

Discipline and Section 504

Students served under Section 504 and the ADA are treated similar to students served under IDEA with regard to discipline. First, these students can definitely be disciplined. Rules and standards can be applied to these students just as they are applied to nondisabled students. The important thing to consider is that these students have an equal opportunity to be successful with classroom rules and behavioral regulations. In order to ensure this with some students, a behavior intervention plan may be necessary to have in place.

Before taking certain actions with students served under Section 504 and the ADA, school personnel must follow specific steps. The following summarizes some of the considerations when dealing with students protected by these two laws:

1. Disciplinary procedures for students under 504 and the ADA are similar to those under IDEA.
2. Under IDEA, 504, and the ADA, all students are entitled to oral or written notice of charges and the opportunity to tell their side before suspensions of 10 days or less, and a formal hearing before a suspension of more than 10 days.
3. Expulsion or suspensions of 10 or more days are considered a change of placement and require procedural requirements of IDEA or 504/ADA.
4. A manifest determination must be made before suspending or expelling a student under IDEA or 504/ADA for more than 10 days; a manifestation determination is not required for a suspension of less than 10 days (unless this results in a cumulative suspension of more than 10 days).
5. Suspensions of less than 10 days are permissible but cannot set a pattern (school officials should review appropriateness of the placement if cumulative time is more than 10 days)
6. If a manifest determination shows no relationship between the behavior and disability, then the student may be disciplined as any other student.
7. If a manifest determination shows that there is a relationship between the behavior and disability, then the student may NOT be expelled or suspended; the school should consider the appropriateness of the current program and consider appropriate changes.
8. Special Education students who are expelled must continue to receive a FAPE; 504 students do not have to be provided with F APE during expulsion or suspension for behavior not related to the disability.
9. Students currently engaged in drug or alcohol abuse are not protected under Section 504.