

FREQUENTLY ASKED QUESTIONS ABOUT SPECIAL EDUCATION MEDIATION

1. What is mediation?

Mediation is a voluntary process that can be used to resolve disagreements between the parents of a student with disability, or a student suspected of having a disability, and the local education agency (LEA) such as a school district or charter school responsible for the student's education.

2. Who conducts the mediation?

An impartial mediator, appointed by the Utah State Office of Education, who is trained in mediation skills and techniques.

3. What role does the mediator have in trying to resolve the disagreement?

The role of the mediator is to help reach an agreement. The mediator is neutral and will not take sides with either party, but will assist the parties in finding common ground and exploring possible solutions regarding the dispute.

4. If I request mediation does the local education agency (i.e., school district or charter school) have to participate?

No. Mediation is voluntary; both parties to the dispute have to agree to use mediation.

5. If the local education agency requests mediation do I have to participate?

No. As indicated in question #4, mediation is voluntary.

6. Can I request mediation without filing a due process complaint?

Yes. You may request mediation at any time to help resolve a dispute. In fact it is preferable to try to resolve a disagreement as early as possible and prior to filing a due process complaint.

7. Who can I bring with me to mediation?

You may bring anyone you believe will be helpful in resolving the dispute. This may include a trusted friend, relative, advocate, or an attorney.

8. What is the cost for mediation?

Mediation is at no cost to you or the local education agency. The cost of mediation is paid for by the State.

9. What happens when we reach an agreement at mediation?

The mediator will draft an agreement for you and the local education agency to sign and you will receive a copy.

10. What happens if we go to mediation and we can not reach an agreement?

If you participate in mediation and do not reach an agreement with the local education agency you may:

- (1) Attempt mediation again at a later date;
- (2) Proceed with a hearing (if you initially filed a sufficient due process complaint);
- (3) File a due process complaint; or
- (4) Seek another means of resolving the dispute.

If you proceed to a due process hearing and your mediator was also a hearing officer, that same hearing officer will not be assigned to your due process hearing.

11. How soon after requesting mediation can I expect it to occur?

The Utah State Office of Education will attempt to schedule the mediation as soon as possible, but mediation may not deny or delay your right to a due process hearing.

12. What happens if the local education agency refuses to honor the agreement reached at mediation?

The written, signed mediation agreement is legally binding and enforceable in any State court of competent jurisdiction or in a district court of the United States.

13. May I or the local education agency use discussions held and offers made at the mediation in future proceedings?

No. Mediation sessions are closed proceedings. Discussions that occur during mediation must be confidential and cannot be used as evidence in any subsequent due process hearing or civil action. Parents or the local education agency may be asked to sign a confidentiality pledge before the start of the mediation.

14. How do I request mediation?

It is preferred that the request be submitted on the Utah State Office of Education Special Education Mediation form. However, any written request that includes all the required information shall initiate the mediation process. You may obtain a form by calling or writing to the local education agency responsible for the student's education or the Utah State Office of Education. The form is also available on the Utah State Office of Education website at <http://www.schools.utah.gov/sars/DOCS/law/mediationrequest.aspx>.

15. Where do I send my request for mediation?

Your request must be sent to the Utah State Office of Education. Attn: Special Education – Leah Voorhies. The form may be sent by mail, fax, or hand-delivery. The Utah State Office of Education Special Education Services section address is PO Box 144200, 250 East 500 South, Salt Lake City, UT 84114-4200, the fax number is 801-538-7991. Generally mediation requests are responded to within 2 business days of receipt. If you do not receive a response from the USOE within that timeframe, please call (801-538-7898) to inquire about the status of your request to ensure that it was received.

16. What if I want to withdraw my request for mediation or change my mind about participating in mediation requested by the local education agency?

Mail, fax, or hand-deliver a signed letter stating that you wish to withdraw your request to the Utah State Office of Education Special Education Services section, as soon as possible. The letter may include information as to why the request is being withdrawn.

Again, mediation is voluntary; therefore, if you decide that you no longer wish to try to resolve the dispute by mediation, or do not want to participate in a request by the local education agency you need not do so.

17. You have not answered all of my questions. Where do I go for help?

First, please refer to the procedural safeguards document provided to you by the local education agency. It is also available online at <http://www.schools.utah.gov/sars/Laws,-State-Rules-and-Policies/Procedural.aspx>. Other questions you have may be addressed to the appropriate personnel from the local education agency responsible for the student's education, the Utah Parent Center (801-272-1051), or the Utah State Office of Education (801-538-7898).