

**Virginia Department of Education
Department of Special Populations
Office of Dispute Resolution**

**FREQUENTLY ASKED QUESTIONS ABOUT
SPECIAL EDUCATION MEDIATION SERVICES**

What is mediation?

Mediation is a voluntary and non-adversarial dispute resolution process facilitated by a trained and impartial mediator. It is conducted in an informal setting where the assisted negotiation is confidential. The mediator focuses on the needs of the student and helps the participants to generate and evaluate options which are most responsive to those needs. The purpose is to arrive at a mutually agreed-upon solution, which is then reduced to writing. There is no cost to the school or parent to engage in mediation.

What does mediation address?

Any issue regarding a student's eligibility for special education services under an Individualized Education Program (IEP), or the provision, scope, or delivery of services may be mediated at any time.

Why should I consider mediation?

Mediation engages the people who know the student best to work in a safe environment to fashion an agreement of their own making. It is a process which delivers results more swiftly than the dispute resolution alternatives. Mediators explore participants' conclusions while preserving productive relationships. Participants are more satisfied when the outcome is self-determined by them. It is a highly successful process.

How is mediation conducted?

Mediation is conducted by a qualified and impartial mediator who is selected randomly through a rotation from a list maintained by the Virginia Department of Education (VDOE). Mediators are trained in effective mediation techniques and are knowledgeable in special education law and regulations. The mediator is not an employee of any school or the VDOE.

Under what conditions is mediation held?

Mediation must be entered voluntarily by participants. Discussions that occur during the mediation are confidential and may not be brought up in any later proceedings. Mediation may not be used to delay the parent's right to a due process hearing. If a due process hearing is requested, mediation may be substituted for the resolution session. If an agreement is reached by the participants, the *Individuals with Disabilities Education Act* (IDEA) requires that a mediation agreement be drafted which will be enforceable in court.

What if a mediated agreement breaks down?

The parent should contact the director of special education or superintendent of the school division that their child attends. You also have the right to enforce the agreement in any state court of competent jurisdiction or in a district court of the United States.

How do I request mediation?

A request for mediation must be made by both the parent and the school division. The parent may contact the school or the school may contact the parent to initiate this joint request. The [Mediation Services Request Form](#) may be downloaded from the VDOE website. When the joint decision is made to request mediation, the school division will send the request to VDOE. Additional information about mediation is available on the VDOE [Special Education Mediation](#) webpage.

Will I need to hire an attorney to participate in mediation?

Mediation is intended to be an assisted negotiation between the school staff and the parent. It is not necessary to hire an attorney in order to participate in mediation. However, if the parent plans to invite an attorney to attend, let the mediator know as soon as possible, so that the other attendees may know and decide if they would like to bring an attorney.