

Part C's Dispute Resolution Options

Summary of Key Points

This handout summarizes key provisions in Part C's regulations with respect to the options available to assist families and early intervention systems in resolving disputes in early intervention. Those options are: mediation, State complaint, and due process.



- **Where?** | Provisions related to Part C's dispute resolution options are found from §303.430 (State dispute resolution options) through §303.449 (State enforcement mechanisms).
- **State Responsibilities** | Each State's early intervention system must have written procedures for resolving complaints in a timely fashion through: (1) mediation; (2) State complaint procedures; and (3) due process procedures.

ABOUT MEDIATION AS A DISPUTE RESOLUTION OPTION | Mediation must be available to allow parties to resolve disputes involving any matter under Part C through a mediation process at any time.

- Mediation is voluntary on the part of the parties.
- Mediation may not be used to delay or deny a parent's right to a due process hearing or to deny any other rights afforded under Part C.
- Mediation is conducted by an impartial and qualified mediator who is trained in effective mediation techniques.
- The State pays the costs of the mediation process.
- If the disputing parties reach a resolution, they must write a legally binding agreement that: (1) details the resolution reached; (2) states that all discussions in the mediation will remain confidential; and (3) is signed by the parent and a representative of the lead agency with authority to bind the agency.

- Requirements with respect to mediation are found in the Part C regulations at §303.431.

ABOUT STATE COMPLAINT AS A DISPUTE RESOLUTION OPTION |

Each State must have written procedures for resolving any complaint filed by an individual or organization (including those from another State). At a minimum, those procedures must meet Part C's requirements, including those summarized below.

- **What the complaint must contain** | The organization or individual filing a State complaint must include specific information in the complaint: (1) a statement that the lead agency, public agency, or EIS provider has violated a requirement of Part C; (2) the facts on which the complaint is based; and (3) the signature and contact information of the complainant.
- **If the complaint relates to a specific child** | If the complaint claims violations with respect to specific child, the complaint must also include: (1) the child's name and address; (2) the name of the child's EIS provider; (3) a description of the problem; and (4) how the problem might be resolved (to the extent known or available to the complainant at the time).
- **Letting the other party know** | The person or organization filing the State complaint must forward a copy to the public agency or EIS provider serving the child at the same time the complaint is filed with the State lead agency.
- **Time limit** | When the lead agency receives a State complaint, it has 60 days in which to: (1) carry out an independent investigation of the

complaint; (2) make an independent decision as to whether there's been a violation of Part C requirements; and (3) issue a written decision that includes findings of fact and conclusions, as well as the reasons for the lead agency's final decision.

- **Along the way** | In investigating the complaint, the lead agency must give the complainant the opportunity to provide more information about the complaint. It must also give the agency against which the complaint is filed the opportunity to: (1) propose a resolution of the complaint; and/or (2) engage in mediation.
- Requirements with respect to State complaint are found in the Part C regulations at §303.432—§303.434.

ABOUT DUE PROCESS AS A DISPUTE

RESOLUTION OPTION | States may choose to use Part C's due process hearing procedures or the procedures spelled out for Part B of IDEA (which authorizes special education services for school-aged children). The due process procedures for Part C are not as involved as due process procedures for Part B. In either case:

- The first step to a due process hearing is to file a due process complaint.
- While the due process complaint is being resolved, unless the parents and lead agency agree otherwise, the child must continue to receive the early intervention services in the setting identified in the IFSP that the parents have consented to.



- The hearing officer in charge of the due process hearing must be qualified and impartial. He or she hears the evidence of both sides, examines all relevant information, and issues a written decision as to how the dispute will be resolved.
- Parents have rights in the due process hearing, including the right to be accompanied and advised by a lawyer. They also have the right to present evidence, require the attendance of witnesses, question witnesses, and block new evidence that was not disclosed to them at least 5 days before the hearing.
- Parents have the right to receive a written or electronic transcript of the hearing and a written copy of the findings (the hearing officer's decision) at no cost to them.

- **Timelines under Part C due process procedures** | When the lead agency receives a parent's due process complaint, it must ensure that the due process hearing is held within 30 days and the written decision is mailed to both parties.

- **Timelines under Part B due process procedures** | The lead agency may adopt either the 30-day timeline just mentioned or the 45-day timeline associated with Part B.
- Requirements with respect to due process procedures are found in the Part C regulations from §303.435 through §303.447.