

1301:5-5-24

Informal mediation meeting accommodations.

- (A) An informal mediation meeting, in accordance with section 4735.051 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 meeting 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 meeting shall be disclosed by the ~~investigator or mediator~~ or division staff or be used as evidence in any subsequent hearing, investigation or other proceeding.
- (C) If an accommodation is reached at the informal mediation meeting, the ~~investigator~~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~~the division's mediator on behalf of the superintendent.
- (D) In accordance with division (D) of section 4735.05 of the Revised Code, the accommodation agreement shall be held in confidence by the superintendent, the ~~investigators~~mediators 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;_; and
 - (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 misconduct and shall constitute a violation of division (A)(6) of section 4735.18 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; ~~different than the one that participated in the informal mediation meeting,~~ shall proceed with an investigation as provided in section 4735.051 of the Revised Code.

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under: 119.03

Statutory Authority:

Rule Amplifies: