

## IDEA PART C DISPUTE RESOLUTION PROCESSES COMPARISON CHART

	MEDIATION	STATE COMPLAINT	DUE PROCESS	
			PART C DUE PROCESS PROCEDURES UNDER SECTION 639	PART B DUE PROCESS PROCEDURES UNDER SECTION 615
<b>Who can initiate the process?</b>	Parties to disputes regarding any matter under Part C (including a parent, early intervention service (EIS) provider, the State lead agency (LA)), can request mediation, but participation must be voluntary for all parties.	Any individual or organization, including those from out of state, may file a State complaint.	Only a parent may file a due process hearing complaint.	A parent, EIS provider, or the LA may file a due process complaint.  <b>Resolution Process:</b> LA must convene the resolution meeting upon receipt of a parent’s due process complaint or an amended due process complaint unless the parties agree in writing to waive the meeting or use mediation.
	34 CFR §303.431(a) and (b)(1)(i)	34 CFR §303.432(a)(1)	34 CFR §303.437(b)	34 CFR §§303.440(a)(1), 303.441(d)(3)(i), and 303.442(a)(1) and (3)
<b>What issues can be resolved?</b>	Any matter under Part C, including matters arising prior to the filing of a due process complaint. <sup>1</sup>	Allegations that the LA, public agency, or EIS provider violated a requirement of Part C of the IDEA or failed to implement a due process hearing decision. <sup>1,2</sup>  Complaints may be filed regarding both systemic	Any matter related to a proposal, or refusal, to initiate or change the identification, evaluation, or placement of the infant or toddler, or the provision of early intervention services to the infant or toddler with a disability and that infant’s or toddler’s family. <sup>1,3</sup>	Any matter related to a proposal, or refusal, to initiate or change the identification, evaluation, or placement of the infant or toddler, or the provision of early intervention services to the infant or toddler with a disability and that infant’s or toddler’s family. <sup>1,3</sup>  <b>Resolution Process:</b> Issues raised in the resolution process are limited to the issues

<sup>1</sup> The 2011 updates to the Part C regulations specifically state that a parent who wishes to contest the imposition of a fee under the State’s system of payments or the State’s determination of the parent’s ability to pay may participate in mediation, request a due process hearing, or file a State complaint. (34 CFR §303.521(e))

<sup>2</sup> State complaints may also be filed regarding the protection of the confidentiality of any personally identifiable data, information, and records collected, maintained, or used by lead agencies and EIS providers consistent with 34 CFR §§303.401 through 303.417. (34 CFR §303.417)

<sup>3</sup> A parent may request a due process hearing when the participating agency refuses to amend the information in an EI record as requested by a parent under 34 CFR §303.410(a), provided that such hearing procedures meet the requirements in 34 CFR §303.413. Alternately, the parent may request a hearing directly under the State’s procedures in 34 CFR §303.413. (34 CFR §303.411)

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		and child-specific issues.		included in the due process complaint or an amended complaint.
	34 CFR §303.431(a)	34 CFR §§303.433(c)(3) and 303.434(b)(1)	34 CFR §303.430(d)(1)	34 CFR §§303.440(a)(1) and 303.442(a)(2)
<b>What is the time limit for filing?</b>	None specified.	One (1) year from the date of the alleged violation.	None specified.	Two (2) years from when the party knew or should have known of the problem (or a State-established timeline).  Note: The time limit does not apply to a parent if the parent was prevented from filing a due process complaint due to specific misrepresentations by the LA or EIS provider that it had resolved the problem forming the basis of the due process complaint; or the LA's or EIS provider's failure to provide the parent information that was required under Part C of the IDEA to be provided to the parent.  <b>Resolution Process:</b> It is triggered by the filing of a parent's due process complaint or an amended due process complaint. See below.
		34 CFR §303.434(c)		34 CFR §§303.441(d)(4), 303.442(a)(1), and 303.443(e)-(f)
<b>What is the timeline for resolving the issues?</b>	Each session must be scheduled in a timely manner. Mediation may not be used to deny or delay a parent's right to a due process hearing, or to deny any other rights under Part C.	Sixty (60) days from receipt of the complaint unless the timeline is extended for exceptional circumstances with respect to the complaint or the parties agree to extend the time to engage	Thirty (30) days from receipt of the parent's due process complaint, unless the hearing officer grants specific extensions of time at the request of either party.	Thirty (30)- or 45-days (as established by the LA) from the end of the resolution period, unless the hearing officer grants specific extensions of time at the request of either party.  <b>Resolution Process:</b> LA must convene a resolution meeting

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		in mediation.		<p>within 15 days of receipt of the parent’s due process complaint or an amended due process complaint, unless the parties agree in writing to waive the meeting or agree to use mediation.</p> <p>Resolution period is 30 days from receipt of the parent’s due process complaint or an amended due process complaint, unless (1) the parties agree otherwise, (2) the parent or LA fails to participate in the resolution meeting, or (3) the LA fails to convene the resolution meeting within 15 days of receipt of the parent’s due process complaint or an amended due process complaint.<sup>4, 5</sup></p>
	34 CFR §303.431(b)(1)(ii) and (4)	34 CFR §303.433(a) and (b)(1)	34 CFR §303.437(b)-(c)	34 CFR §§303.440(c); 303.441(d)(4); 303.442(a)(1) and (3), (b) and (c); and 303.447(a) and (c)
<b>Who resolves the issues?</b>	<p>Parties, through the facilitation of a mediator.</p> <p>The process is voluntary. If agreement is reached, both</p>	Lead Agency. <sup>6</sup> The decision must address each allegation, contain findings of fact and conclusions, and contain	Hearing officer. The decision must include the findings of fact and decisions.	<p>Hearing officer. The decision must include the findings of fact and decisions.</p> <p><b>Resolution Process:</b> Parent and LA. If an agreement is reached,</p>

<sup>4</sup> For States that have adopted the IDEA Part B due process procedures under Section 615, the IDEA Part C regulations allow for adjustments to the 30-day resolution period. The 30- or 45-day timeline for the due process hearing starts the day after one of the following events: (1) both parties agree in writing to waive the resolution meeting; (2) after either the mediation or resolution meeting starts but before the end of the 30-day period, the parties agree in writing that no agreement is possible; (3) if both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later, the parent or public agency withdraws from the mediation process. (34 CFR §303.442(c)).

<sup>5</sup> If the LA fails to hold the resolution meeting within 15 days of receiving the parent’s due process complaint or fails to participate in the resolution meeting, the parent may seek the intervention of a hearing officer to begin the due process hearing timeline. (34 CFR §303.442(b)(5)).

<sup>6</sup> The LA’s complaint procedures must provide the complainant the opportunity to submit additional information about the allegations, provide the LA, public agency, or EIS provider with an opportunity to respond to the complaint, including, at the discretion of the LA, a proposal to resolve the complaint, and an opportunity for a parent who has filed a complaint and the LA to voluntarily engage in mediation. (34 CFR §303.433(a)(2) and (3)).

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	parties must execute a legally binding agreement.	the reasons for the decision.		both parties must execute a legally binding agreement. A party may void the agreement within three business days of the agreement's execution.
	34 CFR §303.431(b)(1)(i) and (5)	34 CFR §§303.432(b) and 303.433(a)(5)	34 CFR §§303.435(a) and 303.436(b)(5)	34 CFR §§303.442(a), (d) and (e); 303.443(c); 303.444(a)(5); and 303.445(a)
<b>Can the issues be appealed?</b>	See enforcement below.	LA may establish procedures for reconsideration but this process must result in a decision within the 60-day timeline and the 60-day timeline cannot be extended just because the complaint is being reviewed.	Any party aggrieved by the findings and decision may bring a civil action in an appropriate State or Federal court. <sup>7</sup>	<p>In a one-tier system, any party aggrieved by the findings and decision may bring a civil action in an appropriate State or Federal court. In a two-tier system, the decision is appealed to the LA before being appealed to a court.<sup>7</sup></p> <p>The LA may establish procedures for reconsideration, but this process must result in a decision within the 30- or 45-day timeline, or if the reconsideration process would not be completed until after the timeline, the process must ensure that implementation of any corrective action required in the LA's final decision is not delayed pending the reconsideration process.</p> <p><b>Resolution Process:</b> If parties reach an agreement through the resolution process, see enforcement below. If parties do not reach an agreement, the due process hearing must go forward.</p>
		34 CFR §303.433(a)-(b)	34 CFR §303.438	34 CFR §§303.441(b)(1), 303.446(b), and

<sup>7</sup> An appropriate State or Federal court includes any State court of competent jurisdiction or a district court of the United States without regard to the amount in controversy.

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				303.448(a)
<b>How are agreements enforced?</b>	A written, signed agreement is enforceable in an appropriate State or Federal court.  States may use other mechanisms to seek enforcement of mediation agreements, provided that the mechanisms are not mandatory and do not delay or deny a party the right to seek enforcement of the mediation agreement in an appropriate State or Federal court. <sup>7</sup>			<b>Resolution Process:</b> A written, signed agreement is enforceable in an appropriate State or Federal court. <sup>7</sup>  States may use other mechanisms to seek enforcement of resolution agreements, provided that the mechanisms are not mandatory and do not delay or deny a party the right to seek enforcement of the resolution agreement in an appropriate State or Federal court.
	34 CFR §§303.431(b)(6) and 303.449			34 CFR §§303.442(d)(2) and 303.449
<b>How are decisions enforced?</b>		By the LA through its general supervisory authority.	A party may file a State complaint alleging the LA or EIS provider failed to implement a due process hearing decision.	A party may file a State complaint alleging the LA or EIS provider failed to implement a due process hearing decision.
		34 CFR §303.120(a)(2)	34 CFR §303.433(c)(3)	34 CFR §303.433(c)(3)