

THE MANIFESTATION DETERMINATION REVIEW

What Parents Should Know

1. WHAT IS A MANIFESTATION DETERMINATION REVIEW?



When a student violates a school's student code of conduct, the student may face school discipline, including suspension or expulsion. However, students with disabilities may be protected from these types of discipline if their misconduct was related to their disability. The decision about whether a student's behavior was related to their disability is made at a Manifestation Determination Review (MDR).

At a MDR, a team reviews a student's misconduct to determine whether that conduct was a manifestation of the student's disability. If the student's misconduct is found to be a "manifestation" of the student's disability, the student cannot be disciplined for the behavior in the way a non-disabled student would be.

2. WHEN DOES A MANIFESTATION DETERMINATION REVIEW HAPPEN?



A MDR should take place when a disabled student violates a school's student code of conduct and the school proposes to impose disciplinary measures that would cause a change in the student's educational placement.

A change in placement occurs when a student is removed from an educational environment for more than 10 consecutive school days. A change in placement also occurs when there is a pattern of short-term disciplinary removals totaling more than 10 days in a single school year. A pattern of removal can be identified by analyzing factors such as the type of student behavior resulting in removals, the length of removal, the total amount of time of removal, and the proximity of the instances of removal to one another.



The MDR analysis must take place within 10 school days of any decision to change the placement of a disabled student for disciplinary reasons.

A MDR may also be required if the school district knew that a student had a disability before the behavior occurred, even though at the time of the incident, the student had not yet been found eligible under the Individuals with Disabilities Education Act (IDEA).

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3. WHO ATTENDS A MANIFESTATION DETERMINATION REVIEW?



A MDR is conducted by a MDR team, including a Local Education Agency (LEA) representative, a parent, and any relevant members of the student's IEP team as determined by the LEA and the parent.

4. WHAT IS DISCUSSED AT A MANIFESTATION DETERMINATION REVIEW?

Meeting members discuss:



1. Whether the student's conduct was caused by or had a direct and substantial relationship to the student's disability; or
2. If the student's conduct was a direct result of the LEA's failure to implement the IEP.

If the answer to either of these questions is "yes," then the student's conduct is determined to be a manifestation of the student's disability.

5. WHY IS A MANIFESTATION DETERMINATION REVIEW IMPORTANT?



The MDR is important because the outcome of the MDR determines whether a child will sustain a disciplinary change in placement. In other words, the findings from the MDR determine whether the student gets to go back to school, or will be subject to discipline such as suspension or expulsion.

Also, the MDR is important because if the child's behavior was a result of the LEA's failure to implement the child's IEP correctly, the LEA must take immediate steps to remedy these deficiencies. This means an MDR's finding may lead to an improved educational program for the student.

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6. HOW SHOULD YOU PREPARE FOR A MANIFESTATION DETERMINATION REVIEW?

As described above, an MDR is an important event that can have a major impact on your child's education. Therefore, it is important to prepare in advance. The following are recommendations of ways parents can prepare for a MDR:



- Retain an advocate or attorney who is familiar with disability law to review your child's case and accompany you to the meeting;
- Review the allegations against your child and the behaviors that the school states your child engaged in;
- Re-familiarize yourself with your child's disability, including common associated behaviors;
- Research the causal connection between your child's disability and your child's alleged actions;
- Find or secure evidence of your child's disability and related behaviors, such as school evaluations; evaluations from outside providers such as medical doctors, behavioral health providers, or state agencies like DDD; or teacher evaluations;
- Ask individuals with knowledge of your child or of the alleged behavior to attend the MDR, such as witnesses, case managers, and family members.



7. WHAT IF THE MDR TEAM DECIDES THAT THE STUDENT'S MISCONDUCT IS NOT THE MANIFESTATION OF A DISABILITY?

If the MDR finds your student's behavior was not a manifestation of his or her disability, your student may be subject to the same disciplinary sanctions as a non-disabled student.

Your student's placement can be changed as part of disciplinary proceedings. However, the LEA must continue to provide the special education and related services enumerated in your student's IEP in the new placement.



If you disagree with the results of the MDR, you can request an expedited due process hearing to contest the MDR findings. Your student will have to remain in the educational setting determined by the MDR until the hearing officer issues a decision, until you reach an agreement with the school, or until the time period for the disciplinary placement expires.