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Office of Education Services and Supports

Part C Due Process Hearing Request
(This form may be used by Parents wanting to file
a Due Process Hearing request)

**A signed copy of this due process hearing notice must be sent to the Local Birth to Three program and/or school district, depending on which entity is providing early intervention services to your child, and to the state Birth to Three program Director at the above address. If you have questions regarding early intervention or due process hearing rights or requirements, you may contact Birth to Three at the South Dakota Department of Education at 1-605-773-3678.*

Notice of Parent Request for Due Process Hearing

To:

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

I have a complaint about the identification, evaluation, or educational placement of my child or the provision of early intervention services for my child. Therefore, I submit this request for an impartial Part C due process hearing and include the following required information.

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:

Name of Local Birth to Three Program:	Name of School district (if applicable):
Address:	Address:
City:	City:
State/Zip:	State/Zip:
Phone Number:	Phone Number:
Name of Service Coordinator:	
Phone Number:	

If Child/Youth 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.

PROBLEM 1:	
Related Facts	
Proposed Resolution	
PROBLEM 2:	
Related Facts	
Proposed Resolution	

(Use additional pages if necessary)

*** PARENTS -** Please provide a signed copy of this due process notice to the Local Birth to Three program and/or school district, depending on which entity is providing early intervention services to your child, and to the Birth to Three state office 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.

*I have been informed that (a) I have a right to initiate a due process hearing relating to concerns I have about the identification, evaluation or placement of my child or the provision of appropriate early intervention services to my child; (b) I must make my request for due process hearing within 2 years of the date I knew or should have known of the action that forms the basis of this complaint; (d) the 2 year time limit may be extended if the local Birth to Three program and/or the school district prevented me from requesting the hearing through specific misrepresentations that it had resolve the problem or if the local Birth to Three program and/or the school district withheld information that it was required by law to give me. I understand that the local Birth to Three program and/or the school district must meet with me prior to a due process hearing to attempt to resolve the problems started in this due process notice. However, a meeting is not required if the local Birth to Three program and/or the school district and I agree., in writing, to waive such meeting or agree to use the medication process. I also understand that I may obtain a copy of the notice of parents right explaining my due process rights from the local Birth to Three program and/or the school district upon request.

Signature of Parent/Guardian or Attorney

Date

Model South Dakota Parent Due Process Request Form

***LOCAL BIRTH TO THREE PROGRAM and/or SCHOOL DISTRICT - Deadline for responding to due process requests:**

The local Birth to Three program and/or the school district receiving this request must provide the parent/guardian with a written response within **10 calendar days**. This deadline applies to the local Birth to Three program and/or the school district only if they have not given the child's parents prior written notice already about the decision at issue in the due process notice.

***Resolution Session:** Within 15 days of receiving a notice requesting due process, the local Birth to Three program and/or school district must meet with the parents and relevant members of the IFSP team to attempt to resolve the matter during a resolution session. If both parties agree to meet at 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 hearing starts again. If the local Birth to Three program and/or the school district and the 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 local Birth to Three program and/or the school district must access the *Resolution Session Tracking* form at <http://doe.sd.gov/Birthto3/documents/B3LocalRe.pdf> complete it and return it to the state Birth to Three program.

***Purpose of the Resolution Session:** The purpose of the meeting is for the parent of the child to discuss the due process complaint, and the facts that form the basis of the due process complaint, so that the local Birth to Three program and/or 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