TA Center Adapted

Part B/C Dispute Resolution | Mediation

# OVERVIEW

In 2016, OSEP began providing differentiated monitoring and support (DMS) to States as part of its Results Driven Accountability ([RDA](https://www2.ed.gov/about/offices/list/osers/osep/rda/index.html)) system under Parts B and C of the Individuals with Disabilities Education Act (IDEA). Under RDA, OSEP made a shift from monitoring based solely on compliance with IDEA requirements to monitoring and support focused on both compliance and improving results for infants, toddlers, children, and youth with disabilities referred to and/or served under the IDEA (collectively referred to as children with disabilities). OSEP differentiates its approach for each State based on the State’s unique strengths, challenges, and needs. Beginning in Federal fiscal year (FFY) 2021, Part B and Part C programs in States will be monitored by OSEP in a five-year cycle. OSEP will monitor all States[[1]](#footnote-2) on their general supervision systems. OSEP will continue to provide support and technical assistance that is differentiated based on each State’s unique strengths, challenges, and needs.

# IMPLEMENTATION

OSEP’s monitoring of each State will be conducted in three (3) phases:

1. ***Phase 1: Document Request and Protocol Interviews*:**  The OSEP monitoring team will begin working with the State to prepare for the Phase 2 visit. Phase 1 will occur 5 months prior to the Phase 2 on-site/virtual visit. The OSEP monitoring team will review all publicly available information prior to working with the State.
   1. **5 months prior to the Phase 2** visit OSEP will send a document request for relevant information we have not found in our initial research. Please refer to the suggested documents listed below for an initial list of the information we are seeking.
   2. **4 months prior to the Phase 2** visit OSEP will conduct targeted interviews with State staff on the component-specific protocols.[[2]](#footnote-3)
2. ***Phase 2: On-site/Virtual Visit through issuing of the Monitoring Report*:**  Based on information collected during the Phase 1 work, OSEP will develop an agenda for the on-site/virtual visit focusing on the issues that require further exploration, deeper looks or additional discussions.
3. ***Phase 3: Follow-up and Close-out*:**  In the year following the on-site visit, the OSEP State Lead will work with the State to ensure correction of any remaining outstanding findings, provide technical assistance, and support, and discuss progress in improving identified results areas.

#### The protocols are developed and organized in the following way—

Question: Overarching area and question related to the monitoring component.

General Information: A listing of statements about what the State would need to effectively answer the question.

Possible Follow-up Questions: Questions designed to more closely examine areas addressed by the General Information. The questions included within this section identify areas that may be explored and are examples of what can but may not necessarily be asked; OSEP may ask additional questions that are not listed to ensure understanding.

Areas (or issues) for Follow-up: Issues which could: 1) result in findings of noncompliance if verified, or areas of concern that may not rise to the level of a finding of noncompliance but require follow-up; 2) lead to a finding of noncompliance if the State does not have a process or procedure to meet the applicable IDEA Requirement(s); or 3) be areas that suggest the need for technical assistance or further discussion.

# Mediation:

# Does the State have policies, procedures, and practices that are reasonably designed to implement the mediation requirements of IDEA Parts B and C in 34 C.F.R. §§ 300.506 and 303.431 respectively?

Component Definition: DISPUTE RESOLUTION— A system required under IDEA and designed as part of a State’s general supervisory responsibility to ensure implementation of IDEA’s dispute resolution procedures (i.e., State complaints, mediation, and due process complaints and due process hearings, including the resolution process required under Part B), consistent with IDEA requirements.

### Suggested Documents to Review (not exhaustive):

### PHASE 1

* The State’s State Performance Plan/Annual Performance Report (SPP/APR) submission for Indicators B-16 (Part B) or C-10 (Part C)
* Prior written notice and Procedural safeguards notice   
  [34 C.F.R. §§ 300.503](https://www.ecfr.gov/current/title-34/subtitle-B/chapter-III/part-300/subpart-E#300.503) and [300.504](https://www.ecfr.gov/current/title-34/subtitle-B/chapter-III/part-300/subpart-E/section-300.504) for Part B and [34 C.F.R. §§ 303.404](https://www.ecfr.gov/current/title-34/subtitle-B/chapter-III/part-303/subpart-E/subject-group-ECFRedb3159cd30cd58/section-303.404) and [303.421](https://www.ecfr.gov/current/title-34/subtitle-B/chapter-III/part-303/subpart-E/subject-group-ECFR0b42dee73576d72/section-303.421) for Part C
* Policies and procedures related to mediation
* Any supplemental guides or Q & A Documents the State has developed to provide guidance to its stakeholders related to dispute resolution activities
* Any forms or instructions the State provides to parents and local educational agencies (LEAs)/early intervention service (EIS) providers to request mediation
* Description of how the mediation system is established in the State
* Evidence of training provided to mediators
* The State’s IDEA section 618 dispute resolution data (a minimum of 3 years’ data)

# Overarching Questions (details start on page 4)

## [How does the State ensure that parties to disputes involving any matter under Part B or Part C of IDEA, including matters arising prior to the filing of a due process complaint, can resolve disputes through a mediation process?](#_How_does_the) [34 C.F.R. §§ 300.300](https://www.ecfr.gov/cgi-bin/text-idx?SID=9237f378c4d4e1ec4f7278d3efc460f2&mc=true&node=se34.2.300_1300&rgn=div8) and [300.506](https://www.ecfr.gov/cgi-bin/text-idx?SID=9237f378c4d4e1ec4f7278d3efc460f2&mc=true&node=se34.2.300_1506&rgn=div8); [34 C.F.R § 303.431](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7b5816d51031b6457afd799fa775e86f&mc=true&r=SECTION&n=se34.2.303_1431); and [Questions A-4 and A-6 of the IDEA Part B Dispute Resolution Procedures Q&A](https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/acccombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf) (July 2013)

## [How does the State ensure that mediation is both voluntary and confidential?](#_How_does_the_1) [34 C.F.R. § 300.506](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1506&rgn=div8); [34 C.F.R § 303.431](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7b5816d51031b6457afd799fa775e86f&mc=true&r=SECTION&n=se34.2.303_1431); and [Questions A-23 and A-25 of the IDEA Part B Dispute Resolution Procedures Q&A](https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/acccombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf) (July 2013)

## [How does the State ensure that mediators are qualified and impartial?](#_How_does_the_2) [34 C.F.R. § 300.506](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1506&rgn=div8); [34 C.F.R § 303.431](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7b5816d51031b6457afd799fa775e86f&mc=true&r=SECTION&n=se34.2.303_1431)

## [How does the State ensure mediation agreements are enforceable?](#_How_does_the_3) [34 C.F.R. §§ 300.506](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1506&rgn=div8) and [300.537](https://www.ecfr.gov/cgi-bin/text-idx?SID=9237f378c4d4e1ec4f7278d3efc460f2&mc=true&node=se34.2.300_1537&rgn=div8); [34 C.F.R §§ 303.431](https://www.ecfr.gov/cgi-bin/text-idx?SID=289ad0d93926b8b560b9cb265762eb4b&mc=true&node=se34.2.303_1431&rgn=div8) and [303.449](https://www.ecfr.gov/cgi-bin/text-idx?SID=289ad0d93926b8b560b9cb265762eb4b&mc=true&node=se34.2.303_1449&rgn=div8); and [Questions A-27 and A-28 of the IDEA Part B Dispute Resolution Procedures Q&A](https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/acccombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf) (July 2013)

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| How does the State ensure that parties to disputes involving any matter under Part B or Part C of IDEA, including matters arising prior to the filing of a due process complaint, can resolve disputes through a mediation process?  [34 C.F.R. §§ 300.300](https://www.ecfr.gov/cgi-bin/text-idx?SID=9237f378c4d4e1ec4f7278d3efc460f2&mc=true&node=se34.2.300_1300&rgn=div8) and [300.506](https://www.ecfr.gov/cgi-bin/text-idx?SID=9237f378c4d4e1ec4f7278d3efc460f2&mc=true&node=se34.2.300_1506&rgn=div8); [34 C.F.R § 303.431](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7b5816d51031b6457afd799fa775e86f&mc=true&r=SECTION&n=se34.2.303_1431); and [Questions A-4 and A-6 of the IDEA Part B Dispute Resolution Procedures Q&A](https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/acccombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf) (July 2013) |
| Overall Comments and Notes: |

## General Information

|  | **Staff Assigned** | **Location of Materials** | **Notes** | **Complete** |
| --- | --- | --- | --- | --- |
| * Parties may request mediation to resolve disputes about any matter under Part B or Part C of IDEA.   + LEAs, however, may not use mediation to:     - override a parent’s failure to respond to a request for, or refusal to consent to, the initial provision of special education and related services; a parent’s revocation of consent for the continued provision of special education and related services;     - a parent’s refusal to consent, or failure to respond to a request to provide consent, to an initial evaluation or reevaluation of a child who is home schooled or parentally-placed in a private school at parental expense. |  |  |  |  |
| * Mediation must be made available to parents and public agencies. |  |  |  |  |
| * Each public agency must ensure that procedures are established and implemented to allow parties to resolve disputes through a mediation process involving **any** matter under Part B or C, including matters arising prior to the filing of a due process complaint. A State must not require a due process complaint to be filed before a party can request mediation. This requirement should be explained in the procedural safeguards notice distributed to parents. |  |  |  |  |
| * The State must bear the cost of the mediation process. |  |  |  |  |

### Possible Follow-up Questions

| **Follow-up Questions** | **Staff Assigned** | **Location of Materials** | **Notes** | **Complete** |
| --- | --- | --- | --- | --- |
| * What are the procedures for requesting mediation? |  |  |  |  |
| * How does the State ensure that parents are informed of their right to request mediation through its prior written notice policy and procedures? |  |  |  |  |
| * How does the State promote the mediation process in the State? |  |  |  |  |
| * Who may request mediation? |  |  |  |  |
| * How often is mediation requested? |  |  |  |  |
| * What are the types of issues that can be the subject of mediation? |  |  |  |  |
| * What is the State’s process for handling a mediation request once the request is received? |  |  |  |  |
| * Are there time limits around mediation (e.g., for a party to request mediation on a dispute, for the other party to respond whether it agrees to participate in mediation, etc.)? |  |  |  |  |
| * Does the State have a timeline in which it must respond to a mediation request? |  |  |  |  |
| * How does the State ensure that mediation is available regardless of whether a parent or LEA/LA has filed a due process complaint? |  |  |  |  |
| * How does the SEA/LA make mediation available when a parent files a State complaint? |  |  |  |  |

### Areas (or issues) for Follow-up

* The State limits the issues on which a party may request mediation.
* The State limits who can request mediation in a manner that is inconsistent with IDEA (e.g., allowing only parents to request mediation).
* The State only makes mediation available if a party has filed a due process hearing request.
* The State does not make mediation available if a parent files a State complaint.
* The State requires its LEAs/EIS providers to pay for the mediation process.
* The State is not able to explain how it ensures timely responses to requests for mediation.

### Notes

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| How does the State ensure that mediation is both voluntary and confidential?  [34 C.F.R. § 300.506](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1506&rgn=div8); [34 C.F.R § 303.431](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7b5816d51031b6457afd799fa775e86f&mc=true&r=SECTION&n=se34.2.303_1431); and [Questions A-23 and A-25 of the IDEA Part B Dispute Resolution Procedures Q&A](https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/acccombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf) (July 2013) |
| Overall Comments and Notes: |

### General Information

|  | **Staff Assigned** | **Location of Materials** | **Notes** | **Complete** |
| --- | --- | --- | --- | --- |
| * Mediation is voluntary for both parties. |  |  |  |  |
| * All discussions that occur in mediation are confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. |  |  |  |  |
| * Confidentiality provisions must be included in any legally binding agreement signed by the parties. |  |  |  |  |

### Possible Follow-up Questions

| **Follow-up Questions** | **Staff Assigned** | **Location of Materials** | **Notes** | **Complete** |
| --- | --- | --- | --- | --- |
| * How often do the LEAs/EIS providers voluntarily engage in mediation? |  |  |  |  |
| * What happens when LEAs/EIS providers do not respond to a mediation request? |  |  |  |  |
| * How are the confidentiality protections enforced during mediation? |  |  |  |  |
| * Does the State ask parties to sign a confidentiality pledge as a condition for starting mediation? If so, what happens if a party refuses to sign? |  |  |  |  |

### Areas (or issues) for Follow-up

* Parents are requesting mediation; however, the LEAs/LAs are not participating in the mediation.
* Parents are required to participate in mediation before the parents’ due process complaint is moved forward.
* Mediation is not included in the procedural safeguards notice to parents.
* The mediation confidentiality provisions are not included in the mediation procedures.
* The State requires parents to sign a confidentiality pledge.

### Notes

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| How does the State ensure that mediators are qualified and impartial?  [34 C.F.R. § 300.506](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1506&rgn=div8); [34 C.F.R § 303.431](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7b5816d51031b6457afd799fa775e86f&mc=true&r=SECTION&n=se34.2.303_1431) |
| Overall Comments and Notes: |

### General Information

|  | **Staff Assigned** | **Location of Materials** | **Notes** | **Complete** |
| --- | --- | --- | --- | --- |
| * Mediators must be trained in effective mediation techniques. |  |  |  |  |
| * Mediators must be qualified and demonstrating knowledge in laws and regulations relating to early intervention services for Part C, and the provision of special education and related services for Part B. |  |  |  |  |
| * Mediators must be selected on a random, rotational, or other impartial basis. |  |  |  |  |
| * Allowing parties to select the mediator from the list is permitted as an “other impartial basis.” |  |  |  |  |
| * Mediators may not be employees of the SEA/LA or the LEA/EIS provider that is involved in the education or care of the child for Part B or employees of the LA or EIS provider that is involved in the provision of early intervention or other services to the child for Part C; and must not have a personal or professional interest that conflicts with the person’s objectivity. |  |  |  |  |

### Possible Follow-up Questions

| **Follow-up Questions** | **Staff Assigned** | **Location of Materials** | **Notes** | **Complete** |
| --- | --- | --- | --- | --- |
| * How does the State maintain the list of mediators? |  |  |  |  |
| * What are the State’s requirements for mediators to be included on its list (e.g., qualifications)? |  |  |  |  |
| * What training is provided to mediators? |  |  |  |  |
| * How does the State ensure impartiality of mediators? (Do they also serve as hearing officers? If yes, how does the SEA/LA ensure that, if the matter proceeds to a due process hearing, a different hearing officer conducts the hearing?) |  |  |  |  |
| * How are mediators assigned to particular cases? |  |  |  |  |
| * What happens if a party questions the impartiality of a mediator? |  |  |  |  |
| * How does the State evaluate its mediators? |  |  |  |  |

### Areas (or issues) for Follow-up

* The State does not screen mediators to be included on the list to ensure they are not employees of the SEA/LA or LEA/EIS provider that is involved in the education or care of the child for Part B or the provision of early intervention or other services to the child for Part C.
* Mediators are not assigned on a random, rotational, or other impartial basis.
* The State does not explain how it ensures mediators are qualified, impartial, and properly trained in effective mediation techniques.
* The State has few mediators, and the limited number results in a delay in mediations and for matters that proceed to a due process hearing.

### Notes

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| How does the State ensure mediation agreements are enforceable?  [34 C.F.R. §§ 300.506](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1506&rgn=div8) and [300.537](https://www.ecfr.gov/cgi-bin/text-idx?SID=9237f378c4d4e1ec4f7278d3efc460f2&mc=true&node=se34.2.300_1537&rgn=div8); [34 C.F.R §§ 303.431](https://www.ecfr.gov/cgi-bin/text-idx?SID=289ad0d93926b8b560b9cb265762eb4b&mc=true&node=se34.2.303_1431&rgn=div8) and [303.449](https://www.ecfr.gov/cgi-bin/text-idx?SID=289ad0d93926b8b560b9cb265762eb4b&mc=true&node=se34.2.303_1449&rgn=div8); and [Questions A-27 and A-28 of the IDEA Part B Dispute Resolution Procedures Q&A](https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/acccombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf) (July 2013) |
| Overall Comments and Notes: |

### General Information

|  | **Staff Assigned** | **Location of Materials** | **Notes** | **Complete** |
| --- | --- | --- | --- | --- |
| * 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 is signed by both the parent and a representative of the agency who has the authority to bind such agency. |  |  |  |  |
| * A written, signed mediation agreement under Part B or Part C of IDEA is enforceable in any State court of competent jurisdiction or in a district court of the United States. |  |  |  |  |
| * States have flexibility to allow enforcement of written mediation agreements through other State mechanisms, such as through their State complaint procedures. |  |  |  |  |
| * If applicable, such State enforcement mechanisms must be established in policy/procedure to ensure consistent implementation. |  |  |  |  |
| * If the mediation agreement covers a specific time period and that time period has passed, the parent may file a State complaint if the issues that were the subject of the mediation agreement recur or if new issues arise. |  |  |  |  |

### Possible follow-up questions

| **Follow-up Questions** | **Staff Assigned** | **Location of Materials** | **Notes** | **Complete** |
| --- | --- | --- | --- | --- |
| * What happens if the public agency does not send a representative with decision-making authority to the mediation? |  |  |  |  |
| * How are mediation agreements enforced in the State? |  |  |  |  |
| * In addition to a civil action, does the State offer any other mechanism to enforce mediation agreements? If so, please describe those procedures. |  |  |  |  |
| * Does the enforcement of a mediation agreement limit a parent’s right to file a future State complaint? |  |  |  |  |
| * Describe how the SEA uses information from its mediation system as part of its general supervision system. |  |  |  |  |

### Areas (or issues) for follow-up

* The State does not have a process in place to ensure mediation agreements are written and signed to ensure enforcement through a civil action.
* The State does not ensure public agencies who have agreed to participate in mediation, provide a representative with decision-making authority.
* The State has other mechanisms for enforcement of mediation agreements but does not have accompanying policies and procedures explaining those mechanisms.
* The State does not consider information from its mediation system in its general supervision system.

### Notes

### Additional Questions for Consideration on Improving Results

* Does the State evaluate its mediation process?
* What steps has the State taken to improve its mediation system?
* Has the State highlighted the mediation process on any national calls or training conferences?
* What actions has the State taken to promote its mediation process as an effective method of dispute resolution? For example, has the State undertaken any activities to build confidence in its mediation process?
* How does the State address LEAs/EIS providers that consistently refuse to participate in mediation?

# **Related Requirements**

IDEA Part B Regulations:

* [**34 C.F.R. § 300.150**](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1150&rgn=div8) **[SEA implementation of procedural safeguards]**
* [**34 C.F.R. § 300.151**](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=524812fee339af34c2fc1448b3ef8698&mc=true&n=sp34.2.300.b&r=SUBPART&ty=HTML#se34.2.300_1151) **[Adoption of State Complaint Procedures]**
* [**34 C.F.R. § 300.152**](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=524812fee339af34c2fc1448b3ef8698&mc=true&n=sp34.2.300.b&r=SUBPART&ty=HTML#se34.2.300_1152) **[Minimum State Complaint Procedures]**
* [**34 C.F.R. § 300.153**](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=524812fee339af34c2fc1448b3ef8698&mc=true&n=sp34.2.300.b&r=SUBPART&ty=HTML#se34.2.300_1153) **[Filing a Complaint]**
* [**34 C.F.R. § 300.503**](https://www.ecfr.gov/cgi-bin/text-idx?SID=c1f8cd9cc3610676b3b140601b5808f5&mc=true&node=se34.2.300_1503&rgn=div8) **[Prior written notice]**
* [**34 C.F.R. § 300.504**](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1504&rgn=div8) **[Procedural safeguards notice]**
* [**34 C.F.R. § 300.505**](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1505&rgn=div8) **[Electronic mail]**
* [**34 C.F.R. § 300.506**](https://www.ecfr.gov/cgi-bin/text-idx?SID=eaa7fb6bd912a0e95a538b0db5a047f1&mc=true&node=se34.2.300_1506&rgn=div8) **[Mediation]**

* **[34 C.F.R. § 300.513](https://www.ecfr.gov/cgi-bin/text-idx?SID=9237f378c4d4e1ec4f7278d3efc460f2&mc=true&node=se34.2.300_1513&rgn=div8" \o "Link to 34 C.F.R. § 300.513) [Hearing Decisions]**
* [**34 C.F.R. § 300.537**](https://www.ecfr.gov/cgi-bin/text-idx?SID=9237f378c4d4e1ec4f7278d3efc460f2&mc=true&node=se34.2.300_1537&rgn=div8) **[State enforcement mechanisms]**
* [**34 C.F.R. § 300.716**](https://www.ecfr.gov/cgi-bin/text-idx?SID=c1f8cd9cc3610676b3b140601b5808f5&mc=true&node=se34.2.300_1716&rgn=div8) **[Secretary of the Interior—Applicable regulations]**

IDEA Part C Regulations:

* [**34 C.F.R. § 303.421**](https://www.ecfr.gov/cgi-bin/text-idx?SID=8b0971892873342f4a0614a7a81f9a07&mc=true&node=se34.2.303_1421&rgn=div8) **[Prior written notice]**
* [**34 C.F.R. § 303.430**](https://www.ecfr.gov/cgi-bin/text-idx?SID=9d96271805f235923224c598755f0e54&mc=true&node=se34.2.303_1430&rgn=div8) **[State Dispute Resolution Options]**
* [**34 C.F.R. § 303.431**](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7b5816d51031b6457afd799fa775e86f&mc=true&r=SECTION&n=se34.2.303_1431) **[Mediation]**
* [**34 C.F.R. § 303.432**](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=492dd4013f336085d7632f3aa9516f8f&mc=true&n=sp34.2.303.e&r=SUBPART&ty=HTML#se34.2.303_1432) **[Adoption of State Complaint Procedures]**
* [**34 C.F.R. § 303.433**](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=492dd4013f336085d7632f3aa9516f8f&mc=true&n=sp34.2.303.e&r=SUBPART&ty=HTML#se34.2.303_1433) **[Minimum State Complaint Procedures]**
* [**34 C.F.R. § 303.434**](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=492dd4013f336085d7632f3aa9516f8f&mc=true&n=sp34.2.303.e&r=SUBPART&ty=HTML#se34.2.303_1434) **[Filing a Complaint]**
* [**34 C.F.R. § 303.445**](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7b5816d51031b6457afd799fa775e86f&mc=true&r=SECTION&n=se34.2.303_1445) **[Hearing Decisions]**

* **[34 C.F.R. § 303.449](https://www.ecfr.gov/cgi-bin/text-idx?SID=289ad0d93926b8b560b9cb265762eb4b&mc=true&node=se34.2.303_1449&rgn=div8" \o "Link to 34 C.F.R § 303.449) [State enforcement mechanisms]**

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1. The State educational agency (SEA) is responsible for implementing Part B of the IDEA and the State lead agency (LA) is responsible for implementing Part C of the IDEA in the State. Both the SEA and LA respectively must exercise general supervision over the programs and activities used to implement IDEA requirements in the State (regardless of whether Federal IDEA funds are provided to such programs and activities). [20 U.S.C. Sections 1416(a)(3)](https://sites.ed.gov/idea/statute-chapter-33/subchapter-ii/1416), [1435(a)(10)](https://sites.ed.gov/idea/statute-chapter-33/subchapter-iii/1435), [1437(a)(1)](https://sites.ed.gov/idea/statute-chapter-33/subchapter-iii/1437) and [1442](https://sites.ed.gov/idea/statute-chapter-33/subchapter-iii/1442) and [34 C.F.R. §§ 303.120(a)](https://www.ecfr.gov/cgi-bin/text-idx?SID=e6c33b333d6456a438dbd2feb0f64cf9&mc=true&node=se34.2.303_1120&rgn=div8) and [303.700(b)](https://www.ecfr.gov/cgi-bin/text-idx?SID=e6c33b333d6456a438dbd2feb0f64cf9&mc=true&node=se34.2.303_1700&rgn=div8) for IDEA Part C. [20 U.S.C. Sections 1412(a)(11)](https://sites.ed.gov/idea/statute-chapter-33/subchapter-ii/1412) and [1416(a)(3)](https://sites.ed.gov/idea/statute-chapter-33/subchapter-ii/1416) and [34 C.F.R. §§ 300.149](https://www.ecfr.gov/cgi-bin/text-idx?SID=36a281a95887586543a75d7188cd4f21&mc=true&node=se34.2.300_1149&rgn=div8) and [300.600](https://www.ecfr.gov/cgi-bin/text-idx?SID=36a281a95887586543a75d7188cd4f21&mc=true&node=se34.2.300_1600&rgn=div8) for IDEA Part B. [↑](#footnote-ref-2)
2. OSEP’s monitoring protocols identify a framework of applicable IDEA statutory and regulatory requirements. They are intended neither as questionnaires nor as forms for States to complete. Rather, OSEP will conduct its IDEA monitoring based on State-specific circumstances and the conversation with States will be guided by both the information provided by the State and information that is publicly available to help OSEP determine how States are implementing IDEA requirements and where there may be a need for additional technical assistance or other support. [↑](#footnote-ref-3)