

Key points:

- Educate staff on difference between placement, location
- Consider whether specific environment essential for FAPE
- Use unambiguous terminology when writing accommodations

Distinguish between placement, location to avoid OCR investigation

Changing the location in which educational services are provided will not necessarily amount to a significant change in placement.

It didn't in *Oneida (NY) City School District*, 54 IDELR 173 (OCR 2009). Here, the district arranged for a student with cystic fibrosis to receive five hours of home instruction on a temporary basis. The parent asked the district to continue the services during the next school year. The district agreed but said it would provide the services only on the school campus.

The parent alleged that providing tutoring services at school rather than at home constituted a significant change in placement, requiring the district to convene a Section 504 meeting. OCR disagreed, noting that the district provided the same amount of services and used the same tutors, curriculum and teaching methods.

A clear explanation of the difference between placement and location may have prevented this parent from filing a complaint with OCR. As such, educate staff and parents about what may constitute a significant change in placement under Section 504.

“To a parent who is getting services at home, where she has some control over the situation and can monitor her child’s health, providing the services at a different site would seem significant,” said Linda Yoder, a school attorney with Shipman & Goodwin LLP in Hartford, Conn. “But legally, it is the program, not the location of the program, that matters.”

Special Ed Connection® related story:

- Minimize misunderstandings concerning placement, location (July 9)

Melissa Greenwood covers Section 504 issues for LRP Publications.

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Minimize misunderstandings concerning placement, location

Districts need not convene a 504 meeting before changing the location in which a student receives Section 504 accommodations so long as the services remain the same. See, for example, *Oneida (NY) City School District*, 54 IDELR 173 (OCR 2009).

Even so, sources strongly recommend holding a meeting or at least discussing the change with parents ahead of time. This step could help fend off an OCR complaint.

Consider these additional tips:

- **Discuss whether a specific location is essential for FAPE**, advised Linda Yoder, a school attorney with Shipman & Goodwin LLP in Hartford, Conn. For example, a student with allergies may require placement in

an allergen-free environment. In this case, moving the student to another setting would constitute a significant change in placement because it would alter the nature of the accommodations. Where a change in location would impact a student's access to education, it is essential that teams discuss and include in writing a description of the kind of setting in which the student must receive instruction, Yoder explained.

- **Use unambiguous terminology.** Some districts use the term “homebound instruction” to represent a range of services, including the provision of tutoring services at a local library, Yoder noted. “If a team is talking about tutoring services, then the plan should say one-to-one tutoring,” she said. This will help you avoid sending parents the message that the services will always be provided in the home, which was at the center of the argument in the *Oneida* case. If it doesn't matter where the service is provided, she said, then simply list the service in the student's plan so you don't mislead parents.

- **Convene a 504 meeting as a best practice.** “Changing the location of homebound instruction from home to school does not constitute a change of placement for a Section 504 student,” said Ann Conkling, Section 504 and special education coordinator for the Spring Branch Independent School District in Houston. However, she noted, “it would be our expectation that such a decision be made in a Section 504 meeting.” This way, she said, the team can review relevant data and medical documentation that can help determine if it is safe for a student with a particular health condition, such as cystic fibrosis, to receive instruction in the school setting.

- **Know how to handle changes in teacher assignments.** Parents frequently argue that a principal's decision to move their child from one teacher's classroom to another is a change in placement, requiring parental permission, Yoder said. However, so long as the services remain the same, the school does not have to obtain permission to move a child from one class to another. Even so, school staff members should discuss such decisions with parents beforehand to help maintain a solid district-parent relationship, she emphasized.

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