

Causality is Key In Conducting Manifestation Determinations

A recent Special Education Appeals Panel decision serves as a reminder that the manifestation determination criteria found in IDEA 2004 requires the IEP team to consider whether there is a causal relationship between a student's conduct and his or her disability. In addition, the decision stresses the importance of complying with the IDEA's procedural requirements for conducting a manifestation determination.

In In re the Educational Assignment of R.P., a Student in the Philadelphia City School District, Special Education Opinion No. 1796, an Appeals Panel found that the school district improperly determined that a student's behavior was not a manifestation of his disability where the district had committed numerous procedural errors in conducting the manifestation determination and failed to apply the current applicable criteria. Procedural defects cited by the Panel included failing to provide the parents with timely notification of the manifestation determination meeting, the required procedural safeguards notice, or the opportunity to engage in a mutual determination of relevant members of the student's IEP team. In addition, the student's IEP team did not review all of the relevant information in the student's file.

Under IDEA 2004 and its implementing regulations, a school district must conduct a manifestation determination within 10 school days of any decision to exclude from school a child with a disability, or a child thought to have a disability, when the exclusion exceeds ten consecutive school days in duration or when it is one of a series of exclusions of ten days or less for behaviors that are substantially similar and that, taken together, exceed ten days and constitute a pattern. The manifestation determination is to be completed by the LEA, the parent and "relevant members of the IEP team (as determined by the parent and the LEA)." This provision regarding who conducts the manifestation determination is a change from IDEA 1997, which called for this to be done by "the IEP team and other qualified personnel."

The team conducting the manifestation determination must determine if: 1) the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or 2) if the conduct in question was the direct result of the district's failure to implement the IEP. The Appeals Panel in R.P. considered the causality issue by asking whether it was more likely than not that the student would have engaged in the behaviors if he did not have the particular disability. In this case, the Panel answered the question in the negative, finding that the student's emotional disturbance, which was marked by oppositional, defiant and attention-seeking behaviors, likely had a direct and substantial relationship to his code of conduct violations.

In order to avoid the mistakes cited by the Panel in the above case, school districts should make sure to follow all of the procedural requirements required for manifestation determinations, including providing timely notice to parents, issuing parents their procedural safeguards, properly constituting the team conducting the manifestation determination, and reviewing and considering all relevant information. Districts should also document the team's discussion of the applicable criteria in making the determination.

Clients who have questions regarding issues discussed in this article, or to request a Manifestation Determination Worksheet that can be used to guide the team in making and documenting the determination, may call us at 215-345-9111.