


Discipline & Students with Disabilities

NAVIGATING THE MANIFESTATION DETERMINATION REVIEW (MDR) AND BEYOND

Special Education Mediation Services




1

Special Education Mediation Services


Grant-Funded	Free	Federally Mandated
A Grant-Funded Initiative of the Michigan Department of Education Office of Special Education (OSE).	Offer FREE mediation, IEP facilitation and collaborative communication training to schools and parents across Michigan.	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.

2



Disciplinary Removals of Students with Disabilities

Navigating the Manifestation Determination Review (MDR) and Beyond



3

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



4

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

5

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?



6



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*

7

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

8

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

9



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

10

MDR Required

WHEN
THERE IS A
CHANGE IN
PLACEMENT


11

What is the MDR?

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

Not the Code of Conduct adjudication


12



Timeline to hold MDR

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

13



Participants

- Parent
- District Representative
- Relevant IEP team members

14

MDR Process Overview



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graph TD
    A[Relevant Information Review] --> B[2 Questions]
    B --> C[Outcome]
    C --> D[Next Steps]
  
```

15

Relevant information

Student File

Teacher observations

Relevant Info from Parent

Misconduct details



16

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?



17

MDR discussion

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



18

MDR Documentation




Student information	Team Members	Description of the behavior/code of conduct violation
Information reviewed • Data source/date • Summary	Questions	Determination

19

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



20

Outcomes

Was the conduct in question caused by, or have a direct and substantial relationship to, the child's disability?	YES + YES = RELATED
	YES + NO = RELATED
Was the conduct in question the direct result of the LEA's failure to implement the IEP?	NO + YES = RELATED
	NO + NO = NOT RELATED



21

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)

22

Interim Alternative Educational Setting and Special Removal Circumstances

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

23



What if you disagree?

24



Procedural Safeguards

DISSENT

MEDIATION

EXPEDITED DUE PROCESS HEARING

STATE COMPLAINT INVESTIGATION



25



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](#)




26

QUESTIONS?



27



THANK YOU!

- Laura Zangara, Intake Coordinator
- www.MiKids1st.org
- 833-Kids-1st (833-543-7178)

28

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29

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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30
