**24:14:03:09.  Complaints and due process hearings.** If a written complaint is received that is also the subject of a due process hearing under this article or contains multiple issues, of which one or more are part of that hearing, the department must set aside any part of the complaint that is being addressed in the due process hearing, until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action must be resolved using the time limit and procedures described in this chapter.

If an issue is raised in a complaint filed under this section that has previously been decided in a due process hearing involving the same parties, the hearing decision is binding on that issue and the department shall inform the complainant to that effect. A complaint alleging a public agency's or a nonpublic service provider's failure to implement a due process decision must be resolved by the department.

**Source:** 26 SDR153, effective May 22, 2000; 35 SDR 82, effective October 22, 2008; 39 SDR 109, effective December 17, 2012.

**General Authority:** SDCL 13-37-1.1.

**Law Implemented:** SDCL 13-1-23, 13-14-1, 13-37-1.1.