

Discipline of Student with Disability and Manifestation Determination Review

The discipline of a student with a disability should be determined on a case-by-case basis, with assistance and guidance of the EC director. Individual cases and situations should be considered on their own merit, and individual circumstances should be considered in all situations. It is critical for school staff to remember that students with disabilities cannot be denied services based solely on their disabilities. Students with diagnosed disabilities on record, either with a IEP or 504 plan, are protected from being improperly removed from school for misconduct that is related to their disability.

- 1) **Discipline**-The EC/Leadership team must evaluate the student to determine whether the student's misconduct was caused by, or had a direct and substantial relationship to, the student's disability; or was the direct result of the school's failure to implement the student's IEP or Section 504 Plan.
 - a) If a student's misconduct is a result of his or her disability, MID cannot implement a disciplinary action that constitutes a significant change in the student's placement.
 - b) If a disabled student's misconduct is not a manifestation of his or her disability, MID can "normal" disciplinary procedures that would be given to a non-disabled student under the same circumstances
- 2) **In-school suspension**-(ISS) must provide an educational benefit equivalent for a student with disabilities to what is provided to all students who are in school in regular education classrooms. Normally, students placed in an ISS class are expected to work quietly in semi-independent environment with limited breaks. In some cases, particularly for periods greater than ten (10) days, in-school suspension (ISS) may constitute a significant change in student's placement because ISS placement may interrupt the current accommodations specified in the student's IEP or Section 504 Plan. Therefore, if ISS is used as a substitute for OSS,) a) a reevaluation meeting may be warranted to determine if a change of placement is needed; b) the student's IEP or Section 504 accommodation plan must be followed; c) FAPE must be provided. MID staff seeking to use the in-school suspension (ISS) exception for a few days at a time should follow the U.S. Department of Education IDEA regulation. MID's policy is that an in-school suspension is not considered a part of the OSS days of suspension mentioned above as long as the child is afforded the opportunity to continue to appropriately participate in the general curriculum, continue to receive the services specified on the child's IEP or 504 plan and continue to participate with nondisabled children to the extent they would have in their current placement.
- 3) **Manifestation Determination Review (MDR)**-A MDR meeting is needed when a student's placement may be significantly changed by disciplinary action as a result of his/her misconduct. Overall, a MDR meeting is required within 10 days of the decision:
 - i) to suspending a student for more than 10 days
 - ii) to give a student an out-of-school suspension (OSS) that may be fewer than ten (10) days, but when combined with previous suspension days in the current school year, would exceed ten days of OSS.
 - iii) To significantly change in placement or terminating eligibility
- b) The meeting is essentially an evaluation that answers two questions:

- i) Is the misconduct in question related to student's disability?
 - (1) To answer this question, this determination must be based on recent evaluation data (reports, observations, information, etc.) which is related to behavior.
 - (2) A student's misconduct is related to his/her disability if the misbehavior "is caused by the disability" or "has a direct and substantial relationship to the disability."
 - (3) A student's misconduct is not related to the student's disability if the behavior has only a weak relationship to the student's disability.
- c) Is the misconduct in question the direct result of a failure to implement the IEP or Section 504 Plan?
 - i) Review the student's current IEP or Section 504 Plan to determine if all accommodations were implemented correctly. Also check the dates on the plan and determine that the plan is current. If there is no current plan in place for this student or the accommodation was not implemented correctly, an update or new plan should be developed immediately and the misconduct in question for this manifestation would be considered a "failure to implement" the IEP or Section 504 Plan.

**A significant change in placement is defined as a significant change in the type or amount of educational or related aids or services that MID provides to a disabled student.*

**When determining the number of OSS days, a student has accumulated, only days within the given school year are counted.*

**Important Notes:*

- *MID may immediately suspend the student, but a MDR meeting must take place within 10 days of the decision to suspend.*
- *A short-term out of school (OSS) or (ISS) suspension of ten (10) days or less does not constitute a significant change in the student's placement. Therefore, a MDR meeting is not necessary.*
- *Parents must receive written notice of all MDR meeting.*

4) Procedures for Manifestation Determination Review (MDR) Meeting

The meeting will be conducted similar to an annual review. A Parent/Guardian Notification of an IEP and Section 504 Team Meeting is sent to inform the student's parent/guardian that a meeting is being held.

- a) At the meeting, the team must refer to the student's current IEP and Section 504 Accommodation Plan. During this review the team may elect to complete a new plan if the accommodations are not appropriate for the student at this time.
 - i) If the MDR Team determines that the student's misconduct was a result of the student's disability, the student must be returned to the same educational placement where the student was at the time of the incident. In addition, the following steps should be followed:
 - (1) Modify the current educational placement or make, if appropriate, an alternative educational placement.
 - (2) Implement or modify a Behavior Intervention Plan (BIP)
 - (3) Return the student to the placement from which the student was removed, unless the parent/guardian and the district or home school agree to a change of placement as part of the modification of the Behavior Intervention Plan.

- b) If the MDR Team determines that the student's misconduct was not a result of the student's disability, the school may initiate "normal" disciplinary procedures that would be given to a non-disabled student under the same circumstances.
- c) The result of the MDR team's meeting is documented, the parent/guardian must receive the written notification of the team's decision within 24 hours of the determination meeting. This notification will inform the parents/guardian of their right to initiate an appeal hearing to challenge the decision, if they disagree with the decision.