Important Timelines in Special Education and Section 504

NOTE: 'SWD' stands for School Working Days which is any day that children are present and participating in education program.

'Reasonable time frame' and 'Periodic" under Section 504 is generally interpreted to mean 'no longer than the IDEA time lines.'

EVENT	SPECIAL EDUCATION: IDEA or MA Gen Laws	Section 504	NOTES/ EXPLANATION
Referral is received for Evaluation	5 SWD to respond	Reasonable time frame (OCR will look to state guidelines as an approximate requirement (i.e., 5SWD).	IDEA Response is generally interpreted to mean that a consent to conduct the evaluation is sent to parent; district should call parent to let them know their referral letter has been received, ask clarifying questions as necessary and explain next steps in the process. **CAUTION:** Some parents include in their referral letter a statement providing consent to go forward with testing; do not accept this as the actual consent, you should still send out the specific authorization form so that all the areas of assessment are included.
Consent to conduct evaluation is returned to district	30 SWD to complete the actual testing of the student	Reasonable time frame (OCR will defer to state guidelines. This means 45SWD days to complete both any testing and the eligibility meeting)	ALL evaluators must complete their 'face to face' testing with student w/in the 30 days; this means flexibility must be granted so that folks can have access to the student. **CAUTION:** If the student is out sick for a week or the parent removes student from school for 5 or more days, inform the parent that the timeline to test will have to be extended and then follow up with a letter documenting that you had that conversation. The parent must make the child available for testing and a week+ absence is generally considered to be excessive absences that then compromise the school's ability to complete the testing.
IDEA Eligibility Determination Meeting	LAW: 45 SWD from the date consent to evaluate is returned.	Reasonable time frame (OCR will defer to state guidelines. This means 45SWD days to complete both any testing and the eligibility meeting)	The IDEA Eligibility TEAM must include 'a person with the authority to commit the district resources' (generally the chairperson), a general education teacher, and a person 'qualified to interpret the evaluation results' (generally each evaluator is present to review their testing.) Evaluators should review a copy of their report in advance of the meeting and make notes of key findings. Evaluators should NOT review every subtest score, but highlight those that contribute to the overall picture/findings and disability, if any. **REMEMBER:** One subtest score is insufficient to determine a disability; there must be more than one test and evaluators are looking for patterns in performance indicative of a disability, not just a learning preference/style; all people have varied strengths and weaknesses and evaluators are cautioned to NOT over-interpret 'relative weaknesses' as a disability.

Must make evaluations available to parents	At least 2 SWD before the meeting.	Not specified	IDEA states that parents are to submit their request, in writing, if they want the evaluation reports in advance of a meeting. **However**, I would suggest that you establish a protocol in your school of ROUTINELY sending the evaluation reports home in advance of a meeting so that parents have the chance to read through the findings so they, too, can prepare for the meeting. Remember, parents are taking in a lot of information and as hard as educators try, they inevitably use a fair amount of jargon in their evaluation reports and presentation so that the more time a parent has had to read and think about findings before a meeting, the more able they are to genuinely participate in the meeting.
Review of an Independent Educational Evaluation (IEE)	The student's IEP team must convene within 10 SWD of receipt of the written IEE report	No district funding of an IEE is required under Section 504; no specification regarding how quickly the school must respond if they receive a privately funded IEE from the parent	Date-stamp the IEE when received; read the summary and be sure to distribute the IEE to all personnel/ roles of current TEAM members and any others that could be impacted by the recommendations. For example, often we receive an IEE by a neuropsychologist, so naturally the school psychologist will need to receive a copy and s/he will be the person responsible for interpreting the results at the IEE meeting; however, it is fairly typical for these professionals to also make recommendations for additional evaluations by a Speech-Language Pathologist, an Occupational or Physical Therapist, so while the student may not be currently receiving any services from these therapists, you want to be sure to include them in the convening of the Team to review the IEE so they can read the report in advance and consider next steps. Parents can only make a request for an IEE within 16 months of the evaluation with which the parent disagrees. CAUTION: If the student is NOT yet on an IEP, do NOT convene a 'special education team'; instead treat the outside evaluation as a request for special education evaluation by the parents. Accordingly, the district should proposed an evaluation under IDEA. The District must consider the outside evaluation at the same time as the District considers its own evaluations. The District may offer to meet with the parents in order to explain the evaluation and eligibility process; however, it should not convene an IEP team to consider the IEE without first evaluating the student.. While it may be tempting to just accept the IEE as the testing needed to determine eligibility, DO NOT DO SO! By accepting the IEE, you are in essence also accepting ALL the recommendations, which is often where the district may have a different opinion as to what is needed for the student to achieve FAPE. Without the District having had the opportunity to conduct its own evaluations, the Team could potentially create a right to stay-put based solely on

			the outside evaluation. You also MUST have a 'Teacher Assessment A&B' in order to collect evidence regarding the student's progress in the general education curriculum/ program, as how will you answer the second question on the Eligibility Flow Chart "Is the student making effective progress?" if you don't have this data.
Annual Review Meeting	BEFORE the current IEP expires	Not required, but it is accepted practice to review accommodations annually	IDEA: NEVER, NEVER let an IEP expire. It is standard practice to schedule the annual review meeting at least 30 calendar days before the current IEP expires. **CAUTION:** This means that when you have a lot of IEPs ending with the conclusion of the school year, you need to spread them out so that teachers and specialists actually have the time needed to rewrite IEPs; a general guidleine is that ALL annual reviews that expire at the end of the school year should be COMPLETED by May 1st, if possible.
Re-Evaluation	At least once every three (3) years and no more than once annually	Periodic (every three-year for re-eligibility determination)	REMEMBER: you should send out the 'consent to conduct' the Re-Evaluation about 3 months before the due date so that you allow time for the parent to ask questions before returning (or to send reminders if they don't return it within 3 weeks); this will then give the evaluators their 30 and 45 days to complete testing and hold a meeting. A Re-Evaluation meeting is ALSO an ELIGIBILITY meeting; the team must consider all over again whether there is a disability and if so, does it impact the student's ability to make effective progress. Students formerly 'classified' as a 'Developmental Delay' must be re-classified under a new disability category before age of 9, so keep that in mind when re-evaluating a 7 or 8 year old.
Send IEP to the parent following a Team Meeting	Immediate	Reasonable time frame	IDEA: the district is obligated to provide parents with a written description of the students services 'immediately following' the Team meeting. The MA PQA has generally interpreted this to mean within 3-5 days and will accept a detailed description of the services as described in Team Meeting notes to meet that requirement, provided we send out the proposed IEP document within the 3- 5 days. If, however, at the conclusion of the IEP meeting, the District provides the parent with a summary of the decisions and agreements of the IEP Team meeting, the district then has 10 school working days in order to provide the parent the proposed IEP. The summary must include (a) a completed service delivery grid describing the types and amounts of special education and related services proposed by the district; and (b) a statement of the major goals areas associated

			with these services. The district should have the the parent sign off of the summary so that the District may maintain documentation of it.
Discharge from Special Education	Must Re-Evaluate **PRIOR** to discharge from a service or from an IEP completely	Must Re-Evaluate/conduct an eligibility meeting prior to termination	IDEA: requires that if there is consideration of termination of a type of service or completely from an IEP, a re-evaluation must occur. This means that if a student has an IEP that includes Academic Instruction, Speech-Language and OT, and the OT feels that there is enough progress been made to consider discharge, then the OT must initiate a re-evaluation prior to just termination, even if the progress notes provide good evidence and documentation of the student attaining his/her goals. The parent must consent to the re-evaluation and sometimes they will delay this consent if they know the purpose is to quantify progress in order to consider discharge. Frequent progress communication helps.
Rejection of IEP, either in full or partial, and/or rejection of Placement	The district must send the notice of rejection to the BSEA within 5 school working days	Not specified; however, the district must have provided the parents with notice of procedural safeguards under Section 504	The district must either resolve the conflict (with a revised IEP and written parental consent to the revised IEP) or send notice of the dispute to the BSEA. The BSEA then sends the parents information about the various 'dispute resolution options' and the 'ball is then in the parents' court', the BSEA takes no further action unless it hears from either the parent or district.
Receipt of a Parental Request for the district to fund IEE	The district must either send the parent information about how to secure an IEE at the district's expense OR file for a hearing at the BSEA to defend its evaluation within 5 SWDs of the request for the IEE.	No district funding of an IEE is required under Section 504	The district must send a written response to the request, therefore it is best to ask parents to provide a written request to the district if they ask for an IEE verbally; it helps to provide the paper trail of not only timelines, but also usually gives the district insight as to what they found deficient in the district's evaluation. It is also not uncommon for a parent to be fine with the district's evaluation, but not in agreement with the recommended program (IEP) and/or placement, and for that reason they request the IEE. They do NOT have to state a specific reason for wanting the IEE in order to request the IEE. If the district does not feel it should fund an IEE, then the district must file a hearing request with the BSEA and send a copy of such request to the parent; this request should provide explicit detail as to why the district believes its evaluation was comprehensive, within 5 SWD. Another issue that arises is when a parent requests an IEE in an area of suspected disability that has not been assessed by the school district. Generally, a parent who disagrees with a school district's evaluation will indicate the reason for the disagreement, although the school district may not require the parent to do so. If the parent says the district's evaluation was deficient not because of

			disagreement with particular assessments, but because the district did not conduct one or more additional assessments the parent believes are warranted, the question is whether the school district may complete the additional assessment(s) itself, before the IEE. Under these circumstances, the best practice would be for the school district to review its evaluation and determine whether the requested assessment(s) would provide needed additional or new information about the student's disability and if so, offer to conduct the additional assessment(s) itself with the parent's consent. Once the district has completed the additional assessment(s), the Team may develop or modify the student's IEP based on the expanded evaluation and the dispute may be resolved. If, however, the parent disagrees with the district's proposal to conduct the evaluation or with the now-expanded evaluation, then the parent still has the right to request an IEE, and the district's obligations with respect to payment for the IEE are as set forth in the regulations. **Caution:** If the student is eligible for free or reduced cost lunch or is in the custody of a state agency with an Educational Surrogate Parent appointed in accordance with federal law, then the school district shall provide, at full public expense, an independent education evaluation that is equivalent to the types of assessments done by the school district. No additional documentation of family financial status is required from the parent.
End of the school year Evaluations	If consent is received between 30 and 45 school working days within the end of the school year, the district must complete the evaluations, convene an IEP team and either propose an IEP or written notice of no eligibility no later than 14 calendar days after the end of the school year. If the consent is received within 30 SWD of the end of the school year, the timeline will carry over into the	No special allowance noted about the end of the school year as this is not solely restricted to education.	The regulations require that if there are 30 school days before and including the last day of school that the district must complete its IDEA Eligibility evaluation by the end of the school year; the district does have the allowance to hold the team meeting and notify the parents of the results of this meeting, within 14 calendar after the close of the school year, however, districts do not have access to its Team members after the school year ends as their contracts do not require that they work after the close of school. Therefore, this means that the evaluation team and evaluators 'lose' the extra 15 days they have at other times of the year to write their reports, hold team meetings, and then write IEPs. School administrators have to be on top of teacher referrals and while it is illegal to impose a 'deadline' for teachers to make a referral, it is recommended that Principals work with teachers and their CST and/or RTI Teams to ensure that they don't wait until the final trimester or quarter of the year to refer students that are not responding to regular education interventions with sufficient speed and acceleration to have a positive impact upon their learning trajectory. Late in the school year referrals contribute to an impossible situation for your evaluators

	beginning of the next school year.		where they now have deadlines that are very difficult to meet without ‘cancelling services’ for other students already on IEPs… this creates another problem for you to solve.