

Fort Larned USD 495

Section 504 Handbook

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SECTION 504 HANDBOOK

INTRODUCTION

Section 504 of the Rehabilitation Act (“Section 504”) is a federal civil rights law (not an education law) passed by the U.S. Congress in 1973 that prohibits entities receiving federal financial assistance from discriminating against individuals on the basis of disability. In addition, the law requires that public elementary and secondary schools provide a free and appropriate public education (“FAPE”), which may include accommodations and related aids and services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of a nondisabled student are met and are based upon adherence to evaluation, placement and procedural safeguard requirements.

The U.S. Department of Education Office for Civil Rights (“OCR”) enforces the law. Both the education and legal systems have increasingly focused attention on Section 504 requirements to ensure that education systems do not discriminate on the basis of a qualified disability and do provide qualified disabled students equal access to public education programs and activities.

This handbook is intended to be utilized by staff members as a resource regarding the provisions of Section 504 regarding equal access for disabled students. It contains general information and is not intended to address all unique and specific circumstances a student or parent may encounter or to constitute legal advice and should not be relied upon as such. For specific details regarding referral, eligibility and equal access to the district’s programs and activities, parents are encouraged and invited to contact the school principal, the Section 504 building representative for the school attended by their child, and/or the superintendent, who serves as the district’s 504 coordinator.

SECTION 504 DISABILITIES DEFINED

A disabled person under Section 504 is defined as any individual who meets the criteria under a **three (3) pronged definition**. The person either:

- (1) has a physical or mental impairment which substantially limits one or more major life activities, **OR**
- (2) Has **a record** of such an impairment, **OR**
- (3) Is **regarded as having** such an impairment.

With regard to students, OCR has clarified that students are not entitled to reasonable accommodations or modifications to policies, practices and procedures or the provision of related services simply because they have a record of a disability or are regarded as having an impairment. 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 FAPE.

A “**physical or mental impairment**” is defined 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; 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.

In determining whether a student’s impairment “**substantially limits**” a major life activity, the student’s ability to perform a major life activity is compared to the ability of most people in the general population to perform that major life activity. Specific factors to consider include, but are not limited to, the following:

- condition under which the student performs the major life activity;
- manner in which the student performs the major life activity;
- duration of time it takes the student to perform the major life activity;
- duration for which the student can perform the major life activity;
- difficulty, effort, or time required to perform a major life activity;
- pain experienced when performing a major life activity;
- way an impairment affects the operation of a major bodily function, and
- negative impact of any mitigating measure, such as negative side effects of medication or burdens associated with following a particular treatment regimen.

“**Major life activities**” include, but are not limited to: caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, eating, sleeping, standing, lifting, bending, learning, reading, concentrating, thinking, communicating, sitting, reaching, interacting with others; and the operation of a major bodily function, including but not limited to, the function of the following

organs or systems: immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, reproductive, special sense organs and skin, genitourinary, cardiovascular, hemic, lymphatic, and musculoskeletal. The operation of a major bodily system includes the operation of an individual organ within a body system.

Mitigating Measures

“Mitigating measures” are devices or practices that a person uses to correct or reduce the effect of a person’s mental or physical impairment. Examples of mitigating measures include, but are not limited to, medication, prosthetics, hearing aids, cochlear implants, mobility devices and assistive technology. The law requires that the ameliorative effects of mitigating measures (except glasses and contacts) not be considered by schools in determining whether an impairment substantially limits a major life activity. As noted above, however, the negative impact of any mitigating measures is a consideration in determining whether the impairment substantially limits a major life activity.

Limiting Effect of Disability

An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

Episodic Disability or Remission

An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

Broad Coverage

The definition of disability shall be construed in favor of broad coverage of individuals under Section 504 and Title II of the Americans with Disabilities Act, to the maximum extent permitted by the terms of those laws.

EVALUATION FOR ELIGIBILITY DETERMINATION

Section 504 regulations, at 34 C.F.R.104.35(b), require school districts to individually evaluate a student before classifying the student as having a disability or before providing the student a 504 Accommodation Plan (“504 Plan”) outlining changes to policies, practices or procedures or the provision of related services that are needed for the student to gain equal access to the district’s programs and activities. The District has established standards and procedures consistent with Section 504 regulations for initial evaluation and periodic re-evaluation of students who need or are believed to need a 504 Plan as a result of their disability. The District shall conduct an evaluation of any student who, because of a disability, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the student in regular or special education and any subsequent significant change in placement.

At the elementary and secondary level, a 504 Team determines whether a student is a qualified student with a disability, as defined by Section 504. The student's 504 Team should include persons knowledgeable about the student, a person who can interpret the meaning of the evaluation data, and a person who can identify options for accommodations, modifications and/or related services. Section 504 regulations do not specify who should comprise the team, but the District has identified the following suggested team members: the principal, the student's teacher(s), a staff member with knowledge of evaluation data, the parent, the student when appropriate, and others as deemed appropriate.

The 504 Team must decide whether they have sufficient information in hand – including any preexisting assessment data – to make decisions. If the 504 Team determines that additional information needs to be collected through evaluation, the procedures used in that evaluation must ensure that:

- children are not misclassified;
- children are not unnecessarily labeled as having a disability;
- evaluation procedures are appropriately selected, administered, and interpreted, and
- children are not incorrectly placed.

Parental consent is required for an initial Section 504 evaluation.

The 504 Team must ensure that:

- The tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer.
- The tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient.
- Tests are selected and administered so as to best ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

When interpreting evaluation data and making placement decisions, the 504 Team must ensure that they:

- Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior.
- Establish procedures to ensure that information obtained from all such sources is documented and carefully considered.

- Ensure that the placement decision is made by a group of persons, including persons knowledgeable about the student, the meaning of the evaluation data, and the placement options.
- Ensure that the placement decision is made in a timely manner, and in the least restrictive environment in accordance with 34 C.F.R. § 104.34.

The 504 Team will take steps to ensure that the parent(s) of a student with a disability, who are knowledgeable about the student, are present at the Section 504 and Title II meetings or are afforded the opportunity to participate, including notifying the parents of the meeting early enough to ensure that they will have an opportunity to attend and scheduling the meeting at a mutually agreeable time and place.

The 504 Team must first determine whether the student has an impairment that substantially limits a major life activity. However, not every student who has a physical or mental impairment that substantially limits a major life activity will qualify for and need accommodations under Section 504. The actual presence of an identified disability is not sufficient, in and of itself, to qualify a student as eligible for a 504 Plan. The 504 Team also must determine whether the student needs change to the district's policies, practices or procedures or the provision of related services in order to provide him or her with equal access to its programs and activities. If so, the student qualifies for a 504 Plan.

CHILD FIND

The District shall annually undertake to identify and locate every qualified child with a disability residing in the District's jurisdiction who is not receiving a public education and shall take steps to notify children with disabilities and their parents or guardians of the District's duties under Section 504 and Title II. The District shall include a provision addressing Section 504 and Title II in the District's child find publications, including newspaper notices, letters, flyers, and brochures.

EXISTING EVALUATIONS

Some students who are referred for eligibility determination under Section 504 may have existing medical conditions that have already been diagnosed outside of the school setting. In cases where evaluation data already exists, the 504 Team may utilize that information in their decision-making process. In these instances, the school members of the 504 Team may request consent from the parent to obtain copies of the existing evaluation or to speak to the evaluator or physician diagnosing or treating the medical condition(s).

In making an eligibility determination, the 504 Team is required to consider all relevant information from a variety of sources but is not obligated to adopt the evaluation or recommendations made by other agencies or individuals. While a physician's medical diagnosis may be considered among other information in evaluating a student suspected of having a disability, a medical diagnosis alone does not suffice for the purposes of Section 504 eligibility determination. The 504 Team must be able to document a resulting substantial limitation of a major life activity and a need for changes to the district's policies, practices or procedures or the provision of related services to gain equal access to the district's programs and activities.

EVALUATION AT PARENTAL REQUEST

The district is not obligated to conduct an evaluation upon parent request if the 504 Team can document that there is no reason to suspect that the student might be eligible for support under Section 504. The district is required to evaluate a student only when it has reason to believe the student may need a Section 504 Plan or otherwise be eligible for special education or related services under other federal or state regulations. If a 504 Team determines that a student will not be evaluated, the district will send written notice of that decision to the parent.

INDEPENDENT EDUCATION EVALUATION (“IEE”)

A parent does not have the right to obtain a Section 504 IEE of a student at public expense. The 504 Team will, however, consider any outside evaluations obtained at parent expense.

RE-EVALUATION

Section 504 requires that student re-evaluations will be done periodically. This may be conducted in accordance with regulations governing the Individuals with Disabilities Education Act (“IDEA”), 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). In addition, a re-evaluation must be done any time a significant change in placement (including long-term suspension or expulsion) is being considered or any time a student is being dismissed from a Section 504 Plan, except upon graduation.

The 504 Team determines the amount of information required for the re-evaluation. The team must determine if they have enough information to make a knowledgeable decision as to whether the student has an impairment that continues to present a substantial limitation and whether the student needs changes to the district’s policies, practices and procedures or the provision of related services in order to gain equal access to the district’s programs and activities. The re-evaluation process can be simplified and may be limited to existing data and discussion of the student’s disability and its impact in the school setting, if no additional data is needed to determine appropriate revisions to the student’s 504 Plan.

It is the district’s practice to obtain parent consent to re-evaluate a student.

IDEA ELIGIBILITY

If through the evaluation process described above it is determined that a student may be eligible for special education services under one or more of the IDEA disability categories, a referral will be made for the student to be evaluated for special education. If eligible for special education, services must be provided through an Individual Education Plan (“IEP”) under the IDEA. Neither parents nor the district may opt to provide services and accommodations under Section 504 when the student is IDEA eligible.

FREE APPROPRIATE PUBLIC EDUCATION (“FAPE”)

The District shall provide a FAPE to each qualified student with a disability in the District’s jurisdiction. An appropriate education is 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 complies with applicable federal regulations.

LEAST RESTRICTIVE ENVIRONMENT

The District shall educate, or shall provide for the education of, each qualified student with a disability in its jurisdiction with students without disabilities to the maximum extent appropriate to the needs of the student with a disability. The District shall place a student with a disability in the regular educational environment unless it is demonstrated by the District that the education of the student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily.

The District shall ensure that students with disabilities participate with students without disabilities in nonacademic and extracurricular services and activities to the maximum extent appropriate to the needs of the student with a disability. Nonacademic and extracurricular services and activities include, but are not limited to, meals, recess periods, counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the District, referrals to agencies which provide assistance to students with disabilities, and employment of students.

504 PLANS FOR STUDENTS

Support and services to be provided to a student under Section 504 are documented in a 504 Plan. In developing the 504 Plan, the 504 Team must ensure that the student is educated in the least restrictive environment. The 504 Plan should include changes to the district’s policies, practices or procedures (*i.e.* accommodations/modifications) and/or the provision of related services that the team has determined the student needs in order to gain equal access to the district’s programs and activities.

PRIVATE SCHOOL/HOME SCHOOLED STUDENTS

Section 504 does not require a public school to provide services in private or home school settings. If the district has offered to provide the student an appropriate education in the public school setting, the district is not responsible for the provision of educational services to students enrolled in a non-public school program based on the personal choice of the parent.

TRANSFER STUDENTS

When a student with a disability transfers from one district to another with a 504 Plan, the receiving district should review the plan and supporting documentation. If the 504 Team at the receiving school determines the 504 Plan is appropriate, it will be

implemented. If the 504 Team determines that the plan does not appear to be appropriate, the district should initiate a 504 evaluation and convene a 504 Team meeting to revise the plan as necessary to meet the student's needs.

ANTI-RETALIATION

The District prohibits retaliation, intimidation, threats, coercion or discrimination against any person for opposing discrimination, including harassment, or for participating in the District's discrimination complaint process or making a complaint, testifying, assisting, or participating in any manner in any investigation, proceeding or hearing.

The District will take immediate steps to stop retaliation and prevent its recurrence against the alleged victim and any person associated with the alleged victim. These steps will include, but are not limited to, notifying students, employees, and others that they are protected from retaliation, ensuring that they know how to report future complaints, and initiating follow-up contact with the complainant to determine if any additional acts of discrimination, harassment, or retaliation have occurred. If retaliation occurs, the District will take prompt action, including possible discipline such as expulsion or termination, if applicable.

PROCEDURAL SAFEGUARDS

Under Section 504, the rights of the parent and student are protected by a system of procedural safeguards that include:

- notice of meetings/parent participation;
- prior written notice of evaluations, eligibility, and programmatic action proposed;
- opportunity to examine relevant records;
- notice of parent and student rights/procedural safeguards; and
- review procedures.

NOTICE OF MEETING AND PARENT PARTICIPATION

While Section 504 does not specify the degree of parent participation required, the district believes it to be best practice to involve parents in the 504 process. In order to encourage parent participation, the district will provide parents reasonable notice of all 504 Team meetings and will offer the opportunity to participate in these meetings.

All decisions regarding a student's eligibility and/or accommodation plan under Section 504 are made by the student's 504 Team, which includes the parents/guardians as equal members. The decision-making process used by the student's 504 Team is consensus building. A consensus decision involves building agreement by the whole group on a course of action. Although individual members (based on their own unique experiences and expertise) may feel that other choices may be better for one reason or another, a consensus is built when all members come together on the final choices.

Since all decisions must be made by consensus of the 504 Team, reports and recommendations from individuals or groups (including physicians, therapists, and other

health professionals) are fully considered by the team, but cannot take the place of team decision making by the 504 Team.

If consensus cannot be achieved, the final decisions are made by the principal.

PRIOR WRITTEN NOTICE OF EVALUATIONS, ELIGIBILITY AND PROGRAMMATIC ACTION PROPOSED

The district provides prior written notice of evaluations and requests parent consent. The district also provides prior written notice concerning whether the student is eligible for a 504 Plan. Finally, the district provides prior written notice and requests parent consent for the initial 504 Plan and any subsequent changes to the 504 Plan.

EXAMINATION OF RELEVANT RECORDS

Under Section 504, parents have the right to examine all relevant records relating to decisions regarding their child. Student records related to Section 504 are maintained by the student's school building administrator. If parents wish to examine their child's records, they should contact the building principal and schedule an appointment for this purpose. A member of the school staff will be available to assist the parent and to answer questions as they review records.

Parents may request copies of records in their child's file, with the exception of records that may not be duplicated due to copyright laws. The school may charge a reasonable fee for copies of student records unless the fee would effectively deny the parent access to the records.

NOTICE OF PARENT AND STUDENT RIGHTS/PROCEDURAL SAFEGUARDS

A copy of the district's Section 504 Notice of Parent and Student Rights/Procedural Safeguards will be made available to the parents of eligible students at least one time each year. Parents will also be given a copy of Notice of Parent and Student Rights/Procedural Safeguards when:

- a parent requests an evaluation of a student or the district proposes to conduct such an evaluation;
- parents file an appeal of the 504 Team's decision;
- a 504 Team conducts a manifestation determination; and
- a copy of Notice of Parent and Student Rights/Procedural Safeguards is requested by a parent.

GRIEVANCE PROCEDURES

Students who are denied eligibility for a 504 Plan or are not satisfied with the contents of a 504 Plan may contact the superintendent, the 504 Coordinator, who will reconsider the decision. The superintendent can be reached at 120 E. 6th St., Larned, Kansas 67550, telephone/fax: 620-285-3185.

The appeal request must be in writing, state the reasons for the appeal and be made within 5 school days following receipt of notice denying eligibility or receipt of the disputed 504 Plan. The review by the superintendent may include a meeting with the parent or student, a meeting with other members of the 504 Team, as appropriate, and a review of the file and supporting documentation. The superintendent may also meet with other district staff members who have information about the student. Based on this review, the superintendent will make a determination in writing to grant or deny the appeal.

If a parent or student is not satisfied with the superintendent's decision, the parent or student can request review by an impartial hearing officer. This request must be in writing, state the reasons for the appeal and be made within 5 school days of receipt of the superintendent's decision. The district will arrange for an independent hearing officer to hear the appeal. The student is entitled to have his or her parent/guardian participate in the hearing and to be represented by counsel.

SECTION 504 DUE PROCESS PROCEDURES

Parents shall have a right to challenge the actions of the Section 504 Team regarding their child's identification, evaluation, or educational placement.

Due Process Procedures:

A written request shall include the following information:

- The reason for the request –
 1. Denied identification, evaluation or educational placement of persons who, because of disability, need or are believed to need special instruction or related services
 2. Placed in a setting which is not the least restrictive environment
 3. Denied appropriate services due to inaccessibility of programs
 4. Denied accommodations and/or modification to regular education program because of identified disability
 5. Denied participation in extracurricular or nonacademic activities because of a disability
- A suitable time for the hearing: morning or afternoon
- Two (2) possible dates for the hearing
- A statement as to whether you prefer the hearing to be closed or open

Upon receipt of the Due Process Request, an impartial Hearing Officer will then advise both parties of the date, time and location for a hearing.

The hearing must be held not less than fifteen (15) days and not more than thirty (30) days from the time the request for the hearing is submitted, unless the parent/guardian agrees otherwise or the Hearing Officer grants a continuance at the request of one of the parties.

SCHOOL DISTRICT'S RESPONSIBILITIES

- The school will provide a location for the hearing.
- The District will allow the child to remain in his/her present placement until after the hearing, unless the parents agree that a change in placement would be best for the child.

BEFORE THE HEARING

- All exhibits to be presented at the hearing shall be exchanged between the school system and the parents at least five (5) school days prior to the hearing.
- The school system must allow the parent to examine the child's records and make copies if requested.
- The parties may present and cross-examine witnesses who know about the child's disability.
- The child may be present at the hearing.
- After the impartial Hearing Officer has heard the case, he/she will provide a written decision.

AFTER THE HEARING

- A copy of the impartial Hearing Officer's decision will be given to both the District and the parents. The Hearing Officer must render a decision within thirty (30) days after the last day of the hearing, unless the parents agree otherwise or the Hearing Officer has granted a continuance at the request of one of the parties.
- The decision made by the Hearing Officer is final unless parents or the District appeals the decision to the appropriate state or federal court.
- A parent/guardian may file a complaint with a court of competent jurisdiction.

DISCIPLINE

Under Section 504, identified students with disabilities cannot be suspended or expelled from school for more than 10 consecutive school days (or a pattern totaling more than 10 school days) for misconduct that was a manifestation of the student's disability. Whether or not the student's behavior was a manifestation of his/her disability is determined at a meeting of the 504 Team with the provision of at least 24 hours verbal or written notice of the meeting to the parent. If a student's misconduct is not a manifestation of his/her disability, the district may discipline the student as it would a general education student. Unlike the IDEA, students identified with disabilities under Section 504 are not entitled to continued services during the term of their suspension or expulsion if the misconduct was determined not to be a manifestation of their disability.

COMPLAINTS OF DISCRIMINATION/HARASSMENT

Anyone who believes that the district has discriminated against or harassed a student with a disability may take the following steps to resolve their concerns:

- contact the building principal;

The building principal shall attempt to resolve complaints of discrimination or harassment in an informal manner at the building level. Any school employee who receives a complaint of discrimination harassment from a student, another employee or any other individual shall inform the individual of the employee's obligation to report the complaint and any proposed resolution of the complaint to the building principal. The building principal shall discuss the complaint with the individual to determine if it can be resolved. If the matter is resolved to the satisfaction of the individual, the building principal shall document the nature of the complaint and the proposed resolution of the complaint, and forward this record to the district compliance coordinator. Within 20 days after the complaint is resolved in this manner, the principal shall contact the complainant to determine if the resolution of the matter remains acceptable. If the matter is not resolved to the satisfaction of the individual in the meeting with the principal, or if the individual does not believe the resolution remains acceptable, the individual may initiate a formal complaint.

If discrimination or harassment has occurred, the district will take prompt remedial action to prevent its reoccurrence and correct any discriminatory effects of the harassment on the complainant and others. Retaliation against any individual filing a complaint or participating in the investigation of a complaint is prohibited.

- submit a formal complaint to the district's Section 504 Coordinator;

A formal complaint should be filed in writing and contain the name and address of the person filing the complaint. The complaint should briefly describe the alleged violation. If an individual does not wish to file a written complaint and the matter has not been adequately resolved, the building principal may initiate the complaint. Forms for filing written complaints are available in each building office and the central office. The form should be submitted to the district's Section 504 coordinator – the Superintendent – at 120 E. 6th St., Larned, Kansas 67550. The telephone/fax number for the Superintendent is 620-285-3185.

A complaint should be filed as soon as possible after the conduct occurs, but not later than 180 days after the complainant becomes aware of the alleged violation, unless the conduct forming the basis for the complaint is ongoing.

If appropriate, an investigation shall follow the filing of the complaint. If the complaint is against the superintendent, the board shall appoint an investigating officer. In other instances, the investigation shall be conducted by the building principal, the compliance coordinator or another individual appointed by the board. The investigation shall be informal but thorough. All interested persons, including the complainant and the person against whom the complaint is lodged, will be afforded an opportunity to submit written or oral evidence relevant to the complaint.

A written determination of the complaint's validity and a description of the resolution shall be issued by the investigator, and a copy forwarded to the complainant and respondent no later than 30 days after the filing of the complaint.

If the investigation results in a recommendation that a student be suspended or expelled, procedures outlined in board policy and state law governing student suspension and expulsion will be followed.

If the investigation results in a recommendation that an employee be suspended without pay or terminated, procedures outlined in board policy, the negotiated agreement or state law will be followed.

Records relating to complaints filed and their resolution shall be forwarded to and maintained in a confidential manner by the district compliance coordinator.

The complainant may appeal the determination of the complaint. Appeals shall be heard by the district compliance coordinator, a hearing officer appointed by the board, or by the board itself as determined by the board. The request to appeal the resolution shall be made within 20 days after the date of the written resolution of the complaint at the lower level. The appeal officer shall review the evidence gathered by the investigator and the investigator's report, and shall afford the complainant and the person against whom the complaint is filed an opportunity to submit further evidence, orally or in writing, within 10 days after the appeal is filed. The appeal officer will issue a written determination of the complaint's validity and a description of its resolution within 30 days after the appeal is filed.

If discrimination or harassment has occurred, the district will take prompt remedial action to prevent its reoccurrence and correct any discriminatory effects of the harassment on the complainant and others. Retaliation against any individual filing a complaint or participating in the investigation of a complaint is prohibited.

Use of this complaint procedure is not a prerequisite to the pursuit of any other remedies including the right to file a complaint with the Office for Civil Rights of the U.S. Department of Education, the Equal Employment Opportunity Commission, or the Kansas Human Rights Commission.

- contact the OCR.

At any time in the process, parents may file a complaint by contacting the United States Department of Education Office for Civil Rights, 1010 Walnut Street, Suite 320, Kansas City, Missouri 64106, Telephone 816-268-0550, Email: OCRKansasCity@ed.gov. Please keep in mind that although a parent may file a complaint with the Office of Civil Rights at any time, resolving the differences at a local level may be quicker and more productive.

FOR MORE INFORMATION, SEE BOARD POLICIES KN – COMPLAINTS, JGEC – SEXUAL HARASSMENT, JGECA – RACIAL AND DISABILITY HARASSMENT, AND

JCE – COMPLAINTS. YOU MAY ALSO CONTACT THE DISTRICT’S 504 COORDINATOR AT 620-285-3185.

Notice of Parent and Student Rights/Procedural Safeguards

The following is a description of the rights granted by Section 504 of the Rehabilitation Act of 1973 for students with disabilities. The intent of the law is to keep you fully informed concerning decisions about your student and to inform you of your rights if you disagree with any of these decisions. Please keep this explanation for future reference.

YOU HAVE THE RIGHT TO:

- have your student take part in and receive benefits from the school district's programs and activities without discrimination because of his/her disabling condition;
- have the school district notify you of your rights under federal law;
- receive notice with respect to identification, evaluation or placement of your student;
- have your student receive a free appropriate public education. This includes the right to be educated with nondisabled students to the maximum extent appropriate. It also includes the right to have the school district make reasonable accommodations to allow your student an equal opportunity to participate in school and school-sponsored activities;
- have your student educated in facilities and receive services comparable to those provided to non-disabled students;
- have your child receive special education and related services if she/he is found to be eligible under the Individual with Disabilities Act (IDEA);
- have evaluations, educational, and placement decisions made based upon a variety of information sources, and by persons who know the student, the evaluation data, and placement options;
- have your student be given an equal opportunity to participate in non-academic and extracurricular activities offered by the district;
- examine all relevant records relating to decisions or actions regarding your student's identification, evaluations, services and/or placement;
- obtain copies of educational records at a reasonable cost unless the fee would effectively deny your access to the records;
- receive a response from the school district to reasonable requests for explanation and interpretation of your students' records;
- request amendment of your student'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 student. If the school district refuses this request for the amendment, it shall notify you with a reasonable time and advise you of the right to a hearing;
- request an impartial due process hearing through the district's grievance procedure related to decisions or actions regarding your student's identification, evaluations, educational program or placement. You and the student may take part in the hearing and have an attorney represent you. Hearing requests must be made to the district ADA/Section 504 Coordinator listed below;
- request an appeal of the final decision of the impartial hearing officer to a court of competent jurisdiction.

The District prohibits retaliation or discrimination against any person for opposing discrimination, including harassment, or for participating in the

complaint process or making a complaint, testifying, assisting, or participating in any manner in any investigation, proceeding or hearing.

Section 504 Coordinator

**Superintendent
U.S.D. 495
120 E. 6th St.
Larned, KS 67550
Telephone: 620-285-3185**

PARENT REQUEST FOR 504 EVALUATION

Date of Request _____

Student Name _____ Student ID _____

Date of Birth _____ Grade Level _____

I suspect my child has a disability which is affecting his/her education. Please evaluate my child to see if he/she has a disability as defined by Section 504 of the Rehabilitation Act of 1973 and is eligible for accommodations and/or related services.

Nature of the possible disability: _____

Medical or other evaluation records regarding this disability are _____ are not _____ available.

I will _____ will not _____ make them available to an evaluation team.

You do _____ do not _____ have my permission to have a school psychologist or teacher administer individual tests, if appropriate, to assist in this evaluation.

Thank you for your help. I look forward to hearing from you with a response to this request.

Sincerely,

Parent/Guardian Signature

Address

Phone Number

Section 504 Referral Form

Student: _____ Date: _____

School: _____ Date of Birth: _____

Teacher: _____ Grade: _____

Parent: _____ Phone: _____

Address: _____

Referred by: _____

Position: _____

1. Reason for referral: _____

2. Accommodations and interventions attempted: _____

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

4. Referral action: _____

Signature of Section 504 Coordinator

Date

Invitation to Parents for Initial Section 504 Meeting

Student _____ Date _____

School _____

Dear Parent or Guardian:

This letter is to inform you that the Section 504 Team at the school has concerns about your child's academic and/or behavioral progress. Prior to this time, the Team may have developed and implemented academic and/or behavioral interventions with your child. They include the following:

Intervention	Duration	Effectiveness
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

After evaluating the Intervention Plan and/or your child's current performance, we believe that additional information is necessary to fully determine your child's educational needs and whether he/she might need accommodations in the general classroom under Section 504. We would like to meet with you to discuss a possible evaluation under Section 504 in order to ensure that your child is afforded an appropriate education.

We have scheduled a meeting on _____ at _____. This meeting will be held at _____.

It would be helpful if you could fill out the attached parent input form and bring it to the meeting or send it to your child's teacher if you cannot attend. If you have any questions, cannot attend, or if this meeting time is not convenient for you, please call me at _____. We will discuss your questions or arrange a mutually convenient meeting time. A description of your rights under Section 504 is attached.

Sincerely,

School Section 504 Representative

Section 504 Meeting Parent Input

Student: _____ Date: _____

School: _____ Grade: _____

Father's Name: _____

Mother's Name: _____

Who has legal authority to make educational decisions for this child? _____

With whom does this student live? _____

Please answer any questions that you think might be helpful to the 504 Team.

What are some of your child's strengths? _____

What does your child do when not in school? _____

Please describe your child's behavior at home? _____

Have there been any important changes within the family during the last 3 years? _____

Do you feel your child is experiencing problems in school? _____

When were you first aware of this problem? _____

What do you think is causing the problem? _____

What time does your child go to bed at night? _____

Does your child usually eat breakfast? _____

What methods of discipline are used with your child at home? _____

What is your child's reaction to discipline? _____

Has your child mentioned any problems with school? If so, how does he/she feel about the problem? _____

Health History

Please describe any serious illnesses, accidents, or hospitalizations. _____

Does your child appear to have any physical health problems, including allergies? _____

Is your child receiving service(s) from another agency? _____

Is your child currently taking medications? If so, please list. _____

Are there any known side effects from the medication? _____

Please tell us anything else that you think would be helpful in planning for your child's success at school. _____

Section 504 Consent to Evaluate

Student Name _____

School _____ Date _____

Following a discussion with school personnel acquainted with my child, I authorize the use of school educational evaluation for my child to determine possible identification for Section 504 accommodations/services. I understand that this evaluation may include administration of the following evaluation procedures.

The school is requesting your consent to conduct the following evaluation procedures:

Evaluation Procedures	Person Responsible
_____	_____
_____	_____
_____	_____
_____	_____

I understand that following the evaluation, I will be given the opportunity to meet with appropriate school staff to review the evaluation results and plan next steps for my child's education.

As a parent or guardian, I _____ DO _____ DO NOT (please check one) consent to this evaluation. I understand that my consent may be revoked at any time prior to the completion of this evaluation. Revocation of consent will have no impact on the parts of the evaluation which may already be completed.

Signed

Parent Name (printed) _____ Date

The written notice of parental rights was given: _____Yes _____No

Copies: Parents
 Student file

Notice of Section 504 Meeting To Review Evaluation Results

Date sent/mailed: _____

Student's name: _____

School: _____ Grade: _____

Parent's Name: _____

Address: _____

Home Phone: _____ Work Phone: _____

Dear _____,

This letter is to inform you that the Section 504 Team at your child's school would like to meet with you to discuss the results of an evaluation under Section 504. Your insights and contributions will be quite helpful to us in effecting the best decisions possible. If you have not already done so, please fill out and return the Parent Input Form.

Meeting Date: _____ Meeting Time: _____

Location: _____

Please call me at _____ if you have any questions or need to arrange an alternative date.

Sincerely,

School Section 504 Representative

Copies: Parents
 Student file

Attachment: Parent Input Form

Evaluation Report: Section 504/ADA

PART ONE: DOCUMENTATION OF TEAM MEETING

Name of Student: _____ DOB: _____

Date of 504 Team Meeting: _____ Time: _____

Location: _____

Team Members: (Note: the Team should consist of at least three members of the professional staff. Team Members must be collectively knowledgeable about the student, the meaning of the evaluation data, and the placement options.)

Name:

Title:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Information that was reviewed and considered:

The following information provided by the parents: (Note: attach copies of any report, recommendation, or evaluation provided by the parents and summarize any verbal input):

_____ Grades: What school year(s)? _____

_____ Academic testing: Tests? _____ Year(s)? _____

_____ Teacher recommendations: What teacher(s)? _____

_____ Behavior records: What school year(s)? _____

_____ Attendance records: What school year(s)? _____

_____ Other testing or evaluation: Be specific: _____

_____ Medical reports, records, recommendations: Be specific: _____

_____ Other input: Be specific: _____

___ Performing Manual Tasks ___ Speaking ___ Reading

PART TWO: CONSIDERATION OF MAJOR LIFE ACTIVITIES

___ Walking ___ Ability ___ Concentrating

___ Seeing ___ Learning ___ Thinking

___ Communicating ___ Eating ___ Sleeping

___ Standing ___ Lifting ___ Bending

___ Other (Be specific) ___ Other ___ Other

Note: if the major life activity is LEARNING, READING, CONCENTRATING, THINKING, SPEAKING, OR COMMUNICATING, the Team should CONSIDER referring the students for a Full Individual Evaluation to determine eligibility for special education under the Individuals with Disabilities Education Act (IDEA).

If the Team suspects that the student may need specially designed instruction due to impairment of any of these major life activities, the Team must refer the student for a special education evaluation to determine eligibility under IDEA. In that case, the Team will suspend the meeting until a decision is made about special education eligibility. Go to Part Five.

PART THREE: CONSIDERATION OF IMPAIRMENT

What data has the Team considered to establish that the student has a PHYSICAL or MENTAL IMPAIRMENT?* Be specific, and list all sources of data:

*NOTE: if there is no data, or insufficient data, to support the existence of a physical or mental impairment, the school cannot identify the student as an individual with a disability under Section 504/ADA.

Based on the data considered, how long is the impairment expected to affect the student? _____

Based upon a review of the data cited above, does the student have a physical or MENTAL IMPAIRMENT affecting the MAJOR LIFE ACTIVITY to some degree?

____ Yes ____ No

If YES, proceed.

If NO, the student can be identified as an individual with a disability under Section 504/ADA. However, if the student has a RECORD of any physical or mental impairment that substantially limits a major life activity, the student will not be subjected to discrimination based on that record. Furthermore, if the student is erroneously REGARDED as having such a physical or mental impairment, the student will not be subjected to discrimination based on that perception. Go to Part Five.

If YES, what is the nature of the IMPAIRMENT of the MAJOR LIFE ACTIVITY?

PART FOUR: CONSIDERATION OF IMPAIRMENT

Impairments impact major life activities to varying degrees. If the Team determines that the impairment SUBSTANTIALLY LIMITS the student's performance of the MAJOR LIFE ACTIVITY, then the student should be identified as an individual with a disability under Section 504 and the ADA.

If the Team determines that the impairment limits the student to a MILD or MODERATE degree, then the student should not be identified as an individual with a disability under Section 504 and the ADA. However, the Team may proceed to consider non-disability related accommodations or services that would be helpful to the student, if appropriate.

In assessing the impact of the impairment on the student's performance of the major life activity, the Team will disregard the positive effects of mitigating measures that lessen the impact of the impairment. For example, the Team will disregard medications,

medical equipment and supplies, hearing aids, auxiliary aids and services, reasonable accommodations, learned adaptations, and behavioral modifications. The effect of ordinary eyeglasses and/or contact lenses will be considered. Moreover, with regard to impairments that are episodic or in remission, the Team will consider the impact of the impairment when it is active.

Taking all of that into account:

Does the student's PHYSICAL or MENTAL IMPAIRMENT substantially limit the student's performance of the MAJOR LIFE ACTIVITY in comparison with how most students in the general population and of the same chronological age perform the major life activity?

_____ Yes _____ No

PART FIVE: IDENTIFICATION

_____ The Team believes that the student may have a physical or mental impairment that substantially limits learning, or another major life activity, in such a way that the student may require the provision of specially designed instruction. Therefore, the student has been referred for a full individual evaluation to determine eligibility for special education services under the Individuals with Disabilities Education Act. If it is determined that the student is eligible under IDEA, the school will provide a free appropriate public education pursuant to an individual education program for the student. If the student is not eligible for services under IDEA, the 504 Team will reconvene and resume consideration of the student.

OR

_____ The Team has determined that the student cannot be identified as an individual with a disability under Section 504/ADA because there is no data, or insufficient data, to establish the existence of a physical or mental impairment.

OR

_____ The Team has determined that the student cannot be identified as an individual with a disability under Section 504/ADA because the student's physical or mental impairment does not substantially limit the student in a major life activity.

OR

_____ The Team has determined that the student has a physical or mental impairment that substantially limits the student's performance of a major life activity. The impairment is:

- A. Active
- B. Episodic
- C. In remission

If, and only if, this section is checked, proceed to Part Six.

PART SIX: CONSIDERATION OF ACCOMMODATIONS AND SERVICES

The Team has IDENTIFIED your child as an individual with a disability under Section 504/ADA. This means that you will be entitled to all of the procedural protections provided by Section 504/ADA such as placement in the least restrictive environment, periodic reevaluations, the right to receive notice of certain actions by the school, the right to challenge certain actions of the school through an impartial hearing, and the right to have your child's education individually designed so as to meet his or her needs as well those of non-disabled students. These rights are spelled out in the Notice of Rights and Procedural Protections document that has been provided to you.

In addition, as an individual with a disability under Section 504/ADA your child may need an individual plan of accommodation and/or services. If so, such a plan will be developed by the 504 Team.

_____ The child's disability does not presently impair the student's performance of a major life activity in a way that requires any accommodations or services at this time. However, the Team will reconsider the need for an individualized plan 1) at an annual meeting of the 504 Team and 2) at any other time at your request.

_____ The child's disability is episodic and thus does not require accommodations or services on a daily or regular basis, but it requires consideration of a plan in the event that the disability becomes active. The plan is attached. The Team will reconsider your child's plan 1) at an annual meeting of the 504 Team and 2) at any other time at your request.

_____ The child's disability is active and presently requires accommodations or services in the school setting. The plan is attached. The Team will reconsider your child's plan 1) at an annual meeting of the 504 Team and 2) at any other time at your request.

The written notice of parental rights was given: _____Yes _____No

The following members of the Section 504 Team participated in this evaluation:

Signature(s)

Parent /Guardian

Parent/Guardian

Signature: _____ Title: _____ Date: _____

Copies: Parent

Student file

Section 504 Accommodation Plan

Student _____ Grade _____ Date _____

School _____ Teacher _____

YES NO The student has received an evaluation.

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

YES NO The impairment substantially affects the student's overall performance at school in regards to seeing hearing doing manual tasks

breathing walking speaking caring for oneself

writing learning working showing troubling behavior

breathing sleeping standing lifting reading

concentrating thinking communicating helping eating

bending operation of a bodily function other

Is this student is identified to receive a 504 Accommodation Plan? _____

Describe what evaluation data was used; Describe this student's circumstances and its educational impact in more detail (that is, document the basis for the 504 Plan): _____

The case manager for this Section 504 Plan will be: _____

Date of Meeting & Initial Plan: _____

Annual Review scheduled for: _____

List each need in order of priority and describe specifically how it is to be met.

Specific Need

(How does the impairment impact the student's education and what is needed to eliminate the restriction?)

Accommodations

Special Materials or Training Needed—Who, How, and When?

Who Will Implement the Accommodations

Criteria for Evaluating Success

Specific Need

(How does the impairment impact the student's education and what is needed to eliminate the restriction?)

Accommodations

Special Materials or Training Needed—Who, How, and When?

Who Will Implement the Accommodations

Criteria for Evaluating Success

Specific Need

(How does the impairment impact the student's education and what is needed to eliminate the restriction?)

Accommodations

Special Materials or Training Needed—Who, How, and When?

Who Will Implement the Accommodations

Criteria for Evaluating Success

Section 504 Plan Team:

Signature: _____ Title: _____ Date: _____

PARENT/GUARDIAN:

I, _____, as this student's parent/guardian,

give do not give permission for my child to receive the accommodations described.

Signed: _____ Date: _____

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

Section 504 Plan Review

Student _____ Date _____

Case Manager _____

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

Discussion of progress _____

Recommendation

- Continue present services with no changes.
- Modify the present Accommodation Plan (see new plan attached).
- Conduct additional evaluations.
- Exit from Section 504 services based upon the following evaluation results/rationale.

Discussion of recommendations: _____

The following members of the Section 504 Team participated in this review:

Signature(s)

Parent /Guardian

Parent/Guardian

Signature: _____ Title: _____ Date: _____

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

Copies: Parent
Student file

Section 504 Grievance Form

Student Name: _____

School: _____

Parent Name(s): _____

Address: _____

Phone(s): _____

1. Summary of Grievance — What is the problem? What are the facts?

2. How can the problem be solved?

3. Who have you spoken to or met with at the school to address this situation?

What was the result of this contact? _____

4. Please describe any corrective action you wish to see taken with regard to this grievance.

Please attach any additional information or documentation you wish the district to consider. You also have the right to file a complaint with the regional office of the U. S. Department of Education's Office for Civil Rights (OCR) without going through the district's grievance procedures.

Signature of Parent _____ Date _____

Received by:

Signature of Section 504 Coordinator

Date

Copies: Parent
 Student file
 504 Coordinator file

Manifestation Determination

MANIFESTATION DETERMINATION WORKSHEET

Student: _____ Date: _____

Section 504/ADA Disability: _____

Student Number: _____

Manifestation Team Members (by name and role)

_____	_____
_____	_____
_____	_____
_____	_____

Sources of Information (attachments)

____ Evaluations ____ Interviews ____ Observations ____ Other

Description of misconduct:

Description of proposed disciplinary actions:

Does the proposed disciplinary action constitute a change of placement?

____ If NO, proceed with disciplinary action.

____ If YES, continue with manifestation determination review.

Is the proposed disciplinary action based on the student's illegal use of drugs, or for the use or possession of alcohol?

_____ If YES, the student is subject to the same disciplinary penalty imposed on non-disabled students who engage in the same behavior. The Team will not conduct a manifestation determination, but the Team will consider whether a FBA and/or BIP are appropriate for the student to help prevent recurrence of the inappropriate behavior.

_____ If NO, continue with the manifestation determination review.

FINAL DETERMINATION

We have reviewed all relevant information, including information that is relevant contained in the student's file, the student's accommodation plan and/or BIP, teacher observations and any information provided by the parents. Based on a review and consideration of all of this information we can answer the following questions:

1. Did the student's disability directly cause the misconduct?

_____ Yes _____ No

2. Does the student's disability have a direct and substantial relationship to the misconduct?

_____ Yes _____ No

3. Was the student's misconduct the direct result of a failure by the school district to provide the services set out in the student's accommodation plan?

_____ Yes _____ No

If any question is answered YES, the Team will conduct a functional behavioral assessment of the student, unless this had been done prior to the behavior in question. The Team will also implement a behavioral intervention plan (BIP) for the student. If the student already has a BIP, the Team will review and modify the BIP as necessary to address the behavior. The Team will also return the student to the placement from which the student was removed unless 1) the parent and school agree otherwise as part of the modification of the BIP or 2) the student's misconduct involved weapons or the infliction of a serious bodily injury to another person.

If the third question is answered YES, the Team will take immediate steps to remedy the deficiencies in the provision of services to the student.

If all three questions are answered NO, the student is subject to the same discipline procedures applicable to non-disabled students, as long as FAPE is still provided.

The written notice of parental rights was given: _____Yes _____No

The following members of the Section 504 Team participated in this manifestation determination:

Signature(s)

Parent /Guardian

Parent/Guardian

Signature: _____ Title: _____ Date: _____

Copies: Parent

Student file

Section 504 Due Process Procedures

Parents may request an impartial due process to resolve differences involving the identification, evaluation, educational program or placement of a student with a disability under Section 504. The proceedings will be presided over and decided by an impartial hearing officer, selected by the Board of Education.

Requests for a due process hearing must be submitted in writing to the Section 504 Compliance Coordinator, Superintendent, who may be contacted at 120 E. 6th St., Larned, Kansas 67550, telephone/fax: 620-285-3185. Upon receipt of a request for hearing, the Section 504 Coordinator shall:

- Secure the services of an impartial hearing officer, approved by the board.
- Provide parents with notice of the following at least fifteen (15) days prior to the date set for the hearing:
 - ✕ A statement of the time and place where the hearing will be held, which must be not less than 15 days and not more than 30 days from the time the request is submitted, unless the parent/guardian agrees otherwise or the Hearing Officer grants a continuance at the request of one of the parties.
 - ✕ A statement that relevant student records are available for examination.
 - ✕ A short and plain statement of the matters asserted.
 - ✕ A statement of the rights that will be afforded at the hearing including:
 - o The right to be represented by counsel;
 - o The right of the student and the parents to be present at the hearing;
 - o The right to confront and cross-examine witnesses called by the school district at the hearing;
 - o The right to present their own witnesses;
 - o The right to have an orderly hearing; and
 - o The right to a fair and impartial decision based on the evidence presented at the hearing.

The hearing officer will preside over the hearing, swear in witnesses, and determine whether the evidence presented should be admitted. The rules of evidence will not apply to these proceedings, but any evidence offered by either party should be

relevant to the issues to be decided. The hearing shall be recorded. The recording of the Section 504 due process hearing shall be on file at the District office and will be available for review upon request to the parents and/or any of the involved parties.

All exhibits to be presented at the hearing shall be exchanged between the school system and the parents at least five (5) school days prior to the hearing. The school district must allow the parent to examine the child's records and make copies if requested. The parties may present and cross-examine witnesses who know about the child's disability. The child may be present at the hearing.

The hearing officer's decision will be reduced to writing and will include the date, the hearing officer's findings of fact and conclusions of law. The decision will be delivered to the Superintendent and to the parent/guardian of the student within thirty (30) days following completion of the hearing, unless the parent/guardian agrees otherwise or the Hearing Officer grants an extension at the request of one of the parties.

The decision of the hearing officer shall be binding on all parties concerned, subject to appeal to the appropriate state or federal court. A parent/guardian may file a complaint with a court of competent jurisdiction.