Discipline & Students with Disabilities

NAVIGATING THE MANIFESTATION DETERMINATION REVIEW (MDR) AND BEYOND

Special Education Mediation Services



Special Education Mediation Services

Grant-Funded

A Grant-Funded
Initiative of the
Michigan
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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.



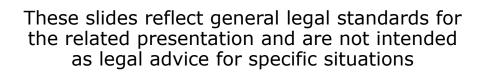


Disciplinary Removals of Students with Disabilities

Navigating the Manifestation Determination Review (MDR) and Beyond

Caution







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:

Which Students are included in the IDEAs disciplinary regulations? What is a change of placement under the IDEA disciplinary regulations? What is an MDR? When does an MDR need to be held? Who participates in the MDR? What happens at the MDR meeting? What happens after the MDR? 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?



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

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



2 Questions

Outcome

Next Steps



Relevant information



Teacher observations

Relevant Info from Parent

Misconduct details



MDR Team Must Answer Two Questions:



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

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

MDR discussion



the specific ABCs of incident/behavior



 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

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

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

YES + NO = RELATED

NO + YES = RELATED

NO + NO = NOT RELATED





Next steps

If NOT Related

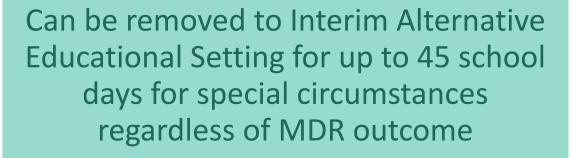
Apply discipline in same manner & duration as nondisabled student



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



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?







THANK YOU!

- Laura Zangara, Intake Coordinator
- www.MiKids1st.org
- 833-Kids-1st (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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