



**south dakota**  
DEPARTMENT OF EDUCATION  
Learning. Leadership. Service.

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**south dakota**  
**BIRTH TO THREE**  
The first three years build a lifetime

Office of Education Services and Supports  
Part C Due Process Hearing Request  
(This form may be used by **School Districts** wanting to  
file a Due Process Hearing request)

*\*A signed copy of this due process hearing notice must be sent to the child's parents and to the Birth to Three program at the above address.*

### Notice of Parents of Part C Due Process Hearing

**To:**

**And To:** Sarah Carter, Director  
Birth to Three Program  
800 Governors Dr.  
Pierre, SD 57501-2294

**This notice is to inform you that \_\_\_\_\_ is initiating a Part C due process hearing** related to the identification, evaluation, or educational placement of their child or the provision of early intervention services. therefore, you are being provided with the following required information (which will also be provided to the hearing officer by the Birth to Three program):

**CHILD INFORMATION:**

**PARENT/GUARDIAN INFORMATION:**

|                      |                                  |
|----------------------|----------------------------------|
| Child's Name:        | Parent/Guardian Name:            |
| Date of Birth:       | Address if Different from Child: |
| Address:             | City:                            |
| City:                | State/Zip:                       |
| State/Zip            | Phone Number:                    |
| School District:     | Parent/Guardian Name:            |
| School Name:         | Address if Different from Child: |
| School Contact Name: |                                  |
| City:                | City:                            |
| State/Zip:           | State/Zip:                       |
| Phone Number:        | Phone Number:                    |

If Child falls under McKinney-Vento Homeless Assistance Act provide available contact information for the child, and the name of the school the child is attending.

## MODEL SOUTH DAKOTA PARENT DUE PROCESS REQUEST FORM

|  |  |
|--|--|
| A description of each problem, including the facts related to each problem, and a proposed resolution for correcting each problem. |  |
| <b>PROBLEM 1:</b>  |  |
| <b>Related Facts</b>   |  |
| <b>Proposed Resolution</b>   |  |
| <b>PROBLEM 2:</b>  |  |
| <b>Related Facts</b>   |  |
| <b>Proposed Resolution</b>   |  |

(Use additional pages if necessary)

**\*School District** - Please provide a signed copy of this due process notice to the parents and to the birth to Three program, at the address on the previous page. Keep a copy of your request and proof of delivery. **Do not submit supporting documents with your request for a due process hearing.** This form is provided to you as a model for your use. You are not required to use this form; however, failure to address the elements required in IDEA or failure to provide the other party with a copy of this notice may result in a delay of the hearing and/or in a reduction of attorney fees, if awarded.

\_\_\_\_\_  
Signature of authorized school representative

\_\_\_\_\_  
Date

**\*Parents** - Please note that you are required by law to send, within 10 days of receiving this notice, a response to the school district that specifically addresses the issues raised in this complaint. Please refer to your parental rights/procedural safeguards for a full description of your due process rights. If this is the first-time a due process hearing has been requested regarding your child, a copy of the parent rights/procedural safeguards is enclosed with this notice. If a copy of the parental rights/procedural safeguards is not included with this notice please be advised that it is always available from the school district upon request, or from the Birth to Three program at: [http://doe.sd.gov/Birthto3/documents/B3\\_FamilyRightsBooklet.pdf](http://doe.sd.gov/Birthto3/documents/B3_FamilyRightsBooklet.pdf).

**\*Resolution Session:** Within 15 days of receiving a notice requesting due process, the school district must meet with and relevant members of the IFSP team to attempt to resolve the matter during a resolution session. If both parties agree to meet at the parents a resolution session, the 45-day timeline for conducting a due process hearing is suspended. However, if they agree to waive their right to a resolution session or use the mediation process instead, the clock keeps on ticking. If no resolution is reached within 30 calendar days of a due process request, the 45-day timeline for conducting a due process district

hearing starts again. If the school and parents reach a resolution within that time, they must put the agreement in writing and have it signed by both parties. The parties then get another three business days to void it and continue to a due process hearing. The school district must access the *Resolution Session Tracking* form and complete it and return it to the Birth to Three program. <http://doe.sd.gov/Birthto3/documents/B3LocalRe.pdf>

**\*Purpose of the Resolution Session:** The purpose of the resolution session is for the school district to discuss the due process complaint, and the facts that form the basis of the due process complaint, so that the parent has the opportunity to resolve the dispute the school district has the opportunity to resolve the dispute that is the basis for the due process complaint.

**\*Additional information:**

The Birth to Three program state office is required to inform parents of **free or low-cost legal and other relevant services**. To fulfill this requirement, parents are referred to South Dakota Advocacy Services (1-800-658-4782). South Dakota Parent Connection (1-800-640-4553) is the Parent Information Center and can help parents understand their rights and due process procedures.

**A mediation process is also available to help resolve early intervention disputes.** The costs of mediation are borne by the state; there are no costs for mediation to either the parents or the local Birth to Three program and/or the school district. The mediator is an impartial professional who is: (a) knowledgeable in Part C laws and regulations; (b) not connected with the local Birth to Three program and/or the school district; and (c) selected for the mediation by the state Birth to Three program.

**I would like to request mediation**

\_\_\_\_\_ **Yes**                      \_\_\_\_\_ **No**