



SUSPENSION, EXPULSION AND MANIFESTATION DETERMINATION

Disciplinary Removals of Less Than 10 Days

A LEA/district may remove a student with a disability who violates a code of student conduct from his/her current placement to an appropriate interim alternative educational setting, another setting or suspension, **as long as the removal does not constitute a change of placement** (34 CFR 300.536).

Determining a Change of Placement

A change of placement occurs if:

- The removal is for more than 10 consecutive school days; or
- The child has been subjected to a series of removals that constitute a pattern due to:
 - A series of removals total more than 10 school days in a school year;
 - The child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and
 - 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.

In-School Suspensions

An in-school suspension occurs when the LEA/district suspends a student during the course of the school day without the student leaving the school campus. Federal policy guides that in-school suspension does not count as a student's removal from their current placement if the LEA/district affords the student the opportunity to continue to:

- Appropriately participate in the general curriculum;
- Receive the services specified on the student's IEP; and
- Participate with nondisabled peers to the same extent.

Disciplinary Removals of 10 Days or More

If a student's removal from his/her current placement exceeds ten days in an academic school year, the removals qualify as a change in placement and the LEA/district shall conduct a Manifestation Determination (MD) meeting within ten days of the decision to change the student's placement.

Manifestation Determination Meeting

Meeting Attendees:

The following individuals shall be in attendance at the manifestation determination meeting:

- Parent(s)/guardian(s)
- LEA/district
- All relevant members of the IEP team as determined by the parent and the LEA/district.

Purpose

The Manifestation Determination (MD) meeting is held to evaluate a student's misconduct, determine whether the misconduct is a manifestation of the student's disability, and determine if the student's Individualized Education Program (IEP) was being fully implemented at the time of the misconduct.

In order to accomplish this purpose, the MD meeting attendees shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents (34 CFR 300.530). In addition, the El Dorado County SELPA recommends that the MD team review all current educationally related assessments (including health and medical information) and, if determined necessary, propose additional assessments to the IEP team for their consideration.

After completing a full review of all relevant information, the manifestation determination meeting attendees shall answer to the following two questions:

1. Was the conduct in question caused by the student's disability (medical or educational) or did it have a direct and substantial relationship to the disability?
2. Was the conduct in question the direct result of the LEA/district's failure to implement the IEP?

If the MD meeting attendees answer "no" to both questions above, the determination is made that the behavior was not a manifestation of the disability.

If the MD meeting attendees answer "yes" to either or both questions above, the determination is made that the behavior was a manifestation of the disability.

The SELPA recommends that MD meeting attendees utilize and complete the "Manifestation Determination" form located in the student's SEIS profile. In addition, although it is not legally required, some LEA/districts may choose to have their school psychologist compile a MD report to help the IEP team review all data and answer the MD questions.

MD Team Determines Misconduct is a Manifestation of the Student's Disability

If the MD team determines that the misconduct is a manifestation of the student's disability the student shall return to the placement from which the student was removed and an IEP meeting shall be convened.

The IEP team shall then do one of the following:

- Conduct a Functional Behavioral Assessment (FBA), unless the LEA/district had conducted a FBA before the behavior that resulted in the change of placement occurred, and implement a Behavioral Intervention Plan (BIP) for the child; or
- If a BIP already has been developed, review the plan and modify it, as necessary, to address the behavior.

MD Team Determines Misconduct is not a Manifestation of the Student's Disability

If the MD team determines that the misconduct was not a manifestation of the student's disability, then the student is subject to the same sanctions for misconduct as a child without a disability.

Expulsions

If the manifestation determination meeting attendees determine that the misconduct was not a manifestation of a student's disability and the student is properly expelled from the LEA/district, the student must continue to receive a Free and Appropriate Public Education (FAPE).

The offer of FAPE shall provide educational services so as to enable the child to continue to participate in the general education curriculum and to progress toward meeting the goals set out in the student's IEP. Please note: The LEA/district need not replicate all services and instruction the LEA/district would have offered the student had s/he remained in the public school setting.

In addition, the student shall receive, as appropriate, a Functional Behavioral Assessment (FBA) and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur (34 CFR 300.530).

Prior Written Notice

On the date on which the decision is made to make a removal that constitutes a change of placement of a student with a disability because of a violation of a code of student conduct, the LEA/district must notify the parents of that decision (via a Prior Written Notice), and provide the parents with a copy of their procedural safeguards.

Special Circumstances

School personnel may remove a student to an Interim Alternative Educational Setting (IAES) for no more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability, if the student:

- Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of a LEA/district;
- Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of a LEA/district; or
- Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of a LEA/district.

After the student's removal, the LEA/district shall conduct a Manifestation Determination (MD) meeting.

Student Not Yet Found Eligible

A student who has not been determined to be eligible for special education and related services and who has engaged in behavior that violated a code of student conduct, may be entitled to a manifestation

determination meeting if the LEA/district had knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred (34 CFR 300.534(a)).

A LEA/district shall be deemed to have knowledge that a student is a student with a disability if before the behavior that precipitated the disciplinary action occurred; one or more of the following took place:

- The parent of the student expressed concern in writing to administrative or instructional personnel of the LEA/district that the student is in need of special education and related services
- The parent of the student requested an evaluation of the student
- The teacher of the student, or other personnel of the LEA/district, expressed specific concerns about a pattern of behavior demonstrated by the student to the director of special education or to other supervisory personnel of the LEA/district (34 CFR 300.534)
- LEA previously assessed the student and the student did not qualify for special education services; or student did qualify for services and parents declined them
- LEA referred student for special education testing to establish initial eligibility, but parent refused evaluation and/or services.

For additional information regarding these circumstances and recommended action by the LEA/district, please contact your SELPA Program Specialist.