COVID-19 FACT SHEET #5:

DISPUTE RESOLUTION FAQ

Parent Information Center
Project of Parents Helping Parents of WY, Inc. online at wpic.org

Information within this Fact Sheet is adapted from guidance documents issued from the U.S. Department of Education – March 2012.

Dispute Resolution Timelines/Information

Question 1: Can a State Complaint be extended or postponed beyond the required 60-day timeline?

Q1 Answer: If all partied involved in the complaint do not agree, a state may be able to extend the 60-day timeline for complaint resolution if exceptional circumstances exist with respect to a particular complaint. 34 C.F.R. § 300.152(b)(1). Although the U.S. Dept. of Education has previously advised that unavailability of staff is not an exceptional circumstance that would warrant an extension of the 60-day complaint resolution timeline, the COVID-19 pandemic could be deemed an exceptional circumstance if a large number of school staff are unavailable or absent for an extended period of time. (Adapted from guidance from the U.S. Department of Education Fact Sheet – March 2012).

Question 2: Can the required time for a Due Process Hearing be adjusted or extended?

Q2 Answer: When a parent files a due process complaint, the school or child development center must convene a resolution meeting within 15 days of receiving notice of the parent’s complaint, unless both parties (parents and school) agree in writing to waive the meeting or to use mediation. 34 C.F.R. § 300.510(a). While the IDEA specifically mentions circumstances in which the 30-day resolution period can be adjusted in 34 C.F.R. § 300.510(c), it does not prevent the parties from mutually agreeing to extend the timeline because of unavoidable delays caused by the COVID-19 pandemic.

Additionally, although a hearing decision must be issued and mailed to the parties 45 days after the expiration of the 30-day resolution period or an adjusted resolution period, a hearing officer may grant a specific extension of time at the request of either party to the hearing. 34 C.F.R. § 300.515(a) and (c).
Question 3? Does an initial evaluation need to be completed within 60 days of the parent giving written permission to evaluate their child for special education and related services?

Q3 Answer: Yes. An initial evaluation must be conducted within 60 days of receiving parental consent under IDEA. Once the evaluation is completed, IDEA does not contain an explicit timeline for making the eligibility determination but does require that the IEP be developed in accordance with 34 C.F.R. §§ 300.320-300.324 (34 C.F.R. § 300.306(c)(2)).

*Note* - This guidance is considered valid during the time frame that the COVID-19 Health Emergency is in place. For additional information or specific questions on a student’s special education or related services, please refer to our website at www.wpic.org or call us at 307-684-2277.