

SPP Summary – Indicator C-13
Effectiveness of Mediation in Reaching Mediation Agreements
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This document summarizes indicator C-13 for Part C SPPs. The indicator is one of four potential* dispute resolution indicators for Part C. Indicator C-13 is:

“Percent of mediations held that resulted in mediation agreements.”

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:

$$[(2.1(a)(i) + 2.1(b)(i)) \text{ divided by } (2.1)] \text{ times } 100.$$

where,

$$\begin{aligned} (2.1(a)(i)) &= \text{“Mediations [held] related to due process”} \\ (2.1(b)(i)) &= \text{“Mediations [held] not related to due process”} \\ (2.1) &= \text{“Mediations [held]”} \end{aligned}$$

METHODOLOGY:

CADRE compiled and examined the Indicator 13 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-13
- Number of years of data 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-13

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.

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-13

Seventeen (17) states report having had at least one mediation request in the text of their SPP. Of these, 16 states report holding mediations; 12 of these states report 100% agreement rates, but in most cases those were in states where only a single mediation was held; four states report less than a 100% completion rate. For two large states that report more frequent mediations (nine in one state and 33 in the other), agreement rates were 52% and 82%, respectively. The other five largest states had only four mediations among them, three of which resulted in agreements.

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. Mediation activity, particularly in Part C, is highly variable (from none to some) among states. However, the vast majority of states did not report baseline beyond the single year covered by this SPP (2004-05). It is hard to determine, from the SPPs alone, whether mediation activity has occurred in more states over time.

Five states reported more than one year of data for this indicator, with all of these states reporting from three or more years. One state reported six years of mediation data, even though the frequency of use in that state was relatively small. Four of the states reporting multiple years of data held mediations during the 2004-05 school year.

Improvement/Maintenance Practices Described

States varied widely in the level of practice descriptions they provided in the SPP. We summarized only what states reported, although we know of innovative and effective state practices that were not included in the SPPs. This summary is also limited by:

- State orientations differing with respect to the risk of disclosure 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 activity);
- Variability in descriptive detail (e.g., “annual training” v. “30 hours of mediation skills training & 24 hours IDEA update training”);
- Part C programs providing minimal detail and reporting 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 13:

<u>Improvement Strategies</u>	<u>All Indicators</u>	<u>Indicator 13</u>
• Training (agency staff, providers, or families)	43	28
• Collect Data and Track System Performance	35	15
• Publish/Disseminate Awareness/Rights Booklets	33	20
• Conflict Prevention or Other ADR Approaches	25	13
• Revise Current Rules and Procedures	20	10
• Satisfaction Measures, Parent Surveys	16	8
• Act on Informal Concerns/Issues	13	6
• Staff - Expand/Assign to DR Activities	11	4
• PTI Partnership (Training/Advocacy/ADR Promotion)	11	6

Most of the above activities would seem to be basic components of a state system. The absence of reporting, however, does not necessarily indicate an absence of activity. It is not clear from the SPPs the degree to which state systems have included a variety of strategies to promote mediation, prepare mediators, and structure the necessary supports for mediation and other ADR approaches to work in those states.

About one-third of state “training” activities were unspecified (e.g., “train staff and parents”). The other states in roughly equal proportion emphasize training in rights and procedural safeguards (across dispute resolution indicators) or focus on specific mediation skills and dispute resolution approaches. Rights brochures and booklets for parents are prominent dissemination strategies, with a number of states mentioning web publication. Only about 20% of states actually mention promotion of conflict prevention or other ADR approaches.

Assertions of Effectiveness Regarding the State’s Mediation system

CADRE identified references to effectiveness about mediation and other dispute resolution systems in 13 states. Specific supporting data were not provided. Among the reasons provided for low rates of dispute resolution activity were the support of formal or informal alternative dispute resolution options (e.g., resolution facilitators, “12 ways to solve problems” in the EI program), training aimed at joint problem solving, emphasis on early resolution options in the parent rights booklet and through training/orientation of families, etc. Some states argue that the very nature of “family-centered services” in EI solves problems at the lowest level so that formal procedures are unnecessary.

Description of the “Measurable and Rigorous Target” for Indicator C-13

Sixteen (16) states established mediation agreement rate targets, with six of those states setting the target at 100%. The 10 remaining states set targets ranging from a starting target as low as 50% and a final target (for 2010-2011) of 75% to 95%. The median target rate for these states was a starting target of 80% and a final target of 85%. Twenty-five (25) states indicated that no targets were provided, because the state had fewer than 10 mediations. Two states set provisional agreement rate targets in the event that they had more than 10 mediations. At least one state indicated a target other

than one related to mediation agreement rates: that no mediations be held. This state argues that it actively supports early dispute resolution options and strives to solve problems early before they require more expensive, formal dispute resolution options.

CADRE RECOMMENDATIONS FOR INDICATOR C-13

- Establish integrated dispute resolution data systems for formal complaints, due process, resolution session, mediation activity, and for tracking of expressed parent concerns;
- Support early and informal dispute resolution options (e.g., 48 hour response to parent concerns, facilitated IFSPs for complex issues);
- Training for staff and parents focused on dispute resolution options and on effective collaborative working relationships;
- Provide guidance to mediators, local providers and families on how to improve the quality and durability of mediation agreements;
- Develop parent/provider surveys to measure awareness of DR options, understanding of rights, and satisfaction with EI services and dispute resolution processes;
- Provide specific training on procedural safeguards, mediation skills, dispute resolution options, and collaborative decision making seem critical if are to avoid more contentious and formal dispute resolution options.