MANIFESTATION DETERMINATION: THE CONSIDERATION OF DISABILITY

When a student with a disability is referred for disciplinary action, the school must follow a specific process. The "Step by Step Guide to Suspension/Expulsion" on page 8 describes the process requirements when a student is at risk for suspension or expulsion.

Because the student's behavior violated the school's code of conduct, the level of impact the student's disability had on this behavior must be determined. This is known as the manifestation determination. Relevant members of the educational team meet and discuss the behavior to determine whether it was a result of the child's disability and put together a plan for the student, including the most appropriate placement. Despite sometimes being called a manifestation "hearing," the manifestation determination is an informal process and does not involve a hearing officer.

Two questions must be answered in the manifestation determination process:

1. Was the child's behavior caused by, or did it have a "direct and substantial relationship to" the child's disability?

OR

2. Was the behavior the direct result of a failure on the part of the school, district, or AEA to implement the student's IEP?

An example of a behavior that has a "direct and substantial" relationship to a student's disability could be a disruption during class involving a student who has Tourette's syndrome. A student who has physical tics related to his disability may accidentally hit the student next to him as a result of his Tourette's. While it is against school policy for students to hit one another, this occurrence is directly related to the child's disability and may be determined to be a manifestation of his disability.

The other factor in determining manifestation is whether the child's IEP has been followed appropriately. If the IEP was not followed, the team should ask if the failure to follow the IEP was the reason for the behavior. For example, a student with Oppositional Defiance Disorder (ODD) has an accommodation in his IEP that states he will go to the library to cool down when he feels he is on the verge of a meltdown. The student disagrees with his teacher about an assignment and feels himself getting angry. He asks to go to the library to cool down, but the request is refused. The student has a meltdown and kicks a desk, violating the student code of conduct. As a result of the IEP not being followed, the student displayed the exact behavior the accommodation was written to prevent. In this instance, the team may determine that the behavior was a manifestation of the student's disability.

Parent participation is very important, which is why the school is required to invite you to attend. It is your responsibility as

a parent to be prepared, ready to share any information you feel is important to determining whether or not the incident was related to the child's disability. You may want to bring documents such as psychological reports, medical records, and other disability-related information.

   If a parent disagrees with the decision reached in the manifestation determination, he or she has the right to appeal the decision using the procedural safeguards. If you have any questions about manifestation determinations, contact the Parent Training and Information Center of Iowa at ASK Resource Center.