



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 C 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 C DISPUTE RESOLUTION PROCEDURES

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**Q1. How can parents, State lead agencies (State LAs), and early intervention service (EIS) providers resolve disagreements regarding IDEA Part C early intervention matters due to conditions related to the public health response to the pandemic?**

OSEP encourages parents, State LAs, and EIS providers to work collaboratively, in the best interest of infants and toddlers with disabilities, to resolve disagreements that may occur when working to provide positive early intervention experiences. In its March 2020 [Questions and Answers on Providing Services to Children with Disabilities During the Coronavirus Disease 2019 Outbreak](#), the Department addressed the provision of early intervention services during the pandemic. We recognize that, during this national emergency, State LAs and EIS providers may not be able to provide all services in the same manner they are typically provided, and encourage parents, service providers, and administrators to collaborate creatively to continue to meet the needs of infants and toddlers with disabilities and their families. Timely communication between parents, State LA staff, and EIS providers can often help resolve disagreements that may arise regarding the early intervention services provided 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 LA permitted to extend the 60-day time limit for resolving State complaints<sup>1</sup> due to circumstances related to the pandemic?**

Yes, but only on a case-by-case basis. Under [34 C.F.R. § 303.433\(a\)](#), a State's minimum State complaint procedures under Part C 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 is available to the individual or organization under State procedures) and the State LA, public agency, or EIS provider agree to extend the time to engage in mediation pursuant to [34 C.F.R. § 303.433\(b\)\(1\)](#).

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. A State LA 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.

A State LA may extend the 60-day time limit due to exceptional circumstances such as a governmentwide shutdown, if the State LA needs additional information under [34 C.F.R. § 303.433\(a\)\(2\)](#) and the relevant party(ies) is (are) unavailable due to hospitalization, or a parent complainant is unavailable due to illness or other documented reason and cannot provide the additional information under [34 C.F.R. § 303.433\(a\)\(2\)](#). See [76 Fed. Reg. 61410, 60215](#) (Sept. 28, 2011). Although the Department has previously concluded that unavailability of State LA 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 State LA staff are unavailable or absent for an extended period of time as a result of the pandemic, or where the State LA cannot access specific information from EIS providers or the child's early intervention records needed to resolve the complaint due to conditions related to the pandemic.

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<sup>1</sup> The requirements for State complaints are in [34 C.F.R. §§ 303.432 through 303.434](#).

**Q3. How can parents, the State LA, and EIS providers use IDEA's mediation<sup>2</sup> procedures to resolve disputes when agencies 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 due process hearing or to deny any other rights afforded under Part C. Because mediation is voluntary, the parties have the flexibility to identify a mutually agreeable time to meet. [34 C.F.R. § 303.431\(b\)\(1\)](#). Where the circumstances related to the pandemic prevent the parent, State LA representative, or EIS provider 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.

**Due Process Hearings<sup>3</sup>: When the Lead Agency Has Adopted Part C Due Process Procedures**

**Q4. May due process hearings be conducted virtually when agencies and other public facilities are closed or have restrictions that prevent face-to-face meetings?**

Yes. A State LA 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. 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. §§ 303.435 through 300.437](#).

**Q5. Do hearing officers have the authority to extend the 30-day timeline for issuing decisions on due process complaints during the pandemic?**

Yes. IDEA permits a hearing officer to grant specific extensions of the 30-day timeline at the request of either party to the hearing. [34 C.F.R. § 303.437\(c\)](#). There is no IDEA requirement that both parties agree to the extension request, but the hearing officer must document the length of the extension and the reason it was provided.

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<sup>2</sup> The requirements for mediation are in [34 C.F.R. § 303.431](#).

<sup>3</sup> The requirements for States that choose to adopt the Part C due process hearing procedures are in [34 C.F.R. §§ 303.435 through 303.438](#).

**Resolution Process<sup>4</sup> and Due Process Hearings<sup>5</sup>: When the Lead Agency Has Adopted Part B Due Process Procedures**

**Q6. Can the parent and EIS provider agree to extend the timelines applicable to the resolution process given the challenges associated with agency and other public facility operations during the COVID-19 pandemic?**

Yes. There is nothing in IDEA that would prevent the parent and EIS provider from mutually agreeing to extend the 15-day timeline for the State LA or EIS provider 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 Q7), 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.

**Q7. Can the parent and EIS provider agree to hold a resolution meeting virtually, rather than face-to-face?**

Yes. Where the circumstances related to the pandemic prevent the parent or EIS provider from attending the resolution meeting in person, it would be appropriate for the State LA to offer to use alternative means, such as video conferences or conference calls, with its use subject to the parent's agreement.

**Q8. May due process hearings be conducted virtually when agencies 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. § 303.443\(c\)\(1\)\(iii\)](#). 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. §§ 303.443](#) through [303.448](#).

**Q9. 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. § 303.447\(c\)](#); see [34 C.F.R. § 303.447\(a\)-\(b\)](#) for applicable timelines. There is no IDEA requirement that

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<sup>4</sup> The requirements for the resolution process applicable to States that choose to adopt the Part B due process hearing procedures are in [34 C.F.R. § 303.442](#).

<sup>5</sup> The requirements for States that choose to adopt the Part B due process hearing procedures are in [34 C.F.R. §§ 303.440 through 303.448](#).

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.