



What's the Big IDEA? #17

The Individuals with Disabilities Education Act (IDEA) is a law ensuring services to children with disabilities throughout the nation. IDEA governs how states and public agencies provide early intervention, special education, and related services to more than 6.5 million eligible infants, toddlers, children, and youth with disabilities. This series is designed to offer information about IDEA as amended in 2004. Each fact sheet will focus on a different aspect of IDEA.

Manifestation Determination

Our son has a Specific Learning Disability and receives Special Education services. The school just called to tell us that he has been suspended. This will be his third suspension this year and the school said we need to have a manifestation determination meeting. What does this mean? What do we need to know?

This is a complex and stressful situation that is impacting many families as more schools adopt “zero tolerance” policies. Since your son has an Individualized Education Program (IEP), the procedures that the school must follow are outlined in IDEA 2004. This federal special education law requires schools to consider the effects of a student’s disability before taking disciplinary action that requires a change of placement. The school must hold a **manifestation determination** meeting when there is a possibility that a student will be removed from his/her current placement for more than 10 consecutive school days or when there is a pattern of removals that add up to more than 10 school days.

What is a manifestation determination?

A manifestation determination involves a review of the relationship between the student’s disability and the behavior that is the reason for the disciplinary action.

When must a school conduct a manifestation determination and what should be considered?

A manifestation determination must be held whenever a school proposes to change the student’s placement as a disciplinary consequence. This can mean expulsion or placement in a disciplinary setting.

What should I do to prepare?

First of all, gather all of your child’s records. If necessary, request them from the school. You will want to have your child’s most recent evaluations, any referrals, the current IEP, and, if applicable, the Functional Behavior Assessment (FBA) and Behavior Intervention Plan (BIP). As you review these documents, think about the following:

- Is the behavior your child is being disciplined for a characteristic of his/her disability?
- Is the IEP being followed? If not, be specific about the parts that were not followed.
- Does the IEP state that your child will follow the school-wide discipline plan, or does he or she have behavioral modifications or a Behavior Intervention Plan?



Make notes so you can present this information at the meeting. Call Parents Reaching Out at 1-800-524-5176 if you would like help reviewing this information.

What happens at the manifestation determination meeting?

The team (comprised of school personnel, the student's parents, and other relevant members of the student's IEP team) will review: the student's IEP; the student's behavior intervention plan; any teacher observations; and any relevant information provided by the parents. This is where the material you prepared can be presented. The team is required to answer these questions:

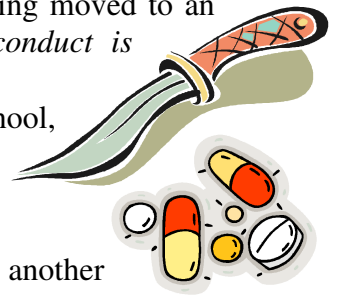
1. Considering the behavior subject to discipline, determine if that behavior was caused by, or had a direct and substantial relationship to, the student's disability. For example, "Does the child's disability impair his/her ability to control his/her behavior?" If the answer is **yes**, there is a finding of *Manifestation*.
2. Is the IEP appropriate? For example, is the child receiving enough special education services? Are the goals attainable? If the answer is **no**, there is a finding of *Manifestation*.
3. Is the IEP being implemented with fidelity? Did the school follow the IEP, including any behavior intervention plan? If the answer is **no**, there is a finding of *Manifestation*.

Finding of *Manifestation*: *If the behavior is found to be directly related to the student's disability or to an improperly implemented IEP, the student returns to the original education setting unless the parents agree to a new placement. The IEP team must conduct a functional behavioral assessment (FBA) and develop a behavior intervention plan (BIP) based on the FBA. If the student already had an FBA or BIP, the IEP team must review the plan to see if it was being followed and to revise it as needed. For more information on these processes, refer to our IDEA fact sheets on FBAs (#18) and BIPs (#19).*

Finding of *No Manifestation*: *For a student whose behavior was not directly related to the disability, the same disciplinary actions can be imposed as those imposed on a student without a disability. If the student is expelled from school, the student must continue to receive educational services that will allow him or her to continue to participate in the general education curriculum and progress toward meeting the goals set out in the IEP. In addition, the placement must include services to address the behavior for which the student is being suspended. It is strongly advised that an FBA and BIP be completed.*

Be Alert for "Special Circumstances": Certain offenses can lead to a student being moved to an interim alternative educational setting for up to 45 school days *even if the conduct is determined to be related to the student's disability*. These offenses are:

- **Weapons:** If a student carries or possesses a weapon on the way to or at school, on school premises, or at a school function.
- **Drugs:** If the student knowingly possesses or uses illegal drugs or sells or solicits the sale of illegal drugs while at school or at a school function.
- **Serious bodily injury:** If a student has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function.



Parent Right to Appeal: Parents have the right to challenge any decisions made regarding the manifestation determination or placement in an interim alternative educational setting. Parents can request mediation or a due process hearing. A parent also has the right to file a state complaint.

For more detailed information about disciplinary procedures, call Parents Reaching Out at 800-524-5176. We can answer your questions or send you a copy of our handbook, *Positive Directions for Student Behavior*. The handbook is also available to download from our website – www.parentsreachingout.org

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