



# SPECIAL EDUCATION DISCIPLINE: BEFORE, DURING, & AFTER MANIFESTATION DETERMINATION MEETING

## BEFORE

Student is protected under the Individuals with Disabilities Education Act (IDEA) and qualify for special education services under Indiana Article 7 violates the school code of conduct and receives disciplinary removal resulting in change of placement.

On the same day of the local educational agency's (LEA's) decision to change placement, the parent/guardian must be notified and provided with a copy of the notice of procedural safeguards (511 Indiana Administrative Code [IAC] 7-44-4).

Within 10 school days of the placement change decision, the LEA must schedule a case conference committee (CCC) convening with the parent and other members for a manifestation determination review (MDR), pursuant to 511 IAC 7-44-5(a).

## DURING

The CCC must meet to determine whether the student's behavior is a manifestation of the student's disability under 511 IAC 7-44-5(a).

If the determination is **yes, and the behavior is a manifestation of the student's disability:**

- Was the student's behavior caused by, or directly and substantially related to, the student's disability?
- Was the behavior caused by the LEA's failure to implement the services outlined in the student's Individualized Education Program (IEP)?

Review all relevant information in the student's file, including their current IEP, any teacher observations, and any relevant information provided by the parent/guardian (511 IAC 7-44-5(b)).

## AFTER

The student's conduct must be determined to be a manifestation of the student's disability under the following circumstances:

- If behavior is result of LEA's failure to implement IEP, the LEA must take immediate steps to remedy deficiencies.
- If behavior was caused by, or had a direct and substantial relationship to, the student's disability, the LEA must conduct a functional behavior assessment (FBA) and develop behavior intervention plan (BIP) **or** review and modify an already existing BIP.
- *Additional action when the student's conduct is a manifestation of their disability:* Student must be returned to their previous placement unless the parent and LEA agree to change the placement as a BIP modification.
- If removal is due to special circumstances (e.g., weapon, illicit drugs, infliction of serious bodily injury), the student may be removed to an interim alternative educational setting (IAES) for up to 45-school-days. The CCC must determine the IAES and appropriate services.

If behavior **is not** a manifestation of student's disability, the LEA may apply relevant disciplinary procedures in the same manner and for the same duration as it would for a student without a disability.

- The IEP team determines the extent to which FAPE services are needed to ensure progress in general education curriculum and IEP goals, and the CCC determines appropriate services.

If a parent disagrees with LEA's determination about the student's behavior being a manifestation of their disability, the parent may request mediation or a due process hearing.

- If parent requests a due process hearing, the Indiana Department of Education shall arrange for an expedited hearing.

**Manifestation determination review** meetings are required when a student, protected under IDEA and eligible for special education services under Indiana Article 7, violates a school code of conduct that results in a disciplinary change of placement. 511 IAC 7-32 through 29 (Article 7) contains Indiana's special education law.