

How can I request mediation?

Mediation will take place if parents and school staff agree to try it. Once that decision is agreed to, the parties send a request form to the Virginia Department of Education. The department will assign a mediator, who will contact the parties requesting mediation and schedule the mediation conference.



How should I prepare for mediation?

The purpose of mediation is to seek productive negotiations between parents and school staff over outstanding issues in special education for a student. Mediation provides the opportunity to discuss issues of mutual concern and re-examine conclusions that have been reached.

Plan to participate in and prepare to set aside the time for the mediation conference.

Share any evaluations or other documents that shed light on the needs of the student, and make sure that everyone has received them before the day of the mediation. This will enable people to have sufficient time to give them the attention and thought they deserve.

Think about the student's educational needs in order to offer a big picture for planning.

Think what options might work for the student and how you would know that one chosen was working, keeping in mind that there is not just one right way to provide educational support for students with special needs.



If you need more information about mediating conflicts that might arise over a child's special educational support, please contact:

Art Stewart

Coordinator of Mediation Services
Dispute Resolution and Administrative Services
Virginia Department of Education
P. O. Box 2120
Richmond, VA 23218-2120

Phone: 804-786-0711
804-225-2013

Voice/Relay: 1-800-292-3820
Text users dial 711 for relay server

Fax: 804-786-8520



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When Negotiations On Special Education Issues Are Difficult



MEDIATION

Mediation makes discussion focused and productive, clarifies issues, helps to bridge the gap, and gets results!

Virginia Department of Education
Division of Special Education and Student Services

What is mediation?

A neutral, impartial, trained mediator may be sought voluntarily by parents and school staff to assist in their negotiations with each other. That assistance to convene and conduct a meeting to clarify issues, focus on the needs of a child, explore and evaluate possible solutions in a confidential setting is mediation.

Who is the mediator?

Mediators are trained neutrals, skilled in helping people to hear and understand each other and to work jointly to find solutions to difficult issues in special education. Mediators do not take the role of anyone's advocate, but support and assist everyone in the negotiation process.

What are the advantages to choosing mediation?

It provides a timely and effective intervention for people whose views of a child's special needs, progress, or appropriate program are in conflict, making joint planning difficult.

It is a simple and easily used process with proven effectiveness in helping people to focus on a child's current needs, explore the key issues and develop workable solutions.

Mediation helps people to comprehend each other's interests and concerns. It uncovers new information and encourages new thinking. It engages people's best negotiating and problem-solving skills.

Mediation seeks to maintain or re-establish productive working relationships among people in order to create circumstances where joint planning is possible.



Will the mediator decide what should be done?

Any decision will be in the form of a voluntary agreement between parents and school staff. The mediator will be active in helping to identify possible points of agreement. **When you opt to try mediation you do not abandon your role to shape, choose, and consent to any settlement made.**



What happens at a mediation?

Each session will be different, based on the mediator's assessment of what is helpful and necessary, but all sessions will have the following elements in common:

An introduction, which describes the format, roles, and goals of the process;

Definition of the issues, as the mediator elicits the chief concerns of the parties, usually focusing first on a description of the child;

Processing issues, as the mediator asks questions that expand on the thinking behind the conclusions people have reached;

Exploring options, as the mediator asks parties to examine possible outcomes before evaluating them; and

Closure, or assessment of options that reveal agreement or honest disagreement.

How is mediation different from a hearing?

Mediation is a voluntary and confidential process, conducted in an informal manner. It is focused on the needs of the child and the education issues involved. The mediator takes an active role in bringing out issues, helping people to reexamine their own and other's ideas. New thinking and the development of new options are encouraged.

A hearing is designed to be a more formal, evidentiary process where parties provide testimony under oath to a hearing officer who then, as a judge, makes a decision about what happens next. The amount of time in preparing and conducting a hearing are reflected in higher costs to parties. Parties are cast in adversarial roles and the tension and hostility between them may escalate.

Do I need an advocate or lawyer at mediation?

You should be well informed about your legal rights and be confident about your ability to represent the interests of the involved child. It is not necessary for you to bring an advocate or attorney to the mediation.

What will the mediation cost?

The mediator's expense is paid by the Virginia Department of Education if you use its mediation system. Your cost is the time spent at mediation, which may be a few hours at most.

What is the status of a mediated agreement?

A written agreement, signed by both the parent and an authorized school representative, is a contract which is enforceable in any state court of competent jurisdiction or in a U.S. District Court.

What if the mediation does not result in an agreement?

You may continue to pursue other avenues to settle outstanding issues, including continuing your negotiations, filing a complaint, or requesting due process. Often, mediation has clarified or focused the discussion in a way that encourages an agreement after people have left the meeting. This happens often enough to make it a good practice to leave the door open for further discussion.