

§ 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.

(Authority: 20 U.S.C. 1415(k)(6))

§ 300.536 Change of placement because of disciplinary removals.

(a) 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—

(1) The removal is for more than 10 consecutive school days; or

(2) The child has been subjected to a series of removals that constitute a pattern—

(i) Because the series of removals total more than 10 school days in a school year;

(ii) Because the child’s behavior is substantially similar to the child’s behavior in previous incidents that resulted in the series of removals; and

(iii) 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.

(b)(1) The public agency determines on a case-by-case basis whether a pattern of removals constitutes a change of placement.

(2) This determination is subject to review through due process and judicial proceedings.

(Authority: 20 U.S.C. 1415(k))

§ 300.537 State enforcement mechanisms.

Notwithstanding §§ 300.506(b)(7) and 300.510(d)(2), which provide for judicial enforcement of a written agreement reached as a result of mediation or a resolution meeting, there is nothing in this part that would prevent the SEA from using other mechanisms to seek enforcement of that agreement, provided that use of those mechanisms is not mandatory and does not delay or deny a party the right to seek enforcement of the written agreement in a State court of competent jurisdiction or in a district court of the United States.

(Authority: 20 U.S.C. 1415(e)(2)(F), 1415(f)(1)(B))

§§ 300.538–300.599 [Reserved]

Subpart F—Monitoring, Enforcement, Confidentiality, and Program Information

MONITORING, TECHNICAL ASSISTANCE, AND ENFORCEMENT

§ 300.600 State monitoring and enforcement.

(a) The State must—

(1) Monitor the implementation of this part;

(2) Make determinations annually about the performance of each LEA using the categories in § 300.603(b)(1);

(3) Enforce this part, consistent with § 300.604, using appropriate enforcement mechanisms, which must include, if applicable, the enforcement mechanisms identified in § 300.604(a)(1) (technical assistance), (a)(3) (conditions on funding of an LEA), (b)(2)(i) (a corrective action plan or improvement plan), (b)(2)(v) (withholding funds, in whole or in part, by the SEA), and (c)(2) (withholding funds, in whole or in part, by the SEA); and

(4) Report annually on the performance of the State and of each LEA under this part, as provided in § 300.602(b)(1)(i)(A) and (b)(2).