

MANIFESTATION DETERMINATION

WORKSHEET

A MANIFESTATION DETERMINATION IS A PROCESS, REQUIRED BY THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA 2004), WHICH IS CONDUCTED WHEN CONSIDERING THE EXCLUSION OF A STUDENT WITH A DISABILITY THAT CONSTITUTES A CHANGE OF PLACEMENT.



pennsylvania
DEPARTMENT OF EDUCATION

Bureau of Special Education
Pennsylvania Training and Technical Assistance Network

Statutory Requirements: Manifestation Determination

A MANIFESTATION DETERMINATION MUST BE CONDUCTED WHEN A DISCIPLINARY CHANGE OF PLACEMENT OCCURS.

Disciplinary change of placement occurs when a student with a disability, because of a violation of the school code of conduct, is removed from his/her current educational setting for:

- ◆ More than 10 school days consecutively, OR
- ◆ More than 15 school days cumulatively in a school year, OR
- ◆ When school days 11-15 constitute a pattern of exclusion, OR
- ◆ An exclusion of even one school day for a student with mental retardation, OR
- ◆ Under the following circumstances, school personnel may unilaterally 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, if the child:
 1. Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of a local educational agency (LEA);
 2. 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 an LEA; or
 3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of an LEA. In these circumstances, the LEA must notify the parent.

MANIFESTATION DETERMINATION PROCESS

Within 10 school days of the decision to change the student's placement, the LEA, parent, and relevant members of the IEP team conduct a review to decide if the behavior of concern is a manifestation of the student's disability. The team must determine:

1. Was the behavior caused by, or directly and substantially related to, the student's disability?
- OR
2. Was the behavior a direct result of LEA's failure to implement the Individualized Education Program (IEP)?

If the answer to either question is "Yes,"
the behavior IS a manifestation.



The IEP Team must either:

- (1) Conduct a functional behavioral assessment (FBA), unless the LEA had conducted a FBA before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan (BIP) for the child; or
- (2) If a BIP already has been developed, review the BIP, and modify it, as necessary, to address the behavior; and return the child to the placement from which the child was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the BIP.

If the answer to both questions is "No," the
behavior IS NOT a manifestation.



The student may be disciplined in the same
manner as a student without a disability
who has violated the same or similar code
of conduct.

MANIFESTATION DETERMINATION WORKSHEET

A manifestation determination is required by IDEA when considering the exclusion of a student with a disability that constitutes a disciplinary change of placement.

The manifestation determination must take place within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct.

The manifestation determination is conducted by the LEA, the parent, and relevant members of the IEP team (as determined by the parent and the LEA).

In carrying out the manifestation determination, the team must determine:

1. If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability;
- or
2. If the conduct in question was the direct result of the LEA's failure to implement the IEP.

If the determination of the team is "Yes" to either of the statements above, the behavior must be considered a manifestation of the student's disability.

Student Name: _____

Date of Manifestation Determination: _____

PARTICIPANTS

The following individuals participated in this manifestation determination meeting:

Student (when appropriate) _____

Parent _____

Parent _____

An individual who can interpret the instructional implications of evaluation results _____

LEA Representative _____

Regular Education Teacher _____

Special Education Teacher _____

Other _____

Other _____

REASON FOR MANIFESTATION DETERMINATION

This manifestation determination is occurring as a result of a change of placement due to proposed disciplinary action involving (check all that apply):

- Removal for more than 10 consecutive school days during this school year
- Removal for more than 15 cumulative school days during this school year
- Removal for 11-15 school days that constitutes a pattern
- Removal of a student with mental retardation
- Unilateral removal for drugs, weapons, serious bodily injury for up to 45 school days in an interim alternative educational setting
- Other

CONSIDERATIONS FOR REVIEW

Description of behavior subject to disciplinary action (Include setting events, antecedents, details of the behavioral incident, and immediate consequences. List witnesses and include all relevant details.):

In carrying out a manifestation determination, the team must review, in terms of the above behavior, all relevant information in the student's file, including:

- The student's IEP

Describe:

- Any teacher observation of the student

Describe:

- Relevant information provided by the parent

Describe:

MANIFESTATION DETERMINATION

After reviewing all relevant information in the student's file, the team determines that in relation to the behavior subject to disciplinary action and the child's disability:

1. The conduct in question was caused by the child's disability or had a direct and substantial relationship to the child's disability.

Review medical, psychosocial, academic, and disciplinary records:

- Determine whether the student has severe intellectual impairment (e.g., severe mental retardation) that may result in impaired judgment and/or reasoning. In other words, was the student able, or would the student be considered to have the ability, to understand that the behavior in question was wrong?
- Determine the effect of severe emotional disturbance (e.g., schizophrenia, major depressive episode, suicidal ideation) and whether there is evidence that it had a direct relationship to the student's behavior.
- Determine whether the child has a neurological impairment or medical condition that directly impacts and/or produces involuntary or uncontrollable behavior (e.g., Tourette Syndrome, seizure disorder), and whether the medical condition has a direct relationship to the behavior (e.g., violating a no-smoking rule in school is typically not the result of Tourette Syndrome or ADHD).
- Determine whether the student has shown a history of voluntary control of the behavior in question. Based upon what is known or can be learned about the student, did the student have the ability to control the behavior in question? Would it have been difficult for the student to control his/her action?
- Determine if the student, in an escalated emotional state, can recall the knowledge to produce the ability to perform the skill.

Team Finding:

The conduct in question was caused by the child's disability or had a direct and substantial relationship to the child's disability.

- Yes No

Justification for team findings:

2. The conduct in question was the direct result of the LEA's failure to implement the IEP.

- Determine if the student was deriving reasonable educational benefit from his/her program.
- Determine if the student's needs were being addressed through the IEP (e.g., communication, instructional strategies and levels, behavioral).
- Determine if a Positive Behavior Support Plan is present, is appropriate, and is being implemented as designed.
- Review progress monitoring data (academic and behavioral); evaluations and diagnostic information; classroom/student observations, and teacher/staff/parent/student interview information.
- Review specially designed instruction, related services, and supports for school personnel as specified in the student's IEP. Were the necessary resources available as part of the student's program?

Team Finding:

The conduct in question was the direct result of the LEA's failure to implement the IEP.

- Yes No

Justification for team findings:

CONCLUSION

If either #1 or #2 was answered "Yes," the behavior must be considered a manifestation of the student's disability.

The determination of the team is that the behavior subject to disciplinary action is:

- Not a manifestation of the child's disability. The relevant disciplinary procedures applicable to children without disabilities may be applied.
- A manifestation of the child's disability. The IEP Team must either: **(1)** Conduct an FBA, unless the LEA had conducted an FBA before the behavior that resulted in the change of placement occurred, and

implement a BIP for the child; or (2) If a BIP already has been developed, review the BIP, and modify it, as necessary, to address the behavior; and return the child to the placement from which the child was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the BIP.

Rationale for the team's conclusion:

PARENT SIGNATURE

- I received the Procedural Safeguards Notice on the day on which the decision to take disciplinary action involving a change of placement was made.
- I agree with the determination above.
- I disagree with the determination above and request an expedited due process hearing.

Parent Signature _____ Date _____

Description of proposed action:

EXPEDITED DUE PROCESS HEARINGS

An expedited due process hearing is held when:

1. A parent requests a hearing to dispute an LEA's determination that a student's behavior was not a manifestation of the student's disability; or
2. A parent requests a hearing to dispute a disciplinary exclusion that constitutes a change of educational placement. A change of educational placement has occurred if an exclusion is longer than 10 consecutive school days, or if the student is excluded for more than 15 school days in one school year. Any removal from school of a student who is identified as mentally retarded is considered a change of educational placement, except if a disciplinary event involved weapons, drugs, or bodily injury; or
3. A parent requests a hearing to dispute an interim alternative educational placement of no more than 45 school days ordered by LEA personnel; or
4. An LEA requests a hearing to establish that it is dangerous for a student to remain in the student's current educational placement.

COMMONWEALTH OF PENNSYLVANIA

Edward G. Rendell
Governor

DEPARTMENT OF EDUCATION

Gerald L. Zahorchak
Secretary

Diane Castelbuono
Deputy Secretary
Office for Elementary and Secondary Education

John J. Tommasini
Director
Bureau of Special Education

Patricia Hozella
Assistant Director
Bureau of Special Education