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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 854

02/07/2019 Authored by Torkelson
The bill was read for the first time and referred to the Committee on Education Policy

1.1 A bill for an act
1.2 relating to education; eliminating a conciliation conference; amending Minnesota
1.3 Statutes 2018, section 125A.091, subdivisions 3a, 8; repealing Minnesota Statutes
1.4 2018, section 125A.091, subdivision 7; Minnesota Rules, part 3525.3700, subparts
1.5 1, 1a, 3.

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

1.7 Section 1. Minnesota Statutes 2018, section 125A.091, subdivision 3a, is amended to read:

1.8 Subd. 3a. Additional requirements for prior written notice. In addition to federal law
1.9 requirements, a prior written notice shall:

1.10 (1) inform the parent that except for the initial placement of a child in special education,
1.11 the school district will proceed with its proposal for the child's placement or for providing
1.12 special education services unless the child's parent notifies the district of an objection within
1.13 14 days of when the district sends the prior written notice to the parent; and

1.14 (2) state that a parent who objects to a proposal or refusal in the prior written notice may
1.15 request a conciliation conference under subdivision 7 or another an alternative dispute
1.16 resolution procedure under subdivision 8 or 9.

1.17 Sec. 2. Minnesota Statutes 2018, section 125A.091, subdivision 8, is amended to read:

1.18 Subd. 8. Voluntary dispute resolution options. In addition to offering at least one
1.19 conciliation conference, A district must inform a parent of other dispute resolution processes,
1.20 including at least mediation and facilitated team meetings. The fact that an alternative dispute
1.21 resolution process was used is admissible in evidence at any subsequent proceeding.
1.22 State-provided mediators and team meeting facilitators shall not be subpoenaed to testify

2.1 at a due process hearing or civil action under federal special education law nor are any
2.2 records of mediators or state-provided team meeting facilitators accessible to the parties.

2.3 Sec. 3. **REPEALER.**

2.4 (a) Minnesota Statutes 2018, section 125A.091, subdivision 7, is repealed.

2.5 (b) Minnesota Rules, part 3525.3700, subparts 1, 1a, and 3, are repealed.

125A.091 ALTERNATIVE DISPUTE RESOLUTION AND DUE PROCESS HEARINGS.

Subd. 7. **Conciliation conference.** A parent must have an opportunity to meet with appropriate district staff in at least one conciliation conference if the parent objects to any proposal of which the parent receives notice under subdivision 3a. A district must hold a conciliation conference within ten calendar days from the date the district receives a parent's objection to a proposal or refusal in the prior written notice. Except as provided in this section, all discussions held during a conciliation conference are confidential and are not admissible in a due process hearing. Within five school days after the final conciliation conference, the district must prepare and provide to the parent a conciliation conference memorandum that describes the district's final proposed offer of service. This memorandum is admissible in evidence in any subsequent proceeding.

3525.3700 CONCILIATION CONFERENCE.

Subpart 1. **When a conference must be offered.** Parents must have an opportunity to meet with appropriate district staff in at least one conciliation conference if the parents object to any proposal or refusal of which the parents are notified under Minnesota Statutes, section 125A.091, subdivision 2. If the parent refuses efforts by the district to conciliate the dispute with the district, the district is deemed to have satisfied its requirement to offer a conciliation conference.

Subp. 1a. **When and where held; results.** A conciliation conference must be held in accordance with items A to E.

A. A conciliation conference must be held within ten calendar days from the date the district receives a parent's objection and at a time and place mutually convenient to the parent and school district representatives.

B. A conciliation conference must not be used to unilaterally delay or deny a parent's right to a hearing.

C. Statements made during a conciliation conference must remain confidential and may not be admitted in evidence in a due process hearing, except as provided in item D, and except to allow a party to establish at a due process hearing that a particular service or action was requested or offered.

D. Within five school days after the final conciliation conference, the district must provide the parent with a written memorandum that conforms with Minnesota Statutes, section 125A.091, subdivisions 3 and 4, and must provide the parent with any proposed IEP resulting from the conciliation conference. The memorandum and IEP are admissible evidence in a due process hearing.

E. If the proposed action is an initial evaluation, initial placement, or the initial provision of special education, the district must not proceed until the parents give written informed consent. For all other proposed actions, the district must proceed 14 calendar days after the memorandum is provided to the parents, unless the parent objects in writing to the proposed action within that time period.

Subp. 3. **Refusal to conciliate; request for hearing.** When the parent refuses efforts by the district to conciliate the dispute and notifies the district of the intent to go to an impartial due process hearing, the district must inform the parent of the procedure for requesting the hearing and all other procedural safeguards pursuant to part 3525.3900, subpart 3, item J, and Code of Federal Regulations, title 34, section 300.504.