

**Montana Department of Health and
Human Services, Early Childhood and
Family Support Division**

**Montana Milestones Part C Early
Intervention Program
Dispute Resolution Handbook
August 2013, Revised 2022**



Montana Milestones Part C Early Intervention Program Dispute Resolution Handbook

Montana Milestones Part C Program encourages but does not require parents and local Part C Program providers to resolve informal complaints at the local level. Parents may choose a formal dispute resolution option at any time. The early intervention agency must (1) review with the parents all dispute resolution options they can exercise and (2) review with the parents that they can choose another dispute resolution option at any time. Each parent has rights under the Individuals with Disabilities Education Act (IDEA), Part C:

1. The right to give informed consent.
2. The right to receive notification in writing.
3. The right to a coordinated Individualized Family Service Plan (IFSP).
4. The right to receive services in natural environments.
5. The right to confidentiality.
6. The right to review and amend records.
7. The right to file a written complaint.
8. The right to a process to resolve disputes.

A description of each right is available on pages 13 – 15 of this [Dispute Resolution Handbook](#).

Montana's statewide system includes the following written procedures for the timely resolution of formal complaints through Mediation, State Complaint procedures, and Due Process Hearing procedures. Montana Milestones provides a **Formal Dispute Resolution Request** beginning on page 16 of this [Handbook](#) or a copy may be obtained from the Montana Milestones website:

<https://dphhs.mt.gov/ecfsd/childcare/montanamilestones/index>

The purpose of this form, **Formal Dispute Resolution Request**, is to document the options available to assist families and local Part C Program providers in resolving disputes in the Montana Milestones Part C Early Intervention Program. If a parent or other individual feels his or her rights have been violated or there has been a violation of Part C of the Individuals with Disabilities Education Act (IDEA), the

parent or individual provides the information requested in this form, signs, dates, and returns the form to the address listed. Assistance to complete this form is available by contacting the Montana Milestones Part C Coordinator 406-522-2261.

Individual Child Complaint Procedures

Informal Complaint: A parent may express a concern or submit a written complaint to a Family Support Specialist/Service Coordinator, to the local Part C Program provider, or to Montana Milestones/Part C Early Intervention Program Coordinator. Informal complaint procedures allow the parties to explore options and solutions in an informal way that is most comfortable for the parents, surrogate parents or legal guardians, and the local Part C Program provider. Informal complaint procedures are not required, and families can always select a formal dispute resolution option: **Mediation, State Complaint, or Due Process Hearing.**

Mediation

Montana Milestones Part C Program makes available to parties to disputes involving any matter the opportunity for mediation meeting the requirements in §303.431 of the Individuals with Disabilities Education Act (IDEA). Mediation can be requested alone prior to filing a request for either a Due Process Hearing or State Complaint **OR** it can be requested at the same time as a Due Process Hearing or State Complaint.

Montana's State Complaint Procedures

Montana Milestones Part C adopted written State complaint procedures to resolve any State complaints filed by any party regarding any violation meeting the requirements in §303.432 through §303.434 of IDEA:

- Identification of the child
- Evaluation and/or assessment of the child
- Placement of the child
- Provision of appropriate early intervention services to the child or family
- Alleged violation of Part C of the IDEA.

Due Process Hearing Procedures

Written due process hearing procedures are established to resolve complaints with respect to a particular child regarding any matter identified in §303.421(a), by adopting the Part C of IDEA due process hearing procedures under section 639 of the Act that:

- Meet the requirements in §303.435 through §303.438; and
- Provide a means of filing a due process complaint regarding any matter listed in §303.421(a).

Status of a Child During the Pendency of a Due Process Complaint

During the pendency of any proceeding involving a due process complaint, unless the local Part C Program provider and parents of an infant or toddler with a disability otherwise agree, the child must continue to receive the appropriate early intervention services in the setting identified in the IFSP consented to by the parents.

If the due process complaint involves an application for initial services under Part C of the Act, the child must receive those services not in dispute.

(Approved by Office of Management and Budget under control number 1820-0678 and 1820-NEW)

(Authority: 20 U.S.C. 1415(e), 1415(f)(1)(A), 1415(f)(3)(A)–(D), 1439)

Mediation (§303.431)

Procedures are established and implemented to allow parties to disputes involving any matter, including matters arising prior to the filing of a due process complaint, to resolve disputes through a mediation process at any time.

The procedures must meet the following requirements:

1. The procedures ensure the mediation process:
 - Is voluntary on the part of the parties;
 - Is not used to deny or delay a parent's right to a due process hearing, or to deny any other rights afforded under Part C of the Act; and
 - Is conducted by a qualified and impartial mediator who is trained in

effective mediation techniques.

2. Qualified mediators:

- Montana Milestones must maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of early intervention services.
- Montana Milestones must select mediators on a random, rotational, or other impartial basis.

3. Montana Milestones will bear the cost of the mediation process, including the costs of meetings.

4. Each session in the mediation process must be scheduled in a timely manner and must be held in a location convenient to the parties to the dispute.

5. If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement setting forth the resolution and that:

- States all discussions occurring during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and
- Is signed by both the parent and a representative of the local Part C Program provider who has the authority to bind the provider agency.

6. A written, signed mediation agreement is enforceable in any State court of competent jurisdiction or in a district court of the United States.

7. Discussions occurring 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.

Impartiality of Mediator:

1. An individual who serves as a mediator under this part:

- May not be an employee of Montana Milestones or the local Part C

- Program provider involved in the provision of early intervention services or other services to the child; and
 - Must not have a personal or professional interest conflicting with the person's objectivity.
2. A person who otherwise qualifies as a mediator is not an employee of a Montana Milestones or the local Part C Program provider solely because he or she is paid by the agency or provider to serve as a mediator.

Meeting to Encourage Mediation:

Procedures were established to offer parents and local Part C Program providers choosing not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party:

1. 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
2. Who would explain the benefits of, and encourage the use of, the mediation process to the parents.

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

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

State Complaint Procedures (§303.432)

Written policies and procedures were established for:

1. Resolving any complaint, including a complaint filed by an organization or individual from another State, meeting the requirements §303.4340, by providing for the filing of a complaint with Montana Milestones; and
2. Widely disseminating to parents and other interested individuals, including parent training and information centers, Protection and Advocacy (P&A) agencies, and other appropriate entities, under §303.432 through §303.434.

Remedies for denial of appropriate services:

In resolving a complaint in which Montana Milestones found a failure to provide appropriate services, Montana Milestones Part C Program, pursuant to its general supervisory authority under Part C of the Act, will address:

1. The failure to provide appropriate services, including corrective actions appropriate to address the needs of the infant or toddler with a disability who is the subject of the complaint and the infant's or toddler's family (such as compensatory services or monetary reimbursement); and
2. Appropriate future provision of services for all infants and toddlers with disabilities and their families.

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

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

Minimum State Complaint Procedures (§303.433)

Complaint procedures were established with a time limit of 60 days after a complaint is filed under §303.434 to:

1. Carry out an independent on-site investigation, if determined an investigation is necessary;
2. Provides the complainant opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
3. Provide Montana Milestones Part C Program or local Part C Program provider with an opportunity to respond to the complaint, including, at a minimum:
 - At the discretion of Montana Milestones, a proposal to resolve the complaint; and
 - An opportunity for a parent who has filed a complaint and Montana Milestones Part C Program or local Part C Program provider to voluntarily engage in mediation, consistent with §303.430(b), §303.431;
4. Review all relevant information and make an independent determination as

to whether Montana Milestones or the local Part C Program provider is violating a requirement of Part C of the Act or of this part; and

5. Issue a written decision to the complainant addressing each allegation in the complaint and contains:
 - Findings of fact and conclusions; and
 - The reasons for the final decision.

Time Extension; Final Decision; Implementation:

The procedures also will:

1. Permit an extension of the time limit if:
 - Exceptional circumstances exist with respect to a particular complaint; or
 - The parent (or individual or organization) and, if mediation is available to the individual or organization under State procedures, and Montana Milestones or local Part C Program provider involved agree to extend the time to engage in mediation; and
2. Include procedures for effective implementation of the final decision, if needed, including:
 - Technical assistance activities;
 - Negotiations; and
 - Corrective actions to achieve compliance.

Complaints Filed Under this Section and Due Process Hearings §303.430(d):

1. If a written complaint is received and is also the subject of a due process hearing under §303.430(d) or contains multiple issues of which one or more are part of that hearing, Montana Milestones must set aside any part of the complaint being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint not a part of the due process hearing must be resolved using the time limit and procedures described.
2. If an issue is raised in a complaint filed under this section has previously been decided in a due process hearing involving the same parties:

- The due process hearing decision is binding on that issue; and
 - Montana Milestones must inform the complainant to that effect.
3. A complaint alleging Montana Milestones or the local Part C Program provider's failure to implement a due process hearing decision must be resolved by the Early Childhood and Family Support Division.

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

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

Filing a Complaint (§303.434)

An organization or individual may file a signed written complaint using the **Formal Dispute Resolution Request** document.

The complaint must include:

1. A statement that Montana Milestones or the local Part C Program provider has violated a requirement of Part C of the Act;
2. The facts on which the statement is based;
3. The signature and contact information for the complainant; and
4. If alleging violations with respect to a specific child:
 - The name and address of the residence of the child;
 - The name of the local Part C Program provider serving the child;
 - 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 complaint is filed.

The complaint must allege a violation occurred not more than one year prior to the date that the complaint is received in accordance §303.432.

The party filing the complaint must forward a copy of the complaint to the local

Part C Program provider serving the child at the same time the party files the complaint with Montana Milestones.

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

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

State Part C Due Process Hearing Procedures under Section 639 of the Act

The Part C due process procedures were adopted under Section 639 of the Act and consistent with §303.435 through 303.438.

Appointment of an Impartial Due Process Hearing Officer (§303.435)

Qualifications and duties:

Whenever a due process complaint is received under §303.430(d), a due process hearing officer 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 early intervention services available for, infants and toddlers with disabilities and their families; and
2. Perform the following duties:
 - Listen to the presentation of relevant viewpoints about the due process complaint.
 - Examine all information relevant to the issues.
 - Seek to reach a timely resolution of the due process complaint.
 - Provide a record of the proceedings, including a written decision.

Definition of Impartial:

1. Impartial means the due process hearing officer appointed to implement the due process hearing under this part:
 - Is not an employee of Montana Milestones or the local Part C Program provider involved in the provision of early intervention services or care of the child; and

- Does not have a personal or professional interest conflicting with his or her objectivity in implementing the process.
2. A person who otherwise qualifies is not an employee of an agency solely because the person is paid by the agency to implement the due process hearing procedures or mediation procedures under this part.

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

Parental rights in due process hearing proceedings (§303.436)

Montana Milestones will ensure the parents of a child referred to Part C are afforded the rights in the due process hearing carried out under §303.430(d).

Rights:

Any parent involved in a due process hearing has the right to:

1. Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to early intervention services for infants and toddlers 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 the parent at least five days before the hearing;
4. Obtain a written or electronic verbatim transcription of the hearing at no cost to the parent; and
5. Receive a written copy of the findings of fact and decisions at no cost to the parent.

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

Convenience of Hearings and Timelines (§303.437)

Any due process hearing conducted must be carried out at a time and place reasonably convenient to the parents.

Montana Milestones must ensure, not later than 30 days after the receipt of a parent's due process complaint, the due process hearing required is completed and a written decision mailed to each of the parties.

A hearing officer may grant specific extensions of time beyond the period set out at the request of either party.

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

Civil Action (§303.438)

Any party aggrieved by the findings and decision issued pursuant to a due process complaint has the right to bring a civil action in State or Federal court under section 639(a)(1) of the Act.

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

Contact Information:

Sandy Cade, Montana Milestones Part C Early Intervention Program Coordinator
Montana DPHHS, Early Childhood and Family Support Division
P O Box 4210, 1625 11 Avenue
Helena, MT 59601-4210
(406) 522 2261
scade@mt.gov

IDEA Gives Parents the following Protections:

1. The right to give informed consent:

A parent must give written permission before their child is evaluated, before services begin or are changed, and before information about their child or family is shared with anyone else. Before being asked to make decisions or give written consent, a parent is given complete information and explanations about the program. Written consent may be cancelled in writing at any time.

2. The right to receive notification in writing:

Parents must receive written notice from their program before any evaluations or assessments can take place. In addition, written notice must be given within a reasonable time before any decisions are made about:

- Eligibility
- Individualized Family Service Plan (IFSP) meetings
- Beginning or changing services
- Refusing services

3. The right to a coordinated Individualized Family Service Plan (IFSP):

A written plan, called an IFSP, is developed by a team to record the family's outcomes for themselves and their child. It lists the early intervention services that will best help reach those outcomes and it describes, when, where, and how services will be delivered. Parents can choose to reject some types of service on the IFSP without affecting other early intervention services.

The parent and other family members work with the Family Support Specialist/Service Coordinator and other providers of early intervention services (if appropriate) to create the IFSP. Parents may invite anyone they wish to their IFSP meetings, including an advocate. The IFSP is reviewed at least every six months or sooner if requested. Parents are involved in planning the time, date, and place of these meetings to ensure their participation. Parents may request a review of their IFSP at any time, even if a review recently took place.

4. The right to receive services in natural environments:

Natural environments are more than the places where children live, learn, and play. Natural environments are the routine activities, or what children do, as they participate, in their everyday life at home and in the community. Services are focused on the family's and child's daily routine and are designed to be carried out as part of regular activities. This helps caregivers learn strategies for teaching the child new skills that may be practiced throughout the day. When a service needs to be provided anywhere other than a natural environment, the IFSP team must provide written justification.

5. The right to confidentiality:

Access to any information that personally identifies the child, or a family member is limited to selected Montana Milestones Part C Early Intervention Program staff or to state or federal auditors. Parents must agree in writing before information from their child's electronic or written records may be shared with anyone else.

6. The right to review and amend records:

Parents may ask to inspect and review their child's record at any time. The local program has 10 days to comply with a request. After reviewing the file, parents may ask to make changes if they think anything is incorrect or to add information if they think the record is incomplete. If the local program disagrees with a request to change the child's records, a parent may request a hearing to challenge the decision. Parents may receive a free copy of their child's record.

7. The right to file a written complaint:

The quickest way to resolve a concern is to talk with a Family Support Specialist/Service Coordinator or with your local Montana Milestones Program Director. If a parent feels his or her rights have been violated or there has been a violation of the law, the parent may file a signed written complaint with the Part C Coordinator of Montana Milestones. The address is: 1625 11th Avenue, P.O. Box 4210, Helena, MT 59604. A copy of the written complaint must also be sent by the parent to their local Montana Milestones Program.

Montana Milestones Part C Early Intervention Program will investigate the complaint and respond in writing within sixty calendar days of the receipt of the signed complaint. While the disagreement is being resolved, the child will continue to receive early intervention services as detailed in the current IFSP unless the parents and early intervention service providers agree to make a change or when the child reaches his or her third birthday.

8. The process to resolve disputes:

Another way to resolve disagreements or notify Montana Milestones Part C Early Intervention Program that the law may have been violated is to request mediation or a hearing. Mediation allows you and your local program's staff to talk about the details of your disagreement with an impartial, trained mediator. The mediator will work with you and your local program to find a solution that suits both of you and then write up the terms of your agreement. You may also contact the Part C Coordinator to request a due process hearing. This is a more formal process conducted before an impartial hearing officer. Ask your Family Support Specialist/Service Coordinator for a copy of **Montana's Dispute Resolution Handbook** for more information. Again, any request for mediation or a hearing will not affect your family's services.

If you would like a complete copy of IDEA go to <https://dphhs.mt.gov/ecfsd/ChildCare/montanamilestones/index> and click on *Important Resources and Forms* to find Montana Part C Rules and Regulations. You may also call the Part C Coordinator to request a printed copy.

Phone: 406-522-2261



P. O. Box 4210,
Helena, MT 59604
(406) 522-2261
Toll Free (800) 762-9891
FAX (406) 444-2750

<https://dphhs.mt.gov/ecfsd/childcare/montanamilestones/index>

Formal Dispute Resolution Request

NAME OF INDIVIDUAL OR ORGANIZATION FILING THE COMPLAINT
DATE
ADDRESS
CITY, STATE, ZIP CODE
TELEPHONE NUMBER(S)
FAX NUMBER(S)
EMAIL ADDRESS
CHILD'S NAME
DATE OF BIRTH

FAMILY SUPPORT SPECIALIST

PART C PROGRAM PROVIDER (AGENCY)

The purpose of this form, **Formal Dispute Resolution Request**, is to document the options available to assist families and early intervention agencies in resolving disputes in the Montana Milestones Part C Early Intervention Program. If a parent or other individual feels his or her rights have been violated or there has been a violation of Part C of the Individuals with Disabilities Education Act (IDEA), the parent or individual provides the information requested in this form, signs, dates, and returns the form to the address listed. Assistance to complete this form is available by contacting the Montana Milestones Part C Program Staff at the phone number listed.

Descriptions of dispute resolution options are found in **Montana Milestones Dispute Resolution Handbook** available at:

<https://dphhs.mt.gov/assets/ecfsd/PartC/MTMilestonesDisputeResolutionHandbook2013.pdf>

FORMAL DISPUTE OPTIONS

Mediation Only

Mediation can be requested alone prior to filing a request for either a Due Process Hearing or State Complaint **OR** it can be requested at the same time as a Due Process Hearing or State Complaint. Check this box if you want to attempt to resolve this issue through Mediation alone.

Due Process Hearing

Check here if you initially want to resolve the dispute through Mediation prior to the Due Process Hearing.

State Complaint

Check here if you initially want to attempt to resolve the dispute through Mediation prior to the investigation of the State Complaint.

DISPUTE FILED AGAINST FAMILY SUPPORT SPECIALIST/PART C PROGRAM PROVIDER AGENCY

NAME

ADDRESS

CITY, STATE, ZIP CODE

TELEPHONE NUMBER

EMAIL ADDRESS

OTHER PARTIES TO DISPUTE (IF APPLICABLE)

STATEMENT OF DISAGREEMENT

Please provide a written description of the area(s) of disagreement (concerns related to the identification, evaluation and assessment, eligibility determination, placement of the child, provision of appropriate early intervention services to child or family, or alleged violation of the Individuals with Disabilities Education Act, IDEA). Be as specific as possible.

FACTS SUPPORTING STATEMENT OF DISAGREEMENT

Please provide a written description of the facts supporting your statement of disagreement and identify any pertinent information (i.e., IFSPs, written correspondence, evaluations/assessments) that may verify your concerns. Be as specific as possible.

SOLUTIONS(S) TO AREA(S) OF CONCERN

Please provide a written description of the steps that you would like to see taken to address your area(s) of concern. Be as specific as possible.

Please list the dates and timeframes you are available over the next two weeks if you selected Mediation and/or a Due Process Hearing.

Signature
Date

For further information, please contact:
Sandy Cade, Montana Milestones Part C Coordinator
P. O. Box 4210, Helena, MT 59604
(406) 522-2261
Toll Free (800) 762-9891
FAX (406) 444-2750
scade@mt.gov