**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 34 CFR 300.153 and ARSD 24:05:30 may result in a delay of the due process hearing.**

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| **PARENT SAMPLE REQUEST FOR *DUE PROCESS HEARING*** |
| **A copy of this due process hearing notice must be sent to the School Superintendent or Special Education Director and to Special Education Programs. Retain a copy for your records.**Division of Special Education and Early LearningSpecial Education Programs (SEP)<https://doe.sd.gov/sped/complaints.aspx> *If you have questions regarding special education or due process hearing rights or requirements, you may contact Special Education Programs at the South Dakota Department of Education at* *1-605-773-3678.* |

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| **NOTICE:** |
| I have a complaint against \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Local Education Agency (LEA)/State Education Agency (SEA)) about the identification, evaluation, or educational placement of my child or the provision of a free appropriate public education to my child. Therefore, I submit this request for an impartial special education due process hearing and include the following information.**Expedited Due Process Hearing:**If the due process request is related to 1) disagreement with school district’s disciplinary placement; or 2) manifestation determination; or 3) an LEA believes maintaining the current placement of the child is substantially likely to result in injury to the child or others, this request may be moved to an expedited due process hearing. |

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| **Student Information:** |
| Student Name: |
| Date of Birth (optional): |
| Address: |
| City/State/Zip: |
| **Parent Information:** |
| Parent(s)/Guardian(s) Name(s): |
| Telephone Number: |
| Address if different from Student: |
| City/State/Zip: |
| Email Address: |
| **School District Information:** |
| School Name: |

**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.**

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| **Optional School District Information:** |  |
| School District (optional): | Phone Number (optional): |
| School Address (optional): | Superintendent’s Name (optional): |
| City/State/Zip: | Superintendent’s Email (optional): |

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| **DESCRIPTION OF THE ISSUES:** |
| A description of each problem, including the facts related to each problem, and a proposed resolution for correcting each problem.  |
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| **Problem 1:** |
| Related Facts |
| Proposed Resolution |
|  |
| **Problem 2:** |
| Related Facts |
| Proposed Resolution |
|  |
| **Problem 3:** |
| Related Facts |
| Proposed Resolution |

**(Use additional pages if necessary)**

**Parent(s):**

Please provide a copy of this due process notice to the District Superintendent and to SEP, at the address on the next 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 34 CFR 300.508 (a) & (b) and ARSD 24:05:30:08.02 may result in a delay of the hearing.

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 a free appropriate public education to my child: (b) I must make my request for a 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; (c) the 2 year time limit may be extended if the school district prevented me from requesting the hearing through specific misrepresentations that it had resolved the problem or if the school district withheld information that it was required by law to give me. I understand that the school must offer a resolution meeting prior to a due process hearing to attempt to resolve the problems stated in this due process notice.

However, a meeting is not required if the school and I agree, in writing, to waive such meeting or agree to use the mediation process.

I also understand that I may obtain a copy of the notice of parent rights explaining my due process rights from the school upon request or from the South Dakota Department of Education, Division of Special Education and Early Learning, Office of Special Education Programs at: <https://doe.sd.gov/sped/parentalrights.aspx>.

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Date Signature of Parent/Guardian or Attorney *(optional)*

**District:**

**Deadline for responding to due process requests:** The district receiving this request must provide the parent/guardian with a written response within ***10 calendar days*** upon receipt of the request. This deadline applies to the district only if they have not given the student’s parents prior written notice already about the decision at issue in the due process notice.

**Resolution Session:** Within ***15 calendar days*** of receiving a notice requesting due process, the district must meet with the parents and relevant members of the IEP team to attempt to resolve the matter during a resolution session. 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. If the district 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 district must access the *Resolution Session Tracking* form at <https://doe.sd.gov/sped/complaints.aspx>, complete it and return it to SEP.

**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 district has the opportunity to resolve the dispute that is the basis for the due process complaint. A copy of the resolution session tracking form can be found at <https://doe.sd.gov/about.aspx>.

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| **ADDITIONAL INFORMATION:** |
| Special Education Programs is required to inform you of other **free or low-cost legal and relevant services**. To fulfill this requirement, we refer you to Disability Rights of South Dakota (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. |
| **Expedited due process hearing timelines:*** A resolution meeting must occur within 7 calendar days, unless you and the school district both agree in writing not to have a resolution meeting, or to use mediation instead.
* If the dispute is not resolved within 15 calendar days, the hearing timeline proceeds.
* The hearing must be held within 20 school days of the hearing request being filed.
* The hearing officer must issue a decision with 10 school days of the date of the hearing.
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| **A mediation process is also available to help resolve special education disputes**. A neutral mediator facilitates conversation between the parent and school district and assist with writing an agreement that both parties agree to related to the disagreement. There are no costs for mediation for either the parents or the local school district. Mediation can be requested through SEP at the same time a due process hearing is requested. The mediator is an impartial professional who is: (a) knowledgeable in special education law; (b) not connected with the school district; and (c) selected for the mediation by the state Department of Education.**I would like to request mediation YES \_\_\_\_ NO\_\_\_\_****You can find the Mediation sample form and the Administrative Rules at:** [**https://doe.sd.gov/sped/complaints.aspx**](https://doe.sd.gov/sped/complaints.aspx)**.**  |

**Please submit complaint to:**

Special Education Programs

Dispute Resolution Coordinator

800 Governors Drive

Pierre, SD 57501

Or by

Email: Wendy.Trujillo@state.sd.us

Fax: 605-773-6139