

- The child is living outside of the parents' home and is not in the care or custody of another public agency.

If the parents of a child with a disability, with whom the child resides, do not consent to the transfer of rights to the child at the age of 18, and the child has not been adjudged incompetent under State law, either party may file a due process complaint to determine whether the rights should be transferred.

If a child with a disability has been represented by a parent surrogate in accordance with federal and State laws and regulations, the public agency shall provide any written notice required under federal and State laws and regulations to both the child and parent surrogate. All other rights afforded the parent surrogate under IDEA shall transfer to the child if the child has not been adjudged incompetent under State law and the child requests that the rights transfer.

## RESOLVING DISAGREEMENTS

**The following procedures describe the processes available to parents and public agencies for resolving disagreements regarding a child's early intervention or special education program and related services. These options include mediation, State complaint, and due process complaint.**

### **Mediation:**

Mediation is a process that may be used to resolve disagreements between the parents of a child with a disability and the public agency responsible for the education of the child.

An employee of the Office of Administrative Hearings (OAH) who is qualified and trained in effective mediation techniques conducts the mediation. The individual selected by OAH will not have a personal or professional conflict of interest.

- Mediation is at no cost to the parent or public agency responsible for the child's early intervention or education, including the cost of a meeting with parents to encourage mediation.
- A request for mediation is made to the public agency responsible for the early intervention or education of the child and the OAH. To assist parents with filing a request for mediation a form is available from the public agency and on the MSDE website at [www.marylandpublicschools.org](http://www.marylandpublicschools.org). For further assistance, contact the public agency's Special Education Office or the MSDE, Division of Special Education/Early Intervention Services, 410-767-7770.
- Parents or the public agency may be accompanied and advised by counsel during mediation.
- A mediation session will generally occur within 20 days of the receipt of a written request at a location convenient to parents and the public agency.
- Mediation sessions are closed proceedings. Discussions that occur during mediation must be confidential and cannot be used as evidence in any subsequent due process hearing or civil action. Parents or the public agency may be asked to sign a confidentiality pledge before the start of the mediation.
- An agreement reached by the parties in the mediation must be set forth in a written agreement that is enforceable in any State Court that has the authority to hear this type of case or in a federal district court.

- A public agency may not use mediation to deny or delay the parent's right to a hearing on the parent's due process complaint

### **Meeting to Encourage Mediation:**

A public agency may offer to parents, who elect not to use the mediation process, to meet at a time and location convenient to the parents, to explain the benefits of the mediation process and encourage parents to use the process.

### **Difference Between a State Complaint and a Due Process Complaint:** **In addition to mediation, parents have the right to use the State complaint process or the due process complaint process to resolve disagreements with the public agency. These options have different rules and procedures.**

The IDEA regulations have separate procedures for State complaints and for due process complaints. As explained below, any individual or organization may file a State complaint alleging a violation of any IDEA requirement by a public agency. Only a parent or a public agency may file a due process complaint on any matter relating to the identification, evaluation, early intervention services or educational placement of a child with a disability, or the provision of a free appropriate public education (FAPE) to the child.

MSDE staff generally must resolve a State complaint within a 60 calendar days, unless the timeline is properly extended. An ALJ must hear a due process complaint (if not resolved through a resolution meeting or through mediation) and issue a written decision within 45 calendar days after the end of the resolution period unless the ALJ grants a specific extension of the timeline at the parent's request or the public agency's request.

For an overview and comparison of these options, see the Attachment to this document.

### **State Complaint:**

**Individuals and organizations have the right to file a State Complaint with the Maryland State Department of Education (MSDE). In order for the State to conduct an investigation, the written complaint must meet specific criteria as required in the IDEA regulations.**

If an individual or an organization believes a public agency has violated a federal or State law or regulation concerning an early intervention or special education requirement, or that a public agency has not implemented a due process hearing decision, a State complaint may be filed. The complaint must be filed with the MSDE and should be address to the Assistant State Superintendent, Division of Special Education/Early Intervention Services, MSDE, 200 West Baltimore Street, Baltimore, Maryland 21201. The person or organization that files a State complaint with MSDE must also send a copy of the complaint to the public agency at the same time. To assist with filing the complaint, detailed procedures and a form are available on the MSDE website at [www.marylandpublicschools.org](http://www.marylandpublicschools.org), or by calling the Division's Complaint Investigation and Due Process Branch at 410-767-7770.

The State complaint must include:

- A statement that the public agency has violated a requirement of federal or State law or regulation;
- The facts upon which the statement is based;

- The signature and contact information for the person/organization filing the State complaint; and
- If the State complaint is alleging a violation with respect to a specific child:
  - The name and address of residence of the child;
  - The name of the school the child is attending;
  - In the case of a homeless child or youth, available contact information for the child, and the name of the school the child is attending;
  - A description of the nature of the problem of the child, including facts relating to the problem; and
  - A proposed resolution of the problem to the extent known and available to the party at the time the State complaint is filed.

A State complaint must allege a violation that has occurred not more than one year prior to the State receiving the complaint. MSDE is to issue their findings within 60 calendar days of receipt of the State complaint, and may extend the 60-day timeline if:

- Exceptional circumstances exist regarding a particular complaint; or
- The parent and the public agency involved voluntarily agree to extend the time to try to mediation or alternative means of dispute resolution.

At a minimum, MSDE shall:

- Conduct an independent on-site investigation, if it is determined necessary;
- Provide the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the State complaint;
- Review all relevant information and make an independent determination as to whether a public agency has violated requirements of federal and State laws; and
- Issue a written decision to the complainant and the public agency that addresses each allegation in the complaint and contains findings of fact and conclusions.

The decision will also include the reasons for the final decision and procedures for the effective implementation of the final decision, if needed, including technical assistance activities, negotiations, and corrective actions to achieve compliance. If MSDE determines a public agency has failed to provide appropriate services, the final written decision shall address how a public agency is to remediate the denial of those services appropriate to the needs of the child, and appropriate future services for all children with disabilities.

### **Resolving a State Complaint:**

Mediation and other less formal methods to resolve the disagreement may be available and are encouraged. If the parties resolve the complaint, MSDE does not need to conduct an investigation under the federal regulations.

### **Resolving a State Complaint that is the Subject of a Due Process Hearing:**

If MSDE receives a State complaint that is also part of a due process hearing, or if a State complaint contains multiple issues of which one or more are part of a hearing, MSDE must set aside any part of the State complaint that is being addressed in the due process hearing until the conclusion of that due process hearing. However, any issue in the State complaint that is not part of the due process hearing must be resolved using the timeline and procedures described above. If an issue is raised in

a State complaint that has previously been decided in a due process hearing, involving the same parties, the hearing decision is binding, and MSDE shall inform the complainant to that effect.

### **Due Process Complaint:**

**The parent or a public agency may file a due process complaint on any matter relating to the identification, evaluation, early intervention services or educational placement, or the provision of a free appropriate public education (FAPE) to a child.**

The due process complaint must allege a violation that happened not more than two years before the parent or the public agency knew or should have known about the alleged action that forms the basis of the due process complaint.

This timeline does not apply if the parent could not file a due process complaint within the timeline because the public agency specifically misrepresented that it had resolved the issues identified in the due process complaint, or the public agency withheld information from the parent that it was required to provide under IDEA.

To file a due process complaint, the parent or the public agency (or the parent's attorney or the public agency's attorney) must submit a due process complaint to the other party and the OAH. The complaint must contain all of the content listed below and must be kept confidential.

To assist parents in filing a due process complaint, a Request for Mediation and Due Process Complaint form is available from the public agency from which the early intervention services are provided, where the child attends school, and on the MSDE website at [www.marylandpublicschools.org](http://www.marylandpublicschools.org). For further assistance, contact the public agency's early intervention office, special education office, or the MSDE Division of Special Education and Early Intervention Services at (410) 767-7770.

### **Content of the Due Process Complaint:**

The due process complaint must include:

- The name of the child ;
- Address of the child's residence (or, for a homeless child , available contact information);
- Name of the school the child is attending;
- Name of the public agency responsible for the education of the child (i.e., local school system);
- A description of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem; and
- A proposed resolution of the problem to the extent known and available to the party at the time of the complaint.

The parent or the public agency may not have a due process hearing until the parent or the public agency (or the parent's attorney or the public agency's attorney), files a due process complaint that includes this information.

## **Response to the Due Process Complaint:**

When a party files a due process complaint, the public agency responsible for the child's early intervention and education shall:

- Inform the parent of free or low cost legal and other relevant services available;
- Provide the parent with a copy of the procedural safeguards document; and
- Inform the parent of the availability of mediation.

If the public agency has not sent a prior written notice to the parents regarding the issues raised by the parent in the due process complaint, the public agency shall send the parent a response, within 10 days of receiving the due process complaint, containing:

- An explanation of why the public agency proposes or refuses to take the action(s);
- A description of any other options that the public agency considered and the reasons why those options were rejected;
- A statement that the parents of a child with a disability have protections under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of the procedural safeguards can be obtained; and
- Sources for parents to contact to obtain assistance in understanding the provisions of the IDEA.

This response does not preclude the public agency from asserting that the parent's due process complaint was insufficient, where appropriate.

The other party to a due process complaint (parent or public agency) must send the other party a response that specifically addresses the issues in the due process complaint, within 10 calendar days of receiving the due process complaint.

## **Sufficiency of Notice:**

The due process complaint is considered sufficient unless the party receiving the complaint notifies OAH and the other party in writing within 15 days of receiving it that the receiving party believes the due process complaint does not meet the content requirements. Within five (5) days of receiving notice of the deficiency, OAH will determine whether the due process complaint meets the content requirements and immediately notify the parties in writing,

A party may amend its due process complaint only if the other party consents in writing and is given the opportunity to resolve the issues through a resolution meeting as noted below; or OAH grants permission not later than five (5) days before a due process hearing occurs. The timeline for the resolution meeting and the due process hearing begins again with the filing of the amended due process complaint.

## **Child's Status During Proceedings:**

During the pendency of any administrative or judicial proceeding (except as provided under the discipline section), unless the parent and public agency agree otherwise, the child must remain in his or her current early intervention or educational placement. If the proceeding involves an initial application for initial admission to public school, the child, with parental consent, must be placed in the public program until the completion of all proceedings. If the decision of the ALJ agrees with

the parents that a change of early intervention services or education placement is appropriate, that placement becomes the child's current placement during the pendency of subsequent appeals.

### **Resolution Process:**

Within 15 calendar days of receiving a parent's due process complaint, and before the due process hearing begins, the public agency must hold a meeting with the parent and the relevant member or members of the Individualized Family Service Plan (IFSP) team or Individualized Education Program (IEP) team who have specific knowledge of the facts identified in the parent's due process complaint. The meeting:

- Must include a representative of the public agency who has decision-making authority on behalf of the public agency; and
- May not include an attorney representing the public agency unless the parent brings an attorney.

The parent and the public agency determine the relevant members of the IFSP or IEP team to attend the meeting.

The purpose of the meeting is for the parent to discuss the due process complaint, and the facts that form the basis of the complaint, so that the public agency has the opportunity to resolve the dispute.

The resolution meeting is not necessary if:

- The parent and the public agency agree in writing to waive the meeting;
- The parent and the public agency agree to try mediation; or
- The public agency initiated the due process complaint.

If the public agency has not resolved the due process complaint to the parent's satisfaction within 30 calendar days of receiving the complaint (the resolution period), the due process hearing may occur.

The 45-day timeline for issuing a final decision begins at the end of the 30-day resolution period, unless one of the following circumstances described below in the "Adjustments to the 30 Calendar Day Resolution Period" or the "Expedited Timelines" section applies.

### **Adjustments to the 30 Calendar Day Resolution Period:**

Except when the parent and the public agency have agreed to extend the resolution process, waive the resolution process, or to use mediation, a parent's failure to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until the meeting is held.

If, after making reasonable efforts and documenting such efforts, the public agency is not able to obtain the parent's participation in the resolution meeting, the public agency may, at the end of the 30-day resolution period, request that the ALJ dismiss the due process complaint. Documentation of the public agency's efforts must include a record of attempts to arrange a mutually agreed upon time and place, such as:

- Detailed records of telephone calls made or attempted and the results of those calls;
- Copies of correspondence sent to the parent and any responses received; and
- Detailed records of visits made to the parent's home or place of employment and the results of those visits.

If the public agency does not hold the resolution meeting within 15 calendar days of receiving notice of a parent's due process complaint or does not participate in the resolution meeting, the parent may request that the hearing commence and the decision be issued within 45 calendar days.

If the parent and the public agency agree in writing to waive the resolution meeting, then the 45-day timeline for the due process hearing starts the next day.

After the start of mediation or the resolution meeting and before the end of the 30-day resolution period, if the parent and the public agency agree in writing that no agreement is possible, then the 45-day timeline for the due process hearing starts the next day.

If the parent and the public agency agree to try mediation, at the end of the 30-day resolution period, both parties can agree in writing to continue the mediation process until an agreement is reached. However, if either the parent or the public agency withdraws from the mediation process, then the 45-day timeline for the due process hearing starts the next day.

### **Resolution Settlement Agreement:**

If a resolution to the dispute is reached at the resolution meeting, the parent and the public agency must enter into a legally binding agreement that is:

- Signed by the parent and a representative of the public agency who has the authority to hold the public agency to the agreement; and
- Enforceable in any State court of competent jurisdiction (a state court that has authority to hear this type of case) or in a federal district court.

If the parent and the public agency enter into an agreement as a result of a resolution meeting, either party may void the agreement within three (3) business days.

### **Due Process Hearing:**

The parent or the public agency involved in a dispute has the opportunity for an impartial due process hearing when filing a due process complaint.

### **An Administrative Law Judge (ALJ):**

- Is an employee of the Office of Administrative Hearings;
- Will not have a personal or professional interest that conflicts with their objectivity in the hearing;
- Is knowledgeable and understands the provisions of the IDEA, and federal and State regulations pertaining to the IDEA, and legal interpretations of the IDEA; and
- Has the knowledge and ability to conduct hearings, and to make and write decisions, consistent with appropriate, standard legal practice.

### **Subject Matter of a Due Process Complaint:**

The party (the parent or the public agency) that files the due process complaint may not raise issues at the due process hearing that were not addressed in the due process complaint, unless the other party agrees.

## **Hearing Rights:**

Either party to any due process hearing (including a hearing on IDEA disciplinary procedures) has the right to:

- Represent yourself or be represented by an attorney at due process hearings in accordance with State Government Article §9-1607.1, Annotated Code of Maryland;
- Be accompanied and advised by a lawyer and persons with special knowledge or training with respect to the problems of children with disabilities;
- Present evidence and confront, cross-examine, and require the attendance of witnesses;
- Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least 5 business days before the hearing;
- Obtain a written, or, at the parent's option, electronic, word-for-word record of the hearing; and
- Obtain written, or, at the parent's option, electronic findings of fact and decisions.

## **Additional Disclosure of Information:**

At least five (5) business days before a due process hearing, the parent and the public agency must disclose to each other all evaluations completed by that date and recommendations based on those evaluations that the parent or the public agency intend to use at the hearing.

An ALJ may prevent any party that does not comply with this requirement from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

## **Parent's Rights:**

The parent has the right to:

- Have the child present;
- Open the hearing to the public; and
- Have the record of the hearing, the findings of fact and decisions provided to you at no cost.

## **Hearing Decision:**

The ALJ decision on whether a child received a free appropriate public education (FAPE) must be based on substantive grounds. In matters alleging a procedural violation, an ALJ may find that the child did not receive FAPE only if the procedural inadequacies:

- Interfered with the child's right to a FAPE;
- Significantly interfered with the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the child; or
- Caused a deprivation of an educational benefit.

None of the provisions described above can be interpreted to prevent an ALJ from ordering a public agency to comply with the requirements in the procedural safeguards section of the federal regulations under Part B of the IDEA (34 CFR 300.500 through 300.536).

## **Separate Due Process Complaint:**

Nothing in the procedural safeguards section of IDEA prevents a parent from filing a separate due process complaint on an issue separate from a due process complaint already filed.



### **Timelines and Convenience of a Hearing:**

Not later than 45 calendar days after the end of the 30 calendar day period for resolution meetings or, as described under “Adjustments to the 30 Calendar Day Resolution Period” or “Expedited Timelines,” not later than 45 calendar days after the end of the adjusted time period:

- A final decision is reached in the hearing; and
- A copy of the decision is mailed to each of the parties.

An ALJ may grant specific extensions of time beyond the 45-day time period at the request of either party. Each hearing must occur at a time and place that is reasonably convenient to the parent and the child.

### **Expedited Timelines:**

A public agency is responsible for arranging an expedited due process hearing when a due process complaint is filed on behalf of a child with a disability, regarding:

- A child with a disability who is not currently enrolled and attending school;
- The placement of a child with a disability in an interim alternative education setting; or
- A manifestation determination.

The due process hearing must occur within 20 school days of the date the complaint is filed. The ALJ must make a determination within 10 school days after the hearing. A resolution meeting must occur within seven (7) calendar days of receiving notice of the due process complaint and the due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 calendar days of receiving the due process complaint.

### **Finality of Hearing Decision:**

An ALJ decision is final unless appealed by either the parents or the public agency. Any party aggrieved by the findings and decisions has the right to bring a civil action with respect to the complaint presented in the due process hearing.

### **Appeal:**

Any party to the hearing who does not agree with the findings and decision has the right to appeal by bringing a civil action in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy within 120 days of the date of the ALJ decision.

In any civil action, the court will:

- Receive the records of the administrative proceedings;
- Hear additional evidence at the parent's request or at the public agency's request;
- Base its decision on the preponderance of the evidence; and
- Grant the relief that the court determines to be appropriate.

Nothing in Part B of the IDEA restricts or limits the rights, procedures, and remedies available under the U. S. Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973 (Section 504), or other federal laws protecting the rights of children with disabilities. Except, that before filing for civil action under these laws the parents or a public agency must have exhausted the procedures for a due process hearing with OAH. This means that parents may have remedies available under other laws that overlap with those available under the IDEA, but

in general, to obtain relief under those other laws, parents must first use the available administrative remedies under the IDEA (i.e., the due process complaint, resolution meeting, and impartial due process hearing procedures) before going directly into court.

## **ATTORNEYS' FEES**

In any action or proceeding brought under IDEA, the court may award reasonable attorneys' fees to:

- The parents or guardians of a child with a disability who is the prevailing party;
- To a prevailing party who is MSDE or any other public agency against the attorney of the parent who files a complaint or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of the parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or
- To a prevailing party who is MSDE or any other public agency against the attorney of the parent, or against the parent, if the parent's complaint or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

Fees awarded must be based on rates prevailing in the community in which the action arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded.

Fees may not be awarded under the following circumstances:

- For any IFSP or IEP team meeting unless it is convened as a result of a due process hearing or judicial action;
- For mediation conducted prior to filing a due process complaint;
- For resolution meetings; and
- For services following a written settlement offer to the parent if:
  - The offer is made within the timelines under Rule 68, Federal Rules of Civil Procedure, or in an administrative proceeding, more than ten days before the proceeding begins;
  - The offer is not accepted within ten days; and
  - The court finds the relief obtained by the parent in the hearing is not more favorable to the parent than the offer of settlement. Fees and costs may be awarded if the parent was substantially justified in rejecting the settlement offer.

Fees may be reduced under the following circumstances:

- The parent or the parent's attorney unreasonably prolonged resolving the dispute;
- The amount of fees unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation and experience;
- The time and services were excessive considering the nature of the proceeding; or
- The attorney did not provide the appropriate information in filing the due process hearing request notice.

Fees will not be reduced if:

- The public agency prolonged the resolution; or
- There was a violation of the procedural safeguard requirements.

Because the parent's right to recover attorneys' fees depends upon meeting certain conditions set out in the IDEA, parents should discuss this matter with their attorneys.

## ATTACHMENT: IDEA DISPUTE RESOLUTION PROCESSES COMPARISON CHART

	MEDIATION	DUE PROCESS COMPLAINT	RESOLUTION PROCESS	STATE COMPLAINT
Who can initiate the process?	Parent or public agency, but must be voluntary for both	Parent or public agency	Public agency schedules the resolution meeting upon receipt of a due process complaint unless the parties agree to waive or use mediation	Any individual or organization including those from out of state
What is the time limit for filing?	None Specified	2 years of when the party knew or should have known of the problem with limited expectations <sup>1</sup>	Triggered by a parent's due process complaint	1 year from the date of the alleged violation
What issues can be resolved?	Any matter under Part 300, including matters arising prior to the filing of a due process complaint (there are exceptions) <sup>2</sup>	Any matter relating to the identification, evaluation or educational placement or provision of a free appropriate public education (there are exceptions)	Same as the issues raised in the parent's due process complaint	Alleged violations of Part B of IDEA or Part 300
What is the timeline for resolving the issues?	None specified	45 days from the end of the resolution period unless a specific extension to the timeline is granted <sup>3,4</sup>	Public agency must convene a resolution meeting within 15 days of receipt of the parent's due process complaint, unless the parties agree in writing to waive the meeting or agree to use mediation  Resolution period is 30 days from receipt of the parent's due process complaint unless the parties agree otherwise or the parent or public agency fails to participate in the resolution meeting or the public agency fails to convene the resolution meeting within 15 days of receipt of the parent's due process complaint <sup>3,5,6,7</sup>	60 days from receipt of the complaint unless an extension is permitted <sup>8</sup>
Who resolves the issues?	Parent and public agency with a mediator  The process is voluntary and both parties must agree to any resolution	Hearing Officer/Administrative Law Judge (ALJ)	Parent and public agency  Both parties must agree to any resolution	Maryland State Department of Education <sup>9</sup>

<sup>1</sup> The time limit does not apply to a parent if the parent was prevented from filing a due process complaint due to: (1) specific misrepresentations by the public agency that it had resolved the problem forming the basis of the due process complaint; or (2) the public agency's withholding of information from the parent that was required under Part 300 of IDEA to be provided to the parent (34 C.F.R. §300.511(f)).

<sup>2</sup> Such exceptions include: the public agency may not file a due process complaint or use mediation to override a parent's refusal to consent to the initial provision of special education services (34 C.F.R. §300.300(b)(3)); the public agency may not file a due process complaint or use mediation to override a parent's refusal to consent to an initial evaluation or reevaluation of a parentally-placed private school child or home schooled child; (34 C.F.R. §300.300(c)(4)(i)); the right of parents of parentally placed private school children to file a due process complaint is limited to the public agency's failure to meet the child find requirements (34 C.F.R. §300.140); the public agency's failure to provide a highly qualified teacher is not an issue subject to due process, but a State complaint could be filed with the State Education Agency (SEA) (34 C.F.R. §300.156(e)).

<sup>3</sup> If the due process complaint is filed for an expedited hearing pursuant to discipline procedures, or the child is not currently enrolled and attending school, the resolution period is 15 calendar days (with the meeting being held within 7 days). If the matter has not been resolved to the satisfaction of both parties, the hearing must occur within 20 school days of the date the hearing is requested and a decision must be issued with 10 school days after the hearing. (34 C.F.R. §300.532(c) and COMAR 13A.05.01.15).

<sup>4</sup> A hearing officer/ALJ may grant specific extension of time at the request of either party. (34 C.F.R. §300.516(c)).

<sup>5</sup> The regulations allow for adjustments to the 30-day resolution period. The 45 day timeline for the due process hearing 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. (34 C.F.R. §300.510 (c)).

<sup>6</sup> Parent failure to participate in the resolution meeting delays the timelines for the resolution process and due process hearing until the meeting is held. (34 C.F.R. §300.510(b)(3)).

<sup>7</sup> If the public agency fails to hold the resolution meeting within 15 days of receiving the parent's due process complaint or fails to participate in the resolution meeting, the parent may seek the intervention of an ALJ to begin the due process hearing timeline (34 C.F.R. §300.510(b)(5)).

<sup>8</sup> The timeline for resolving the State complaint may be extended if exceptional circumstances exist with respect to a particular complaint, or the parent (or individual or organization, if mediation or other alternative means of dispute resolution, is available to the individual or organization under State procedures) and the public agency agree to extend the time to engage in mediation or to engage in other alternative means of dispute resolution, if available in the State (34 C.F.R. §300.152(b)(1)).

<sup>9</sup> The MSDE complaint procedures provides the public agency with the opportunity to respond to the complaint, including, at the discretion of the public agency, a proposal to resolve the complaint; and an opportunity for the parent who files a complaint and the public agency to voluntarily engage in mediation. (34 C.F.R. §300.152(a)(3)). In some cases, the complainant and public agency may be able to resolve the dispute without the need for MSDE to resolve the matter.