

## 2023 Kansas Statutes

**72-3438. Dispute resolution through mediation; procedures; list of mediators; costs; time and location; agreements; confidentiality.** (a) The state board shall establish and implement procedures to allow agencies and parents to resolve disputes involving any matter, including matters arising prior to the filing of a complaint, through a mediation process.

(b) The procedures adopted shall ensure that the mediation process is:

- (1) Voluntary on the part of the parties;
- (2) not used to deny or delay a parent's right to a due process hearing, or to deny any other rights afforded under this act; and
- (3) conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

(c) The state board 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 and shall establish procedures for the appointment of a mediator to help resolve disputes between the parties.

(d) The state board shall bear the cost of the mediation process described in this section.

(e) Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

(f) If the mediation process results in a resolution of the complaint, the parties shall execute a written agreement that both the parent and an authorized representative of the agency shall sign and that, at a minimum, includes the following statements:

- (1) The resolution of each issue presented in the complaint;
- (2) all discussions that occurred during the mediation process are confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and
- (3) each party understands that the agreement is legally binding upon them; and
- (4) the agreement may be enforced in state or federal court.

(g) Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings.

**History:** L. 1999, ch. 116, § 35; L. 2005, ch. 171, § 21; July 1.