



October 8, 2021

William H. (“Skip”) Francis, Jr.
10404 Patterson Avenue, Suite 101
Henrico, Virginia 23238

RE: Extensions of IDEA Deadlines

Dear Skip:

The Office of Dispute Resolution and Administrative Services has reviewed the following Reports and Orders related to continuances of the decision due date in pending due process case number 21-065:

- Second Pre-Hearing Report (extending the decision deadline to July 17, 2021)
- Extension Order dated July 1, 2021 (extending the decision deadline to August 27, 2021)
- Extension Order dated July 27, 2021 (extending the decision deadline to September 27, 2021)
- Extension Order dated September 23, 2021 (extending the decision deadline to October 23, 2021).

It is my understanding that the last day of hearing in this case was on or about July 14, 2017. With the exception of the continuance in the Second Pre-Hearing Report, there is no indication in the record that the subsequent extensions were made at the request of either party. It is my understanding that, at minimum, the September 23, 2021 order extending the deadline to October 23 was not requested by either party. If this is incorrect, please let me know and please be sure to document such requests for the record in future due process hearings.

Pursuant to the Regulations Governing Special Education Programs for Children with Disabilities in Virginia (the Virginia Regulations), effective January 25, 2010, at 8 VAC 20-81-210.Q.6, a hearing officer is required to render a decision within 45-calendar days of the expiration of the resolution period. An extension to this timeline may be granted only if requested by a party and the extension must be in the best interests of the child. 8 VAC 20-81-210.P.9.a. “A hearing officer may not unilaterally extend the 45-day due process hearing timeline.” OSEP Dispute Resolution Q&A at C-22. An extension can be granted only when it is requested by a party. 8 VAC 20-91-210.P.9.a. Moreover, an extension can be granted “only when the requesting party has provided sufficient information that the best interests of the child will be served by the grant of an extension.” *Id.*



**VIRGINIA
IS FOR
LEARNERS**

We note that this is not the first time that this office has reminded you that extensions cannot be entered on the hearing officer's own initiative. I write to request that you issue your decision as soon as possible, and in no case later than the current deadline of October 23, 2021.

Failure to comply with IDEA deadlines compromises the procedural rights of the parties in a due process hearing, as well as our agency's assurances to the U.S. Department of Education that federal and state regulations governing special education are implemented.

Therefore, please be advised that a recurrence of these errors will result in our agency removing your name from the special education hearing officer list. At the conclusion of this case, this office will review the matter and make a determination as to whether any additional action is necessary at this time. At minimum, in future due process cases, please be certain to grant an extension only when requested by a party and only after you determine that it will be in the child's best interests.

I appreciate your attention to using this opportunity to improve your skills as a special education hearing officer, or, in the alternative, consider whether, in light of your current circumstances, your personal and professional interests might be better served by resigning from this position. Please know that this office does not question your commitment to being a special education hearing officer and appreciates your years of service; however, this is a critical area of concern and this office must fulfill its responsibility to ensure that our agency complies with the laws governing special education.

Sincerely,

Patricia Haymes

Director

Office of Dispute Resolution and Administrative Services