

# Section 504

## Online Introductory Tutorial

[Home](#) > [Module 5](#)

### Drug and Alcohol Offense

[Home](#)

[Introduction](#)

[Pre-test](#)

[Module 1](#)

[Module 2](#)

[Module 3](#)

[Module 4](#)

[Module 5](#)

[Module 6](#)

[Module 7](#)

[Post-test](#)

[Conclusion](#)

For a student with a disability who is currently engaged in the illegal use of drugs or alcohol, a school district may take any disciplinary measure pertaining to the use or possession of illegal drugs or use of alcohol as is taken for students without disabilities. No manifestation determination or due process procedures are required. However, a student with a disability who is not currently engaged in the illegal use of drugs or alcohol who commits a drug/alcohol offense, such as possession, sale, or distribution of drugs or alcohol, is afforded Section 504 and ADA protection, including the right to an evaluation of whether the behavior is related to the disability and the right to due process. For example, a student with a disability is entitled to procedural protection when illegal drugs are found in his locker if it is determined that the student is not currently using the drugs. OCR defines “current use of drugs” as “illegal use of drugs that occurred recently enough to justify a reasonable belief that a person’s drug use is current or that continuing use is a real and ongoing problem” OCR Staff Memorandum, 19 EDELR 859 (OCR 1992). Thus if it is known that the student with the drugs in his locker has been consistently using illegal drugs but happened not to be using them that day, the student may not be protected because he could still be a current user.

A person with a disability who formerly used drugs illegally is protected under Section 504 and ADA, if not currently engaging in illegal use of drugs. The person is protected if the individual has successfully completed a supervised rehabilitation program and is no longer engaging in drug use, the person is participating in a supervised rehabilitation program and is not engaging in such use, or the person is erroneously regarded as engaging in such use.



A district decided to proceed with expulsion procedures against a high school freshman after his arrest for selling marijuana on school grounds. A manifestation determination concluded that his behavior had nothing to do with his AD/HD and learning disability. Expulsion is the district approved standard punishment for drug dealing on campus.

#### What do you think?

Was the district’s decision to proceed with expulsion acceptable under Section 504? (Click an answer below.)

- 1 The facts involved with the case indicated that the student’s disabilities had little to do with his behavior. The district’s decision is correct.

- 2 Although the facts suggest the district made the correct decision, OCR will disagree because of the impulsive nature of the student's disability.
- 3 The district's standard punishment is not applicable to a student with disabilities. The 504 team must reevaluate him and amend his behavior plan accordingly.

**Next:** Click to proceed to [Transportation](#).

[<< Previous](#) | [Next >>](#)

© 2006, Florida Department of Education, Bureau of Exceptional Education and Student Services