§ 4404-a. Mediation program for students with disabilities. * 1. The commissioner, in consultation with the office of court administration, shall establish a special education mediation program. For all school districts and state agencies responsible for the provision of special education, mediation of disputes regarding the provision of a free, appropriate public education, including matters arising prior to the filing of a complaint pursuant to subdivision one of section forty-four hundred four of this article, shall be conducted by mediators furnished by a community dispute resolution center under article twenty-one-A of the judiciary law.

* NB Effective until June 30, 2027

* 1. The commissioner, in consultation with the office of court administration, shall establish a special education mediation program. In all school districts, mediation of disputes regarding the provision of a free, appropriate public education shall be conducted by mediators furnished by a community dispute resolution center under article twenty-one-A of the judiciary law.

* NB Effective June 30, 2027

2. The board of education or trustees of each school district shall inform parents or persons in parental relationship of students with disabilities of the availability of the mediation program to resolve complaints regarding the education of a student with a disability at the same time notice of the availability of the impartial hearing procedures is provided to such parents or persons in parental relationship.

3. Notwithstanding any other provision of law to the contrary, the commissioner, in consultation with the office of court administration, shall assure that a list of qualified mediators who are knowledgeable in the laws and regulations relating to the provision of special education and related services is maintained. For purposes of this section, if not selected through a rotational selection process, mediators shall be selected by mutual agreement of both parties to the mediation.

* 4. A school district may establish procedures to offer parents or persons in parental relation and schools that elect not to use the mediation process the opportunity to meet, at a time and place convenient to such parents or persons in parental relation, with a

disinterested party who is under contract with a community dispute resolution center, to encourage the use of the mediation process by such parents and explain its benefits.

* NB Effective until June 30, 2027

* 4. A school district may establish procedures to require parents or persons in parental relationship who elect not to use the mediation process to meet, at a time and place convenient to such parents or persons in parental relationship, with a disinterested party who is under contract with a community dispute resolution center, to encourage the use of the mediation process by such parents and explain its benefits.

* NB Effective June 30, 2027

* 5. Each session in the mediation process shall be scheduled in a timely manner, and shall be held in a location that is convenient to the parties to the dispute. An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement. Such agreement shall be a legally binding agreement that sets forth the resolution of the dispute and: (i) states that 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 action or proceeding; (ii) is signed by both the parent or person in parental relation and a representative of the school district or agency who has the authority to bind such school district or agency; and (iii) is enforceable in any state court of competent jurisdiction or in a United States district court. The committee on special education or committee on preschool special education shall immediately amend the student's individualized education program to be consistent with such mediation agreement. Discussions that occur in the mediation process shall be confidential, and may not be used as evidence in any subsequent proceedings pursuant to section forty-four hundred four of this article or in any subsequent civil actions or proceedings.

* NB Effective until June 30, 2027

* 5. Each session in the mediation process shall be scheduled in a timely manner, and shall be held in a location that is convenient to the parties to the dispute. An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written

mediation agreement. The committee on special education or committee on preschool special education shall immediately amend the student's individualized education program to be consistent with such mediation agreement. Discussions that occur in the mediation process shall be confidential, and may not be used as evidence in any subsequent proceedings pursuant to section forty-four hundred four of this article or in any subsequent civil actions or proceedings. The parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of the process.

* NB Effective June 30, 2027

6. The provisions of this section shall not operate to diminish, deny, delay, or limit any rights provided for by this article or any other provisions of law, including the right of a parent or person in parental relationship to request an impartial hearing.

7. Nothing in this section shall be construed to limit a parent or person in parental relationship from requesting an impartial hearing, pursuant to the provisions of section forty-four hundred four of this article without utilizing the procedures set forth in this section. No such person shall be deemed to have failed to exhaust administrative remedies by requesting such an impartial hearing in the absence of or prior to mediation, as provided for by this section.