



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES  
OFFICE OF SPECIAL EDUCATION PROGRAMS

DIRECTOR

**October 20, 2023**

By Email

Honorable Kathleen Ehling  
Assistant Commissioner  
New Jersey Department of Education  
100 River View Plaza  
Trenton, NJ 08625

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Dear Assistant Commissioner Ehling:

This letter, and the accompanying chart, summarizes the current status of the findings in the U.S. Department of Education (Department), Office of Special Education Programs (OSEP) May 6, 2019, monitoring letter to the New Jersey Department of Education (NJDOE). The monitoring letter required NJDOE to implement corrective actions to address noncompliance with requirements under Part B of the Individuals with Disabilities Education Act (IDEA) as identified through OSEP's differentiated monitoring and support (DMS) activities conducted on-site on September 20-21, 2018. The focus of the September 2018 monitoring visit was NJDOE's dispute resolution system, specifically its due process complaint and hearing procedures. Today's letter also notifies NJDOE of OSEP's intention to initiate additional monitoring activities focused on both the new and continued areas of concern related to NJDOE's dispute resolution system.

A cornerstone of IDEA rests in the rights and protections afforded to eligible children with disabilities and their parents to a free appropriate public education (FAPE). OSEP has encouraged parents and local educational agencies (LEAs) to work collaboratively to support a positive educational experience that reinforces a shared goal of improving educational results and functional outcomes for children with disabilities. To resolve disagreements that may occur, IDEA Part B provides parents and LEAs with dispute resolution options for resolving disagreements about a child's educational program, including the topic of this monitoring report: due process complaints, as required under 34 C.F.R. §§ 300.507 through 300.518, and specifically the areas of timely due process hearing decisions, resolution meetings, child's status during proceedings, and expedited due process hearings. A State's adherence to these IDEA requirements contributes to the implementation of a dispute resolution system that ensures IDEA compliance, thereby resolving disagreements in a timely manner, providing all involved parties with a common understanding of the process, and ultimately assuring that a child with a disability receives FAPE. It is therefore important for a State to use its general supervisory authority under 34 C.F.R. § 300.600, to ensure compliance and provide technical assistance to support the development, improvement, and implementation of its dispute resolution system. Dispute resolution systems that comply with IDEA's requirements are crucial to ensuring that children with disabilities and their families are afforded their rights under IDEA and that FAPE is provided.

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Through OSEP's on-site monitoring process, OSEP identified four areas of noncompliance with IDEA Part B requirements:

1. **Timely Due Process Hearing Decisions:** NJDOE failed to exercise its authority to conduct and conclude due process hearing decisions within the 45-day timeline under 34 C.F.R. § 300.515(a) due to a misapplication of the term 'day', which IDEA defines as a calendar day unless otherwise indicated as a business day or school day, under 34 C.F.R. § 300.11(a). Additionally, the NJDOE failed to demonstrate established procedures that ensure adjournments are only granted at the request of a party to the hearing and for a specific period of time, as required by 34 C.F.R. § 300.515(c).
2. **Resolution Meetings:** NJDOE failed to exercise its general supervisory and monitoring responsibility in accordance with 20 U.S.C. §§ 1412(a)(11) and 1416(a), 34 C.F.R. §§ 300.149 and 300.600(a), (d)(2) and (e), and 20 U.S.C. § 1232d(b)(3)(A) and (E) to ensure that: (i) LEAs hold a resolution meeting within 15 days of receiving notice of the parent's due process complaint, as required by 34 C.F.R. § 300.510(a); (ii) the 45-day due process hearing commences at the conclusion of the 30-day resolution period or the adjusted resolution period; and (iii) if an LEA fails to comply with the requirement to convene a resolution meeting, the State makes a finding of noncompliance and ensures correction of the noncompliance as soon as possible and in no case later than one year from the State's identification of the noncompliance, as required by 34 C.F.R. § 300.600(e).
3. **Child's Status During Proceedings:** NJDOE failed to appropriately implement the requirement to maintain the child's current educational placement during the pendency of proceedings, as required by 20 U.S.C. § 1415(j) and 34 C.F.R. § 300.518.
4. **Expedited Due Process Hearings:** NJDOE and the Office of Administrative Law (OAL) failed to appropriately implement requirements for expedited due process hearings in accordance with 34 C.F.R. § 300.532(c)(2) because (i) the State permits administrative law judges (ALJs) who serve as hearing officers to grant a request from a party to an expedited due process hearing to challenge the sufficiency of the due process complaint, a practice that is inconsistent with 34 C.F.R. § 300.532(a); and (ii) the State permits ALJs who serve as hearing officers to grant an adjournment of the expedited due process hearing timelines in 34 C.F.R. § 300.532(c)(2), even though there is no provision permitting a hearing officer to grant extensions of these timelines.

In response to the required actions outlined in OSEP's DMS letter, NJDOE submitted two written responses with supporting documentation. The first response from NJDOE was dated August 6, 2019, and included a description of the actions taken by NJDOE and supporting documents. In the August 6, 2019, correspondence, NJDOE stated it had taken the following actions:

- Updated its policies and procedures concerning the conduct of due process hearings.
- Issued broadcast memoranda to LEAs, Chief School Administrators, Administrative Law Judges, and relevant stakeholders of the revised policies and procedures.
- Informed LEAs that they will be required to submit documentation concerning resolution meetings to the NJDOE beginning September 1, 2019.

Additionally, NJDOE enclosed the following documents as attachments to its August 6, 2019 correspondence to OSEP:

- Special Education Dispute Resolution Manual
- Revised Procedures for Conducting Special Education Due Process Hearings
- Parental Rights in Special Education

- Revised Procedures for Conducting Special Education Resolution Meetings
- Revised Procedures for Determining a Student’s Status During a Special Education Due Process Hearing
- Revised Procedures for Expedited Special Education Due Process Hearings

The second response from NJDOE was dated January 14, 2020, and included additional corrective actions taken by NJDOE and the OAL. This correspondence outlined the collaboration between the two agencies – NJDOE and OAL – to ensure that special education due process hearings comply with the timelines set forth in IDEA. This collaboration was described as leading to the creation of the, NJDOE Broadcast Memorandum, informing stakeholders of Proposed Special Education Due Process Prehearing Guidelines, a description of a process used for OAL to collect and report due process hearing data to NJDOE, and a reference to a revised interagency Memorandum of Agreement that was executed by NJDOE and OAL. This letter was signed by Peggy McDonald, Ed.D., Assistant Commissioner, Department of Education, and Ellen Bass, Acting Director/Chief Administrative Law Judge, OAL.

A third response from NJDOE was sent via email on February 11, 2022, in response to an inquiry from OSEP requesting a copy of the memorandum of agreement (MOA) between NJDOE and OAL. NJDOE’s January 14, 2020 letter to OSEP stated, “...the NJDOE and the OAL have executed a revised interagency MOA...” However, it has come to OSEP’s attention that a revised MOA was signed by Ellen Bass, Acting Director and Chief Administrative Law Judge on September 1, 2021 and by Angelica Allen-McMillan, Ed.D., Acting Commissioner, NJDOE on October 8, 2021.

Based on OSEP’s review of the documents and information submitted by NJDOE, and discussions with NJDOE, OSEP is issuing this letter to provide the current status of each of the findings that were issued, including findings that are closed and require no additional action, findings that remain open due to continued concerns around the documentation provided to date and related information, and new or continued areas of concerns with the State’s implementation of general supervision and dispute resolution requirements of Part B of IDEA. For this reason, as is discussed below, this letter also serves to notify NJDOE of OSEP’s intention to initiate additional monitoring activities focused on both the new and continued areas of concern related to NJDOE’s dispute resolution system.

Below, please find a summary of each required action and corresponding status. For a full explanation, including an OSEP analysis of each required action, please see the enclosed chart.

## Due Process Hearing Decisions Required Actions Summary

Required Action	Status
<p><b><u>Required Action 1.1</u></b></p> <p>The State must provide documentation demonstrating that the State has established procedures to ensure that ALJs who serve as hearing officers calculate the 45-day timeline for issuing final decisions in due process hearings based on calendar days rather than ‘Federal days.’</p>	<p><b><u>Required Action 1.1: Further Action Required</u></b></p> <p>The original finding remains open. Based on OSEP’s review of the documents submitted by the NJDOE, OSEP has determined that the documentation provided is not sufficient to demonstrate compliance with the related IDEA requirements for Required Action 1.1.</p> <p>Therefore, OSEP has provided the State with additional actions that must be taken to address Required Action 1.1, including related, supplemental information necessary for OSEP’s analysis of this issue.</p> <p>To complete Required Action 1.1, within 60 days of the date of this monitoring report the State must:</p> <ul style="list-style-type: none"> <li>1.1.1. Revise its policies and procedures to reference the IDEA’s due process hearing timeline as 45 ‘calendar days,’ as described in 34 C.F.R. § 300.515(a) and § 300.11(a), in each of the documents referenced above and any other relevant documents the State identifies.</li> <li>1.1.2. Remove all references to ‘Federal days’ from existing publicly available documents, including from the Special Education Dispute Resolution Manual.</li> <li>1.1.3. Provide to OSEP the final issuance of the Special Education Due Process Prehearing Guidelines.</li> </ul> <p><b><u>Additional Concern</u></b></p> <p>OSEP intends to follow up with the State regarding evidence of implementation of the NJDOE/OAL MOA.</p>
<p><b><u>Required Action 1.2</u></b></p> <p>The State must provide documentation demonstrating that the State has established procedures to ensure that ALJs who serve as hearing officers grant adjournments as set forth in N.J.A.C. 1:6A-9.2 (extensions as set forth in 34 C.F.R. § 300.515(c)) only at the request of a party to the hearing and for a specific period of time.</p>	<p><b><u>Required Action 1.2: Original Finding is Closed</u></b></p> <p>The original finding is closed based on OSEP’s review of the documents submitted by NJDOE. OSEP has determined that the documentation provided is sufficient to demonstrate compliance with the related IDEA requirements for Required Action 1.2.</p> <p><b><u>Additional Concerns</u></b></p> <p>OSEP intends to follow up with the State regarding the implementation of its procedures which include the monthly publishing of extensions to the 45-day timeline, on its website as described in the document, Revised Procedures for Conducting Special Education Hearings. Additionally, OSEP intends to follow up regarding the State’s oversight in addressing extensions to the 45-day timeline with the OAL.</p>

Required Action	Status
<p><b><u>Required Action 1.3</u></b></p> <p>The State must provide a copy of the notification to be issued to all ALJs who serve as hearing officers, LEAs, parent advocacy groups and other interested parties advising them that the State has revised its due process hearing timeline procedures to be consistent with Part B regulations 34 C.F.R. § 300.515(a) and (c), as described above.</p>	<p><b><u>Required Action 1.3: Further Action Required</u></b></p> <p>Based on OSEP’s review of the documents submitted by NJDOE, OSEP has determined that the documentation provided is not sufficient to meet the IDEA requirements addressed in Required Action 1.3.</p> <p>To complete Required Action 1.3, within 60 days of the date of this monitoring report the State must provide a copy of the notification to all ALJs who serve as hearing officers, LEAs, parent advocacy groups and other interested parties advising them that the State has revised its due process hearing timeline procedures to be consistent with Part B regulations 34 C.F.R. § 300.515(a) and (c) regarding the meaning of "days" in the 45-day timeline.</p>
<p><b><u>Required Action 1.4</u></b></p> <p>The State must provide documentation demonstrating that the State has reviewed its due process hearing data collection process and revised it, as necessary, to ensure that, consistent with the information set forth above, it will be able to provide accurate data on fully adjudicated hearings and hearing decisions with allowable extensions for the IDEA section 618 dispute resolution data submission for the School Year 2019-2020 data collection (reporting year is defined as July 1, 2019 through June 30, 2020).</p>	<p><b><u>Required Action 1.4: Original Finding is Closed</u></b></p> <p>Based on OSEP’s review of the documents submitted by NJDOE, OSEP has determined that the documentation provided is consistent with the required action.</p> <p><b><u>Additional Concerns</u></b></p> <p>OSEP intends to follow up with the State regarding the State’s data collection process to ensure that it provides accurate data on all IDEA Part B Section 618 data collection requirements related to dispute resolution, as outlined in OSEP’s data documentation requirements.<sup>1</sup></p>

### Resolution Meetings Required Actions Summary

Required Action	Status
<p><b><u>Required Action 2.1</u></b></p> <p>The State must provide documentation demonstrating that it has revised its dispute resolution</p>	<p><b><u>Required Action 2.1.1: Original Finding is Closed</u></b></p> <p>Based on OSEP’s review of the documents submitted by NJDOE, OSEP has determined that the documentation provided is sufficient to meet the IDEA requirements addressed in Required Action 2.1.1.</p>

<sup>1</sup> OSEP’s data documentation requirements are available by visiting: IDEA Part B Dispute Resolution: <https://data.ed.gov/dataset/43ffa95e-f6f5-450e-bbcb-faeba56843e/resource/913dfb34-4e11-48c9-8617-007dfa517a57/download/idea-partb-dispute-resolution-2019-20.docx>

Required Action	Status
<p>procedures and practices to ensure that:</p> <ul style="list-style-type: none"> <li>• 2.1.1 the State has a mechanism for tracking whether an LEA convenes a resolution meeting within 15 days of receiving notice of the parent’s due process complaint; unless the parties agree in writing to waive the meeting or use mediation.</li> <li>• 2.1.2 if an LEA fails to convene a resolution meeting as required, the State makes a finding of noncompliance and ensures that the LEA’s noncompliance is corrected as soon as possible, and in no case later than one year of the State’s identification of noncompliance.</li> </ul>	<p><b><u>Required Action 2.1.2: Original Finding is Closed</u></b></p> <p>Based on OSEP’s review of the documents submitted by NJDOE, OSEP has determined that the documentation provided is sufficient to meet the IDEA requirements addressed in Required Action 2.1.2.</p>

**Child’s Status During Proceedings Required Actions Summary**

Required Action	Status
<p><b><u>Required Action 3.1</u></b></p> <p>The State must provide documentation demonstrating that the State has revised the procedures in New Jersey’s Special Education Dispute Resolution Procedures Manual and the explanation on pages 20 and 21 of its Parental Rights in Special Education Handbook by removing the language limiting the application of the pendency (also known as “stay-put”) provision to due process complaints filed within 15 calendar days of the proposed change in the child’s program or placement and including the explanation of the stay-put provision described above.</p>	<p><b><u>Required Action 3.1: Original Finding is Closed</u></b></p> <p>Based on OSEP’s review of the documents submitted by NJDOE, OSEP has determined that the documentation provided is sufficient to meet required action 3.1.</p> <p><b><u>Additional Concerns</u></b></p> <p>OSEP intends to follow up with the State regarding the implementation of 34 C.F.R. § 300.518.</p>
<p><b><u>Required Action 3.2</u></b></p>	<p><b><u>Required Action 3.2: Original Finding is Closed</u></b></p>

Required Action	Status
<p>The State must provide a copy of the notification to be issued to all ALJs who serve as hearing officers, LEAs, parent advocacy groups, and other interested parties advising them that the State has revised its stay-put or pendency provisions to be consistent with 20 U.S.C. § 1415(j) and 34 C.F.R. § 300.508, as described above.</p>	<p>Based on OSEP’s review of the documents submitted by NJDOE, OSEP has determined that the documentation provided is sufficient to meet required action 3.2.</p>

### Expedited Due Process Hearings Required Actions Summary

Required Action	Status
<p><b><u>Required Action 4.1</u></b></p> <p>The State must provide documentation demonstrating that the State has revised its procedures for expedited due process hearings to ensure that:</p> <ul style="list-style-type: none"> <li>• 4.1.1 ALJs who serve as hearing officers do not permit parties to challenge the sufficiency of an expedited due process complaint; and</li> <li>• 4.1.2 ALJs who serve as hearing officers will no longer grant ‘adjournments’ (extensions) which are inconsistent with the shortened timelines governing expedited due process complaints.</li> </ul>	<p><b><u>Required Action 4.1.1: Original Finding is Closed</u></b></p> <p>Based on OSEP’s review of the documents submitted by NJDOE, OSEP has determined that the documentation provided is sufficient to meet required action 4.1.1. However, OSEP recommends that the State include information related to required action 4.1.1 in the State’s Proposed Special Education Due Process Prehearing Guidelines, within the section, ‘Expedited Hearings.’</p> <p><b><u>Required Action 4.1.2: Original Finding is Closed</u></b></p> <p>Based on OSEP’s review of the documents submitted by NJDOE, OSEP has determined that the documentation provided is sufficient to meet required action 4.1.2.</p> <p><b><u>Additional Concerns</u></b></p> <p>OSEP intends to follow up with the State regarding the implementation of 34 C.F.R. § 300.532.</p>
<p><b><u>Required Action 4.2</u></b></p> <p>The State must provide a copy of the notification to be issued to all ALJs who serve as hearing officers, LEAs, parent advocacy groups, and other interested parties advising them that the State has revised the expedited due process hearing procedures found in NJDOE’s Special Education Dispute Resolution Manual to be</p>	<p><b><u>Required Action 4.2: Original Finding is Closed</u></b></p> <p>Based on OSEP’s review of the documents submitted by NJDOE, OSEP has determined that the documentation provided is sufficient to meet required action 4.2.</p>

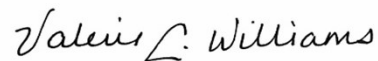
Required Action	Status
consistent with the Part B regulations at 34 C.F.R. § 300.532, as described above.	
<p><b><u>Required Action 4.3</u></b></p> <p>The State must provide documentation demonstrating that the State has reviewed its expedited due process hearing data collection process and has revised it, as necessary, to ensure that it will be able to provide accurate data for its IDEA section 618 dispute resolution data submission for the School Year 2019-2020 data collection (reporting year is defined as July 1, 2019 through June 30, 2020).</p>	<p><b><u>Required Action 4.3: Original Finding is Closed</u></b></p> <p>Based on OSEP’s review of the documents submitted by NJDOE, OSEP has determined that the documentation provided is sufficient to meet Required Action 4.3.</p> <p><b><u>Additional Concerns</u></b></p> <p>OSEP intends to follow up with the State regarding the implementation of the State’s expedited due process hearing data collection process.</p>

OSEP notes that selected documents provided by NJDOE for purposes of addressing the required actions were submitted in ‘draft’ status. OSEP’s review of these documents and how they address the Required Actions will be dependent on OSEP’s review of final versions of such documents.

OSEP appreciates NJDOE’s efforts to complete the required actions and looks forward to receiving the additional documentation as described in the enclosed chart to complete the remaining required actions and close out the findings. OSEP will provide additional information about additional monitoring activities in the near future.

Please contact Kim Hymes, at 202-245-6538 or [kimberly.hymes@ed.gov](mailto:kimberly.hymes@ed.gov), if you have any questions or concerns.

Sincerely,



Valerie C. Williams  
 Director  
 Office of Special Education Programs

Enclosure

cc: Kimberly Murray, Director  
 Office of Special Education  
 New Jersey Department of Education



## 1. Timely Due Process Hearing Decisions

FINDING: Based on the review of documents and interviews with State personnel, OSEP determined that the State does not have procedures for ensuring that decisions in due process hearings are issued within a 45-day timeline or within allowable extensions, because: (i) the State does not have procedures for ensuring that administrative law judges (ALJs) who serve as hearing officers use calendar days consistent with the definition of ‘day’ in 34 C.F.R. § 300.11(a), in calculating the 45-day timeline in 34 C.F.R. § 300.515(a) for reaching a final decision in a due process hearing and mailing the decision to each of the parties; and (ii) the State does not have procedures for ensuring that ALJs who serve as hearing officers grant adjournments, as set forth in N.J.A.C. 1:6A-9.2, consistent with the provision for granting extensions of the 45-day timeline in 34 C.F.R. § 300.515(c) for a specific time and at the request of a party.

Consequently, NJDOE has failed to exercise its general supervisory and monitoring responsibility in 20 U.S.C. §§ 1412(a)(11) and 1416(a) and 34 C.F.R. §§ 300.149 and 300.600 and 20 U.S.C. § 1232(b)(3)(A) to ensure that due process hearing decisions are issued within the 45-day timeline or an allowable extension, as required by 34 C.F.R. § 300.515(a) and (c). Because the State does not have procedures for ensuring that hearing decisions are reached within the 45-day timeline or an allowable extension is properly calculated, the State cannot ensure that its IDEA section 618 Dispute Resolution Data submission on fully adjudicated hearings is completed within the timeline and within extended timelines is accurate.

OSEP Required Corrective Action	State Submitted Documents	OSEP Analysis	Required Actions/ Next Steps
<p><b><u>Required Action 1.1</u></b>                      The State must provide documentation demonstrating that the State has established procedures to ensure that administrative law judges (ALJs) who serve as hearing officers calculate the 45-day timeline for issuing final decisions in due process hearings based on calendar days rather than ‘Federal days.’</p>	<p>Proposed Special Education Due Process Prehearing Guidelines                      Revised Procedures for Conducting Special Education Due Process Hearings                      Special Education Dispute Resolution Manual                      Revised Procedures for Conducting</p>	<p>As indicated in OSEP’s May 6, 2019, letter to NJDOE, and further indicated below, OSEP has received multiple complaints related to the State’s adherence to the 45-day timeline with respect to issuing a final hearing decision in due process hearings, under 34 C.F.R. § 300.515(a), or the adjusted time periods described in § 300.510(c).                      Specifically, prior to OSEP’s on-site visit, OSEP received two complaints related to the way the State calculates the 45-day timeline with respect to issuing a final hearing decision. One complaint alleged that the state counts ‘Federal days’ instead of calendar days in calculating the 45-day timeline. According to the complaint, ALJs only count days as ‘Federal</p>	<p><b><u>Required Action 1.1: Further Action Required</u></b>                      The original finding remains open. Based on OSEP’s review of the documents submitted by the NJDOE, OSEP has determined that the documentation provided is not sufficient to demonstrate compliance with the related IDEA requirements for Required Action 1.1.                      Therefore, OSEP has provided the State with additional actions</p>

OSEP Required Corrective Action	State Submitted Documents	OSEP Analysis	Required Actions/ Next Steps
	<p>Special Education Due Process Hearings</p> <p>Parental Rights in Special Education</p>	<p>days’ against the 45-day timeline when an action took place with regards to the hearing, though days or weeks could elapse between such actions. For example, a settlement conference, prehearing conference, and hearing were counted as three (3) ‘Federal days,’ but the days and/or weeks between such actions were not counted against the 45-day timeline.</p> <p>OSEP continues to receive information from attorneys representing parents of children with disabilities in New Jersey in due process hearings which reference the continued use of ‘Federal days’ and issuance of final hearing decisions that extend beyond the 45-day timeline.</p> <p>Example 1: Two parents (unidentified) submitted a due process complaint on June 15, 2022, which was transmitted to the Office of Administrative Law (OAL) by the NJDOE Office of Special Education on July 18, 2022. A final order was issued by the ALJ on December 7, 2022.<sup>2</sup></p> <p>Example 2: On June 15, 2022, OSEP received correspondence from an attorney representing parents in New Jersey in due process complaints that allege</p>	<p>that must be taken to address Required Action 1.1, including related, supplemental information necessary to OSEP’s analysis of this issue.</p> <p>To complete Required Action 1.1, within 60 days of the date of this monitoring report the State must:</p> <p>1.1.1 Revise its policies and procedures to reference the IDEA’s due process hearing timeline as 45 ‘calendar days,’ as described in 34 C.F.R. § 300.515(a) and § 300.11(a), in each of the documents referenced above and any other relevant documents the State identifies.</p> <p>1.1.2. Remove all references to ‘Federal days’ from existing publicly available documents, including from the</p>

<sup>2</sup> The specific information can be provided to the State upon request.

OSEP Required Corrective Action	State Submitted Documents	OSEP Analysis	Required Actions/ Next Steps
		<p>the continued use of ‘Federal days’ by the OAL and NJDOE.<sup>3</sup></p> <p>Further, OSEP is aware of, and will continue to monitor pending Civil Action No. 19-12807 in the United States District Court, District of New Jersey, which addresses among other issues, timely due process hearing decisions.</p> <p>The State-provided documents fail to clearly and consistently communicate that the 45-day timeline refers to ‘calendar days.’ This explicit reference is necessary due to the State’s prior misinterpretation of the term ‘45-days’ which has resulted in a miscalculation of the 45-day timeline set forth in 34 C.F.R. §300.515(a).<sup>4</sup> Further, it has been reported to OSEP that ALJs may be continuing to calculate the 45-day timeline using ‘Federal days.’</p> <p>Additionally, in OSEP’s review of the documents submitted by the State, OSEP noted only one instance where the State referred to the 45-day timeline as ‘calendar days,’ (Proposed Special Education Due Process Prehearing Guidelines, page 1). OSEP notes that this specific reference to 45 ‘calendar days’ was not consistently referenced throughout the document, such as in the section, Hearing Dates and Decision Due Dates, or in other relevant sections. Similarly,</p>	<p>Special Education Dispute Resolution Manual.</p> <p>1.1.3. Provide to OSEP the final issuance of the Special Education Due Process Prehearing Guidelines.</p> <p><b><u>Additional Concerns</u></b>                      OSEP intends to follow up with the State regarding evidence of implementation of the MOA, as well as continued misapplication of the 45-day timeline under 34 C.F.R. § 300.515(a).</p>

<sup>3</sup> The specific information can be provided to the State upon request.

<sup>4</sup> Under 34 C.F.R. §300.515(c), a hearing officer may grant specific extensions of time beyond the period set out in §300.515(a) at the request of either party.

OSEP Required Corrective Action	State Submitted Documents	OSEP Analysis	Required Actions/ Next Steps
		<p>the State refers to the 45-day timeline in the document, Revised Procedures for Conducting Special Education Due Process Hearings, but fails to explain this as 45 ‘calendar days.’ This specificity is needed to ensure that the previous misinterpretation of the 45 ‘calendar day’ timeline is corrected and that the proper timelines are explicit.</p> <p>Additionally, OSEP notes that the State has not included any explicit reference to ‘45 calendar days’ in the following documents: Special Education Dispute Resolution Manual; Revised Procedures for Conducting Special Education Due Process Hearings; and, Parental Rights in Special Education. Moreover, OSEP notes that the State does not appear to have removed one reference to ‘Federal days’ in the State’s Special Education Dispute Resolution Manual.</p> <p>Further, the State has not provided sufficient documentation demonstrating that it has established procedures to ensure that ALJs who serve as hearing officers calculate the 45-day timeline using ‘calendar days.’ OSEP notes that the Memorandum of Agreement for Professional Services (MOA) between the NJDOE and OAL, submitted to OSEP in February 2022, describes the State’s intent to “purchase software to centralize the scheduling of cases in order to track the progress of special education due process hearings and to ensure compliance with the timelines set forth in the IDEA, federal, and state regulations.” While OSEP appreciates the State’s recognition that the existence of a case management system, data</p>	

OSEP Required Corrective Action	State Submitted Documents	OSEP Analysis	Required Actions/ Next Steps
		<p>system software solution and/or another mechanism is a strategy that may assist with the administration of due process complaints, hearings and adherence to the 45-day timeline in 34 C.F.R. § 300.515(a) or the adjusted time periods described in 34 C.F.R. § 300.510(c), it remains unclear whether the State currently is implementing that system.</p> <p>Additionally, OSEP notes that the MOA states:</p> <p style="padding-left: 40px;">“NJDOE shall provide the OAL with an annual payment of \$125,000 to identify, obtain, coordinate and deliver training and professional development to ALJs, the OAL special education mediators, and other OAL staff working on matters related to special education due process hearings. The training topics, to be jointly identified by the NJDOE and the OAL, must include but are not limited to, annual updates to special education law and procedures; legal writing; conducting negotiations; and presiding over settlement conferences.”</p> <p>However, it remains unclear to OSEP whether this training and professional development has been implemented, and whether such professional development explicitly clarified IDEA’s 45 ‘calendar day’ timeline requirement under 34 C.F.R. § 300.515(a) or the adjusted time periods described in 34 C.F.R. § 300.510(c) and the prohibition on continued use of ‘Federal days.’</p>	

OSEP Required Corrective Action	State Submitted Documents	OSEP Analysis	Required Actions/ Next Steps
		<p><b><u>Additional Concerns</u></b></p> <p>As noted above, OSEP is aware of examples from stakeholders in New Jersey concerning the continued misapplication of the 45-day timeline under 34 C.F.R. § 300.515(a). OSEP intends to review these matters further with the State.</p>	
<p><b><u>Required Action 1.2</u></b></p> <p>The State must provide documentation demonstrating that the State has established procedures to ensure that ALJs who serve as hearing officers grant adjournments as set forth in N.J.A.C. 1:6A-9.2 (extensions as set forth in 34 C.F.R. § 300.515(c)) only at the request of a party to the hearing and for a specific period of time.</p>	<p>Revised Procedures for Conducting Special Education Hearings.</p>	<p>OSEP notes that in the Revised Procedures for Conducting Special Education Hearings, the State informed the ALJs who serve as hearing officers that the granting of adjournments, as set forth in N.J.A.C. 1:6A-9.2, occurs only at the request of a party to the hearing and for a specific period of time.</p> <p>Additionally, in this document, the State described a requirement for OALs to submit to the State on a monthly basis:</p> <ul style="list-style-type: none"> <li>• Number of extensions of the 45-day timeline requested, including the party seeking the extension of time and the reason for the request;</li> <li>• Number of extensions of the 45-day timeline granted by each ALJ; and</li> <li>• For each extension of the 45-day timeline granted, the OAL must include the revised due date of the final decision.</li> </ul>	<p><b><u>Required Action 1.2: Original Finding is Closed</u></b></p> <p>The original finding is closed based on OSEP’s review of the documents submitted by NJDOE. OSEP has determined that the documentation provided is sufficient to demonstrate compliance with the related IDEA requirements for Required Action 1.2.</p> <p><b><u>Additional Concerns</u></b></p> <p>OSEP intends to follow up with the State regarding the implementation of its procedures which include the monthly publishing of extensions to the 45-day timeline, on its website as described in the document, Revised Procedures for Conducting Special Education Hearings. Additionally, OSEP</p>

OSEP Required Corrective Action	State Submitted Documents	OSEP Analysis	Required Actions/ Next Steps
		<p>Therefore, the documentation provided by the State, as noted above, demonstrates that the State has met the required action.</p> <p><b><u>Additional Concerns</u></b></p> <p>OSEP notes that in the Revised Procedures for Conducting Special Education Hearings document, NJDOE states, “Beginning October 1, 2019, and occurring on a monthly basis thereafter, the Department will publish, on its website, all of the above information” in reference to the bulleted list above regarding extensions. As of June 15, 2023, OSEP has been unable to locate this information on NJDOE’s website.</p> <p>Further, OSEP is concerned that the NJDOE has not described its oversight role in ensuring that ALJs who serve as hearing officers grant adjournments and extensions as set forth in N.J.A.C. 1:6A-9.2 and 34 C.F.R. § 300.515(c), respectively, only at the request of a party to the hearing and for a specific period of time. An example of OSEP’s concern is the lack of public access to information regarding extensions to the 45-day timeline, as described above. OSEP intends to review these matters further with the State.</p>	<p>intends to follow up regarding the State’s oversight in addressing extensions to the 45-day timeline with the OAL.</p>
<p><b><u>Required Action 1.3</u></b>                      The State must provide a copy of the notification to be issued to all ALJs who serve as</p>	<p>Proposed Special Education Due Process Prehearing Guidelines</p>	<p>OSEP notes that the notification the State submitted to OSEP addressed to all ALJs who serve as hearing officers, LEAs, parent advocacy groups and other interested parties did not specifically or by referenced</p>	<p><b><u>Required Action 1.3: Further Action Required</u></b>                      Based on OSEP’s review of the documents submitted by</p>

OSEP Required Corrective Action	State Submitted Documents	OSEP Analysis	Required Actions/ Next Steps
<p>hearing officers, LEAs, parent advocacy groups and other interested parties advising them that the State has revised its due process hearing timeline procedures to be consistent with Part B regulations 34 C.F.R. § 300.515(a) and (c), as described above.</p>	<p>Revised Procedures for Conducting Special Education Due Process Hearings                      Revised Procedures for Conducting Special Education Resolution Meetings                      Parental Rights in Special Education                      Special Education Dispute Resolution Manual</p>	<p>documents, sufficiently address the findings related to the 45-day timeline referring to ‘calendar days’ as described in 34 C.F.R. § 300.515(a) and 34 C.F.R. § 300.11(a), and the adjusted time periods (e.g., extensions or ‘adjournments’) described in 34 C.F.R. § 300.510(c).</p> <p>As stated in Required Action 1.1, OSEP notes that the State did not include an explicit reference to the 45-day timeline as meaning 45-calendar days in the following documents: Proposed Special Education Due Process Prehearing Guidelines, Revised Procedures for Conducting Special Education Due Process Hearings, Revised Procedures for Conducting Special Education Resolution Meetings, Parental Rights in Special Education. Additionally, OSEP notes that the State must remove the reference to ‘Federal days’ in the State’s Special Education Dispute Resolution Manual.</p> <p>Based on the information presented above, OSEP concludes that the information provided to all ALJs who serve as hearing officers, LEAs, parent advocacy groups and other interested parties is insufficient to advise them that the State has revised its due process hearing timeline procedures to be consistent with Part B regulations 34 C.F.R. § 300.515(a) and (c), as noted in Required Action 1.1.</p>	<p>NJDOE, OSEP has determined that the documentation provided is not sufficient to meet the IDEA requirements addressed in Required Action 1.3.</p> <p>To complete Required Action 1.3, within 60 days of the date of this monitoring report the State must provide a copy of the notification to all ALJs who serve as hearing officers, LEAs, parent advocacy groups and other interested parties advising them that the State has revised its due process hearing timeline procedures to be consistent with Part B regulations 34 C.F.R. § 300.515(a) and (c) regarding the meaning of "days" in the 45-day timeline.</p>



<p><b><u>Required Action 1.4</u></b></p> <p>The State must provide documentation demonstrating that the State has reviewed its due process hearing data collection process and revised it, as necessary, to ensure that, consistent with the information set forth above, it will be able to provide accurate data on fully adjudicated hearings and hearing decisions with allowable extensions for the IDEA section 618 dispute resolution data submission for the School Year 2019-2020 data collection (reporting year is defined as July 1, 2019 through June 30, 2020).</p>	<p>Revised Procedures for Conducting Special Education Due Process Hearings</p>	<p>The documentation provided by the State, which includes the document, Revised Procedures for Conducting Special Education Due Process Hearings, demonstrates that the State has reviewed its due process data collection process and revised it to address:</p> <ul style="list-style-type: none"> <li>• Fully adjudicated hearings, which the State refers to as ‘resolved’ hearings;</li> <li>• Hearing decisions with allowable extensions.</li> </ul> <p>Therefore, the State has met the required action.</p> <p><b><u>Additional Concerns</u></b></p> <p>OSEP appreciates that the State has described the process by which the OAL will provide NJDOE with monthly reports which include the following data:</p> <ul style="list-style-type: none"> <li>• Number of due process hearings conducted;</li> <li>• Number of due process hearings resolved;</li> <li>• Number of due process hearings pending before all ALJs;</li> <li>• Number of extensions of the 45-day timeline requested, including the party seeking the extension of time and the reason for the request;</li> <li>• Number of extensions of the 45-day timeline granted by each ALJ; and</li> <li>• For each extension of the 45-day timeline granted, the OAL must include the revised due date of the final decision.</li> </ul>	<p><b><u>Required Action 1.4: Original Finding is Closed</u></b></p> <p>Based on OSEP’s review of the documents submitted by NJDOE, OSEP has determined that the documentation provided is consistent with the required action.</p> <p><b><u>Additional Concerns</u></b></p> <p>OSEP intends to follow up with the State regarding the State’s data collection process to ensure that it provides accurate data on all IDEA Part B Section 618 data collection requirements related to dispute resolution, as outlined in OSEP’s data documentation requirements.<sup>11</sup></p>
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OSEP Required Corrective Action	State Submitted Documents	OSEP Analysis	Required Actions/ Next Steps
		<p>However, OSEP notes not all IDEA Part B Dispute Resolution 618 data reporting requirements are included in the State’s description of the data OAL will report to NJDOE. Therefore, it is unclear to OSEP how NJDOE will receive other IDEA Part B Dispute Resolution 618 data reporting requirements<sup>5</sup>, which include:</p> <ul style="list-style-type: none"> <li>• Decision within timeline;<sup>6</sup></li> <li>• Decision within extended timeline;<sup>7</sup></li> <li>• Expedited due process complaint;<sup>8</sup></li> </ul>	

<sup>11</sup> OSEP’s data documentation requirements are available by visiting: IDEA Part B Dispute Resolution: <https://data.ed.gov/dataset/43ffa95e-f6f5-450e-bbcb-efaeba56843e/resource/913dfb34-4e11-48c9-8617-007dfa517a57/download/idea-partb-dispute-resolution-2019-20.docx>

<sup>5</sup> IDEA 618 dispute resolution data submission requirements are described in the document, OSEP Data Documentation: IDEA Part B Dispute Resolution: <https://data.ed.gov/dataset/43ffa95e-f6f5-450e-bbcb-efaeba56843e/resource/913dfb34-4e11-48c9-8617-007dfa517a57/download/idea-partb-dispute-resolution-2019-20.docx>

<sup>6</sup> IDEA 618 dispute resolution data submission requirements define, ‘decision within timeline’ as, “The written decision from a hearing fully adjudicated was provided to the parties in the due process hearing not later than 45 days after the expiration of the resolution period or in the case of an expedited due process complaint, provided no later than 10 school days after the due process hearing, which must occur within 20 school days of the date the expedited due process complaint is filed.” IDEA Part B Dispute Resolution: <https://data.ed.gov/dataset/43ffa95e-f6f5-450e-bbcb-efaeba56843e/resource/913dfb34-4e11-48c9-8617-007dfa517a57/download/idea-partb-dispute-resolution-2019-20.docx>

<sup>7</sup> IDEA 618 dispute resolution data submission requirements define ‘decision within extended timeline’ as, “The written decision from a hearing fully adjudicated was provided to the parties in the due process hearing more than 45 days after the expiration of the resolution period, but within a specific time extension granted by the hearing or reviewing officer at the request of either party.” IDEA Part B Dispute Resolution: <https://data.ed.gov/dataset/43ffa95e-f6f5-450e-bbcb-efaeba56843e/resource/913dfb34-4e11-48c9-8617-007dfa517a57/download/idea-partb-dispute-resolution-2019-20.docx>

<sup>8</sup> IDEA 618 dispute resolution data submission requirements define, ‘expedited due process complaint’ as, “A due process complaint filed by: (1) the parent of a child with a disability who disagrees with any decision regarding the manifestation determination and/or disciplinary removal of a student from an educational placement and the placement of that student in an interim alternative educational setting; or (2) a local educational agency that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.” IDEA Part B Dispute Resolution: <https://data.ed.gov/dataset/43ffa95e-f6f5-450e-bbcb-efaeba56843e/resource/913dfb34-4e11-48c9-8617-007dfa517a57/download/idea-partb-dispute-resolution-2019-20.docx>

OSEP Required Corrective Action	State Submitted Documents	OSEP Analysis	Required Actions/ Next Steps
		<ul style="list-style-type: none"> <li>• Expedited due process complaint pending;<sup>9</sup> and</li> <li>• Expedited due process hearing fully adjudicated.<sup>10</sup></li> </ul> <p>OSEP intends to review these matters further with the State.</p>	

## 2. Resolution Meetings

**FINDING:** Based on the review of documents and interviews with State personnel, OSEP determined that the State does not have procedures to ensure that the LEA convenes a resolution meeting within 15 days of receiving notice of the parent’s due process complaint, unless the parties agree in writing to waive the meeting or to use mediation, in accordance with 34 C.F.R. § 300.510(a) and (b).

The State does not have a tracking mechanism for determining when the resolution period has concluded and the 45-day hearing timeline in 34 C.F.R. § 300.515(a) commences if the resolution process is unsuccessful in resolving the parent’s due process complaint. Consequently, the State is not exercising its general supervisory and monitoring responsibility in accordance with 20 U.S.C. §§ 1412(a)(11) and 1416(a) and 34 C.F.R. §§ 300.149 and 300.600(a), (d)(2), and (e) and 20 U.S.C. § 1232d(b)(3)(A) and (E) to ensure that: (i) LEAs hold a resolution meeting within 15 days of receiving notice of the parent’s due process complaint, as required by 34 C.F.R. § 300.510(a); (ii) the 45-day due process hearing commences at the conclusion of the 30-day resolution period or the adjusted resolution period; and (iii) if an LEA fails to comply with the requirement to convene a resolution meeting, the State makes a finding of noncompliance and ensures correction of the noncompliance as soon as possible and in no case later than one year from the State’s identification of the noncompliance, as required by 34 C.F.R. § 300.600(e).

<sup>9</sup> IDEA 618 dispute resolution data submission requirements define ‘expedited due process complaint pending’ as, “An expedited due process complaint wherein an expedited due process hearing has not yet been scheduled or is scheduled but has not yet been held.” IDEA Part B Dispute Resolution: <https://data.ed.gov/dataset/43ffa95e-f6f5-450e-bbcb-efaeba56843e/resource/913dfb34-4e11-48c9-8617-007dfa517a57/download/idea-partb-dispute-resolution-2019-20.docx>

<sup>10</sup> IDEA 618 dispute resolution data submission requirements define ‘expedited due process hearing fully adjudicated’ as, “A hearing officer conducted a due process hearing concerning an expedited due process complaint, reached a final decision regarding matters of law and fact and issued a written decision to the parties about whether a change of placement is ordered.” IDEA Part B Dispute Resolution: <https://data.ed.gov/dataset/43ffa95e-f6f5-450e-bbcb-efaeba56843e/resource/913dfb34-4e11-48c9-8617-007dfa517a57/download/idea-partb-dispute-resolution-2019-20.docx>

OSEP Required Corrective Action	State Submitted Documents	OSEP Analysis	Required Actions/ Next Steps
<p><b><u>Required Action 2.1</u></b></p> <p>The State must provide documentation demonstrating that it has revised its dispute resolution procedures and practices to ensure that:</p> <ul style="list-style-type: none"> <li>2.1.1 the State has a mechanism for tracking whether an LEA convenes a resolution meeting within 15 days of receiving notice of the parent’s due process complaint, unless the parties agree in writing to waive the meeting or use mediation.</li> <li>2.1.2 if an LEA fails to convene a resolution meeting as required, the State makes a finding of noncompliance and ensures that the LEA’s noncompliance is corrected as soon as possible, and in no case later than one year of the State’s identification of noncompliance.</li> </ul>	<p>Revised Procedures for Conducting Special Education Resolution Meetings</p> <p>Special Education Dispute Resolution Procedures Manual</p>	<p><b><u>Required Action 2.1.1:</u></b> The State provided documents, Revised Procedures for Conducting Special Education Resolution Meetings and Office of Special Education Policy and Dispute Resolution: Special Education Dispute Resolution Procedures Manual, outlined a process for tracking the scheduling and outcome of the resolution sessions in a database operated by dispute resolution unit staff from the NJDOE. Therefore, the documentation provided by the State, as noted above, demonstrates that the State has met the required action.</p> <p><b><u>Required Action 2.1.2:</u></b> The State provided documents, Revised Procedures for Conducting Special Education Resolution Meetings and Office of Special Education Policy and Dispute Resolution: Special Education Dispute Resolution Procedures Manual, described the procedures the State will use to issue a finding of noncompliance if an LEA fails to convene a resolution meeting as required under 34 C.F.R. § 300.510. Therefore, the documentation provided by the State, as noted above, demonstrates that the State has met the required action.</p>	<p><b><u>Required Action 2.1.1:</u></b> <b><u>Original Finding is Closed</u></b></p> <p>Based on OSEP’s review of the documents submitted by NJDOE, OSEP has determined that the documentation provided is sufficient to meet the IDEA requirements addressed in Required Action 2.1.1.</p> <p><b><u>Required Action 2.1.2:</u></b> <b><u>Original Finding is Closed</u></b></p> <p>Based on OSEP’s review of the documents submitted by NJDOE, OSEP has determined that the documentation provided is sufficient to meet the IDEA requirements addressed in Required Action 2.1.2.</p>

### 3. Child’s Status During Proceedings

FINDING: Based on the review of documents and interviews with State personnel, OSEP determined that the State procedures for implementing the requirement to maintain the child’s current educational placement during the pendency of proceedings, set forth in New Jersey’s Special Education Dispute Resolution Procedures Manual and the explanation on pages 20 and 21 of its Parental Rights in Special Education Handbook, are inconsistent with 20 U.S.C. § 1415(j) and 34 C.F.R. § 300.507 filed within 15 calendar days of the proposed change in the child’s program or placement.

OSEP Required Corrective Action	State Submitted Documents	OSEP Analysis	Required Actions/Next Steps
<p><b><u>Required Action 3.1</u></b>                      The State must provide documentation demonstrating that the State has revised the procedures in New Jersey’s Special Education Dispute Resolution Procedures Manual and the explanation on pages 20 and 21 of its Parental Rights in Special Education Handbook by removing the language limiting the application of the pendency (also known as “stay-put”) provision to due process complaints filed within 15 calendar days of the proposed change in the child’s program or placement and including the explanation of the stay-put provision described above.</p>	<p>Special Education Dispute Resolution Procedures Manual                      Parental Rights in Special Education Handbook                      Revised Procedures for Determining a Student’s Status During a Special Education Due Process Hearing</p>	<p>In its May 6, 2019 monitoring letter, OSEP found that the State’s procedures for implementing the requirement to maintain the child’s current educational placement during the pendency of proceedings were inconsistent with 20 U.S.C § 1415(j) and 34 C.F.R. § 300.518 because those procedures limit the application of the pendency or stay-put provision to due process complaints under 34 C.F.R. § 300.507 filed within 15 calendar days of the proposed change in the child’s program or placement. OSEP noted that IDEA does not limit the application of the stay-put provision to a due process complaint requesting a due process hearing that is filed within 15 calendar days of a proposed change in a child’s program or placement. Moreover, not only is the 15 days an arbitrary amount of time, but it is not based on parental agreement and is inconsistent with OSEP’s previous interpretation of 34 C.F.R. § 300.518, which states, in general, the IDEA presumes that the child’s current educational placement is the last agreed-upon placement where the child must remain until the completion of administrative and judicial proceedings, unless the</p>	<p><b><u>Required Action 3.1: Original Finding is Closed.</u></b>                      Based on OSEP’s review of the documents submitted by NJDOE, OSEP has determined that the documentation provided is sufficient to meet required action 3.1.                      Additional Concerns:                      OSEP intends to follow up with the State regarding the implementation of 34 C.F.R. § 300.518.</p>

OSEP Required Corrective Action	State Submitted Documents	OSEP Analysis	Required Actions/Next Steps
		<p>public agency and the parents agree to some other placement.<sup>12</sup></p> <p>To address this issue, OSEP’s finding focused on two documents the State used to convey and implement policies, practices and procedures related to the application of the pendency provision under 34 C.F.R. § 300.518: New Jersey’s Special Education Dispute Resolution Procedures Manual and Parental Rights in Special Education Handbook.</p> <p>The documentation provided by the State removed references linking the application of the pendency (also known as “stay put”) provision to due process complaints filed within 15 calendar days of the proposed change in the child’s program or placement. However, OSEP also notes that the Special Education Dispute Resolution Manual only addresses the issue of the pendency or stay-put provision within the context of “Converting ‘mediation only’ to a due process hearing request” (page 14). The State does not include an explanation of the pendency or stay-put provision as set out in 34 C.F.R. § 300.518, as was previously required, but rather refers to the term broadly and in a limited context.</p> <p>Additionally, the State included an explanation of the pendency provision in the document, Revised</p>	

<sup>12</sup> See OSEP letter to Goldstein (2012): [12-002172r-ny-goldstein-pendency-10-18-12.pdf \(ed.gov\)](https://www.ed.gov/sites/default/files/2012/10/12-002172r-ny-goldstein-pendency-10-18-12.pdf)

OSEP Required Corrective Action	State Submitted Documents	OSEP Analysis	Required Actions/Next Steps
		<p>Procedures for Determining a Student’s Status During a Special Education Due Process Hearing, a memo to Chief School Administrators, Charter School and Renaissance School Project Leads, Administrators of Approved Private Schools for Students with Disabilities, Nonpublic School Administrators, Administrative Law Judges on August 6, 2019. Specifically, this memo stated:</p> <p>“While neither IDEA nor its implementing regulations define “current educational placement,” IDEA presumes that the student’s current educational placement is the last agreed upon placement where the student must remain until the resolution of the dispute, unless the LEA and the parent/guardian files a request for a due process hearing. A student’s right to “stay put” applies even if the filing occurs more than 15 calendar days after the proposed change in the student’s program or placement.”</p> <p>Therefore, the State has met the required action 3.1.</p> <p><b><u>Additional Concerns</u></b></p> <p>Despite the revisions noted above, OSEP continues to receive information from attorneys representing parents of children with disabilities in New Jersey regarding the implementation of 20 U.S.C § 1415(j) and 34 C.F.R. § 300.518, which specifically reference requiring a parent to file a due process complaint within 15 calendar days of the proposed change in the child’s program or placement, to</p>	

OSEP Required Corrective Action	State Submitted Documents	OSEP Analysis	Required Actions/Next Steps
		<p>invoke IDEA’s pendency provisions as being interpreted to mean the last agreed upon placement.<sup>13</sup></p> <p>Through follow up discussions with NJDOE personnel,<sup>14</sup> OSEP continues to have questions regarding the State’s implementation of 20 U.S.C § 1415(j) and 34 C.F.R. § 300.518. OSEP intends to review these matters further with the State.</p>	
<p><b><u>Required Action 3.2</u></b></p> <p>The State must provide a copy of the notification to be issued to all ALJs who serve as hearing officers, LEAs, parent advocacy groups and other interested parties advising them that the State has revised its stay-put or pendency provisions to be consistent with 20 U.S.C. § 1415(j) and 34 C.F.R. § 300.508, as described above.</p>	<p>Parental Rights in Special Education</p> <p>Revised Procedures for Determining a Student’s Status During a Special Education Due Process Hearing</p>	<p>OSEP has determined that the State has provided notification to ALJs who serve as hearing officers, LEAs, parent advocacy groups, and other interested parties advising them that the State has revised its stay-put or pendency procedures to be consistent with 20 U.S.C. § 1415(j) and 34 C.F.R. § 300.518.</p>	<p><b><u>Required Action 3.2: Original Finding is Closed.</u></b></p> <p>Based on OSEP’s review of the documents submitted by NJDOE, OSEP has determined that the documentation provided is sufficient to meet required action 3.2.</p>

<sup>13</sup> The specific information can be provided to the State upon request.

<sup>14</sup> A teleconference was held on May 19, 2022 with officials from OSEP and the NJDOE to discuss questions related to required action 3.1.



#### 4. Expedited Due Process Hearings

FINDING: Based on the review of documents and interviews with State personnel, OSEP determined that the State does not have procedures for ensuring that ALJs who serve as hearing officers issue decisions in expedited due process hearings in accordance with 34 C.F.R. § 300.532(c)(2) because: (1) the State permits ALJs who serve as hearing officers to grant a request from a party to an expedited due process hearing to challenge the sufficiency of the due process complaint, a practice that is inconsistent with 34 C.F.R. § 300.532(a); and (ii) the State permits ALJs who serve as hearing officers to grant an adjournment of the expedited due process hearing timeline in 34 C.F.R. §300.532(c)(2), even though there is no provision permitting a hearing officer to grant extensions of these timelines. Because of the absence of procedures described above, the State cannot ensure that its section 618 dispute resolution data submission on the number of expedited due process hearing decisions decided within the timeline is accurate.

OSEP Required Corrective Action	State Submitted Documents	OSEP Analysis	Required Actions/Next Steps
<p><b><u>Required Action 4.1</u></b></p> <p>The State must provide documentation demonstrating that the State has revised its procedures for expedited due process hearings to ensure that:</p> <ul style="list-style-type: none"> <li>4.1.1 ALJs who serve as hearing officers do not permit parties to challenge the sufficiency of an expedited due process complaint; and</li> <li>4.1.2 ALJs who serve as hearing officers will no longer grant ‘adjournments’ (extensions) which are inconsistent with the shortened timelines</li> </ul>	<p>Special Education Dispute Resolution Procedures Manual</p> <p>Revised Procedures for Expedited Special Education Due Process Hearings to ALJs</p> <p>Parental Rights in Special Education Handbook</p> <p>Proposed Special Education Due Process Prehearing Guidelines</p>	<p><b><u>Required Action 4.1.1:</u></b> OSEP notes that the State has issued a memorandum entitled, Revised Procedures for Expedited Special Education Due Process Hearings to ALJs, which specifically referenced that ALJs who serve as hearing officers cannot permit parties to challenge the sufficiency of an expedited due process complaint. Additionally, OSEP notes the State revised the Special Education Dispute Resolution Procedures Manual and Parental Rights in Special Education handbook to prohibit sufficiency challenges of an expedited due process complaint. Therefore, the State has met required action 4.1.</p> <p>Additionally, OSEP recommends that the State include information related to required action 4.1.1 in the State’s Proposed Special Education Due Process Prehearing Guidelines, within the section, ‘Expedited Hearings,’ as information related to sufficiency challenges is not currently included.</p>	<p><b><u>Required Action 4.1.1: Original Finding is Closed</u></b></p> <p>Based on OSEP’s review of the documents submitted by NJDOE, OSEP has determined that the documentation provided is sufficient to meet required action 4.1.1. However, OSEP recommends that the State include information related to required action 4.1.1 in the State’s Proposed Special Education Due Process Prehearing Guidelines, within the section, ‘Expedited Hearings.’</p> <p><b><u>Required Action 4.1.2: Original Finding is Closed</u></b></p> <p>Based on OSEP’s review of the documents submitted by NJDOE,</p>

OSEP Required Corrective Action	State Submitted Documents	OSEP Analysis	Required Actions/Next Steps
<p>governing expedited due process complaints.</p>		<p><b><u>Required Action 4.1.2:</u></b> OSEP notes that the State has issued a memorandum entitled, Revised Procedures for Expedited Special Education Due Process Hearings to ALJs, which specifically referenced that ALJs who serve as hearing officers cannot grant ‘adjournments’ (extensions) which are inconsistent with the shortened timelines governing expedited due process complaints. Additionally, OSEP notes the State issued Proposed Special Education Due Process Prehearing Guidelines, revised the Office of Special Education Policy and Dispute Resolution: Special Education Dispute Resolution Procedures Manual, and the NJDOE Parental Rights in Special Education handbook, to prohibit ALJs from granting ‘adjournments’ (extensions) which are inconsistent with the shorted timelines governing expedited due process complaints. Therefore, the State has met required action 4.1.2.</p> <p><b><u>Additional Concerns</u></b></p> <p>OSEP notes that the State issued, Revised Procedures for Expedited Special Education Due Process Hearings, but this document remains in draft form.</p> <p>Additionally, OSEP is concerned that the State has not described how it will perform its oversight and monitoring responsibilities to ensure such timelines required for expedited due process complaints under 34 C.F.R. § 300.532 are met. Specifically,</p>	<p>OSEP has determined that the documentation provided is sufficient to meet required action 4.1.2.</p> <p><b><u>Additional Concerns</u></b></p> <p>OSEP intends to follow up with the State regarding the implementation of 34 C.F.R. § 300.532.</p>

OSEP Required Corrective Action	State Submitted Documents	OSEP Analysis	Required Actions/Next Steps
		<p>the State has not provided information regarding how it will ensure that adjournments (extensions) are not granted, such as through a mechanism to receive data and relevant information from OAL and how the State will perform appropriate oversight duties and responsibilities, including monitoring, to ensure its implementation. Further, as mentioned in Required Action 1.4, OSEP notes that the State did not include the following information and data to be transmitted from OAL to NJDOE: ‘expedited due process complaint pending’, ‘expedited due process complaint withdrawn or dismissed’, and ‘expedited due process complaint fully adjudicated’, all of which are required by IDEA section 618 data collection as described in the document, OSEP Data Documentation: IDEA Part B Dispute Resolution. OSEP intends to review these matters further with the State.</p>	
<p><b><u>Required Action 4.2</u></b>                      The State must provide a copy of the notification to be issued to all ALJs who serve as hearing officers, LEAs, parent advocacy groups and other interested parties advising them that the State has revised the expedited due process hearing procedures found in NJDOE’s Special</p>	<p>Special Education Dispute Resolution Procedures Manual                      Revised Procedures for Expedited Special Education Due Process Hearings to ALJs</p>	<p>OSEP has determined that the State has provided notification to ALJs who serve as hearing officers, LEAs, parent advocacy groups, and other interested parties advising them that the State has revised the expedited due process hearing procedures found in NJDOE’s Special Education Dispute Resolution Manual to be consistent with the Part B regulations at 34 C.F.R. § 300.532.</p>	<p><b><u>Required Action 4.2: Original Finding is Closed</u></b>                      Based on OSEP’s review of the documents submitted by NJDOE, OSEP has determined that the documentation provided is sufficient to meet required action 4.2.</p>

OSEP Required Corrective Action	State Submitted Documents	OSEP Analysis	Required Actions/Next Steps
<p>Education Dispute Resolution Manual to be consistent with the Part B regulations at 34 C.F.R. § 300.532, as described above.</p>			
<p><b><u>Required Action 4.3</u></b></p> <p>The State must provide documentation demonstrating that the State has reviewed its expedited due process hearing data collection process and has revised it, as necessary, to ensure that it will be able to provide accurate data for its IDEA section 618 dispute resolution data submission for the School Year 2019-2020 data collection (reporting year is defined as July 1, 2019 through June 30, 2020).</p>	<p>Revised Procedures for Conducting Special Education Due Process Hearings</p> <p>Special Education Dispute Resolution Manual</p> <p>Memorandum of Agreement for Professional Services between The New Jersey Department of Education and The New Jersey Office of Administrative Law (MOA)</p>	<p>OSEP notes that the State described a data collection process for adhering to requirements for an expedited due process complaint in the document entitled, Special Education Dispute Resolution Procedures Manual. Additionally, OSEP notes the MOA, included the “purchase of software to centralize the scheduling of cases in order to track the progress of special education due process hearings and to ensure compliance with timelines set forth in the IDEA, federal, and state regulations.” Additionally, OSEP notes the State document entitled, Revised Procedures for Expedited Special Education Due Process Hearings, provided information regarding required timelines for expedited due process hearings, and clarification regarding sufficiency challenges and adjournments, as noted under Required Action 4.1. Therefore, the State has met Required Action 4.3.</p> <p><b><u>Additional Concerns</u></b></p> <p>As stated in OSEP’s response to Required Action 1.4, OSEP is concerned that information related to expedited due process hearings, including timelines and adjournments (extensions), was not included in the document, Revised Procedures for Conducting</p>	<p><b><u>Required Action 4.3: Original Finding is Closed</u></b></p> <p>Based on OSEP’s review of the documents submitted by NJDOE, OSEP has determined that the documentation provided is sufficient to meet Required Action 4.3.</p> <p><b><u>Additional Concerns</u></b></p> <p>OSEP intends to follow up with the State regarding the implementation of the State’s expedited due process hearing data collection process.</p>

OSEP Required Corrective Action	State Submitted Documents	OSEP Analysis	Required Actions/Next Steps
		<p>Special Education Due Process Hearings, which outlines the exchange of information and data between NJDOE and OAL. In Required Action 1.4, OSEP noted that the State did not include the following information and data to be transmitted from OAL to NJDOE: ‘expedited due process complaint pending’, ‘expedited due process complaint withdrawn or dismissed,’ and ‘expedited due process complaint fully adjudicated,’ all of which are required by IDEA section 618 data collection as described in the document, OSEP Data Documentation: IDEA Part B Dispute Resolution.</p> <p>OSEP notes that the MOA between the NJDOE and OAL, executed in October 2021 and provided to OSEP in February 2022, describes the State’s intent to “purchase software to centralize the scheduling of cases in order to track the progress of special education due process hearings and to ensure compliance with the timelines set forth in the IDEA, federal, and state regulations.” While OSEP appreciates the State’s recognition that the existence of a case management system, data system software solution and/or another mechanism is a strategy that may assist with the administration of due process complaints and hearings and adherence to the 45-day timeline in 34 C.F.R. § 300.515(a) or the adjusted time periods described in 34 C.F.R. § 300.510(c) and 34 C.F.R. § 300.532(c), it remains unclear to OSEP</p>	

<b>OSEP Required Corrective Action</b>	<b>State Submitted Documents</b>	<b>OSEP Analysis</b>	<b>Required Actions/Next Steps</b>
		whether the State has implemented procedures to adhere to IDEA’s due process hearing timelines as set forth in 34 C.F.R. § 300.515(a) and 34 C.F.R. § 300.532(c) in the interim period prior to the State’s purchase of the software noted in the MOA. OSEP intends to review these matters further with the State.	