

Manifestation Determination Review (MDR)

An MDR meeting must be held within 10 school days of any decision to change the student's placement because of misconduct. This decision is made by relevant members of the IEP team. The purpose of the meeting is to determine if the conduct was:

Caused by or had a direct and substantial relationship to the student's disability; and/or,

The direct result of the school's failure to implement the student's IEP.

If either question is answered "yes," the behavior subject to disciplinary removal is determined to be a manifestation of the student's disability.

Question #1:

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

A comprehensive problem-solving review to identify why the misconduct occurred should guide IEP teams to successful manifestation determinations. In determining if the conduct in question was caused by or had a direct and substantial relationship to the student's disability, the IEP team shall consider the following factors:

- The student's educational program;
- Environmental factors;
- Home factors and the student's mental, physical and developmental challenges;
- The student's discipline history (total number of suspensions, the proximity of suspensions and the length of each suspension);
- The type of misconduct in relation to the student's discipline history (isolated instance vs. repeated; whether the student's behavior is substantially similar to behavior in previous and current incident);
- Other factors contributing to the misconduct such as unique circumstances, information from observers of the incident, etc.
- Documentation that the student code of conduct was provided to the family;
- Whether the behavior was dangerous, likely to result in injury or inflicted "serious bodily injury" on another person;
- The effectiveness of current behavioral strategies to prevent similar misbehavior and reinforce desirable behavior in the student's school (PBIS);
- The effectiveness of the student's BIP in relationship to the misconduct;
- In the absence of a BIP, the administration of an FBA;
- Whether more information is needed (FBA or other types of evaluation); or
- Most recent eligibility evaluation.

Question #2:

Was the conduct in question a direct result of the school district's failure to implement the IEP?

The IEP team must determine the impact of the failure to implement the student's IEP on the misconduct. It means first determining what was not implemented and then determining its impact on the student's behavior. The IEP team may consider:

- How the area of the IEP not implemented relates to functional skills, social competency and behavior of the student and the misconduct observed.
- How the area of the IEP not implemented relates to service, goals, positive behavior supports or the BIP.

If the IEP team determines that the school failed to implement the student's IEP, school-based administration shall take immediate steps to remedy those deficiencies.

Behavior Is a Manifestation of Student's Disability

If the team determines that the misconduct is a manifestation of the student's disability, the following shall occur:

- The IEP team shall return the student to the placement from which the student was removed unless the parent/guardian and the school division agree to a change in placement as part of the modification of the BIP or IEP.
- Conduct an FBA, unless the school division had conducted this assessment before the behavior that resulted in the change in placement occurred;
 - An FBA may include a review of existing data or new testing data or evaluation as determined by the IEP team.
 - If the IEP team determines that the FBA will include obtaining new testing data or evaluation, then the parent/guardian is entitled to an independent educational evaluation if the parent/guardian disagrees with the evaluation or a component of the evaluation obtained by ACPS.
- Implement a BIP for the student.
 - If a behavioral intervention plan already has been developed, review this plan, and modify it, as necessary, to address the behavior.

Behavior Is Not a Manifestation of Student's Disability

If the IEP team determines that the student's behavior was not a manifestation of the student's disability, school personnel may apply the relevant disciplinary procedures to students with disabilities in the same manner and for the same duration as the procedures would be applied to students without disabilities, except that services shall be provided as determined required by the IEP team.