

# Mediation FAQs

## ***1. Is mediation legally required?***

Pennsylvania is required to provide a system for mediating disputes on issues concerning special education. However, the decision on the part of parents, school districts or agencies to elect mediation is voluntary.

## ***2. What are the advantages of mediation?***

Mediation provides an informal and effective way for parents and school personnel to resolve differences. The process of mediating a dispute:

- promotes a positive relationship between school personnel and parents
- is inexpensive to all participants
- is structured for mutual problem-solving
- is less time-consuming than due process hearings
- may be significantly less stressful than adversarial proceedings

## ***3. Who may request mediation?***

Mediation may be requested by the child's parents, legal guardian or surrogate parent, or the school district or a public agency that provides services to a child that is eligible or thought to be eligible for special education or gifted education.

## ***4. When can agencies be parties in a mediation?***

The Department of Public Welfare, Office of Mental Retardation (OMR), is the public agency responsible for coordinating early intervention services for infants and toddlers between the ages of birth and three years. When a child is eligible or thought to be eligible for early intervention services and the parents cannot reach an agreement with the agency about specific services, either the parents or the OMR can request mediation.

## ***5. Who are the mediators?***

The people currently trained as special education mediators have diverse backgrounds. The group includes psychologists, directors and coordinators of health care facilities, attorneys, college professors, child/family therapists, professional mediators, administrators for Children and Youth Services, domestic relations hearing officers, professors of social work, and rehabilitation consultants. To qualify and work as a mediator, a person cannot be associated with advocacy agencies or with local or state education associations. In order to ensure their neutrality, the Office for Dispute

Resolution selects people to be mediators who have no political association and are not employed by local school district organizations or Mental Health/Mental Retardation agencies.

***6. When can mediation be requested?***

Mediation can be requested when there is a disagreement that prevents the parties from moving forward with the identification, evaluation, or placement of a child who is eligible or thought-to-be eligible for special education or gifted education. Mediation can be scheduled prior to or concurrent with a due process hearing request.

***7. Where is mediation available?***

Educational mediation services are available through the Office for Dispute Resolution (ODR), a component of the Pennsylvania Training and Technical Assistance Network (PaTTAN). ODR serves the 501 school districts, 29 intermediate units, charter schools, and 46 county MH/MR offices in the Commonwealth of Pennsylvania.

***8. How does mediation work?***

Any party may call the ODR and request mediation services to assist in resolving a disagreement. The ODR then contacts the other relevant party to determine if there is mutual interest in going to mediation. Because mediation is voluntary both parties must verbally agree to participate in mediation before a mediator is assigned. Once there is agreement, the ODR case manager assigns a mediator and schedules a mediation session at a mutually agreeable time and place.

***9. How soon after a request is made is a mediation session scheduled?***

Mediation is scheduled at the mutual convenience of parents and school district or public agency staff. Scheduling usually takes between seven and ten days.

***10. Who can come to the mediation session?***

Parents or school district representatives may bring other people as guests to mediation. To keep the session informal and manageable, the number of additional people is limited. The parent(s) may invite two guests. The school district may designate a total of three school officials to participate in the mediation session, one of whom must have the authority to commit school district resources. When the mediation involves an infant, toddler, or preschool-age child, the number of people permitted to attend the session will probably be increased.

***11. May attorneys participate in mediation?***

No. At the recommendation of the Mediation Task Force (1986), attorneys are not included at the mediation session. Parents are encouraged to bring lay advocates to the session.

***12. How long does mediation take?***

The parties should schedule the mediation for a day that is entirely free of other obligations or appointments. The majority of mediation sessions coordinated through the ODR have been successfully completed in three to five hours. Evening mediations may be scheduled at the agreement of both parties.

***13. How does a mediation agreement affect an IEP?***

If mediation is successful, the outcome is a written agreement. The mediator prepares the agreement document based on the agreement made by the parties and it is signed by all parties and the mediator. When the IEP is affected by the mediation agreement, the student's IEP team meets within twenty days of the mediation to incorporate the agreement into the IEP.

***14. Who should receive a copy of the agreement?***

The parents/guardians and the school district or public agency representative receive a copy of the written agreement based on the agreement made by the parties with appropriate signatures. The agreement becomes part of the student's school/agency file. A copy of the agreement is included as part of the case file prepared by the ODR.

***15. Is a mediation agreement binding?***

An agreement reached through mediation is binding on the parties. Because mediation is a process that is based on voluntary agreement, agreements reached in mediation are very rarely not followed.

***16. What if an agreement is not reached?***

If the parties are unable to come to an agreement at the mediation session, the mediator advises them of their right to request a due process hearing. Concerns about due process may also be addressed to the ODR who will schedule the due process hearing if a party requests a hearing.

***17. Who pays for mediation?***

The ODR pays for the mediator and all administrative expenses associated with coordinating the session. If either party brings expert witnesses to the mediation session, the cost for the experts' time must be paid by the requesting party.

***18. What do mediators actually do?***

Mediators encourage open communication in a confidential setting. The mediator attempts to move parties toward resolution of their differences through diverse strategies. Because there is no one method to resolve problems associated with special education, the mediator is flexible in his/her approach to each new problem and to different personalities within each group.

The mediators are trained in communication, problem-solving and negotiation skills as well as specific mediation techniques. They also have knowledge of special education laws and regulations, and information about the various educational tests, programs and services that are used in special education.

***19. Can mediation delay or postpone a request for a due process hearing?***

No. Mediation can occur prior to a hearing, but it can neither delay nor deny the child's right to a hearing nor can it affect legally established timelines for due process requests.

*Concerns about due process hearings should be directed to the*

***Office for Dispute Resolution***

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*Toll free in PA only: 1-800-222-3353 or 1-800-992-4334*

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