

1301:17-1-20**Informal mediation.**

- (A) An informal mediation, in accordance with section 4764.12 of the Revised Code, may be held for the purpose of facilitating an accommodation between the complainant and licensee. Any party who participates in the informal mediation may be accompanied by legal counsel, whose role shall be limited to representing his/her client. "Mediation" is defined by division (A) in section 2710.01 of the Revised Code.
- (B) Except as provided in Chapter 2710. of the Revised Code, nothing said or done during the informal mediation shall be disclosed by the mediator or division staff or be used as evidence in any subsequent hearing, investigation or other proceeding. The superintendent may decline to hold an informal mediation for good cause shown. Good cause includes, but is not limited to, a reasonable belief that one or more of the parties to the informal mediation has committed a crime or one or more of the parties to the informal mediation lack the ability to enter into a binding accommodation agreement.
- (C) If an accommodation is reached at the informal mediation, the mediator shall prepare an accommodation agreement, which shall set forth all measures to be taken by the parties thereto, including provisions for affirmative and other relief. The accommodation agreement shall be signed by the persons to be bound by the agreement and the superintendent or the superintendent's designee.
- (D) In accordance with division (B) of section 4764.12 of the Revised Code, the accommodation agreement shall be held in confidence by the superintendent, the mediator and other personnel of the department.
- (E) If the superintendent finds the licensee has failed, without good cause shown, to comply with the terms set forth in the accommodation agreement the following shall apply:
- (1) The accommodation agreement will be considered null and void;
 - (2) The superintendent may proceed with the formal investigation based on the original complaint; and
 - (3) The licensee's failure to comply with the accommodation agreement shall constitute prima facie evidence of a violation of division (I) of section 4764.14 of the Revised Code.
- (F) The complaint file shall be closed if the superintendent finds:
- (1) The complainant has failed, without good cause shown, to comply with the terms set forth in the accommodation agreement; and

(2) The licensee has made a good faith effort to comply with the terms set forth in the accommodation agreement.

(G) If an accommodation is reached at the informal mediation meeting and the terms of the accommodation agreement satisfied, the complaint file shall be closed. If an accommodation is not reached at the informal mediation meeting, an investigator shall proceed with an investigation as provided in section 4764.12 of the Revised Code.

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:	119.03
Statutory Authority:	4764.05(A)(1)
Rule Amplifies:	4764.12