

**281—41.536(256B,34CFR300) Change of placement because of disciplinary removals.**

**41.536(1) General.** For purposes of removals of a child with a disability from the child's current educational placement under rules 281—41.530(256B,34CFR300) to 281—41.535(256B,34CFR300), a change of placement occurs under the following circumstances:

*a.* The removal is for more than ten consecutive school days; or  
*b.* The child has been subjected to a series of removals that constitute a pattern based on the following:

- (1) The series of removals total more than ten school days in a school year;
- (2) The child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and
- (3) Additional factors, such as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

**41.536(2) Rules of construction.**

*a.* The public agency determines on a case-by-case basis whether a pattern of removals constitutes a change of placement.

*b.* This determination is subject to review through due process and judicial proceedings.

*c.* Nothing in this rule shall be construed to prohibit LEAs from establishing policies that a change of placement occurs on the eleventh cumulative day of removal, regardless of the factors set forth in paragraph 41.536(1)“*b.*”

**41.536(3) In-school suspensions and other actions.** In determining whether an in-school suspension or other disciplinary action is to be considered a removal for purposes of this rule, an in-school suspension or other disciplinary action will not be considered a removal if all three of the following questions are answered in the affirmative:

- a.* Will the child be able to appropriately participate in the general education curriculum?
- b.* Will the child be able to receive the services specified in the child's IEP?
- c.* Will the child be able to participate with children without disabilities to the extent provided in the child's current placement?

[ARC 7792C, IAB 4/17/24, effective 5/22/24]