

# Discipline & Students with Disabilities

## NAVIGATING THE MANIFESTATION DETERMINATION REVIEW (MDR) AND BEYOND

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Special Education Mediation Services

# Special Education Mediation Services

## Grant-Funded

A Grant-Funded Initiative of the Michigan Department of Education Office of Special Education (OSE).

## Free

Offer FREE mediation, IEP facilitation and collaborative communication training to schools and parents across Michigan.

## Federally Mandated

Enables the OSE to meet its obligation under the IDEA to provide statewide mediation services at no-cost to schools and parents to resolve special education disputes.



# Disciplinary Removals of Students with Disabilities

Navigating the Manifestation Determination Review (MDR) and Beyond



# Caution



These slides reflect general legal standards for the related presentation and are not intended as legal advice for specific situations



Future legal developments and guidance may impact these topics



# Today's Agenda



Students included in IDEAs Disciplinary Regulations



The Manifestation Determination Review (MDR) process



Interim Alternative Education Settings and Special Removal Circumstances



Functional Behavioral Assessment (FBA) & Behavior Intervention Plan (BIP)



Procedural Safeguards & Dispute Resolution

We will  
answer  
these  
questions:

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Which Students are included in the IDEA's disciplinary regulations?

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What is a change of placement under the IDEA disciplinary regulations?

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What is an MDR?

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When does an MDR need to be held?

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Who participates in the MDR?

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What happens at the MDR meeting?

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What happens after the MDR?

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What if I disagree with the MDR outcome or any decision regarding placement under the IDEA disciplinary regulations?





# Which students are included in the IDEA's disciplinary regulations?



- Student with an IEP
- Student without an IEP, if there is a *basis of knowledge*

# What is a *basis of knowledge*?

## 3 circumstances



- Parent requested an evaluation in writing

- Parent expressed a need for special education services in writing to a teacher, supervisor or administrator

- School personnel expressed specific concern about pattern of behavior to special education director or supervisor, verbal or written



# What are the 3 Exceptions to *Basis of Knowledge*



- The parent of the child has not allowed an evaluation

- The parent of the child has refused services under IDEA

- The child had been evaluated and determined not eligible



# Change in Placement

- Long term removal = Removal for more than 10 consecutive school days in a school year

OR

- Series of short-term removals = Removal for more than 10 cumulative school days in a school year

- **If there is a pattern of removals**

34 CFR § 300.536





# MDR Required

WHEN  
THERE IS A  
CHANGE IN  
PLACEMENT

What is the MDR?



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Meeting to determine if the behavior was a result of the student's disability

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Not the Code of Conduct adjudication



## Timeline to hold MDR

Within 10 SCHOOL DAYS OF the decision to change the student's placement





## Participants



- Parent
- District Representative
- Relevant IEP team members

# MDR Process Overview

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Relevant  
Information Review

2 Questions

Outcome

Next Steps



Relevant  
information

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Student File

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Teacher observations

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Relevant Info from Parent

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Misconduct details







MDR Team Must Answer Two Questions:

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Was the conduct in question caused by, or have a direct and substantial relationship to, the child's disability?

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Was the conduct in question the direct result of the LEA's failure to implement the IEP?

# MDR discussion

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## EXAMINE

- the specific ABCs of incident/behavior

## FOCUS

- on answering the 2 questions – Not on Guilt v. Innocence

## REVIEW

- all relevant information in the student's file

## CONSIDER

- any new information provided by parents and staff

## DISCUSS

- what the disability looks like for THIS student

## COMPARE

- the disability with the specifics of the misconduct



# MDR Documentation



Student information

Team Members

Description of the  
behavior/code of  
conduct violation

Information  
reviewed

- Data source/date
- Summary

Questions

Determination

# MDRs for Students Not Yet Eligible

- *Letter to Nathan (OSEP 1/29/2019)*
  - *The group would likely consider the information that served as the LEA's basis of knowledge that the child may be a child with a disability under IDEA, such as concerns expressed by a parent, a teacher or other LEA personnel about a pattern of behavior demonstrated by the child.*
- Questions to ask:
  - What were the reasons for requesting the evaluation?
  - What behaviors were observed that resulted in a pattern of behavior?
  - Were there any prior conversations about the parent's concerns?
  - What incidents occurred to prompt a concern or request for evaluation?
- Determine if the behavior is related to the *suspected* disability



# Outcomes

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Was the conduct in question caused by, or have a direct and substantial relationship to, the child's disability?

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Was the conduct in question the direct result of the LEA's failure to implement the IEP?

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**YES + YES = RELATED**

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**YES + NO = RELATED**

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**NO + YES = RELATED**

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**NO + NO = NOT RELATED**





## Next steps

### If NOT Related

- Apply discipline in same manner & duration as nondisabled student



### If RELATED

- Return to Current Placement, unless special circumstances
- Conduct FBA
- Implement BIP
- Fix IEP implementation problem(s)

# Interim Alternative Educational Setting and Special Removal Circumstances

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Can be removed to Interim Alternative Educational Setting for up to 45 school days for special circumstances regardless of MDR outcome

Right to services if removed

IEP team decision





What if  
you  
disagree?







# Procedural Safeguards

DISSENT

MEDIATION

EXPEDITED DUE PROCESS HEARING

STATE COMPLAINT INVESTIGATION





# Resources

[MDE OSE Guidance: Responding to and Counting Disciplinary Removals](#)

[MDE OSE Individuals With Disabilities Education Act \(IDEA\) Discipline Requirements \(October 2022\)](#)

[MDE OSE Guidance: Determining a Change in Placement](#)

[MDE OSE Conducting a Manifestation Determination Review](#)

[MDE OSE MDR Model Form](#)

[MDE OSE Guidance: Shortened School Day](#)

[OSERS Questions and Answers on Discipline Procedures \(June 2009\)](#)

[OSEP Dear Colleague Letter on Supporting Behavior of Students with Disabilities \(August 1, 2016\)](#)

[OSERS Q & A on Discipline Procedures \(July 2022\)](#)

[OSERS Positive, Proactive Approaches to Supporting Children with Disabilities: A Guide for Stakeholders \(July 2022\)](#)

[OSEP Dear Colleague Letter on Implementation of IDEA Discipline Provisions \(July 2022\)](#)

[Positive Behavioral Intervention Supports](#)



QUESTIONS?

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***Special Education  
Mediation Services***

# THANK YOU!

- Laura Zangara, Intake Coordinator
- [www.MiKids1st.org](http://www.MiKids1st.org)
- 833-Kids-1<sup>st</sup> (833-543-7178)



# We are here to support you!

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For more information visit:

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# Michigan Alliance for Families

Michigan Alliance for Families is an IDEA Grant Funded Initiative of the Michigan Department of Education, Office of Special Education, and Michigan's federal Parent-Training and Information Center (PTIC) funded by U.S. Department of Education, Office of Special Education Programs (OSEP).

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