

SPP Summary – Indicator C-11  
***Timeliness in the Adjudication of Due Process Hearings***  
CADRE, Richard Zeller and Aimee Taylor

This document summarizes indicator C-11 for Part C SPPs. The indicator is one of four potential\* dispute resolution indicators for Part C. Indicator C-11 is:

“Percent of fully adjudicated due process hearing requests that were fully adjudicated within the applicable timeline.”

Data necessary to calculate this indicator were included in Attachment 1 of the SPP for school year 2004-05 and have been included in the two previous Annual Performance Reports (2002-03 and 2003-04 school years). Measurement of this indicator is defined, with the label and cell designations from Attachment 1, as:

$$\text{Percent} = [(3.2(a) + 3.2(b)) \text{ divided by } (3.2)] \text{ times } 100$$

where,

$$\begin{aligned} (3.2)(a) &= \text{“[Hearing] Decisions within timeline”}^{**} \\ (3.2)(b) &= \text{“[Hearing] Decisions within extended timeline”} \\ (3.2) &= \text{“Hearings (fully adjudicated)”} \end{aligned}$$

## **METHODOLOGY:**

CADRE compiled and examined the Indicator 11 sections from the SPPs of all 50 states, DC, and 5 outlying areas (AS, CNMI, GU, PR and VI). For purposes of this report, these 56 entities are referred to in aggregate as “states.” Each state report was summarized to capture the following information:

- Baseline reported for Indicator C-11
- Number of years of data for Indicator C-11 reported in the SPP text
- Improvement/maintenance practices described (in many cases it is not possible to distinguish improvement from maintenance)
- Assertions of effectiveness regarding the state’s complaints system
- Description of the “measurable and rigorous target” for Indicator C-11

Two or more reviewers read and compiled data for each of the above elements for each state. Reviewers entered the resulting summaries into an Excel data base, with a focus on capturing in brief the language each state used. The authors of this document then

---

\* Note: Indicator C-12 (Resolution Sessions) applies only in those states where the Part C program has adopted the State’s Part B Due Process Hearing procedures.

\*\* “Decisions within timeline” can be either within 30 days, if the State’s Part C program has not adopted Part B due process procedures, or within 45 days if they have.

coded these summaries in order to categorize improvement or maintenance strategies, assertions of effectiveness, and measurable and rigorous target descriptions.

## **SUMMARY AND ANALYSIS:**

### **2004-05 School Year Baseline Reported for Indicator C-11**

Forty-two (42) states reported no due process requests for 2004-05 in the text of their SPP. Seven states reported one or two due process filings, but no complaints held (resolved through mediation or some other mechanism); seven states reported one or more hearings held. States with only one or two hearings tended to complete them after applicable timelines expired; two larger states that held a total of 20 hearings completed all of them within 30 days. States with more experience may have procedures more clearly in place to meet timelines.

### **Number of Years of Data Reported in the SPP Text**

The data necessary to calculate this performance indicator has been a part of the Annual Performance Report and now the SPP for three years. Dispute resolution activity varies considerably (from none to some) among Part C states, and across years. The vast majority of states, however, did not report baseline beyond the single year covered by this SPP (2004-05).

Only three (3) states reported three or more years of data for this indicator. None of these states actually had any due process hearing requests for 2004-05. While due process hearing activity in Part C is infrequent, data from the first two APRs suggests that some states have continuing activity and could have reported more than one year of data on this indicator.

### **Improvement/Maintenance Practices Described**

States varied widely in the level of practice descriptions they provided in the SPP. What states reported in the SPP is summarized here, although CADRE is aware of innovative and effective state practices that were not included in the SPPs. This summary is also limited by:

- States differing in their willingness to report non-required activities in the SPP;
- Difficulty distinguishing improvement from maintenance activities;
- Differing terminology (e.g., states use “train, develop personnel, provide TA/ support, conduct annual conference” to describe similar activities);
- Variability in descriptive detail (e.g., “annual training” v. “30 hours of mediation training & 24 hours IDEA update training”);
- Thirty-one states using a standard format for improvement activities; for these states, improvement activities for Indicators C-10 through C-13 differed mostly in terminology (e.g., “hearing officer training” v. “mediator training”);
- Part C programs providing little detail and reporting very few DR events.

Because improvement strategies for many states followed a common format across dispute resolution indicators, the summary below lists types of improvement strategies and the number of states that included them in their SPPs under *All Indicators*, and specifically under *Indicator 11*:

Improvement Strategies	All Indicators	Indicator 10
• Training (agency staff, providers, or families)	43	32
• Collect Data and Track System Performance	35	20
• Publish/Disseminate Awareness/Rights Booklets	33	25
• Conflict Prevention or Other ADR Approaches	25	12
• Revise Current Rules and Procedures	20	13
• Satisfaction Measures, Parent Surveys	16	9
• Act on Informal Concerns/Issues	13	5
• Staff - Expand/Assign to DR Activities	11	8
• PTI Partnership (Training/Advocacy/ADR Promotion)	11	8

Most of the above activities would seem to be basic components of a state system; the absence of reporting, then, does not necessarily indicate an absence of activity. Many states indicated “training” without further specification. Nine states specify “Hearing Officer training,” although only two of these states actually had hearing requests. Other states promote training for families and providers on procedural safeguards and on alternative dispute resolution approaches, in some cases in conjunction with the PTI. Revision of Parent brochures (on procedural safeguards and ADR options) were noted by many states under this indicator. States that have adopted Part B procedures anticipate revision of Due Process materials, including resolution session guidance, as the final regulations are issued.

### **Assertions of Effectiveness Regarding the State’s Due Process Hearings System**

CADRE identified references to effectiveness about the Due Process Hearings management systems in 13 states. In no case were specific data provided to support the assertion. In two states, the absence of or low number of hearings was presented as evidence that the system effectively addressed parent concerns. Eight states attributed the low formal complaint activity to their support of a range of dispute prevention and dispute resolution processes available to parents (non-required formal or informal approaches to quickly resolving concerns). Several states indicated that they collect and analyze data on the use of these processes and the issues addressed.

### **Description of the “Measurable and Rigorous Target” for Indicator C-11**

For most states, the target statement took this form: “100 percent of fully adjudicated due process hearing requests will be fully adjudicated within the applicable time frame.” Depending on whether the state has adopted Part B due process procedures or not, the “applicable time frame” may be either 30 days or 45 days with an extension when appropriate. Not all states indicated whether they were operating under the 30 or 45 day

standard. No state provided any other target, measurable or otherwise, related to this indicator. Two states indicated that no target was set because they understood OSEP to require targets only when the number of hearing requests was 10 or more in a year.

### **CADRE RECOMMENDATIONS FOR DUE PROCESS HEARINGS SYSTEMS**

- Improve documentation of the connection between assertions about effective practices and supporting data;
- Develop guidance/standards/formats for documenting and justifying extensions of hearing timelines;
- Establish integrated dispute resolution data systems for formal complaints, due process, resolution session, mediations, other dispute resolution approaches, and for tracking of expressed parent concerns;
- Support early and informal dispute resolution options (e.g., guidance on how to facilitate an effective resolution session, other early resolution/pre-filing processes);
- Provide training for hearing officers on effective hearings, timelines, IDEA legal updates;
- Develop parent/provider surveys to measure awareness of DR options, understanding of rights, and satisfaction with EI services and dispute resolution processes.