



from Equip for Equality's Legal Advocacy Program

## EFE FACT SHEET – Special Education

### Discipline- Manifestation Determination Review

#### Introduction

1. What is a **Manifestation Determination Review (MDR)**?
  - a. The MDR is a meeting that is held to discuss whether a child's behavior is related to his/her disability.
2. Why does the School hold an MDR?
  - a. Students with disabilities are protected from improper discipline for behavior that results because of their disabilities.
  - b. The School holds the MDR to find out whether it can use the same discipline for the student with a disability as it uses for other students.

#### The School's Responsibility for the MDR

1. When must the School hold an MDR?
  - a. The School must hold an MDR within 10 school days after it recommends a **change of school placement** for your child.
  - b. A change of school placement occurs
    1. if your child has been suspended for more than 10 school days
    2. if the IEP team determines that your child has a **pattern of suspensions**
  - c. The School **does not** need to hold an MDR if it transfers your child to an alternative setting under certain circumstances. *For more information, please see the [Interim Alternative Education Setting fact sheet](#).*
2. What is a pattern of suspensions?
  - a. The IEP team, of which you are a part, will determine if your child has a pattern of suspensions.
  - b. According to federal law, a pattern of suspensions is a change of placement when
    1. your child's suspensions total more than 10 school days during the school year;
    2. your child's behavior for which he/she is suspended is very similar to behavior in other occasions; and,
    3. other factors such as, the length of each suspension and the amount of time between each suspension.

## The Manifestation Determination Review (MDR)

1. Who will be at the MDR?
  - a. The parent, representatives of the School District and members of the IEP team
2. What happens at the MDR?
  - a. At the meeting, the IEP team must review several documents:
    1. your child's IEP;
    2. your child's case study evaluation;
    3. any Behavioral Intervention Plan (BIP) or Functional Behavioral Analysis (FBA) that has been created;
    4. any teacher observations; and,
    5. any relevant information provided by the parents.
  - b. The people at the meeting must review this information to determine:
    1. if your child's behavior was caused by, or had a direct relationship to, his/her disability; or,
    2. if your child's behavior was the direct result of the School District's failure to follow the IEP
    3. if either (1) or (2) are true, than the team will find that the behavior was a **manifestation of your child's disability**
3. What can you do to prepare for the MDR?
  - a. You can be a very important member of the team that will decide whether your child's behavior is a manifestation of his/her disability. It is important that you come prepared and that you ask questions to the group.
  - b. If you believe that your child's behavior was caused by his/her disability, you should:
    1. Look for information from your child's case study evaluation that may show that your child's behavior resulted from his/her disability;
    2. Look for information from outside sources (ie - books about disabilities, your physician, the internet) that discuss the types of behavior common for students with your child's disability; or,
    3. Prepare questions that you can ask the educational professionals in the meeting about your child's disability and the common behaviors of students with this disability.
  - c. If you believe that your child's behavior resulted because the School was not following his/her IEP, you should:
    1. Read carefully through the IEP and record any services that were not provided to your child;
    2. Look to see whether a **Behavioral Intervention Plan (BIP)** was created for your child that may not have been followed;
    3. Prepare questions for your child's teachers and school administrators about the parts of the IEP that may not have been followed.

## The Manifestation Determination Decision

1. What happens if the team decides that your child's behavior IS a manifestation of the disability?
  - a. Your child must be returned to the school placement where he/she was before the behavior occurred.
  - b. The School District must conduct a **Functional Behavioral Analysis (FBA)** or review your child's FBA if one already exists.
  - c. The School District must create a **Behavioral Intervention Plan (BIP)** or review your child's BIP if one already exists. *For more information, please see the Behavioral Intervention Plan fact sheet.*
2. What happens if the team decides that your child's behavior IS NOT a manifestation of the disability?
  - a. The School District may use the same discipline process that it would for a student without a disability.
  - b. The School District must still provide your child educational services so that your child can make progress on his/her IEP goals.
  - c. The School District can change your child's school placement.
  - d. The School District must conduct a **Functional Behavioral Analysis (FBA)** or review your child's FBA if one already exists.
  - e. The School District must create a **Behavioral Intervention Plan (BIP)** or review your child's BIP if one already exists. *For more information, please see the Behavioral Intervention Plan fact sheet.*

## After the Manifestation Determination Review

1. What can you do if you disagree with the Manifestation Determination decision?
  - a. You can request an **expedited due process hearing** if you disagree with the decision.
  - b. An expedited due process hearing is somewhat like a trial where you will present witnesses and evidence to prove that you are right.
  - c. You will have a decision within 30 school days after making your request.
  - d. *For more information, please see the Expedited Due Process Hearing fact sheet.*
2. What should you do if you think the decision was correct?
  - a. If the decision was that your child's behavior IS a manifestation of the disability, you should
    1. make sure your child is returned to his/her school placement immediately;
    2. make sure that the IEP team meets to review or develop a **Behavioral Intervention Plan (BIP)**; and,
    3. make sure that the School gives you regular reports about how your child's BIP is being followed.

- b. If the decision was that your child's behavior IS NOT a manifestation of the disability, you should
1. prepare for the expulsion hearing, if necessary;
  2. make sure that the IEP team meets to determine that your child's school placement is appropriate; and,
  3. make sure that your child is getting educational services from the School District so that he/she can continue to make progress on IEP goals.



### DO YOU HAVE A QUESTION?

Contact Equip for Equality's Special Education Clinic Helpline

**1-866-KIDS-046** (voice) or 800-610-02779 (TTY)

[SpecialED@equipforequality.org](mailto:SpecialED@equipforequality.org)

[www.equipforequality.org](http://www.equipforequality.org)

This resource material is intended as a guide for people with disabilities. Nothing written here shall be understood to be legal advice. For specific legal advice, an attorney should be consulted.

Equip for Equality, an independent nonprofit organization, is the Illinois state Protection & Advocacy System whose mission is to advance the human and civil rights of children and adults with disabilities. The Special Education Helpline seeks to empower parents to advocate effectively. The Special Education Clinic, Helpline, and these publications were made possible by grants from the Chicago Bar Foundation, The Field Foundation, Illinois Bar Foundation, Illinois Equal Justice Foundation, Polk Bros Foundation, and the State of Illinois Department of Human Services. The contents of this publication are the sole responsibility of the authors and do not represent the official views of the grantors.

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