



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES
OFFICE OF SPECIAL EDUCATION PROGRAMS

June 22, 2020

The Office of Special Education Programs (OSEP), within the U.S. Department of Education's (Department) Office of Special Education and Rehabilitative Services, issues this Question and Answer (Q & A) document in response to inquiries concerning implementation of the Individuals with Disabilities Education Act (IDEA) Part B dispute resolution procedures in the current COVID-19 environment.

This Q & A document does not impose any additional requirements beyond those included in applicable law and regulations. It does not create or confer any rights for or on any person. The responses presented in this document generally constitute informal guidance representing the interpretation of the Department of the applicable statutory or regulatory requirements in the context of the specific facts presented here and are not legally binding and does not establish a policy or rule that would apply in all circumstances.

To review other Q & A documents that OSEP has provided related to COVID-19, please visit <https://sites.ed.gov/idea/topic-areas/#COVID-19>. Additional information specific to the COVID-19 pandemic may be found online at <https://www.ed.gov/coronavirus>.

IDEA PART B DISPUTE RESOLUTION PROCEDURES

Q1. How can parents and public agencies resolve disagreements regarding special education matters while school buildings and other public facilities are closed due to the pandemic?

OSEP encourages parents and local educational agencies (LEAs) to work collaboratively, in the best interest of children with disabilities, to resolve disagreements that may occur when working to provide a positive educational experience for all children, including children with disabilities. In its [March 21, 2020 Supplemental Fact Sheet](#), the Department recognized that during this national emergency, schools may not be able to provide all services in the same manner that they are typically provided, and encouraged parents, educators, and administrators to collaborate creatively to continue to meet the needs of children with disabilities. Timely communication between parents and public agency staff can often help resolve disagreements that may arise regarding the educational services provided to a child with a disability during the pandemic. However, when those informal efforts prove unsuccessful, IDEA's three dispute resolution mechanisms — mediation, State complaint, and due process complaint procedures — are available.

Q2. Is a State educational agency (SEA) permitted to extend the 60-day time limit for resolving a State complaint¹ due to circumstances related to the pandemic?

Yes, but only on a case-by-case basis. Under [34 C.F.R. § 300.152](#), a State's minimum State complaint procedures under Part B of IDEA must include a 60-day timeline for complaint resolution. The regulations specify two allowable reasons for extending the 60-day time limit: (1) if exceptional circumstances exist with respect to a particular complaint; or (2) if the parent (or individual or organization, if mediation or other alternative means of dispute resolution are available to the individual or organization under State procedures) and the public agency involved agree to extend the time to engage in mediation or other alternative means of dispute resolution, if available in the State. [34 C.F.R. § 300.152\(b\)\(1\)](#).

With regard to the "exceptional circumstances" exception to the 60-day timeline, States will need to determine on a case-by-case basis whether it is appropriate to extend the 60-day time limit for a particular complaint due to exceptional circumstances related to the pandemic or related health and safety restrictions. An SEA may not categorically determine that it will not undertake complaint resolutions during the pandemic based solely on its assumption that COVID-19 is an exceptional circumstance that would warrant an extension of the 60-day complaint resolution timeline for all complaints.

Although the Department has previously concluded that unavailability of SEA staff generally is not an exceptional circumstance that would warrant an extension of the 60-day complaint resolution timeline, conditions related to the pandemic could be deemed an exceptional circumstance with respect to a particular complaint if, for example, a large number of SEA staff are unavailable or absent for an extended period of time as a result of the pandemic, or where the SEA cannot access specific information from school/agency staff or the child's education records needed to resolve the complaint due to conditions related to the pandemic.

Q3. How can parents and public agencies use IDEA's mediation procedures² to resolve disputes when schools and other public facilities are closed or have restrictions that prevent face-to-face meetings?

IDEA does not contain a specific timeframe in which mediation must occur so long as it is not used to deny or delay a parent's right to a hearing on the due process complaint or any other rights afforded under Part B. Because mediation is voluntary, the parties have the flexibility to identify a mutually agreeable time to meet. [34 C.F.R. § 300.506\(a\)](#).

¹ The requirements for State complaints are in [34 C.F.R. §§ 300.151 through 300.153](#).

² The requirements for mediation are in [34 C.F.R. § 300.506](#).

Where circumstances related to the pandemic prevent the parent or public agency representative from attending mediation in person, there is nothing in IDEA that would prevent the parties from agreeing to conduct the mediation through alternative means, such as video conferences or conference calls, if the State's procedures do not prohibit mediation from occurring in this manner.

Q4. Can the parent and LEA agree to extend the timelines applicable to the resolution process³ given the challenges associated with school and other public facility operations during the COVID-19 pandemic?

Yes. There is nothing in IDEA that would prevent the parent and public agency from mutually agreeing to extend the 15-day timeline for the LEA to convene a resolution meeting and the 30-day resolution period timeline when a parent files a due process complaint. If the parties are unable to meet in person or through virtual means (discussed in Q5), they could mutually agree to extend the 15-day timeline for the resolution meeting and the 30-day resolution period until a face-to-face meeting could occur.

However, IDEA does not permit an extension of the 7-day resolution meeting timeline or the 15-day resolution period for expedited due process complaints that address disputes about disciplinary removals of students with disabilities.

Q5. Can the parent and LEA agree to hold a resolution meeting virtually, rather than face-to-face?

Yes. Where the circumstances related to the pandemic prevent the parent or public agency representative from attending the resolution meeting in person, it would be appropriate for the public agency to offer to use alternative means, such as video conferences or conference calls, subject to the parent's agreement, consistent with [34 C.F.R. § 300.328](#). Resolution meetings related to expedited due process complaints involving discipline may also be conducted through video conferences or conference calls, subject to the parent's agreement.

³ For due process complaints, the requirements for the LEA to convene a resolution meeting within 15 days and the 30-day resolution period are in [34 C.F.R. § 300.510](#). The requirements for convening resolution meetings within 7 days and the 15-day resolution period for expedited due process complaints are in [34 C.F.R. § 300.532](#).

Q6. May due process hearings⁴ be conducted virtually when schools and other public facilities are closed or have restrictions that prevent face-to-face meetings?

Yes. A State could permit hearings on due process complaints to be conducted through video conferences or conference calls, if a hearing officer concludes that such procedures are consistent with legal practice in the State. [34 C.F.R. § 300.511\(c\)\(1\)\(iii\)](#). A hearing conducted virtually must ensure a parent's right to an impartial due process hearing consistent with all requirements in [34 C.F.R. §§ 300.511 through 300.515](#). If applicable, a State-level review can be conducted virtually if consistent with State procedures.

Q7. Do hearing officers, or where applicable, reviewing officers, have the authority to extend the applicable timelines for issuing decisions on due process complaints during the pandemic?

Yes. IDEA permits a hearing officer or a reviewing officer to grant specific extensions of timelines at the request of either party to the hearing or review. [34 C.F.R. § 300.515\(c\)](#); see [34 C.F.R. § 300.515\(a\)-\(b\)](#) for applicable timelines. There is no IDEA requirement that both parties agree to the extension request, but the hearing officer or reviewing officer must document the length of the extension and the reason it was provided.

While a hearing or State-level review of an expedited due process complaint may be conducted through video conferences or conference calls if consistent with legal practice in the State, IDEA makes no similar provision for extending relevant timelines for hearings or reviews in the context of expedited due process complaints.

⁴ The requirements for hearings on due process complaints are in [34 C.F.R. §§ 300.507 through 300.516](#). The requirements for hearings on expedited due process complaints are in [34 C.F.R. §§ 300.532 through 300.533](#).