



New U.S. Department of Education Guidance: Dispute Resolution During COVID-19

Description

On June 22, 2020, the U.S. Department of Education (Department) issued new guidance regarding dispute resolution in special education in the current COVID-19 environment. This guidance does not create any additional requirements outside of the law. Rather, it provides an interpretation of existing law in light of the COVID-19 pandemic. This guidance was issued in two parts, one applying to [students aged 3-21](#) and the other applying to [children up to the age of 3](#).

Dispute Resolution Procedures – Students Ages 3-21

The Department encourages parents and school districts to cooperate in order to resolve any disagreements regarding a student's educational program, including disputes that concern implementation of an educational program during school closures.

If parents and school districts are unable to resolve a dispute informally, the parties may access various dispute resolution options outlined in the IDEA. These options include:

1. **Mediation:** A collaborative process by which the parties meet with a neutral third-party, often a judge, in order to negotiate an agreement. In California, mediation is provided through the Office of Administrative Hearings Special Education Division. Parties may request mediation as part of a due process case or [by itself](#).
2. **State Complaint:** A process by which a parent or other party requests that the state education agency investigate a possible violation of special education law by a school district. In California, the California Department of Education investigates these [complaints](#).
3. **Due Process Complaint:** A legal complaint that, once filed, will allow the parties to bring their case in front of a judge for an impartial due process hearing. In California, the Office of Administrative Hearings Special Education Division conducts [due process hearings](#).

Through its June 22 guidance, the Department explains what effect, if any, COVID-19 may have on these dispute resolution procedures.

Typically, state complaints must be resolved within 60 days. However, in light of the pandemic, a state education agency may extend this time limit if appropriate on a case-by-case basis. The state education agency may not categorically extend all complaint timelines due to COVID-19.

Because mediation is a voluntary process, the parties have the flexibility to schedule a mediation session based on their availability. The pandemic may prevent the parties from meeting in person; however, there is nothing that would prevent the parties from mediating through video conference and conference calls.

The filing of a due process complaint triggers a number of timelines and deadlines, including a 15-day timeline for a resolution meeting (a meeting to discuss the complaint and negotiate a resolution) and a 30-day timeline to resolve the complaint. In light of the pandemic, the parties may agree to hold the resolution meeting virtually, through video conference or conference calls. Due process hearings may also be held virtually, so long as state law allows it. However, if the parties are unable to meet virtually, they may mutually agree to extend the 15-day and 30-day timelines until a face-to-face meeting is possible. This does not apply to expedited due process complaints concerning disciplinary removals of students with disabilities. The hearing officer or judge in a due process case may also grant extensions to the timelines at the request of either party, even if one party does not agree to the extension request.

Dispute Resolution Procedures – Children Ages 0-3

The dispute resolution procedures for children receiving early intervention services are the same as those outlined above with a small, California-specific exception. In California, the Office of Administrative Hearings General Jurisdiction Division contracts with the Department of Developmental Services to provide [mediations and hearings](#) regarding early intervention services.

The virtual meeting and hearing options described above, as well as the timeline extension procedures, should be available for meetings and hearings concerning early intervention services.

Category

1. COVID-19: School Updates

Tags

1. law
2. legal
3. parent rights
4. special education
5. student rights
6. us department of education

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