



# Discipline Chart Guiding Document

## **Circumstances That Require Manifestation Determination**

Following a discipline code of conduct violation, under specific circumstances, the school must hold a meeting to determine if the behavior that resulted in the violation was a manifestation of the student's disability (Sec. 300.530). In this context, "disability" does not refer exclusively to the student's disability category (e.g., Specific Learning Disability)—it includes any educational needs identified in the student's evaluation.

Manifestation determination is necessary

(1) prior to the commencement of an expulsion and

(2) in one of the following two circumstances, which are both considered to constitute a change of placement:

1. A series of removals totals 5 to 10 consecutive days or more than 10 school days in a school year when the series of removals constitute a pattern because the student's behavior is substantially similar across incidents and because of such additional factors as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another
2. A placement of up to 45 school days in an interim alternative educational setting, which may occur in one of the following three circumstances. At school, on school premises, or at a school function, the student...
  - Uses a weapon, which is defined as a "dangerous weapon" and must be an item *readily capable* of causing death or serious bodily injury. For example, per the definition, a pencil is not a dangerous weapon. The definition specifically does *not* include pocket knives with blades of less than 2½ inches in length (*paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code*).
  - Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance. This includes a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).
  - Has inflicted "serious bodily injury" upon another person, which is defined as bodily injury which involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty (*paragraph (3) of subsection (h) of section 1365 of title 18, United States Code*).

## **Who is protected?**

In addition to students who are already eligible and receiving special education services, these IDEA protections also apply to students "not yet eligible" if the school has knowledge that the student was a child with a disability before the conduct occurred. There is a basis of knowledge if, for example:

- The parent expressed concern in writing that the student needed special education.
- The parent requested an evaluation.
- Staff expressed concern about a pattern of behavior to the director of special education.



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IDEA protections are not available if:

- The parent did not allow for a special education evaluation.
- The parent refused special education services.
- The student was evaluated for special education services and did not qualify.

## **What must the team consider at a Manifestation Determination meeting under state law?**

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, the district, the parent, and relevant members of the student's individualized education program (IEP) team (as determined by the parents and the district) must review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents, to determine:

1. if the conduct in question was caused by, or had a direct relationship to, the child's disability, or
2. if the conduct in question was the direct result of the district's failure to implement IEP.

## **Meeting Requirements:**

This team meeting must occur if the student is removed for more than ten consecutive school days and/or any time a removal constitutes a change in placement. A series of removals that total more than ten cumulative school days in a school year may result in a disciplinary change of placement.

School districts may choose to hold manifestation determination meetings when a student is removed for five consecutive or ten cumulative days in a school year, however, it is no longer required under state law. Holding manifestation meetings is best practice as it ensures students with disabilities are not disciplined for conduct that has a direct correlation to their disability.

WCED recommends that school districts hold manifestation determination meetings when suspensions reach a total of more than five consecutive days or ten cumulative days.

## **What are Alternative Educational Services?**

Alternative educational services may include, but are not limited to, special tutoring, modified curriculum, modified instruction, other modifications or adaptations, instruction through electronic media, special education services as indicated by appropriate assessment, homebound instruction, supervised homework, or enrollment in another district or in an alternative learning center selected to allow the student to progress toward meeting graduation standards although in a different setting (Minn. Stat. § 121A.41, Subd.11).

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## **Contact the following staff if the student is:**



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- On Individualized Education Plan (IEP), notify case manager
- In an MSHSL or other school sponsored activities, send copy of suspension form to Activities Director
- Involved in committing a legal offense, notify law enforcement

## **What if a student doesn't return to school after suspension?**

Contact the family and make a truancy referral, if necessary.