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 a 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 res-
solved, 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 deci-
sion 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.