

Requirements for a Manifestation Determination (MD) for Students with Disabilities

NOTE: SPPS is requiring a Manifestation Determination be conducted on all students with disabilities who are suspended and being considered for transfer to a different SPPS school. No matter how many days of consecutive or cumulative removal from school or the behavior issue, a Manifestation Determination must be conducted before a student is considered for transfer to a different school with the same special education services or federal setting.

"Manifestation Determination" is a process carried out by the student's IEP team to determine if a student's problem behavior **was or was not** a manifestation of the student's disability. This requirement relates to students with any educational disability including a speech/language disorder, autism spectrum disorder, emotional/behavior disorder, specific learning disability, other health disability, etc. If the problem behavior is found to be a manifestation of a student's disability, then the student has due process protections and special procedures must be followed. If the problem behavior is found not to be a manifestation of the student's disability, then the student is subject to the discipline guidelines set out in the Pupil Fair Dismissal Act.

A Manifestation Determination is completed as part of an IEP team meeting. The IEP **team must convene no later than 10 school days when:**

- A student is suspended **for more than 10 cumulative days in a school year (and for every suspension thereafter).**
- A student is removed from school for up to **45 school days due to special circumstances** (see below).
- A change in placement for more than 10 consecutive days is being sought for disciplinary reasons.
- A parent requests such a meeting following a disciplinary incident.
- Exclusion or expulsion is being considered.

IEP Team Meeting for a Manifestation Determination:

In order to determine if the behavior **was or was not** a manifestation of the student's disability, the team needs to follow the steps below:

1. Prior to the IEP meeting, information such as evaluation and diagnostic results, observations, current IEP, placement information and other relevant information supplied by the parents must be gathered for review by the IEP team.

As part of the discussion, the team must determine if:

- the information gathered is sufficient information to make the manifestation determination.
- further information is needed in order to make the manifestation determination.
- there is a need for changes in the student's current special education program.

If further information is needed, the IEP team must follow the due process steps in obtaining written parent consent for an evaluation.

2. The team must determine whether there was a “direct and substantial” relationship between the behavior that occurred and the student’s disability.

- Review the ER, IEP, FBA, BIP and all relevant information including input from the parent.
- Consider how the disability affects the individual student. Do not assume that a particular disability like EBD automatically means that all behaviors are manifestations of the disability.
- Look at how the student’s disability typically manifests itself. If the student does not display the behavior that is in question the team will want to discuss the variables that were related to the occurrence of the behavior.

3. Manifestation Determination

A. If the student’s behavior is NOT a manifestation of his or her disability, the relevant disciplinary procedures applicable to students without disabilities may be applied to the student in the same manner in which they would be applied to students without disabilities.

B. If the behavior IS determined to be a part of the disability, the IEP team makes an appropriate plan to address some or all of the following areas (the student may not be expelled from the school system):

- If the IEP team determines the student’s behavior was a manifestation of the student’s disability, the IEP team must either:
 - (1) Conduct an FBA, unless an FBA has already been completed within the last 3 years and implement a behavior intervention plan (BIP);
 - (2) Return the student to the placement from which he or she was removed, unless the IEP team and school district agree to a change of placement (i.e., a different federal setting) as part of the review and revision of the IEP and/or BIP.
- The parent must be notified of the decision to take disciplinary action and of the procedural safeguards no later than the date on which the decision is made.

If there is disagreement regarding the determination, do the following:

If the team is unsure about the determination, the behavior is automatically assumed to be a part of the student’s disability. If the team cannot reach agreement as to whether the behavior was a manifestation of the student’s disability, the district representative/administrator makes the determination. A Prior Written Notice (PWN) is sent to the parent if the parent does not agree with the determination that was made. The parent may request an expedited due process hearing to challenge the determination. SPPS and the parents may also agree to attempt conciliation, mediation, or some other alternative to a hearing to resolve the dispute.

Whenever expulsion is being considered, a copy of the Minnesota Pupil Fair Dismissal Act must be sent to the parent.

All students including those with an active IEP must abide by the same rules and regulations described in the Minnesota Pupil Fair Dismissal Act unless the behavior is a manifestation of the student’s educational disability.