

Manifestation Determination

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Within 10 school days of **any decision to change the placement of a student with a disability because of a violation of a code of student conduct**, the student's IEP team must meet to determine whether the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability or whether the conduct was a result of the district's failure to implement the student's IEP. These steps are referred to as a "manifestation determination."

In making this determination, the district, the parent, and relevant members of the IEP team (as determined by the parent and the district), will review the student's IEP, the student's behavior intervention plan (BIP), any relevant teacher observations, and any other information provided by the parents.

Conduct IS a Manifestation of Student's Disability:

If the IEP team finds that the student's behavior was caused by or had a direct and substantial relationship to the student's disability, or that the behavior was a direct result of the district's failure to implement the IEP, then the behavior is a manifestation of the student's disability. In this case, if the student does not have a behavior intervention plan, the IEP team must conduct a functional behavioral assessment and implement a behavior intervention plan to address the behavioral violation. If the student already has a behavior intervention plan that addresses the conduct in question, the IEP team must review and modify it as necessary to address the behavior. The student must return to the placement from which the student was removed, unless the parent and the school district agree to a change of placement as part of the modification of the behavioral intervention plan. **The school system does not have to return the student to the original placement if the student's behavior is related to weapons, drugs, or serious bodily injury as explained in special circumstances.**

SPECIAL CIRCUMSTANCES

School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability, if the student:

1. **Carries a weapon to or possesses a weapon at school, on school premises, or at a school function** under the jurisdiction of the State or the Local Education Authority (LEA).

- The term "dangerous weapon" means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2½ inches in length.

2. **Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or to a school function** under the jurisdiction of the State or the LEA.

- **Controlled substance means 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\(c\)](#)). Illegal drug means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.**

3. **Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function** under the jurisdiction of the State or the LEA.

- The term serious bodily injury means bodily injury which involves (A) a substantial risk of death; (B) extreme physical pain; (C) protracted and obvious disfigurement; or (D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

The interim alternative educational setting is determined by the IEP Team.

Conduct IS NOT a Manifestation of Student's Disability:

If the IEP team finds that the student's behavior was not a manifestation of the student's disability, the same disciplinary actions can be imposed on the student with a disability as those imposed on any student. If these actions include expulsion, the IEP team must determine how the student will continue to receive educational services that allow him or her to continue to participate in the general education curriculum and progress toward meeting the goals in the IEP. In addition, the IEP team, if appropriate, will conduct a functional behavior assessment and develop a behavior intervention plan.