APPENDIX G

SECTION 504

INTRODUCTION

In addition to IDEA-97, other laws also apply to students with disabilities served through the public school system. One of these laws is Section 504 of the Rehabilitation Act of 1973. Figure G-1 is a chart that shows the similarities and differences in these two laws.

What happens when students are evaluated and are not eligible for special education services under IDEA-97? Depending on the student's situation, various programs at the school may be helpful. For example, if learning problems are due to the family speaking a language other than English, a bilingual teacher may help the student. If the student is having trouble in reading or math, specialists in those subjects may be available. Usually, there are also other school services. Administrators and educators should know about resources of the school and community.

As educators consider school or community programs to fit the student's needs, they may check to see if the student might have a disability according to Section 504 of the Rehabilitation Act. Figure G-2 is an example of a Section 504 Referral Form.

A. BACKGROUND

Section 504 of the Rehabilitation Act applies to people with disabilities. This Federal civil rights act protects the civil and constitutional rights of people with disabilities. Section 504 states that people with disabilities cannot be excluded from or denied benefits of any program receiving Federal financial assistance. If schools receive Federal education money (e.g., Federal grant funds, Title I, Drug-Free Schools, Goals 2000, and similar Federal programs), they must follow the law according to Section 504.

Because Section 504 and IDEA-97 are two separate laws, requirements for eligibility, services, and funding are different. Again, refer to Figure G-1 to see similarities and differences between Section 504 and IDEA-97.

Section 504 requires school districts to make their programs and activities accessible and usable for all people with disabilities. For many years, school districts thought their main duty under Section 504 was to make buildings accessible (ramps, curb cuts, elevators, larger rest room stalls, and other architectural barriers).

Within the last several years, the Office for Civil Rights (OCR) has become active in helping school districts further define "access." The definition of access means more than physical access; students may need special accommodations such as modified assignments to benefit from their education. Computers, software, and websites must also be "accessible."

All school districts must have a Section 504 Coordinator to answer questions and address issues about Section 504.

1. Definitions Under Section 504
“Disability” -- physical or mental impairment that substantially limits one or more of a person’s major life activities. Section 504 regulations (34 CFR 104.3(i)(j)) include the following examples:

(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; cardiovascular; reproductive, digestive, genitourinary; 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.

"Major life activities" -- functions such as caring for oneself, doing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. Although IDEA-97 focuses on services for educational needs, Section 504 regulations include "learning" as just one of the major life activities. Therefore, needs related to any major life activity areas trigger eligibility for Section 504 services. However, when a condition does not substantially limit a major life activity, the person does not qualify for services under Section 504.

“Free appropriate education” -- an education by the public elementary or secondary school that includes general or special education and related aids and services that:

(a) are designed to meet the individual educational needs of a person with a disability as adequately as the needs of a non-disabled person are met, and

(b) are based upon adherence to evaluation, placement, and procedural safeguard requirements.

"Substantially limit" -- Although Section 504 regulations do not define this term, OCR suggests using the definition in the Americans with Disabilities Act (ADA): "A major life activity is substantially limited when 'the individual's important life activities are restricted as to the conditions, manner or duration under which they can be performed in relation to most people.'"

### 2. Eligibility

To be eligible for Section 504 services, the student must be evaluated by a team of people who are familiar with the student. The team must also understand about the possible disability and how it may interfere with the student's learning. The results will be discussed with parents and the student, if applicable. For example, school staff should consider the potential existence of disabilities and possible Section 504 protection for students diagnosed with:

- HIV,
- Tourette's syndrome,
- Attention deficit hyperactivity disorder (ADHD),
- Heart malfunctions,
- Communicable diseases,
- Urinary conditions,
- Blood disorders,
- Chronic fatigue syndrome,
- School phobia,
- Respiratory conditions,
- Blood/sugar disorders,
- Post-traumatic disorders,
- Pregnancy (with health issues that affect ability to learn),
- Epilepsy,
- Cancer,
- Repetitive motion syndrome,
- Birth defects,
• Tuberculosis, and
• Other conditions that meet Section 504 eligibility requirements.

Federal law:
The Rehabilitation Act of 1973, Section 504

Section 504 of the Rehabilitation Act guarantees specific rights in federally funded programs and activities to people who qualify as disabled:
No otherwise qualified disabled individual in the United States ... shall, solely by reason of his disability be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance....” The Department of Justice’s Civil Rights Division is responsible for overseeing compliance with the provisions of section 504.

Non-discrimination is mandated by Section 504, which states that “no otherwise qualified disabled individual ... shall, solely by reason of disability,” be subjected to discrimination in any program or activity conducted by federal funds recipient. Under Section 504, recipients must ensure non-discrimination through program accessibility, equal opportunity and full participation in programs, activities and services.

B. EVALUATION

If the school and/or parents believe that, because of a disability as defined by Section 504, a student needs accommodations or services to participate in the school program, the school must evaluate the student. Under Section 504 regulations (34 CFR 104.35(a)), the school district is required to conduct an initial evaluation before it takes any action regarding the initial placement of a student with a disability. If the evaluation team decides that a student is disabled under Section 504, the school must develop and implement all needed services and/or accommodations.

Section 504 requires that a team evaluate “any person who, because of a disability, needs or is believed to need special education or related services.” An evaluation is also required before any significant change in placement. Most Section 504 evaluations involve only gathering information from testing that has already been done, such as getting medical records from the doctor. The evaluation information should be reviewed to decide if it is current or needs to be updated. Figure G-3 is an example of a Section 504 Evaluation Team Meeting Summary.

C. SERVICES UNDER SECTION 504

A group of people who know about the student decides what services and/or accommodations are needed. This group usually involves the school principal, classroom teacher(s), and others working with the student. The parents and student must be included in the process whenever possible. The group must review the nature of the disability and how it affects the student's education. The decisions about Section 504 eligibility and services must be documented in the student's file and reviewed periodically.

An appropriate education for a student eligible under Section 504 may consist of education in general classes with accommodations and programs to meet the student's unique needs. Modifications in academic requirements and expectations may be needed to accommodate an individual student with disabilities to enable him/her to participate in the general education program.

1. Accommodations

Accommodations are modifications or changes made by the classroom teacher(s) and other school staff to help students benefit from their educational program. It is recommended that a Section 504 plan should be written to outline services and accommodations the student needs.
Examples of common accommodations are as follows:

- Modify assignments and tests.
- Provide an extra set of textbooks for home.
- Change where the student sits in class.
- Use study guides or other organizing methods.
- Provide training in organizational skills.
- Provide a peer tutor or helper.
- Provide counseling.
- Modify recess and/or physical education.
- Modify transportation.

As the team thinks about accommodations, they take into account:

a. the functional limitations of the student, and
b. the alternative methods of performing tasks or activities without jeopardizing outcomes.

The team follows these rules:

- Accommodations must be individualized.
- Individual needs of a student with a disability should be met as much as needs of students without disabilities.
- Accommodations must offer the student with a disability equal opportunity to obtain the same result, gain the same benefit, or reach the same level of achievement in the most integrated setting appropriate to the student's needs as other students who do not have a disability.

2. Example of a Section 504 Plan

The following is an example of a plan for a student who is eligible for Section 504 services and possible accommodations provided by the school.

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

In this example, the team might think about these possible accommodations:

- Change the student’s activity level for recess, adaptive physical education, or similar activities.
- Use air purifier or inhalants.
- Avoid allergens.
- Help with inhalant therapy.
- Give medications according to doctor’s orders.
- Change policy, if legal and appropriate, for personal administration of medications.
- Allow student to get a drink of water or chew gum, if needed.
- Consider curriculum (science class, physical education, or other classes that could present possible problems).
- Consider seasonal needs (for example, bus transportation in winter).
- Develop health care and emergency plan.

Although not required by law, it is recommended that the school develop a written plan describing placement and services. Service decisions must be based upon evaluation information and student needs. The decisions must be made by a group of persons knowledgeable about the student, the meaning of the evaluation information, and service options. One of the reasons for having a written plan in place is then the school has documentation of
what services were decided upon, which is advisable to avoid possible liability concerns. Figure G-4 is an example of a Section 504 Student Accommodation Plan.

Other Section 504 resources available are:

- Kansas Section 504 Guidelines for Educators
- Kansas Section 504 Guidelines for Parents
- Guidelines for Serving Students with Special Health Care Needs

If you want to know more about Section 504 in relationship to special education, the 504 Contact at the Kansas State Department of Education is:

- Phone: 785-296-3869, or 800-203-9462
- Fax: 785-296-6715
- Address: Section 504 Contact
  Student Support Services
  Kansas State Department of Education
  120 SE Tenth Avenue
  Topeka, KS  66612
QUESTIONS AND ANSWERS ABOUT SECTION 504

1. What are the school district’s responsibilities under Section 504?

There has been much confusion about the relationship between Section 504 and special education laws and regulations. Section 504 is a management responsibility of the school’s general education program, although special education staff may be involved in the process (e.g., evaluation). The school staff and parents must work together to help guarantee that the student is provided with needed accommodations. However, Section 504 services are not special education services, and special education funds may not be used to pay for Section 504 services.

To be in compliance with Section 504, districts must:

a. Provide written assurance of nondiscrimination.
b. Name a Section 504 Coordinator.
c. Provide grievance procedures to resolve complaints.
d. Provide notice of nondiscrimination in admission or access to its programs or activities. The notice must be in the student/parent handbook.
e. Annually identify and locate all qualified students with disabilities who are not receiving a public education.
f. Annually notify persons with disabilities and their parents or guardians of the district’s responsibilities under Section 504.
g. Provide parents or guardians with procedural safeguards.
h. Conduct a self-evaluation of school district policies, programs, and practices to make sure discrimination is not occurring.

2. What are the responsibilities of parents?

Parents should be encouraged to share concerns with the school early before problems become big. If a Section 504 meeting about the student is held, parents are to be involved, helping to develop appropriate accommodations and/or services. At home, parents should encourage their child to try hard and work with school staff. When appropriate, parents need to work with other agencies such as Kansas Rehabilitation Services. If disagreements with the school cannot be resolved, parents have mediation as an option.

3. What are the responsibilities of students?

Students also should be involved at Section 504 meetings, when appropriate. Ideally, students work with school staff and put forth maximum effort at school. Before graduating from high school, students should be familiar with their rights in post-secondary programs.

4. What is the role of the Section 504 Coordinator?

The Section 504 Coordinator helps the school meet requirements under Section 504, providing resources and helping educators and administrators understand their responsibilities under Section 504. With other administrators and teachers, s/he helps create an ongoing program to support problem-solving teams in accommodating students’ needs. The Coordinator also answers questions and addresses issues about Section 504 in the school setting.

Appendix G, pg 6
July, 2000
5. What are the roles and responsibilities of the US Department of Education and the Office for Civil Rights?

The US Department of Education is the Federal agency that administers Federal funds for education programs, conducts and disseminates education research, focuses national attention on issues and problems in education, enforces Federal laws prohibiting discrimination in any activities receiving Federal funds, and makes sure every person has equal access to education.

In addition, the US Department of Education has regional Offices for Civil Rights to enforce Section 504 and other civil rights laws. All parents have the right to directly contact the Office for Civil Rights in Kansas City, Missouri, if they believe their child is being discriminated against, based upon disability. Most differences with schools can be resolved before contacting the Office for Civil Rights.

6. What should parents do if they disagree with the school about a Section 504 issue?

First, parents should try to resolve differences with the teacher or school personnel. They could ask for a meeting to discuss these differences. If this meeting is unsuccessful, they might ask to meet with the school district's Section 504 Coordinator. If this meeting is unsuccessful, they could call the Section 504 Contact at the Kansas State Department of Education, 785-296-3869 or 800-203-9462. If these methods are unsuccessful, parents may ask the school for a Section 504 mediation. This is a free service for parents. A neutral individual will work with parents and the school to help resolve differences. If mediation is unsuccessful, parents may ask the school’s Section 504 Coordinator how to file a grievance. Another option is to ask for a due process hearing. If these methods are unsuccessful, parents may call the Office for Civil Rights in Kansas City, Missouri, to express concerns (816-880-4200; or TDD 816-374-6461).

7. What is the complaint process for the Office for Civil Rights?

Sometimes, even when people do their best, they cannot agree. Every effort must be made to work out differences at the local level, including asking for free mediation services. If all else fails, parents have the right to file a complaint with the Office for Civil Rights (OCR).

An individual or an organization may file a complaint with OCR, which is an office of the US Department of Education. An OCR complaint must be filed, in writing, within 180 calendar days after the violation.

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

- Name and address (a daytime telephone number is helpful, but not required);
- General description of the person(s) or class of persons injured by the alleged discriminatory act(s) (names of the injured person(s) are not required);
- Name and location of the school that committed the alleged discriminatory act(s); and
- Description of the alleged discriminatory act(s) in enough detail so OCR can understand what happened, when it happened, and the basis for the alleged discrimination (race, color, national origin, sex, disability, or age).

Schools may not retaliate against any person who has made a complaint, testified, assisted, or participated in any manner in an investigation or proceeding.
8. Who can I contact if I have a question about Section 504?

Locally, a person would contact the school district's Section 504 designated coordinator. If that is unsuccessful, the next person to call is the Kansas State Department of Education Student Support Services Section 504 Contact, at 785-296-3869 or 800-203-9462. If these contacts are unsuccessful, another resource is the Office of Civil Rights in Kansas City, Missouri (816-880-4200, or TDD 816-374-6461).

FIGURE G-1

DIFFERENCES BETWEEN SECTION 504 AND IDEA-97

<table>
<thead>
<tr>
<th>PROGRAM COMPONENT</th>
<th>SECTION 504</th>
<th>IDEA-97</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type</td>
<td>A Civil Rights Act</td>
<td>An Education Act and A Civil Rights Act</td>
</tr>
<tr>
<td>Funding</td>
<td>Local funding</td>
<td>State/Federal/local funding</td>
</tr>
<tr>
<td>Administration</td>
<td>Section 504 Coordinator</td>
<td>Special Education Director</td>
</tr>
<tr>
<td>Service Tool</td>
<td>Accommodations</td>
<td>Individualized Education Program</td>
</tr>
<tr>
<td>Disabilities</td>
<td>Eligible disabilities under Section 504</td>
<td>Federal disability categories under IDEA-97</td>
</tr>
<tr>
<td>Parents</td>
<td>Should be involved in all team meetings</td>
<td>Should be involved in all team meetings</td>
</tr>
<tr>
<td>Procedural Safeguards</td>
<td>Parent notice is required; consent is best practice</td>
<td>Parent notice and consent are required</td>
</tr>
<tr>
<td>Evaluation</td>
<td>Needed to decide eligibility and needed services under Section 504</td>
<td>Needed to decide eligibility and needed services under IDEA-97</td>
</tr>
</tbody>
</table>
KANSAS STATE DEPARTMENT OF EDUCATION

SECTION 504 REFERRAL

Student: ___________________________ Date: _________________________
School: ___________________________ Date of Birth: ___________________
Teacher: ___________________________ Grade: ________________________
Parent: ____________________________ Phone: ________________________
Address: __________________________________________________________
Referred by: ________________________________________________________

1. Reason for referral: ______________________________________________
   ________________________________________________________________
   ________________________________________________________________

2. Accommodations and interventions attempted by the Building Level Team
   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________

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

4. Referral action:
   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________

__________________________________________ ______________________________
Building Level Team Member Date
__________________________________________ ______________________________
Section 504 Coordinator Date
GUIDELINES FOR EDUCATORS

SECTION 504 TEAM MEETING SUMMARY

Student: ___________________________ Grade: ___________________________
School: ___________________________ Birthdate: ___________________________
Address: ___________________________ Phone: ___________________________
Case Manager: _____________________ Date: ___________________________

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

__________________________________________________________________
__________________________________________________________________
__________________________________________________________________

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

__________________________________________________________________
__________________________________________________________________
__________________________________________________________________
__________________________________________________________________

Determination Of Whether The Student Has A Disability Under Section 504

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

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

Accommodation 1: ___________________________________________________
__________________________________________________________________
__________________________________________________________________
__________________________________________________________________

Accommodation 2: ___________________________________________________
__________________________________________________________________
__________________________________________________________________
__________________________________________________________________

Accommodation 3: ___________________________________________________
__________________________________________________________________
__________________________________________________________________
__________________________________________________________________

Accommodation 4: ___________________________________________________
__________________________________________________________________
__________________________________________________________________
__________________________________________________________________

DURATION OF ACCOMMODATION(S) From _____________ To _____________

Review/Reassessment Date: __________________________________________

Participants

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Placement for Services _______________________________________________
__________________________________________________________________
__________________________________________________________________

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

_______________________________________________________
Parent Date
GUIDELINES FOR EDUCATORS

SECTION 504
STUDENT ACCOMMODATION PLAN

Student: ______________________________ Date: ____________________
School: ______________________________ DOB: ____________________
Case Manager: ________________________ Review Date: ______________

Part 1: Justification for Services

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

   The student has a physical or mental impairment which substantially limits one
   or more of his/her major life activities.
   _____ YES   _____ NO

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

2. Briefly document the basis for determining the disability: ______________________
   ______________________________
   ______________________________
   ______________________________
   ______________________________
   ______________________________

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

KSDE Sample Form 3
4, pg 1
Appendix G, Fig.
July, 2000
Section 504
STUDENT ACCOMMODATION PLAN

Area of Difficulty: ______________________________________________________________
Accommodations: ______________________________________________________________
____________________________________________________________________________
____________________________________________________________________________
Evaluation: _____________________________________________________________________

Area of Difficulty: ______________________________________________________________
Accommodations: ______________________________________________________________
____________________________________________________________________________
____________________________________________________________________________
Evaluation: _____________________________________________________________________

Area of Difficulty: ______________________________________________________________
Accommodations: ______________________________________________________________
____________________________________________________________________________
____________________________________________________________________________
Evaluation: _____________________________________________________________________

Area of Difficulty: ______________________________________________________________
Accommodations: ______________________________________________________________
____________________________________________________________________________
____________________________________________________________________________
Evaluation: _____________________________________________________________________

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

_________________________________________________ _______________________________________
Parent                                                           Date
Guidelines for Educators

Section 504
STUDENT ACCOMMODATION AND SERVICE PLAN

Student: _____________________________ Date: _______________
Case Manager: _______________________
Explanation of Section 504 Eligibility: _____________________________________
__________________________________________________________________
__________________________________________________________________
__________________________________________________________________
Check each area where special accommodation/services will help the student meet
success at school.

___ Seating ___ Note Taking ___ Reading
___ Writing ___ Spelling ___ Vocabulary
___ Space ___ Organization ___ Math
___ Physical Education ___ Assistive Devices ___ Test Taking
___ Problem Solving ___ Time ___ Memory
___ Communication ___ Interpersonal Skills ___ Homework
___ Assignment Completion ___ Listening ___ Other ______

ACCOMMODATIONS AND SERVICES

1. _______________________________________________________________
   __________________________________________________________________
   __________________________________________________________________
   __________________________________________________________________

2. _______________________________________________________________
   __________________________________________________________________
   __________________________________________________________________
   __________________________________________________________________

3. _______________________________________________________________
   __________________________________________________________________
   __________________________________________________________________
   __________________________________________________________________
SECTION 504
STUDENT ACCOMMODATION AND SERVICE PLAN

4. ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________

5. ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________

6. ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________

7. ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________

8. ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________

9. ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________

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

________________________________________  _______________________
Parent                                             Date

SECTION 504 COMMITTEE MEMBERS

________________________________________

________________________________________

________________________________________

________________________________________

Appendix G, Fig. 4, pg 4
KSDE Sample Form 3
July, 2000