

### **Vallivue School District 139**

This policy addresses disciplining students with disabilities, as defined by Section 504 of the 1973 Rehabilitation Act. For those students with disabilities under the Individuals with Disabilities Education Act (IDEA), the disciplinary procedures required by the IDEA will be followed. In the event a student has disabilities under both Section 504 and the IDEA, the IDEA policy shall be followed in determining appropriate disciplinary actions.

#### **SUSPENSION**

A student with a disability, as defined by Section 504 of the 1973 Rehabilitation Act, may be suspended for not more than ten (10) consecutive school days per incident.

Whenever a school considers suspending a student with a disability for more than ten (10) cumulative school days in a school year, a 504 team will be convened to determine if the cumulative suspensions constitute a significant change in placement by reviewing the following factors:

1. Whether the misconduct for which the student was suspended on the last occasion was substantially similar to the previous occasions;
2. The length of each suspension;
3. The proximity of the suspension to one another; and
4. The total amount of time the student is excluded from school.

The 504 team will consist of individuals who are knowledgeable about the student, the evaluation data, and the placement options.

If the 504 team determines that the exclusion would constitute a significant change in placement, the school will conduct a manifestation determination as set forth below.

#### **EXPULSION**

Prior to submitting an expulsion recommendation to the board of trustees for any student with a disability as defined by Section 504 of the 1973 Rehabilitation Act, a 504 team will make a “manifestation determination.” A manifestation determination involves a review of the student’s misconduct, the student’s disability and the services provided to determine:

1. Was the conduct in question caused by, or did it have a direct and substantial relationship to, the student’s disability?

2. Was the conduct in question the direct result of the district’s failure to implement the 504 plan?

In reviewing the questions set forth above, the 504 team will review information regarding the student’s disability that is recent enough to afford an understanding of the student’s current behavior. In the absence of reasonably current information about the student’s disability, the school district will conduct or cause to be conducted additional evaluation(s) regarding the student’s disability before making the manifestation determination. If either manifestation determination question answer is “yes,” the student will not be expelled. However, the 504 team may determine that a placement change is necessary for that student.

If the answers to both the questions set forth above are “no,” the school may proceed with the recommendation of expulsion to the board in the same manner as for similarly-situated students who do not have disabilities.

If the student’s parent/guardian disagrees with the 504 team’s determination of the manifestation determination, a hearing may be requested under this district’s Section 504 hearing procedure. Although the parent/guardian may disagree with the manifestation determination findings, the student may be expelled after following the proper procedures. Educational services may cease after expulsion, to the same extent education services cease for non-disabled peers.



**LEGAL REFERENCE:**

Section 504 of the 1973 Rehabilitation Act  
29 U.S.C. Ch. 16 Sacs 706(8) and 794-794b  
34 CFR Part 104  
Idaho Code Section 33-205  
*Akron (OH) City School Distr.*, OCR Letter, 19 IDELR 542 (1992)  
*Discipline of Students with Disabilities in Elementary and Secondary Schools*, OCR, October 1996  
*Portsmouth (VA) Pub. Sch.*, 48 IDELR 229 (OCR 2006)

**ADOPTED: 6/12/07 (new as separate policy from Section 504 of the 1973 Rehabilitation Act)**

**AMENDED: 4/13/10, 4/12/11, 1/8/13, 3/11/14, 3/10/15, 3/13/18**