

A PARENT'S GUIDE TO FREQUENTLY ASKED QUESTIONS ABOUT SPECIAL EDUCATION MEDIATION

1. What is mediation?

Mediation is a voluntary process that can be used to resolve disagreements between the parents of a student with a disability, or a student suspected of having a disability, and the public agency¹ responsible for the student's education.

2. Who conducts the mediation?

The person serving as the mediator is an employee of the Maryland Office of Administrative Hearings who is trained in mediation skills and techniques.

3. What role does the mediator have in trying to resolve the disagreement?

The role of the mediator is to help people reach an agreement. The mediator is neutral and will not take sides, but assists the parties in finding common ground and exploring possible solutions regarding the dispute.

4. If I request mediation does the public agency have to participate?

No. Mediation is voluntary; both parties to the dispute have to agree to use mediation. Although the public agency is not required to agree to mediate, under most circumstances it will.

5. If the public agency requests mediation do I have to participate?

No. As indicated in question #4 mediation is voluntary.

6. Can I request mediation without filing a due process complaint?

Yes. You may request mediation anytime to help resolve a dispute. In fact it is preferable to try to resolve a disagreement as early as possible and prior to filing a due process complaint.

7. Who can I bring with me to mediation?

You may bring anyone you believe will be helpful in resolving the dispute. This may include a trusted friend, relative, advocate, or an attorney. For a list of organizations that provide free or low-cost legal or other services please refer to the *Request for Mediation and Due Process Complaint* form, or the Maryland State Department of Education, Division of Early Intervention and Special Education Services web site at marylandpublicschools.org (choose Divisions, Special Education Early Intervention, then choose Complaint Investigation and Due Process Branch).

¹ The term, public agency, in this document refers to the local school systems or other public agencies responsible for the provision of a free appropriate public education to a student.

8. What is the cost for mediation?

Mediation is at no cost to you or the public agency. The cost of mediation is paid for by the State.

9. What happens when we reach an agreement at mediation?

The mediator will draft an agreement for you and the public agency to sign and you will receive a copy.

10. What happens if we go to mediation and we can not reach an agreement?

If you participate in mediation and do not reach an agreement with the public agency you may: (1) attempt mediation again at a later date; (2) proceed with a hearing (if you initially filed a sufficient due process complaint); (3) file a due process complaint; or (4) seek some other means of resolving the dispute.

If you proceed to a due process hearing and your mediator was an administrative law judge, that same judge will not be assigned to your due process hearing.

11. How soon after requesting mediation can I expect it to occur?

The Office of Administrative Hearings will attempt to schedule the mediation as soon as possible, but mediation may not deny or delay your right to a due process hearing.

12. What happens if the public agency refuses to honor the agreement reached at mediation?

The written, signed mediation agreement is legally binding and enforceable in any State court of competent jurisdiction or in a district court of the United States.

13. May I or the public agency use discussions held and offers made at the mediation in future proceedings?

No. Mediation sessions are closed proceedings. Discussions that occur during mediation must be confidential and cannot be used as evidence in any subsequent due process hearing or civil action. Parents or the public agency may be asked to sign a confidentiality pledge before the start of the mediation.

14. How do I request mediation?

It is preferred that the request be submitted on the Office of Administrative Hearing's *Request for Mediation and Due Process Complaint* form. However, any written request that includes all the required information shall initiate the mediation process. You may obtain a form by calling or writing to the public agency responsible for the student's education or the Office of Administrative Hearings. The form is also available on the websites for the Office of Administrative Hearings at oah.state.md.us and the Maryland State Department of Education at marylandpublicschools.org.

15. Where do I send my request for mediation?

Your request must be sent to the public agency responsible for the student's educational program **and** to the Office of Administrative Hearings. The form may be sent by mail, fax, or hand-delivery. The Office of Administrative Hearings does not accept requests for mediation by email; its address is 11101 Gilroy Road, Unit E/Clerk's Office, Hunt Valley, MD 21031, the fax number is 410-229-4277.

16. What if I want to withdraw my request for mediation or change my mind about participating in mediation requested by the public agency?

Mail, fax, or hand-deliver a signed letter stating that you wish to withdraw your request to the Office of Administrative Hearings, and the public agency, as soon as possible. The letter may include information as to why the request is being withdrawn.

Again, mediation is voluntary; therefore, if you decide that you no longer wish to try to resolve the dispute by mediation, or do not want to participate in a request by the public agency you need not do so.

17. You have not answered all of my questions. Where do I go for help?

First, please refer to the procedural safeguards document provided to you by the public agency. Other questions you have may be addressed to the appropriate personnel from the public agency responsible for the student's education, your Partners for Success or Family Support Services Center, the Maryland State Department of Education's Family Support Services Office (410-767-0255), or the Office of Administrative Hearings Clerk's Office (410-229-4294). You may also wish to consult one of the organizations that provide free or low-cost assistance in special education matters (a list of these organizations is attached to the *Request for Mediation and Due Process Complaint* form).

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