

California Department of Developmental Services, Title 17
California
Code of Regulations
Title 17, Division 2
Chapter 2 - Early Intervention Services
SubChapter 5 - Procedural Safeguards
Article 3 - Complaint Process

§52170. Complaint Procedures.

- (a) A complaint shall be a written and signed statement alleging that the Department of Developmental Services (DDS), the California Department of Education (CDE), a regional center, LEA or any private service provider receiving funds under Part C of the Individuals with Disabilities Education Act, Title 20 United States Code, Sections 1431-1445, has violated any federal or state law or regulation governing the provision of any early intervention services including the process of determining eligibility provided through Part C of the Individuals with Disabilities Education Act, Title 20 United States Code Sections 1431-1445, for infants or toddlers and their families.
- (b) Any individual or organization may file a complaint.
- (c) The alleged violation must have occurred:
 - (1) Not more than one year before the date that the complaint received by the Department of Developmental Services unless a longer period is reasonable because the alleged violation continues for that child or other children; or
 - (2) Not more than three years before the date on which the complaint is received by the Department of Developmental Services, if the complainant is requesting reimbursement or corrective action as remediation of the complaint.
- (d) The procedures under Chapter 1, commencing with Section 4500 of Division 4.5 of the Welfare and Institutions Code or Part 30, commencing with Section 56500 of the Education Code, or Title 5 California Code of Regulations Section 4600 et seq., shall not be used for resolving complaints regarding California's Early Start Program.
- (e) Each regional center and LEA shall inform the parent and other interested individuals or organizations of the right to file a complaint directly with the Department of Developmental Services at the following address:

DEPARTMENT OF DEVELOPMENTAL SERVICES
OFFICE OF HUMAN RIGHTS

ATTENTION: EARLY START COMPLAINT UNIT
1600 NINTH STREET, ROOM 240, M.S. 2-15 SACRAMENTO, CA 95814

- (f) If the complainant is unable to provide the complaint in writing, the service coordinator shall directly assist the complainant or provide assistance to identify resources which can aid the complainant in completing the written complaint.
- (g) The complaint shall include the following:
 - (1) The name, address and phone number of the complainant;
 - (2) A statement that DDS, CDE, a regional center, LEA or any private service provider receiving funds under Part C of the Individuals with Disabilities Education Act, Title 20 United States Code Sections 1431-1445, has violated any federal or state law or regulation of a Part C requirement governing the provision of early intervention services including the process of determining eligibility for infants or toddlers and their families in California;
 - (3) A statement of facts upon which the alleged violation is based;
 - (4) The party allegedly responsible;
 - (5) A description of the voluntary steps taken at the local level to resolve the complaint, if any.
- (h) Mediation is available at any time to resolve disagreements involving any matter related to IDEA Part C.

Authority and Reference

Authority: Sections 95009 and 95028, Government Code

Reference: Section 303.22 and 303.510-303.512, Title 34 Code of Federal Regulations; and Section 9007(f), Government Code.

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Article 4 – Mediation and Due Process Procedures

§ 52172. Procedures That Apply to Both Mediation and Due Process.

(a) A parent may request a mediation conference and/or a due process hearing under any of the following circumstances:

(1) A regional center or LEA proposes to initiate or change the identification, evaluation, assessment, placement or provision of appropriate early intervention services;

(2) A regional center or LEA refuses to initiate or change the identification, evaluation, assessment, placement or provision of appropriate early intervention services; or,

(b) A parent may also request a mediation conference at any time to resolve disagreements involving any matter related to IDEA, Part C.

(c) A regional center or LEA may request a mediation conference or a due process hearing when the parent refuses to consent to all or any part of an evaluation and assessment of the infant or toddler.

(d) All requests for a mediation conference and/or due process hearing shall be in writing and filed with the contractor that the Department of Developmental Services uses for mediation and due process hearings. If a parent is unable to make a request for mediation or a due process hearing in writing, the service coordinator shall assist the parent in filing the request.

(e) The duration for either a mediation conference or a due process hearing shall not exceed a total of thirty days for each process from the receipt of the mediation or due process request to the mailing of the mediation agreement or hearing decision. If a mediation conference is requested at or during the time of a due process hearing the mediation conference resolution shall occur prior to the due process hearing.

(f) The location of the mediation and/or due process hearing shall be at a time and place reasonably convenient to the parent.

(g) During the pendency of mediation and/or due process hearing procedures, the infant or toddler shall continue to receive the early intervention services listed

on the IFSP they are currently receiving. If mediation and/or due process hearing involves the initiation of a service(s) the infant or toddler shall receive those services that are not in dispute.

(h) Mediation and due process hearings shall be conducted in English and interpreted in the language of the family's choice or other mode of communication.

Authority and Reference

Authority: Sections 95009 and 95028, Government Code; and Section 4712 (k), Welfare and Institutions Code.

Reference: Section 1435 (a) (13) and 1439 (l), Title 20 United States Code; Sections 303.420 and accompanying notes, 303.421, 303.423 and 303.425, Title 34 Code of Federal Regulations; and Section 95007(g), Government Code.

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Article 4 – Mediation and Due Process Procedures

§ 52173. Mediation Procedures

(a) Mediation shall be voluntary

(b) Mediation is available at any time to resolve disagreements involving any matter related to IDEA Part C .

(c) The mediation conference shall be conducted by a mediator who is an impartial, third party with no personal or professional interest that would conflict with his or her objectivity in mediating a disagreement.

(d) The due process hearing officer shall be a different person than the mediator when mediation does not resolve the disagreement.

(e) The mediator shall be trained in communication, mediation and problem solving and shall be knowledgeable about early intervention programs and the federal and state laws and regulations applicable to Part C of the Individuals with Disabilities Education Act, Title 20 United States Code Sections 1431-1445, and the California Early Intervention Services Act, Government Code Sections 95000-95030.

(f) The mediator shall be under contract with the Department of Developmental Services.

(g) A person who otherwise qualifies under Subsection (c) and (d) of this Section as a mediator is not an employee of the Department of Developmental Services solely because the person is paid by the Department of Developmental Services to conduct the mediation process.

(h) A parent may be accompanied by any representative at the mediation.

(i) The mediator shall ensure that written agreements from the mediation conference are signed and provided to all participants at the conclusion of the mediation conference.

(j) Discussions during mediation must be confidential and may not be used as evidence in any subsequent due process or civil proceedings.

Authority and Reference

Authority: Sections 95009 and 95028, Government Code.

Reference: Section 1439 (1), Title 20 United States Code; Sections 303.420 (a)-(b) and accompanying notes, 303.421(a)-(b) 303.422, Title 34 Code of Federal Regulations.