

mediation process to meet, at a time and location convenient to the parents, with a disinterested party—

(1) Who is under contract with a parent training and information center or community parent resource center in the State established under sections 682 or 683 of the Act, or an appropriate alternative dispute resolution entity; and

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

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

[63 FR 18296, Apr. 14, 1998]

§ 303.420 Due process procedures.

Each system must include written procedures including procedures for mediation as described in § 303.419, for the timely administrative resolution of individual child complaints by parents concerning any of the matters in § 303.403(a). A State may meet this requirement by—

(a) Adopting the mediation and due process procedures in 34 CFR 300.506 through 300.512 and developing procedures that meet the requirements of § 303.425; or

(b) Developing procedures that—

(1) Meet the requirements in § 303.419 and §§ 303.421 through 303.425; and

(2) Provide parents a means of filing a complaint.

(Approved by the Office of Management and Budget under control number 1820-0550)

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

NOTE 1: Sections 303.420 through 303.425 are concerned with the adoption of impartial procedures for resolving individual child complaints (i.e., complaints that generally affect only a single child or the child's family). These procedures require the appointment of a decision-maker who is impartial, as defined in § 303.421(b), to resolve a dispute concerning any of the matters in § 303.403(a). The decision of the impartial decision-maker is binding unless it is reversed on appeal.

A different type of administrative procedure is included in §§ 303.510 through 303.512 of subpart F of this part. Under those procedures, the lead agency is responsible for (1) investigating any complaint that it receives (including individual child complaints and those that are systemic in nature), and (2) resolving the complaint if the agency determines that a violation has occurred.

NOTE 2: It is important that the administrative procedures developed by a State be

designed to result in speedy resolution of complaints. An infant's or toddler's development is so rapid that undue delay could be potentially harmful.

[58 FR 40959, July 30, 1993, as amended at 63 FR 18296, Apr. 14, 1998]

§ 303.421 Appointment of an impartial person.

(a) *Qualifications and duties.* An impartial person must be appointed to implement the complaint resolution process in this subpart. The person must—

(1) Have knowledge about the provisions of this part and the needs of, and services available for, eligible children and their families; and

(2) Perform the following duties:

(i) Listen to the presentation of relevant viewpoints about the complaint, examine all information relevant to the issues, and seek to reach a timely resolution of the complaint.

(ii) Provide a record of the proceedings, including a written decision.

(b) *Definition of impartial.* (1) As used in this section, *impartial* means that the person appointed to implement the complaint resolution process—

(i) Is not an employee of any agency or other entity involved in the provision of early intervention services or care of the child; and

(ii) Does not have a personal or professional interest that would conflict with his or her objectivity in implementing the process.

(2) A person who otherwise qualifies under paragraph (b)(1) of this section is not an employee of an agency solely because the person is paid by the agency to implement the complaint resolution process.

(Approved by the Office of Management and Budget under control number 1820-0550)

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

§ 303.422 Parent rights in administrative proceedings.

(a) *General.* Each lead agency shall ensure that the parents of children eligible under this part are afforded the rights in paragraph (b) of this section in any administrative proceedings carried out under § 303.420.

(b) *Rights.* Any parent involved in an administrative proceeding has the right to—