



# Manifestation Determination Meeting: Special Education Students

Children with mental health disorders and other disabilities may have difficulty regulating their emotions while at school. Sometimes school staff may discipline a child who has an Individualized Education Program (IEP) related to their mental health, behavioral disorders, or other disabilities. This discipline may include being sent home early from school, in-school or out-of-school suspension, or other consequences that align with the school district's discipline policy. There are some situations in which schools are required to continue to provide educational services for children with disabilities who are not allowed in school due to a violation of the district's discipline policy. When this occurs, parents and school staff need to hold a meeting called a manifestation determination to decide next steps.

## **What is a manifestation determination meeting?**

A manifestation determination is a meeting where parents of a student with an IEP and school staff review relevant information about the child and answer two questions:

1. Was the behavior caused by, or have a direct and substantial relationship to the child's disability?
2. Was the behavior the direct result of the school's failure to implement the child's IEP?

If the answer is "yes" to either of the above questions, then the behavior is determined to be a manifestation of the child's disability. Parents and school staff only have to answer "yes" to one of the above questions for the behavior to be considered a manifestation of your child's disability.

## **When does a manifestation determination meeting need to be held?**

A manifestation determination meeting must be held within 10 school days if a child with disability:

- Has been suspended for 10 days in a row
- Has been suspended for more than 10 total days in the same school year for similar behaviors
- The school district is considering expulsion

### **Tips for Parents: When should the school document suspension?**

- When your child with an IEP is sent home early, it should be considered a day or partial day of suspension
- An in-school suspension should be considered a suspension if your child does not receive the special education services detailed in their IEP
- If your child receives transportation as part of their IEP and is suspended from using the bus, this is considered a day of suspension unless the school finds alternative transportation
- If you transport your child to school while suspended from the bus and the IEP includes transportation as a related service, the school should reimburse you

## **What relevant information should be reviewed by the school before deciding if my child's behavior was a manifestation of their disability?**

- Special education evaluation
- Individualized Education Program (IEP)
- Behavior Intervention Plan (BIP)
- School discipline records
- Information from the parent about the child's disability and its unique impact on the child's behavior
- Diagnostic assessment or neuropsychological evaluation (if parents choose to share)

### **Tips for Parents: Preparing for a manifestation determination meeting**

Prior to the manifestation determination meeting, you can prepare by looking through these documents and highlighting statements that demonstrate how your child's mental health disorder impacts their behavior. Be prepared to discuss this with school staff at the manifestation determination meeting.

Parents may also wish to share other communications from outside providers (mental health provider, county case manager, pediatrician, children's therapeutic services and supports (CTSS) worker, etc.).

## **What happens if the team determines the behavior is a manifestation of my child's disability?**

- The IEP team needs to reevaluate your child to include a Functional Behavioral Assessment (FBA) if an FBA was not completed as part of the most recent special education evaluation
- If an FBA was completed as part of the most recent special education evaluation, the IEP team must either develop or review a Behavior Intervention Plan (BIP) and make necessary changes that allow your child to make educational progress
- After the fifth day in a row or the 10th day of suspension in a school year, the school must continue to provide your child with educational services that allow them to make progress in both the general education curriculum and on their IEP goals. Schools may provide educational services in an alternative educational setting.
- Your child cannot be expelled
- In most situations, your child has the right to return to their current placement after the suspension

## **Under what circumstances is my child not allowed to return to their classroom or school?**

- School staff may place your child in an alternative education setting for up to 45 school days, even if the behavior is a manifestation of the disability, if the behavior was related to:
  - Possession of a dangerous weapon at school or during a school event
    - A pocket knife of less than 2½ inches in length is not considered a dangerous weapon
  - Possession, use, or sale of an illicit drug or controlled substance
    - This may include controlled substances that are prescribed to your child
  - Serious bodily injury to others, which includes:
    - Serious risk of death
    - Disfigurement
    - Permanent injury to a body part or mental abilities
    - Serious bodily injury does not include scratches and bruises, in most cases
- At the completion of the alternative educational placement, your child can return to their previous educational setting

- For suspensions not related to weapons, drugs, or serious bodily injury, a change in placement may occur when parents and school staff agree the change is needed

### **What is an alternative education setting?**.....

If the IEP team decides that the behavior is not a manifestation of your child’s disability, they may discipline your child in the same way as any other student, including expulsion. However, the school is still responsible for educating your child if:

- Your child has been suspended for more than five days in a row, even though a manifestation determination meeting is not required until the 10th day of suspension
- Your child has been suspended for more than 10 total days in the school year
- Your child has been expelled
- Your child is being placed in a 45-day alternative educational placement for possession or use of weapons or drugs, or for inflicting serious bodily injury

Under these circumstances, your child may receive education in an alternative setting.

An alternative education setting is individually determined and depends on the unique circumstances of the student. It must enable the child to participate in the general education curriculum and to progress toward meeting the goals outlined in their IEP.

An alternative education setting may include:

- A different school
- Meeting with a teacher in the home or community (for example, a library or community center)
- Virtual meetings with teachers
- Other alternative education settings

### **What if I disagree with school staff about whether the behavior is a manifestation of my child’s disability?**.....

- You can request a conciliation conference or mediation
  - These are optional meetings and school staff must agree to meet with the parent
- You can request an expedited due process hearing
  - If you request an expedited due process hearing, the school district is required to participate
  - Parents and the school district have the right to include a lawyer and other experts to advise them in a due process hearing
  - If your child has been placed in a 45-day alternative education setting for possession or use of a weapon or drugs or for serious bodily injury, they will continue their education in the alternative education setting until a decision can be made by an impartial hearing officer

Understanding the Student Code of Conduct and School Discipline Policy is an important part of supporting your child with a mental health, emotional, or behavioral disorder. PACER offers these resources specific to discipline and resolving disagreements with the school:

- School Discipline of Minnesota Students with Disabilities: [PACER.org/school-discipline-information](https://www.pacer.org/school-discipline-information)
- What is a Functional Behavioral Assessment and How is it Used?: [PACER.org/parent/php/php-c215a.pdf](https://www.pacer.org/parent/php/php-c215a.pdf)
- Due Process Options in the Special Education Process: [PACER.org/parent/php/PHP-c258.pdf](https://www.pacer.org/parent/php/PHP-c258.pdf)

For individual support, please contact PACER at PACER@PACER.org, call 952-838-9000, or visit PACER.org.