

**FIRST ENGROSSMENT
with House Amendments**

Fifty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2096

Introduced by

Education Committee

(At the request of the Superintendent of Public Instruction)

1 A BILL for an Act to create and enact a new section to chapter 15-21 of the North Dakota
2 Century Code, relating to mediation between school districts and parents of students.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new section to chapter 15-21 of the North Dakota Century Code is
5 created and enacted as follows:

6 **Mediation - Procedure established by superintendent - Liability - Confidentiality**
7 **and evidentiary exclusions.**

8 1. The superintendent of public instruction may establish and fund, within the limits of
9 legislative appropriation, a mediation procedure for the resolution of disputes
10 between parents and their school districts relating to the education of students with
11 disabilities and with respect to rehabilitation, accommodation, and discrimination.
12 School districts may participate in mediation under this section. Participation in a
13 mediation procedure established under this section is voluntary, without cost to the
14 parents, and must be consented to by both the parent and the school district.
15 Persons acting as mediators under this section must be qualified and impartial and
16 may not have been involved with the education or care of the student in question
17 nor have any other personal or professional conflict of interest. The
18 superintendent of public instruction shall adopt rules under chapter 28-32
19 establishing the minimum qualifications for mediators under this section. Only a
20 person qualified as a mediator under the rules of the superintendent of public
21 instruction may serve as a mediator under this section. Any procedure established
22 under this section may not deny nor delay any party's access to administrative due
23 process or other complaint or grievance resolution proceedings, and the parents or

- 1 the school district may terminate mediation efforts at any time during the process.
- 2 All mediated agreements under this section must be in writing.
- 3 2. Notwithstanding any other provision of law:
- 4 a. Documents prepared during mediation and discussions during mediation
- 5 under this section are exempt from sections 44-04-18 and 44-04-19.
- 6 b. Except as provided in subdivision d, a statement or admission made during
- 7 mediation under this section may not be offered or received into evidence in
- 8 any subsequent administrative proceeding or civil action, unless the
- 9 statement or admission relates to a crime, civil fraud, or a violation of the
- 10 uniform juvenile court act under chapter 27-29, or if all persons who
- 11 conducted or otherwise participated in the mediation consent to disclosure.
- 12 c. A mediator is not competent to testify in any subsequent administrative
- 13 proceeding or civil action as to any statement, conduct, admission, or
- 14 agreement occurring at or in conjunction with mediation under this section.
- 15 d. Evidence in existence outside mediation under this section is not rendered
- 16 inadmissible solely because it was introduced or used during mediation.
- 17 e. The superintendent of public instruction, officers and employees of the
- 18 department of public instruction, and mediators are not subject to any liability
- 19 arising from mediation procedures undertaken pursuant to this section.