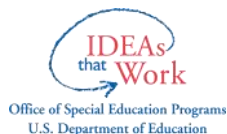


IDEA Special Education Mediation

**A Guide for Parents of Children & Youth
(Ages 3-21)**

This publication is part of a series about IDEA (Individuals with Disabilities Education Act) dispute resolution options. Parent guides in this series include:

IDEA Special Education Mediation
IDEA Special Education Written State Complaints
IDEA Special Education Due Process Complaints/
Hearing Requests
IDEA Special Education Resolution Meetings



This publication describes Mediation generally for Part B of the IDEA. It is not intended to interpret, modify, or replace any procedural safeguards or requirements of federal or state law.

What Is Mediation?

Mediation is a voluntary process that brings people together to resolve their disagreements. A mediator helps participants communicate with each other, so that everyone has an opportunity to express concerns and offer solutions.

- Parents and educators must both agree to participate in order for mediation to happen.
- Participants may leave mediation at any time.
- Mediation discussions are confidential. What is said in mediation cannot be used as evidence in a due process hearing or civil lawsuit.
- The mediator does not make decisions. The parent and school district must both agree to any decisions made.
- The focus is on resolving disagreements and working toward a solution that satisfies all participants.
- Parents and educators can use mediation at any time to resolve disagreements.
- The goal is finding a solution that meets the educational needs of the child.

Benefits Of Mediation

- Mediation can help everyone better understand differing points of view.
- Participants work on solutions together and are in control of the outcome, rather than someone who doesn't know the child making a decision.
- People tend to be more satisfied and follow through with the terms of mediated agreements because they are developed together.
- Disagreements may be resolved more quickly than with other dispute resolution options.
- Mediation focuses on creating a plan for the future.

Considerations About Mediation

- Mediation can sometimes be an emotional, tiring, and frustrating process.
- Parents and educators may feel at a disadvantage if they don't take time to prepare before the mediation session.
- Some complex situations may require more than one mediation session to create a detailed agreement.
- There are no guarantees that mediation will lead to a written agreement.

A mediator who is trained in effective mediation techniques...

- Facilitates open communication between mediation participants.
- Creates a safe environment.
- Encourages participants to be respectful and understand other points of view.
- Clarifies points of disagreement, may help identify options, and assists with writing down any agreement.

Frequently Asked Questions About Mediation

Who can request mediation?

Parents or school district staff may request mediation when communications are difficult or there is a dispute that can't be resolved.

When can I request mediation?

Mediation can be requested anytime, even if you have already asked for a due process hearing or filed a written state complaint.

Who will choose the mediator?

Your state educational agency (SEA) must select a mediator on a random, rotational, or other neutral basis. Some SEAs allow parents and schools to choose a mediator together. Schools or parents cannot choose the mediator on their own.

Does the mediator make decisions?

No. The mediator facilitates communication and does not favor the parent or the school district. Mediation is a problem-solving process guided by the mediator.

When and where does the mediation take place?

The mediation should take place at a time and in a location that is convenient to both the parent and school district.

How long does the mediation process take?

Mediation is intended to help quickly resolve disputes. The amount of time spent depends on the availability of participants, the complexity of their dispute, and their interest in reaching an agreement.

Who pays for the mediation process?

The IDEA requires SEAs to pay for the mediation process. School districts and parents do not pay for mediation.

Who attends the mediation?

The parent, staff from the school district, and the mediator must be present for a mediation to take place. The parent and school decide together who else may attend the mediation, such as support people. The mediator often helps with this before the mediation session.

Should the student attend the mediation?

A parent may choose to have his or her child present for all

or part of the mediation session, depending upon the child’s age and maturity. For some youth with disabilities, participating in the mediation may be a positive experience where they learn about advocating for themselves. This is especially true when transition issues will be discussed.

For more on this topic, see *The Involvement of Students in Their Special Education Mediations*, available on the CADRE Website: cadreworks.org/resources/cadre-materials-family-members/involvement-students-their-special-education-mediations.

State regulations associated with the IDEA dispute resolution processes vary widely.

Parents and family members are encouraged to contact their state educational agency or a parent center for more information.

Do attorneys participate in the mediation?

Whether attorneys are included in the mediation process is not specified in the IDEA. Attorney participation in special education mediation varies from state to state.

What if the mediation does not work?

National data show that about 70% of mediations result in signed agreements. Using mediation does not affect the other parental rights provided under the IDEA. A parent may still file a written state complaint or request a due process hearing to resolve the problem.

Do mediation agreements have to be in writing?

Yes. If a dispute is resolved through the mediation process, the agreement must be in writing. It must be signed by the parent and an authorized representative of the school district. The mediation agreement must state that all of the discussions that took place during the mediation process will remain confidential. Parents may wish to consult with an attorney before signing a mediation agreement.

What happens if the agreement isn't followed?

Signed, written mediation agreements are legally binding and enforceable in state or federal court. If you believe that your agreement isn't being followed, your SEA can provide you with information about your options.

What if I need an interpreter?

It is important that you understand and are able to participate fully in the mediation process. Let everyone involved know that you need an interpreter. Contact your SEA for more information.

Ways You Might Prepare For Mediation

- Organize your documents and write dates and notes on them. Consider making three copies – one for yourself, one for the other party, and one for the mediator.
- Make a list of the issues and questions you want to discuss during the mediation process. This can help you remember all of your concerns, so you can present them in an organized manner.
- Think of questions other participants might ask and write down some possible responses.
- Try to think of many different solutions to the problem and write them down.
- Think about how you plan to deal with emotions (yours and others) during the meeting.
- Try to arrive a little before the scheduled meeting time, so you have time to get ready to participate.
- The mediation is more likely to result in an agreement if everyone listens carefully to one another and is respectful.
- A parent advocate may be able to help you with the mediation process. Call your local parent center to talk with an advocate.

Sources Of Important Information

A current list of all parent centers in the nation is available through the Center for Parent Information and Resources (CPIR):

parentcenterhub.org/find-your-center

or call (973) 642-8100



The Center for Appropriate Dispute Resolution in Special Education (CADRE) is the national technical assistance center on dispute resolution:

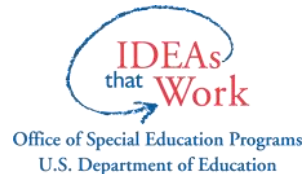
www.cadeworks.org/

or call (541) 359-4210



Information on the Individuals with Disabilities Education Act (IDEA) is available online:

sites.ed.gov/idea/



For more information on resolving special education disputes and dispute resolution options available under the IDEA, visit the CADRE Website:
cadeworks.org/

To Find A Parent Center In Your Area, Contact:

Region A Parent TA Center NE-PACT

35 Halsey St., 4th Floor
Newark, NJ 07102

Tel: 1 (800) 654-7726

Toll Free: 1 (800) 654-7726

Fax: (973) 642-8080

Website: spanadvocacy.org

Region B Parent TA Center

Parent to Parent of Georgia

3070 Presidential Pkwy, Suite 130

Atlanta, GA 30340

Phone: (770) 451-5484

Toll Free: 1 (800) 229-2038

Tel: (770) 458-4091

Website: p2pga.org

Region C Parent TA Center WI FACETS

600 W. Virginia St., Ste. 501

Milwaukee, WI 53204

Tel: (414) 374-4645

Toll Free: 1 (877) 374-0511

Fax: (414) 374-4655

Website: wifacets.org

Region D Parent TA Center

PEAK Parent Center

917 E Moreno Ave., Suite 140

Colorado Springs, CO 80903

Tel: (719) 531-9400

Fax: (719) 531-9452

Website: peakparent.org

Center for Parent Information and Resources c/o Statewide Parent Advocacy Network (SPAN)

35 Halsey St., 4th Floor

Newark, NJ 07102

Tel: (973) 642-8100

Website: parentcenterhub.org

Your Local Parent Center:

CADRE produced this document under U.S. Department of Education, Office of Special Education Programs Cooperative Agreement No. H326D080001. Tina Diamond, Ph.D., served as the project officer. The views expressed herein do not necessarily represent the positions or policies of the Department of Education. No official endorsement by the U.S. Department of Education of any product, commodity, service or enterprise mentioned in this publication is intended or should be inferred. This product is public domain. Authorization to reproduce it in whole or in part is granted. While permission to reprint this publication is not necessary, the citation should be: CADRE (2014). IDEA Special Education Mediation, Eugene, Oregon, CADRE. This publication also contains hyperlinks and URLs created and maintained by outside organizations and provided for the reader's convenience. The Department is not responsible for the accuracy of this information. Some of this work was previously developed with the Technical Assistance ALLIANCE for Parent Centers. Publication Date: January 2014.