



Manifestation
Determination
Review and Interim
Alternative
Educational Setting

MONTCALM AREA INTERMEDIATE SCHOOL DISTRICT



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Manifestation Determination Review

All students are given due process rights relative to student discipline under Section 380.1311 of the Michigan School Code. The IDEA 2004 requires a Manifestation Determination Review by the IEP Team within ten school days of any decision to change the placement of the student with a disability because of a violation of code of student conduct [H.R. 1350 §615(k)(1)(E)(i)].

A school district must hold a Manifestation Determination Review when a change of placement occurs due to:

- A single removal exceeding ten consecutive school days [34 CFR §300.519(a)].
- A pattern of removals cumulative to more than ten school days in a school year [34 CFR §300.519(b)].
- School day means any day, including a partial day that students are in attendance at school for instructional purposes. The term “school day” has the same meaning for all students in school, including students with and without disabilities [34 CFR §300.9(c)].

Parent Contact - It is suggested that all parent contacts be documented as to the method of contact, name of the person making the contact, and the date of the contact. Not later than the date on which the decision to take disciplinary action is made, the parent shall be notified of that decision and of all procedural safeguards [34 CFR §300.523(a)(1)].

The purpose of these contacts is to notify the parent of the Manifestation Determination Review meeting early enough to ensure that the parent will have an opportunity to participate. All contacts should be documented as to the method of contact, name of person making the contact, and date of contact.

It is possible to complete a Manifestation Determination Review without the need to revise the student’s IEP. However, in some cases, during the Manifestation Determination Review meeting, the need to revise the IEP will arise. In establishing the purpose(s) for the meeting, consider indicating the need to develop a new IEP. The parent must receive advanced notice of a meeting to develop a new IEP for the student. The IEP Team may also develop/revise a functional behavior assessment plan or behavior intervention plan at this meeting.

Participants

The following individuals participated in this Manifestation Determination Review Meeting. Additional participants should be noted and attached to this form [34 CFR §300.344].

Student (when appropriate)

Public Agency Representative/Designee

Parent

General Education Teacher

Parent

Special Education Teacher/Provider

An individual who can interpret the instructional implications of evaluation results

Other

Other

The MDR is conducted by a school district representative, the parent, and **relevant** members of the IEP team, as determined by the parent and LEA. Participants should document their attendance at the MDR meeting. If parent is invited and does not attend, the MDR may proceed and LEA should document their attempts to invite the parent.

In some situations, the outcome of the MDR may result in a change of placement for the student, which would require an IEP team meeting. Therefore, it may be more expeditious in some situations to continue the MDR with an IEP team meeting. When holding an IEP team meeting under this circumstance, the parent must be informed that the purpose of the IEP meeting is to consider a change of placement.

Considerations for Review

Describe the behavior subject to disciplinary action:

In carrying out a Manifestation Determination Review, the IEP Team (as determined by the parent and the local educational agency) shall review:

All relevant information in the student's file.

*Describe: _____

The student's IEP.

*Describe: _____

Any teacher observations of the student.

*Describe: _____

Relevant information provided by the parent.

*Describe: _____

*The written descriptions are optional.

The incident should be described in detail so that the team can use it to look at the connection between the behavior of the student in the incident and the student's disability. Statements should include, when available: activities that went on before the incident; other people invited; statements made by the student and others before, during and after the incident.

Specific data sources must be used. Examples of data sources used would include: the student's CA60; report cards; discipline records; MET reports; current IEP; intervention strategies used; written or verbal statements by the teacher or parents; reports from outside agencies.

The description could include: the results of intervention strategies tried; a pattern of behaviors in the student's record related to the current incident; changes in grades, attendance, or behavior; insights from the parent about the incident or recent student behaviors; areas of the current IEP not properly implemented.

Manifestation Determination

If the determination of the IEP Team is "Yes" to either of the statements below, then the behavior must be considered a manifestation of the student's disability.

In relation to the behavior subject to discipline and the student's disability:

1. The conduct in question was caused by the student's disability or had a direct and substantial relationship to the student's disability. Yes No
2. The conduct in question was the direct result of the local school district's failure to implement the IEP. Yes No

The determination of the IEP Team is that behavior subject to discipline is:

- not a manifestation of the disability; records are transferred to general education for disciplinary procedures.
- a manifestation of the disability.

Parent signature

I received notice of procedural safeguards on the day on which the decision to take disciplinary action involving a change in placement was made [34 CFR §523(a)(i)].

Parent Signature _____ Date _____

There are two statements that the MDR Team must consider in determining if the behavior in question is a manifestation of the student's disability. The first statement looks at the relationship between the student's disability and how it interacts with the behavior subject to discipline. The second statement looks at the current IEP to determine if all components of the IEP were implemented, and if not, did the lack of implementation have an impact on the behavior subject to discipline. The team must respond to both questions.

The team must document the decision regarding the two statements and prove the rationale behind the decision of the MDR Team.

If the determination of the MDR Team is "yes" to either statement, then the behavior must be considered a manifestation of the student's disability and the student returns to the previous placement (except in Special Circumstances).

Parents need to be notified of any change in placement (interim alternative educational placement) and must receive procedural safeguards along with such notice.

Interim Alternative Educational Setting

This section will only be used when the IEP Team determines that the change of placement will be in a 45 school day interim alternative educational setting.

H.R. 1350 §615(k) PLACEMENT IN ALTERNATIVE EDUCATIONAL SETTING.—

(1) AUTHORITY OF SCHOOL PERSONNEL—

- (A) CASE-BY-CASE DETERMINATION—School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a child with a disability that violates a code of student conduct.
- (B) AUTHORITY—School personnel under this subsection may remove a child with a disability who violates a code of student conduct from their current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days (to the extent such alternatives are applied to children without disabilities).
- (C) ADDITIONAL AUTHORITY—If school personnel seek to order a change in placement that would exceed 10 school days and the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child’s disability pursuant to subparagraph (E), the relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner and for the same duration in which the procedures would be applied to children without disabilities, except as provided in section 612(a)(1) although it may be provided in an interim alternative educational setting.
- (D) SERVICES—A child with a disability who is removed from the child’s current placement under subparagraph (G) (irrespective of whether the behavior is determined to be a manifestation of the child’s disability) or subparagraph (C) shall—
 - (i) continue to receive educational services, as provided in section 612(a)(1), 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, behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.
- (G) SPECIAL CIRCUMSTANCES—School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child’s disability, in cases where a child—
 - (i) carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of a State or local educational agency;
 - (ii) 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 under the jurisdiction of a State or local educational agency; or
 - (iii) has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of a State or local educational agency.

(2) DETERMINATION OF SETTING—The interim alternative educational setting in subparagraphs (C) and (G) of paragraph (1) shall be determined by the IEP Team.

(3) APPEAL—

(A) IN GENERAL—The parent of a child with a disability who disagrees with any decision regarding placement, or the manifestation determination under this subsection, or a local educational agency that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others, may request a hearing.

(B) AUTHORITY OF HEARING OFFICER—

- (i) IN GENERAL—A hearing officer shall hear, and make a determination regarding, an appeal requested under subparagraph (A).
- (ii) CHANGE OF PLACEMENT ORDER—In making the determination under clause (i), the hearing officer may order a change in placement of a child with a disability. In such situations, the hearing officer may—
- (iii) return a child with a disability to the placement from which the child was removed; or
- (iv) order a change in placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of such child is substantially likely to result in injury to the child or to others.

Complete this section for students considered for an interim alternative educational setting.

The interim alternative educational setting is _____

Effective date _____

Person responsible _____

Parent signature _____

I agree with the placement decision.

I disagree with the placement decision and request an expedited hearing [H.R. 1350 §615(k)(3) and 615(k)(4)].

The term “serious bodily injury” means bodily injury which involves:

- A substantial risk of death;
- Extreme physical pain;
- Protracted and obvious disfigurement; or
- Protracted loss or impairment of the function of a bodily member, organ, or mental faculty. (18 USC 1365)

For removals involving drugs or weapons or infliction of serious bodily injury, all of the following must occur:

1. On the day on which the decision is made to remove the student because of violations involving weapons or drugs or infliction of serious bodily injury, the parents shall be notified of the decision and of all procedural safeguards [H.R. 1350 §615(k)(1)(H)].
2. A Manifestation Determination Review must be conducted.

On the EasyIEP site under the blue menu bar “Documents” link there is a “Interim Alternative Educational Setting (IAES)” form. This form can be used to document Short Term Removal not a change in placement, removal for special circumstances up to 45 days and change of Placement up to 180 days.