Kansas City, Kansas Public Schools
Section 504 Implementation Guide

GUIDANCE AND PROCEDURES
for Identification, Evaluation and Placement
under Section 504 of the Rehabilitation Act of 1973

August 2013

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Introduction

Section 504 of the Rehabilitation Act of 1973, with its subsequent amendments, is a federal civil rights law that prohibits discrimination against students with disabilities. Section 504 regulations require school districts to provide appropriate education to students with disabilities. This manual provides guidance on the implementation of Section 504 by Kansas City, Kansas Public Schools.

The manual, computer fill-in and handwritten forms, parent guide, and other resources are posted on the Kansas City, Kansas Public Schools website.

Most forms are available in Spanish. Please contact the District Disability Compliance Coordinator if other translations are needed.

The information in this handbook includes the changes resulting from the Americans with Disabilities Act Amendments Act of 2008, and reflects the Kansas City, Kansas Public Schools’ ongoing commitment to educating ALL children in accordance with the Board of Education’s vision and mission.

This handbook was prepared by the Kansas City Kansas Public Schools.

In compliance with federal law, Kansas City, Kansas School District administers all education programs, employment activities and admissions without discrimination against any person on the basis of gender, race, color, religion, national origin, age or disability.
# Contents

District Non Discrimination Notice ........................................................................................................... 4  
District Wide Information and Child Find Activities ...................................................................................... 5  
The Law .......................................................................................................................................................... 6  
Eligibility .......................................................................................................................................................... 8  
Related Services: Occupational Therapy, Physical Therapy, & Audiology .................................................. 10  
Section 504 Process .................................................................................................................................. 11  
Section 504 Process Steps ............................................................................................................................. 13  
Accommodations and Testing ....................................................................................................................... 16  
Discipline and Section 504 Students ............................................................................................................. 19  
Parent - Student Rights ................................................................................................................................. 25  
Section 504 Grievance Procedures ............................................................................................................... 27  
Appendices ..................................................................................................................................................... 31  
   Board of Education Policy .......................................................................................................................... 32  
Section 504 Frequently Asked Parent Questions ................................................................................. Error! Bookmark not defined.  
Section 504 Point so f Interest for Parents, School Administrators and other Education Partners ... Error! Bookmark not defined.  
Terminology .................................................................................................................................................... 44  
Role Responsibilities ...................................................................................................................................... 45  
504 Meeting Checklist ................................................................................................................................. 46
NOTICE OF NON-DISCRIMINATION

Policy Statement: The Kansas City, Kansas School District does not discriminate, and is required by law not to discriminate, on the basis of race, color, religion, sex, national origin, age, handicap, or disability in admission, access to, or treatment of its programs and activities. Pursuant to applicable law, disabled individuals shall have equivalent enjoyment of the programs, services, facilities, privileges, advantages, or accommodation of any facility owned, leased, or operated by the district.

Pursuant to Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, Title VI of Civil Rights Act of 1964(2000), and the Boy Scouts of America Equal Access Act of 2001, the Kansas City, Kansas School District does not discriminate on the basis of sex in any education program or activity, including programs, services, facilities, privileges, advantages or accommodations in facilities.

Programs, Activities and Employment: The Kansas City, Kansas School District does not discriminate on the basis of race, color, religion, sex, national origin, age, handicap, or disability in the administration of any employment initiative, including hiring, firing, termination, disciplinary procedures, or other related programs and activities.

Reporting: Inquiries regarding Title IX (1972), Title VI (1964,2000), Age Discrimination Act (1975), Boy Scouts of America Equal Access Act(2001) or reports of specific complaints, or alleged discrimination should be referred to:

Mr. Edwin K. Hudson
Non-Discrimination Coordinator
2010 N. 59th Street
Kansas City, Kansas 66104
Email: Edwin.Hudson@kckps.org
Telephone number: (913) 551-3200
TTY: 913-627-5667

Office of Civil Rights
U. S. Department of Education
8930 Ward Parkway, Suite 2037
Kansas City, Missouri 64111
Telephone number (816) 268-0550
TTY: 877-521-2172

Disability Related Concerns: Complaints regarding disabilities and issues under Section 504 and/or the Americans with Disabilities Act and those relating to the provisions of special education services, should be referred to:

Ms. Kimberly Shaw
2010 N. 59th Street
Kansas City, Kansas 66104
Email: Kimberly.Shaw@kckps.org
Telephone number (913) 551-3200
TTY: 913-627-5667

No Retaliation: Regardless of the means selected for resolving the complaint, the initiation of a complaint of alleged discrimination or misconduct will not cause any negative reflection on the complainant, nor will it affect his/her access to the programs, activities, services, facilities, privileges, advantages or accommodations in facilities provided by the Kansas City, Kansas School District.

This notice is adopt by the Board in July of each year and attested by President of the Board. See the district website for the signed document.
District-wide Information

Notice of Nondiscrimination
The Kansas City, Kansas Public Schools shall take steps to notify participants, employees, and applicants of district responsibilities under Section 504. The following notice shall appear in student/parent handbooks, teacher’s handbooks, non-certified personnel handbooks and published personnel recruiting materials: “In compliance with Federal Law, Kansas City, Kansas Public Schools administers all education programs, employment activities and admissions without discrimination against any person on the basis of gender, race, color, religion national origin, age or disability.”

Child-Find Activities
The Kansas City, Kansas Public Schools shall endeavor to locate and identify every qualified disabled person within the district who is not receiving a public education. The Section 504 staff will collaborate with the District Disability Compliance Coordinator to engage in child-find activities and communication annually.
The Law
The Law

General Information

Section 504 of the Rehabilitation Act of 1973 with its amendments is a civil rights statute that prohibits discrimination against individuals with disabilities. This law is enforced by the Office for Civil Rights (OCR) and the EEOC (Equal Employment Opportunities Commission). Both agencies enforce Title II of the Americans with Disabilities Act of 1990 (ADA) reauthorized as the Americans with Disabilities Act Amendments Act (ADAAA) of 2008. The reauthorization extends the prohibition against discrimination to the full range of state or local government services (including public schools), programs, or activities regardless of whether they receive federal funding or not. Under Section 504, denying a disabled student a Free Appropriate Public Education (FAPE) constitutes disability discrimination.

Section 504 covers students with diagnosed, certified, or classified disabilities who attend public and some private schools. A student is “disabled” under the Section 504 regulations if the student meets any one of the three prongs of eligibility listed in 34 CFR 104.3(j)(1). To be protected under Section 504, a student must be determined to:

1) Have a physical or mental impairment that substantially limits a major life activity or
2) Have a record of such impairment, or
3) Be regarded as having such impairment

The ADAAA did not change the actual language of the three prongs, but it did change how the various phrases used in the three prongs are understood. Congress provided, as part of its rules of construction in the ADAAA, that “The definition of disability in this Act shall be construed in favor of broad coverage of individuals under this Act, to the maximum extent permitted by the terms of this Act.” This statement should guide the school’s Section 504 team’s evaluation of the potentially eligible student. The school’s Section 504 team is defined as a group of persons knowledgeable about the student, the meaning of the evaluation data, and the placement options (34 CFR §104.35(c)).

Section 504 requires that school districts provide a free and appropriate public education (FAPE) to students in their jurisdiction who have a physical or mental impairment that substantially limits at least one major life activity or major bodily function. All students are entitled to FAPE in Kansas.

Relationship between Section 504 and the ADAAA

The Americans with Disabilities Act (ADA), enacted in 1990 and amended in 2008 as the ADAAA and the Rehabilitation Act of 1973 (Section 504) are civil rights laws that protect individuals with disabilities from discrimination. The primary difference is that while Section 504 applies only to organizations that receive federal funding, the ADAAA applies to a much broader population. As of January 1, 2009, however, whatever applies to the ADAAA applies to Section 504 as well.

Virtually every violation of Section 504 is also a violation of the ADAAA in the educational arena. In the event that a complainant alleges that the District has violated one statute, OCR and the EEOC will likely investigate for violations of the other statute.

Section 504/ADAAA compared to the Individual with Disabilities Education Act (IDEA)

Eligibility for protections and services under Section 504 is not the same as eligibility for IDEA. Section 504 has a much broader definition of disability than IDEA. Special education is the provision of IDEA while Section 504 is the provision that protects the civil rights and “levels the playing field” for students with mild to moderate disabilities in a general education setting who do not need special education. Students covered under IDEA with an Individualized Education Plan (IEP) do not need a separate Section 504 plan as provisions covered under Section 504 would be contained under IDEA.
Eligibility

The critical, overarching question to consider for eligibility under Section 504:

“Does a student have a physical or mental impairment that substantially limits a major life activity or major bodily function?”

Physical or Mental Impairments

Section 504 defines physical or mental impairment as:

(A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine;

or

(B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities

The regulation does not set forth an exhaustive list of specific diseases or categories that may constitute physical or mental impairments. The definition of physical or mental impairment under Section 504 is broad, including students with life-threatening health conditions that will put a student in danger of death during the school day, if medication or treatments are not in place.

Substantial Limitation

A physical or mental impairment substantially limits a major life activity if the student’s ability to perform a major life activity or major body function is decreased as compared to the student’s non-disabled age/grade peers. There is no single formula or scale that measures substantial limitation. Impairment need not prevent, or significantly or severely restrict a student in performing a major life activity to be considered substantially limiting. Title II provides three (3) factors to consider when determining whether or not the disability substantially limits a major life activity or major bodily function:

1. Nature and severity of the impairment;
2. Duration or expected duration of the impairment; AND
3. Permanent, long-term impact or expected impact of the impairment.

The determination of whether a student has a physical or mental impairment that substantially limits a major life activity or major body function must be made by the Section 504 team. The ADAAA (2008) expanded the definition of substantial limitation to ensure it reaches a broad spectrum of individuals without the consideration of mitigating measures such as medications and surgical interventions. Eyeglasses and corrective lenses are an exception to this rule (i.e. 504 teams may take into account a student’s eyeglasses when making eligibility determination).

Mitigating Measures

As mentioned above, mitigating measures may be used by a disabled student to manage his or her impairment or lessen the impact of his or her impairment. Mitigating measures include medication, medical devices, related aids and/or services. These mitigating measures must be disregarded when determining whether a student’s impairment constitutes a disability under Section 504. However, the mitigating measures/supports may be considered when writing a student’s accommodation/support plan.

Otherwise Qualified

If a person with a disability wants to participate in an activity in which the individual is not otherwise qualified to participate, disallowing participation does not constitute discrimination.
For example, a 16-year-old boy with attention deficit hyperactivity disorder (ADHD) tries out for the basketball team but cannot dribble, shoot, or pass. As a result, the coach does not allow the boy to play on the team. This is not discrimination under Section 504 because the boy is not otherwise qualified to be on the team.

Transitory Impairments
A transitory 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 (usually 6 months or less). The issue of whether a transitory impairment is substantial enough to be a disability must be resolved on a case-by-case basis, taking into consideration both the expected duration of the impairment and the extent to which it actually limits a major life activity. A broken arm is one of the most common examples of a transitory impairment.

Approved accommodations for students identified with transitory impairments include those accommodations that are approved for use by Section 504-eligible students. Students who are identified with a transitory impairment may receive testing accommodations. Accommodations that are being considered for use during testing must be used routinely during instruction and similar classroom assessments. The need for accommodations must be documented prior to testing. Copies of this documentation must be kept at the school and made available to test coordinators. Those administering tests with accommodations must be trained prior to the administration by the school system's test coordinator or designee in the use of the specified accommodations.

Transfer Students
A student with an active Section 504 plan who enrolls in Kansas City Kansas Public Schools from outside the district must be reevaluated within a reasonable time upon entry (recommended time frame is within 60 school days). A Section 504 team may accept the student's current plan on a temporary basis while waiting to reevaluate the student. Upon evaluation, if the Section 504 team determines that the student's mental or physical impairment no longer substantially limits his/her ability to learn or perform any other major life activity, the student is no longer eligible for services under Section 504.

A student who reenrolls in Kansas City Kansas Public Schools must also be reevaluated to determine if the student continues to meet eligibility requirements. Once again, the Section 504 team may accept the student's former plan on a temporary basis while waiting to reevaluate the student. The only exception would be if the student was exited from a Section 504 plan prior to withdrawal from Kansas City Kansas Public Schools. In this case, the Section 504 team would begin the process for referring a student for eligibility determination.

Impairments that are Episodic or in Remission
The ADAAA declares that “An impairment that is episodic or in remission is a disability only if it would substantially limit a major life activity when active.” Although the language covers two different types of impairments with similar treatment, these impairments are better analyzed separately as there are significant differences between the two.

Episodic Impairments
Some students have physical or mental impairments that vary in severity. Conditions such as seasonal allergies or asthma, migraines, rheumatoid arthritis, and cystic fibrosis are good examples of impairments that may be substantially limiting at times (in hot weather, when the student is stressed, when irritants or trigger factors are present) and have little impact at other times. Schools commonly qualify students under Section 504 if their condition, though not constant, episodically rises to the level of substantial limitation of a major life activity. Students should not be denied eligibility simply because the disability, at the moment of evaluation, is not substantially limiting, especially when the school knows from past experience that substantial limitation will likely occur. School Section 504 teams should look carefully at the range of data over a period of time and not just the student's current level of performance. The timing of the evaluation should not function to preclude eligibility for students whose impairments are episodic and who are not substantially limited at the time of evaluation.
Impairments in Remission

The ADAAA language on impairments in remission is the same as episodic impairments: “An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.” An example is a student who had cancer that is now in remission. The student would be eligible if the cancer substantially limited when it was active in the past.

Nonacademic Services

Qualified disabled students shall be provided an equal opportunity to engage in counseling services, physical recreation, athletics, transportation, special interest clubs, etc.

For example, qualified disabled students shall:

- not automatically be counseled towards certain career objectives more than non-disabled students with similar abilities.
- have an equal opportunity to participate in physical education courses and athletics. Although qualified disabled students may participate in separate activities for the disabled, no qualified disabled student shall be denied the opportunity to compete (i.e. tryout) for membership on a team or to participate in courses that are not separate or different.

Related Services: Occupational Therapy, Physical Therapy, & Audiology

Section 504 requires that related services be provided for students with disabilities if these services are essential to meet the student's educational needs. A related service can be provided under Section 504 to children who do not receive any other special education services or interventions.

The Kansas City Kansas Public Schools related services consist of physical therapy, occupational therapy, assistive technology and audiology services. Related services staff must be contacted to assist in evaluating a student before services are provided. To request an evaluation, the Section 504 Team must email a completed Related Services Evaluation Referral form to the District Disability Compliance Coordinator. The school-level Section 504 coordinator will be contacted by the related services staff to schedule the evaluation.

Students who receive a related service must receive progress monitoring to determine the effectiveness of the accommodations provided. Monitoring must be completed each quarter and reported to the student’s parent or guardian. The Progress Monitoring and Review Worksheet must be used to document the student’s progress. If a student refuses to use an accommodation or assigned equipment as stipulated in the student’s Section 504 Plan, the Notification of Refusal to Use Section 504 Accommodations form must be completed by following all procedures as outlined on the document.

Equipment assigned to a student must be maintained and kept in working order. Equipment that is not in working order may compromise the implementation of a student’s Section 504 Plan. When a problem is noted with any equipment, notify the District Disability Compliance Coordinator or the related service provider immediately.
Process Steps

Implementation, Procedures, Referral, Evaluation, & Placement
Section 504 Process Steps

Step 1
Referral of Concern

- Section 504 Referral
- Notice of Section 504 Meeting
- Section 504 Parent Input
- Section 504 Consent to Evaluate
- Parent-Student Rights and Procedural Safeguards
- Meeting Notes
- Medical Release (Optional)
- Related Service Referral Form

Step 2
Referral for Evaluation

- Parent Input Form
- Medical Release (optional)

Step 3
Section 504 Evaluation

- Section 504 Identification Form
- Notice of Section 504 Meeting
- Meeting Notes

Step 4
Section 504 Eligibility Determination

- Section 504 Accommodation Plan
- Notice of a Section 504 Meeting
- Meeting Notes
- If 504 BIP, complete FBA/BIP

Step 5
Section 504 Accommodation Plan Development

- Section 504 Accommodation Plan
- Notification of Refusal to Use 504 Accommodations
- Documentation of staff trainings and notifications of a student’s plan

Step 6
Implementation of the Section 504 Plan

- Section 504 Accommodation Plan
- Notice of a Section 504 Meeting
- Section 504 Review
- Meeting Notes

Step 7
Review

A concern about a child that may be Section 504 eligible is presented by a parent or teacher. The Section 504 Referral is given to the school 504 coordinator for referral to school team. The concern may address behavioral, medical, physical, or emotional well-being that is limiting the child’s ability to function at school.

504 school team receives the referral and makes a decision if the referral will go directly to 504 team or to the Student Intervention Team (SIT). If referred to 504, parents must sign Consent for Evaluation and are given a copy of the Procedural Safeguards before any evaluation may be initiated.

Parent requested referrals go directly to 504 team.

Areas of concern are evaluated by using a variety of documented sources. This evaluation is the basis on which the student's eligibility is determined. An actual meeting may not occur as this is the step where information is being collected in order to discuss in Step 4.

The 504 team determines if the student meets eligibility: has a mental/physical impairment that substantially impairs a major life activity or major bodily function.

Once a student is identified as being eligible under 504, a decision is made regarding the type and the extent of services the student needs. The plan is written to address the areas where the student has a substantial limitation.

School staff are notified of a student’s accommodations under 504. A case manager is assigned. All necessary trainings are held and accommodations are implemented with the required progress monitoring.

Progress monitoring, annual reviews and 3-year re-evaluations are conducted to determine if the plan is working and if adjustments are needed for the student.
Process Steps

Step 1 — Concern
1. By completing the Section 504 Referral form, a parent or school personnel initiates a process to determine if a student has a disabling condition that may be defined under Section 504.
2. Forward completed form to the Section 504 school team for review.
3. Send Invitation to Parents for Initial Section 504 Meeting and the Section 504 Meeting Parent Input forms to the parent if parent initiated the concern.

Step 2 — Referral for a Section 504 Evaluation
1. Section 504 team plans meeting to review referral.
   a. Invite parent. Send invitation, Notice of Section 504 Meeting. Be sure to allow 10 days notice unless parent agrees to waive the time in order to meet sooner. Document this information. Send Section 504 Parent Input Form.
2. Section 504 team reviews the referral and accepts, rejects, or makes other recommendations concerning the referral.
   a. A reasonable basis upon which to suspect that the child may have a qualifying disability is all that is needed to warrant an evaluation.
   b. There may be instances where the Section 504 team rejects a referral for a 504 evaluation. If the team determines that the referral does meet criteria for consideration of a Section 504 evaluation, the team will provide a written rationale supporting the decision, along with recommendations to further support the student’s progress.
   c. If a child’s particular disability warrants more specialized instruction than offered through Section 504, the Section 504 team should refer the student to the Student Intervention Team. Following Intervention Team process, a student may be referred back to the Section 504 Team for an evaluation.
3. Provide the parent with a written statement of the team’s decision and a copy of Parent —Student Rights and Procedural Safeguards.
4. If an evaluation is to be conducted, written parental consent must first be secured using the Section 504 Consent to Evaluate.
5. If the evaluation includes occupational therapy, physical therapy, assistive technology and/or audiology services, fax the completed Related Service Referral form to the District Disability Compliance Coordinator.

Step 3 — Conduct Section 504 Evaluation
1. After obtaining parental consent, the Section 504 school team gathers information from a variety of sources, which may include cumulative records (grades, attendance, test scores), teacher’s notes (behavior charts/contracts, anecdotal notes), or other sources (medical reports, parental observations) and review Parent Input form.
2. Information must be selected to assess the area of educational concern impacted by the suspected disability. Information collected will be the basis on which the student’s eligibility is determined.
3. While medical reports are not always required to determine eligibility under Section 504, access to medical records may assist the school team in making the best decisions for the student in some situations. For the school to obtain any necessary medical information, the parent must consent by signing an authorization to release medical information form.
4. Be sure any related service evaluations are completed prior to scheduling an eligibility meeting.

Step 4 — Eligibility Determination and Evaluation Results Meeting
1. Schedule and invite Section 504 team members. Remember to include the parent, school nurse, related service providers and/or school psychologist (when appropriate) and other professionals that are knowledgeable about the student, the student’s disability, and placement options, as needed. Send Notice of a Section 504 Meeting.
2. The Section 504 team meets and considers evaluation data to determine if the individual has a mental or physical impairment that substantially impairs a major life activity/bodily function using the process outlined on the Section 504 Identification form.

3. Section 504 eligibility determination meetings should:
   a. be based on information from a variety of sources, e.g. teacher(s), other school staff members, a parent/legal guardian, physician, school nurse, other professionals or persons in the community; and
   b. be conducted by a group of people, including those who are knowledgeable about the child, the suspected disabling condition, evaluative procedures, the meaning of evaluative data, and accommodation/placement options.

4. Document and consider all available pertinent information, e.g. records, assessment data or medical reports related to the suspected physical or mental impairment, which may be substantially limiting a major life activity.

5. Take minutes during this meeting. Be sure all forms are signed by team members at this meeting.

Step 5 — Section 504 Accommodation Plan Development

1. Development of the Section 504 plan may occur with the eligibility meeting.
2. Evaluation data is used to develop and write accommodations.
3. Accommodations must address the areas related to the major life activity and/or major bodily function in which the student is substantially limited. Accommodations are to provide the student with an equal opportunity to benefit from instruction, programs, and services provided by the District.
4. As Section 504 team members, parents should be consulted and given an opportunity to share input.
5. If a medical plan is being considered, the school nurse must be invited to the meeting. If a related service is being considered, the related service provider (OT, PT, or audiologist) must be invited and attend this meeting.
6. If the program assignment is for a Section 504 BIP, the Behavior Intervention Plan (BIP) needs to be developed based on the Functional Behavior Assessment (FBA). A draft document may be prepared in advance, but it should be made clear that the document is merely a draft and not a predetermination of the student’s Section 504 plan.
7. When including testing accommodations, please refer to state guidelines. Whenever possible, include the school test coordinator in this part of the meeting. Upon completion of the Section 504 Plan, the school test coordinator receives a copy of the Section 504 plan if testing accommodations have been documented.
8. Document as much information as possible in the meeting minutes.
9. Be sure to obtain signatures from team members. If a team member is unable to attend, include a statement to reflect the absence or consider rescheduling the meeting.

Step 6 — Implementation

1. Provide the student’s teachers and staff members an overview of accommodations and supports.
2. Request training on specialized accommodations and services, (e.g., administration of Epi-pen), and crisis/medical plan implementation.
3. Remind teachers and school staff to implement the accommodations according to the student’s Section 504 plan.
4. Remind teacher to complete the Notification of Refusal to Use 504 Accommodations. If the student refuses to use any of the accommodations on the Section 504 plan:
   a. Teacher(s) will notify the school-level Section 504 coordinator and parent, as directed.
   b. If the student refuses medical accommodations, contact parents immediately.
5. Progress monitor accommodations. Complete Section 504 Review Form.

Step 7 — Review/Re-evaluation

1. Review each student’s accommodations and/or services annually, or sooner, if needed.
2. Conduct a full re-evaluation at least every three years. A full re-evaluation may occur more often when reasonably requested by parents or school personnel.
   a. A three-year re-evaluation is conducted like an initial Section 504 evaluation.
      A. Determine if the student continues to qualify under Section 504;
      B. Determine if the student continues to need accommodations; and
      C. Determine to what extent supports are needed.
   b. An updated medical diagnosis is requested so medications and accommodations can be revised, as needed.
3. A re-evaluation is conducted prior to a significant change of placement such as long-term suspension/expulsion, exit from Section 504, or graduation from school.
4. Be sure to document all meetings and send appropriate notification and follow-up paperwork to parents, teachers, the District Section 504 Office, and legal counsel, as needed.

**Follow Up Procedures**

- Send an electronic (PDF) copy of all initial paperwork, including signature pages to the District Disability Compliance Coordinator.
- Student Section 504 paperwork is maintained at the school site in the student’s cumulative folder. Working files may be contained in the Section 504 school-level coordinator’s office. Working files are not the student’s official Section 504 records.
Accommodations and Testing Guidelines
Accommodations

Overview
The purpose of an accommodation under Section 504 is to “level the playing field” for students with disabilities. Accommodations allow students with disabilities to have access to their learning environment, manage a medical condition, participate in class activities, and demonstrate their level of mastery of concepts without being impeded by their disability. Accommodations that include an instructional component should be written so the integrity of the course content is maintained while not providing students an unfair advantage. Accommodations needed to manage a medical condition should allow the student opportunity to take care of his/her condition.

Once the Section 504 team identifies a student as eligible under Section 504, appropriate accommodations are written into a student's Section 504 plan. These accommodations must be implemented by all staff who interact with the student until a revision of the plan is made. Modifications of a student’s Section 504 accommodations require a Section 504 team meeting and a collective team decision. If a student refuses to use a documented accommodation, the teacher must complete the Parent Notification of Refusal to Use an Accommodation form and implement the follow-up procedures explained on the form. If a student consistently refuses to use an accommodation, notify the school-level Section 504 coordinator to schedule a meeting to determine if there is a need for this accommodation.

If a student refuses to use a health-related or medical accommodation (such as a prescribed medication), notify the school nurse and parent(s) immediately and complete the Parent Notification of Refusal to Use an Accommodation form.

Each student is an individual, so each student’s Section 504 accommodation plan must be constructed individually. While there are accommodations that are commonly used to address and manage certain specific conditions, each student’s needs must be considered when choosing the appropriate accommodations. Selecting and monitoring the effectiveness of accommodations should be an ongoing process. Changes to a student’s Section 504 accommodations should only be made with the collective involvement of students, parents and educators as a 504 team, and should be made as often as needed. The key is to be sure that the chosen accommodations address student’s specific areas of need and are related to the student’s disability.

Accommodations listed on a student’s Section 504 Plan must be monitored for effectiveness in assisting the student in the area of disability. Progress monitoring should be completed annually at minimum, using the Section 504 Review Form. Any accommodations that are not effective should be revised or eliminated from the student’s Section 504 Plan through a Section 504 Team Meeting.

Accommodations are recorded on the Section 504 Accommodation Plan.

Testing
Testing accommodations for a Section 504 student should be based on the student’s accommodations/interventions used during the identification and progress monitoring process. If a student needs a testing accommodation, the accommodation must be used every time a student is tested. In order for a testing accommodation to be used for district and state—mandated tests, it must be considered routinely used in the classroom. To be considered as routinely used, the accommodation must be in place for at least 30 calendar days before the test window opens in order for the student to use the accommodation listed on the Section 504 plan. Testing accommodations should in no way alter the content of the assessment or interfere with the integrity of the test construct. Testing accommodations CANNOT be implemented solely for district or state-wide assessments.

School assignments and tests completed with accommodations should be graded the same way as those completed without accommodations. Accommodations are meant to “level the playing field,” provide equal and ready access to the task at hand, and are not meant to provide an undue advantage for the student.
When developing testing accommodations, the Section 504 team must consult with the test coordinator at the school and refer to the *Assessment Accommodations* guide distributed through the Kansas Department of Education. This guide contains the necessary information to develop and record allowable accommodations which meet the criteria for state-mandated testing.

**Extended Test Time**
Typically, extended test time is considered a reasonable accommodation when a student’s disability prevents demonstration of mastery of the tested material within the allotted time. Extended test time is a routine accommodation for students with disabilities when assessment of the student’s mastery of content is the main purpose of the testing. However, when a particular test is designed to measure a student’s ability to think and answer questions within time constraints, extended time is probably not a reasonable accommodation. School districts should allow extended test time only when the student demonstrates a disability-related need for the accommodation. Requests for extended time to complete all assignments, including tests, quizzes, homework and classwork, should not be granted when supportive evidence indicates that the student always completes tests in less than the time allotted and earned mostly A’s.
Discipline
**Discipline and Section 504 Students**

This section offers guidance on how to properly manage disciplinary cases pertaining to students with disabilities. Note that the discipline of a student with a disability should be determined on a case-by-case basis, with assistance of the Disability Compliance Coordinator when legal or policy concerns arise. Individual cases and situations should be considered on their own merit, and individual circumstances should be considered in all situations. It is critical for school staff to remember that students with disabilities cannot be denied services based solely on their disabilities.

**Manifestation Determination Review**

**General Overview**

Section 504 protects disabled students from being improperly removed from school for misconduct that is related to their disability. Before the district can implement a disciplinary action that constitutes a “significant change in placement,” the Section 504 school team must evaluate the student to determine whether the student’s misconduct was caused by, or had a direct and substantial relationship to, the student’s disability; or was the direct result of the District’s (school’s) failure to implement the student’s Section 504 Plan. This type of evaluation is commonly called a manifestation determination review.

If a student’s misconduct is a manifestation of his or her disability, administration cannot implement a disciplinary action that constitutes a significant change in the student’s placement. If a disabled student’s misconduct is not a manifestation of his or her disability, administration can discipline the student in the same manner that it disciplines non-disabled students for the same misconduct. Under Section 504, the District does not have to provide a disabled student educational services during the period of time the student is properly removed from school for disciplinary reasons. However, students must be given the same access to services that are available to non-disabled students who are long-term suspended or expelled, including access to re-entry programs.

Overall, a Manifestation Determine Review (MDR) is held:

- **when** suspending a student for **more than 10 days**
- **when** a school plans to give a student an out-of-school suspension (OSS) that may be fewer than ten (10) days, but when combined with previous suspension days in the current school year, would exceed ten days of OSS.

**Important Notes:**

- The school may immediately suspend the student, but the MDR must take place within 10 days of the decision to suspend.
- Parents must receive a 10-day written notice of MDR. A parent has the right to waive the 10-day notice.
- The MDR must be conducted within 10 school days of any decision to make a “significant change in placement” of a child with a disability due to a violation of the Student Code of Conduct.

**Significant Change in Placement**

A **significant change in placement** is defined as a significant change in the type or amount of educational or related aids or services that COOP provides to a disabled student. A significant change in placement may include, but is not limited to:

- terminating eligibility under Section 504;
- initiating or terminating a service;
- disciplinary actions that exclude a student from school for more than 10 consecutive school days in a school year
- disciplinary actions that create a pattern of exclusion from school;

A **series of out-of-school (OSS) suspensions** within a school year that exceeds ten (10) cumulative days may create a pattern of exclusions that OCR would also consider to constitute a significant change in placement. Serial suspensions
constituting a change in placement must be determined on a case-by-case basis. Factors such as length of each suspension, the proximity of suspensions to one another, and the total amount of time the student is excluded from school must be considered when trying to determine a pattern of serial suspensions.

*When determining the number of OSS days a student has accumulated, only days within the given school year are counted. Each student every year begins with a clean slate. However, data from prior years may be considered when developing accommodation and behavior intervention plans.*

**In-school Suspension Considerations**

In-school suspensions (ISS) must provide an educational benefit equivalent for Section 504 students that is provided to all students who are in school in regular education classrooms. Normally, students placed in an ISS class are expected to work semi-independently in an environment where they are subject to restricted movements, have limited restroom breaks, and must be silent for extended periods. In some cases, particularly for periods greater than ten (10) days, in-school suspension (ISS) may constitute a significant change in a Section 504 student’s placement because ISS placement may interrupt the current accommodations specified in the student’s Section 504 Plan. Therefore, if ISS is used as a substitute for OSS all criteria above must be considered.

Schools seeking to use the in-school suspension (ISS) exception for a few days at a time should follow the U.S. Department of Education IDEA regulations of 2006. This report explains three critical factors the school should consider when using ISS and not count those days towards a pattern of exclusion. The commentary from the report states that:

“...it has been the Department’s long-term policy that an in-school suspension would not be considered a part of the days of suspension addressed in Section 300.530 as long as the child is afforded the opportunity to continue to appropriately participate in the general curriculum, continue to receive the services specified on the child’s IEP, and continue to participate with nondisabled children to the extent they would have in their current placement.”  (p. 17)

**Manifestation Determination Review (MDR) Meeting**

A **Manifestation Determination Review (MDR) Meeting** is needed when a student’s placement may be significantly changed by disciplinary action as a result of his/her misconduct. Usually, a short-term out of school (OSS) suspension of ten (10) days or less does not constitute a significant change in the student’s placement. Therefore, a manifestation determination review meeting is not necessary when a student’s suspension is deemed a short-term suspension, as placement would not constitute a significant change.

A Manifestation Determination Review meeting is essentially an evaluation that answers two questions:

1. **Is the misconduct in question related to the student’s disability?**
   To answer this question, this determination must be based upon evaluation data (reports, observations, information, etc.) which is related to behavior and must be recent enough to afford an understanding of the student’s current behavior.
   - A student’s misconduct is a manifestation of his/her disability if the misbehavior “is caused by the disability” or “has a direct and substantial relationship to the disability.”
   - A student’s misconduct is not a manifestation of the student’s disability if the behavior has only a weak relationship to the student’s disability.

   *A determination that a student knows the difference between right and wrong does not constitute a determination that the student’s misconduct was or was not a manifestation of the disability.*

2. **Is the misconduct in question the direct result of a failure to implement the Section 504 Plan?**
   A variety of sources, including aptitude and achievement tests, teacher reports, physical condition, social or cultural background, and/or adaptive behavior, must be considered when answering this question. Review the student’s current Section 504 Plan to determine if all accommodations were implemented correctly. Also check the dates on
the plan and determine if the Section 504 Plan is current. If there is no current Section 504 Plan in place for this student or the accommodation was not implemented correctly, a new Section 504 Plan should be developed immediately and the misconduct in question for this manifestation would be considered a “failure to implement” the Section 504 Plan.

**Determinations**

The **Manifestation Determination Review (MDR)** must be held within 10 school days of the day on which the student was disciplined for the misconduct in question. Until the Manifestation Determination Review is conducted, the student may be suspended from school. Parents/guardians must receive written notification of the MDR. Students, especially individuals in middle and high school, should be invited to attend the MDR.

I. If the Section 504 Team determines that the student’s misconduct was a manifestation of the student’s disability, the student must be returned to the same educational placement where the student was at the time of the incident. In addition, the following steps should be followed:

   a. Modify the current educational placement or make, if appropriate, an alternative educational placement.
   b. Conduct a Functional Behavioral Assessment (FBA) and implement or modify the current Behavior Intervention Plan (BIP)
   c. Return the student to the placement from which the student was removed, unless the parent/guardian and the district or home school agree to a change of placement as part of the modification of the Behavior Intervention Plan.

II. If the Section 504 Team determines that the student’s misconduct was not a manifestation of the student’s disability, the school may initiate “normal” disciplinary procedures that would be given to a non-disabled student under the same circumstances.

III. The result of the Manifestation Determination is documented by the Section 504 Team making the decision using the **Manifestation Determination Review (MDR)**. The parent/guardian must receive the written notification of the Section 504 Team’s decision.

IV. Paperwork from this meeting is emailed to the District Disability Compliance Coordinator for an overall compliance review.

Even in situations where a **Manifestation Determination Review (MDR)** is not legally required, OSEP strongly encourages districts to review the circumstances that led to the student’s removal as soon as possible and consider whether the student was provided services in accordance with the Section 504 plan. OSEP also encourages the district to consider whether the behavior could be addressed through minor classroom or program adjustments or whether the Section 504 team should be reconvened to address possible changes to the student’s plan. [*OSEP Memorandum 97-7, 26 IDELR 981 (OSEP 1997)*](https://www2.ed.gov/legislation/osep/97-7.pdf).
## Discipline and Reassignment Final Regulations

**After student commits offense resulting in suspension:**

**Ten Days or Less of Out-of-School Suspension**

If this suspension results in no more than 10 cumulative days of out-of-school suspension (OSS) in one school year, and the school administration is not requesting consideration of long-term suspension, expulsion or disciplinary reassignment, the school follows the same disciplinary procedures as for non-disabled students. There is no requirement that the team conduct a manifestation determination review (MDR) at this time.

**More than Ten Days of Out-of-School Suspension**

If this suspension results in more than 10 cumulative days of OSS in one school year, the 504 (IEP) team must complete a Manifestation Determination Review (MDR). If the school is also requesting a long term suspension hearing, the 504 (IEP) team must complete the MDR immediately following the long term suspension meeting.

  a. If manifestation is found, the student returns to school.

  b. If manifestation is not found, the decision of the hearing officer is upheld.

## Interim Alternative Educational Settings (IAES) (45 day rule)

If a Section 504 student carries a **weapon** to school, or to a school-sponsored event or function; possesses, uses, sells, or solicits **illegal drugs** on school grounds or at a school-sponsored event or function; or inflicts **serious bodily injury** upon another person at school or a school-sponsored event or school function, the district may place the student in an interim alternative educational (IAES) setting for up to 45 school days. However, a Manifestation Determine Review must be scheduled during that time to review the student’s Section 504 Plan, discuss the need for a Functional Behavior Assessment (FBA) and a Behavior Intervention Plan (BIP), and determine if the behavior was a manifestation of the student’s disability. If further information is needed on this process, school staff should contact the Disability Compliance Coordinator.

### Terms Defined

**Weapon**

“**Weapon**” is a device, instrument, material, or substance, animate or inanimate, which is used for or is readily capable of, causing death or serious bodily injury; except that such term does not include a pocket knife with a blade less than 2-1/2 inches in length.

**Illegal Drugs**

"**Controlled substance**" means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act. This refers to any prescription drug or a drug that has not received medical approval.

"**Illegal drug**" means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law (i.e. drugs without prescription).

**Serious Bodily Injury**

“**Serious bodily injury** is an injury that results in:

- a substantial risk of death;
- extreme physical pain;
- protracted and obvious disfigurement; and/or
- protracted loss or impairment of the function of a bodily member, organ, and/or mental faculty.

## Appeal Rights and Placement During Appeals
If a parent disagrees with a determination that a student’s behavior was not a manifestation of the student’s disability or with any decision regarding placement for disciplinary purposes, the parent may appeal the determination. Refer to the section Parent-Student Rights and Grievances for more information.

**Functional Behavioral Assessments and Behavior Intervention Plans**

The Section 504 Team must consider conducting a Functional Behavioral Assessment (FBA) and developing a Behavior Intervention Plan (BIP) for students who demonstrate difficulty with maintaining appropriate behavior in school. Any Section 504 student who has been removed from school more than 10 school days during the current school year who demonstrates a pattern of behavior that is impacting the student’s functioning must be considered for developing a Behavioral Intervention Plan (BIP). Such consideration must be given even if the original qualifying disability was not behavior related. To do this, the Section 504 Team must meet to initiate a Functional Behavioral Assessment (FBA), then implement a Behavior Intervention Plan (BIP). The Section 504 Team must review the Behavior Intervention Plan (BIP) periodically, and after each removal/exclusion from school, to determine the effectiveness of the plan. If one or more team member(s) believe(s) modifications are needed, the Section 504 Team meets to consider those modifications and amend the BIP. This process may be conducted at any time; however, if the student’s misbehavior results with a Manifestation Determination Review, where the misconduct was determined to be a manifestation of the student's disability, the Section 504 Team must either:

1. Conduct a Functional Behavioral Assessment (FBA), unless previously conducted, and then implement a Behavior Intervention Plan (BIP); or
2. Review the Behavior Intervention Plan (BIP), and modify it, as necessary, to address the behavior.
Parent-Student Rights
**Parent/Student Rights**  
**Under Section 504 of the Rehabilitation Act of 1973 and Its Amendments**  
**KANSAS CITY, KANSAS PUBLIC SCHOOLS**

The Rehabilitation Act of 1973, commonly referred to as Section 504, is a non-discrimination statute enacted by the United States Congress. The purpose of the Act is to prohibit discrimination and to assure that within the public schools disabled students have educational opportunities and benefits equal to those provided to non-disabled students.

An eligible student under Section 504 is a student who (a) currently has, (b) has a record of having, or (c) is regarded as having a physical or mental impairment which substantially limits one or more major life activities. Major life activities include caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, working, and learning.

**Parents have the rights to:**

1. Have your child take part in, and receive benefits from public education programs without discrimination based on a disability.
2. Have the District advise you of your rights under federal law.
3. Receive notice with respect to identification, evaluation, or placement of your child.
4. Have your child receive a free appropriate public education (FAPE). This includes the right to be educated with non-disabled students to the maximum extent appropriate. It also includes the right to have the District make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities.
5. Have your child educated in facilities and receive services comparable to those provided to children without disabilities.
6. Have your child receive special education and related services if she/he is found eligible under the Individuals with Disabilities Act (IDEA), or to receive reasonable accommodations under Section 504 of the Rehabilitation Act.
7. Have eligibility and educational placement decisions made based upon a variety of information sources, and by individuals who know the student, the eligibility data, and placement options.
8. Periodic re-evaluation and evaluation before any significant change in placement occurs.
9. Give your child an equal opportunity to participate in non-academic and extracurricular activities offered by the District through the provision of reasonable accommodations.
10. Examine all relevant records relating to decisions regarding your child’s identification, eligibility, educational program and placement under the Family Educational Rights and Privacy Act.
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 District to reasonable requests for explanations and interpretations of your child’s records.
13. Request amendment of your child’s educational records if there is reasonable cause to believe that they are inaccurate, misleading or otherwise in violation of the privacy rights of your child. If the District refuses this request, it shall notify you within a reasonable time, and advise you of the right to a hearing.
14. Request an impartial due process hearing related to decisions regarding your child’s identification, eligibility, and educational placement. You and your child may take part in the hearing and have an attorney represent you at your own cost. You have the right, also, to appeal the impartial hearing officer’s decision.
15. File a complaint/grievance with the District when you believe your child’s rights have been violated. Contact the Disability Compliance Coordinator listed below.
17. For further information about Section 504, contact the office below or call the Kansas State Dept. of Education, 1-800-203-8462

<table>
<thead>
<tr>
<th>School-Level Section 504 Coordinator:</th>
<th>Section 504 District Disability Compliance Coordinator:</th>
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<tbody>
<tr>
<td>Name</td>
<td>Kimberly Shaw</td>
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<tr>
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<td>2010 N. 59th</td>
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<td></td>
<td>Kansas City, KS 66104</td>
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<tr>
<td>Phone Number</td>
<td>PH: (913) 627-5659</td>
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<td>FAX: (913) 627-5639</td>
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<td></td>
<td>Email: <a href="mailto:Kimberly.shaw@kckps.org">Kimberly.shaw@kckps.org</a></td>
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Grievance Procedures
Section 504 Grievance Procedures

Kansas City, Kansas Public Schools has an internal resolution procedure to provide a prompt and impartial review of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973. This is an optional resolution procedure for a complainant. The resolution procedure is not a prerequisite before a complainant may directly pursue any other state or federal remedy available under law.

Section 504 complaints may include, but are not limited to, allegations that Kansas City, Kansas Public Schools engaged in discrimination against Section 504 students with disabilities by affecting their rights regarding identification, evaluation, educational program or placement, and accommodation. As part of an informal approach to complaint resolutions, the District wants parents, students and other District patrons to have the opportunity to make concerns known to the District and for the District to have the opportunity to respond and resolve concerns as rapidly as practicable at the local school or program site level.

Filing a discrimination complaint is a protected activity. Discrimination against any individual because he or she reported Section 504 violations, or made a complaint, testified, assisted or participated in Section 504 investigations, proceedings or hearings is prohibited. Coercion, intimidation, threats or interference with anyone because he or she exercised Section 504 rights, or helped or encouraged someone else to do so is prohibited.

These procedures are intended to protect the substantive rights of interested persons, meet appropriate due process standards, and assure District compliance with Section 504 of the Rehabilitation Act of 1973.

Definitions

“Complaint” means a written allegation that the district or its personnel have violated, misinterpreted or erroneously applied provisions of Section 504. The complaint must contain the name and address of the complainant and a brief description of the alleged violation;

“Complainant” includes (1) a parent or guardian of a district student, (2) a district high school student who is 18 years of age or older, (3) a district patron;

“Principal” means district-wide administrators, principals, program supervisors and their respective administrative designees.

Grievance Steps

Informal Level 1

A. Complaints should be filed with the principal of the school which the student attends. The complaint should include a written explanation of the concern and be filed within thirty (30) calendar days after the complainant becomes aware of the alleged violation.

B. After receiving the complaint, the principal will notify the District Disability Compliance Coordinator and additional District staff as needed. The principal will begin an investigation and schedule a conference with the complainant to discuss the complaint. A conference will be held as promptly as practicable, but in any event, no later than 15 school days after receipt of the complaint, unless the complainant agrees to a different timeline. These resolution procedures contemplate informal but thorough investigations, affording all interested parties and their representatives, if any, an opportunity to submit evidence relevant to a complaint.

C. The above conference will be conducted in an informal manner designed to provide an opportunity for the complainant to fully explain the nature of the complaint, the circumstances which give rise to it, and the resolution
requested. The conference should give the principal the opportunity to fully discover the facts which bear on the complaint.

D. As soon as practicable, but no later than 30 calendar days after the conference, the Principal will prepare a written report resolving the complaint and send the complainant a copy with additional copies submitted to the District Disability Compliance Coordinator. The report will summarize the complaint and conference and state the conclusions, the reasons supporting them, and the remedial action, if any which the principal intends to take. For Section 504 compliance purposes, the principal will maintain the files and records of complaints received and investigated.

E. At any point in this process the principal may consult with the District Disability Compliance Coordinator.

Informal Level 2
A. The complainant may request reconsideration if he or she is dissatisfied with the Level 1 resolution. The request for reconsideration must be made within 20 school days after receipt of the written report from the principal. The request for reconsideration must be in writing and directed to the District Disability Compliance Coordinator.

B. The District Disability Compliance Coordinator will review the Level 1 investigation, conduct any additional interviews or procedures necessary to understand the situation, and make a written report to the complainant and the school within 20 school days of receiving the request. The report will state relevant findings of fact, conclusions and the reasons supporting them.

C. Upon review, if either party is dissatisfied, a **formal hearing** may be requested by contacting District Disability Compliance Coordinator who will assist in initiating this process.

Formal Level 3
If the informal procedure fails to satisfy the dispute, the formal hearing process is available through the use of an impartial hearing officer.

Selection of a Hearing Officer
From a list of impartial hearing officers the District Disability Compliance Coordinator and the complainant shall jointly select a hearing officer for the adjudication of the dispute. In order for an individual to be qualified to serve as a **hearing officer** they must meet the following qualifications:

- The individual may not be a current or former employee of Kansas City, Kansas Public Schools.
- When possible, the individual should have a background in meeting the needs, or working with individuals with disabilities or civil rights issues.
- The individual may not have any prior knowledge of the particular complaint.

Failure to Request a Hearing
A request for a hearing under this procedure must be made within thirty (30) days of the incident or the individual waves his/her rights to this process. However, complaints filed under terms of the Rehabilitation Act of 1973 and its amendments or the Americans with Disabilities Act and its Amendments of 2008 (ADAAA), are not waived and the individual may pursue a resolution through that process.

Procedures Governing the Grievance Hearing
- All grievance hearing procedures will be held before the hearing officer.
- The complainant or his/her representative shall have the opportunity to examine, before the start of the proceedings, all relevant materials.
- The complainant shall have the right to secure aid, at their expense, in representation whether of a professional nature or otherwise; including, but not be limited to, attorneys, health professionals, or any other person beneficial to the presentation of the case.
• The grievance hearing shall be held in private. A public grievance hearing will be given consideration if requested by the complainant.
• The complainant has the right to present any and all pertinent evidence and cross-examine any and all witnesses.
• The decision of any and all grievance hearings shall only be based on facts presented at the time of the grievance hearing.

Failure to Appear for the Hearing
In the event that the Kansas City, Kansas Public Schools representative or the complainant or his/her representative(s) fails to show, the hearing officer may postpone the hearing for up to five (5) days or find against the party who failed to show. This determination does not affect the complainant’s or the District’s rights to pursue any other legal process available.

Procedures for Obtaining a Transcript of the Hearing
A transcript of the grievance hearing may be arranged prior to the grievance hearing date at the request of either party. The party requesting the transcript is responsible for the expense of this procedure.

Decision of the Hearing Officer
The hearing officer must issue a written decision of the grievance hearing within ten (10) working days and furnish a copy to all parties. A copy must be kept on file with the Section 504 office. An additional copy of the decision with all names deleted shall be kept on file for future reference.

Appeal of the Decision
Within ten (10) calendar days of the final report, either party may appeal the hearing officer’s decision to the Superintendent by filing a written request for this review with the District Section 504 compliance specialist.

The written request must be directed only to the issues raised in the formal complaint as filed or to procedural errors in the conduct of the grievance procedure itself, and not to new issues. The District Disability Compliance Coordinator will forward the appeal to the Superintendent, and provide copies to all parties involved. If the grievance involves a decision that is being challenged, the review to the Superintendent or designee will usually be limited to the following considerations:

1. Were the proper facts and criteria brought to bear on the decision?
2. Were improper or extraneous facts or criteria brought to bear that substantially affected the decision to the detriment of the complainant?
3. Were there any procedural irregularities that substantially affected the outcome of the matter or the detriment of the complainant?
4. Given the proper facts, criteria, and procedures, was the decision a reasonable one?

A copy of the Superintendent’s written decision will be provided within 30 days of the receipt of the appeal and shall be sent to the complainant, the District Section 504 compliance specialist and, if appropriate, the school personnel whose compliance will be needed to carry out the disposition. The deadline may be extended by the Superintendent for cause.

After completion of these processes if the complainant finds he/she is still being discriminated against, he/she maintains the right to file a complaint with the Office for Civil Rights with the Department of Education.

This procedure was developed and revised to protect the substantive rights of interested persons, meet appropriate due process standards, and ensure Kansas City, Kansas Public Schools complies with Section 504 of the Rehabilitation Act of 1973 and its amendments and the Americans with Disabilities Act and its amendments of 2008 (ADAAA) and their implementing regulations.
Appendices

Information List

Kansas City, Kansas Public Schools Board of Education Policy
Section 504 Frequently Asked Parent Questions and Points of Interest for Parents,
School Administrators, and other Education Partners
Terminology
Role Responsibilities
504 Meeting Checklist
Kansas City, Kansas Public Schools Board of Education Policy

Board of Education Policy related to Section 504 (See District Website for complete policies)

Policy Code:  GAAA:  Equal Employment Opportunity and Non Discrimination

Policy Code:  GAAB:  Complaints of Discrimination

Policy Code:  GAAC:  Sexual Harassment

Policy Code:  GAE:  Complaints

Policy Code:  KN:  Complaints

Policy Code:  JGEC:  Sexual Harassment

Policy Code:  JGECA:  Racial and Disability Harassment

Policy Code:  JQA:  Physically Disabled Students
Section 504 Frequently Asked Parent Questions

1. What is Section 504?
Part of the Rehabilitation Act of 1973, Section 504 is a civil rights law to protect disabled individuals from discrimination.

2. Who is disabled under Section 504?
A qualified individual with a disability under Section 504 is an individual with an impairment that substantially limits a major life activity.

3. What is an “impairment” as used in Section 504?
An impairment as used under Section 504 may include any disability, long-term illness, or various disorder that “substantially” reduces or lessens a student’s ability to access learning in the educational setting because of a learning, behavior or health related condition. There is no list of eligible or ineligible disabilities. However, examples include: AD/HD, dyslexia, cancer, diabetes, severe allergies, chronic asthma, Tourette’s Syndrome, digestive disorders, cardiovascular disorders, depression, conduct disorder, oppositional defiant disorder, HIV/AIDS, behavior disorders, and temporary disorders such as broken limbs.

4. What is the difference between an impairment and a disability?
Many people have impairments. An impairment is only considered a disability under Section 504 when it reaches the level that it is limiting a major life activity.

5. Are there any impairments that automatically qualify someone for Section 504?
No, each decision on eligibility is made on an individual basis.

6. What is a substantial limitation?
Although not defined in the regulations, OCR has interpreted it to mean “unable to perform a major life activity that the average person in the general population can perform; or restricted as to the condition, manner, or duration under which an individual can perform a major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity.”

7. Who determines whether a student is “substantially limited?”
According to the federal regulations: “...placement decisions are to be made by a group of persons who are knowledgeable about the child, the meaning of the evaluation data, placement options, least restrictive environment requirements, and comparable facilities” [34 C.F.R. §104.35(c)(3)]. Unlike Special Education, the federal regulations for Section 504 do not require or even mention that parents are to be a part of the decision-making committee. In Rockwall ISD, parents are notified of meetings, but are not required members of the committee.
8. What is a major life activity?
A major life activity is an activity that is of central importance to the daily life activity of the average person in the general population. Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. It also includes the operation of a major bodily function.

9. What do I do if I suspect my child has a disability?
First and foremost, discuss your concerns with your child’s classroom teacher. He or she may be able to reassure you that your child is making appropriate progress. If you continue to be concerned about your child’s progress, contact your child’s assistant principal in writing, expressing your concerns. All referrals are processed through the Student Success Team (SST). The SST will meet and recommend intervention strategies for the classroom teacher to use in order to help your child. Based on the results of these interventions, your child may or may not be referred on to dyslexia testing, Section 504 or Special Education.

10. What are my rights as a parent under Section 504?
As a parent or legal guardian, you have the right to:
   1. Receive notice regarding the identification, evaluation, and/or placement of your child;
   2. Examine relevant records pertaining to your child;
   3. File a complaint with your school district Section 504 Coordinator;
   4. Request an impartial hearing with respect to the district’s actions regarding the identification, evaluation, or placement of your child;
   5. File a complaint with the appropriate regional Office for Civil Rights.

11. Are all students with dyslexia eligible for Section 504?
No, not necessarily. According to The Dyslexia Handbook, Revised 2010, not all students with dyslexia are automatically eligible for Section 504. Students with dyslexia may be eligible for special education, Section 504, a school plan, RTI or no services at all, depending on the individual needs of the student.

12. My child’s physician has written a note saying that my child is eligible for accommodations under Section 504, doesn’t the school district have to follow my doctor’s orders?
Section 504 committees must consider information from a variety of sources, including medical information provided by a physician. However, a doctor’s note alone cannot be the basis of eligibility for Section 504.

13. How is Section 504 different than special education?
Section 504 is similar to special education in some ways, yet very different in other ways. Section 504 eligibility is broader than special education, in that special education limits eligibility to 13 categories of “disabilities” and requires an educational need for services. Section 504 law does not specify a list of impairments that may qualify a student and requires a substantial limitation to a major life activity, which may or may not be learning. In addition, most services (typically accommodations) that students receive in Section 504 are provided within the classroom by the classroom teacher. Section 504 procedures, paperwork and parental rights are also very different than in special education. However, contrary to popular misconception, Section 504 is not “special education light” or a consolation to students who are not eligible for special education.

14. Does a child need to fail a class or TAKS/STAAR to be eligible for Section 504?
No. Low class grades and TAKS scores may indicate a substantial limitation in the area of learning, but Section 504 covers other major life activities as well. For instance, if a child has a hearing impairment, the Section 504 committee would focus on how the child’s hearing is compared to other children of the same age or grade. However, if a learning disability is suspected, the Section 504 committee would focus on how the child’s learning is affected. Grades and TAKS scores are an important reflection of learning, but are still not the only factor considered.
15. Can my child be disciplined if he or she is eligible for Section 504?
Students eligible for Section 504 may still be disciplined in the same manner as their peers, unless the discipline becomes a significant change in placement. A significant change in placement is when the student is suspended or expelled for more than 10 days. In this case a Section 504 committee must determine whether the student's conduct is a manifestation, or caused by, the identified disability. If it is a manifestation, the student remains in his or her placement. If the conduct is not a manifestation, the student will receive the same discipline that a non-disabled student would receive. In cases where the student is under the influence of drugs or alcohol at school, the student is not entitled to this manifestation determination.

16. Can my child receive accommodations in advance level courses such as Pre-AP and AP classes?
Students with disabilities are allowed the same opportunity to participate in Pre-AP and AP classes as their non-disabled peers. In order to receive an accommodation in an advanced class, the student must be eligible to receive the accommodation in a regular class. For example, if the student needs the use of an electronic keyboard in a regular class setting, the student would also be allowed to use an electronic keyboard in an advanced class. Conversely, if a student does not needed additional time to complete tests in a regular class, but needs additional time to complete tests in an advanced class, the student could not receive the accommodation. One other factor to be considered when determining appropriate accommodations is the unique nature of advanced classes. If the accommodation would alter the content or academic standards of the Pre-AP or AP class, it would not be allowable in the advanced class. Reduced assignments would be an example of an alteration of content.\(^1\)

Frequently Asked Questions and Points of Interest for Parents, School Administrators, and Other Education Partners

1. 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 (Title II), which extends this prohibition against discrimination to the full range of state and local government services, programs, and activities (including public schools) regardless of whether they receive any Federal financial assistance. The Americans with Disabilities Act Amendments Act of 2008 (Amendments Act), effective January 1, 2009, amended the Americans with Disabilities Act of 1990 (ADA) and included a conforming amendment to the Rehabilitation Act of 1973 (Rehabilitation Act) that affects the meaning of disability in Section 504. 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 appropriate public education issues do not provide greater protection than applicable Section 504 regulations. This guidance focuses primarily on Section 504.

Section 504 prohibits discrimination on the basis of disability in programs or activities that receive Federal financial assistance from the U.S. Department of Education. Title II prohibits discrimination on the basis of disability by state and local governments. The Office of Special Education and Rehabilitative Services (OSERS), also a component of the U.S. Department of Education, administers the Individuals with Disabilities Education Act (IDEA), a statute which funds special education programs. Each state educational agency is responsible for administering IDEA within the state and distributing the funds for special education programs. IDEA is a grant statute and attaches many specific conditions to the receipt of Federal IDEA funds. Section 504 and the ADA are antidiscrimination laws and do not provide any type of funding.

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

\(^1\) The number of acronyms and language used in Section 504 decisions is often confusing. For your convenience, a table of explanations for various acronyms is provided in the Appendix.
OCR receives complaints from parents, students or advocates, conducts agency initiated compliance reviews, and provides technical assistance to school districts, parents or advocates.

3. Where can a school district, parent, or student get information on Section 504 or find out information about OCR’s interpretation of Section 504 and Title II?

OCR provides technical assistance to school districts, parents, and students upon request. Additionally, regulations and publicly issued policy guidance is available on OCR’s website, at http://www.ed.gov/policy/rights/guid/ocr/disability.html.

4. What services are available for students with disabilities 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.

5. 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.

6. What protections does OCR provide against retaliation?

Retaliatory acts are prohibited. 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.

7. 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.

8. 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.
9. 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.

10. 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.

11. Does the law require a parent to file a written complaint?

No! The Section 504 regulations do not contain a requirement that a person file a complaint with OCR and exhaust his or her administrative remedies before filing a private lawsuit.

12. Which students in the school district are eligible for the benefits provided under Section 504?

Section 504 covers qualified students with disabilities who are enrolled in, and attend the Kansas City, Kansas School Districts. To be protected under Section 504, a student must be determined to: (1) have a physical or mental impairment that substantially limits one or more major life activities; or (2) have a record of such an impairment; or (3) be regarded as having such an impairment. Section 504 requires the school district to provide a free appropriate public education (FAPE) to qualified students in, Kansas City, Kansas Public Schools.

13. What is a physical or mental impairment that substantially limits a major life activity?

The determination of whether a student has a physical or mental impairment that substantially limits a major life activity must be made on the basis of an individual inquiry. Section 504 at 34 C.F.R. 104.3(j)(2)(i) defines a physical or mental impairment as any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The regulatory provision does not set forth an exhaustive list of specific diseases and conditions that may constitute physical or mental impairments because of the difficulty of ensuring the comprehensiveness of such a list.

Major life activities is defined in 34 C.F.R. 104.3(j)(2)(ii) to mean functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. This list is not exhaustive. Other functions can be major life activities for purposes of Section 504. Recently, Congress provided additional examples of general activities that are major life activities, including eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, and communicating. Congress also provided a non-exhaustive list of examples of “major bodily functions” that are major life activities, such as the functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. The Section 504 regulatory provision, though not as comprehensive as the Amendments Act, is still valid – the Section 504 regulatory provision’s list of examples of major life activities is not exclusive, and an activity or function not specifically listed in the Section 504 regulatory provision can nonetheless be a major life activity.
14. 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 K-12 levels, 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).

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

Probably, but only during the period in which the student is eligible for such services. Put another way, the protections of Section 504 extend only to individuals who meet the regulatory definition of a person with a disability. If a school district reevaluates a student in accordance with the Section 504 regulatory provision 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.

16. Are current illegal users of drugs excluded from protection under Section 504?

Generally, yes. Section 504 excludes from the definition of a student with a disability, and from Section 504 protection, any student who is currently engaging in the illegal use of drugs when a covered entity acts on the basis of such use. (There are exceptions for persons in rehabilitation programs who are no longer engaging in the illegal use of drugs).

17. Are current users of alcohol excluded from protection under Section 504?

No. Section 504's definition of a student with a disability does not exclude users of alcohol. However, Section 504 allows schools to take disciplinary action against students with disabilities using drugs or alcohol to the same extent as students without disabilities.

18. What process does the school district use to determine 504 eligibility?

The process used by the school district is described in the process and procedure section of this text.

19. Is the school district process for determining 504 eligibility the same as the one used to identify students eligible for services under the IDEA?

School districts may use the same process 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 regulatory provision at 34 C.F.R. 104.35.

20. May the school district consider "mitigating measures" used by a student in determining whether the student has a disability under Section 504?

No. In determining whether a student has a physical or mental impairment that substantially limits that student in a major life activity, school officials may not consider the ameliorating effects of any mitigating measures that student is using. This is a change from prior law. Previously, school districts had to consider a student’s use of mitigating measures in determining whether that student had a physical or mental impairment that substantially limited that student in a
major life activity. Congress specified that the ameliorative effects of mitigating measures must not be considered in determining if a person is an individual with a disability.

Congress did not define the term “mitigating measures” but rather provided a non-exhaustive list of “mitigating measures.” The mitigating measures are as follows: medication; medical supplies, equipment or appliances; low-vision devices (which do not include ordinary eyeglasses or contact lenses); prosthetics (including limbs and devices); hearing aids and cochlear implants or other implantable hearing devices; mobility devices; oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; and learned behavioral or adaptive neurological modifications.

Congress created one exception to the mitigating measures analysis. The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining if an impairment substantially limits a major life activity. “Ordinary eyeglasses or contact lenses” are lenses that are intended to fully correct visual acuity or eliminate refractive error, whereas “low-vision devices” (listed above) are devices that magnify, enhance, or otherwise augment a visual image.

21. Are there any impairments which automatically mean that a student has a disability under Section 504?

No. An impairment in and of itself is not a disability. The impairment must substantially limit one or more major life activities in order to be considered a disability under Section 504.

22. 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 an impairment or believed to have an impairment 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. In fact, the Section 504 regulations require school districts to draw upon a variety of sources in interpreting evaluation data and making placement decisions.

23. Does a medical diagnosis of an illness automatically mean a student can receive services under Section 504?

Again, the answer is No. A medical diagnosis of an illness does not automatically mean a student can receive services under Section 504. The illness must cause a substantial limitation on the student’s ability to learn or another major life activity. 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.

24. How should a 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.
25. What should a school district do if a parent refuses to consent to an initial evaluation under the Individuals with Disabilities Education Act (IDEA), but demands a Section 504 plan for a student without further evaluation?

The school district must evaluate the student prior to providing services under Section 504. 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 seek to override the parents’ denial of consent.

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

The school district but only in connection as part of a process compliant with Section 504 regulatory provision at 34 C.F.R.104.35 (c) (3) which 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.

27. 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 regulations, which require re-evaluation at three-year intervals (unless the parent and public agency agree that re-evaluation is unnecessary) or more frequently if conditions warrant, or if the child’s parent or teacher requests a re-evaluation, but not more than once a year (unless the parent and public agency agree otherwise).

28. Is a Section 504 re-evaluation similar to an IDEA re-evaluation? How often should it be done?

Yes. Section 504 specifies that re-evaluations in accordance with the IDEA is one means of compliance with Section 504. The Section 504 regulations require 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.

29. 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 related aids and services or modification to regular education if the student, because of disability, needs or is believed to need such services.

30. 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.

31. 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 another major life activity 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.

32. How should school district view 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.

In recent Amendments to Section 504, Congress clarified that an individual is not “regarded as” an individual with a disability if the impairment is transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

33. Is an impairment that is episodic or in remission a disability under Section 504?

Yes, under certain circumstances. In the Amendments Act (see FAQ 1), Congress clarified that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. A student with such an impairment is entitled to a free appropriate public education under Section 504.

34. Regarding placement, if a student is eligible 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 for a free appropriate public education is to implement an IEP.

35. Must a school district develop a Section 504 plan simply because a student "has a record of disability" or is "regarded as disabled"?

No. not unless a student actually has an impairment 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 appropriate public education (FAPE). In the latest Amendments to Section 504, Congress clarified that an individual who meets the definition of disability solely by virtue of being “regarded as” disabled is not entitled to reasonable accommodations or the reasonable modification of policies, practices or procedures. Instead, 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 ever had a disability, but is treated by others as such.

Congress also clarified that an individual is not “regarded as” an individual with a disability if the impairment is transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.
36. 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 that 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. There is no Section 504 bar to the receiving school district honoring the previous IEP during the interim period. Information about IDEA requirements when a student transfers is available from the Office of Special Education and Rehabilitative Services at http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CQaCorner%2C3%2C

37. What are the responsibilities of regular education teachers regarding the 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.

38. What is the difference between a regular education intervention (SIT) 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.

Procedural Safeguards

39. Must a school district obtain parental consent prior to conducting an initial evaluation?

Yes. OCR has interpreted Section 504 to require districts to obtain parental permission for initial evaluations. A good rule of thumb is to make such requests in writing. If a district suspects a student needs or is believed to need special instruction or related services and parental consent is withheld, the IDEA and Section 504 provide that districts may use due process hearing procedures to seek to override the parents' denial of consent for an initial evaluation.

40. 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.
41. What can a 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?

First and foremost, school officials should document their efforts to obtain parental consent. Significantly, 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. Evens so, the school district may, at its sole discretion, do so.

Keep in mind however, that 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.

42. What is a 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.

43. Is there a mediation requirement under Section 504?

No.
Terminology

The following terms may be confusing and/or are frequently used incorrectly in the elementary and secondary school context.

**Equal access**: equal opportunity of a qualified person with a disability to participate in or benefit from educational aid, benefits, or services

**Free appropriate public education (FAPE)**: a term used in the elementary and secondary school context; for purposes of Section 504, refers to the provision of regular or special education and related aids and services that are designed to meet individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met and is based upon adherence to procedures that satisfy the Section 504 requirements pertaining to educational setting, evaluation and placement, and procedural safeguards

**Placement**: a term used in the elementary and secondary school context; refers to regular and/or special educational program in which a student receives educational and/or related services

**Reasonable accommodation**: a term used in the employment context to refer to modifications or adjustments employers make to a job application process, the work environment, the manner or circumstances under which the position held or desired is customarily performed, or that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment; this term is sometimes used incorrectly to refer to related aids and services in the elementary and secondary school context or to refer to academic adjustments, reasonable modifications, and auxiliary aids and services in the postsecondary school context

**Reasonable modifications**: under a regulatory provision implementing Title II of the ADA, public entities are required to make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity

**Related services**: a term used in the elementary and secondary school context to refer to developmental, corrective, and other supportive services, including psychological, counseling and medical diagnostic services and transportation.
Role Responsibilities

Kansas City, Kansas Public Schools has adopted and complies with policy and procedures that ensure protection against discrimination of individuals with disabilities. Each school is responsible for providing a free appropriate public education (FAPE) to all students, including those with disabilities.

We endeavor to and communicate with parents of students with special needs. To effectively do so requires that school personnel be knowledgeable of Section 504 of the Rehabilitation Act of 1973, the Individuals with Disabilities Education Act (IDEA), and the Americans with Disabilities Act (ADAAA). To assist school personnel and parents in matters regarding education of students under Section 504, please contact the District Disability Compliance Coordinator.

Responsibilities of District Disability Compliance Coordinator

- Coordinates Section 504 implementation in the district
- Ensures that all Section 504 forms and procedures comply with Section 504 requirements
- Provides training to school-level Section 504 coordinators and others annually, as needed
- Provides technical assistance and problem-solving on an “as needed” basis
- Liaises with other departments to ensure Section 504 student data are accurate
- Addresses systemic issues related to Section 504 compliance
- Provides accurate, accessible information about Section 504 to the Charlotte community
- Receives and addresses concerns regarding Section 504 program implementation
- Maintains District Section 504 information on student plans and programs in NC Wise

Responsibilities of the School-Level Section 504 Coordinator

- Coordinates Section 504 services in the school
- Facilitates the Section 504 team meetings
- Addresses school staff, parental and student questions that arise about Section 504 issues
- Participates in district-wide training on Section 504 implementation.
- Schedules meetings & sends notices, including periodic reviews, as indicated on plan
- Provides copies of documents to parents
- Maintains Section 504 folder within the student’s cumulative file
- Provides information to a student’s current teacher(s) about the student’s Section 504 plan contents and the importance of implementation
- Schedules periodic review at least annually
- Ensures that staff are using current Section 504 forms and following current procedures.
- Sends student information/paperwork to District Disability Compliance Coordinator
504 Meeting Checklists

Before the Meeting

___ Contact parents to explain the purpose of the meeting and address questions and concerns
___ Schedule meeting with participants, including parents
___ Send meeting notice reminding parent of date, time and location of meeting
___ Gather pertinent information to be shared at the meeting: updates from teachers, assessment reports, medical/health information, etc
___ Develop meeting agenda
___ Arrange for any necessary interpreters or accommodations for meeting participants
___ Complete portions of the Section 504 Eligibility Determination Report that can be populated before the meeting
___ Bring all current forms to the meeting

During the Meeting

___ Introduce participants and their roles
___ Clarify purpose of meeting
___ Review agenda
___ Identify note-taker and time-keeper for meeting
___ Facilitate student’s input or participation
___ Lead group through agenda
___ Complete Section 504 Eligibility Determination Report (if new to 504)
___ Complete Section 504 Student Accommodation Plan (if needed), or revise as needed
___ Provide copies of Report and Plan to parents or inform them of how/when a copy can be obtained
___ Provide Statement of Parent Rights to parent (keep signed copy for cumulative folder)
___ Thank everyone for participation and cooperation

After the Meeting

___ Place final copy of all Section 504 meeting paperwork in the student’s cumulative file
___ If parents did not receive documents at meeting, provide copies
___ Complete NC Wise report including Program Assignments and Student Plan
___ Email initial student paperwork to the District Section 504 Office
___ Be sure all teachers know and understand their responsibilities under the Section 504 plan
___ Schedule all check-ins to monitor implementation of plan. Keep log of contacts related to implementation of plan
___ Schedule annual review date, and at least one month earlier to begin “before meeting” review process