

## Manifestation Determination Review (MDR) Directions

**Demographics Section:** The **Date Suspension Determined** is the date the administrator completed the investigation and is notifying the student and parents of the suspension. This should match the date used on the Disciplinary Action Review Form (DARF). Since the MDR should be conducted during a targeted Individualized Education Program (IEP) Team meeting, the MDR conducted date should match with the targeted IEP date. The LEA may instead choose to hold an annual IEP meeting if appropriate. However, an IEP amendment is not an acceptable option.

If the student does not have a disability-based IEP, the MDR should be held within a meeting of the appropriate team:

- Section 504 Students – Use the Section 504 DARF/MDR form within a Section 504 Reevaluation Determination Committee.
- Multi-disciplinary Evaluation Team (MDET) for a student in the testing process. This includes the teacher, an administrator, and staff members conducting the various components of the student's evaluation. The Student Assistance Team (SAT) could also be used.
- (SAT) for all other scenarios.

### Section 1:

Documentation with an **asterisk (\*)** is required information to answer the two manifestation determination questions. Parents should specifically be asked for their input whether in attendance or not. If parents do not provide any input or cannot be contacted, this should be noted on the Prior Written Notice generated from this meeting. If the parent cannot be contacted, document attempts to reach the parent. This would include an adult student if applicable. Documentation with a **cross (†)** is required if it exists.

Any additional documentation considered needs to be listed on the "Other" item. This could include but is not limited to, a discharge summary from a hospital or treatment facility, risk/threat assessment, recommendations from a medical professional or therapists, or classroom behavior plans not rising to the level of a formal Behavior Intervention Plan (BIP). Informal behavior data collection such as an Antecedent, Behavior, Consequences (ABC) chart, could also be included.

### Section 2:

The first question does not simply refer to the student's primary exceptionality. The student's entire IEP, including present levels of performance, goals, services, and accommodations are to be considered. If available, a Functional Behavior Assessment (FBA) or BIP are to be considered along with other relevant data.

The second question requires the IEP, BIP, SAT Plan and/or other intervention plan(s) to have been followed. It is important to ensure all appropriate staff working with the students have access to the plan(s).

**If the team answers "no" to both questions the student can be suspended or expelled. Proceed to Section 3 and document services to be provided during the suspension.** The IEP team is also to consider changes to help ensure the behaviors do not reoccur. **If the team answers "yes" to either question, implement all of the steps listed on the form.** The student is to be returned to the previous placement no later than the next school day unless the parent(s) and the LEA agree to an IEP documented change to the least restrictive environment (LRE). If an FBA has never been conducted, the LEA must request parental consent to initiate an FBA.

If the incident involves illegal drugs, weapons, or serious bodily injury the student can still be placed in an Interim Alternative Educational Setting for up to 45 school days regardless of the MDR decision. In this scenario, the IEP Team is to change the student's LRE to an Out-of-School Environment. Prior to the student returning to school the IEP Team must meet again to develop an appropriate IEP for the student's LRE.

If the MDR/IEP Team does not reach consensus regarding the two questions, per West Virginia Board of Education Policy 2419 the LEA's representative in the meeting will make the final determination. This does not preclude a parent or adult student from exercising their right to file a state complaint or due process complaint.