



Guidance

Conducting a Manifestation Determination Review

**Michigan Department of Education Office of Special Education
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A manifestation determination review (MDR) is an individual entitlement, for a student with an individualized education program (IEP), who has experienced a change of placement due to a violation of a district's code of student conduct. An MDR is also required when a district has a basis of knowledge the student is a student with a disability even if the student has not yet been found eligible for special education at the time of the proposed discipline. For information on determining if there is a basis on knowledge see the [Individuals With Disabilities Education Act \(IDEA\) Discipline Requirements \(PDF\)](#) The purpose of this document is to assist districts in the implementation of discipline protections for students with a disability under the IDEA by developing a deeper understanding of an MDR, under the specific circumstances one must be completed, and the specific considerations participants must consider and discuss during an MDR.

This document in no way negates the district's need to consider positive behavioral interventions and supports for a student whose behavior impedes their learning or the learning of others. For more information about positive behavioral supports, see [Positive, Proactive Approaches to Supporting Children with Disabilities: A Guide for Stakeholders](#). For more information about alternatives to suspension and expulsion, see [MDE's Alternatives to Suspensions and Expulsions Toolkit](#).

When must a manifestation determination review occur?

According to 34 CFR §300.530(e), an MDR must occur within 10 school days of any decision to change the student's placement because of a violation of a code of student conduct.

Under 34 CFR § 300.536 a change of placement occurs when:

- The removal is for more than 10 consecutive school days: or
- The student has been subjected to a series of removals that constitute a pattern
 - Because the series of removals total more than 10 school days in a school year;
 - Because the student’s behavior is substantially similar to the student’s behavior in previous incidents that resulted in the series of removals; and
 - Because of such additional factors as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another.

For additional information review [Determining a Change of Placement](#).

When a change of placement occurs, an MDR must be held within 10 school days. Prior to removals of more than 10 cumulative school days, the district through a pattern of removals, may need to determine whether the student is demonstrating an emerging need (ex. increased behavioral issues impacting the school setting) and respond to the need, in order to provide a free and appropriate public education (FAPE).

Under 34 CFR § 300.534, an MDR may also be conducted for a student who is not determined eligible for special education but there was a basis of knowledge prior to the behavior that precipitated the disciplinary action. For more information see the [Individuals with Disabilities Education Act \(IDEA\) Discipline Requirements \(PDF\)](#).

Who should be included in a manifestation determination review?

The parent and relevant members of the IEP team (as determined by the parent and the district) must be included in the MDR.

What happens during a manifestation determination review?

During the MDR the participants complete a thorough review and carefully consider the relevant information in the student’s file including student’s IEP, course grades, progress reports, anecdotal notes, etc., as well as information received from the parent. The review of relevant information is intended to present a picture of the whole child and not a specific focus on the category of eligibility. The participants must determine whether the conduct in question, which resulted in a change of placement, was a

manifestation of the student's disability. To make this determination, the MDR participants must answer two questions:

- Was the conduct in question caused by, **or did it have a direct and substantial relationship to**, the student's disability?
- Was the conduct in question the direct result of the district's failure to implement the student's IEP?

The question regarding failure to implement the IEP is twofold. The first question is whether the programs and services described in the IEP were provided as written. If yes, then no further discussion is needed. If no, the second part of the discussion is whether the failure to implement the IEP as written directly resulted in the behavior in questions. In order for the MDR participants to determine whether the behavior was a manifestation of the disability, the questions may require robust discussion of individual circumstances. Participants should avoid predetermining the answers to the above questions before the MDR is held. Decisions should be reached during the MDR and achieved through consensus rather than voting. The district should keep detailed documentation of all considerations.

An answer of yes to one of the above questions, indicates the conduct in question was a manifestation of the student's disability. The district must then take immediate steps to ensure all the following discipline protections occur:

1. The student returns to the prior placement, unless:
 - a. the parent and district agree on a change of placement as part of a modification of the behavioral intervention plan (BIP)
 - b. the conduct in question involved weapons, drugs, or serious bodily injury.
2. The IEP team must conduct a functional behavioral assessment (FBA) and create a BIP, unless:
 - a. the student already has an FBA prior to the behavior which resulted in a change of placement; and
 - b. the student already has a BIP, in which case the team must review the BIP and revise as necessary.
3. When the conduct in question is a result of the IEP team's failure to implement the IEP, the district must remedy deficiencies of IEP implementation.

When the conduct in question is determined not to be a manifestation of the student's disability the district may apply the same discipline procedures in the same manner and for the same duration, as are applied to nondisabled students. The district must:

1. Provide educational services so the student can continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in their IEP.
2. Consider an FBA, when one has not already been completed, and a BIP.
3. The district may need to develop an IEP for an interim alternative education placement where educational services will be provided in an interim alternate education setting in order to allow the student to participate in the general education curriculum and progress toward meeting IEP goals.

What happens if there is no agreement on whether the student's behavior was or was not a manifestation?

If the parents, the district, and the relevant members of the student's IEP Team cannot reach consensus or agreement on whether the student's behavior was or was not a manifestation of the disability, the public agency must make the determination and provide the parent with prior written notice pursuant to 34 CFR §300.503.

The parent of the child with a disability has the right to exercise procedural safeguards by requesting mediation and/or a due process hearing to resolve a disagreement about the manifestation determination. 34 CFR §300.506 and §300.532(a). A parent also has the right to file a State complaint alleging a violation of Part B related to the manifestation determination. See 34 CFR §300.153.

Additional Behavioral and MDR Considerations

It is important for teams supporting students with behavioral needs, to understand the powerful role a properly conducted functional behavioral assessment can have in reducing a student's behaviors. The purpose of an FBA is to identify the function or purpose behind a student's behavior. Understanding what may be motivating a student's behavior, will assist districts in the development of a BIP, which when implemented with fidelity should effectively reduce or eliminate the behavior.

Districts are reminded MDRs are an individual entitlement under the IDEA. The intent of the process is to provide careful and thorough consideration of the student's conduct in light of the student's circumstances. Therefore, when a student has been subjected to multiple change of placements within close proximity, the student is entitled to an MDR for each individual incident which resulted in a change of placement.

Additionally, districts are encouraged to pay particular attention to the length of removals issued when determining a pattern and whether or not a change of placement has occurred. For a student who has been issued multiple removals of one, two or three days in length, it is possible the student is able to complete their suspensions and return to school even before one MDR is completed. Although the district has 10 school days from the date of the decision to make a removal that constitutes a change of placement to conduct the MDR, the intent of the MDR is to allow the student to return to the placement from which he or she was removed when the behavior was a manifestation of the disability. Every effort should be made to conduct the MDR within the time of the removal.

Additional Resources

For additional information about the discipline protections under IDEA, please reference the following documents:

- [Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions. July 19, 2022 \(PDF\)](#)
- [Individuals with Disabilities Education Act Discipline Requirements \(PDF\)](#)
- [Manifestation Determination Review \(MDR\) Model Form \(PDF\)](#)
- [Center on Positive Behavioral Interventions and Supports](#)
- [MDE Restorative Justice Practices](#)