Part B/C

Dispute Resolution | State Complaint

# OVERVIEW

In 2016, OSEP began providing differentiated monitoring and support (DMS) to States as part of its Results Driven Accountability ([RDA](https://www2.ed.gov/about/offices/list/osers/osep/rda/index.html)) system under Parts B and C of the Individuals with Disabilities Education Act (IDEA). Under RDA, OSEP made a shift from monitoring based solely on compliance with IDEA requirements to monitoring and support focused on both compliance and improving results for infants, toddlers, children, and youth with disabilities referred to and/or served under the IDEA (collectively referred to as children with disabilities). OSEP differentiates its approach for each State based on the State’s unique strengths, challenges, and needs. Beginning in Federal fiscal year (FFY) 2021, Part B and Part C programs in States will be monitored by OSEP in a five-year cycle. OSEP will monitor all States[[1]](#footnote-2) on their general supervision systems. OSEP will continue to provide support and technical assistance that is differentiated based on each State’s unique strengths, challenges, and needs.

# IMPLEMENTATION

OSEP’s monitoring of each State will be conducted in three (3) phases:

1. ***Phase 1: Document Request and Protocol Interviews*:**  The OSEP monitoring team will begin working with the State to prepare for the Phase 2 visit. Phase 1 will occur 5 months prior to the Phase 2 on-site/virtual visit. The OSEP monitoring team will review all publicly available information prior to working with the State.
	1. **5 months prior to the Phase 2** visit OSEP will send a document request for relevant information we have not found in our initial research. Please refer to the suggested documents listed below for an initial list of the information we are seeking.
	2. **4 months prior to the Phase 2** visit OSEP will conduct targeted interviews with State staff on the component-specific protocols.[[2]](#footnote-3)
2. ***Phase 2: On-site/Virtual Visit through issuing of the Monitoring Report*:**  Based on information collected during the Phase 1 work, OSEP will develop an agenda for the on-site/virtual visit focusing on the issues that require further exploration, deeper looks or additional discussions.
3. ***Phase 3: Follow-up and Close-out*:**  In the year following the on-site visit, the OSEP State Lead will work with the State to ensure correction of any remaining outstanding findings, provide technical assistance, and support, and discuss progress in improving identified results areas.

#### The protocols are developed and organized in the following way—

Question: Overarching area and question related to the monitoring component.

General Information: A listing of statements about what the State would need to effectively answer the question.

Possible Follow-up Questions: Questions designed to more closely examine areas addressed by the General Information. The questions included within this section identify areas that may be explored and are examples of what can but may not necessarily be asked; OSEP may ask additional questions that are not listed to ensure understanding.

Areas (or issues) for Follow-up: Issues which could: 1) result in findings of noncompliance if verified, or areas of concern that may not rise to the level of a finding of noncompliance but require follow-up; 2) lead to a finding of noncompliance if the State does not have a process or procedure to meet the applicable IDEA Requirement(s); or 3) be areas that suggest the need for technical assistance or further discussion.

## State Complaints:

## Does the State have policies, procedures, and practices that are reasonably designed to implement the State complaint requirements of IDEA?

Component Definition: DISPUTE RESOLUTION—A system required under IDEA and designed as part of a State’s general supervisory responsibility to ensure implementation of IDEA’s dispute resolution procedures (i.e., State complaints, mediation, and due process complaints and due process hearings, including the resolution process required under Part B), consistent with IDEA requirements.

### Suggested Documents to Review (not exhaustive):

* Procedural safeguards notice
* Model forms for State complaints, if available, may be found on the State’s website
 **(NOTE: required only under Part B)**
* Policies and procedures related to the resolution of State complaints
* If available on the State website, State Education Agency (SEA)/Lead Agency (LA) State complaint decisions
* Any supplemental guides or Q & A Documents the State has developed to provide guidance to its stakeholders related to *the differences in the State complaint and due process procedures*
* Description of how the State complaint system is established in the State
* The State’s IDEA Section 618 dispute resolution data (at least 3 years’ worth of data)

# Overarching Questions (details start on page 5)

## [How does the State ensure that parents and others have access to the State’s model State complaint form under IDEA Part B?](#_How_does_the_5) [34 C.F.R. §§ 300.153](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1153&rgn=div8); [300.151](https://www.ecfr.gov/current/title-34/subtitle-B/chapter-III/part-300#300.151); and [300.509](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1509&rgn=div8); [Question B-4 from the IDEA Part B Dispute Resolution Q&A (July 2013)](https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/acccombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf)

## [How does the State ensure that parents and others have access to general information about the State complaint procedures under IDEA Part C?](#_How_does_the_4) [34 C.F.R §§ 303.432](https://www.ecfr.gov/current/title-34/subtitle-B/chapter-III/part-303/subpart-E/subject-group-ECFR2ec0922f15df85d/section-303.432); and [303.434](https://www.ecfr.gov/current/title-34/subtitle-B/chapter-III/part-303/subpart-E/subject-group-ECFR2ec0922f15df85d/section-303.434)

## [What are the State’s requirements for filing and accepting a State complaint?](#_What_are_the_1) [34 C.F.R. § 300.153](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1153&rgn=div8); [34 C.F.R § 303.434](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7b5816d51031b6457afd799fa775e86f&mc=true&r=SECTION&n=se34.2.303_1434); [Questions B-13 and B-15 from the IDEA Part B Dispute Resolution Q&A](https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/acccombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf) (July 2013)

## [What are the State requirements regarding the scope of allegations and relief that may be included in a State complaint?](#_What_are_the) [34 C.F.R. § 300.151](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1151&rgn=div8); [34 C.F.R § 303.432](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7b5816d51031b6457afd799fa775e86f&mc=true&r=SECTION&n=se34.2.303_1432); [Questions B- 5 through B- 9 of the IDEA Part B Dispute Resolution Q&A (July 2013)](https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/acccombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf)

## [How does the State ensure the timely resolution of State complaints?](#_How_does_the_3) [34 C.F.R. § 300.152](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1152&rgn=div8); [34 C.F.R § 303.433](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7b5816d51031b6457afd799fa775e86f&mc=true&r=SECTION&n=se34.2.303_1433); [Questions B-14 and B-32 of the IDEA Part B Dispute Resolution Q&A](https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/acccombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf) (July 2013)

## [Under what conditions does the State extend the 60-day State complaint timeline?](#_Under_what_conditions) [34 C.F.R. § 300.152](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1152&rgn=div8); [34 C.F.R § 303.433](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7b5816d51031b6457afd799fa775e86f&mc=true&r=SECTION&n=se34.2.303_1433); [Question B-21 of the IDEA Part B Dispute Resolution Q&A](https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/acccombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf) (July 2013)

## [How does the State resolve a State complaint?](#_How_does_the_2) [34 C.F.R. § 300.152](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1152&rgn=div8); [34 C.F.R § 303.433](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7b5816d51031b6457afd799fa775e86f&mc=true&r=SECTION&n=se34.2.303_1433) [Questions B- 5 through B- 9 of the IDEA Part B Dispute Resolution Q&A](https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/acccombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf) (July 2013)

## [How does the State ensure the implementation of the State complaint decisions?](#_How_does_the_1) [34 C.F.R. § 300.152](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1152&rgn=div8); [34 C.F.R § 303.433](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7b5816d51031b6457afd799fa775e86f&mc=true&r=SECTION&n=se34.2.303_1433)

## [How does the State use information from State complaint decisions in its general supervision system?](#_How_does_the) [34 C.F.R. §§ 300.149](https://www.ecfr.gov/cgi-bin/text-idx?SID=6ad6f6f74ab7bc054cba5a69d19d535c&mc=true&node=se34.2.300_1149&rgn=div8) and [300.600](https://www.ecfr.gov/cgi-bin/text-idx?SID=6ad6f6f74ab7bc054cba5a69d19d535c&mc=true&node=se34.2.300_1600&rgn=div8); [34 C.F.R. § 303.700](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7b5816d51031b6457afd799fa775e86f&mc=true&r=SECTION&n=se34.2.303_1700)

## How does the State ensure that parents and others have access to the State’s model State complaint form under IDEA Part B? [34 C.F.R. §§ 300.153](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1153&rgn=div8); [300.151](https://www.ecfr.gov/current/title-34/subtitle-B/chapter-III/part-300#300.151); and [300.509](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1509&rgn=div8); [Question B-4 from the IDEA Part B Dispute Resolution Q&A (July 2013)](https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/acccombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf)

**Part B applicable only**

### General Information

* Under Part B of IDEA, the State must have a model State complaint form.
* The State forms need to include the required elements for filing a State complaint:
	+ A statement that a public agency violated a requirement of Part B of IDEA;
	+ The facts on which the statement is based;
	+ Signature and contact information for the complainant; and
	+ If alleging a violation for a specific child, the name and address of the child, name of the child’s school, 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. 11434(a)(2)), available contact information for the child, and the name of the school the child is attending, a description of the problem, and a proposed resolution.
* States cannot require any party (e.g., parents, or other complainants) to use the model form.
* The State needs to ensure that the model form is publicly available and accessible by widely disseminating it to parents and other stakeholders.

### Possible Follow-up Questions

* How can stakeholders access the model form?
	+ Is the model form posted on the State’s website?
	+ Is the model form included within the Procedural Safeguards notice to parents?
	+ Is the model form provided through outreach to stakeholder advocacy groups (e.g., PTI Centers, P & A Agencies, disability organizations)?
* Is the model form available in multiple languages? If not, what assistance is available to parents in completing the form if English is not their native language?
* If a complainant is unable to read or write and contacts the SEA for information about filing a State complaint, how does the State handle this situation?
* Does the State require its stakeholders to use a model form to file a State complaint?
* Is there any explanation on the State’s model form or related guidance that indicates that the form is required to be used to file a State complaint?
* If the State includes data elements not required by IDEA, does the State clearly identify those elements as optional?
* If the State includes additional “optional elements,” what action does the SEA take if the complainant does not include the requested information that is optional?

### Areas (or issues) for Follow-up

* The State does not have a model form.
* The model form does not include all required elements.
* The State reports that it does not resolve a complaint unless it is submitted on the model form.
* The State has disseminated information that indicates the model form must be used to file a State complaint (e.g., brochures, Q&A documents, content on its web site, etc.).
* The State has additional content requirements on its model form (e.g., disability, name of attorney, date of last individualized education program (IEP) Team meeting, any information not required by the regulations) and those additional data elements are not delineated as optional information.
* The State delays resolution of, or dismisses, State complaints based on missing additional content not required by IDEA.

### Notes

## How does the State ensure that parents and others have access to general information about the State complaint procedures under IDEA Part C? [34 C.F.R §§ 303.432](https://www.ecfr.gov/current/title-34/subtitle-B/chapter-III/part-303/subpart-E/subject-group-ECFR2ec0922f15df85d/section-303.432); and [303.434](https://www.ecfr.gov/current/title-34/subtitle-B/chapter-III/part-303/subpart-E/subject-group-ECFR2ec0922f15df85d/section-303.434)

**Part C applicable only**

### General Information

* The LA must adopt written procedures for resolving complaints, including a complaint filed by an organization or individual from another State, by providing for the filing of a complaint with the LA.
* The LA must widely disseminate to parents and other interested individuals, protection and advocacy agencies and other stakeholders, the state’s procedures for filing and resolving State complaints.
* The LA must have procedures to ensure the provision of prior written notice that includes information about dispute resolution options including filing the State complaint.
* When resolving complaints, the LA must address failures to provide appropriate services and develop correction actions that address the needs of the infant or toddler with a disability who is subject of the complaint.
* When resolving complaints, the LA must also address appropriate future provisions for all infants and toddlers with disabilities and their families.

### Possible Follow-up Questions

* How does the LA ensure that parents are informed of their right to file a state complaint through its prior written notice policy and procedures?
* Does the LA have written State compliant procedures in place for resolving complaints?
* How can stakeholders access these written State complaint procedures?
	+ Are the State complaint procedures posted on the LA’s website?
	+ Are links to the State complaint procedures provided through outreach to stakeholder advocacy groups?
* How does the LA ensure that corrective actions in response to state complaints are executed?
* How does the LA widely disseminate the state procedures to parents and other interested individuals, protection and advocacy agencies and other stakeholders?

### Areas (or issues) for Follow-up

* The LA does not have written procedures for resolving state complaints.
* The LA does not have its written state complaints procedures on its website.
* The LA does not have a system to address state complaints for infants and toddlers.
* The LA does not widely disseminate to parents and other interested individuals, protection and advocacy agencies and other stakeholders, the state procedures.

### Notes

## What are the State’s requirements for filing and accepting a State complaint? [34 C.F.R. § 300.153](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1153&rgn=div8); [34 C.F.R § 303.434](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7b5816d51031b6457afd799fa775e86f&mc=true&r=SECTION&n=se34.2.303_1434); [Questions B-13 and B-15 from the IDEA Part B Dispute Resolution Q&A](https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/acccombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf) (July 2013)

### General Information

* The State complaint must include:
	+ A statement that a public agency has violated a requirement of Part B, or the LA, public agency or early intervention service (EIS) provider has violated a requirement of Part C of IDEA.
	+ The facts on which the statement is based,
	+ Signature and contact information for the complainant and,
	+ If alleging violations for a specific child, the name and address of the child, name of the child’s EIS provider or school, 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. 11434(a)(2)), available contact information for the child, and the name of the school the child is attending, description of the problem, and a proposed resolution.
* The State cannot require a complainant to provide more information than is outlined in the regulations.
* The State cannot require a complainant to go to a specific location to file a complaint (e.g., the SEA or LA, the school or EIS provider’s office).
* The State must resolve State complaints that allege violations that occurred within one year of the date the complaint is filed.
* The State has the discretion to accept State complaints filed electronically.
* The State cannot require a sworn statement (e.g., an affidavit or notarized complaint).
* The State can choose to dismiss a State complaint that does not include all of the required content. In such cases, it should have adopted proper notice procedures for such situations.

### Possible Follow-up Questions

* Does the State choose to accept and resolve a violation that occurred more than one year prior to the filing of a State complaint? If so, what is the State’s timeline? How does the State let the public know the timeline for filing?
* How does the SEA/LA respond if a “complaint” does not include all of the required content?
* What methods can individuals use to file a State complaint – fax, email, U.S. mail, in-person, etc.?
* How does the State ensure the confidentiality of personally identifiable information and authenticate the complainant?
* How does the State disseminate information about how a stakeholder can file a State complaint?
* What circumstances would warrant the dismissal of a State complaint received by the SEA or LA?

### Areas (or issues) for Follow-up

* The State has additional content requirements (e.g., disability, name of attorney, date of last IEP/individualized family service plan (IFSP) meeting, any information not required by the regulations) and they are not delineated as optional information.
* The State delays resolution of, or dismisses, State complaints based on missing additional content not required by IDEA.
* The State reports it has not received any State complaints within the last two years.
* The State requires the complainant to travel to the SEA/LA or a particular location to file the State complaint.
* The State requires a sworn statement when filing a State complaint, such as an affidavit or having the State complaint notarized.
* The State dismisses State complaints without having adopted proper notice procedures for such situations.

### Notes

## What are the State requirements regarding the scope of allegations and relief that may be included in a State complaint? [34 C.F.R. § 300.151](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1151&rgn=div8); [34 C.F.R § 303.432](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7b5816d51031b6457afd799fa775e86f&mc=true&r=SECTION&n=se34.2.303_1432); [Questions B- 5 through B- 9 of the IDEA Part B Dispute Resolution Q&A (July 2013)](https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/acccombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf)

### General Information

* The State may not refuse to resolve a parent’s State complaint challenging a public agency’s eligibility determination.
* The State may not refuse to resolve a State complaint alleging a denial of a free appropriate public education (FAPE), including those in which the parent is seeking tuition reimbursement or placement in a private school at public expense [Part B only].
* The State must resolve State complaints alleging that a public agency has not provided FAPE to an individual child or a group of children in accordance with Part B.
* If an SEA or LA has found a failure to provide appropriate services, it must address: (1) the failure to provide appropriate services, including corrective action(s) 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.

### Possible Follow-up questions

* How does the State resolve a State complaint challenging a public agency’s eligibility determination?
* How does the State resolve a State complaint that concerns a matter that could also be the subject of a due process complaint?
* How does the State resolve a State complaint challenging a public agency’s decision regarding the provision or denial of FAPE to a child with a disability?
* Does the State resolve State complaints regarding a group of children?
* What remedies does the State use to address the denial of appropriate services to an individual child or group of children?
* What are some examples of when the State has dismissed, or would dismiss, a State complaint?

### Areas (or issues) for Follow-up

* The State does not resolve State complaints that allege a denial of FAPE or challenge an eligibility determination despite OSEP’s longstanding guidance in this area.
* The State only resolves complaints filed on behalf of individual children.
* The State limits the remedies a complaint investigator may order (e.g., compensatory services).

### Notes

## How does the State ensure the timely resolution of State complaints? [34 C.F.R. § 300.152](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1152&rgn=div8); [34 C.F.R § 303.433](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7b5816d51031b6457afd799fa775e86f&mc=true&r=SECTION&n=se34.2.303_1433); [Questions B-14 and B-32 of the IDEA Part B Dispute Resolution Q&A](https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/acccombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf) (July 2013)

### General Information

* The State is required to resolve a State complaint within 60 calendar days after the complaint is filed. Exceptions or extensions to the timeline are addressed in Question D of this protocol.
* The State must have procedures in place to record the date the State complaint is received and to track the 60-day timeline.
* The State must have procedures to track timelines when the parties have agreed to extend the time to use mediation to attempt to resolve the dispute.
* The State must have procedures to track the resolution of any due process complaints that contain the same issue if a State complaint is being held in abeyance.
* The State can establish an appeal process for a State complaint decision. If the State has an appeal process, the complaint and appeal must be completed within the 60-day timeline (or if not completed within that time frame, the State requires that any corrective actions be implemented, while the appeal is pending). Similarly, a State can establish a reconsideration process which could extend beyond the 60 days but must ensure the LEA/EIS provider implements any required corrective action, while the process is pending.

### Possible Follow-up Questions

* How does the SEA/LA calculate the timeline for resolving State complaints?
* What mechanism does the State use to record the date of the State complaint submission?
* How does the SEA/LA handle State complaints that are submitted over the weekend? When does the State record the State complaint as received?
* What staff resources has the State allocated for resolution of State complaints?
* Are there peak times for complaints? If so, are additional staff members or resources allotted to ensure State complaints are resolved within timelines during this time?
* Does the State have an appeals process? If so, describe how timelines are met.
* How does the State manage the timeline if the parties have agreed to extend the timeline to engage in mediation?
* What procedures does the State have in place to track the outcome when the parties have agreed to use mediation when a State complaint is filed?
* How does the State track the resolution of a due process complaint that includes an issue in a pending State complaint?

### Areas (or issues) for Follow-up

* The State does not have procedures in place to record the date the State complaint is received.
* The State does not have a process for tracking the 60-day timeline, or it is not calculating it according to calendar days or otherwise incorrectly managing the timeline.
* The State is not accurately recording the date that the State complaint is received (e.g., it is not starting the timeline on the actual day the complaint is received, it does not have a consistent practice for determining when the State considers a State complaint “received”).
* The State does not have procedures to ensure that the outcome of a due process complaint that includes the same issue in a pending State complaint is analyzed to determine whether that issue was addressed in the hearing decision (or must be resolved by the SEA through the State complaint procedures).
* The State does not have procedures to track the outcome when the parties use mediation, and if the dispute has been resolved.

### Notes

## Under what conditions does the State extend the 60-day State complaint timeline? [34 C.F.R. § 300.152](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1152&rgn=div8); [34 C.F.R § 303.433](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7b5816d51031b6457afd799fa775e86f&mc=true&r=SECTION&n=se34.2.303_1433); [Question B-21 of the IDEA Part B Dispute Resolution Q&A](https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/acccombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf) (July 2013)

### General Information

* Extensions of the 60-day State complaint timeline must be made on a case-by-case basis.
* The State can extend the 60-day timeline if both parties agree to mediation or other alternative means of dispute resolution if available in the State *and* agree to extend the 60-day timeline to engage in such mediation or alternative means of dispute resolution.
* The State can extend the 60-day timeline if exceptional circumstances exist with respect to the particular State complaint.
* If the State complaint alleges issues that are the subject of a pending due process hearing, the State complaint resolution is put on hold until the completion of the due process hearing. (If the State complaint includes allegations about other violations that are not at issue in the due process hearing, these allegations must be resolved within the 60-day timeline.)
* The regulations do not specify a limit on the length of an extension of the 60-day timeline.

### Possible Follow-up Questions

* How does the SEA/LA determine whether an extension of the 60-day timeline is warranted?
* How are extensions documented and recorded?
	+ Does the complaint decision letter document that the extension has occurred with the reasons for the extension?
	+ Are the parties notified in advance that the SEA/LA determined an extension of the 60-day timeline is necessary?
* What are some examples of when the SEA/LA has extended (or would extend) the 60-day timeline?

### Areas (or issues) for Follow-up

* The State extends the 60-day timeline because it does not have sufficient staff or other administrative reasons.
* The State cannot show documentation of mutual agreement when the State extended the 60-day timeline because the parties used mediation.
* The State places all State complaint allegations on hold when a due process complaint is filed on the same issue, even if some of the issues are not addressed in the due process complaint.
* The State extends the timeline for reasons other than what is permitted by the regulations and Departmental guidance (e.g., Q&A documents, Analysis of Comments and Changes accompanying the Part B and Part C regulations, etc.).

### Notes

## How does the State resolve a State complaint? [34 C.F.R. § 300.152](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1152&rgn=div8); [34 C.F.R § 303.433](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7b5816d51031b6457afd799fa775e86f&mc=true&r=SECTION&n=se34.2.303_1433) [Questions B- 5 through B- 9 of the IDEA Part B Dispute Resolution Q&A](https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/acccombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf) (July 2013)

### General Information

* The State must have a process for gathering evidence needed to refute or substantiate the allegation.
* The State must have a process that allows the complainant to provide additional information.
* The State must issue a written decision that addresses each allegation in the State complaint.
* If the State complaint includes allegations that are outside of the State’s jurisdiction, the SEA or LA would not be required to resolve such issues, and therefore those issues would not have to be included in the State’s written decision.
* The State should document how it informs the complainant of any allegations that will not be addressed in the SEA’s resolution of the State complaint and the basis for that decision (e.g., the alleged violations occurred longer ago than the one-year timeline, the complainant’s concerns do not involve an alleged violation of IDEA, etc.).
* The State must have a process to determine the appropriate corrective action(s) to address any identified noncompliance, including remedies to the individual infant, toddler, or child with a disability and to ensure the appropriate future provision of services.

### Possible Follow-up Questions

* What are the reasons the State may not resolve an allegation?
* How are complainants informed that the State will not be resolving a particular allegation?
* How does the SEA/LA resolve a complaint filed by a non-parent? What steps are taken to protect the child’s personally identifiable information in this circumstance?
* How does the State gather the evidence needed to resolve the allegations? (e.g., on-site visits, does it allow the LEA/EIS provide to provide evidence in writing, phone interviews, etc.)
* Who determines the resolution of the allegation based on the evidence? (e.g., individual staff member, a team determination, outside contractors, etc.)
* How does the State document the allegation and subsequent evidence collected (e.g., investigation plan, allegation review form, issues chart, regulatory responsibilities, etc.), if applicable?
* What is the SEA/LA process for analyzing information collected and making an independent determination for each allegation in the complaint?
* What is the process for determining timelines for the corrective actions?
* How does the State determine the corrective action(s) necessary to address any identified noncompliance, including remedies to the individual infant, toddler, or child with a disability?
* How does the State determine the corrective action(s) to ensure the appropriate future provision of services for all children with disabilities (Part B) or for all infants and toddlers with disabilities and their families (Part C)?
* After a finding of noncompliance, how does the State follow up and document completion of corrective action(s) based on the State complaint decision?
	+ In the case of systemic noncompliance, how does the State document the corrective action(s)?

### Areas (or issues) for Follow-up

* The State does not address all alleged violations of IDEA in complaints in its written decisions.
* The State dismisses complaints for reasons that are inconsistent with IDEA.
* When resolving State complaints, the State does not make an independent determination as to whether the public agency is violating a requirement of IDEA (Part B or Part C) or whether an EIS provider is violating requirements of IDEA Part C.
* The State’s written decisions do not include all requirements, including addressing for each allegation: findings of facts and conclusions and the reasons for the State’s final decision.
* The State does not have a process for determining corrective actions to address identified noncompliance for the individual child.
* The State requires remedies to address noncompliance identified at the individual level only without addressing any necessary actions to correct noncompliance at the systemic level or vice versa.
* The State has the same timeline for all corrective actions, without consideration of the nature and type of action, i.e., individual vs. systemic.
* The State has had no complaints in the recent past and does not have a system in place, including staff, to act on a State complaint should one be filed.

### Notes

## How does the State ensure the implementation of the State complaint decisions? [34 C.F.R. § 300.152](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1152&rgn=div8); [34 C.F.R § 303.433](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7b5816d51031b6457afd799fa775e86f&mc=true&r=SECTION&n=se34.2.303_1433)

### General Information

* The State should have an established process for following up with the LEA/EIS provider to ensure any required corrective action(s) is taken within required timelines.
* The State must have procedures for effective implementation of the SEA’s/LA’s final decision. These procedures must include technical assistance activities, negotiations, and corrective action(s) (if needed) to achieve compliance.
* As part of its system of general supervision, the State must have a system in place to ensure correction of the noncompliance identified in a State complaint decision.

### Possible Follow-up Questions

* How does the State require the LEA/EIS provider to demonstrate implementation of the State complaint decisions?
* How does the SEA/LA verify the required actions have been taken?
* How does the State “close out” State complaints? (e.g., correspondence sent to the parties and to the public agency, documenting in a database or other internal tracking system)
* Does the State impose sanctions/enforcement actions on LEAs/EIS providers that cannot demonstrate implementation of State complaint decisions? If applicable, describe these actions and when those could be taken.

### Areas (or issues) for Follow-up

* After the written decision is issued, the State does not follow up with the LEA/EIS program or EIS provider to verify any required corrective actions have been implemented.
* The State reports it relies on the complainant to report whether the corrective actions required in the decision have been taken (or to file another complaint to seek implementation).
* The State’s procedures do not include provisions for technical assistance, negotiations, and corrective action(s) (if needed) to implement the decision.
* The State does not have a system in place to ensure correction of the noncompliance identified in a State complaint decision.

### Notes

## How does the State use information from State complaint decisions in its general supervision system? [34 C.F.R. §§ 300.149](https://www.ecfr.gov/cgi-bin/text-idx?SID=6ad6f6f74ab7bc054cba5a69d19d535c&mc=true&node=se34.2.300_1149&rgn=div8) and [300.600](https://www.ecfr.gov/cgi-bin/text-idx?SID=6ad6f6f74ab7bc054cba5a69d19d535c&mc=true&node=se34.2.300_1600&rgn=div8); [34 C.F.R. § 303.700](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7b5816d51031b6457afd799fa775e86f&mc=true&r=SECTION&n=se34.2.303_1700)

### General Information

* The State has methods of regularly reviewing issues raised in State complaint decisions to compare to, and inform, its other monitoring information.
* As part of its general supervision system, the State has methods to track the issues identified in State complaint decisions to determine if patterns or trends exist.

### Possible Follow-up Questions

* How does the State incorporate information from State complaint decisions in its oversight or monitoring of LEAs/EIS programs and providers?
* How does the State determine whether an issue in a State complaint may warrant broader guidance throughout the LEA or State?
* How does the State evaluate the effectiveness of any guidance that may result from State complaint decisions?
* How does the State ensure whether similar, future situations are resolved consistently with past decisions or guidance?

### Areas (or issues) for Follow-up

* The State does not review State complaint decisions or collect and review data on its decisions to determine possible pattern or trends.
* The State does not incorporate issues identified in State complaints in its monitoring activities or in future guidance.
* The State does not have a system in place to ensure that issues identified in State complaint decisions are implemented consistently in future, similar situations among LEAs/EIS providers.

### Notes

### Additional Questions for Consideration on Improving Results

* What outreach efforts has the State conducted to promote State complaints as an effective way for parents and others to resolve their issues?
* What has the State done to try and improve the dispute resolution system in addition to evaluating its effectiveness?
* How does the State provide training and/or share what it has learned with LEAs/EIS providers from State complaint decisions with their stakeholders? How does this evaluation impact changes or improvements to the system?

# **Related Requirements**

IDEA Part B Regulations:

* **[34 C.F.R. § 300.11](https://www.ecfr.gov/current/title-34/subtitle-B/chapter-III/part-300%22%20%5Cl%20%22300.11%22%20%5Co%20%22Link%20to%2034%20C.F.R.%20%C2%A7%C2%A0300.11) [Day; business day; school day]**
* [**34 C.F.R. § 300.149**](https://www.ecfr.gov/cgi-bin/text-idx?SID=6ad6f6f74ab7bc054cba5a69d19d535c&mc=true&node=se34.2.300_1149&rgn=div8) **[SEA responsibility for general supervision]**
* [**34 C.F.R. § 300.151**](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1151&rgn=div8) **[Adoption of State complaint procedures]**
* [**34 C.F.R. § 300.152**](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1152&rgn=div8) **[Minimum State complaint procedures]**
* [**34 C.F.R. § 300.153**](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1153&rgn=div8) **[Filing a complaint]**
* [**34 C.F.R. § 300.504**](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1504&rgn=div8) **[Procedural safeguards notice]**
* [**34 C.F.R. § 300.505**](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1505&rgn=div8) **[Electronic mail]**
* [**34 C.F.R. § 300.509**](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1509&rgn=div8) **[Model forms]**
* [**34 C.F.R. § 300.600**](https://www.ecfr.gov/cgi-bin/text-idx?SID=6ad6f6f74ab7bc054cba5a69d19d535c&mc=true&node=se34.2.300_1600&rgn=div8) **[State monitoring and enforcement]**

**IDEA Part C Regulations:**

* [**34 C.F.R. § 303.421**](https://www.ecfr.gov/cgi-bin/text-idx?SID=8b0971892873342f4a0614a7a81f9a07&mc=true&node=se34.2.303_1421&rgn=div8) **[Prior written notice]**
* [**34 C.F.R. § 303.430**](https://www.ecfr.gov/cgi-bin/text-idx?SID=9d96271805f235923224c598755f0e54&mc=true&node=se34.2.303_1430&rgn=div8) **[State Dispute Resolution Options]**
* [**34 C.F.R § 303.431**](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7b5816d51031b6457afd799fa775e86f&mc=true&r=SECTION&n=se34.2.303_1431) **[Mediation]**

* **[34 C.F.R. § 303.432](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7b5816d51031b6457afd799fa775e86f&mc=true&r=SECTION&n=se34.2.303_1432" \o "Link to 34 C.F.R § 303.432) [Adoption of State complaint Procedures]**
* [**34 C.F.R. § 303.433**](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7b5816d51031b6457afd799fa775e86f&mc=true&r=SECTION&n=se34.2.303_1433) **[Minimum State complaint Procedures]**
* [**34 C.F.R. § 303.434**](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7b5816d51031b6457afd799fa775e86f&mc=true&r=SECTION&n=se34.2.303_1434) **[Filing a Complaint]**
* [**34 C.F.R. § 303.700**](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7b5816d51031b6457afd799fa775e86f&mc=true&r=SECTION&n=se34.2.303_1700) **[State monitoring and enforcement]**
1. The State educational agency (SEA) is responsible for implementing Part B of the IDEA and the State lead agency (LA) is responsible for implementing Part C of the IDEA in the State. Both the SEA and LA respectively must exercise general supervision over the programs and activities used to implement IDEA requirements in the State (regardless of whether Federal IDEA funds are provided to such programs and activities). [20 U.S.C. Sections 1416(a)(3)](https://sites.ed.gov/idea/statute-chapter-33/subchapter-ii/1416), [1435(a)(10)](https://sites.ed.gov/idea/statute-chapter-33/subchapter-iii/1435), [1437(a)(1)](https://sites.ed.gov/idea/statute-chapter-33/subchapter-iii/1437) and [1442](https://sites.ed.gov/idea/statute-chapter-33/subchapter-iii/1442) and [34 C.F.R. §§ 303.120(a)](https://www.ecfr.gov/cgi-bin/text-idx?SID=e6c33b333d6456a438dbd2feb0f64cf9&mc=true&node=se34.2.303_1120&rgn=div8) and [303.700(b)](https://www.ecfr.gov/cgi-bin/text-idx?SID=e6c33b333d6456a438dbd2feb0f64cf9&mc=true&node=se34.2.303_1700&rgn=div8) for IDEA Part C. [20 U.S.C. Sections 1412(a)(11)](https://sites.ed.gov/idea/statute-chapter-33/subchapter-ii/1412) and [1416(a)(3)](https://sites.ed.gov/idea/statute-chapter-33/subchapter-ii/1416) and [34 C.F.R. §§ 300.149](https://www.ecfr.gov/cgi-bin/text-idx?SID=36a281a95887586543a75d7188cd4f21&mc=true&node=se34.2.300_1149&rgn=div8) and [300.600](https://www.ecfr.gov/cgi-bin/text-idx?SID=36a281a95887586543a75d7188cd4f21&mc=true&node=se34.2.300_1600&rgn=div8) for IDEA Part B. [↑](#footnote-ref-2)
2. OSEP’s monitoring protocols identify a framework of applicable IDEA statutory and regulatory requirements. They are intended neither as questionnaires nor as forms for States to complete. Rather, OSEP will conduct its IDEA monitoring based on State-specific circumstances and the conversation with States will be guided by both the information provided by the State and information that is publicly available to help OSEP determine how States are implementing IDEA requirements and where there may be a need for additional technical assistance or other support. [↑](#footnote-ref-3)