

Dispute Resolution: Formal Complaints, Mediation, and Due Process Hearings

Approved: PENDING

Who is responsible: IDEA/Part C State Office

SOUTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES

Healthy Connections

BABYNET



Introduction

As lead agency for the state's early intervention system under Part C of the Individuals with Disabilities Education Act (IDEA/Part C), the South Carolina Department of Health and Human Services (SCDHHS) is responsible for implementation of procedural safeguards consistent with all applicable federal and state laws and regulations. These procedural safeguards apply to all families referred or receiving IDEA/Part C services and are the responsibility each Intake Coordinator, Service Coordinator and Early Intervention Service Provider (EIS Provider). See IDEA/Part C Procedures for Family Rights and Safeguards for additional information. In the event of a violation of a procedural safeguard or other requirements under IDEA/Part C, disputes may be addressed through complaints, mediation agreements, or due process hearings.

Definitions

Definitions used in these procedures for dispute resolution can be found in Appendix A.

Dispute Resolution

Under IDEA/Part C, dispute resolution may take place in the following ways:

- Formal, written complaints
- Mediation sessions
- Due process hearings

SCDHHS will contract with individuals to investigate and report on complaints, serve as mediators, and serve as due process hearing officers. Under the State Performance Plan (SPP), all types of dispute resolution are publicly reported in the Annual Performance Report (APR) to the U.S. Department of Education.

Options for Dispute Resolution

Procedures for Formal Written Complaints:

SCDHHS is responsible for ensuring investigation and resolution of any complaint, including those filed by parents, an organization, or individual from another state, that meets requirements for filing a formal written complaint. Rights, safeguards, and pathways to resolution, including procedures for filing a complaint, are disseminated to parents, Parent Training and Information Centers, Protection and Advocacy agencies, other appropriate entities and interested individuals.

Filing a Formal Complaint:

A formal, written complaint must include all the following to be considered for investigation:

- A statement that the IDEA/Part C system, a public agency, or an EIS provider has violated a requirement of Part C of the Act.
- The facts on which the statement is based.
- The signature and contact information for the person or entity filing the complaint.

- If alleging violations of federal statute or regulations with respect to a specific child, the complaint must include all the following:
 - The name and address of the residence of the child.
 - The name of the EIS provider(s) serving the child if the complaint is about services.
 - A description of the nature of the problem of the child, including facts relating to the problem.
 - A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.
- The alleged violation must have occurred less than one year prior to the date that the complaint is received.
- The party filing the complaint must forward a copy of the complaint to the public agency or EIS provider serving the child at the same time the party files the complaint with SCDHHS.

Complaint Investigation Procedures:

A complaint must be resolved within 60 calendar days after filing. IDEA/Part C State Office must ensure the contracted investigator has enough information about the complaint to:

- Carry out an independent on-site investigation if it is determined that an investigation is necessary.
- Give the individual or entity filing the complaint the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.
- Provide the IDEA/Part C system, public agency, or EIS provider with an opportunity to respond to the complaint, including, at a minimum:
 - A proposal to resolve the complaint; and
 - An opportunity to voluntarily engage in mediation between the individual or entity filing the complaint and the IDEA/Part C system, public agency, or EIS provider.
- Review all relevant information and make an independent determination as to whether the IDEA/Part C system, public agency, or EIS provider is violating a requirement under IDEA/Part C.
- Issue a written decision to the parent, individual or entity filing the complaint that addresses each allegation in the complaint and contains:
 - Findings of fact and conclusions; and
 - The reasons for SCDHHS' final decision.
- SCDHHS may permit an extension of the time limit only if exceptional circumstances exist with respect to a complaint; or the parent, individual or entity filing the complaint and the IDEA/Part C system, public agency, or EIS provider involved agree to extend the time to engage in mediation.
- The resolution must include procedures for effective implementation of SCDHHS' final decision, if needed, including:
 - Technical assistance activities.
 - Negotiations.
 - Findings of non-compliance and corrective actions to achieve compliance.
- If in resolving a complaint SCDHHS finds there has been a failure to provide appropriate services, under its general supervisory authority the IDEA/Part C system must address:
 - The failure to provide appropriate services, including corrective actions appropriate to address the needs of the infant or toddler and the infant's or toddler's family (such as compensatory services or monetary reimbursement); and
 - Appropriate future provision of services for all infants and toddlers with disabilities and their families.
- If a written complaint is also the subject of a due process hearing or contains multiple issues of which one or more are part of the hearing, SCDHHS will set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process hearing must be resolved using the time limit and procedures described above.
- If an issue raised in a complaint filed has previously been decided in a due process hearing involving the same parties, the due process hearing decision is binding on that issue and SCDHHS must inform the complainant to that effect. If the complaint alleges the IDEA/Part C system, a public agency, or an EIS

provider failed to implement a due process hearing decision, the complaint must be resolved by SCDHHS' contracted complaint investigators.

See Appendix B for forms, instructions, and options for submission.

Mediation Agreement Procedures:

Formal mediation agreements are an option available for resolution of disputes, including formal written complaints and/or due process hearing requests.

Conditions when mediation may be used:

- Mediation may only be *requested* by parents of children referred to or eligible for IDEA/Part C
- Mediation may be *offered* by the subject of a complaint as a pathway to resolution, but the parent is not obligated to accept mediation under these conditions.

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Mediation must be:

- Voluntary on the part of the parties.
- Not used to deny or delay a parent's right to a due process hearing, or to deny any other rights afforded under IDEA/Part C.
- Conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

SCDHHS must maintain a list of contractors who are qualified mediators and knowledgeable in laws and regulations relating to the provision of early intervention services.

- Mediators must be selected on a random rotational, or other impartial basis. An individual who serves as a mediator:
 - o May not be an employee of SCDHHS, the IDEA/Part C system or an EIS provider that is involved in the provision of early intervention services or other services to the child, and
 - o Must not have a personal or professional interest that conflicts with the person's objectivity.
- The IDEA/Part C system will bear the cost of the mediation process, including the costs of meetings.
- Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute.
- If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement that sets forth that resolution and that:
 - o States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and
 - o Is signed by both the parent and a representative of the IDEA/Part C system who has the authority to bind such agency.
- A written, signed mediation agreement is enforceable in any State court of the United States.
- Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal court or State court of a State receiving assistance under this part.

See Appendix B for forms, instructions, and options for submission.

Due Process Hearings:

A due process hearing may be requested by the parent when:

- The parent has requested amendment of the early intervention record, and the request is refused; or
- As a method of resolution of a formal, written complaint.

When a due process hearing request is received, SCDHHS will contract with a qualified, impartial due process hearing officer to implement the due process hearing proceedings.

The due process hearing officer will:

- Have knowledge about the provisions of IDEA/Part C and the needs of, and early intervention services available for, infants and toddlers with disabilities and their families; and
- Perform the following duties:
 - Listen to the presentation of relevant viewpoints about the due process complaint.
 - Examine all information relevant to the issues.
 - Seek to reach a timely resolution of the due process complaint.
 - Provide a record of the proceedings, including a written decision.

Parental Rights in Due Process Hearing Proceedings:

Any parent involved in a due process hearing has the right to:

- Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to early intervention services for infants and toddlers with disabilities.
- Present evidence, confront, cross-examine, and compel the attendance of witnesses.
- Prohibit the introduction of any evidence at the hearing that has not been disclosed to the parent at least five days before the hearing.
- Obtain a written or electronic verbatim transcription of the hearing at no cost to the parent.
- Receive a written copy of the findings of fact and decisions at no cost to the parent.

Convenience of Hearings and Timelines:

- Any due process hearing conducted must be carried out at a time and place that is reasonably convenient to the parents.
- IDEA/Part C must ensure that, no later than 30 days after the receipt of a parent's due process complaint, the due process hearing is completed, and a written decision mailed to each of the parties.
- The hearing officer may grant specific extensions of time beyond the period at the request of either party.

Civil Action:

Any party who believes they have been found wrongly at fault by the findings and decisions issued in a due process hearing has the right to bring a civil action in State or Federal court.

See Appendix B for forms, instructions, and options for submission.

General Supervision and Monitoring of Dispute Resolution Procedures

Resolution of a dispute, if needed, must include:

- Technical assistance activities.
- Negotiations.
- Findings of non-compliance and corrective actions to achieve compliance.

Additionally, the resolution of the complaint may lead to review and revision of state policy and procedures.

A summary of the timelines, activities, and procedures for dispute resolution options (formal complaints, mediation, and due process hearings) is in Appendix C.

Reporting Dispute Resolution:

If the investigation determines a violation of federal/state statute(s) or regulation(s), or of IDEA/Part C policies or procedures occurred, SCDHHS will work with IDEA/Part C program to ensure:

- Distribution of yearly statistical reports to the State Interagency Coordinating Council.

- Compilation of annual statistical information will be compiled by the IDEA/Part C Procedural Safeguards Officer and incorporated into the Annual Performance Report (APR) on the State Performance Plan (SPP).

Dispute Resolution Forms and Logs

Complaint investigation forms and logs for each type of dispute resolution are in Appendix D of these procedures.

Appendix A: Definitions

Assistive Technology:

An Assistive Technology device means any item, piece of equipment, or product system whether acquired commercially off the shelf, modified, or customized that is used to increase, maintain, or improve functional capabilities of a child with a disability.

Confidentiality of Information and Access to Records (34 CFR 99.3 and 34 CFR §§ 303.14-15, 303.29, 303.48, 303.401-403, 303.405-407, 303.409-410, 303.416-417):

The confidentiality of any personally identifiable information collected, used, or maintained, must be ensured including the right of parents to written notice of and written consent of the exchange of information among participating state agencies and EIS providers consistent with federal and state law.

Definitions:

- “Personally identifiable” means information personally identifiable information that includes:
 - The child’s name;
 - The name of the child’s parent or other family member;
 - The address of the child or child’s family;
 - A personal identifier, such as the child’s social security number or child’s number;
 - A list of personal characteristics that would make the child’s identity easily traceable; or
 - Other information that would make the child’s identity easily traceable
- "Destruction" means physical destruction of the record or ensuring that personal identifiers are removed from a record so that the record is no longer personal identifiable.
- “Early Intervention records” mean all records regarding a child that are required to be collected, maintained, or used under IDEA/Part C.
- Confidentiality requirements apply to any individual, EIS provider, agency, entity, or institution that collects, maintains, or uses personally identifiable information to implement the requirements of IDEA/Part C. This includes the IDEA/Part C system and any individual or entity that provides any Part C services (including service coordination, evaluations and assessments, and other Part C services), but does not include primary referral sources, or public agencies (such as the State Medicaid or CHIP program) or private entities (such as private insurance companies) that act solely as funding sources for Part C services.

Parental Access to Records:

- The parents of infants or toddlers who are referred to, or receive services from IDEA/Part C must be given the opportunity to inspect and review all IDEA/Part C early intervention records about the child and the child’s family that are collected, maintained, or used, including records related to evaluations and assessments, screening, eligibility determinations, development and implementation of IFSPs, provision of early intervention services, individual complaints involving the child, or any part of the child’s early intervention record.
- Each participating agency and EIS provider on the IFSP shall permit parents to inspect and review any early intervention records relating to their children that are collected, maintained, or used by the agency under IDEA/Part C.
 - The agency or EIS provider shall comply with the request without unnecessary delay, and in no case, more than 10 calendar days after the request has been made.
 - In addition, the agency or EIS provider shall provide access to records when requested prior to the IFSP meeting or dispute resolution related to the child's identification, evaluation, or placement, or provision of early intervention services of the child.
- The right to inspect and review records includes:

- o The right to a response from the participating agency and provider on the IFSP to reasonable requests for explanations and interpretations of the records;
- o The right to request that the agency or EIS provider give copies of records containing the information requested, if failure to provide those copies would effectively prevent the parent from exercising their right to inspect/review records; and
- o The right to have a representative of the parent inspect and review records with parental consent.
- o An agency or EIS provider may presume that the parent has authority to inspect and review records relating to his or her child unless the agency or EIS provider has been advised that the parent does not have the authority under applicable state law governing termination of parental rights.
- Record of Access: Each agency and EIS provider on the IFSP shall keep a record of parties obtaining access to early intervention records collected, maintained or used under IDEA/Part C (except access by parents and authorized employees of the agency or EIS provider), including the name of the party, the date of access, and the purpose for which the party is authorized to use the record.
- Records on More Than One Child: If any early intervention record includes information on more than one child, parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.
- List of Types and Locations of Information: Each agency or EIS provider shall provide parents, on request, a list of the types and locations of early intervention records collected, maintained, or used by the agency, including records on children who have exited from IDEA/Part C.
- Fees
 - o An agency or EIS provider may charge fees for copies of records that are made for parents under IDEA/Part C if the fee does not prevent the parents from exercising their right to inspect and review those records.
 - o An agency or EIS provider may not charge a fee to search for or to retrieve early intervention records.
 - o An agency or EIS provider must give at no cost to parents, a copy of each evaluation, assessment of the child, family assessment, and IFSP as soon as possible after each IFSP meeting.
- Amendment of Records at Parent's Request
 - o A parent who believes information in early intervention records collected, maintained, or used under IDEA/Part C is inaccurate or misleading or violates privacy or other rights of the child or parent may request the agency or EIS provider that maintains the information to amend the information.
 - o The agency or EIS provider shall decide whether to amend the information in accordance with the request within a reasonable period after receipt of the request.
 - o If the agency or EIS provider refuses to amend the information in accordance with the request, it shall inform the parent of the refusal and advise the parent of the right to a hearing.

Consent to Release Information:

- Written parental consent must be obtained before personally identifiable information is disclosed to anyone other than authorized representatives, officials, or employees of agencies or EIS providers collecting, maintaining, or using the information in the early intervention record, or that is used any purpose other than meeting a requirement of IDEA/Part C.
- An agency/institution subject to 34 CFR Part 99 shall not release information from the early intervention record to agencies or EIS providers without parental consent unless authorized to do so under FERPA, 99.31 and state law.

Safeguards:

- Each agency and EIS provider shall protect the confidentiality of personally identifiable information in accordance with state and federal law and IDEA/Part C's confidentiality and privacy policy.
- One official at each of the agencies and EIS providers shall assume responsibility for ensuring confidentiality of personally identifiable information.

- All persons collecting or using personally identifiable information must receive training or instruction regarding state law, IDEA/Part C policy, and regulations of Part C of IDEA (34 CFR Part 300) and FERPA (34 CFR Part 99)
- Each agency and EIS provider must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

Destruction of Information:

- The Intake Coordinator, and annually, the Service Coordinator, must inform parents when personally identifiable information collected, maintained, or used by IDEA/Part C is no longer needed to provide services to the child or family and the early intervention record will be destroyed unless the family requests the record to be kept. These requirements are enforced under Part C of the Act, the GEPA provisions in 20 U.S.C. 1232, and EDGAR, 34, CFR parts 76 and 80.
- If the early intervention record is destroyed, the IDEA/Part C system must maintain a permanent record of a child's name, date of birth, parent contact information (including address and phone number), names of Service Coordinator(s) and EIS provider(s) and exit date (including year and age upon exit, and any programs entered into upon exiting) without time limitation.

Enforcement:

- IDEA/Part C shall collect and maintain information through its general supervision and monitoring processes to ensure all requirements governing the confidentiality of records and maintenance of information maintained are being implemented by agencies and EIS providers.
- Each agency and EIS provider must assure that they will comply with the confidentiality requirements through for grants/contracts, EIS provider agreements (including sub-contractors of EIS providers), Memoranda of Agreement, and consultant contracts. Each agency and EIS provider must have policies and procedures that include the compilation, maintenance, access to and confidentiality of records in accordance with these procedures.
- In the event compliance deficiencies are identified as relates to confidentiality, IDEA/Part C will report the deficiency, in writing, to the applicable agency or EIS provider. This report will describe the unmet requirement leading to the deficiency, specify the action necessary to correct the deficiency, and establish a timeline for implementing corrective action. If corrective action is not taken, and if further assistance under general supervision and monitoring activities are unsuccessful in remedying the deficiency, IDEA/Part C may terminate or not renew the grant, agreement, or contract depending on the seriousness of the findings. For State Agencies, failure to take corrective action may result in interagency dispute resolution proceedings under any existing contract or memorandum of agreement.

Due Process Hearings:

A due process hearing is a formal procedure conducted by an impartial hearing officer. Only families may request a due process hearing and are not required to first request a mediation session. Families seeking a due process hearing must submit their request in writing by fax, mail, or email to the SCDHHS staff assigned to IDEA/Part C disputes. The impartial due process hearing must be completed, and a written decision made within 30 days of the receipt of the request.

FERPA (Family Educational Rights and Privacy Act of 1974):

FERPA is Federal legislation in the United States that protects the privacy of students' personally identifiable information. The act applies to all educational institutions that receive federal funds. FERPA assures that personally identifiable information from educational records will be protected from unauthorized release. Parents have the right to inspect and review records, and the right to challenge the content of the record to ensure that the information it contains is accurate.

Formal, Written Complaints:

Anyone may file a formal, written complaint. The complaint must include a statement that a requirement of the statute or regulations of IDEA/Part C) has been violated, and a statement of the facts on which the complaint is based. Formal, written complaints must be filed with IDEA/Part C within one (1) year of the alleged violation. Under certain circumstances, the period for filing the complaint may be longer. Once the complaint has been received, SDHHS has 60 days to investigate the complaint, review all relevant information, make an independent determination as to whether or not a violation has occurred, and issue a written decision to the complainant that addresses each allegation in the complaint and that contains the facts and conclusions as well as the reasons for the final decision.

Impartial:

Impartial means that the investigator, mediator, and/or due process hearing office appointed to the dispute must have no conflicts of interest with the individual requesting dispute resolution, the subject of the complaint, mediation, or due process hearing, IDEA/Part C or SCDHHS.

Mediation:

Mediation is voluntary and freely agreed to by both parties. It provides an opportunity to resolve disagreements in a non-adversarial, informal manner. Only parents may request mediation, but they are not required to use it. Mediation may not be used to deny or delay the right to an impartial due process hearing or to deny any other rights under IDEA/Part C. Impartial mediators may not be IDEA/Part C employees and do not have a personal or professional interest that would conflict with the objectivity in implementing the process.

Native Language (34 CFR 303.25):

- Native language, when used with respect to an individual who is considered Limited English Proficient (LEP), is defined as the language normally used by that individual, the language normally used by the parents of the child, and the language normally used by the child, if determined developmentally appropriate for the child by qualified personnel conducting the evaluation or assessment.
- Native Language, when used with respect to an individual who is deaf or hard of hearing, blind, or visually impaired, or for an individual with no written language, means the mode of communication that is normally used by the individual (such as sign language, Braille, or oral communication).

Parental Consent and Ability to Decline Services (34 CFR 303.7, 303.420):

IDEA/Part C must ensure parental consent is obtained before:

- Administering screening procedures that are used to determine whether a child is suspected of having a disability;
- Any evaluations and assessments of a child are conducted;
- EIS are initiated or when it is proposed the frequency and intensity of services are to be changed on the IFSP;
- Private insurance is used to help cover the cost of EIS; and;
- Disclosure of personally identifiable information.

If a parent does not give consent the Intake Coordinator or Service Coordinator must make reasonable efforts to ensure that the parent:

- Is fully aware of the nature of the evaluation and assessment of the child or early intervention services that would be available; and
- Understands that the child will not be able to receive the evaluation, assessment, or early intervention service unless consent is given.

IDEA/Part C may not use due process hearings to challenge a parent's refusal to provide any consent that is required under this section.

The contents of the Individual Family Service Plan must be fully explained to the parents and informed written consent from the parents must be obtained prior to the provision of early intervention services described in the plan. If the parents do not provide consent with respect to an early intervention service or withdraw consent after first providing it, that service may not be provided. The early intervention services to which parental consent is obtained must be provided.

Consent means:

- The parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language as defined above.
- The parent understands and agrees in writing to the carrying out of the activity for which the parent's consent is sought. The consent describes that activity and lists the early intervention records (if any) that will be released and to whom; and
- The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.
- If a parent revokes consent, that revocation is not retroactive (i.e., it does not apply to an action that occurred before the consent was revoked)

Right to Decline Services:

The parents of an infant or toddler with a disability have the right to:

- Determine whether they, their infant or toddler with a disability, or other family members will accept or decline any early intervention service.
- May decline a service after first accepting it, without jeopardizing other early intervention services.

Prior Written Notice (34 CFR 303.421):

Prior Written Notice (PWN) must be given to parents in a reasonable time when a Service Coordinator or EIS provider proposes a change or refuses to initiate or change any of the following:

- Initial and annual eligibility evaluations;
- Initial and annual family and child assessments;
- Developing, reviewing, or evaluating the Individualized Family Service Plan;
- Adding, changing, or stopping a service on the Individualized Family Service Plan or the source of payment of a service; and
- The transition planning conference.

The notice must list:

- The action that is being proposed or refused;
- The reasons for taking the action;
- All procedural safeguards that are available; including a description of how to file a formal, written complaint, request mediation, and request a due process hearing; and
- Any timelines under the procedures for filing a complaint to contest the proposed action of the notice.

The notice must be:

- Written in language understandable to the general public; and
- Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.
- If the native language or other mode of communication of the parent is not a written language, the Intake Coordinator or Service Coordinator must take steps to ensure that:

- o The notice is translated orally or by other means to the parent in the parent's native language or other mode of communication;
- o The parent understands the notice; and
- o There is written evidence that the above requirements have been met.

Appendix B: Dispute Resolution Forms

<p style="font-size: small; margin: 0;">SOUTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES</p> <p style="font-size: large; margin: 0;">Healthy Connections</p> <p style="margin: 0;">BABYNET </p>	<h2 style="margin: 0;">REQUEST FOR DISPUTE RESOLUTION</h2>
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Any individual, organization, or parent may document an allegation of a violation of Part C of Individuals with Disabilities Education Act (IDEA) in general or with respect to an individual child and request an investigation under the Written State Complaint procedures. Parents have additional options for dispute resolution. Anyone filing a complaint and/or requesting dispute resolution procedures must complete and sign this form and submit it at the address listed below. For more information see the *Family Guide to the IDEA/Part C System*.

COMPLETED FORMS CAN BE SUBMITTED AS FOLLOWS:

E-MAIL: APPEALS@SCDHHS.GOV	MAIL: SCDHHS/APPEALS AND HEARINGS
FAX: 803.255.8206	1801 MAIN ST, COLUMBIA, SC 29201
	ATTN: IDEA/PART C DISPUTES

SECTION 1: TYPE OF DISPUTE RESOLUTION

I am requesting dispute resolution via: <input type="checkbox"/> Written Formal State Complaint	<i>Parents only:</i> <input type="checkbox"/> Mediation <input type="checkbox"/> Due Process Hearing
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This form is being submitted with respect to the following child: Not Applicable

Child's First Name:	Child's Last Name:	Date of Birth:
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Address:

SECTION 2: WHAT RIGHTS OR REGULATIONS UNDER PART C OF IDEA DO YOU BELIEVE HAVE BEEN VIOLATED?

SECTION 3: PROVIDE A SUMMARY OF THE SITUATION OR COMPLAINT, BEING SPECIFIC AS POSSIBLE. PLEASE DESCRIBE ANY EVENTS, ACTIONS, AND/OR INACTION WITH DATES, IF KNOWN. USE THE BACK OF THIS FORM OR ADDITIONAL PAGES AS NEEDED:

SECTION 4: WHAT RESOLUTION WOULD YOU PROPOSE TO REMEDY THE SITUATION, IF ANY?

SECTION 5: COMPLAINANT CONTACT INFORMATION

First Name:	Last Name:	Relationship to Child: <input type="checkbox"/> N/A
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Address:

Area Code and Phone Number:	E-Mail Address:
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<i>Signature</i>	<i>Date</i>
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Request for Dispute Resolution Form INSTRUCTIONS



Updated: February 20, 2020

Who is responsible: IDEA/Part C Mediators

Purpose

To document written state complaints, or requests for mediation and/or dispute resolution by parents of children served by the IDEA/Part C Early Intervention System. *Note: The IDEA/Part C Early Intervention System has not adopted Part B dispute resolution procedures and does not offer resolution meetings.*

Use

1. The Request for Dispute Resolution may be completed by a parent of any infant or toddler enrolled in IDEA/Part C, as defined in 34 CFR §303.27, to document an allegation of a violation of their rights under Part C of the *Individuals with Disabilities Education Act* (IDEA) and to request dispute resolution as described in 34 CFR §§303.430-303.449. This includes parents or legal guardians of any infant or toddler ages birth to three years who is suspected of having a disability, developmental delay, or diagnosed condition likely to result in developmental delay not enrolled if the allegation is of a violation of Child Find requirements. In addition to a Written State Complaint, a parent may request a Mediation Session and/or a Due Process Hearing.
2. The Request for Dispute Resolution form may also be completed by an organization or individual to document an allegation of a general violation of Part C of the IDEA or a violation with respect to an individual child and to request an investigation under Written State Complaint procedures, according to 34 CFR §§303.432-303.434.
3. The alleged violation must have occurred **within one year** of the date the complaint is received by the IDEA/Part C Early Intervention System.
4. The IDEA/Part C staff or designee assigned to complaint investigation is responsible for:
 - Reviewing each complaint to determine if there has been a violation of the child's or parent's rights and safeguards;
 - Reviewing each complaint to determine if there has been a violation of federal regulations;
 - Forwarding the complaint for mediation and/or due process hearing as indicated; and
 - Sharing the results of each request for dispute resolution with the IDEA/Part C State Coordinator for the Annual Performance Report on the State Performance Plan.
5. The original Request for Dispute Resolution Form is stored in the IDEA/Part C Early Intervention System State Office dispute resolution files.
6. Retention Period
The Request for Dispute Resolution Form will be maintained in the IDEA/Part C Early Intervention System State Office dispute resolution files without time limitation. If the IDEA/Part C Early Intervention System receives a request to destroy the early intervention records according to 34 CFR §303.416 for an infant or toddler for whom a Request for Dispute Resolution has been submitted, the IDEA/Part C Early Intervention System will permanently redact all personally identifiable information contained within the Request for Dispute Resolution Form and associated investigation, mediation meeting, and due process hearing records not allowed to be maintained without time limitation according to 34 CFR §303.416(b).

Section 1: Type of Dispute Resolution

Please legibly print or type the following information in the space provided.

Indicate the method requested for dispute resolution: (a) Written State Complaint, (b) Mediation, or (c) Due Process Hearing. Please review the Family Guide to the IDEA/Part C System for more information on the three options.

If the complaint alleges a general violation of Part C of IDEA rather than a violation of an individual child's or family's rights select 'Not Applicable.' In all other cases, provide the following information about the individual child on whose behalf this complaint is being filed:

- **Child's Name:** Record the child's legal first name and last name.
- **Date of Birth:** Record the month, day, and year the child was born.
- **Address:** Record the address where the child resides.

Section 2: Rights or Regulations Alleged to Have Been Violated

Write a statement describing the child's or family's right(s) or the Part C regulation(s) that are alleged to have been violated. *Note: Citing the specific regulation, though preferable, is not required. A general statement alleging a violation of Part C of IDEA is enough.*

Section 3: Summary of Dispute

Write a statement, as detailed as possible, describing the specific event(s), action(s), and/or inaction(s) with dates, if known, which have led to the complaint. Use the back of the form and/or additional pages as needed to describe the situation. *Note: The event(s), action(s), and/or inaction(s) which are alleged to have violated Part C of IDEA must have occurred within one year of the date the complaint is received by the IDEA/Part C Early Intervention System.*

Section 4: Proposed Resolution

Write a statement describing the desired resolution to remedy the situation. *Note: The resolution offered should state investigation, mediation session, or due process hearing support the complaint is not limited to the proposed resolution; however, the proposed resolution will be taken under consideration when determining the resolution to be offered.*

Section 5: Information about Person Requesting Dispute Resolution


The complainant submitting this complaint must provide the following information:

- **Complainant:** Record the first name and last name of the individual or the organization name of the individual or organization who is submitting this complaint.
- **Relationship to Child:** If applicable, record the relationship between the complainant and the infant or toddler on whose behalf this complaint is being filed (e.g., *parent*).
- **Address:** Record the complete mailing address for the complainant.
- **Phone:** Record the area code and telephone number for the complainant.
- **Signature:** The complainant must sign this complaint before submission.
- **Date:** Record the date the complainant signed the complaint.

COMPLETED FORMS MAY BE SUBMITTED AS FOLLOWS:

E-MAIL: APPEALS@SCDHHS.GOV
FAX: 803.255.8206

MAIL: SCDHHS/APPEALS AND HEARINGS
1801 MAIN ST, COLUMBIA, SC 29201
ATTN: IDEA/PART C DISPUTES

<p><small>SOUTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES</small> Healthy Connections BABYNET </p>	MEDIATION AGREEMENT FORM
---	---------------------------------

SECTION 1: CHILD INFORMATION

In the Matter of Mediation on Behalf of:

Child's Name

County:

Parent/Legal Guardian/Surrogate Parent:

please print

SECTION 2: MEDIATION AGREEMENT

We the undersigned, participated in a voluntary mediation conference regarding:

Being satisfied that the provisions of the resolution of our dispute are fair and reasonable, we hereby agree to abide by and fulfill the following:

SECTION 3: SIGNATURES

<i>Signature</i>	<i>Role</i>	<i>Date</i>
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<i>Signature</i>	<i>Role</i>	<i>Date</i>
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<i>Signature</i>	<i>Role</i>	<i>Date</i>
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<i>Signature</i>	<i>Role</i>	<i>Date</i>
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Mediation Agreement Form INSTRUCTIONS

Updated: February 20, 2020

Who is responsible: IDEA/Part C Mediators

SOUTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES



Purpose

To document the conditions of a mediation agreement as the result of dispute resolution processes.

Use

The IDEA/Part C Mediator is responsible for completion of this form for each request for dispute resolution that results in mediation sessions. Upon completion and signature, the IDEA/Part C Mediator is responsible for ensuring that all parties named in and/or signing the form receive a copy, including the child's Intake Coordinator or Service Coordinator. The original is maintained by the mediator and the results shared with the IDEA/Part C State Coordinator for the Annual Performance Report on the State Performance Plan.

Section 1: Child Information

Enter the legal first and last name of the child, the county of the child's residence, and the name of the child's parent(s).

Section 2: Mediation Agreement

The Mediator will provide a brief statement of the original complaint, and a summary of the actions agreed to by all parties to the mediation agreement.

Section 3: Signatures

Each party to the mediation agreement will sign the form, enter their role, and enter the date of signature.

<small>SOUTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES</small> Healthy Connections <small>BABYNET</small>	WITHDRAWAL OF DISPUTE RESOLUTION REQUEST
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SECTION 1: TYPE OF RESOLUTION TO BE WITHDRAWN

<input type="checkbox"/> Written State Complaint	<div style="text-align: right; font-size: small;"><i>Parent only:</i></div> <input type="checkbox"/> Mediation <input type="checkbox"/> Due Process Hearing
--	---

COMPLETED FORMS CAN BE SUBMITTED AS FOLLOWS:

E-MAIL: APPEALS@SCDHHS.GOV FAX: 803.255.8206	MAIL: SCDHHS/APPEALS AND HEARINGS 1801 MAIN ST, COLUMBIA, SC 29201 ATTN: IDEA/PART C DISPUTES
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SECTION 2: CHILD INFORMATION Not Applicable

Child's First and Last Name:	Date of Birth:
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Address:

SECTION 3: REASON FOR WITHDRAWAL OF REQUEST:

SECTION 4: PERSON WITHDRAWING REQUEST:

Name:

Relationship to Child:

<i>Signature</i>	<i>Date</i>
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Withdrawal of Dispute Resolution Request INSTRUCTIONS



Updated: February 20, 2020

Who is responsible: IDEA/Part C Mediators

Purpose

To document requests to withdraw written state complaints, or requests for mediation and/or dispute resolution by parents of children served by the IDEA/Part C Early Intervention System. *Note: The IDEA/Part C Early Intervention System has not adopted Part B dispute resolution procedures and does not offer resolution meetings.*

Use

1. The Withdrawal of Dispute Resolution Request may be completed by a parent of any infant or toddler enrolled in IDEA/Part C, as defined in 34 CFR §303.27, to withdraw a previous written state complaint, request for mediation, and/or request for a due process hearing submitted by parents or legal guardians of any infant or toddler ages birth to three years who is suspected of having a disability, developmental delay, or diagnosed condition likely to result in developmental delay not enrolled if the allegation is of a violation of Child Find requirements. In addition to a Written State Complaint, a parent may request a Mediation Session and/or a Due Process Hearing.
2. The Withdrawal of Dispute Resolution Request form may also be completed by an organization or individual that has previously submitted a written state complaint regarding an allegation of a general violation of Part C of the IDEA or a violation with respect to an individual child.
3. The original Withdrawal of Dispute Resolution Request Form is stored in the IDEA/Part C Early Intervention System State Office dispute resolution files.
4. Retention Period
The Withdrawal of Dispute Resolution Request Form along with the original request will be maintained in the IDEA/Part C Early Intervention System State Office dispute resolution files without time limitation. If the IDEA/Part C Early Intervention System receives a request to destroy the early intervention records according to 34 CFR §303.416 for an infant or toddler for whom a Request for Dispute Resolution has been submitted, the IDEA/Part C Early Intervention System will permanently redact all personally identifiable information contained within the original request, the Withdrawal of Dispute Resolution Request Form and associated investigation, mediation meeting, and due process hearing records not allowed to be maintained without time limitation according to 34 CFR §303.416(b).

Section 1: Type of Dispute Resolution to be Withdrawn

Please legibly print or type the following information in the space provided.

Indicate the type of dispute resolution: (a) Written State Complaint, (b) Mediation, or (c) Due Process Hearing.

Section 2: Child Information

If the original complaint alleged a general violation of Part C of IDEA rather than a violation of an individual child's or family's rights select 'Not Applicable.' In all other cases, provide the following information about the individual child on whose behalf the original complaint was filed:

- **Child's Name:** Record the child's legal first name and last name.
- **Date of Birth:** Record the month, day, and year the child was born.
- **Address:** Record the address where the child resides.

Section 3: Reason for Withdrawal of Request for Dispute Resolution

Write a brief statement as to why the original request is being withdrawn.

Section 4: Information about Person Withdrawing Request

The complainant submitting this complaint must provide the following information:

- **Complainant:** Record the first name and last name of the individual or the organization name of the individual or organization who is submitting this complaint.
- **Relationship to Child:** If applicable, record the relationship between the complainant and the infant or toddler on whose behalf this complaint is being filed (e.g., *parent*).
- **Signature:** The complainant must sign this complaint before submission.
- **Date:** Record the date the complainant signed the complaint.

COMPLETED FORMS CAN BE SUBMITTED AS FOLLOWS:

E-MAIL: APPEALS@SCDHHS.GOV
FAX: 803.255.8206

MAIL: SCDHHS/APPEALS AND HEARINGS
1801 MAIN ST, COLUMBIA, SC 29201
ATTN: IDEA/PART C DISPUTES

Appendix B: Dispute Resolution Forms

<p style="font-size: small; margin: 0;">SOUTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES</p> <p style="font-size: large; margin: 0;">Healthy Connections</p> <p style="margin: 0;">BABYNET </p>	<h3 style="margin: 0;">Informal Complaint Tracking Log</h3>
<p>Name of Service Coordination Agency/Company:</p>	
<p>Tracking of Informal Complaint for the period July 1 _____ to June 30 _____</p>	
<p>Date of Complaint:</p>	<p>Name of individual with complaint:</p>
<p>Brief Description of concern, disagreement, or complaint:</p>	
<p><input type="checkbox"/> Date Resolved by Service Coordinator:</p>	
<p><input type="checkbox"/> Date Forwarded to Supervisor:</p>	
<p><input type="checkbox"/> Date Resolved by Supervisor or Forwarded to Program Manager:</p>	
<p><input type="checkbox"/> Date Resolved by Program Manager or Forwarded to Regional Part C Coordinator:</p>	
<p>Brief Description of resolution or next step(s):</p>	
<p>Date of Complaint:</p>	<p>Name of individual with complaint:</p>
<p>Brief Description of concern, disagreement, or complaint:</p>	
<p><input type="checkbox"/> Date Resolved by Service Coordinator:</p>	
<p><input type="checkbox"/> Date Forwarded to Supervisor:</p>	
<p><input type="checkbox"/> Date Resolved by Supervisor or Forwarded to Program Manager:</p>	
<p><input type="checkbox"/> Date Resolved by Program Manager or Forwarded to Regional Part C Coordinator:</p>	
<p>Brief Description of resolution or next step(s):</p>	

Appendix C: Timelines for Dispute Resolution Processes

Timelines for Formal Written Complaints, Mediation and Due Process Hearings Activities		
Activities	Time Frame/ Deadline (calendar days)	State Level Activities
Informal Complaints	Ongoing	Require participating state agencies and EIS providers to make every effort to resolve complaints informally and track them on the Informal Complaints Tracking Log.
	Annually	Require submission of Informal Complaints Tracking Log with contract submission requirements.
Formal Written Complaints	Day 1	Stamp formal written complaints with date received.
		Enter the complaint in Complaint Log (Appendix D) and assign case number.
		Develop a complaint case file.
	Day 5	Review the complaint to ensure all required content is included and that the alleged violations: a) occurred no more than one year prior to date of receipt; b) are related to specific IDEA/Part C requirements; and c) are not included in mediation or a due process hearing request.
	Day 7	If complaint is not an IDEA/Part C matter or the complaint occurred more than one year before the complaint was filed, written correspondence to this effect is sent to all parties and the complaint file is closed.
		If the complaint is an IDEA/Part C matter, send written correspondence to the complainant with a copy to agency or individual against which the complaint was filed, explaining the complaint investigation process and requesting submission of any additional information within 7 days of the date of the letter. The person or entity filing the complaint must be offered mediation as a means to resolve the complaint.
	Day 7	Send written correspondence to the agency/individual against which the complaint is filed with a copy of the written complaint and a request for a response to the complaint within 7 days.
	Day 14	Document receipt of additional written or verbal information provided by the complainant and the response from the party against which the complaint was filed.
		Review the response as well as additional information submitted by the complainant as appropriate.
		If the complainant requests mediation to resolve the complaint, mediation procedures are initiated, and the complaint is closed.
If mediation is not requested, IDEA/Part C State Staff determine if an onsite investigation is needed and carry out the investigation.		
Day 40	Review all relevant information and make an independent determination as to whether the agency/individual(s) is violating an IDEA/Part C requirement	
	Draft a written decision that addresses each allegation in the complaint, the findings of fact and conclusions, and the reasons for the final decision	

Timelines for Formal Written Complaints, Mediation and Due Process Hearings Activities		
Activities	Time Frame/ Deadline (calendar days)	State Level Activities
		Obtain review of the written decision by SCDHHS legal counsel and make changes to the draft written decision, as appropriate.
	Day 60	Send the final decision to the complainant and agency/individual against which the complaint was filed within 60 calendar days of receipt of the complaint. If the investigation determines that violations did occur (or are continuing to occur), include procedures for effective implementation of the final decision including technical assistance activities, negotiations, and Corrective Action Plans (CAPs) to achieve compliance as identified in the written decision.
	Ongoing	Provide follow-up as needed to ensure implementation of the decision, including development and implementation of a corrective action plan and correction of noncompliance as appropriate.
		Document follow-up in the complaint case file and close the file when data confirms correction of noncompliance and implementation of the decision.
Mediation	Day 1	Stamp the written request for mediation with the date the request was received.
		Enter the mediation request in the Mediation Log (Appendix D) with the appropriate information and assign a case number.
		Develop a mediation case file.
	Day 3	Within 3 days following receipt of the mediation request, confirm that all parties agree to mediation.
		Appoint a mediator.
		Determine if a due process hearing request or a formal written complaint was filed with mediation; if so, set aside the hearing request or complaint investigation.
	Day 5	Make arrangements for interpreter, translator, or alternative communication services, if appropriate.
		Schedule mediation session to occur within required timelines and notify the parties of the date/time/location along with their respective responsibilities, rights (including confidentiality), mediation procedures, and name of mediator.
	Day 15 (skip to Day 30 if mediation requested with due process or written complaint)	Mediation is completed if requested as part of an impartial hearing or complaint investigation.
		If an agreement is reached, the mediator completes the Mediation Agreement Form (Appendix F), obtains signatures of all parties, and sends copy of mediation agreement form to the IDEA/Part C State Office.
		Send mediation agreement to translator if translation services are needed for the mediation agreement, if feasible.
		If no agreement was reached, ensure that the mediator sends a letter to the IDEA/Part C State Office stating that no agreement could be reached. Send written notification to all parties stating that no agreement could be reached, the confidentiality agreement is still in effect, and the complainant has the

Timelines for Formal Written Complaints, Mediation and Due Process Hearings Activities		
Activities	Time Frame/ Deadline (calendar days)	State Level Activities
		right to re-initiate the due process hearing request or the formal written complaint process.
	Day 20 (skip to Day 30 if mediation requested with due process or written complaint)	If an agreement was reached, send a copy of the agreement to all parties.
	Day 25 (skip to Day 30 if mediation requested with due process or written complaint))	Ensure that the agency and/EIS providers incorporate the terms of the agreement into their procedures, practices, and/or the child’s IFSP.
		Provide follow-up as needed to ensure implementation of the mediation agreement
	30 Days (only if mediation alone)	When mediation is requested, but not as a part of a hearing or complaint investigation, ensure that it is completed within 30 days of receipt of the request for mediation.
		If an agreement is reached, ensure that the mediator develops a written agreement, obtains signatures of all parties, and sends a copy of the agreement to the IDEA/Part C State Office (Appendix F).
		Send mediation agreement to translator if translation services are needed for the mediation agreement.
		If no agreement is reached, ensure that the mediator sends a letter to the IDEA/Part C State Office indicating that an agreement could not be reached. Send written notification to all parties stating no agreement could be reached, that the confidentiality agreement is still in effect, and the complainant has the right to request a due process hearing or to file a formal written complaint.
	35 Days	If an agreement was reached, send the agreement to all parties.
	45 Days	Ensure that the agency and/EIS providers incorporate the terms of the agreement into their procedures, practices, and/or the child’s IFSP.
	Ongoing	Provide follow-up as needed to ensure implementation of the mediation agreement
Due Process Hearing	Day 1	Stamp the written due process hearing complaint with the date that it was received.
		Enter the due process hearing request in the Hearing Log (Appendix D) with the appropriate information and assign a case number.
		Develop a hearing case file.

Timelines for Formal Written Complaints, Mediation and Due Process Hearings Activities		
Activities	Time Frame/ Deadline (calendar days)	State Level Activities
	Day 3	If the complainant requests mediation along with the request for a hearing and both parties agree to mediation, assign a mediator, and initiate mediation steps putting the hearing on hold until mediation is completed.
		If the complainant requests only a hearing, offer the complainant the opportunity to resolve the dispute through mediation.
		If the complainant does not want to access mediation, appoint a hearing officer, and send a copy of the due process hearing complaint to the hearing officer.
	Day 5	Ensure that the hearing officer determines if the request for a process hearing meets requirements within 2 days of receipt
		Notify all parties in writing of the hearing officers' determination; if the complaint meets all requirements, include information about when the hearing is scheduled, the due process hearing procedures and the rights of all parties, what response is required within 10 days of notification from the agency/individual against which the complaint is filed, and an explanation that all evidence that will be used in the hearing must be provided to all parties no later than 5 days prior to the due process hearing.
	Day 15	Ensure that the respondent provides a response to the complainant that specifically addresses each issue raised in the complaint.
		Ensure that each party informs the other of their intent to be represented by counsel.
	Day 20	If mediation was requested, the outcome of the mediation session is shared along with a copy of the mediation agreement; share the agreement with the due process hearing officer and ensure that hearing is cancelled.
	Day 22	Ensure that the hearing is conducted
		If any party fails to appear at the hearing, ensure that the hearing officer attempts to contact the party; if the party does not appear within one hour, the hearing is adjourned; reschedule the hearing.
Day 30	Within 30 calendar days of receipt of the due process hearing request, ensure that the hearing officer makes a written decision and mails it to all parties.	
Day 40	Within 10 days of issuing the hearing decision, ensure that agency or EIS provider makes changes in the child's services, including the IFSP, based on the hearing decision.	
Day 45	Within 15 days of the hearing decision, make available a written or electronic verbatim transcription of the proceedings to all parties.	
Ongoing	Provide follow-up as needed to ensure implementation of the decision and document actions in the hearing case file.	
Training of Mediators	Annually	Schedule training of Mediators and Hearing Officers on Part C requirements (and relevant case law) in conjunction with Part B training; update training

Timelines for Formal Written Complaints, Mediation and Due Process Hearings Activities		
Activities	Time Frame/ Deadline (calendar days)	State Level Activities
and Hearing Officers		materials as appropriate with current IDEA requirements and IDEA/Part C Policies and Procedures.

Appendix D: Dispute Resolution Process Logs

South Carolina Part C Individual Case Formal Complaint Investigation Log

Note: This form should be attached to the inside left cover of the individual complaint file and dates entered as steps are completed. If an item is not applicable, enter NA on the form.

Complainant:	Case Number: C:
Child's Name	DOB:
Address:	
Phone:	
Respondent(s):	

DATE	EVENT	DEADLINE
	Request for hearing received by IDEA/Part C.	Day 1
	Hearing request logged in and case number assigned.	Day 1
	Case file is setup.	Day 1
	All required information contained in complaint, alleged violations occurred within one year, are related to IDEA/Part C requirements, or were subject to previous hearing.	Day 5
	Complaint determined to be subject of a current hearing. If applicable set aside those portions of complaint until hearing or mediation completed.	Day 5
	If appropriate, all parties notified that complaint does not meet criteria and case closed.	Day 7
	Complainant notified that complaint meets all criteria with copy of complaint procedures, opportunity to provide additional information about the complaint, and option to access mediation.	Day 7
	Respondent sent copy of complaint with request to provide written response to each allegation.	Day 7
	Complainant agrees to use formal mediation if applicable. Mediation activities from Day 1 – Day 25 implemented. Complaint put on hold.	Day 14
	Additional written or verbal information concerning complaint received.	Day 14
	Response from Respondent received.	Day 14
	Formal mediation resolved issues.	Day 29
	Signed mediation agreement filed in complainant record. Case is closed.	Day 29
	If mediation is not successful, complaint investigation continued.	Day 29
	Complaint investigation is conducted (may be onsite).	Day 40
	Draft written decision.	Day 40
	Obtain legal review.	Day 58
	Parties notified of reasons/new timelines in case of exceptional circumstances if applicable.	As appropriate
	Written decision issued to complainant and respondents.	Day 60
	Corrective action plan received from respondent(s), if applicable.	Day 90
	TA and follow-up provided to respondent(s); Progress data reviewed; onsite activities conducted, if applicable.	Ongoing

Comments:

Formal Written Complaint Log

Tracking of Formal Written Complaints for the period July 1 _____ to June 30 _____

Date Received	Number	Name	Brief Description of Complaint	Resolution/Close Date	Brief Description of Resolution
	C001				
	C				
	C				
	C				
	C				
	C				
	C				
	C				
	C				
	C				
	C				
	C				
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Mediation Requests Log

Tracking of Mediation Requests for the period July 1 _____ to June 30 _____

Date Received	Number	Name	Brief Description of Complaint	Resolution/Close Date	Brief Description of Resolution
	M001				
	M				
	M				
	M				
	M				
	M				
	M				
	M				
	M				
	M				
	M				
	M				
	M				
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Due Process Hearings Log

Tracking of Due Process Hearings for the period July 1 _____ to June 30 _____

Date Received	Number	Name	Brief Description of Complaint	Resolution/Close Date	Brief Description of Resolution
	H001				
	H				
	H				
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	H				
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