

281—41.518(256B,34CFR300) Child's status during proceedings.

41.518(1) General. Except as provided in rule 281—41.533(256B,34CFR300), during the pendency of any administrative or judicial proceeding regarding a due process complaint notice requesting a due process hearing under rule 281—41.507(256B,34CFR300), unless the state or local agency and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her current educational placement.

41.518(2) Initial admission to public school. If the complaint involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public school until the completion of all the proceedings.

41.518(3) Transition from Part C to Part B. If the complaint involves an application for initial services under this chapter from a child who is transitioning from Part C of the Act to Part B and is no longer eligible for Part C services because the child has reached the age of three, the public agency is not required to provide the Part C services that the child had been receiving. If the child is found eligible for special education and related services under Part B and the parent consents to the initial provision of special education and related services under subrule 41.300(2), then the public agency must provide those special education and related services that are not in dispute between the parent and the public agency.

41.518(4) Administrative law judge decision. If the administrative law judge in a due process hearing conducted by the SEA agrees with the child's parents that a change of placement is appropriate, that placement must be treated as an agreement between the state and the parents for purposes of subrule 41.518(1).

41.518(5) Mediation requested prior to the filing of a due process complaint. Except as provided in rule 281—41.533(256B,34CFR300), during the pendency of any request for mediation filed prior to or in lieu of a due process complaint under rule 281—41.506(256B,34CFR300) and for ten days after any such mediation conference at which no agreement is reached, unless the state or local agency and the parents of the child agree otherwise, the child involved in any such mediation conference must remain in his or her current educational placement.

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