

## DUE PROCESS - RESOLUTION SESSION - TRACKING FORM

**ATTENTION LOCAL BIRTH TO THREE PROGRAM AND/OR LOCAL EDUCATION AGENCY (LEA):**

The South Dakota Department of Education, Birth to Three program, is required to collect data on the resolution session outcomes.

**A representative of the local Birth to Three program and/or LEA must complete this form.** Please send a copy of the completed form along with any resolution agreements, mediation agreements, or written waivers to the birth to Three program director prior to your pre-hearing conference. The documents can be mailed or faxed to:

Sarah Carter, Director  
Birth to Three Program  
800 Governors Drive  
Pierre, South Dakota 57501-2294  
Fax: 605-773-3782

Please Print

Due Process Hearing No.: \_\_\_\_\_

Child Name: \_\_\_\_\_

Local Birth to Three program: \_\_\_\_\_

Authorized Local Birth to Three Representative: \_\_\_\_\_

\_\_\_\_\_  
Signature Authorized Local Birth to Three Representative

\_\_\_\_\_  
Date

Local Education Agency (if applicable): \_\_\_\_\_

\_\_\_\_\_  
Signature Authorized Local Education Agency Representative

\_\_\_\_\_  
Date

**Resolution Period: Resolution Meeting**

1. Was a resolution session held?  YES  NO

If you answered NO to question #1, please go to questions #4.

2. If yes, what was the date of the resolution session? \_\_\_\_\_

If more than one session was held, list all dates: \_\_\_\_\_

3. Was an agreement reached?  Yes  No

If yes, was it a full or partial agreement? \_\_\_\_\_

Yes, but the agreement was voided within three business days

4. If a resolution session was not held please select one of the following:

The parties agreed, in writing, to waive the resolution session (see **Waiver of Resolution session**).

The resolution session was convened but the parent failed to attend (please describe your efforts in the Comments Section of this form and attach any relevant documentation).

The LEA Failed to convene the resolution session.

The parties agreed to participate in mediation.

**Waiver of Resolution Session**

- We agree to waive the Resolution Session; or
- We agree to participate in mediation instead of a resolution session.

**Parent(s):**

Print Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Print Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Local Birth to Three Program:**

Authorized Local Birth to Three Representative (Print): \_\_\_\_\_  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**LEA if Applicable:**

Authorized LEA Representative (Print): \_\_\_\_\_  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**PROVIDE A COPY OF THIS SIGNED WAIVER TO THE DEPARTMENT OF EDUCATION, BIRTH TO THREE PROGRAM, IMMEDIATELY AS THIS WILL START YOUR 45-DAY HEARING TIMELINE**

**Resolution Period: Impasse**

- We agree that we participated in a resolution session, but no agreement is possible.
- We agree that we participated in mediation, but no agreement is possible.

**Parent(s):**

Print Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Print Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**LEA:**

Authorized LEA Representative (Print): \_\_\_\_\_  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**PROVIDE A COPY OF THIS SIGNED IMPASSE TO DEPARTMENT OF EDUCATION, BIRTH TO THREE PROGRAM, IMMEDIATELY AS THIS WILL START YOUR 45-DAY HEARING TIMELINE**

**Resolution Period: Mediation**

1. Was mediation used in lieu of a resolution session?  YES  No
2. If yes, what was the date of the mediation session? \_\_\_\_\_
3. Was an agreement reached?  Yes  No  
If yes, was it a full or partial agreement? \_\_\_\_\_

**COMMENTS (attach additional pages if necessary):**

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## DUE PROCESS - RESOLUTION SESSIONS INFORMATION

**What is a resolution session?** A resolution session is a dispute resolution process that occurs after a parent has filed a due process hearing request and before the due process hearing timelines begin. It provides parent and local education agencies an opportunity to meet to resolve the problems identified in the parent's due process hearing request. Resolution sessions are explained in greater detail in the federal regulations that implement Individuals with Disability Education Act (IDEA) at 34 C.F.R. 300.510.

**What are the resolution session timelines?** Within 15 day of receiving notice of a parent's due process complaint, and prior to the initiation of a due process hearing the local Birth to three program and/or the LEA must convene a meeting - the resolution session - with the parents that filed the complaint, and relevant member of the individualized family service plan (IFSP) team. At this meeting, the parents are given the opportunity to discuss their complaint and the facts that form the basis for the complaint, and the local Birth to three program and/or the LEA is provided the opportunity to resolve the complaint. The resolution session must be convened unless: (1) the parent and the local Birth to Three program and/or the LEA jointly agree in writing to waive the meeting; or (2) the parent and the local birth to three program and/ or the LEA agree to participate in mediation in lieu of the resolution session.

**What are the resolution timelines for due process hearing requests?** When a parent files a request for a due process hearing, the local birth to three program and/or the LEA must hold a resolution session within 15 days of receiving notice of the due process complaint, and attempt to reach resolution within 30 days of the receipt of the hearing request.

**Who are the required participants?** Resolution session participants include the parents and relevant member or members of the IFSP team who have knowledge of the facts identified in the due process complaint, including the local Birth to Three program representative and/or an LEA representative who has decision-making authority.

\*The resolution session may not include the local Birth to Three program attorney and/or the LEA attorney unless the parent is accompanied by an attorney.

**What if the parent does not want to participate in a resolution session or the local Birth to 3 program and/or the LEA does not convene the resolution session?** If a parent files the due process complaint and the local Birth to 3 program and/or the LEA does not convene a resolution session within the timelines, the parent may ask the hearing officer to begin the due process hearing timeline. If the parent files the due process complaint and does not come to the meeting as scheduled, and the local Birth to 3 program and/or the LEA documents that it is unable to obtain the participation of the parent, the local Birth to 3 program and/or the LEA may, at the conclusion of the 30-day resolution period, request the hearing officer to dismiss the parent's due process complaint.

**What happens if we reach agreement?** If the issues in the due process complaint are resolved at the resolution session, then the parties shall develop a legally binding written agreement that is signed by both the parent and a representative from the local Birth to 3 program and/or the LEA with authority to bind the agency. The agreement is enforceable in a state court of competent jurisdiction or in a district court of the United States. Either party may void the resolution agreement within three business days of the agreement's execution.

**What happens if we do not reach agreement?** If, after a resolution session or mediation, the local Birth to 3 program and/or the LEA has not resolved the parent's due process complaint within 30 days of receipt of the complaint, the due process hearing may occur. The 45-day due process hearing timeline begins at the end of the 30-day resolution period, or the day after one of the following events:

1. Both parties agree jointly in writing to waive the resolution session; or
2. After either the mediation or the resolution session starts, but before the end of the 30-day resolution period, the parties agree jointly in writing that no agreement is possible.

**\* If one of the above occurs, the parties must immediately notify the DOE/Birth to Three Connections and the Hearing Officer.**

If you have questions about resolution sessions, please contact the SD Department of Education, Birth to Program Three Connections at 605-773-3678.