**24:14:14:16.11.  Agency or provider response to due process complaint.** If a public agency or nonpublic service provider has not sent a prior written notice under this chapter to the parent regarding the subject matter contained in the parent's due process complaint, the public agency or nonpublic service provider shall, within 10 days of receiving the due process complaint, send to the parent a response that includes:

(1)  An explanation of why the public agency or nonpublic service provider proposed or refused to take the action raised in the due process complaint;

(2)  A description of other options that the IFSP team considered and the reasons why those options were rejected;

(3)  A description of each evaluation procedure, assessment, record, or report the public agency or nonpublic service provider used as the basis for proposed or refused action; and

(4)  A description of the other factors that are relevant to the public agency's or nonpublic service provider's proposed or refused action.

A response by the public agency or nonpublic service provider under this section does not preclude the public agency or nonpublic service provider from asserting that the parent's due process complaint was insufficient, if appropriate.

**Source:** 35 SDR 82, effective October 22, 2008.

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

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