

Billings School District 2

STUDENTS

Student Discipline: Due Process

Discipline Procedure for 504 Students

School Authority to Discipline

Students who qualify under Section 504 are subject to suspension (ten days or less) on the same grounds as regular education students without the provision of services. The same policies, procedures, rules, and handbooks apply to 504 students as to regular education students. These removals from the current educational placement do not indicate a change of placement.

Change of Placement

A change of placement for 504 students is defined as suspensions that are longer than (10) consecutive school days.

When the District recommends suspensions constituting a change in placement, they must:

1. Notify the responsible adult, within two (2) days, of their procedural safeguards and its intent to initiate the process to remove the child from the last approved site of service for more than ten (10) school days. The responsible adults will be notified at least 48 hours prior to the meeting(s), unless mutually agreed to by the responsible adults and the school.
2. The responsible adult may request a postponement of the meeting for up to three (3) additional school days from the date of the proposed 504 Manifestation Determination Review. The student's suspension may remain in effect during this postponement.
3. Conduct a 504 Manifestation Determination Review prior to the tenth (10th) day of suspension to determine if the behavior(s) is/are a manifestation of the 504 impairment. The purpose of the 504 Manifestation Determination Review is to determine causal relationship and is not to decide if the misconduct occurred. The 504 Manifestation Determination Review must be chaired by an administrator.

504 Manifestation Determination

During the 504 Manifestation Determination Review, sources of information considered may include:

1. Assessment/diagnostic data;
2. Records review, including the student's current Section 504 Regular Education Intervention Plan;
3. Direct observations of the student;

4. Interviews conducted;
5. Functional Behavioral Assessment; and
6. Behavior support plan.

Sources not considered will be recorded as “not applicable” to this determination.

If the team determines that the conduct is a manifestation of the student’s impairment, the recommendation to long-term suspend, expel, or impose any other change of placement shall be withdrawn. The section 504 team should make any necessary changes to the student’s Section 504 Plan that it deems appropriate.

If the team determines that the conduct is not a manifestation of the student’s impairment, the student may be disciplined in the same manner as an unimpaired student. No educational services need to be provided to the student other than those provided to unimpaired students.

Under specific circumstances involving the illegal use of drugs or alcohol, a student is not entitled to procedural safeguards (including manifestation determination).

Law Enforcement and Judicial Authorities

Nothing in policies, procedures, rules, and handbooks prohibits the school or district from reporting a crime committed by a child with an impairment to appropriate authorities or prevents state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a child with an impairment.

The school reporting a crime committed by a child with an impairment shall ensure that copies of Section 504 education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom it reports crime. The school may transmit those records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act (FERPA).

Cross References:

2161	Special Education
2162	Section 504
3300	Student Discipline: Consequences for Violations of Student Rules, Responsibilities, and Code of Conduct
3350	Student Discipline: Due Process
3350-P1	Detention
3350-P2	Suspension and Expulsion
3350-P3	Discipline Procedure for Special Education Students (SPED)
3350-P4	Discipline Procedure for 504 Students
6430	Development of Administrative Procedures

Legal References:

§ 20-5-101, MCA Admittance of child to school

§ 20-5-102, MCA	Compulsory enrollment and excuses
§ 20-5-103, MCA	Compulsory attendance and excuses
§ 20-5-201, MCA	Duties and sanctions
§ 20-5-202, MCA	Suspension and expulsion
§ 20-4-302, MCA	Discipline and punishment of pupils – definition of corporal punishment

Tinker v. Des Moines Ind. Sch. Dist., 89 S.Ct. 733 (1969)

Policy History

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