



United States Department of the Interior

BUREAU OF INDIAN EDUCATION
HAVASUPAI ELEMENTARY SCHOOL
P.O. BOX 40
SUPAI, ARIZONA 86435
PHONE: (928) 448-2901

Discipline for Section 504 Eligible Students

Havasupai Elementary School (“HES” or “the school”) students with disabilities under Section 504, as defined by the Indian Affairs Manual (IAM). Part 30, Chapter 15, may be disciplined in accordance with the following requirements. The following steps are always required when disciplining a student on an Individualized Accommodation Plan (“IAP”).

1) Change of Placement under Section 504

Special considerations apply to long term suspensions of students with disabilities under Section 504. A student with a disability may be removed from the student’s current educational setting for 10 cumulative days in a school year for any violation of school rules, to the extent removed would be applied to a student without a disability. Suspension or expulsion of a student with a disability for more than 10 consecutive days in a school year constitutes a significant change in placement. A significant change of placement triggers a determination regarding whether the conduct was a manifestation of the student’s disability.

2) Manifestation Determination

A manifestation determination review (“MDR”) is a special evaluation process, that must take place if the school determines that a significant change of placement has occurred. A MDR must be conducted as soon as possible, and no later than 10 days after the decision to take disciplinary action is made. The purpose of the meeting is to determine whether there was a relationship between the incident for which the student was suspended and their disability.

Prior to the MDR meeting, the following procedures are required:

- HES will give notice of the disciplinary decision and of the procedural safeguard rights to the parent or guardian, not later than the date on which the decision is made to take the disciplinary action:
- HES will notify parents in writing, immediately, if possible, but not more than 10 days after a decision to hold an MDR:
- Notification should include identification of the time, date, and participants who will be in attendance:
- Parents or guardians should participate in the meeting(s), however, if they refuse to attend, they should be given a copy of a final written report that documents the team determination from the MDR.

The following steps will be followed during the MDR meeting:

- The name and title of each person in attendance will be recorded:
- The student’s Section 504 Team, as defined by the NPM, must make the determination of whether a student’s misconduct is related to their disability:
- The MDR attendees must consider all relevant information in the student’s file, including: the student’s Section 504 IAP, any teacher observation, and any relevant information provided by the parent or guardian.
- A review of the incident at issue, including the who, what, when, where, why, and how of the specific incident under review.
- The team must determine, after reviewing relevant information in the student’s file and information related to the disciplinary incident review:
 1. whether the conduct in question was caused by, or had a direct and substantial relationship to, the student’s disability; or
 2. if the conduct in question was the direct result of the school’s failure to implement the child’s IAP.

a) If the Behavior is a Manifestation of the Student’s Disability

If the Section 504 team determines that either of those conditions were met, the Section 504 team must determine the conduct was a manifestation of the student’s disability, and the school cannot impose long-term suspension. Instead, the Section 504 team must conduct a Functional Behavior Assessment (“FBA”), provided the school has not already conducted one for the student, and develop a Behavior Intervention Plan (“BIP”). The school will work with the parent or guardian to obtain necessary consent for the evaluation process.

If the student already has a BIP, the student’s Section 504 team must review the BIP and IAP, to modify it as necessary to address the behavior at issue.

b) If the Behavior is Not a Manifestation of the Student’s Disability

If the school, the parent, and relevant members of the Section 504 team determine that:

- i. the conduct in question was not caused by, or had a direct and substantial relationship to, the child’s disability; or
- ii. the conduct in question was not the direct result of the school’s failure to implement the child’s IAP,

then the behavior is not a manifestation of the student’s disability. Under those circumstances, the relevant disciplinary procedures applicable to a student without a disability may be applied to the student, in the same manner and for the same duration in which the procedures would be similarly applied to a student without a disability.

If the parent or guardian believes that HES discriminated against them by not providing a necessary accommodation, or if in the MDR process generally, they can file a complaint with the Department of Interior’s Office of Diversity, Inclusion, and Civil Rights. Inquiries related to such a concern may be made by contacting the office at:

Phone (202) 208-5693 or email: doicivilrights@ios.doi.gov.

3) **Exceptions for Use or Distribution of Drugs or Alcohol**

HES may take disciplinary action pertaining to a student with a disability's current illegal use of drugs or alcohol to the same extent that such disciplinary action would be taken against students without disabilities.

4) **Direct Threat Analysis**

HES is not required to permit a student to participate in or benefit from services, programs, or activities when the student poses a direct threat to the health or safety of others. A direct threat is a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services.

In determining whether a student poses a direct threat to the health or safety of others, the student's Section 504 team must make an individualized assessment, based on reasonable judgement that relies on current medical knowledge or on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk that is posed by the student; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services mitigate the risk.

The HES Section 504 team lead must invite the BIE Section 504 Coordinator to participate in any team meeting when a purpose of the meeting is to determine whether a student with a disability is a direct threat to the HES school community.

5) **Procedural Safeguards**

HES must send the BIE's Procedural Safeguards document to all parents of students enrolled in the school at least once annually, and **whenever disciplinary action procedures are triggered**. The document details the following:

- Notice of Parental Rights under Section 504;
- Parental access to relevant records, and
- Information on how to file a complaint with the Department's Office for Civil Rights.