

COVID-19 and Special Education Timelines and Due Process

With all Minnesota students now in distance learning mode, parents of children with disabilities may have questions about specific timelines within the special education process for evaluations and special education meetings. While both schools and parents may need to allow for some flexibility during these unique circumstances, parents of children with disabilities need to be aware of some important facts about their rights concerning timelines and due process options.

Evaluations/re-evaluations

- Initial evaluations: Parents continue to have the right to request that a special education evaluation* of their child be completed. Once an evaluation plan has been developed and you have given written permission to proceed, the school has 30 school days to complete the evaluation, hold a meeting to review the results, and provide you with a draft copy of the summary.
- Three-year re-evaluations must be completed. If the team, which includes you, agrees that updated testing is not necessary, the school may review existing testing to include in the report. If additional testing is needed, an evaluation plan must be developed. You must approve of the proposed testing by signing a Consent to Evaluate form. Due to mandated social distancing, in-person portions of standardized tests and observations may not be able to be completed. Discuss with the evaluation team how these areas will be assessed.

**The Minnesota Department of Education states in their Special Education and COVID-19 Questions and Answers: Due Process document that “if an evaluation requires a ‘face-to-face’ meeting or observation, the evaluation would need to be delayed until school reopens.”*

IEP meetings

- Writing an initial Individualized Education Program (IEP): If an initial special education evaluation has been completed and agreed to, the school has 30 days to provide you with a prior written notice along with the proposed IEP. Services cannot begin until you have agreed in writing to the proposal.
- Annual IEP meetings still need to be conducted. These can be done through alternative means, including videoconference or conference calls. Any revisions or changes to the IEP need to be presented to you along with a Prior Written Notice within 14 calendar days of that meeting. You have an additional 14 calendar days from the day it was sent to you to decide whether or not you agree with the changes.
 - o After a discussion with your child’s case manager, it may be determined unnecessary to convene the entire team for an IEP meeting. Instead, you may agree to have a document created that amends or modifies the current IEP. A Prior Written Notice and revised IEP needs to be presented to you. You have 14 calendar days from the day it was sent to you to return the consent form stating whether you agree or disagree with the changes.
 - o If you do not respond within the 14-calendar day timeframe, the changes could go into effect even if you don’t agree with them. The exception to this is an initial IEP.

Alternative due process options

- If you disagree with a proposed IEP, there are due process options available to resolve disagreements. PACER recommends that parents attempt to resolve disputes at the lowest level possible. The dispute resolution options below are in the order of lowest to highest level.
 - o **Request a meeting** with the relevant IEP team members. The meeting would need to be scheduled in a timely manner and could be held via video or teleconference.
 - o **Request a conciliation conference.** The conciliation conference needs to be held within 10 calendar days of your request. Alternative methods of meeting will need to be determined, including phone, video, or teleconference.
 - o **Mediation and facilitated team meetings** will continue to be supported by the Minnesota Department of Education and will be held remotely. Depending upon the availability and parent's access to technology, both parties may agree to participate via video or teleconference. Both parties need to agree to the process, and the meeting must be scheduled in a timely manner.
 - o **Due process complaints** may be filed during distance learning, and the school district needs to offer a resolution meeting within 15 days of receiving the complaint, unless both parties agree to either waive the meeting or use mediation instead. If the complaint isn't resolved and goes to a hearing, a decision must be issued and mailed to the parties within 45 days following the 30-day resolution period or adjusted period has passed. This timeline can be extended by the hearing officer at the request of either party (34.C.F.R. 300.515(a) and (c)).

For more information on Minnesota's special education due process options, go to PACER's website at PACER.org/disputeresolution/dueprocess.asp or contact PACER at (952) 838-9000 or PACER@PACER.org.