



Due Process Hearing Extension Order SAMPLE*

**STATE OF [STATE]
IN THE OFFICE OF ADMINISTRATIVE HEARINGS [or name of
responsible entity]**

| | |
|---|----------------|
| [District/Child Name or Initials or Parent Name], | Docket No. [#] |
| Petitioner, | |
| v. | |
| [District/Child Name or Initials or Parent Name], | |
| Respondent. | |

Order for Continuance and Order to Extend Timeline

THIS MOTION came to be heard this [date], upon motion by [party], for a continuance of the scheduled hearing date of [date];

IT APPEARING that the said motion is proper; [IF STATE LAW requires, state that motion is unopposed or state reasons for granting motion]

IT IS HEREBY ORDERED that this matter is continued until [date] and the deadline for the issuance of the final decision in this matter is extended to [date]. See 34 C.F.R. §300.515(c).

ENTERED this [date].

Judge/Hearing Officer

***Technical Assistance Notes:**

- **Not Required:** While not required by IDEA, this sample order to extend timelines is one tool that has been developed that states may choose to use to document extensions, length of extensions, and the new date for hearing and decision that meets the timelines required by IDEA.
- **Common Mistakes:** If states use hearing orders to document extensions, it is a common mistake for hearing officers to include only the new date of the hearing. The Extension Order, or other state documentation, must also include the specific extension of time

beyond the 45-day timeline by stating not only the new date for the hearing, but also the date by which a final decision will be reached (or in lieu, the number of days by which the hearing timeline is extended) in accordance with 34 C.F.R. §300.515(c). A copy of the final decision must also be mailed to each of the parties by this specific date. 34 C.F.R. §300.515(a)(2). Failure to provide a specific extension of time constitutes noncompliance with 34 C.F.R. §300.515(c).

- **Administrative Convenience Not Allowable Reason:** Extensions granted for the administrative convenience of hearing officers (e.g., vacation of judges or education department personnel) is not an allowable reason for extensions under IDEA. The regulations require extensions to be at the request of “either party.” 34 C.F.R. §300.515(c).
- **Resolution Session Timeline:** The due process hearing timeline begins to run in all cases that do not involve an expedited due process hearing (34 C.F.R. §300.532) on the day after the resolution period ends, or the day after the parties agreed in writing to waive their right to a resolution session, or at any other time during the 30-day resolution period if the parties agree in writing that they will not reach agreement. 34 C.F.R. §300.510. The 30-day resolution period may be extended if both parties agree in writing to continue mediation at the end of the 30-day resolution period. It is not appropriate to refer to the resolution period and hearing timeline as a 75-day timeline because the timeframe may be shortened or extended. If a parent has waived the right to a resolution meeting and has chosen to attend mediation, the 30-day resolution period continues and both parties may agree in writing to continue the mediation at the end of the 30-day resolution period. The 45-day timeline begins when the parties agree in writing that no agreement is possible. (A common misunderstanding is that an LEA may require a parent choose either a resolution meeting or mediation. Both processes are available to parents and may both be utilized within a single due process case.)
- **Customize to Your State’s Rules:** This Sample should also be customized according to your particular state’s statute, rule or regulatory requirements, or to conform to local practice. For instance, some states have additional requirements for granting extensions such as the agreement of the parties or consideration of factors that must be weighed by the hearing officers.

This document was developed by the Regional Resource Center Program (RRCP) General Supervision Priority Team’s Dispute Resolution Workgroup with members from the RRCs, Regional Parent Technical Assistance Centers, and Center for Appropriate Dispute Resolution in Special Education (CADRE).

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