



To: EDR Working Group

From: Dana L. Long, Special Education Attorney, Indiana Department of Education

Re: Report of the Indiana Department of Education (IDOE)

Date: July 17, 2019

**Requirement:** The department shall prepare an initial report for the EDR Working Group’s consideration at its first meeting of readily obtainable information related to the cost of educational disputes, including, but not limited to the cost of hearing officers serving in the capacity of hearing officers or mediators pursuant to 511 IAC 7 (Article 7).

Cost of Hearing Officers

Independent hearing officer (IHO) fees are the responsibility of the local educational agency (LEA) (public school corporation or charter school) involved in the hearing. IHOs are paid at the rate of \$90.00 per hour for professional services and \$50.00 per hour for time spent traveling. Additionally, they are reimbursed at the state rates for mileage, hotel, and *per diem* as well as the actual cost of other expenses such as copying or postage. The IHO Compensation Schedule is attached as Exhibit A. A summary of the IHO fees for the past three fiscal years is shown in Exhibit B (IHO Billing Statements), and is summarized below:

Fiscal Year	Held/Dismissed	Number	Total Fees	Average Fees
2017	Held	4	\$33,002.12	\$8,250.53
2017	Dismissed	70	\$72,483.22	\$1,271.64 <sup>1</sup>
2018	Held	4	\$42,003.15	\$10,500.79
2018	Dismissed	102	\$183,580.51	\$1,799.81
2019	Held	1	\$20,054.41	\$20,054.41
2019	Dismissed	65	\$88,360.27	\$1,359.39

<sup>1</sup> There was no billing statement for 13 hearings, therefore this average is based on the 57 cases for which there were billing statements rather than the total of 70 dismissals for FY 2017.

Cost of Mediators

Mediators work under contract and are paid by IDOE. Mediators receive \$500.00 for each completed mediation and \$250.00 if the parties cancel the mediation session. Additionally, they are reimbursed at the state rates for mileage, hotel, and *per diem* as well as the actual cost of other expenses such as parking fees or postage.

Fiscal Year	Number	Total Fees	Average Fees
2017	59	\$31,724.29	\$537.70
2018	74	\$40,038.77	\$541.06
2019	70	\$34,820.08	\$497.43

LEA Costs

While LEAs pay the IHO fees, which are documented in the first chart, *supra*, LEAs have other costs involved in dispute resolution. Although schools are not required by either federal or state regulations to have legal representation in dispute resolution, schools almost always are represented in due process hearings and are increasingly utilizing attorneys in the complaint and mediation processes as well. In due process hearings, federal and state law provide that parents who are prevailing parties may recover attorney fees from the schools. Even if the case doesn't proceed all the way to hearing, the payment of parent attorney fees is usually included in any settlement agreement between the school and parent. If a hearing is held, the school is also responsible to pay the court reporter, including the cost of preparing the hearing transcript. Schools may also incur costs for expert witnesses or substitutes required to cover classrooms while teachers are called to testify. Other costs that are not easily quantifiable include administrative and professional staff time required to respond to complaints, engage in mediation, and prepare for and participate in due process hearings.

In an effort to gather information on these additional costs to schools, the OSE sent surveys to schools involved in dispute resolution during each of the last three fiscal years (FY 2017, FY 2018, and FY 2019). Surveys were sent only to those schools involved in one of the three dispute resolution process during the particular fiscal year as follows: for FY 2017, surveys were sent to 117 schools; for FY 2018, surveys were sent to 132 schools; and for FY 2019, surveys were sent to 128 schools. These surveys were sent out at the end of the school year with a short (two-week) response time required in anticipation of the originally scheduled mid-June EDR Working Group meeting. As a result, the response rate was low. We received responses from 28 out of 117 schools for FY 2017; 29 out of 132 schools for FY 2018; and 28 out of 128 schools for FY 2019.

Of the schools that did respond, most schools combined their answers as to involvement in complaints, hearings, or mediations, or combined fiscal years or answered for a year other than the one on the survey. Several included IHO fees in their costs associated with a mediation or complaint, or indicated that they paid the mediator fees or the facilitator for a facilitated IEP (FIEP) process. Some schools included in the cost of the dispute resolution process the costs of the services they agreed or were ordered to provide, such as extended school year services.

Because of the low rate of response, and the fact there was no consistency in the way schools responded, the OSE does not have good data to share on the LEAs' costs. However, what is apparent from the answers provided is that a handful of schools are utilizing the services of attorneys in complaints or mediations. These costs tend to range from a few hundred dollars to ten thousand or more. Virtually all schools are represented by attorneys in due process hearings. Fees paid to school attorneys ranged from three times to 16 times as much as the fees charged by IHOs. The fees that schools paid parent attorneys was usually as much, or more (sometimes double) the fees that schools paid their own attorneys.

### **Additional Information**

The EDR Working Group is tasked with studying and making recommendations concerning nine topics. To aid the group in its study, IDOE is providing the following information as to current requirements and practices in special education dispute resolution in Indiana.

#### **(1) The complaint and investigation requirements set forth in 511 IAC 7-45-1 that could reduce costs to school corporations and parents of students with disabilities.**

511 IAC 7-45-1 contains the requirements for the filing and investigation of complaints. Complaints can be filed by anyone – the complainant does not need to be the parent of a student with a disability. There is no cost to the party filing the complaint. 511 IAC 7-45-1 does not impose any costs on parents or schools. Parties are not required to be represented by attorneys, although in a few cases a party chooses to be represented. There is no requirement under either federal or state law for schools to pay parent attorney fees for representation in state complaints. However, schools are required to respond to the complaint and provide documentation of compliance with the requirements of Article 7. Staff time is involved in responding to the complaint. Additional costs may be incurred if violations are found and corrective action required.

During the first 10 days after the complaint is filed, 511 IAC 7-45-1(g) provides that the school has the discretion to: respond to the complainant and the IDOE; resolve the complaint

with a written agreement with the complainant; agree with a parent who has filed a complaint to engage in mediation under 511 IAC 7-45-2; or notify the IDOE that it will not be exercising any of those options.

During those first 10 days, the IDOE complaint investigator communicates with the parties to not only identify the issues for the complaint, but also inform the complainant and the school of options to resolve the complaint issues prior to investigation. In addition to the options specified above, the parent and school can meet informally to resolve, agree to reconvene the case conference committee (CCC), agree to a facilitated individualized education program (FIEP) meeting, or otherwise resolve the dispute. If successful in resolving the dispute, the parent can withdraw the complaint.

## **(2) The recruitment, training, and payment of administrative law judges or hearing officers.**

IHO qualifications:

- Be an attorney licensed to practice in Indiana; or an individual who served as an IHO before January 1, 2014.
- Have no personal or professional interest that would conflict with the person's objectivity in the hearing.
- Not be an officer, employee, or agent of the public agency, the department of education, or any agency that may be involved in the education or care of the student.
- Possess knowledge of and the ability to understand the provisions of:
  - The Individuals with Disabilities Education Act, 20 U.S.C 1400 *et seq.* (IDEA);
  - Federal regulations implementing the IDEA (34 C.F.R Part 300);
  - Legal interpretations of the IDEA by federal and state courts; and
  - Article 7.
- Be trained in the due process hearing procedures to ensure the ability to conduct hearings in accordance with IC 4-21.5-3.
- Possess the knowledge and the ability to render and write decisions in accordance with appropriate standard legal practice.
- Be subject to any other qualifications established by the superintendent of public instruction.
  - Possess the knowledge and ability to conduct hearings, and render and write decisions in accordance with appropriate standard legal practice.
  - Have excellent oral, listening, and writing skills.
  - Have excellent interpersonal skills, and be patient, dignified, and courteous to parties, witnesses, lawyers, advocates, and court reporters.
  - Have the ability and means of transportation to travel state-wide to conduct hearings and to attend trainings.

- Be able to commit the time necessary to the process.
- Be a resident of Indiana.

**Current practice for recruiting IHOs:**

Notices posted

Résumés and applications received/reviewed

Interviews

Candidates invited to participate in training

Training:

Six CLE hours New IHO Training (Article 7 Requirements/Case Law/Hearing Procedures (both Art. 7 and AOPA)

Annual IHO Training – 12 CLE hours including current issues, review of previous year’s decisions, ethics, current case law

ICHAMP training – training on the use of IDOE’s electronic filing system, including maintaining the record, reviewing pleadings, uploading orders, creating billing statements, etc.

Mentoring – two-step process, the first of which may last for one – two years, but has taken up to 4 years. A new IHO is paired with an experienced IHO who serves as a mentor. The new IHO follows a hearing through all the prehearing conferences and procedures, pleadings, discovery, and various motions. The new IHO will also observe a hearing. After the first part is completed and the new IHO is ready, the new IHO is added to the IHO rotation and paired with an experienced IHO who will be available for the new IHO to look to for assistance as needed on procedural matters only.

The current IHO compensation schedule is attached (see Exhibit A). The professional services fee is \$90.00 per hour, significantly below the rates paid to IHOs in other states. These rates have been in effect for approximately 20 years. It is well past time that the rates are increased in order to recruit and retain qualified IHOs, especially in light of the additional requirement that IHOs also be qualified to serve and mediators, and agree to do so.

In preparation for this report, IDOE surveyed other states as to their compensation for IHOs and mediators. IDOE received responses from five states. In two of these states (Michigan and Florida) the IHOs are employees of a state department of administrative hearings. In the other three states (Arkansas, Ohio, and Oklahoma) the IHOs are paid an hourly fee of \$125.00.

**(3) A system of access to low cost legal advocacy regarding educational disputes that encourages efficient resolution of disputes and does not incentivize protraction.**

Under the IDEA and Article 7, LEAs are required to provide parents with a Notice of Procedural Safeguards (NOPs) at least once per school year as well as the first time in a school year that a parent files a complaint and the first time in a school year that either the parent or school requests a hearing. The NOPs must include information on agencies and organizations that provide assistance to parents in understanding Article 7. The sample NOPs provided on the website of the Office of Special Education (OSE) provides contact information for IDOE as well as the following organizations who can assist parents in understanding the requirements of Article 7. In addition, if the parent request the information or either the parent or LEA files a due process hearing request, the LEA is required to inform the parent of the availability of free or low cost legal and other relevant services available in the area. Other than the organizations listed below, LEAs often have difficulty finding other resources for parents.

**About Special Kids (ASK)**

7172 Graham Road, STE 100  
Indianapolis, IN 46250  
[www.aboutspecialkids.org](http://www.aboutspecialkids.org)  
Telephone: 317-257-8683  
Fax: 317-251-7488  
Toll-free: 1-800-964-4746 (Voice)  
Toll-free: 1-800-831-1131 (TTY)

**IN\*SOURCE (Indiana Resource Center for Families with Special Needs)**

1703 South Ironwood  
South Bend, IN 46613-1036  
[insource.org](http://insource.org)  
Telephone: 574-234-7101  
Fax: 574-234-7279  
Toll-free 1-800-332-4433

**Disability Legal Services of Indiana, Inc.**

5954 North College Avenue  
Indianapolis, IN 46220  
[www.disabilitylegalservicesindiana.org](http://www.disabilitylegalservicesindiana.org)  
Telephone: 317/426-7733

**Indiana Disability Rights**

4701 North Keystone Avenue, Suite 222  
Indianapolis, IN 46205  
[www.in.gov/idr](http://www.in.gov/idr)  
Telephone: 317-722-5555  
Fax: 317-722-5564  
Toll-free: 1-800-622-4845 (Voice)  
Toll-free: 1-800-838-1131 (TTY)

#### **(4) Implications to the receipt of federal funding regarding changes made to 511 IAC 7.**

The IDEA was enacted pursuant to the Spending Clause of the Constitution. A state that accepts funding under Part B of the IDEA does so upon agreeing to comply with the requirements of Part B. Failure to do so jeopardizes approximately \$260 million for Indiana's public schools to provide special education and related services to children with disabilities and another \$22 million for services provided by the state and its contractors and vendors.

Under 34 CFR §300.603 the Secretary of the US Department of Education is required to annually review each state's performance plan required by 34 CFR §300.602. Based on the information in the state's annual performance report, the Secretary determines if the state:

- (i) Meets the requirements and purposes of Part B of the Act;
- (ii) Needs assistance in implementing the requirements of Part B of the Act;
- (iii) Needs intervention in implementing the requirements of Part B of the Act; or
- (iv) Needs substantial intervention in implementing the requirements of Part B of the Act.

Most recently, the Office of Special Education received a Meets Requirements rating from the Office of Special Education Programs (OSEP), U.S. Department of Education. There are four possible ratings from the U.S. Department of Education: Meets Requirements, Needs Assistance, Needs Intervention, and Needs Substantial Intervention. This determination is based on the totality of the State's data and information, including the Federal fiscal year (FFY) 2016 State Performance Plan/Annual Performance Report (SSP/APR), and other state-reported data, and other publicly available information.

The Secretary is required to provide notice to the state and provide an opportunity for a hearing on those determinations. Enforcement proceedings and consequences, including recovering funds, withholding further payments, and suspending payments are set forth in the federal regulations at 34 CFR §§300.604 & 300.605.

The Dispute Resolution Team (DRT) of the OSE recently participated in an OSEP Part B Self-Assessment. This self-assessment identifies the dispute resolution-related regulatory requirements of Part B of the IDEA and summarizes guidance from the Office of Special Education Programs (OSEP) in implementing those requirements. This allowed the DRT to review Indiana's regulations, policies, procedures, and NOPs to ensure we were meeting the requirements of the regulations implementing the IDEA. This self-assessment assured us that our procedures and practices were compliant with the requirements of the IDEA. A copy of the OSEP Part B Self-Assessment is being provided to the EDR Working Group for its review. This document contains five (5) columns: IDEA Part B Requirement; State Policy/Procedure; Procedural Safeguards; Implementation Guidance; and Notes. The IDEA Part B Requirement column sets forth the requirements under the federal regulations (34 CFR Part 300) while the Implementation Guidance column references OSEP's guidance on the topic. The DRT filled in the information in the other three columns. The information

under State Policy/Procedure provides the reference to the state regulation that fulfills the requirement of the federal rule. Under the Procedural Safeguards column, the DPT verified that our sample Notice of Procedural Safeguards (NOPS) contained the required information. In the Notes column, the DRT provided additional commentary or explanation of Indiana's requirements.

**(5) Information and communication strategies to parents of students with disabilities and school corporations for resolving disputes concerning special education issues.**

On its website, IDOE's OSE provides links to Article 7; *Navigating the Course: Finding Your Way through Indiana's Special Education Rules*;<sup>2</sup> and a sample *Notice of Procedural Safeguards*. Links to other resources are also available, including an IDEA Guide to Frequently Asked questions, information from the Council for Exceptional Children, and a link to the Office for Civil Rights providing information on protecting the rights of students with disabilities. One can also find references to other laws protecting the rights of students with disabilities, including Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act Amendment Act of 2008, and the Family Educational Rights and Privacy Act (FERPA).

The OSE also provides information on its website about the due process options (complaints, mediation, and due process hearings) identified in Article 7. The DRT is revising its website to encourage better communication between parents and schools and to promote more informal options for dispute resolution (e.g., informal meeting, reconvene the case conference committee, facilitated IEP meeting). Although the federal regulations would prohibit any requirement that parents utilize additional processes before filing a complaint, initiating mediation, or requesting a due process hearing, making parents aware of their options would be beneficial. For example, we have found that parents are often not aware who their special education director is, or that they can reach out to the director to try to resolve disputes informally. Making parents aware of their options has resulted in a decline in the number of complaints that go to report. Since 2014, our complaint investigators have made a conscious effort to make sure that when parents file complaints, they are aware that they have options to try to work with the director to resolve the issues. This has resulted in a noticeable increase in the number of complaints that are resolved, with a corresponding decrease in the number of complaints being fully investigated and going to report.

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<sup>2</sup> *Navigating the Course* provides an overview and a practical resource to help parents, advocates, school personnel, and students understand the requirements of Indiana's special education rules, found at 511 IAC 7-32 through 49, commonly known as Article 7. It is intended to serve as a companion guide to Article 7, replacing the previous *Live, Learn, Work, and Play* document and is not a substitute for Article 7.

FY	No. of Complaints Filed	No. of Complaint Reports	No. of Reports With Findings	% of Complaints With Reports	% of Complaints With Findings
2005	116	104	79	89.7%	68.1%
2006	86	67	67	77.9%	77.9%
2007	118	104	89	88.1%	75.4%
2008	136	125	106	91.9%	77.9%
2009	122	86	69	70.5%	56.6%
2010	102	74	60	72.5%	58.8%
2011	109	65	48	59.6%	44.0%
2012	103	58	44	56.3%	42.7%
2013	133	92	71	69.1%	53.4%
2014	119	61	45	51.3%	37.8%
2015	108	46	32	42.6%	29.6%
2016	134	41	27	30.6%	20.1%
2017	124	52	19	41.9%	15.3%
2018	139	68	39	48.9%	28.1%

These statistics have been compiled by the Center for Appropriate Dispute Resolution in Special Education (CADRE) from the data that the OSE submitted to OSEP each November. CADRE is funded by the US Department of Education to provide assistance to states. A wealth of information can be found on its website: <https://www.cadeworks.org/>. Data for each state can be found at <https://www.cadeworks.org/resources/cadre-materials/state-part-b-dispute-resolution-data-summaries>, with Indiana’s data at <https://www.cadeworks.org/sites/default/files/resources/2016-17%20DR%20Data%20Summary%20-%20Indiana.pdf>. The IDEA Dispute Resolution Data Summary for Indiana, 2004-05 to 2016-17 will be provided to the EDR Working Group separately from this document.

The OSE has been involved with CADRE for many years and participates in CADRE’s listservs for complaints, medication, and due process hearings. The OSE will continue to utilize the CADRE resources to improve our processes.

In an effort to respond to the issues this body is investigating, the OSE also requested the assistance of the State Advisory Council (SAC), which suggested that IDOE provide training for schools and parents on facilitated IEPs as a means to help parents and schools resolve matters at the CCC level before they become issues in due process.

**(6) Patterns of complaints that emerge regarding special education rights and services, in order for the department to develop strategies to better resolve issues that lead to a particular pattern of complaints.**

IDOE has compiled a table of the issues that have been identified in mediations, due process hearings, and complaints. These tables appear on the following pages.

2017 Mediation Issues

<b>Totals</b>	59	7 - Student Identification and Eligibility 4 - Evaluation Appropriateness 29 - Current Service Appropriateness 10 - Provision of Free Education 1 - Service Reimbursement 5 - Discipline	9 - Challenging Proposed IEP 6 - Manifestation Determination 3 - Change of Placement 0 - Request for Hearing 9 - Other
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2018 Mediation Issues

<b>Totals</b>	74	9 - Student Identification and Eligibility 7 - Evaluation Appropriateness 28 - Current Service Appropriateness 11 - Provision of Free Education 2 - Service Reimbursement 3 - Discipline	11 - Challenging Proposed IEP 4 - Manifestation Determination 5 - Change of Placement 0 - Request for Hearing 7 - Other
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2019 Mediation Issues

<b>Totals</b>	66	7 - Student Identification and Eligibility 4 - Evaluation Appropriateness 30 - Current Service Appropriateness 8 - Provision of Free Education 3 - Service Reimbursement 1 - Discipline	6 - Challenging Proposed IEP 2 - Manifestation Determination 1 - Change of Placement 0 - Request for Hearing 7 - Other
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FY 2017 Hearing Issues<sup>3</sup>

<b>Totals</b>	72	2 - Educational Evaluation 2 - Service or Placement 0 - Disciplinary Change 511 IAC 7-44-2(e) 2 - Identification/Eligibility 0 - Initial Evaluation - Timeline 0 - Initial Evaluation - Timeline Pre-school 0 - Access to Academic Programs 0 - Access to Non-Academic/Extracurricular	0 - Manifestation Determination 0 - Parent Participation 2 - Provision of a Free Public Education 2 - Reimbursement for Service 0 - Suspension/Expulsion 0 - School Requested (511IAC 7-55-7) 0 - Transition Plan (IEP)
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FY 2018 Hearing Issues

<b>Totals</b>	106	40 - Educational Evaluation 51 - Service or Placement 7 - Disciplinary Change 511 IAC 7-44-2(e) 26 - Identification/Eligibility 4 - Initial Evaluation - Timeline 0 - Initial Evaluation - Timeline Pre-school 30 - Access to Academic Programs 3 - Access to Non-Academic/Extracurricular	6 - Manifestation Determination 24 - Parent Participation 53 - Provision of a Free Public Education 9 - Reimbursement for Service 5 - Suspension/Expulsion 1 - School Requested (511IAC 7-55-7) 3 - Transition Plan (IEP)
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FY 2019 Hearing Issues

<b>Totals</b>	84	27 - Educational Evaluation 49 - Service or Placement 9 - Disciplinary Change 511 IAC 7-44-2(e) 29 - Identification/Eligibility 4 - Initial Evaluation - Timeline 0 - Initial Evaluation - Timeline Pre-school 20 - Access to Academic Programs 4 - Access to Non-Academic/Extracurricular	7 - Manifestation Determination 21 - Parent Participation 43 - Provision of a Free Public Education 9 - Reimbursement for Service 4 - Suspension/Expulsion 0 - School Requested (511IAC 7-55-7) 1 - Transition Plan (IEP)
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<sup>3</sup> This data is pulled from the electronic filing system ICHAMP (Indiana Complaint, Hearing, and Mediation Process). Most IHOs were not fully utilizing ICHAMP to enter and track issues in hearings in 2017.

## Complaint Issues & Violations by Citation- FY 2019

Generated on July 02, 2019

Citation	Issues Count	Violations Count
511 IAC 7-33-2	7	2
511 IAC 7-34-3	1	0
511 IAC 7-35-2	1	0
511 IAC 7-36-2	7	1
511 IAC 7-36-3	2	1
511 IAC 7-36-4	1	0
511 IAC 7-36-8	1	0
511 IAC 7-37-1	1	0
511 IAC 7-38-1	14	2
511 IAC 7-40-1	1	1
511 IAC 7-40-2	2	1
511 IAC 7-40-4	9	4
511 IAC 7-40-5	4	0
511 IAC 7-40-7	2	1
511 IAC 7-40-8	5	1
511 IAC 7-42-10	16	3
511 IAC 7-42-12	2	0
511 IAC 7-42-2	9	5
511 IAC 7-42-3	5	2
511 IAC 7-42-5	11	1
511 IAC 7-42-6	31	7
511 IAC 7-42-8	70	24
511 IAC 7-42-9	11	0
511 IAC 7-43-6	1	0

511 IAC 7-44-1	4	2
511 IAC 7-44-4	3	2
511 IAC 7-44-5	16	4
511 IAC 7-44-6	2	0
511 IAC 7-44-9	4	1
511 IAC 7-45-1	2	0
511 IAC 7-45-2	2	1
511 IAC 7-45-6	1	0
<b>Grand Total:</b>	<b>248</b>	<b>66</b>

**(7) Appropriateness of Nondisclosure agreements in settlements involving special education and public schools.**

Nondisclosure agreements are commonly included in agreements to settle all sorts of litigation for a variety of reasons. Such agreements protect proprietary or other confidential information, the identity of parties, and specific information concerning the nature of the settlement. Often a primary purpose of a nondisclosure agreement is to avoid encouraging similar types of litigation. With special education disputes, student confidentiality laws (most notably the Family Educational Rights and Privacy Act (FERPA)) prevent the LEA from publicly disclosing personally identifiable information concerning the student. Even if the LEA doesn't disclose the student's name, it is often not difficult for others in the community to figure out who the student is such that the disclosure of information may be easily identified with a particular student. As a result, even without a confidentiality agreement, schools cannot disclose much, if any, information about special education disputes or their resolutions. Nor can schools respond if a parent publicly discloses information about the dispute. A confidentiality agreement helps prevent the parties from airing the dispute before the court of public opinion.

At the same time, LEAs are public entities and the public has a right to know how public funds are expended.

**(8) Whether the department shall establish a special education board of appeals to review administrative hearings or findings.**

Indiana had a board of special education appeals (BSEA) until 2009-2010 when the State Board of Education (SBOE) removed that provision from Article 7. It was a three member panel of individuals knowledgeable about special education services and laws. The BSEA was represented by an attorney from the IDOE when it conducted its impartial review. When

a case was appealed, each member of the BSEA reviewed the entire administrative record. If a petition for review was filed, the BSEA was required to conduct its impartial review and issue its written decision within 30 days. Specific requests for extensions of time could be requested by the parties and granted by the chair of the BSEA. The BSEA was not permitted to substitute its judgment for that of the IHO. Rather, the regulations provided that the BSEA shall not disturb the findings of fact, conclusions of law, or orders of the independent hearing officer unless the board finds the independent hearing officer's decision to be one (1) or more of the following:

- (1) Arbitrary or capricious.
- (2) An abuse of discretion.
- (3) Contrary to law, contrary to a constitutional right, power, privilege, or immunity.
- (4) In excess of the jurisdiction of the independent hearing officer.
- (5) Reached in violation of an established procedure.
- (6) Unsupported by substantial evidence

The BSEA had the option to hear oral argument, and, at its discretion, to exercise the same power as an independent hearing officer to hear additional testimony or receive evidence. The latter discretion was rarely, if ever, exercised. Shortened timelines were provided for appeals of expedited hearings.

**(9) Whether a dispute resolution ombudsman within the department would reduce costs relating to legal advocacy and facilitate more efficient resolution of disputes.**

Although the DRT can answer parents' questions and describe the dispute resolution options available to the parties, it is not really appropriate that the special education attorney or complaint investigators reach out to the school to try to encourage a resolution when it is possible the matter may still end up as a complaint. That could lead to the perception, under certain circumstances, that the complaint investigator is biased and advocating for one side or the other. IDOE would be interested in further discussion as to whether an ombudsman who truly understood the requirements of Article 7 and the complaint, mediation, and due process hearing procedures, would be able to facilitate a resolution.

## EXHIBIT A

### Independent Hearing Officer Compensation Schedule

The public agency (“the School”) shall bear all costs pertaining to the conduct of a hearing whether or not a hearing is ultimately held, including hearing officer fees and expenses. 511 IAC 7-45-7 (q)

Service	Billing Unit	Rate of Pay
Professional services in preparation for the hearing, for conducting of the hearing, and for deliberation in preparation and writing of the decision	Per hour	\$90
Travel time to and from the hearing location	Per hour	\$50
Copying, postage, telephone calls, and other items related to the preparation for the hearing	Per item	Actual cost
Lodging	Per night	Current state rate <sup>4</sup>
Mileage	Per mile	Current state rate <sup>5</sup>
Per Diem	Per day	Current state rate <sup>6</sup>

- The School shall be responsible for compensating an independent hearing officer (“IHO”) in accordance with the established compensation schedule.
- The IHO shall submit an itemized bill in quarter hour increments to the Superintendent of the School for services rendered *within 30 days* of the date of the written decision or order.
- The School shall remit payment to the IHO ***within 60 days*** of the receipt of the itemized bill.

<sup>4</sup> Current rate effective October 9, 2018:

Location	Rate
Standard Rate: (All locations without specified rates)	\$94.00 + tax
Indianapolis/Carmel	\$125.00 + tax
Bloomington	\$97.00 + tax
Ft Wayne	\$104.00 + tax
Hammond/Munster/Merrillville	\$98.00 + tax
Lafayette/West Lafayette	\$106.00 + tax
South Bend	\$98.00 + tax

<sup>5</sup> As of August 1, 2016, rate is \$.38 per mile

<sup>6</sup> As of July 1, 2004, rate is \$26 per day

## EXHIBIT B

### FY 2017 IHO Billing Statements

#### FY 2017 Hearings Held (4)

	No. of Sessions <sup>7</sup>	Prof. Service Hours	Professional Service Cost	Travel Hours	Travel Cost <sup>8</sup>	Billing Statement Total <sup>9</sup>
<b>Grand Total:</b>	0	324.02	\$29,161.80	40.75	\$2,037.50	\$33,002.12
<b>Overall Average:</b>	0	81.01	\$7,290.45	10.19	\$509.38	\$8,250.53

#### FY 2017 Hearings Dismissed (70)<sup>10</sup>

	Professional Service Hours	Professional Service Cost	Travel Hours	Travel Cost	Billing Statement Total
<b>Grand Total:</b>	757.98	\$68,218.20	11.5	\$575.00	\$72,483.22
<b>Overall Average:</b>	10.83	\$974.55	0.16	\$8.21	\$1,035.47

### FY 2018 IHO Billing Statements

#### FY 2018 Hearings Held (4)

	No. of Sessions	Prof. Service Hours	Professional Service Cost	Travel Hours	Travel Cost	Billing Statement Total
<b>Grand Total:</b>	8	432.0	\$38,880.00	28.0	\$1,400.00	\$42,003.15
<b>Overall Average:</b>	4 <sup>11</sup>	108.0	\$9,720.00	7.0	\$350.00	\$10,500.79

<sup>7</sup> Number of sessions were not reported on the billing statements.

<sup>8</sup> Travel cost is based only on the amount of time spent in travel status and does not include mileage reimbursement, hotel, or *per diem*.

<sup>9</sup> Billing statement total includes professional service cost, travel cost, plus travel expenses of mileage, hotel, and *per diem*.

<sup>10</sup> One IHO did not bill for 13 hearings, resulting in lower averages reported here. If those 13 hearings are not factored in, Overall Averages:

Professional service hours: 13.30; Professional service cost: \$1,196.82; Travel hours: .20; Travel cost: \$10.09; Billing Statement Total: \$1,271.64.

<sup>11</sup> Number of sessions was not reported for two hearings, resulting in an average of 4 days for the two hearings for which the sessions were reported.

FY 2018 Hearings Dismissed (102)

	Professional Service Hours	Professional Service Cost	Travel Hours	Travel Cost	Billing Statement Total
<b>Grand Total:</b>	1928.5	\$173,565.00	86.0	\$4,300.00	\$183,580.51
<b>Overall Average:</b>	18.91	\$1,701.62	0.84	\$42.16	\$1,799.81

**FY 2019 IHO Billing Statements (as of 6/13/19)**

FY 2019 Hearings Held (1)

	No. of Sessions	Prof. Service Hours	Professional Service Cost	Travel Hours	Travel Cost	Billing Statement Total
<b>Grand Total:</b>	8	194.5	\$17,505.00	18.0	\$900.00	\$20,054.41
<b>Overall Average:</b>	8	194.5	\$17,505.00	18.0	\$900.00	\$20,054.41

FY 2019 Hearings Dismissed (59)

	Professional Service Hours	Professional Service Cost	Travel Hours	Travel Cost	Billing Statement Total
<b>Grand Total:</b>	852.89	\$76,760.10	16.79	\$839.50	\$78,926.98
<b>Overall Average:</b>	14.46	\$1,301.02	0.28	\$14.23	\$1,337.75



## IDEA Dispute Resolution Data Summary for: Indiana 2004-05 to 2016-17

The Individuals with Disabilities Education Act (IDEA) requires states and entities receiving IDEA grants to make available four dispute resolution processes and report annually on each to the U.S. Department of Education Office of Special Education Programs (OSEP). The four dispute resolution processes include written state complaints, mediation, due process complaints, and resolution meetings associated with due process.

The purpose of this summary is to provide an historical look at dispute resolution data and to assist with the identification of trends and changes in the use of the IDEA dispute resolution processes over time. Additional summaries can be found on the CADRE website at: <http://www.cadeworks.org/resources/cadre-materials/state-part-b-dispute-resolution-data-summaries>

This summary features data for school years ("SY" July 1-June 30) 2004-05 through 2016-17 drawn from CADRE's National Longitudinal Database. Data are collected from the following sources: [1] from SY 2004 to the present, dispute resolution activity reported in states' Annual Performance Reports (APRs), first as Attachment 1 and later as Table 7; [2] from SY 2006 to the present, Section 618 data collected by the Data Accountability Center (DAC) and now (as of SY 2011) reported to EDfacts; [3] data published in OSEP's Annual Report to Congress; and [4] data adjustments collected from states by CADRE after OSEP and DAC data were locked. Westat/DAC raw data files for SY 2005-2010 are available at: <http://tadnet.public.tadnet.org/pages/712>.

CADRE examines dispute resolution data for internally inconsistent values (based on report element definitions). When inconsistent values are found, they are reconciled with OSEP. States are encouraged to submit notes or explanations regarding any conditions, anomalies, or corrections relating to the data included herein. CADRE is looking to improve the usefulness of these reports. Please provide us your input by responding to a [brief survey at : https://www.surveymonkey.com/r/datasummary](https://www.surveymonkey.com/r/datasummary)

### Contents:

Pages 2 - 10: The following charts (for SY 2006-07 through 2016-17):

- 1) Total Dispute Resolution Activity by State/Entity per 10K Childcount: 2016-17
- 2) IDEA Dispute Resolution Activity per 10K Childcount
- 3) IDEA Dispute Resolution Activity
- 4) Relative Use of Dispute Resolution Options
- 5) Aggregate Use of Dispute Resolution Options
- 6) Written State Complaint Activity per 10K Childcount
- 7) Mediation Activity per 10K Childcount
- 8) Due Process Complaint Activity per 10K Childcount
- 9) Timeliness of Due Process Hearing Decisions per 10K Childcount
- 10) Relative Disposition of Due Process Complaints

Pages 11 - 24: Annual dispute resolution data summaries (for SY 2004-05 through 2016-17).

For clarification or assistance, contact:

Diana Cruz

[cadre@directionservice.org](mailto:cadre@directionservice.org)

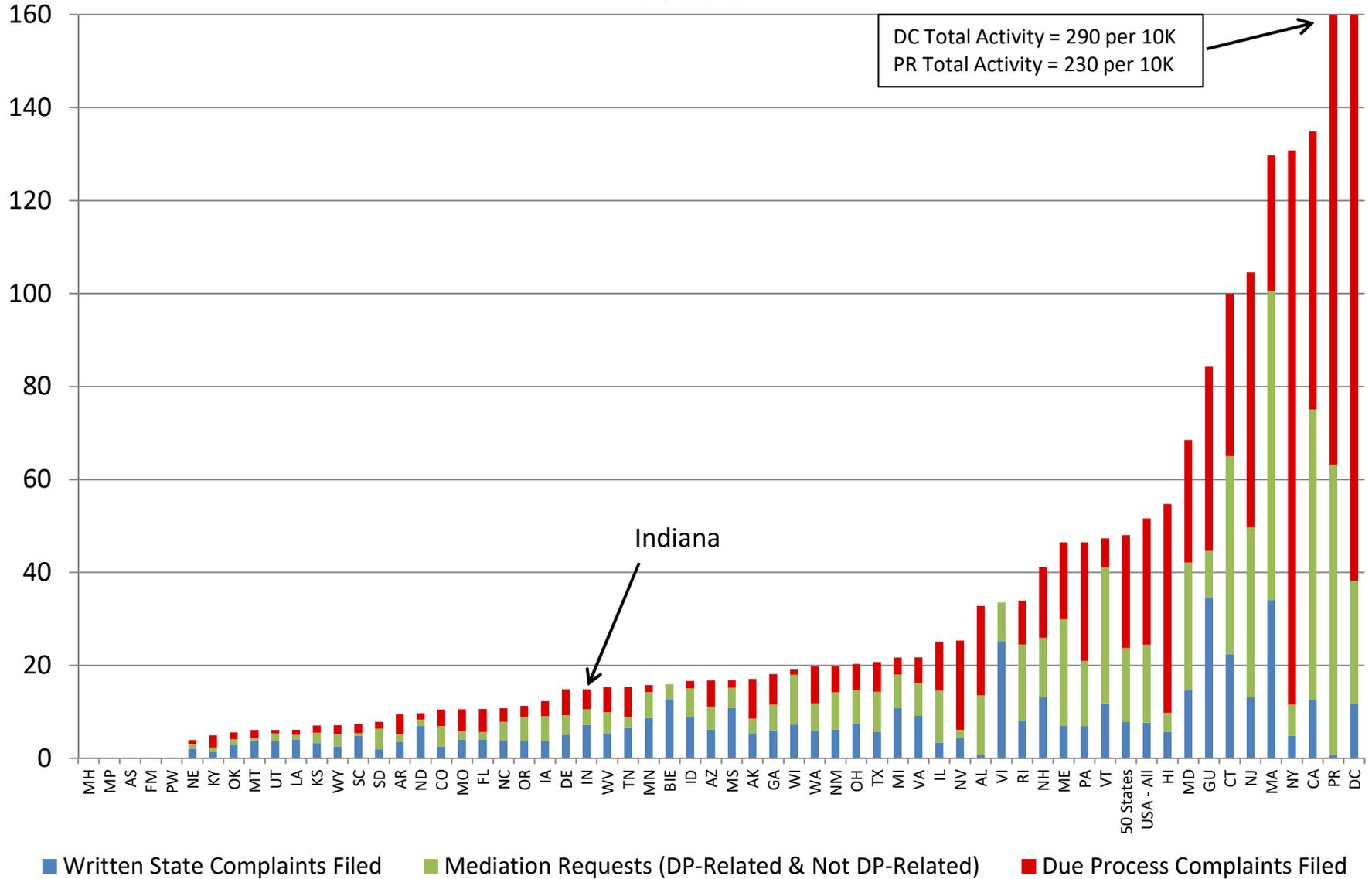
or call 541-686-5060

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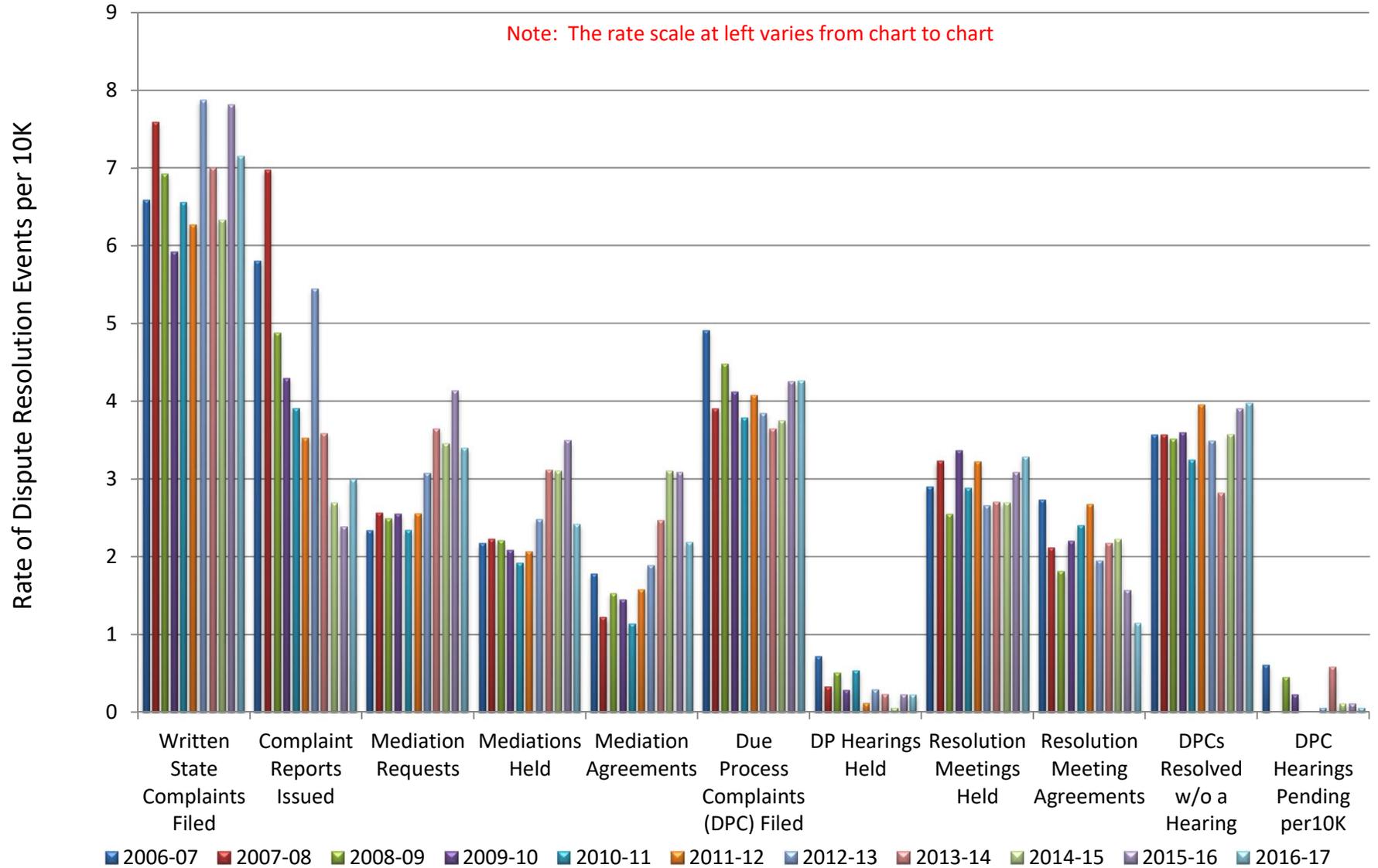


# Total Dispute Resolution Activity by State/Entity per 10K Childcount: 2016-17



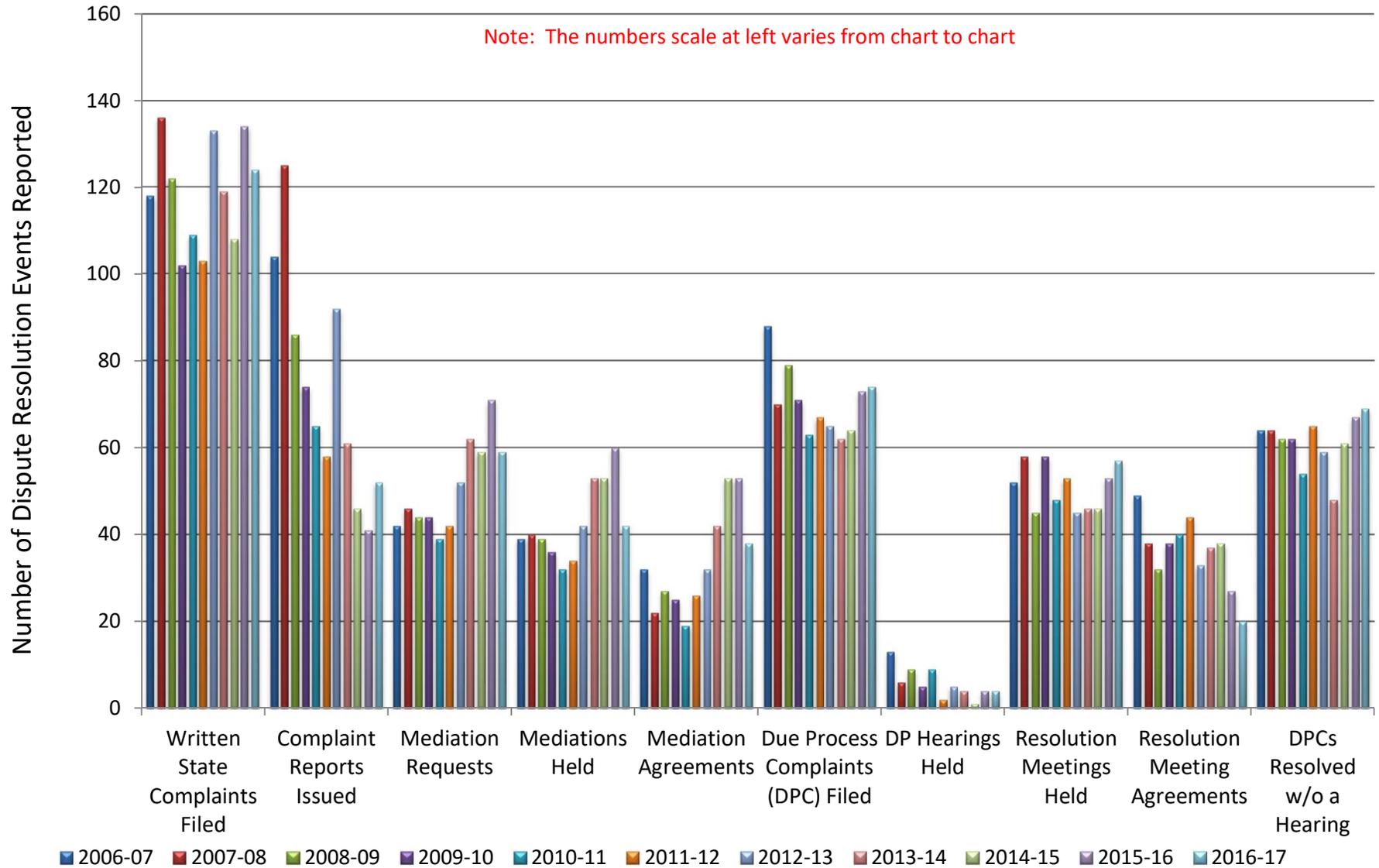


# IDEA Dispute Resolution Activity per 10K Childcount: Indiana





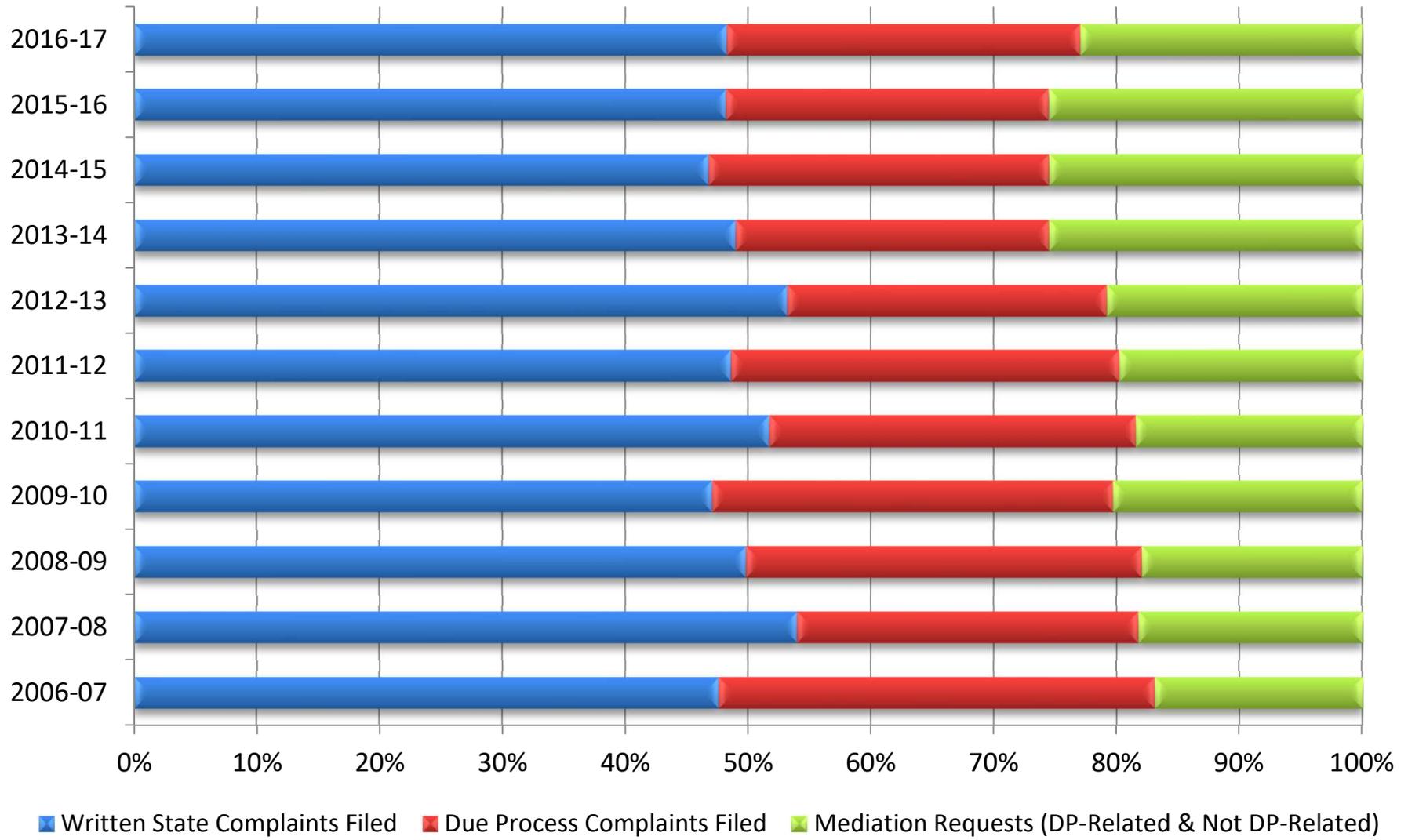
# IDEA Dispute Resolution Activity: Indiana





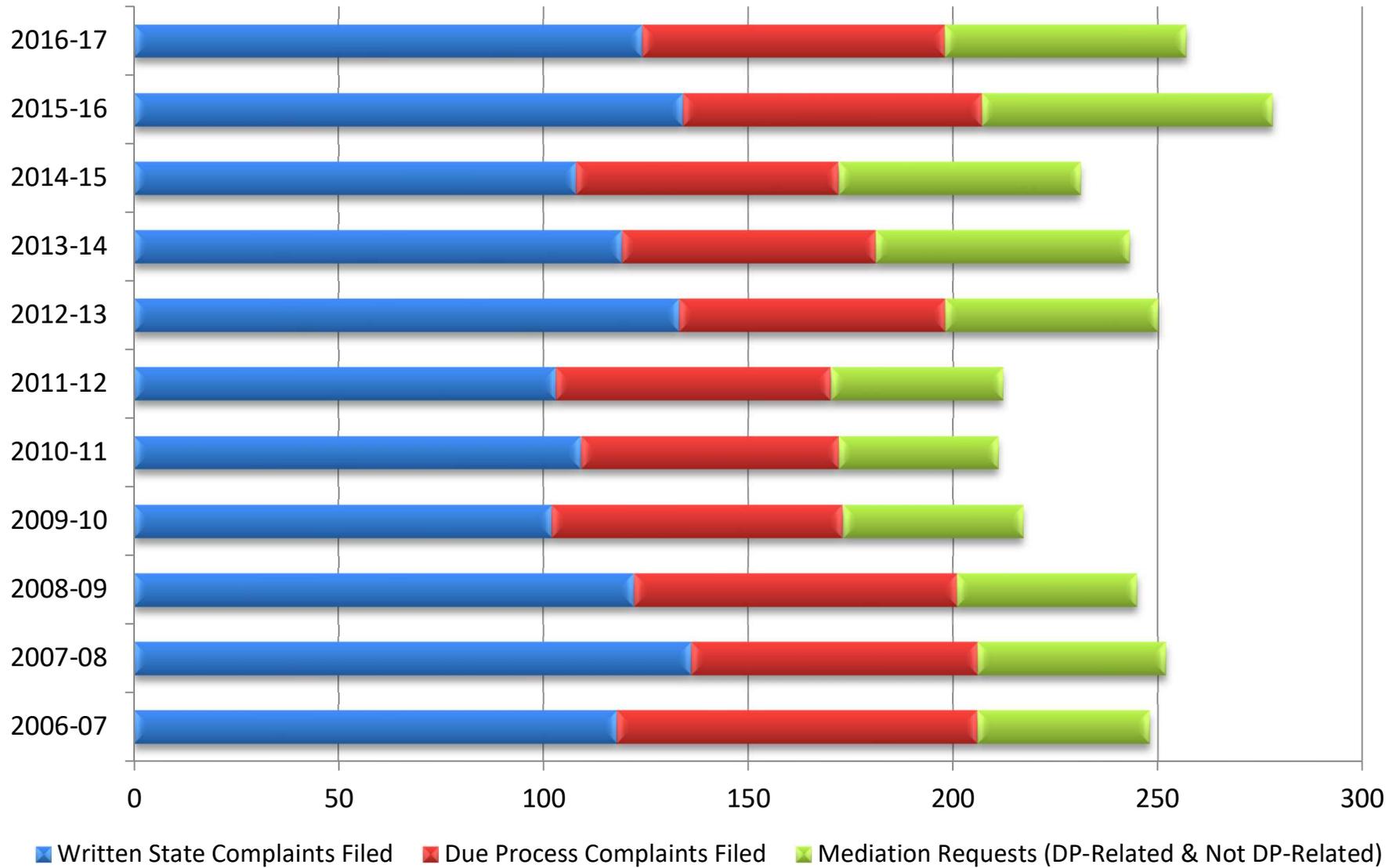
## Relative Use of Dispute Resolution Options: Indiana

Note: 100% = The sum of requests for all dispute resolution processes



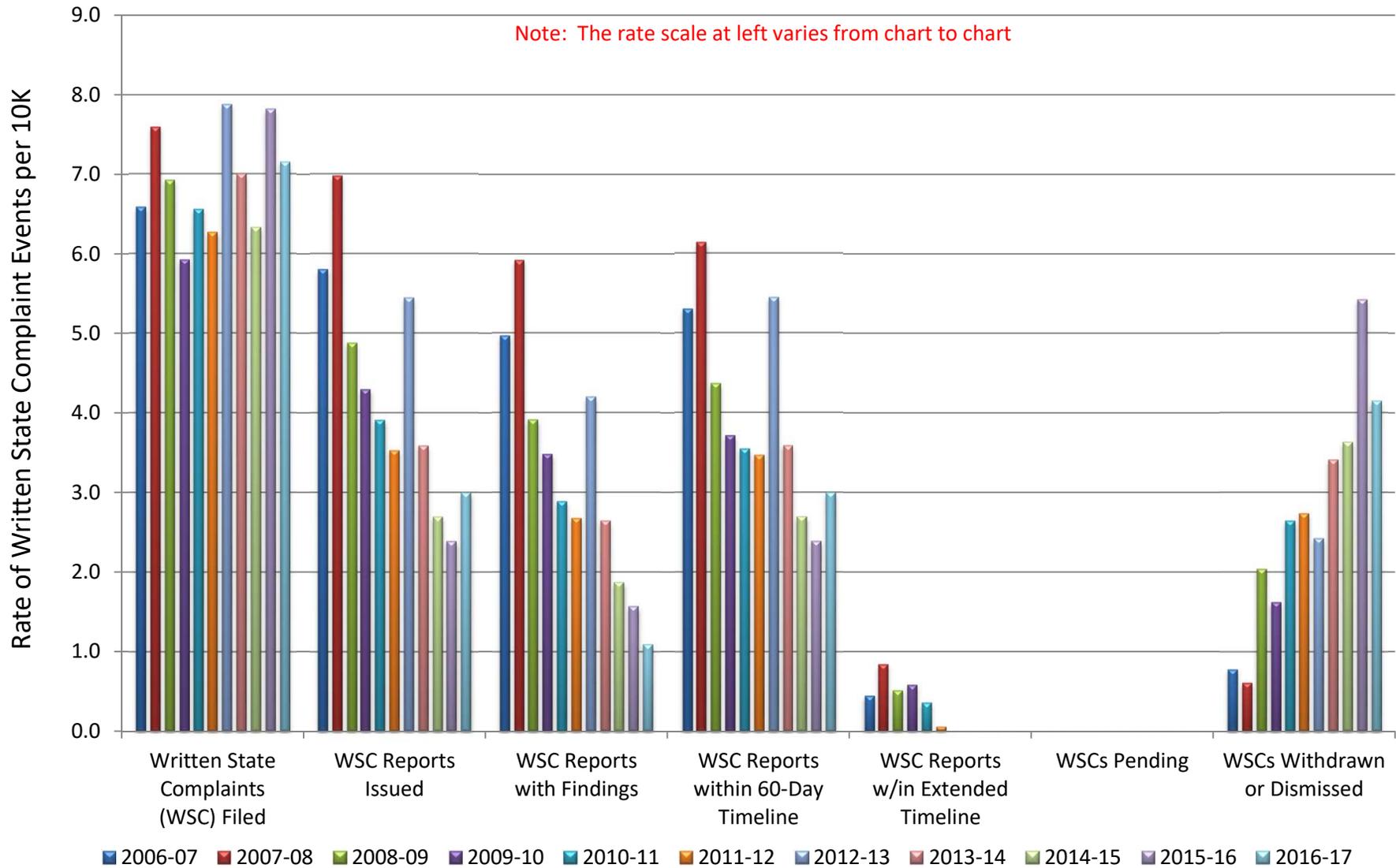


## Aggregate Use of Dispute Resolution Options: Indiana



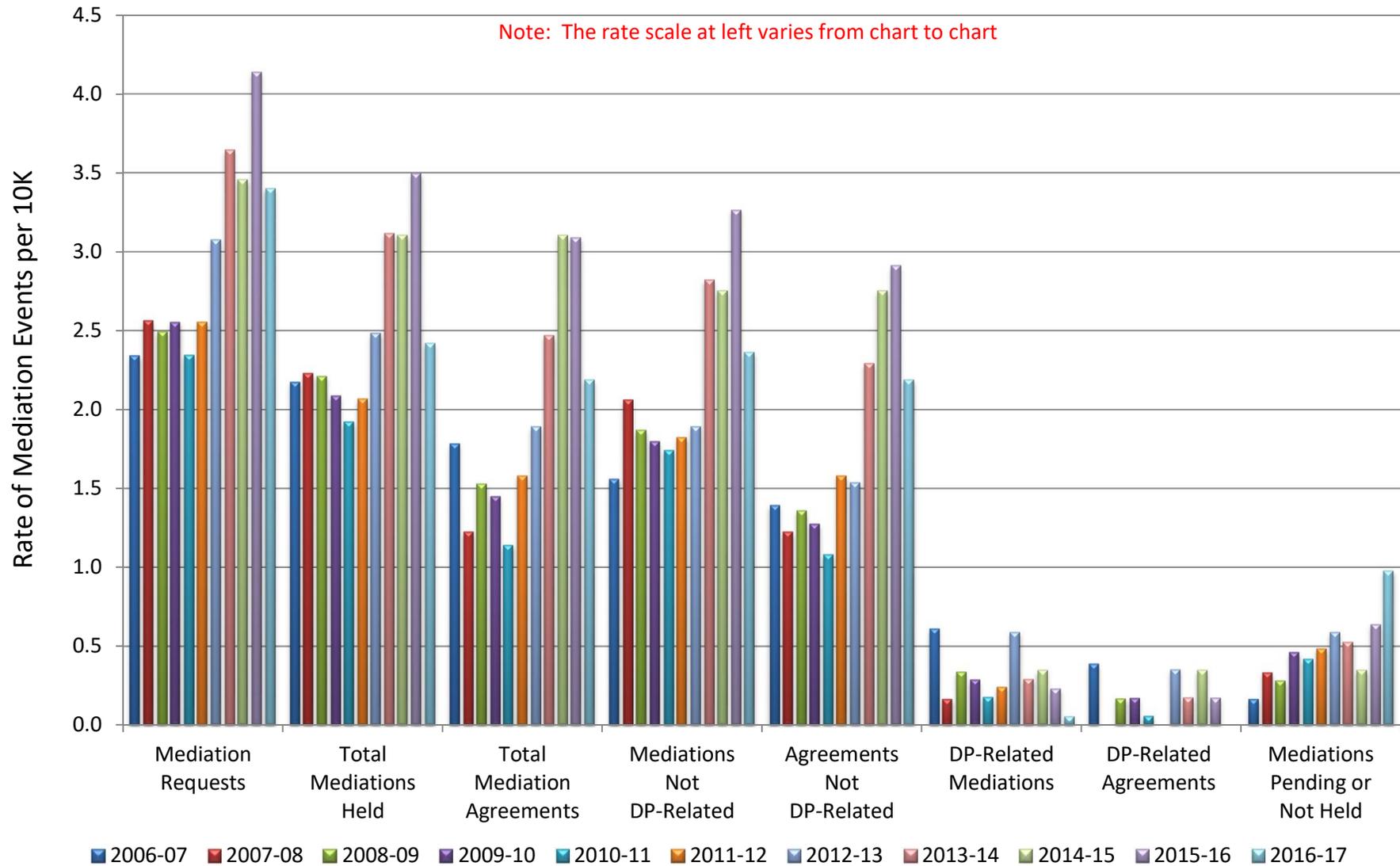


# Written State Complaint Activity per 10K Childcount: Indiana



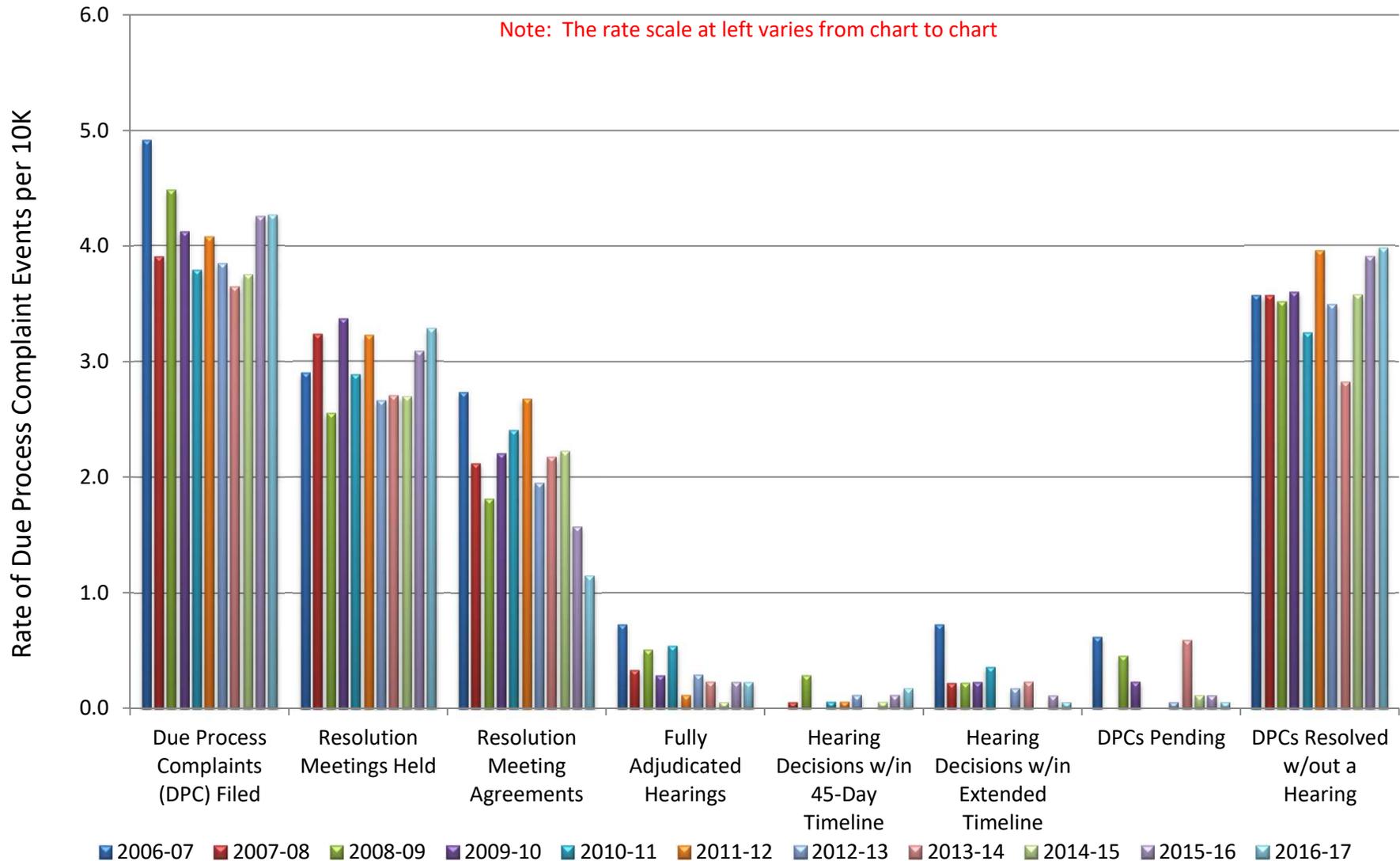


## Mediation Activity per 10K Childcount: Indiana



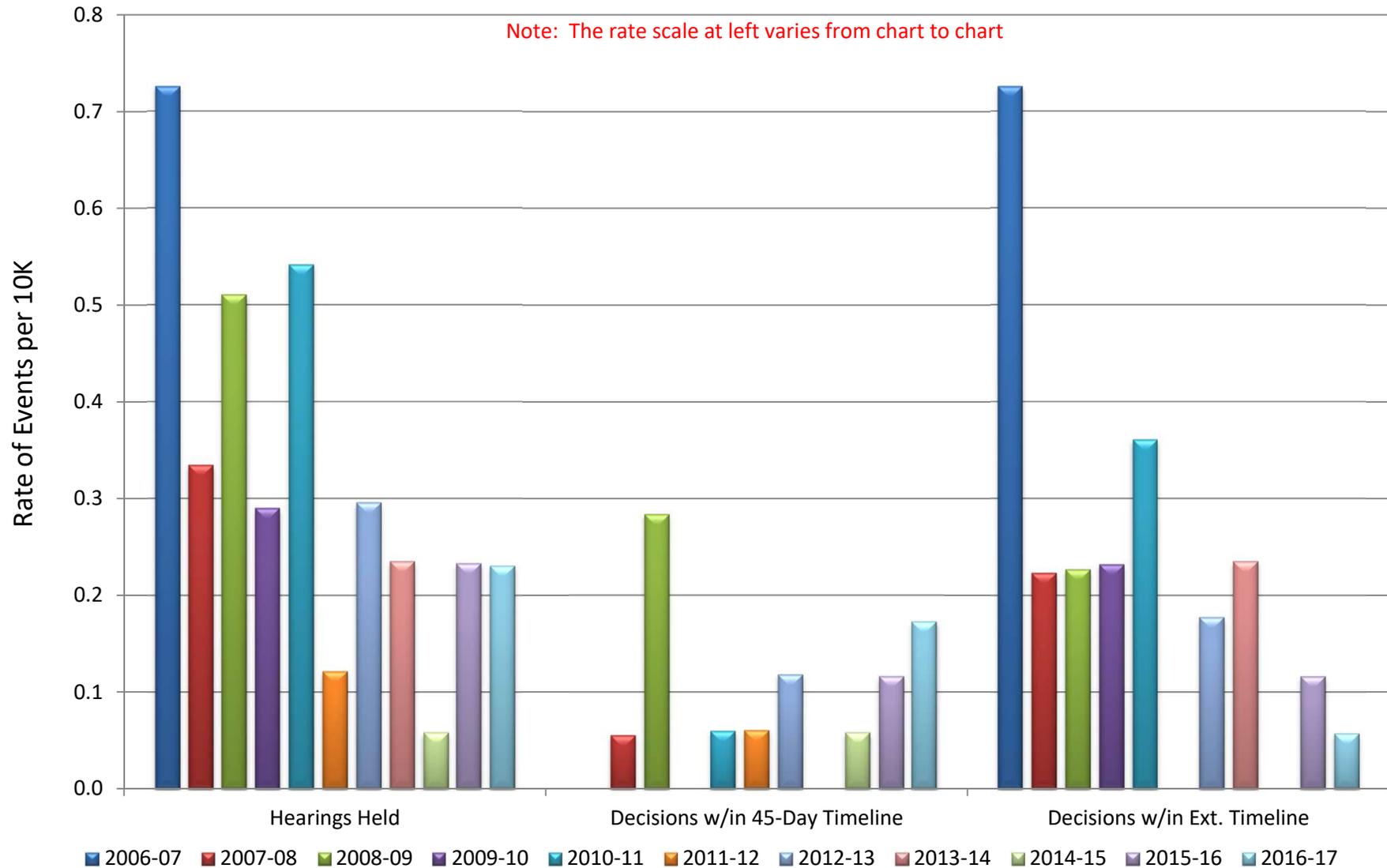


## Due Process Complaint Activity per 10K Childcount: Indiana



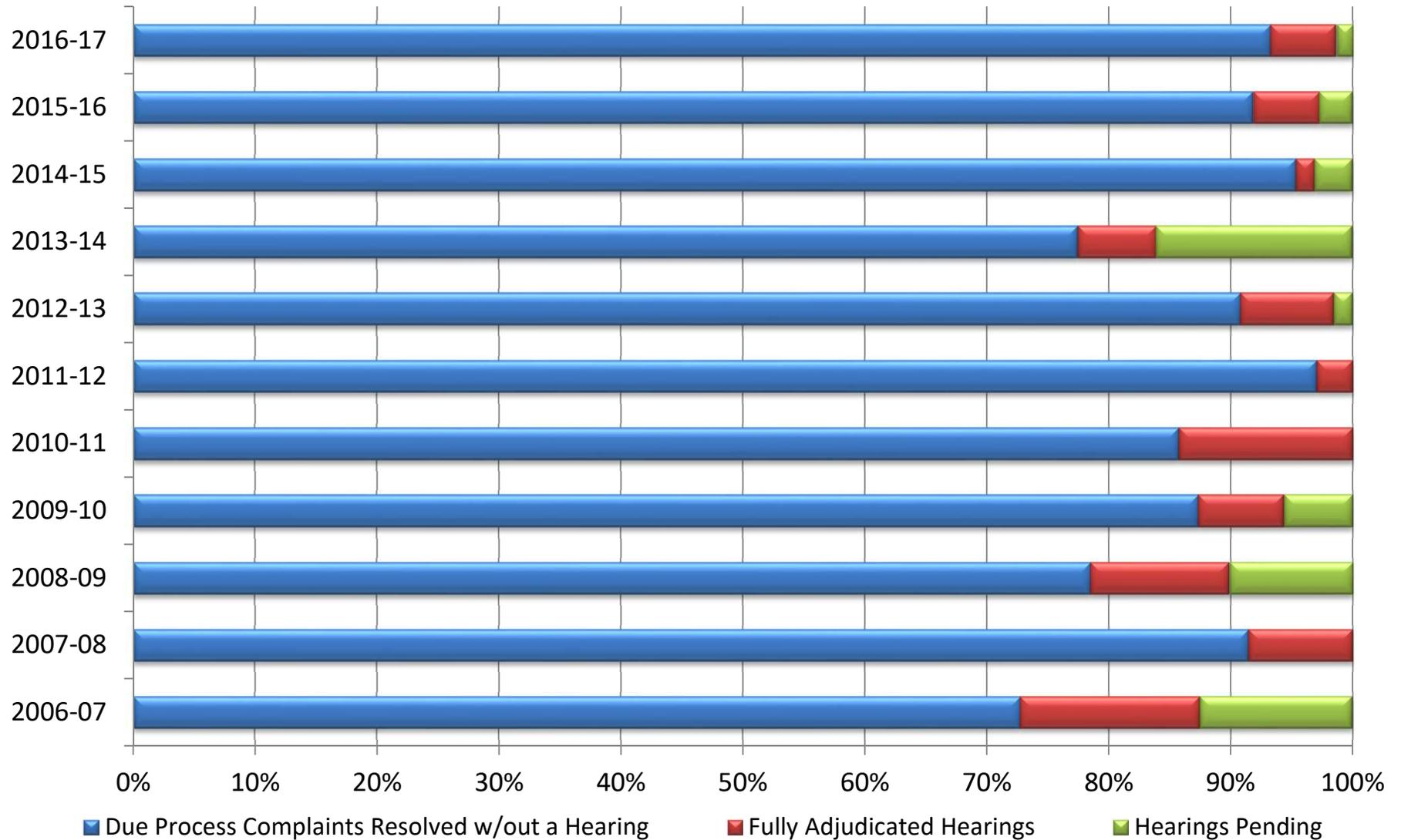


# Timeliness of Due Process Hearing Decisions per 10K Childcount: Indiana





## Relative Disposition of Due Process Complaints: Indiana





2016-17

	Indiana		Comparator	
	Number Reported	Events Per 10K*	50 States	
			Events Per 10K*	Number Reported
<b>Written State Complaints</b>				
Written State Complaints Filed	124	7.2	7.8	5,195
Reports Issued Total	52	3.0	5.2	3,465
Reports with Findings	19	1.1	3.0	2,010
Reports within 60-Day Timeline	52	3.0	4.9	3,273
Reports within Extended Timelines	0	0.0	0.2	127
Total Reports within Timelines	52	3.0	5.1	3,400
Written State Complaints Pending	0	0.0	0.2	116
Complaints Pending a Due Process Complaint	0	0.0	0.1	48
Complaints Withdrawn or Dismissed	72	4.2	2.4	1,614

**Mediations**

Mediation Requests Total	59	3.4	16.0	10,634
Mediations Held	42	2.4	9.3	6,215
Due Process-Related Mediations	1	0.1	5.2	3,437
Due Process-Related Mediation Agreements	0	0.0	2.8	1,888
Mediations Not Related to Due Process	41	2.4	4.2	2,778
Mediation Agreements Not Related to Due Process	38	2.2	3.1	2,089
Total Mediation Agreements	38	2.2	6.0	3,977
Mediations Pending	8	0.5	1.7	3,316
Mediations Withdrawn or Not Held	9	0.5	5.0	1,103

**Due Process Complaints**

Due Process Complaints Filed	74	4.3	24.3	16,175
Resolution Meetings Held	57	3.3	13.7	9,107
Resolution Meeting Agreements	20	1.2	2.2	1,458
Fully Adjudicated Hearings	4	0.2	1.6	1,099
Hearings Held within 45-Day Timeline	4	0.2	0.4	257
Decisions within 45-Day Timeline	3	0.1	1.1	733
Decisions within Extended Timelines	1	0.2	1.5	990
DP Complaints Pending	1	0.1	6.6	4,415
DP Complaints Withdrawn, Dismissed or Resolved Without a Hearing	69	4.0	16.0	10,661

**Expedited Due Process Hearing Requests (EHR)\*\***

EHR DP Complaints Filed	12	0.7	0.5	363
EHR Resolution Meetings Held	5	0.3	0.2	159
EHR Resolution Meeting Agreements	3	0.2	0.1	70
EHR Fully Adjudicated Hearings	2	0.1	0.1	36
EHR Change of Placement Ordered	0	0.0	0.0	5
EHR DP Complaints Pending	0	0.0	0.1	46
EHR DP Complaints Withdrawn, Dismissed or Resolved Without a Hearing	10	0.6	0.4	281

Notes:

\* "Per 10K" values are computed by dividing the number of events by childcount (3-21 years) times 10,000; these "per capita" rates allow comparisons of activity across states.

\*\* Except for *EHR Change of Placement Ordered*, all EHR data points are included in the numbers reported for Due Process Complaints.

\*\*\* The counts reported under "Decisions within extended timeline" represent the number of written decisions from a fully adjudicated hearing that were provided to the parties in the due process hearing more than 45 days after the expiration of the 30-day or adjusted resolution period, but within a specific time extension granted by the hearing officer at the request of either party. No data is collected on the length of these time extensions.

For questions regarding this report, contact Diana Cruz at: [cadre@directionservice.org](mailto:cadre@directionservice.org).



2015-16

	Indiana		Comparator	
	Number Reported	Events Per 10K*	50 States	
			Events Per 10K*	Number Reported
<b>Written State Complaints</b>				
Written State Complaints Filed	134	7.8	8.0	5,301
Reports Issued Total	41	2.4	4.9	3,284
Reports with Findings	27	1.6	3.2	2,154
Reports within 60-Day Timeline	41	2.4	4.6	3,047
Reports within Extended Timelines	0	0.0	0.3	174
Total Reports within Timelines	41	2.4	4.8	3,221
Written State Complaints Pending	0	0.0	0.2	147
Complaints Pending a Due Process Complaint	0	0.0	0.1	55
Complaints Withdrawn or Dismissed	93	5.4	2.8	1,870

**Mediations**

Mediation Requests Total	71	4.1	12.3	8,227
Mediations Held	60	3.5	9.4	6,263
Due Process-Related Mediations	4	0.2	5.0	3,360
Due Process-Related Mediation Agreements	3	0.2	3.0	1,981
Mediations Not Related to Due Process	56	3.3	4.4	2,903
Mediation Agreements Not Related to Due Process	50	2.9	3.2	2,146
Total Mediation Agreements	53	3.1	6.2	4,127
Mediations Pending	0	0.0	0.7	1,484
Mediations Withdrawn or Not Held	11	0.6	2.2	480

**Due Process Complaints**

Due Process Complaints Filed	73	4.3	26.0	17,325
Resolution Meetings Held	53	3.1	11.9	7,936
Resolution Meeting Agreements	27	1.6	2.1	1,423
Fully Adjudicated Hearings	4	0.2	1.2	833
Hearings Held within 45-Day Timeline	4	0.1	0.3	216
Decisions within 45-Day Timeline	2	0.1	0.8	529
Decisions within Extended Timelines	2	0.2	1.1	745
DP Complaints Pending	2	0.1	8.8	5,890
DP Complaints Withdrawn, Dismissed or Resolved Without a Hearing	67	3.9	15.9	10,602

**Expedited Due Process Hearing Requests (EHR)\*\***

EHR DP Complaints Filed	4	0.2	0.5	336
EHR Resolution Meetings Held	2	0.1	0.2	142
EHR Resolution Meeting Agreements	2	0.1	0.1	83
EHR Fully Adjudicated Hearings	0	0.0	0.0	24
EHR Change of Placement Ordered	0	0.0	0.0	6
EHR DP Complaints Pending	0	0.0	0.1	34
EHR DP Complaints Withdrawn, Dismissed or Resolved Without a Hearing	4	0.2	0.4	278

Notes:

\* "Per 10K" values are computed by dividing the number of events by childcount (3-21 years) times 10,000; these "per capita" rates allow comparisons of activity across states.

\*\* Except for *EHR Change of Placement Ordered*, all EHR data points are included in the numbers reported for Due Process Complaints.

\*\*\* The counts reported under "Decisions within extended timeline" represent the number of written decisions from a fully adjudicated hearing that were provided to the parties in the due process hearing more than 45 days after the expiration of the 30-day or adjusted resolution period, but within a specific time extension granted by the hearing officer at the request of either party. No data is collected on the length of these time extensions.

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2014-15

	Indiana		Comparator	
	Number Reported	Events Per 10K*	50 States	
			Events Per 10K*	Number Reported
<b>Written State Complaints</b>				
Written State Complaints Filed	108	6.3	7.5	4,907
Reports Issued Total	46	2.7	4.5	2,952
Reports with Findings	32	1.9	2.8	1,857
Reports within 60-Day Timeline	46	2.7	4.2	2,777
Reports within Extended Timelines	0	0.0	0.2	142
Total Reports within Timelines	46	2.7	4.5	2,919
Written State Complaints Pending	0	0.0	0.3	191
Complaints Pending a Due Process Complaint	0	0.0	0.2	111
Complaints Withdrawn or Dismissed	62	3.6	2.7	1,764

**Mediations**

Mediation Requests Total	59	3.5	14.5	9,482
Mediations Held	53	3.1	9.2	5,994
Due Process-Related Mediations	6	0.4	5.0	3,249
Due Process-Related Mediation Agreements	6	0.4	3.0	1,955
Mediations Not Related to Due Process	47	2.8	4.2	2,745
Mediation Agreements Not Related to Due Process	47	2.8	3.1	2,055
Total Mediation Agreements	53	3.1	6.1	4,010
Mediations Pending	0	0.0	1.4	2,564
Mediations Withdrawn or Not Held	6	0.4	3.9	924

**Due Process Complaints**

Due Process Complaints Filed	64	3.8	21.8	14,283
Resolution Meetings Held	46	2.7	10.9	7,123
Resolution Meeting Agreements	38	2.2	1.8	1,194
Fully Adjudicated Hearings	1	0.1	1.2	805
Hearings Held within 45-Day Timeline	1	0.1	0.3	209
Decisions within 45-Day Timeline	1	0.0	0.8	527
Decisions within Extended Timelines	0	0.1	1.1	736
DP Complaints Pending	2	0.1	5.0	3,285
DP Complaints Withdrawn, Dismissed or Resolved Without a Hearing	61	3.6	15.6	10,193

**Expedited Due Process Hearing Requests (EHR)\*\***

EHR DP Complaints Filed	7	0.4	0.4	288
EHR Resolution Meetings Held	5	0.3	0.2	125
EHR Resolution Meeting Agreements	3	0.2	0.1	62
EHR Fully Adjudicated Hearings	0	0.0	0.0	29
EHR Change of Placement Ordered	0	0.0	0.0	5
EHR DP Complaints Pending	1	0.1	0.0	24
EHR DP Complaints Withdrawn, Dismissed or Resolved Without a Hearing	6	0.4	0.4	235

Notes:

\* "Per 10K" values are computed by dividing the number of events by childcount (3-21 years) times 10,000; these "per capita" rates allow comparisons of activity across states.

\*\* Except for *EHR Change of Placement Ordered*, all EHR data points are included in the numbers reported for Due Process Complaints.

\*\*\* The counts reported under "Decisions within extended timeline" represent the number of written decisions from a fully adjudicated hearing that were provided to the parties in the due process hearing more than 45 days after the expiration of the 30-day or adjusted resolution period, but within a specific time extension granted by the hearing officer at the request of either party. No data is collected on the length of these time extensions.

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2013-14

	Indiana		Comparator	
	Number Reported	Events Per 10K*	50 States	
			Events Per 10K*	Number Reported
<b>Written State Complaints</b>				
Written State Complaints Filed	119	7.0	7.6	4,929
Reports Issued Total	61	3.6	4.7	3,001
Reports with Findings	45	2.6	2.9	1,859
Reports within 60-Day Timeline	61	3.6	4.3	2,775
Reports within Extended Timelines	0	0.0	0.3	167
Total Reports within Timelines	61	3.6	4.6	2,942
Written State Complaints Pending	0	0.0	0.2	108
Complaints Pending a Due Process Complaint	0	0.0	0.1	77
Complaints Withdrawn or Dismissed	58	3.4	2.8	1,820

**Mediations**

Mediation Requests Total	62	3.7	13.6	8,799
Mediations Held	53	3.1	8.5	5,453
Due Process-Related Mediations	5	0.3	4.5	2,889
Due Process-Related Mediation Agreements	3	0.2	2.8	1,832
Mediations Not Related to Due Process	48	2.8	4.0	2,564
Mediation Agreements Not Related to Due Process	39	2.3	3.0	1,946
Total Mediation Agreements	42	2.5	5.9	3,778
Mediations Pending	0	0.0	1.2	2,547
Mediations Withdrawn or Not Held	9	0.5	3.9	799

**Due Process Complaints**

Due Process Complaints Filed	62	3.7	23.2	14,940
Resolution Meetings Held	46	2.7	12.2	7,852
Resolution Meeting Agreements	37	2.2	1.8	1,140
Fully Adjudicated Hearings	4	0.2	1.9	1,221
Hearings Held within 45-Day Timeline	4	0.0	0.3	219
Decisions within 45-Day Timeline	0	0.2	1.4	875
Decisions within Extended Timelines	4	0.2	1.7	1,094
DP Complaints Pending	10	0.6	5.7	3,705
DP Complaints Withdrawn, Dismissed or Resolved Without a Hearing	48	2.8	15.5	10,014

**Expedited Due Process Hearing Requests (EHR)\*\***

EHR DP Complaints Filed	2	0.1	0.4	287
EHR Resolution Meetings Held	2	0.1	0.2	115
EHR Resolution Meeting Agreements	2	0.1	0.1	70
EHR Fully Adjudicated Hearings	0	0.0	0.0	31
EHR Change of Placement Ordered	0	0.0	0.0	6
EHR DP Complaints Pending	0	0.0	0.0	15
EHR DP Complaints Withdrawn, Dismissed or Resolved Without a Hearing	2	0.1	0.4	241

Notes:

\* "Per 10K" values are computed by dividing the number of events by childcount (3-21 years) times 10,000; these "per capita" rates allow comparisons of activity across states.

\*\* Except for *EHR Change of Placement Ordered*, all EHR data points are included in the numbers reported for Due Process Complaints.

\*\*\* The counts reported under "Decisions within extended timeline" represent the number of written decisions from a fully adjudicated hearing that were provided to the parties in the due process hearing more than 45 days after the expiration of the 30-day or adjusted resolution period, but within a specific time extension granted by the hearing officer at the request of either party. No data is collected on the length of these time extensions.

For questions regarding this report, contact Diana Cruz at: [cadre@directionservice.org](mailto:cadre@directionservice.org).



2012-13

	Indiana		Comparator	
			50 States	
	Number Reported	Events Per 10K*	Events Per 10K*	Number Reported
<b>Written State Complaints</b>				
Written State Complaints Filed	133	7.9	7.7	4,943
Reports Issued Total	92	5.4	4.8	3,098
Reports with Findings	71	4.2	3.2	2,045
Reports within 60-Day Timeline	92	5.4	4.5	2,876
Reports within Extended Timelines	0	0.0	0.3	200
Total Reports within Timelines	92	5.4	4.8	3,076
Written State Complaints Pending	0	0.0	0.2	147
Complaints Pending a Due Process Complaint	0	0.0	0.1	49
Complaints Withdrawn or Dismissed	41	2.4	2.6	1,698

**Mediations**

Mediation Requests Total	52	3.1	13.6	8,744
Mediations Held	42	2.5	8.6	5,497
Due Process-Related Mediations	10	0.6	4.3	2,786
Due Process-Related Mediation Agreements	6	0.4	2.6	1,699
Mediations Not Related to Due Process	32	1.9	4.2	2,711
Mediation Agreements Not Related to Due Process	26	1.5	3.3	2,089
Total Mediation Agreements	32	1.9	5.9	3,788
Mediations Pending	0	0.0	1.5	2,274
Mediations Withdrawn or Not Held	10	0.6	3.5	973

**Due Process Complaints**

Due Process Complaints Filed	65	3.9	21.8	13,987
Resolution Meetings Held	45	2.7	11.6	7,442
Resolution Meeting Agreements	33	2.0	1.9	1,189
Fully Adjudicated Hearings	5	0.3	1.8	1,139
Hearings Held within 45-Day Timeline	5	0.1	0.4	231
Decisions within 45-Day Timeline	2	0.2	1.2	770
Decisions within Extended Timelines	3	0.3	1.6	1,001
DP Complaints Pending	1	0.1	4.8	3,100
DP Complaints Withdrawn, Dismissed or Resolved Without a Hearing	59	3.5	15.2	9,748

**Expedited Due Process Hearing Requests (EHR)\*\***

EHR DP Complaints Filed	13	0.8	0.5	298
EHR Resolution Meetings Held	9	0.5	0.2	150
EHR Resolution Meeting Agreements	4	0.2	0.1	72
EHR Fully Adjudicated Hearings	4	0.2	0.1	40
EHR Change of Placement Ordered	0	0.0	0.0	6
EHR DP Complaints Pending	0	0.0	0.0	15
EHR DP Complaints Withdrawn, Dismissed or Resolved Without a Hearing	9	0.5	0.4	243

Notes:

\* "Per 10K" values are computed by dividing the number of events by childcount (3-21 years) times 10,000; these "per capita" rates allow comparisons of activity across states.

\*\* Except for *EHR Change of Placement Ordered*, all EHR data points are included in the numbers reported for Due Process Complaints.

\*\*\* The counts reported under "Decisions within extended timeline" represent the number of written decisions from a fully adjudicated hearing that were provided to the parties in the due process hearing more than 45 days after the expiration of the 30-day or adjusted resolution period, but within a specific time extension granted by the hearing officer at the request of either party. No data is collected on the length of these time extensions.

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2011-12

	Indiana		Comparator	
	Number Reported	Events Per 10K*	50 States	
			Events Per 10K*	Number Reported
<b>Written State Complaints</b>				
Written State Complaints Filed	103	6.3	7.7	4,893
Reports Issued Total	58	3.5	4.9	3,113
Reports with Findings	44	2.7	3.5	2,261
Reports within 60-Day Timeline	57	3.5	4.6	2,917
Reports within Extended Timelines	1	0.1	0.2	159
Total Reports within Timelines	58	3.5	4.8	3,076
Written State Complaints Pending	0	0.0	0.2	130
Complaints Pending a Due Process Complaint	0	0.0	0.1	53
Complaints Withdrawn or Dismissed	45	2.7	2.6	1,661

**Mediations**

Mediation Requests Total	42	2.6	13.4	8,533
Mediations Held	34	2.1	8.7	5,576
Due Process-Related Mediations	4	0.2	4.4	2,803
Due Process-Related Mediation Agreements	0	0.0	2.6	1,670
Mediations Not Related to Due Process	30	1.8	4.3	2,773
Mediation Agreements Not Related to Due Process	26	1.6	3.3	2,117
Total Mediation Agreements	26	1.6	5.9	3,787
Mediations Pending	0	0.0	1.4	2,079
Mediations Withdrawn or Not Held	8	0.5	3.3	878

**Due Process Complaints**

Due Process Complaints Filed	67	4.1	22.4	14,319
Resolution Meetings Held	53	3.2	12.0	7,659
Resolution Meeting Agreements	44	2.7	2.1	1,339
Fully Adjudicated Hearings	2	0.1	1.7	1,106
Hearings Held within 45-Day Timeline	1	0.1	0.4	231
Decisions within 45-Day Timeline	1	0.0	1.2	764
Decisions within Extended Timelines	0	0.1	1.6	995
DP Complaints Pending	0	0.0	3.1	1,998
DP Complaints Withdrawn, Dismissed or Resolved Without a Hearing	65	4.0	17.6	11,215

**Expedited Due Process Hearing Requests (EHR)\*\***

EHR DP Complaints Filed	9	0.5	0.5	304
EHR Resolution Meetings Held	8	0.5	0.2	132
EHR Resolution Meeting Agreements	8	0.5	0.1	64
EHR Fully Adjudicated Hearings	1	0.1	0.0	27
EHR Change of Placement Ordered	0	0.0	0.0	10
EHR DP Complaints Pending	0	0.0	0.0	19
EHR DP Complaints Withdrawn, Dismissed or Resolved Without a Hearing	8	0.5	0.4	258

Notes:

\* "Per 10K" values are computed by dividing the number of events by childcount (3-21 years) times 10,000; these "per capita" rates allow comparisons of activity across states.

\*\* Except for *EHR Change of Placement Ordered*, all EHR data points are included in the numbers reported for Due Process Complaints.

\*\*\* The counts reported under "Decisions within extended timeline" represent the number of written decisions from a fully adjudicated hearing that were provided to the parties in the due process hearing more than 45 days after the expiration of the 30-day or adjusted resolution period, but within a specific time extension granted by the hearing officer at the request of either party. No data is collected on the length of these time extensions.

For questions regarding this report, contact Diana Cruz at: [cadre@directionservice.org](mailto:cadre@directionservice.org).



2010-11

	Indiana		Comparator	
			50 States	
	Number Reported	Events Per 10K*	Events Per 10K*	Number Reported
<b>Written State Complaints</b>				
Written State Complaints Filed	109	6.6	7.6	4,911
Reports Issued Total	65	3.9	4.8	3,111
Reports with Findings	48	2.9	3.1	2,021
Reports within 60-Day Timeline	59	3.6	4.5	2,873
Reports within Extended Timelines	6	0.4	0.3	200
Total Reports within Timelines	65	3.9	4.8	3,073
Written State Complaints Pending	0	0.0	0.2	127
Complaints Pending a Due Process Complaint	0	0.0	0.1	72
Complaints Withdrawn or Dismissed	44	2.6	2.6	1,673

**Mediations**

Mediation Requests Total	39	2.3	12.6	8,068
Mediations Held	32	1.9	8.1	5,177
Due Process-Related Mediations	3	0.2	3.9	2,501
Due Process-Related Mediation Agreements	1	0.1	2.4	1,569
Mediations Not Related to Due Process	29	1.7	4.2	2,676
Mediation Agreements Not Related to Due Process	18	1.1	3.2	2,054
Total Mediation Agreements	19	1.1	5.6	3,623
Mediations Pending	0	0.0	1.1	2,209
Mediations Withdrawn or Not Held	7	0.4	3.4	682

**Due Process Complaints**

Due Process Complaints Filed	63	3.8	21.7	13,914
Resolution Meetings Held	48	2.9	12.2	7,841
Resolution Meeting Agreements	40	2.4	2.3	1,487
Fully Adjudicated Hearings	9	0.5	1.3	823
Hearings Held within 45-Day Timeline	7	0.1	0.3	201
Decisions within 45-Day Timeline	1	0.4	0.9	549
Decisions within Extended Timelines	6	0.4	1.2	750
DP Complaints Pending	0	0.0	4.4	2,840
DP Complaints Withdrawn, Dismissed or Resolved Without a Hearing	54	3.3	16.0	10,251

**Expedited Due Process Hearing Requests (EHR)\*\***

EHR DP Complaints Filed	5	0.3	0.5	311
EHR Resolution Meetings Held	4	0.2	0.2	153
EHR Resolution Meeting Agreements	4	0.2	0.1	80
EHR Fully Adjudicated Hearings	0	0.0	0.1	35
EHR Change of Placement Ordered	0	0.0	0.0	10
EHR DP Complaints Pending	0	0.0	0.0	14
EHR DP Complaints Withdrawn, Dismissed or Resolved Without a Hearing	5	0.3	0.4	262

Notes:

\* "Per 10K" values are computed by dividing the number of events by childcount (3-21 years) times 10,000; these "per capita" rates allow comparisons of activity across states.

\*\* Except for *EHR Change of Placement Ordered*, all EHR data points are included in the numbers reported for Due Process Complaints.

\*\*\* The counts reported under "Decisions within extended timeline" represent the number of written decisions from a fully adjudicated hearing that were provided to the parties in the due process hearing more than 45 days after the expiration of the 30-day or adjusted resolution period, but within a specific time extension granted by the hearing officer at the request of either party. No data is collected on the length of these time extensions.

For questions regarding this report, contact Diana Cruz at: cadre@directionservice.org.



2009-10

	Indiana		Comparator	
	Number Reported	Events Per 10K*	50 States	
			Events Per 10K*	Number Reported
<b>Written State Complaints</b>				
Written State Complaints Filed	102	5.9	7.4	4,781
Reports Issued Total	74	4.3	4.5	2,943
Reports with Findings	60	3.5	3.2	2,044
Reports within 60-Day Timeline	64	3.7	4.1	2,632
Reports within Extended Timelines	10	0.6	0.3	216
Total Reports within Timelines	74	4.3	4.4	2,848
Written State Complaints Pending	0	0.0	0.7	446
Complaints Pending a Due Process Complaint	0	0.0	0.1	65
Complaints Withdrawn or Dismissed	28	1.6	2.2	1,392

**Mediations**

Mediation Requests Total	44	2.6	11.9	7,673
Mediations Held	36	2.1	7.7	4,956
Due Process-Related Mediations	5	0.3	3.6	2,343
Due Process-Related Mediation Agreements	3	0.2	2.1	1,334
Mediations Not Related to Due Process	31	1.8	4.0	2,614
Mediation Agreements Not Related to Due Process	22	1.3	3.2	2,078
Total Mediation Agreements	25	1.5	5.3	3,412
Mediations Pending	0	0.0	1.1	2,001
Mediations Withdrawn or Not Held	8	0.5	3.1	714

**Due Process Complaints**

Due Process Complaints Filed	71	4.1	21.2	13,711
Resolution Meetings Held	58	3.4	11.7	7,569
Resolution Meeting Agreements	38	2.2	2.7	1,774
Fully Adjudicated Hearings	5	0.3	1.4	888
Hearings Held within 45-Day Timeline	4	0.0	0.4	259
Decisions within 45-Day Timeline	0	0.2	0.8	538
Decisions within Extended Timelines	4	0.2	1.2	797
DP Complaints Pending	4	0.2	4.1	2,681
DP Complaints Withdrawn, Dismissed or Resolved Without a Hearing	62	3.6	15.7	10,142

**Expedited Due Process Hearing Requests (EHR)\*\***

EHR DP Complaints Filed	1	0.1	0.5	305
EHR Resolution Meetings Held	0	0.0	0.2	118
EHR Resolution Meeting Agreements	0	0.0	0.1	54
EHR Fully Adjudicated Hearings	0	0.0	0.1	33
EHR Change of Placement Ordered	0	0.0	0.0	8
EHR DP Complaints Pending	0	0.0	0.1	35
EHR DP Complaints Withdrawn, Dismissed or Resolved Without a Hearing	1	0.1	0.4	236

Notes:

\* "Per 10K" values are computed by dividing the number of events by childcount (3-21 years) times 10,000; these "per capita" rates allow comparisons of activity across states.

\*\* Except for *EHR Change of Placement Ordered*, all EHR data points are included in the numbers reported for Due Process Complaints.

\*\*\* The counts reported under "Decisions within extended timeline" represent the number of written decisions from a fully adjudicated hearing that were provided to the parties in the due process hearing more than 45 days after the expiration of the 30-day or adjusted resolution period, but within a specific time extension granted by the hearing officer at the request of either party. No data is collected on the length of these time extensions.

For questions regarding this report, contact Diana Cruz at: [cadre@directionservice.org](mailto:cadre@directionservice.org).



2008-09

	Indiana		Comparator	
	Number Reported	Events Per 10K*	50 States	
			Events Per 10K*	Number Reported
<b>Written State Complaints</b>				
Written State Complaints Filed	122	6.9	7.5	4,895
Reports Issued Total	86	4.9	5.1	3,312
Reports with Findings	69	3.9	3.6	2,308
Reports within 60-Day Timeline	77	4.4	4.6	2,954
Reports within Extended Timelines	9	0.5	0.5	304
Total Reports within Timelines	86	4.9	5.0	3,258
Written State Complaints Pending	0	0.0	0.2	144
Complaints Pending a Due Process Complaint	0	0.0	0.1	72
Complaints Withdrawn or Dismissed	36	2.0	2.2	1,439

**Mediations**

Mediation Requests Total	44	2.5	12.1	7,854
Mediations Held	39	2.2	8.1	5,245
Due Process-Related Mediations	6	0.3	3.9	2,515
Due Process-Related Mediation Agreements	3	0.2	2.3	1,512
Mediations Not Related to Due Process	33	1.9	4.2	2,730
Mediation Agreements Not Related to Due Process	24	1.4	3.3	2,125
Total Mediation Agreements	27	1.5	5.6	3,637
Mediations Not Held (Including Pending)	5	0.3	4.0	2,609

**Due Process Complaints**

Due Process Complaints Filed	79	4.5	21.6	14,017
Resolution Meetings Held	45	2.6	11.0	7,152
Resolution Meeting Agreements	32	1.8	2.6	1,686
Fully Adjudicated Hearings	9	0.5	1.6	1,024
Hearings Held within 45-Day Timeline	9	0.3	0.4	250
Decisions within 45-Day Timeline	5	0.2	1.0	645
Decisions within Extended Timelines	4	0.5	1.4	895
DP Complaints Pending	8	0.5	3.5	2,289
DP Complaints Withdrawn, Dismissed or Resolved Without a Hearing	62	3.5	16.5	10,704

**Expedited Due Process Hearing Requests (EHR)\*\***

EHR DP Complaints Filed	9	0.5	0.5	305
EHR Resolution Meetings Held	5	0.3	0.2	128
EHR Resolution Meeting Agreements	3	0.2	0.1	73
EHR Fully Adjudicated Hearings	2	0.1	0.0	29
EHR Change of Placement Ordered	0	0.0	0.0	5

Notes:

\* "Per 10K" values are computed by dividing the number of events by childcount (3-21 years) times 10,000; these "per capita" rates allow comparisons of activity across states.

\*\* Except for *EHR Change of Placement Ordered*, all EHR data points are included in the numbers reported for Due Process Complaints.

\*\*\* The counts reported under "Decisions within extended timeline" represent the number of written decisions from a fully adjudicated hearing that were provided to the parties in the due process hearing more than 45 days after the expiration of the 30-day or adjusted resolution period, but within a specific time extension granted by the hearing officer at the request of either party. No data is collected on the length of these time extensions.

For questions regarding this report, contact Diana Cruz at: [cadre@directionservice.org](mailto:cadre@directionservice.org).



2007-08

	Indiana		Comparator	
	Number Reported	Events Per 10K*	50 States	
			Events Per 10K*	Number Reported
<b>Written State Complaints</b>				
Written State Complaints Filed	136	7.6	8.3	5,497
Reports Issued Total	125	7.0	5.9	3,895
Reports with Findings	106	5.9	4.2	2,761
Reports within 60-Day Timeline	110	6.1	5.2	3,410
Reports within Extended Timelines	15	0.8	0.6	398
Total Reports within Timelines	125	7.0	5.8	3,808
Written State Complaints Pending	0	0.0	0.2	154
Complaints Pending a Due Process Complaint	0	0.0	0.1	83
Complaints Withdrawn or Dismissed	11	0.6	2.2	1,448

**Mediations**

Mediation Requests Total	46	2.6	12.0	7,951
Mediations Held	40	2.2	7.5	4,989
Due Process-Related Mediations	3	0.2	3.1	2,070
Due Process-Related Mediation Agreements	0	0.0	2.1	1,362
Mediations Not Related to Due Process	37	2.1	4.4	2,919
Mediation Agreements Not Related to Due Process	22	1.2	3.4	2,269
Total Mediation Agreements	22	1.2	5.5	3,631
Mediations Not Held (Including Pending)	6	0.3	4.5	2,962

**Due Process Complaints**

Due Process Complaints Filed	70	3.9	21.0	13,894
Resolution Meetings Held	58	3.2	12.2	8,090
Resolution Meeting Agreements	38	2.1	2.9	1,932
Fully Adjudicated Hearings	6	0.3	1.6	1,064
Hearings Held within 45-Day Timeline	5	0.1	0.4	288
Decisions within 45-Day Timeline	1	0.2	1.0	647
Decisions within Extended Timelines	4	0.3	1.4	935
DP Complaints Pending	0	0.0	4.9	3,228
DP Complaints Withdrawn, Dismissed or Resolved Without a Hearing	64	3.6	14.5	9,612

**Expedited Due Process Hearing Requests (EHR)\*\***

EHR DP Complaints Filed	6	0.3	0.5	302
EHR Resolution Meetings Held	2	0.1	0.3	180
EHR Resolution Meeting Agreements	2	0.1	0.1	76
EHR Fully Adjudicated Hearings	0	0.0	0.0	30
EHR Change of Placement Ordered	0	0.0	0.0	11

Notes:

\* "Per 10K" values are computed by dividing the number of events by childcount (3-21 years) times 10,000; these "per capita" rates allow comparisons of activity across states.

\*\* Except for *EHR Change of Placement Ordered*, all EHR data points are included in the numbers reported for Due Process Complaints.

\*\*\* The counts reported under "Decisions within extended timeline" represent the number of written decisions from a fully adjudicated hearing that were provided to the parties in the due process hearing more than 45 days after the expiration of the 30-day or adjusted resolution period, but within a specific time extension granted by the hearing officer at the request of either party. No data is collected on the length of these time extensions.

For questions regarding this report, contact Diana Cruz at: [cadre@directionservice.org](mailto:cadre@directionservice.org).



2006-07

	Indiana		Comparator	
			50 States	
	Number Reported	Events Per 10K*	Events Per 10K*	Number Reported
<b>Written State Complaints</b>				
Written State Complaints Filed	118	6.6	8.2	5,500
Reports Issued Total	104	5.8	5.6	3,768
Reports with Findings	89	5.0	3.8	2,521
Reports within 60-Day Timeline	95	5.3	4.8	3,182
Reports within Extended Timelines	8	0.4	0.6	397
Total Reports within Timelines	103	5.8	5.4	3,579
Written State Complaints Pending	0	0.0	0.3	167
Complaints Pending a Due Process Complaint	0	0.0	0.1	86
Complaints Withdrawn or Dismissed	14	0.8	2.3	1,565

**Mediations**

Mediation Requests Total	42	2.3	11.7	7,806
Mediations Held	39	2.2	8.1	5,377
Due Process-Related Mediations	11	0.6	3.7	2,449
Due Process-Related Mediation Agreements	7	0.4	1.7	1,158
Mediations Not Related to Due Process	28	1.6	4.4	2,928
Mediation Agreements Not Related to Due Process	25	1.4	3.4	2,252
Total Mediation Agreements	32	1.8	5.1	3,410
Mediations Not Held (Including Pending)	3	0.2	3.6	2,429

**Due Process Complaints**

Due Process Complaints Filed	88	4.9	20.7	13,828
Resolution Meetings Held	52	2.9	13.0	8,704
Resolution Meeting Agreements	49	2.7	2.9	1,912
Fully Adjudicated Hearings	13	0.7	2.1	1,370
Hearings Held within 45-Day Timeline	13	0.0	0.5	332
Decisions within 45-Day Timeline	0	0.7	1.3	865
Decisions within Extended Timelines	13	0.7	1.8	1,197
DP Complaints Pending	11	0.6	2.5	1,683
DP Complaints Withdrawn, Dismissed or Resolved Without a Hearing	64	3.6	16.1	10,775

**Expedited Due Process Hearing Requests (EHR)\*\***

EHR DP Complaints Filed	17	0.9	0.4	289
EHR Resolution Meetings Held	15	0.8	0.3	167
EHR Resolution Meeting Agreements	13	0.7	0.1	98
EHR Fully Adjudicated Hearings	1	0.1	0.1	37
EHR Change of Placement Ordered	1	0.1	0.0	13

Notes:

\* "Per 10K" values are computed by dividing the number of events by childcount (3-21 years) times 10,000; these "per capita" rates allow comparisons of activity across states.

\*\* Except for *EHR Change of Placement Ordered*, all EHR data points are included in the numbers reported for Due Process Complaints.

\*\*\* The counts reported under "Decisions within extended timeline" represent the number of written decisions from a fully adjudicated hearing that were provided to the parties in the due process hearing more than 45 days after the expiration of the 30-day or adjusted resolution period, but within a specific time extension granted by the hearing officer at the request of either party. No data is collected on the length of these time extensions.

For questions regarding this report, contact Diana Cruz at: [cadre@directionservice.org](mailto:cadre@directionservice.org).



2005-06

	Indiana		Comparator	
	Number Reported	Events Per 10K*	50 States	
			Events Per 10K*	Number Reported
<b>Written State Complaints</b>				
Written State Complaints Filed	86	4.8	8.7	5,798
Reports Issued Total	67	3.8	6.2	4,165
Reports with Findings	67	3.8	4.3	2,905
Reports within 60-Day Timeline	58	3.3	4.9	3,287
Reports within Extended Timelines	9	0.5	0.9	586
Total Reports within Timelines	67	3.8	5.8	3,873
Written State Complaints Pending	6	0.3	0.4	271
Complaints Pending a Due Process Complaint	0	0.0	0.2	142
Complaints Withdrawn or Dismissed	13	0.7	2.0	1,362

**Mediations**

Mediation Requests Total	31	1.7	11.4	7,666
Mediations Held	23	1.3	8.0	5,335
Due Process-Related Mediations	4	0.2	3.7	2,480
Due Process-Related Mediation Agreements	0	0.0	2.5	1,659
Mediations Not Related to Due Process	19	1.1	4.3	2,854
Mediation Agreements Not Related to Due Process	12	0.7	3.4	2,273
Total Mediation Agreements	12	0.7	5.9	3,932
Mediations Not Held (Including Pending)	8	0.4	3.1	2,085

**Due Process Complaints**

Due Process Complaints Filed	66	3.7	21.8	14,583
Resolution Meetings Held	43	2.4	5.5	3,678
Resolution Meeting Agreements	13	0.7	2.5	1,705
Fully Adjudicated Hearings	10	0.6	2.6	1,718
Hearings Held within 45-Day Timeline	10	0.1	0.6	382
Decisions within 45-Day Timeline	1	0.5	1.6	1,060
Decisions within Extended Timelines	9	0.6	2.2	1,442
DP Complaints Pending	3	0.2	3.7	2,466
DP Complaints Withdrawn, Dismissed or Resolved Without a Hearing	53	3.0	15.5	10,399

**Expedited Due Process Hearing Requests (EHR)\*\***

EHR DP Complaints Filed	6	0.3	0.4	251
EHR Resolution Meetings Held	0	0.0	0.1	97
EHR Resolution Meeting Agreements	0	0.0	0.1	43
EHR Fully Adjudicated Hearings	1	0.1	0.0	30
EHR Change of Placement Ordered	0	0.0	0.0	6

Notes:

\* "Per 10K" values are computed by dividing the number of events by childcount (3-21 years) times 10,000; these "per capita" rates allow comparisons of activity across states.

\*\* Except for *EHR Change of Placement Ordered*, all EHR data points are included in the numbers reported for Due Process Complaints.

\*\*\* The counts reported under "Decisions within extended timeline" represent the number of written decisions from a fully adjudicated hearing that were provided to the parties in the due process hearing more than 45 days after the expiration of the 30-day or adjusted resolution period, but within a specific time extension granted by the hearing officer at the request of either party. No data is collected on the length of these time extensions.

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2004-05

	Comparator			
	Indiana		50 States	
	Number Reported	Events Per 10K*	Events Per 10K*	Number Reported
<b>Written State Complaints</b>				
Written State Complaints Filed	116	6.6	9.1	6,094
Reports Issued Total	104	5.9	6.5	4,329
Reports with Findings	79	4.5	4.4	2,943
Reports within 60-Day Timeline	93	5.3	4.5	3,014
Reports within Extended Timelines	11	0.6	0.6	406
Total Reports within Timelines	104	5.9	5.1	3,420
Written State Complaints Pending	2	0.1	0.3	229
Complaints Pending a Due Process Complaint	0	0.0	0.2	127
Complaints Withdrawn or Dismissed	10	0.6	2.3	1,536

**Mediations**

Mediation Requests Total	45	2.6	11.4	7,648
Mediations Held	35	2.0	9.5	6,382
Due Process-Related Mediations	16	0.9	5.4	3,609
Due Process-Related Mediation Agreements	8	0.5	4.2	2,784
Mediations Not Related to Due Process	19	1.1	4.1	2,773
Mediation Agreements Not Related to Due Process	15	0.9	3.3	2,226
Total Mediation Agreements	23	1.3	7.5	5,010
Mediations Not Held (Including Pending)	10	0.6	1.9	1,266

**Due Process Complaints**

Due Process Complaints Filed	83	4.7	23.1	15,496
Fully Adjudicated Hearings	12	0.7	3.3	2,215
Hearings Held within 45-Day Timeline	11	0.0	1.1	742
Decisions within 45-Day Timeline	0	0.6	1.8	1,189
Decisions within Extended Timelines	11	0.6	2.9	1,931
DP Complaints Pending	0	0.0	3.5	2,358
DP Complaints Withdrawn, Dismissed or Resolved Without a Hearing	71	4.1	16.3	10,923

**Expedited Due Process Hearing Requests (EHR)\*\***

EHR DP Complaints Filed	2	0.1	0.6	381
EHR Fully Adjudicated Hearings	0	0.0	0.1	54
EHR Change of Placement Ordered	0	0.0	0.0	19

Notes:

\* "Per 10K" values are computed by dividing the number of events by childcount (3-21 years) times 10,000; these "per capita" rates allow comparisons of activity across states.

\*\* EHR data collection and reporting was optional prior to SY 2005-06, when it became a required subset of Due Process Complaints. All EHR data points (except *EHR Change of Placement Ordered*) are included in the numbers reported for Due Process Complaints.

\*\*\* The counts reported under "Decisions within extended timeline" represent the number of written decisions from a fully adjudicated hearing that were provided to the parties in the due process hearing more than 45 days after the expiration of the 30-day or adjusted resolution period, but within a specific time extension granted by the hearing officer at the request of either party. No data is collected on the length of these time extensions.

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## **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 <sup>1</sup>	Implementation Guidance	Notes
<p><b>34 CFR §300.506: Mediation.</b></p> <p>(a) <i>General.</i> 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))</p>	<p>511 IAC 7-45-2</p> <p>511 IAC 7-40-4(n); 511 IAC 7-42-7(i).</p> <p>511 IAC 7-45-2(b)</p>	<p>511 IAC 7-37-1 addresses the notice of procedural safeguards.</p> <p>511 IAC 7-37-1(f) lists the required components of the notice. The IDOE has posted a sample notice of procedural safeguards that is used by most schools.</p> <p>Notice of Procedural Safeguards (NOPS) (see MEDIATION)</p>	<ul style="list-style-type: none"> <li>• Mediation must be available to parents<sup>2</sup> and public agencies.</li> <li>• 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).</li> <li>• 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</li> </ul>	<p>Special education mediation was available in Indiana before federal regulations required it.</p> <p>Indiana’s procedures are in compliance with the implementation guidance.</p> <p>Highly qualified is no longer required under the IDEA regulations and the SBOE has approved removing that language from Art. 7. As of this writing, this is not yet final.</p> <p>The public agency can’t use mediation or a due process hearing to override a parent’s lack of consent for the provision of initial special education services, or a parent’s lack of consent for evaluation for a parentally-enrolled nonpublic school student.</p>

<sup>1</sup> 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).

<sup>2</sup> 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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			<p>before a party can request mediation.</p> <ul style="list-style-type: none"> <li>• See OSEP’s <i>Questions and Answers on IDEA Part B Dispute Resolution Procedures</i>, issued July 23, 2013, (Q&amp;A) A-1, A-4, A-6, A-7, A-8, B-24</li> </ul>	<p>Mediation is available only for parents and schools (not third parties). Mediation can be used to resolve disputes involving a student’s identification and eligibility; the appropriateness of the educational evaluation or the student’s proposed or current special education services or placement; any other dispute involving the provision of a free appropriate public education (FAPE) to the student; or reimbursement for services obtained by the parent. For parentally-placed nonpublic school students, mediation is only available for the following issues: child find; the appropriateness of an evaluation or reevaluation; the determination of eligibility for special education and related services (511 IAC 7-34-6(a)).</p>
<p>(b) <i>Requirements.</i> The procedures must meet the following requirements:</p>				
<p>(1) The procedures must ensure that the mediation process—</p> <p>(i) Is voluntary on the part of the parties;</p> <p>(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</p> <p>(iii) Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques. (300.506(b)(1))</p>	<p>Parties must agree to use mediation. 511 IAC 7-45-2(a).</p> <p>511 IAC 7-45-2(b)</p> <p>511 IAC 7-45-2(d)</p>	<p>NOPS (See MEDIATION)</p>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• See Q&amp;A A-18, A-21</li> </ul>	<p>Mediators must be trained and certified as mediators - must be on the registry of mediators of the Indiana Supreme Court’s Commission on Continuing Legal Education and obtain required continuing education to maintain that status; and must be trained in special education law and participate in annual special</p>

				education mediator training. Additional qualifications include that the mediator have no personal or professional conflict of interest; be impartial; have knowledge of laws and regulations relating to the provision of special education and related services; and not be an employee of the SEA or LES.
<p>(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—</p> <p>(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</p> <p>(ii) Who would explain the benefits of, and encourage the use of, the mediation process to the parents. (300.506(b)(2))</p>	511 IAC 7-45-2(j).	NOPS (See MEDIATION- How is a mediator chosen and do I have to pay for the mediator?)	<ul style="list-style-type: none"> <li>• See Q&amp;A A-14</li> </ul>	While this option is available for schools to use, we are not aware of any school that has chosen to establish such procedures and have those procedures approved by the Office of Special Education (OSE).
<p>(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.</p> <p>(ii) The SEA must select mediators on a random, rotational, or other impartial basis. (300.506(b)(3))</p>	511 IAC 7-45-2(e)	NOPS (See MEDIATION- How is a mediator chosen and do I have to pay for the mediator?)	<ul style="list-style-type: none"> <li>• States must have more than one individual included on their list of mediators.</li> <li>• See Q&amp;A A-17</li> </ul>	Currently there are 5 mediators on the list. Typically we range between 6 - 8. The recent death of one of our mediators reduced our numbers.
<p>(4) The State must bear the cost of the mediation process, including the costs of meetings described in paragraph (b)(2) of this section. (300.506(b)(4))</p>	511 IAC 7-45-2(c) We currently do not have any LEAs that have established procedures to meet with a disinterested party.	NOPS (See MEDIATION- How is a mediator chosen and do I have to pay for the mediator?)	<ul style="list-style-type: none"> <li>• States may not require their LEAs to use Part B funds to pay the costs of mediation.</li> <li>• 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.</li> <li>• See Q&amp;A A-16</li> </ul>	<p>The IDOE pays for the cost of mediation.</p> <p>The IDOE does not make mediation available to parties other than parents and the public agency.</p>

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<p>(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))</p>	511 IAC 7-45-2(f)	NOPS (See MEDIATION-How is a mediator chosen and do I have to pay for the mediator?)	<ul style="list-style-type: none"> <li>● In scheduling mediations, the State must consider the convenience of the location to the parties.</li> <li>● 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.</li> <li>● See Q&amp;A A-10, A-11</li> </ul>	The OSE maintains an electronic database (ICHAMP) to log all mediations. The mediators are able to use this system to request parties to submit their availability for scheduling the mediation and the OSE can track timelines.
<p>(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—</p> <p>(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</p> <p>(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))</p>	511 IAC 7-45-2(g)(1) & (2)	NOPS (See MEDIATION)	<ul style="list-style-type: none"> <li>● 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)).</li> <li>● 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.</li> <li>● 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.</li> <li>● See Q&amp;A A-22, A-23, A-26</li> </ul>	Article 7 specifies that a written agreement must state that all discussions that occurred during the mediation process will remain confidential and not be used as evidence in any subsequent due process hearing or civil proceeding. In addition, at the beginning of the mediation, the mediator goes over the requirements of mediation and the parties sign a statement acknowledging that discussions taking place during mediation are confidential.
<p>(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))</p>	511 IAC 7-45-2(h)	NOPS (See MEDIATION)	<ul style="list-style-type: none"> <li>● 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 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</li> </ul>	511 IAC 7-45-2(i) provides that a written, signed mediation agreement is enforceable through the complaint process, but the use of the complaint process is not mandatory and does not delay or deny a party the right to seek enforcement through a state or district court.

			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	
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(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))	511 IAC 7-45-2(g)(2)	NOPS (See MEDIATION)	<ul style="list-style-type: none"> <li>• See Q&amp;A A-23</li> </ul>	
<p>(c) <i>Impartiality of mediator.</i></p> <p>(1) An individual who serves as a mediator under this part—</p> <p>(i) May not be an employee of the SEA or the LEA that is involved in the education or care of the child; and</p> <p>(ii) Must not have a personal or professional interest that conflicts with the person’s objectivity.</p> <p>(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))</p>	511 IAC 7-45-2(d) & (e)	NOPS (See MEDIATION- How is a mediator chosen and do I have to pay for the mediator?)	<ul style="list-style-type: none"> <li>• 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.</li> <li>• See Q&amp;A A-19, A-20</li> </ul>	Special education mediators must be certified by the Indiana Supreme Court’s Commission on Continuing Legal Education. Currently, all of our mediators maintain a private mediation practice and are not school employees. It would not be likely that a school employee would meet the qualifications to be a mediator, or be available on a timely basis to travel and conduct mediations and still fulfill the responsibilities of a school employee. We would also question the appearance of neutrality of a mediator who worked for a school.

**Table 2: STATE COMPLAINT PROCEDURES**

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<b>34 CFR §300.151: Adoption of State complaint procedures.</b>				
(a) <i>General.</i> Each SEA must adopt written procedures for--	511 IAC 7-45-1	NOPS (See COMPLAINTS )		
<p>(1) Resolving any complaint, including a complaint filed by an organization or individual from another State, that meets the requirements of §300.153 by—</p> <p>(i) Providing for the filing of a complaint with the SEA; and</p> <p>(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))</p>	<p>511 IAC 7-45-1(d)</p> <p>511 IAC 7-45-1(d); 511 IAC 7-49-7</p> <p>511 IAC 7-49-7(a) &amp; (b)</p>	<p>NOPS (See COMPLAINTS - Who may file a complaint? What must be included in the complaint?)</p>	<ul style="list-style-type: none"> <li>● State complaints can be filed to resolve both child-specific and systemic issues.</li> <li>● 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.</li> <li>● 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 <i>instead of</i> using the State complaint process.</li> <li>● A State’s complaint procedures must specify whether complaints are to be filed with the SEA or with a different public agency.</li> <li>● See Q&amp;A B-5, B-7, B-9, B-16</li> </ul>	<p>Instructions for filing a complaint with the IDOE and direct links to printable / fillable complaint forms are accessible via OSE website.</p> <p>Electronic filing instructions are available on I-CHAMP in order to allow non-paper filing of state complaint with IDOE.</p> <p>Both the OSE website and I-CHAMP instructions specify that these complaints are to be filed with the IDOE.</p> <p>Filing a complaint at the local level with the right to review by IDOE is currently only available to choice schools (private schools receiving state funds - not actually public agencies) under 511 IAC 7-49-7</p> <p>We should consider providing for the filing of a complaint with a public agency and the right to have IDOE review the public agency’s decision on the complaint.</p>

				IDOE's state complaint procedures allow for the filing of both child-specific and systemic complaints.
(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))	511 IAC 7-45-1(d)	NOPS (See PP 1, COMPLAINTS - What happens after a complaint is filed and how long does the investigation take? and RESOURCES)		<p>IDOE policies and procedures are widely disseminated, as required by 511 IAC 7-45-1(d), via: information and forms located on the OSE website; I-CHAMP electronic filing system; partnership with IN*SOURCE parent advocacy group; and Navigating the Course.</p> <p>A copy of NOPS must be given to parents once each year and upon initial referral or request for eval, filing of the first complaint and due process hearing during the school year, the date the school decides to take disciplinary action that constitutes a change of placement, and a parent's request.</p> <p>IIEP also includes a Notice of Procedural Safeguards with most documents drafted in IIEP.</p>
(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—	511 IAC 7-45-1(d)(7) & (8)	NOPS (See COMPLAINTS - What happens after a complaint if filed and how long does the investigation take?)	<ul style="list-style-type: none"> <li>• See Q&amp;A B-10, B-30</li> </ul>	The investigator will review all of the relevant information, make a determination, and issue a report containing the investigator's findings of fact, conclusions, and corrective action as applicable. Remedies for denial of appropriate services, specifically services written in the IEP, would be addressed in the corrective action piece of the complaint investigation report.

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<p>(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</p> <p>(2) Appropriate future provision of services for all children with disabilities. (300.151(b))</p>	511 IAC 7-45-1(d)(7-10); 511 IAC 7-45-1(e)(4); 511 IAC 7-45-1(o)			Failure of the public agency to achieve compliance with corrective action required by the IDOE complaint investigation report shall result in the withholding of federal and state funds to the public agency. 511 IAC 7-45-1(p)
<b>34 CFR §300.152: Minimum State complaint procedures.</b>				
<p>(a) <i>Time limit; minimum procedures.</i> Each SEA must include in its complaint procedures a time limit of 60 days after a complaint is filed under §300.153 to--</p>	511 IAC 7-45-1(l), (m), & (n)	NOPS (See COMPLAINTS - What happens after the complaint is filed and how long does the investigation take? and What if I disagree with the complaint investigator's report?)	<ul style="list-style-type: none"> <li>• States must have a policy regarding when a complaint is considered to be received.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• See Q&amp;A B-14, B-32</li> </ul>	<p>The OSE considers a complaint received if it arrives on a business day before 4:30 p.m. by in-person delivery, mail, fax, or electronically through I-CHAMP. Complaints received after 4:30 p.m. are considered received the next business day.</p> <p>Complaint timelines are tracked by each investigator by data logs maintained electronically using the I-CHAMP system. This system also facilitates the collection of information regarding State complaints that Indiana reports under Section 618(a)(3) of the IDEA.</p> <p>The investigator will mail a copy of the report to the complainant and the school within 40 calendar days of the date the complaint was filed, unless the investigator has been granted extra time.</p> <p>Indiana does provide procedures</p>

				<p>for reconsideration. The right to request reconsideration, along with the timelines for this process, are provided to the parties in writing in a cover letter that is delivered with the complaint investigation report.</p> <p>If the complainant or school request reconsideration, the response from the Director of the Office of Special Education is due within 60 calendar days after the original complaint was received unless an extension of time was requested and granted.</p>
(1) Carry out an independent on-site investigation, if the SEA determines that an investigation is necessary; (300.152(a)(1))	511 IAC 7-45-1(d)(3)	NOPS (See COMPLAINTS - What happens after a complaint is filed and how long does the investigation take?)	<ul style="list-style-type: none"> <li>See Q&amp;A B-20</li> </ul>	<p>IDOE conducts independent investigations, both on-site and off-site.</p> <p>The Division will assign a complaint investigator who will contact the complainant and the school to obtain information needed to make an <i>independent</i> determination as to whether a violation has occurred.</p>

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(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))	511 IAC 7-45-1(d)(4)	NOPS (See COMPLAINTS - What happens after a complaint is filed and how long does the investigation take?)		The OSE will assign a complaint investigator who will contact the complainant and the school to obtain information needed to make an independent determination as to whether a violation has occurred. The complaint investigator calls the complainant to obtain additional verbal information about the allegations in the complaint during the first ten calendar days of receipt of the complaint.

				<p>Template letters used by the IDOE provide written notice of the Complainant's right to submit additional information about the allegations in the complaint.</p>
<p>(3) Provide the public agency with the opportunity to respond to the complaint, including, at a minimum—</p> <p>(i) At the discretion of the public agency, a proposal to resolve the complaint; and</p> <p>(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))</p>	<p>511 IAC 7-45-1(d)(5)(A)</p> <p>511 IAC 7-45-1(d)(5)(B)</p>	<p>NOPS (See Complaints-What happens after a complaint is filed and how long does the investigation take?)</p>		<p>The OSE internal processes, as identified in the preliminary letter sent out on the day of receipt of the complaint, identifies these as options for resolving the complaint.</p> <p>Formal investigation does not begin until the 11th day (unless the school requests an earlier start date) to allow time for resolution under 511 IAC 7-45-1(d)(5)(A) or (B). 511 IAC 7-45-1(k)</p>
<p>(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))</p>	<p>511 IAC 7-45-1(d)(7)</p>	<p>NOPS (See Complaints-What happens after a complaint is filed and how long does the investigation take?)</p>	<ul style="list-style-type: none"> <li>SEAs must make a determination as to whether the public agency is violating a requirement under Part B of the IDEA.</li> </ul>	<p>The OSE issue notification letter requests that Schools submit all relevant information to the complaint investigator for review.</p>
<p>(5) Issue a written decision to the complainant that addresses each allegation in the complaint and contains—</p> <p>(i) Findings of fact and conclusions; and</p> <p>(ii) The reasons for the SEA's final decision. (300.152(a)(5))</p>	<p>511 IAC 45-1(d)(8)</p>	<p>NOPS (See COMPLAINTS - What happens after a complaint is filed and how long does the investigation take?)</p>	<ul style="list-style-type: none"> <li>States should have a process that ensures that the alleged violations are addressed in the decision.</li> <li>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.</li> <li>See Q&amp;A B-30</li> </ul>	<p>See Complaint Investigation Report (CIR) template.</p> <p>CIR identifies the issues, findings of fact, and conclusions, as well as any corrective action.</p> <p>OSE internal deadline for CIR is 40 calendar days.511 IAC 7-45-1(l)</p> <p>CIR sent to parties by mail and electronically via I-CHAMP.</p>

				NOPS requires findings of fact, conclusions, and corrective action- no mention of the reasons for the final decision
(b) <i>Time extension; final decision; implementation.</i> The SEA's procedures described in paragraph (a) of this section also must—	511 IAC 7-45-1(d)(6)	NOPS (See COMPLAINTS - What happens after a complaint is filed and how long does the investigation take? & What if I disagree with the complaint investigator's report?)		NOPS states that the investigator will mail a copy of the report to the complainant and the school within 40 calendar days of the date the complaint was filed, unless the investigator has been granted extra time to complete the investigation due to exceptional circumstances or upon mutual request of the complainant and the school in order to extend the time to engage in mediation.
(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 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))	511 IAC 7-45-1(d)(6)(A)  511 IAC 7-45-1(d)(6)(B)	NOPS (See COMPLAINTS - What happens after a complaint is filed and how long does the investigation take?)	<ul style="list-style-type: none"> <li>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.</li> <li>OSEP encourages States to establish procedures for communicating with parties when the State complaint timeline is extended.</li> <li>See Q&amp;A B-21, B-23</li> </ul>	OSE extends timeline for mediation only when both parties agree in writing to extension for that purpose. Unless the parties agree in writing to an extension, mediation requests made during the first 10 days must be completed within 20 days. 511 IAC 7-45-1(h)

IDEA Part B Requirement	State Policy/ Procedure	Procedural Safeguards	Implementation Guidance	Notes
<p>(2) Include procedures for effective implementation of the SEA’s final decision, if needed, including—</p> <ul style="list-style-type: none"> <li>(i) Technical assistance activities;</li> <li>(ii) Negotiations; and</li> <li>(iii) Corrective actions to achieve compliance. (300.152(b)(2))</li> </ul>	511 IAC 7-45-1(d)(10)	NOPS (See COMPLAINTS - What happens after a complaint is filed and how long does the investigation take?)	<ul style="list-style-type: none"> <li>• 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.</li> <li>• States should include an explicit timeline for each corrective action established in the State’s decision, if applicable.</li> <li>• See Q&amp;A B-30, B-31</li> <li>• See Letter to Deaton, May 19, 2015</li> </ul>	<p>The OSE labels all of the items listed in (i),(ii), (iii) as corrective action (CA) in the CIR</p> <p>The internal features of I-CHAMP includes a drop down menu of potential CA actions.</p> <p>NOPS does not specifically address these, but states that the investigator will issue a report containing corrective action as applicable.</p>
<p>(c) <i>Complaints filed under this section and due process hearings under §300.507 and §§300.530 through 300.532.</i> (300.152(c))</p>	511 IAC 7-45-1(q)-(t)	NOPS (See COMPLAINTS - Also...)		
<p>(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))</p>	511 IAC 7-45-1(r)	NOPS (See COMPLAINTS - Also...)	<ul style="list-style-type: none"> <li>• 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.</li> <li>• OSEP encourages States to establish procedures for communicating with parties when the State sets aside any part of the State complaint.</li> <li>• See Q&amp;A B-26, B-27</li> </ul>	<p>OSE template letters used to notify IHO of complaints that are also the subject of a due process hearing; IHO decides whether to subsume all, part, or none of complaint issues within 5 days.</p> <p>The investigation process resumes immediately for any issues returned by the IHO.</p>
<p>(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—</p> <ul style="list-style-type: none"> <li>(i) The due process hearing decision is binding on that issue; and</li> <li>(ii) The SEA must inform the complainant to that effect. (300.152(c)(2))</li> </ul>	<p>511 IAC 7-45-1(s)(1)</p> <p>511 IAC 7-45-1(s)(2)</p>	NOPS (See COMPLAINTS - Also...)	<ul style="list-style-type: none"> <li>• See Q&amp;A B-28</li> </ul>	<p>NOPS states that if a complaint contains issues that are also the subject of a due process hearing, then OSE will set aside any issues subsumed by the IHO, pending the conclusion of the due process hearing. Any issue that is not part of the due process hearing will be investigated in accordance with Art. 7 requirements.</p>

IDEA Part B Requirement	State Policy/ Procedure	Procedural Safeguards	Implementation Guidance	Notes
(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))	511 IAC 7-45-1(t)	NOPS (See COMPLAINTS - Also...)	<ul style="list-style-type: none"> <li>• See Q&amp;A B-29</li> </ul>	
<b>34 CFR §300.153: Filing a complaint.</b>				
(a) An organization or individual may file a signed written complaint under the procedures described in §§300.151 through 300.152. (300.153(a))	511 IAC 7-45-1(a)	NOPS (See COMPLAINTS - Who may file a complaint?)	<ul style="list-style-type: none"> <li>• States’ procedural safeguards notice must make clear that an organization or individual, including one from another State, may file a State complaint.</li> <li>• 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.</li> <li>• See Q&amp;A B-3, B-13</li> </ul>	I-CHAMP allows for electronic filing with electronic signature.
<p>(b) The complaint must include—</p> <p>(1) A statement that a public agency has violated a requirement of Part B of the Act or of this part;</p> <p>(2) The facts on which the statement is based;</p> <p>(3) The signature and contact information for the complainant; and</p> <p>(4) If alleging violations with respect to a specific child—</p> <p>(i) The name and address of the residence of the child;</p> <p>(ii) The name of the school the child is attending;</p> <p>(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;</p> <p>(iv) A description of the nature of the problem of</p>	<p>511 IAC 7-45-1(a)(2)</p> <p>511 IAC 7-45-1(a)(3)</p> <p>511 IAC 7-45-1(a)(4)</p> <p>511 IAC 7-45-1(b)(1)(A)</p> <p>511 IAC 7-45-1(b)(1)(B)</p> <p>511 IAC 7-45-1(b)(3)</p>	NOPS (See COMPLAINTS - What must be in the complaint?)	<ul style="list-style-type: none"> <li>• States must have procedures for resolving complaints that are filed against the SEA.</li> <li>• The State’s procedural safeguards notice must identify the required content of the complaint.</li> <li>• 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.</li> <li>• 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.</li> </ul>	<p>Forms made available on our website contains fields for reporting all requisite filing information.</p> <p>I-CHAMP contains fields for reporting all requisite filing information.</p>

IDEA Part B Requirement	State Policy/ Procedure	Procedural Safeguards	Implementation Guidance	Notes
<p>the child, including facts relating to the problem; and</p> <p>(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))</p>	511 IAC 7-45-1(b)(4)		<ul style="list-style-type: none"> <li>• States should establish procedures for notifying a complainant when a complaint is received that does not include all of the required content.</li> <li>• 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.</li> <li>• See Q&amp;A B-12, B-15, B-16</li> </ul>	
<p>(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))</p>	511 IAC 7-45-1(c)	NOPS (See COMPLAINTS - What must be included in the complaint?)	<ul style="list-style-type: none"> <li>• 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.</li> <li>• See Q&amp;A B-18, B-19</li> </ul>	
<p>(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))</p>	511 IAC 7-45-1(a)(5)	NOPS (See COMPLAINTS - What must be included in the complaint?)	<ul style="list-style-type: none"> <li>• 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).</li> <li>• 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.</li> <li>• 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.</li> <li>• See Q&amp;A B-17</li> </ul>	IDOE does not require evidence of service to the LEA or public agency, so to ensure service, the OSE sends a copy of the complaint to the LEA or public agency within 1 day of receipt.

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

IDEA Part B Requirement	State Policy/ Procedure	Procedural Safeguards	Implementation Guidance	Notes
<p><b>34 CFR §300.507: Filing a due process complaint.</b></p> <p>(a) <i>General.</i> (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).</p> <p>(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))</p>	<p>511 IAC 7-45-3(c) (two year limitation on allegations)</p>	<p>NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS and ATTORNEYS' FEES)</p>	<ul style="list-style-type: none"> <li>● 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.</li> <li>● Due process complaints to request an expedited due process hearing are addressed in 34 CFR §300.532.</li> <li>● 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).</li> <li>● 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.</li> <li>● For exceptions to due process rights that apply to parents of parentally-placed private school children, see Table 5.</li> <li>● Dear Colleague Letter, April 15, 2015 (Use of Due Process Procedures After a Parent Has Filed a State Complaint).</li> <li>● See Q&amp;A C-2, C-5, C-9, C-11, C-12</li> </ul>	<p>Indiana’s procedures are in compliance with the implementation guidance.</p> <p>Pursuant to 511 IAC 7-36-3(g), there is no right of action for the failure of a school employee to be highly qualified, but a state complaint can be filed. However, the SBOE has approved revisions to Art. 7 that remove all requirements for highly qualified teachers, consistent with revisions to the federal regulations. These revisions should be finalized no later than the end of the state FY.</p> <p>Expedited timelines are addressed at 511 IAC 7-45-10(b)</p> <p>Due process rights for parentally-placed nonpublic school students are found at 511 IAC 7-34-6.</p> <p>A school does not have the right to file for a due process hearing concerning a parent’s refusal to consent to the initial provision of special education and related services or a parent of a nonpublic student’s refusal to consent to an initial educational evaluation. 511 IAC 7-40-4(n) and 511 IAC 7-42-7(i)</p>

<p>(b) <i>Information for parents.</i> The public agency must inform the parent of any free or low-cost legal and other relevant services available in the area if—</p> <p>(1) The parent requests the information; or</p> <p>(2) The parent or the agency files a due process complaint under this section. (300.507(b))</p>	<p>511 IAC 7-45-3(e)</p>	<p>NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES)</p>	<ul style="list-style-type: none"> <li>• States may wish to consider including Parent Training and Information (PTI) Centers, Community Parent Resource Centers (CPRC), and Protection and Advocacy (P&amp;A) agencies as part of this resource.</li> </ul>	<p>The IDOE provides information about IN*SOURCE (the state Parent Training and Information Center, Indiana Disability Rights (the state P&amp;A agency), and other resources for parents in the NOPS as well as in Navigating the Course.</p>
<p><b>34 CFR §300.508: Due process complaint.</b></p>				
<p>(a) <i>General.</i> (1) The public agency must have procedures that require either party, or the attorney representing a party, to provide to the other party a due process complaint (which must remain confidential).</p> <p>(2) The party filing a due process complaint must forward a copy of the due process complaint to the SEA. (300.508(a))</p>	<p>511 IAC 7-45-3  511 IAC 7-45-3(b)</p>	<p>NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- How do I request a due process hearing?)</p>	<ul style="list-style-type: none"> <li>• States may establish procedures permitting a due process complaint to be filed electronically, including with an electronic signature.</li> <li>• States cannot require in-person or hand delivery of due process complaints.</li> <li>• 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).</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• States must have a mechanism for tracking when a due process complaint is received.</li> <li>• See Q&amp;A C-6, C-7, D-5</li> </ul>	<p>Indiana's procedures are in compliance with the implementation guidance.</p> <p>Electronic system in place for filing hearing requests.. Parties may also file in writing, submitted either through mail, hand delivery, or fax.</p> <p>Information about filing a request for a hearing can be found on the IDOE website. A sample form with instructions on where to mail or fax the hearing request can be found, as well as a link to an electronic filing system to electronically submit the hearing request.</p> <p>Timelines for the hearing begin upon the date the other party receives a copy of the hearing request. While the procedures require that the filing party serve the other party with the hearing request, upon receipt of the hearing request the IDOE will also forward a copy to the opposing party when the IHO is appointed. It may generally be assumed that the receiving party received the hearing request on the same date that the IDOE received it. However, this is a rebuttable presumption and the</p>



<p>(d) <i>Sufficiency of complaint.</i> (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.</p> <p>(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.</p> <p>(3) A party may amend its due process complaint only if—</p> <p>(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</p> <p>(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.</p> <p>(4) If a party files an amended due process 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))</p>	<p>511 IAC 7-45-4(b)</p> <p>511 IAC 7-45-4(c)</p> <p>511 IAC 7-45-4(d)</p> <p>511 IAC 7-45-4(e)</p>	<p>NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- What actions must the school take once it receives my request for a due process hearing? &amp; Can I change or add issues to my request for a hearing after it has been determined to meet all of the requirements?)</p>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• See Q&amp;A C-17</li> </ul>	<p>These determinations are within the sound discretion of the IHO. The IDOE does not reject or dismiss hearing requests due to a perceived lack of sufficiency or the issues stated. Such decisions are made by the IHO.</p>
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<p>(e) <i>LEA response to a due process complaint.</i>  (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))</p>	<p>511 IAC 7-45-5(a) and (b)</p> <p>511 IAC 7-45-5(c)</p>	<p>NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS’ FEES- What actions must the school take once it receives my request for a due process hearing?)</p>		
<p>(f) <i>Other party response to a due process complaint.</i> 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))</p>	<p>511 IAC 7-45-5</p>	<p>NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS’ FEES- What actions must the school take once it receives my request for a due process hearing?)</p>		

<p><b>34 CFR §300.509: Model forms.</b></p> <p>(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 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.</p> <p>(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)</p>	<p>A sample form is available on our website, and electronic filing is also available.</p>	<p>NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- How do I request a due process hearing?)</p>	<ul style="list-style-type: none"> <li>● States may not have policies or procedures that <i>require</i> parties to use a model form. If the State's model form includes content that is not required by 34 CFR §300.508(b), the form must identify that content as optional.</li> <li>● See Q&amp;A B-4, C-8</li> </ul>	<p>The IDOE does not have a policy or procedure requiring the use of any particular form nor does it require any specific form or format for requesting a due process hearing. We do have a sample form on our website that can be filled out, printed, signed, and mailed or faxed. An electronic filing system has also been developed. Additionally, parties may submit a written letter or complaint. We will be revising the language on our website to clear up any confusion there might be as to the use of any required form.</p> <p>The IDOE does not require any additional or optional content.</p>
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<b>34 CFR §300.510: Resolution process. (20 U.S.C. 1415(f)(1)(B))</b>	511 IAC 7-45-6			
(a) <i>Resolution meeting.</i>				
<p>(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—</p> <p>(i) Includes a representative of the public agency who has decision-making authority on behalf of that agency; and</p> <p>(ii) May not include an attorney of the LEA unless the parent is accompanied by an attorney. (300.510(a)(1))</p>	511 IAC 7-45-6	<p>NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS’ FEES- What actions must the school take once it receives my request for a due process hearing? What is a resolution meeting, who attends, and what happens? &amp; Do I have to attend a resolution meeting?)</p>	<ul style="list-style-type: none"> <li>• States must have procedures in place to enforce the requirement that LEAs convene resolution meetings within the required timeline.</li> <li>• 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.</li> <li>• 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.</li> <li>• The LEA must proceed with the resolution meeting even if it has challenged the sufficiency of the parent’s due process complaint.</li> <li>• The SEA or LEA may not suspend the 15-day resolution meeting timeline while schools are closed for breaks or holidays.</li> <li>• The resolution process for expedited due process hearing complaints is addressed in 34 CFR §300.532(c)(3).</li> <li>• See Q&amp;A D-2, D-4, D-10</li> </ul>	Timelines for conducting the resolution meeting are in the electronic filing system and schools are asked to enter information as to whether they timely conducted the resolution meeting.

<b>IDEA Part B Requirement</b>	<b>State Policy/ Procedure</b>	<b>Procedural Safeguards</b>	<b>Implementation Guidance</b>	<b>Notes</b>
<p>(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))</p>	511 IAC 7-45-6(c)	<p>NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS’ FEES- What is a resolution meeting, who attends, and what happens?)</p>		

<p>(3) The meeting described in paragraph (a)(1) and (2) of this section need not be held if—</p> <p>(i) The parent and the LEA agree in writing to waive the meeting; or</p> <p>(ii) The parent and the LEA agree to use the mediation process described in §300.506. (300.510(a)(3))</p>	511 IAC 7-45-6(d)	NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- Do I have to attend the resolution meeting?)	<ul style="list-style-type: none"> <li>• LEAs may not require a confidentiality agreement as a precondition to conducting a resolution meeting.</li> <li>• 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.</li> <li>• See Q&amp;A D-16</li> </ul>	<p>While the state regulations do not address confidentiality agreements, the IDOE advises parties that this can't be required.</p> <p>Indiana's procedures are in compliance with the implementation guidance.</p>
<p>(4) The parent and the LEA determine the relevant members of the IEP Team to attend the meeting. (300.510(a)(4))</p>	511 IAC 7-45-6	NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- What is a resolution meeting, who attends, and what happens?)		NOPS does not state that the parent and the LEA determine the relevant members of the IEP Team. Instead, it states that the meeting must include relevant members of the CCC who have information about the facts that formed the basis of the hearing request.
<i>(b) Resolution period.</i>				
<p>(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))</p>	511 IAC 7-45-6(f)	NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- What if we waive the resolution meeting or if we don't reach agreement?)	<ul style="list-style-type: none"> <li>• 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.</li> <li>• See Q&amp;A D-15</li> </ul>	<p>Indiana's procedures are in compliance with the implementation guidance.</p> <p>Timelines are tracked in ICHAMP, our electronic filing system.</p>
<p>(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))</p>	511 IAC 7-45-6(i)	NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS'		

		FEES- What if we waive the resolution meeting or if we don't reach agreement?)		
(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 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))	511 IAC 7-45-6(g)	NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- Do I have to attend the resolution meeting?)		

IDEA Part B Requirement	State Policy/ Procedure	Procedural Safeguards	Implementation Guidance	Notes
(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))	511 IAC 7-45-6(i)	NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- Do I have to attend the resolution meeting?)		NOPS states that if the complainant fails to participate and the school has made reasonable efforts to obtain the complainant's participation, the school may ask the hearing officer to dismiss the request for a due process hearing.
(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))	511 IAC 7-45-6(j)	NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- Do I have to attend the resolution meeting?)		

<p>(c) <i>Adjustments to 30-day resolution period.</i> The 45-day timeline for the due process hearing in §300.515(a) starts the day after one of the following events:</p> <p>(1) Both parties agree in writing to waive the resolution meeting;</p> <p>(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;</p> <p>(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))</p>	<p>511 IAC 7-45-6(f)</p>	<p>NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- What if we waive the resolution meeting or if we don't reach agreement?)</p>	<ul style="list-style-type: none"> <li>● 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.</li> <li>● See Q&amp;A D-15</li> </ul>	<p>IHOs are required to use our electronic system, ICHAMP, for managing the hearing process. ICHAMP calculates hearing timelines, including the resolution period</p>
<p>(d) <i>Written settlement agreement.</i> 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—</p> <p>(1) Signed by both the parent and a representative of the agency who has the authority to bind the agency; and</p>	<p>511 IAC 7-45-6(k)</p>	<p>NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- What if the school and I come to an agreement and resolve the issues that are the subject of my hearing request during the resolution meeting?)</p>	<ul style="list-style-type: none"> <li>● 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</li> </ul>	<p>511 IAC 7-45-6(m): in addition to judicial enforcement, a signed resolution agreement is enforceable through the complaint process. Use of the complaint process is not mandatory and may not delay or deny a party the right to seek enforcement through a state or district court.</p>

IDEA Part B Requirement	State Policy/ Procedure	Procedural Safeguards	Implementation Guidance	Notes
<p>(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))</p>		<p>NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- What if the school and I come to an agreement and resolve the issues that are the subject of my hearing request during the resolution meeting?)</p>	<p>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.</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• See Q&amp;A D-21</li> </ul>	
<p>(e) <i>Agreement review period.</i> 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))</p>	<p>511 IAC 7-45-6(1)</p>	<p>NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- What if the school and I come to an agreement and resolve the issues that are the subject of my hearing request during the resolution meeting?)</p>		

<b>34 CFR §300.511: Impartial due process hearing.</b>				
(a) <i>General.</i> 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))	511 IAC 7-45-3	NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- Who conducts the due process hearing?)		
(b) <i>Agency responsible for conducting the due process hearing.</i> 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))	511 IAC 7-45-3	NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- Who conducts the due process hearing?)	<ul style="list-style-type: none"> <li>• States should clearly indicate which agency is responsible for conducting the due process hearing.</li> <li>• 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.</li> </ul>	511 IAC 7-45-3 specifies the party filing must sent the request to the opposing party and the superintendent of public instruction. Further, the superintendent of public instruction appoints the IHO.
(c) <i>Impartial hearing officer.</i> (1) At a minimum, a hearing officer— (i) Must not be— (A) An employee of the SEA or the LEA that is	511 IAC 7-45-8(a)	NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- Who conducts the due process hearing?)	<ul style="list-style-type: none"> <li>• Public agencies must have more than one individual included on their list of persons who serve as hearing officers.</li> <li>• OSEP encourages States to have procedures in</li> </ul>	<p>Indiana currently has 8 active hearing officers.</p> <p>No formal process for addressing complaints about the impartiality of IHOs. If a party believes an IHO has a conflict or has engaged in inappropriate conduct, the party is encouraged to move the IHO to recuse himself.</p> <p>The IDOE does encourage school and parent attorneys to provide feedback on suggested issues or procedures for annual IHO training.</p>

IDEA Part B Requirement	State Policy/ Procedure	Procedural Safeguards	Implementation Guidance	Notes
<p>involved in the education or care of the child; or</p> <p>(B) A person having a personal or professional interest that conflicts with the person’s objectivity in the hearing;</p> <p>(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;</p> <p>(iii) Must possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and</p> <p>(iv) Must possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.</p> <p>(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.</p> <p>(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))</p>	511 IAC 7-45-8(b)		place to address concerns about the impartiality of hearing officers.	The IDOE maintains a list of IHOs and qualifications, and this would be provided to an individual on request. As part of the revision of our website the due process team will post IHO qualifications.
<p>(d) <i>Subject matter of due process hearings.</i> 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))</p>	511 IAC 7-45-7(g)	NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS’ FEES- Can I raise new or additional issues during the due process hearing?)		

<p>(e) <i>Timeline for requesting a hearing.</i> 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))</p>	<p>511 IAC 7-45-3(c)</p>	<p>NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES)</p>	<ul style="list-style-type: none"> <li>• 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.</li> </ul>	<p>The IDOE's procedures are in compliance with the IDEA timelines.</p>
<p>(f) <i>Exceptions to the timeline.</i> The timeline 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  The LEA's withholding of information from the parent that was required under this part to be provided to the parent. (300.511(f))</p>	<p>511 IAC 7-45-3(c)(1) &amp; (2)</p>	<p>NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES)</p>		

IDEA Part B Requirement	State Policy/ Procedure	Procedural Safeguards	Implementation Guidance	Notes
<p><b>34 CFR §300.512: Hearing rights.</b></p> <p>(a) <i>General.</i> 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—</p> <p>(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;</p> <p>(2) Present evidence and confront, cross-examine, and compel the attendance of witnesses;</p> <p>(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;</p> <p>(4) Obtain a written, or, at the option of the parents, electronic, verbatim record of the hearing; and</p> <p>(5) Obtain written, or, at the option of the parents, electronic findings of fact and decisions. (300.512(a))</p>	511 IAC 7-45-7(d) & (e)	NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- What are my rights and the school's rights during a due process hearing?)	<ul style="list-style-type: none"> <li>• States must indicate whether parties have the right to be represented by non-attorneys at due process hearings.</li> <li>• The written or electronic, verbatim record of the hearing must be provided within a reasonable period of time at no cost.</li> </ul>	<p>511 IAC 7-45-7(d); I.C. 4-21.5-3-15(b)</p> <p>Hearing transcript, written or electronic, has traditionally been provided to a party, upon request and at no cost, after the hearing concludes and the IHO has submitted the hearing record to the IDOE. We are working on changing the process so that either the court reporter or IHO submits the transcript to the IDOE as soon as it is available so that we may post it on ICHAMP for more immediate access by the parties.</p>
<p>(b) <i>Additional disclosure of information.</i> (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.</p> <p>(2) A hearing officer may bar any party that fails to comply with paragraph (b)(1) of this section from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party. (300.512(b))</p>	511 IAC 7-45-7(h)	NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- What are my rights and the school's rights during a due process hearing?)		

IDEA Part B Requirement	State Policy/ Procedure	Procedural Safeguards	Implementation Guidance	Notes
<p>(c) <i>Parental rights at hearings.</i> Parents involved in hearings must be given the right to—</p> <p>(1) Have the child who is the subject of the hearing present;</p> <p>(2) Open the hearing to the public; and</p> <p>(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))</p>	511 IAC 7-45-7(e)	NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- What are my rights and the school's rights during a due process hearing?)		511 IAC 7-45-7(e) also gives parents the right to: recover reasonable attorney fees through a court; obtain a written or electronic transcript of the proceedings at no cost; and obtain written or electronic findings of fact and decisions at no cost.
<b>34 CFR §300.513: Hearing decisions.</b>				
<p>(a) <i>Decision of hearing officer on the provision of FAPE.</i> (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.</p> <p>(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—</p> <p>(i) Impeded the child's right to a FAPE;</p> <p>(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</p> <p>(iii) Caused a deprivation of educational benefit.</p> <p>(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))</p>	511 IAC 7-45-7(k)  511 IAC 7-45-7(l)	NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- How does the hearing officer make the decision?)	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• See Q&amp;A C-19</li> </ul>	The IDOE generally advises IHOs that they should not address substantive issues that were not raised by the parties in the hearing, 511 IAC 7-45-7(l) provides that nothing in subsection (k) shall be construed to preclude an IHO from ordering a public agency to comply with procedural requirements under this rule and 511 IAC 7-37 (procedural safeguards).
<p>(b) <i>Construction clause.</i> 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))</p>		NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- What if I		

		disagree with the hearing officer's written decision?)		
(c) <i>Separate request for a due process hearing.</i> Nothing in §§300.500 through 300.536 shall be 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))	511 IAC 7-45-7(g)	Nothing in NOPS specifically addresses this	<ul style="list-style-type: none"> <li>Public agencies do not have the authority to deny a parent's request for a due process hearing because they believe the issue has been previously adjudicated. This matter is an issue for the hearing officer to decide.</li> <li>See Q&amp;A C-16</li> </ul>	All hearing requests involving students with disabilities, or suspected of having a disability, are assigned to a hearing officer. If a new hearing request is received while there is already a hearing pending involving the same student and school, it is assigned to the same IHO so that IHO may determine whether it will be consolidated with the pending hearing or proceed as a separate hearing. The IDOE does not make those determinations.

IDEA Part B Requirement	State Policy/ Procedure	Procedural Safeguards	Implementation Guidance	Notes
(d) <i>Findings and decision to advisory panel and general public.</i> 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))	511 IAC 7-45-7(w).	Nothing in NOPS specifically addresses this	<ul style="list-style-type: none"> <li>See the definition of personally identifiable in 34 CFR §300.32.</li> <li>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.</li> <li>Due process hearing findings and decisions should be made available to the State advisory panel and public within a reasonable period of time.</li> <li>States may not require a public records/freedom of information request to make the findings and decisions available to a requestor.</li> <li>See Q&amp;A C-27</li> </ul>	IHO decisions are also made available on the IDOE website, with newer decisions available through ICHAMP.  LRP also publishes some hearing decisions and complaint investigation reports in Special Education Connections.

<p><b>34 CFR §300.514: Finality of decision; appeal; impartial review.</b></p>				
<p>(a) <i>Finality of hearing decision.</i> 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))</p>	<p>511 IAC 7-45-7(j)</p>	<p>NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- When will I get a copy of the hearing officer's written decision?)</p>	<ul style="list-style-type: none"> <li>● States must have a process in place to ensure that final hearing decisions are implemented in a timely manner.</li> <li>● 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.</li> </ul> <p>If the State permits reconsideration, the State's written hearing procedures or State rules must include a provision that permits reconsideration of due process decisions, and parties should be notified that they can request reconsideration of the hearing officer's decision.</p> <ul style="list-style-type: none"> <li>● 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.</li> <li>● See Q&amp;A C-23, C-25, C-26</li> <li>● See Letter to Voigt, June 2, 2014</li> </ul>	<p>Pursuant to 511 IAC 7-45-7(n), decisions are to be implemented within 30 days unless appealed. A party may appeal to court or utilize the state complaint process to allege the public agency failed to implement the IHO's order. 511 IAC 7-45-1(t)</p>

IDEA Part B Requirement	State Policy/ Procedure	Procedural Safeguards	Implementation Guidance	Notes
(b) <i>Appeal of decisions; impartial review.</i>				
(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))			<ul style="list-style-type: none"> <li>• A State must include this information only if the State has a two-tier due process system.</li> </ul>	Indiana is a one-tier state.
<p>(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—</p> <p>(i) Examine the entire hearing record;</p> <p>(ii) Ensure that the procedures at the hearing were consistent with the requirements of due process;</p> <p>(iii) Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights in §300.512 apply;</p> <p>(iv) Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official;</p> <p>(v) Make an independent decision on completion of the review; and</p> <p>(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))</p>			<ul style="list-style-type: none"> <li>• A State must include this information only if the State has a two-tier due process system.</li> </ul>	Indiana is a one-tier state.
<p>(c) <i>Findings and decision to advisory panel and general public.</i> The SEA, after deleting any personally identifiable information, must—</p> <p>Transmit the findings and decisions referred to in paragraph (b)(2)(vi) of this section to the State advisory panel established under §300.167; and</p> <p>(1) (2) Make those findings and decisions available to the public. (300.514(c))</p>			<ul style="list-style-type: none"> <li>• A State must include this information only if the State has a two-tier due process system.</li> </ul>	Indiana is a one-tier state.

IDEA Part B Requirement	State Policy/ Procedure	Procedural Safeguards	Implementation Guidance	Notes
(d) <i>Finality of review decision.</i> The decision made by the reviewing official is final unless a party brings a civil action under §300.516. (300.514(d))			<ul style="list-style-type: none"> <li>● A State must include this information only if the State has a two-tier due process system.</li> </ul>	Indiana is a one-tier state.
<b>34 CFR §300.515: Timelines and convenience of hearings and reviews.</b>				
(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))	511 IAC 7-45-7(a) - (c)	NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- When will I get a copy of the hearing officer's written decision?)	<ul style="list-style-type: none"> <li>● 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.</li> </ul>	<p>IDOE maintained a hearing log until 2015 when the electronic filing system was implemented. This system (ICHAMP) allows us to track deadlines and collect data.</p> <p>NOPS confirms when these decisions should be mailed</p>
(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))			<ul style="list-style-type: none"> <li>● A State must include this information only if the State has a two-tier due process system.</li> </ul>	Indiana is a one-tier state.
(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))	511 IAC 7-45-7(c)	NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- When will I get a copy of the hearing officer's written decision?)	<ul style="list-style-type: none"> <li>● 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.</li> <li>● See Q&amp;A C-22</li> </ul>	
(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))	511 IAC 7-45-7(p)	NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS'	<ul style="list-style-type: none"> <li>● The public agency must consider the convenience of the location to the parents and child, but may also consider its own scheduling needs.</li> <li>● See Q&amp;A C-14</li> </ul>	

		FEES- When and where will the due process hearing take place?)		
<b>34 CFR §300.516: Civil action</b>				
(a) <i>General.</i> 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 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))	511 IAC 7-45-7(j); 511 IAC 7-45-9	NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- What if I disagree with the hearing officer's written decision?)		

IDEA Part B Requirement	State Policy/ Procedure	Procedural Safeguards	Implementation Guidance	Notes
(b) <i>Time limitation.</i> 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))	511 IAC 7-45-7(j); 511 IAC 7-45-9	NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- What if I disagree with the hearing officer's written decision?)	<ul style="list-style-type: none"> <li>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.</li> </ul>	<p>511 IAC 7-45-7(j) and 511 IAC 7-45-9 provide that an appeal to civil court be brought within 30 calendar days of receipt of the IHO's decision, consistent with the requirements of Indiana's Administrative Orders and Procedures Act (AOPA), I.C. 4-21.5, specifically I.C. 4-21.5-5-5.</p> <p>NOPS also confirm that the petition for judicial review must be submitted within 30 calendar days of the date the written decision is received.</p>

<p>(c) <i>Additional requirements.</i> In any action brought under paragraph (a) of this section, the court—</p> <p>(1) Receives the records of the administrative proceedings;</p> <p>(2) Hears additional evidence at the request of a party; and</p> <p>(3) Basing its decision on the preponderance of the evidence, grants the relief that the court determines to be appropriate. (300.516(c))</p>	511 IAC 7-45-9(a)	Nothing in NOPS specifically addresses this		
<p>(d) <i>Jurisdiction of district courts.</i> 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))</p>	511 IAC 7-45-9(a)	NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- What if I disagree with the hearing officer's written decision?)		<p>NOPS clarifies that a review of the decision is to be requested by a civil court with jurisdiction.</p> <p>Indiana can't confer federal court jurisdiction, but does provide that a petition for judicial review may be filed in a state or federal civil court with jurisdiction.</p>
<p>(e) <i>Rule of construction.</i> 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))</p>	511 IAC 7-45-9(b)	Nothing in NOPS specifically addresses this		

IDEA Part B Requirement	State Policy/ Procedure	Procedural Safeguards	Implementation Guidance	Notes
<b>34 CFR §300.517: Attorneys' fees.</b>				
<p>(a) <i>In general.</i> (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—</p> <p>(i) The prevailing party who is the parent of a child with a disability;</p> <p>(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</p> <p>(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.</p> <p>(2) Nothing in this subsection shall be construed to affect section 327 of the District of Columbia Appropriations Act, 2005. (300.517(a))</p>	511 IAC 7-45-11	NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- Who pays for the due process hearing? & If I have an attorney during the due process hearing, appeal, or court proceeding, can I be reimbursed by the school for my attorney's fees?)	<ul style="list-style-type: none"> <li>• 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.</li> </ul>	Attorneys' fees are addressed in NOPS and Article 7. IHOs include a similar statement when issuing decisions.
<p>(b) <i>Prohibition on use of funds.</i> (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.</p> <p>(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))</p>	511 IAC 7-45-11(h)	Nothing in NOPS specifically addresses this		
<p>(c) <i>Award of fees.</i> A court awards reasonable attorneys' fees under section 615(i)(3) of the Act consistent with the following:</p>	511 IAC 7-45-11(c)	NOPS (See DUE PROCESS HEARINGS, COURT		

		ACTIONS, and ATTORNEYS' FEES- If I have an attorney during the due process hearing, appeal, or court proceeding, can I be reimbursed by the school for my attorney's fees?)		
<p>(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 and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this paragraph. (300.517(c)(1))</p>	511 IAC 7-45-11(c)	NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- If I have an attorney during the due process hearing, appeal, or court proceeding, can I be reimbursed by the school for my attorney's fees?)		

IDEA Part B Requirement	State Policy/ Procedure	Procedural Safeguards	Implementation Guidance	Notes
<p>(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—</p> <p>(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;</p> <p>(B) The offer is not accepted within 10 days; and</p> <p>(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.</p> <p>(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.</p> <p>(iii) A meeting conducted pursuant to §300.510 shall not be considered—</p> <p>(A) A meeting convened as a result of an administrative hearing or judicial action;</p> <p>or</p> <p>(B) An administrative hearing or judicial action for purposes of this section. (300.517(c)(2))</p>	511 IAC 7-45-11(d), (e), and (f)	NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- If I have an attorney during the due process hearing, appeal, or court proceeding, can I be reimbursed by the school for my attorney's fees?)		
<p>(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))</p>	511 IAC 7-45-11(e)	NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- If I have an attorney during the due process hearing, appeal, or court proceeding, can		

		I be reimbursed by the school for my attorney's fees?)		
<p>(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—</p> <p>(i) The parent, or the parent's attorney, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;</p> <p>(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;</p> <p>(iii) The time spent and legal services furnished were excessive considering the nature of the action or proceeding; or</p> <p>(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))</p>	511 IAC 7-45-11(g)	NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- If I have an attorney during the due process hearing, appeal, or court proceeding, can I be reimbursed by the school for my attorney's fees?)		

IDEA Part B Requirement	State Policy/ Procedure	Procedural Safeguards	Implementation Guidance	Notes
<p>(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))</p>	511 IAC 7-45-11(g)	NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- If I have an attorney during the due process hearing, appeal, or court proceeding, can I be reimbursed		

		by the school for my attorney's fees?)		
<b>34 CFR §300.518: Child's status during proceedings.</b>				
<p>(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.</p> <p>(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.</p> <p>(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 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.</p> <p>(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.</p>	<p>511 IAC 7-45-7(u)</p> <p>511 IAC 7-45-7(s)</p> <p>511 IAC 7-45-7(t)</p> <p>This is currently missing from state regulations - it was included until revised in 2010, and through oversight was not added elsewhere</p>	<p>NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS, and ATTORNEYS' FEES- Student's placement and status during due process proceedings (hearing, appeal, judicial review?))</p>		<p>NOPS states that generally the student remains in his or her current placement, unless the complainant and school agree to a different placement, with the exception being if the proceeding involves the student's initial admission, the student will be placed in the school until proceedings are completed, as long as the complainant consents to such placement or if the proceeding involves a disagreement about the student's IAES, the student remains in the IAES for up to 45 days, pending the hearing officer's decision.</p> <p>When Indiana was a two-tiered state, this was included at (then) 511 IAC 7-45-9 (s). This provision was repealed in 2010 and through oversight was not added elsewhere.</p>

**Table 4: DISCIPLINE PROCEDURES (EXPEDITED DUE PROCESS HEARINGS)**

IDEA Part B Requirement	State Policy/ Procedure	Procedural Safeguards	Implementation Guidance	Notes
<p><b>34 CFR §300.532: Appeal.</b></p> <p>(a) <i>General.</i> 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))</p>	<p>511 IAC 7-45-10(a) (expedited hearings generally)</p> <p>511 IAC 7-44-2(e) (challenging placement)</p> <p>511 IAC 7-44-5(h) (challenging the manifestation determination)</p> <p>511 IAC 7-44-6(e) (challenging the interim alternative educational setting (IAES))</p> <p>511 IAC 7-44-7 (substantial likelihood of injury to student or others)</p>	<p>NOPS (See STUDENTS WITH DISABILITIES AND DISCIPLINARY ACTION &amp; Expedited Due Process Hearings and Appeals)</p>		<p>NOPS does not clarify that if the parent disagrees with the principal or designee’s determination that the series of removals does not constitute a pattern, then the current removal does not result in a disciplinary change of placement.</p> <p>NOPS states that if the parent disagrees with the CCC determination that the conduct/behavior is not a manifestation of the student’s disability, the parent can request mediation and/or a due process hearing.</p> <p>NOPS also states that if the parent disagrees with the placement the school proposes as the IAES, the complainant may request mediation or a due process hearing to resolve the disagreement.</p>
<p>(b) <i>Authority of hearing officer.</i> (1) A hearing officer under §300.511 hears, and makes a determination regarding an appeal under paragraph (a) of this section.</p>	<p>511 IAC 7-45-7</p>	<p>NOPS (See STUDENTS WITH DISABILITIES AND DISCIPLINARY ACTION-</p>		<p>NOPS indicates the hearing officer may order this change of placement to an IAES for up to 45 school days if upon the school’s request for an expedited hearing, the hearing officer determines that there is a substantial likelihood</p>

		Interim Alternative Educational Setting For Student Who Poses A Risk of Harm to Self or Others)		that returning the student to his or her current placement (the student's placement prior to removal) will result in injury to the student or to others.
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IDEA Part B Requirement	State Policy/ Procedure	Procedural Safeguards	Implementation Guidance	Notes
<p>(2) In making the determination under paragraph (b)(1) of this section, the hearing officer may—</p> <p>(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</p> <p>(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.</p> <p>(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))</p>	<p>511 IAC 7-45-7(f)(6) specifies the 45 IAES placement.</p> <p>511 IAC 7-44-7(c)</p> <p>511 IAC 7-44-8</p>	<p>NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS and ATTORNEYS' FEES- Can the hearing officer change my child's placement to an interim alternative educational setting if he or she poses a risk of harm to self or others?)</p>		
<p>(c) <i>Expedited due process hearing.</i> (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))</p>	<p>511 IAC 7-45-10(b)</p>	<p>NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS and ATTORNEYS' FEES- Expedited Due Process Hearings and Appeals)</p>	<ul style="list-style-type: none"> <li>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.</li> <li>See Q&amp;A E-6</li> </ul>	<p>This subsection states expedited hearings must be conducted in accordance with 511 IAC 7-45-3 through -8.</p> <p>511 IAC 7-45-10(b)(5) specifies that sufficiency challenges are not allowed for expedited hearings.</p>

<p>(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))</p>	<p>511 IAC 7-45-10(b)</p>	<p>NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS and ATTORNEYS' FEES- Expedited Due Process Hearings and Appeals)</p>	<ul style="list-style-type: none"> <li>• No timeline extensions are permitted for expedited due process hearings.</li> <li>• See Q&amp;A E-7</li> </ul>	<p>Indiana's procedures are in compliance with the implementation guidance.</p>
<p>(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</p>	<p>511 IAC 7-45-10(b)</p>	<p>NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS and ATTORNEYS' FEES- Expedited Due Process Hearings and Appeals)</p>	<ul style="list-style-type: none"> <li>• The 15 calendar day resolution period, from the date the parent's due process complaint requesting an expedited due process hearing is received, <i>is part of</i>, not in addition to, the 20 school day expedited due process hearing timeline.</li> <li>• The resolution meeting must occur within 7 days</li> </ul>	<p>Indiana's procedures are in compliance with the implementation guidance.</p>

IDEA Part B Requirement	State Policy/ Procedure	Procedural Safeguards	Implementation Guidance	Notes
<p>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))</p>			<p>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.</p> <ul style="list-style-type: none"> <li>• The resolution period to resolve an expedited due process complaint <i>may not be extended</i>.</li> <li>• See Q&amp;A E-3, E-4</li> </ul>	
<p>(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))</p>		<p>NOPS (See DUE PROCESS HEARINGS, COURT ACTIONS and ATTORNEYS' FEES- Expedited Due</p>	<ul style="list-style-type: none"> <li>• 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.</li> </ul>	<p>Timelines established by Art 7 are consistent with those mandated by federal regulations.  Indiana uses the same procedures but with shortened timelines and the elimination of the sufficiency requirements.</p>

		Process Hearings and Appeals)		
(5) The decisions on expedited due process hearings are appealable consistent with §300.514. (300.532(c)(5))	511 IAC 7-45-10(d)	NOPS (See Expedited Due Process Hearings and Appeals-Appeal)		Parties that disagree with the IHO's decision are afforded a judicial review consistent with 511 IAC 7-45-9.
<b>34 CFR §300.537: State enforcement mechanisms.</b>				
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)	511 IAC 7-45-6(m); 511 IAC 7-45-2(i)		<ul style="list-style-type: none"> <li>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.</li> </ul>	Mediation and resolution agreements are enforceable through the courts. The state complaint process can also be used to enforce mediation and resolution agreements, although the complaint process is not mandatory and can't be used to delay or deny a party the right to seek enforcement of the mediation or resolution agreement in a state or district court.

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

IDEA Part B Requirement	State Policy/ Procedure	Procedural Safeguards	Implementation Guidance	Notes
<b>34 CFR §300.140: Due process complaints and State complaints.</b>				
<p>(a) <i>Due process not applicable, except for child find.</i> (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))</p>	511 IAC 7-34-6	NOPS (See REQUIREMENTS FOR UNILATERAL PLACEMENT OF CHILD IN NONPUBLIC (PRIVATE) SCHOOL AT THE PUBLIC SCHOOL'S EXPENSE)	<ul style="list-style-type: none"> <li>• See Q&amp;A C-10</li> </ul>	<p>Art 7 allows due process hearings for issues of child find, the appropriateness of an evaluation or reevaluation or the determination of eligibility for special education and related services.</p> <p>Indiana's procedures are in compliance with the implementation guidance.</p>
<p>(b) <i>Child find complaints—to be filed with the LEA in which the private school is located.</i> (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))</p>	511 IAC 7-34-6(b) and (c) 511 IAC 7-40-1(a); 511 IAC 7-34-1; 511 IAC 7-34-2; 511 IAC 7-34-3	NOPS (See REQUIREMENTS FOR UNILATERAL PLACEMENT OF CHILD IN NONPUBLIC (PRIVATE) SCHOOL AT THE PUBLIC SCHOOL'S EXPENSE)		

<p>(c) <i>State complaints.</i> (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.</p> <p>(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))</p>	<p>511 IAC 7-34-6(d) and 511 IAC 7-45-1</p> <p>511 IAC 7-34-4(f) through (h)</p>	<p>Nothing in NOPS specifically addresses this</p>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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</li> </ul>	<p>511 IAC 7-34-4 provides for consultation between the public agency and nonpublic school representatives and representatives of students with disabilities. Upon completion of the consultation process, the public agency must obtain a written affirmation signed by the representatives of participating nonpublic schools.</p> <p>Mediation and due process hearings are not available to resolve disputes unless the dispute concerns one of the following: child find; the appropriateness of an evaluation or reevaluation; or the determination of eligibility for special education and related services. 511 IAC 7-34-6(a).</p>
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IDEA Part B Requirement	State Policy/ Procedure	Procedural Safeguards	Implementation Guidance	Notes
			<p>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.</p> <ul style="list-style-type: none"> <li>• See Q&amp;A A-7</li> </ul>	
<p><b>34 CFR §300.148: Placement of children by parents when FAPE is at issue.</b></p>			<ul style="list-style-type: none"> <li>• See also 34 CFR §300.148(d)-(e)</li> </ul>	<p>511 IAC 7-34-10(g) &amp; (h) reflect the requirements of 34 CFR 300.148(d)-(e).</p>
<p>(b) <i>Disagreements about FAPE.</i> 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))</p>	<p>511 IAC 7-34-10;</p> <p>511 IAC 7-45-3</p>	<p>NOPS (See REQUIREMENTS FOR UNILATERAL PLACEMENT OF CHILD IN</p>		

		NONPUBLIC (PRIVATE) SCHOOL AT THE PUBLIC SCHOOL'S EXPENSE- Reimbursement for Nonpublic School Placement and Limitations on Reimbursement)		
<p>(c) <i>Reimbursement for private school placement.</i> 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))</p>	511 IAC 7-34-10(e)	NOPS (See REQUIREMENTS FOR UNILATERAL PLACEMENT OF CHILD IN NONPUBLIC (PRIVATE) SCHOOL AT THE PUBLIC SCHOOL'S EXPENSE- Reimbursement for Nonpublic School Placement and Limitations on Reimbursement)		