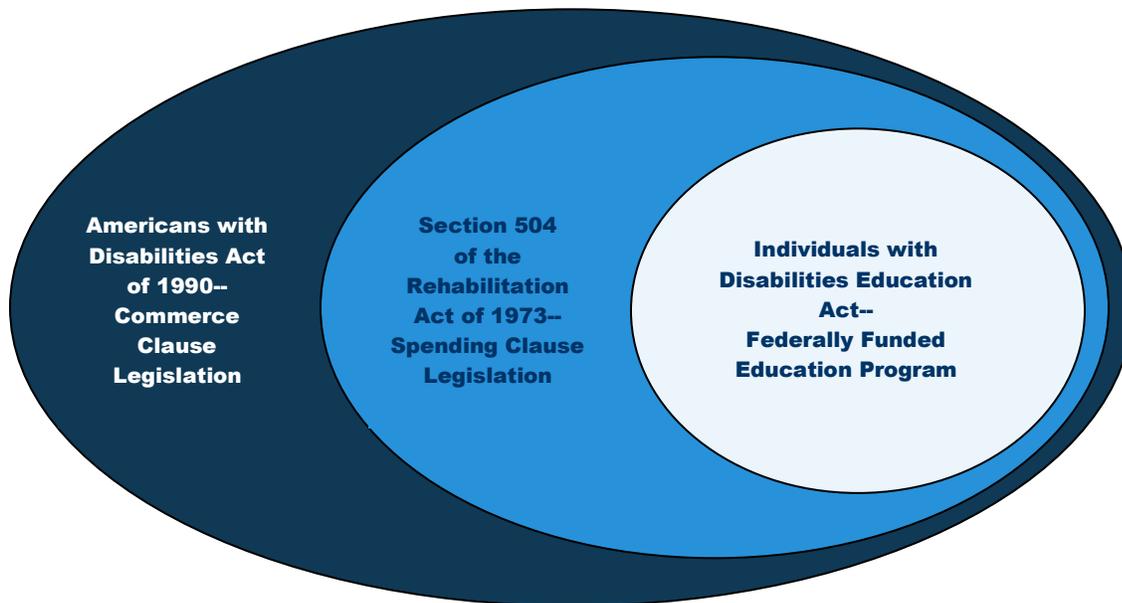


What are the Laws Governing Students with Disabilities?

Several federal and state laws apply to students with disabilities. Understanding these statutes and how they interact with one another will assist in securing appropriate services for students with disabilities and avoiding liability for the school.



Americans with Disabilities Act (ADA) 1990: The ADA is the federal law that prohibits discrimination against persons with disabilities in the areas of employment, public services, public accommodations, transportation, and communication. The ADA is “commerce clause legislation,” and covers the widest array of individuals with disabilities. School employees are protected from discrimination on the basis of disability under Title I of the law; students and others are protected from discrimination under Title II, which applies to all public services, including public school districts. Title III of the act applies to public accommodations, including many private businesses.

Section 504 of the Rehabilitation Act of 1973: Commonly referred to as “Section 504,” this federal civil rights law also prohibits discrimination against individuals with disabilities, but only applies to recipients of federal funding. Section 504 is “spending clause legislation” in which Congress establishes rules for recipients of federal funds. Under Section 504, as a condition of receiving federal funding for any program (e.g., special education, school lunch, Title I, etc.), a school must certify it will not allow discrimination on the basis of disability. The focus of the law is on non-discrimination.

Individuals with Disabilities Education Act (IDEA): IDEA, last amended in 2004, is a federal education program that provides funding to states and local school districts for special education programs. To receive federal funding, states must ensure that schools provide a free, appropriate public education to students who are eligible for services under IDEA. Eligible students are those between the ages of three and 21 (in Kansas, students age birth to two are served in programs through the Kansas Department of Health and Environment, not the Department of Education) who:

- Have a disability that fits within one of the designated categories of disability eligible for services under IDEA; and
- As a result, need special education and/or related services.

Section 504 and the K-12 Setting

For students, the intent of Section 504 is to provide students with disabilities equal access to educational programs, services, and activities. Students with disabilities may not be denied participation in school programs and activities solely on the basis of disability.

What are the School District's Responsibilities?

The Section 504 regulations require the school district to:

- Annually attempt to identify and locate all children with disabilities
- Provide a “free and appropriate public education”
- Ensure that students with disabilities are educated with non-disabled students to the maximum extent appropriate
- Establish nondiscriminatory evaluation and placement procedures
- Establish procedural safeguards
- Ensure students with disabilities the equal opportunity to participate in nonacademic and extracurricular services and activities.

In addition, districts with 15 or more employees are required to designate an employee who will be responsible for ensuring compliance with Section 504 regulations, who is usually known as the Section 504 Coordinator. The district’s annual notice to parents should provide the name and telephone number of the Section 504 Coordinator. The district must also develop complaint policies and procedures for parents, students, and employees.

What are the responsibilities of the Section 504 Coordinator?

Responsibilities of the district’s Section 504 Coordinator should include:

- Understanding the requirements and intent of Section 504 regulations
- Establishing and monitoring Section 504 referral, identification, and review process and procedures, including annual notice
- Maintaining data and preparing annual reports on compliance
- Developing awareness materials and workshops for school staff and families
<http://www.504idea.org/504resources.html>
- Implementing Section 504 complaint procedure
- Conducting self-reviews
- Serving as district liaison to the Office of Civil Rights.

What are parents’ rights under Section 504?

Section 504 provides certain parental rights. Specifically, parents have the right to:

- Have their child provided a free, appropriate public education and be given an equal opportunity to participate in all school-related activities, free of discrimination because of a handicapping condition
- Be informed by the school district of their Section 504 rights
- Receive all information, including any attempt at identification, evaluation, re-evaluation or placement (educational programs and activities) of their child, in their primary language or mode of communication
- Request an evaluation of their child and expect periodic re-evaluations before any change of placement

- Examine all education records of their child and obtain copies of records at a reasonable cost
- Request an amendment to their child’s educational record
- Challenge evaluation and/or placement decisions
- File a complaint with the school district and/or the Office of Civil Rights
- An impartial hearing
- Representation
- Appeal the hearing officer's decision.

Does Section 504 have Procedural Safeguards?

When a district proposes to change the identification, evaluation, or services of a student protected by Section 504, the parents/guardians must be provided with notice prior to any action. The notice must contain the following four procedural safeguards:

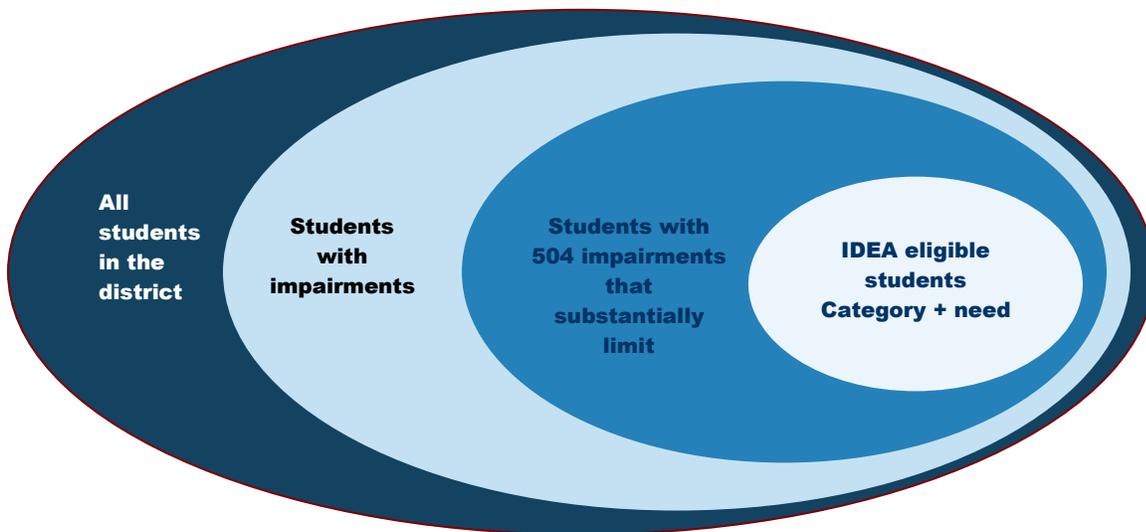
- Notice of parental rights
- The opportunity to examine education records
- An impartial hearing with parent/guardian participation and representation by counsel
- The review procedure.

Are Section 504 and Special Education the same?

No, Section 504 is a civil rights law that protects a broad range of students with disabilities from discrimination on the basis on their handicapping conditions. No federal funding is provided to districts to implement Section 504. It is the responsibility of the general education program to ensure compliance and funding. Special Education is a federally funded statute that ensures that a free, appropriate public education is provided to IDEA 2004 qualified students. The protections of Section 504 apply to special education students.

Who is eligible for Section 504 services?

Students who meet the definition of a person with a disability are those who have a physical or mental impairment which substantially limits one or more major life activities.



The physical or mental impairment must substantially limit one or more major life activities. Major life activities are defined as those functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning or working.

What does substantially limited mean?

The regulations do not provide a definition of “substantially limited,” however, school districts are directed to develop their own definition. Districts often look to the Americans with Disabilities Act (ADA) for guidance in defining “substantially limited”; the individual is unable to perform a major life activity that the average person in the general population can perform or is “significantly restricted as to the condition, manner or duration under which the average person in the general population can perform the same major life activity.” In schools, we would compare the student with a disability against the skills and progress of the average student in the average classroom. The nature and severity of the impairment, its expected duration, and the impact on a major life activity should be considered when defining “substantially limited.” Both academic and nonacademic activities need to be considered. Temporary disabilities, such as a broken leg or mild illness, often do not meet the definition of “substantially limited.”

Determining the “Substantially Limits” Requirement

Sevier County School System, Tennessee

School personnel, after reviewing relevant student information, must use their collective professional judgment in determining if an impairment (or disability) *substantially limits* one or more of a student’s major life activities. Making this determination will often challenge school staff especially if this is their first opportunity to participate in the Section 504-eligibility process. What follows are a few factors and framing questions to consider when deciding if an impairment meets the *substantially limits* requirement for Section 504 eligibility.

Have staff keep in mind that when a student is *substantially limited* by an impairment, the student is:

- Unable to perform a major life activity that the average person in the general school population can perform.
- Or the student is significantly restricted as to the condition, manner, or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general school population can perform that same major life activity.

The following three factors and related questions should be used by staff when determining if the *substantially limits* requirement is met.

Nature and severity of the impairment

- Is the impairment mild or severe?
- Does the impairment result in the student not achieving near expected levels?
- Does the impairment impact on a major life activity? If so, how?

Duration or expected duration of the impairment

- Will the impairment be of such short duration as to not cause significant problems?
- Will the impairment cease impacting on the child without any intervention?

Permanent or long term impact resulting from the impairment

- Will the impairment be short or long in duration?
- If the impairment is of short duration, will it have a significant impact without intervention?
- If the impact will be long term, will the impact negatively affect the child’s status, academically, socially, emotionally, or behaviorally?

Who determines eligibility?

A student must be evaluated by the school district in order to determine Section 504 eligibility. The evaluation must be conducted by a team composed of individuals who know the student and understand the evaluation information. Individuals who may be members of the Section 504 Team often include:

- Teachers
- School nurse
- Principal or administrative designee
- School psychologist
- School counselor
- Parents and/or family members
- Social workers
- Specialists

Many schools use the Student Intervention Team (SIT) as the Section 504 Team. The composition of the Section 504 team will change, depending upon the needs of the student. The team should be knowledgeable of the student, the evaluation data, interventions that have been successful, strategies that have failed, and service options.

How is eligibility determined?

Districts should develop specific standards for evaluation for Section 504 eligibility. Formal testing is not always required. Information should be considered and documented from a variety of sources, including:

- Teachers' reports
- Parent/family information
- Home language survey
- Report cards
- Response to interventions
- Standardized tests
- Referral forms
- Disciplinary records
- Health records
- Prior Section 504 or Special Education evaluations or services
- Private evaluation reports
- Attendance records

Are there requirements for testing?

The regulations require that any tests or other evaluation materials used to determine eligibility be:

- Validated for the specific purpose for which they are used;
- Administered by trained personnel in conformity with the instructions provided by the test producer;
- Tailored to assess specific areas of educational need; and
- Selected and administered to best ensure that, when administered to a student with impaired sensory, manual or speaking skills, the test results accurately reflect whatever other factor the test purports to be measuring, assuming that factor is something other than the degree of impairment.

How are students referred?

Districts are required to develop policies and procedures to meet their Section 504 obligations. A parent or teacher can request a referral for Section 504 eligibility. In most schools, when a student is not progressing as expected, a referral will be made to the Student Study Team. If the Student Study Team suspects a disability, a referral for a Section 504 or Special Education evaluation may be made. A district must conduct an initial evaluation when a student, because of his disability, “needs or is believed to need special education or related services.” If the Student Study Team does not suspect the referred student has a disability and chooses not to refer the student for evaluation, the District will provide the parent with procedural safeguards.

If eligible, how is the student served?

Once the 504 Team has determined that a student is eligible, that is, he or she has a disability that substantially limits one or more major life activities, a service plan is developed. This plan, typically known as a 504 Plan, details the accommodations that will be made to ensure that the student has access to the academic curriculum and extracurricular programs and activities.

Where are Section 504 students placed?

Section 504 is a general education statute. The mandate of Least Restrictive Environment applies to Section 504 students. Placement refers to the general education classroom with individually planned accommodations. Students with disabilities may be placed in a separate class or facility only when they cannot be educated in the general education setting with the use of supplementary aids and services.

Is participation in extracurricular activities, including athletics, covered?

Section 504 applies to all school-sponsored activities, including athletics. Schools must make efforts to ensure that all students have access to all programs, services, and activities and that no student is denied participation on the basis of his or her disability. Students with 504 Plans are expected to meet the same conduct standards and activity prerequisites as their non-disabled peers.

What is a 504 Plan?

A 504 Plan is a written document detailing the services and accommodations to be provided. The plan should include:

- A description of the disability
- The major life activity limited
- The basis for determining the disability and its educational impact
- Necessary accommodations
- Placement in the least restrictive environment
- A review or re-evaluation date
- 504 Team members' names

Is a 504 Plan required?

Districts are not required to document agreed upon services and accommodations. Written documentation is, however, recommended.

What are accommodations?

Accommodations are program adjustments made to remove disability-related barriers to a student's full participation in school, including nonacademic and extracurricular activities, such as field trips, athletics, and assemblies. Accommodations are made in order to provide a student equal access to learning and equal opportunity to demonstrate what he or she knows. Accommodations should not alter or lower the standards of the coursework or standards required for participation in extracurricular activities. It is important that accommodations be:

- Disability specific
- Necessary, not merely helpful
- Individualized
- Documented
- Communicated to all individuals involved.

Are there requirements for school staff dispensing medication?

Some students' disabilities require that medication(s) be administered during school hours. Schools should have policies and procedures in place regarding medication administration. The Office of Civil Rights (Culver City Unified School District, 16 EHLR 673) provided guidance and specified four items that should be discussed by the 504 Team:

- The purpose of the medication (as indicated in documentation provided by the student's doctor);
- Which individuals at the school have responsibility for administering the medication;
- Whether any staff training for administration of the medication is needed;
- The protocol to be followed in the event of an emergency involving the student and his medicine.

Best practices would indicate that these items are clearly documented and communicated to all school staff involved with the student.

Are there accommodations for statewide testing?

Federal law requires school districts to include students with disabilities in statewide and district-wide testing. Kansas allows certain accommodations for Section 504 and Special Education students. The allowable accommodations are those that do not alter the content of the test nor provide inappropriate assistance to the student. The testing accommodations used should be those that the student is familiar with and has used during instruction. Accommodations used for Kansas Statewide Assessments should be clearly documented on the IEP or 504 Plan. See test accommodations manual on-line.

Can Section 504 students be disciplined?

Students covered by Section 504 are expected to conform to the same behavior standards as their non-disabled peers, unless explicitly outlined in their 504 Plan. They have, however, extra protections when facing serious discipline such as expulsion. Prior to expelling a student, the 504 Team should conduct an evaluation (manifestation determination) to determine if the incident was related to the student's disability. If the 504 Team determines that the incident was not related to the disability, the school may discipline the student as they would any other student. Students currently using drugs or alcohol are exempt from Section 504 protections.

How is Section 504 funded?

It is the responsibility of the general education program to ensure compliance and funding. No federal funding is provided.

Should parents participate in the evaluation process?

Although the Section 504 regulations do not specify the degree of parent participation, it is best practice to include the parent. The parent can provide valuable information regarding health and social history, strategies that have been successful, techniques that have failed, and services that have been provided. Efforts should be made to schedule the meeting at a time when the parent can attend.

Must teachers and other school staff comply with the 504 Plan?

Yes. The 504 Plan is developed to provide those accommodations the student with a disability needs in order to access the curriculum and other school activities. Although often unintentional, failure to implement the agreed upon plan may result in the parent filing a discrimination complaint. School staff

should be provided training in order to understand the importance of Section 504 and their obligation to ensure compliance with this law.

It is important that teachers be involved in developing the 504 plan. They should provide input regarding the curriculum rigor and requirements and suggest necessary accommodations. It is equally important that the 504 Plan be easily implemented and communicated to all school staff involved with the student.

ENFORCEMENT OF SECTION 504

What is the jurisdiction of the Office for Civil Rights (OCR), the Office of Special Education and Rehabilitative Services (OSERS) and state departments of education/instruction regarding educational services to students with disabilities?

OCR, a component of the U.S. Department of Education, enforces Section 504 of the Rehabilitation Act of 1973, as amended, (Section 504) a civil rights statute which prohibits discrimination against individuals with disabilities. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (ADA), which extends this prohibition against discrimination to the full range of state or local government services (including public schools), programs, or activities regardless of whether they receive any federal funding. The standards adopted by the ADA were designed not to restrict the rights or remedies available under Section 504. The Title II regulations applicable to free and appropriate public education issues do not provide greater protection than applicable Section 504 regulations.

How does OCR get involved in disability issues within a school district?

OCR receives complaints from parents, students or advocates; 2) OCR provides technical assistance to school districts, parents or advocates; and 3) OCR initiates reviews or specific partnership initiatives with school districts to address disability issues.

How are complaints handled?

It is always best when a complaint is resolved at the local level. Districts should have a complaint process in place and administrators should understand the process. Every attempt should be made to resolve the complaint at the school level. Should a parent not be satisfied with the district's proposed resolution, the parent may file a complaint with the Office of Civil Rights. An OCR complaint must be filed, in writing, within 180 days following the alleged violation.

How should a district respond to an OCR complaint?

The district's Section 504 Coordinator should be familiar with OCR's Case Resolution Manual <http://www.ed.gov/about/offices/list/ocr/docs/ocrcrm.html>. An internal investigation should be conducted early on to determine the district's position and possible resolutions. In most cases, the district will want to resolve the complaint quickly and should request an early complaint resolution.

What happens during an OCR investigation?

OCR does not investigate every complaint it receives. However, once OCR has received a complaint and determined that the allegations, if true, would constitute a violation of one of the laws OCR enforces, an investigative process will begin. . OCR will review the complaint and request additional information, if necessary. An on-site investigation may be conducted. A letter of findings (LOF) will be issued. The LOF will document the complaint, information gathered during the investigation, applicable legal standards, and compliance findings. If the district is found to be out of compliance, OCR will seek voluntary compliance. If unable to resolve the issue(s) the district may be sanctioned. OCR will be available to provide technical assistance.

Does OCR examine individual placement or other educational decisions for students with disabilities?

Except in extraordinary circumstances, OCR does not review the result of individual placement or other educational decisions so long as the school district complies with the procedural requirements of Section 504 relating to identification and location of students with disabilities, evaluation of such students, and due process. Accordingly, OCR generally will not evaluate the content of a Section 504 plan or of an individualized education program (IEP); rather, any disagreement can be resolved through a due process hearing. The hearing would be conducted under Section 504 or the IDEA, whichever is applicable. OCR will examine procedures by which school districts identify and evaluate students with disabilities and the procedural safeguards which those school districts provide students. OCR will also examine incidents in which students with disabilities are allegedly subjected to treatment which is different from the treatment to which similarly situated students without disabilities are subjected. Such incidents may involve the unwarranted exclusion of disabled students from educational programs and services.

What protections does OCR provide against retaliation?

A recipient is prohibited from intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Section 504.

Does OCR mediate complaints?

OCR does not engage in formal mediation. However, OCR may offer to facilitate mediation, referred to as "Early Complaint Resolution," to resolve a complaint filed under Section 504. This approach brings the parties together so that they may discuss possible resolution of the complaint immediately. If both parties are willing to utilize this approach, OCR will work with the parties to facilitate resolution by providing each an understanding of pertinent legal standards and possible remedies. An agreement reached between the parties is not monitored by OCR.

What are the appeal rights with OCR?

OCR is committed to ensuring that every complaint is appropriately resolved. OCR affords an opportunity to the complainant to submit an appeal of OCR's letter finding insufficient evidence. If a complainant disagrees with OCR's decision, he or she may send a written appeal to the Director of the office that issued the determination. The complainant should explain why he or she believes the factual information was incomplete, the analysis of the facts was incorrect, and/or the appropriate legal standard was not applied, and how this would change OCR's determination of the complaint.

What does noncompliance with Section 504 mean?

A school district is out of compliance when it is violating any provision of the Section 504 statute or regulations.

What sanctions can OCR impose on a school district that is out of compliance?

OCR initially attempts to bring the school district into voluntary compliance through negotiation of a corrective action agreement. If OCR is unable to achieve voluntary compliance, OCR will initiate enforcement action. OCR may: (1) initiate administrative proceedings to terminate Department of Education financial assistance to the recipient; or (2) refer the case to the Department of Justice for judicial proceedings.

Who has ultimate authority to enforce Section 504?

In the educational context, OCR has been given administrative authority to enforce Section 504. Section 504 is a Federal statute that may be enforced through the Department's administrative process or through the Federal court system. In addition, a person may at any time file a private lawsuit against a school district.

What are the consequences of a school or district failing to meet Section 504 obligations?

Should a district be found out of compliance with Section 504 regulations, a range of consequences may

be imposed. Consequences could include payment of compensatory damages, punitive damages, tuition reimbursement, attorney fees, and loss of federal funds.

Examples of Program Accommodations and Adjustments

This part contains possible examples of 504 accommodations. This is intended to be a staff document. The following examples are not offered as check lists and should never be considered as all-inclusive or mandatory listings. Rather the following are examples intended to serve as “starters” for 504 teams designing accommodation plans that meet a student’s specific need(s). The best 504 plans incorporate teacher expertise and available regular education resources. The Student Support Team process involves schools in identifying the resources they (and outside agencies) have to support various student needs. Obviously, the kinds of accommodations schools can provide will vary based on school, level, etc. No attempt was made to sort these examples by level, etc. The 504 evaluation team decides the accommodations that will best support a particular student. The following examples are organized into two groups. The first group includes general environmental, organizational, behavioral, presentation, and assessment strategies. The second group includes possible examples of accommodations that might be valuable when dealing with specific disability profiles.

- General Accommodations
- Environmental Strategies
- Organizational Strategies
- Behavioral Strategies
- Presentation Strategies
- Evaluation Methods

General Accommodations

General program accommodations/adjustments or services are always made on a case-by-case basis and individualized. Accommodations are to be reasonable. Accommodations are intended to provide persons with disabilities compensation for their functional limitation(s) due to a mental or physical impairment. Where Section 504 is concerned, accommodations are made to bring a student with a disability to the same starting point as a non-disabled student. Consequently, the accommodations defined in a Section 504 plan are those interventions that are over and above the accommodations available to all students.

Environmental Strategies

- Provide a structured learning environment
- Make separate "space" for different types of tasks
- Possible adapting of non-academic times such as lunch, recess, and physical education
- Change student seating
- Utilize a study carrel
- Alter location or personal or classroom supplies for easier access or to minimize distraction

Organizational Strategies

Model and reinforce organizational systems (i.e. color-coding)

- Write out homework assignments, check student's recording of assignments
- Tailor homework assignments toward student strengths
- Set time expectations for assignments
- Provide clues such as clock faces indicating beginning and ending times

Behavioral Strategies

Use behavioral management techniques consistently within a classroom and across classes

- Implement behavioral/academic contracts
- Utilize positive verbal and/or nonverbal reinforcements
- Utilize logical consequences

- Confer with the student's parents (and student as appropriate)
- Establish a home/school communication system for behavior monitoring
- Post rules and consequences for classroom behavior
- Put student on daily/weekly progress report/contract
- Reinforce self-monitoring and self-recording of behaviors

Presentation Strategies

Tape lessons so the student can listen to them again; allow students to tape lessons

- Use computer-aided instruction and other audiovisual equipment
- Select alternative textbooks, workbooks, or provide books on tape
- Highlight main ideas and supporting details in the book
- Provide copied material for extra practice (i.e. outlines, study guides)
- Prioritize drill and practice activities for saliency
- Vary the method of lesson presentation using multi-sensory techniques:
 - a) lecture plus overhead/board demonstration support
 - b) small groups required to produce a written product
 - c) large groups required to demonstrate a process
 - d) audio-visual (i.e. filmstrips, study prints) methods
 - e) peer tutors or cross-age tutors
 - f) demonstrations, simulations
 - g) experiments
 - h) games
- 1-to-1 instruction with other available adults
- Ask student to repeat/paraphrase context to check understanding
- Arrange for a mentor to work with student in his or her interest area or area of greatest strength
- Provide peer tutoring
- Simplify and repeat instructions about in-class and homework assignments
- Vary instructional pace
- Reinforce the use of compensatory strategies, i.e. pencil grip, mnemonic devices, "spell check"
- Vary kind of instructional materials used
- Assess whether student has the necessary prerequisite skills. Determine whether materials are appropriate to the student's current functioning levels
- Reinforce study skill strategies (survey, read, recite, review)
- Introduce definition of new terms/vocabulary and review to check for understanding
- Be aware of student's preferred learning style and provide matching instruction materials

Evaluation Methods

- Limit amount of material presented on a single page
- Provide a sample or practice test
- Provide for oral testing
- Provide tests in segments so that student hands in one segment before receiving the next part
 - Provide personal copy of test tools and allow for color-coding/highlighting

Sample Accommodations

<p>Sample Environmental Accommodations</p> <ul style="list-style-type: none"> • physical arrangements of room • preferential seating • lighting adjustments • use of an air purifier • alter location of supplies and materials for easier access 	<p>Sample Testing Accommodations</p> <ul style="list-style-type: none"> • adjust the length of the test • orally administer the test • provide take-home tests • provide alternate formats • administer frequent quizzes rather than exams • change the location
<p>Sample Teaching Strategy Accommodations</p> <ul style="list-style-type: none"> • individual or small group instruction • adjust teaching style to match student's learning style • emphasize key information • provide frequent breaks • read written materials to the student • accompany oral directions with written steps • provide outlines, study guides, organizers • assign a peer tutor or note taker 	<p>Sample Behavior Accommodations</p> <ul style="list-style-type: none"> • provide a behavior plan • provide nonverbal cues • provide frequent feedback • ignore identified inappropriate behaviors • monitor and redirect behaviors
<p>Sample Assignment Accommodations</p> <ul style="list-style-type: none"> • break assignments into smaller units • grade for correct answers • tailor homework • allow extra time for completion • use an assignment sheet 	<p>Sample Health Accommodations</p> <ul style="list-style-type: none"> • administer medication per protocol • modified physical education • allow for absences • ensure privacy
<p>Sample Materials Accommodations</p> <ul style="list-style-type: none"> • provide alternate formats • use highlighted or underlined reading materials • use a variety of materials including, films, tapes, manipulatives • use technology 	<p>Sample Other Accommodations</p> <ul style="list-style-type: none"> • group/individual counseling • other agency involvement • disability awareness training for staff and students • disability-specific staff training

What is Section 504?

Section 504 of the Rehabilitation Act of 1973 is a civil rights law that prohibits discrimination against individuals with disabilities. It provides:

" No otherwise qualified individual with a disability in the United States, . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. . ." 29 U.S.C. 794(a).

The law defines "program or activity" to mean "all of the operations" of a public school district. 29 U.S.C. 794(b)(2)(B). Therefore, if a school receives federal funding for any of its programs, the entire school must comply with Section 504's non-discrimination mandate.

The Office for Civil Rights of the U.S. Department of Education is the agency responsible for enforcement of Section 504 in educational institutions. It has promulgated regulations of particular interest to educational institutions in the following areas:

Subpart A—General Provisions

Subpart B—Employment Practices

Subpart C—Program Accessibility

Subpart D—Preschool, Elementary, and Secondary Education

Subpart E—Postsecondary Education

Section 504: General Provisions

Definitions 34 CFR 104.3

Who is an individual with a disability?

A person who:

- Has a physical or mental impairment which substantially limits one or more major life activities;
- Has a record of such an impairment; or
- Is regarded as having such an impairment.

What is a major life activity?

- Major life activities are functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, communicating, and working.
- A major life activity also includes the operation of a major bodily function, including but not limited to: functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, or reproductive functions.

What does having a record of impairment mean?

Has a record of such an impairment means the individual:

- Has a history of having such an impairment, or

- Has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

What does being regarded as having an impairment mean?

Is regarded as having an impairment means the individual:

- Has a physical or mental impairment that does not substantially limit major life activities but that is treated by the school as being substantially limiting;
- Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or
- Has no physical or mental impairment, but is treated by a recipient as having such an impairment.

Purpose 34 CFR 104.1 The purpose of Section 504 is to eliminate discrimination on the basis of disability in programs that receive federal dollars.

Application 34 CFR 104.2 Section 504 applies to any program or activity that receives federal financial assistance. If educational institutions receive any federal funding, all of their programs and activities are subject to Section 504 requirements.

Responsible employee 34 CFR 104.7(a) Each school must designate at least one person to coordinate its Section 504 compliance efforts. Although not required, larger districts may want to have additional 504 coordinators at the building level. While Section 504 efforts may utilize the expertise of special education personnel, **compliance with Section 504 is a regular education responsibility.**

Grievance procedures 34 CFR 104.7(b) A school must adopt grievance procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints about discrimination on the basis of disability. Grievance procedures need not apply to complaints from:

- Applicants for employment; or
- Applicants for admission to postsecondary institutions.

Notice 34 CFR 104.8 Schools must take continuing steps to notify students, parents, patrons, applicants and employees, unions, and others that the school does not discriminate on the basis of disability in violation of Section 504. The notification, where appropriate, should state that the school does not discriminate in admission or access to, or treatment or employment in its programs or activities. The notification should include identification of the person responsible for Section 504 compliance. Methods of notification may include the posting of notices, publication in newsletters or newspapers, publication in policy manuals, employee handbooks and student handbooks, or distribution of other written communication. Notification should be included in any recruitment materials.

Assurances After the passage of Section 504, as a condition of receiving federal funding, schools were required to provide written assurance to the

34 CFR 104.5 Department of Education that they would comply with Section 504 requirements. The assurance continues in effect as long as the school receives federal funding.

Remedial action

34 CFR 104.6(a)

If a school violates Section 504, the U.S. Department of Education (through the Office for Civil Rights) can require the school take any remedial action it deems necessary to overcome the effects of the discrimination against an individual with a disability. This can include remedial actions with respect to persons who are no longer participating in the school's programs and persons who never participated, but would have been participants if the discrimination had not occurred.

Types of Discrimination Prohibited

34 CFR 104.4(b)

A school cannot:

- Deny a qualified individual with a disability the opportunity to participate in or benefit from any aid, benefit or service offered by the school;
- Afford a qualified individual with a disability an opportunity to participate or benefit that is not equal to the opportunity provided to others;
- Provide a qualified individual with a disability an aid, benefit or service that is not as effective as that provided to others;

To be equally effective, services are not required to produce the identical result or level of achievement, but individuals with disabilities must be afforded an equal opportunity to obtain the same result, gain the same benefit, or reach the same level of achievement in the most integrated setting appropriate to the person's needs.

- Provide different or separate aid, benefits or services to qualified individuals with disabilities, unless it is necessary to provide aid, benefits or services that are effective as those provided to others;

Despite the existence of separate or different programs, a school cannot deny an individual with a disability the opportunity to participate in programs or activities that are not separate.

- Perpetuate discrimination by providing assistance to an agency, organization or person who discriminates on the basis of disability;
- Deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards; or
- Limit a qualified individual with a disability in the enjoyment of any right, privilege, advantage or opportunity enjoyed by others receiving an aid, benefit or service.
- Choose a location for a facility that will have the effect of excluding person with disabilities or the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to individuals with

disabilities.

**Voluntary
Action**

Schools can take action in addition to any ordered remedial action to overcome the effects of discrimination on the basis of disability.

34 CFR 104.6(b)

Self-evaluation

Within one year from the effective date of the 504 regulations (sometime in the early 1980s), schools with the assistance of interested persons, including individuals with disabilities and organizations representing such individuals, were required to complete a written self-evaluation of their policies and practices to ensure they did not conflict with or violate Section 504 requirements. Schools were required to modify any policies or practices that violated Section 504 and to take remedial steps to eliminate the effects of any discrimination that may have occurred as a result of any discriminatory policies or practices.

34 CFR 104.6(c)

Many districts have received requests for copies of their 504 evaluations in recent years. If the school can locate a copy of the self evaluation, it is a school record that should be provided to a requestor. However, the regulations required that the evaluation be maintained on file for only three years, so many districts will not be able to find their 504 self-evaluation.

A similar self-evaluation was required under the regulations for the Americans with Disabilities Act of 1990 (see 28 CFR 35.105). That regulation also required that the self-evaluation be maintained for only three years.

Section 504: Program Accessibility

104.21 Discrimination prohibited.

No qualified handicapped person shall, because a recipient's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which this part applies.

104.22 Existing facilities.

(a) *Accessibility.* A recipient shall operate its program or activity so that when each part is viewed in its entirety, it is readily accessible to handicapped persons. This paragraph does not require a recipient to make each of its existing facilities or every part of a facility accessible to and usable by handicapped persons.

(b) *Methods.* A recipient may comply with the requirements of paragraph (a) of this section through such means as redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of health, welfare, or other social services at alternate accessible sites, alteration of existing facilities and construction of new facilities in conformance with the requirements of 104.23, or any other methods that result in making its program or activity accessible to handicapped persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among available methods for meeting the requirement of paragraph (a) of this section, a recipient shall give priority to those methods that serve handicapped persons in the most integrated setting appropriate.

(c) *Small health, welfare, or other social service providers.* If a recipient with fewer than fifteen employees that provides health, welfare, or other social services finds, after consultation with a handicapped person seeking its services, that there is no method of complying with paragraph (a) of this section other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible.

(d) *Time period.* A recipient shall comply with the requirement of paragraph (a) of this section within sixty days of the effective date of this part except that where structural changes in facilities are necessary, such changes shall be made within three years of the effective date of this part, but in any event as expeditiously as possible.

(e) *Transition plan.* In the event that structural changes to facilities are necessary to meet the requirement of paragraph (a) of this section, a recipient shall develop, within six months of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum:

- (1) Identify physical obstacles in the recipient's facilities that limit the accessibility of its program or activity to handicapped persons;
- (2) Describe in detail the methods that will be used to make the facilities accessible;
- (3) Specify the schedule for taking the steps necessary to achieve full accessibility in order to comply with paragraph (a) of this section and, if the time period of the transition plan is longer

than one year, identify the steps of that will be taken during each year of the transition period; and

(4) Indicate the person responsible for implementation of the plan.

(f) *Notice.* The recipient shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by handicapped persons.

104.23 New construction.

(a) *Design and construction.* Each facility or part of a facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by handicapped persons, if the construction was commenced after the effective date of this part.

(b) *Alteration.* Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after the effective date of this part in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by handicapped persons.

(c) *Conformance with Uniform Federal Accessibility Standards.* (1) Effective as of January 18, 1991, design, construction, or alteration of buildings in conformance with sections 3-8 of the Uniform Federal Accessibility Standards (UFAS) (Appendix A to 41 CFR subpart 101-19.6) shall be deemed to comply with the requirements of this section with respect to those buildings. Departures from particular technical and scoping requirements of UFAS by the use of other methods are permitted where substantially equivalent or greater access to and usability of the building is provided.

(2) For purposes of this section, section 4.1.6(1)(g) of UFAS shall be interpreted to exempt from the requirements of UFAS only mechanical rooms and other spaces that, because of their intended use, will not require accessibility to the public or beneficiaries or result in the employment or residence therein of persons with physical handicaps.

(3) This section does not require recipients to make building alterations that have little likelihood of being accomplished without removing or altering a load-bearing structural member.

Section 504: Program Accessibility—Q & A

Must all of the buildings be accessible?

Section 504 requires districts to ensure that programs and activities are accessible to persons with disabilities (students, parents, and community members). This includes not only classrooms but special-use rooms (i.e., computer or science labs), parking lots, walkways, playgrounds, rest room facilities, auditoriums, multi-use rooms, cafeterias, gymnasiums, swimming pools, and water fountains.

Must a district modify all buildings?

A district is not required to make structural changes to an existing building if accessibility can be achieved in other ways. The ADA mandates, however, that any new construction as well as alterations to existing facilities must be designed and constructed as to be “readily accessible and useable.” Again, the intent of the law is to ensure that individuals with disabilities are able to access school services, regardless of their disability.

Section 504: Preschool, Elementary & Secondary Programs

Qualified handicapped person means:

(2) With respect to public preschool elementary, secondary, or adult educational services, a handicapped person

- (i) of an age during which nonhandicapped persons are provided such services,
- (ii) of any age during which it is mandatory under state law to provide such services to handicapped persons, or
- (iii) to whom a state is required to provide a free appropriate public education under section 612 of the Education of the Handicapped Act; and

(4) With respect to other services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

Does the meaning of the phrase "qualified student with a disability" differ on the basis of a student's educational level, i.e., elementary and secondary versus postsecondary?

Yes. At the elementary and secondary educational level, a "qualified student with a disability" is a student with a disability who is: of an age at which students without disabilities are provided elementary and secondary educational services; of an age at which it is mandatory under state law to provide elementary and secondary educational services to students with disabilities; or a student to whom a state is required to provide a free appropriate public education under the Individuals with Disabilities Education Act (IDEA).

At the postsecondary educational level, a qualified student with a disability is a student with a disability who meets the academic and technical standards requisite for admission or participation in the institution's educational program or activity.

Does the nature of services to which a student is entitled under Section 504 differ by educational level?

Yes. Elementary and secondary recipients are required to provide a free, appropriate public education to qualified students with disabilities. Such an education consists of regular or special education and related aids and services designed to meet the individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met.

At the postsecondary level, the recipient is required to provide students with appropriate academic adjustments and auxiliary aids and services that are necessary to afford an individual with a disability an equal opportunity to participate in a school's program. Recipients are not required to make adjustments or provide aids or services that would result in a fundamental alteration of a recipient's program or impose an undue burden.

Once a student is identified as eligible for services under Section 504, is that student always entitled to such services?

No. The protections of Section 504 extend only to individuals who meet the regulatory definition of a person with a disability. If a recipient school district re-evaluates a student in accordance with the Section 504 regulation at 34 C.F.R. 104.35 and determines that the student's mental or physical impairment no longer substantially limits his/her ability to learn or any other major life activity, the student is no longer eligible for services under Section 504.

104.31 Application of this subpart.

Subpart D applies to preschool, elementary, secondary, and adult education programs or activities that receive Federal financial assistance and to recipients that operate, or that receive Federal financial assistance for the operation of, such programs or activities.

104.32 Location and notification.

A recipient that operates a public elementary or secondary education program or activity shall annually:

- (a) Undertake to identify and locate every qualified handicapped person residing in the recipient's jurisdiction who is not receiving a public education; and
- (b) Take appropriate steps to notify handicapped persons and their parents or guardians of the recipient's duty under this subpart.

What is "child find"?

"Child find" refers to the requirement that districts must annually identify and locate all children with disabilities between the ages of 3 and 22 residing within the district's boundaries. "Child find" is an ongoing process and includes those children attending private, parochial, and home schools. Many districts provide notice to parents of the district's obligation to serve disabled children with their back-to-school packet mailed home at the start of each new school year. There are other methods districts should consider:

- Post announcements in public locations
- Use the news media; announce in the local newspapers
- Distribute announcements and referral forms to local day care providers; public and private preschools; private and parochial schools
- Send letters to local health care providers requesting their assistance
- Send announcements and referral forms to community agencies
- Train school staff in the district's Section 504 and special education referral process.

104.33 Free appropriate public education.

(a) *General.* A recipient that operates a public elementary or secondary education program or activity shall provide a free appropriate public education to each qualified handicapped person who is in the recipient's jurisdiction, regardless of the nature or severity of the person's handicap.

(b) *Appropriate education.* (1) For the purpose of this subpart, the provision of an appropriate education is the provision of regular or special education and related aids and services that (i) are designed to meet individual educational needs of handicapped persons as adequately as the needs of nonhandicapped persons are met and (ii) are based upon adherence to procedures that satisfy the requirements of 104.34, 104.35, and 104.36.

(2) Implementation of an Individualized Education Program developed in accordance with the Education of the Handicapped Act is one means of meeting the standard established in paragraph (b)(1)(i) of this section.

(3) A recipient may place a handicapped person or refer such a person for aid, benefits, or services other than those that it operates or provides as its means of carrying out the requirements of this subpart. If so, the recipient remains responsible for ensuring that the requirements of this subpart are met with respect to any handicapped person so placed or referred.

(c) *Free education* -- (1) *General*. For the purpose of this section, the provision of a free education is the provision of educational and related services without cost to the handicapped person or to his or her parents or guardian, except for those fees that are imposed on non-handicapped persons or their parents or guardian. It may consist either of the provision of free services or, if a recipient places a handicapped person or refers such person for aid, benefits, or services not operated or provided by the recipient as its means of carrying out the requirements of this subpart, of payment for the costs of the aid, benefits, or services. Funds available from any public or private agency may be used to meet the requirements of this subpart. Nothing in this section shall be construed to relieve an insurer or similar third party from an otherwise valid obligation to provide or pay for services provided to a handicapped person.

(2) *Transportation*. If a recipient places a handicapped person or refers such person for aid, benefits, or services not operated or provided by the recipient as its means of carrying out the requirements of this subpart, the recipient shall ensure that adequate transportation to and from the aid, benefits, or services is provided at no greater cost than would be incurred by the person or his or her parents or guardian if the person were placed in the aid, benefits, or services operated by the recipient.

(3) *Residential placement*. If a public or private residential placement is necessary to provide a free appropriate public education to a handicapped person because of his or her handicap, the placement, including non-medical care and room and board, shall be provided at no cost to the person or his or her parents or guardian.

(4) *Placement of handicapped persons by parents*. If a recipient has made available, in conformance with the requirements of this section and 104.34, a free appropriate public education to a handicapped person and the person's parents or guardian choose to place the person in a private school, the recipient is not required to pay for the person's education in the private school. Disagreements between a parent or guardian and a recipient regarding whether the recipient has made a free appropriate public education available or otherwise regarding the question of financial responsibility are subject to the due process procedures of 104.36.

(d) *Compliance*. A recipient may not exclude any qualified handicapped person from a public elementary or secondary education after the effective date of this part. A recipient that is not, on the effective date of this regulation, in full compliance with the other requirements of the preceding paragraphs of this section shall meet such requirements at the earliest practicable time and in no event later than September 1, 1978.

What services are available for students who qualify under Section 504?

Section 504 requires recipients to provide to students with disabilities appropriate educational services designed to meet the individual needs of such students to the same extent as the needs of students without disabilities are met. An appropriate education for a student with a disability under the Section 504 regulations could consist of education in regular classrooms, education in regular classes with supplementary services, and/or special education and related services.

104.34 Educational setting.

(a) *Academic setting.* A recipient to which this subpart applies shall educate, or shall provide for the education of, each qualified handicapped person in its jurisdiction with persons who are not handicapped to the maximum extent appropriate to the needs of the handicapped person. A recipient shall place a handicapped person in the regular educational environment operated by the recipient unless it is demonstrated by the recipient that the education of the person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. Whenever a recipient places a person in a setting other than the regular educational environment pursuant to this paragraph, it shall take into account the proximity of the alternate setting to the person's home.

(b) *Nonacademic settings.* In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in 104.37(a)(2), a recipient shall ensure that handicapped persons participate with nonhandicapped persons in such activities and services to the maximum extent appropriate to the needs of the handicapped person in question.

(c) *Comparable facilities.* If a recipient, in compliance with paragraph (a) of this section, operates a facility that is identifiable as being for handicapped persons, the recipient shall ensure that the facility and the services and activities provided therein are comparable to the other facilities, services, and activities of the recipient.

104.35 Evaluation and placement.

(a) *Preplacement evaluation.* A recipient that operates a public elementary or secondary education program or activity shall conduct an evaluation in accordance with the requirements of paragraph (b) of this section of any person who, because of handicap, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in regular or special education and any subsequent significant change in placement.

(b) *Evaluation procedures.* A recipient to which this subpart applies shall establish standards and procedures for the evaluation and placement of persons who, because of handicap, need or are believed to need special education or related services which ensure that:

(1) Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer;

(2) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and

(3) Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

(c) *Placement procedures.* In interpreting evaluation data and in making placement decisions, a recipient shall (1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior, (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered, (3) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options, and (4) ensure that the placement decision is made in conformity with 104.34.

(d) *Reevaluation.* A recipient to which this section applies shall establish procedures, in accordance with paragraph (b) of this section, for periodic reevaluation of students who have been provided special education and related services. A reevaluation procedure consistent with the Education for the Handicapped Act is one means of meeting this requirement.

EVALUATION

At the elementary and secondary school level, determining whether a child is a qualified disabled student under Section 504 begins with the evaluation process. Section 504 requires the use of evaluation procedures that ensure that children are not misclassified, unnecessarily labeled as having a disability, or incorrectly placed, based on inappropriate selection, administration, or interpretation of evaluation materials.

What is an appropriate evaluation under Section 504?

Recipient school districts must establish standards and procedures for initial evaluations and periodic re-evaluations of students who need or are believed to need special education and/or related services because of disability. The Section 504 regulation, at 34 C.F.R. 104.35(b), requires school districts to individually evaluate a student before classifying the student as having a disability or providing the student with special education. Tests used for this purpose must be selected and administered so as best to ensure that the test results accurately reflect the student's aptitude or achievement or other factor being measured rather than reflect the student's disability, except where those are the factors being measured. Section 504 also requires that tests and other evaluation materials include those tailored to evaluate the specific areas of educational need and not merely those designed to provide a single intelligence quotient. The tests and other evaluation materials must be validated for the specific purpose for which they are used and appropriately administered by trained personnel.

How much is enough information to document that a student has a disability?

The amount of information required is determined by the multi-disciplinary committee gathered to evaluate the student. The committee should include persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. The committee members must determine if they have enough information to make a knowledgeable decision as to whether or not the student has a disability. The Section 504 regulation, at 34 C.F.R. 104.35(c), requires that school districts draw from a variety of sources in the evaluation process so that the possibility of error is minimized. The information obtained from all such sources must be documented and all significant factors related to the student's learning process must be considered. These sources and factors may include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior. In evaluating a student suspected of having a disability, it is unacceptable to rely on presumptions and stereotypes regarding persons with disabilities or classes of such persons. Compliance with the IDEA regarding the group of persons present when an evaluation or placement decision is made is satisfactory under Section 504.

What process should a school district use to identify students eligible for services under Section 504? Is it the same process as that employed in identifying students eligible for services under the IDEA?

School districts may use the same process initially to evaluate the needs of students under Section 504 as they use to evaluate the needs of students under the IDEA. If school districts choose to adopt a separate process for evaluating the needs of students under Section 504, they must follow the requirements for evaluation specified in the Section 504 regulation at 34 C.F.R. 104.35.

Must school districts consider "mitigating measures" used by a student in determining whether the student has a disability under Section 504?

No. The determination of whether an impairment substantially limits a major life activity must be made without regard to the ameliorative effects of mitigating measures such as:

- medication, medical supplies, equipment or appliances, low-vision devices which do not include ordinary eye glasses or contact lenses, prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies, the use of assistive technology, reasonable accommodations or auxiliary aids or services, or learned behavioral or adaptive neurological modifications.

A person who experiences no substantial limitation in any major life activity when using a mitigating measure may still meet the definition of a person with a disability and may be entitled to FAPE under Section 504. Staff should be trained to determine whether or not a student has a disability while ignoring the effects of mitigating measures, except regular eye glasses and contact lenses.

Does OCR endorse a single formula or scale that measures substantial limitation?

No. The determination of substantial limitation must be made on a case-by-case basis with respect to each individual student. The Section 504 regulation, at 34 C.F.R. 104.35 (c), requires that a group of knowledgeable persons draw upon information from a variety of sources in making this determination.

Are there any impairments which automatically qualify a student for protection under Section 504?

No. An impairment in and of itself does not qualify a student for protection under Section 504. The impairment must substantially limit one or more major life activities in order to qualify a student for protection under Section 504.

Can a medical diagnosis suffice as an evaluation for the purpose of providing FAPE?

No. A physician's medical diagnosis may be considered among other sources in evaluating a student with a disability or believed to have a disability which substantially limits a major life activity. Other sources to be considered, along with the medical diagnosis, include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior.

Does a medical diagnosis of an illness automatically qualify a student for services under Section 504?

No. A medical diagnosis of an illness does not automatically qualify a student for services under Section 504. The illness must cause a substantial limitation on the student's ability to learn or other major life activities. For example, a student who has a physical or mental impairment would not be considered a student in need of services under Section 504 if the impairment does not in any way limit the student's ability to learn or other major life activity, or only results in some minor limitation in that regard.

How should a recipient school district handle an outside independent evaluation? Do all data brought to a multi-disciplinary committee need to be considered and given equal weight?

The results of an outside independent evaluation may be one of many sources to consider. Multi-disciplinary committees must draw from a variety of sources in the evaluation process so that the possibility of error is minimized. All significant factors related to the subject student's learning process must be considered. These sources and factors include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior, among others. Information from all sources must be documented and considered by knowledgeable committee members. The weight of the information is determined by the committee given the student's individual circumstances.

What should a recipient school district do if a parent refuses to consent to a case study evaluation under the Individuals with Disabilities Education Act (IDEA), but demands a Section 504 plan for a student without further evaluation?

Section 504 requires informed parental permission for initial evaluations. If a parent refuses consent for an initial evaluation and a recipient school district suspects a student has a disability, the IDEA and Section 504 provide that school districts may use due process hearing procedures to override the parents' denial of consent.

Who in the evaluation process makes the ultimate decision regarding a student's eligibility for services under Section 504?

The Section 504 regulation at 34 C.F.R.104.35 (c) (3) requires that school districts ensure that the determination that a student is eligible for special education and/or related aids and services be made by a group of persons, including persons knowledgeable about the meaning of the evaluation data and knowledgeable about the placement options. If a parent disagrees with the determination, he or she may request a due process hearing.

Once a student is identified as eligible for services under Section 504, is there an annual or triennial review requirement? If so, what is the appropriate process to be used? Or is it appropriate to keep the same Section 504 plan in place indefinitely after a student has been identified?

Periodic re-evaluation is required. This may be conducted in accordance with the IDEA regulation, which requires re-evaluation at three-year intervals or more frequently if conditions warrant, or if the child's parent or teacher requests a re-evaluation.

Is a Section 504 re-evaluation similar to an IDEA re-evaluation?

Yes. Section 504 specifies that re-evaluations in accordance with the IDEA comply with Section 504. A re-evaluation should be conducted periodically and is required when considering a change in placement. Although re-evaluation is recommended on an annual basis, when reviewing the 504 Plan, the Office of Civil Rights has found districts to be in compliance if they re-evaluate a student every three years, as they do with Special Education students. The Section 504 regulation requires that re-evaluations be conducted periodically. Section 504 also requires a school district to conduct a re-evaluation prior to a significant change of placement. OCR considers an exclusion from the educational program of more than 10 school days a significant change of placement. OCR would also consider transferring a student from one type of program to another or terminating or significantly reducing a related service a significant change in placement.

Can a student be dismissed from Section 504?

Once a student no longer meets the eligibility requirements, he or she should be dismissed from Section 504 protection. Many districts that dismiss a student, decide to keep the student on a "watch" basis for one year to ensure that the student continues to progress.

What is reasonable justification for referring a student for evaluation for services under Section 504?

School districts may always use regular education intervention strategies to assist students with difficulties in school. Section 504 requires recipient school districts to refer a student for an evaluation for possible special education or modification to regular education if the student, because of disability, needs or is believed to need such services.

A student is receiving services that the school district maintains are necessary under Section 504 in order to provide the student with an appropriate education. The student's parent no longer wants the student to receive those services. If the parent wishes to withdraw the student from a Section 504 plan, what can the school district do to ensure continuation of services?

The school district may initiate a Section 504 due process hearing to resolve the dispute if the district believes the student needs the services in order to receive an appropriate education.

A student has a disability referenced in the IDEA, but does not require special education services. Is such a student eligible for services under Section 504?

The student may be eligible for services under Section 504. The school district must determine whether the student has an impairment which substantially limits his or her ability to learn or other major life activities and, if so, make an individualized determination of the child's educational needs for regular or special education or related aids or services. For example, such a student may receive adjustments in the regular classroom.

How should a recipient school district regard a temporary impairment?

A temporary impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period of time. The issue of whether a temporary impairment is substantial enough to be a disability must be resolved on a case-by-case basis, taking into consideration both the duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity of the affected individual.

PLACEMENT

Once a student is identified as being eligible for regular or special education and related aids or services, a decision must be made regarding the type of services the student needs.

If a student qualifies for services under both the IDEA and Section 504, must a school district develop both an individualized education program (IEP) under the IDEA and a Section 504 plan under Section 504?

No. If a student is eligible under IDEA, he or she must have an IEP. Under the Section 504 regulations, one way to meet Section 504 requirements is to comply with IDEA.

Must a school district develop a Section 504 plan for a student who either "has a record of disability" or is "regarded as disabled"?

No. In elementary and secondary schools, unless a student actually has a disabling condition that substantially limits a major life activity, the mere fact that a student has a "record of" or is "regarded as" disabled is insufficient, in itself, to trigger those Section 504 protections that require the provision of a free and appropriate public education (FAPE). The phrases "has a record of disability" and "is regarded as disabled" are meant to reach the situation in which a student either does not currently have or never had a disability, but is treated by others as such.

What is the receiving school district's responsibility under Section 504 toward a student with a Section 504 plan who transfers from another district?

If a student with a disability transfers to a district from another school district with a Section 504 plan, the receiving district should review the plan and supporting documentation. If a group of persons at the receiving school district, including persons knowledgeable about the meaning of the evaluation data and knowledgeable about the placement options determines the plan is appropriate, the district is required to implement the plan. If the district determines that the plan is inappropriate, the district is to evaluate the student consistent with the Section 504 procedures at 34 C.F.R. 104.35 and determine which educational program is appropriate for the student.

What are the responsibilities of regular education teachers with respect to implementation of Section 504 plans? What are the consequences if the district fails to implement the plans?

Regular education teachers must implement the provisions of Section 504 plans when those plans govern the teachers' treatment of students for whom they are responsible. If the teachers fail to implement the plans, such failure can cause the school district to be in noncompliance with Section 504.

What is the difference between a regular education intervention plan and a Section 504 plan?

A regular education intervention plan is appropriate for a student who does not have a disability or is not suspected of having a disability but may be facing challenges in school. School districts vary in how they address performance problems of regular education students. Some districts employ teams at individual schools, commonly referred to as "building teams." These teams are designed to provide regular education classroom teachers with instructional support and strategies for helping students in need of assistance. These teams are typically composed of regular and special education teachers who provide ideas to classroom teachers on methods for helping students experiencing academic or behavioral problems. The team usually records its ideas in a written regular education intervention plan. The team meets with an affected student's classroom teacher(s) and recommends strategies to address the student's problems within the regular education environment. The team then follows the responsible teacher(s) to determine whether the student's performance or behavior has improved. In addition to building teams, districts may utilize other regular education intervention methods, including before-school and after-school programs, tutoring programs, and mentoring programs.

104.36 Procedural safeguards.

A recipient that operates a public elementary or secondary education program or activity shall establish and implement, with respect to actions regarding the identification, evaluation, or educational placement of persons who, because of handicap, need or are believed to need special instruction or related services, a system of procedural safeguards that includes notice, an opportunity for the parents or guardian of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of section 615 of the Education of the Handicapped Act is one means of meeting this requirement.

PROCEDURAL SAFEGUARDS

Public elementary and secondary schools must employ procedural safeguards regarding the identification, evaluation, or educational placement of persons who, because of disability, need or are believed to need special instruction or related services.

Must a recipient school district obtain parental consent prior to initiating a Section 504 evaluation?

Yes. OCR has interpreted Section 504 to require districts to obtain parental permission for initial evaluations. If a district suspects a student needs or is believed to need special instruction or related

services and parental consent is withheld, districts may use due process hearing procedures to override the parents' denial of consent for an initial evaluation.

If so, in what form is consent required?

Section 504 is silent on the form of parental consent required. OCR has accepted written consent as compliance. IDEA as well as many state laws also require written consent prior to initiating an evaluation.

What can a recipient school district do if a parent withholds consent for a student to secure services under Section 504 after a student is determined eligible for services?

Section 504 neither prohibits nor requires a school district to initiate a due process hearing to override a parental refusal to consent with respect to the initial provision of special education and related services. Nonetheless, school districts should consider that IDEA no longer permits school districts to initiate a due process hearing to override a parental refusal to consent to the initial provision of services.

What procedural safeguards are required under Section 504?

Recipient school districts are required to establish and implement procedural safeguards that include notice, an opportunity for parents to review relevant records, an impartial hearing with opportunity for participation by the student's parents or guardian, representation by counsel and a review procedure.

What is a recipient school district's responsibility under Section 504 to provide information to parents and students about its evaluation and placement process?

Section 504 requires districts to provide notice to parents explaining any evaluation and placement decisions affecting their children and explaining the parents' right to review educational records and appeal any decision regarding evaluation and placement through an impartial hearing.

Is there a mediation requirement under Section 504?

No.

104.37 Nonacademic services.

(a) *General.* (1) A recipient to which this subpart applies shall provide non-academic and extracurricular services and activities in such manner as is necessary to afford handicapped students an equal opportunity for participation in such services and activities.

(2) Nonacademic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the recipients, referrals to agencies which provide assistance to handicapped persons, and employment of students, including both employment by the recipient and assistance in making available outside employment.

(b) *Counseling services.* A recipient to which this subpart applies that provides personal, academic, or vocational counseling, guidance, or placement services to its students shall provide these services without discrimination on the basis of handicap. The recipient shall ensure that qualified handicapped students are not counseled toward more restrictive career objectives than are nonhandicapped students with similar interests and abilities.

(c) *Physical education and athletics.* (1) In providing physical education courses and athletics and similar aid, benefits, or services to any of its students, a recipient to which this subpart applies may not discriminate on the basis of handicap. A recipient that offers physical education

courses or that operates or sponsors interscholastic, club, or intramural athletics shall provide to qualified handicapped students an equal opportunity for participation.

(2) A recipient may offer to handicapped students physical education and athletic activities that are separate or different from those offered to nonhandicapped students only if separation or differentiation is consistent with the requirements of 104.34 and only if no qualified handicapped student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

104.38 Preschool and adult education.

A recipient to which this subpart applies that provides preschool education or day care or adult education may not, on the basis of handicap, exclude qualified handicapped persons and shall take into account the needs of such persons in determining the aid, benefits, or services to be provided.

104.39 Private education.

(a) A recipient that provides private elementary or secondary education may not, on the basis of handicap, exclude a qualified handicapped person if the person can, with minor adjustments, be provided an appropriate education, as defined in 104.33(b)(1), within that recipient's program or activity.

(b) A recipient to which this section applies may not charge more for the provision of an appropriate education to handicapped persons than to nonhandicapped persons except to the extent that any additional charge is justified by a substantial increase in cost to the recipient.

(c) A recipient to which this section applies that provides special education shall do so in accordance with the provisions of 104.35 and 104.36. Each recipient to which this section applies is subject to the provisions of 104.34, 104.37, and 104.38.

Must a district provide services to students enrolled in private schools?

The district must provide a free, appropriate public education to all students with disabilities protected by Section 504. If the district has offered a free, appropriate public education, it is not obligated to provide services to those students who enrolled in private schools based on parental choice.

Excerpts from The Civil Rights of Students with Hidden Disabilities Under Section 504 of the Rehabilitation Act of 1973

U.S. Department of Education
Office for Civil Rights
Washington, D.C. 20202-1328

INTRODUCTION

If you are a student with a hidden disability or would like to know more about how students with hidden disabilities are protected against discrimination by Federal law, this pamphlet is for you.

* * * * *

WHAT ARE HIDDEN DISABILITIES?

Hidden disabilities are physical or mental impairments that are not readily apparent to others. They include such conditions and diseases as specific learning disabilities, diabetes, epilepsy, and allergy. A disability such as a limp, paralysis, total blindness or deafness is usually obvious to others. But hidden disabilities such as low vision, poor hearing, heart disease, or chronic illness may not be obvious. A chronic illness involves a recurring and long-term disability such as diabetes, heart disease, kidney and liver disease, high blood pressure, or ulcers.

Approximately four million students with disabilities are enrolled in public elementary and secondary schools in the United States. Of these 43 percent are students classified as learning disabled, 8 percent as emotionally disturbed, and 1 percent as other health impaired. These hidden disabilities often cannot be readily known without the administration of appropriate diagnostic tests.

THE RESPONSIBILITIES OF ED RECIPIENTS IN PRESCHOOL, ELEMENTARY, SECONDARY, AND ADULT EDUCATION

* * * * *

Students with hidden disabilities frequently are not properly diagnosed. For example, a student with an undiagnosed hearing impairment may be unable to understand much of what a teacher says; a student with a learning disability may be unable to process oral or written information routinely; or a student with an emotional problem may be unable to concentrate in a regular classroom setting. As a result, these students, regardless of their intelligence, will be unable to fully demonstrate their ability or attain educational benefits equal to that of nonhandicapped students. They may be perceived by teachers and fellow students as slow, lazy, or as discipline problems.

Whether a child is already in school or not, if his/her parents feel the child needs special education or related services, they should get in touch with the local superintendent of schools. For example, a parent who believes his or her child has a hearing impairment or is having difficulty understanding a teacher, may request to have the child evaluated so that the child may receive appropriate education. A child with behavior problems, or one who is doing poorly academically, may have an undiagnosed hidden disability. A parent has the right to request that the school determine whether the child is handicapped and whether special education or related services are needed to provide the child an appropriate education. Once it is determined that a child needs special education or related services, the recipient school system must arrange to provide appropriate services.

* * * * *

HOW CAN THE NEEDS OF STUDENTS WITH HIDDEN DISABILITIES BE ADDRESSED?

The following examples illustrate how schools can address the needs of their students with hidden disabilities.

A student with a long-term, debilitating medical problem such as cancer, kidney disease, or diabetes may be given special consideration to accommodate the student's needs. For example, a student with cancer may need a class schedule that allows for rest and recuperation following chemotherapy.

A student with a learning disability that affects the ability to demonstrate knowledge on a standardized test or in certain testing situations may require modified test arrangements, such as oral testing or different testing formats.

A student with a learning disability or impaired vision that affects the ability to take notes in class may need a notetaker or tape recorder.

A student with a chronic medical problem such as kidney or liver disease may have difficulty in walking distances or climbing stairs. Under Section 504, this student may require special parking space, sufficient time between classes, or other considerations, to conserve the student's energy for academic pursuits.

A student with diabetes, which adversely affects the body's ability to manufacture insulin, may need a class schedule that will accommodate the student's special needs.

An emotionally or mentally ill student may need an adjusted class schedule to allow time for regular counseling or therapy.

A student with epilepsy who has no control over seizures, and whose seizures are stimulated by stress or tension, may need accommodation for such stressful activities as lengthy academic testing or competitive endeavors in physical education.

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.

These are just a few examples of how the needs of students with hidden disabilities may be addressed. If you are a student (or a parent or guardian of a student) with a hidden disability, or represent an institution seeking to address the needs of such students, you may wish to seek further information from OCR.

U.S. DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
REGIONAL CIVIL RIGHTS OFFICES

Date of Document 01/01/1995

Dear Colleague Letter: Access by Students with Disabilities to Accelerated Programs

OFFICE OF THE ASSISTANT SECRETARY

DEC 26, 2007

Dear Colleague:

I am writing to advise you of an issue involving students with disabilities seeking enrollment in challenging academic programs, such as Advanced Placement and International Baccalaureate classes or programs (accelerated programs). Specifically, it has been reported that some schools and school districts have refused to allow qualified students with disabilities to participate in such programs. Similarly, we are informed of schools and school districts that, as a condition of participation in such programs, have required qualified students with disabilities to give up the services that have been designed to meet their individual needs. These practices are inconsistent with Federal law, and the Office for Civil Rights (OCR) in the U.S. Department of Education will continue to act promptly to remedy such violations where they occur.

As you know, OCR is responsible for enforcing two Federal laws that protect qualified individuals with disabilities from discrimination. OCR enforces Section 504 of the *Rehabilitation Act of 1973* (Section 504) and its implementing regulations at 34 CFR Part 104, which prohibit discrimination on the basis of disability in programs or activities receiving Federal financial assistance. OCR is also responsible, in the education context, for enforcing Title II of the *Americans with Disabilities Act of 1990* (Title II) and its implementing regulations at 28 CFR Part 35, which prohibit discrimination on the basis of disability by entities of State and local government. Although this letter discusses aspects of the Section 504 regulation, Title II provides no lesser protections than does Section 504. Also relevant are the requirements of the *Individuals with Disabilities Education Act* (IDEA), which is administered by the Department's Office of Special Education Programs (OSEP). The *IDEA* provides funds to States and school districts in order to assist them in providing special education and related services to eligible children with disabilities. The *IDEA*'s implementing regulations are located at 34 CFR Part 300. OCR consulted with OSEP in drafting this letter.¹

As an initial matter, I want to commend the efforts so many of you have made to ensure that placement decisions for all students are based on each student's individual academic abilities regardless of the presence, nature, or severity of a disability. I want to ensure that all of you are aware of the Federal civil rights requirements discussed below.

Prohibition Against Disability-Based Discrimination in Accelerated Programs

The practice of denying, on the basis of disability, a qualified student with a disability the opportunity to participate in an accelerated program violates both Section 504 and Title II. Discrimination prohibited by these laws includes, on the basis of disability, denying a qualified individual with a disability the opportunity to participate in or benefit from the recipient's aids, benefits, or services, and affording a qualified individual with a disability with an opportunity to participate in or benefit from the aid, benefit or service in a manner that is not equal to that offered to individuals without disabilities. 34 CFR 104.4(a), (b)(1)(i), (b)(1)(ii); 28 CFR 35.130(a), (b)(1)(i), (b)(1)(ii).

Under Section 504 and Title II, a recipient may not utilize criteria or methods of administration that have the effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability. 34 CFR 104.4(b)(4) and 28 CFR 35.130(b)(3). A public entity also may not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any service, program, or activity, unless such criteria can be shown to be necessary for the provision of the service, program, or activity being offered. 28 CFR 35.130(b)(8). Public school students with disabilities who require special education and/or related services receive them either through implementation of an individualized education program (IEP) developed in accordance with Part B of the *IDEA* or a plan developed under Section 504. 34 CFR 104.33. It is unlawful to deny a student with a disability admission to an accelerated class or program solely because of that student's need for special education or related aids and services², or because that student has an IEP or a plan under Section 504. The practice of conditioning participation in an accelerated class or program by a qualified student with a disability on the forfeiture of special education or of related aids and services to which the student is legally entitled also violates the Section 504 and Title II requirements stated above.

Please note that nothing in Section 504 or Title II requires schools to admit into accelerated classes or programs students with disabilities who would not otherwise be qualified for these classes or programs. Generally, under Section 504, an elementary or secondary school student with a disability is a qualified individual with a disability if the student is of compulsory school age. However, schools may employ appropriate eligibility requirements or criteria in determining whether to admit students, including students with disabilities, into accelerated programs or classes. Section 504 and Title II require that qualified students with disabilities be given the same opportunities to compete for and benefit from accelerated programs and classes as are given to students without disabilities. 34 CFR 104.4(b)(1)(ii) and 28 CFR 35.130(b)(1)(ii).

Furthermore, a recipient's provision of necessary special education and related aids and services to qualified students with disabilities in accelerated classes or programs must be consistent with the Section 504 and Title II requirements regarding free appropriate public education (FAPE).

Free Appropriate Public Education

In general, conditioning participation in accelerated classes or programs by qualified students with disabilities on the forfeiture of necessary special education or related aids and services amounts to a denial of FAPE under both Part B of the *IDEA* and Section 504.

Section 504 requires a recipient that operates a public elementary or secondary education program or activity to provide FAPE to each qualified person with a disability who is in the recipient's jurisdiction, regardless of the nature or severity of the person's disability. 34 CFR 104.33(a). Under Section 504, the provision of an appropriate education is the provision of regular or special education and related aids and services that satisfy certain procedural requirements and that are designed to meet the individual education needs of persons with disabilities as adequately as the needs of persons without disabilities are met. 34 CFR 104.33(b)(1)(i). School districts may create a plan or other document to provide students with disabilities with FAPE pursuant to Section 504. The Section 504 FAPE requirement may also be met through the implementation of an IEP developed in accordance with Part B of the *IDEA*. 34 CFR 104.33(b)(2).

Part B of the *IDEA* requires that FAPE be made available to eligible students with disabilities in certain age ranges. The *IDEA* defines FAPE as special education and related services that: are provided free of charge; meet State standards; include an appropriate preschool, elementary school, or secondary school education; and are provided in conformity with a properly developed IEP. 20 USC § 1401(a)(9); 34 CFR 300.17.³

Participation by a student with a disability in an accelerated class or program generally would be considered part of the regular education or the regular classes referenced in the Section 504 and the *IDEA* regulations. Thus, if a qualified student with a disability requires related aids and services to participate in a regular education class or program, then a school cannot deny that student the needed related aids and services in an accelerated class or program. For example, if a student's IEP or plan under Section 504 provides for Braille materials in order to participate in the regular education program and she enrolls in an accelerated or advanced history class, then she also must receive Braille materials for that class. The same would be true for other needed related aids and services such as extended time on tests or the use of a computer to take notes.

Conditioning enrollment in an advanced class or program on the forfeiture of needed special education or related aids and services is also inconsistent with the principle of individualized determinations, which is a key procedural aspect of the *IDEA*, Section 504 and Title II. As noted above, under Section 504, the provision of FAPE is based on the student's individual education needs as determined through specific procedures—generally, an evaluation in accordance with Section 504 requirements. 34 CFR 104.35. An individualized determination may result in a decision that a qualified student with a disability requires related aids and services for some or all of his regular education classes or his program. Likewise, the *IDEA* contains specific procedures for evaluations and for the development of IEPs that require individualized determinations. See 34 CFR 300.301 through 300.328. The requirement for individualized determinations is violated when schools ignore the student's individual needs and *automatically* deny a qualified student with a disability needed related aids and services in an accelerated class or program.

I urge you to use the information provided in this letter to continue to evaluate whether your school district is in compliance with these anti-discrimination requirements. OCR remains willing to continue supporting you in these efforts. We provide technical assistance to entities that request assistance in voluntarily complying with the civil

rights laws that OCR enforces. If you need additional information or assistance on these or other matters, please do not hesitate to contact the OCR enforcement office that serves your state or territory. The contact information for each office is available online at: <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm>. I thank you in advance for your cooperation and assistance in this important matter.

Sincerely yours,

Stephanie Monroe
Assistant Secretary for Civil Rights

¹ You may contact OSEP to address any issues that relate specifically to the requirements of *IDEA*. Contact information for OSEP is available online at: <http://www.ed.gov/policy/speced/guid/idea/monitor/state-contact-list.html>.

² The term "related aids and services" as used here is intended to include both the Section 504 requirements at 34 CFR 104.33(c) and the equivalent requirements under the *IDEA*, i.e. related services, supplementary aids and services, program modifications and supports for school personnel. See 34 CFR 300.34, 300.42, and 300.320(a)(4).

³ Among other things, an IEP must contain a statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child to advance appropriately toward attaining the annual goals; to be involved in and make progress in the general education curriculum and to participate in extracurricular and other nonacademic activities; and to be educated and participate with other children with disabilities and those without disabilities. An IEP also must contain an explanation of the extent, if any, to which the child will not participate with children without disabilities in the regular class and in these activities. 34 CFR 300.320(a)(4)-(5).

Dear Colleague Letter

OFFICE OF THE ASSISTANT SECRETARY

March 16, 2007

Dear Colleague:

The mission of the U.S. Department of Education is to ensure equal access to education and to promote educational excellence throughout the nation. The Department's Office for Civil Rights (OCR) contributes to this mission through vigorous enforcement of civil rights laws. I am writing to ask for your help in furthering an important part of that mission by disseminating information about the legal rights and responsibilities of students with disabilities as they transition from secondary to postsecondary education settings.

Increasingly, after completing high school, students with disabilities continue their education at institutions such as two- and four-year colleges and universities and at vocational and career schools. Data from the Department of Education's most recent National Postsecondary Student Aid Study indicated that, in the 2003-04 academic year, more than 2 million postsecondary students reported having some type of disability. They accounted for more than 11 percent of postsecondary students and represent a 2 percent increase in the number of postsecondary students who reported having disabilities just four years earlier. Postsecondary students with disabilities have a range of impairments, such as visual, speech and hearing impairments; specific learning disabilities; attention deficit disorder; mental illness; developmental disabilities; orthopedic disorders and others. Institutions of postsecondary education are responsible for providing disability-related services to students with disabilities. OCR's experience as a law enforcement agency, however, and other data, indicate that some students have reported that they need disability-related services and accommodations but do not receive them.

OCR enforces Section 504 of the *Rehabilitation Act of 1973* (Section 504) and Title II of the *Americans with Disabilities Act of 1990* (Title II), which prohibit discrimination on the basis of disability. Every school district and nearly every institution of postsecondary education in the United States is subject to Section 504 or Title II, which have similar requirements. Private institutions of postsecondary education that do not receive federal financial assistance are not subject to Section 504 or Title II. They are, however, subject to Title III of the *Americans with Disabilities Act*, which prohibits discrimination on the basis of disability by private entities that are not private clubs or religious entities and which is enforced by the U.S. Department of Justice. Entities covered by these civil rights laws have an obligation to comply with legal requirements and to carry out their programs and activities in a manner that does not discriminate on the basis of disability.

Through the Office of Special Education and Rehabilitative Services (OSERS), the Department of Education administers the *Individuals with Disabilities Education Act (IDEA)*, which provides funds to states to assist in making a free appropriate public education (FAPE) available to eligible children with disabilities. *IDEA* requirements apply to state education agencies, school districts and other public agencies that serve *IDEA*-eligible children. Institutions of postsecondary education have no legal obligations under *IDEA*. OSERS also administers the state Vocational Rehabilitation (VR) Services program, a formula grant program that provides funds to state VR agencies to assist eligible individuals with disabilities to obtain employment, including the provision of services designed to facilitate the transition of eligible students with disabilities from school to post-school activities.

OCR strongly encourages students with disabilities to know their rights and responsibilities and the responsibilities of institutions of postsecondary education under Section 504 and the *Americans with Disabilities Act*. This information will help to facilitate equal access to postsecondary education programs and activities for students with disabilities. This information may also help students successfully make the transition from a secondary school system in which parents and school staff have typically advocated on their behalf to a postsecondary system in which they will be expected to advocate for themselves.

OCR also provides information to educators to help answer students' questions about their rights and responsibilities, to aid in offering practical suggestions to students to facilitate the successful transition to postsecondary education and to ensure that educators are aware of postsecondary institutions' obligations to students. Institutions of postsecondary education have significantly different responsibilities from those of

elementary and secondary school districts. The unique relationship between institutions of postsecondary education and students with disabilities is apparent in the application and pre- and post-admissions processes. For example:

Prior to Admission

Institutions of postsecondary education may not make inquiries about prospective students' disabilities prior to admitting them. Prospective students may choose to provide an institution with information about disabilities, but any disclosure of disability is voluntary.

Institutions of postsecondary education may inquire about whether prospective students can meet the academic and technical standards that are required for admission, provided that such inquiries are not designed to reveal the existence of disabilities.

Prospective postsecondary students may obtain changes in standardized testing conditions in the administration of entrance examinations if they can provide documentation from a qualified professional that supports the existence of a disability and the need for the specific change.

Following Admission

Institutions of postsecondary education do not have a legal duty to identify students with disabilities. These institutions' obligations are different from those of school districts, which must identify elementary and secondary school students with disabilities.

After admission, institutions of postsecondary education may make confidential inquiries of students about disabilities that may require accommodation. A postsecondary student does not have to disclose that he or she has a disability. To obtain academic adjustments, however, students must identify themselves to institutions of postsecondary education as having disabilities and must make a request for an academic adjustment. A student may request an academic adjustment at any time, but advising the institution as soon as possible of the need for an academic adjustment can help to ensure that the institution has adequate time to review the request and provide an appropriate academic adjustment.

Section 504 and *IDEA* require school districts to conduct an evaluation of a student suspected of having a disability at no cost to the student or his or her parents to determine whether the student has a disability and, because of that disability, needs special education and/or related services. Institutions of postsecondary education, however, are not required to pay for such evaluations. Therefore, if funding from other sources, such as the state VR agency, is not available to a postsecondary student, the student may have to pay for the evaluation.

To comply with the requirements of *IDEA*, a school district or other public agency must have in effect an individualized education program (IEP) for children with disabilities. School districts may also create a plan or other document describing the evaluation and placement decisions they make for elementary and secondary school students pursuant to Section 504. Institutions of postsecondary education have no obligation to create these documents.

Institutions of postsecondary education must provide appropriate academic adjustments based on students' disabilities and individual needs when necessary to avoid discrimination. In providing an academic adjustment, a postsecondary institution does not have to eliminate or lower essential requirements, or make modifications that would result in a fundamental alteration of the programs or activities being offered or impose an undue burden on the institution.

Institutions of postsecondary education may establish reasonable procedures for requesting academic adjustments, and students are responsible for knowing these procedures and following them. Postsecondary institutions may require students who request academic adjustments to provide documentation of their current disabilities and the need for academic adjustments. The institutions must inform students of the documentation they require. Elementary and secondary school IEPs generally will not be sufficient documentation, due to the different contexts and requirements of postsecondary

education. However, existing assessment reports and a summary of the student's academic achievement provided in compliance with *IDEA* may meet some documentation requirements.

Institutions of postsecondary education may not require students with disabilities to pay part or all of the costs of academic adjustments. Postsecondary institutions may not condition their provision of academic adjustments on the availability of funds, refuse to spend more than a certain amount to provide academic adjustments, or refuse to provide academic adjustments because they believe other providers of such services exist.

These are just a few examples of the changes students with disabilities may encounter as they make the transition from high school to postsecondary education.

To further inform students with disabilities and their parents and educators working with the students, OCR has prepared a pamphlet entitled *Students with Disabilities Preparing for Postsecondary Education: Know Your Rights and Responsibilities* and a guide entitled *Transition of Students with Disabilities to Postsecondary Education: A Guide for High School Educators*. The pamphlet and guide explain the legal requirements of Section 504 and Title II in the postsecondary education context. Copies of each document are enclosed. You may obtain the pamphlet electronically at <http://www.ed.gov/ocr/transition.html> and the guide electronically at <http://www.ed.gov/ocr/transitionguide.html>. You may obtain additional copies of the pamphlet by writing to ED Pubs, Education Publications Center, P.O. Box 1398, Jessup, MD 20794-1398; by faxing to 301-470-1244; by e-mailing to edpubs@inet.ed.gov; by calling 1-877-433-7827 or 1-800-872-5327; by TDD and TTY at 1-877-576-7734; or by ordering online at www.edpubs.org. Both the pamphlet and the guide are available in alternative formats, such as Braille, large print or computer diskette by calling 202-260-0852 or 202-260-0818. The pamphlet is also available in Spanish. (See <http://www.ed.gov/about/offices/list/ocr/transition-sp.html>).

In addition, I have prepared the enclosed "Dear Parent" letter regarding the subject of transition. Please help us to continue to raise awareness of this important matter by sharing the "Dear Parent" letter with the parents of students with disabilities with whom your institution or organization has contact. I also encourage you to post this letter, the "Dear Parent" letter and links to the pamphlet and guide on your Web site. You may also contact the OCR Enforcement Office for your state for additional information and assistance. Contact information for these offices is at <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm>.

Thank you for helping OCR to reach out to and better inform students with disabilities.

Sincerely yours,

Stephanie Monroe
Assistant Secretary for Civil Rights

Enclosures

Joint "Dear Colleague" Letter to Chief State School Officers

OFFICE OF THE ASSISTANT SECRETARY

April 14, 2005

Dear Chief State School Officer:

Diabetes is one of the most common chronic diseases in school-aged children, affecting about 206,000 young people in 2002. The most common form of diabetes in youths is type 1 diabetes, formerly called juvenile diabetes. About one in every 400 to 500 children and adolescents has type 1 diabetes. Along with the epidemic of overweight and obese children, more and more children and teens are now being diagnosed with type 2 diabetes, formerly called adult onset diabetes—even though the disease is usually diagnosed in adults over age 40.

Diabetes must be managed 24 hours a day, 7 days a week. For most students with diabetes, that means careful monitoring of blood glucose levels throughout the school day and administering multiple doses of insulin therapy or using a continuous insulin pump. Too much insulin can lead to dangerous low-blood-sugar reactions, while chronic increased blood sugar puts youths with diabetes at risk of long-term complications. Since monitoring and therapy occur during the school day, the school health team—including school administrators, school nurses, principals, teachers, office personnel, and other staff members—plays a critical role in helping students manage their diabetes.

The U.S. Department of Health and Human Services' National Diabetes Education Program (NDEP), jointly sponsored by the National Institutes of Health and the Centers for Disease Control and Prevention, has established a Diabetes in Schools Initiative. The purpose of the initiative is to educate school personnel about the benefits of optimal diabetes management and to help ensure a supportive environment and equal access to educational opportunities for students with diabetes. Working with experts in diabetes, pediatric medicine, school nursing, and education, the NDEP has produced **Helping the Student with Diabetes Succeed: A Guide for School Personnel** to address the needs of all students with diabetes. The U.S. Department of Education participated in this effort by developing parts of the guide and providing an overview of the federal civil rights and privacy laws that address schools' responsibilities in educating students with disabilities.

With this new guide, school administrators and health services personnel now have a comprehensive resource that:

- Lays out a team approach to diabetes management in the school setting;
- Provides a basic primer and glossary about diabetes;
- Reviews components for planning and implementing effective diabetes management;
- Contains sample action plans that alert school personnel to common signs and symptoms of high and low blood glucose levels and how to handle emergencies; and
- Reviews the federal laws pertaining to schools' responsibilities to educate students with disabilities.

The guide may be reproduced and distributed without copyright restrictions. Additional copies may be downloaded from the NDEP Web site at <http://www.ndep.nih.gov/resources/school.htm> or they may be ordered by calling 1-800-438-5383. Feel free to promote the availability of this important resource to your colleagues and staff and to create a link to the school guide on your Web site. Please put this guide to work in schools throughout your state so we all can help every student with diabetes succeed.

Sincerely,

James F. Manning
Delegated the Authority of
Assistant Secretary for Civil Rights
U.S. Department of Education

Judith E. Fradkin, M.D.
Director, Division of Diabetes,
Endocrinology, and Metabolic
Diseases
National Institute of Diabetes and
Digestive and Kidney Diseases
National Institutes of Health

James R. Gavin III, M.D., Ph.D.
Chair, HHS National Diabetes
Education

Dear Colleague Letter: Including Students with Disabilities in all Educational Reform Activities

United States Department Of Education
Washington, D.C. 20202

September 29, 1997

Dear Colleague:

We are writing to you today to highlight the importance of including students with disabilities in all educational reform activities and, in particular, in statewide assessment systems. As you know, President Clinton has announced a bold, national education initiative which includes the goal of learning to challenging and clear standards of achievement for all students, including students with disabilities. In his 1997 State of the Union address, the President announced a ten-point call to action including rigorous, voluntary national tests in reading and math embodying national standards, teaching every student to read independently by the end of the third grade, and increased accountability in public education.

Assessment is an integral aspect of accountability. Assessment systems have varied purposes. Whatever the focus of the particular assessment system -program evaluation, school and staff accountability or measuring student progress -assessments provide valuable information which benefits individual students, either directly, such as in the measurement of individual progress against standards, or indirectly, such as in evaluating programs. Given the emphasis on assessment in recent educational reform efforts, including State and Federal legislation linking assessment and school accountability, it is of utmost importance that students with disabilities be included in the development and implementation of assessment activities. Too often, in the past, students with disabilities have not fully participated in State and district assessments only to be short-changed by the low expectations and less challenging curriculum that may result from exclusion.

Given the benefits that accrue as a result of assessment, exclusion from assessments based on disability generally would not only undermine the value of the assessment but also violate Section 504 of the Rehabilitation Act of 1973 (Section 504), which prohibits exclusion from participation of, denial of benefits to, or discrimination against, individuals with disabilities on the basis of their disability in Federally-assisted programs or activities. 29 U.S.C. 794. Similarly Title II of the Americans with Disabilities Act (ADA) of 1990 provides that no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by such entity. 42 U.S.C. 12132.

The newly enacted Individuals with Disabilities Education Act Amendments of 1997 (IDEA) emphasizes improving results for children with disabilities. Consistent with an emphasis on results, IDEA contains requirements related to assessments. As a condition of eligibility, Part B of IDEA requires States to have policies and procedures to ensure that children with disabilities are included in general State and district-wide assessment programs, with appropriate accommodations, where necessary. Sec. 612(a)(17); III Stat. 67. Effective July 1, 1998, IDEA requires that individualized education programs (IEPs) include a statement of any individual modifications in the administration of State or district-wide assessments of student achievement that are needed in order for the child to participate in such assessments; and if the IEP team determines that the child will not participate in a particular state or district-wide assessment of student achievement (or part of such assessment), the IEP must include a statement of why that assessment is not appropriate for the child; and how the child will be assessed. Section 614(d)(1)(A) (v); III Stat. 84.

In addition to inclusion in assessments, Section 504, Title II of the ADA, and IDEA require that students with disabilities must be provided with appropriate test accommodations, where necessary. Many students with disabilities who have, until now, been excluded can participate appropriately in assessments without any test adaptations or accommodations. However, for those students who need accommodations to participate in the assessment, appropriate accommodations must be provided. Among the possible accommodations in test presentation, response mode and setting are the following: oral administration, large print, Braille version, individual or separate room administration, extended time and multiple test sessions. The individualized determinations of whether a student will participate in a particular assessment, and what accommodations, if any, are appropriate should be addressed through the individualized education program process or other evaluation and placement process and included in either the student's IEP or Section 504 plan.

For the small number of students whose IEPs specify that they should be excluded from regular assessments, including some students with significant cognitive impairments, participation in regular assessments is not appropriate. For these students, Part B of IDEA requires that the State ensure that, as appropriate, the State or local agency (i) develops guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in State and district-wide assessment programs; and (ii) develops and, beginning not later than July 1, 2000, conducts those alternate assessments. Section 612(a)(17)(A); III Stat.67. Some States are already implementing assessment models that include all students and use test adaptations, accommodations and alternate assessments, as appropriate.

Part B of IDEA also contains reporting requirements related to assessment. It requires that States have policies and procedures to ensure that the State educational agency makes available to the public (i) the number of children with disabilities participating in regular assessments; (ii) the number of those children participating in alternate assessments; and (iii) beginning not later than July 1, 1998, the performance of children with disabilities on regular assessments and not later than July 1, 2000, the performance of children with disabilities on alternate assessments, if it can be reported in a statistically sound manner and would not result in disclosure of performance results identifiable to individual children. The reports must be provided with the same frequency and in the same level of detail as the State's reports on the assessment of nondisabled children. For assessments conducted after July 1, 1998, data relating to the performance of children with disabilities in regular assessments is required to be disaggregated. For those assessments conducted prior to July 1, 1998, the data for children with disabilities participating in regular assessments, is only required by IDEA to be disaggregated if the State requires disaggregation. Section 612(a)(17)(B); III Stat. 67-68.

The Office of Special Education Programs within OSERS has a cooperative agreement with the National Center on Educational Outcomes (NCEO) at the University of Minnesota to study and provide information on including students with disabilities in statewide and other assessments. We have enclosed a brochure on the NCEO, which may be contacted for more information.

As we work together to reform our educational system, we must ensure that all children, including students with disabilities, are part of that reform. Including students with disabilities in the development and implementation of assessments is a vital step towards providing access to the general curriculum and learning to challenging standards.

Sincerely,
Judith E. Heumann
Assistant Secretary for
Special Education and
Rehabilitative Services

Norma V. Cantu
Assistant Secretary for
Civil Rights

Transition of Students With Disabilities to Postsecondary Education: A Guide for High School Educators

March 2007

Introduction

Do you know what is in store for students with disabilities who graduate from your school and head off to postsecondary education? Do you have the information you need to advise them on what to expect in postsecondary education?

For students with disabilities, a big factor in their successful transition from high school to postsecondary education is accurate knowledge about their civil rights. The purpose of this guide is to provide high school educators with answers to questions students with disabilities may have as they get ready to move to the postsecondary education environment.

This guide was developed by the U.S. Department of Education's Office for Civil Rights (OCR). OCR has enforcement responsibilities under Section 504 of the *Rehabilitation Act of 1973* (Section 504), as amended, and Title II of the *Americans with Disabilities Act of 1990* (Title II), which prohibit discrimination on the basis of disability. Every school district and nearly every college and university in the United States is subject to one or both of these laws, which have similar requirements. Private postsecondary institutions that do not receive federal financial assistance are not subject to Section 504 or Title II. They are, however, subject to Title III of the *Americans with Disabilities Act*, which is enforced by the U.S. Department of Justice and which prohibits discrimination on the basis of disability by private entities that are not private clubs or religious entities.

This guide also makes reference to Part B of the *Individuals with Disabilities Education Act (IDEA)*, which provides funds to states to assist in making a free appropriate public education (FAPE) available to eligible children with disabilities. *IDEA* requirements apply to state education agencies, school districts and other public agencies that serve *IDEA*-eligible children. Institutions of postsecondary education have no legal obligations under the *IDEA*.¹

Similarly, this guide references the state Vocational Rehabilitation (VR) Services Program, authorized by the *Rehabilitation Act*, which provides funds to state VR agencies to assist eligible individuals with disabilities in obtaining employment. State VR agencies provide a wide range of employment-related services, including services designed to facilitate the transition of eligible students with disabilities from school to post-school activities.²

In preparing this guide, we have highlighted the significant differences between the rights and responsibilities of students with disabilities in the high school setting and the rights and responsibilities these students will have once they are in the postsecondary education setting. Following a set of frequently asked questions, we have provided some practical suggestions that high school educators can share with students to facilitate their successful transition to postsecondary education.

Frequently Asked Questions

The Admissions Process

1. Are students with disabilities entitled to changes in standardized testing conditions on entrance exams for institutions of postsecondary education?

It depends. In general, tests may not be selected or administered in a way that tests the disability rather than the achievement or aptitude of the individual.³ In addition, federal law requires changes to the testing conditions that are necessary to allow a student with a disability to participate as long as the changes do not fundamentally alter the examination or create undue financial or administrative burdens.⁴ Although some institutions of postsecondary education may have their own entrance exams, many use a student's score on commercially available tests. In general, in order to request one or more changes in standardized testing conditions, which test administrators may also refer to as "testing accommodations"³, the student will need to contact the institution of postsecondary education or the entity that administers the exam and provide documentation of a disability and the need for a change in testing conditions. The issue of documentation is discussed below. Examples of changes in testing conditions that may be available include, but are not limited to:

- Braille;
- Large print;
- Fewer items on each page;
- Tape recorded responses;
- Responses on the test booklet;
- Frequent breaks;
- Extended testing time;
- Testing over several sessions;
- Small group setting;
- Private room;
- Preferential seating; and
- The use of a sign language interpreter for spoken directions.

2. Are institutions of postsecondary education permitted to ask an applicant if he or she has a disability before an admission decision is made?

Generally, institutions of postsecondary education are not permitted to make what is known as a “preadmission inquiry” about an applicant’s disability status. Preadmission inquiries are permitted only if the institution of postsecondary education is taking remedial action to correct the effects of past discrimination or taking voluntary action to overcome the effects of conditions that limited the participation of individuals with disabilities.⁶ Examples of impermissible preadmission inquiries include: *Are you in good health? Have you been hospitalized for a medical condition in the past five years?* Institutions of postsecondary education may inquire about an applicant’s ability to meet essential program requirements provided that such inquiries are not designed to reveal disability status. For example, if physical lifting is an essential requirement for a degree program in physical therapy, an acceptable question that could be asked is, *With or without reasonable accommodation, can you lift 25 pounds?* After admission, in response to a student’s request for academic adjustments,⁷ reasonable modifications or auxiliary aids and services, institutions of postsecondary education may ask for documentation regarding disability status.

3. May institutions of postsecondary education deny an applicant admission because he or she has a disability?

No. If an applicant meets the essential requirements for admission, an institution may not deny that applicant admission simply because he or she has a disability, nor may an institution categorically exclude an applicant with a particular disability as not being qualified for its program.⁸ For instance, an institution may not automatically assume that all applicants with hearing or visual impairments would be unable to meet the essential eligibility requirements of its music program. An institution may, however, require an applicant to meet any essential technical or academic standards for admission to, or participation in, the institution and its program.⁹ An institution may deny admission to any student, disabled or not, who does not meet essential requirements for admission or participation.

4. Are institutions obligated to identify students with disabilities?

No. Institutions do not have a duty to identify students with disabilities. Students in institutions of postsecondary education are responsible for notifying institution staff of their disability should they need academic adjustments. High schools, in contrast, have an obligation to identify students within their jurisdiction who have a disability and who may be entitled to services.

5. Are students obligated to inform institutions that they have a disability?

No. A student has no obligation to inform an institution of postsecondary education that he or she has a disability; however, if the student wants an institution to provide an academic adjustment or assign the student to accessible housing or other facilities, or if a student wants other disability-related services, the student must identify himself or herself as having a disability. The disclosure of a disability is always voluntary. For example, a student who has a disability that does not require services may choose not to disclose his or her disability.

Post-Admission: Documentation of a Disability

6. What are academic adjustments and auxiliary aids and services?

Academic adjustments are defined in the Section 504 regulations at 34 C.F.R. § 104.44(a) (2006) as:

[S]uch modifications to the academic requirements as are necessary to ensure that such requirements do not discriminate or have the effect of discriminating, on the basis of [disability] against a qualified ... applicant or student [with a disability]. Academic requirements that the recipient can demonstrate are essential to the instruction being pursued by such student or to any directly related licensing requirement will not be regarded as discriminatory within the meaning of this section. Modifications may include changes in the length of time permitted for the completion of degree requirements, substitution of specific courses required for the completion of degree requirements, and adaptation of the manner in which specific courses are conducted.

Academic adjustments also may include a reduced course load, extended time on tests and the provision of auxiliary aids and services. Auxiliary aids and services are defined in the Section 504 regulations at 34 C.F.R. § 104.44(d), and in the Title II regulations at 28 C.F.R. § 35.104. They include note-takers, readers, recording devices, sign language interpreters, screen-readers, voice recognition and other adaptive software or hardware for computers, and other devices designed to ensure the participation of students with impaired sensory, manual or speaking skills in an institution's programs and activities. Institutions are not required to provide personal devices and services such as attendants, individually prescribed devices, such as eyeglasses, readers for personal use or study, or other services of a personal nature, such as tutoring. If institutions offer tutoring to the general student population, however, they must ensure that tutoring services also are available to students with disabilities. In some instances, a state VR agency may provide auxiliary aids and services to support an individual's postsecondary education and training once that individual has been determined eligible to receive services under the VR program.

7. In general, what kind of documentation is necessary for students with disabilities to receive academic adjustments from institutions of postsecondary education?

Institutions may set their own requirements for documentation so long as they are reasonable and comply with Section 504 and Title II. It is not uncommon for documentation standards to vary from institution to institution; thus, students with disabilities should research documentation standards at those institutions that interest them. A student must provide documentation, upon request, that he or she has a disability, that is, an impairment that substantially limits a major life activity and that supports the need for an academic adjustment. The documentation should identify how a student's ability to function is limited as a result of her or his disability. The primary purpose of the documentation is to establish a disability in order to help the institution work interactively with the student to identify appropriate services. The focus should be on whether the information adequately documents the existence of a current disability and need for an academic adjustment. A postsecondary institution may also request documentation to determine if a device or practice used by the student reduces or eliminates the effects of the student's impairment.

8. Who is responsible for obtaining necessary testing to document the existence of a disability?

The student. Institutions of postsecondary education are not required to conduct or pay for an evaluation to document a student's disability and need for an academic adjustment, although some institutions do so. If a student with a disability is eligible for services through the state VR Services program, he or she may qualify for an evaluation at no cost. High school educators can assist students with disabilities in locating their state VR agency at: <http://www.jan.wvu.edu/SBSES/VOCREHAB.HTM>. If students with disabilities are unable to find other funding sources to pay for necessary evaluation or testing for postsecondary education, they are responsible for paying for it themselves.

At the elementary and secondary school levels, a school district's duty to provide a free appropriate public education (FAPE) encompasses the responsibility to provide, at no cost to the parents, an evaluation of suspected areas of disability for any of the district's students who is believed to be in need of special education or related aids and services. School districts are not required under Section 504 or Title II to conduct evaluations that are for the purpose of obtaining academic adjustments once a student graduates and goes on to postsecondary education.

9. Is a student's most recent individualized education program (IEP) or Section 504 plan sufficient documentation to support the existence of a disability and the need for an academic adjustment in a postsecondary setting?

Generally, no. Although an IEP or Section 504 plan may help identify services that have been used by the student in the past, they generally are not sufficient documentation to support the existence of a current disability and need for an academic adjustment from an institution of postsecondary education. Assessment information and other material used to develop an IEP or Section 504 plan may be helpful to document a current disability or the need for an academic adjustment or auxiliary aids and services. In addition, a student receiving services under Part B of the *IDEA* must be provided with a summary of his or her academic achievements and functional performance that includes recommendations on how to assist in meeting the student's postsecondary goals.¹⁰ This information may provide helpful information about disability and the need for an academic adjustment.

10. What can high school personnel, such as school psychologists and counselors, transition specialists, special education staff and others, do to assist students with disabilities with documentation requirements?

By the time most students with disabilities are accepted into a postsecondary institution, they are likely to have a transition plan and/or to be receiving transition services, which may include evaluations and services provided by the state VR agency. High school personnel can help a student with disabilities to identify and address the specific documentation requirements of the postsecondary institution that the student will be attending. This may include assisting the student to identify existing documentation in her or his education records that would satisfy the institution's criteria, such as evaluation reports and the summary of the student's academic achievement and functional performance. School personnel should be aware that institutions of postsecondary education typically do not accept brief conclusory statements for which no supporting evidence is offered as sufficient documentation of a disability and the need for an academic adjustment. School personnel should also be aware that some colleges may delay or deny services if the diagnosis or the documentation is unclear.

11. Will a medical diagnosis from a treating physician help to document disability?

A diagnosis of impairment alone does not establish that an individual has a disability within the meaning of Section 504 or Title II. Rather, the impairment must substantially limit a major life activity, or the individual must have a record of such an impairment or be regarded as having such an impairment.¹¹ A diagnosis from a treating physician, along with information about how the disability affects the student, may suffice. As noted above, institutions of postsecondary education may set their own requirements for documentation so long as they are reasonable and comply with Section 504 and Title II.

12. If it is clear that a student has a disability, why does an institution need documentation?

Students who have the same disability may not necessarily require the same academic adjustment. Section 504 and Title II require that institutions of postsecondary education make individualized determinations regarding appropriate academic adjustments for each individual student. If the student's disability and need for an academic adjustment are obvious, less documentation may be necessary.

13. If an institution thinks that the documentation is insufficient, how will the student know?

If the documentation a student submitted for the institution's consideration does not meet the institution's requirements, an official should notify the student in a timely manner of what additional documentation the student needs to provide. As noted above, a student may need a new evaluation in order to provide documentation of a current disability.

Post-Admission: Obtaining Services

14. Must institutions provide every academic adjustment a student with a disability wants?

It depends. Institutions are not required to provide an academic adjustment that would alter or waive essential academic requirements.¹² They also do not have to provide an academic adjustment that would fundamentally alter the nature of a service, program or activity or result in undue financial or administrative burdens considering the institution's resources as a whole.¹³ For example, an appropriate academic adjustment may be to extend the time a

student with a disability is allotted to take tests, but an institution is not required to change the substantive content of the tests. In addition, an institution is not required to make modifications that would result in undue financial or administrative burdens. Public institutions are required to give primary consideration to the auxiliary aid or service that the student requests, but can opt to provide alternative aids or services if they are effective. They can also opt to provide an effective alternative if the requested auxiliary aid or service would fundamentally alter the nature of a service, program or activity or result in undue financial or administrative burdens. For example, if it would be a fundamental alteration or undue burden to provide a student with a disability with a note-taker for oral classroom presentations and discussions and a tape recorder would be an effective alternative, a postsecondary institution may provide the student with a tape recorder instead of a note-taker.

15. If students want to request academic adjustments, what must they do?

Institutions may establish reasonable procedures for requesting academic adjustments; students are responsible for knowing these procedures and following them. Institutions usually include information on the procedures and contacts for requesting an academic adjustment in their general information publications and Web sites. If students are unable to locate the procedures, they should contact an institution official, such as an admissions officer or counselor.

16. What should students expect in working with a disability coordinator at an institution of postsecondary education?

A high school counselor, a special education teacher or a VR counselor may meet with high school students with disabilities to provide services or monitor their progress under their education plans on a periodic basis. The role of the disability coordinator at an institution of postsecondary education is very different. At many institutions, there may be only one or two staff members to address the needs of all students with disabilities attending the institution. The disability coordinator evaluates documentation, works with students to determine appropriate services, assists students in arranging services or testing modifications, and deals with problems as they arise. A disability coordinator may have contact with a student with a disability only two or three times a semester. Disability coordinators usually will not directly provide educational services, tutoring or counseling, or help students plan or manage their time or schedules. Students with disabilities are, in general, expected to be responsible for their own academic programs and progress in the same ways that nondisabled students are responsible for them.

17. When should students notify the institution of their intention to request an academic adjustment?

As soon as possible. Although students may request academic adjustments at any time, students needing services should be advised to notify the institution as early as possible to ensure that the institution has enough time to review their request and provide an appropriate academic adjustment. Some academic adjustments, such as interpreters, may take time to arrange. In addition, students should not wait until after completing a course or activity or receiving a poor grade to request services and then expect the grade to be changed or to be able to retake the course.

18. How do institutions determine what academic adjustments are appropriate?

Once a student has identified him- or herself as an individual with a disability, requested an academic adjustment and provided appropriate documentation upon request, institution staff should discuss with the student what academic adjustments are appropriate in light of the student's individual needs and the nature of the institution's program. Students with disabilities possess unique knowledge of their individual disabilities and should be prepared to discuss the functional challenges they face and, if applicable, what has or has not worked for them in the past. Institution staff should be prepared to describe the barriers students may face in individual classes that may affect their full participation, as well as to discuss academic adjustments that might enable students to overcome those barriers.

19. Who pays for auxiliary aids and services?

Once the needed auxiliary aids and services have been identified, institutions may not require students with disabilities to pay part or all of the costs of such aids and services, nor may institutions charge students with disabilities more for participating in programs or activities than they charge students who do not have disabilities.

Institutions generally may not condition their provision of academic adjustments on the availability of funds, refuse to spend more than a certain amount to provide academic adjustments, or refuse to provide academic adjustments because they believe other providers of such services exist.¹⁴ In many cases, institutions may meet their obligation to provide auxiliary aids and services by assisting students in either obtaining them or obtaining reimbursement for their cost from an outside agency or organization, such as a state VR agency. Such assistance notwithstanding, institutions retain ultimate responsibility for providing necessary auxiliary aids and services and for any costs associated with providing such aids and services or utilizing outside sources. However, as noted above, if the institution can demonstrate that providing a specific auxiliary aid or service would result in undue financial or administrative burdens, considering the institution's resources as a whole, it can opt to provide another effective one.

20. What if the academic adjustments the institution provides are not working?

If the academic adjustments provided are not meeting the student's needs, it is the student's responsibility to notify the institution as soon as possible. It may be too late to correct the problem if the student waits until the course or activity is completed. The student and the institution should work together to resolve the problem.

Keys to Success: Attitude, Self-Advocacy and Preparation

The attitude and self-advocacy skills of students with disabilities may be two of the most important factors in determining their success or failure in postsecondary education. Students with disabilities need to be prepared to work collaboratively with the institution's disability coordinator to enable them to have an equal opportunity to participate in an institution's programs and activities. To ensure that students with disabilities possess the desired levels of self-advocacy to succeed in postsecondary education, high school educators may want to encourage the students to:

Understand their disabilities. Students with disabilities need to know the functional limitations that result from their disabilities and understand their strengths and weaknesses. They should be able to explain their disabilities to an institution's disability coordinators or other appropriate staff. As part of this process, students should be able to explain where they have had difficulty in the past, as well as what has helped them overcome such problems and what specific adjustments might work in specific situations. To assist students in this area, high school educators can encourage high school students to be active participants in their IEP or Section 504 meetings. High school personnel also can suggest that students practice explaining their disabilities, as well as why they need certain services, to appropriate secondary staff or through role-playing exercises to prepare them to engage in such conversations with confidence in a postsecondary setting.

Accept responsibility for their own success. All students, including those with disabilities, must take primary responsibility for their success or failure in postsecondary education. Students with disabilities, in particular, are moving from a system where parents and school staff usually advocated on their behalf to a system where they will be expected to advocate for themselves. An institution's staff will likely communicate directly with students when issues arise and are generally not required to interact with students' parents. In general, students with disabilities should expect to complete all course requirements, such as assignments and examinations. Students with disabilities need to identify the essential academic and technical standards that they will be required to meet for admission and continued participation in an institution's program. Students also need to identify any academic adjustments they may need as a result of their disabilities to meet those standards and how to request those adjustments. Students with disabilities need to understand that, while federal disability laws guarantee them an equal opportunity to participate these laws do not guarantee that students will achieve a particular outcome, for example, good grades.

Take an appropriate preparatory curriculum. Because all students will be expected to meet an institution's essential standards, students with disabilities need to take a high school curriculum that will prepare them to meet those standards. If students with disabilities plan to attend a rigorous postsecondary institution, they, like their peers without disabilities, need to make high school curriculum choices that support that goal. High school guidance counselors and state VR agency counselors, in particular, can play an important role in students' curriculum planning.

For all students, good study skills and the ability to write well are critical factors of success in postsecondary education. High school educators can help students in these areas by offering or identifying opportunities, such as workshops, courses or tutoring programs, that emphasize the importance of reading, writing and good study skills. In addition, staff should encourage students to enroll in classes that will focus on writing and study skills in their freshman year of postsecondary education.

Learn time management skills. Although a primary role of high school educators is to provide monitoring, direction and guidance to students as they approach the end of their high school career, staff also need to prepare students to act independently and to manage their own time with little to no supervision. High school educators can assist students by identifying resources that will help them learn time management and scheduling skills.

Acquire computer skills. Because postsecondary students use computers to complete a multitude of tasks, from registering for classes to accessing course material and obtaining grades, it is essential that students learn to use computers if they are to be prepared for postsecondary education. Ideally, students with disabilities need to start using computers as early as possible in school to increase their familiarity with, and their comfort level in using, computers. Students with visual impairments, hearing impairments, learning disabilities or mobility impairments may have problems with inputting data or reading a computer monitor. Assistive technology can help certain students with disabilities use computers and access information.

Consider supplemental postsecondary education preparatory programs. A variety of institutions of postsecondary education have summer programs in which students can participate while they are still in high school, or after graduation, to ease their transition to postsecondary education. These programs often expose students to experiences that they are likely to encounter in postsecondary education, such as living in dorms, relating to other students and eating in dining halls. The programs may also focus on instruction in certain subject areas, such as math or English, or in certain skills, such as computer, writing or study skills, that can prepare a student to be successful in postsecondary education. High school educators can assist students with disabilities by identifying such program opportunities in their area of residence.

Research postsecondary education programs. Students with disabilities may select any program for which they are qualified but should be advised to review carefully documentation standards and program requirements for their program or institution of interest. For example, students should pay close attention to an institution's program requirements, such as language or math, to avoid making a large financial and time commitment only to realize several years into a program that they cannot, even with academic adjustments, meet an essential requirement for program completion. Campus visits, which include visits to the disability services office, can be helpful in locating an environment that best meets a student's interests and needs. In addition, while all institutions have a legal obligation to provide appropriate services, certain colleges may be able to provide better services than others due to their size or location.

Get involved on campus. To help students avoid the isolation that can occur away from home during the first year of postsecondary education, high school educators should encourage students to live on campus and to become involved in campus activities. Attendance at orientation programs for freshmen is a good first step in discovering ways to get involved in the postsecondary education environment.

If you would like more information about the responsibilities of postsecondary schools to students with disabilities, read the OCR brochures *Auxiliary Aids and Services for Postsecondary Students with Disabilities: Higher Education's Obligations Under Section 504 and Title II of the ADA* and *Students with Disabilities Preparing for Postsecondary Education: Know Your Rights and Responsibilities*. You may obtain copies of these brochures by contacting us at the address and phone numbers below or on the Department's Web site at: <http://www.ed.gov/about/offices/list/ocr/publications.html#Section504>. To receive more information about the civil rights of students with disabilities in education institutions, please contact OCR at:

Customer Service Team
Office for Civil Rights
U.S. Department of Education
Washington, DC 20202-1100

Procedural Requirements

1. The district will provide written assurance of nondiscrimination whenever the school receives federal money [34 CFR§104.5(a)].
2. The district will designate an employee to coordinate compliance with Section 504/ADA [34 CFR§104.7(a)].
3. The district will provide notice of nondiscriminatory practices [34 CFR§104.8].
4. The district will identify and locate qualified children with disabilities.
5. Persons with disabilities and their parents or guardians will be notified of the school's responsibilities under Section 504/ADA annually [34 CFR§104.32].
6. Parents/Guardians will be provided the following procedural safeguards:
 - 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 their student(s) with disabilities [34 CFR§104.36].
 - d. Review procedures. Compliance with the procedural safeguards under special education is one way of meeting these requirements.
7. The district will 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 will be conducted with the assistance of interested persons, including persons with disabilities. A list of persons, areas examined and modifications will be kept as record of these procedures.

Guidelines for USD _____
504 Process for the Determination of Services

- _____ 1. Teacher becomes aware of the student's problem.
- _____ 2. Teacher attempts accommodations/interventions.
- _____ 3. Problem continues.
- _____ 4. Teacher refers to the student to the SIT (Student Improvement Team).
- _____ 5. Team creates a plan for accommodations/interventions.
- _____ 6. Implementation of the SIT plan.
- _____ 7. SIT reviews the plan. (If the plan is working, the process ends here).
- _____ 8. Team troubleshoots or writes a new plan.
- _____ 9. SIT reviews the 2nd plan.
- _____ 10. SIT refers student for evaluation. (Process may begin here if a parent requests an evaluation.)
- _____ 11. Parent notified of proposed evaluation.
- _____ 12. Evaluation meeting scheduled. Parent notified of rights. Copies of documents from parents that provide information to support the student's eligibility requested.
- _____ 13. Student evaluated.
- _____ 14. Qualification determined. (If it is determined that the student does not qualify for a 504 Plan the SIT team continues to work to support the student and the process ends here.)
- _____ 15. Placement determined and parent given notice.
- _____ 16. Implementation of the Student's 504 Plan.

When should staff consider the need for a Section 504 for a student?

(Section 504 ADA Guidelines for Educators. KSDE, 2002)

- 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 benefiting from teacher instruction.
- When a student has a serious illness or injury.
- When a student is referred to the SIT.
- When a student is evaluated and does not qualify for special education services under the IDEA.
- When a student is released from IDEA services.
- 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) and educational performance is affected.
- 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.

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 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
- eating
- sleeping
- standing
- lifting
- bending
- reading
- concentrating
- thinking
- communicating.
- A major life activity also includes the operation of a major bodily function, including but not limited to: functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, or reproductive functions.

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 impairment.

“**Substantially limits**” means the student is unable to perform a major life activity that the average student of approximately the same age can perform, or that the student is significantly restricted as to the condition, manner or duration under which a particular major life activity is performed as compared to the average student of approximately the same age.

Evaluation Procedures

If the school suspects that a student has a disability, then parental notice is given and an individual evaluation is conducted. A parent may request that a student be evaluated also. The following are some considerations for meeting 504 evaluation requirements.

1. The school administrator should make determination of who will conduct the evaluation. 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 may be required.
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 sensor, 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 decision, a school should draw upon information from a variety of sources, including aptitude and achievement tests, interest inventories, teacher recommendation, physical condition, social or cultural background, and adaptive behavior.
8. A reevaluation should be conducted before making a 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.

Unified School District _____
Section 504 Referral

Student: _____ Date: _____
School: _____ Date of Birth: _____
Teacher: _____ Phone: _____
Parents/Guardian: _____
Address: _____
Referred by: _____
Position: _____

1. Reason for referral: _____

2. Accommodations and interventions attempted (SIT plan) _____

3. Has the student ever been referred, evaluated and/or received services from special education?
_____ Yes _____ No

4. Referral action: _____

SIT Member Date

**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)

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 comparable to those provided students without disabilities.
6. Have your child receive accommodations under Section 504 of the Rehabilitation Act of 1973 if he/she qualifies.
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.
12. Receive a response from the school to reasonable requests for explanations and interpretations of your child's records.
13. File a complaint with the Section 504 Compliance Coordinator, [insert name and contact information] under the provisions of U.S.D. No. 441 Board Policy KN.
14. Request mediation to settle disputes arising out of any decision about your child's identification, evaluation, educational program or placement.
15. File a complaint with the Office for Civil Rights of the United States Department of Education . . .
16. Request an impartial due process hearing to settle disputes arising out of any decision about 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.

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

Name: Dr. Brian R. Biermann, Superintendent of Schools

Phone: 913-837-1700

E-mail: biermannb@usd416.org

Address: 29020 Mission Belleview Road, Louisburg, Kansas 66053

Section 504 Due Process Procedures

Parents may request an impartial due process to resolve differences involving the identification, evaluation, educational program or placement of a student with a disability under Section 504. The proceedings will be presided over and decided by an impartial hearing officer, selected by the Board of Education of U.S.D. No. _____.

Requests for a due process hearing must be submitted in writing to the Section 504 Coordinator [insert name and contact information here]. Upon receipt of a request for hearing, the Section 504 Coordinator shall:

- Secure the services of an impartial hearing officer, approved by the board.
- Provide parents with notice of the following at least fifteen (15) days prior to the date set for the hearing:
 - A statement of the time and place where the hearing will be held.
 - A statement that relevant student records are available for examination.
 - A short and plain statement of the matters asserted.
 - A statement of the rights that will be afforded at the hearing including:
 - The right to be represented by counsel;
 - The right of the student and the parents to be present at the hearing;
 - The right to confront and cross-examine witnesses called by the school district at the hearing;
 - The right to present their own witnesses;
 - The right to have an orderly hearing; and
 - The right to a fair and impartial decision based on the evidence presented at the hearing.

The hearing officer will preside over the hearing, swear in witnesses, and determine whether the evidence presented should be admitted. The rules of evidence will not apply to these proceedings, but any evidence offered by either party should be relevant to the issues to be decided. The hearing shall be recorded. The recording of the Section 504 due process hearing shall be on file at the District office and will be available for review upon request to the parents and/or any of the involved parties.

The hearing officer's decision will be reduced to writing and will include the date, the hearing officer's findings of fact and conclusions of law. The decision will be delivered to the Superintendent and to the parent or guardian of the student within ten (10) days following completion of the hearing, which in no event shall be later than forty-five (45) days after receipt of the request for a hearing.

The decision of the hearing officer shall be binding on all parties concerned, subject to appeal to the board of education.

A parent dissatisfied with the result of the due process hearing may appeal the decision to the board of education. Notice of appeal, in writing, must be provided to the clerk of the board within ten (10) days after the date on the hearing officer's decision. Within ten (10) days after receiving the notice, the board will set a time and place for the appeal hearing, which shall be held within 30 days after receipt of the notice of appeal. At the appeal hearing, the parent will be afforded the same rights as at the hearing before the impartial hearing officer. The board shall render a decision in the matter within ten (10) days after the close of the hearing. The decision of the board of education in this matter shall be final.

Section 504 Evaluation Committee Meeting

Student Name _____ **Date of Birth** _____

School _____ **Grade** _____

Parent/Guardian _____ **Phone** _____

Date _____ **Time** _____

Reason for referral: _____

Evaluation data and comments (Complete all that were reviewed.)

Attendance _____

Academic Records _____

Medical Records _____

Behavior _____

Teacher Input _____

Parental Input _____

Eligibility:

It is determined that the student listed above has a disabling condition that exists under 504 of the Rehabilitation Act of 1973 and this condition substantially limits the major activity of learning.

_____ **Yes** _____ **No**

504 Disability _____

The written notice of parental rights was given: _____ **Yes** _____ **No**

Committee Members

Section 504/ADA Student Accommodation Plan

Student: _____ Date: _____
School: _____ Date of Birth: _____
Participants: _____

Part 1: Justification for Services

1. The student has been determined disabled under the Section 504 guidelines?
 Yes
 No

2. Briefly document the basis for determining the disability:

Area of Difficulty _____

Accommodations _____

Area of Difficulty _____

Accommodations _____

Area of Difficulty _____

Accommodations _____

Section 504 Review of Services

Student: _____ Date: _____

Purpose of the 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.

_____	_____
_____	_____
_____	_____
_____	_____