

281—120.70(34CFR303) Mediation.

120.70(1) General. The signatory parties shall ensure that mediation procedures are established and implemented by grantees to allow parties to dispute matters involving refusal to initiate or change the identification, evaluation, or placement of a child, or the provision of appropriate early intervention services to the child and the child's family. At a minimum, the mediation process to resolve a dispute must be available whenever a hearing is requested under rule 281—120.71(34CFR303). [34 CFR 303.419(a)]

120.70(2) Requirements.

- a.* The procedures must meet the following requirements:
- (1) The mediation process shall be voluntary on the part of the parties;
 - (2) The mediation process shall not be used to deny or delay a parent's right to a due process hearing or to deny any other rights afforded under these rules; and
 - (3) The mediation process shall be conducted by a qualified and impartial mediator who is trained in effective mediation techniques. [34 CFR 303.419(b)(1)]
- b.* The lead agency shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.
- c.* The lead agency shall bear the cost of the mediation process, including the costs of mediation meetings.
- d.* Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute.
- e.* An agreement reached in the mediation process by the parties to the dispute must be set forth in a written mediation agreement.
- f.* Discussions that occur during the mediation process must be confidential and shall not be used as evidence in any subsequent due process hearings or civil proceedings. The parties to the mediation process shall be required to sign a confidentiality pledge prior to the commencement of the process. [34 CFR 303.419(b)(2)]

120.70(3) Meeting to encourage mediation. Parents who elect not to use the mediation process may meet with a disinterested party who is under contract with the state parent training and information center or an appropriate alternative dispute resolution entity that shall explain the benefits of the mediation process and encourage the parents to use the process. The meeting shall be carried out at a time and location that is reasonably convenient to the parents. [34 CFR 303.419(c)]