I. PURPOSE

To establish a process to conduct a Manifestation Determination to address the behavioral needs of the SFEA student-inmates entitled to Special Education Services.

II. DEFINITIONS

The following words and terms, when used in this policy, must have the following meanings, unless the context clearly indicates otherwise:

Active Teaching Staff means teaching staff employed by the Office of Educational Services whose positions require possession of the instructional or educational services licenses in accordance with N.J.A.C. 6A:9-5.1 et. seq., and teaching staff employed by all district boards of education, charter
III. POLICY

It is the policy of NJDOC Office of Educational Services to provide Manifestation Determination hearings to eligible students as required by N.J.A.C. 6A:14-2.8.
IV. PROCEDURES

To address the behavioral needs of students entitled to Special Education services, the New Jersey Department of Corrections Office of Educational Services will provide Manifestation Determination hearings to eligible students as required by N.J.A.C. 6A:14-2.8. The following procedures outline the steps necessary once a special education student’s behavior warrants Custody intervention:

1. The SOE/ASOE at each facilities that houses SFEA student-inmates will develop a “Sp. Ed. List” (SEL) to include all students with IEPs.
2. Upon documentation of a charge/disciplinary incident as defined in N.J.A.C. 10A:4-4.1 involving a student-inmate included on the SEL that occurs during the school day or during SFEA evening classes, the SOE/ASOE will notify Administration of the student-inmate’s SEL status through provision of the incident report.
3. The SOE/ASOE will notify the Administration whether or not the incident occurred during the school day or movement to and from the school. The school day shall be defined as 30 minutes before the first class period of the day through 30 minutes after the final class period of the day, as well as 30 minutes before through 30 minutes after any given period of evening classes.
4. If the incident involved an SEL student during the school day, the SOE/ASOE will submit the report to the SFEA Coordinator who will review the report and determine if a Manifestation Determination meeting is appropriate.
5. If a Manifestation Determination meeting is appropriate, the SFEA Coordinator will direct the SOE to ensure the meeting is held within 10 school days of the date of the incident report.
6. Members of the Manifestation Determination meeting include, but are not limited to, the SOE/ASOE, the School Psychologist, the Learning Disabilities Specialist, a special education teacher, the student-inmate if available, and the individual who generated the report if appropriate.
7. If the student-inmate is unable to attend the meeting, the case manager will ensure that an effort is made to obtain the student-inmate’s record and reasoning for the incident. These attempts can include, but are not limited to, face-to-face interview with the student-inmate, a telephone conference call, or a written statement from the student-inmate. The information gleaned from the student-inmate will be provided to the team leader of the Manifestation Determination meeting and incorporated into the decision-making process.
8. An impending Manifestation Determination hearing may not be cause for a “reasonable postponement” of a disciplinary hearing which must occur within seven calendar days of the alleged violation under N.J.A.C. 10A:4-9.8. If the disciplinary adjudication under the aforementioned statute occurs prior to the Manifestation Determination hearing, the sanction will be reviewed depending upon the results of the Manifestation Determination hearing.

Manifestation Determination hearing procedure:

A. Meeting attendees review student-inmate’s IEP and any other pertinent documentation to complete Manifestation Determination form. The SOE/ASOE or the student-inmate’s case manager will serve as the team leader and ensure the form is completed.
B. Based upon IEP review and completion of Manifestation Determination form, meeting attendees make a determination whether the problematic behavior resulting in disciplinary action is a manifestation of the student-inmate’s disability. The team leader will make the final determination.

i. If NO: Student-inmate’s re-evaluation schedule and IEP will remain in place.

ii. If YES: An IEP Re-evaluation meeting will be scheduled within the following 10 school days and a Functional Behavior Assessment (FBA) will be conducted to determine the need for a Behavior Intervention Plan (BIP) to be added to the student’s existing IEP. The student may only be sanctioned with placement in administrative segregation upon confirmation of a bona fide security risk and/or other compelling penological interest as determined by facility Administrator and/or designee (e.g., Courtline authority). The team leader will inform the Administrator and/or designee of this decision so that the Administrator and/or designee may make this determination. An adjudication of guilt for a violation of N.J.A.C. 10A:4-4.1 will not be sufficient, without more, for a finding of a bona fide security or other compelling penological interest. An individualized finding by the facility Administrator or their designee as to that interest will be required in each case.
### V. CROSS REFERENCE DOCUMENTS and POLICIES

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<thead>
<tr>
<th>Document/Policy Number</th>
<th>Title</th>
<th>Effective/Revision Date</th>
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<tbody>
<tr>
<td>SUP.003.000</td>
<td>Office of Educational Services: MGO</td>
<td>August 1, 2016 revised</td>
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### VI. APPLICABLE FORMS

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<tr>
<td></td>
<td>SFEA Behavioral Intervention Plan (BIP) Form</td>
<td>June 1, 2020</td>
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<tr>
<td></td>
<td>Functional Behavior Assessment (FBA) Form</td>
<td>June 1, 2020</td>
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