



## California Association of School Psychologists Resource Paper

### **Understanding the Manifestation Determination Review; a Comprehensive Guide for School Psychologists**

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Students who receive support in their educational pursuits under an Individualized Education Plan (IEP) are entitled to receive necessary support and modifications in their educational environment. These modifications are designed to enhance the individual's access to their education and ensure their disabilities do not affect their academic success. To this end, IDEA provides specific protections for students with behavioral struggles. Specifically, IDEA requires that if a student engages in a behavior that violates the school code of conduct or engages in a behavior that would result in the student being removed from their current placement the school district must initiate a Manifestation Determination Review (MDR) (Knudsen & Bethune, 2018 & National Association of School Psychologists, 2022). The MDR provision was created to ensure that students with disabilities have equal access to educational opportunities and are not treated unfairly due to their disability (Trapp, Gershwin, & Robinson, 2022). As a member of the IEP team with specialized knowledge of disabilities and their impact on education, school psychologists must understand their pivotal role as well as other team member roles in the MDR process. The purpose of this paper is to provide school psychologists with an overview of the MDR legal obligations and their specific place in the MDR meeting.

In the guidelines of completing an MDR two critical questions must be asked. Was the conduct in question caused by, or had a direct and substantial relationship to, the child's disability? Or was the conduct in question the direct result of the LEA's failure to implement the IEP? While these questions may seem straightforward, this is not always an easy task, as team members commonly think the wording of the two-prong test is ambiguous (Walker & Brigham, 2017). Members of the IEP team are required to determine the strength of the connection between the student's disability and the conduct being reviewed. Making this process more challenging is the individual nature of an MDR making each MDR meeting a subjective process (Lewis, 2017). Incorporating diverse perspectives when meeting for an MDR meeting is crucial. Although team members are there for a common goal, they do not all have the same perspective on behavior and discipline (Walker, 2013 as cited in Walker & Hott, 2015). Federal law provides for specific individuals to comprise the MDR IEP team. Specifically,

- The parents/guardians of the student,
- A local education agency (LEA) representative (someone who is qualified to provide or supervise special education services and who is knowledgeable about the availability of resources of the school district),
- At least one general education teacher,
- At least one special education teacher,
- An individual, such as a school psychologist, who can interpret evaluation results
- And other relevant members of the IEP team, as determined by the LEA representative and the parents or guardians (Lewis, 2017; Knudsen & Bethune, 2018; & National Association of School Psychologists, 2022).

A MDR may be held for several reasons. If a student with a disability demonstrates a problem behavior that results in a change in placement, a removal from a school program for more than 10 consecutive school days, a series of removals that constitutes a pattern or exceeds 10 cumulative school days, or removal from a program to an interim alternative educational setting (Knudsen & Bethune, 2018). The team is responsible for determining if disciplinary consequences apply to a special education student (Walker & Hott, 2015); therefore, various perspectives should be adhered to as they provide a holistic understanding of a student's behavior and needs.

Incorporating information from parents, teachers, school psychologists, school administration, and district representatives ensures that decisions and interventions are grounded in a comprehensive understanding of the child's life, both within and outside the school. By bringing together a diverse team, a system is in place that facilitates productive teamwork in the MDR process to promote constructive communication, which allows all team members, regardless of their level of expertise, to actively contribute during meetings (Trapp, Gershwin, & Robinson, 2022).

Interviewing the parent during the MDR process can provide invaluable insights that may not be readily observable within the confines of a school setting, including cultural and linguistic practices. Parents can provide a chronological overview of the child's past behavioral challenges to gain an understanding of patterns of behavior over time as well as new information, such as new diagnoses, medications, sleep patterns, dietary concerns, or other health-related factors that might influence behavior, such as counseling and possible information about recent hospitalizations. Parents can also provide an understanding of the dynamics of the child's home environment, including relationships with siblings, family structure, any recent significant events (like a move, divorce, or death in the family), or potential stressors that can also provide crucial context to a child's behavior. Parents often have a unique perspective on their child's emotional

world, fears, aspirations, and challenges, providing a richer context to the observed behaviors, providing information on previous educational experiences and emotional and psychological Insights (Sattler, 2022).

The teacher's perspective is instrumental in the MDR process for several compelling reasons. Teachers, who interact with the student daily, are uniquely positioned to offer firsthand observations and insights that other stakeholders might not have. They observe social dynamics, friendships, potential conflicts, and the nuances of how the student navigates the social landscape of the classroom. They can explain how a student interacts with peers and adults, which can help the IEP team better understand the student's situation in a school setting (NASP, 2022). Additionally, teachers are attuned to the academic challenges faced by the students. They can identify areas where the student excels or struggles, provide insights into how these academic challenges correlate with behaviors and suggest strategies or accommodations that have been effective or might be worth exploring (Sattler, 2022).

The involvement of a school psychologist in the MDR process is indispensable. Without interpretation of the manifestation determination guidelines, team members have been found to lack understanding of the two-prong question and find it difficult to determine whether or not the behavior is a manifestation of the disability (Walker & Brigham, 2017). School psychologists are skilled at identifying and interpreting the emotional, cognitive, and environmental factors that might influence a student's behavior. From their knowledge of behaviors and their potential manifestations to their comprehension of educational legislation and policies, a school psychologist's expertise ensures that the MDR team adheres to the legal requirements and can offer different strategic changes to help minimize further behavior discipline proceedings (Zirkel, 2023).

Additionally, the presence of a district representative in the MDR process is pivotal in ensuring both compliance and comprehensive support. With an understanding of district-wide operations, guidelines, and policies, the district representative's presence is warranted as they can ensure that the MDR process aligns with established district and IDEA protocols, ensuring the students' rights are upheld and decisions are made by the team and not a single member. Moreover, the district representative may be able to provide insights into the broader resources and potential supports, programs, or interventions that individual schools might not be aware of. Thus, their perspective, not only maintains the integrity of the MDR process but can also maximize the support options available for individual students, ensuring that solutions are both compliant and holistic. (National Association of School Psychologists, 2022).

Once established, the MDR team must explore the nature of the conduct and the link to the student's disability. In an attempt to help MDR teams answer the manifestation questions researchers have explored more specific questions to elicit further details from the team members. Two questions of note are (1) whether the student's disability impaired their ability to understand the impact or consequences of the misconduct and (2) whether the student's disability impaired their ability to control the misconduct (Kubick & Lavik, 2014). Additional lines of inquiry can be applied to each of the two above questions:

1. Whether the student's disability impaired their ability to understand the impact or consequences of the misconduct?
  - a. Are the student's thought processes logical?
  - b. Did the student understand the consequences for breaking school rules?
  - c. Did the student have the capacity to know which behaviors are unacceptable?
  - d. Has the student received a copy and adequate explanation of the school's code of conduct?
  - e. Has the student demonstrated the ability to follow school rules?
  - f. Has the student expressed that this or similar conduct is wrong?
  - g. Has the student expressed an understanding of the consequences of this or similar behavior?
2. Whether the student's disability impaired their ability to control the misconduct?
  - a. Has the student followed the school rules in the past?
  - b. What features of the disability has the student demonstrated in the past?
  - c. In what situations can the student control their behavior?
  - d. Are there other factors that explain the misconduct?
  - e. Is this an isolated or recurrent behavior?
  - f. Was the behavior premeditated?
  - g. Would similarly situated students without disabilities react in a similar manner in this circumstance (Kubick & Lavik, 2014)?

Depending on the findings of the MDR several possible outcomes are triggered:

- If the team establishes the student's actions were not a manifestation of their disability, the school district is free to discipline the student in the same manner as students without disabilities;
- If the student's actions were determined to be caused by or had a direct and substantial relationship to the student's disability, the law requires the IEP team to conduct a Functional Behavioral Assessment and create a Behavioral Intervention Plan (BIP) (or revises the current plan);

- If the IEP team determines the LEA failed to properly implement the IEP and that failure may have contributed to the behavioral infraction, the LEA must take action to remedy the deficiencies in IEP implementation efforts;
- If the IEP team does determine the behavior in questions was a manifestation of their disability, the student must be reinstated to his or her prior placement unless the parent/guardians agree that a different placement is appropriate (Knudsen & Bethune, 2018 & National Association of School Psychologists, 2022).

Despite no specific language in IDEA or the state education code, it is highly recommended school psychologists complete a written report to be presented at the MDR meeting. If the student has been assessed in the last twelve months and the report is considered thorough then an updated records review report can be completed noting the previous assessment results and provide *current* interviews (parent, teacher, student) and observations (Corbin, 2022). If the assessment is more than twelve months old or the team feels there are additional areas of eligibility that should be explored then a full assessment is recommended.

According to Corbin (2022) manifestation records review reports should include at minimum the following information:

- Demographic Information - Same as a standard assessment report (student's name, grade, DOB, etc.)
- Student's Disability - Include the student's eligibility under the IDEA (ED, OHI, SLD, etc.), additionally include other disabilities such as ADHD, Bipolar Disorder, Major Depressive Disorder, etc.
- Current Special Educations Services and Supports - List the student's special education services and supports.
- Description of the Misconduct that Resulted in the Discipline - Describe in a paragraph or two the facts surrounding the incident.
- Analysis - Describe in a paragraph your professional opinion, based on the student's individual learning needs (disabilities) and based on the facts of the incident, as to whether the incident was a manifestation of the student's disability.
- Concluding Statement - "However, all final determinations regarding whether \_\_\_\_\_'s conduct was a manifestation of his/her disability will be determined by \_\_\_\_\_'s IEP team at his/her forthcoming manifestation determination meeting."

In conclusion, the Manifestation Determination Review (MDR) process under the Individualized Education Plan (IEP) is an important mechanism designed to create a method to ensure that students with disabilities receive equitable treatment in disciplinary situations. The inclusive

approach of the MDR process involves diverse perspectives from parents, teachers, school psychologists, and district representatives, collaborating to decide whether a student's behavior is a manifestation of their disability. The process is implemented, taking into account the legal framework, educational considerations, and the unique needs of the student requiring careful consideration and informed decision-making. School psychologists, with their specialized knowledge, play a vital role in guiding the MDR process, ensuring that each case is evaluated with a deep understanding of the student's unique challenges and capabilities. The outcome of the MDR process, whether it leads to discipline, intervention, or a change in educational strategy, must reflect a holistic view of the student's circumstances, promoting not only compliance with IDEA but also fostering an environment where every student can thrive academically and socially.

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