
 <p style="text-align: center;">POLICIES AND PROCEDURES</p> <p style="text-align: center;">State of Tennessee Department of Disability and Aging</p>	<p>Policy #: 60.7.3</p>	<p>Page 1 of 10</p>
<p>Policy Type: Administrative/Community</p>	<p>Effective Date: Dec. 10, 2025</p>	
<p>Approved by:</p>  <hr/> <p>Brad Turner, Commissioner</p>	<p>Distribution: A/B</p>	
	<p>Supersedes: 60.7.3 (2/08/2022)</p>	
	<p>Last Review or Revision: Sept. 23, 2025</p>	
<p>Subject: TEIS PROCEDURAL SAFEGUARDS – DUE PROCESS</p>		

- I. **AUTHORITY:** 20 U.S.C.A. § 1439; 34 Code of Federal Regulations (C.F.R.) § § 303.400, 303.440 - 449; Tennessee Code Annotated (“T.C.A.”) § § 4-3-2708, 52-1-105, 49-10-702.
- II. **PURPOSE:** The purpose of this policy is to establish uniform procedures within the Department of Disability and Aging (“Department”) for due process hearings to be used with the Tennessee Early Intervention System (“TEIS”) procedural safeguards for the purpose of addressing complaints filed by a parent regarding disagreements relating to the identification, evaluation, or placement of an infant/young child, or the provision of early intervention services to the infant or young child with a disability and that child’s family.
- III. **APPLICATION:** This policy applies to all Department of Disability and Aging (“Department”) workforce members who interface with Tennessee Early Intervention System (“TEIS”).
- IV. **DEFINITIONS:** For the purpose(s) of this policy, the following definitions apply.
 - A. **Complainant** shall mean the party that files a due process complaint under this policy.
 - B. **Early Intervention Services Provider (“EIS Provider”)** shall mean the Department-contracted entity responsible for providing early intervention services to qualifying children with disabilities.
 - C. **Part C of the IDEA (“Part C”)** shall mean the section of the Individuals with Disabilities Education Act (“IDEA”) which requires participating States to ensure

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infants and young children with disabilities and their families receive early intervention services. In Tennessee, the Part C program is the TEIS.

- D. **Procedural Safeguards** shall mean a system of requirements designed to protect the rights of parents and their child with a disability and, at the same time, give families and service providers means by which to resolve their disputes.
 - E. **Resolution Meeting** shall mean a dispute resolution meeting that the Department must convene within fifteen (15) days of receipt of a due process complaint, unless all parties agree to waive it or use mediation, which offers the parties the opportunity to resolve issues before a due process hearing happens.
 - F. **Tennessee Early Intervention System (“TEIS”)** shall mean the program that provides early intervention services for infants and young children with disabilities and their families through Part C of IDEA.
 - G. **Workforce Member(s)** shall mean all persons whose conduct, in the performance of work for a covered entity or business associate, is under the direct control of such covered entity or business associate, whether or not such persons are paid for such work by the covered entity or business associate. Thus, employees, trainees, interns, students, contract workers, and volunteers are all part of the Department’s workforce.
- V. **POLICY:** The Department shall establish and maintain a due process hearing procedure to be used within the TEIS program for the purpose of addressing complaints related to the identification, evaluation, or placement of an infant/young child, including proposals or refusals to initiate or change such identification, evaluation, placement, or the provision of early intervention services to the infant/young child with a disability and that child’s family.
- VI. **PROCEDURES:**
- A. Initial Filing of Complaint
 - 1. A due process complaint may be filed by a parent, EIS provider, or the Department.
 - 2. A due process complaint may be filed on any matter relating to the identification, evaluation, or placement of an infant or young child, including proposals or refusals to initiate or change such identification, evaluation, or placement, or the provision of early intervention services to the infant or young child with a disability and that child’s family.
 - 3. A complaint made under this policy shall be made in writing. The Department’s Due Process Complaint Form IDDT2201-1, may be used for

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filing the complaint and a copy of the form shall be provided upon request. A written complaint shall not be denied or rejected solely because DIDD's form was not used, if the written complaint contains all required information.

B. Requirements

1. This procedural safeguard shall comply with the provisions on confidentiality in 34 C.F.R. §§ 303.401 through 303.417, parental consent and notice in 34C.F.R. §§ 303.420 and 303.421, and surrogate parents in 34 C.F.R. § 303.422.
2. The due process complaint must allege a violation that occurred no more than two (2) years before the date the parents or EIS provider knew, or should have known, about the alleged action that forms the basis of the due process complaint.
3. The two-year timeline does not apply to a parent if:
 - a. The parent was prevented from filing a complaint due to a specific misrepresentation by the Department or EIS provider that it had resolved the problem; or
 - b. The Department or EIS provider failed to provide the parent information that was required to be provided.
4. The Department must inform the parent of any free or low-cost legal and other relevant services available in the area if the parent requests it or if the parent or EIS provider files a due process complaint.;
5. A complainant, or an attorney representing the complainant, must provide the other party with a copy of the due process complaint.
6. The complainant must forward a copy of the complaint to the Department.
7. If the Department has not sent a prior written notice to a parent regarding the subject matter contained in the parent's due process complaint, then the Department or EIS provider must, within ten (10) days of receiving the complaint, send to the parents a response that includes:
 - a. An explanation of why the Department or EIS provider proposed or refused to take the action raised in the due process complaint;
 - b. A description of other options that the Individualized Family Service Plan (IFSP) team considered and the reasons why those options were rejected;

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- c. A description of each evaluation procedure, assessment, record, or report the Department or EIS provider used as the basis for the proposed or refused action;
 - d. A description of the other factors that are relevant to the Department's or EIS provider's proposed or refused action; and
 - e. A response by the Department that does not preclude it from asserting that the parent's due process complaint was insufficient, where appropriate.
 - 8. Except as provided in VI.B.7. of this policy, the party receiving the due process complaint must, within 10 days of receiving the complaint, send a response to the complainant that specifically addresses the issues raised in the complaint.
- C. Complaint Requirements: The due process complaint must include:
 - 1. The name of the child;
 - 2. The address of the child;
 - 3. The name of the EIS provider serving the child;
 - 4. In the case of a homeless child, available contact information for the child;
 - 5. A description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem; and
 - 6. A proposed resolution of the problem to the extent known and available to the party at the time;
- D. Sufficiency of Complaint
 - 1. A party may not have a hearing on a due process complaint unless the complaint meets the requirements in VI.C. of this policy.
 - 2. A due process complaint is sufficient unless the party receiving the complaint notifies the hearing officer and complainant in writing within fifteen (15) calendar days of receipt of the complaint that the receiving party believes the complaint does not meet the requirements of Section VI.C. of this policy.
 - 3. Within five (5) calendar days of receipt of notification of the notice set forth in Section VI.D.2. of this policy the hearing officer must make a determination on the face of the complaint of whether it meets the requirements of Section VI.C. of this policy and must immediately notify all parties in writing.

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E. Amending the Complaint

1. A party may amend a complaint only if:
 - a. The other party consents in writing to the amendment and is given the opportunity to resolve the complaint through a resolution meeting; or
 - b. The hearing officer grants permission to amend at any time no later than five (5) calendar days before the due process hearing is to begin.
2. If a party files an amended complaint, the timeline for the resolution meeting begins again upon filing.

F. Resolution Meeting

1. The Department must convene a Resolution Meeting within fifteen (15) business days of receiving notice of a due process complaint and prior to the initiation of the due process hearing.
2. The meeting must include:
 - a. Relevant members of the IFSP Team who have specific knowledge of the facts identified in the complaint. It is the responsibility of the parent and Department to determine the relevant members of the IFSP Team who should attend the resolution meeting.
 - b. A representative of the Department who has decision-making authority on behalf of that agency.
 - c. The meeting may not include an attorney of the Department, unless the parent is accompanied by an attorney.
3. The purpose of the resolution meeting is for the parent of the child to discuss the due process complaint and the facts which form the basis of the complaint, so the Department has the opportunity to resolve the dispute.
4. The resolution meeting may be waived if the parent and the Department agree in writing to waive the meeting or agree to use the mediation process to resolve the dispute.

G. Resolution Period

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1. If the Department has not resolved the due process complaint to the satisfaction of the parties within the thirty (30) days of the receipt of the complaint (“30-day resolution period”), the due process hearing may occur.
2. The forty-five (45-) day timeline for issuing a final decision begins at the expiration of the thirty (30-) day resolution period.
3. Except where parties have jointly agreed to waive the resolution meeting or use mediation, a parent’s failure to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until the meeting is held.
4. If the Department is unable to obtain the parent’s participation in the resolution meeting after reasonable efforts which have been documented, then the Department may request the hearing officer dismiss the parent’s due process complaint at the conclusion of the thirty (30-) day resolution period.
5. If the Department fails to hold the resolution meeting within fifteen (15) business days of receiving notice of a parent’s due process complaint or fails to participate in the resolution meeting, then the parent may seek intervention of a hearing officer to begin the due process hearing timeline.
6. The forty-five (45-) day timeline starts the day after:
 - a. Both parties agree in writing to waive the resolution meeting;
 - b. After either the mediation or resolution meeting starts but before the end of the thirty (30-) day resolution period where the parties agree that an agreement is not possible; or
 - c. If both parties agree in writing to continue mediation at the end of the thirty (30-) day resolution period but later withdraws from the mediation process.
7. If a resolution is reached at the resolution meeting, then the parties must execute a legally binding agreement which is:
 - a. Signed by both parties and a representative of the Department who has authority to bind the agency; and
 - b. Enforceable in a district court of the United States.
8. A party may void the agreement within three (3) business days of agreement execution.

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H. Hearing Officer

1. A hearing officer must not be an employee of the Department or EIS provider which is involved in the care of the infant/young child and must not have personal or professional interests which conflict with the person's objectivity in the hearing.
2. A hearing officer must possess knowledge of and the ability to understand the provisions of the IDEA, Federal and State Regulations pertaining to the IDEA, and legal interpretations of the IDEA.
3. A hearing officer must also possess knowledge and ability to conduct hearings and render and write decisions in accordance with appropriate, standard legal practice.
4. The Department must keep a list of persons who serve as hearing officers and their qualifications.
5. A person is not considered an employee of the Department solely because they are paid by the Department to serve as a hearing officer.

I. Due Process Hearing

1. When a complaint is received and meets the requirements of Section VI.C. of this policy, the complainant must have an opportunity for a due process hearing.
2. The hearing must be conducted by the Department.
3. The complainant may not raise issues at the hearing that were not raised in the complaint unless the other party agrees.
4. Any party to a due process hearing under this policy or an appeal has a right to:
 - a. Be accompanied and advised by counsel and individuals with special knowledge or training with respect to the problems of infants and young children with disabilities;
 - b. Present evidence and confront, cross-examine, and compel the attendance of witnesses;
 - c. Prohibit the introduction of any evidence at the hearing which has not been disclosed to that party at least five (5) business days before the hearing;

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- d. Obtain a written or, at the option of the parents, electronic, verbatim recording of the hearing;
 - e. Obtain written, or at the option of the parents, electronic findings of fact and decisions.
5. At least five (5) business days prior to a hearing, each party must disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing. If a party fails to comply with this, then the hearing officer may bar the party from introducing such evaluations and recommendations at the hearing without consent of the other party.
 6. Parents involved in hearings must be given the right to open the hearing to the public and receive a copy of the record of the hearing and the findings of fact and decisions at no cost.
 7. The hearing officer's decision must be based on substantive grounds.
 8. A hearing officer is not precluded from ordering the Department or EIS provider to comply with all procedural requirements. However, in matters alleging a procedural violation, a hearing officer may find that a child was not appropriately identified, evaluated, placed, or provided early intervention services under Part C only if the procedural inadequacies:
 - a. Impeded the child's right to identification, evaluation, placement, or provision of early intervention services for the child and the child's family under Part C;
 - b. Significantly impeded a parent's opportunity to participate in the decision-making process regarding identification, evaluation, placement, or provision of early intervention services for the child and that child's family under Part C; or
 - c. Caused deprivation of educational or developmental benefit.
 9. A parent may file a due process complaint on an issue separate from a due process complaint already filed.
 10. The Department must make the findings and decisions of any due process hearing available for the public after removing all personally identifiable information.
- J. Finality of Decision and Review

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1. A decision made in a due process hearing is final, except that any party aggrieved by the findings and decisions in the hearing may appeal the decision to the Department.
2. If there is an appeal, then the Department must conduct an impartial review of the findings and decision appealed.
3. The Department official conducting the review must:
 - a. Examine the entire hearing record;
 - b. Ensure the procedures at the hearing were consistent with the requirements of due process;
 - c. Seek additional evidence if necessary. If a hearing is held to receive additional evidence, then the rights in Section VI.I.4. of this apply;
 - d. Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official;
 - e. Make an independent decision on completion of the review; and
 - f. Give a copy of the written or, at the option of the parents, electronic findings of fact and decisions to the parties.
4. The Department must make the findings and decisions of any review available for the public after removing all personally identifiable information.

K. Timelines Applicable to Due Process Hearings and Reviews

1. The Department must ensure a final decision is made, and a copy of the decision is mailed to all parties no later than forty-five (45) days after the thirty (30-) day resolution period.
2. The Department must ensure that within thirty (30) days after the receipt of a request for a review of due process hearing decision, a final decision is reached in the review and a copy of the decision is mailed to each party.
3. A due process hearing or reviewing officer may grant specific time extensions beyond the periods set out in this policy at the request of either party.
4. Each due process hearing or review involving oral arguments must be conducted at a time and place that is reasonably convenient to the parents and child involved.

VII. **REVISION HISTORY: February 8, 2022; May 21, 2025.**

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VIII. **ATTACHMENTS:**

- A. 60.7.3a TEIS Due Process Hearing Request Form