



Special Education Mediation

A parent or guardian may request mediation to resolve a dispute regarding their school department's compliance with special education rules or when there is a disagreement regarding the identification, evaluation, placement, or the provision of a free and appropriate public education. Mediation can be a speedy and satisfactory method of settling a dispute. Additionally, mediation is a flexible, informal way of resolving disputes and reaching a compromise of the varying viewpoints. Parents, guardians or the school district may request mediation by submitting a completed Dispute Resolution Request Form to the Due Process Coordinator, Maine Department of Education, #23 State House Station, Augusta, ME 04333-0023 and providing a copy to the Superintendent.

Benefits of Mediation

Mediation has many benefits for parents, educators and providers, including:

- ◆ Families can maintain an ongoing and positive relationship with the school or Child Development Services and benefit from partnering with educators or service providers in developing their child's program.
- ◆ Conflicts that arise out of misunderstanding or lack of shared information can be resolved through qualified and impartial mediators who are trained in effective mediation techniques and knowledgeable of laws and regulations relating to the provision of special education and supportive services.
- ◆ Special Education and early intervention issues are complex and can best be solved by working together.
- ◆ Mediation tends to be faster and less costly than other approaches such as due process hearings, court proceedings and complaint investigations.
- ◆ Mediation can result in agreements that participants find satisfactory, and research shows that people tend to follow the terms of their mediated agreements.
- ◆ Mediators are objective third parties that facilitate at a mediation. The mediator is not an employee of any school department or the State Department of Education.

Other Things to Consider

Mediation may not be for everyone. Things to consider are:

- ◆ You should be comfortable addressing the conflict and speak as openly as possible so mediation will be meaningful.
- ◆ Both sides must work together to reach an agreement that resolves the conflict.
- ◆ Mediation is voluntary on the part of parents and schools.
- ◆ The mediation agreement is binding on both parties – the parents and the school.

Once mediation has been requested what happens?

After receiving the written request for mediation, a Due Process Consultant appoints a mediator. While there are no regulatory requirements, mediation is held within 30 days of receipt of the request whenever it is possible. Mediation sessions are to be scheduled in a timely manner and in a location that is convenient for all parties in the dispute.

Do I need to submit any information prior to the mediation date?

No. Any information should be provided at the mediation session.

Who attends mediation?

Only those persons necessary to discuss the relevant issues surrounding the dispute may attend the mediation session. The mediator may limit the number of people who participate in the session.

- ◆ Parents may be accompanied by an advocate or other individual who is knowledgeable of special education services.
- ◆ The school district may be represented by counsel only when the parents are represented by counsel. (If parents are going to be represented by counsel, either they or the attorney need to notify both the Department of Education and the school district in writing at least seven (7) days prior to the mediation.)
- ◆ An administrator of the school district who is able to commit resources and make decisions, as well as staff who have knowledge of the student should attend.

What does the mediator do?

The mediator's job is to facilitate the meeting and make decisions about how the session will be conducted. The mediator does not make the decision about how your issue may be resolved, but instead helps the parties involved to reach an agreement.

What happens at the end of a mediation session?

1. An agreement is reached by both parties and is documented by the mediator and signed by the school department and the parent(s). If applicable, a date is set for a Pupil Evaluation Team (PET) meeting to amend the Individualized Education Plan (IEP) to reflect the agreement, or
2. Mediation is recessed until a later date to access more information so an agreement may be reached, or
3. The session is ended without reaching agreement and the Department of Education is informed that the parties involved could not come to agreement. Either party has the option to request a due process hearing or a complaint investigation in order to resolve the conflict.

Mediation Ground Rules

- ◆ Mediation is confidential.
- ◆ Mediation is voluntary.
- ◆ All parties should attend mediation with the intent of reaching an agreement.
- ◆ There will be no written record of the discussions.
- ◆ There will be a written agreement if one is reached.
- ◆ Someone on both sides must have authority to make decisions and reach an agreement.
- ◆ Prioritize your issues. Write down information that is pertinent to the dispute.
- ◆ Schools may not be represented by an attorney at a mediation session unless the parent(s) is represented by an attorney.
- ◆ Know what issues are most important to you.
- ◆ Be creative in offering solutions.

For more information on this or other topics related to the needs of children with disabilities, call or write Maine Parent Federation, P.O. Box 2067, Augusta, ME 04338-2067, 1-800-870-7746 (Maine only), 207-623-2144, or email MPF at: parentconnect@mpf.org.