Best Practices in Manifestation Determination Review Meetings

SELDA
March 6, 2023
Greetings!

Jamila Pollard  
Senior Program Manager/Legal Officer  
Dispute Resolution  
Georgia Department of Education

Bridget Still  
Program Specialist  
Results Driven Accountability  
Georgia Department of Education
Learning Targets

• I can discuss the Individuals with Disabilities Education Act’s (IDEA’s) requirements for conducting manifestation determination review (MDR) meetings.

• I know some “dos and don’ts” and best practices surrounding MDR meetings.
Manifestation Determination Review

• 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 (i.e., removal that either exceeds 10 school days in a row or that constitutes a pattern of removals), the child’s individualized education program (IEP) Team must meet to determine:
  • whether the conduct in question was caused by, or had a direct and substantial relationship to, the child’s disability or
  • whether the conduct was a direct result of the local educational agency’s (LEA’s) failure to implement the child’s IEP, including any behavioral intervention plan that may be in place. (34 C.F.R. 300.530(e))
Manifestation Determination Review 2

• In making this determination, the LEA, the parent, and relevant members of the IEP Team (as determined by the parent and the LEA), will review all relevant information in the child’s file, including (but not limited to):
  • the child’s IEP,
  • the child’s behavioral intervention plan,
  • any relevant teacher observations, and
  • any other information provided by the parents.
Manifestation Determination Review 3

• If the IEP Team finds that the child’s behavior was caused by or had a direct and substantial relationship to the child’s disability, or that the behavior was a direct result of the LEA’s failure to implement the IEP, then the behavior is a manifestation of the child’s disability.
Manifestation Determination Review 4

• When the behavior is a manifestation of the child’s disability, if the child does not have a behavior intervention plan, the IEP Team must conduct a functional behavioral assessment (FBA) and implement a behavior intervention plan (BIP) to address the behavioral violation.

• If the child already has a BIP, then the IEP Team must review and modify it as necessary to address the behavior.
Manifestation Determination Review 5

• When the conduct was the direct result of the LEA’s failure to implement the IEP, the LEA must take immediate steps to remedy those deficiencies.

• Such steps could include:
  • Meeting with each teacher and service provider to review their specific responsibilities related to implementing the child’s IEP;
  • Verifying that the specific accommodations, modifications, and supports required for the child, or on behalf of the child, are in place; and
  • Determining any compensatory services necessary to address the LEA’s failure to implement the child’s IEP.
Manifestation Determination Review 6

• If the behavior was a manifestation, the child will be returned to the placement from which he or she was removed unless the parent and LEA agree to a change of placement as part of the modification of the behavior intervention plan.
• If the IEP Team finds that the child’s behavior was not a manifestation of the child’s disability, the same disciplinary actions can be imposed on the child with a disability as those imposed on any child.

• In addition, if the behavior was not a manifestation of the child’s disability, the child will receive, as appropriate, a functional behavior assessment, and receive behavioral intervention and modifications, that are designed to address the behavior violation so that it does not recur.
What happens if the IEP Team cannot reach consensus on whether a child’s behavior was or was not a manifestation of the child’s disability?

• The LEA must make the determination and provide the parent with prior written notice.
• The parent has the right to exercise their procedural safeguards, including requesting mediation, filing a formal complaint, or requesting an expedited due process hearing.
How does the IEP Team conduct an MDR for a student not yet eligible but entitled to the discipline procedures?

• The IEP Team must follow the same requirements for MDRs for students who are eligible

• The Team would likely consider the following:
  • Information that served as a “basis of knowledge” that the child may be a child with a disability under IDEA, such as concerns expressed by a parent, teacher, or other LEA personnel, including any pattern of behavior demonstrated by the child
  • The child’s suspected disability
  • The relationship of the child’s behavior to the suspected disability
How does the IEP Team conduct an MDR for a student not yet eligible but entitled to the discipline procedures? 2

• Based on review and consideration of the available information, Team will determine whether the conduct in question was caused by, or had a direct and substantial relationship to, the child’s suspected disability.

• Since an IEP has not yet been developed, the Team would not be able to determine whether the conduct was the direct result of the LEA’s failure to implement the IEP.
  • However, “an improper or unreasonable delay” in determining eligibility and developing and implementing the IEP could be considered a failure to implement in MDR.
MDR Dos and Don’ts
DON’T:  
- Don’t predetermine whether the behavior being reviewed is a manifestation or not a manifestation of the student's disability.

DO:  
- Gather a team that includes individuals that are knowledgeable of the student, and/or the behavior incident that is being reviewed.
Don’t: - Just check a box that the IEP, BIP and all other relevant information have been reviewed.

DO: - Review the current IEP and BIP and all other information and summarize the information that has been reviewed.
Don’t:  
- Turn away any additional information that the parent is providing.

Do:  
- Do accept and review any other information provided by the parents.
MDR Best Practice
Best Practices

• Have a monitoring plan in place to review discipline data and the need for intervention, before getting to an MDR.

• Consider having a procedure in place where there is a meeting convened to address the ongoing behavior concerns before the student reaches the 10-day mark.

• Make sure that BIPs are addressing the behaviors that are resulting in the removals.
Remember that being proactive is more effective than being reactive
Contact Information

Jamila Pollard, Senior Program Manager/Legal Officer  
Dispute Resolution  
Division for Special Education Services and Supports  
jpollard@doe.k12.ga.us  
(404) 670-2683

Bridget G. Still, Program Specialist  
Results Driven Accountability  
Division for Special Education Services and Supports  
bstill@doe.k12.ga.us  
(678) 850-6268