



State of New Jersey

DEPARTMENT OF EDUCATION
PO Box 500
TRENTON, NJ 08625-0500

RICHARD J. CODEY
Acting Governor

LUCILLE E. DAVY
Acting Commissioner

December 22, 2005

New Jersey Special Education Practitioners
c/o Education Law Center
60 Park Place, Suite 300
Newark, NJ 07102

Re: "Mediation Only" Requests

Dear Sirs and Madams:

I am writing in response to your letter concerning how the Department handles requests for "mediation only" when the requesting party subsequently determines to amend their request to one for a due process hearing. As you are aware, as of the effective date of the Individuals with Disabilities Education Act of 2004 (IDEA 2004), the Department determined that, if a request for mediation only was filed and the party filing the request subsequently determined to seek a due process hearing, the mediation only case would be closed and a new due process case would have to be filed. This allowed for the procedures required by IDEA 2004, such as the resolution period, the requirement that responses to requests for a due process hearing be filed and the ability to challenge the sufficiency of a petition, none of which apply to requests for mediation only, to be implemented and completed as necessary.

However, one result of this procedure was that, if the original mediation only case that resulted in a "stay put" for a student was closed, a stay put did not continue with the filing and opening of the new request for a due process hearing. In order to allow for maintenance of a stay put placement when it is properly invoked, the Department has developed a new procedure that it will follow when a party seeks to convert a request for mediation only to one for a due process hearing while the case is still open with the Department.

As of December 1, 2005, the following procedure is followed when a written request to convert a case from mediation only to one for a due process hearing is received by the Department: the case is converted to a new agency number, rather than being closed and opened under a new agency number; notice of closing is not issued for the original case. Rather, an acknowledgement for the new case number indicating that the case has been converted is issued.



This will allow for maintenance of the stay put and implementation of the requirements of IDEA 2004 for the due process case. I trust this addresses the concerns expressed in your correspondence.

Sincerely,



Roberta Wohle, Acting Director
Office of Special Education Programs

RW/CK/JW

c: Barbara Gantwerk
Carol Kaufman
John Worthington
Honorable Laura Sanders