



Date: Updated: April 2, 2020  
To: Special Education Administrators  
From: Exceptional Student Services  
Subject: Special Education Timelines and COVID-19

*This document has been updated from a previous version to reflect necessary changes due to mandated school closure through the end of the school year per the Governor's order.*

The Arizona Department of Education, Exceptional Student Services (ADE/ESS), has received numerous inquires regarding special education timelines during school closures associated with COVID-19. The ADE/ESS recognizes that during this time, there may be challenges in meeting deadlines.

The most recent and relevant guidance from the Office of Special Education Programs (OSEP) is a [2012 letter responding to timeline questions](#) in the wake of Hurricane Sandy. Although OSEP stated that "In general, the Department does not have the authority to waive the requirements in Part B of the IDEA [therefore] . . . cannot extend timelines," there is some flexibility within the regulations. Guidance on each of these timelines is included below and is provided in good faith by ADE/ESS based upon the current guidance from OSEP.

### **Evaluations/Reevaluations**

- Parent requests for evaluation require a prior written notice (PWN) refusing or proposing to evaluate and beginning the review of existing data within 15 **school** days.

*The current closure due to COVID-19 means that school is not in session and the timeline does not resume until school begins again, or the mandated closure is lifted.*

- Initial evaluations must be completed within 60 **calendar** days of written parental consent. MET teams may choose to use the 30-day extension on a case-by-case basis.

*There is no ability to waive this requirement under the IDEA. However, teams are encouraged to seek the 30-day extension in light of current school closure.*

- Reevaluations are required to be conducted every 3 years.

*There is no ability to waive this requirement under the IDEA. For reevaluations due during the school closure, teams should complete the reevaluation as soon as possible when school resumes.*

### **Individualized Education Programs**

- Initial IEPs must be developed and implemented within 30 days of a determination that the student needs special education and related services; and *as soon as possible* following development of the IEP, special education and related services must be made available. [IDEA §300.323\(c\)](#).

*There is no ability to waive this requirement under the IDEA. However, there is some flexibility for the implementation of services. “As soon as possible” recognizes that there may be some extreme circumstances, such as school closure due to COVID-19, where a public education agency (PEA) may need to delay the start of special education and related services to a particular child.*

- IEPs must be reviewed at least annually and revised as needed.

*There is no ability to waive this requirement under the IDEA. However, there is some flexibility in this provision. For example, in making changes to a child’s IEP after the annual IEP review, the parent of a child with a disability and the PEA may agree not to convene an IEP team meeting for the purposes of making those changes and instead may develop a written document to amend or modify the child’s current IEP.*

Please note: Open communication with parents and families is critical during this time, as are flexible and creative communication methods. A PEA and a parent may agree to use an alternative means of meeting participation requirements for IEP and MET meetings, such as videoconferences and conference calls.

### **Self-Assessment and Data Review Monitorings**

Public Education Agencies (PEAs) will have a choice from three options included below. PEAs will need to [notify via email](#) their Program Support and Monitoring (PSM) specialists and Veronica Reza of their selection no later than the close of business (COB) on April 8, 2020. Any meetings required with the PSM specialist will be conducted via virtual meeting.

- 1) Submit file reviews, corrections made thus far, and outcome focus area analysis and action plan update to the PSM specialist immediately for verification process to be completed **prior** to the May 8, 2020 deadline. The PSM specialist

will then request a sample of files for the verification process. Any noncompliance identified during the verification process will result in a corrective action plan, which carries a one-year timeline for correction.

2) Continue forward with the timelines as outlined in the process originally. This means May 8, 2020 is the deadline for submission of file forms, individual student corrections, and outcome focus area analysis and action plan. The PSM specialist will then request a sample of files for the verification process. Any noncompliance identified during the verification process will result in a corrective action plan, which carries a one-year timeline for correction.

3) Extend the final timeline for submission of file reviews, individual student corrections, and outcome focus area analysis and action plan by COB August 28, 2020. The PSM specialist will then request a sample of files for the verification process. Any noncompliance identified during the verification process will result in a corrective action plan, which carries a one-year timeline for correction.

### **On-Site Monitorings**

Any remaining on-site monitorings scheduled for this school year will be postponed until next school year. Please contact your PSM specialist by COB May 15, 2020 to provide him/her with three possible dates for the monitoring to occur next school year. ESS will do its best to give priority to these PEAs in scheduling their monitorings for next school year.

### **Open Corrective Action Plans (CAPs)**

PEAs with an open CAP are federally mandated to make corrections and evidence systemic compliance within one year of written notification of findings. There is no ability to waive this requirement under the IDEA. However, ADE/ESS is reviewing the impact of school closures and will exercise flexibility, as appropriate, on the use of enforcement action (i.e., suspension of IDEA B Consolidated Grant funds) on a case-by-case basis.

### **60-Day Timelines (Recently Monitored PEAs)**

The 60-day timeline for correction of critical, FAPE-prohibitive student file items identified during a monitoring is an ADE/ESS-determined requirement. ADE/ESS will delay the deadlines for correction until school resumes. ADE/ESS will track this

internally to ensure flexibility in enforcement that is in line with the amount of time a closure impacted the PEA.

### **Annual Site Visits**

Meetings can be conducted via virtual meeting with files sent to the PSM specialist for desk audits. Contact your PSM specialist, if you haven't already done so, to discuss how you would like to proceed with these meetings and whether adjustments need to be made to timing. For purposes of the Risk Analysis, the highest value for Indicators 11 and 13 will be used. For PEAs in year 3 of the monitoring cycle, if there are extenuating circumstances and data was unable to be collected, this will be addressed on a case-by-case basis for determination of monitoring activities next school year.

### **Dispute Resolution**

The 2012 OSEP letter defines Dispute Resolution timelines accurately. Additionally:

Should a parent file a state administrative complaint regarding a missed timeline, the factual circumstances of each complaint will be considered, as is always the case. Although a PEA may technically be found out of compliance, there is great flexibility in crafting any corrective action that may be necessary. Investigators will be flexible and work with administrators when there is a need for documents and records to be produced or for interviews to occur. Please communicate with the assigned investigator so that we can continue to work together.

### **Preschool Transition Conferences**

- Preschool Transition Conferences occur between a child's age of 2.6 and 2.9

*There is no ability to waive this requirement under the IDEA. A PEA and a parent may agree to use an alternative means of conducting transition conferences during school closure, such as videoconferences and conference calls.*