

TABLE 4

Report of Dispute Resolution Under Part C of the Individuals with Disabilities Education Act

July 1, **2009** – June 30, **2010**

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 1820-0678. The time required to complete this information collection is estimated to average 60 hours per State, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: U.S. Department of Education, Washington, D.C. 20202. If you have comments or concerns regarding the status of your individual submission of this form, write directly to: Office of Special Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW, Washington, D.C. 20202.

All States must submit electronic versions of the completed data forms to OSEP's data contractor at IDEADData_PartC@westat.com. OSEP will provide electronic Data Transmission Spreadsheets (DTS) in Microsoft Excel format to facilitate this process.

Instructions

Authorization: **20 U.S.C. 1418 (a)(1)(F), (a)(1)(H) and (a)(3)**

Due Date: November 1, **2010**

Sampling Allowed: No

General Instructions

1. Counts should cover an entire year. For this data collection, the reporting year is defined as July 1, **2009** through June 30, **2010**.
2. Report only the actions initiated during the **2009-10** reporting year. Do NOT include actions initiated in a previous reporting year that continued into the **2009-10** reporting year.
3. Italics in the instructions below denote terms defined in the glossary located at the end of the instructions.
4. No sampling is permitted for this data collection.
5. In providing data for this collection, the State is to submit complete and unsuppressed data.
6. **The due process complaints referenced in this data collection are equivalent to the hearing requests referenced in previous versions of this data collection and the individual child complaints referenced in 34 CFR §303.420.**

Specific Instructions, Section A: Written, Signed Complaints

In row 1, enter the total number of *written, signed complaints* filed under 34 CFR §§303.510 through 303.512 between July 1, **2009** and June 30, **2010**.

- In row 1.1, enter how many of the *written, signed complaints* (row 1) were *complaints with reports issued* as of 60 days following the end of the reporting period; that is, enter how many of the complaints had a written decision from the lead agency as of August 29, **2010**. Row 1.1 is a subset of row 1.
 - In row 1.1(a), enter how many of the reports issued were *reports with findings of noncompliance*. Row 1.1(a) is a subset of row 1.1.

Note that the difference between the number entered in row 1.1 and the number entered in 1.1(a) is the number of reports without findings of noncompliance.

- In row 1.1(b), enter how many of the reports issued were *reports within timeline* (60 days). Do **NOT** include any written decisions issued more than 60 days after the *written, signed complaint* was filed. Row 1.1(b) is a subset of row 1.1.
- In row 1.1(c), enter how many of the reports issued were *reports within extended timeline*. Row 1.1(c) is a subset of row 1.1.

Note that the difference between the number in row 1.1 and the sum of the numbers entered in rows 1.1(b) and 1.1(c) is the number of complaints with reports issued late (not within the 60 day timeline or an extended timeline).

- In row 1.2, enter how many of the *written, signed complaints* (row 1) were *complaints pending* as of August 29, **2010** (60 days following the end of the reporting period). Row 1.2 is a subset of row 1.
 - In row 1.2(a), enter how many of the pending complaints were *complaints pending a due process hearing*. Row 1.2(a) is a subset of row 1.2.

Note that the difference between the number in row 1.2 and the number in row 1.2(a) is the number of *complaints pending* for reasons other than pending a due process hearing.

- In row 1.3, enter how many of the *written, signed complaints* (row 1) were *complaints withdrawn or dismissed* as of August 29, **2010** (60 days following the end of the reporting period). Row 1.3 is a subset of row 1.

Note that the sum of the numbers entered in rows 1.1, 1.2, and 1.3 must equal the total number of *written, signed complaints* (row 1).

Specific Instructions, Section B: Mediation Requests

In row 2, enter the total number of *mediation requests* received between July 1, **2009** and June 30, **2010**.

- In row 2.1, enter how many of the *mediation requests* (row 2) resulted in *mediations held* as of the end of the reporting period (June 30, **2010**). Row 2.1 is a subset of row 2.

- In row 2.1(a), enter how many of the *mediations held* were *mediations held related to due process complaints*¹. Row 2.1(a) is a subset of row 2.1.
 - In row 2.1(a)(i), enter how many of the *mediations held related to due process complaints* resulted in *mediation agreements* as of the end of the reporting period (June 30, 2010). Row 2.1(a)(i) is a subset of row 2.1(a).

Note that the difference between the number entered in row 2.1(a) and the number entered in row 2.1(a)(i) is the number of *mediations held related to due process complaints* that did not result in a *mediation agreement*.

- In row 2.1(b), enter how many of the *mediations held* were *mediations held not related to due process complaints*. Row 2.1(b) is a subset of row 2.1.
 - In row 2.1(b)(i), enter how many of the *mediations held not related to due process complaints* resulted in *mediation agreements* as of the end of the reporting period (June 30, 2010). Row 2.1(b)(i) is a subset of row 2.1(b).

Note that the difference between the number entered in row 2.1(b) and the number entered in row 2.1(b)(i) is the number of *mediations held not related to due process complaints* that did not result in a *mediation agreement*.

Note that the sum of 2.1(a) and 2.1(b) must equal the total number of mediations held (row 2.1).

- **In row 2.2, enter how many of the mediation requests (row 2) were mediations pending as of the end of the reporting period (June 30, 2010). Row 2.2 is a subset of row 2.**
- In row 2.3, enter how many of the *mediation requests* (row 2) were *mediations not held* as of the end of the reporting period (June 30, 2010). Row 2.3 is a subset of row 2.

Note that the sum of 2.1, 2.2, and 2.3 is the total number of mediations requested (row 2).

Specific Instructions, Section C: Due Process Complaints

In row 3, enter the total number of *due process complaints* filed between July 1, 2009 and June 30, 2010.

- In row 3.1, for States that have adopted the Part B due process hearing procedures, enter how many of the *due process complaints* (row 3) resulted in a *resolution meeting* as of the end of the reporting period (June 30, 2010). Row 3.1 is a subset of row 3.
 - In row 3.1(a), enter how many *resolution meetings* resulted in a *written settlement agreement* as of the end of the reporting period. Row 3.1(a) is a subset of row 3.1 and 3.4.

Note that the difference between the number entered in row 3.1 and the number entered in row 3.1(a) is the number of *resolution meetings* held that did not result in a *written settlement agreement* as of the end of the reporting period (June 30, 2010).

- In row 3.2, enter how many of the *due process complaints* (row 3) resulted in *hearings fully adjudicated* as of the end of the reporting period, that is, the due process hearing was conducted and the hearing officer issued a written decision by June 30, 2010. Row 3.2 is a subset of row 3.

Note that for rows 3.2(a)(1) and 3.2(a)(2), States **must apply** one timeline for written decisions **for due process complaints; this timeline is a 30-day timeline under 34 CFR §303.423(b) if**

¹ Due process complaints were referred to as hearing requests in previous versions of this data collection and refer to the individual child complaints in 34 CFR §303.420.

the State has adopted Part C **due process hearing procedures under 34 CFR §303.420(b)**, OR a 30- or 45-day timeline if the State has adopted the Part B due process hearing procedures **under 34 CFR §303.420(a)**. Therefore, States are to enter data in only one of the following two rows – row 3.2(a)(1) OR row 3.2(a)(2), as appropriate, but not both.

- In row 3.2(a)(1), for States using Part C due process procedures, enter how many of the written decisions were *decisions within the 30-day timeline*. (Do not include here the decisions within extended timelines.) Row 3.2(a)(1) is a subset of row 3.2.
- In row 3.2 (a)(2), for States that have adopted Part B due process procedures, enter how many of the written decisions were decisions within **the appropriate 30- or 45-day timeline adopted by the State under 34 CFR §303.420(a)** (Do not include here the decisions within appropriately extended timelines.). Row 3.2(a)(2) is a subset of row 3.2.
- In row 3.2(b), only for States that have adopted Part B due process hearing procedures, enter how many of the written decisions included in row 3.2 were *decisions within appropriately extended timelines*. (Decision must be within specific time extension granted by the hearing or reviewing officer). Row 3.2(b) is a subset of row 3.2.

Note that the difference between the number in row 3.2 and the sum of the numbers in rows 3.2(a)(1) OR 3.2(a)(2), as applicable, and 3.2(b) if applicable, is equal to the number of decisions issued beyond the relevant timeline.

- **In row 3.3, enter how many of the due process complaints (row 3) were hearings pending as of the end of the reporting period (June 30, 2010). Row 3.3 is a subset of row 3.**
- **In row 3.4, enter how many of the due process complaints (row 3) were withdrawn or dismissed (including resolved without a hearing) as of the end of the reporting period (June 30, 2010). Row 3.4 is a subset of row 3.**

Note that the sum of the numbers entered in rows 3.2, 3.3 and 3.4 is equal to the total number of due process complaints entered in row 3.

Glossary of Data Elements

Complaint pending – A written, signed complaint that is either still under investigation or the lead agency’s written decision has not been issued.

Complaint pending a due process hearing – A written, signed complaint in which one or more of the allegations in the complaint are the subject of a **due process complaint** that has not been resolved.

Complaint with report issued – A written decision was provided by the lead agency to the complainant regarding alleged violations of a requirement of Part C of IDEA.

Complaint withdrawn or dismissed – A written, signed complaint that was withdrawn by the complainant for any reason or that was determined by the lead agency to be resolved by the complainant and the **early intervention** service provider or lead agency through mediation or other dispute resolution means and no further action by the lead agency was required to resolve the complaint; **or a complaint dismissed by the lead agency for any reason, including that the complaint does not include all of the required content.**

Decision within extended timeline - **For States using the Part B due process hearing procedures, a decision within extended timeline is the written decision (from a hearing fully adjudicated) provided to the parties in the hearing more than 30 or 45 days (whichever hearing timeline the State has**

adopted under 34 CFR §303.420(a) after the expiration of the *resolution period*, but within a specific time extension granted by the hearing or reviewing officer at the request of either party.

Decision within timeline – **For States using the Part C due process hearing procedures**, the written decision from a *hearing fully adjudicated* was provided to the parties in the due process hearing not later than 30 days after the receipt of the ***due process complaint***. For States using the Part B due process hearing procedures, a *decision within timeline* is the written decision (from a fully adjudicated hearing) provided to the parties in the hearing not later than 30 days or 45 days (whichever hearing timeline the State has adopted **under 34 CFR §303.420(a)**) after the expiration of the *resolution period*.

Due process complaint – **A filing by a parent, early intervention service provider, or lead agency to initiate an impartial due process hearing on matters relating to the identification, evaluation, or placement of an infant or toddler with a disability, or to the provision of appropriate early intervention services to such child.**

Due process complaints withdrawn or dismissed – **A due process complaint that has not resulted in a fully adjudicated due process hearing and is also not under consideration by a hearing officer. This includes due process complaints resolved through a mediation agreement or through a written settlement agreement, those settled by some other agreement between the parties (parent and early intervention service provider or lead agency) prior to completion of the due process hearing, those withdrawn by the filing party, those determined by the hearing officer to be insufficient or without cause, and those not fully adjudicated for other reasons.**

Hearing fully adjudicated – A hearing officer conducted a **due process hearing, reached a final decision** regarding matters of law **and fact** and issued a written decision to the **parties**.

Hearing pending – **A request for a due process hearing that has not yet been scheduled, is scheduled but has not yet been conducted, or has been conducted but is not yet fully adjudicated. (See definition for *hearing fully adjudicated*).**

Mediation agreement – A written legally binding agreement signed by a parent and a representative of **the lead agency who has authority to bind the lead agency**, that specifies the resolution of any issues in the dispute that were reached through the mediation process. A mediation agreement that fully or partially resolves issues in dispute is included in “*mediation agreements*.”

Mediation held – A process conducted by a qualified and impartial mediator to resolve a disagreement between **parties to a dispute involving any matter** under Part C of IDEA and that concluded with or without a written *mediation agreement* between the parties.

Mediation held not related to due process complaint – A process conducted by a qualified and impartial mediator to resolve a disagreement between **parties to a dispute involving any matter under Part C of IDEA** that was not initiated by the filing of a ***due process complaint*** or did not include issues that were the subject of a ***due process complaint***.

Mediation held related to due process complaint – A process conducted by a qualified and impartial mediator to resolve a disagreement between **parties** that was initiated by the filing of a ***due process complaint*** or included issues that were the subject of a ***due process complaint***.

Mediation not held– A request for mediation that did not result in a mediation being conducted by a qualified and impartial mediator. This includes requests that were withdrawn, requests that were

dismissed, requests where one party refused to mediate, **and** requests that were settled by some agreement other than a *mediation agreement* between the parties.

Mediation pending – A request for mediation that has not yet been scheduled or is scheduled but has not yet been held.

Mediation request – A request by a party to a dispute involving any matter under Part C of IDEA for the parties to meet with a qualified and impartial mediator to resolve the dispute(s).

Report with findings of noncompliance - The written decision provided by the lead agency to the complainant in response to a *written, signed complaint*, which finds the **early intervention service** provider or lead agency to be out of compliance with one or more requirements of Part C of IDEA or 34 CFR Part 303.

Report within extended timeline – The written decision from the lead agency was provided to the complainant more than 60 days after the *written, signed complaint* was filed, but within an appropriately extended timeline. An appropriately extended timeline is an extension beyond 60 days that was granted due to exceptional circumstances that exist with respect to a particular complaint; **or if the parent and the lead agency, public agency or early intervention service provider involved agreed to extend the time to engage in mediation, or to engage in other alternative means of dispute resolution, if available in the State or under State procedures.**

Report within timeline – The written decision from the lead agency to the complainant was provided not later than 60 days after receiving the *written, signed complaint*.

Resolution meeting – For States that have adopted Part B due process hearing procedures, a meeting, convened by the local provider or lead agency, between the parent and the **relevant member(s) of the IFSP Team** to discuss the parent’s *due process complaint* and the facts that form the basis of the *due process complaint* so that the lead agency has the opportunity to resolve the dispute that is the basis for the *due process complaint*.

Resolution period – For States that have adopted Part B due process hearing procedures, 30 days from the receipt of a *due process complaint* unless the period is adjusted because: (1) both parties agree in writing to waive the *resolution meeting*; or (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; or (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 local provider or lead agency withdraws from the mediation process.

Written settlement agreement – A legally binding written document, signed by the parent and a representative of the lead agency **who has authority to bind the lead agency**, specifying the resolution of the dispute that formed the basis for a *due process complaint* arrived at in a *resolution meeting*. For the purposes of reporting on Table 4, a *written settlement agreement* is one that fully resolves all issues of the *due process complaint* and negates the need for a due process hearing.

Written, signed complaint – A signed, written document submitted to a lead agency by an individual or organization (complainant) that alleges a violation of a requirement of Part C of IDEA or 34 CFR 303, **including cases in which some required content is absent from the document.**

SECTION A: Written, Signed Complaints	
(1) Total number of written, signed complaints filed	
(1.1) Complaints with reports issued	
(a) Reports with findings of noncompliance	
(b) Reports within timeline	
(c) Reports within extended timelines	
(1.2) Complaints pending	
(a) Complaints pending a due process hearing	
(1.3) Complaints withdrawn or dismissed	
SECTION B: Mediation Requests	
(2) Total number of mediation requests received	
(2.1) Mediations held	
(a) Mediations held related to due process complaints	
(i) Mediation agreements related to due process complaints	
(b) Mediations held not related to due process complaints	
(i) Mediation agreements not related to due process complaints	
(2.2) Mediations pending	
(2.3) Mediations not held	
SECTION C: Due Process Complaints	
(3) Total number of due process complaints filed (for all States)	
(3.1) Resolution meetings (applicable ONLY for States using Part B due process hearing procedures)	
(a) Written settlement agreements reached through resolution meetings	
(3.2) Hearings fully adjudicated (for all States) –	
(a) Complete EITHER item (1) <u>OR</u> item (2), below, as applicable.	
(1) Decisions within timeline – <u>Part C</u> Procedures	
(2) Decisions within timeline – <u>Part B</u> Procedures	
(b) Decisions within extended timeline (applicable ONLY if using Part B due process hearing procedures)	
(3.3) Hearing pending (for all States)	
(3.4) Due process complaint withdrawn or dismissed (including resolved without a hearing)(for all States)	