

Unreasonable Delay

The Individuals with Disabilities Education Act (IDEA) and the Virginia Regulations Governing Special Education mandate that a school division without unnecessary delay provide an IEE when requested by a parent. The IDEA and Virginia regulation further require a school to either provide the IEE or initiate due process proceedings to defend the school division evaluation without unreasonable delay. The law and regulations do not, however, specify a time frame which constitutes unreasonable delay.

When a school division initiates evaluations, Virginia regulations require a school division to complete the evaluations and convene an IEP meeting to discuss eligibility within a 65 day timeline. However, Virginia regulations do not impose this same timeline on IEEs. dLCV encourages parents to document, in writing, any school division delay in responding to a request for an IEE that goes beyond two weeks.

dLCV encourages parents to send an email or a letter that clearly states the date of the initial request for an IEE, the time that has lapsed since that original request and a “formal second request” for the IEE in question two weeks from the initial request date. dLCV encourages parents to follow up with an email or a letter every week following the second request for a three week period before taking further action. dLCV encourages parents to pursue mediation to resolve issues related to obtaining an IEE if correspondence with the school division proves unsuccessful.