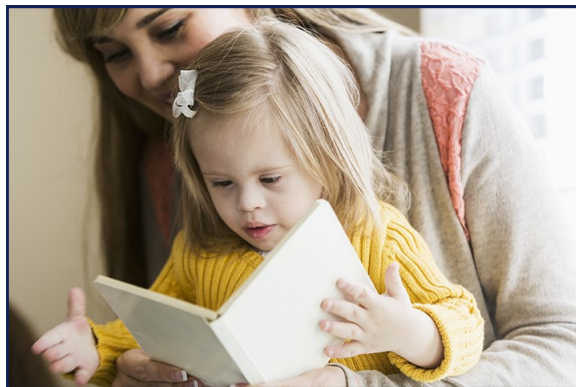


IDEA Early Intervention Written State Complaints

*A Guide for Families of Infants and Toddlers
(Birth through Age 2)*



September 2018

This publication is part of a series of guides on dispute resolution options available under Part C of the IDEA.

These options include mediation, written state complaints, and due process complaints and hearings.

For more information on resolving early intervention disputes, visit the CADRE website:

www.cadeworks.org/resources/idea-early-intervention-family-guides



* This Guide describes the procedures for written state complaints under Part C of the Individuals with Disabilities Education Act (IDEA).

This Guide does not interpret, modify, or replace any procedural safeguards or requirements of federal or state law.



If you have questions about information in this Guide, contact your state lead agency or Office of Special Education (OSEP) funded parent center for assistance.

Commonly used terms and additional information is available at:

www.cadreworks.org/resources/idea-early-intervention-family-guides

WHAT IS A WRITTEN STATE COMPLAINT?

Parents have important rights if they disagree about whether the requirements of Part C of the IDEA are being followed. Under Part C of the IDEA, you have the right to file a written state complaint (state complaint) when you want the state lead agency to investigate if the IDEA has been followed. The state complaint requests a resolution of the problem. State complaints may concern one child or a group of children. Any person or organization, including one from another state, may file a state complaint.

- ◆ State complaints are usually sent to the state lead agency for resolution. A copy of the complaint must be sent at the same time to the public agency or the early intervention service (EIS) provider serving a child or children named in the complaint.
- ◆ A few examples of when a state complaint might be filed:
 - ◇ You disagree with a decision regarding your child's eligibility for services.
 - ◇ You believe that the EIS provider is not providing the services included in your child's Individualized Family Service Plan (IFSP).
 - ◇ You believe the EIS provider is not providing the required services to a group of children.

- ◇ If your state's system charges for EIS services and you disagree with the fee charged or the decision about your ability to pay for services.
- ◆ The lead agency is responsible for resolving a state complaint.
- ◆ Parents have other dispute resolution options under Part C of the IDEA, including mediation and due process complaints. For ways of comparing your options, see: *Quick Guide to Early Intervention Dispute Resolution Processes for Families of Infants and Toddlers (Birth through Age 2)*.

State complaints must include certain information to be considered complete, including:

- ◆ **A statement that the lead agency, public agency, or EIS provider has not followed a requirement of Part C of the IDEA;**
- ◆ **Facts that support this statement; and**
- ◆ **The signature and contact information of the person or organization filing the complaint.**

If the state complaint concerns a specific child, it must also include:

- ◆ **The child's name and address, based on where the child is living;**
- ◆ **The name of the child's EIS provider;**
- ◆ **A description of the problem, including facts relating to the problem; and**
- ◆ **Suggestions about how to solve the problem.**

A state complaint received without the required information could delay resolution of the issue(s).

A state complaint must be sent to both the lead agency and the public agency or EIS provider serving the child or children.

WHAT HAPPENS AFTER I FILE A WRITTEN STATE COMPLAINT?

Next steps include:

- ◆ A person or team is assigned by the lead agency to work on the complaint.
- ◆ An investigation takes place, which may include visits to the EIS provider or other locations, review of relevant documents, and interviews with people who have information relating to the complaint.
- ◆ The person or agency against whom the complaint was filed must have an opportunity to respond, including, at the discretion of the lead agency, offering a proposal to resolve the complaint.

- ◆ An opportunity for both parties to engage in mediation.
- ◆ Review all relevant information and make an independent determination about whether Part C requirements were not followed.
- ◆ A written decision is made no later than 60 *calendar* days after the state complaint was received by the lead agency, unless the timeline is extended.

State regulations associated with Part C of the IDEA dispute resolution processes may differ from state to state.

Parents and family members are encouraged to contact their state lead agency or OSEP-funded parent center for more information.

WHAT DOES A WRITTEN STATE COMPLAINT DECISION INCLUDE?

The state lead agency must provide a written decision that addresses each problem identified in the state complaint. It includes facts, conclusions, and reasons for the lead agency's final decision. If the lead agency finds that the requirements of Part C of the IDEA were not followed, the decision must also include any actions required to address the needs of the child and the child's family or group of children involved in the complaint. In resolving a complaint where the lead agency has found a failure to provide appropriate services, the lead agency must address: (1) the failure to provide appropriate services, including corrective actions appropriate to address the needs of the infant or toddler with a disability who is the subject of the complaint and the infant's or toddler's family (such as compensatory services or monetary reimbursement); and (2) how appropriate services will be provided in the future for all infants and toddlers with disabilities and their families.

FREQUENTLY ASKED QUESTIONS ABOUT WRITTEN STATE COMPLAINTS

Is there a special form that I have to use?

No. Your state lead agency may make a state complaint form available but you do not have to use it. If a form is available, looking at the form and seeing what information is requested may help you organize your thoughts before writing your state complaint. Looking at the form may also help you make sure that you provide all of the information needed for your complaint to be complete. If no form is available, contact your state lead agency or OSEP-funded parent center for assistance. It is often helpful to include copies of documents (such as IFSPs, letters, notes, and reports) and other information to support your claim that the requirements of Part C of the IDEA were not followed.

Is there a time limit for filing a state complaint?

The concerns listed in your state complaint must not have occurred more than one year before the lead agency receives your complaint.

Is mediation available when I file a state complaint?

Yes. Mediation may be requested as an option to resolve the problems identified in a state complaint. This may be a quicker and more direct way to resolve issues for a specific child, if the other side agrees to mediation. See: [Quick Guide to Early Intervention Dispute Resolution Processes for Families of Infants and Toddlers \(Birth through Age 2\)](#).

How long will it take to resolve my complaint or receive a decision?

The state complaint must be resolved within 60 *calendar* days, unless extended for exceptional circumstances regarding the issues in your complaint. You and the other side may agree in writing to extend the timeline so you can participate in mediation, or both sides may choose to participate in mediation without agreeing to an extension of the timeline.

What if I want to provide additional information after I file my state complaint?

You must be given an opportunity to provide additional information that relates to your state complaint, either verbally or in writing. It is not unusual for someone from the lead agency to contact you for more information.

What happens if I file a state complaint and request a due process hearing at the same time?

It depends. If the parties and the issues are the same in both, the state complaint process will be postponed until after the due process hearing decision is provided by the hearing officer. Any issues in your state complaint that are not part of the due process request, must be investigated by the state lead agency within 60 *calendar* days, unless the lead agency extends the timeline for exceptional circumstances or if parties agree to extend while pursuing mediation.

If an issue raised in a state complaint has been decided in a due process hearing involving the same participants, the due process hearing is binding and the lead agency must inform you of the decision. If the due process hearing officer does not make a decision on an issue, the lead agency must start or resume the state complaint process.

What if I want to withdraw my complaint?

You can withdraw your state complaint any time before the lead agency issues its written decision. Contact your lead agency for information about the process to withdraw a complaint.

What happens after a decision is issued?

If the lead agency finds that the requirements of Part C of the IDEA have not been followed, it must require certain actions to correct the problem that led to your complaint. The lead agency must make sure that these actions are taken to resolve the problems identified. Parents can contact the lead agency if they believe this is not happening.

Can I appeal the lead agency decision?

Some states offer an appeal process while others do not. The IDEA is silent on whether states must offer an appeal process for state complaint decisions. Check with your state lead agency for appeal options that may be available. If there is a process in your state for reconsidering the decision, it must be completed within 60 *calendar* days after you filed your state complaint, unless there was an extension of the timeline.

Do I need an attorney or an advocate to file a state complaint?

No. You do not need an attorney or an advocate to file a state complaint. Before you file a complaint, you may find it helpful to talk with someone who knows about the process. For more information, contact your OSEP-funded parent center or the lead agency to discuss your options.

May I file a state complaint on an issue that was previously decided in a due process hearing?

If a due process hearing officer has already made a decision on an issue, and the same facts and parties are involved, the hearing officer's decision is final unless it is appealed.

CONSIDERATIONS ABOUT STATE COMPLAINTS

- ◆ This is the only IDEA dispute resolution option that is available to any person or organization, including those from another state, and to people who are unrelated to the child or children that the state complaint concerns.
- ◆ There is no cost to file a state complaint.
- ◆ You may try to resolve the issues through informal meetings or mediation both before and after filing a written state complaint.

SOURCES OF IMPORTANT INFORMATION

A current list of all parent centers in the nation is available through the **Center for Parent Information and Resources** (CPIR):

<https://www.parentcenterhub.org/find-your-center> or call (973) 642-8100



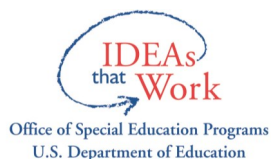
The **Center for Appropriate Dispute Resolution in Special Education** (CADRE) is the national technical assistance center on dispute resolution: <http://www.cadeworks.org> or call (541) 359-4210



A current list of Part C state coordinators is available through the **Early Childhood Technical Assistance Center** (ECTA): <http://ectacenter.org/contact/ptccoord.asp>



Information on the **Individuals with Disabilities Education Act** (IDEA) is available online: <https://sites.ed.gov/idea>



YOUR LOCAL PARENT CENTER:

