

What is Mediation for a Student Receiving Special Education Services?

Mediation is a process that can be used to resolve disagreements between a family of a child with a disability and the school system. Mediation is free and is often used when everyone wants to try to settle a conflict without an attorney. Mediation can be used to resolve disagreements related to the Individuals with Disabilities Education Act (IDEA) and State Special Education Rules including matters arising prior to the filing of a due process complaint.

Mediation is conducted by a neutral person called a mediator. Mediators receive training about special education law and are experienced in dispute resolution. The mediator helps everyone share their concerns, clarify the problems, discuss options, and reach a solution that both parties can agree upon. The mediator does not tell either party how to resolve the problem and does not decide the outcome of the mediation.

Mediation must be offered whenever someone requests a due process hearing. Mediation can also be requested when a parent files a formal complaint. Mediation can be requested without filing a complaint or a due process hearing as another avenue to resolve a disagreement.

The Facts You Should Know:

- ✓ Mediation is a required option in the IDEA as a safeguard. It is one possibility available to resolve disputes between parents/families and school systems.
- ✓ Mediation is available in all school systems in Georgia.
- ✓ Mediation is voluntary. Both parties (the parent/guardian and the school system) must agree to participate. If either party says “no” to mediation, the mediation will not be held.
- ✓ Mediation is free for parents/families and local school systems. A parent or guardian may contact the special education office in their local school system to request mediation to resolve a dispute. A parent/guardian may also submit a mediation request to the GaDOE.
- ✓ Attorneys are allowed to attend mediation; however, they do not attend most mediations. Other people who are knowledgeable about the issue may attend if they have information to add to the discussions. Participants in mediation reach agreement regarding who will attend prior to the mediation.
- ✓ There is no time limit for requesting mediation. There is no timeline for resolving the issue.
- ✓ Mediation is confidential. Nothing that is talked about during mediation can be used as evidence in a due process hearing or lawsuit.
- ✓ If an agreement is reached, it will be put in writing and signed by all parties. The agreement is legally binding and can be enforced in court or through the formal complaint process.
- ✓ There is no guarantee that mediation will lead to a written agreement. Some mediations will not result in an agreement. If an agreement cannot be reached, parents retain their full rights to request a due process hearing and to file a formal complaint.

Tips for Families:

- ✓ Put your request for mediation in writing.
- ✓ Mediation should be scheduled at a date, time, and location that works for both parties. You can ask for another date, time, or location if what is offered does not work for you.
- ✓ Mediation can take several hours. You should plan your schedule so that you are able to be there the whole time. Make arrangements for childcare, work, etc.
- ✓ Organize your documents and paperwork.
 - Request a copy of your child's Individualized Education Program (IEP).
 - Review your child's IEP and know what you agree and disagree with.
 - Make notes on your documents and put dates on them.
 - Take copies of your documents to the mediation.
 - Keep one copy for yourself. Take a copy for the mediator and a copy for the school system.
- ✓ Decide if there is anyone you want to go to the mediation with you.
- ✓ Everyone participating in a mediation session will get to share their concerns and to offer possible solutions. Be prepared to:
 - Identify and describe the issues or problems and talk about your concerns.
 - Ask questions. Make a list of your questions and take it with you to the mediation.
 - Share information about your child that will help to clarify the problem.
 - Listen and offer possible solutions.
- ✓ Some types of disagreements are more likely to be resolved through mediation than others. For example:
 - Disagreements over the need for more or different special education services, classroom or school placement, compensatory services, and eligibility decisions can often be negotiated through mediation.
 - Disagreements about issues such as the assignment of a particular teacher or service provider, hiring or firing of school staff, and the assignment of a student to a particular school building (if that involves a change of placement) are much less likely to be resolved through mediation.
- ✓ Remember that mediation is about compromise. Be prepared to keep an open mind. Consider all possible solutions to the problem.
- ✓ Be willing to brainstorm with the other parties and try to develop a creative solution to the problem.
- ✓ If you are unable to reach an agreement, you may:
 - Proceed with a due process hearing (if you have already requested one),
 - Make a request for a due process hearing, or
 - Look for another way to resolve the disagreement.
 - Request a formal complaint (if you have not already requested one).
- ✓ During the mediation, ASK QUESTIONS if there is anything you don't understand!!

Where to go for more information:

Parent to Parent of Georgia
770-451-5484 or 800-229-2038
<https://www.p2pga.org>

Georgia Department of Education, Division for Exceptional Children
404-656-3963
<https://gadoe.org/special-education/>

Georgia Department of Education Implementation Manual
(See chapter on dispute resolution)

Additional resources: Contact the **Special Education Director** for your school system.