



Determine connection to disability, not student misconduct, with MDR analysis

When a district proposes to take disciplinary action against a student with a disability that could result in a change of placement, the district must conduct a manifestation determination review within 10 school days. [34 CFR 300.530](#) (e).

As a district conducts the MDR, its members should come to the meeting with a prepared, open mind, ready to discuss the relationship between the student's misconduct and his disability, not whether or not the student violated school rules. If a team makes procedural violations during the MDR process, like failing to review the relevant information or unduly dragging its feet during the process, the team's decision may be reversed. See a collection of tips from a school attorney on some ways districts can make sure their MDR process runs smoothly.

Apply correct legal standards

MDR teams should make sure they are following the law and staying within the scope of the MDR process. The purpose of the MDR team meeting is not to determine what type of misconduct the student engaged in but whether the student's disability is directly related to the misconduct.

Questions that districts' MDR forms should ask are:

- Was the student's conduct caused by or does it have a direct relationship to the student's disability?
- Was the conduct in question a direct result of the LEA's failure to implement the student's IEP or 504 plan?

Teams don't want to pose questions that are not contemplated by the law, said Mary Ellen Sowyrda, school attorney at Murphy, Hesse, Toomey & Lehane, LLP in Quincy, Mass.

The types of questions districts want to avoid asking would be whether the student has a sense of right and wrong or whether the student has a moral sense of doing the right thing.

Understand relevant records

MDR teams should review the right records before the meeting. These records include the student's IEP or 504 plan, any recent evaluations, teacher observations, and relevant information from the student's parents.

"Any prior, recent evaluations will shed light on whether there's a causal connection between the misconduct and the disability," said Sowyrda.

Teams should be careful not to be too narrow or too broad when reviewing relevant information. In *Bristol Twp. Sch. Dist. v. Z.B.*, [67 IDELR 9](#) (E.D. Pa. 2016), an MDR team took a broad approach in deciding whether a teen's ADHD contributed to his allegedly assaulting a teacher. Conversely, a team should not rely too heavily on one aspect of information. See *Jay F. v. William S. Hart Union High Sch. Dist.*, [70 IDELR 156](#) (C.D. Cal. 2017), *aff'd*, [74 IDELR 188](#) (9th Cir. 2019, *unpublished*).

Keep open mind going into MDR analysis

MDR teams should come to the meeting having reviewed the relevant documents but ready to discuss. If an MDR chairperson comes to the meeting ready to announce a decision without discussion, this could come across as a predetermined decision to the parents and could lead to a dispute.

While the district conducts the MDR and makes the final decision, the team members can include the student's parents and relevant members of the IEP or 504 team. This can include the student's teacher, school psychologist, and others. Sowyrda does not recommend that the principal, superintendent, or anyone involved in deciding disciplinary action attends the MDR team meeting.

"As with all team meetings, we come with an informed, open mind. We listen to the information, weigh it and then make that decision about whether there's a causal connection between the student's behavior and the disability," said Sowyrda.

Following the process as defined by the law is key for MDR teams, she said. If the MDR reveals that the student's behavior was not a manifestation of his disability, then the team should discuss where the student will go during the suspension. This could be an interim educational setting, so the student can continue to receive education services and meet IEP goals.

Pay attention to timelines

Schools want to make sure that they're following guidelines for conducting the MDR analysis. If the district is proposing to take disciplinary action that could result in a change of placement, the analysis should occur within 10 school days of that decision.

Unless it's done by agreement with the student's parents, the district should not go beyond those 10 days, Sowyrda said. Going beyond that amount of time could result in a procedural violation, which could undo the outcome of the MDR.

Know special MDR circumstances

If a student brings a weapon to school, uses controlled substances on school property, or causes serious bodily harm to another person at school, the district may suspend the student whether the misconduct was caused by his disability or not.

However, in this situation, even though the outcome may be predetermined, the district is still obligated to conduct an MDR when it proposes a change of placement. [34 CFR 300.530](#) (g).

See also:

- [Resist resetting disciplinary removal count after school break](#)
- [SmartStart: Manifestation Determinations](#)
- [Roadmap to IDEA/504 Compliance: Manifestation Determinations](#)

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