

Dear Colleagues,

There was information provided this week from the Office for Civil Rights that stated, "IEP Teams are not required to meet in person while schools are closed. If an evaluation of a student with a disability requires a face-to-face assessment or observation, the evaluation would need to be delayed until school reopens. Evaluations and re-evaluations that do not require face-to-face assessments or observations may take place while schools are closed, so long as a student's parent or legal guardian consents. These same principles apply to similar activities conducted by appropriate personnel for a student with a disability who has a plan developed under Section 504, or who is being evaluated under Section 504."

This has resulted in a high volume of questions from local districts questioning if IDEA timelines can be "waived" or if they are "flexible" during the COVID-19 outbreak.

It is important to note that Non-traditional Instruction (NTI) days are considered instructional days and must be included for purposes of determining compliance with IDEA timeline requirements including those related to special education and outlined in 707 KAR 1:320 and 707 KAR 1:340.

While there may be specific task that cannot be accomplished due to the public health concern, the IDEA does not provide waivers of timelines. In situations in which missing a timeline is unavoidable due the exceptional situations we are facing during the COVID-19 pandemic, the Admissions and Release Committee (ARC) should document the reason(s) for the missed timeline and make individual determinations for remedying the noncompliance.

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