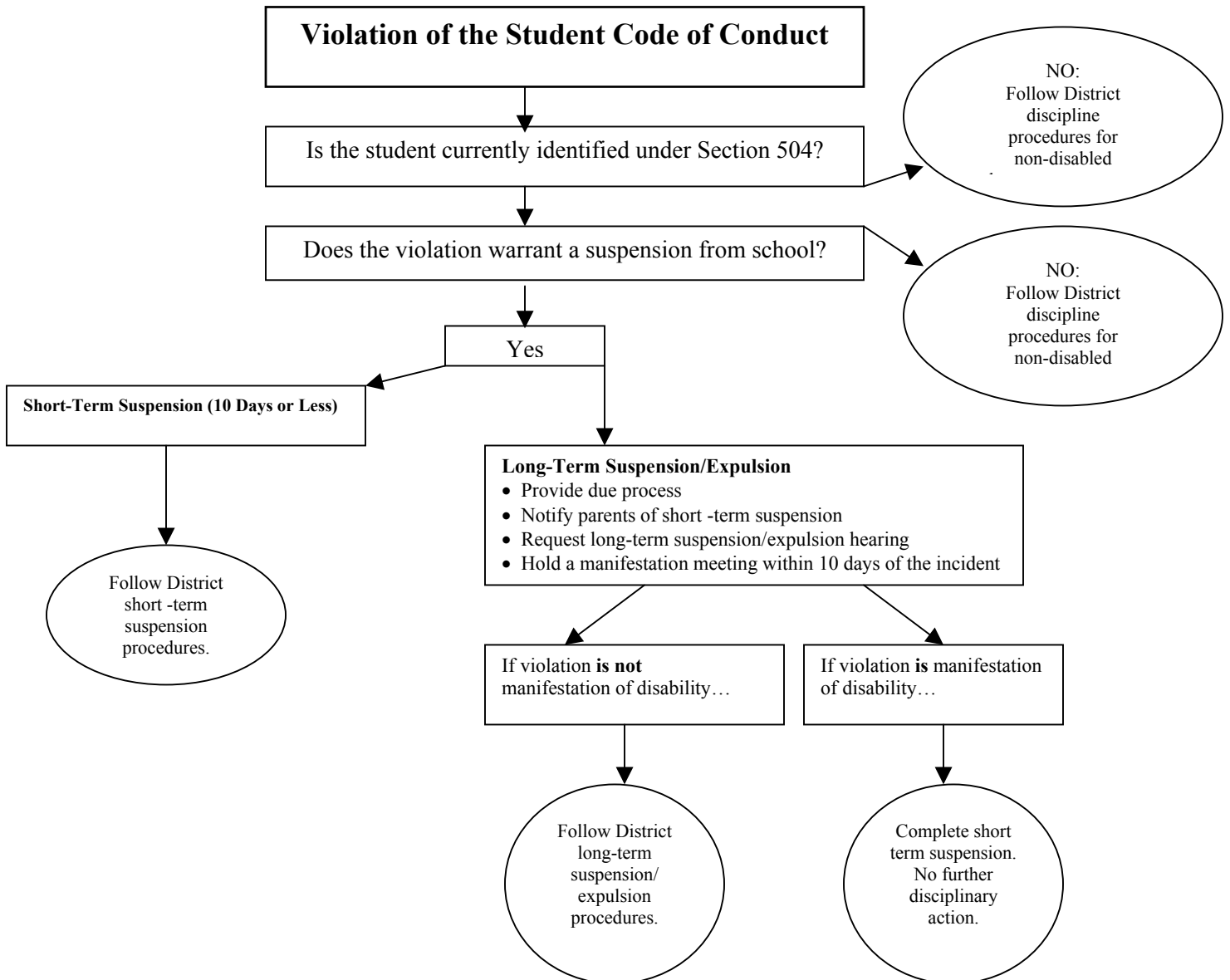


Disciplining a 504 Disabled Student

What is the discipline process for a 504 disabled student?

Section 504 disabled students are subject to the same disciplinary action as a non-disabled student, provided that the student's behavior is not a manifestation of his or her qualifying disability. A 504 Team must conduct a manifestation determination whenever a disabled student is subject to out-of-school suspension for 10 consecutive school days or more. If the 504 Team concludes that the violation is a manifestation of the student's qualifying disability, the discipline process must end and the 504 Team should review the 504 Plan to determine if changes are appropriate. If the violation is not a manifestation, the student is subject to the same disciplinary action that any non-disabled student would receive for the same violation.



Must a school make a manifestation determination when considering the long term suspension or expulsion of a student with a Section 504 Plan?

Yes. Similar to suspension or expulsion of a student having a disability under IDEA, it is necessary to conduct a manifestation determination for a Section 504 disabled student when:

- The suspension or expulsion will be for more than 10 consecutive school days. Like IDEA, a suspension/expulsion of more than 10 consecutive days constitutes a significant change in placement and requires schools to determine if the cause of the behavior is the disability identified in the student's 504 Plan.
- A series of suspensions that total more than 10 days may also trigger the manifestation determination requirement of Section 504. If cumulative suspensions/expulsions for a student on a 504 Plan total more than 10 days, it must be determined if a significant placement change has occurred. This is done on a case-by-case basis. If a group of short suspensions creates a pattern of exclusion, then this constitutes a change in placement and the school must conduct a manifestation determination meeting before further suspensions or expulsions occur. The Office of Civil Rights has identified some of the key factors in determining patterns of exclusion: the length of each suspension, the proximity of one suspension to another, the nature of the behavior, and the total amount of time the student is excluded from school.

Who makes the manifestation determination for a student on a 504 Plan and what information is included in this process?

The manifestation determination should be made by a 504 Team that consists of persons who have knowledge of the student and the meaning of the information that will be reviewed. When possible, the members of the 504 Team should be the same members who designed the student's 504 Plan. School officials responsible for school disciplinary procedures, such as the school principal or assistant superintendent, cannot make the determination. However, such administrators may present pertinent student information to the 504 Team.

The 504 Team must have available information that competent professionals would require when making a manifestation determination. Such information might include attendance and academic records, psychological evaluation data, behavior plans, discipline records and staff observations. The information should be current enough to afford an understanding of the behavior that is the subject of the manifestation determination.

The manifestation determination should begin with the 504 Team deciding whether the student's 504 Plan is appropriate and was being properly implemented.

If the 504 Team concludes the 504 Plan is not appropriate or that the accommodations were not provided, the school should not take any further disciplinary action. The 504 Team should review and update the 504 Plan, if necessary.

If the student's educational placement is correct, the 504 Team will next consider if the behavior is the result of the student's disability. This inquiry is resolved by considering the relationship between the student's disability and his or her ability to control and understand the consequences of his or her behavior:

- Does the disability impair the student’s ability to control his or her behavior?
- Does the disability impair the student’s ability to understand the consequences of his or her behavior?

If the 504 Team answers either question in the affirmative, then the behavior is a manifestation of the student’s disability and no disciplinary action can be taken past the 10 days.

If the 504 Team determines that the behavior is not a manifestation of the disability, the District may impose whatever long-term suspension or expulsion it would impose under the same circumstances if a non-disabled student were the offender. The District has no obligation to continue to provide educational services to a 504 student during the period of a long-term suspension or expulsion.

The 504 Team must conclude its work by completing a Section 504 Manifestation Determination form.

How does a school proceed with drug/alcohol violations by a student on a Section 504 Plan?

A student who is currently engaged in the illegal use of drugs/alcohol is not considered a student with a disability. A student with a history of drug/alcohol abuse who has been successfully rehabilitated, or is participating in a drug rehabilitation program and is not currently engaging in the illegal use of drugs, is covered by Section 504. **Section 504 allows school districts to take disciplinary action pertaining to the use or possession of illegal drugs/alcohol against a 504 student who is currently engaging in the illegal use of drugs/alcohol to the same extent such discipline is taken against non-disabled students.**

504 Procedural Safeguards and Parent/Student Rights

Are schools required to provide parents with prior notice of a Section 504 eligibility meeting?

A parent/guardian **must receive prior notice** of a Section 504 eligibility meeting. Parent consent is not required to conduct an eligibility determination. However, parent consent must be obtained before administering any individualized standardized testing. **The Parent Notice: Section 504 Evaluation** form explains the evaluation process.

Must schools secure parental consent before conducting an initial eligibility meeting?

Schools should include parents in the evaluation process. However, Section 504 does not require the parent's participation or consent to conduct a 504 eligibility meeting. The school principal or 504 Coordinator should consult with the District 504 Compliance Specialist regarding unique parent concerns.

Are schools required to provide parents with a list of parent/student rights under Section 504 before conducting an initial student review?

Yes. The Scottsdale Unified School District is required to establish and implement procedural safeguards that include:

- Notice to the parent explaining any evaluation or placement decisions.
- An opportunity for parents to review relevant records.
- An impartial hearing with opportunity for participation by the student's parent or guardian with representation by counsel.
- An appeal procedure to review the hearing decision.

These procedural safeguards have been addressed by creating Section 504 evaluation procedures and a set of forms that guide the evaluation team through the eligibility determination and placement process.

A notice concerning Parent's Rights and Safeguards Under Section 504 must be included with the Parent Notice: Section 504 Evaluation form given to the parent/guardian prior to the 504 evaluation meeting. Likewise, the Parent's Rights and Safeguards Under Section 504 must be included with the Parent Notice: Section 504 Eligibility or Non-Eligibility Determination.