

Change of Placement for Disciplinary Reasons (But Not For Weapons or Drugs or Dangerous Behavior)

What is “placement”? If your child is receiving special education or related services under IDEA, your child’s placement is the educational setting that the IEP team determined is best for your child, and which is reflected in your child’s written IEP. Placement does not mean the room your child is in, but the program and services most appropriate for your child, as per the IEP.

What is a “change of placement”? A change of placement occurs if:

1. The school removes your child from his educational placement for more than 10 consecutive school days; or
2. The school removes your child from his educational placement on several occasions that add up to more than 10 school days that constitute a pattern of exclusion from school.

What is “removal” from placement? Removal is taking the child out of his educational placement. It includes things such as sending the child to the principal’s office, sending the child to the hall, sending the child home, in-school suspension, suspending or expelling the child, **suspending the child from the bus**, etc. Remember, if it is written in the IEP, it is not a change of placement. For example, if it is written in the IEP that your child can be sent into the hall for disciplinary purposes, then that is not a change of placement.

What is a “pattern”? A pattern is a series of removals from the educational placement that are related because of factors such as the length of each removal, the total amount of time the child is removed, how close the removals are to one another, or the reason for the removal.

What are some examples of “change of placement”? If the school is proposing to expel your child, or to suspend your child for 11 days, that constitutes a change in placement. Also, if your child has been suspended or sent home for 10 days in the past few months for the same behavior and the school proposes to send your child home again for similar behavior, that would be a change of placement because the removals would constitute a “pattern.”

What rights does my child have if the school proposes to change my child’s placement?

Before the school can change your child’s placement, the IEP team must first hold a manifestation determination review. The general purpose of the manifestation determination review is for the IEP team to determine whether the behavior for which your child is being disciplined is directly related to his disability **or if the school failed to implement the student’s IEP. If it is related or if they did fail to implement, then the school cannot proceed with the proposed change of placement.**

What services, if any, must the school provide my child during the change of placement?

The school can remove your child from his educational placement for up to 10 days without having to hold a manifestation determination review. During these first 10 days, the school does not have to provide your child with regular education or special education and related services, unless it would provide those services to a non-disabled child in the same situation. However, once the school has changed your child’s placement, the school must provide your child with services necessary to enable your child to appropriately progress in the general curriculum and advance towards goals set out in the IEP. **Your child must also be provided with a behavior plan to address the problems that got him in trouble at school so that it doesn’t happen again.** If the school has not done a functional behavioral assessment and developed a behavior intervention plan, the IEP team must do these things. If these

things have already been done, the school must modify them if necessary.

For additional information call:

Disability Rights New Mexico DRNM (Formerly P&A)

(505) 256-3100 or (800) 432-4682

Parents Reaching Out (PRO)

(505) 247-0192 or (800) 524-5176

New Mexico Family Network (Formerly PBDC)

(505) 265-0432 or (800) 273-7232

Educating Parents of Indian Children with Special Needs

(505) 867-3396

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