

**EARLY STEPS STATE OFFICE  
COMPLAINT POLICY AND GUIDANCE  
JULY 14, 2005**

The Department of Health (DOH), Children's Medical Services (CMS), as the lead agency for Part C of the Individuals with Disabilities Education Act (IDEA), has adopted the following procedures for resolving any complaint of a violation of a requirement of Part C. These procedures apply to any family, public agency or private service provider receiving Part C funding or carrying out any function required under Part C. DOH/CMS will ensure parents and other interested individuals are informed regarding the complaint procedures. DOH/CMS has provided for the resolution of a complaint by:

- A. Providing for the filing of a complaint with the lead agency;
- B. Reviewing information and documentation or conducting an independent investigation of a complaint, if the lead agency determines this is necessary; and
- C. Issuing a final report including facts, conclusions and any necessary corrective actions.

**1. WRITTEN COMPLAINT LETTER**

The Department of Health assures that either an organization or an individual may file a written complaint with the lead agency. A formal complaint is a signed letter in which there are allegation(s) of a violation of a federal or state law relating to the requirements of Part C of the IDEA. The complaint letter must include the following:

- A. A statement that a public agency or service provider has violated requirements of Part C or the regulations;
- B. The facts on which the complaint is based;
- C. An allegation of a violation that occurred within one year prior to the date that the complaint is being filed unless the violation is continuing, or the complainant is requesting compensatory services for a violation that occurred within three years of the date of the complaint.

**2. FILING OF A COMPLAINT**

Written complaints filed according to these procedures may concern allegations of violations by-

- A. Any public agency in the state that receives funds under Part C of the Act, including the lead agency and the Florida Interagency Coordinating Council for Infants and Toddlers (FICCIT).
- B. Other public agencies that are involved in the State's Early Intervention Program, even if Part C funds are not directly received.

- C. Private service providers who carry out a function required under Part C, whether or not the provider directly receives Part C funds.

### **3. MINIMUM STATE COMPLAINT PROCEDURES**

All formal written complaints must be filed with the Florida Department of Health, Children's Medical Services, the lead agency for Part C of the IDEA.

- A. The complaint letter is sent to the lead agency at the following address:

Part C Coordinator  
Department of Health  
Children's Medical Services  
Early Steps State Office  
4052 Bald Cypress Way, BIN# A06  
Tallahassee, FL 32399-1707

- B. The following procedures apply to any complaint filed with the lead agency:

- 1) The lead agency, Children's Medical Services, Early Steps State Office, will forward a copy of the complaint letter to the director of the local Early Intervention Program. Day 1 is the day Children's Medical Services, Early Steps State Office, as the lead agency, receives the complaint letter. A time limit of 60 calendar days from the receipt of the letter by the lead agency has been established for the resolution and completion of all activities related to the complaint process.
- 2) After the complaint letter has been received, or during the initial conversation in which receipt of the complaint is acknowledged, formal mediation must be offered by the lead agency.
- 3) The request and acceptance of ongoing mediation when a complaint is filed, in and of itself, may not constitute exceptional circumstances under §303.512(b) to extend the complaint resolution timelines. The Children's Medical Services, Early Steps State Office may request and the complainant may agree that mediation take place before rendering the complaint resolution. However, if the parties agree that the complaint resolution timeline should be extended because of mediation, the Early Steps State Office may extend the timeline for resolution of the complaint. Otherwise, the Early Steps State Office must render a decision regarding the complaint within 60 calendar days from the filing of the complaint. The lead agency will verify acceptance of mediation and any agreement to extend complaint resolution timelines with a letter to the complainant and the other party/parties. The complainant and the other party/parties will complete and sign DOH CMS Form 1068, Request for Mediation, and submit it to the lead agency.

- 4) If the parties do not agree that the complaint resolution timeline should be extended pending completion of mediation, the lead agency will continue activities to resolve the complaint
  - 5) The lead agency will acknowledge receipt of the complaint with a letter to the complainant and the local Early Steps agency, other public agency or service provider that summarizes the issue(s) and includes a statement regarding the refusal of mediation.
  - 6) The complainant and the local Early Steps agency, other public agency or service provider will be given the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.
- C. The investigation by the lead agency may include, but is not limited to, a request from all parties for additional information, requests to review records in the possession of either party related to the complaint and allegations, or an on-site visit.
- D. The lead agency will carry out an independent on-site investigation only if the lead agency determines that such an investigation is necessary. If determined necessary, the investigation will be conducted by a team consisting of staff from the Departments of Health and Education, a representative from the Florida Interagency Coordinating Council for Infants and Toddlers, a parent representative and a service provider. This team will make an independent determination of whether the public agency or private service provider has violated a requirement of Part C or the regulations.
- E. A written preliminary report will be issued to the complainant and the early intervention program, public agency or service provider by Day 35. The written report will address each allegation in the complaint. The preliminary report will contain:
- 1) Background information and
  - 2) Findings of fact.
- F. The lead agency has the responsibility to review the preliminary report issued by the investigating team, if one has been appointed, prior to issuing the report to the complainant and other parties.
- G. If after the preliminary report is issued, the complainant or other party/parties are not satisfied with the findings of the lead agency, additional information, including the issue(s) in dispute, should be sent in writing to the lead agency within 10 days of receipt of the preliminary report.
- H. The final report and order will be issued by Day 60 unless exceptional circumstances warrant an extension of the timeline. The final report will contain:

- 1) Background information;
  - 2) Findings of fact;
  - 3) Team conclusions;
  - 4) Corrective action(s) if any;
  - 5) A basis for the team's final decision; and,
  - 6) A statement about the right to appeal.
- I. If the lead agency finds that exceptional circumstances exist, such as the need for a legal opinion about a complex allegation, a large number of allegations or extremely complex allegations, the lead agency may extend, for a reasonable period, any timelines set forth in the complaint procedures *\*\* (See Footnote)*. The lead agency will notify the complainant in writing of the exceptional circumstances and the anticipated time extension.
- J. Children's Medical Services, as the lead agency, will inform any affected parties of any findings of non-compliance and ensure that corrective action is implemented to bring about compliance with the IDEA. The lead agency will ensure that any necessary corrective action resulting from a complaint decision is completed within a reasonable period of time.
- K. In order to ensure effective implementation of the final order, the lead agency will offer appropriate technical assistance activities, mediation, and negotiations, if needed.
- L. In resolving a complaint in which it finds a failure to provide appropriate services, the lead agency must address:
- 1) 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 the child's family; and
  - 2) Appropriate future provision of services for all infants and toddlers with disabilities and their families.

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*\*\* Footnote: Depending on the facts surrounding the complaint, these examples may not necessarily warrant an extension. The lead agency's decision to determine exceptional circumstances and extend for a reasonable period, any timelines set forth in the complaint procedures, will be made on a case-by-case basis.*

- M. The lead agency will maintain a log of information on each complaint, including the date of receipt, issues in the complaint, date of initial contact with complainant, date of final report, corrective actions due, corrective actions completed and closure. The lead agency will also maintain a hard copy file of all documents related to the complaint inquiry, as well as electronic copies of all correspondence and reports generated related to the complaint.
- N. If any of the issues contained in a complaint are also the subject of a due process hearing, those issues will be set-aside until the conclusion of the hearing. Other issues will be resolved using the procedures and timelines described above. If an issue is raised in a complaint that has previously been decided through a due process hearing, the hearing decision is final and will not be reconsidered through the complaint procedure. Any complaint alleging an entity's failure to implement a due process decision will be resolved by the lead agency.
- O. If, after the lead agency's final decision in a complaint inquiry, the issues are still in dispute, the complainant may, if he or she has not already done so, initiate a due process hearing. A decision in a due process hearing is final; however, any party aggrieved by the findings and decision in a due process hearing has the right to bring a civil action in a state or federal court.
- P. When systemic issues are identified through a complaint inquiry that may have statewide implications, the state lead agency, through its general supervisory authority, will ensure that all entities involved in the Early Steps system are informed of the issues and that steps are taken to ensure the appropriate future provision of services to all infants and toddlers with disabilities in the state.