

Disciplining Students with Disabilities:
Guidelines and Procedures for Conducting Manifestation Determinations

As established by Part 201.4(a) (b) (c) (d) (e) & 201.7 (e) of the Regulations of the Commissioner of Education.

"Manifestation Determination" is a process in which there is a review of the relationship between the student's disability and the behavior subject to disciplinary action to determine if the conduct was or was not a manifestation of the student's disability. A Manifestation Determination is completed as part of an IEP team meeting. The IEP team must convene no later than 10 school days when:

- ⦿ A parent requests such a meeting following a disciplinary incident.
- ⦿ A student is suspended for 5 or more consecutive days.
- ⦿ A student is suspended for more than 10 cumulative days in a school (and for every suspension thereafter).
- ⦿ A change in placement for more than 10 consecutive days is being sought for disciplinary reasons.
- ⦿ Exclusion or expulsion is being considered.

Students with disabilities and students for whom a 504 Plan has been developed who are removed from their current educational programs for more than 10 school days are entitled to specific protections under the Individuals with Disabilities Education Act (IDEA) and Federal and State Regulations. In addition, a student without an IEP may be entitled to such protections if the school/District is "deemed to know" that the student is suspected of having a disability.

MANIFESTATION DETERMINATION REVIEW MEETING PROTOCOL

A determination of whether the student's disability or the failure of the school district to provide services on the student's IEP was the direct cause of the act for which the student was suspended must be made. This is called a Manifestation Determination Review (MDR).

1. Individuals to carry out review shall include a representative of the school district knowledgeable about the student and the interpretation of information about child behavior, the parent and relevant members of the CSE as determined by the parent and the school district. The parent must receive written notification prior to any manifestation team meeting to ensure that the parent has an opportunity to attend. The notification shall inform the parent of the purpose of the meeting, the names of the individuals expected to attend and inform the parent of his or her right to have relevant members of the CSE participate at the parent's request.
2. In order to determine if the behavior was or was not a manifestation of the student's disability, the team needs to follow the steps below:
 - a. Prior to the MDR meeting, information such as evaluation and diagnostic results, observations, current IEP, placement information and other relevant information supplied by the parents must be gathered for review by the IEP team.
 - b. Establish if there have been multiple disciplinary actions involving the student during the current school year and determine whether this student's behavior constitutes a pattern. The MDR team must consider whether the behavior for which the discipline is sought to be imposed is substantially similar to the student's behavior in previous incidents that resulted in discipline, the length of prior suspensions, the total amount of time the student has been removed from school, and the proximity of the removals and suspensions to one another.

- c. The MDR team must discuss the characteristics of the student's disability (e.g., withdrawn, aggressive, impulsive, academic or cognitive deficits, information processing, organizational deficits, peer relationships, etc.). This information should come from current data, observation and parent reports as well as from the IEP, evaluations, teacher reports, discipline records, etc.
- d. The MDR team discusses & answers the following questions (**If the team is unsure about any of these questions, the behavior is automatically assumed to be a part of the student's disability. If there is disagreement among the team members, the chairperson makes the final determination**):
 - Are the IEP and placement, supplementary aids and services judged to be appropriate by the IEP team? (Initially, this is based on the current IEP. As the discussion progresses, it may be decided that one or the other, or both needs to be changed).
 - Are IEP services and behavioral intervention strategies described on the IEP consistently applied? (This is based on the identified needs in the current IEP).
 - Does the disability impair the student's ability to understand the impact and consequences of the behavior?

3. **Manifestation Determination**

- If the student's behavior is *not a manifestation* of his or her disability (a "NO" MDR), the relevant disciplinary procedures applicable to students without disabilities may be applied to the student in the same manner in which they would be applied to students without disabilities. In addition, the school may review an existing or complete a new FBA and BIP, if appropriate.
- If the behavior is determined to be a part of the disability (a "YES" MDR), the MDR team makes an appropriate plan to address some or all of the following areas (the student may not be expelled from the school system):
 - a. Conduct a functional behavioral assessment to develop more effective behavior intervention strategies and implement a behavioral intervention plan for such student.
 - b. Consistently implement the IEP as written.
 - c. **Change the IEP as needed (e.g., adaptations, services, behavioral interventions, supports and modifications) (*Chairperson is responsible to ensure this information is added to the IEP*).**
 - d. Complete additional evaluations to provide additional service, if needed.
 - e. Except as provided in Part 201.7(e) of the Regulations, return the student to the placement from which the student was removed, unless the parent and the school district agree to a change of placement as part of the modification of the behavioral intervention plan.

Deficiencies in IEP: If the manifestation team determines the conduct in question was the direct result of the school district's failure to implement the IEP, the school district must take immediate steps to remedy those deficiencies.

- 1. The District shall notify the parent of the decision to take disciplinary action and of the procedural safeguards no later than the date on which the decision is made. If the parent disagrees with a determination that the student's behavior was not a manifestation of the student's disability, or with any decision regarding placement, the parent has the right to an "expedited" due process hearing. If the District places the student in the allowed interim placement, the "stay put" placement is that setting until its expiration or until the hearing officer's decision, whichever is first.

MANIFESTATION DETERMINATION MEETING FORM PROCEDURE

1. COMPLETE Part A:

- Fill-in student demographic information
- SCHEDULE A MEETING DATE AND TIME IMMEDIATELY.
- Contact parent by phone to inform them of the latest suspension and inform them verbally that a meeting will take place. Record parent phone contact.
- Record meeting date.

2. COMPLETE Part B:

- Record the Allegation as it relates to the Code of Conduct.
- Record Level of Infraction

3. COMPLETE Part C:

- Review all relevant information regarding the student from school file, IEP, behavioral history, etc.
- Complete areas on form to verify review/discussion.

4. COMPLETE Part D:

- MDR Team must discuss and answer both QUESTION 1 AND QUESTION 2.
- Team MUST make a determination as to WHETHER THE BEHAVIOR WAS A MANIFESTATION OF THE CHILD'S DISABILITY. Check YES or NO response.
- Have all participants sign directly on form and check the appropriate box (Agree/Disagree) next to their signature.

5. COMPLETE Part E:

- Review Follow-Up Actions for School.
- If Superintendent's Hearing is requested, the request must be sent immediately.
- Provide the name of the building administrator whom will be responsible for assuring the completion of noted follow-up activities.

6. COMPLETE Part F:

- Review Notifications to Parent. Send appropriate Determination letter.

7. SIGN AND DATE Manifestation Determination Meeting Form

- File a copy in your school's folder.
- Forward to the Family & Student Support Services Department
 - i. Completed Manifestation Determination Meeting form
 - ii. FBA/BIP when developed and at any time it is modified/BIP Progress Monitoring
 - iii. Parent Manifestation Determination Invite Letter and Meeting Finding Letter

PLEASE CHECK ALL INFORMATION CONSIDERED:

- a) ____ Assessment/evaluation (List any current assessments/evaluations considered)
- b) ____ The student's IEP
- c) ____ Interviews conducted
- d) ____ Teacher Observations/Information
- e) ____ Information provided by the parent

It is not the purpose of a manifestation determination to decide if the student did what he/she is accused of doing or to decide what the student's punishment should be. The team's task is to determine whether there is a causal relationship between the behavior for which the student was suspended and the student's disability (or a suspected disability of which school had knowledge before incident). To accomplish this task, the team should discuss the following points. Please document the team's discussions.

Review the student's placement and the student's IEP service minutes and goals. Was the student receiving all the services set forth in the student's IEP?

Review the behavioral history of the student.

Review the student's current IEP. Are there existing positive behavioral interventions, supports and modifications on the IEP?

YES NO

If NO, the committee is to consider and document the need for positive behavioral interventions, supports and modifications to be added to the IEP:

(Document them here-to be added to IEP- Chairperson is responsible to ensure this information is added to the IEP.)

Review the incident that gave rise to the student's suspension.

What preceded the incident?

What was the student's role in the incident?

What steps could or should have been taken to avoid the incident, and by whom?

Does the student have a behavior intervention plan?

YES NO

Was it being followed?

YES NO

Do the parents have other information the team should know about the student's current functioning?

D. DETERMINATION:

QUESTION 1: Was the conduct in question the direct result of a failure to implement the student's IEP?

YES NO

Explain: _____

P O U G H K E E P S I E C I T Y S C H O O L D I S T R I C T
Office of Family and Student Support Services
55 College Avenue, Poughkeepsie, N.Y. 12603 (845) 437-3473 FAX (845) 437-3477

If the team has determined that the student was receiving all the services set forth in the student's IEP, and the BIP, if any, was being followed, then the answer to question one is "no."

If the student's IEP was not being fully implemented, however, then the team must determine whether that failure contributed to the conduct that gave rise to the suspension. The team should consider:

- ✓ If the IEP had been fully implemented, could the conduct that gave rise to the suspension still have occurred?
- ✓ If the IEP had been fully implemented, would the conduct have been less likely?

QUESTION 2: Was the conduct in question caused by, or did it have a direct and substantial relationship to, the student's disability?

YES NO

If yes, why? _____

The following additional considerations may be helpful:

- ✓ Was the behavior that gave rise to this suspension ever a concern previously for this student?
- ✓ Was discussion of the behavior included in the student's evaluation and disability determination?
- ✓ Was the behavior addressed in the IEP and/or BIP?

Is the behavior a manifestation of the child's disability? YES NO

Name/Title	Signature	Agree	Disagree

E. FOLLOW-UP ACTIONS FOR SCHOOL:

- If the conduct was related to student's disability, a Functional Behavior Assessment (FBA) and Behavioral Intervention Plan (BIP) must be developed and implemented upon the student's re-entry to school.
- If a BIP exists, the plan must be reviewed and modified to better address the behavior and be implemented upon the student's return to school.

- If changes to the IEP are required, a CSE Meeting must be scheduled.
- For Level IV Infractions, send a copy of MDR findings to the Superintendent's Hearing Officer.
- No Follow-Up actions required.

F. NOTIFICATIONS TO PARENT:

- Send Determination Letter and Manifestation Team Meeting Information to Parent
(Include the Procedural Safeguards)

MANIFESTATION DETERMINATION FORM COMPLETED BY:

Name	Title	Date
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- COMPLETED FORMS SHOULD BE SENT TO Family & Student Support Services to be placed in student's file.**
***A copy should also be maintained in the school.**