

SPECIAL EDUCATION DISCIPLINE IS MANIFESTATION DETERMINATION REQUIRED?



INDIANA
DEPARTMENT of
EDUCATION

INTRODUCTION

Manifestation determination review (MDR) meetings are required when a student protected under the Individuals with Disabilities Education Act (IDEA) and who is eligible for special education services under Indiana Article 7 violate a school code of conduct that results in a disciplinary change of placement.

511 Indiana Administrative Code (IAC) 7-44, commonly referred to as "Article 7," contains Indiana's special education rules.

STUDENTS PROTECTED UNDER IDEA & ARTICLE 7

Students ages three to 22 with a disability who currently have an Individualized Education Program (IEP).

- Eligibility for an IEP in Indiana ends through the school year that the student turns 22 **or** graduates from high school with a regular diploma, unless a Case Conference Committee (CCC) determines the student will leave school earlier (511 IAC 7-33-2(a)(1)).

Students for whom the local education agency (LEA) has a basis of knowledge that the student has a disability (511 IAC 7-44-9(b)).

- The parent expressed concern to the LEA in writing to licensed personnel that the student was in need of special education;
- The parent requested a special education evaluation; or
- Any LEA personnel expressed specific concern about a pattern of behavior directly to a supervisory administrator.

Exceptions to the basis of knowledge requirement (511 IAC 7-44-9(c)):

- An LEA would not be deemed to have a basis of knowledge if any of the following has occurred:
 - The parent has not allowed a student evaluation;
 - The parent refused special education services under Article 7 or IDEA;
 - The public agency conducted an educational evaluation, determined that the student was not a student with a disability under Article 7, and provided notice to the parent of the determination; or
 - The parent revoked consent of special education services.

34 CFR § 300.536 OF IDEA AND INDIANA ARTICLE 7 RULE 44

A change of placement occurs when a student with an IEP is excluded from receiving free and appropriate public education (FAPE) through:

- Out-of-school suspension for over 10 consecutive school-days;
- Out-of-school suspension for over 10 school days within a school year that are not consecutive, but the behavior represents a pattern; or
- If a student is expelled from school, including suspensions pending expulsion.

In-school suspensions do **not** count toward the 10 days **if** the student is able to access FAPE as outlined in their IEP. Removal for partial day is a day of removal.