

## Answering your questions about the complaint investigation process...

### What is a complaint?

A complaint is a written signed statement by an individual or organization, which alleges the state Birth to Three program or a local Birth to Three program, has violated a requirement of federal or state statutes or regulations that apply to a program. It must include a statement of the facts on which the complaint is based. Complaints must be sent to the state director of the Birth to Three program to begin the investigative process.

### Who can file a complaint?

Any individual or organization may file a complaint, including an individual or organization from another state.

### What has to be included to file a formal complaint?

A complaint must be signed and include:

1. A statement that a public agency has violated a requirement of IDEA Part C or its implementing regulations,
2. The facts on which the statement is based
3. The signature and contact information for the complainant; and
4. If alleging violations against a specific child
  - the name and address of the residence of the child,
  - the name of the local Birth to Three program or provider serving the child,
  - a description of the nature of the problem, including facts relating to the problem; and
  - a proposed resolution of the problem to the extent known.

A complaint must include an allegation that a violation occurred not more than one year prior to the date that the complaint is received.

### Does a complaint have to be mailed?

Complaints must be received by the state Birth to Three program with signatures in place, and the complaint issues identified. Most complaints are mailed; however, it is acceptable to fax a written complaint to the office. Unsigned complaints will not be investigated.

Complaints received via email would not meet the definition of being signed and therefore will not be investigated unless followed up with a signed letter of complaint.

### How long does the state Birth to Three program have to investigate the complaint?

Complaints must be investigated and resolved within sixty days of receipt of the complaint letter. An extension to this timeline may be granted by the director of the state Birth to Three program ONLY in case of exceptional circumstances.

### What can the complainant expect from the complaint investigation process?

If you are the complainant, you can expect that upon receipt of the complaint, the complaint coordinator for the state Birth to Three program will contact you. The complaint coordinator will review the issues of the complaint with you and discuss the procedures for the investigation. A complaint investigation team will be appointed to investigate the complaint by the state Birth to Three program. This investigative team will develop an investigative plan, including determining what documentation must be reviewed and the individuals who will be interviewed by the team. After the fact-finding process is completed, a complaint report is generated. This report documents the information gathered throughout the investigation, the findings of the fact and the conclusions of the investigation. If the local Birth to Three program

and/or local Birth to Three provider is found to be out of compliance, the report will also include corrective action. This corrective action is specifically designed to ensure that the areas of noncompliance are addressed, preventing future problems in this area. The entire process of investigating and issuing a complaint report must be completed within 60 calendar days, unless there are exceptional circumstances that warrant an extension.

**Can the complaint change their mind and ask for the complaint to be dismissed? What is the obligation of the state Birth to Three program?**

The request to dismiss the complaint does not automatically guarantee that the state Birth to Three program will discontinue the investigation. The state Birth to Three program is not obligated to discontinue the investigation and in fact, may proceed.

If the state Birth to Three program determines that the complaint has been satisfactorily resolved prior to the completion of the investigation process, they will send a letter to the complainant indicating the resolution. The dismissal or withdrawal of the complaint does not affect any future rights of the parties involved.

**Can both a complaint and a hearing request be filed on the same issue?**

If state Birth to Three program receives both a hearing request and a complaint on the same issue, the complaint must be set aside until the conclusion of the hearing. A hearing officer's decision on the issue will be binding and final. If there are any issues in the complaint that are not part of the hearing request, the complaint investigation process will commence, adhering to the 60-day timeline for resolution.

**Is there an appeals process to the findings of a complaint investigation?**

IDEA regulations make no references to the requirement of establishing an appeals process to state complaint decisions. South Dakota does not have an appeals process as a component of its complaint investigation procedures. A parent or the local Birth to Three program/provider, however, may initiate a due process hearing request on the complaint issue. A decision made in a due process hearing is final. However, any party aggrieved by the findings and decisions made by the hearing officer has the right to bring a civil action with respect to the complainant.

**What is the address of the state Birth to Three program?**

The address is:

Department of Education  
Birth to Three Program  
800 Governor Drive  
Pierre, South Dakota 57501  
Ph: 605-773-3678  
Fax: 605-773-3782