

Article 66 - Mediation and Fact-Finding

Section 66.1 Mediation Petition

Whenever the representatives of the independent direct support providers in the collective bargaining unit and the representatives of the State, after a reasonable period of negotiation, reach an impasse with respect to any dispute existing between them during the course of collective bargaining on subjects governed by 21 V.S.A. §1634, pursuant to 21 V.S.A. §1636, either or both of the parties may petition the Board for authorization to submit their differences to mediation.

Section 66.2 Mediation Petition; Form; Filing

A petition shall be in writing. The original shall be signed by the representative of independent direct support providers in the bargaining unit or the representative of the State.

Section 66.3 Appointment of Mediator by Agreement

If both parties are in agreement an impasse has occurred pursuant to 21 V.S.A. §1636, the Board shall within five days of filing the petition appoint a mediator.

Section 66.4 Investigation of Mediation Petition Where Disagreement Exists as to Impasse

If one party requests the appointment of a mediator and the other party disagrees an impasse has occurred, the Board shall initiate an informal inquiry concerning the request for a mediator. If the Board determines the parties have been unable to reach agreement despite diligent efforts, the Board shall appoint a mediator within five days of that determination.

Section 66.5 Appointment of Particular Mediator

The parties may jointly request the assignment of a particular person to serve as mediator and such mediator shall be appointed by the Board if such person agrees to serve as mediator. The Board reserves the authority to assign a person of its choice if the parties are unable to agree upon a person to serve as mediator. The costs of a mediator, if any, shall be shared equally by the parties.

Section 66.6 List of Mediators and Fact-Finders

- (A) The Board shall establish and maintain a list of persons qualified to act as grievance mediators, contract negotiations mediators, and/or fact-finders. Persons seeking inclusion on the list shall file a written application with the Board.
- (B) The application shall include the following information:

The name, occupation, residence, business address, e-mail address and telephone numbers of the applicant; a brief statement of the applicant's related experience and education which would serve as qualifications for appointment as a mediator and/or fact finder; any relevant professional, civic or social association memberships of the applicant; and the name, address, telephone number and e-mail address of at least four references supporting the applicant's acceptability as an impartial, two of which shall be labor organization references and two of which shall be employer references.
- (C) The Board shall investigate the availability, qualifications and acceptability of applicants, and then make a determination whether to place the applicant on the list of mediators and fact-finders. The Board at its discretion may require training and/or the shadowing of a mediator or fact-finder for inclusion on the list. Persons included on the list of mediators and/or fact-finders shall be placed on the list for a term of three years. At the conclusion of the three years, the Board shall determine whether to include the person on the list for another term of three years. The Board may remove persons from the list during a three-year term for good cause.
- (D) Mediators employed by the Federal Mediation and Conciliation Service shall be considered to be on the list of mediators.
- (E) Members of the Board who so desire shall be included on the list of mediators. A Board member who has served as a mediator in a case shall not be involved in any subsequent Board consideration of the matter.
- (F) Parties in grievance and contract negotiations disputes may make a joint request to the Board seeking the services of a grievance mediator, contract negotiations mediator or fact-finder to assist in resolving a negotiations impasse between the parties or a grievance. The parties may by mutual agreement select a mediator or fact-finder to intervene in the impasse or grievance from the list of mediators and fact-finders, and if the parties are unable to so agree the Board shall make an appointment from such list. The parties are responsible for equally sharing the costs of the mediator or fact-finder.

Section 66.7 Fact-Finding

Upon certification by the mediator that an impasse continues, the Board shall within five days appoint a fact-finder. The fact-finder shall designate a time and place for hearing. The hearing(s) before the fact-finder will be governed by Article 62 of these Rules; in which case "fact-finder" will be substituted in place of "Board".