

**Checklist for Legally Binding Mediation Agreement
(For Mediations Conducted by Iowa Special Education Mediators)**

<i>I. Recitation of facts (can be in narrative format)</i>	Yes	No	NA
1. Name of student (First and last)			
2. Resident district			
3. Attending district if different			
4. AEA			
5. Date of mediation			
6. Location of mediation			
8. Names and roles of people attending			

Optional: birthdate, disability, grade level, and other information

<i>II. Resolution section</i>	Yes	No	NA
1. For each issue identified: <ul style="list-style-type: none"> • A specific action described how to resolve the issue as agreed to by all parties. • A person was identified as being responsible to initiate and complete an action in order to resolve the issue. • A timeline was provided for a particular issue. (E.g., a strategy might be implemented a certain period of time before reevaluating the effectiveness.) 			
2. The agreement identified a person responsible to (a) coordinate the implementation of the entire agreement and (b) to serve as the point of contact for all parties, i.e., the “shepherd.”			
3. If appropriate, the parties wrote a contingency plan because of something that has the potential to be outside the control of any party in the dispute. (E.g., an independent evaluation may be agreed upon yet there may be a waiting period.)			
4. It passed the “stranger test.” <ul style="list-style-type: none"> • If a reasonable person not in attendance read the agreement, would the person know what it meant? • Can all parties articulate the expectations in the agreement? • Was everything clearly defined? 			
5. The starting and ending date of the agreement was specified.			

<i>III. Signatures and dates.</i>	Yes	No	NA
1. Every person in attendance signed the Agreement to Mediate sheet.			
2. When a final agreement became available (following present procedures to get to that point), the written agreement was signed and given or sent to the mediator. If sent, each party may have signed on a separate signature page.)			
3. A timeline was provided (usually within three business days of receipt of the agreement.)			
4. The mediator sent via U.S. mail a copy of the signed agreement to all participants and to the DE.			

Requirements for legally binding mediations based on:

Section 615. Procedural Safeguards

615(e)

“(F) **WRITTEN AGREEMENT.**--In the case that a resolution is reached to resolve the complaint through the mediation process, the parties shall execute a legally binding agreement that sets forth such resolution and that--

“(i) states that all discussions that occurred during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding;

“(ii) is signed by both the parent and a representative of the agency who has the authority to bind such agency;
and

“(iii) is enforceable in any State court of competent jurisdiction or in a district court of the United States.

“(G) **MEDIATION DISCUSSIONS.**--Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding.

Federal Regulations (Effective October 13, 2006)

Sec. 300.506 Mediation.

(a) (6) If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement that sets forth that resolution and that--

(i) States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and

(ii) Is signed by both the parent and a representative of the agency who has the authority to bind such agency.

(7) A written, signed mediation agreement under this paragraph is enforceable in any State court of competent jurisdiction or in a district court of the United States.

Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal court or State court of a State receiving assistance under this part.

(Approved by the Office of Management and Budget under control number 1820-0600)

(Authority: 20 U.S.C. 1415(e))