

Dispute Resolution Guidance - Mediation

Mediation is a voluntary process to bring people together when communication is difficult and outside assistance may be helpful. An impartial, qualified, and trained mediator helps participants communicate with each other, express concerns, and resolve disagreements. Mediation is available anytime there is a disagreement between parents and educators about any matter under Part C.

Mediation can be requested by parents, an early intervention services provider, lead agency, and/or public agency. Mediation can be requested at any time, including prior to or when a due process hearing request or state complaint has been filed.

Complaints filed by a parent or provider specific to an individual child relating to a disagreement with the decision regarding the identification, evaluation, or placement of the child, or, with the provision of appropriate early intervention services, IDAPA 16.05.03 requires the mediation request be filed within 28 days of the decision they disagree with.

Parents cannot be required to use mediation and they may refuse or withdraw from the mediation process at any time.

Mediation:

- Is voluntary on the part of the parties.
- Is not used to deny or delay a parent's right to a due process hearing or to deny any other rights under Part C.
- Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.
- If the complaint concerns a specific child, the complaint must also include:
 - The child's name and address where the child lives.
 - The name of the child's early intervention services provider.
 - A description identifying the reason for disagreement, including facts relating to the disagreement.
 - A proposed resolution of the problem to the extent known and available to the complainant at the time the complaint is filed.

A mediation request must be in writing and may be filed with the local regional office or using ITPs Dispute Resolution Request form. The request may be submitted in-person, emailed, mailed, or faxed to either the service coordinator or service provider, or to the address listed on the form.

The Department of Health and Welfare is responsible for costs associated with the mediation process related to early intervention services, including the costs of meetings to encourage mediations.

Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties in the dispute.

If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement that sets forth that resolution and that:

- States all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal court or State court of a State receiving assistance under Part C.
- Is signed by both parties (the parent and a representative of the Infant Toddler Program who

has the authority to bind the agency) and both parties are given a copy at the end of the mediation.

The parties in the mediation process will be required to sign a confidentiality pledge prior to the commencement of such process.

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

The Infant Toddler Program maintains a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of early intervention services for infants and toddlers with disabilities and their families. The Infant Toddler Program will select mediators on a random, rotational, or other impartial basis.

Impartiality of Mediator

An individual who serves as a mediator under Part C:

- May not be an employee of the lead agency or an early intervention service provider that is involved in the provision of early intervention services or other services to the child.
- Must not have a personal or professional interest that would conflict with his or her objectivity.

A person who otherwise qualifies as a mediator is not an employee of a lead agency or an early intervention provider solely because he or she is paid by the agency or provider to serve as a mediator.

Service Coordinator Responsibilities

The Service Coordinator does the following:

- Provides the parent/guardian with information about the dispute resolution options, including mediation.
- Advises and, at the parent's request, may assist the parent/guardian with completing the request.
- Informs the parent/guardian of free or low-cost legal or advocacy assistance that may be available to them, and a list of organizations that provide or arrange such assistance (e.g., Comprehensive Advocacy, Inc [CO-AD], Legal Aid, or Idaho Parents Unlimited [IPUL]).
- Informs the parent/guardian of resources available to them from the Center for Appropriate Dispute Resolution in Special Education (CADRE) - <https://www.cadeworks.org/resources/idea-early-intervention-family-guides-and-companion-videos>
- Forwards the complaint to the regional hub leader and central office program manager.