Guidance on Restart and Individuals with Disabilities Education Act (IDEA) Timelines

During March 2020, the Georgia Department of Education (GaDOE) issued clarification on IDEA Timelines in light of the COVID-19 global pandemic and its impact on school closures. **GaDOE clarification on IDEA Timelines has been updated** based on available guidance from the United States Department of Education (USED) and the Georgia Department of Education’s (GaDOE) best interpretation, working along with national technical assistance centers.

**State Complaints**
**Due Process Hearings**
**Individualized Education Programs**
**Initial Evaluations**
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State Complaints

- Local Educational Agencies (LEAs) and parents may mutually agree to an extension of the 60-day timeline for complaint resolution to engage in mediation. **Links:** [34 C.F.R. § 300.152(b)(ii); Ga. Bd. of Educ. R. 160-4-7-.12(1)(12)](https://example.com)

- LEAs and parents may also mutually agree to an extension of the 60-day timeline for complaint resolution due to the COVID-19 pandemic. **Link:** [Supplemental Fact Sheet Addressing the Risk of COVID-19 in Preschool, Elementary and Secondary Schools While Serving Children with Disabilities, U.S. Dep’ of Educ., March 21, 2020](https://example.com)

- The State Educational Agency (SEA) may extend the 60-day timeline for complaint resolution if exceptional circumstances exist with respect to a particular complaint. **Link:** [34 C.F.R. § 300.152(b)(1)](https://example.com)

In light of the COVID-19 global pandemic, exceptional circumstances may exist with respect to a particular complaint to warrant the SEA’s extension for the 60-day timeline. For example, an SEA extension may be necessary if a large number of SEA staff are unavailable or absent for an extended period of time, or where the SEA cannot access specific information from district staff or a student’s education records needed to resolve the complaint due to conditions related to the COVID-19 pandemic. This determination will be made on an individual basis. **Link:** [Q&A Document on IDEA Part B Dispute Resolution Procedures, U.S. Dep’t of Educ., June 22, 2020](https://example.com)
Due Process Hearings

- LEAs and parents may mutually agree in writing to waive the resolution meeting or use mediation instead. Link: 34 C.F.R. § 300.510(a).
- Without mutual agreement to waive the resolution meeting or use mediation, LEAs must convene a resolution meeting within 15 days of receiving notice of the parent’s due process hearing request. Link: 34 C.F.R. § 300.510(a)
- LEAs and parents may mutually agree to use alternative means to hold the resolution meeting, including video conferences or conference calls. Link: Letter to Geary and DeLorenzo, U.S. Dep’t of Educ., Office of Special Education Programs, 11/20/2012
- The 30-day resolution period can be adjusted as specified in 34 C.F.R. § 300.510(c). LEAs and parents may also mutually agree to extend the timeline for the 30-day resolution period due to the COVID-19 pandemic. Link: USED Supplemental Fact Sheet
- Although a hearing decision must be issued and mailed to the parties 45 days after the expiration of the 30-day resolution period or an adjusted resolution period, a hearing officer may grant a specific extension of time at the request of either party to the hearing. Link: 34 C.F.R. § 300.515(a), (c)

Individualized Education Programs (IEPs)

- A meeting to develop an initial IEP must be conducted within 30 days of a determination that a child needs special education and related services. Link: 34 C.F.R. § 300.323(c)(1) LEAs and parents may mutually agree to use alternative means to hold the initial IEP Team meeting, including video conferences or conference calls. Link: 34 C.F.R. § 300.328
- LEAs and parents may mutually agree to extend the timeline to meet and develop the initial IEP due to the COVID-19 pandemic. Link: USED Supplemental Fact Sheet
- IEPs must be reviewed annually. Link: 34 C.F.R. § 300.324(b)(1) LEAs and parents may mutually agree to use alternative means to hold the annual review IEP Team meeting, including video conferences or conference calls. Link: 34 C.F.R. § 300.328
- LEAs and parents may mutually agree to extend the timeline to conduct the annual review IEP Team meeting due to the COVID-19 pandemic. Link: USED Supplemental Fact Sheet
- In making changes to a child’s IEP after the annual IEP Team meeting, LEAs and parents may agree to not convene an IEP Team meeting, in-person or through alternative means, for the purposes of making those changes, and instead develop a written document to amend or modify the child’s current IEP. Link: 34 C.F.R. § 300.324(a)(4)(i)
Initial Evaluations and Eligibility Determinations

- An initial evaluation must be conducted within 60 days of receiving parental consent or within the state-established timeline. **Link:** 34 C.F.R. § 300.301(c) Completion of the initial evaluation is defined as completion of the evaluation report(s). **Link:** GaDOE Special Education Rules Implementation Manual, Evaluation and Reevaluation chapter, page 1, August 6, 2018
- “Holiday periods and other circumstances when children are not in attendance for five consecutive school days shall not be counted toward the 60 calendar day timeline, including the weekend days before and after such holiday period [or other circumstance], if contiguous to the holidays [or other circumstances]. . .” **Ga. Bd. of Educ. R. 160-4-7-.04 (1)(b)(1)**
- Per the FY21 guidance, “other circumstances” would be considered as both five or more consecutive days when children are not physically in attendance due to the COVID-19 pandemic accompanied with statewide school closures. Such days, including contiguous weekend days, will not be counted toward the 60-day initial evaluation timeline.
- LEAs and parents may mutually agree to extend the timeline to conduct the initial evaluation due to the COVID-19 pandemic. **Link:** USED Supplemental Fact Sheet
- Any summer vacation period in which the majority of an LEA’s teachers are not under contract shall not be included in the 60-day timeline for evaluation. However, an LEA is not prohibited from conducting evaluations over a summer vacation period. If extenuating circumstances affect the 60-day timeline, the LEA shall document the exceptions. **Link:** Ga. Bd. of Educ. R. 160-4-7-.04

Eligibility Determinations

- LEAs are not required to make the eligibility determination during the 60-day initial evaluation timeline. **Link:** Questions and Answers on Individualized Education Programs (IEPs), Evaluations, and Reevaluations, Question and Answer B-1, U.S. Dep’t of Educ., Office of Special Education and Rehabilitative Services (OSERS), September 2011 However, the eligibility decision should be made within a reasonable period following the completion of the evaluation. **Link:** 71 Fed. Reg. 46637 (2006).
- As a matter of best practice, within 10 calendar days of the completion of the evaluation report(s), an eligibility meeting should be held. **Link:** GaDOE Special Education Rules Implementation Manual, Evaluation and Reevaluation chapter, page 1, August 6, 2018
- LEAs and parents may mutually agree to extend the timeline to conduct the eligibility determination due to the COVID-19 pandemic. **Link:** USED Supplemental Fact Sheet
Reevaluations

- A reevaluation of each child with a disability must be conducted at least every three years, unless the parents and the LEAs agree that a reevaluation is unnecessary. Link: 34 C.F.R. § 300.303(b)(2)
- LEAs and parents may mutually agree to extend the timeline to conduct the reevaluation due to the COVID-19 pandemic. Link: USED Supplemental Fact Sheet
- A reevaluation may be conducted by the IEP Team reviewing existing evaluation data and determining that additional assessments are not needed to determine whether the child continues to be a child with a disability and to determine the child’s educational needs. Link: 34 C.F.R. § 300.305(a)
- A review of existing data does not require parental consent and parents and LEAs can agree to review the existing data without a meeting. Link: 34 C.F.R. § 300.305(a)-(b)

Example Scenarios:

<table>
<thead>
<tr>
<th>Instructional Delivery Model</th>
<th>Evaluation Considerations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traditional (face-to-face)</td>
<td>Evaluations requiring face-to-face assessments or observations should take place based on health and safety guidance. 60-day initial evaluation timeline applies.</td>
</tr>
<tr>
<td>Hybrid (combination of distance/remote and traditional)</td>
<td>Evaluations requiring face-to-face assessments or observations should take place based on health and safety guidance. Districts can schedule evaluations on instructional days that students receive educational services in the traditional school building. 60-day initial evaluation timeline applies.</td>
</tr>
<tr>
<td>Full distance/remote (with staff in the school building)</td>
<td>Evaluations requiring face-to-face assessments should take place based on health and safety guidance. Districts can schedule evaluations on instructional days when staff are in the traditional school building. Ensure that families understand when and how the evaluation will take place. Observations may take place through a virtual or digital platform, as appropriate. 60-day initial evaluation timeline applies.</td>
</tr>
<tr>
<td>Full distance/remote (with no staff or students in the school building)</td>
<td>Evaluations requiring face-to-face assessments should take place based on health and safety guidance. Districts may contract with outside providers to conduct face-to-face assessments with informed parent consent. Observations may take place through a virtual or digital platform, as appropriate. 60-day initial evaluation timeline applies.</td>
</tr>
<tr>
<td>Five or more consecutive days when children are not physically in attendance due to the COVID-19 pandemic and statewide school closures (March 2020 Guidance)</td>
<td>60-day initial evaluation timeline will not apply</td>
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Note - Districts can opt to complete evaluation assessments and observations using online strategies using any of the example scenarios.