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MANIFESTATION DETERMINATION

Authorities: 34 C.F.R. Part 300; Texas Education Code

Additional Resources

FEDERAL AND STATE REQUIREMENTS		CITATIONS
<u>D</u>	A manifestation determination must be made within 10 school days of any decision to make a <u>DISCIPLINARY CHANGE OF PLACEMENT</u> of the child with a disability because of a violation of a code of student conduct.	<u>300.530(e)(1)</u> <u>TEC</u> <u>37.004(b)(4)</u> <u>TEC 37.0022</u>
MEMBERSHIP AND MEETING		
<u>D</u>	The manifestation determination must be made by the <u>ADMISSION, REVIEW, AND DISMISSAL COMMITTEE</u> .	<u>300.530(e)(1)</u> <u>TEC</u> <u>37.004(b)(4)</u>
<u>P</u>	For children who are homeless or in substitute care, the local educational agency (LEA) must also provide notice to the child's educational decision-maker and case worker regarding manifestation determination reviews.	<u>TEC</u> <u>25.007(b)</u> <u>(10)(C)</u>
INFORMATION		
<u>D</u>	The admission, review, and dismissal (ARD) committee must review all relevant information in the child's file including:	<u>300.530(e)(1)</u>
<u>D</u>	• The child's individualized education program (IEP);	<u>300.530(e)(1)</u>
<u>D</u>	• Any teacher observations; and	<u>300.530(e)(1)</u>

<u>D</u>	<ul style="list-style-type: none"> Any relevant information provided by the parents. 	<u>300.530(e)(1)</u>
	DETERMINATION	
<u>P</u>	The conduct is a manifestation of the child's disability if the ARD committee determines that:	<u>300.530(e)(1)</u> <u>300.530(e)(2)</u>
<u>D</u>	<ul style="list-style-type: none"> The conduct was caused by, or had a direct and substantial relationship to, the child's disability; or 	<u>300.530(e)(1)(i)</u>
<u>D</u>	<ul style="list-style-type: none"> The conduct in question was the direct result of the LEA's failure to implement the IEP. 	<u>300.530(e)(1)(ii)</u>
<u>P</u>	If the committee determines that the conduct is a manifestation of the child's disability, the LEA must comply with the <u>WHEN BEHAVIOR IS A MANIFESTATION</u> framework.	
<u>P</u>	If the committee determines that the conduct is not a manifestation of the child's disability, the LEA must comply with the <u>WHEN BEHAVIOR IS NOT A MANIFESTATION</u> framework.	

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WHEN BEHAVIOR IS NOT A MANIFESTATION

Authorities: 34 C.F.R. Part 300

[Additional Resources](#)

FEDERAL AND STATE REQUIREMENTS		CITATIONS
P	For a disciplinary change in placement that would exceed 10 consecutive school days, if the admission, review, and dismissal committee determines in a <u>MANIFESTATION DETERMINATION</u> review that the conduct was not a manifestation of the child's disability:	<u>300.530(c)</u>
P	<ul style="list-style-type: none">School personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities;	<u>300.530(c)</u>
P	<ul style="list-style-type: none">Except that <u>SERVICES DURING PERIODS OF REMOVAL</u> must be provided.	<u>300.530(c)</u>
P	The local educational agency must comply with the <u>SERVICES DURING PERIODS OF REMOVAL</u> framework.	

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WHEN BEHAVIOR IS A MANIFESTATION

Authorities: 34 C.F.R. Part 300; Texas Education Code

Additional Resources

FEDERAL AND STATE REQUIREMENTS		CITATIONS
<u>P</u>	If the admission, review, and dismissal (ARD) committee determines in a <u>MANIFESTATION DETERMINATION</u> review that the conduct was the direct result of the failure of the local educational agency (LEA) to implement the individualized education program, the LEA must take immediate steps to remedy those deficiencies.	<u>300.530(e)(3)</u>
<u>D</u>	If the ARD committee determines in a <u>MANIFESTATION DETERMINATION</u> review that the conduct was a manifestation of the child's disability, the ARD committee must either:	<u>300.530(f)(1)</u> <u>TEC</u> <u>37.004(b)</u>
<u>D</u>	<ul style="list-style-type: none"> Conduct a functional behavioral assessment (FBA), unless the LEA had conducted an FBA before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan (BIP) for the child; or 	<u>300.530(f)(1)(i)</u>
<u>D</u>	<ul style="list-style-type: none"> If a BIP already has been developed: 	<u>300.530(f)(1)(ii)</u>
<u>D</u>	<ul style="list-style-type: none"> Review the BIP; and 	<u>300.530(f)(1)(ii)</u>
<u>D</u>	<ul style="list-style-type: none"> Modify it, as necessary, to address the behavior. 	<u>300.530(f)(1)(ii)</u>

<u>D</u>	If the ARD committee determines in a <u>MANIFESTATION DETERMINATION</u> review that the conduct was a manifestation of the child's disability, the ARD committee must also return the child to the placement from which the child was removed, unless:	<u>300.530(f)(2)</u>
<u>P</u>	<ul style="list-style-type: none">• Special circumstances as provided in the <u>SPECIAL CIRCUMSTANCES</u> framework exist; or	
<u>D</u>	<ul style="list-style-type: none">• The parent and the LEA agree to a change of placement as part of the modification of the BIP.	<u>300.530(f)(2)</u>

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THE LEGAL FRAMEWORK
for the Child-Centered Special Education Process

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SPECIAL CIRCUMSTANCES

Authorities: 18 U.S.C. §§ 930, 1365; 21 U.S.C. § 812; 34 C.F.R. Part 300

Additional Resources

	FEDERAL AND STATE REQUIREMENTS	CITATIONS
<u>P</u>	Special circumstances exist if the child:	300.530(g)
<u>D</u>	<ul style="list-style-type: none"> Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of the state educational agency (SEA) or the local educational agency (LEA): 	300.530(g)(1)
<u>P</u>	<ul style="list-style-type: none"> The term <i>dangerous weapon</i> 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 2 1/2 inches in length; 	300.530(i)(4) 18 USC 930(g)(2)
<u>D</u>	<ul style="list-style-type: none"> Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of the SEA or the LEA: 	300.530(g)(2)
<u>P</u>	<ul style="list-style-type: none"> Controlled substance means a drug or other substance identified under Schedules I, II, III, IV, or V; 	300.530(i)(1) 21 USC 812
<u>P</u>	<ul style="list-style-type: none"> 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 healthcare professional or that is legally possessed or used under any 	300.530(i)(2)

	other authority under the Controlled Substance Act or under any other provision of federal law; or	
<u>D</u>	<ul style="list-style-type: none"> Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the SEA or the LEA: 	<u>300.530(q)(3)</u>
<u>P</u>	<ul style="list-style-type: none"> The term <i>serious bodily injury</i> means 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. 	<u>300.530(i)(3)</u> <u>18 USC</u> <u>1365(h)(3)</u>
<u>P</u>	If special circumstances exist, the LEA may remove the child with a disability under the special circumstances provisions of <u>AUTHORITY OF SCHOOL PERSONNEL</u> .	
<u>P</u>	If the removal is for more than 10 consecutive school days, the LEA must comply with the <u>DISCIPLINARY CHANGE OF PLACEMENT</u> framework and conduct a <u>MANIFESTATION DETERMINATION</u> review:	
<u>P</u>	<ul style="list-style-type: none"> School personnel may remove the child to an interim alternative educational setting without regard to whether the behavior is determined to be a manifestation of the child's disability; 	<u>300.530(g)</u>
<u>P</u>	<ul style="list-style-type: none"> As long as the removal is for not more than 45 school days if the behavior is a manifestation of the child's disability; and 	<u>300.530(g)</u>
<u>P</u>	<ul style="list-style-type: none"> <u>SERVICES DURING PERIODS OF REMOVAL</u> must be determined and provided. 	

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SERVICES DURING PERIODS OF REMOVAL

Authorities: 34 C.F.R. Part 300; Texas Education Code

Additional Resources

FEDERAL AND STATE REQUIREMENTS		CITATIONS
	REMOVALS FOR LESS THAN 10 CUMULATIVE DAYS	
<u>P</u>	A local educational agency (LEA) is only required to provide services during periods of removal to the child with a disability who has been removed from the child's current placement for 10 school days or less in that school year, if it provides services to the child without disabilities who is similarly removed.	300.530(d)(3)
	REMOVALS FOR MORE THAN 10 CUMULATIVE DAYS THAT ARE NOT A CHANGE OF PLACEMENT	
<u>P</u>	The LEA must conduct a change of placement analysis and comply with the <u>DISCIPLINARY CHANGE OF PLACEMENT</u> framework.	
<u>P</u>	After the child with a disability has been removed from the child's current placement for 10 school days in the same school year, if the current removal is for not more than 10 consecutive school days and is not a change of placement:	300.530(b)(2) 300.530(d)(4)
<u>P</u>	<ul style="list-style-type: none"> School personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed for a free appropriate public education (FAPE): 	300.101(a) 300.530(d)(4)
<u>P</u>	<ul style="list-style-type: none"> To enable the child to continue to participate in the general education curriculum, although in another setting; and 	300.530(d)(4)

<u>P</u>	<ul style="list-style-type: none"> ◦ To enable the child to progress toward meeting the goals set out in the child's individualized education program (IEP); and 	<u>300.530(d)(4)</u>
<u>P</u>	<ul style="list-style-type: none"> • Services may be provided in an interim alternative educational setting (IAES). 	<u>300.530(d)(2)</u>
REMOVALS THAT ARE A CHANGE OF PLACEMENT		
<u>P</u>	The LEA must comply with the <u>MANIFESTATION DETERMINATION</u> framework.	
<u>D</u>	<u>WHEN BEHAVIOR IS NOT A MANIFESTATION</u> of the child's disability, or when the child with a disability is removed from the child's current placement due to <u>SPECIAL CIRCUMSTANCES</u> , the admission, review, and dismissal committee must:	<u>300.530(d)(5)</u>
<u>D</u>	<ul style="list-style-type: none"> • Determine educational services for a FAPE which may be provided in an IAES: 	<u>300.530(d)</u> <u>(1)(i)</u> <u>300.530(d)(2)</u>
<u>D</u>	<ul style="list-style-type: none"> ◦ To enable the child to continue to participate in the general education curriculum, although in another setting; and 	<u>300.530(d)</u> <u>(1)(i)</u>
<u>D</u>	<ul style="list-style-type: none"> ◦ To enable the child to progress toward meeting the goals set out in the child's IEP; 	<u>300.530(d)</u> <u>(1)(i)</u>
<u>D</u>	<ul style="list-style-type: none"> • Provide as appropriate, a functional behavioral assessment and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur; and 	<u>300.530(d)</u> <u>(1)(ii)</u> <u>TEC</u> <u>37.004(b)</u> <u>TEC 37.0022</u>
<u>D</u>	<ul style="list-style-type: none"> • Determine the IAES. 	<u>300.531</u>

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DISCIPLINARY CHANGE OF PLACEMENT

Authorities: 34 C.F.R. Part 300; Texas Education Code

Additional Resources

FEDERAL AND STATE REQUIREMENTS		CITATIONS
P	School personnel must consider any unique circumstances on a case-by-case basis when determining whether a change in placement is appropriate for the child with a disability who violates a code of student conduct.	300.530(a)
P	The local educational agency (LEA) that decides to change the placement of the child with a disability because of a violation of a code of student conduct must comply with the <u>MANIFESTATION DETERMINATION</u> framework.	
P	The LEA that changes the placement of the child with a disability for disciplinary reasons must comply with the <u>SERVICES DURING PERIODS OF REMOVAL</u> framework.	
DISCIPLINARY CHANGE OF PLACEMENT		
P	For purposes of removals of the child with a disability from the child's current educational placement, a change of placement occurs if:	300.536(a)
P	<ul style="list-style-type: none"> The removal is for more than 10 consecutive school days; or 	300.536(a)(1)
P	<ul style="list-style-type: none"> The child has been subjected to a series of removals that constitute a pattern: 	300.536(a)(2)
P	<ul style="list-style-type: none"> Because the series of removals total more than 10 school days in a school year; 	300.536(a)(2)(i)

<u>P</u>	<ul style="list-style-type: none"> Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and 	<u>300.536(a)(2)(ii)</u>
<u>P</u>	<ul style="list-style-type: none"> Because of additional factors such as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another. 	<u>300.536(a)(2)(iii)</u>
	DECISION	
<u>P</u>	The LEA determines, on a case-by-case basis, whether a pattern of removals constitutes a change of placement.	<u>300.536(b)(1)</u>
<u>P</u>	The LEA's determination is subject to review through due process and judicial proceedings.	<u>300.536(b)(2)</u>
	NOTIFICATION	
<u>D</u>	On the date on which the decision is made to make a removal that constitutes a change of placement, the LEA must:	<u>300.530(h)</u>
<u>D</u>	<ul style="list-style-type: none"> Notify the parent of that decision; and 	<u>300.530(h)</u>
<u>D</u>	<ul style="list-style-type: none"> Provide the parent the <u>Notice of Procedural Safeguards</u>. 	<u>300.530(h)</u> <u>300.504</u>
<u>P</u>	For children who are homeless or in substitute care, the LEA must also provide notice to the child's educational decision-maker and caseworker regarding disciplinary actions for which parental notice is required.	<u>TEC</u> <u>25.007(b)(10)(D)</u>

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