



quick tips...

Essential information and/or interesting facts from Special Education Services, Alabama State Department of Education.

Quick Tips for Discipline



Alabama State Department of Education
Special Education Services
P.O. Box 302101 Montgomery, AL 36130-2101



334.694.4782



speced@alsde.edu

DISCIPLINARY CHANGE OF PLACEMENT AND MANIFESTATION DETERMINATION REVIEW (MDR)

A Manifestation Determination Review (MDR) examines the relationship between a child's disability and his or her misconduct. The MDR must be undertaken when a local education agency (LEA) proposes to take disciplinary action which may result in a change of placement. The information below provides an overview of the procedural protections under the "Individuals with Disabilities Education Act" (IDEA) when a disciplinary change of placement has been proposed.

Change of placement

- A change of placement for patterns of removals is handled the same way as a change of placement that results from disciplinary removals for 11 or more consecutive school days.

What must be done when there is a change of placement?

- Provide notification to the parents on the date the decision is made to make a removal that constitutes a change of placement for disciplinary reasons.
- Provide a copy of the procedural safeguards notice (*Special Education Rights*).

Who attends the MDR?

- Designate relevant members of the Individualized Education Program (IEP) Team to attend the MDR meeting.
- The IDEA does not require that the entire IEP Team be present to conduct the MDR.
- The parent and the district shall jointly determine the relevant members of the team.

When do I hold the MDR?

- Within ten (10) school days of any decision to remove a student for disciplinary reasons, the district, parents, and relevant members of the IEP Team must conduct an MDR.
- The LEA is obligated to provide Free Appropriate Public Education (FAPE) during this time.

What needs to be done before the MDR meeting?

- Ensure that the *Individualized Education Program* (IEP) and the *Notice and Eligibility Decision Regarding Special Education Services* are both current and contain up-to-date data.
- Ensure everyone has a good understanding of the facts concerning the behavior incident/misconduct.
- Check with all of the student's teachers/staff to make sure that they were aware of the IEP by verifying that all responsible individuals have signed the completed *Persons Responsible for IEP Implementation* form.
- Have confirmation that all responsible parties implemented the IEP as written.
- If a Functional Behavioral Assessment (FBA) was conducted and there is a Behavioral Intervention Plan (BIP) in place, or an IEP goal that addresses behavior, review the data to determine whether the plan/goal is being implemented.
- Review the student's discipline record to determine how many and on what dates behavioral incidents have occurred during the school year.
- The school's relevant IEP Team members can meet ahead of time to prepare for the MDR; however, they cannot predetermine decisions regarding the outcome of the MDR.

What should be brought to the MDR meeting?

- The LEA, the parent, and all relevant IEP members who have been identified on the *Notice of Invitation to a Meeting/ Consent for Agency Participation* for the MDR
- The notice for the meeting and any response from the parents
- Current evaluations
- Current IEP
- Relevant progress monitoring data on behavioral goals
- Relevant teacher observations of the student's behavior
- Up to date information on disciplinary records, attendance, and grades

What happens at an MDR meeting?

- An MDR examines the relationship between a student's disability and his or her misconduct to determine whether or not that conduct is a manifestation of the student's disability.
- The IDEA states that the MDR Team must review "all the relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents." (§ 300.530(e))
- After reviewing this information, the LEA, the parent, and relevant members of the student's IEP Team must answer two questions:
 1. Is the conduct in question caused by, or did it have a direct and substantial relationship to the student's disability?
 2. Is the conduct in question a direct result of the district's failure to implement the IEP?

When answering the first question -- "Is the conduct in question caused by, or did it have a direct and substantial relationship to the student's disability?"**Review behavior that violated the code of conduct:**

- Review teacher observations, witness statements, and all disciplinary records.
- Review any pattern of behavior or previous misconduct that could possibly be related.

Review relevant information about the student:

- Existing evaluations
- Existing FBA
- Existing BIP
- Disciplinary reports/history
- Relevant progress monitoring
- Trends in grades and attendance
- Information from parents, teachers, related service providers, and administrators
- Information from other agencies
- Medical diagnosis

Look beyond the student's "eligibility" or DSM diagnosis:

- The eligibility area and any diagnosis are starting points for conversation. The real determination is how does this student's disability(s) impacts him or her.

When answering the second question --“Is the conduct in question a direct result of the district’s failure to implement the IEP?”

Be Prepared:

- When discussing the implementation of the IEP, have evidence of implementation through teacher comments, documentation, and relevant progress monitoring data on behavioral goals.
- If a portion of the IEP has not been implemented, the LEA, the parent, and relevant members of the student’s IEP Team should question whether the oversight had a “direct impact” on the student’s misconduct.
- For IEP goals relating to behavior, and for BIPs, two things should be determined:
 1. Whether or not all responsible followed the plan as written
 2. How the student progressed/responded to the interventions
- In order to show documentation that the goals and BIP were actually implemented:
 1. There should be evidence that the teachers were aware of the behavioral goals/BIPs and that they were aware of their responsibility for following the behavioral plan by verifying that all responsible individuals have signed the completed *Persons Responsible for IEP Implementation* form.
 2. Provide documentation of the responsible person’s work on the behavioral goals and the implementation of the interventions in the BIPs (data, notes, progress monitoring, etc.).

Common Pitfalls:

- Referring a student for an FBA or a BIP, but the process was never completed
- Not communicating the BIP to all of the relevant staff
- Not following with fidelity the BIP
- Not documenting implementation of the BIP
- Lacking consistency in implementation of the strategies outlined in the IEP or BIP
- Not giving the BIP enough time to effectively work
- Lack of communication with the parent on progress or lack of progress with the current plan

If the answer to either question is YES:

- Then the student’s conduct is determined to be a manifestation of his/her disability.

Next steps:

- Provide the parent with prior written notice through the *Notice of Proposal or Refusal to Take Action* form, clarifying the determination that was made during the MDR.
- If the conduct was a direct result of failure to implement the IEP, including but not limited to the BIP, the district must take immediate steps to remedy deficiencies.
- Additionally, the team must conduct a FBA and develop a BIP unless the LEA had conducted a FBA during the previous 18 months prior to the behavior that resulted in the change of placement, or review and modify an existing plan as needed.
- Return the student to his/her original placement unless:
 1. The parent and district agree to a different placement, or
 2. The removal is for “special circumstances” (weapons, drugs, and/or serious bodily injury).

If the answer to both questions is NO:

- Then the student's conduct is not determined to be a manifestation of his/her disability.

Next steps:

- Provide the parent with prior written notice through the *Notice of Proposal or Refusal to Take Action* form, clarifying the determination that was made during the MDR.
- The district may apply relevant disciplinary procedures in the same manner and for the same duration as for students without disabilities.
- The child must continue to receive 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 child's IEP, although in another setting.
- As appropriate, a FBA should be completed, and behavioral intervention services and modifications, designed to address the behavior violation so that it does not recur, should be implemented.