

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 4532

(SENATE AUTHORS: WESTLIN)

DATE
03/04/2024

D-PG
11906 Introduction and first reading
Referred to Education Policy

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to education; modifying the process to resolve a dispute through a mediator
1.3 or department complaint process; amending Minnesota Statutes 2022, section
1.4 125A.091, subdivisions 10, 12, 15, by adding a subdivision.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2022, section 125A.091, subdivision 10, is amended to
1.7 read:

1.8 Subd. 10. **Mediated agreements.** If the parties resolve all or a portion of the dispute,
1.9 or agree to use another procedure to resolve the dispute, the mediator shall ensure that the
1.10 resolution or agreement is in writing and signed by the parties and each party is given a
1.11 copy of the document. The written resolution or agreement shall state that all discussions
1.12 that occurred during mediation are confidential and may not be used as evidence in any
1.13 hearing or civil proceeding. The resolution or agreement is legally binding upon the parties
1.14 and is enforceable in the state or federal district court, or at a parent's written request, through
1.15 the Department of Education complaint process. A party may request another mediation to
1.16 resolve a dispute over implementing the mediated agreement.

1.17 Sec. 2. Minnesota Statutes 2022, section 125A.091, subdivision 12, is amended to read:

1.18 Subd. 12. **Impartial due process hearing.** A parent or a district is entitled to an impartial
1.19 due process hearing conducted by the state when a dispute arises over the identification,
1.20 evaluation, educational placement, manifestation determination, interim alternative
1.21 educational placement, or the provision of a free appropriate public education to a child
1.22 with a disability. ~~The hearing must be held in the district responsible for ensuring that a free~~
1.23 ~~appropriate public education is provided according to state and federal law.~~ The proceedings

2.1 must be recorded and preserved, at state expense, pending ultimate disposition of the action.
2.2 The parent and the district shall receive, at state expense, a copy of the hearing transcript
2.3 or recording and the hearing officer's findings of fact, conclusion of law, and decisions. An
2.4 impartial due process hearing may be filed and held in a district where a student is no longer
2.5 enrolled and shall not be barred based on the student's enrollment status if the remedies
2.6 sought are not moot.

2.7 Sec. 3. Minnesota Statutes 2022, section 125A.091, subdivision 15, is amended to read:

2.8 Subd. 15. **Prehearing ~~conference~~ conferences.** A prehearing conference must be held
2.9 within five business days of the date the commissioner appoints the hearing officer. The
2.10 hearing officer must initiate the prehearing conference which may be conducted in person,
2.11 at a location within the district, or by telephone. The hearing officer must create a written
2.12 verbatim record of the prehearing conference which is available to either party upon request.
2.13 At the prehearing conference, the hearing officer must:

2.14 (1) identify the questions that must be answered to resolve the dispute and eliminate
2.15 claims and complaints that are without merit; and

2.16 (2) confirm whether the parties will hold a resolution session under subdivision 15a or
2.17 whether the parties will waive the resolution session.

2.18 If both parties waive the resolution session, the hearing officer must also:

2.19 ~~(2)~~ (i) set a scheduling order for the hearing and additional prehearing activities;

2.20 ~~(3)~~ (ii) determine if the hearing can be disposed of without an evidentiary hearing and,
2.21 if so, establish the schedule and procedure for doing so; and

2.22 ~~(4)~~ (iii) establish the management, control, and location of the hearing to ensure its fair,
2.23 efficient, and effective disposition.

2.24 If the parties plan to hold a resolution session, the parties must notify the hearing officer of
2.25 the results of the resolution session within two days following the resolution session. If the
2.26 matter has not been resolved, a second prehearing conference must be held within five days
2.27 of the notice to the hearing officer. At the second prehearing conference, the hearing officer
2.28 must address items (i) through (iii).

3.1 Sec. 4. Minnesota Statutes 2022, section 125A.091, is amended by adding a subdivision
3.2 to read:

3.3 Subd. 15a. **Resolution session.** Prior to the opportunity for an impartial due process
3.4 hearing under subdivision 12, the district shall convene a resolution session with a parent
3.5 and relevant member or members of the individualized education program team who have
3.6 specific knowledge of the facts identified in the complaint. Unless the parent and the district
3.7 agree in writing to waive the resolution session, or agree to use the mediation process under
3.8 subdivision 9, the resolution session must:

3.9 (1) be held within 15 days of receiving notice of a request for an impartial due process
3.10 hearing;

3.11 (2) include a representative of the district who has decision making authority on behalf
3.12 of the agency;

3.13 (3) not include an attorney of the district unless the parent is accompanied by an attorney;
3.14 and

3.15 (4) allow the parent and the district to discuss the request for an impartial due process
3.16 hearing, to discuss the facts that form the basis of the request for an impartial due process
3.17 hearing, and to have the opportunity to resolve the request for an impartial due process
3.18 hearing.