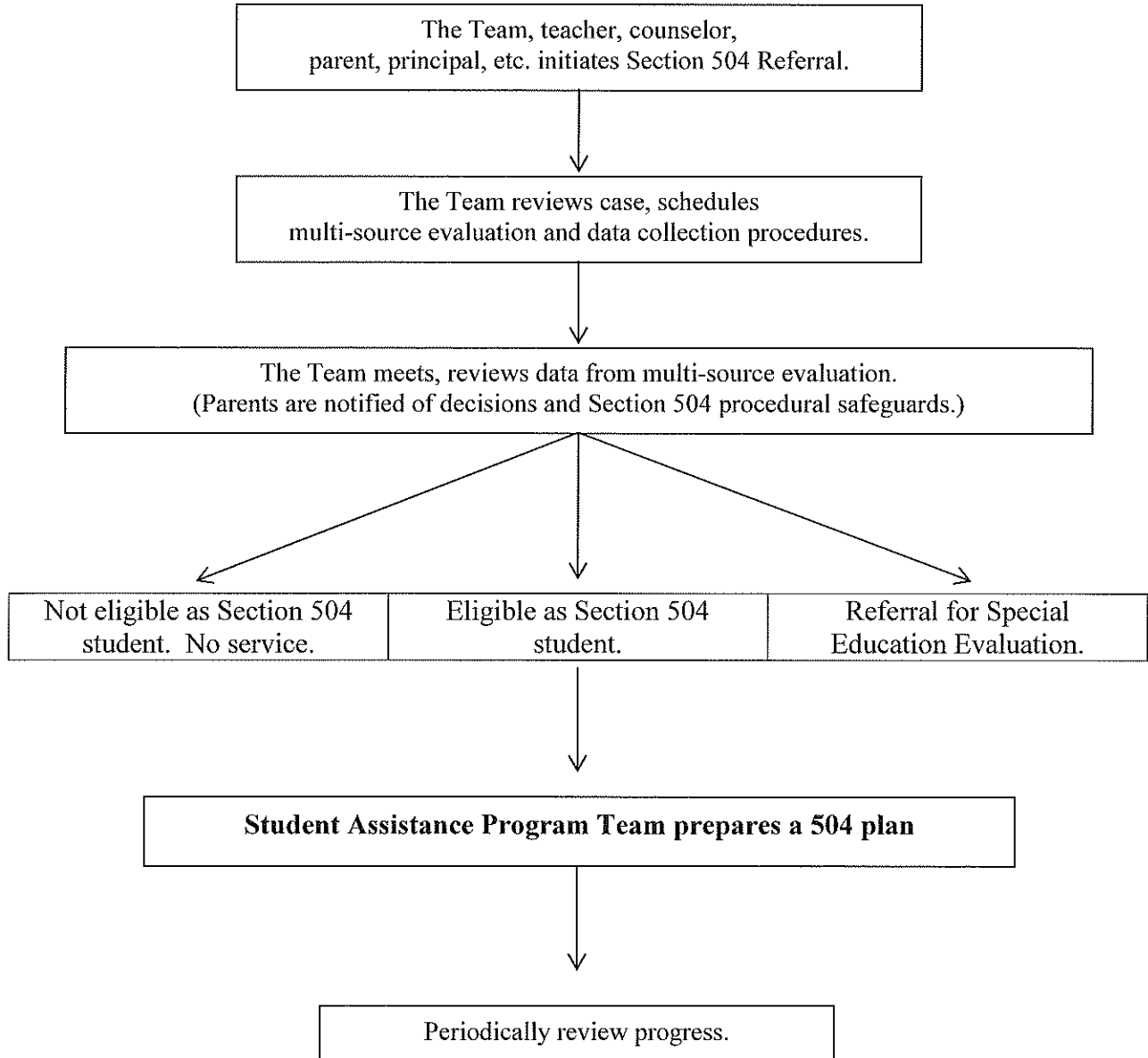


III. Section 504 Referral Flow Chart



Frequently Asked Questions

What are the guidelines or criteria that determine if a child qualifies for 504/ADA?

A group of knowledgeable individuals in the school makes a determination whether or not a physical or mental impairment results in a substantial limitation of one or more major life activities.

Does an evaluation of no exceptionality automatically qualify a student for 504/ADA?

No. In order to be eligible for Section 504/ADA services, a student must have a physical or mental impairment. A student does not have to have a clinical label in order to be eligible for services.

Does a child qualify for 504/ADA while being evaluated or before being evaluated for IDEA?

Not unless the child has a physical or mental impairment that results in a substantial limitation of a major life activity. Being referred for IDEA services is not linked to eligibility under 504/ADA.

Should a 504/ADA plan be written on a student who is referred for an IDEA evaluation at the time of referral?

No. If after an evaluation under IDEA, the student is determined not eligible for special education, the student may still be eligible for a 504 plan if the student meets the conditions under which a 504 plan should be written.

When does a student qualify for 504 due to behavioral problems?

When a group of knowledgeable persons determines that the behavior is a result of a physical or mental impairment and a major life activity has been substantially limited.

Can a 504/ADA student be expelled/suspended?

Yes, if a manifestation determination indicates that the disability is not related to the behavior and the behavior results in expulsion or suspension for other students.

A disciplinary removal of more than ten days is considered a significant change of placement requiring a manifestation determination.

A series of suspensions that are each of ten days or fewer in duration that creates a pattern of exclusions may also constitute a "significant change in placement." The determination of whether a series of suspensions creates a pattern is made on a case-by-case basis. In no case, however, may serial, short exclusions be used to avoid the requirement of a manifestation determination before suspensions of more than ten days.

Among the factors considered in determining whether a series of suspensions has resulted in a "significant change in placement" are the length of each suspension, the proximity of the suspensions to one another, and the total amount of time the child is excluded from school.

A series of suspensions that, in the aggregate, are for ten days or fewer are not a significant change in placement.

What safeguards/rights are related to expulsion/suspension?

A manifestation determination must be made. If the determination is that the behavior is related to the disability, then the student may not be expelled or suspended for more than ten days. If it is determined that the child's misconduct is caused by the child's disability, the team must determine whether the child's current 504 plan and educational placement is appropriate.

If there is no relationship, the student can be disciplined like other students.

Do educational services have to be provided to a student with a 504 plan who is expelled or suspended because there is no relationship between the behavior and disability?

No, if a manifestation determination indicates that the disability is not related to the behavior and the student is then either expelled or suspended, educational services do not have to be provided to the student during the time of expulsion or suspension.

Should there be written documentation that a parent has been invited to a meeting?

Yes. Parents must be notified about procedures under 504 and the ADA and documentation should be kept verifying such notification.

Is there any recourse for a child with ADD/ADHD who is on medication, but is not taking it at home? Is the 504 plan still in effect?

Schools cannot dictate whether or not students take medication. This is strictly a parent decision. Schools must deal with the child how ever he presents himself – with or without the medication.

What are suggested accommodations for assistance with behavior in general classrooms for 504 students with behavior disorders?

Some possible accommodations to address behaviors include a behavior intervention plan, seating arrangement, positive reinforcements, and individual behavioral contract. A student's Section 504 plan must be individually tailored to address the student's needs. It is possible that a student on a 504 plan could be evaluated and placed on an IEP if the team determines it is necessary for a free appropriate public education.

Whose responsibility is it to notify the school of a diagnosis when a student has been to a doctor or mental health facility?

The parents. Medical information is confidential and can only be shared with parental consent. However, the school is obligated to evaluate a student with a suspected disability. The school cannot require parents to provide medical information. If the school needs written information to complete an evaluation of a student with a suspected disability then it is the school's responsibility to provide that assessment.

Can students with consistent behavior problems (suspensions/past expulsions) qualify for 504 without an official diagnosis?

Yes. If the team determines that a physical or mental impairment exists that substantially limits a major life activity, then the team may make the determination that the child is eligible. No specific clinical label is required.

If a parent disagrees with the decision of the 504/ADA committee, what should be the next step?

The parent must be informed of his/her due process rights. The decision to appeal the decision is the parent's.

Should a student who is gifted/talented, with behavior problems, have a 504 plan?

A child who is gifted/talented is not precluded from placement on a 504 plan, if that child has a physical or mental impairment that substantially limits one or more major life activities.

Does a student have to be on medication if they are 504/ADD/ADHD?

No. To medicate or not is the parent's decision.

Can a student be identified as both a disabled student and a Section 504 and under the IDEA and have both a Section 504 Plan and an IEP?

No. The student would have either an IEP or a Section 504 Plan based upon an evaluation under IDEA and/or Section 504. (See Section III-504 Referral Flow Chart)

Discipline and Section 504 and the ADA

Students having a Section 504 Plan are treated similar to students having an IEP 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 with a 504 Plan, school personnel must follow specific steps. The following summarizes some of the considerations when dealing with students with a 504 Plan:

- Disciplinary procedures for students under 504 are similar to those under IDEA.
- Under IDEA, 504, and the ADA, additional procedures may apply in addition to the usual procedures provided to regular education students subject to discipline.
- A removal of more than ten days is considered a *significant change of placement* and requires procedural requirements of 504.
- A *manifestation determination* must be made before suspending or expelling a student with a 504 Plan for more than ten days.
- Suspensions resulting in a total of ten or less days in a school year are permissible. A series of suspensions that are each of ten days or fewer in duration that creates a pattern of exclusions may also constitute a “significant change of placement.” The determination of whether a series of suspensions creates a pattern is made on a case-by-case basis. In no case, however, may serial, short exclusions be used to avoid the requirement of a manifestation determination before suspensions of more than ten days. Among the factors considered in determining whether a series of suspensions has resulted in a “significant change of placement” are the length of each suspension, the proximity of the suspensions to one another, and the total amount of time that the child is excluded from school. A series of suspensions that, in the aggregate, are for ten days or fewer are not a significant change of placement.
- If a *manifestation determination* shows no relationship between the behavior and disability, then the student may be disciplined as any other student.
- If a *manifestation 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.
- Students with a 504 Plan do not have to be provided with educational services during an expulsion or suspension for behavior not related to the disability.
- Students currently engaged in drug or alcohol abuse are not protected under Section 504.
- The *manifestation determination* review is conducted by the members of the student’s 504 school team and the parent.

Examples of Accommodations and Modifications

In order for schools to provide an appropriate education for students who are protected under Section 504 and the ADA, accommodations and modifications will likely be necessary. These may be implemented in special education classrooms or general education classes. The vast majority of accommodations and modifications for students served under 504 and the ADA will occur in general education classrooms. Any student must be provided a free appropriate public education. There are numerous accommodations and modifications that schools can include in students' educational plans. The following are examples of these accommodations and modifications:

- A student with a long term, debilitating medical problem such as cancer, kidney disease, or diabetes may be given special consideration to accommodate the student's needs. For example, a student with cancer may need a class schedule that allows for rest and recuperation following chemotherapy.
- A student with a learning disability that affects the ability to demonstrate knowledge on a standardized test or in certain testing situations may require modified test arrangements, such as oral testing or different testing formats.
- A student with a learning disability or impaired vision that affects the ability to take notes in class may need a note taker or tape recorder.
- A student with a chronic medical problem such as kidney or liver disease may have difficulty in walking distances or climbing stairs. Under Section 504, this student may require handicapped parking, sufficient time between classes, or other considerations, to conserve the student's energy for academic pursuits.
- A student with diabetes, which adversely affects the body's ability to manufacture insulin, may need a class schedule that will accommodate the student's special needs.
- An emotionally or mentally ill student may need an adjusted class schedule to allow time for regular counseling or therapy.
- A student with epilepsy who has no control over seizures, and whose seizures are stimulated by stress or tension, may need accommodations for such stressful activity as lengthy academic testing or competitive endeavors in physical education.
- A student with arthritis may have persistent pain, tenderness or swelling in one or more joints. A student experiencing arthritic pain may require a modified physical education program.