

# Best Practices in Manifestation Determination Review Meetings

SELDA

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# Greetings!

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# Learning Targets

- I can discuss the Individuals with Disabilities Education Act's (IDEA's) requirements for conducting manifestation determination review (MDR) meetings.
- I know some “dos and don'ts” and best practices surrounding MDR meetings.

# Disciplinary Actions Resulting in Removals Beyond 10 Days

- A **change of placement** occurs when the removal is for **more than 10 consecutive days** or the child has been subjected to a **series of short-term removals that constitute a pattern** because:
  - (1) the series of removals **totals more than 10 school days in a school year**;
  - (2) the child's behavior is **substantially similar** to the child's behavior in previous incidents that resulted in the series of removals; **and**
  - (3) **additional factors** such as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another. 34 C.F.R. § 300.536(a).

# Change of Placement

The local educational agency (LEA) makes the determination, on a **case-by-case basis**, of whether a pattern of removals constitutes a change of placement under IDEA's discipline provisions. 34 C.F.R. § 300.536(b)(1).

This determination is subject to review through due process and judicial proceedings. (C-2)

# Manifestation Determination Review

- Within 10 school days of any decision to **change the placement** of a child with a disability because of a violation of a code of student conduct (i.e., removal that either **exceeds 10 school days in a row** or **that constitutes a pattern of removals**), the child's individualized education program (IEP) Team **must** meet to determine:
  - whether the conduct in question was **caused by, or had a direct and substantial relationship to, the child's disability** or
  - whether the conduct was a **direct result of the local educational agency's (LEA's) failure to implement the child's IEP**, including any behavioral intervention plan that may be in place. (34 C.F.R. 300.530(e))

# Manifestation Determination Review

- In making this determination, the LEA, the parent, and relevant members of the IEP Team (**as determined by the parent and the LEA**), will review **all** relevant information in the child's file, including (**but not limited to**):
  - the child's IEP,
  - the child's behavioral intervention plan,
  - any relevant teacher observations, and
  - any other information provided by the parents.

# Manifestation Determination Review

- If the IEP Team finds that the child's behavior **was caused by or had a direct and substantial relationship to the child's disability, or that the behavior was a direct result of the LEA's failure to implement the IEP, then the behavior is a manifestation of the child's disability.**



# Manifestation Determination Review

- When **the behavior is a manifestation of the child's disability**, if the child does not have a behavior intervention plan, the IEP Team **must conduct a functional behavioral assessment (FBA) and implement a behavior intervention plan (BIP)** to address the behavioral violation.
- If the child already has a BIP, then the IEP Team **must review and modify it as necessary to address the behavior.**

# Manifestation Determination Review

- When the **conduct was the direct result of the LEA's failure to implement the IEP**, the LEA must take immediate steps to remedy those deficiencies.
- Such steps could include:
  - Meeting with each teacher and service provider to review their specific responsibilities related to implementing the child's IEP;
  - Verifying that the specific accommodations, modifications, and supports required for the child, or on behalf of the child, are in place; and
  - Determining any compensatory services necessary to address the LEA's failure to implement the child's IEP.

# Manifestation Determination Review

- **If the behavior was a manifestation**, the child will be **returned to the placement** from which he or she was removed unless the parent and LEA agree to a change of placement as part of the modification of the behavior intervention plan.

# Manifestation Determination Review

- If the IEP Team finds that the child's behavior was **not a manifestation of the child's disability**, the **same disciplinary actions can be imposed on the child with a disability as those imposed on any child.**
- In addition, if the **behavior was not a manifestation of the child's disability**, the child will receive, **as appropriate**, a **functional behavior assessment**, and receive **behavioral intervention and modifications**, that are designed to address the behavior violation so that it does not recur.

## What happens if the IEP Team cannot reach consensus on whether a child's behavior was or was not a manifestation of the child's disability?

- The LEA must make the determination and provide the parent with prior written notice.
- The parent has the right to exercise their procedural safeguards, including requesting mediation, filing a formal complaint, or requesting an expedited due process hearing.

# Is the IEP Team required to hold a manifestation determination review each time that a child is removed for more than 10 consecutive school days, and each time that the LEA determines that a series of removals constitutes a change of placement?

- Yes. The regulations require that “within 10 school days of *any* decision to change the placement of a child with a disability because of a violation of a code of student conduct,” the LEA, the parent, and relevant members of the child’s IEP Team must conduct a manifestation determination review. 34 C.F.R. § 300.530(e) (emphasis added).

# Protections for children not determined eligible for special education and related services

- A child may assert protections under the Discipline Rule if the LEA is **deemed to have knowledge** that the child was a child with a disability before the behavior occurred.
- Those protections include, but are not limited to, parental notification of change of placement, **manifestation determination meeting**, and continuation of services.

# An LEA is deemed to have knowledge if prior to the behavior. . .

- (1) The parent expressed concern that the child was in need of special education and related services to supervisory or administrative personnel in the LEA, or to a teacher of the child;
- (2) The parent requested a special education evaluation of the child; or
- (3) The teacher of the child, or other LEA personnel, expressed specific concerns about a pattern of behavior of the child to the special education director or other LEA supervisory personnel.



# An LEA is not deemed to have knowledge if:

- (1) The parent has not allowed a special education evaluation of the child;
- (2) The parent has refused special education services; or
- (3) The child has received a special education evaluation and was determined not to be eligible for special education services.

# How does the IEP Team conduct an MDR for a student not yet eligible but entitled to the discipline procedures?

- The IEP Team must follow the **same requirements** for MDRs for students who are eligible
- The Team would likely consider the following:
  - Information that served as a “basis of knowledge” that the child may be a child with a disability under IDEA, such as concerns expressed by a parent, teacher, or other LEA personnel, including any pattern of behavior demonstrated by the child
  - The child’s **suspected** disability
  - The relationship of the child’s behavior to the **suspected** disability

# How does the IEP Team conduct an MDR for a student not yet eligible but entitled to the discipline procedures?

- Based on review and consideration of the available information, Team will determine **whether the conduct in question was caused by, or had a direct and substantial relationship to, the child's suspected disability**.
- Since an IEP has not yet been developed, the Team would not be able to determine whether the conduct was the direct result of the LEA's failure to implement the IEP.
  - However, "an improper or unreasonable delay" in determining eligibility and developing and implementing the IEP could be considered a failure to implement in MDR.



# MDR Dos and Don'ts

## DON'T:



- Don't predetermine whether the behavior being reviewed is a manifestation or not a manifestation of the student's disability.

## DO:



- Gather a team that includes individuals that are knowledgeable of the student, and/or the behavior incident that is being reviewed.

**Don't:**



- Just check a box that the IEP, BIP and all other relevant information have been reviewed.

**DO:**



-Review the current IEP and BIP and all other information and summarize the information that has been reviewed.

Don't:



-Turn away any additional information that the parent is providing.

Do:



- Do accept and review any other information provided by the parents.



**MDR Best Practice**



# Best Practices

- Have a monitoring plan in place to review discipline data and the need for intervention, before getting to an MDR.
- Consider having a procedure in place where there is a meeting convened to address the ongoing behavior concerns before the student reaches the 10-day mark.
- Make sure that BIPs are addressing the behaviors that are resulting in the removals.

**Remember that being  
proactive is more effective  
than being reactive**

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# Contact Information

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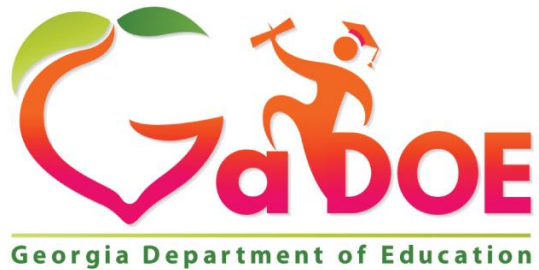
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