

# **WEST VIRGINIA DEPARTMENT OF EDUCATION**

## **Office of Special Programs**

### **INFORMATION FOR INDIVIDUALS FILING FOR MEDIATION:**

Attached please find the following information related to mediation:

1. Mediation Request Form
2. Mediation Basics
3. Procedural Safeguards Available to Parents and Students, which includes mediation and hearing rights.

Please contact Ghaski Browning, Assistant Director, West Virginia Department of Education, Office of Special Programs (OSP) at 1-(800) 642-8541 or (304) 558-2696 for further information.

## West Virginia Department of Education Office of Special Programs

### MEDIATION BASICS

Mediation is an informal process for resolving disputes regarding the identification, evaluation, placement or free appropriate public education (FAPE) of an exceptional student. As an informal process for assisting the parties in discussing their concerns, mediation can result in creative solutions not possible in a state complaint or due process hearing. The goal of mediation is to resolve concerns and to open lines of communication that will benefit the student, parent and school personnel throughout the school life of the student. Mediation can be a winning situation for all involved.

- Mediation is voluntary on the part of both parties: both the school district and parents must agree to participate. Either party may request mediation.
- Mediation may be requested without first filing for a due process hearing or it may be requested after filing for a hearing. It may not be used to deny or delay a hearing or other rights.
- Parents don't give up any of their rights when they request mediation. They may choose to give up some things as a result of the agreement.
- The impartial mediator is a person selected by the Office of Special Programs (OSP) and trained in mediation processes, special education law and regulations.
- The mediator assists parties in discussing their issues and solutions; the mediator does not make a decision or tell people what to do.
- The OSP pays for the cost of the mediator.
- Request mediation with the school district and the OSP.
- The OSP will assign a mediator on a rotational basis. The mediator then takes responsibility for scheduling the mediation.
- The mediator will schedule the session in a timely manner and at a convenient location by agreement of the parties.
- Parties may bring others to the mediation to assist them. Parties are encouraged to keep the number of people involved to a minimum, but those needed to make a decision should be present or available by phone.

- Discussions during the mediation process are **confidential** and may not be used as evidence in any subsequent due process hearings or civil proceedings. All those present at mediation will be asked to sign a confidentiality agreement.
- If successful, the mediation session will result in a written agreement signed by the parties. The written agreement is copied for the parties and filed with OSP.
- Parties who sign mediation agreements are expected to implement them voluntarily. If this does not occur, the parties have the right to a due process hearing or a state complaint regarding violations of Policy 2419 or IDEA. Parties also have a right to civil action.

## Mediation Request

A mediation under the Individuals with Disabilities Education Improvement Act (IDEA 2004) is requested for the following student. Mediation may be filed in any matter relating to the identification, evaluation, educational placement of student, and/or the provision of a free appropriate public education (FAPE).

|  |                                |
|--|--------------------------------|
| Student:   | Parent:                        |
| Student's Address (residence)  | Parent Address: (if different) |
| DOB: _____ Age: _____  | Phone: _____                   |
| School: _____  | Parent Counsel: (if any)       |
| County: _____  | Address                        |
|  |                                |
|  |                                |
|  | Phone: _____                   |
| In the case of a homeless student (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 44434a(2)). Contact Information:            |                                |
|  |                                |
| <b>Signature/Date: (Party Requesting the Mediation)</b>  |                                |
| Briefly describe the issue(s) for which the mediation is being requested, including any related facts (Attach additional information, if necessary).                         |                                |
|  |                                |
| If known, please state a proposed resolution to the issue(s).  |                                |
|  |                                |
| <b>A mediation request must be signed by the party requesting the mediation. The request must contain an original signature. Facsimiles or e-mails will not be accepted.</b> |                                |

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