

Stay-Put During the Mediation Process

As of June, 2008, state regulations were modified to incorporate pendent placement (stay-put status) for a child during mediation proceedings. These regulations include 22 Pa. Code Chapters 14.162 (s) and 711.62 (e) (State Special Education Regulations).

Mediation remains a voluntary option for parents and local education agencies (LEAs). However, if a parent requests mediation within ten calendar days of receipt of a NOREP recommending a change in the student's placement, the law now requires that the student remain in the current educational program, unless the parent and LEA agree otherwise. (Disciplinary changes in placement as outlined in 34 CFR 300.530 (c) and (g) are not covered by pendency during mediation.)

To facilitate an efficient process, parents and LEAs are expected to notify the Office for Dispute Resolution (ODR) without delay regarding their decision about whether or not they will agree to participate in mediation.

The following describes ODR's process for handling mediation requests:

- A letter is sent to the parties advising
 - ✓ Mediation has been requested.
 - ✓ If either party notifies ODR that they choose not to participate, ODR will closed mediation after 10 days.
 - ✓ Parties sign and return the Agreement to Mediate form without delay.
 - ✓ ODR Case Manager coordinates with the parties to schedule date/time/place for mediation and assigns a mediator.
- If ODR is notified that either party has declined to participate in mediation, a letter is sent to the parties advising
 - ✓ Mediation has been declined.
 - ✓ ODR will close mediation 10 days from the date of the letter.
 - ✓ Due process must be initiated before the end of the above 10 days to maintain stay-put status.
- If ODR is unable to confirm a party's willingness to participate in mediation, a letter is sent to both parties advising that the mediation proceeding will be considered closed with 10 days. Due process must be initiated before the end of these 10 days to maintain stay-put status.
- If the mediation session is held but no agreement is reached, a letter is sent to the parties advising
 - ✓ No agreement was reached at mediation

- ✓ ODR will consider the mediation closed 10 days from the date the letter is sent.
- ✓ Due process must be initiated within these 10 days to maintain stay-put status.

- Enforcement of stay-put status
 - ✓ Mediator has no authority to enforce pendency/stay-put.
 - ✓ Bureau of Special Education (BSE) investigates compliance complaints.
 - ✓ Contact the Special Education ConsultLine with questions regarding compliance complaints at 800-879-2301.

- Please visit ODR website (www.odr-pa.org) for more information on mediation, such as
 - ✓ Frequently asked questions
 - ✓ Request form
 - ✓ Mediation guide
 - ✓ Penn-Link from BSE explaining pendency in mediation