

## What is a Due Process Hearing?

A due process hearing is an impartial procedure used to resolve disagreements over issues on the Individualized Family Support Plan (IFSP) - such as eligibility determination or proposed changes in services to your child and family – or to challenge information in the Early Steps record. The due process hearing is at no cost to you, unless you choose to hire an attorney.

If you request a hearing or information about a hearing, the Local Early Steps (LES) will inform you of any free or low cost legal and advocacy services that are available. The LES will also inform you of the availability of mediation and your right for a resolution meeting.

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## Who May Request a Due Process Hearing?

A parent(s) may make a written request for a due process hearing to the LES or the Early Steps State Office (ESSO) while the child is enrolled in Early Steps or within 2 years of the date the parent knew (or should have known) about the alleged action.

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## How Do I File for a Due Process Hearing?

A written request for a hearing may be made to the Local Early Steps (LES) or Early Steps State Office (ESSO). You may send a written request to the Early Steps State Office at the address below. If you send a written request to the LES, they will forward the request to ESSO within 24 hours.

Part C Coordinator  
Florida Department of Health  
Children's Medical Services  
Early Steps State Office  
4052 Bald Cypress Way, BIN # A06  
Tallahassee, FL 32399-1707

A written request for a hearing must include the following information:

- the name and address of the child;
- the name and address of the parent(s);
- the name and address of the Local Early Steps or service provider against whom the complaint is made;
- a description of the nature of the complaint as it relates to the Individualized Family Support Plan (IFSP) or the Early Steps records;
- a proposed resolution of the problem to the extent known and available to the party at the time.
- the signature of the parent requesting the due process hearing, with the date of signing.

After receiving your written due process request, ESSO will send you information on next steps, timelines, and schedule a resolution meeting with you and other relevant IFSP team members to try to resolve the issues.

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## How is a Due Process Hearing Scheduled?

The LES and ESSO will work together to coordinate and schedule the hearing.

ESSO will send a copy of the hearing request and all written materials to the Department of Health, Office of the General Counsel. The Office of the General Counsel will forward copies of all correspondence to the Department of Management Services, Division of Administrative Hearings (DOAH).

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## Who Will Conduct the Due Process Hearing?

The due process hearing will be conducted by an **impartial** hearing officer in the Division of Administrative Hearings. The hearing officer will:

- ✓ Know about IDEA Part C and services available for eligible children and their families.

- ✓ Have the ability to conduct a hearing and write decisions.
- ✓ Provide a record of the hearing and a written decision.
- ✓ Not be an employee of ESSO, a LES or any other organization involved in providing early intervention services to your child.
- ✓ Not have any interests that would conflict with their ability to be fair and impartial during the hearing.

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## Where Will the Hearing Take Place & How Long Will It Last?

The hearing must be carried out at a time and place that is reasonably convenient to you. The hearing must be completed and a written decision mailed to you and the other party(ies) within 45 **calendar days** after the hearing request is received by ESSO.

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## What are My Rights During the Due Process Hearing?

Any parent involved in a due process hearing has the right to:

- A. Be accompanied by counsel or by individuals with special knowledge of early intervention services for children eligible under IDEA Part C.
- B. Present evidence, question, and require the attendance of witnesses.
- C. Get a written or electronic word-for-word record of the hearing at no cost.
- D. Get written or electronic findings of fact and decisions at no cost.
- E. Open the hearing to the public upon request; the hearing is closed to the public unless the parties request that it be open.

The parties involved in the hearing may not introduce any evidence at the hearing that has not been given to you at least 5 days before the hearing.

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### **What Happens to My Child's Services during the Hearing?**

During the timeframe of the due process hearing, your child must continue to receive the services currently being provided in the setting currently listed on the IFSP unless you and the other party(ies) agree otherwise. If you are applying for initial services, your child will receive the services not in question as authorized on his or her IFSP.

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### **What if I Disagree with the Due Process Hearing Decision?**

The decision of the hearing officer is considered *final*. If you disagree with the decision, you can bring civil action in a state or district court. You have 90 days from the date of the decision to bring civil action.



#### **For Additional Information**

More information on due process hearings is available from your Local Early Steps Office or by contacting the Early Steps State Office at the address below, via the website at <http://www.cms-kids.com>, or by calling 850-245-4200. Information can also be obtained by calling the Central Directory at 1-800-654-4440.

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# *A Parent's Guide To Understanding*

## **Due Process Hearings for *Early Steps***

**October 2013**

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Florida Department of Health  
Children's Medical Services  
Early Steps State Office