

INDICATORS B15 & B16: DISPUTE RESOLUTION

Prepared by the Center for Appropriate Dispute Resolution in Special Education (CADRE)

INTRODUCTION

The IDEA requires states receiving grants under Part B to make available four dispute resolution processes, and to report annually to the U.S. Department of Education Office of Special Education Programs (OSEP) on their performance.¹ The processes, which include signed written complaints, mediation, due process complaints, and resolution meetings associated with due process, offer formal means for resolving disagreements and issues arising under the IDEA.

The following are brief analyses of states' Federal Fiscal Year (FFY) 2020 Annual Performance Reports (APRs) for Indicators B15 (Resolution Meetings Resulting in Written Settlement Agreements) and B16 (Mediations Resulting in Written Agreements).²

DATA SOURCES AND METHODOLOGY

Data sources for this report include FFY 2020 APRs and Section 618 data, available through the *sites.ed.gov/idea* webpage. These analyses are specific to state performance on Indicators B15 and B16, and do not present a complete picture of dispute resolution activity.

SUMMARY BY INDICATOR

Indicator B15: Resolution Meetings Resulting in Written Settlement Agreements

Indicator B15 is a performance indicator that documents the percentage of resolution meetings resulting in written settlement agreements. States are required to report any activity relating to Indicator B15; however, they are not required to set a performance target if fewer than ten resolution meetings are held in a single year.

In 2020-2021, there were 17,215 resolution meetings held nationally, marking a 22.28% increase over the previous year. The number of written settlement agreements for FFY 2020 declined by 12.5% during that same time, from 1285 in FFY 2019 to 1124 in FFY 2020. A few States account for most resolution meeting activity, with one State reporting 14,618 resolution meetings held, or 84.9% of all resolution meeting activity.

The performance bands in Figure 1 (below) display states' performance on the percentage of resolution meetings resulting in written settlement agreements across the last six years. Forty-eight States reported Indicator B15 activity in 2020-21, whereas 12 States reported no activity.

¹ For the purposes of this report, the terms "states" is used interchangeably to refer to all 60 Part B grant recipients (i.e., the fifty States, the District of Columbia, the Bureau of Indian Education (BIE), Puerto Rico, the Virgin Islands, American Samoa, Guam, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau).

² The reporting period (July 1, 2020-June 30, 2021) began during FFY 2020.

The purple diamonds on each performance band in Figure 1 indicate the mean, or average, state-reported rates of agreement for that year.³ The average state-reported rate of performance for Indicator B15 across all states for the last six years is 49.9%. The average agreement rate has trended downward, decreasing nine percentage points from FFY 2015 (56%) to FFY 2020 (47%).

Figure 1
Trends – Six Years Of Indicator B15 Data
State-Reported Resolution Meeting Agreement Rate

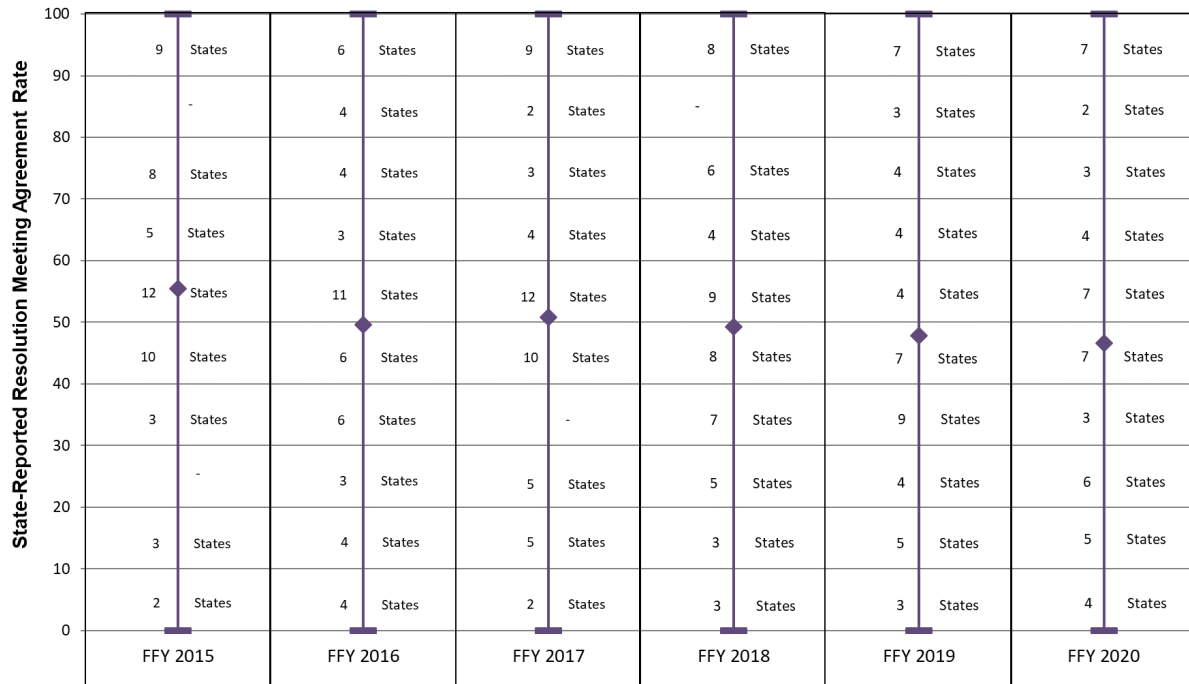


Table 1.1 provides the summary statistics of the resolution agreement rate data including the mean agreement rate, highest agreement rate, lowest agreement rate and the number of states that reported no activity, for each of the six years.

Table 1.1

Statistic	FFY 2015	FFY 2016	FFY 2017	FFY 2018	FFY 2019	FFY 2020
Mean	56	50	51	49	48	47
Highest	100	100	100	100	100	100
Lowest	0	0	0	0	0	0
No Data	8	9	8	7	10	12

Table 1.2 shows the number of states that reported agreement rates within each range. In FFY 2020, seven States reported between 90% to 100% agreement rates

³ For this “average of state-reported agreement rates,” all States contribute equally to the calculation regardless of the level of activity.

while four States reported agreement rates between 0% to <10%. The most frequent range of agreement rate was the 40% to <60% with 14 States falling within that range.

Table 1.2

Ranges of state-reported resolution agreement rate	FFY 2015	FFY 2016	FFY 2016	FFY 2017	FFY 2019	FFY 2020
90% to 100%	9	6	9	8	7	7
80% to <90%	0	4	2	0	3	2
70% to <80%	8	4	3	6	4	3
60% to <70%	5	3	4	4	4	4
50% to <60%	12	11	12	9	4	7
40% to <50%	10	6	10	8	7	7
30% to <40%	3	6	0	7	9	3
20% to <30%	0	3	5	5	4	6
10% to <20%	3	4	5	3	5	5
0% to <10%	2	4	2	3	3	4

Of the 48 States reporting resolution meeting activity, 43 had established targets for 2020-21. A target is required only when a state has ten or more resolution meetings in a single year. Thirty States met this criterion. Ten States not required to set targets did so anyway. Targets ranged from 1% to 100%, with 17 States setting targets below 50%, showing a slight increase from last year when 15 States set similarly low targets. Of the 43 States with established targets, 18 met their targets, two fewer States than in the previous year. Twenty-five of the 43 States reported less than 50% agreement rate.

It is worth noting that Indicator B15 does not provide a complete portrayal of the number of Due Process Complaints (DPC) that are resolved before a fully-adjudicated hearing. This indicator only captures the number of DPC that are resolved as a result of a resolution agreement, which makes up only a small percentage of DPC that are resolved without a hearing. Other resolutions may include agreements after the 30-day resolution period, mediation agreements that resolve the DPC, withdrawals of the DPC, dismissals, and other agreements. In 2020-21, less than four percent of due process hearing requests were resolved as a result of resolution agreements, while 40.7% were resolved without a hearing by different means.

Indicator B16: Mediations Resulting in Written Agreements

Indicator B16 is a performance indicator that documents the percentage of mediations

held that result in written agreements. Fifty-three States reported mediation activity in 2020-21. States are required to report all activity relating to Indicator B16, but are not required to set a target if fewer than ten mediations are held in a single year.

In 2020-21, there were 4796 total mediations held, down from 6,281 held in FFY 2019. A few States account for most mediation activity, with one State reporting 1681 mediations, or 35% of the total mediation activity. Eight of the nine States reporting no mediation activity were territories and outlying jurisdictions.

The performance bands in Figure 2 (below) display states' performance on the percentage of mediations resulting in agreements during the last six years. The average state-reported mediation agreement rate for 2020-21 was 67%, which is down from the previous two years. The average state-reported rate of agreement for Indicator B16 across all states for the last six years is 72%. Only one State reported zero percent agreement in 2020-21 for the three mediations held. In FFY 2020, 27% of States reported that 70% or more of mediations resulted in agreements, down from 44% in FFY 2019. Consistent with FFY 2019, six States reported mediation agreement rates of 100% in FFY 2020.

Figure 2
Trends – Six Years Of Indicator B16 Data
State-Reported Mediation Agreement Rate

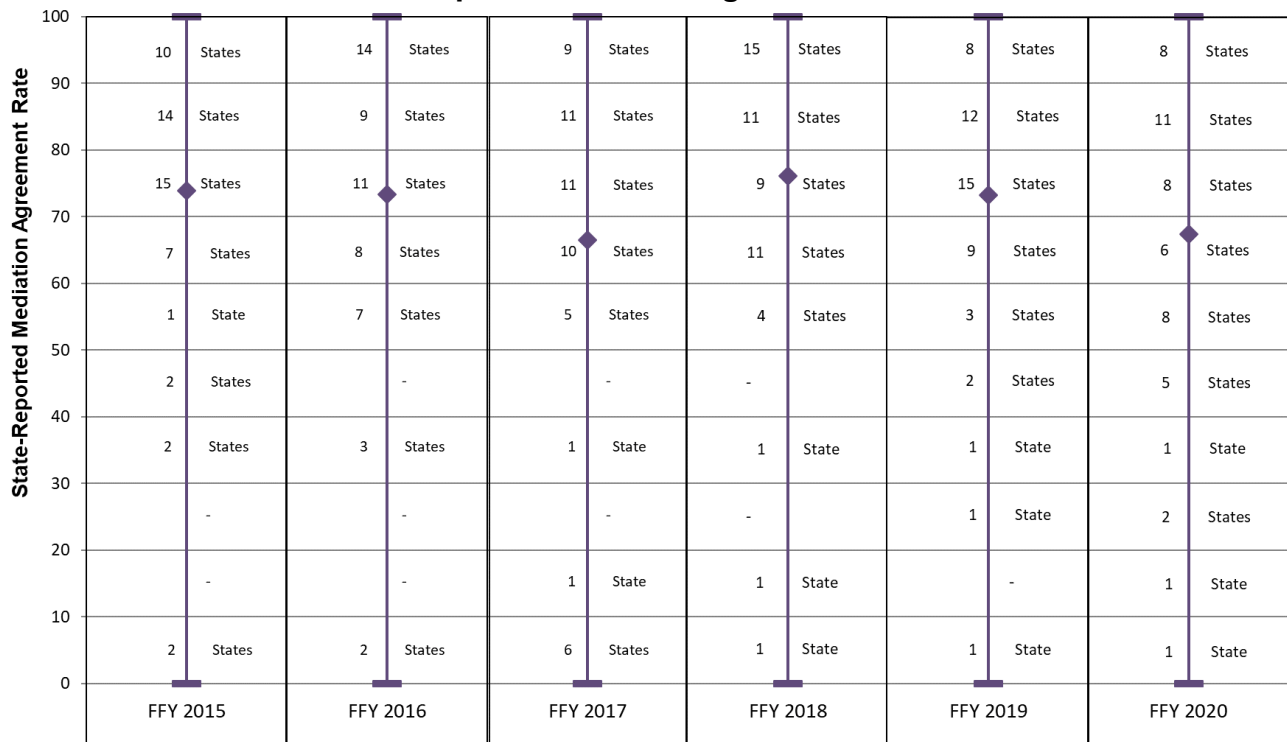


Table 2.1 below provides the summary statistics of the mediation agreement rate data including the mean agreement rate, highest agreement rate, lowest agreement rate and the number of states that reported no activity, for each of the six years.

Table 2.1

Statistic	FFY 2015	FFY 2016	FFY 2017	FFY 2018	FFY 2019	FFY 2020
Mean	74	73	67	76	73	67
Highest	100	100	100	100	100	100
Lowest	0	0	0	0	0	0
No Data	7	6	6	7	8	9

Table 2.2 shows the number of states that reported agreement rates within each range. In FFY 2020, the most frequent range of mediation agreement rate is 80 – 90% with 11 States falling within that range. Only one State reported an agreement rate between 0% to <10%.

Table 2.2

Ranges of state-reported mediation agreement rate	FFY 2015	FFY 2016	FFY 2017	FFY 2018	FFY 2019	FFY 2020
90% to 100%	10	14	9	15	8	8
80% to <90%	14	9	11	11	12	11
70% to <80%	15	11	11	9	15	8
60% to <70%	7	8	10	11	9	6
50% to <60%	1	7	5	4	3	8
40% to <50%	2	0	0	0	2	5
30% to <40%	2	3	1	1	1	1
20% to <30%	0	0	0	0	1	2
10% to <20%	0	0	1	1	0	1
0% to <10%	2	2	6	1	1	1

Forty-four States set targets for 2020-21 including seven States which were not required to set targets because they held fewer than ten mediation sessions. Only nine States set targets below 60%. Twenty-two States met their target, while 22 States did not meet

their target. For the 22 States that did not meet their established target, the average mediation agreement rate was reported to be above 50%.

CONCLUSION

Historical data remains consistent in that state-reported mediation agreement rates outperform resolution agreement rates. The six-year trend data demonstrates consistent high performance in mediation agreement rates. Results of this analysis continue to endorse the use of a neutral third-party to support educators and families in resolving special education disputes.