



Manifestation Determination

A Practice Guide

WHAT IS A MANIFESTATION DETERMINATION?

A “manifestation determination” is a team review of relevant information and “determination” of whether or not the conduct in question is a “manifestation” of the student’s disability. [The Educator’s Guide to Student Discipline and Supports](#), p. 88

The team will determine whether the conduct in question was:

- 1) Caused by or had a direct and substantial relationship to the student’s disability; or
- 2) The direct result of the district’s failure to implement the IEP. [Idaho Special Education Manual, 2018](#), p. 216-217

WHEN MUST A TEAM CONDUCT A MANIFESTATION DETERMINATION?

A manifestation determination must be conducted within 10 days of any decision to change the placement of a student because of a violation of a code of student conduct. [The Educator’s Guide to Student Discipline and Supports](#), p. 89

Change of Placement

A change of placement takes place when the district unilaterally removes the student from the current placement for more than ten (10) consecutive days or ten (10) cumulative days (when cumulative removals constitute a pattern of removals). Examples of change of placement include:

- The 11th day of suspension, which includes any combination of:
 - Out-of-school suspension: removal from school and the student’s IEP-determined placement for all or part of a school day;
 - In-school suspension unless educational services meeting the all of the following three criteria are met:
 - Participation in general education curriculum; and
 - Receives special education and related services as listed on the IEP; and
 - Continues to participate with non-disabled peers to the extent they would have in their current placement.

- Informal removal: actions taken outside of IDEA's discipline provisions by school personnel in response to a student's behavior, which results in the student being excluded from part or all of a school day. Some examples of informal removal are:
 - Calling parents to pick up student without documenting the removal as a suspension;
 - Implying to parents that the student's needs cannot be met and thus encouraging parents to pick up student or keep the student home from school;
 - Suggesting that a formal suspension or other discipline can be avoided if parents keep student home or pick student up from school; or
 - Shortened school days.
- Removal from a student's current placement to a more restrictive placement as a result of disciplinary action.
- Disenrolling a student from the district for excessive absences.
- Bus suspension for students with transportation listed as a related service on the IEP.

[Student Removal Quick Guide](#)

PREPARING FOR A MANIFESTATION DETERMINATION MEETING

Notification

Notify the parent of the disciplinary action and provide a copy of the [Procedural Safeguards](#).

Gather relevant information

Information that will be used to answer the manifestation determination questions should be gathered prior to the meeting for the team to review. This may include:

- Documentation related to the conduct leading to the disciplinary action;
- Individualized Education Program (IEP), Eligibility Report, Functional Behavior Assessment (FBA), and Behavior Intervention Plan (BIP);
- Review of previous behavior and discipline from the student's file;
- Clinical medical or psychological reports;
- Other information provided by parents or other team members.

Gather a team of relevant individuals

The team must consist of the district, the parent, and other relevant team members. Other relevant team members may include:

- Special education or general education teachers;
- School psychologist to speak to information about the student's disability;
- Behavior specialist or interventionist;
- Related service providers; or
- Any other individual who can speak to the student's behavior, the implementation of the IEP, or the student's disability.

In most cases, it is best to convene a full IEP team (with additional members as appropriate).

DURING THE MEETING: ANSWERING THE QUESTIONS

Question One

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

The team will consider the student's disability, which includes the student's identified disability or disabilities, areas of concern noted by the team or served through the IEP or BIP, history of behavior, and other relevant information. The team will consider whether the conduct in question is similar to or consistent with behavior previously demonstrated by the student.

The team might ask: Was the behavior triggered by a known antecedent? Did the behavior meet the same function of behavior that is known to be reinforcing to this student?

CAUTION

The team is NOT considering a specific eligibility category or disability and making general statements about how that disability might affect a student. The team must consider how the known disability or disabilities of the student have been known to manifest for this student.

The eligibility category is a relevant piece of information but should not be used as a primary determiner of whether or not the conduct is a manifestation of the disability. For example, a student with a Specific Learning Disability (SLD) may also demonstrate challenging behavior. The category, itself, is not sufficient for making a determination.

Question Two

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

For this question, the team will review the student's IEP, FBA, and BIP and determine whether the student has been provided the services and supports as outlined in the IEP and BIP.

The team should consider these questions:

- Has the student received all required services as listed in the IEP?
- Has the student received accommodations and adaptations outlined in the IEP?
- Has the student received the level of support and supervision agreed-upon by the IEP team?
- Were all aspects of the BIP implemented consistently and correctly, including preventative, teaching, and response strategies?

If no, did the failure of the district to implement the IEP contribute to the conduct in question?

CAUTION

The team should consider more than whether the IEP was being implemented at the time that the behavior occurred. The team should also consider whether the IEP has been implemented correctly and consistently over time and whether any failure to do so may have contributed to the escalation of behavior.

AFTER THE MEETING

Make a determination

If **either** question is answered YES, then the behavior is a manifestation of the disability.

1. If not already completed, the team must conduct an FBA and implement a BIP for the student.
2. If already completed, the team must review the existing FBA and BIP to determine the appropriateness and make modifications to address the behavior; and
3. The district may not make a unilateral change of placement. The student returns to the placement from which he or she was removed.

The IEP team may opt to make modifications to the BIP that changes the student's placement if the parent and district agree in writing to the change(s).

If **both** questions are answered NO, then the behavior is not a manifestation of the disability.

The student may be disciplined in the same manner as non-disabled peers. HOWEVER, the district maintains the obligation to provide educational services for students with disabilities.

Educational services cannot cease for more than ten (10) school days in a school year.

If the disciplinary action is to expel (or suspend beyond the 10 days), educational services shall be provided to the extent necessary to:

1. allow the student to continue to participate in the general education curriculum;

2. the opportunity to advance toward achieving the goals set out in his or her IEP; and
3. receive, as appropriate, a functional behavior assessment (FBA) and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur.

CAUTION

It is not sufficient to provide only special education and related services during an expulsion period. The student must continue to have access to the general education curriculum and to progress toward grade level standards that apply to all students.

Behavior needs and goals must also continue to be addressed, regardless of the location of services.

The IEP determines the services that will be provided in the new placement and how. An FBA and BIP must be put in place to ensure that the student is prepared to transition back into a less restrictive setting when the disciplinary period has ended and to prevent the recurrence of the behavior.

Notification

Provide parent/guardian with *Written Notice* detailing the results of the Manifestation Determination.

RESOURCES

- [Idaho Special Education Manual 2018](#)
- [The Educator's Guide to Student Discipline and Supports](#)
- [Manifestation Determination Flowchart](#)
- [Procedural Safeguards Notice](#)
- [Student Removal Quick Guide](#)
- [Reminders on Disciplining Students with Disabilities](#)
- [Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions](#)

For Questions Contact

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