

## Why use mediation?

The mediation process provides the following benefits:

- offers a timely opportunity for discussion of differences;
- empowers parties to resolve their own differences and enhances future relationships;
- increases satisfaction with the outcome by both parties;
- unlike the resolution meeting, mediation is confidential; and
- is available at no cost to the parents and the school district.

## What can be expected from mediation?

During mediation, parents and district personnel, with the help of the mediator, can expect to:

- state their concerns;
- discuss their differences;
- talk about how the differences can be settled;
- possibly reach an agreement; and
- receive written, signed copy of the agreement at the conclusion of the mediation, if an agreement is reached.

## For additional information:

West Virginia Department of Education  
Office of Special Programs  
Building 6, Room 304  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0330  
Phone: 304.558.2696  
800.642.8541



WEST VIRGINIA BOARD OF EDUCATION  
2012-2013

**L. Wade Linger Jr.**, President  
**Gayle C. Manchin**, Vice President  
**Robert W. Dunlevy**, Secretary

**Thomas W. Campbell**, Member  
**Tina H. Combs**, Member  
**Michael I. Green**, Member  
**Lloyd G. Jackson II**, Member  
**William M. White**, Member

**Paul L. Hill**, Ex Officio  
Chancellor  
West Virginia Higher Education Policy Commission

**James L. Skidmore**, Ex Officio  
Chancellor  
West Virginia Council for Community and Technical College Education

**James B. Phares**, Ex Officio  
State Superintendent of Schools

**Discrimination Prohibited.** The West Virginia Department of Education does not discriminate on the basis of sex, race, color, religion, disability, age and national origin in employment and in the administration of any of its education programs and activities. Inquiries may be directed to the Elimination of Sex Discrimination Program Coordinator, 304-558-2702; to the Section 504 Coordinator, 304-558-2696, (V/TDD); West Virginia Department of Education, 1900 Kanawha Blvd. E., Charleston, WV 25305-0330; or to the U.S. Department of Education's Director of the Office for Civil Rights, 215-656-8541.



# Mediation Process for Special Education

February 2013

West Virginia Department of Education  
Office of Special Programs

## Foreword

Mediation is a voluntary process for school systems and families to resolve disagreements about the education of students with exceptionalities. Disagreements are resolved collaboratively, resulting in improved relationships among educators and families, therefore, improving outcomes for children and youth with exceptionalities.



James B. Phares, Ed.D.  
State Superintendent of Schools

## INTRODUCTION

Under the Individuals with Disabilities Education Improvement Act of 2004 (IDEA), special education mediation must be made available to parents of children and youth with exceptionalities.

Federal and state laws require school systems and parents to collaborate in developing an Individualized Education Program (IEP) for each student who is eligible for special education services. Parents and educators may have different perspectives regarding a child's education. They may have different ideas about a child's strengths and educational needs. Open communication is essential for a positive, long term partnership. Mediation is a voluntary and confidential process that may be used by parents and educators to help resolve these issues if there are continuing disagreements about an eligible student's education.

This brochure, written for parents of children with exceptionalities and district personnel, presents important information regarding special education mediation. Parents and school districts are encouraged to use special education mediation to resolve disputes in a timely, non-adversarial manner. The West Virginia Department of Education (WVDE), Office of Special Programs (OSP), has a toll free number to obtain information about the mediation process.

1-800-642-8541 (V/TDD)

## What is mediation?

Mediation is an informal, voluntary and confidential process in which an impartial third party (the mediator) provides an opportunity to the parties to problem-solve through discussion. Mediators assist parents and the school system in resolving disputes and reaching agreement on issues regarding the proposals or refusals to initiate or change the identification, evaluation, educational placement of the student and/or the provision of a free appropriate public education (FAPE). Mediators do not make decisions for the parties. Mediation may take place at anytime regardless of the filing of a due process and/or state complaint.

## Is mediation required by federal or state law?

Yes. The IDEA requires the WVDE to make available the option of mediation to parents and school districts at anytime.

Although not required, another component of the mediation system is an optional meeting to encourage mediation. This meeting is conducted by a parent agency representative who provides information to the parents about mediation and its benefits.

## Who pays the cost for mediation?

The WVDE bears the entire cost for the mediation process required under the IDEA. There are no costs to the parents or the school district.

## Who may request mediation?

Mediation may be requested by:

- the parent, guardian or surrogate parent of a student with an exceptionality;
- the student with an exceptionality who has reached the age of majority; and/or
- the school district.

## How is mediation requested?

A request for mediation may be initiated by contacting the school district or the WVDE. The request for mediation must be in writing on a mediation request form and contain an original signature.

## Who conducts a mediation?

The mediation is conducted by a trained mediator who meets the following criteria:

- an impartial third party who is knowledgeable in special education law and skilled in problem – solving and interpersonal communication;
- an individual who is not an employee of the WVDE or the school district; and
- a mediator is assigned from the list of qualified mediators on a rotational basis.

