

Frequently Asked Questions (FAQs) on Mediation

by CADRE and the National Information Center for Children and Youth with Disabilities (NICHCY)



This document was published in July 2002. For more information on IDEA 2004, please click [here](#).

Introduction

This publication has been developed by the Consortium for Appropriate Dispute Resolution in Special Education (CADRE) to respond to the host of questions that many parents, teachers, administrators, and others have about mediation. From basic questions such as, "What is mediation?" and "How does it work?" to "Why would I want to use mediation?" and "Who makes the decisions?" these FAQs give the reader simple and straight-forward information. Some of the answers to these questions include a reference to the actual section of the federal regulations that discuss mediation. Information on how you can get a copy of these regulations and other resources can be found at the end of this document.

1. What is mediation?

Mediation is a process that can be used to resolve disagreements between the parents of a child with a disability and the school district or early intervention office responsible for providing services to the child.

A trained and impartial professional facilitates the mediation process. A mediator does not take sides, but helps each person clearly communicate their concerns, find common ground and explore possible solutions. The mediator does not make problem-solving decisions, but rather helps all participants reach their own mutually agreeable resolution.

2. Why is mediation a good thing to try?

- There is evidence that both families and schools benefit when disagreements are resolved through mediation.
- Participation in mediation is voluntary for both parties.
- Agreements are developed by the participants and not imposed by the mediator.
- It is believed that mediation is less costly and less adversarial than a due process hearing.
- Mediation frequently takes a day or less to complete and may not require the same degree of attorney involvement as is typical in due process hearings.
- If mediation is not successful, a hearing can still take place.
- When mediation is successful, a written agreement is created and signed by all participants.
- Mediation has the potential to repair damaged relationships between parents and schools, while focusing attention on the needs of the child.

3. Do all school systems have mediation available?

Each state education agency is required to offer mediation when a parent files a request for a due process hearing. In addition, many states and local school districts offer mediation to resolve conflicts even when a request for a due process hearing has not been made. Parents can request mediation to resolve any disagreements they may have with their child's school. However, remember that mediation is voluntary, so the school must also agree to participate in the mediation process. Additional information about the mediation requirements under IDEA can be found in 34 CFR §300.506.

4. How are mediators chosen for special education issues?

Each state sets up its own special education mediation system and decides on the qualifications, training requirements, selection process and responsibilities of its mediators. States are required to maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services. Educational, training and certification requirements vary from state to state. The resource section at the end of this brochure lists the CADRE web site where you can find contact information for your state's mediation office.

5. Does the mediator decide who is right or wrong?

The mediator does not decide right or wrong nor does a mediator make decisions for the participants. Instead, the role of the mediator is to help people respectfully discuss what is important to them and to reach their own agreement.

6. Who pays for mediation?

The state bears the cost of the mediation process, including the cost of the meetings described in 34 CFR §300.506(d).

7. What happens if we go to mediation and we can't reach an agreement?

If you participate in mediation and do not reach an agreement with the school district you may: 1) proceed with a hearing (if you initially requested one); 2) make a request for a due process hearing; or 3) seek some other means of resolving the disagreement.

8. We went to mediation and reached an agreement that everyone signed. What happens now?

If the participants agree, some or all of the mediation agreement may be given to your child's IEP team. If that happens, then a meeting will typically be held to incorporate the relevant parts of the agreement into the IEP and to proceed with implementation.

9. I work in an early intervention program serving families of infants and toddlers with disabilities. Does mediation apply to these young children, too?

While mediation rules do apply to children in early intervention or Part C programs, there are some differences in the requirements. These differences can be found at 34 CFR §303.419.

10. I have been having serious disagreements with my son's school district over his educational program and placement. I'm scheduled to go to mediation. How can I best prepare? Can someone help me prepare?

First, you may want to contact the Parent Training and Information Center in your state and ask them how they can help. Some strategies that may help you prepare are:

- Make notes of what you want to say and important issues and concerns you want addressed.
- Bring a copy of your child's current IEP with notes on the items you agree and disagree with.
- Bring copies of reports, evaluations or other relevant documents to share.
- In addition to identifying areas of disagreement, think about and note areas of agreement and solutions you believe would work to meet your child's needs.
- Decide if there is anyone you might like to have attend and/or participate in the mediation with you.
- During the mediation be sure to ask questions if there is anything you don't understand.

11. Who is CADRE, and what does it do?

CADRE stands for the Consortium for Appropriate Dispute Resolution in Special Education. It serves as the National Center on Dispute Resolution and is funded by the U.S. Department of Education. CADRE provides technical assistance to state departments of education and parent centers on how to implement the mediation requirements in the Individuals with Disabilities Education Act Amendments of 1997 (IDEA '97). CADRE supports parents, educators and administrators to benefit from a variety of conflict resolution options in the interest of solving problems and resolving disputes in a less adversarial way that focuses on the unique needs of the student. CADRE strongly believes that children and schools benefit when families and educators communicate and work together to resolve differences.

Resources

CADRE Consortium for Appropriate Dispute Resolution in Special Education
P.O. Box 51360 Eugene, OR 97405-0906
541-686-5060 (voice)
541-686-5063 (fax)
www.directionservice.org/cadre

NICHCY National Information Center for Children and Youth with Disabilities
P.O. Box 1492

Washington, DC 20013-1492
800-695-0285 (voice/TTY)
www.nichcy.org

The Alliance The Technical Assistance Alliance for Parent Centers c/o PACER Center
8161 Normandale Blvd.
Minneapolis, MN 55437-1044
888-248-0822 (voice)
952-838-0199 (fax)
www.taalliance.org

For a copy of the federal regulations pertaining to mediation go to the CADRE Web site:

Main regulation on mediation for infants and toddlers up to age 3
www.directionservice.org/cadre/stat_prtc.cfm

Main regulation on mediation for children and youth ages 3 and older
www.directionservice.org/cadre/stat_prtb.cfm

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www.directionservice.org/cadre/mediationfaqs.cfm

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