

Clarification on IDEA Timelines in light of the COVID-19 global pandemic

State Complaints

LEAs and parents may mutually agree to an extension of the 60-day timeline for complaint resolution to engage in mediation. 34 C.F.R. § 300.152(b)(ii); Ga. Bd. of Educ. R. 160-4-7-.12(1)(12). LEAs and parents may also mutually agree to an extension of the 60-day timeline for complaint resolution due to the COVID-19 pandemic. See Supplemental Fact Sheet Addressing the Risk of COVID-19 in Preschool, Elementary and Secondary Schools While Serving Children with Disabilities, U.S. Dep't of Educ., March 21, 2020 (USED Supplemental Fact Sheet). An SEA may extend the 60-day timeline for complaint resolution if exceptional circumstances exist with respect to a particular complaint. 34 C.F.R. § 300.152(b)(1). In light of the COVID-19 global pandemic, exceptional circumstances may exist with respect to a particular complaint to warrant the SEA extending the 60-day timeline for complaint resolution. This determination will be made on an individual basis.

Due Process Hearings

LEAs and parents may mutually agree in writing to waive the resolution meeting or use mediation instead. 34 C.F.R. § 300.510(a). Absent 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. 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. See Letter to Geary and DeLorenzo, U.S. Dep't of Educ., Office of Special Education Programs, November 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. See 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. 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. 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. 34 C.F.R. § 300.328. Additionally, LEAs and



parents may mutually agree to extend the timeline to meet and develop the initial IEP due to the COVID-19 pandemic. See USED Supplemental Fact Sheet.

IEPs must be reviewed annually. 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. 34 C.F.R. § 300.328. Additionally, LEAs and parents may mutually agree to extend the timeline to conduct the annual review IEP Team meeting due to the COVID-19 pandemic. See 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. 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. 34 C.F.R. § 300.301(c). Completion of the initial evaluation is defined as completion of the evaluation report(s). 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). Five or more consecutive days when children are not physically in attendance due to the COVID-19 pandemic is considered an "other circumstance," and such days, including contiguous weekend days, will not be counted toward the 60 calendar day initial evaluation timeline. Additionally, LEAs and parents may mutually agree to extend the timeline to conduct the initial evaluation due to the COVID-19 pandemic. See USED Supplemental Fact Sheet

LEAs are not required to make the eligibility determination during the 60-day initial evaluation timeline. See 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 of time following the completion of the evaluation. See 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. GaDOE Special Education Rules Implementation Manual, Evaluation and Reevaluation chapter, page 1, August 6, 2018. Additionally, LEAs and parents may mutually agree to extend the timeline to conduct the eligibility determination due to the COVID-19 pandemic. See 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 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. 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. 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. 34 C.F.R. § 300.305(a)-(b).