

Dispute Resolution Guidance - State Complaints

A state complaint can be filed when the complainant wants the state lead agency to investigate if an early intervention service provider, the state lead agency, or other public agency has not followed Part C of the IDEA with respect to a particular infant/toddler and family or infants/toddlers and families system wide. The state is responsible for ensuring that the complaint is resolved.

Any person or organization, even one from another state, may file a state complaint.

State complaints filed by a parent or provider specific to an individual child relating to a disagreement with the decision regarding the identification, evaluation, or placement of the child, or, with the provision of appropriate early intervention services must be received within 28 days of alleged violation per IDAPA 16.05.03.

State complaints filed by an individual or organization, including those from another state, alleging a violation of the Part C program and regulations must be received by the state lead agency within one (1) year of the alleged violation.

State Complaints

A The complaint must be in writing and may be filed with the local regional office or using ITPs Dispute Resolution Request form. The complaint may be submitted in-person, emailed, mailed, or faxed to either the service coordinator or service provider, or to the address listed on the form.

Complaints must include the following information:

- A statement that the lead agency, public agency, or early intervention services provider has violated a requirement of Part C.
- The facts on which the statement is based.
- The date, signature and contact information for the complainant.
- If the complaint concerns a specific child, the complaint must also include:
 - The child's name and address where the child resides.
 - The name of the child's early intervention services provider.
 - A description identifying the reason for disagreement, including facts relating to the disagreement.
 - A proposed resolution to the extent known and available to the complainant at the time the complaint is filed.

At the same time the complaint is filed with the state, the complainant must provide a copy of the complaint to the entity the complaint is against (EIS provider, state lead agency, or other public agency).

The Department of Health and Welfare is responsible for the costs associated with the state complaint process.

Once the state lead agency has received the complaint, it has 60 calendar days (unless an extension is agreed upon by all parties, exceptional circumstances exist, or all parties agree to an extended timeline for engaging in mediation) to complete the following:

- Carry out an independent, on-site investigation, if the lead agency determines that an investigation is necessary.

- Give the individual or organization filing the complaint an opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.
- Provide the agencies/providers with an opportunity to respond to the complaint, including at the discretion of the lead agency, a proposal to resolve the complaint and an opportunity for all parties to voluntarily to engage in mediation.
- Review all relevant information and make an independent determination as to whether a violation of a Part C requirement has occurred.
- Issue a written decision to the complainant that addresses each allegation in the complaint and contains the findings of facts and conclusions as well as the reasons for the lead agency's final decision.

If the final decision indicates that appropriate services were not and/or are not being provided, the state lead agency must address the following:

- The failure to provide appropriate services, including corrective actions appropriate to address the needs of the child and the child's family (such as compensatory services or monetary reimbursement). This must include procedures for effective implementation of the final decision, if needed, including technical assistance activities, negotiations, and corrective actions to achieve compliance.
- Appropriate future provision of services for all infants and toddlers with disabilities and their families.

State Complaints and Due Process Hearing Requests

If a written complaint is received that is also the subject of a due process hearing, or contains multiple issues, of which one or more are part of that hearing, the state lead agency must 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 action must be resolved within the 60-calendar day timeline and complaint procedures described in this document.

Complaints that have already previously been decided in a due process hearing involving the same parties cannot be considered under this procedure. The state lead agency must notify the complainant that the hearing decision is binding for the previously decided complaint.

A complaint alleging a lead agency, public agency, or early intervention services provider's failure to implement a due process hearing decision must be resolved by Idaho's lead agency.

Service Coordinator Responsibilities

The Service Coordinator does the following:

- Provides the parent/guardian with information about the dispute resolution options, including state complaints.
- Advises and, at the parent's request, may assist the parent/guardian with completing the request.
- Informs the parent/guardian of free or low-cost legal or advocacy assistance that may be available to them, and a list of organizations that provide or arrange such assistance (e.g., Comprehensive Advocacy, Inc [CO-AD], Legal Aid, or Idaho Parents Unlimited [IPUL]).

- Informs the parent/guardian of resources available to them from the Center for Appropriate Dispute Resolution in Special Education (CADRE) - <https://www.cadeworks.org/resources/idea-early-intervention-family-guides-and-companion-videos>
- Forwards the complaint to the regional hub leader and central office program manager.