

**STATE OF NEW MEXICO
PUBLIC EDUCATION DEPARTMENT**



**REQUEST FOR APPLICATIONS
SPECIAL EDUCATION MEDIATORS (IDEA)**

Application Due: March 26, 2021 by 5:00 P.M., Mountain Daylight Savings Time

Submit all applications ELECTRONICALLY to:

Elizabeth.Cassel@state.nm.us

Dr. Elizabeth Cassel, RFA Administrator

RFA Name: Special Education Mediators (IDEA)

RFA Number: RFA 2021M

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A. PURPOSE OF REQUEST FOR APPLICATIONS

The New Mexico Public Education Department ("the Agency") requests applications for the services of mediators to assist with resolving special education disputes involving students with disabilities through a mediation process arising under Part B the Individuals with Disabilities Education Act (IDEA).

B. BACKGROUND INFORMATION

The IDEA provides federal funds in exchange for each participating State's agreement to comply with the extensive requirements of the Act and its implementing regulations. IDEA Part B requires all Local Education Agencies (LEAs) and other public agencies to locate all students aged 3 through 21 who may have qualifying disabilities and require special education services in order to meet the unique educational needs of the student, and to design and offer specially designed instruction to meet each student's identified needs.

The IDEA requires that the State provide mediation, formal State-level complaint and due process hearing procedures as a means for to resolve disputes related to students who are or may be eligible under IDEA. The Agency offers mediation at the State's expense as a voluntary option for resolving disputes involving a matter under the IDEA. Either parents, local educational agencies (LEAs) or public agencies can request mediation.

C. SCOPE OF WORK

The Mediator is expected to:

1. Have a thorough understanding of the mediation requirements of the IDEA and state laws, rules and procedures for mediation and special education dispute resolution;
2. Upon assignment, conduct mediation in a professional and timely manner consistent with the IDEA and state special education rules and policies;
3. Contact the parties to arrange and plan mediation;
4. Submit any necessary paperwork to the parties and the New Mexico Public Education Department Special Education Division (SED);
5. Communicate promptly with Hearing Officers, State Complaint Investigators, and SED about mediation dates and outcomes;
6. Distribute/collect surveys at conclusion of mediation session for submission to SED;
7. Participate in Agency-sponsored mediation trainings; and
8. Submit services and travel reimbursements to SED and Regional Education Center Number 6 (REC 6) within 10 days of completion of mediation.

D. SCOPE OF PROCUREMENT

To ensure that qualified impartial mediators are available, the Agency proposes to award contracts to Offerors from all geographic locations in New Mexico. The Agency proposes to award each successful Offeror a one-year contract, renewable at the Agency's option in one-year increments for four additional years, to provide services as needed at a fixed hourly rate of \$110.00 for mediation services, \$55.00 per hour for travel outside of the mediator's city of residence, and

travel expenses (mileage and per diem), plus applicable gross receipts taxes. The Agency or its designee will pay a stipend reimbursement of \$55.00 per hour for attendance at SED-sponsored training.

E. QUALIFICATIONS

Necessary qualifications for mediators:

1. Two (2) or more years of employment experience in a profession related to:
 - mediation and alternative dispute resolution;
 - education;
 - rights of persons with disabilities, or
 - some combination of such experience equaling at least two years;
2. Knowledge of special education laws, rules, and regulations, including the IDEA, 20 U.S.C. § 1400 *et seq.*; the IDEA federal regulations, 34 C.F.R. Part 300; and the New Mexico Special Education rules, 6.31.2 NMAC;
3. Knowledge of mediation and dispute resolution techniques;
4. Bachelor's degree from an accredited institution in a relevant field (Master's degree or other advanced degree preferred);
5. Not an employee of the Agency, school district, charter school, educational service agency or any political subdivision of the State responsible for the provision of special education or care of the child in an assigned case; and
6. Not having a personal or professional interest that conflicts with the person's objectivity.

Other requirements for mediators:

1. Access to the necessary support and equipment to perform their duties, such as: (a) telephone; (b) computer; (c) internet access; (d) ability to receive messages and answer telephone calls during normal business hours; (e) ability to receive and send electronic mail; (f) ability to draft and produce written mediated agreements; and (g) access to platform to conduct remote mediation (e.g., Zoom/or other video conferencing);
2. Ability to conduct mediation during normal business hours;
3. Ability to travel when necessary; and
4. Ability to host and conduct mediations remotely through a remote/virtual platform (e.g., Zoom or other video conferencing) during times when in-person mediation is not possible for public health or other reasons or when requested by the parties.

Note: Persons who serve as special education mediators for the Agency can also serve as due process hearing officers or facilitators for the Agency.

F. COMPENSATION

Contracts for mediation services will call for services on an as-needed basis at the following rates and terms:

1. \$110.00 per hour for mediation services;
2. \$55.00 per hour for Agency sponsored training;
3. \$55.00 per hour for any necessary travel;
4. mileage for any necessary travel at the current State rate;

5. per diem for any necessary travel at State rates/terms;
6. reimbursement for costs of virtual platform needed for mediation; and
7. applicable New Mexico gross receipts tax.

G. TERM

The Agency will offer successful candidates with a one-year contract, renewable at the Agency's option in one-year increments for up to four additional years, to provide services as needed.

H. PAYMENT AND SUPERVISION

Selected mediators will be paid for mediation services and costs by REC 6, a regional educational cooperative center/agency, under a Letter of Agreement.

The Agency will assign mediators to individual cases on a rotating basis.

The Agency will provide general supervision and training to the mediators.

I. QUESTIONS ABOUT THE REQUEST FOR APPLICATIONS

There will be no pre-application conference. The Agency has designated Dr. Elizabeth Cassel as the RFA Administrator and contact person for this Request for Applications. Prospective Offerors with questions should contact:

Dr. Elizabeth Cassel
Special Education Division
New Mexico Department of Public Education
120 South Federal Place
Santa Fe, New Mexico 87501
Office: 505-490-3918
Fax: 505-954-0001
Email: Elizabeth.Cassel@state.nm.us

J. APPLICATION SUBMISSION AND DUE DATE

Complete and signed applications are due to the Agency's Special Education Division RFA Administrator, Dr. Elizabeth Cassel, no later than 5:00 P.M., Mountain Daylight Savings Time on March 26, 2021. Applications will be date- and time-stamped upon receipt. All applications must be submitted via email to the following email address:

Elizabeth.Cassel@state.nm.us
Dr. Elizabeth Cassel, RFA Administrator
RFA Name: Special Education Mediators (IDEA)
RFA Number: RFA 2021M

The Agency will **not** accept hard copy submissions at this time due to the COVID-19 pandemic. Applications **must** be submitted electronically to **Elizabeth.Cassel@state.nm.us**.

Late and Incomplete submissions will not be accepted.

K. APPLICATION RESPONSE AND FORMAT

The application must be organized and indexed in the following format and must contain, at a minimum, all listed items in the sequence indicated. Accurate and complete information is a criterion for selection. The application must respond to each item clearly, specifically and completely in the order listed. The response must be produced on 8 ½ x 11 format in 12 point Times New Roman font. **Incomplete applications may be rejected.**

1. Cover page clearly stating the name, address, telephone number, and email address of the Offeror submitting the application;
2. Cover letter explaining interest in contract;
3. A current copy of your resume;
4. Description of employment experience in a profession related to mediation and dispute prevention, educational rights of persons with disabilities, or some combination of such experience equaling at least two years;
5. Description of your knowledge of special education laws, rules, and regulations, including the IDEA, 20 U.S.C. § 1400 *et seq.*; the IDEA federal regulations, 34 C.F.R. Part 300; and the New Mexico Special Education rules, 6.31.2 NMAC;
6. Description of training, experience in mediation, and approach to mediation. Please include information about training you have received in mediation, your experience conducting mediation, and any specific experience in mediation that involved public or special education issues and that involved federal or state civil rights complaints;
7. Description of your approach to mediation and conflict engagement and resolution;
8. A statement that discloses any past or current affiliations that is a conflict or may present the appearance of a conflict of interest, and describes your ability to function impartially as a mediator in light of past affiliations;
9. Three letters of reference addressing your level of professionalism and your ability to implement the mediation activities in this Request for Applications. The Acknowledgement Form attached as Appendix 1 that allows the Agency to contact your references should be completed as part of your application;
10. A statement about ability to have the supports and equipment as described in the Qualifications section described above and to devote the time necessary to the performance of the duties listed in this RFA; and
11. A public or private agency or organization, which desires to submit an application, must submit a complete statement of qualifications for each person who it proposes to provide as a mediator. Each proposed mediator will be evaluated on an individual basis and the agency or organization must agree, if awarded a contract, to use only mediators who have been individually approved by the Agency.

L. RESPONSE AND EVALUATION CRITERIA

Dr. Cassel may initiate discussions with Offerors who submit responsive or potentially responsive applications for the purpose of clarifying aspects of the applications, but applications may be accepted and evaluated without such discussion. Discussions shall not be initiated by the Offerors.

The evaluation of applications will be performed by an Evaluation Committee appointed by Agency management.

Responsive applications that meet the stated minimum requirements will be subject to an internal evaluation by the Agency. Applications will be evaluated based on the Agency's discretionary assessment of the following factors, weighted as follows:

- 45 Points Mediation training, experience, and approach
- 5 Points Experience with special education mediation
- 15 Points Special education training and experience
- 10 Points Other relevant qualifications and experience
- 10 Points Ability to function impartially as a mediator
- 5 Points Recommendations
- 10 Points Access to support and equipment and ability to perform tasks required

M. SEQUENCE OF EVENTS

Issuance of RFA	February 23, 2021
Application Deadline	March 26, 2021 by 5:00 P.M., Mountain Daylight Savings Time
Evaluation of Applications	April 2, 2021
Selection of Finalists	April 9, 2021

Appendix 1

AUTHORIZATION FOR THE NEW MEXICO PUBLIC EDUCATION DEPARTMENT TO OBTAIN REFERENCES

I understand that the initial selection of the Offerors for potential contract awards will be based on the written applications and that if I become a candidate, the New Mexico Public Education Department (the Agency) may contact some or all of the persons I have identified in my proposal as references. I understand that the Agency will request the persons it contacts to provide their candid opinions regarding my qualifications to serve as a special education mediator.

I understand that the Agency will send a copy of this acceptance and authorization to each individual or entity from which it is seeking such information. I hereby authorize the party receiving a copy of this signed form (including a photocopy or facsimile copy) to provide and release complete information as may be requested, and I waive any claim of confidentiality I might have with regard to such information. Any person or entity providing information in accordance with this acceptance and authorization is released from any and all claims of liability for his or her good-faith expressions of opinion regarding my qualifications. To encourage candor and foreclose any appearance of future retaliation against persons providing such information, I waive any claim of access to or knowledge of the information so provided.

I understand that the Agency will evaluate all information so received in light of the background and the potential bias of each respondent. I further understand that the information obtained pursuant to this authorization is for the exclusive use of the Agency in making contracting decisions and will not be disclosed to any other person or entity without my written authorization unless such disclosure is necessary to comply with legal mandates.

Offeror's Signature (Mediator)

Name Typed or Printed

Date

Appendix 2

Letter of Agreement (Contract) SPECIAL EDUCATION MEDIATOR (IDEA) REGIONAL EDUCATION CENTER No. 6

This letter of agreement is entered into by and between the Regional Education Center No. 6 (REC 6) and _____ (Mediator Name). REC 6 and the Mediator, in consideration of mutual covenants and agreements herein contained, do hereby agree as follows:

I. Period of Agreement

This agreement shall be effective as of _____, 2021, and shall be terminated on _____, unless the Agency opts to renew the agreement. The agreement shall be reviewed and updated annually at the Agency's option, in one-year increments, for the next four years (_____, 2022 through _____, 2026).

II. REC 6 Responsibilities

REC 6 has the following responsibilities:

1. \$110.00 per hour for mediation services;
2. \$55.00 per hour for PED sponsored training;
3. \$55.00 per hour for any necessary travel;
4. mileage for any necessary travel at the current State rate;
5. per diem for any necessary travel at State rates/terms;
6. reimbursement for costs of virtual platform needed for mediation; and
7. applicable New Mexico gross receipts tax.

The Mediator is not a formal employee of REC 6, so benefits and liability protection do not apply.

REC 6 does not provide general supervision authority for mediation or the Mediator.

III. New Mexico Public Education Department Special Education Division Authority and Responsibility

The New Mexico Public Education Department Special Education Division has general supervisory authority and responsibility over mediation under the IDEA which includes:

1. Assignment and management of the Mediator and mediation process;
2. Approval of reimbursement requests submitted to the REC 6 by the Mediator;
3. Recruitment of qualified persons to conduct special education mediations; and
4. Planning and providing trainings for mediators.

IV. Qualifications and Requirements

The following are necessary qualifications and requirements for the Mediator:

1. Is knowledgeable in laws and regulations relating to the provision of special education and related services under the IDEA and New Mexico Special Education Rules;
2. Is not an employee of the state education agency (SEA) or LEA involved in the education of the student who is the subject of mediation as required by 34 CFR § 300.506(c);
3. Does not have a personal or professional interest that conflicts or creates the appearance of a conflict with the objectivity of the assignment as required by 34 CFR § 300.506(c);
4. Has total impartiality in each mediation performed; and
5. Has a signed letter of agreement and resume on file with REC 6.

V. Statement of Work

The Mediator shall provide special education mediation services and agrees to perform these services under the direction and supervision of the New Mexico Public Education Department Special Education Division.

1. Upon being assigned by the New Mexico Public Education Department Special Education Division as a mediator in case, the Mediator shall:
 - a. Contact the necessary parties to plan and conduct the mediation within the timelines required by New Mexico Special Education Rules, unless an extension is granted by the New Mexico Public Education Department Special Education Division for exceptional circumstances.
 - b. Conduct the mediation at a mutually agreeable location or through remote/virtual means if necessary or preferred by the parties.
 - c. Conduct the special education mediation in a professional and impartial manner, following all IDEA and New Mexico Special Education Rules requirements.
 - d. Accept assignments for mediation only when the Mediator has the ability to complete the mediation within the timelines required by the New Mexico Special Education Rules.
2. For cases that are resolved in mediation, the Mediator shall ensure that a Mediated Agreement which sets forth the resolution and states that all discussions that occurred in mediation will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding is signed by the parent and a representative of the public agency who has the authority to bind the agency.
3. The Mediator shall maintain the confidentiality of the discussions in mediation and parties to the mediation.
4. The Mediator shall request that the parties to mediation complete a survey upon completion of the mediation and return the surveys to the New Mexico Public Education Department Special Education Division.
5. The Mediator shall submit invoices for service and travel reimbursements to the New Mexico Public Education Department Special Education Division and the REC 6 within 10 days of the completion of the mediation.

6. The Mediator shall submit all paperwork and the mediation agreement to appropriate school district, the parent and the New Mexico Public Education Department Special Education Division.
7. The Mediator shall participate in Agency-sponsored training regarding mediation and special education conflict resolution.

VI. Confidentiality

Any information provided to or developed in performance of this agreement shall be kept confidential and shall only be shared with appropriate parties. All confidentiality requirements under the Family Educational Rights and Privacy Act (FERPA) and the IDEA apply.

VII. Funds Accountability

The maintenance of records, paperwork and fiscal accountability will be completed and kept according to the State policy and procedures. The Mediator will submit a time and effort accounting with their invoice of all activities relating to fiscal expenditures.

VIII. Indemnification

The Mediator hereby agrees to release, indemnify, and hold harmless REC 6, its officers, agents, employees and volunteers (Indemnitees) from and against all liability, including claims, demands, losses, damages and expenses of every kind and description to persons (including death) or property associated with the performance of special education mediation as outlined in this contract. This includes liability resulting directly or indirectly from acts or omissions of Indemnitees unless such liability results from the sole negligence of Indemnitees. Such indemnification includes attorney's fees, court costs, mediation/arbitration costs, as well as costs of damage to property or expenses of every kind resulting from the performance of the obligations under this contract. This provision shall bind any and all successors, assigns, agents, employees, heirs, family members, spouses, personal representatives, or anyone else claiming to represent the Mediator.

IX. Contract Rates and Invoices

Invoices shall be submitted within 10 days of the completion of work and shall include the Mediator's name and address as it appears on their W9 form given to REC 6, school name, New Mexico Public Education Department Special Education Division case number, dates and times spent on the case, description of work, and the Mediator's signature.

Mediator Rates are as follows: \$110.00 per hour for mediation services, \$55.00 per hour for travel, mileage at the current State rate, and gross receipts tax.

X. Signatures

The signatures below signify agreement to the terms and conditions of this agreement and will be in effect from _____, 2021 through _____, 2022 (and updated yearly as required).

Mediator

Authorized Signature

Printed Name and Title

Date

Agency

Authorized Signature

Printed Name and Title

Date