

What is special education mediation?

Mediation is a way to settle a dispute which:

- helps parents, school and agency personnel resolve disagreements about a student's special education needs.
- uses a trained and experienced impartial mediator to guide the participants toward a mutually acceptable solution.
- encourages open communication and creative problem solving in a confidential setting.
- is structured, yet informal.
- is voluntary for all parties.
- does not take away the right to a conciliation conference or a due process hearing.

How does the mediation process work?

Once the Minnesota Department of Education (MDE) staff receive a completed and signed Request for Mediation form, MDE coordinates a meeting date with all parties and assigns a mediator. Mediation sessions are scheduled as soon as all parties are available.

Who may attend the mediation session?

People attending must include someone who has the authority to make decisions and to commit any resources agreed upon as a result of the mediation - typically the parents and the school district's representative. Other participants may include individuals who have knowledge of the student's needs or who have specialized knowledge of the issues in the dispute. While each party is responsible for who attends mediation with them, parties can attempt to negotiate who attends. Generally, smaller groups enhance effective problem solving. We encourage the district to have no more participants than the parents have present and to consider bringing an attorney only if the parent will have an attorney present.

How long does a mediation session take?

Mediation sessions take an average of five to six hours. However, depending on the complexity of the issues and the number of participants, a session could last a full day. While conflicts are normally resolved in one session, some cases may require additional sessions.

What occurs during the mediation session?

The mediations may differ, but generally, each session consists of several stages:

- **Introduction** - the mediator explains his/her role and background, the Agreement to Mediate, the elements of mediation, confidentiality, the use of caucus, and other procedural rules. The mediator will also respond to questions of the participants.
- **Sharing Points of View/Defining Issues** - parties take time to define the issues from their point of view. These comments would generally take no more than 15-20 minutes each. The mediator may ask questions to clarify or summarize parties' viewpoints.
- **Caucus** - the mediator may use a caucus, which is a chance for each party to meet privately with the mediator to clarify issues and to discuss possible solutions.
- **Discussion of Options for Resolution** - the mediator assists the parties to identify a wide range of possible resolutions and encourages thorough discussion.
- **Agreement** - if there is a partial or full agreement, the mediator assists the parties in preparing a Mediated Agreement with enough details so it is easy to implement. The agreement is enforceable in court. If appropriate, an Individualized Educational Program (IEP) meeting will be scheduled to incorporate the terms of a Mediated Agreement into the IEP. If the session does not result in an agreement, the parties are free to pursue any of the options they had before they entered into mediation.

When can mediation be requested?

A request for mediation can occur whenever the parents or the district believe it might help resolve a given dispute. All parties must agree to participate in this voluntary process. If both parties are willing, a request form must be signed by the parties and sent to the Alternative Dispute Resolution (ADR) Services coordinator or it can be sent to an interested party by MDE. Request forms are available at school district offices, at advocacy organizations, or on MDE's website. [View the Request for Mediation form](http://education.state.mn.us). (<http://education.state.mn.us> > Select School Support > Special Education Programs > Monitoring and Compliance > Alternative Dispute Resolution.) The form is accessible in multiple languages. An attempt to convene a mediation session cannot be used to deny or delay a parent's right to a due process hearing.

What is the process for setting up mediation?

Once both parties have agreed to use mediation and have signed the request form, MDE requests:

- both parties reserve a full day, since the actual length of a mediation session is unknown.
- the district find two meeting rooms in a neutral and comfortable meeting space. Districts usually find space in libraries, church meeting rooms, community centers, banks or government offices.
- once the location is determined, the district informs the ADR coordinator of the location including: the name of the building, the address, when it opens, any parking directions and the phone number, in case someone is delayed or gets lost on the day of the mediation.

- both parties share the names of who will attend mediation and the relationship of each member to the student. Remember, the decision-makers need to be present.
- the parent(s) decide whether their child will attend mediation. There are many ways to involve students of all ages for part or all of the session.

The ADR coordinator sends a letter to the parties to confirm the mediation, reviews expectations and names the mediator that will assist the parties. Attached to the confirmation letter are suggestions for how to prepare for mediation.

What is generally included in a Mediated Agreement?

- A statement that says all discussions that occur during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding.
- The terms of a Mediated Agreement include how the issues will be resolved, who is responsible to implement the terms and the appropriate timeline for the action.
- There may be one person designated as the contact if there is any difficulty implementing the agreement.
- There may be a contingency plan because of a potential problem outside the parties' control.
- The parties will state how any applicable terms of the agreement will be incorporated into the IEP.
- Both the districts' authorized representative and the parent(s) must sign the agreement.

What happens after an agreement is reached?

The terms of the agreement are implemented. If there is any difficulty, parties can request a second mediation to resolve the situation.

Depending on the parties' agreement for incorporating applicable terms into the IEP, they will either:

- convene an IEP meeting on a specified date, inform the team of the decisions made at mediation and modify the IEP; or
- waive an IEP meeting (unless it is an initial IEP), modify the IEP, and inform the IEP team by a specified date.

For more information about special education mediation and MDE's ADR Services or to obtain this material in a different format like large print, Braille or on tape, contact:

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