

## State Lead Agency Internal Procedures Checklist

### Tracking and Processing A Due Process Hearing Request

Due Process Hearing Request Log #: \_\_\_\_\_

When a formal written due process hearing request is received regarding the timely resolution of individual child complaints by parents concerning the identification, evaluation, or placement of the child, or the provision of appropriate early intervention services to the child and child's family, the state lead agency staff will implement and document completion of the following activities, procedures, and timelines:

#### The thirty (30) calendar day timeline

Begins \_\_\_\_\_ Ends \_\_\_\_\_

#### Day 1 - Log in Due Process Hearing Request and Create File.

*Program Specialist completes the following procedures:*

(Name) \_\_\_\_\_

Procedure	Date Completed	Comments
1. Stamp date the written due process hearing request with the date received		
2. Log request in the <i>Hearing Log</i> with the appropriate information and assign the request a case number		
3. <b><u>Develop and maintain</u></b> a due process hearing case file to contain the following records:		
a. Individual <i>Due Process Hearing Log</i>		
b. Original copy of the written request		
c. Additional information/documents submitted by the parties, as applicable		
d. Written correspondence sent to and received from parent and agency/individual against which the hearing request is filed, including offer to mediate		
e. Copy and distribute written request to Program Administrator		
4. If an administrative (citizen's) complaint is filed at the same time the request for a due process hearing is received, staff shall:		
a. Establish that the alleged violations(s) are or are not subject to a current due process hearing (all or in part)		

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Procedure	Date Completed	Comments
b. Ensure when alleged violation(s) is/are subject to a due process hearing, those alleged violation(s) must be set aside until the conclusion of the hearing		
c. Ensure when alleged violation(s) is/are not subject to a due process hearing they are resolved within the 60 calendar day timeline		
d. Ensure when alleged violation(s) was/were previously resolved in a due process hearing involving the same parties, the hearing decision is upheld and informs the complainant the hearing decision continues to be binding		
e. Ensure that the due process hearing decision is implemented by a public agency or private service provider		
5. Program Administrator works with Program Consultant to track and document the hearing request		

Note: The information contained in item 4 above is also documented in the “State Lead Agency Internal Procedures Checklist for Tracking, Investigating, and Processing Administrative (Citizen’s) Complaints”

<b><i>Day 2 - Hearing Officer Selected and Appointed</i></b>
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*Program Administrator and Program Consultant (assigned to the hearing request) complete the remaining procedures:*

(Names) \_\_\_\_\_

Procedure	Date Completed	Comments
1. Staff select and appoint a qualified and impartial person to conduct the due process hearing		
2. Due process hearing officer notifies both parties of logistics, rights, and procedures for conducting the hearing		

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***Day 10- Mediation Conducted, as Appropriate***

Procedure	Date Completed	Comments
1. Agreement reached:		
a. Signed mediation agreement is provided to all parties and placed in child's early intervention record		
b. A request to dismiss the due process hearing is sent to the hearing officer		
c. Case is closed and documented in log		
2. Agreement <b>not</b> reached:		
a. Staff notify all parties that no agreement was possible and that confidentiality provisions apply		
b. Staff notify hearing officer to proceed with hearing		

***Day 15 - 30 Due Process Hearing Conducted***

Procedure	Date Completed	Comments
1. Hearing Officer issues written decision within thirty (30) day timeline		
2. Hearing decision is documented in log and placed in file and child's early intervention record		

***Day 30 -90 Decision Implemented, Monitored as Applicable***

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Procedure	Date Completed	Comments
1. Staff monitors implementation of hearing officer's decision and documents in file. If finding was issued, staff tracks and verifies correction.		
2. Hearing Decision is placed in file and child's early intervention record		
3. Staff close case pending appeal		

***Day 90 - Case Appealed, if Applicable***

Procedure	Date Completed	Comments
1. Either party may appeal hearing officer's decision to state or federal court		
2. Final judicial decision placed in file and child's early intervention record		
3. Staff close case		