yes _____ No

3. Are counseling practices free from inducing students to enroll in programs based on their disability? _____ Yes _____ No

4. Are different testing or other materials for appraising or counseling students used on the basis of a student's disability? _____ Yes _____ No

5. Are counselors communicating effectively with students who are hearing impaired?

_____ Yes _____ No

6. Are promotional materials available to the visually impaired?

_____ Yes _____ No

C. EQUAL OPPORTUNITY

1. Are students with disabilities placed in general education environments to the maximum extent appropriate to the needs of the student?

_____ Yes _____ No

2. Are proper evaluation and due process procedures followed before a student with a disability is provided special education or related services? _____ Yes _____ No

3. Have all students been given an equal opportunity to participate in nonacademic and extracurricular activities offered by the school? _____ Yes _____ No

D. RECORDS

1. Are records of decisions regarding a student's identification, evaluation, educational program and placement available to parents or guardians for examination?

_____ Yes _____ No

GUIDELINES FOR EDUCATORS

2. Are copies of educational records available at a reasonable cost to parents or guardians? _____ Yes _____ No.
3. Are responses from the school regarding requests for explanations and interpretations of the student's records made promptly to parents or guardians? _____ Yes _____ No

E. EMPLOYMENT

1. Are all of your school's employment practices free from discrimination against employees or applicants for employment on the basis of disability? _____ Yes _____ No.
2. Are all recruitment sources notified of the school's policy of non-discrimination in employment on the basis of disability? _____ Yes _____ No
3. Are all persons treated equally with respect to:
 - a) processing applications for employment; _____ Yes _____ No
 - b) hiring, upgrading, promotion tenure, demotion, transfer, lay-off, termination, right of returning from lay-off and rehiring; _____ Yes _____ No
 - c) rates of pay or any other form of compensation; _____ Yes _____ No
 - d) job assignments, job classifications, organizational structures, position description, lines of progression, and seniority lists; _____ Yes _____ No
 - e) leave of absence, sick leave, or any other leave; _____ Yes _____ No
 - f) Fringe benefits; _____ Yes _____ No
 - g) selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leave of absence to pursue training; _____ Yes _____ No
 - h) employer-sponsored activities. _____ Yes _____ No
4. Do employment tests or other selection criteria disproportionately exclude a particular class of persons on the basis of disability? _____ Yes _____ No

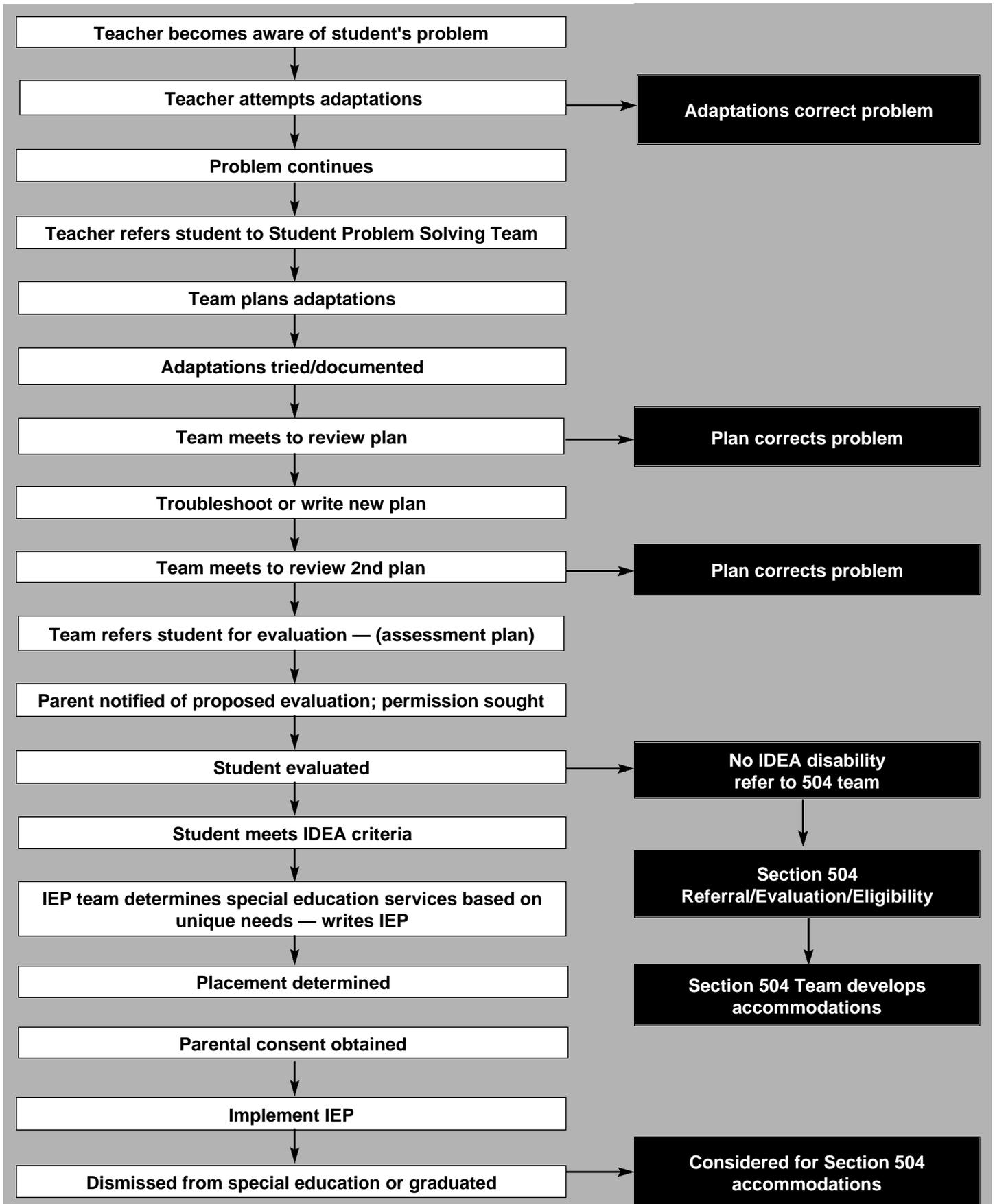
KANSAS STATE DEPARTMENT OF EDUCATION

PROCESS FOR THE DETERMINATION OF SERVICES



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PROCESS FOR THE DETERMINATION OF SERVICES



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RED FLAGS FOR CONSIDERING POSSIBLE ACCOMMODATIONS AND/OR SERVICES UNDER SECTION 504/ADA:

- When a **Parent** frequently expresses a concern about the student's performance.
- When **Suspension or Expulsion** is being considered for any student.
- When **Retention** is being considered.
- When a student shows a pattern of **not benefitting from teacher instruction**.
- When a student returns to school after a **serious illness or injury**.
- When a student is **referred to Student Problem Solving Team**, but it is determined not to do an evaluation under the IDEA.
- When a student is evaluated and **does not qualify for special education** services under the **IDEA**.
- When a student **exhibits a chronic health condition**.
- When a student has been identified as having **attention deficit disorder (ADD)** or **deficit hyperactivity disorder (ADHD)**.
- When a student is identified as **“at risk”** or exhibits the potential for dropping out of school.
- When **substance abuse** is an issue. The individual must have stopped using the substance and should either be in rehabilitation or have gone through the rehabilitation process.
- When a **disability** of any kind is known or suspected.
- When a new **building or remodeling** is being considered.

GUIDELINES FOR EDUCATORS

ELIGIBILITY

A PERSON MAY BE CONSIDERED DISABLED UNDER THE DEFINITION OF SECTION 504/ADA IF THE INDIVIDUAL:

1. has a mental or physical impairment which substantially limits one or more of such person's major life activities.

“Major life activities” include functions such as:

- caring for one's self
- walking
- seeing
- speaking
- learning
- performing manual tasks
- hearing
- breathing
- working

When a condition does not substantially limit a major life activity, the individual does not qualify for services under Section 504/ADA.

2. has a record of such an impairment; or
3. is regarded as having such an impairment.

The second and third prongs of the definition only become a factor if discrimination has occurred because of the “record” or “history” or regarded as having an impairment. (See Appendix E, OCR policy letter August 3, 1992).

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PROCESS FOR DETERMINING SERVICES

The Section 504/ADA coordinator should ensure that the following process has occurred:

INITIAL INTERVENTION

1. If a student experiences educational difficulties, a Student Problem Solving Team (SPST) meets to discuss the concerns.
2. The SPST suggests intervention strategies to help correct the difficulties. The primary function of the SPST is to offer assistance to teachers.
3. If the strategies are unsuccessful, the team can make a referral for evaluation to Section 504/ADA, Special Education, or Title 1.

REFERRAL

4. Referrals are accepted from parents, professional staff, students, and/or community agencies.
5. The presenting problem(s) and previous remedies are considered and reviewed. The summary should include all current information and recommendations.

NOTIFICATION

6. The school notifies the parents or guardians, in writing, of the school's reason and intent to conduct an evaluation. The notice should include a description of the evaluation and of procedural safeguards.

WRITTEN CONSENT

7. Even though Section 504/ADA does not require written consent before the initial evaluation, consent should always be considered a best practice. (IDEA requires consent.)

EVALUATION

8. The school evaluates a student suspected of having a disability before making an initial provision for services or any subsequent, significant change in his or her services.

ELIGIBILITY

9. Section 504/ADA Team—a recommended strategy is to use the Student Problem Solving Team as the Section 504/ADA Team. The team meets and analyzes the evaluation data to determine if the individual has a mental or physical impairment

GUIDELINES FOR EDUCATORS

which substantially impairs a major life activity and is in need of special accommodations/services.

WRITTEN CONSENT

10. Even though Section 504/ADA does not require written consent before the initial service, consent should always be considered a best practice.(IDEA requires consent.)

SERVICES

11. These factors were considered by a group of individuals knowledgeable about the student, disability, evaluation, and service options:
 - a. evaluation results;
 - b. Section 504/ADA eligibility;
 - c. the student's unmet needs;
 - d. services and/or accommodations based on eligibility; and
 - e. discuss and plan possible staff inservice.

IMPLEMENTATION

12. The school staff makes the necessary accommodations/services to allow for the student's disability. Parents should be consulted and given opportunity for input regarding the accommodations.
13. The accommodations and/or services are implemented.

REVIEW

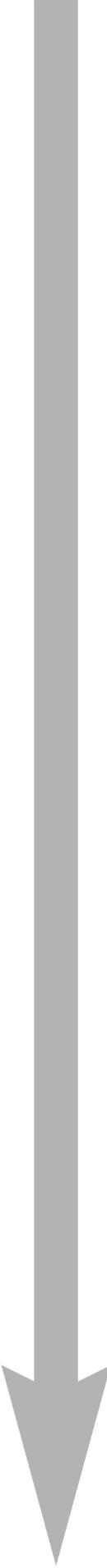
14. Each student's accommodations and/or services are reviewed periodically.

— BEST PRACTICE —

The team should review the accommodations at least annually.

Consent should always be considered a best practice.

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ACCOMMODATIONS/ SERVICES

Accommodations can cover a wide range of environments and issues.

ENVIRONMENTAL STRATEGIES

- Provide a structured learning environment.
- Adjust class schedules.
- Provide classroom aides and note takers.
- Adapt nonacademic times such as lunch room and recess.
- Adapt physical education.
- Change student seating.
- Provide use of a study carrel.
- Alter location of personal or classroom supplies for easier access or to minimize distraction.

ORGANIZATIONAL STRATEGIES

- Adapt test delivery.
- Use tape recorders, computer-aided instruction, and other audiovisual equipment.
- Select modified textbooks or workbooks.
- Tailor homework assignments.
- Use of one-to-one tutorials.
- Provide peer tutoring.
- Set time expectations for assignments.
- Provide cues such as clock faces indicating beginning and ending times.

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- Provide tests in segments so that student finishes one segment before receiving the next part.
- Highlight main ideas and supporting details in the book.

BEHAVIOR STRATEGIES

- Use behavioral management techniques.
- Implement behavioral/academic contracts.
- Utilize positive reinforcements (rewards).
- Utilize negative reinforcements (consequences).
- Confer with the student's parents (and student as appropriate).
- Confer with the student's other teachers.
- Establish a home/school communication system for behavior monitoring.
- Post rules and consequences for classroom behavior.
- Write a contract for student behavior.
- Offer social reinforcers (i.e., praise) for appropriate behavior.
- Establish daily/weekly progress report for the student.
- Implement self-recording of behaviors.

PRESENTATION STRATEGIES

- Tape lessons so the student can listen to them again.
- Provide photocopied material for extra practice (i.e., outlines, study guides).
- Require fewer drill and practice activities.
- Give both oral and visual instructions for assignments.
- Vary the method of lesson presentation:
 - a. lecture
 - b. small groups

GUIDELINES FOR EDUCATORS

- c. large groups
 - d. use audio visuals (i.e., filmstrips, study prints)
 - e. peer tutors or cross-age tutors (i.e., take notes, monitor assignments, read aloud, listen)
 - f. demonstrations
 - g. experiments
 - h. simulations
 - i. games
 - j. 1-to-1 instruction with other adult
- Provide for oral testing.
 - Ask student to repeat directions/assignments to insure understanding.
 - Arrange for a mentor to work with student in his or her interest area or area of greatest strength.

METHODOLOGY STRATEGIES

- Repeat and simplify instructions about in-class and homework assignments.
- Supplement oral instructions with visual instructions.
- Change instructional pace.
- Adapt instructional methods.

CURRICULUM STRATEGIES

- Adapt instructional materials.
- Utilize supplementary materials.
- Assess whether student has the necessary prerequisite skills. Determine whether materials are appropriate to the student's current interest and functioning levels.
- Implement study skill strategies (survey, read, recite, review). Introduce definition of new terms/vocabulary and review to check for understanding.
- Limit amount of material presented on a single page.
- Provide a sample or practice test.
- Be aware of student's preferred learning style and provide appropriate instruction/materials.

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EFFECTIVE ACCOMMODATIONS/SERVICES

1. Provide study carrels.
2. Use room dividers.
3. Provide headsets to muffle noise.
4. Seat student away from doors/windows.
5. Seat near model (student or teacher).
6. Provide time-out area.
7. Rearrange student groups (according to instructional needs, role models, etc.).
8. Group for cooperative learning.
9. Vary working surface (e.g., floor or vertical surface such as blackboards).
10. Simplify/shorten directions.
11. Give both oral and written directions.
12. Have student repeat directions.
13. Have student repeat lesson objective.
14. Ask frequent questions.
15. Change question level.
16. Adapt response format (e.g., from verbal to physical; from saying to pointing).
17. Provide sequential directions (label as first, second, etc.).
18. Use manipulatives.
19. Alter objective criterion level.
20. Provide functional tasks (relate to child's environment).
21. Reduce number of items on a task.
22. Highlight relevant words/features.
23. Use rebus (picture) directions.
24. Provide guided practice.
25. Provide more practice trials.
26. Increase allocated time.
27. Use a strategy approach.
28. Adapt reinforcers.
29. Increase reinforcement frequency.
30. Delay reinforcement.
31. Use specific rather than general praise.
32. Have a peer tutor program.

GUIDELINES FOR EDUCATORS

33. Provide frequent review.
34. Have student summarize at end of lesson.
35. Use self-correcting materials.
36. Adapt test items for differing response modes.
37. Provide mnemonic devices.
38. Provide tangible reinforcers.
39. Use behavioral contracts.
40. Establish routines for handing work in, heading papers, etc.
41. Use timers to show allocated time.
42. Teach self-monitoring.
43. Provide visual cues (e.g., posters, desktop number lines, etc.).
44. Block out extraneous stimuli on written material.
45. Tape record directions.
46. Tape record student responses.
47. Use a study guide.
48. Provide critical vocabulary list for content material.
49. Provide essential fact list.
50. Use clock faces to show classroom routine times.
51. Use dotted lines to line up math problems or show margins.
52. Provide transition directions.
53. Assign only one task at a time.
54. Provide discussion questions before reading.
55. Use word markers to guide reading.
56. Alter sequence of presentation.
57. Enlarge or highlight key words on test items.
58. Provide daily and weekly assignment sheets.
59. Post daily/weekly schedule.
60. Use graph paper for place value or when adding/subtracting two digit numbers.
61. Provide anticipation cues.
62. Establish rules and review frequently.
63. Teach key direction words.
64. Use distributed practice.
65. Provide pencil grips.
66. Tape paper to desk.
67. Shorten project assignment into daily tasks.

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68. Segment directions.
69. Number (order) assignments to be completed.
70. Change far-point to near-point material for copying or review.
71. Put desk close to blackboard.
72. Incorporate currently popular themes/characters into assignments for motivation.
73. Repeat major points.
74. Use physical cues while speaking (e.g., 1, 2, 3, etc.).
75. Pause during speaking.
76. Use verbal cues (e.g., "Don't write this down", " This is important").
77. Change tone of voice, whisper, etc.
78. Use an honor system.
79. Collect notebooks weekly (periodically) to review student notes.
80. Reorganize tests to go from easy to hard.
81. Color code place value tasks.
82. Use self-teaching materials.
83. Do only odd/or even numbered items on a large task sheet.
84. Use a primary typewriter or large print to create written material.
85. Provide organizers (e.g., cartons/bins) for desk material.
86. Teach varied reading rates (e.g., scanning, skimming, etc.).
87. Provide content/lecture summaries.
88. Use peer-mediated strategies (e.g., "buddy system").
89. Call student's name before asking a question.
90. Use extra spaces between lines of print.
91. Color code materials/directions.
92. Use raised-line paper.
93. Provide calculators.
94. Circle math computation sign.
95. Use hand signals to cue behavior (e.g., attention, responding).
96. Establish a rationale for learning.
97. Use advance organizers.
98. Help students to develop their own learning strategies.

EXAMPLES

The accommodations/services a student receives will be based upon the unique needs identified during the evaluation process. Many accommodations listed could be the parents' or student's responsibility.

Some disabilities listed in this section are special education categories. These disabilities could also be covered by Section 504/ADA.

ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)

EXAMPLE: The student frequently misses school and does not have the strength to attend a full day. This student has a disability which substantially limits the life activities of learning and caring for one's self.

POSSIBLE ACCOMMODATIONS:

- Apply universal precautions.
- Administer medications.
- Adjust attendance policies.
- Adjusted schedule or shortened day.
- Provide rest periods.
- Adapt physical education curriculum.
- Establish routine communication with health professionals, school nurse, and home.
- Develop health care and emergency plan.
- Meet with doctor, parents, teachers, and administrators.
- Provide two way audio/video link between home and classroom.
- Arrange for an adult tutor at school or home.

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- Adapt assignments, and tests.
- Provide an extra set of textbooks for home.
- Provide staff training on confidentiality.
- Provide education and support for peers regarding issues of death and dying.
- Provide transportation to and from school.
- Tape books or provide a personal reader.
- Provide a home computer with e-mail.
- Arrange for a support group.
- Provide employment transitions for secondary students.
- Develop supportive community attitudes regarding schools' need to provide education to HIV positive/AIDS students.
- Develop and promote nondiscriminatory classroom climate and supportive student attitudes.
- Promote the most supportive, least restrictive educational program for AIDS students.
- Provide inservice on Section 504 and ADA.
- Initiate a "Kids on the Block" AIDS program.
- Video-tape classroom teacher.
- Provide a peer support group to encourage communication.
- Furnish home and hospital care for extended periods of illness.
- Provide technology at home with possible link to the school.

ALLERGIES

EXAMPLE: The student has severe allergic reactions to certain pollens and foods. The condition is substantially limiting to the major life activity of breathing.

POSSIBLE ACCOMMODATIONS:

- Avoid allergy causing substance: soap, weeds, pollen, food.
- Inservice necessary persons: dietary people, peers, coaches, laundry for sports people (soap).

GUIDELINES FOR EDUCATORS

- Avoid using chalk boards.
- Avoid using perfume and hairspray.
- Provide clean rooms and avoid rooms with carpet.
- Allow time for shots/clinic appointments.
- Use air purifiers.
- Adapt physical education curriculum during high pollen time.
- Improve room ventilation. (When remodeling has occurred and materials may cause an allergy.)

ARTHRITIS

EXAMPLE: A student with arthritis may have persistent pain, tenderness or swelling in one or more joints. A student experiencing arthritic pain may require a modified physical education program. The condition is substantially limiting to the major life activity of performing manual tasks.

POSSIBLE ACCOMMODATIONS:

- Provide a rest period during the day.
- Accommodate for absences for doctor's appointments.
- Provide assistive devices for writing e.g. pencil grips, non-skid surface, typewriter/computer, etc.
- Adapt physical education curriculum.
- Administer medication .
- Arrange for assistance with carrying books, lunch tray, etc.
- Provide book caddy.
- Implement movement plan to avoid stiffness.
- Provide seating accommodations.
- Allow extra time between classes.
- Provide locker assistance.
- Provide modified eating utensils.

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- Develop health care plan and emergency plan.
- Make available access to wheelchair/ramps and school van for transportation.
- Provide time for massage or exercises that may be needed.
- Adapt recess time.
- Provide peer support groups.
- Arrange for instructional aide support.
- Arrange for someone else to take notes.
- Install handle style door knobs (openers).
- Record lectures/presentations.
- Have teacher provide outlines of presentation.
- Issue velcro fasteners for bags, shoes, coats.
- Obtain padded chairs.
- Provide a more comfortable style of desk.
- Adapt attendance policy, if needed.
- Provide a shorter school day.
- Furnish a warmer room and sit student close to the heat.
- Adapt curriculum for the lab classes.
- Supply an extra set of books for home use and keep a set at school.
- Let student give reports orally rather than written.
- Assign someone to monitor plan.
- Begin an awareness program for other students.
- Monitor any special dietary considerations.
- Adapt the school curriculum, as necessary, i.e. in band assist in selecting instrument student can play.
- Provide individual school counseling.
- Make any needed bathroom accommodations.
- Accommodate for writing with a computer and notetaking with a tape recorder.

GUIDELINES FOR EDUCATORS

ASTHMA

EXAMPLE: A student has been diagnosed as having asthma. The doctor has advised the student not to participate in physical activity outdoors. The disability limits the major life activity of breathing. The school is required to make reasonable accommodations in the education program.

POSSIBLE ACCOMMODATIONS:

- Adapt activity level for recess, physical education, etc.
- Use air purifier or inhalants.
- Provide inhalant therapy assistance.
- Administer medication.
- Provide homebound instruction.
- Remove allergens —e.g., hairspray, lotions, perfumes, pine trees, carpet.
- Make field trips non-mandatory and supplement with videos, audios, movies, etc.
- Accommodate medical absence; arrange transportation to home/clinic.
- Provide education to peers/teachers/others (bus drivers, cooks, etc.).
- Adjust for personal administration of medications.
- Provide access to water, gum, etc.
- Provide curriculum considerations (science class, physical education, etc.)
- Develop health care and emergency plan.
- Provide compensation if individual misses an excessive amount of school.
- Have peers available to carry materials to and from classes (e.g. lunch tray, books).
- Provide rest periods.
- Make school health care needs known to appropriate staff.
- Adapt field trip experiences.
- Provide indoor space for before and after school.
- Arrange for access to wheelchair for transition purposes.

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- Have a locker location which is centralized and free of atmosphere changes.
- Adapt school day duration or 180 day requirement, if needed.
- Reimburse parent for transportation costs or provide alternate transportation to and from school.
- Place student in most easily controlled environment.
- Modify attendance policies.
- Modify certain learning activities.

ATTENTION DEFICIT DISORDER (ADD) AND ATTENTION DEFICIT HYPERACTIVITY DISORDER (ADHD)

EXAMPLE: The student does not meet eligibility requirements under IDEA as emotionally disturbed, learning disabled or other health impaired. The student is regarded as having ADD by a doctor, and the disability limits the major life activity of learning.

POSSIBLE ACCOMMODATIONS:

- Adjust student seating.
- Use simple, concise instructions.
- Provide a peer tutor/helper.
- Teach compensatory strategies.
- Administer medication.
- Staff monitor stress and fatigue; adjust activities.
- Adapt assignments.
- Adapt instructional pace.
- Provide supervision during transitions, disruptions, field trips.
- Use study guides, organizing tools.
- Modify testing procedures.
- Provide counseling.

GUIDELINES FOR EDUCATORS

- Initiate frequent parent communication.
- Establish a school/home behavior management program.
- Provide training for staff and parents.
- Have the student use an organizer—train in organizational skills.
- Establish a cue between teacher and student.
- Assign chores/duties around room/school.
- Adapt environment to avoid distractions.
- Have child work alone or in a study carrel.
- Highlight required or important information/directions.
- Place assignments, directions on tape for auditory learner.
- Provide a checklist for student, parents, and/or teacher to record assignments or completed tasks.
- Use a timer to assist student to focus on given task or number of problems in time allotted — *stress they need to be done correctly.*
- Have student re-state or write directions/instructions.
- Allow student to respond in variety of different modes, i.e. may place answers for tests on tape instead of paper.
- Give student opportunity to stand while working.
- Provide additional supervision to and from school.
- Adapt student's work area with barriers.
- Inservice other students and staff, with parent permission.
- Develop a behavior modification plan.

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- Prescribe physical activity, exercise, etc.
- Determine trigger points and prevent action leading to trigger points.
- Provide a sociometric/sociogram design, such as circle of friends.

CANCER

EXAMPLE: A student with a long term medical problem may be given considerations to accommodate special needs. For example, a student with cancer may need a class schedule that allows for rest and recuperation following chemotherapy. The condition is substantially limiting to the major life activity of caring for one's self.

POSSIBLE ACCOMMODATIONS:

- Apply universal precautions.
- Adapt attendance policies.
- Limit number of classes taken; accommodate scheduling (breaks, etc.).
- Send teacher/tutor to hospital, as appropriate.
- Take whatever steps are necessary to accommodate student's involvement in extra-curricular activities.
- Adapt activity level and expectations in classes based on physical limitations; don't require activities that are too physically taxing.
- Schedule daily monitoring or distribution of medications.
- Provide appropriate assistance technology.
- Have accommodations available for transportation to and from school and extra curricular activities.
- Provide dietary accommodations.
- Shorten day, arrange for home tutoring following treatment.
- Provide additional set of texts and assignments to hospital school.
- Tape lessons.
- Adapt schedule to include rest breaks.

GUIDELINES FOR EDUCATORS

- Educate peers.
- Provide counseling; establish peer support group.
- Adapt physical education.
- Provide access as needed to school health services.
- Provide awareness training to staff and students.
- Develop health care emergency plan to deal with getting sick at school.
- Provide counseling for other students to deal with cancer student.
- Offer counseling for death and dying.
- Furnish a peer tutor.
- Adapt work load.
- Supply student with a student manager for participation in sports.
- Give student a separate bathroom.
- Provide an interactive computer/modem.
- Set up crisis teams.
- Instigate a free pass system from the classroom.
- Provide lessons using mastery learning techniques.
- Adjust the proficiency requirement.
- Provide individual school counseling.
- Begin friendship groups.
- Adapt requirements for graduation.
- Provide teachers with counseling, emphasizing positive attitudes.

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CEREBRAL PALSY

EXAMPLE: The student has serious difficulties with fine and gross motor skills. A wheelchair is used for mobility. Cognitive skills are very good. The condition is substantially limiting to the major life activity of walking.

POSSIBLE ACCOMMODATIONS:

- Provide assistive technology devices (computer).
- Arrange for use of ramps and elevators.
- Allow for extra time between classes.
- Assist with carrying books, lunch trays, etc.
- Adapt physical education curriculum.
- Provide for physical therapy.
- Monitor medication administration.
- Modify eating utensils.
- Initiate an emergency health care plan.
- Educate peers/staff.

DRUGS AND ALCOHOL

EXAMPLE: The student has used drugs and alcohol for many years. This problem has affected the major life activities of learning and caring for one's self. The student is presently not using drugs or alcohol and is in a rehabilitation program. If the student is not using drugs or alcohol, he/she could qualify for accommodations under Section 504/ADA. The condition is substantially limiting to the major life activity of learning.

POSSIBLE ACCOMMODATIONS:

- Provide texts and assignments to treatment facility.
- Arrange for periodic home-school contacts.

GUIDELINES FOR EDUCATORS

- Establish daily/weekly journal.
- Communicate with treatment facility.
- Provide/arrange for counseling.
- Establish peer support group.
- Dismiss from school for treatment without punitive measures.
- Ensure stronger link with school counselor.
- Form Alateen chapter.
- Furnish individual counseling services.
- Integrate a student assistance program into the classroom.
- Inservice staff.

EMOTIONALLY DISTURBED

EXAMPLE: A student who is emotionally disturbed may need an adjusted class schedule to allow time for regular counseling or therapy. The condition is substantially limiting to the major life activity of learning.

POSSIBLE ACCOMMODATIONS:

- Administer medication.
- Approve early dismissal to attend therapy.
- Maintain weekly/daily journals; self-recording of behavior.
- Establish home-school communication system.
- Schedule periodic meetings with home and treatment specialists.
- Provide carry over of treatment plans into school environment.
- Assist with agency referrals.
- Develop behavior management programs.
- Write contracts for student behavior.

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- Post rules for classroom behaviors; teach expectations.
- Provide counseling, social skills instruction.
- Ensure agency/school collaboration.
- Educate other students/staff/school personnel.
- Provide carryover treatment plans into home environment.
- Reinforce positive behavior.
- Schedule shorter study and work periods according to attention span expected.
- Be consistent.

EPILEPSY

EXAMPLE: The student is on medication for seizure activity, but experiences several grand mal seizures each month. The condition is substantially limiting to the major life activity of learning.

POSSIBLE ACCOMMODATIONS:

- Train staff and students and prepare an emergency plan.
- Provide medical monitoring.
- Monitor and/or distribute medications.
- Change seating.
- Provide rest time and academic considerations following seizure.
- Arrange buddy system.
- Provide an alternative recess.
- Provide education for peers.
- Inservice staff.
- Plan for academic make-up work, so individual can catch up with peers.

GUIDELINES FOR EDUCATORS

LEUKEMIA

EXAMPLE: The student has recently been diagnosed with leukemia and requires frequent hospitalization. The condition is substantially limiting to the major life activity of learning and caring for one's self.

POSSIBLE ACCOMMODATIONS:

- Send a teacher/tutor to the student's home.
- Send a teacher/tutor to the hospital as needed.
- Provide the student with a shorter school day.
- Make needed accommodations during physical education/recess.
- Provide rest areas.
- Have medical services and medication at school.
- Supply the proper diet.
- Furnish counseling.

OBESITY

EXAMPLES: A student has an extreme eating disorder that may require special accommodations. Obesity may be considered a disability under Section 504/ADA when it substantially impairs the major life activities of walking and breathing.

POSSIBLE ACCOMMODATIONS :

- Provide special seating modifications.
- Make dietary modifications.
- Adjust meals schedule.
- Adapt physical education program.
- Provide proper and safe transportation to and from school.
- Allow extra time to get to classes.

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- Educate peers.
- Modify rest rooms.
- Begin a peer support group.
- Allow more passing time.
- Ensure privacy for self-care.
- Provide counseling.
- Provide for elevator privileges or other accommodations— for example individuals in wheelchairs or with other disabilities that prevent them from using stairs.
- Arrange classroom furniture to provide room to negotiate and move around classroom seating.
- Select and implement a building level support team for the reduction of stress.
- Arrange for peer counseling/helping to deal with esteem issues; also peer attitudes, teasing, etc.
- Address busing concerns to ensure room on buses for seating.
- Arrange to provide opportunities for the individual to participate in intramural events.
- Provide proper and safe transportation to and from school.
- Have proper medications available.
- Have a health nurse monitor medications.
- Make any class location changes that may be needed.
- Provide out-of school support.
- Adjust attendance policy
- Obtain homebound services.

GUIDELINES FOR EDUCATORS

ORTHOPEDICALLY IMPAIRED

EXAMPLE: The student has limited mobility and is confined to a wheelchair. The condition is substantially limiting to the major life activity of walking.

POSSIBLE ACCOMMODATIONS

- Develop a health care and emergency plan.
- Implement an adaptive physical education program.
- Provide physical therapy at school.
- Check facilities regarding physical accessibility.
- Provide extra time to get to class.
- Supply a set of textbooks for home.
- Provide a copy of classnotes from a peer.
- Practice emergency exit from school building.

PARENT WITH HEARING IMPAIRMENT

EXAMPLE: A parent is hearing impaired and requests access to school sponsored activities. The school makes accommodations by providing interpreter services for the parent to participate effectively in school sponsored events or meetings about the student.

POSSIBLE ACCOMMODATIONS:

- Provide an interpreter for all school events of expected participation.
- Make arrangements for home-school contacts/communication.
- Assist with locating peer or support groups.
- Use written notes for communication.
- Provide information on assistive technology.

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STUDENT FORMERLY RECEIVING SPECIAL EDUCATION SERVICES

EXAMPLE: The student has exited from a special education program, but still needs some academic accommodations to function in a general classroom due to a disability.

POSSIBLE ACCOMMODATIONS:

- Network; plan with all staff.
- Schedule regular review by building level support team.
- Maintain ongoing monitoring of progress; notify staff.
- Establish daily/weekly progress reports.
- Allow for academic modifications.
- Mentor.
- Use Title I services.
- Provide after school tutoring.
- Provide peer tutoring.
- Ask for student feedback.
- Ask for parent feedback.
- Provide journal activities.
- Adjust homework assignments.
- Have student work toward more independent achievement of assignments within a structured environment (build self-esteem).
- Contact previous special education teachers.
- Review files of progress reports and see what plans were successful.
- Check transition plan.
- Inservice staff.

GUIDELINES FOR EDUCATORS

STUDENT WITH SPECIAL HEALTH CARE NEEDS

EXAMPLE: The student has a special health care problem and requires clean intermittent catheterization twice each day. This procedure empties the bladder and helps prevent urinary tract infections and possible wetting. The school is required to provide trained personnel to perform the procedure, or to provide the student a private location to perform the procedure. The condition is substantially limiting to the major life activity of caring for one's self.

POSSIBLE ACCOMMODATIONS:

- Apply universal precautions.
- Provide trained personnel to perform special procedures.
- Provide student with private location and time to perform procedures.
- Involve school nurse, parents, teachers, and staff.
- Allow preferential seating.
- Adapt recess, physical education, and transportation.
- Modify classroom environment.
- Re-evaluate/update periodically.
- Develop health care and emergency plan.
- If necessary, modify attendance policy.
- Establish health alert —every staff member involved with this student is aware of the health problem and of proper procedures.
- Provide a beeper/paging system for trained personnel.
- Make available homebound services/instruction.
- Begin a disability awareness program upon parent or student request.
- Provide school counseling.
- Arrange for trained personnel on school field trips.
- Arrange for inservice to other students.

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TEMPORARILY DISABLED

EXAMPLE: A student was in an automobile accident and will be homebound and/or hospitalized for a period of time. The student is considered temporarily disabled under Section 504/ADA and should receive accommodations.

POSSIBLE ACCOMMODATIONS

- Provide duplicate sets of texts.
- Provide assignments to hospital school.
- Tape lessons.
- Provide homebound instruction.
- Schedule periodic home-school meetings.
- Arrange for student to leave class early to get to next class.
- Provide access to elevators.
- Excuse from or adapt physical education program.
- Arrange for a friend to assist student in getting from class to class (support network).
- Provide an interactive system — computer, e-mail, TV.
- Organize counseling — trauma from accident.
- Provide "grounds" maintenance at school.
- Provide physical therapy.
- Arrange for a tutor.
- Make transportation available.
- Arrange for proper medication.
- Arrange for peer notes.
- Provide help with getting lunch tray.
- Change seating arrangements to accommodate needs.

GUIDELINES FOR EDUCATORS

- Adapt assignments depending on disability.
- Adapt completion of assignment .
- Allow more time allowed for test completion.
- Allow shortened days, adjust attendance policy.
- Address special accommodations of a wheelchair.
- Inservice staff and class and prepare an emergency care plan.
- Switch classrooms to main floor.
- Test verbally.
- Provide peer assistance for social involvement (keep child informed of social activities).
- Furnish life-skill assistance.
- Supply school nurse services.

TOURETTE'S SYNDROME

<i>EXAMPLE: The student exhibits inappropriate gestures and sounds in the classroom and hallways. The condition is substantially limiting to the major life activity of learning.</i>

POSSIBLE ACCOMMODATIONS:

- Pair with a neighboring student to prevent tardiness or absenteeism.
- Provide student with a means of catching up on missed lessons.
- Pair with a fellow student for study.
- Educate other students about associated outbursts.
- Arrange for frequent parental interaction.
- Medication administration.
- Begin a chip system.
- Provide supervision for transition activities.

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- Teach strategies about how to compensate.
- Adapt assignments.
- Provide alternative work space.
- Initiate time out.
- Cue student of inappropriate behavior.
- Provide peer inservice.
- Furnish supervision while student is acting out.
- Inservice teachers about different discipline procedures.
- Provide appropriate space for the child to act out episode.
- Make staff and students aware "with parental involvement."

TRAUMATIC BRAIN INJURY

EXAMPLE: The student sustained a brain injury in an automobile accident. Many academic and motor skills have been lost from the injury. The condition is substantially limiting to the major life activity of learning, performing manual tasks, and/or caring for one's self.

POSSIBLE ACCOMMODATIONS:

- Provide extended school year/time.
- Furnish memory/organizational aids.
- Provide alternative testing.
- Initiate tutoring programs.
- Arrange for an emergency plan.
- Inservice staff and peers.
- Provide a monitoring process.

GUIDELINES FOR EDUCATORS

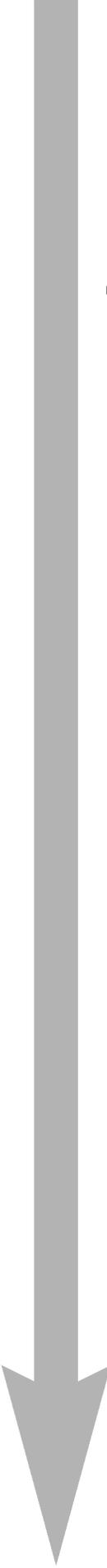
TUBERCULOSIS

EXAMPLE: The student contracted tuberculosis two years ago and has been under treatment. The disease is no longer infectious, but the student is still weak. The condition is substantially limiting to the major life activity of caring for one's self.

POSSIBLE ACCOMMODATIONS:

- Adjust length of school day.
- Provide home tutor, as necessary.
- Inservice staff on problems that might arise with the student.
- Have the medical evaluator provide feedback to staff.
- Monitor the student's behavior and report changes to nurse immediately.
- Encourage student to stay in school as much as possible, as illness permits.
- Provide an alternative place for recess during cold weather.
- Have student evaluated periodically.
- Inservice students.

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QUESTIONS AND ANSWERS

1. **Q. When does the 2nd and 3rd prong of the Section 504/ADA definition become relevant?**

2nd Prong - Has a record of an impairment.

3rd Prong - Is regarded as having an impairment.

A. A person who falls under the second and third prongs of the definition of a person with a disability is entitled to Section 504 protection only when the allegedly discriminatory action is based on the fact that he/she has a “record of” or is “regarded as” disabled. Unless a person actually has a disability, the mere fact that he/she has a “record of” or is “regarded as” disabled is insufficient, by itself, to trigger those Section 504 protections that require special treatment, (such as FAPE or reasonable accommodation), of persons with physical or mental impairments which substantially limit one or more major life activities.

2. **Q Are slow learners eligible for Section 504/ADA accommodations or services?**

A. “Slow learning” is not a disability any more than giftedness would be considered an impairment. If a slow learner cannot cope with the general education, the problem is with the curriculum or instructional approach, not the student. The curriculum or instruction must be adapted to meet the ability and pace of the student. It should be noted that the student could have a disability; for example, an attention deficit disorder and also be a slow learner. The ADD could entitle the student to Section 504/ADA services.

3. **Q. Who should serve on the Section 504 Committee?**

A. A practice that has worked for many schools is the utilization of the Student Problem Solving Team as the Section 504 Committee. This team is usually knowledgeable about

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the student and is familiar with interventions that have been successful and strategies that have failed. The Student Problem Solving Team will usually include:

- A. Parent(s)
- B. Student, when appropriate
- C. Principal or designee
- D. Classroom teacher(s)
- E. Others as appropriate

4. **Q. Can a school use the special education IEP form to document Section 504 accommodations and services?**

- A. The Office for Civil Rights has commented that the IEP would fulfill Section 504/ADA requirements. It is suggested, however, that Section 504 accommodations and services be documented on the forms contained in Appendix B of these guidelines.

5. **Q. How does free appropriate public education differ between Section 504/ADA and special education?**

- A. In special education, a student must be eligible under one of the thirteen disability categories and need special education before he/she is entitled to related services.

The definition for eligibility under Section 504 is very broad and could include any physical or mental impairment which substantially limits a major life activity. The student could receive accommodations, services **and/or** related services. Some students could receive just a related service, such as physical therapy or counseling.

6. **Q. Who conducts evaluations to determine Section 504/ADA eligibility?**

- A. Many students who are eligible for Section 504/ADA services have medical conditions that have already been diagnosed. In these instances the school would request permission from the parents to obtain copies to document the Section 504 eligibility.

Where the school conducts the evaluation, special education staff or other support staff may be involved. Most schools pay a portion of the salary and benefits of special education staff and could justify the use of these individuals to conduct 504/ADA evaluations.

7. **Q. When students exit special education, should they be considered for Section 504/ADA eligibility?**

- A. YES. Section 504 eligibility shall be a team decision and will depend on the unique needs of the student. Many exiting special education students will not require Section 504/ADA accommodations or services. If the team decides to consider Section 504/ADA eligibility, a referral would be made to the Section 504 Committee for determination.

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Special education students who are graduating from high school and moving on to post secondary opportunities should be considered for Section 504 services. Post secondary programs receiving federal funds are under the same obligations as schools.

8. **Q. Where can parents or the school receive technical assistance regarding Section 504 issues?**
- A. There are several sources of technical assistance for parents and school including the following:
1. School Section 504/ADA Coordinator.
 2. LEA District Level Section 504 Coordinator.
 3. Kansas State Department of Education.
 4. Regional Office for Civil Rights, Kansas City, MO.
9. **Q. To what extent should parents be involved in the Section 504/ADA process?**
- A. The Section 504 regulations do not specify the degree of parent participation. It is always best practice to involve parents every step along the way in their child's educational program. It is recommended that parents receive notice whenever their child is singled out for evaluation, eligibility or service delivery. Written consent should be obtained before evaluations and services. The parents should be invited to participate in all Section 504/ADA meetings regarding their child.
10. **Q. Can the Section 504 Committee recommend modifications to an eligible student's graduation requirements?**
- A. YES, as long as the recommendation is reasonable and related to the student's disability. For example, a student with a severe physical disability might not be capable to participate and fulfill physical education graduation requirements. Adapted physical education would be a modification for the physical education requirement. Schools are encouraged to develop alternative options rather than totally waive a course requirement.
11. **Q. Are all students with attention deficient disorder eligible for Section 504/ADA services?**
- A. NO. Although many students who have been diagnosed with ADD/ADHD **do** qualify for Section 504/ADA services, many others do not. Many students who have been diagnosed with ADD/ADHD are either on medication and/or have been taught and apply compensatory skills to successfully function in a school environment and may not require Section 504/ADA services.
- Some students with ADD/ADHD will be eligible for special education services if they were first found to be eligible for special education under the categories of learning disability, other health impaired, emotionally disturbed, or traumatic brain injury. (See OSEP/OCR policy letter in Appendix E)

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If the student has a mental or physical disability which substantially limits a major life activity (learning in the case of ADD/ADHD), then the student would qualify for Section 504/ADA accommodations and/or services.

12. **Q. What are the consequences for a school who refuses to meet Section 504/ADA obligations?**
- A. The parents could file a local grievance with the school, request a due process hearing, take the school to court, or file a complaint with the Office for Civil Rights. The office is part of the U. S. Department of Education. The regional office is located at 10220 No. Executive Hill Blvd, 8th Floor, Kansas City, MO. Consequences could include punitive damages, attorney fees, and the loss of federal funds. Mediation might be used to assist in resolving disputes between parents in the school.
13. **Q. Should a school document and keep a Section 504/ADA file on each eligible student?**
- A. YES. Even though Section 504/ADA regulations are silent on the issue of documentation except for evaluation results, it is best practice to document the Section 504/ADA services. Files should be kept on eligible students. This file should be separate from the cumulative file, to avoid possible discrimination based on the record. Section 504/ADA files would be under all requirements listed in the Family Educational Rights and Privacy Act (FERPA).
14. **Q. Who pays the costs for Section 504/ADA services?**
- A. Services are the responsibility of the school district. There is no federal funding for Section 504 services.
15. **Q. Can a school require a medical statement for students for whom they cannot pinpoint a medical or physical impairment that is substantially limiting a major life activity within the schools and for which assistance is needed in the school?**
- A. A school cannot require a parent or student to provide a medical statement *if* the school suspects that the student has a disability that would necessitate the provision of general or special education and related aids and services under the regulations implementing Section 504 of the Rehabilitation Act of 1973. However, a school is not required to evaluate a student who the school does not believe has a disability, *e.g.* a mental or physical impairment which substantially limits a major life activity, such as learning. A school is required to conduct an evaluation of any person who, because of disability, needs, or whom the school believes to need, general or special education and related aids and services. (a) If a school determines, based on the facts and circumstances of the individual case, that a medical assessment is necessary to make an appropriate evaluation consistent with 34 CFR §104.35(a) and (b), the school must ensure that the student receives this assessment at no cost to the parents. If alternative assessment methods meet the evaluation criteria, these methods may be used in lieu of a medical assessment. If a district does not believe that a student has a disability and refuses to evaluate the child, the district must inform the parents of their due process rights under 34 CFR §104.36.

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16. **Q. Are schools required to provide the food when dietary modifications are needed? Or do parents provide the food and the school prepare it (like with medication)?**
- A. It depends. A school, in providing any aid, benefit, or service, may not deny or afford a person with a disability an opportunity to participate in, or benefit from, an aid, benefit, or service, such as the provision of food services, that is not equal to, or as effective as, that provided to persons without disability. The recipient also is required to provide free appropriate public education to each qualified person with a disability. The provision of an appropriate education is the provision of general or special education and related aids and services that are designed to meet the individual educational needs of persons with disabilities as adequately as the needs of persons without disabilities are met. Unlike medicine, which the school is not required to provide for any student, if the school provides food to students generally, it would also have to provide an appropriate lunch to the student with disabilities who has special dietary needs on the same basis that food is provided to students without disabilities. Depending on the circumstances, the school may have to provide special foods to meet the individual needs of the student with disabilities. This responsibility is determined on a case-by-case basis.
17. **Q. Are schools responsible for providing services to students in private schools?**
- A. Section 504 does not require the public school to provide services in the private school. 34 CFR §104.33(c)(4).
18. **Q. For students who are referred to special education but do not qualify under IDEA criteria, do they automatically become Section 504 students?**
- A. No. Under Section 504, a “person with disabilities” is defined as any person who has a physical or mental impairment which substantially limits a major life activity. Thus, depending on the severity of their condition, students who do not meet the standards under Part B of the Individuals with Disabilities Education Act (IDEA) may or may not fit within the Section 504 definition. It is not automatic.
19. **Q. Can a student be identified as IDEA eligible and be receiving some services under IDEA, and also be identified as a Section 504 student and be receiving different assistance in the general classroom under Section 504? If the child is eligible for IDEA for the disability, shouldn't they receive all services for their disability under IDEA?**
- A. In order to be eligible for services under the IDEA, a student must be found to have one or more of the 13 disability categories specified *and* must also be found to need special education. A student identified as IDEA eligible and receiving services under the IDEA in order to receive a free appropriate public education could receive the same assistance in order to comply with Section 504. Section 104.33(b)(2) states that implementation of an individualized education program developed in accordance with IDEA is one means of meeting Section 504's requirement for the provision of

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general and special education and related aids and services designed to meet individual educational needs of persons with disabilities as adequately as the needs of person without disabilities are met. It would be possible for some students to be special education and Section 504 eligible. In this case, the student could have an IEP and Section 504 plan or all the services could be outlined on the IEP.

20. **Q. It is clear that a parent can take the school to a hearing regarding their Section 504 student. Can a district take a parent to hearing as well?**
- A. Yes. For instance, if a student is receiving services the school thinks are necessary for the provision of a free appropriate public education under Section 504, and the parent decides he/she no longer wants the child to receive the services, the school cannot simply accede to the parent's wishes. It *must* use the Section 504 due process hearing requirements or other proceedings if the school believes the student needs the services.
21. **Q. If a student is identified as in need of modifications/services under Section 504, and the parent decides to home-school the child, is the school still responsible for providing services in the home for the student because they are in the jurisdictional area of the school's responsibility?**
- A. No. Where a school has offered an appropriate education, a school is not responsible, under Section 504, for the provision of educational services to students not enrolled in the public educational program based on the personal choice of the parent or guardian.
22. **Q. Section 104.33(b) speaks to "related aids and services." What is the difference between this and 104.34(a) "supplemental aid and services?" Section 104.33(b) speaks to "general or special education and related aids and services," whereas 104.35 speaks to "special education or related services...in a general or special education program" Please provide clarification as to the meaning of these phrases and how they are to be interpreted.**
- A. Under Section 504, the meaning of the terms "related aids and services" and "supplemental aids and services" is identical, and the terms are interchangeable. The phrases "general or special education and related aids and services" in Section 104.35(a) and "special education or related services... in a general or special education program" also have identical meaning.
23. **Q. If a Section 504 student is, due to his disability, constantly disruptive on the school bus, can the school have the student's bus privileges removed if she/he needs the transportation to get to school? If so, must the school still provide transportation? How about when the student is a threat to the safety of other students on the bus?**
- A. If transportation is a related service for a student with disabilities, any incident of misconduct on the bus should be viewed in the same manner as any disciplinary incident

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in the school. A school cannot revoke transportation services just as a school could not suspend a student with disabilities in excess of 10 days or, in some cases, impose cumulative suspensions exceeding 10 days without taking a number of prior actions. A school can change the mode or method of providing transportation services if a student with disabilities is endangering himself or others, just as the school can place a student with disabilities in a more restrictive setting if the student becomes dangerous.

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APPENDICES



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APPENDIX A

Section 504 of The Rehabilitation Act of 1973



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APPENDIX B

Sample Forms



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INFORMATION FOR PARENTS REGARDING SECTION 504 OF THE REHABILITATION ACT OF 1973

Section 504 is an Act which prohibits discrimination against persons with a disability in any program that receives federal financial assistance. The Act defines a person with a disability as anyone who:

Has a mental or physical impairment that substantially limits one or more major life activities (major life activities include activities such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working).

In order to fulfill its obligations under Section 504/ADA, the _____ recognizes a responsibility to avoid discrimination in policies and practices regarding its personnel and students. No discrimination against any person with a disability will knowingly be permitted in any of the programs and practices in the school system.

The school has specific responsibilities under the Act, which include the responsibility to identify, evaluate and, if the student is determined to be eligible under Section 504/ADA, to afford access to appropriate educational services.

If the parent or guardian disagrees with the determination made by the professional staff of the school, he/she has a right to a hearing with an impartial hearing officer.

The Family Educational Rights and Privacy Act (FERPA) also specifies rights related to educational records. This Act gives the parent or guardian the right to:

- Inspect and review his/her child's educational records;
- Make copies of these records;
- Receive a list of all individuals having access to those records;
- Ask for an explanation of any item in the records;
- Ask for an amendment to any report on the grounds that it is inaccurate, misleading, or violates the child's rights;
- A hearing on the issue if the school refuses to make the amendment.

If there are questions, please feel free to contact

Section 504/ADA Compliance Coordinator

Phone

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SECTION 504 REFERRAL

Student: _____ Date: _____

School: _____ Date of Birth: _____

Teacher: _____ Grade: _____

Parent: _____ Phone: _____

Address: _____

Referred by: _____

Position: _____

1. Reason for referral: _____

2. Accommodations and interventions attempted (Student Problem Solving Team (SPST))

3. Has the student ever been referred, evaluated, and/or received services from special education? _____ YES _____ NO If yes, explain: _____

4. Referral action:

Student Problem Solving Team (SPST) Member Date

Section 504 Coordinator Date

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NOTICE

SECTION 504 MEETING

Student : _____ Date: _____

School: _____

Dear Parent or Guardian:

This letter is to inform you that we have some concerns about your child's progress at school. We have attempted some interventions with your child. They include:

We would like to arrange a meeting to discuss eligibility for further accommodations/services in order to ensure that _____ is afforded an appropriate education. We have scheduled a meeting on _____ This meeting will be held at _____ to discuss your child's educational needs. We would very much appreciate your participation.

If you have any questions, or if this meeting time is not convenient for you, please call me at _____. We will discuss your questions or arrange a mutually convenient meeting time.

Sincerely,

Name Position

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WRITTEN CONSENT

SECTION 504 STUDENT AND PARENT RIGHTS

School : _____ Date: _____

The following is a description of student and parent rights granted by federal law. The intent of the law is to keep you fully informed concerning decisions about your child and to inform you of your rights if you disagree with any of these decisions.

YOU HAVE THE RIGHT TO:

1. Have your child take part in, and receive benefits from public education programs without discrimination based on a disability.
2. Have the school advise you as to your rights under federal law.
3. Receive written notice with respect to identification, evaluation, or placement of your child.
4. Have your child receive a free appropriate public education. This includes the right to be educated with other students without disabilities to the maximum extent appropriate. It also includes the right to have the school make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities.
5. Have your child educated in facilities and receive services comparable to those provided students without disabilities.
6. Have your child receive accommodations under Section 504 of the Rehabilitation Act of 1973.
7. Have evaluation, educational, and placement decisions made based upon a variety of information sources, and by individuals who know your child, the evaluation data, and placement options.
8. Have transportation provided to a school placement setting at no greater cost to you than would be incurred if the student were placed in a program operated by the school.
9. Give your child an equal opportunity to participate in non-academic and extracurricular activities offered by the school.
10. Examine all records relating to decisions regarding your child's identification, evaluation, educational program, and placement.
11. Obtain copies of educational records at a reasonable cost unless the fee would effectively deny you access to the records.

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12. Receive a response from the school to reasonable requests for explanations and interpretations of your child's records.
13. Request amendment of your child's educational records if there is reasonable cause to believe that they are inaccurate, misleading or otherwise in violation of the privacy rights of your child. If the school refuses this request, it shall notify you within a reasonable time, and advise you of the right to a hearing.
14. Request mediation or an impartial due process hearing related to decisions regarding your child's identification, evaluation, educational program, or placement. You and your child may take part in the hearing and have an attorney represent you.
15. File a local grievance or complaint to the Office for Civil Rights in Kansas City, Missouri. The office is part of the U. S. Department of Education. The regional office is located at 10220 N. Executive Hills Blvd., 8th Floor, Kansas City, Missouri 64153, (816) 891 -8103, (816) 374-6461 TDD, (816) 374-6467 FAX.

The person at the school who is responsible for Section 504/ADA compliance is:

Section 504 Coordinator

Telephone Number

I give written consent to have my child evaluated for possible Section 504 eligibility.

Parent signature

Date

Evaluation Procedures:

Evaluation

To be performed by

SECTION 504 EVALUATION PROCEDURES

If the school suspects a student has a disability, then parental notice is given and an individual evaluation is conducted. The following are some considerations for meeting 504 evaluation requirements.

1. The school could use special education evaluation staff or other evaluators as assigned. Determination of who will conduct the evaluation should be made by the school administrator. The evaluation team must be knowledgeable about the student, disability, and be familiar with the evaluation data and placement options.
2. Each evaluation should be tailored to the specific needs of the student.
3. The parents need to be notified before the evaluation is conducted. Consent is not required, but is considered best practice. (IDEA requires consent)
4. Tests and other evaluation materials should be validated for the specific purpose for which they are used and administered by trained personnel in conformance with the instructions provided by their producer.
5. Tests and other evaluation materials include those tailored to assess specific areas of educational need.
6. Tests are selected to ensure that when a test is administered to a student with impaired sensory, manual, or speaking skills, the results accurately reflect whatever the test is designed to measure.
7. In interpreting evaluation data and in making placement or accommodation decisions, a school should draw upon information from a variety of sources, including aptitude and achievement tests, interest inventories, teacher recommendations, physical condition, social or cultural background, and adaptive behavior.
8. A reevaluation should be conducted before making any significant change in placement. A reevaluation procedure consistent with the Individuals with Disabilities in Education Act is one means of meeting this requirement.

The school may refuse to conduct an evaluation, but has the obligation to inform the parents of the reasons for the refusal and their right to file a grievance, contact the Office for Civil Rights, or request a due process hearing.

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SECTION 504 TEAM MEETING SUMMARY

Student: _____ Date: _____ Grade: _____
School: _____ Birthdate: _____
Address: _____ Phone: _____
Case Manager: _____

PARTICIPANTS - Staff knowledgeable about the student, disability, and the results of the evaluation data.

SUMMARY OF EVALUATION DATA - Information from a variety of sources, including, as relevant, aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior.

DETERMINATION OF WHETHER THE STUDENT HAS A DISABILITY UNDER SECTION 504

_____ The student does not have a physical or mental impairment which substantially limits one or more major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

_____ The student has a physical or mental impairment which substantially limits one or more major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

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PART II STUDENT ACCOMMODATIONS

Accommodation 1: _____

Accommodation 2: _____

Accommodation 3: _____

Accommodation 4: _____

DURATION OF ACCOMMODATION(S) From _____ To _____
Review/Reassessment Date: _____

Name	Participants	
	Title	Date
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Placement for Services _____

I give permission for my child to receive the above mentioned services.

Parent Date

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SECTION 504 STUDENT ACCOMMODATION PLAN

Student: _____
School: _____
Review Date: _____

Date: _____
DOB: _____
Case Manager: _____

PART 1: JUSTIFICATION FOR SERVICES

1. Is the student disabled under Section 504?
 YES NO

The student has a physical or mental impairment which substantially limits one or more of his/her major life activities.

- YES NO

- | | |
|--|-----------------------------------|
| <input type="checkbox"/> caring for one's self | <input type="checkbox"/> hearing |
| <input type="checkbox"/> performing manual tasks | <input type="checkbox"/> speaking |
| <input type="checkbox"/> walking | <input type="checkbox"/> working |
| <input type="checkbox"/> seeing | <input type="checkbox"/> learning |
| <input type="checkbox"/> breathing | |

2. Briefly document the basis for determining the disability: _____

3. Describe areas of need and action to be taken: _____

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Area of Difficulty: _____

Accommodations : _____

Evaluation: _____

Area of Difficulty: _____

Accommodations : _____

Evaluation: _____

Area of Difficulty: _____

Accommodations : _____

Evaluation: _____

Area of Difficulty: _____

Accommodations : _____

Evaluation: _____

I give permission for my child to receive the above mentioned services.

Parent

Date

SAMPLE 2 (CONTINUED)

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ACCOMMODATION AND SERVICE PLAN

Student: _____ Date: _____

Case Manager: _____

Explanation of Section 504 Eligibility: _____

Check each area where special accommodations/services will help the student meet success at school.

- | | | |
|--|---|--------------------------------------|
| <input type="checkbox"/> Seating | <input type="checkbox"/> Note Taking | <input type="checkbox"/> Reading |
| <input type="checkbox"/> Writing | <input type="checkbox"/> Spelling | <input type="checkbox"/> Vocabulary |
| <input type="checkbox"/> Space | <input type="checkbox"/> Organization | <input type="checkbox"/> Math |
| <input type="checkbox"/> Physical Education | <input type="checkbox"/> Assistive Devices | <input type="checkbox"/> Test Taking |
| <input type="checkbox"/> Problem Solving | <input type="checkbox"/> Time | <input type="checkbox"/> Memory |
| <input type="checkbox"/> Communication | <input type="checkbox"/> Interpersonal Skills | <input type="checkbox"/> Homework |
| <input type="checkbox"/> Assignment Completion | <input type="checkbox"/> Listening | <input type="checkbox"/> Other _____ |

ACCOMMODATIONS AND SERVICES

1. _____

2. _____

3. _____

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4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

I give permission for my child to receive the above mentioned services.

Parent Date

SECTION 504 COMMITTEE MEMBERS

_____	_____
_____	_____
_____	_____
_____	_____

GUIDELINES FOR EDUCATORS

SECTION 504 REVIEW OF SERVICES

Student : _____ Date: _____

Case Manager: : _____

PURPOSE OF MEETING: It is necessary to periodically review the student's progress under Section 504 services and make recommendations to continue, modify or terminate the program(s). (504 plan should be reviewed once each year)

DISCUSSION OF PROGRESS: _____

RECOMMENDATION

- Continue present services with no changes.
- Modify the present program (see attached).
- Exit from program based upon the following evaluation results.

DISCUSSION OF RECOMMENDATIONS: _____

The following members of the Section 504 Committee agree with the recommendations.

Parent

Classroom Teacher

School Principal

Counselor

Student

Other

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APPENDIX C

Sample Accommodation Plans



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APPENDIX D

Student Discipline and Section 504



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APPENDIX E

Physical Accessibility Checklist



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GUIDELINES FOR EDUCATORS

CHECKLIST TO USE TO DETERMINE WHETHER BUILDINGS ARE ACCESSIBLE FOR PERSONS WITH PHYSICAL DISABILITIES

The following checklist can be used as a guide to complying with the American National Standards Institute and Uniform Federal Accessibility Standards for making buildings accessible to the physically disabled. The following checklist was devised based on both the ANSI and UFAS standards. In some places where UFAS differs from ANSI, both specifications are included. This is particularly so in the use of technical terms.

TYPE OF BUILDING OR PROJECT

1. Is this new construction?
2. Is this an addition?
3. Is this an alteration?
4. Is this an historic preservation building?
5. Is this a leased building?
6. Is this a housing or dwelling unit?

BUILDING SITE/EXTERIOR/ ROUTE

1. Does the grading of the building site allow the approaches to the building to be substantially level?
2. Is there parking within 200 feet of the building entrance?
3. Is any of the parking reserved for the disabled?
4. Are any parking spaces open on one side to allow easy access for wheelchairs and for people who use braces to get in and out of the automobile?
5. Are the parking spaces on level ground?
6. Are there ramps or level spaces to allow people to enter the building without crossing a curb?
7. How many accessible parking spaces are there?
8. Is there an accessible route connecting buildings, facilities, other architectural elements and spaces on the same site?
9. Is there an accessible route within the site from transportation stops, accessible parking spaces, passenger loading zones and public streets/sidewalks?
10. Are ground/floor surfaces free of protruding objects and otherwise accessible?

WALK WAYS

1. Are walks at least 48 inches wide?
2. Is the gradient not greater than a one foot rise in 20 feet (5 percent)?

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3. Are walks without interruption (i.e., steps or abrupt changes in level)?
4. If the walks cross a driveway, parking lot or other walks, do they blend into a common level surface?
5. On elevated walks, is there at least a 5 ft. x 5 ft. platform if a door swings out onto the platform or 3 ft. x 5 ft. platform if the door swings in?
6. Do walks have nonslip or slip resistant surfaces?

BUILDINGS—RAMPS

1. Do ramps have a slope no greater than a 1 foot rise in 12 feet (8.33 percent)?
2. If ramps are steeper than a 5 percent gradient rise, a rise of 6 inches, or a horizontal projection of more than 72 inches, are handrails provided?
3. If there are handrails, are they at least 32 inches above ramp surface?
4. Are there handrails on both sides?
5. Are the ramp surfaces smooth?
6. Is the clear width of the ramp at least 36 inches?
7. Do the handrails extend 1 foot beyond the top and bottom of the ramp?
8. Are the ramp surfaces nonslip or slip resistant?
9. Do ramps have a 6 foot clearance at the bottom that is level?
10. Do ramps that have a gradient steeper than 5 percent have level spaces—a minimum of 3 feet in length—at 30-foot intervals?
11. Are these levels rest areas at least 5 feet wide, to provide for turns?
12. Is the cross slope 1:50 or less?
13. Are edges protected to preclude slipping off?
14. Will water accumulate on outdoor ramp or approach to it?

BUILDINGS—ENTRANCES/ EXITS

1. Is at least one entrance to the building accessible to people in wheelchairs?
2. Is at least one entrance accessible to wheelchairs on a level that would make the elevators accessible?
3. Is the accessible entrance on an accessible route?
4. Is the service entrance the only accessible entrance?

BUILDINGS—DOORS AND DOORWAYS

1. Do doors have a clear opening at least 32 inches wide?
2. Can doors be opened in a single effort? Can handles, pulls, latches, locks be grasped and operated with one hand?

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3. Is the floor of the doorway level within 5 feet from the door in the direction it swings?
4. Does this level space extend 1 foot beyond each side of the door?
5. Does it extend 3 feet in the direction opposite to the door swing?
6. Do thresholds exceed 1/2 inch (3/4 inches for exterior sliding doors)?
7. Is the speed of door closers at least 3 seconds so as to allow the use of doors by physically disabled persons?
8. Does the door require more than 5 pounds of pressure to open?
9. Where there are hinged or pivoted doors in a series, are they at least 48 inches plus the width of the swinging inward door path?

BUILDINGS—STAIRS AND STEPS

1. Do the steps avoid protruding lips and abrupt nosings at the edge of each step?
2. Do stairs have handrails at least 32 inches above step level?
3. Will water accumulate on outdoor stairs and approaches?
4. Are tread heights and risers uniform?
5. How many accessible stairs and sets of stairs are there?
6. Do stairs have at least handrails on both sides that extend at least 12 inches beyond the top and at least 19 inches from the bottom step?
7. Do steps have risers 7 inches or less?

BUILDINGS—WARNING SIGNALS/ ALARMS

1. Are audible warning signals accompanied by simultaneous visual signals for the benefit of those with hearing and sight disabilities? Are they set at a level not to exceed 120 decibel?
2. Are visual alarms flashing at less than 5 hz?

BUILDINGS—HAZARDS/TACTILE WARNINGS/PROTRUDING OBJECTS

1. When hazards such as open manhole covers, panels and excavation exits on the site, are barricades placed on all open sides at least 8 feet from hazard and warning devices installed?
2. Are there no low-hanging door closers that remain within opening of doorways, or that protrude hazardously or no more than 2 inches into regular corridors or traffic ways?
3. Are there no low-hanging signs, ceiling lights, fixtures, or similar objects that protrude no more than 4 inches into regular corridors or traffic ways?
4. Is lighting on ramps adequate?
5. Are exit signs easily identifiable to all disabled persons?

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- 6 Are there tactile warnings on doors to hazardous areas?
7. Is there at least 80 inches clear head room in walls, halls, corridors, aisles, passageways and circulation spaces?

The following items are not contained in the ANSI standards, but are included in the UfAS document.

DWELLING UNITS

1. How many units are accessible?
2. How many units are adaptable?
3. Has consumer information about adaptability been provided to the owner or occupant of the dwellings?
4. Has consumer information been provided to the parties who will be responsible for making adaptations?
5. Does the kitchen have 40 inch clearances at least for cabinets, countertops, appliances, and walls? (U-shaped kitchens: 60 inches)
6. Is there at least 30 x 48 inches clear floor space in the kitchen?
7. Are all controls in the kitchen within reach of a person in a wheelchair?
8. In the kitchen is there at least one 30 inch work surface not more than 34 inches above the ground and at least 2 inches thick?
9. Is the maximum height of the sink 34 inches and the sink and counter width a maximum of 30 inches?
10. Are ranges and cooktops and their controls insulated or otherwise protected to prevent burns, abrasions, or shocks?
11. Is the maximum height for at least one shelf of all cabinets and storage shelves above work counters 48 inches?
12. Are ovens self cleaning with controls on front panels?
13. Are refrigerator/freezers side by side or over and under types?
14. Are dishwasher racks accessible from the front of the machine?
15. Are laundry facilities on an accessible route with controls with reach?

FOOD SERVICE AREAS(RESTAURANT/ CAFETERIA)

1. Is at least 5% of all fixed seating or tables 27 inches high, 30 inches wide and 19 inches deep for knee clearance and is the table top 28 – 34 inches from the floor?
2. Are there accessible aisles?
3. Where there are mezzanine levels, logias, or raised platforms, are the same services and decorative character provided on accessible routes?

GUIDELINES FOR EDUCATORS

4. Do food service lines have a minimum clear width of 35 inches?
5. Are tray slides mounted no higher than 34 inches?
6. Are vending machines within reach and easily operable by persons in wheelchairs?
7. Are tableware, dishware, condiments, foods, and beverages displayed and dispensed within reach of a person in a wheelchair, bearing in mind width, turning space, and clearances?

HEALTH CARE

1. Is there an accessible entrance to the facility that is protected from the weather by canopy or roof overhang?
2. Does the accessible entrance have an accessible passenger loading zone?
3. Do patient rooms have adequate clear floor and turning space as well as an accessible toilet?

BUILDINGS—FLOORS

1. Do floors have nonslip or slip resistant surface?
2. Are floors on each story at a common level or connected by a ramp?
3. Is carpet (or carpet tile) securely attached?
4. Do grates have a maximum opening of 1/2 inch?

BUILDINGS—RESTROOMS

1. How many toilets for each sex on each floor are there with facilities for the physically disabled?
2. Can physically disabled persons, particularly those in wheelchairs, enter the restroom ?
3. Do toilet rooms have turning space 60 x 60 inches to allow traffic of individuals in wheelchairs?
4. Do toilet rooms have at least one toilet stall that:
 - a. is 3 feet wide?
 - b. is at least 4 feet 8 inches deep?
 - c. has a door that is 32 inches wide and swings out?
 - d. has handrail on each side, 33 inches high and parallel to floor, 1 1/2 inches in diameter, with 1-2 inches clearance between rail and wall, fastened securely to wall at the ends and center?
 - e. has a toilet seat of 17-19 inches from stand?
5. Do toilet rooms have wash basins with narrow aprons, which when mounted at standard height are no greater than 34 inches at the top and which have a clearance underneath of 29 inches?

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6. Are drain-pipes and hot water pipes covered or insulated?
7. Is one mirror as low as possible and no higher than 40 inches above the floor?
8. Is one shelf at a height within range and reach of a person in a wheelchair, and no lower than 15 inches above the floor?
9. Do toilet rooms for men have wall-mounted urinals with the opening of the basin 19 inches (17 inches under UFAS) from the floor, or have floor-mounted urinals that are level with the main floor of the toilet rooms?
10. Are flush controls automatic or hand operated and 44 inches or less from the floor?
11. Do toilet rooms have controls, towel racks and towel dispensers mounted no lower than 15 inches from the floor and otherwise within reach?
12. Are disposal units mounted no higher than 40 inches from the floor?
13. Are towel racks, towel dispensers and other appropriate disposal units located to the side rather than above the basins?
14. Is there a shower or bathtub with an accessible seat, grabbars, controls and with proper spacing?

BUILDINGS—WATER FOUNTAINS

1. How many drinking fountains are there on each floor for use by physically disabled persons?
2. Can persons in wheelchairs wheel up to fountains?
3. Do water fountains or coolers have up-front spouts and controls?
4. Are they hand-operated?
5. If coolers are wall-mounted, are they hand-operated, with basins 36 inches or less from the floor?

BUILDINGS—PUBLIC TELEPHONES

1. How many public telephones are there in each “bank” accessible to the physically disabled ?
2. Is the height of the dial 48 inches or less from the floor?
3. Is the coin slot located 48 inches or less from floor?
4. Is there a clear space of at least 30 x 40 inches to allow forward or parallel approach?
5. Are these telephones equipped for persons with hearing disabilities? Are those telephones identified as such?
6. Are telephone books, if provided, 48 inches or less from the floor?
7. If available, are push button controls provided?

GUIDELINES FOR EDUCATORS

BUILDINGS—ELEVATORS/ LIFTS

1. Is more than a one-story building, how many elevators are available to physically disabled?
2. Can physically disabled persons, particularly those in wheelchairs, enter elevator?
3. Are outside call buttons centered 48 inches (42 inches under UFAS) or less from the floor and do they have visual signals?
4. Are control buttons inside at least 3/4 inches raised and located 48 inches or less from floor?
5. Are the buttons labels with raised (or indented) letters beside them?
6. Are they touch sensitive and easy to push?
7. Is the elevator cab at least 5 ft. x 5 ft.?
8. Are visual and audible signals provided at each elevator group to indicate which car is answering the call?
9. Do jambs, of each elevator, on both sides have raised floor designations?
10. Does the elevator door remain open at least 3 seconds?
11. Can a person in a wheelchair facing the rear see floor numbers (by mirror or floor identification at rear of car)?
12. Are floors announced orally by recorded devices for the benefit of the blind?
13. Are there platform lifts with operable controls, adequate clearances and appropriate surfaces?

BUILDINGS— CONTROLS

1. Are light switches not more than 48 inches above the floor?
2. Are controls for heating, cooling and ventilation—not more than 48 inches above the floor?
3. Are controls for fire alarms and other warning devices not more than 48 inches from floor?
4. Are other frequently used controls, such as drapery pulls, etc., not more than 48 inches from floor?
5. Is the force to operate the controls not more than 5 lbs?
6. Is there clear space to allow a forward or parallel approach by a person in a wheelchair?

BUILDINGS— IDENTIFICATION

1. Are raised (recessed) letters or numbers used to identify rooms or offices?
2. Is identification placed on wall, to right or left of door?
3. Is it at a height between 4 ft. 6 in, and 5 ft 6 in. measured from floor?

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4. Are doors that might prove dangerous to a blind person if he or she were to enter or exit through them, made quickly identifiable to the touch?

LIBRARIES

1. Is at least 5% (minimum 1) of fixed seating, tables, study carrels accessible in terms of having seating and work surfaces and allowing passage and use by persons in wheelchairs?
2. Is there at least one lane, including any traffic control, security gate, or turnstile, at each checkout area that is accessible?
3. Is the clear aisle space at card catalogs, magazine displays, and reference stacks at least 35 inches?
4. Is the clear aisle width in the stacks 42 inches if possible (36 inch minimum)?
5. Are all public areas and elements accessible?

SUGGESTED ACCOMMODATIONS STANDARDS CHECKLIST

- Public walks should be at least 48 inches wide and should have a gradient not greater than 5 percent.
- A ramp shall not have a slope greater than 1 foot rise in 12 feet, or 8.33 percent, or 4 degrees 40 minutes.
- At least one primary entrance to each building shall be usable by individuals in wheelchairs.
- Doors shall have a clear opening of no less than 32 inches when open and shall be operable by a single effort.
- Stairs should, whenever possible, and in conformation with existing step formulas, have risers that do not exceed 7 inches.
- Floors shall have a surface that is nonslip.
- Some mirrors and shelves shall be provided above lavatories at a height as low as possible and no higher than 40 inches above the floor, measured from the top of the shelf and the bottom of the mirror.
- Water fountains or coolers shall have up-front spouts and controls.

GUIDELINES FOR EDUCATORS

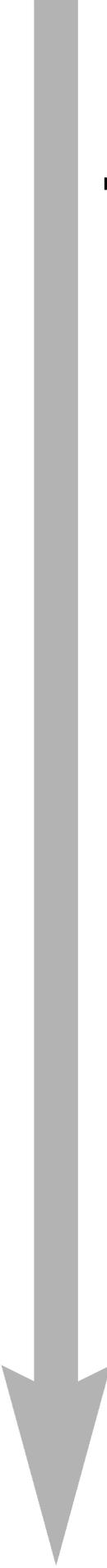
- An appropriate number of public telephones should be equipped for those with hearing disabilities and so identified with instructions for use.
- Elevators shall be accessible to, and usable by, the physically disabled on the level that they use to enter the building, and at all levels normally used by the general public.
- Switches and controls for light, heat, ventilation, windows, draperies, fire alarms and all similar controls of frequent or essential use, shall be placed within the reach of individuals in wheelchairs.
- Raised letters or numbers shall be used to identify rooms or offices.
- Audible warning signals shall be accompanied by simultaneous visual signals for the benefit of those with hearing disabilities.
- Access panels or manholes in floors, walks and walls can be extremely hazardous, particularly when in use, and should be avoided.

Under the Uniform Federal Accessibility Standard (UFAS) these requirements are amplified:

- The number of particular item, such as parking spaces, must be provided. Controls must be operable easily and with 5 lb. force or less.
- There must be an accessible route within the facility connecting the spaces and elements.
- Carpets and coverings must be securely attached.
- There are special requirements for kitchens, mercantile areas, library stacks, as well as patient rooms and restaurants.

The above list is a sampling of specifications and standards contained in the UFAS and ANSI. (American National Standards Institute)

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APPENDIX F

Recent OCR Rulings

1. Teacher suffering from contagious disease (in this case, tuberculosis) is an individual with a disability. [School Bd. (1987)]

2. District may not terminate a teacher with a contagious disease unless (1) teacher poses demonstrably significant health and safety risks to others and (2) no reasonable accommodation can be made under the circumstances. [School Bd. (1987)]

3. A state is not required to provide special educational services to disabled individual who do not meet its school age requirements. [Williamson County (1988); Iowa Dept. (1984); Stewart (1983)]

4. Barring service dogs may violate § 504 if doing so effectively denies a student with a disability an equal opportunity to participate or benefit from an educational program. [Inquiry of Goodling (1991)]

5. Any school that receives federal funds is under the jurisdiction of OCR. [Riverside (1986)]

6. District was liable for \$70,000 in compensatory damages (for pain and suffering) when it discriminated against a teacher with multiple physical disabilities (e.g., she was assigned to the most difficult classes and was not given reasonably adequate assistance). [Recanzone (1988)]

7. Districts failure to provide a hearing-impaired parent with an interpreter so the parent could participate in school-related activity violates § 504. [Sherburne-Earlville (1989)]

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8. Student hospitalized by accident qualifies as an individual with a disability and, therefore, is entitled to coverage under § 504 [Lowell Area (1987)]

9. SEA must ensure that each LEA complies with § 504. [Alabama Dept. (1985a)]

10. School violated § 504 when it repeatedly (in this case, between seven and eight times per week) sent a student to the principal's office for inappropriate and disruptive behaviors that were manifestations of his disability. [School Administration Unit (1992)]

11. Many of the school's facilities for students with disabilities, such as resource rooms located in portable facilities and speech therapy classes held in storage rooms, violated the comparability requirement of § 504. [Wayne County (1990); Dougherty County (1990)]

12. Establishing a policy of shorter school days for students with disabilities who required special bus transportation violates § 504. [Stafford County (1990); Lafayette (1990); School Dist. (1990); Wexford-Missaukee (1989); Sikeston(1989)]

13. School's failure to provide students with disabilities access to nonacademic or extra-curricular service to the same extent provided to nondisabled students violates § 504. [Richland County (1988a)]

14. School's inadequate funding of special education programs, leading to excessive class sizes, lack of related services, and of certified personnel, violates § 504. [Granite (1990)]

15. Schools may not treat children with AIDS differently from nondisabled students in matters of confidentiality. [OCR Staff Memorandum (1990)]

16. School's failure to properly document the results and the procedures of evaluations violates § 504. [Brentwood (1985b)]

17. School's failure to designate an employee to coordinate efforts to comply with § 504 and its failure to adopt adequate procedures for handling grievances of individuals with disabilities each violate § 504. [Kensal (1991); Coachella Valley (1985)]

18. Lack of chair lifts necessary for disabled students to access school buses violates § 504; carrying them on to the buses constitutes discrimination. [Kanawha County (1989)]

19. School's policy of using the buddy system, whereby a nondisabled student is responsible for evacuating a hearing-impaired student in cases of emergency, is an acceptable alternate means to a visual alarm system. [Marion County (1985)]

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20. New elementary school structure that did not include proper signs for visually impaired persons and an alarm system for hearing-impaired students violated § 504. [Ash Grove (1989)]

21. Insufficient staff, heavy work loads, and inadequate pay to attract qualified personnel are not acceptable excuses for failing to provide students with disabilities with FAPE. [Department of Public Instruction (1988); Sherry (1979)]

22. Repeated suspension of a student diagnosed as having ADHD without consideration of the effect ADHD on his behavior violates § 504. [Brittan (1990); Rialto (1989)]

23. School's refusal to administer medication during the school day to student with ADD or ADHD violates § 504. [San Ramon Valley (1991); Pearl (1991); Fairfield-Suisun (1989)]

24. School's policy of denying special education services at one of its alternate schools violates § 504. [San Francisco (1990)]

25. School must produce IEP that is readily comprehensible to parents; it must be specific, clear, and complete. [Rockford (1987)]

26. School's refusal to hire permanent substitute teacher, aides, and technicians violated § 504 when it failed to implement IEPs. [Oak Park (1986)]

27. School must reimburse disabled student's parents for out-of-pocket expenses incurred to transport him home when alternative transportation was unavailable. [Richmond county (1986)]

28. Failure to demonstrate an educational necessity for separate graduation ceremonies for students with severe disabilities violates § 504. [Aldine (1990)]

29. School's delays, from 61 to 185 days, in completing student evaluations violated § 504. [Philadelphia (1992)]

30. Failure to further evaluate IDEA-eligible (in this case, learning-disabled) student specifically for suspected ADD or ADHD violates § 504. [Rochester School Dist. (1991)]

31. Prior to suspending a disabled student for more than ten consecutive days (or making another significant change in placement), must reevaluate the student to determine (1) whether the misconduct is related to the student's disability, and if so (2) whether the student's placement is appropriate. [St. Mary's (1990); Sioux City (1989); Chesterfield county (1984)]

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- 32. Districts must evaluate all students with disabilities prior to placement, including children with disabilities covered under § 504 as well as those covered by the IDEA. [Mesa (1988)]

- 33. Districts must draw from a variety of sources, such as student's medical record, when evaluating the placement needs of a student with a disability. [Elmira City (1986)]

- 34. When schools develop an IEP to meet the FAPE requirement, its failure to include the child's teacher on the evaluation-development team violates § 504. [Girard (1991)]

- 35. Districts must reevaluate placement needs of students with disabilities in a timely manner (i.e., at least every three years but more frequently if conditions warrant or if the teacher requests it). [Knox County (1988); Normal (1987); Russell County (1986)]

- 36. Failure to provide adequate notification to parents of due process hearing, of proposed significant change in placement, and of availability of free or low-cost legal services violated § 504. [School Administration Unit (1991)]

- 37. District violated § 504 by failing to sufficiently publicize identity of § 504 coordinator, to include notice of evaluation and referral process, and to follow adequate screening procedure. [Hyde Park (1989)]

- 38. Districts must notify and obtain consent from parents prior to conducting speech and language evaluation of student. [Sachem (1987)]

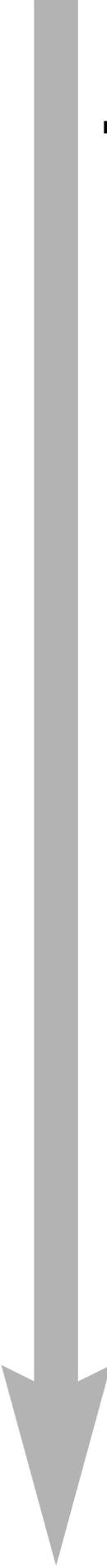
- 39. Destruction of student's special education records without parental request or consent violates § 504. [Sachem (1987)]

- 40. Districts use of pea gravel on elementary school playground, which made it inaccessible to children in wheelchairs, violated § 594, [East Windsor (1992)]

- 41. District did not violate § 504 when staff member applied physical restraint to student only to protect the student from harming himself. [Florence County (1987)]

- 42. Districts must afford students with disabilities the same opportunity to participate in school's honor roll program as nondisabled students. [Forland (1988)]

- 43. OCR has the authority to conduct compliance reviews to private schools receiving federal funds. [Timothy (1986)]



APPENDIX G

Important OCR Policy Letters

- **CLARIFICATION OF THE 2ND AND 3RD PRONG OF SECTION 504/ADA**
- **ADD/ADHD**
- **OCR FACTS: SECTION 504 COVERAGE OF CHILDREN WITH ADD**

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OCR FACTS: SECTION 504 COVERAGE OF CHILDREN WITH ADD

Question: What is ADD?

Answer: Attention Deficit Disorder (ADD) is a neurobiological disability. It is characterized by: attention skills that are developmentally inappropriate; impulsivity; and, in some cases, hyperactivity.

Question: Are all children with ADD *automatically* protected under Section 504?

Answer: No. Some children with ADD may have a disability within the meaning of Section 504; others may not. Children must meet the Section 504 definition of disability to be protected under the regulation. Under Section 504, a “person with disabilities” is defined as any person who has a physical or mental impairment which substantially limits a major life activity (e.g., learning). Thus, depending on the severity of their condition, children with ADD *may* or *may not* fit within that definition.

Question: Must children thought to have ADD be evaluated by school districts?

Answer: Yes. If parents believe that their child has a disability, whether by ADD or any other impairment, and the school district has reason to believe that the child may need special education or related services, the school district must evaluate the child. If the school district does not believe the child needs special education or related services, and thus does not evaluate the child, the school district must notify the parents of their due process rights.

Question: Must school districts have a different evaluation process for Section 504 and the IDEA?

Answer: No. School districts may use the same process for evaluating the needs of students under Section 504 that they use for implementing IDEA.

Question: Can school districts have a different evaluation process for Section 504?

Answer: Yes. School districts may have a separate process for evaluating the needs of students under Section 504. However, they must follow the requirements for evaluation specified in the Section 504 regulation.

Question: Is a child with ADD, who has a disability within the meaning of Section 504 but not under the IDEA, entitled to receive special education services?

Answer: Yes. If a child with ADD is found to have a disability within the meaning of Section 504, he or she is entitled to receive any special education services the placement team decides are necessary.

Question: Can a school district refuse to provide special education services to a child with ADD because he or she does not meet the eligibility criteria under the IDEA?

Answer: No.

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Question: Can a child with ADD, who is protected under Section 504, receive related aids and services in the general educational setting?

Answer: Yes. Should it be determined that a child with ADD has a disability within the meaning of Section 504 and needs *only* adjustments in the general classroom, rather than special education, those adjustments are required by Section 504.

Question: Can parents request a due process hearing if a school district refuses to evaluate their child for ADD?

Answer: Yes. In fact, parents may request a due process hearing to challenge any actions regarding the identification, evaluation, or educational placement of their child with a disability, whom they believe needs special education or related services.

Question: Must a school district have a separate hearing procedure for Section 504 and the IDEA?

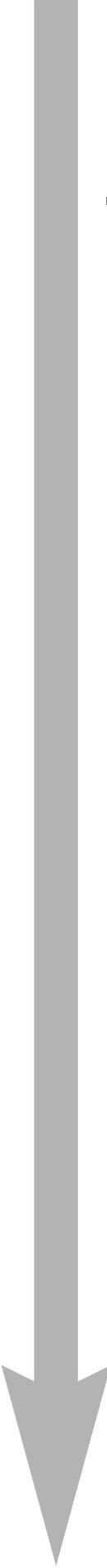
Answer: No. School districts may use the same procedures for resolving disputes under both Section 504 and the IDEA. In fact, many local school districts and some state education agencies are conserving time and resources by using the same due process procedures. However, education agencies should ensure that hearing officers are knowledgeable about the requirements of Section 504.

Question: Can school districts use separate due process procedures for Section 504?

Answer: Yes. School districts may have a separate system of procedural safeguards in place to resolve Section 504 disputes. However, these procedures must follow the requirements of the Section 504 regulation.

Question: What should parents do if the state hearing process does not include Section 504?

Answer: Under Section 504, school districts are required to provide procedural safeguards and inform parents of these procedures. Thus, school districts are responsible for providing a Section 504 hearing even if the State process does not include it.



ACKNOWLEDGEMENTS

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A SPECIAL THANKS TO

Cindy Budge: Graphics, Cover Design and Format