

Introducing the Part C Family Dispute Resolution Guides and Resources
Melanie Reese, Ph.D. and Myriam Alizo

Transcript

Melanie Reese>> Hello, and thank you for joining us for today's webinar, "Knowing Your Options: Introducing the Part C Family Dispute Resolution Guides and Resources." A few technical notes -- you can enter any questions or comments into the Questions section of your control panel. CADRE staff will be attending to those throughout the webinar. There will be time at the end of the presentation for answering questions.

Today's presentation will be archived and available on the CADRE website at the link on the side. We would be most appreciative if you would take a few minutes at the end of this presentation to fill out a short evaluation survey.

I'm Melanie Reese, the director of CADRE, the Center for Appropriate Dispute Resolution and Special Education. Today I'm honored to be joined by Myriam Alizo.

Myriam Alizo>> Good afternoon. I am Myriam Alizo. I am on the Center for Parent Information and Resources, the CPIR, housed at SPAN. The CPIR provides Parent Center with information and resources to assist culturally and linguistically-diverse families of children with disabilities across geographic regions in the nation. I also work on the Race Center, which is, we work with the seven rehabilitation service administration-funded Parent and Information Centers to develop and disseminate information and resources, but increase their capacity to serve youths and young adults with disabilities, and their families.

Melanie Reese >> Thank you, Myriam.

In July of 2013, OSEP issued a comprehensive Q and A document that provides information to facilitate appropriate dispute resolution on IDEA procedures, which includes state complaints, mediation, due process hearings and resolution meetings. Because the Q and A document was very technical and long, OSEP asked CADRE to develop information more targeted to parents. In response, CADRE, in partnership with OSEP, developed four Part B Parent Guides, seen here. These guides are available in multiple languages, and can be ordered directly from CADRE. Today, we're bringing the companion guides for Part C families to you.

This chart compares the activity in Part B with the activity in Part C. As you can see, dispute resolution activity in Part C is considerably less than the activity we see in Part B, which makes examining trends over a period of time very difficult. However, just because there's low activity, it does not diminish the importance of ensuring Part C families have the information that they need to access their dispute resolution procedural safeguard.

This chart describes the Part C activity for the states and territories over a three-year period. You can see that there has been a slight decrease in written state complaints filed and reports issued over the previous year. Mediations requested, held and ending in agreements rose over the past year. Finally, you can see that due process complaints and hearings fell over the previous year.

In 2016, we saw 118 state complaints filed nationally, 96 reports issued, with 66 of those reports ending with findings of non-compliance. All of that activity in Part C took place in 46 percent of

the states and territories. For mediation in 2016, we saw 133 requests for mediation nationally, with 76 mediations held, resulting in 62 mediation agreements. All of these mediation activities took place in only 12 percent of states and territories.

In 2016-'17 for due process complaints, we saw 59 due process complaints filed nationally, with only six hearings held. Fifty-two of the cases were resolved without a hearing. All of the activity took place in only 18 percent of the states and territories. As you can see, most of the dispute resolution activity occurs in a fraction of the states.

With the positive reception and wide use of the Part B Family Guides, we moved forward to meet the same need for Part C families. Our goal is to provide resources to explain in parent-friendly language the dispute resolution options available under Part C of the IDEA. Specifically, we have developed four Family Guides to explain parents' rights to engage in mediation, to file a written state complaint, or to file a due process complaint to request a hearing, or resolve a dispute. Having been through this process before with the Part C Guides, we were aware that this type of undertaking posed several challenges. As you are aware, the IDEA is a complicated law. One challenge was to balance the use of legal terminology and maintain general understanding. Another challenge was to ensure readability without compromising meaning. A final challenge was to explain complex processes in a user-friendly way. We know how complicated it is to explain parents' rights and having tools to share with families. We hope you find that these guides are useful, but please be aware that they are not a substitute for the actual IDEA. In an effort to make material accessible, we have used different language from the IDEA, and every attempt has been made to communicate the same meaning. However, the IDEA is the law. Families should know that these guides are no substitute for the law.

The development of the guides was an iterative process, and involves several CADRE staff, including Anita Engiles, Marshall Peter and myself, and Candace Hawkins. CADRE is very grateful to the tireless efforts of OSEP's Jennifer Wolfsheimer and Lisa Pagano, ensuring our attempts to simplify the IDEA did not change the meaning or the intent of the regulations. Lisa and Jennifer collaborated closely with CADRE, even traveling from D.C. to Oregon to work through these Family Guides, and ensured that the hours of phones were well-attended and helped us so much as we picked through, word by word, many, many drafts. We are also grateful to Tina Diamond, our Project Officer and to Carmen Sanchez for helping us determine the best paths to get this information disseminated, and for encouraging our collaboration with CPIR. Once we had the four Guides into a place where OSEP and CADRE were satisfied, we shared them with the following reviewers. For those of you who are part of the Parent Network, you'll recognize the names of very smart, uncompromising leaders, who have personal traditions of letting you know exactly what they think. The feedback we received was insightful and challenged assumptions in the most beneficial way possible. Many thanks to Ed Feinberg, Myriam Judy Swett, Gretchen Godfrey of PACER, Hodan Farah Mohamed of Open Doors for Multicultural Families, CPRC in Washington State, Luz Hernandez from Philadelphia HUNE, our Pennsylvania CPRC, and Larry Ringer for his collaboration on the Part C Collaboration Guides.

I want to express CADRE's deep appreciation to Sharon Walsh at the Early Childhood Technical Assistance Center, for the fine-tooth comb treatment that she gave all four Guides. These products are all better because of the careful reading and feedback we received from all of our reviewers. We were delighted to receive extensive feedback, and once we had it, we

entered into another demanding process of going through comments with our OSEP partners to figure out how best to integrate and reflect them in the final form. Every comment was weighed and considered. In the end, we reached a consensus on these four products.

Our IDEA Early Intervention Dispute Resolution Family Guides are now ready to share with the world, and we couldn't be more excited to see them go out. The four Guides are: Mediation, Written State Complaints, and two Due Process Hearing Procedure Guides -- one for states to follow Part C procedures for due process hearings, and one for states that have adopted Part B procedures for Part C due process hearings.

Consistent with CADRE's commitment to promote early dispute resolution and collaborative problem-solving, we've aimed to present the various processes factually and directly, while simultaneously encouraging the building of collaborative relationships. Early non-adversarial options are presented in all of the guides for consideration. We hold that sharing information allows families to make informed decisions so that they can participate in fully resolving concerns about their children.

About the Guides -- here are some features. Each of the guides are divided into sections. There will be a section for definitions of the process and examples of when it might be used. There will be sections to discuss the benefits of each of the processes, as well as things to take into consideration before and during the process. Additionally, our most popular feature in the Part B Guides was the Frequently Asked Questions, and we included them in this guide as well. Finally, we have included a Preparation Strategy section to guide parents on how to prepare effectively for each of the processes.

We have included suggestions throughout the guides for where parents and families can seek additional information from their state lead agency, as well as their federally-funded Parent Centers. We've included links to contact information, and even included a place for agencies to affix stickers to personalize the contact information for their agency. CADRE has developed a companion website for online access, and where to find more information. That address is right here. On the website, users can find links to the PDFs of the guides, as well as locate additional information from the Navigation Bar. The website includes several resources to help clarify the guides. There is a section that covers these 11 commonly-used terms. There is additional information about due process complaints and hearings that were just too cumbersome and too long to put into the guides themselves, so we include qualifications of hearing officers and parents' rights at due process hearings. Additionally, we've indicated the section to discuss what rules apply to your specific states.

State procedures for due process complaints and hearings vary. There are those states who have adopted Part C due process hearing procedures, and those who have not and instead used the Part B procedures. Because these systems vary so much, it was necessary to have two different guides available, so we have a Part B Guide for Part C due process complaints, and a Part C Guide for Part C due process complaints. If you're unsure which procedures your state has adopted, you can check on the website. There is a chart for you to look which rules apply to your state. You can see on the left here, there are states who have adopted Part B procedures for Part C due process complaints. On the right here you can see that there are Part C procedures for due process complaints and hearings. We have also indicated under Part B

which states have the state-level review process for hearing decisions, before going to federal or state court. We will do our best to keep these updates; however, we do encourage you to verify with your state Education Department which rules apply in your state.

The procedures a state has adopted, whether they're Part C procedures or Part B procedures for Part C due process complaints, will affect who can file, what must be included in the due process request, the timelines for decision, the time limits for filing a request for a hearing, whether there's a resolution meeting required, and there are other differences. So it is important to make sure that you have the right guide available for your families. Just like for Part B, we created a Quick Guide to distinguish between the different processes, including facilitation for those states who offer it. You can find those on the website as well. The Quick Guide to Part C Dispute Resolution Processes is available online only. The chart compares the Dispute Resolution Processes side by side with other processes. The guide will briefly explain how the processes of facilitation, mediation, written state complaints and due process hearings under Part C and Part B are different, what issues would be appropriate for each, who initiates each process, the probable outcome, what distinguishes each process, the benefits and considerations for each, where the decision is made, the role of the third party, the timeframe, who is responsible for paying for the process, the impact on each process on relationships, and how to prepare for each. This chart might be helpful to keep nearby as a resource to quickly explain differences to families who may be in dispute.

Now I'll turn it over to Myriam to talk about how you can use these guides.

Myriam Alizo>> Yes. Every state has a different lead agency, and the name of the early intervention program varies also from state to state. As a Parent Center, or somebody who works in the field, it's important to learn if your state chose to develop a Part C system for due process complaints or hearings, or if it uses the Part B system already established in your state. Share this information with your families. For example, in Arizona, the early intervention lead agency is the Arizona Department of Economy Security. In New Jersey and Florida, the lead agencies are the New Jersey Department of Health and the Florida Department of Health. But their name of the program in these states is also different. In New Jersey, it is called "New Jersey Early Intervention System," and in Florida, it is called "Early Steps." You could share the Part C Guides with other stakeholders, such as Part C service providers, hospitals -- it's important to find out when they have the community fairs, for example, and you can bring your resources and these CADRE guides. They can also be shared at community centers, Early Head Starts. You may organization presentations through their staff about what your Parent Center does, and they can also be shared with childcare centers.

Many Parent Center staff already use the Part B Guides when they provide individual technical assistance to families. They give out to families as a resource to consider it in case they need it, either in person or via email. They also give them, as a handout, a Basic Rights and IT workshops. The Part C Guides can be incorporated to the list of resources given to families. States have their own regulations, but these guides offer the federal guidelines. Parent Centers provide technical assistance to districts, too. Parent Center staff also use the guides when providing TA, technical assistance, to schools and other agencies. The guides are an excellent tool to share with parent groups with SEPAGs, Special Education Parent Advisory Groups, and with the state Special Education Advisory Council, the state SEAC.

In conversations that I had with Parent Center staff from different regions, I was informed that some of them use the Part B Guides developed by CADRE a few years ago as a handout when presenting on dispute resolution. Some reported that they also used them as a tool to create their own dispute resolution presentations. Many Parent Centers conduct IEP clinics on a regular basis. These tools can be handed during these events. Some parents might have children with IEPs, but also may have children receiving early intervention services. The guides can be used also to train new and old staff on current topics in dispute resolution. Parent Centers could include a link to the Part C and Part B Dispute Resolution Guides on their website.

When talking with colleagues from different Parent Centers, in Part B, we realize that undocumented families don't typically use due process and written state complaints. It's not very well-known. The most used procedural safeguard for families, especially for families who are undocumented, is mediation, so an effort is required to get parents familiarized with these dispute resolution options. When speaking with several Parent Center staff that work with the Spanish-speaking populations, there was a consensus in the benefit of using short videos to explain complex concepts and following with interactive video, like a Q and A session, in simple and plain language. Parent Centers can do that with low technology; for example, using a smartphone. Also, a very common social media tool for Spanish-speaking families is known as WhatsApp. Many parents don't have computers or tablets, but most of them do have smartphones. WhatsApp is a very effective and popular tool to reach out to groups of immigrant parents. Another possibility is to invite and include parents that have gone through the process to share their stories, using short videos.

Melanie Reese>> Thank you, Myriam. Just to let everybody know, there was a question about where the presentation is available. It is available in the Dropbox, and the handouts online.

So dissemination activities -- how are we going to get these out to folks? The four Family Guides are posted on the CADRE main page. The four Family Guides are posted on the CADRE website's main page. They were publicized on the CADRE Caucus, a newsletter that goes out to about 5200 people. They will be disseminated through the Listservs. We have great support from other technical assistance centers in promoting these

Guides, and we have several opportunities to share these guides in upcoming presentations as well.

The guides are currently being printed, and we'll be sending a few copies to PTACs, PTIs, CPRCs in the next few weeks. Right now, you can find the PDF version to print on our websites. These PDFs do meet accessibility requirements, and can be posted directly to your websites. We do expect that the Spanish versions of the documents will be available by the end of the month.

We recognize the need to print and disseminate hard copy versions, being very mindful of the continual digital divide, and recognizing that some who may find these guides useful might not have access to computers and the documents online, so we will have them available in hard copy to send to lead agencies, Parent Centers and SEAs upon request. Copies may be ordered through CADRE at this link.

Myriam Alizo>> In general, the Part B Guides were well-written, and they were easy to understand for parents. The same concept is applied to the Part C Guides. When there was a part that was not clear as us as a team who reviewed the guides, or a section that might seem too technical for families, we, the review team, let Melanie and the CADRE team know our concerns, and they made the changes. Immigrant parents do trust Parent Centers, and they do come to us; therefore, it is important for the Parent Center network to disseminate these tools with our families, and encourage them to use them. We know as a fact that the immigrant families don't use due process, as I said before, especially if they are undocumented. It is very intimidating for them to have to hire an attorney, even if the attorney is pro bono, it's intimidating for them, because the situation could be frightening for fear of deportation, or the fear of losing some social services benefits. Immigrant families prefer mediation as the most amicable procedure. They don't know how to use the written complaint sometimes, but we can let them know that they can write it in their own language, and the Part C lead agency would translate it to English. The OSEP Glossary is an excellent tool to come to a consensus when translating Part B and Part C terminology to Spanish.

In addition to the dispute resolution options discussed in this webinar, we need to remind our families that IDEA contains the following procedural safeguards for families in the Early Intervention System. The prior written notice requires a system to provide families with advance notice of decisions and the reasons for those decisions. The use of primary language or mode of communication requires the Early Intervention System to communicate with families in their primary language, whenever feasible to do so. The written consent requires that the Early Intervention System receive signed parental consent before moving forward with evaluations or providing services. Confidentiality and release of records prohibits the Early Intervention System from releasing information or records regarding an intervention without prior written consent from the parent. Examination of records by families allows families to access their Early Intervention records at any time. Equal partners in the decision-making indicates that families are equal members in the individualized family service plan team, and share in the decision-making process, along with the Early Intervention System. Accept or decline services with a [INAUDIBLE] allows families to reject some services and accept other services. In addition, it allows families to add services at a later date, if necessary.

Here are just a few comments that CADRE received about the Part B Guides in the review process, so we would like to share them with you. Some people say, "They did a great job of trying to make this stuff digestible by parents." Somebody else said, "Overall it was easy to understand. I like the fact that it gives just enough information without being overwhelming, and that it refers to the Parent Center in your area for more information." Someone else said, "I think it will be so helpful to have this document. We all know how hard it is to make this understandable and still consistent with the regs."

Melanie Reese>> Thank you so much, Myriam. Thank everybody for your participation today. I see that there's at least one question in the Chat box. Please let us know if you have anything you want to talk about. It look like we have a question; "What are some good places to see trends and issues around Part C dispute resolution?" Unfortunately, because there's such low activity in Part C, it's very difficult for us to identify major trends. In the second or third slide, we talked about trends over the last three years in terms of filings and agreements from mediation,

numbers of written state complaints that were filed, and the decrease in due process activity. Other than that, I don't have anything extra to provide you in terms of trends for Part C. Myriam, do you have any suggestions or any ideas?

Myriam Alizo>> I wish that [INAUDIBLE] for the Parent Center people who are listening right now to join the Workspaces and to share those concerns on the workspace that we have for Parent Centers. We have created groups for people to share information and concerns, and that would be a great way to do it.

Melanie Reese>> Thank you.

Myriam Alizo>> It is on the parentcenterhub.org website; there is a section called the Workspaces. If you are Parent Center staff, you can join the Workspaces and then start joining groups, and sharing and exchanging information about your concerns on this topic.

Melanie Reese>> Okay. Myriam, this next question I think probably you can answer. "What role do you think service coordinators can do to inform parents of their due process rights?"

Myriam Alizo>> Service coordinators, to inform the parents about their rights?

Melanie Reese>> Yeah. "What role do you think service coordinators can do to inform parents of their due process rights?"

Myriam Alizo>> It will be ideal if the Parent Centers would kind of partner with the providers, the recommenders, providers, and maybe train them on the rights of the parents and conduct some workshops in conjunction with them inviting parents, because they have the parents and we have the information for the parents, so we can work with the professionals who work with the children receiving Part C services. We also work with the families directly, with Parent Center staff. We train them on the rights. It's important to connect with those families. If the service coordinators have them, and they can direct the families to us, it would be great. That's what Parent Centers do; we work with the families, we guide them, we help them navigate the systems. We are here also to help both service coordinators.

Melanie Reese>> Additionally, having available in your hand, or having service coordinators have available in their hands these guides should provide ways to talk about the material in parent-friendly language, so making sure that service coordinators have access to these documents should help in sharing information. Another question that's come up is, "Our state has struggled to know how to manage a state complaint, because they're so infrequent. Is this common?" What I can tell you is yes, they're uncommon, or they are, indeed, uncommon. Last year, for the 2015-'16 data we just received, nationwide there were only 125 filings of state complaints. So because it's so infrequent, it is, indeed, difficult to be conversant in them, and to have your systems well-maintained. Yes, that is an issue. Again, by having these guides, we hope to bridge that gap of information for parents and families.

Looking at other questions.

Myriam Alizo>> Yeah, part of the problem, I would say that it's so infrequent is because the timeframe is so short. When parents realize that there is an issue or a need and the child could be one, two -- when they are three, they are exiting the system already. So we have little time to address those needs, and the parent have little time to realize that their needs are not being

addressed, or they are supposed to. We, of Parent Center staff, we have these guides now, and it will help them, it will help us to kind of canalize those concerns. When parents might not even realize that there is something going on, now we have the tools to explain to them that they can do something about it when things are not going well.

Melanie Reese>> A question's come up, Myriam. "Do the presenters" -- that's you and me -- "think this is important information for families to know because at a minimum, it helps families as they potentially transition to Part B?" I'd like to weigh in -- information is neutral. Information is important for people to have, regardless of where their child is in Part C or Part B. So in addition to knowing their rights under Part C, certainly this does prepare them to understand the bigger picture in Part B as well. Do you have anything you want to add to that, Myriam?

Myriam Alizo>> Yeah, agree. Information is crucial here. With this information for Parent Center staff, it's important to know what kind of procedures, if they belong to the Part C or the Part B, and to know what kind of Part C they have and assist families, provide this information to the families when they go the workshops, and create perhaps something specific for the Part C population. Sometimes it's not identified early enough.

Melanie Reese>> Great. Question is, "Does our organization collaborate with the state Early Intervention Dispute Resolution Office?" I can say that of course, we are in contact with our Early Intervention TA partners, and sought out their information and their feedback in preparing these guides.

Another question: "Do you think that parents would be more inclined to file a complaint if they felt confident that they would have concerns successfully submitted?" I think --

Myriam Alizo>> Absolutely.

Melanie Reese>> I think that parents who understand how complaints fit into the wider array continuum of dispute resolution options can make informed choices about if they have a particular dispute or a particular concern, what their options are available them. It may be that if they have more information on complaints and due process hearings, but at the same time as well as mediation, they can make a decision on what process might be best-suited to address their concern. Do you have anything to add to that Myriam?

Myriam Alizo>> No, I think you said it very well. I think you said it correctly.

Melanie Reese>> I think at this point we have addressed all of the questions here. We need a second to look through and make sure we have them all. There's been a request to post links in the Chat, and we will certainly do that. [INAUDIBLE]

Well, thank you so much for joining us today. As I see no other -- oh, I'm sorry, I jumped too quickly. It looks like there is a question. "The statement, 'The information is neutral' is interesting, because some can take that position as information is shared, it will cause an uptick in the dispute resolution processes." Speaking as the director of the Center of Appropriate Dispute Resolution, I am of the opinion that information is important to share, and that holding information and not sharing it is a disservice when folks do have the right to do the dispute resolution processes available to them. So if there are issues involved that people are in dispute over, or people have concerns, they should know how best to work through them. Having

knowledge about mediation, written state complaints and due process hearings is part of our mission under IDEA to make those available. So it very well may create an uptick in dispute resolution processes. But we are still encouraging early dispute resolution in all of the guides. The idea is to address disputes in the best way appropriate to the concern.

Another question -- I just needed to wait a little bit longer, didn't I? "Can Part C written state complaints address systemic issues, just like under Part B written state complaints?" It is my understanding that they can. I would refer you --

Myriam Alizo>> That's a -- yeah?

Melanie Reese>> Pardon me?

Myriam Alizo>> That is a very good question. It's, like, a good question, but I -- yeah, it's a good question. I'm not sure, but I wish the answer is yes.

Melanie Reese>> The answer -- to the best of our knowledge, the answer is yes on that. Yes, Part C -- thank you -- Part C can address systemic issues.

Without any more questions -- Myriam, you mentioned that immigrants are wary of going through the due process. What resources are available to help them?

Myriam Alizo>> Well, the first resource is to contact the Parent Center. As you know, there is at least one Parent Center in every state. And Parent Centers have staff -- most of them will speak at least Spanish, I would say 99 percent, and many other languages too, now. They really help families, that we help them, guide them through the process. If they have to go through due process, we provide with all of the information they need so they are prepared. As I said before, the numbers indicate, and the information that we have, indicates that typically parents that are not documented, immigrant families, do not go that way. They do prefer mediation, if they do something. Sometimes they do, they remain silent because they are afraid of all of them, all the consequences, that could really happen, harassment, or something. So it's important that they feel empowered. Information is knowledge, and it's also empowerment. It's about their children. It's about their outcomes. Typically, when parents are engaged really early on, as like Part C, they continue to be engaged doing Part B, and all the [INAUDIBLE] come in when the children enter the school system. It's really important when you have identified parent leaders who are really developed in their skills to become parent leaders, to give them the hands and all the different guides and information, and continue to develop and make them grow in leadership, so they can continue to become more aware of the rights when they evolve to the next step, in Part B.

Melanie Reese>> Thank you, Myriam. There is a question -- "Are these guides useful for states who use Part B rules for Part C disputes?" And the answer to that question is that we have developed two guides; one for states who have adopted Part C procedures, and one for states who have adopted Part B procedures for Part C complaints. So be sure that you have the appropriate guide for your state. If you're not sure what the rules are in your state, we have listed those on the website.

Myriam Alizo>> They are also on the slides of this presentation. One of the slides has the list of if the state is a Part C or a Part B.

Melanie Reese>> As I see that there are no more questions at this time, we'll go ahead and end. Please know that you can contact me at CADRE, or you can contact Myriam if you have any questions. We are happy to provide additional information. Thank you so much for joining us today. Let us know what you think about this webinar, and also give us some feedback about the Part C Guides. We would really appreciate hearing from you.

So from CADRE and from CPIR, we wish you all a very happy autumn. Thank you so much for joining us today.

Myriam Alizo>> Thank you, everybody.