



State of Hawai'i
Department of Health
Early Intervention Section
1010 Richards Street #811
Honolulu, HI 96813

REQUEST FOR DUE PROCESS HEARING

A due process complaint is a request for a hearing officer to make a decision about early intervention service for a child and family. Only a family may file a due process complaint.

Child's Name: _____ Date of Birth: _____

Name of Person Requesting Hearing: _____

Relationship to Child: Parent Legal Guardian Resource Caregiver Surrogate Parent

Phone: _____ E-Mail: _____

Address: _____

Name of Attorney/Representative (if applicable): _____

Phone: _____ E-Mail: _____

Address: _____

Early Intervention Program: _____

Care Coordinator: _____

Complaint: Please check off area(s) of concern and include any facts as they relate to the areas of concern): Use additional sheets if necessary

Eligibility Placement Evaluation Provision of early intervention services for your child and family

Proposed Resolution to the Complaint (please describe things that you believe will resolve the issues based on the information available to you: Use additional sheets if necessary

Is an interpreter needed? No Yes, Language/Dialect: _____

I would like to request a mediation session (please initial): _____ Yes _____ No

I attest by my signature below that the above information is accurate and complete to the best of my knowledge.

Signature: _____ Date: _____

DUE PROCESS HEARING PROCEDURES

A request for a Due Process Hearing is one of the grievance procedures to consider if parent, EIS provider, or EIS wishes to file a complaint against the state and have it investigated. Reasons for such a request are generally because the parent disagrees with a proposal or refusal by a Part C early intervention program in the area(s) of:

- Eligibility
- Evaluation
- Placement
- Provision of early intervention services

A written request for a Due Process Hearing, using Early Intervention Section (EIS) Form EI-10d, shall be filed, in person or via mail, to:

Early Intervention Section
Attn: EIS Supervisor
1010 Richards Street, Suite 811
Honolulu, Hawai'i 96813

Upon receiving a request for a Due Process Hearing, the Hearing Officer must, no later than thirty (30) days after the receipt of a parent's request, reach a final decision in the hearing and mail a written decision to each of the parties (Sec. 303.423(b)). The Hearings Officer must also:

1. Have knowledge about the provisions of this part and the needs of, and services available for, eligible children and their families;
2. Listen to the presentation of relevant viewpoints about the complaint, examine all information relevant to the issues, and seek to reach a timely resolution of the complaint; and
3. Provide a written or electronic verbatim transcription of the proceeding to the parents upon request.
4. Provide all parties with written findings of fact and decisions.

During the proceedings, the parent has the right to:

1. Be accompanied and advised by counsel, at his/her own expense, and by individuals with special knowledge or training with respect to early intervention services;
2. Present relevant evidence and argument on the issues raised in this complaint;
3. Examine and cross-examine witnesses and present exhibits; and
4. Prohibit the introduction of any evidence at the proceeding that has not been disclosed to the parent at least five (5) days before the proceeding.

During the pendency of the proceedings EIS shall:

1. Ensure that the child shall continue to receive the appropriate early intervention services currently being provided during the duration of these proceedings, unless EIS and the parents of the child otherwise agree; and
2. Ensure that if the complaint involves an application for initial or new services, the child must receive those services that are not in dispute.

Differences of opinion or judgment that do not allege a violation of IDEA Part C law or regulation will not be considered at a due process hearing.

If the parent has special needs due to a disability and an accommodation of those needs will aid the parent in participating in the hearing, contact the Early Intervention Section at (808) 594-0000 (voice) or through the Telecommunications Relay Service (711) at least ten (10) working days before the hearing. The hearing will be conducted in accordance with Chapter 91 of the Hawai'i Revised Statutes and Title 11, Chapter 1 of the Hawai'i Administrative Rules.

As required by IDEA Part C (Sec. 303.419) a mediation process must be made available whenever a hearing is requested. The purpose of the mediation is to try to resolve differences through a more informal process. See the document "Mediation Process" (EI Form EI-10c) for further information regarding this process.