Part B Self-Assessment: Dispute Resolution

OSEP has developed this voluntary self-assessment to assist States in analysis of their dispute resolution systems. This self-assessment identifies the dispute resolution-related regulatory requirements under Part B of the Individuals with Disabilities Education Act (IDEA). In addition, it summarizes prior guidance from OSEP in implementing these requirements. States are encouraged to use this voluntary self-assessment to review their policies, procedures and procedural safeguards notice.

The self-assessment consists of five tables that address: (1) mediation, (2) State complaints procedures, (3) due process complaints/hearing requests/resolution process, (4) expedited due process hearings, and (5) dispute resolution procedures that apply to children with disabilities enrolled by their parents in private schools. Each of the tables has the following five columns:

- IDEA Requirement—Regulatory language and citation(s).
- State Policy/Procedure—Checkbox/Space to indicate, if applicable, whether the State has consistent policies and/or procedures relating to the IDEA requirement.
- Procedural Safeguards Notice (referred to as Procedural Safeguards)—Checkbox/Space to indicate, if applicable, where the IDEA requirement is addressed in the State's procedural safeguards notice. The provisions that do not have to be included in the procedural safeguards notice are greyed out in this column.
- Implementation Guidance—A summary of prior OSEP guidance and other practical information, drawn primarily from OSERS/OSEP Letters and the Part B Dispute Resolution Q&A released in July 2013, to help States understand the requirements.
- Notes—Space to make notes the State might find helpful related to the State's implementation of the IDEA requirement.

The self-assessment is not a substitute for a careful review of the IDEA statute, its implementing regulations, and other applicable dispute resolution requirements.

Table 1: MEDIATION

IDEA Part B Requirement	State Policy/ Procedure	Procedural Safeguards[1]	Implementation Guidance	Notes
34 CFR §300.506: Mediation.				
(a) *General.* Each public agency must ensure that procedures are established and implemented to allow parties to disputes involving any matter under this part, including matters arising prior to the filing of a due process complaint, to resolve disputes through a mediation process. (300.506(a))			• Mediation must be available to parents[2] and public agencies. • Mediation must be available to these parties for disputes involving any matter under Part B of the IDEA, including matters arising prior to the filing of a due process complaint and matters that could not be the subject of a due process complaint. For example, a parent can request mediation regarding the alleged failure of an SEA or LEA employee to be highly qualified, even though this matter could not be the subject of a due process complaint. However, there are limited situations where mediation is not available to public agencies under 34 CFR §300.300(b)(3)(i), (b)(4)(ii), and (d)(4)(i); or to parents of parentally placed private school children with disabilities consistent with 34 CFR §300.140(a). • Because mediation must be available to parents and public agencies to resolve matters arising prior to the filing of a due process complaint, States may not require a due process complaint to be filed	

[1] 34 CFR §300.504(c) (Procedural Safeguards Notice) identifies the contents that must be included in a procedural safeguards notice, including 34 CFR §300.148, §§300.151-300.153, §300.300, §§300.502-300.503, §§300.505-300.518, §§300.530-300.536 and §§300.610-300.625. This self-assessment includes the dispute resolution requirements that are included in the procedural safeguards under 34 CFR §§300.151-300.153, §§300.506-300.518, and §300.532. States should note that in addition to these requirements, the procedural safeguards notice must address the difference between the due process complaint and the State complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures. 34 CFR §300.504(c)(5)

[2] Under 34 CFR §300.520(a), a State may provide that when a child with a disability reaches the age of majority under State law that applies to all children (except for a child with a disability who has been determined to be incompetent under State law), all rights accorded to parents under Part B of the IDEA transfer to the child. Therefore, if a student who has reached the age of majority under State law is exercising parental rights, that student has the right to use the IDEA's dispute resolution procedures, including mediation under 34 CFR §300.506, the State complaint procedures under 34 CFR §§300.151-300.153, the due process complaint and hearing procedures under 34 CFR §§300.507-300.516, and the procedures for expedited due process hearings under 34 CFR §§300.532-300.533.

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			before a party can request mediation. • See OSEP's *Questions and Answers on IDEA Part B Dispute Resolution Procedures*, issued July 23, 2013, (Q&A) A-1, A-4, A-6, A-7, A-8, B-24	
(b) *Requirements.* The procedures must meet the following requirements:				
(1) The procedures must ensure that the mediation process— (i) Is voluntary on the part of the parties; (ii) Is not used to deny or delay a parent's right to a hearing on the parent's due process complaint, or to deny any other rights afforded under Part B of the Act; and (iii) Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques. (300.506(b)(1))			• IDEA requires that mediators be trained in effective mediation techniques, but does not specify what those techniques or procedures must be. States determine the qualifications and standards for a person to serve as an IDEA mediator. • See Q&A A-18, A-21	
(2) A public agency may establish procedures to offer to parents and schools that choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party— (i) Who is under contract with an appropriate alternative dispute resolution entity, or a parent training and information center or community parent resource center in the State established under section 671 or 672 of the Act; and (ii) Who would explain the benefits of, and encourage the use of, the mediation process to the parents. (300.506(b)(2))			• See Q&A A-14	
(3)(i) The State must maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services. (ii) The SEA must select mediators on a random, rotational, or other impartial basis. (300.506(b)(3))			• States must have more than one individual included on their list of mediators. • See Q&A A-17	
(4) The State must bear the cost of the mediation process, including the costs of meetings described in			• States may not require their LEAs to use Part B funds to pay the costs of mediation.	

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paragraph (b)(2) of this section. (300.506(b)(4))			• If the State makes mediation available to parties other than parents and the public agency, the State may not use IDEA funds for those activities. • See Q&A A-16	
(5) Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute. (300.506(b)(5))			• In scheduling mediations, the State must consider the convenience of the location to the parties. • OSEP encourages States to maintain a log to track mediation requests. The log can be used to ensure that mediations are held in a timely manner and to facilitate the collection of information that must be reported under Section 618(a)(1)(H) of the IDEA. • See Q&A A-10, A-11	
(6) If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement that sets forth that resolution and that— (i) States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and (ii) Is signed by both the parent and a representative of the agency who has the authority to bind such agency. (300.506(b)(6))			• There are two provisions in the Part B regulations that address the confidentiality of discussions during the mediation process. One provision requires that any legally binding mediation agreement that the parties execute must state that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding (300.506(b)(6)(i)). • The other provision states that all discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal court or state court of a State receiving assistance under Part B. • Irrespective of these provisions, (300.506(b)(8)), States may not require parties to the mediation process to sign a confidentiality pledge, agreement, or form prior to, or as a precondition of, the commencement of the mediation process. • See Q&A A-22, A-23, A-26	
(7) A written, signed mediation agreement under this paragraph is enforceable in any State court of competent jurisdiction or in a district court of the United States. (300.506(b)(7))			• In addition to judicial enforcement of mediation agreements pursuant to §300.506(b)(7), 34 CFR §300.537 provides that there is nothing in Part B of the IDEA that would prevent the SEA from	

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			using other mechanisms to seek enforcement of written mediation agreements, provided that such use is not mandatory and does not delay or deny a party the right to seek enforcement of the written mediation agreement in any State court of competent jurisdiction or in a district court of the United States. Therefore, States have flexibility to allow enforcement of written mediation agreements through other State mechanisms, such as through their State complaint procedures in 34 CFR §§300.151 through 300.153. If applicable, such state enforcement mechanisms must be established in policy/procedure to ensure consistent implementation. • See Q&A A-27	
(8) Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal court or State court of a State receiving assistance under this part. (300.506(b)(8))			• See Q&A A-23	
(c) *Impartiality of mediator.* (1) An individual who serves as a mediator under this part— (i) May not be an employee of the SEA or the LEA that is involved in the education or care of the child; and (ii) Must not have a personal or professional interest that conflicts with the person's objectivity. (2) A person who otherwise qualifies as a mediator is not an employee of an LEA or State agency described under §300.228 solely because he or she is paid by the agency to serve as a mediator. (300.506(c))			• Mediators may not be employees of the LEA involved in the dispute. A mediator may not be a current employee of the LEA involved in the education or care of the child. However, it could be permissible for an employee of a different LEA that is not involved in the education or care of the child to serve as a mediator in a dispute involving the parents and the LEA that the child attends, provided that that individual has no personal or professional interest that conflicts with his or her objectivity and possesses the requisite qualifications. • See Q&A A-19, A-20	

Table 2: STATE COMPLAINT PROCEDURES

IDEA Part B Requirement	State Policy/ Procedure	Procedural Safeguards	Implementation Guidance	Notes
34 CFR §300.151: Adoption of State complaint procedures.				
(a) *General.* Each SEA must adopt written procedures for--				
(1) Resolving any complaint, including a complaint filed by an organization or individual from another State, that meets the requirements of §300.153 by— (i) Providing for the filing of a complaint with the SEA; and (ii) At the SEA's discretion, providing for the filing of a complaint with a public agency and the right to have the SEA review the public agency's decision on the complaint; and (300.151(a)(1))			• State complaints can be filed to resolve both child-specific and systemic issues. • States are required to resolve any complaint that meets the requirements of 34 CFR §300.153, including a complaint alleging that a public agency failed to provide FAPE to a group of children with disabilities. • States may not have procedures that remove complaints about FAPE or the identification, evaluation, or educational placement, or any other allegation of a violation of Part B or its implementing regulations, from the jurisdiction of the State complaint system. States may not direct or require parents to request a due process hearing on these matters *instead of* using the State complaint process. • A State's complaint procedures must specify whether complaints are to be filed with the SEA or with a different public agency. • See Q&A B-5, B-7, B-9, B-16	
(2) Widely disseminating to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities, the State procedures under §§300.151 through 300.153. (300.151(a)(2))				
(b) *Remedies for denial of appropriate services.* In resolving a complaint in which the SEA has found a failure to provide appropriate services, an SEA, pursuant to its general supervisory authority under Part B of the Act, must address—			• See Q&A B-10, B-30	

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(1) The failure to provide appropriate services, including corrective action appropriate to address the needs of the child (such as compensatory services or monetary reimbursement); and (2) Appropriate future provision of services for all children with disabilities. (300.151(b))				
34 CFR §300.152: Minimum State complaint procedures.				
(a) *Time limit; minimum procedures.* Each SEA must include in its complaint procedures a time limit of 60 days after a complaint is filed under §300.153 to--			• States must have a policy regarding when a complaint is considered to be received. • States must have a procedure for tracking when a complaint is received, whether the complaint has been resolved within the 60-calendar day timeline or an appropriately extended timeline. • OSEP encourages States to maintain a log to track State complaints. The log can be used to ensure that State complaints are resolved in a timely manner. The log could also facilitate the collection of information regarding State complaints that States report under Section 618(a)(3) of the IDEA. • While not required by the IDEA, States may choose to establish procedures for reconsideration of State complaint decisions, which would result in a decision on the reconsideration within 60 days of the date on which the complaint was originally filed. Alternatively, a State may establish procedures for the reconsideration when the reconsideration process would not be completed until later than 60 days after the original filing of the complaint, but only if implementation of any corrective actions required in the SEA's final decision is not delayed pending the reconsideration process. • See Q&A B-14, B-32	
(1) Carry out an independent on-site investigation, if the SEA determines that an investigation is			• See Q&A B-20	

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necessary; (300.152(a)(1))				
(2) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint; (300.152(a)(2))				
(3) Provide the public agency with the opportunity to respond to the complaint, including, at a minimum— (i) At the discretion of the public agency, a proposal to resolve the complaint; and (ii) An opportunity for a parent who has filed a complaint and the public agency to voluntarily engage in mediation consistent with §300.506; (300.152(a)(3))				
(4) Review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part B of the Act or of this part; and ((300.152(a)(4))			• SEAs must make a determination as to whether the public agency is violating a requirement under Part B of the IDEA.	
(5) Issue a written decision to the complainant that addresses each allegation in the complaint and contains— (i) Findings of fact and conclusions; and (ii) The reasons for the SEA's final decision. (300.152(a)(5))			• States should have a process that ensures that the alleged violations are addressed in the decision. • Written decisions must explain the State's conclusion(s) as to whether a public agency has violated the IDEA requirement(s), the reasons for the SEA's final decision, and procedures for effective implementation of the SEA's final decision, including, if needed, corrective actions (which may include remedies) to achieve compliance. • See Q&A B-30	
(b) *Time extension; final decision; implementation.* The SEA's procedures described in paragraph (a) of this section also must--				
(1) Permit an extension of the time limit under paragraph (a) of this section only if— (i) Exceptional circumstances exist with respect to a particular complaint; or (ii) The parent (or individual or organization, if			• States cannot extend the timeline when parties engage in mediation or other available alternative means of dispute resolution, unless the parties agree to the extension. • OSEP encourages States to establish procedures	

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mediation or other alternative means of dispute resolution is available to the individual or organization under State procedures) and the public agency involved agree to extend the time to engage in mediation pursuant to paragraph (a)(3)(ii) of this section, or to engage in other alternative means of dispute resolution, if available in the State; and (300.152(b)(1))			for communicating with parties when the State complaint timeline is extended. • See Q&A B-21, B-23	
(2) Include procedures for effective implementation of the SEA's final decision, if needed, including— (i) Technical assistance activities; (ii) Negotiations; and (iii) Corrective actions to achieve compliance. (300.152(b)(2))			• States must have a procedure to ensure that any required corrective action(s) is completed as soon as possible within the timeframe specified in the written decision, and not later than one year from the State's identification of the noncompliance. • States should include an explicit timeline for each corrective action established in the State's decision, if applicable. • See Q&A B-30, B-31 • See Letter to Deaton, May 19, 2015	
(c) *Complaints filed under this section and due process hearings under §300.507 and §§300.530 through 300.532.* (300.152(c))				
(1) If a written complaint is received that is also the subject of a due process hearing under §300.507 or §§300.530 through 300.532, or contains multiple issues of which one or more are part of that hearing, the State 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 using the time limit and procedures described in paragraphs (a) and (b) of this section. (300.152(c)(1))			• If a State complaint contains issues that are the subject of a due process hearing, the resolution of those particular issues must be put on hold (set aside) until the completion of the due process hearing. If the complaint alleges other violations that are not at issue in the due process hearing, these allegations must be resolved within the State complaint resolution timeline. • OSEP encourages States to establish procedures for communicating with parties when the State sets aside any part of the State complaint. • See Q&A B-26, B-27	
(2) If an issue raised in a complaint filed under this section has previously been decided in a due process hearing involving the same parties— (i) The due process hearing decision is binding on			• See Q&A B-28	

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that issue; and (ii) The SEA must inform the complainant to that effect. (300.152(c)(2))				
(3) A complaint alleging a public agency's failure to implement a due process hearing decision must be resolved by the SEA. (300.152(c)(3))			• See Q&A B-29	
34 CFR §300.153: Filing a complaint.				
(a) An organization or individual may file a signed written complaint under the procedures described in §§300.151 through 300.152. (300.153(a))			• States' procedural safeguards notice must make clear that an organization or individual, including one from another State, may file a State complaint. • Although the IDEA regulations are silent as to whether States can accept complaints with digital or electronic signatures, there is no provision in the IDEA that would prohibit States from accepting State complaints filed electronically with electronic or digital signatures. If a State chooses to do so, the State must ensure that there are appropriate safeguards to protect the integrity of the process. • See Q&A B-3, B-13	
(b) The complaint must include— (1) A statement that a public agency has violated a requirement of Part B of the Act or of this part; (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— (i) The name and address of the residence of the child; (ii) The name of the school the child is attending; (iii) In the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child, and the name of the school the child is attending; (iv) A description of the nature of the problem of			• States must have procedures for resolving complaints that are filed against the SEA. • The State's procedural safeguards notice must identify the required content of the complaint. • States can only require complainants to provide the information included in 34 CFR §300.153(b) as part of a State complaint. If other information is requested, the state must either label it as "optional" or use other language indicating that the complainant is not required to provide that information. • The requirement that a complaint include the name and address of the residence of the child, the name of the school, a description of the nature of the problem of the child, and a proposed resolution of the problem applies only to complaints alleging violations with respect to a specific child.	

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the child, including facts relating to the problem; and (v) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed. (300.153(b))			• States should establish procedures for notifying a complainant when a complaint is received that does not include all of the required content. • States are not required to issue written decisions in response to anonymous complaints; however, depending on the nature of the anonymous complaint, States may need to consider this information as part of their general supervisory responsibilities. • See Q&A B-12, B-15, B-16	
(c) The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received in accordance with §300.151. (300.153(c))			• States may establish a longer timeline. If the State allows complaints regarding alleged violations that occurred more than one year prior to the filing of the complaint, the State must inform its stakeholders about the timeline for filing through its State complaint procedures and the procedural safeguards notice. • See Q&A B-18, B-19	
(d) The party filing the complaint must forward a copy of the complaint to the LEA or public agency serving the child at the same time the party files the complaint with the SEA. (300.153(d))			• States should include information in their procedural safeguards notice and State complaint procedures, about where to file the complaint (e.g., when possible, provide an address where the complaint should be sent). • States should establish procedures that include the actions they will take when a complainant does not provide a copy of the complaint to the LEA or public agency serving the child at the same time the complaint is filed with the SEA, and should explain how the failure to provide these copies will affect the initiation of the complaint resolution and/or the time limit for completing the complaint resolution. • States cannot require in-person or hand delivery of complaints, as such requirements could interfere with the right of a complainant to file a Part B State complaint. • See Q&A B-17	

Table 3: DUE PROCESS COMPLAINTS/HEARING REQUESTS/RESOLUTION PROCESS

IDEA Part B Requirement	State Policy/ Procedure	Procedural Safeguards	Implementation Guidance	Notes
34 CFR §300.507: Filing a due process complaint.				
(a) *General.* (1) A parent or a public agency may file a due process complaint on any of the matters described in §300.503(a)(1) and (2) (relating to the identification, evaluation or educational placement of a child with a disability, or the provision of FAPE to the child). (2) The due process complaint must allege a violation that occurred not more than two years before the date the parent or public agency knew or should have known about the alleged action that forms the basis of the due process complaint, or, if the State has an explicit time limitation for filing a due process complaint under this part, in the time allowed by that State law, except that the exceptions to the timeline described in §300.511(f) apply to the timeline in this section. (300.507(a))			• If the State has an explicit time limitation for filing a due process complaint other than the IDEA timeline, the State must include the timeline for filing a due process complaint in its due process complaint procedures and the procedural safeguards notice. • Due process complaints to request an expedited due process hearing are addressed in 34 CFR §300.532. • There are limited situations where public agencies do not have the right to file a due process complaint. See 34 CFR §300.300(b)(3)(i), (b)(4)(ii), and (d)(4)(i). • Under 34 CFR §300.18(f), a parent does not have the right to file a due process complaint on behalf of an individual student or class of students for the failure of a particular SEA or LEA employee to be highly qualified. • For exceptions to due process rights that apply to parents of parentally-placed private school children, see Table 5. • Dear Colleague Letter, April 15, 2015 (Use of Due Process Procedures After a Parent Has Filed a State Complaint). • See Q&A C-2, C-5, C-9, C-11, C-12	
(b) *Information for parents.* The public agency must inform the parent of any free or low-cost legal and other relevant services available in the area if— (1) The parent requests the information; or (2) The parent or the agency files a due process complaint under this section. (300.507(b))			• States may wish to consider including Parent Training and Information (PTI) Centers, Community Parent Resource Centers (CPRC), and Protection and Advocacy (P&A) agencies as part of this resource.	
34 CFR §300.508: Due process complaint.				
(a) *General.* (1) The public agency must have procedures that require either party, or the attorney			• States may establish procedures permitting a due process complaint to be filed electronically,	

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representing a party, to provide to the other party a due process complaint (which must remain confidential). (2) The party filing a due process complaint must forward a copy of the due process complaint to the SEA. (300.508(a))			including with an electronic signature. • States cannot require in-person or hand delivery of due process complaints. • Public agencies must inform parents and public agencies about how to forward the due process complaint to the SEA (e.g., provide an address where the complaint should be sent). • OSEP encourages States to address how a parent's failure to provide the required copy of the due process complaint to the LEA or public agency and SEA will affect the resolution process and due process hearing timelines. • OSEP encourages States to adopt procedures that ensure the LEA or public agency provides a copy of the due process complaint to the SEA when the parent fails to provide the required copy. • States must have a procedure, which may be determined by State law, for determining when a due process complaint is considered to be received, including a mechanism to ensure the timely resolution of due process complaints. • States must have a mechanism for tracking when a due process complaint is received. • See Q&A C-6, C-7, D-5	
(b) *Content of complaint.* The due process complaint required in paragraph (a)(1) of this section must include— (1) The name of the child; (2) The address of the residence of the child; (3) The name of the school the child is attending; (4) In the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child, and the name of the school the child is attending; (5) A description of the nature of the problem of			• States should clearly identify what content must be included in the due process complaint. • States can only require parties to provide the information included in 34 CFR §300.508(b) as part of a due process complaint. If other information is requested, the State must either label it as "optional" or use other language indicating that the party is not required to provide that information.	

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the child relating to the proposed or refused initiation or change, including facts relating to the problem; and (6) A proposed resolution of the problem to the extent known and available to the party at the time. (300.508(b))				
(c) *Notice required before a hearing on a due process complaint.* A party may not have a hearing on a due process complaint until the party, or the attorney representing the party, files a due process complaint that meets the requirements of paragraph (b) of this section. (300.508(c))				
(d) *Sufficiency of complaint.* (1) The due process complaint required by this section must be deemed sufficient unless the party receiving the due process complaint notifies the hearing officer and the other party in writing, within 15 days of receipt of the due process complaint, that the receiving party believes the due process complaint does not meet the requirements in paragraph (b) of this section. (2) Within five days of receipt of notification under paragraph (d)(1) of this section, the hearing officer must make a determination on the face of the due process complaint of whether the due process complaint meets the requirements of paragraph (b) of this section, and must immediately notify the parties in writing of that determination. (3) A party may amend its due process complaint only if— (i) The other party consents in writing to the amendment and is given the opportunity to resolve the due process complaint through a meeting held pursuant to §300.510; or (ii) The hearing officer grants permission, except that the hearing officer may only grant permission to amend at any time not later than five days before the due process hearing begins. (4) If a party files an amended due process			• Hearing officers have complete authority to determine the sufficiency of all due process complaints and their jurisdiction over issues raised. States may not dismiss a due process complaint or limit the issues that can be raised in a due process complaint. • See Q&A C-17	

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complaint, the timelines for the resolution meeting in §300.510(a) and the time period to resolve in §300.510(b) begin again with the filing of the amended due process complaint. (300.508(d))				
(e) *LEA response to a due process complaint.* (1) If the LEA has not sent a prior written notice under §300.503 to the parent regarding the subject matter contained in the parent's due process complaint, the LEA must, within 10 days of receiving the due process complaint, send to the parent a response that includes— (i) An explanation of why the agency proposed or refused to take the action raised in the due process complaint; (ii) A description of other options that the IEP Team considered and the reasons why those options were rejected; (iii) A description of each evaluation procedure, assessment, record, or report the agency used as the basis for the proposed or refused action; and (iv) A description of the other factors that are relevant to the agency's proposed or refused action. (2) A response by an LEA under paragraph (e)(1) of this section shall not be construed to preclude the LEA from asserting that the parent's due process complaint was insufficient, where appropriate. (300.508(e))				
(f) *Other party response to a due process complaint.* Except as provided in paragraph (e) of this section, the party receiving a due process complaint must, within 10 days of receiving the due process complaint, send to the other party a response that specifically addresses the issues raised in the due process complaint. (300.508(f))				
34 CFR §300.509: Model forms.				
(a) Each SEA must develop model forms to assist parents and public agencies in filing a due process complaint in accordance with §§300.507(a) and			• States may not have policies or procedures that *require* parties to use a model form. • If the State's model form includes content that is	

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300.508(a) through (c) and to assist parents and other parties in filing a State complaint under §§300.151 through 300.153. However, the SEA or LEA may not require the use of the model forms. (b) Parents, public agencies, and other parties may use the appropriate model form described in paragraph (a) of this section, or another form or other document, so long as the form or document that is used meets, as appropriate, the content requirements in §300.508(b) for filing a due process complaint, or the requirements in §300.153(b) for filing a State complaint. (300.509)			not required by 34 CFR §300.508(b), the form must identify that content as optional. • See Q&A B-4, C-8	
34 CFR §300.510: Resolution process. (20 U.S.C. 1415(f)(1)(B))				
(a) *Resolution meeting.*				
(1) Within 15 days of receiving notice of the parent's due process complaint, and prior to the initiation of a due process hearing under §300.511, the LEA must convene a meeting with the parent and the relevant member or members of the IEP Team who have specific knowledge of the facts identified in the due process complaint that— (i) Includes a representative of the public agency who has decision-making authority on behalf of that agency; and (ii) May not include an attorney of the LEA unless the parent is accompanied by an attorney. (300.510(a)(1))			• States must have procedures in place to enforce the requirement that LEAs convene resolution meetings within the required timeline. • An LEA must convene a resolution meeting only if the parent is the complaining party. There is no provision in IDEA requiring the LEA to convene a resolution meeting if the LEA is the complaining party. • A resolution meeting is required when a complaint is amended by either party (either the parent or an LEA), unless the parties agree in writing to waive the meeting or agree to use mediation instead. • The LEA must proceed with the resolution meeting even if it has challenged the sufficiency of the parent's due process complaint. • The SEA or LEA may not suspend the 15-day resolution meeting timeline while schools are closed for breaks or holidays. • The resolution process for expedited due process hearing complaints is addressed in 34 CFR §300.532(c)(3). • See Q&A D-2, D-4, D-10	

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(2) The purpose of the meeting is for the parent of the child to discuss the due process complaint, and the facts that form the basis of the due process complaint, so that the LEA has the opportunity to resolve the dispute that is the basis for the due process complaint. (300.510(a)(2))				
(3) The meeting described in paragraph (a)(1) and (2) of this section need not be held if— (i) The parent and the LEA agree in writing to waive the meeting; or (ii) The parent and the LEA agree to use the mediation process described in §300.506. (300.510(a)(3))			• LEAs may not require a confidentiality agreement as a precondition to conducting a resolution meeting. • Use of alternative methods, such as facilitated IEP meetings, does not relieve the LEA of the obligation to convene a resolution meeting. Only a written waiver or an agreement to use the mediation process under 34 CFR §300.506 relieves the LEA of its obligation to convene a resolution meeting. • See Q&A D-16	
(4) The parent and the LEA determine the relevant members of the IEP Team to attend the meeting. (300.510(a)(4))				
(b) *Resolution period.*				
(1) If the LEA has not resolved the due process complaint to the satisfaction of the parent within 30 days of the receipt of the due process complaint, the due process hearing may occur. (300.510(b)(1))			• Consistent with its general supervisory responsibility, States must establish procedures for tracking when the resolution period has concluded and the hearing timeline begins. The SEA has the flexibility to determine its procedures and the appropriate mechanism for tracking the resolution process, given the State's unique circumstances. • See Q&A D-15	
(2) Except as provided in paragraph (c) of this section, the timeline for issuing a final decision under §300.515 begins at the expiration of this 30-day period. (300.510(b)(2))				
(3) Except where the parties have jointly agreed to waive the resolution process or to use mediation, notwithstanding paragraphs (b)(1) and (2) of this section, the failure of the parent filing a due process				

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complaint to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until the meeting is held. (300.510(b)(3))				
(4) If the LEA is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made (and documented using the procedures in §300.322(d)), the LEA may, at the conclusion of the 30-day period, request that a hearing officer dismiss the parent's due process complaint. (300.510(b)(4))				
(5) If the LEA fails to hold the resolution meeting specified in paragraph (a) of this section within 15 days of receiving notice of a parent's due process complaint or fails to participate in the resolution meeting, the parent may seek the intervention of a hearing officer to begin the due process hearing timeline. (300.510(b)(5))				
(c) *Adjustments to 30-day resolution period.* The 45-day timeline for the due process hearing in §300.515(a) starts the day after one of the following events: (1) Both parties agree in writing to waive the resolution meeting; (2) After either the mediation or resolution meeting starts but before the end of the 30-day period, the parties agree in writing that no agreement is possible; (3) If both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later, the parent or public agency withdraws from the mediation process. (300.510(c))			• States must have a system in place to track when the 30-day or adjusted resolution period ends, to ensure accurate calculation of the start of the 45-day hearing timeline. • See Q&A D-15	
(d) *Written settlement agreement.* If a resolution to the dispute is reached at the meeting described in paragraphs (a)(1) and (2) of this section, the parties must execute a legally binding agreement that is— (1) Signed by both the parent and a representative of the agency who has the authority to bind the agency; and			• Under 34 CFR §300.537, there is nothing in Part B of the IDEA that would prevent the SEA from using other mechanisms, such as their State complaint procedures, to seek enforcement of written settlement agreements reached as a result of resolution meetings, provided that such use is not mandatory and does not delay or deny a party	

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(2) Enforceable in any State court of competent jurisdiction or in a district court of the United States, or, by the SEA, if the State has other mechanisms or procedures that permit parties to seek enforcement of resolution agreements, pursuant to §300.537. (300.510(d))			the right to seek enforcement of the settlement agreement in a State court of competent jurisdiction or in a district court of the United States. • If applicable, these mechanisms should be clearly established in policy/procedure to ensure consistent implementation and to inform parties of the availability of this mechanism. • See Q&A D-21	
(e) *Agreement review period.* If the parties execute an agreement pursuant to paragraph (d) of this section, a party may void the agreement within 3 business days of the agreement's execution. (300.510(e))				
34 CFR §300.511: Impartial due process hearing.				
(a) *General.* Whenever a due process complaint is received under §300.507 or §300.532, the parents or the LEA involved in the dispute must have an opportunity for an impartial due process hearing, consistent with the procedures in §§300.507, 300.508, and 300.510. (300.511(a))				
(b) *Agency responsible for conducting the due process hearing.* The hearing described in paragraph (a) of this section must be conducted by the SEA or the public agency directly responsible for the education of the child, as determined under State statute, State regulation, or a written policy of the SEA. (300.511(b))			• States should clearly indicate which agency is responsible for conducting the due process hearing. • If the State has adopted a one-tier due process hearing system, the SEA is responsible for conducting the due process hearing. If the State has adopted a two-tier due process hearing system, the public agency directly responsible for the education of the child is responsible for conducting the due process hearing, and a party aggrieved by the decision has the right to appeal to the SEA.	
(c) *Impartial hearing officer.* (1) At a minimum, a hearing officer— (i) Must not be— (A) An employee of the SEA or the LEA that is			• Public agencies must have more than one individual included on their list of persons who serve as hearing officers. • OSEP encourages States to have procedures in	

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involved in the education or care of the child; or (B) A person having a personal or professional interest that conflicts with the person's objectivity in the hearing; (ii) Must possess knowledge of, and the ability to understand, the provisions of the Act, Federal and State regulations pertaining to the Act, and legal interpretations of the Act by Federal and State courts; (iii) Must possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and (iv) Must possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice. (2) A person who otherwise qualifies to conduct a hearing under paragraph (c)(1) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer. (3) Each public agency must keep a list of the persons who serve as hearing officers. The list must include a statement of the qualifications of each of those persons. (300.511(c))			place to address concerns about the impartiality of hearing officers.	
(d) *Subject matter of due process hearings.* The party requesting the due process hearing may not raise issues at the due process hearing that were not raised in the due process complaint filed under §300.508(b), unless the other party agrees otherwise. (300.511(d))				
(e) *Timeline for requesting a hearing.* A parent or agency must request an impartial hearing on their due process complaint within two years of the date the parent or agency knew or should have known about the alleged action that forms the basis of the due process complaint, or if the State has an explicit time limitation for requesting such a due process hearing under this part, in the time allowed by that State law. (300.511(e))			• If the State has an explicit time limitation for filing a due process complaint other than the IDEA timeline, the State must include this information about the timeline for filing in its procedural safeguards notice.	
(f) *Exceptions to the timeline.* The timeline				

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described in paragraph (e) of this section does not apply to a parent if the parent was prevented from filing a due process complaint due to— (1) Specific misrepresentations by the LEA that it had resolved the problem forming the basis of the due process complaint; or (2) The LEA's withholding of information from the parent that was required under this part to be provided to the parent. (300.511(f))				
34 CFR §300.512: Hearing rights.				
(a) *General.* Any party to a hearing conducted pursuant to §§300.507 through 300.513 or §§300.530 through 300.534, or an appeal conducted pursuant to §300.514, has the right to— (1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities, except that whether parties have the right to be represented by non-attorneys at due process hearings is determined under State law; (2) Present evidence and confront, cross-examine, and compel the attendance of witnesses; (3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing; (4) Obtain a written, or, at the option of the parents, electronic, verbatim record of the hearing; and (5) Obtain written, or, at the option of the parents, electronic findings of fact and decisions. (300.512(a))			• States must indicate whether parties have the right to be represented by non-attorneys at due process hearings. • The written or electronic, verbatim record of the hearing must be provided within a reasonable period of time at no cost.	
(b) *Additional disclosure of information.* (1) At least five business days prior to a hearing conducted pursuant to §300.511(a), each party must disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing. (2) A hearing officer may bar any party that fails to comply with paragraph (b)(1) of this section from				

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introducing the relevant evaluation or recommendation at the hearing without the consent of the other party. (300.512(b))				
(c) *Parental rights at hearings.* Parents involved in hearings must be given the right to— (1) Have the child who is the subject of the hearing present; (2) Open the hearing to the public; and (3) Have the record of the hearing and the findings of fact and decisions described in paragraphs (a)(4) and (a)(5) of this section provided at no cost to parents. (300.512(c))				
34 CFR §300.513: Hearing decisions.				
(a) *Decision of hearing officer on the provision of FAPE.* (1) Subject to paragraph (a)(2) of this section, a hearing officer's determination of whether a child received FAPE must be based on substantive grounds. (2) In matters alleging a procedural violation, a hearing officer may find that a child did not receive a FAPE only if the procedural inadequacies— (i) Impeded the child's right to a FAPE; (ii) Significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the parent's child; or (iii) Caused a deprivation of educational benefit. (3) Nothing in paragraph (a) of this section shall be construed to preclude a hearing officer from ordering an LEA to comply with procedural requirements under §§300.500 through 300.536. (300.513(a))			• Decisions about whether hearing officers may raise and resolve issues of noncompliance that were not raised by the complaining party are best left to States and should generally be addressed in their procedures for conducting due process hearings. • While States with one-tier systems cannot review decisions for the purpose of seeing if the decisions are "correct," and States do not have the authority to change a hearing officer's decision, decisions that have been issued should be reviewed to identify hearing officer training needs. • See Q&A C-19	
(b) *Construction clause.* Nothing in §§300.507 through 300.513 shall be construed to affect the right of a parent to file an appeal of the due process hearing decision with the SEA under §300.514(b), if a State level appeal is available. (300.513(b))				
(c) *Separate request for a due process hearing.* Nothing in §§300.500 through 300.536 shall be			• Public agencies do not have the authority to deny a parent's request for a due process hearing because	

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construed to preclude a parent from filing a separate due process complaint on an issue separate from a due process complaint already filed. (300.513(c))			they believe the issue has been previously adjudicated. This matter is an issue for the hearing officer to decide. • See Q&A C-16	
(d) *Findings and decision to advisory panel and general public.* The public agency, after deleting any personally identifiable information, must— (1) Transmit the findings and decisions referred to in §300.512(a)(5) to the State advisory panel established under §300.167; and (2) Make those findings and decisions available to the public. (300.513(d))			• See the definition of personally identifiable in 34 CFR §300.32. • Public agencies, after deleting any personally identifiable information, must make the complete due process hearing findings and decisions available to the public to meet the requirements under 34 CFR §300.513(d)(2). Public agencies may choose to also provide summaries of findings and decisions, in addition to the complete findings and decisions. • Due process hearing findings and decisions should be made available to the State advisory panel and public within a reasonable period of time. • States may not require a public records/freedom of information request to make the findings and decisions available to a requestor. • See Q&A C-27	
34 CFR §300.514: Finality of decision; appeal; impartial review.				
(a) *Finality of hearing decision.* A decision made in a hearing conducted pursuant to §§300.507 through 300.513 or §§300.530 through 300.534 is final, except that any party involved in the hearing may appeal the decision under the provisions of paragraph (b) of this section and §300.516. (300.514(a))			• States must have a process in place to ensure that final hearing decisions are implemented in a timely manner. • As part of the State's general supervisory responsibility under 34 CFR §300.149, the State must ensure that hearing officer decisions, or reviewing officer decisions, if applicable, are implemented within the timeline specified by the hearing officer or reviewing officer, or if there is no specific timeline articulated in the decision, within the State's timeline for implementation. • If the State permits reconsideration, the State's written hearing procedures or State rules must include a provision that permits reconsideration of	

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			due process decisions, and parties should be notified that they can request reconsideration of the hearing officer's decision. • If the State permits either party to request reconsideration of the hearing officer's decision (prior to filing a civil action), the reconsideration process must be completed so that the final decision is issued within the 45-day timeline or a properly extended timeline. • See Q&A C-23, C-25, C-26 • See Letter to Voigt, June 2, 2014	
(b) *Appeal of decisions; impartial review.*				
(1) If the hearing required by §300.511 is conducted by a public agency other than the SEA, any party aggrieved by the findings and decision in the hearing may appeal to the SEA. (300.514(b)(1))			• A State must include this information only if the State has a two-tier due process system.	
(2) If there is an appeal, the SEA must conduct an impartial review of the findings and decision appealed. The official conducting the review must— (i) Examine the entire hearing record; (ii) Ensure that the procedures at the hearing were consistent with the requirements of due process; (iii) Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights in §300.512 apply; (iv) Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official; (v) Make an independent decision on completion of the review; and (vi) Give a copy of the written, or, at the option of the parents, electronic findings of fact and decisions to the parties. (300.514(b)(2))			• A State must include this information only if the State has a two-tier due process system.	
(c) *Findings and decision to advisory panel and general public.* The SEA, after deleting any personally identifiable information, must— (1) Transmit the findings and decisions referred to in paragraph (b)(2)(vi) of this section to the State			• A State must include this information only if the State has a two-tier due process system.	

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advisory panel established under §300.167; and (2) Make those findings and decisions available to the public. (300.514(c))				
(d) *Finality of review decision.* The decision made by the reviewing official is final unless a party brings a civil action under §300.516. (300.514(d))			• A State must include this information only if the State has a two-tier due process system.	
34 CFR §300.515: Timelines and convenience of hearings and reviews.				
(a) The public agency must ensure that not later than 45 days after the expiration of the 30 day period under §300.510(b), or the adjusted time periods described in §300.510(c)--(1) A final decision is reached in the hearing; and (2) A copy of the decision is mailed to each of the parties. (300.515(a))			• OSEP encourages States to maintain a log to track due process complaints and hearings. The log can be used to ensure that due process complaints, and resolution sessions (when applicable), are resolved in a timely manner. The log can also be used to facilitate the collection of information that must be reported under Section 618(a)(1)(F) of the IDEA.	
(b) The SEA must ensure that not later than 30 days after the receipt of a request for a review— (1) A final decision is reached in the review; and (2) A copy of the decision is mailed to each of the parties. (300.515(b))			• A State must include this information only if the State has a two-tier due process system.	
(c) A hearing or reviewing officer may grant specific extensions of time beyond the periods set out in paragraphs (a) and (b) of this section at the request of either party. (300.515(c))			• If a hearing or reviewing officer decides to grant an extension at the request of a party, the hearing or reviewing officer must extend the timeline for a specific period of time. • See Q&A C-22	
(d) Each hearing and each review involving oral arguments must be conducted at a time and place that is reasonably convenient to the parents and child involved. (300.515(d))			• The public agency must consider the convenience of the location to the parents and child, but may also consider its own scheduling needs. • See Q&A C-14	
34 CFR §300.516: Civil action				
(a) *General.* Any party aggrieved by the findings and decision made under §§300.507 through 300.513 or §§300.530 through 300.534 who does not have the right to an appeal under §300.514(b), and any party aggrieved by the findings and decision under §300.514(b), has the right to bring a civil action with respect to the due process complaint notice				

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requesting a due process hearing under §300.507 or §§300.530 through 300.532. The action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. (300.516(a))				
(b) *Time limitation.* The party bringing the action shall have 90 days from the date of the decision of the hearing officer or, if applicable, the decision of the State review official, to file a civil action, or, if the State has an explicit time limitation for bringing civil actions under Part B of the Act, in the time allowed by that State law. (300.516(b))			• If the State has an explicit time limitation for bringing civil actions under Part B of the IDEA, the State must include this information about the timeline for civil action in the procedural safeguards notice.	
(c) *Additional requirements.* In any action brought under paragraph (a) of this section, the court— (1) Receives the records of the administrative proceedings; (2) Hears additional evidence at the request of a party; and (3) Basing its decision on the preponderance of the evidence, grants the relief that the court determines to be appropriate. (300.516(c))				
(d) *Jurisdiction of district courts.* The district courts of the United States have jurisdiction of actions brought under section 615 of the Act without regard to the amount in controversy. (300.516(d))				
(e) *Rule of construction.* Nothing in this part restricts or limits the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, title V of the Rehabilitation Act of 1973, or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under section 615 of the Act, the procedures under §§300.507 and 300.514 must be exhausted to the same extent as would be required had the action been brought under section 615 of the Act. (300.516(e))				
34 CFR §300.517: Attorneys' fees.				

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(a) *In general.* (1) In any action or proceeding brought under section 615 of the Act, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to— (i) The prevailing party who is the parent of a child with a disability; (ii) To a prevailing party who is an SEA or LEA against the attorney of a parent who files a complaint or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or (iii) To a prevailing SEA or LEA against the attorney of a parent, or against the parent, if the parent's request for a due process hearing or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation. (2) Nothing in this subsection shall be construed to affect section 327 of the District of Columbia Appropriations Act, 2005. (300.517(a))			• OSEP has referred to these requirements in this self-assessment document to remind States that these requirements must be addressed in your policies and procedures and in the Part B procedural safeguards notice.	
(b) *Prohibition on use of funds.* (1) Funds under Part B of the Act may not be used to pay attorneys' fees or costs of a party related to any action or proceeding under section 615 of the Act and subpart E of this part. (2) Paragraph (b)(1) of this section does not preclude a public agency from using funds under Part B of the Act for conducting an action or proceeding under section 615 of the Act. (300.517(b))				
(c) *Award of fees.* A court awards reasonable attorneys' fees under section 615(i)(3) of the Act consistent with the following:				
(1) Fees awarded under section 615(i)(3) of the Act must be based on rates prevailing in the community in which the action or proceeding arose for the kind				

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and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this paragraph. (300.517(c)(1))				
(2)(i) Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under section 615 of the Act for services performed subsequent to the time of a written offer of settlement to a parent if— (A) The offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than 10 days before the proceeding begins; (B) The offer is not accepted within 10 days; and (C) The court or administrative hearing officer finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement. (ii) Attorneys' fees may not be awarded relating to any meeting of the IEP Team unless the meeting is convened as a result of an administrative proceeding or judicial action, or at the discretion of the State, for a mediation described in §300.506. (iii) A meeting conducted pursuant to §300.510 shall not be considered— (A) A meeting convened as a result of an administrative hearing or judicial action; or (B) An administrative hearing or judicial action for purposes of this section. (300.517(c)(2))				
(3) Notwithstanding paragraph (c)(2) of this section, an award of attorneys' fees and related costs may be made to a parent who is the prevailing party and who was substantially justified in rejecting the settlement offer. (300.517(c)(3))				
(4) Except as provided in paragraph (c)(5) of this section, the court reduces, accordingly, the amount of the attorneys' fees awarded under section 615 of the Act, if the court finds that— (i) The parent, or the parent's attorney, during the				

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course of the action or proceeding, unreasonably protracted the final resolution of the controversy; (ii) The amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience; (iii) The time spent and legal services furnished were excessive considering the nature of the action or proceeding; or (iv) The attorney representing the parent did not provide to the LEA the appropriate information in the due process request notice in accordance with §300.508. (300.517(c)(4))				
(5) The provisions of paragraph (c)(4) of this section do not apply in any action or proceeding if the court finds that the State or local agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of section 615 of the Act. (300.517(c)(5))				
34 CFR §300.518: Child's status during proceedings.				
(a) Except as provided in §300.533, during the pendency of any administrative or judicial proceeding regarding a due process complaint notice requesting a due process hearing under §300.507, unless the State or local agency and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her current educational placement. (b) If the complaint involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public school until the completion of all the proceedings. (c) If the complaint involves an application for initial services under this part from a child who is transitioning from Part C of the Act to Part B and is no longer eligible for Part C services because the				

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child has turned three, the public agency is not required to provide the Part C services that the child had been receiving. If the child is found eligible for special education and related services under Part B and the parent consents to the initial provision of special education and related services under §300.300(b), then the public agency must provide those special education and related services that are not in dispute between the parent and the public agency. (d) If the hearing officer in a due process hearing conducted by the SEA or a State review official in an administrative appeal agrees with the child's parents that a change of placement is appropriate, that placement must be treated as an agreement between the State and the parents for purposes of paragraph (a) of this section.				

Table 4: DISCIPLINE PROCEDURES (EXPEDITED DUE PROCESS HEARINGS)

IDEA Part B Requirement	State Policy/ Procedure	Procedural Safeguards	Implementation Guidance	Notes
34 CFR §300.532: Appeal.				
(a) *General.* The parent of a child with a disability who disagrees with any decision regarding placement under §§300.530 and 300.531, or the manifestation determination under §300.530(e), or an LEA that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others, may appeal the decision by requesting a hearing. The hearing is requested by filing a complaint pursuant to §§300.507 and 300.508(a) and (b). (300.532(a))				
(b) *Authority of hearing officer.* (1) A hearing officer under §300.511 hears, and makes a determination regarding an appeal under paragraph (a) of this section.				

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(2) In making the determination under paragraph (b)(1) of this section, the hearing officer may— (i) Return the child with a disability to the placement from which the child was removed if the hearing officer determines that the removal was a violation of §300.530 or that the child's behavior was a manifestation of the child's disability; or (ii) Order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others. (3) The procedures under paragraphs (a) and (b)(1) and (2) of this section may be repeated, if the LEA believes that returning the child to the original placement is substantially likely to result in injury to the child or to others. (300.532(b))				
(c) *Expedited due process hearing.* (1) Whenever a hearing is requested under paragraph (a) of this section, the parents or the LEA involved in the dispute must have an opportunity for an impartial due process hearing consistent with the requirements of §§300.507 and 300.508(a) through (c) and §§300.510 through 300.514, except as provided in paragraph (c)(2) through (4) of this section. (300.532(c)(1))			• Parties may not challenge the sufficiency of an expedited due process complaint because of the shortened timelines that apply to conducting an expedited due process hearing. • See Q&A E-6	
(2) The SEA or LEA is responsible for arranging the expedited due process hearing, which must occur within 20 school days of the date the complaint requesting the hearing is filed. The hearing officer must make a determination within 10 school days after the hearing. (300.532(c)(2))			• No timeline extensions are permitted for expedited due process hearings. • See Q&A E-7	
(3) Unless the parents and LEA agree in writing to waive the resolution meeting described in paragraph (c)(3)(i) of this section, or agree to use the mediation process described in §300.506— (i) A resolution meeting must occur within seven days of receiving notice of the due process			• The 15 calendar day resolution period, from the date the parent's due process complaint requesting an expedited due process hearing is received, *is part of*, not in addition to, the 20 school day expedited due process hearing timeline. • The resolution meeting must occur within 7 days	

IDEA Part B Requirement	State Policy/ Procedure	Procedural Safeguards	Implementation Guidance	Notes
complaint; and (ii) The due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of the receipt of the due process complaint. (300.532(c)(3))			of receiving notice of the parent's due process complaint, unless the parents and the LEA agree in writing to waive the resolution meeting, or agree to use mediation. • The resolution period to resolve an expedited due process complaint *may not be extended*. • See Q&A E-3, E-4	
(4) A State may establish different State-imposed procedural rules for expedited due process hearings conducted under this section than it has established for other due process hearings, but, except for the timelines as modified in paragraph (c)(3) of this section, the State must ensure that the requirements in §§300.510 through 300.514 are met. (300.532(c)(4))			• If the State has established different State-imposed procedural rules for expedited due process hearings, the State must include this information in its procedural safeguards notice.	
(5) The decisions on expedited due process hearings are appealable consistent with §300.514. (300.532(c)(5))				
34 CFR §300.537: State enforcement mechanisms.				
Notwithstanding §§300.506(b)(7) and 300.510(d)(2), which provide for judicial enforcement of a written agreement reached as a result of mediation or a resolution meeting, there is nothing in this part that would prevent the SEA from using other mechanisms to seek enforcement of that agreement, provided that use of those mechanisms is not mandatory and does not delay or deny a party the right to seek enforcement of the written agreement in a State court of competent jurisdiction or in a district court of the United States. (300.537)			• Note: This provision does not need to be addressed in the procedural safeguards unless the SEA allows other mechanisms to seek enforcement of mediation or resolution agreements.	

Table 5: CHILDREN WITH DISABILITIES ENROLLED BY THEIR PARENTS IN PRIVATE SCHOOLS

IDEA Part B Requirement	State Policy/ Procedure	Procedural Safeguards	Implementation Guidance	Notes
34 CFR §300.140: Due process complaints and State complaints.				
(a) *Due process not applicable, except for child find.* (1) Except as provided in paragraph (b) of this section, the procedures in §§300.504 through 300.519 do not apply to complaints that an LEA has failed to meet the requirements of §§300.132 through 300.139, including the provision of services indicated on the child's services plan. (300.140(a))			• See Q&A C-10	
(b) *Child find complaints—to be filed with the LEA in which the private school is located.* (1) The procedures in §§300.504 through 300.519 apply to complaints that an LEA has failed to meet the child find requirements in §300.131, including the requirements in §§300.300 through 300.311. (2) Any due process complaint regarding the child find requirements (as described in paragraph (b)(1) of this section) must be filed with the LEA in which the private school is located and a copy must be forwarded to the SEA. (300.140(b))				
(c) *State complaints.* (1) Any complaint that an SEA or LEA has failed to meet the requirements in §§300.132 through 300.135 and 300.137 through 300.144 must be filed in accordance with the procedures described in §§300.151 through 300.153. (2) A complaint filed by a private school official under §300.136(a) must be filed with the SEA in accordance with the procedures in §300.136(b). (300.140(c))			• 34 CFR §§300.132 through 300.135 address the provision of equitable services for parentally-placed private school children with disabilities, expenditures, and consultation. 34 CFR §§300.135 through 300.137 address written affirmation of consultation, compliance, and the determination of equitable services. • Mediation and due process procedures do not apply to issues regarding the provision of services to parentally-placed private school children with disabilities whom an LEA has agreed to serve. However, under the State complaint procedures, consistent with 34 CFR §300.152(a)(3)(ii), the SEA must give the parent the opportunity to engage in mediation consistent with 34 CFR §300.506. Therefore, if a parent files a State	

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			complaint, even if the complaint concerns a matter for which the due process procedures are not otherwise available, the State complaint procedures must provide the parent the opportunity to voluntarily engage in mediation to resolve the matter that is the subject of the State complaint. • See Q&A A-7	
34 CFR §300.148: Placement of children by parents when FAPE is at issue.			• See also 34 CFR §300.148(d)-(e)	
(b) *Disagreements about FAPE.* Disagreements between the parents and a public agency regarding the availability of a program appropriate for the child, and the question of financial reimbursement, are subject to the due process procedures in §§300.504 through 33.520. (300.148(b))				
(c) *Reimbursement for private school placement.* If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private preschool without the consent of or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made FAPE available to the child in a timely manner prior to that enrollment and that the private placement is appropriate. A parental placement may be found to be appropriate by a hearing officer or a court even if it does not meet the State standards that apply to education provided by the SEA and LEAs. (300.148(c))				