

School Closures and Special Education:

Guidance on Initial Evaluations per State Board of Education Emergency Rule

(DRAFTED: April 16, 2020)

The IDEA requires local education agencies (LEA) to conduct initial evaluations within 60 calendar days of receiving parental consent or ***within a state established timeframe***. Due to the current states of emergency at the federal and state levels, the Tennessee State Board of Education passed emergency rules on April 9, 2020 regarding Chapter 0520-01-09-.24 Special Education Program and Services. The [emergency rule](#) reads as follows:

"0520-01-09-.24 EXTENSION OF INITIAL EVALUATION TIMELINES FOR THE 2019-20 SCHOOL YEAR

(1) Pursuant to the Governor's Executive Orders of the year 2020 declaring the existence of a State of Emergency in response to COVID-19, tornadoes, and severe weather that impacted middle Tennessee, Public Chapter 652 of 2020, and 34 C.F.R. § 300.301(c), the timeline for initial evaluations initiated or in process as of March 3, 2020 may be extended beyond sixty (60) calendar days by the number of calendar days equal to the duration of an order, declaration, or recommendation to stay at home, self-quarantine, or implement social distancing issued by the LEA's or public charter school's local, state, or federal government.

- (a) LEAs and public charter schools may request an additional extension up to thirty (30) calendar days after an order is lifted to be approved by the Department due to extenuating circumstances."

The rule was written to ensure the safety of students and staff during the COVID-19 pandemic. As a reminder, if an evaluation of a student with a disability requires a face-to-face assessment or observation, it should be delayed until it is safe to complete. Evaluations and re-evaluations that do not require face-to-face assessments or observations may take place virtually while school buildings 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.

According to the emergency rule, **the 60 calendar day timeline for initial evaluations may be extended** by the duration of an order, declaration, or recommendation to stay at home, self-quarantine, or implement social distancing that results in school closure. The timeline is restarted when that order, declaration, or recommendation is lifted. The order, declaration, or recommendation may be related to the tornados and/or COVID-19. The duration of the timeline extension may vary from one LEA to the next. As a result, one LEA's extension may be longer than another's.

Initial evaluations initiated or in process as of March 3, 2020

If an initial evaluation was already in process (meaning consent was obtained) before March 3, 2020 but was not completed due to the state of emergencies referenced above, it falls within the parameters of the emergency rule and this guidance. LEAs must still consider parental requests for evaluation during any period of school closure due to the states of emergency and follow the timelines laid out in this document. Therefore, the emergency rule and this guidance further includes initial evaluations initiated on or after March 3, 2020.

The table below demonstrates how to calculate the length of an LEA’s allowable extension based on the duration of the order, declaration, or recommendation that that LEA chooses to follow. Further guidance regarding the process to document and communicate local decisions regarding the duration of an order, declaration, or recommendation to stay at home, self-quarantine, or implement social distancing issued by the LEA’s or public charter school’s local, state, or federal government is forthcoming. The department is working to develop resources to assist districts in calculating their extended timelines.

Row	Applicable Dates	Calculation Business Rules
A	Consent date	Date LEA received written parental consent for initial evaluation
B	Original eligibility due date	60 calendar days after receipt of written parental consent for initial evaluation
C	Start date of the order, declaration, or recommendation to stay at home, self-quarantine, or implement social distancing issued by the LEA’s or public charter school’s local, state, or federal government	The date that your LEA stopped normal district operations due to tornadoes and/or COVID-19
D	End date of the order, declaration, or recommendation to stay at home, self-quarantine, or implement social distancing issued by the LEA’s or public charter school’s local, state, or federal government	The date that your LEA resumed normal district operations
E	Duration of the order, declaration, or recommendation to stay at home, self-quarantine, or implement social distancing issued by the LEA’s or public charter school’s local, state, or federal government that resulted in a delay to the initial evaluation	<ul style="list-style-type: none"> • For consent obtained on or before the order, declaration, or recommendation: Row D minus Row C • For consent obtained after the order, declaration, or recommendation: Row D minus Row A
F	Updated eligibility due date	Row E plus Row B

Initial evaluations with extenuating circumstances

If additional time is needed due to extenuating circumstances, an LEA may request up to an additional 30 calendar days through the regular process for requesting timeline extensions within EasyIEP (see the [Special Education Framework](#) component 2.6). Each request will be considered for approval by the department on a case-by-case basis. Extenuating circumstances include but are not limited to:

- The new eligibility due date does not afford the LEA adequate time to provide parents with 10 calendar days' notice of meeting to determine initial eligibility. Additional time is needed to ensure adequate parental notification.
- The child transferred from an LEA that obtained consent prior to an eligibility determination. The receiving LEA has made progress towards completing the evaluation but needs additional time to complete assessments.
- A review of existing data, including input from the child's parents, indicates that more time is needed to adequately determine the student's response to intervention and the presence of a specific learning disability.
- The parent repeatedly failed or refused to produce the child for the evaluation.

Timeline Extension Request

At this time, districts do not need to submit timeline extension requests for initial evaluations falling within the parameters of the emergency rule and this guidance. A timeline extension request is needed before the determination of eligibility for evaluations that were due before an order, declaration, or recommendation to stay at home, self-quarantine, or implement social distancing issued by the LEA's or public charter school's local, state, or federal government. The extension request should include reasons the evaluation was not completed within the original 60 calendar day timeline and state in the "comments" section that the evaluation completion was interrupted by the states of emergency. ***LEAs should not submit the timeline extension request until the order is lifted or until eligibility is decided upon.***

If an evaluation is delayed due to the tornadoes and/or COVID-19, LEAs should indicate the reason for the delay in the "other" box when finalizing the eligibility report in EasyIEP.