



PUBLIC SCHOOLS OF NORTH CAROLINA

State Board of Education | Department of Public Instruction

Individualized Education Programs

Module #7: Manifestation Determination Review

Disciplinary Change in Placement

When to conduct a Manifestation Determination Review (MDR)

- A manifestation determination review is only required in situations that constitute a disciplinary change in placement.
- Manifestation Determination Review must be held within 10 school days after the date on which the decision to change the child's placement is made because of a violation of a code of student conduct.
- The school district, the parent and relevant members of the IEP team determine whether the conduct is manifestation of the child's disability.
- In making the determination, all relevant information in the student's file must be reviewed, including the child's IEP, teacher observations, and information provided by the parents.

Change in Placement

- A change of placement occurs if the removal is for more than 10 consecutive days; or
- The student has been subjected to a series of removals that constitute a pattern because:
 - More than 10 cumulative 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
 - Of such additional factors as the length of each removal, the total amount of time removed and the closeness in time (proximity)
- Whether there is a change of placement is determined on a case-by-case basis by school personnel

Change in Placement

- If there is a change of placement --
 - Parents must be notified of the decision and provided a procedural safeguards notice [Parent must receive a Prior Written Notice the day of the change in placement decision];and
 - A manifestation determination is required within 10 days of the change in placement. [Invitation to conference is required to inform the parent of the Manifestation Determination Review]

Discipline Policies

According to the NC Policies, “ For purposes of **removal** of a child with a disability from the child’s current educational placement, a change of placement occurs if—(1) The **removal** is for more than 10 consecutive school days or (2) The child has been subjected to a series of **removals** that constitute a pattern—(i) Because the series of removals total more than 10 school days in a school year; (ii) Because the child’s behavior is substantially similar to the child’s behavior in previous incidents that resulted in the series of **removals**; and (iii) Because of such additional factors 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.”
[NC1504-2.7(a)]

What is considered a removal?

- Partial day when a parent is asked to pick the student up early due to behavioral reasons.
- When a student is removed from their current setting (general education and/or special education classroom) to another setting in the school for behavioral reasons and the IEP is not being implemented nor does the student have access to the general curriculum.
- In school suspension (see next slide)
- Out of school suspension

In school suspension is not considered a removal for this purpose only IF:

1. The student is afforded the opportunity to continue to appropriately progress in the general curriculum.
2. The district continues to provide the services specified in the student's IEP.
3. The student continues to participate with nondisabled students to the same extent as he does in his current placement. 71 Fed. Reg. 46,715 (2006).

Discipline Policies

The NC Policies states, “On the date on which the decision is made to make a removal that constitutes a change in placement of a child with a disability because of a violation of the code of student conduct, the LEA must notify the parent of that decision, and provide the parent, the procedural safeguards notice described in NC1504-1.5.”

[NC1504-2.1(h)]

Discipline Policies

As stated in the NC Policies, “Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the IEP Team (as determined by the parent and LEA) must review all relevant information in the student’s file, including the child’s IEP, any teacher observations, and any relevant information provided by the parent to determine—(i) If the conduct in question was caused by, or had a direct and substantial relationship to, the child’s disability; or (ii) If the conduct in question was the direct result of the LEA’s failure to implement the IEP.” [NC1504-2.1 (e)(1)]

Discipline Policies

According to NC Policies, “a child with a disability who removed from the child’s current for more than 10 days must continue to receive educational services, as provided in NC 1501-1.1(a), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child’s IEP; and (ii) Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. If a behavioral intervention plan already has been developed, it must be reviewed and modified, as necessary, to address the behavior.” [NC 1504-2.1(d)]

Special Circumstances

School Personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regarding to whether the behavior is determined to be a manifestation of the child's disability, if the child (1) Carries a weapon to or possesses a weapon at school, on school premises, or at a school function (2) 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 (3) Inflicts serious bodily injury upon another person while at school, on the school premises, or at a school function (4) Upon the end of the removal to the interim alternative educational setting for not more than 45 school days for one of the reasons above, the child shall be returned to the placement from which he/she was removed, unless he parent and LEA, through the IEP Team process, agree to a change in placement. [NC1504-2.1(g)]

****The IEP Team determined the interim alternative education setting as well as the services****

Discipline and Homebound Instruction

If a change in placement occurs under the discipline requirements, an LEA shall not assign a student to homebound instruction without a determination by the student's IEP Team that the homebound instruction is the least restrictive environment for that student. If it is determined that homebound instruction is the least restrictive environment for the student, the student's IEP Team shall meet to determine the nature of the homebound education services to be provided to the student. In addition, the continued appropriateness of the homebound instruction shall be evaluated monthly by the designee or designees of the student's IEP Team.

Discipline and Homebound Instruction

Educational Services means all of the following: (1) The necessary instructional hours per week in the form or format as determined by the IEP Team and consistent with federal and state law. The instruction shall be delivered by appropriately qualified teacher to the extent required by federal and state law, which requires a free appropriate public education and the opportunity for a sound basic education (2) Related services included in the IEP (3) Behavior intervention services.

Homebound instruction means educational services provided to a student outside the school setting. [NC Policy 1504-2.8]

Manifestation
Determination
Review

Manifestation Determination Review Form (Slides 14-23)

- Student information is located on the student's most current IEP and/or educational records.
- Current Educational Setting (LRE) is the setting documented on the IEP prior to the removal.

MANIFESTATION DETERMINATION

Name:	DOB: __/__/____	Grade:
School:	Student Unique ID #:	Current Educational Setting (LRE):
Primary Area of Eligibility:	Secondary Area(s) of Eligibility:	

I. Current Disciplinary Event

Describe the current disciplinary event, including administrative authority's written findings and any other details related to the event, as applicable:

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Yes	No	Did the conduct in <u>question</u> :
		<input type="radio"/> Involve a weapon;
		<input type="radio"/> Involve drugs; and/or
		<input type="radio"/> Cause serious bodily injury?

Describe the current disciplinary event

- Describe the details of the event that led to the disciplinary removal
- If the parent wants to dispute the event and/or details, this should be done outside of the MDR meeting. The MDR meeting is not for the purpose of appealing and/or disputing the event and/or consequences.

Did the conduct in question:

Involve a weapon;

- **Weapon:** has the meaning given to the term “dangerous weapon” and includes a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such a term does not include a pocket knife with a blade of less than 2 ½ inches in length.
- Describe the weapon, including the length of the blade if the weapon is a knife

Involve drugs; and/or

- **Controlled substances** means a drug or other substance identified under schedule I, II, III, IV, or V in section 202(c) of the Controlled Substance Act.
- **Illegal Drug** means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under and other provision of Federal Law
- Describe the drug, including the specific name

Cause serious bodily injury?

- Serious bodily injury is defined as (1) a substantial risk of death; (2) extreme physical pain; (3) protracted and obvious disfigurement; or (4) protracted loss or impairment of function of a body member, organ, or mental faculty.
- Describe the injury in detail, including any medical care given to the person who received the injury.

If the conduct in question involved one of the above, then the student can be removed to a 45 day interim alternative placement without consideration of the manifestation determination outcome. This does NOT negate the responsibility of completing the MDR within 10 days of the change of placement.

Summary of administrative authority's findings

- Information in the discipline report/notice written by the school administrator or designee who investigated the event and imposed the disciplinary removal
- If the parent wants to dispute the findings, this should be done outside of the MDR meeting. The team can not change the findings.

Data used to consider manifestation of student's disability

- All data sources should be discussed and considered.
- The dates of each data source should reflect the actual date on the document or observation/interview date.
- There may be other data sources available that are relevant. These should be documented under “other”.

III. Data Used to Consider Manifestation of Student's Disability

	Data Source	Date
	IEP	
	Assessment/Evaluations	
	Medical Information (including diagnosis and medication)	
	Interviews Conducted	
	Direct Observations	
	Discipline Report(s) (current school year)	
	Functional Behavior Assessment (attach)	
	Behavior Intervention Plan (attach)	
	Other: _____	

Implementation of IEP

Implementation of the IEP

Describe how the academic and behavioral goals on the child's IEP are being implemented:

Describe how the accommodations, modifications and supplementary services included in the child's IEP are being implemented:

Describe how the related services included in the child's IEP are being implemented:

This section should describe, in detail, how the IEP is being implemented as it relates to the IEP goals, modifications, accommodations, supplementary services and related services. This includes, but not limited to, instructional practices related to the goals, data supporting implementation of modifications, accommodations and supplementary services, information and data from the related service provider(s) and any teacher who is not participating in the MDR but is responsible for the implementation of the IEP.

Evaluations and additional diagnostic procedures

- Evaluations include those conducted by the school, outside agencies and/or any evaluations provided by the parent.
- If a parent presents new information during the meeting, this information must be discussed and considered as part of the process.

Describe the specific information that is being considered from the data sources above.

Describe the specific information that is being considered from the parent, including any outside evaluations.

Information provided by parent

This information may include outside evaluations not yet presented to the school, changes in the family, issues within in the community or other information pertaining to the student's behavior that led to the removal.

Behavior

Does the child have a Behavior Intervention Plan (BIP) based on a Functional Behavioral Assessment?

Yes No If yes, summarize the BIP.

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+ Explain how and when the interventions and/or BIP were revised (if any were completed).

Date(s) of Revisions	Explanation of Revisions

Did the behavior patterns change over time (e.g. increase in frequency, duration, and/or intensity)?

Yes No If yes, please explain.

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Has this behavior or similar behaviors associated with the disability been exhibited this school year?

Yes No If yes, describe the pattern of behavior.

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Behavior

- Does the child have a Behavior Intervention Plan(BIP) based on a Functional Behavioral Assessment? If yes, summarize the BIP
 - This includes the specific behavior(s) the plan addresses, interventions, PBIS, and consequences.
- Explain how and when the interventions and/or BIP were revised if they were not effective.
 - Include interventions used even if a student does not have a BIP
 - Includes dates the student's BIP was revised and for what purpose.

Behavior

- Did the behavior patterns change over time (increase in frequency, duration, and/or intensity)
 - What was the behavior and how did it change
- Has the behavior or similar behaviors associated with disability been exhibited in the past?
 - The team should review the past behavioral data and discipline reports

III. Assessment of Manifestation Determination

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Yes	No	Essential Questions
		Based on the above factors, was the conduct in question caused by the student's disability?
		Based on the above factors, did the conduct in question have a direct or substantial relationship to the student's disability?
		Was the conduct in question the direct result of the school district's failure to implement the IEP?
MANIFESTATION DETERMINATION		
		Is the violation of the student code of conduct a manifestation of the student's disability?

□

Assessment of Manifestation Determination

1. Based on the above factors, was the conduct in question caused by the student's disability?
 - This includes all of the information reviewed and discussed.
2. Based on the above factors, did the conduct in question have a direct or substantial relationship to the student's disability?
 - The student's disability includes the student's unique needs identified in evaluations, IEP, BIP, and other data sources reviewed and discussed in this process.
3. Was the conduct in question the direct result of the school's failure to implement the IEP?
 - "Direct result" means that the failure to implement the IEP, including the BIP had a direct impact on the student's behavior. The violation of the student code of conduct is a manifestation of the student's disability.
 - If either question 1, 2 OR 3 is answered "yes", then it is a manifestation of the student's disability.
 - If all questions are "no", then it is not a manifestation of the student's disability.

If there is no manifestation found:

Student must continue to receive services so to enable the student to participate in general education curriculum and make progress on IEP goals.

The IEP team determines the services provided and the location of services.

The IEP Team is required to determine the least restrictive environment of the student to receive their services.

Homebound Instruction should not be only one option the team considers.

If “yes”, the conduct was a manifestation of the student’s disability:

- Student is returned to the placement in which he/she was removed unless the IEP Team AND the parent agree to change the student’s placement.
- The IEP team must review and revise, as appropriate the BIP. If there is no BIP, the Team must conduct a Functional Behavioral Assessment (FBA), with parent consent and develop a BIP.
- If an FBA is needed, then the IEP Team initiates the re-evaluation process; though this process does NOT restart the three year eligibility date.