

**BARNSTEAD SCHOOL DISTRICT**  
**Special Education Procedures for Student Discipline**

A. Change of Placement

For purposes of removals of a child with a disability from the child's current educational placement under CFR Sections 300.520 to 300.529, a change of placement occurs if:

1. The removal is for more than ten (10) consecutive school days; or
2. The child is subjected to a series of removals that constitute a pattern because they cumulate to more than ten (10) school days in a school year, and because of factors such as the length of each removal, the total amount of time the child is removed, and the proximity of the removals to one another. 34 CFR §300.519.

B. Ramifications of "Change of Placement":

1. Certain actions hinge on whether or not disciplinary action constitutes a "change of placement."
2. A manifestation determination is required only when the contemplated disciplinary action amounts to a change of placement.
3. After the school has used up ten (10) days of discipline with the student, it can still impose further discipline even if the student is thereby removed from the current placement for a short period of time. No IEP meeting is required unless the action constitutes a "change of placement."

C. The District decides whether a pattern of removals constitutes a change of placement.

1. There is no hard and fast rule – determine on a case by case basis.
2. The District's decision is subject to review through due process and judicial proceedings.

D. The Ten Day Rule now has some flexibility.

1. Either before or not later than ten (10) business days after first removing the child for more than ten (10) school days in a school year, the District will need to convene an IEP team meeting.
  - a. If there is no functional behavior assessment or behavior intervention plan prior to the behavior resulting in the removal, the IEP team should develop an assessment plan.

- b. As soon as practicable after developing the plan and completing the assessments, the IEP team shall convene to develop appropriate behavioral interventions to address the behavior and shall implement those interventions. 34 CFR §300.520(b).
    - c. If the child already has a behavioral intervention plan, the IEP team shall meet to review the plan and its implementation, and modify the plan and its implementation as necessary to address the behavior. 34 CFR §300.520 (b)(1)(ii).
  2. Once the first ten (10) days of removal have been used, subsequent short term removals can be ordered by school personnel as long as they do not create a “pattern” that amounts to a change of placement. The Behavior Intervention Plan could provide some advance guidance on this issue. 34 CFR §300.520 (b)(1)(i).
  3. Err on the side of caution in determining what days to count.
    - a. An in-school suspension would not be counted as long as the child is afforded the opportunity to continue to appropriately progress in the general curriculum, continue to receive the services specified on his or her IEP and continue to participate with non-disabled children to the extent they would have in their current placement.
    - b. Portions of a school day that a child has been suspended would be included in determining whether the child had been removed for more than ten (10) cumulative days or subjected to a change of placement.
    - c. Suspension from bus transportation may count as a day of suspension.
      1. If the transportation is part of the child’s IEP, a bus suspension would be treated as a suspension and would count toward the ten (10) days of removal unless the District provides the bus service in some other way.
      2. If the transportation is not part of the child’s IEP, a bus suspension would not count as a suspension. The child and his or her parents would have the same obligations to get to and from school as a non-disabled child who had been suspended from the bus.
  4. Administrators can implement short term removals even after the first ten (10) days of disciplinary removal as long as the removal does not constitute a “change of placement.”
    - a. IEP team members (including the parent) shall review an existing BIP and its implementation to determine if modifications are necessary.
    - b. If a team member believes that modifications are needed, the IEP team shall meet to discuss modifications to the plan. 34 CFR §300.510(c).

E. Release of records to law enforcement.

When Districts report possible crimes by students with disabilities to law enforcement, the District must ensure that copies of special education and disciplinary records are transmitted for consideration by the appropriate authorities to whom it reports the crime. 20 USCS §1415(k)(9). However, the regulations state the records may only be released to the extent permitted by the Family Educational Rights and Privacy Act. (FERPA) 34 CFR §300.529(B)(2). District must first obtain parental consent prior to the release of records.

(1<sup>st</sup> Reading: 07/20/99)

(Adoption: 08/12/99)