after a public agency determines that
the child needs a surrogate parent.

(Authority: 20 U.S.C. 1439(a)(5))

DISPUTE RESOLUTION OPTIONS

§ 303.430 State dispute resolution options.

(a) General. Each statewide system
must include written procedures for
the timely administrative resolution of
complaints through mediation, State
complaint procedures, and due process
hearing procedures, described in para-
graphs (b) through (e) of this section.

(b) Mediation. Each lead agency must
make available to parties to disputes
involving any matter under this part
the opportunity for mediation that
meets the requirements in §303.431.

(c) State complaint procedures. Each
lead agency must adopt written State
complaint procedures to resolve any
State complaints filed by any party re-
respect to a particular child regarding any matter identified in §303.421(a), by either
adopter—

(1) The part C due process hearing
procedures under section 619 of the Act
that—

(i) Meet the requirements in §§303.435
through 303.438; and

(ii) Provide a means of filing a due
process complaint regarding any matter
listed in §303.421(a); or

(2) The part B due process hearing
procedures under section 615 of the Act
and §§303.440 through 303.449 (with ei-
ther a 30-day or 45-day timeline for re-
solving due process complaints, as pro-
vided in §303.440(c)).

(e) Status of a child during the pend-
ency of a due process complaint. (1) During
the pendency of any proceeding in-
volving a due process complaint under
paragraph (d) of this section, unless the
lead agency and parents of an infant or
toddler with a disability otherwise
agree, the child must continue to re-
ceive the appropriate early interven-
tion services in the setting identified
in the IFSP that is consented to by the
parents.

(2) If the due process complaint under
paragraph (d) of this section involves
an application for initial services
under part C of the Act, the child must
receive those services that are not in

(Authority: 20 U.S.C. 1415(e), 1415(f)(1)(A),
1415(f)(3)(A)–(D), 1439)

MEDIATION

§ 303.431 Mediation.

(a) General. Each lead agency must
each lead 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 com-
plaint, to resolve disputes through a
mediation process at any time.

(b) Requirements. The procedures
must meet the following requirements:

(1) The procedures must ensure that
the mediation process—

(i) Is voluntary on the part of the
parties;

(ii) Is not used to deny or delay a par-
ent’s right to a due process hearing, or
to deny any other rights afforded under
part C of the Act; and

(iii) Is conducted by a qualified and
impartial mediator who is trained in
effective mediation techniques.

(2)(i) The State must maintain a list
of individuals who are qualified medi-
ators and knowledgeable in laws and
regulations relating to the provision of
early intervention services.

(ii) The lead agency must select me-
diators on a random, rotational, or
other impartial basis.

(3) The State must bear the cost of
the mediation process, including the
costs of meetings described in para-
graph (d) of this section.

(4) 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.

(5) 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—

(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

(ii) Is signed by both the parent and a representative of the lead agency who has the authority to bind such agency.

(6) 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.

(7) 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.

(c) Impartiality of mediator. (1) An individual who serves as a mediator under this part—

(i) May not be an employee of the lead agency or an EIS provider that is involved in the provision of early intervention services or other services to the child; and

(ii) Must not have a personal or professional interest that conflicts with the person’s objectivity.

(2) A person who otherwise qualifies as a mediator is not an employee of a lead agency or an early intervention provider solely because he or she is paid by the agency or provider to serve as a mediator.

(d) Meeting to encourage mediation. A lead agency may establish procedures to offer to parents and EIS providers 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—

(1) 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

(2) Who would explain the benefits of, and encourage the use of, the mediation process to the parents.

(Approved by Office of Management and Budget under control number 1820–NEW)

(Authority: 20 U.S.C. 1415(e), 1439(a)(8))

STATE COMPLAINT PROCEDURES

§ 303.432 Adoption of State complaint procedures.

(a) General. Each lead agency must adopt written procedures for—

(1) Resolving any complaint, including a complaint filed by an organization or individual from another State, that meets the requirements in §303.434 by providing for the filing of a complaint with the lead agency; and

(2) Widely disseminating to parents and other interested individuals, including parent training and information centers, Protection and Advocacy (P&A) agencies, and other appropriate entities, the State procedures under §§303.432 through 303.434.

(b) Remedies for denial of appropriate services. In resolving a complaint in which the lead agency has found a failure to provide appropriate services, the lead agency, pursuant to its general supervisory authority under part C of the Act, must address—

(1) The failure to provide appropriate services, including corrective actions appropriate to address the needs of the infant or toddler with a disability who is the subject of the complaint and the infant’s or toddler’s family (such as compensatory services or monetary reimbursement); and

(2) Appropriate future provision of services for all infants and toddlers with disabilities and their families.

(Approved by Office of Management and Budget under control number 1820–NEW)

(Authority: 20 U.S.C. 1439(a)(1))

§ 303.433 Minimum State complaint procedures.

(a) Time limit; minimum procedures. Each lead agency must include in its complaint procedures a time limit of 60 days after a complaint is filed under §303.434 to—