



SEPTEMBER 2020

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Timelines Related to Requests for Special Education Assessments and Student Records No Longer Tolled

On September 18, 2020, Governor Gavin Newsom signed Senate Bill 820 (SB 820), which, among other things, renders Senate Bill 117 (SB 117), Section 8, inoperative as of July 1, 2020, specifically as it relates to requests for special education assessments and student records.

Previously, SB 117, Section 8, tolled the timeline for local educational agencies (LEAs) to issue assessment plans in response to a request for a special education assessment until schools reopened after the COVID-19 school closures. It also tolled the timelines to respond to student records requests and to transfer special education records when requested by a student's new LEA. Unlike other sections of SB 117, it was unclear whether Section 8 continued past the end of the 2019-20 school year. SB 820 resolves this and clarifies that the timelines to issue assessment plans, respond to student record requests, and transfer special education records are no longer extended for COVID-19 school closures after June 30, 2020.

Even if schools remain closed for in-person learning, LEAs must ensure that they timely respond to requests for special education assessments, students records, and for the transfer of special education records within the timelines specified in the Education Code. Specifically, LEAs must:

- Develop a proposed an assessment plan within 15 calendar days of the referral for assessment (or within 10 calendar days of the start of the school year if the referral was made within the last 10 calendar days of the prior school year), not counting calendar days of school vacation in excess of five schooldays.
- Respond to student record requests within five business days and without unnecessary delay before an IEP meeting, a due process hearing, or resolution session.
- Send student's special education records, or a copy thereof, within five working days of receipt of request to the educational agency where the student with disabilities has enrolled.

In light of SB 820, LEAs should take the following steps:

- Review any prior student record requests and requests for transfer of special education records that the LEA received during the school closures and to which the LEA has not responded, and timely respond to such requests.
- Review any requests for special education assessments that the LEA received during the school closures and to which the LEA has not responded, and timely respond to such requests.
- Inform school personnel regarding the impact of SB 820 on the timelines pertaining to requests for special education assessments and student records.

If you have any questions about the requirements and implications of SB 820, related questions, or would like a copy of our tip sheet regarding special education timelines, please visit our website and/or contact one of our six offices.

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