

<b>Critical Element General Supervision (GS)-3:</b> Does the State have procedures and practices that are reasonably designed to implement the dispute resolution requirements of IDEA?	
<b>Related Question</b>	<b>Response</b>
A. How does the State ensure that parents and others have access to the State’s model complaint form?	<p>A form is available on the ISBE website or upon request; Parents and others are directed to the form via technical assistance (TA) communications (the form is recommended but not required for the initiation of a complaint). A written, signed communication is required. Email or fax is sufficient as long as a signature is documented.</p> <p>Notes:</p>
B. What are the State’s requirements for filing a State complaint?	<p>Submission of a written request for complaint investigation with the signature of the complainant to ISBE (forward a copy to the LEA), including the following information:</p> <ul style="list-style-type: none"> <li>• Signature and contact information for the complainant.</li> <li>• Student and parent identifying information.</li> <li>• School information.</li> <li>• Statement detailing alleged violation(s) and facts on which statement is based (alleged violations must have occurred within calendar year prior to date of receipt of complaint).</li> <li>• Proposed resolution for identified issue(s).</li> </ul> <p>Notes: The form walks the individual through all of these components. The form is in English but a Spanish example is available in the Educational Rights Guide online.</p>
C. How does the State ensure the timely resolution of complaints?	<p>The sixty-day (calendar days) timeline is calculated through the Special Education Data System (SEDS) upon receipt of a complaint; timeline reminders are provided to the assigned investigator through SEDS (via an e-mailed message) at various points during the investigation (first week, Day 30, Day 50, Day 59); the assigned investigator is responsible for maintenance of timelines (i.e., direct communications with district regarding timelines for submission of materials, timely development and submission of formal written responses, etc.); The complaint team (supervisor and investigators) meets on a weekly basis; administrative oversight/review is provided by the division supervisor.</p> <p>Notes:</p>
D. Under what conditions does the State extend the 60-day timeline?	<p>ISBE may extend the timeline under exceptional circumstances and on a case-by-case basis depending upon the nature of the complaint and the scope of the complaint investigation. For example, the complainant and LEA may agree to extend the timeline in order to engage in mediation or alternative means of dispute resolution. Written notice via a formal letter is provided to the parties and tracked in SEDS with new timelines, dates and documentation of the reason for extension.</p> <p>Notes: Explained in the opening complaint letter. Extensions discussed on a case by case basis during weekly compliant investigator meetings.</p>
E. Does the State have an appeals process? If so, how does the State ensure	<p>The State does not have a formal appeals process. Parties may pursue other avenues, such as Due Process, if they disagree with the outcome of a complaint.</p> <p>Notes: The State has an informal reconsideration process, in which an assigned investigator will reconsider based</p>

that the appeal is completed within the 60-day timeline?	on additional documentation (not previously reviewed or on file) upon request of either party to complaint.
F. How does the State ensure there is a response to each allegation contained in a complaint?	<p>The assigned investigator is responsible for identifying all issues (in letters) and ensuring response (documentation) for each issue from the district; Administrative oversight/review is provided by the division supervisor.</p> <p>Notes: A letter of response is completed for issues not investigated as complaints. A complainant may also submit documentation.</p>
G. How does the State ensure the implementation of complaint decisions?	<p>Within one year of issuance of finding. Districts are notified of the outcome of the investigation and required corrective actions via a written response (LOF); The assigned investigator is responsible for communications with the district regarding corrective action requirements (provision of TA relative to specific activities, submission of documentation, relevant timelines, etc.); Administrative oversight/review is provided by division supervisor.</p> <p>Notes:</p>
H. How does the State ensure that parents and others have access to the State's model due process hearing form?	<p>A model form is posted on the website at <a href="http://www.isbe.net/spec-ed/pdfs/dp_parental_19-86a.pdf">http://www.isbe.net/spec-ed/pdfs/dp_parental_19-86a.pdf</a>. The form is also reproduced in Appendix D of our current edition of our special education rights guide, which is available in hard copy and online at <a href="http://www.isbe.net/spec-ed/html/parent_rights.htm">http://www.isbe.net/spec-ed/html/parent_rights.htm</a>. Parent mentors, TA to LEAs.</p> <p>Notes: Example in Spanish via the Educational Rights Guide</p>
I. How does the State ensure that hearing officers have the necessary knowledge and ability to conduct hearings?	<p>Pursuant to Section 14-8.02c of the Illinois School Code, hearing officer applicants are required to hold certain educational requirements and demonstrate the ability to understand State and Federal special education provisions, and to render appropriate decisions in accordance with these provisions (application process, Due Process Screening Committee, screen applications, require experience in special education, don't need to be an attorney, writing sample, interview by committee, goes through ISAC). Hearing officers, prior to being appointed, are required to participate in a three-day orientation/initial training. Pursuant to Section 14-8.02c(f) of the Illinois School Code, ISBE contracts with an independent training entity (currently Joyce O. Eckrem &amp; Associates) to conduct quarterly trainings covering the range of issues pertaining to special education due process.</p> <p>Notes:</p>
J. How does the State ensure the impartiality of hearing officers?	<p>Per the requirements of Section 14-8.02c of the Illinois School Code, hearing officers cannot be employed by a LEA in Illinois. Moreover, hearing officers are required to disclose any potential conflicts of interest to the parties. In the event a party requests recusal based on the potential conflict, the hearing officer shall remove himself or herself from the case. Hearing officers excluded from certain cases (e.g. if they are a resident in the LEA). If evidence through performance evaluation suggests bias or lack of impartiality, such factors would be considered in renewal of HO annual contracts.</p> <p>Notes:</p>
K. How does the State ensure that hearing decisions are	Pursuant to Section 14-8.02c of the Illinois School Code, hearing officer applicants are required to hold certain educational requirements and demonstrate the ability to understand State and Federal special education provisions

<p>consistent with IDEA federal and State regulations?</p>	<p>and to render appropriate decisions in accordance with these provisions. Hearing officers, prior to being appointed, are required to participate in a three-day orientation/initial training. Pursuant to Section 14-8.02c(f) of the Illinois School Code, ISBE contracts with an independent training entity (currently Joyce O. Eckrem &amp; Associates) to conduct quarterly trainings covering the range of issues pertaining to special education due process.</p> <p>Notes:</p>
<p>L. How does the State ensure that local programs properly implement the resolution process? (resolution meetings, mediation in lieu of resolution meeting, meetings held w/in 15 days, lawyers not present unless permitted, etc.)</p>	<p>Upon the initiation of a new case, each party receives an initial information packet that outlines their obligations with regard to conducting the resolution process and the deadlines associated with it. Our data tracking program (SEDS) also generates automated correspondence to the parties to remind them of the requirement to conduct the first resolution meeting no later than 15 days following the initiation of the case. In the event scheduling issues or conflicts arise, the parties are referred to their hearing officer or the ISBE due process coordinator for technical support. The hearing officer is responsible for entering into SEDS the dates on which the resolution process meetings have occurred. ISBE's current special education rights guide (found at <a href="http://www.isbe.net/spec-ed/html/parent_rights.htm">http://www.isbe.net/spec-ed/html/parent_rights.htm</a>) also discusses in detail the resolution process requirements.</p> <p>Notes:</p>
<p>M. How does the State ensure that resolution sessions occur within 15-days of the filing of a due process hearing unless waived or parties agree to mediation?</p>	<p>With the initiation of a new case, parties are provided information about the resolution process, the associated timelines and the documents needed to signify a mutual waiver of the process. Parties are responsible for providing their assigned hearing officer with signed copies of the waiver form in the event there is a mutual waiver of the resolution process. The hearing officers have been informed of the legal provisions concerning the resolution process as described in State and Federal law, and are aware of their authority to impose sanctions (e.g., delay of the onset of the hearing, dismissal of the hearing request) for delays in the resolution process or failure to conduct the resolution process in the absence of a waiver.</p> <p>Notes:</p>
<p>N. How does the State ensure that written due process decisions are issued within 45 days from the end of the resolution process?</p>	<p>As part of their initial training, hearing officers are fully informed of the 45-day timeline associated with the conduct of due process hearings. The hearing officers have also been trained on the circumstances under which extensions of time may be granted. Additionally, our SEDS data-tracking system provides hearing officers with automated warnings and reminders concerning timelines and upcoming events.</p> <p>Notes:</p>
<p>O. How does the State ensure that extensions of the 45-day timeline are granted only at the request of a party?</p>	<p>Database. Only extended by the parties request for a specific period of time. In their initial training and in quarterly mandatory training, the issue of extensions of time has been reviewed and discussed at length. Hearing officers are fully informed about the circumstances in which extensions of time can be granted under State and Federal law. Hearing officers understand that extensions of time may be granted at the discretion of the hearing officer in the event a party requests an extension of time.</p> <p>Notes: Pursuant to State law (105 ILCS 5/14-8.02a), hearing officers understand that joint requests for an</p>

	extension of time must be granted.
P. How does the State ensure the implementation of hearing officer decisions?	Hearing officers have been trained to include specific timelines for implementation in any order or decision they may render in a case. Upon entry of an order, the SEDS data-tracking system will note the deadline for implementation and issue automated warnings to an LEA if documentation of compliance has not yet been provided to ISBE. ISBE will also, if necessary, provide warnings that ongoing implementation issues may result in findings of non-compliance against the LEA and/or other sanctions.
	Notes:
Q. How does the State make available to the State advisory panel and public, the findings and decisions of due process hearings?	At present, summaries of due process hearing decisions are publicly available on the ISBE website at <a href="http://www.isbe.net/spec-ed/html/dp_summaries.htm">http://www.isbe.net/spec-ed/html/dp_summaries.htm</a> . Any member of the public may obtain a copy of the full text of the hearing decision upon request. Indicate within the summary if the LEA had corrective actions.
	Notes: Beginning on or around November 1, 2010 ISBE began putting the full, redacted text of hearing decisions issued since July 1, 2010 on the ISBE website. ISBE is working to put earlier decisions online as well.
R. How does the State ensure that mediation is available regardless of whether a parent has filed for a due process hearing?	ISBE posts information about mediation services on the webpage at <a href="http://www.isbe.net/spec-ed/html/mediation.htm">http://www.isbe.net/spec-ed/html/mediation.htm</a> and in Chapter 11 and Appendix A of the Parent's Rights Guide hard copy and online at <a href="http://www.isbe.net/spec-ed/html/parent_rights.htm">http://www.isbe.net/spec-ed/html/parent_rights.htm</a> . Consultants provide information to callers, when appropriate. Mediation is offered as an early resolution option via the opening complaint letter when a state complaint is filed and in opening DPH letter.
	Notes:
S. How does the State ensure that mediators are qualified and impartial?	ISBE requires mediators to have a Bachelor's degree (minimum), experience in the field of mediation, knowledge of special education (preferred) and a willingness to travel anywhere in IL. Mediators are also required to complete a basic 40-hour Mediation Training. Mediators are provided annual training which consists of two days of intensive instruction. In addition, mediators have access to other training opportunities throughout the year. According to 34 CFR 300.506 (c), mediators may not be employed by the SEA or the LEA that is involved in the education or care of the child and must not have a personal or professional interest that conflicts with the person's objectivity. Mediators are required by their contract to disclose any potential conflicts of interest to the parties. In the event a party requests the removal of the mediator based on the potential conflict, the mediator shall recuse himself or herself from the case. Mediators would immediately recuse themselves if they determine that they have a conflict of interest upon assignment of a new case.
	Notes: Evaluation through parties involved, mediation agreements are reviewed by the ISBE mediation coordinator. Annual discussion with the division supervisor re: retention of mediators are based on this information.

T. What are the barriers that impede the State’s ability to properly implement dispute resolution processes?	The complexity of the Illinois School Code language for Due Process.
	Notes:
U. What is the State doing to address these barriers?	ISBE continues to have discussions with ISAC and other stakeholders to explore how to enhance the efficiency of the Due Process system.
	Notes:
<b>Document Review</b>	<b>Notes</b>
<input type="checkbox"/> APR Indicator 16	
<input type="checkbox"/> APR Indicator 17	
<input type="checkbox"/> APR Indicator 18	
<input type="checkbox"/> APR Indicator 19	
<input type="checkbox"/> Table 7	
<input type="checkbox"/> Complaint Files	
<input type="checkbox"/> Complaint Log	
<input type="checkbox"/> Model Complaint Form	
<input type="checkbox"/> Model Due Process Complaint Form	
<input type="checkbox"/> Complaint Procedures	
<input type="checkbox"/> Due Process Procedures	
<input type="checkbox"/> Due Process Log	
<input type="checkbox"/> Due Process Hearing Decisions	
<input type="checkbox"/> Due Process Findings and Decisions Made Available to the Public	
<input type="checkbox"/>	
<b>Customer Service Info.</b>	<b>Notes</b>
<input type="checkbox"/>	
<b>OGC Comments</b>	<b>Notes</b>

<input type="checkbox"/>	
<b>Interview Info.</b>	<b>Interview Summary</b>
<b>Related Requirements</b>	
<input type="checkbox"/> §300.504(c) [Procedural safeguards notice] The procedural safeguards notice required by 20 U.S.C. 1415(d)(2)(E) shall include a full explanation of the procedural safeguards, including the State complaint procedures in accordance with 34 CFR §§300.151 through 153 including a description of how to file a complaint and the timelines under those procedures.	
<input type="checkbox"/> § 300.509(a) [Model forms] (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.	
<input type="checkbox"/> §300.151(a) [Adoption of State complaint procedures] Each SEA shall adopt State complaint procedures for resolving any complaint, including a complaint filed by any individual, providing for the filing of a complaint with the SEA, disseminating to parents and other interested individuals the right to file a complaint.	
<input type="checkbox"/> §300.151(b) 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 must address: how to remediate the denial of those services, including, as appropriate, the awarding of monetary reimbursement or other corrective action appropriate to the needs of the child; and appropriate future provision of services for all children with disabilities.	
<input type="checkbox"/> §§300.152(a) and (b) Each SEA shall include in its complaint procedures a time limit of 60 days after a complaint is filed to carry out an investigation, give the complainant the opportunity to submit additional information, review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part B, and issue a written decision to the complainant. The procedures must permit an extension of the time limit and include procedures for effective implementation of the SEA’s final decision.	
<input type="checkbox"/> §300.152(c) The SEA must follow the specific requirements related to complaints and due process hearings on the same issue.	
<input type="checkbox"/> §300.153(a) An organization or individual may file a signed written complaint which must meet the requirements described in §300.153(b), (c) and (d).	
<input type="checkbox"/> § 300.507 [Filing a due process complaint.] (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). (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. (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— (1) The parent requests the information; or (2) The parent or the agency files a due process complaint under this section.	

§ 300.508 [Due process complaint] (a) *General.* (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). (2) The party filing a due process complaint must forward a copy of the due process complaint to the SEA.

(b) *Content of complaint.* The due process complaint required in paragraph (a)(1) of this section must include—

(1) The name of the child;

(2) The address of the residence of the child;

(3) The name of the school the child is attending;

(4) 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;

(5) A description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem; and

(6) A proposed resolution of the problem to the extent known and available to the party at the time.

(c) *Notice required before a hearing on a due process complaint.* A party may not have a hearing on a due process complaint until the party, or the attorney representing the party, files a due process complaint that meets the requirements of paragraph (b) of this section.

(d) *Sufficiency of complaint.* (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.

(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.

(3) A party may amend its due process complaint only if— (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

(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.

(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) begins again with the filing of the amended due process complaint.

(e) *LEA response to a due process complaint.* (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.

(f) *Other party response to a due process complaint.* 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.

§ 300.510 [Resolution process] (a) *Resolution meeting.* (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—

- (i) Includes a representative of the public agency who has decision-making authority on behalf of that agency; and
- (ii) May not include an attorney of the LEA unless the parent is accompanied by an attorney.

(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.

(3) The meeting described in paragraph (a)(1) and (2) of this section need not be held if—

- (i) The parent and the LEA agree in writing to waive the meeting; or
- (ii) The parent and the LEA agree to use the mediation process described in § 300.506.

(4) The parent and the LEA determine the relevant members of the IEP Team to attend the meeting.

(b) *Resolution period.* (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.

(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.

(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.

(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.

(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.

(c) *Adjustments to 30-day resolution period.* The 45-day timeline for the due process hearing in § 300.515(a) starts the day after one of the following events:

- (1) Both parties agree in writing to waive the resolution meeting;
- (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;

(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.

(d) *Written settlement agreement.* 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—

(1) Signed by both the parent and a representative of the agency who has the authority to bind the agency; and

(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.

(e) *Agreement review period.* If the parties execute an agreement pursuant to paragraph (c) of this section, a party may void the agreement within 3 business days of the agreement's execution.

§ 300.511 [Impartial due process hearing]

(a) *General.* 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.

(b) *Agency responsible for conducting the due process hearing.* 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.

(c) *Impartial hearing officer.* (1) At a minimum, a hearing officer— (i) Must not be— (A) An employee of the SEA or the LEA that is involved in the education or care of the child; or (B) A person having a personal or professional interest that conflicts with the person's objectivity in the hearing; (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; (iii) Must possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and (iv) Must possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.

(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.

(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.

(d) *Subject matter of due process hearings.* 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.

(e) *Timeline for requesting a hearing.* 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.

(f) *Exceptions to the timeline.* 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

(2) The LEA's withholding of information from the parent that was required under this part to be provided to the parent.

§ 300.512 [Hearing rights] (a) *General.* 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— (1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities; (2) Present evidence and confront, cross-examine, and compel the attendance of witnesses; (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; (4) Obtain a written, or, at the option of the parents, electronic, verbatim record of the hearing; and (5) Obtain written, or, at the option of the parents, electronic findings of fact and decisions.

(b) *Additional disclosure of information.* (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. (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.

(c) *Parental rights at hearings.* Parents involved in hearings must be given the right to— (1) Have the child who is the subject of the hearing present; (2) Open the hearing to the public; and (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.

§ 300.513 [Hearing decisions] (a) *Decision of hearing officer on the provision of FAPE* (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. (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— (i) Impeded the child's right to a FAPE; (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 (iii) Caused a deprivation of educational benefit. (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.

(b) *Construction clause.* 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.

(c) *Separate request for a due process hearing.* 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.

(d) *Findings and decision to advisory panel and general public.* 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.

§ 300.514 [Finality of decision; appeal; impartial review] (a) *Finality of hearing decision.* 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.

(b) *Appeal of decisions; impartial review.* (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. (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— (i) Examine the entire hearing record; (ii) Ensure that the procedures at the hearing were consistent with the requirements of due process; (iii) Seek additional evidence if necessary. If a hearing is held to receive

additional evidence, the rights in § 300.512 apply; (iv) Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official; (v) Make an independent decision on completion of the review; and (vi) Give a copy of the written, or, at the option of the parents, electronic findings of fact and decisions to the parties.

(c) *Findings and decision to advisory panel and general public.* The SEA, after deleting any personally identifiable information, must— (1) 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 (2) Make those findings and decisions available to the public.

(d) *Finality of review decision.* The decision made by the reviewing official is final unless a party brings a civil action under § 300.516.

§300.515 [Timelines and convenience of hearings and reviews] The public agency must ensure that, not later than 45 days after the expiration of the 30-day period under 34 CFR §300.510(b), a final decision is reached in the hearing and a copy of the decision is mailed to each of the parties. A hearing officer may grant specific extensions of time at the request of either party.

§300.506 [Mediation] (a) *General.* 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.

(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 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 (iii) Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques. (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— (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 (ii) Who would explain the benefits of, and encourage the use of, the mediation process to the parents. (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. (ii) The SEA must select mediators on a random, rotational, or other impartial basis. (4) The State must bear the cost of the mediation process, including the costs of meetings described in paragraph (b)(2) of this section. (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. (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— (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 agency who has the authority to bind such agency. (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. 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 SEA or the LEA that is involved in the education or care of 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 an LEA or State agency described under §300.228 solely because he or she is paid by the agency to serve as a mediator.