



# Quick Guide to Early Intervention Dispute Resolution Processes for Families of Infants & Toddlers (Birth through Age 2)

*This guide is not intended to interpret, modify, or replace any IDEA Part B or Part C procedural safeguards or requirements of federal or state law. State regulations associated with these processes vary widely but federal requirements remain consistent. Parents are encouraged to contact their state lead agency or OSEP-funded parent center for more information.*

Processes	IFSP Facilitation <i>Not required by the IDEA; availability varies by state</i>	Mediation	Written State Complaint	Due Process Complaint/Hearing Request IDEA Part B States Only*	Resolution Meeting IDEA Part B States Only*	Due Process Complaint/Hearing Request IDEA Part C States Only*
<b>How the Processes Differ</b>	An optional early resolution process typically conducted by an impartial and trained facilitator who assists the individualized family service plan IFSP team with communication and problem solving.	A voluntary process that brings people together with an impartial, qualified, and trained mediator, who helps them communicate with each other, express concerns, and resolve disagreements.	A written document used to communicate that an early intervention service provider, the state lead agency, or other public agency has not followed the IDEA, and to request a resolution by the state.	A legal process used to resolve a complaint filed by a parent, early intervention service provider, or the state's Part C lead agency.	A meeting that takes place after a parent files a due process complaint, but before the due process hearing takes place. The purpose of the meeting is for the parent to discuss the due process complaint with the lead agency in an attempt to resolve the issues.	A process used to resolve a complaint filed by a parent.
<b>What Issues &amp; When Used</b>	Used when an IFSP team is unable to agree on important issues related to a child's IFSP, or when a meeting is expected to address complex issues or differing points of view.	Available anytime there is a disagreement between parents and educators about special education and/or related services. It can be requested any time, including prior to, or when a due process hearing request or a written state complaint has been filed.	Available when there is a question about whether the IDEA regulations have been followed with respect to a particular infant/toddler and family or infants/toddlers and families system-wide.	Used to resolve disagreements relating to the identification, evaluation, or placement of an infant or toddler, or the provision of early intervention services to the infant or toddler with a disability and that child's family.	Used to resolve issues listed in a parent's due process complaint/hearing request.  The meeting must occur unless the parent and the lead agency agree in writing not to have the meeting, or to use the mediation process instead.	Used to resolve disagreements relating to the identification, evaluation, or placement of an infant or toddler, or the provision of early intervention services to the infant or toddler with a disability and that child's family.
<b>Who Initiates</b>	A family member, Early Intervention Service (EIS) provider, lead agency and/or public agency may request IFSP facilitation. A state lead agency may also recommend it as an alternative to a more formal process. Participation is voluntary for all parties.	A family member, EIS provider, lead agency and/or public agency may request mediation, but participation must be voluntary for all parties.	Any person or organization, even one from another state, may file a written state complaint.	A parent, an early intervention service provider, or the state's Part C lead agency may file a due process complaint/hearing request.	The lead agency must hold a resolution meeting within 15 calendar days of receiving notice of a parent's due process complaint/hearing request.	A parent may file a due complaint/hearing request.
<b>Outcome or Desired Result</b>	An IFSP that is supported by the family and other IFSP Team members and benefits the child and family. The IFSP may address other issues related to the provision of services for the infant/toddler and family.	A signed, legally enforceable, written agreement.	A written decision that includes findings and conclusions, and lists reasons for the final decision. If there is a finding that the IDEA was not followed, the report must also include corrective actions required to address the needs of the infant/toddler and family related to the complaint.	Written findings of fact and decisions. The decision may order specific actions to be taken.	A signed, legally enforceable agreement that resolves some or all of the issues listed in the due process complaint/hearing request, often referred to as a settlement agreement.	Written findings of fact and decisions. The decision may order specific actions to be taken.
<b>Process Distinctions</b>	IFSP facilitation is an early dispute resolution option that is not required by the IDEA. IFSP facilitation is not available in all areas.  IFSP facilitation allows all members of the team the chance to participate fully, since the facilitator serves as the meeting leader.	Mediation discussions are confidential and not admissible in a due process hearing or civil lawsuit.  Mediation is a flexible process – participants may influence the process and ultimately determine the outcome.  The mediator does not make decisions. All participants must agree to any decision in a mediated agreement.	This is the only dispute resolution option open to any person or organization, including those unrelated to the child.  The final decision may include corrective actions that are child-specific or relate to system-wide issues.  The complainant will have the opportunity to provide additional information about the concerns. This information can be provided orally or in writing.	The parents have the right to obtain a written or electronic verbatim transcript of the hearing, at no cost to the parents.  The appeals process for a hearing officer's decision varies state to state, and may include a lead agency conducting an impartial review. A party who disagrees with a review decision (where available) or a hearing officer's decision, may appeal by filing in state or federal court.	Resolution meetings occur only after a due process complaint/hearing request is filed by a parent.  The resolution meeting occurs unless the parent and the lead agency agree in writing not to have the meeting and go directly to a due process hearing, or to use the mediation process instead.	The parents have the right to obtain a written or electronic verbatim transcript of the hearing, at no cost to the parents.  The hearing officer's decision is appealable in state or federal court.

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<b>Benefits</b>	<p>May build and improve relationships among IFSP team members.</p> <p>Sometimes, team members feel more included and heard when a facilitator is involved.</p> <p>Can help resolve disagreements more quickly than other options.</p> <p>Keeps decision-making with IFSP team members who know the child best.</p> <p>The IFSP team may work together more effectively and efficiently.</p>	<p>Discussions are confidential – what is said in mediation can't be used as evidence in a due process hearing or civil lawsuit.</p> <p>Mediation offers a more flexible, less adversarial alternative to written state complaints or due process hearings.</p> <p>Sometimes participants work with the mediator to design the process. In some cases, participants may be allowed to select the mediator together.</p> <p>Mediation may help resolve disagreements more quickly than written state complaints or due process hearings.</p>	<p>A written decision must be issued no later than 60 <u>calendar</u> days after the complaint was received, unless the timeline is extended due to exceptional circumstances with regard to that particular complaint.</p> <p>A written state complaint is relatively easy to file.</p>	<p>Provides an opportunity to have an impartial third party decide the issues that the parties cannot resolve themselves.</p> <p>From the date that the due process complaint is filed until the decision is final, unless the lead agency and the parents agree otherwise, the child must continue to receive the appropriate early intervention services in the setting identified in the IFSP that is consented to by the parents.</p> <p>If the due process complaint involves an application for initial services under Part C, the child must receive the services that are not in dispute.</p> <p>Unless appealed, the hearing officer's decision is legally binding on the lead agency and the parents.</p>	<p>Provides a chance for the parent and the lead agency to work together to resolve issues prior to a due process hearing.</p> <p>Keeps decision-making with the parent and lead agency who know the child.</p> <p>The lead agency may bring an attorney to the resolution meeting only if the parent chooses to bring an attorney.</p> <p>Can result in a legally-binding, enforceable agreement.</p> <p>The parents or lead agency may cancel a resolution agreement within three <u>business</u> days of the agreement being signed.</p>	<p>Provides an opportunity to have an impartial third party decide the issues that the parties cannot resolve themselves.</p> <p>From the date that the due process complaint is filed until the decision is final, unless the lead agency and the parents agree otherwise, the child must continue to receive the appropriate early intervention services in the setting identified in the IFSP that is consented to by the parents.</p> <p>If the due process complaint involves an application for initial services under Part C, the child must receive the services that are not in dispute.</p> <p>Unless appealed, the hearing officer's decision is legally binding on the lead agency and the parents.</p>
<b>Considerations</b>	<p>The family, EIS provider, lead agency and/or public agency typically agree to use IFSP facilitation.</p> <p>For the process to be successful, everyone at the meeting needs to respect the role of the facilitator and be willing to participate.</p> <p>The facilitator typically does not address issues unrelated to the IFSP.</p>	<p>Mediation is voluntary, so the family member, EIS provider, lead agency and/or public agency must agree to participate.</p> <p>Whether there is resolution of the issues, or an agreement is created, depends upon the participants.</p> <p>Complex situations may require multiple mediation sessions to come to agreement.</p> <p>There is no guarantee that a written agreement will be created.</p>	<p>The person or organization filing the complaint must provide facts to support the concern that the IDEA was not followed. A written state complaint must be signed. NOTE: Parent permission is needed to release personally identifiable information to a third-party.</p> <p>This process does not require those involved to try resolving the dispute collaboratively. However, mediation remains available anytime.</p> <p>The IDEA does not require states to offer an appeal process for the written decision. If an appeal is allowed, the 60 calendar day timeline for a final decision is still in effect. <i>Check with your state lead agency for options that may be available.</i></p>	<p>The decision is made by a hearing officer who:</p> <ul style="list-style-type: none"> <li>▪ Is not an employee of the lead agency or an early intervention service provider involved in the provision of early intervention services or care of the child;</li> <li>▪ Does not have a personal or professional interest that would conflict with his or her objectivity in implementing the process.</li> </ul> <p>Appeals to the lead agency are only available in a limited number of states. If the hearing officer's decision is appealed to the lead agency, that decision may not be carried out until the appeal is done.</p> <p>The lead agency may be represented by an attorney. If the parent hires an attorney, it is at the parent's expense.</p>	<p>Although the IDEA does not require it, parties may choose to sign a confidentiality agreement or include it in a resolution agreement.</p>	<p>The decision is made by a hearing officer who:</p> <ul style="list-style-type: none"> <li>▪ Is not an employee of the lead agency or an early intervention service provider involved in the provision of early intervention services or care of the child;</li> <li>▪ Does not have a personal or professional interest that would conflict with his or her objectivity in implementing the process.</li> </ul> <p>If the hearing officer's decision is appealed, that decision may not be carried out until the appeal is done.</p> <p>The lead agency may be represented by an attorney. If the parent hires an attorney, it is at the parent's expense.</p>
<b>Decision-maker</b>	<p>The IFSP Team, which would include the infant/toddler's parent.</p>	<p>Participants, including the infant/toddler's parent, work on solutions together and are in control of the outcome.</p>	<p>The state is responsible for ensuring that the complaint is resolved, and an independent decision is made about the complaint.</p>	<p>A hearing officer makes the hearing decision. If the decision is appealed to the lead agency, an impartial reviewing official makes the decision. If the hearing or review decision is appealed to court, a state or federal judge makes the decision.</p>	<p>The parents and the lead agency identify the terms of any resolution agreement.</p>	<p>A hearing officer makes the hearing decision. If the decision is appealed, a state or federal judge makes the decision.</p>

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<b>Role of Third Party</b>	<p>A <u>facilitator</u> typically:</p> <ul style="list-style-type: none"> <li>Helps team members develop ground rules and an agenda for the meeting.</li> <li>Guides discussion by asking child-focused questions.</li> <li>Keeps the team task-focused.</li> <li>Asks questions to clarify points of agreement and disagreement, and helps identify workable solutions.</li> <li>Does not make decisions or determine if team members are right or wrong.</li> </ul>	<p>A <u>mediator</u> typically:</p> <ul style="list-style-type: none"> <li>Helps participants develop ground rules for the session.</li> <li>Creates a safe environment and encourages participants to be respectful of other points of view.</li> <li>Guides discussion by listening, identifying interests, and clarifying concerns.</li> <li>Does not make decisions.</li> <li>Is knowledgeable of laws relating to special education and related services.</li> </ul>	<p>A <u>complaint investigator</u>:</p> <ul style="list-style-type: none"> <li>Reviews information related to the complaint.</li> <li>May interview or meet with people related to the complaint.</li> <li>Makes findings and a determination based on applicable law.</li> </ul>	<p>The hearing officer:</p> <ul style="list-style-type: none"> <li>Oversees the hearing timeline, including all pre-hearing activities.</li> <li>Conducts the hearing and manages procedural matters.</li> <li>Uses applicable law to write a decision based on testimony and other evidence introduced in the hearing.</li> <li>May dismiss the due process complaint (hearing request) if the issues are resolved before the hearing.</li> </ul> <p>In states that provide for a lead agency review, if a review of the hearing decision is requested from the lead agency, the <u>reviewing official</u> must:</p> <ul style="list-style-type: none"> <li>Examine the entire hearing record;</li> <li>Seek additional evidence, if necessary;</li> <li>Give the parties the opportunity for oral or written argument, or both (at the reviewing officials discretion);</li> <li>Make an independent decision following the review;</li> <li>Issue a decision with findings of fact and conclusions of law.</li> </ul>	<p>The IDEA does not require a third-party facilitator to be present at resolution meetings. Some states may provide facilitators for resolution meetings if requested by the parents and lead agency, although this is not required under the IDEA.</p>	<p>The hearing officer:</p> <ul style="list-style-type: none"> <li>Oversees the hearing timeline, including all pre-hearing activities.</li> <li>Conducts the hearing and manages procedural matters.</li> <li>Uses applicable law to write a decision based on testimony and other evidence introduced in the hearing.</li> <li>May dismiss the due process complaint (hearing request) if the issues are resolved before the hearing.</li> </ul>
<b>Time Frame</b>	<p>No specific timeline, but cannot delay required timelines for initial development or review of the IFSP.</p> <p>Meetings may be scheduled within a few days or weeks of a received request.</p>	<p>No timeline specified. Required to be scheduled in a timely manner.</p> <ul style="list-style-type: none"> <li>Mediation may not be used to deny or delay a family's right to a due process hearing, or to deny any other rights under Part C of the IDEA.</li> </ul>	<p>Under the IDEA, written state complaints must be filed within one year of the date when the individual knew or should have known of the problem.</p> <ul style="list-style-type: none"> <li>The written decision must be issued no later than 60 <u>calendar</u> days from the date the complaint was filed, unless the timeline is extended under exceptional circumstances or if the parties agree to extend the timeline to engage in the mediation process.</li> </ul>	<p>Under the IDEA, a party must request a hearing (file a due process complaint) within either:</p> <ol style="list-style-type: none"> <li>Two years from the date the party knew or should have known about the action that is the basis for the hearing; OR</li> <li>A different time line established by the state.</li> </ol> <p>The written hearing decision must be issued within either 30 or 45 calendar days (each state must establish one of these timelines) from the end of the resolution period, unless a hearing officer grants a specific extension of the timeline at the request of a party.</p>	<p>The lead agency must hold a resolution meeting within 15 <u>calendar</u> days of receiving notice of the parent's due process complaint, unless the parent and lead agency: (1) agree in writing to waive the resolution meeting; or (2) agree to use mediation. A parent may ask for the due process hearing officer to start the hearing timeline if the lead agency does not hold the resolution meeting on time.</p> <p>The parent and the lead agency have up to 30 <u>calendar</u> days to reach a resolution (called the resolution period). If they do not reach a resolution within that time period, the due process hearing may occur. The due process hearing officer may extend the resolution period timeline if both parties agree in writing.</p>	<p>The IDEA does not identify a time limit for filing. It is important to file in a timely manner to make sure your concerns about your child's services are addressed promptly.</p> <p>The hearing must be completed, and the hearing decision issued, within 30 <u>calendar</u> days from the date the due process complaint was received.</p>

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<b>Financial Cost/ Who Pays</b>	Typically there is no cost to the family. For states that offer IFSP facilitation, the meeting is generally facilitated at public expense.	No cost to the family. The mediator and facilities are provided at public expense.	No cost to the family. The investigation is conducted and decision provided at public expense.	The hearing, hearing officer, facilities, and decision must be at no cost to the parents.  Each party pays its own costs, which may include attorney's fees and witness fees.	The resolution meeting is held at no cost to the parent. However, if parents bring an attorney to a resolution meeting, the parent is responsible for paying their attorney fees.	The hearing, hearing officer, facilities, and decision must be at no cost to the parents.  Each party pays its own costs, which may include attorney's fees and witness fees.
<b>Impact on Relationships</b>	A facilitator present at IFSP meetings may help team members problem-solve more effectively.  Better communication and improved relationships often result from facilitated IFSP meetings.	A mediator may help participants problem-solve more effectively.  Better communication and improved relationships often result from mediations.	This process does not focus on relationships.	Due process is considered the most adversarial dispute resolution process.	Resolution meetings give parents and the lead agency an opportunity to clarify and resolve the issues before having a due process hearing. Where available, using a facilitator to help guide the discussion and problem-solve may result in better communication.	Due process is considered the most adversarial dispute resolution process.
<b>How to Prepare</b>  <i>Additional resources are available on the CADRE website</i>  <a href="http://www.cadeworks.org">www.cadeworks.org</a>	It may be helpful to: <ul style="list-style-type: none"> <li>Make a list of the issues you want to discuss and questions you want to ask.</li> <li>Think about what is most important to your child's and family's needs.</li> <li>Be willing to listen and carefully consider others' ideas, as well as possible solutions.</li> <li>Organize documents, put dates and notes on them, and bring extra copies to share.</li> <li>Bring materials that may be helpful to explain or inform others.</li> <li>Think about how you plan to deal with emotions during the meeting.</li> <li>Arrive a little before the meeting, so you have time to get ready to participate.</li> </ul>	It may be helpful to: <ul style="list-style-type: none"> <li>Make a list of the issues you want to discuss and questions you want to ask.</li> <li>Think about what is most important to your child's and family's needs.</li> <li>Be willing to listen and carefully consider others' ideas, as well as possible solutions.</li> <li>Organize documents, put dates and notes on them, and bring extra copies to share.</li> <li>Bring materials that may be helpful to explain or inform others.</li> <li>Think about how you plan to deal with emotions during the meeting.</li> <li>Arrive a little before the meeting, so you have time to get ready to participate.</li> </ul>	The person filing the complaint must: <ul style="list-style-type: none"> <li>Include all of the required information to support the claim that the IDEA was not followed when the complaint is filed.</li> <li>At the same time the complaint is filed with the State, the complainant must provide a copy of the complaint to the EIS provider, state lead agency or entity the complaint is against.</li> <li>Respond to all requests for more information about the complaint in a timely manner.</li> </ul> <p>It may be helpful to organize all of the child's records and other documents and be prepared to demonstrate how this information shows that the agency did not follow the requirements.</p>	Considerable preparation is needed to present a case adequately.  Parties should be prepared to do the following for a hearing: <ul style="list-style-type: none"> <li>Gather and submit evidence</li> <li>Prepare testimony, witness lists, and other hearing documents</li> <li>Question and cross-examine witnesses</li> </ul> <p>Parties choose whether or not to hire or consult with an attorney. A person who is not represented by an attorney may be referred to as appearing "pro se." This is a Latin term that means the person represents himself or herself in the legal proceeding.</p>	It may be helpful to: <ul style="list-style-type: none"> <li>Bring a copy of the due process complaint/hearing request, as well as other materials that may be useful to you.</li> <li>Make a list of your child's and family's needs.</li> <li>Organize materials, including notes and dates on documents.</li> <li>Consider all possible solutions to the problem.</li> <li>Think about how you plan to deal with emotions during the meeting, and to try to stay optimistic and open to solutions.</li> <li>Pay close attention to timelines in any correspondence you receive.</li> </ul> <p>Consider asking someone to come to the resolution meeting with you, to help process information and stay positively focused.</p>	Considerable preparation is needed to present a case adequately. Parties should be prepared to do the following for a hearing: <ul style="list-style-type: none"> <li>Gather and submit evidence</li> <li>Prepare testimony, witness lists, and other hearing documents</li> <li>Question and cross-examine witnesses</li> </ul> <p>Parties choose whether or not to hire or consult with an attorney. A person who is not represented by an attorney may be referred to as appearing "pro se." This is a Latin term that means the person represents himself or herself in the legal proceeding.</p>


\* Information about whether a particular state follows Part B or Part C procedures for Due Process Hearings/Complaints can be found at <https://www.cadeworks.org/resources/idea-early-intervention-family-guides>

CADRE produced this document under U.S. Department of Education Office of Special Education Programs Cooperative Agreement No. H326X130001. Tina Diamond, Ph.D., served as the project officer. The views expressed herein do not necessarily represent the positions or policies of the U.S. Department of Education. No official endorsement by the U.S. Department of Education of any product, commodity, service, or enterprise mentioned in this publication is intended or should be inferred. This product is public domain. Authorization to reproduce it in whole or part is granted. While permission to reprint this publication is not necessary, the citation should be: CADRE (2018). CADRE Quick Guide to Early Intervention Dispute Resolution Processes for Parents of Infants & Toddlers (Birth through Age 2), Eugene, Oregon, CADRE. Publication Date: September 2018.

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