

**Procedures for Department of Public Welfare
Early Intervention Program
Due Process Hearings**

I. Scheduling the Hearing

- A. Upon receipt of a request for due process, the Office for Dispute Resolution assigns a Hearing Officer. The Hearing Officer then schedules a date and time for the hearing. If the date and time scheduled are not reasonably convenient to the parents, the Hearing Officer should be contacted immediately to discuss.
- B. As mandated by law for cases involving children less than three years of age, a Hearing Officer must render a decision within 30 days of receipt of the request.
- C. If parties are not prepared to move forward within the required 30 days, the Hearing Officer has the jurisdiction to dismiss the case, or ask the requesting party to withdraw the request. Parties would have the opportunity to re file at a later time.

II. Record of the Hearing

- A. Office for Dispute Resolution secures a stenographer for every due process hearing.
- B. A verbatim or electronic transcript of the hearing is provided within three (3) days of the hearing to the: 1) Hearing Officer, 2) parents, and 3) MH/MR County Office.
- C. The Hearing Officer will ascertain who is to receive the copy of the transcript (the party or the party's representative) and whether or not is it to be in written or electronic form. This copy is provided free of charge to the parties.

III. The Hearing

At least five (5) days before the hearing, the MH/MR County Office and the parents **must** provide each other with their lists of evidence and witnesses to be presented at the hearing. At least five (5) business days prior to a hearing, each party shall disclose to the other party all evaluations and the recommendations based on those evaluations completed by that date if that party intends to use it as evidence during the hearing. Each party, upon request, must have the opportunity to receive copies of and review the documents that are to be presented. Failure to disclose evidence in a timely manner prior to the hearing may result in the prohibition of the introduction of the material at the hearing.

IV. Decision of the Hearing Officer

- A. Within 30 days of the request for the hearing, the Hearing Officer will render a written decision or close the case. The decision will be based solely upon the evidence presented at the hearing. The Hearing Officer will include in his/her decision, findings of fact, a discussion and conclusions of law.
- B. The Hearing Officer will send, by certified mail, return receipt requested, a copy of the decision to the:
 - 1. Parent
 - 2. Parent's representative
 - 3. MH/MR County Office Contact
 - 4. MH/MR County Office representative
 - 5. The Office of Child Development & Early Learning Early Intervention Advisor
 - 6. The Office of Child Development & Early Learning Early Intervention Division Chief
- C. The Hearing Officer will send the transcript, all exhibits and one (1) copy of the decision to Office for Dispute Resolution.

V. Appeal

Each of the parties has the option of filing an Appeal to the Hearing Officer decision in a competent court of jurisdiction.

V. Technical Assistance

- A. For more information regarding due process, please visit our website at ODR.pattan.net. or call toll free 1-800-222-3353.