

## **5122:2-1-06 Mediation procedures for community mental health boards and contract agencies of those boards.**

(A) The purpose of this rule shall be to establish mediation procedures for community mental health boards and contract agencies of those boards.

(B) The provisions of this rule shall be applicable to the division of mental health facilities and services, community mental health boards and contract agencies.

(C) The provisions of this rule shall be liberally construed to promote resolution of disputes between community mental health boards and contract agencies.

### (D) Request for mediation

(1) If either a board or an agency with which it contracts for mental health services, programs, or facilities proposes not to renew the contract or proposes substantial changes in contract terms, the other party shall be given written notice at least one hundred twenty days before the expiration date of the contract.

(2) The party given such notice may request advisory mediation within thirty days after receipt of the written notice.

(3) Request for mediation shall be in writing addressed to the "Chief, Division of Mental Health Facilities and Services, Department of Mental Health, 30 E. Broad Street, Columbus, Ohio 43215."

(4) Requests shall include a copy of the contract or agreement between the parties and a brief statement of issues in dispute.

(5) The chief shall contact the other party to the dispute within seven calendar days of receipt of the request to determine whether that party agrees to mediate the dispute.

(6) Should one party not agree to mediation, the chief shall notify both parties accordingly. No further procedures are then required by this rule.

### (E) Selection of a mediator

(1) After the requirements of paragraph (D) of this rule have been satisfied, the parties will attempt to select an impartial mediator by mutual agreement. In the event the parties cannot reach such an agreement, by joint letter they will request the chief to submit a panel of not more than five names of persons considered qualified to mediate disputes by the chief. Representatives of the parties shall strike names from the panel alternately until one name remains. That person shall serve as mediator.

(2) An employee of the department who agrees to serve as a mediator on a non-fee basis may be mutually selected by the parties.

### (F) Function of mediator

(1) The sole function of the mediator shall be advisory in nature.

(2) The mediator shall have the authority to:

(a) Request documents or other material from either party in order to mediate the dispute;

(b) Submit written questions to either party;

(c) Conduct joint meeting between the parties;

(d) Make written recommendations to the parties for resolution of the dispute;

(e) Establish timelines for resolution of the dispute.

(G) Joint meeting

(1) The mediator shall arrange a meeting between the parties for the purpose of receiving arguments and written material concerning each party's position.

(2) Each party shall designate one representative, authorized to represent the party pending ratification by the appropriate board, to the meeting. The parties may send other personnel to the meeting in addition to the representative.

(3) Each party shall present arguments on the merits of their position and submit written material or exhibits relevant to a resolution of the dispute at the meeting, provided that the mediator may require presentation of written material to the other party and the mediator, prior to the meeting.

(4) The mediator shall preside at the meeting and at his discretion:

(a) Limit the length of each party's oral presentation;

(b) Limit the amount of written material or exhibits submitted by a party at a meeting;

(c) Decide whether material submitted is relevant to the issues in dispute and exclude material that is not relevant or cumulative;

(d) Provide for the meeting to be recorded, by tape recorder or other means;

(e) Adopt other procedures to govern the conduct of the meeting or necessary for equitable presentation of each party's position.

(5) The "Ohio Rules of Evidence" shall not apply to the proceeding between the parties at a joint meeting.

(6) At the conclusion of the joint meeting, the mediator shall set a date for issuance of his written recommendations for resolution of the dispute.

(H) Recommendations:

(1) The mediator shall make written recommendations for resolution of the dispute.

(2) A copy of the mediator's recommendations shall be sent to the chief of mental health facilities and services and the parties.

(3) The mediator's recommendations shall not be binding on either party.

(I) Time for completion of mediation

(1) The mediation shall be completed within sixty calendar days from the date of the request for mediation, unless both parties agree to a time extension.

(2) Neither party shall agree to extend the time for mediation for a period exceeding ten calendar days.

(3) An agreement to extend the time for mediation must be in writing, signed by a representative of both parties and contain a date for completion of the mediation.

(4) Agreements to extend the time for mediation must be submitted to the mediator within seven calendar days of the selection of the mediator.

(J) Mediation fees

(1) The fee, if any, of the mediator shall be divided equally between the parties.

(2) Each party shall otherwise be responsible for his own expenses arising from the utilization of the mediator.

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