



Child Complaint Procedures Part C- First Steps

Child complaint procedures (34 CFR 303.432 to 303.433)

The Department has written procedures for receiving and resolving any written and signed child complaint that any participating agency is violating a requirement of Part C of the IDEA. The Department disseminates the Missouri Part C Child Complaint procedures to parents and other interested individuals including parent training centers, Protection and Advocacy agencies, and other appropriate entities, through a variety of public awareness activities.

Filing a Child Complaint (34 CFR 303.434)

Any individual or organization may file a signed written child complaint with the Department.

The child complaint must include:

- 1) A statement that a participating agency has violated a requirement of Part C of the IDEA;
- 2) The facts on which the statement is based;
- 3) The signature and contact information for the complainant; and,
- 4) If alleging violations with respect to a specific child:
 - a) the name and address of the residence of the child;
 - b) the name of the provider serving the child;
 - c) a description of the nature of the problem of the child, including facts relating to the problem; and,
 - d) a proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

The child complaint must allege a violation that occurred not more 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 SPOE or provider serving the child at the same time the party files the complaint with the Department.

Processing of child complaint

Upon receipt, the child complaint must be reviewed by Department personnel and staff are assigned to investigate it. The child complaint investigation process includes:

- 1) The Department must send notice to the agency against which the complaint is filed and to the complainant. The notice includes a statement of the elements of the complaint, a description of the investigation process and an invitation to provide any relevant information that the parties want considered.
- 2) Documentation requests and phone interviews are the primary methods of data collection in the child complaint investigation. The complainant is given the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint. The respondent has an opportunity to respond to the complaint, including, at a minimum, a proposal to resolve the complaint and an opportunity for a parent who has filed a complaint and the respondent to voluntarily engage in mediation.

- 3) If the Department determines that the investigation requires an on-site visit, separate notice to the agency shall be given. This notice may be given by phone, or may be in writing. The notice must include a statement of the records to be made available, staff to be interviewed, and any need for access to agency facilities.

Investigation timelines

The Department has, upon receipt of the complaint, 60 calendar days to review all relevant information and issue a letter of findings whether the agency is violating a requirement of Part C of the IDEA regulations. The Commissioner of Education may grant extension of this time limit if exceptional circumstances exist with respect to the particular complaint or if the parent and the respondent agree to extend the time to engage in mediation. If such an extension is given, notice must be given to the complainant and the agency under investigation, with documentation of that notice to be maintained within the child complaint file.

Resolution of the child complaint

Resolution of a child complaint must be through the issuance of a written decision letter of findings by the Commissioner of Education. The decision letter must include findings of fact and conclusions, and provide reasons for the decision. These findings address each allegation in the complaint and reviews of the investigation results, including any information in an on-site investigation or from a data request. Technical assistance is available to implement any corrective actions ordered. The basis for resolution may be any one of the following:

- 1) A decision that the party is in compliance.
- 2) A decision that the party is out of compliance, but that voluntary corrective action has been taken requiring no further corrective action.
- 3) A decision that the party is out of compliance and ordering a specific corrective action to be completed by a certain date.

Remedies of denial of appropriate services

In resolving a child complaint in which the Department finds a failure to provide appropriate services, the Department, pursuant to its general supervisory authority under Part C of the IDEA, must address how to remediate the failure to provide appropriate services, including as appropriate, compensatory services or the awarding of monetary reimbursement or other corrective action appropriate to address the needs of the child and the child's family and appropriate future provision of services for all children with disabilities and their families.

Appeal rights

The findings of the Commissioner of Education related to the child complaint shall constitute a final decision of the Department which cannot be appealed.

Complaint filing and due process hearing requests

If a written child 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 Department must set aside any part of the child complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the child complaint that is not part of the due process hearing must be resolved within the 60-calendar-day timeline using the child complaint procedures described in this section.

If an issue is raised in a child complaint that has previously been decided in a due process hearing involving the same parties, the due process hearing decision is binding on that issue and the Department must inform the complainant. A child complaint alleging an agency's or service provider's failure to implement a due process hearing decision must be resolved by the Department.

<http://dese.mo.gov/schoollaw/rulesregs/documents/StatePlanPartC-FINAL-Jan2013.pdf>

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