

Manifestation Determination

Regulations: 511 IAC 7-17-50, 7-29-6, 7-30-5

If we have decided to take a disciplinary action which is a change of placement (as described above), we must notify you and call a meeting of the CCC within 10 school days, to review the relationship between your child's disability and the misbehavior that prompted the disciplinary action. This is called a manifestation determination. The CCC determines:

- A. If in relation to your child's misconduct, are the IEP and placement appropriate.
- B. Are special education services, supplementary aids and services, and behavior intervention strategies provided consistent with the IEP and placement.

If the answer to question A or B is no, then the behavior is a manifestation of ("caused by") your child's disability. We must take immediate steps to revise the IEP or consider the appropriateness of the placement or implementation of special education services. We cannot go forward with another suspension or an expulsion.

If the answers to questions A and B are yes, the CCC then determines whether your child's disability impaired his/her ability to:

- C. understand the impact and consequences of the behavior, and
- D. control the behavior.

If the answer to question C or D is yes, then the behavior is a manifestation of your child's disability. The CCC will review your child's evaluations and may revise your child's IEP or placement, with your consent. We cannot go forward with another suspension or an expulsion.

Even if the behavior is a manifestation of your child's disability, we may move your child for 45 calendar days to the IAES if the behavior involved a weapon or drugs, or we may seek an IHO's ruling (or a court order) to move your child, for 45 calendar days, to an IAES if we believe that your child's behavior is likely to result in injury to self or others.

In contrast, if the answer to questions C and D is no, then the behavior is not a manifestation of your child's disability. We can go forward with the planned disciplinary action, as we would for any nondisabled student engaging in the same behavior. During a period of expulsion or another suspension, educational services will be provided to enable your child to progress in the general curriculum and to advance toward his/her IEP goals.

If you disagree with any part of the manifestation determination, the disciplinary action, the place selected as the IAES, the type or extent of services provided during a suspension or expulsion, or any other change in your child's placement, you have the right to request mediation, a due process hearing, or both.

When a hearing request relates to a manifestation determination or an IAES placement, the hearing will be expedited, which means that the timelines are shortened so that final decisions can be reached quickly. The hearing will be scheduled promptly and the decision will be mailed within 10 business days. An appeal will also be expedited, which means that a petition for review must be filed within 3 business days after receiving the IHO's decision, a reply must be filed within the next 3 business days, and the Board will issue its written decision within 10 days. Until the IHO's decision is received, your child will remain in the IAES, unless you and we agree otherwise.

Protections For Students Not Yet Eligible for Special Education & Related Services Regulations: 511 IAC 7-17-12, 7-29-8

Your child is entitled to the protections that are available to students with disabilities if, before your child violated a school rule or code of conduct:

- you had expressed your concerns in writing (unless you are unable to read or have a disability that prevents you from writing) to one of our teachers, school counselors, school psychologists, school social workers, principals, or other administrators that your child needs special education and related services;
- the behavior or performance of your child demonstrated the need for special education and related services;
- either you or we had requested an educational evaluation; or
- your child's teacher or other certified school personnel expressed a concern about your child's behavior and performance to our director of special education or to other administrators in accordance with our system for Childfind or referral for evaluation.

Your child is not entitled to these protections if we have already conducted an evaluation and a CCC has determined that your child is not eligible for special education, or if we determined that an evaluation was not necessary and gave you prior written notice of our refusal to evaluate.

If you make a written request for an evaluation of your child when your child is about to be expelled or has been expelled, the evaluation must be completed and the CCC must meet within 20 school days. The suspension or expulsion of your child will continue until the CCC meets. If your child is then found eligible for special education and related services, we will provide a FAPE and will reconsider your child's expulsion by conducting a functional behavioral assessment and a manifestation determination.