



**Council for
Exceptional
Children**

**Council for Exceptional Children's
Initial Summary of Selected Provisions from
Part B Proposed Regulations for the
Individuals With Disabilities Education Act**

Discipline Provisions

June 12, 2005

Discipline Provisions

Note: Bold text in left column indicates language not specifically included in IDEA 2004

NPRM Language	Current Regulation	Comments
<p>§300.530 Authority of school personnel. (a) Case-by-case determination. School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the requirements of this section, is appropriate for a child with a disability who violates a code of student conduct.</p>		<p>In general, statutory language was incorporated into regulations.</p>
<p>§300.530 Authority of school personnel. (b) General. (1) School personnel under this section may remove a child with a disability who violates a code of student conduct from their current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under §300.536). (2) After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, during any subsequent days of removal the public agency must provide services to the extent required under paragraph (d) of this section.</p>	<p>300.520 Authority of school personnel (a) School personnel may order— (1) (i) To the extent removal would be applied to children without disabilities, the removal of a child with a disability from the child’s current placement for not more than 10 consecutive school days for any violation of school rules, and additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under §300.519(b)); (ii) After a child with a disability has been removed from his or her current placement for more than 10 school days in the same school year, during any subsequent days of removal the public agency must provide services to the extent required under §300.121(d); and</p>	<p>Note: All NPRM language is not in the statute, although it is included generally in current regulations.</p>

NPRM Language	Current Regulation	Comments
<p>§300.530 Authority of School Personnel (c) Additional authority. For disciplinary changes in placement that would exceed 10 consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child’s disability pursuant to paragraph (e) of this section, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities, except as provided in paragraph (d) of this section.</p>	<p>§300.524 Determination that behavior was not manifestation of disability (a) General. If the result of the review described in §300.523 is a determination, consistent with §300.523(d), that the behavior of the child with a disability was not a manifestation of the child's disability, the relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner in which they would be applied to children without disabilities, except as provided in §300.121(d). (b) Additional requirement. If the public agency initiates disciplinary procedures applicable to all children, the agency shall ensure that the special education and disciplinary records of the child with a disability are transmitted for consideration by the person or persons making the final determination regarding the disciplinary action.</p>	<p>In general, statutory language was incorporated into regulations.</p>
<p>§300.530 Authority of school personnel. (d) Services. (1) Except as provided in paragraphs (d)(3) and (d)(4) of this section, a child with a disability who is removed from the child’s current placement pursuant to paragraphs (b), (c), or (g) of this section must- (i) Continue to receive educational services [as provided in §612(a)(1) FAPE]¹, so as to enable the child to continue to participate in the general education curriculum, although in</p>	<p>§300.522 Determination of setting (b) Additional requirements. Any interim alternative educational setting in which a child is placed under §§300.520(a)(2) or 300.521 must— (1) Be selected so as to enable the child to continue to progress in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in</p>	<p>Note: All NPRM language is not in the statute, although it is included generally in current regulations.</p>

¹ * Language in the statute not incorporated into the NPRM.

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<p>another setting, and to progress toward meeting the goals set out in the child's IEP; and</p> <p>(ii) Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.</p> <p>(2) The services required by paragraph (d)(1) of this section may be provided in an interim alternative educational setting.</p> <p>(3) A public agency need not provide services during periods of removal under paragraph (b) of this section to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if services are not provided to a child without disabilities who has been similarly removed.</p> <p>(4) After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, if the current removal is for not more than 10 consecutive school days and is not a change of placement under §300.536, school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed under paragraph (d)(1) of this section, if any, and the location in which services, if any, will be provided.</p> <p>(5) If the removal is for more than 10 consecutive school days or is a change of placement under §300.536, the child's IEP Team determines appropriate services under paragraph (d)(1) of this section and</p>	<p>the child's current IEP, that will enable the child to meet the goals set out in that IEP; and</p> <p>(2) Include services and modifications to address the behavior described in §§300.520(a)(2) or 300.521, that are designed to prevent the behavior from recurring.</p>	

NPRM Language	Current Regulation	Comments
<p>the location in which services will be provided.</p>		
<p>300.530 Authority of School Personnel (e) Manifestation determination. (1) Except for removals that will be for not more than 10 consecutive school days and will not constitute a change of placement under §300.536, within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the child's IEP Team (as determined by the parent and the LEA) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine-- (i) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or (ii) If the conduct in question was the direct result of the LEA's failure to implement the IEP. (2) The conduct must be determined to be a manifestation of the child's disability if the LEA, the parent, and relevant members of the child's IEP Team determine that a condition in either paragraph (e)(1)(i) or (1)(ii) of this section was met.</p>	<p>§300.523 Manifestation determination review (a) General. If an action is contemplated regarding behavior described in §§300.520(a)(2) or 300.521, or involving a removal that constitutes a change of placement under §300.519 for a child with a disability who has engaged in other behavior that violated any rule or code of conduct of the LEA that applies to all children— (2) Immediately, if possible, but in no case later than 10 school days after the date on which the decision to take that action is made, a review must be conducted of the relationship between the child's disability and the behavior subject to the disciplinary action. (b) Individuals to carry out review. A review described in paragraph (a) of this section must be conducted by the IEP team and other qualified personnel in a meeting. (c) Conduct of review. In carrying out a review described in paragraph (a) of this section, the IEP team and other qualified personnel may determine that the behavior of the child was not a manifestation of the child's disability only if the IEP team and other qualified personnel - (1) First consider, in terms of the behavior subject to disciplinary action, all relevant information, including - (i) Evaluation and diagnostic results, including the results or other relevant information supplied by the parents of the</p>	<p>In general, statutory language was incorporated into regulations.</p>

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	<p>child;</p> <p>(ii) Observations of the child; and</p> <p>(iii) The child's IEP and placement; and</p> <p>(2) Then determine that -</p> <p>(i) In relationship to the behavior subject to disciplinary action, the child's IEP and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the child's IEP and placement;</p> <p>(ii) The child's disability did not impair the ability of the child to understand the impact and consequences of the behavior subject to disciplinary action; and</p> <p>(iii) The child's disability did not impair the ability of the child to control the behavior subject to disciplinary action.</p> <p>(d) Decision. If the IEP team and other qualified personnel determine that any of the standards in paragraph (c)(2) of this section were not met, the behavior must be considered a manifestation of the child's disability.</p> <p>(e) Meeting. The review described in paragraph (a) of this section may be conducted at the same IEP meeting that is convened under §300.520(b).</p> <p>(f) Deficiencies in IEP or placement. If, in the review in paragraphs (b) and (c) of this section, a public agency identifies deficiencies in the child's IEP or placement or in their implementation, it must take immediate steps to remedy those deficiencies.</p>	
300.530 Authority of School Personnel	300.520 Authority of school personnel	In general, statutory language was incorporated

NPRM Language	Current Regulation	Comments
<p>(f) Determination that behavior was a manifestation. If the LEA, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child’s disability, the IEP Team must--</p> <p>(1) Either—</p> <p>(i) Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or</p> <p>(ii) If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and</p> <p>(2) Except as provided in paragraph (g) of this section, return the child to the placement from which the child was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan.</p>	<p>(b) (1) Either before or not later than 10 business days after either first removing the child for more than 10 school days in a school year or commencing a removal that constitutes a change of placement under §300.519, including the action described in paragraph (a)(2) of this section—</p> <p>(i) If the LEA did not conduct a functional behavioral assessment and implement a behavioral intervention plan for the child before the behavior that resulted in the removal described in paragraph (a) of this section, the agency shall convene an IEP meeting to develop an assessment plan.</p> <p>(ii) 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.</p> <p>(2) As soon as practicable after developing the plan described in paragraph (b)(1)(i) of this section, and completing the assessments required by the plan, the LEA shall convene an IEP meeting to develop appropriate behavioral interventions to address that behavior and shall implement those interventions.</p> <p>(c) (1) If subsequently, a child with a disability who has a behavioral intervention plan and who has been removed from the child’s current educational placement for more than 10 school days in a school year is subjected to a removal that does not constitute a change of placement under §300.519, the IEP team members shall review the</p>	<p>into regulations.</p>

NPRM Language	Current Regulation	Comments
	<p>behavioral intervention plan and its implementation to determine if modifications are necessary.</p> <p>(2) If one or more of the team members believe that modifications are needed, the team shall meet to modify the plan and its implementation, to the extent the team determines necessary</p>	
<p>300.530 Authority of School Personnel (g) Special circumstances. School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child--</p> <p>(1) Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of an SEA or an LEA;</p> <p>(2) Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA; or</p> <p>(3) Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA.</p>	<p>300.520(a) Authority of school personnel (2) A change in placement of a child with a disability to an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, but for not more than 45 days, if -</p> <p>(i) The child carries a weapon to school or to a school function under the jurisdiction of a State or a local educational agency; or</p> <p>(ii) The child knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function under the jurisdiction of a State or local educational agency.</p>	<p>In general, statutory language was incorporated into regulations.</p>
<p>300.530 Authority of School Personnel (h) Notification. Not later than the date on which the decision to take disciplinary action is made, the LEA must notify the parents of that decision, and provide the parents the procedural safeguards notice described in §300.504.</p>	<p>300.523 Manifestation determination review (a) General. If an action is contemplated regarding behavior described in §§300.520(a)(2) or 300.521, or involving a removal that constitutes a change of placement under §300.519 for a child with a disability who has engaged in other behavior</p>	<p>In general, statutory language was incorporated into regulations.</p>

NPRM Language	Current Regulation	Comments
	<p>that violated any rule or code of conduct of the LEA that applies to all children—</p> <p>(1) Not later than the date on which the decision to take that action is made, the parents must be notified of that decision and provided the procedural safeguards notice described in §300.504; and</p>	
<p>300.530 Authority of School Personnel</p> <p>(i) Definitions. For purposes of this section, the following definitions apply:</p> <p>(1) Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).</p> <p>(2) Illegal drug means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.</p> <p>(3) Serious bodily injury has the meaning given the term "serious bodily injury" under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.</p> <p>(4) Weapon has the meaning given the term "dangerous weapon" under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.</p> <p>(Authority: 20 U.S.C. 1415(k)(1) and (7))</p>	<p>300.520(d) Authority of school personnel</p> <p>For purposes of this section, the following definitions apply:</p> <p>(1) Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).</p> <p>(2) Illegal drug—</p> <p>(i) Means a controlled substance; but</p> <p>(ii) Does not include a substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.</p> <p>(3) Weapon has the meaning given the term "dangerous weapon" under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.</p>	<p>In general, statutory language was incorporated into regulations.</p> <p>The definition of this term was included in the introductory information in the NPRM: "The Act uses the definition of "serious bodily injury" from section 1365 of title 18, United States Code (i.e., "bodily injury which involves – (A) a substantial risk of death; (B) extreme physical pain; (C) protracted or obvious disfigurement; or (D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty")".</p>
<p>§300.531 Determination of setting.</p> <p>The interim alternative educational setting referred to in §300.530(c) and (g) is determined by the IEP Team.</p>	<p>§300.522 Determination of setting.</p> <p>(a) General. The interim alternative educational setting referred to in §300.520(a)(2) must be determined by the</p>	<p>In general, statutory language was incorporated into regulations.</p>

NPRM Language	Current Regulation	Comments
<p>§300.532 Appeal.</p> <p>(a) General. The parent of a child with a disability who disagrees with any decision regarding placement under §§300.530 and 300.531, or the manifestation determination under §300.530(e), or an LEA that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others, may request a hearing.</p>	<p>IEP team.</p> <p>§300.525 Parent Appeal</p> <p>(a) General.</p> <p>(1) If the child's parent disagrees with a determination that the child's behavior was not a manifestation of the child's disability or with any decision regarding placement under §§300.520-300.528, the parent may request a hearing.</p> <p>(2) The State or local educational agency shall arrange for an expedited hearing in any case described in paragraph (a)(1) of this section if a hearing is requested by a parent.</p> <p>(b) Review of decision.</p> <p>(1) In reviewing a decision with respect to the manifestation determination, the hearing officer shall determine whether the public agency has demonstrated that the child's behavior was not a manifestation of the child's disability consistent with the requirements of §300.523(d).</p> <p>(2) In reviewing a decision under §300.520(a)(2) to place the child in an interim alternative educational setting, the hearing officer shall apply the standards in §300.521.</p> <p>300.524 Child's status during due process proceedings</p> <p>(c) Child's status during due process proceedings. Except as provided in §300.526, §300.514 applies if a parent requests a hearing to challenge a determination, made through the review described in §300.523, that the behavior of the child was not a manifestation of the child's disability.</p>	<p>In general, statutory language was incorporated into regulations.</p>

NPRM Language	Current Regulation	Comments
<p>§300.532 Appeal (b) Authority of hearing officer. (1) A hearing officer under §300.511 hears, and makes a determination regarding, an appeal requested under paragraph (a) of this section. (2) In making the determination under paragraph (b)(1) of this section, the hearing officer may-- (i) Return the child with a disability to the placement from which the child was removed if the hearing officer determines that the removal was a violation of §300.530 or that the child's behavior was a manifestation of the child's disability; or (ii) Order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others. (3) The procedures under paragraphs (a) and (b)(1) and (2) of this section may be repeated, if the LEA believes the child would be dangerous if returned to the original placement.</p>	<p>§300.521 Authority of hearing officer. A hearing officer under section 615 of the Act may order a change in the placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 days if the hearing officer, in an expedited due process hearing - (a) Determines that the public agency has demonstrated by substantial evidence that maintaining the current placement of the child is substantially likely to result in injury to the child or to others; (b) Considers the appropriateness of the child's current placement; (c) Considers whether the public agency has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services; and (d) Determines that the interim alternative educational setting that is proposed by school personnel who have consulted with the child's special education teacher, meets the requirements of §300.522(b). (e) As used in this section, the term substantial evidence means beyond a preponderance of the evidence.</p>	<p>In general, statutory language was incorporated into regulations.</p>
<p>§300.532 Appeal (c) Expedited hearing. (1) Whenever a hearing is requested under paragraph (a) of this section, the parents or the LEA involved in the dispute must have an opportunity for an impartial due process hearing consistent with the requirements of §§300.510 through 300.514, except as provided in paragraph</p>	<p>§300.528 Expedited due process hearings (a) Expedited due process hearings under §§300.521-300.526 must— (1) Meet the requirements of §300.509, except that a State may provide that the time periods identified in §§300.509(a)(3) and §300.509(b) for purposes of expedited due process hearings under §§300.521-300.526</p>	<p>Note: All NPRM language is not in the statute.</p>

NPRM Language	Current Regulation	Comments
<p>(c)(2) through (5) of this section. (2) The SEA or LEA must arrange for an expedited hearing, which must occur within 20 school days of the date the hearing is requested and must result in a determination within 10 school days after the hearing. (3) Except as provided in §300.510(a)(3)— (i) A resolution session meeting must occur within seven days of the date the hearing is requested, and (ii) The hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of receipt of the hearing request. (4) For an expedited hearing, a State may provide that the time periods identified in §300.512(a)(3) and (b) are not less than two business days. (5) A State may establish different procedural rules for expedited hearings under this section than it has established for due process hearings under §§300.511 through 300.513. (6) The decisions on expedited due process hearings are appealable consistent with §300.514.</p>	<p>are not less than two business days; and (2) Be conducted by a due process hearing officer who satisfies the requirements of §300.508. (b) (1) Each State shall establish a timeline for expedited due process hearings that results in a written decision being mailed to the parties within 45 days of the public agency’s receipt of the request for the hearing, without exceptions or extensions. (2) The timeline established under paragraph (b)(1) of this section must be the same for hearings requested by parents or public agencies. (c) A State may establish different procedural rules for expedited hearings under §§300.521-300.526 than it has established for due process hearings under §300.507. (d) The decisions on expedited due process hearings are appealable consistent with §300.510. 300.526 Placement during appeals. (c) Expedited hearing. (1) If school personnel maintain that it is dangerous for the child to be in the current placement (placement prior to removal to the interim alternative education setting) during the pendency of the due process proceedings, the LEA may request an expedited due process hearing. (2) In determining whether the child may be placed in the alternative educational setting or in another appropriate placement ordered by the hearing officer, the hearing officer shall apply the standards in §300.521.</p>	<p>NPRM language here is not addressed in the disciplinary section of the statute.</p>

NPRM Language	Current Regulation	Comments
	<p>(3) A placement ordered pursuant to paragraph (c)(2) of this section may not be longer than 45 days.</p> <p>(4) The procedure in paragraph (c) of this section may be repeated, as necessary.</p>	
<p>§300.533 Placement during appeals. When an appeal under §300.532 has been requested by either the parent or the LEA, the child must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in §300.530(c) or (g), whichever occurs first, unless the parent and the SEA or LEA agree otherwise.</p>	<p>§300.526 Placement during appeals</p> <p>(a) General. If a parent requests a hearing or an appeal regarding a disciplinary action described in §300.520(a)(2) or 300.521 to challenge the interim alternative educational setting or the manifestation determination, the child must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in §300.520(a)(2) or 300.521, whichever occurs first, unless the parent and the State agency or local educational agency agree otherwise.</p> <p>(b) Current placement. If a child is placed in an interim alternative educational setting pursuant to §300.520(a)(2) or 300.521 and school personnel propose to change the child's placement after expiration of the interim alternative placement, during the pendency of any proceeding to challenge the proposed change in placement the child must remain in the current placement (the child's placement prior to the interim alternative educational setting), except as provided in paragraph (c) of this section.</p>	<p>In general, statutory language was incorporated into regulations.</p>
<p>§300.534 Protections for children not yet eligible for special education and related services.</p> <p>(a) General. A child who has not been determined to be eligible for special education</p>	<p>§300.527 Protections for children not yet eligible for special education and related services</p> <p>(a) General. A child who has not been determined to be eligible for special education</p>	<p>In general, statutory language was incorporated into regulations.</p>

NPRM Language	Current Regulation	Comments
<p>and related services under this part and who has engaged in behavior that violated a code of student conduct, may assert any of the protections provided for in this part if the LEA had knowledge (as determined in accordance with paragraph (b) of this section) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.</p>	<p>and related services under this part and who has engaged in behavior that violated any rule or code of conduct of the local educational agency, including any behavior described in §§300.520 or 300.521, may assert any of the protections provided for in this part if the LEA had knowledge (as determined in accordance with paragraph (b) of this section) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.</p>	
<p>(b) Basis of knowledge. An LEA must be deemed to have knowledge that a child is a child with a disability if before the behavior that precipitated the disciplinary action occurred--</p> <p>(1) The parent of the child expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child, that the child is in need of special education and related services;</p> <p>(2) The parent of the child requested an evaluation of the child pursuant to §§300.300 through 300.311; or</p> <p>(3) The teacher of the child, or other personnel of the LEA, expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education of the agency or to other supervisory personnel of the agency in accordance with the agency's established child find or special education referral system.</p>	<p>(b) Basis of knowledge. An LEA must be deemed to have knowledge that a child is a child with a disability if -</p> <p>(1) The parent of the child has expressed concern in writing (or orally if the parent does not know how to write or has a disability that prevents a written statement) to personnel of the appropriate educational agency that the child is in need of special education and related services;</p> <p>(2) The behavior or performance of the child demonstrates the need for these services, in accordance with §300.7;</p> <p>(3) The parent of the child has requested an evaluation of the child pursuant to §§300.530-300.536; or</p> <p>(4) The teacher of the child, or other personnel of the local educational agency, has expressed concern about the behavior or performance of the child to the director of special education of the agency or to other personnel in accordance with the agency's established child find or special education referral system.</p>	<p>In general, statutory language was incorporated into regulations.</p>

NPRM Language	Current Regulation	Comments
<p>(c) Exception. A public agency would not be deemed to have knowledge under paragraph (b) of this section if--</p> <p>(1) The parent of the child--</p> <p>(i) Has not allowed an evaluation of the child pursuant to §§300.300 through 300.311; or</p> <p>(ii) Has refused services under this part; or</p> <p>(2) The child has been evaluated and determined to not be a child with a disability under this part.</p>	<p>(c) Exception. A public agency would not be deemed to have knowledge under paragraph (b) of this section if, as a result of receiving the information specified in that paragraph, the agency—</p> <p>(1) Either—</p> <p>(i) Conducted an evaluation under §§300.530-300.536, and determined that the child was not a child with a disability under this part; or</p> <p>(ii) Determined that an evaluation was not necessary; and</p> <p>(2) Provided notice to the child's parents of its determination under paragraph (c)(1) of this section, consistent with §300.503.</p>	<p>In general, statutory language was incorporated into regulations.</p>
<p>(d) Conditions that apply if no basis of knowledge. (1) If an LEA does not have knowledge that a child is a child with a disability (in accordance with paragraphs (b) and (c) of this section) prior to taking disciplinary measures against the child, the child may be subjected to the disciplinary measures applied to children without disabilities who engaged in comparable behaviors consistent with paragraph (d)(2) of this section.</p> <p>(2)(i) If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under §300.530, the evaluation must be conducted in an expedited manner.</p> <p>(ii) Until the evaluation is completed, the child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.</p>	<p>(d) Conditions that apply if no basis of knowledge.</p> <p>(1) General. If an LEA does not have knowledge that a child is a child with a disability (in accordance with paragraphs (b) and (c) of this section) prior to taking disciplinary measures against the child, the child may be subjected to the same disciplinary measures as measures applied to children without disabilities who engaged in comparable behaviors consistent with paragraph (d)(2) of this section.</p> <p>(2) Limitations.</p> <p>(i) If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under §300.520 or 300.521, the evaluation must be conducted in an expedited manner.</p> <p>(ii) Until the evaluation is completed, the child remains in the educational placement determined by school authorities, which can</p>	<p>In general, statutory language was incorporated into regulations.</p>

NPRM Language	Current Regulation	Comments
<p>(iii) If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the agency must provide special education and related services in accordance with this part, including the requirements of §§300.530 through 300.536 and section 612(a)(1)(A) of the Act. (Authority: 20 U.S.C. 1415(k)(5))</p>	<p>include suspension or expulsion without educational services. (iii) If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the agency shall provide special education and related services in accordance with the provisions of this part, including the requirements of §§300.520-300.529 and section 612(a)(1)(A) of the Act</p>	
<p>§300.535 Referral to and action by law enforcement and judicial authorities. (a) Rule of construction. Nothing in this part prohibits an agency from reporting a crime committed by a child with a disability to appropriate authorities or prevents State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability. (b) Transmittal of records. (1) An agency reporting a crime committed by a child with a disability must ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime. (2) An agency reporting a crime under this section may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.</p>	<p>300.529 Referral to and action by law enforcement and judicial authorities (a) Nothing in this part prohibits an agency from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability. (b) (1) An agency reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom it reports the crime. (2) An agency reporting a crime under this section may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.</p>	<p>In general, statutory language was incorporated into regulations.</p>
<p>§300.536 Change of placement because of</p>	<p>303.519 Change in placement for</p>	<p>Note: NPRM language is not in the statute</p>

NPRM Language	Current Regulation	Comments
<p>disciplinary removals. For purposes of removals of a child with a disability from the child's current educational placement under §§300.530 through 300.535, a change of placement occurs if-- (a) The removal is for more than 10 consecutive school days; or (b) The child has been subjected to a series of removals that constitute a pattern-- (1) Because the series of removals total more than 10 school days in a school year; (2) Because the child's behavior is substantially similar to the child's behavior in the incidents that resulted in the series of removals, taken cumulatively, is determined, under §300.530(f), to have been a manifestation of the child's disability; and (3) Because of such additional factors 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. (Authority: 20 U.S.C. 1415(k))</p>	<p>disciplinary removals. For purposes of removals of a child with a disability from the child's current educational placement under §§300.520-300.529, a change of placement occurs if— (a) The removal is for more than 10 consecutive school days; or (b) The child is subjected to a series of removals that constitute a pattern because they cumulate to more than 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.</p>	<p>although it is included generally in current regulations.</p>