**Section 500.145 Mediation**

a) Parties/Purpose

1) Any party having a dispute involving any matter under Part C, including the identification, evaluation or placement of a child for EI services, or the provision of EI services, may request Mediation to resolve the disputes. Mediation may be used at any time, regardless of whether a request for a Due Process Hearing or a State Complaint is filed.

2) One purpose of a Mediation process is to provide an alternative to the Due Process Hearing as a way to resolve disagreements. In virtually all cases, it is less costly and less adversarial than a Due Process Hearing. Neither party is asked to abandon its beliefs about the child's ability. Rather, the parties are asked to consider alternatives that could be incorporated into the child's IFSP and to be aware of the concerns and problems expressed by the other party.

b) The form, Request for Mediation, shall be submitted in writing to:

Chief

Bureau of Hearings

Illinois Department of Human Services

69 W. Washington Street, 4th Floor

Chicago, Illinois 60602

with a copy sent to the regional intake entity serving the child and to:

Part C Coordinator, Bureau of EI

Department of Human Services

823 East Monroe

Springfield, Illinois 62701

c) The written request shall include the name and address of the child and of the person requesting Mediation, a description of the nature of the problem of the child, including the facts related to the problem, a proposed resolution to the problem, supporting relevant documentation of the facts, and the name and address of service providers.

d) If a request for a Due Process Hearing is made, Mediation will be offered. Mediation may not be used to delay or deny a parent's right to a Due Process Hearing or other rights under Part C.

e) The Mediation will be conducted by a qualified and impartial mediator who is trained in effective Mediation techniques and who is knowledgeable in laws and regulations relating to EI services under Part C. The Department must maintain a list of individuals who meet these criteria and the Department must select mediators on a random, rotational or other impartial basis. A mediator may not be an employee of an agency providing services to the child at issue nor of the Department, nor have a personal or professional interest that conflicts with the person's objectivity.

f) The Department shall bear the cost of the Mediation process. It must be voluntary by all parties.

g) The mediator shall assure that a Mediation conference is convened within 10 days after the request for Mediation and concluded in a timely fashion and in no event later than the Due Process Hearing, if one was requested.

h) The mediator will contact the parties to set a mutually convenient date, time and location for the Mediation conference, to answer any questions the parties may have regarding the process, and to request additional information from the parties.

i) The role of the mediator is that of a neutral facilitator assisting parents and EI personnel to resolve their disagreement. Although the mediator is in control of the session, he/she is not the decision maker and may not compel action by either party. The mediator allows the parties to present their positions, establishes an understanding of the disagreement, determines points of agreement, and offers suggestions/proposals for resolution, attempting to help the parties achieve a mutual solution that is in the best interests of the child. The mediator facilitates the process and may help the parties consider possible alternatives.

j) If agreement is reached by the parties, it shall be set forth in a written Mediation agreement signed by authorized representatives of the parties to the dispute who have authority to bind the parties. The Mediation agreement will record only the date of the Mediation, the parties to the Mediation and terms agreed upon and the following statement: 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.

k) Discussions that occur during the Mediation process shall be confidential and may not be used as evidence in any subsequent administrative hearing or civil proceeding. The parties will be asked to sign a confidentiality pledge prior to the commencement of the Mediation. Only the fact that Mediation occurred and the terms of any Mediation agreement reached are admissible in subsequent proceedings.

l) Participants in the Mediation conference should be limited to those necessary to resolution of the dispute and shall include persons authorized to act on behalf of the parties. In determining participants, the parties and mediator should be guided by desire to achieve mutual non-adversarial problem solving with the child's interests and the interests of the EI Services System as the goal.

m) The parties are expected to approach the Mediation session in good faith and with the intention of attempting to reach an agreement. It is important that all parties approach the session with a willingness to listen and to consider all aspects of the issues in the interests of the child and of the EI Services System. They are active participants in the session and, if agreement is reached, develop the terms of the agreement with the assistance of the mediator.

n) The Mediation allows an uninterrupted opportunity for both parties to present their views in a non-adversarial setting. It allows parents and EI Program personnel to focus on their common concerns, rather than their differences. Even if an agreement is not reached, there is the potential of both parties leaving the session with an enhanced perspective of the issues, and with a more positive working relationship.

o) Regional intake entities, Service Coordinators and other participants in the EI Services System shall encourage resolution of disputes by Mediation.

p) Services During Proceeding: During the pendency of the Mediation proceedings, unless the parent and the Department agree otherwise, the child must continue to receive the appropriate Part C services identified in the most recent IFSP to which the parents consented. If the Request for Mediation involves application for Part C services, the child must receive services that are not in dispute.

(Source: Amended at 40 Ill. Reg. 9491, effective June 29, 2016)