

281—41.1002(256B,34CFR300) Special education mediation conference.

41.1002(1) Procedures. The parent, the LEA or the AEA may request a special education mediation conference on any decision relating to the identification, evaluation, educational placement, or the provision of FAPE without the need for filing a due process complaint. The mediation conference shall comply with rule 281—41.506(256B,34CFR300).

a. A request for a special education mediation conference may be in the form of a letter or a pleading or on a form provided by the department. The request will identify the student, LEA and AEA and set forth the facts, the issues of concern, or the reasons for the conference. The letter will be provided to the department, to the AEA, and to the LEA.

b. Within five business days of receipt of the request for the conference, the department will contact all pertinent parties to determine whether participation is desired.

c. A mediation conference will be scheduled and held at a time and place reasonably convenient to all parties involved. Written notice will be sent to all parties by the department.

d. The student's complete school record will be made available for review by the parent prior to the conference, if requested in writing at least ten calendar days before the conference.

e. The individual's complete school record will be available to the participants at the conference if the record is requested in writing at least ten calendar days prior to any scheduling conference call or within two days following the scheduling conference call. The parties may agree to make less than the complete educational record available, or make no educational records available, at the mediation conference.

f. A mediator provided by the department will preside over the conference.

g. If an agreement is reached, a document meeting the requirements of paragraph 41.506(2) "f" will be executed.

h. If agreement is not reached at the conference, all parties will be informed of the procedures for filing a due process complaint.

41.1002(2) Placement during proceedings. Pursuant to rule 281—41.518(256B,34CFR300), unless the parties agree otherwise, the student involved in the mediation conference must remain in the student's present educational placement during the pendency of the proceedings.

41.1002(3) Withdrawals or automatic closures. The initiating party may request a withdrawal prior to the conference. Automatic closure of the department file will occur if any of the following circumstances apply:

a. One of the parties refuses to participate in the voluntary process.

b. The conference is held, but parties are not able to reach an agreement. There will be a ten-calendar-day waiting period after the conference to continue the placement as described in subrule 41.1002(2) in the event a party wishes to pursue a hearing.

c. The conference is held, the parties are able to reach an agreement, and the agreement does not specify a withdrawal date. If a withdrawal date is part of the agreement, an agency withdrawal will occur on the designated date.

41.1002(4) Confidentiality of discussions. Discussions that occur during the special education mediation conference must be confidential, except as may be provided in Iowa Code chapter 679C, and may not be used as evidence in any subsequent due process hearings or civil proceedings; however, the parties may stipulate to agreements reached at the conference. Prior to the start of the conference, the parties and the mediator will be required to sign an Agreement to Mediate form containing this confidentiality provision.

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