

What Sets Mediation Apart from Other Special Education Meetings?

- Mediation is conducted by a neutral third party
- Mediation can uncover new approaches that the parties haven't previously explored.
- Participants are encouraged to examine the reasons behind their conclusions and reevaluate their thinking.
- Mediation provides a structured, problem solving approach that ensures that all participants are able to express their perspectives while being treated fairly and impartially.
- The mediator's questions may encourage new thought, elicit new options and provide a format in which people can communicate with each other differently. The parties often reach a different outcome than they reached in previous special education meetings

When Can Mediation Be Requested?

Mediation can be requested when:

- The I.E.P. is rejected in full or in part or when there is a disagreement regarding evaluations, eligibility, placement or implementation of the I.E.P.
- There is a disagreement between the parents and the school district regarding the student's special education needs.
- There is a disagreement about a 504 Accommodation Plan.

Who Can Request Mediation?

- parents
- guardians
- educational surrogate parents
- students 18 or over
- representatives of school districts
- advocates
- attorneys

NOTE:

1. Mediation can be scheduled prior to or concurrent with a hearing.
2. Interpreters will be provided when needed.
3. Both parties must agree to participate in mediation before it can be scheduled.

SPECIAL EDUCATION Mediation



*Is it the right process
for resolving your dispute?*

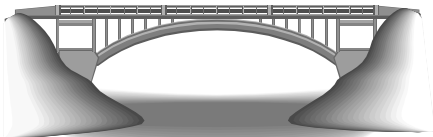


**For more information or to request mediation,
please call the Bureau of Special Education Appeals
(781) 338-6400**



**The Commonwealth of Massachusetts
Bureau of Special Education Appeals
350 Main St., Malden, MA 02148**

(781) 338-6400



What is Special Education Mediation?

Special education mediation is a process available at no cost through the Bureau of Special Education Appeals (BSEA). When school personnel and parents disagree about the educational needs of a student with disabilities, either party may request mediation.

In mediation, an impartial, third party mediator helps parents and school staff clarify the issues and underlying concerns, explore interests, discuss options and reach mutually satisfying agreements that address the needs of the student. The mediator does not decide how to resolve the dispute – that is left in the hands of the parent(s) and the school personnel. When the parties resolve all or some of the issues, they work together with the mediator to put their agreement in writing.

This informal, collaborative problem-solving meeting encourages mutual respect, promotes communication and often provides the basis for positive working relationships between the parent(s) and school staff.

Mediation is:

Informal **Confidential** **Timely** **Voluntary**

The high percentage of resolutions resulting from mediation indicates that the participants are using it effectively in working through their disputes. While mediation is an alternative to a due process hearing, participating in mediation does not delay or deny anyone's right to a due process hearing.

What Are the Mediators Qualifications?

Mediators at the BSEA have:

- Education, training and experience in mediation, conflict resolution, collaborative problem-solving and communication skills.
- Training in state and federal laws and regulations related to the education of students with disabilities.

How is Mediation Different From a Hearing?*

Mediation	Hearing
Informal process that takes about 2-5 hours	Formal legal proceeding that takes about 1-3 days
Voluntary participation for parents and school districts	Mandatory participation upon hearing request by either parents or school districts
Attorneys need not be present and parties speak for themselves	Attorneys are generally present and usually speak on behalf of the participants
Discussion allows participants to focus on the student's future educational program together.	Evidence and sworn testimony are presented as the legal basis for a decision about the student's educational program.
Parties shape their own agreements through collaborative problem-solving.	Hearing officer makes a decision based on a determination of the facts and law.
When resolution is reached, the parties usually leave the mediation with a written agreement.	Written decision by the Hearing Officer is issued 25 days after the close of the hearing process.

** This table draws comparisons between mediation and a formal hearing proceeding. Many hearing requests are resolved before a formal hearing begins.*

What is the Mediation Session Like?

Mediation usually takes place in the student's school district as soon as a mutually convenient date and time can be scheduled. Participants in mediation are generally parent(s), support person(s) of the parent(s) choosing, the school district's special education director and school staff who know the student and/or the district's relevant programs. A mediation session may last from 2 hours to one day. Occasionally, multiple sessions are needed, as agreed to by the parties. Since mediation is confidential, there is no audio, video or written record of the mediation session other than the written, signed mediation agreement.

The Day of the Mediation

Each mediator will conduct a mediation slightly differently, but mediations usually follow this structure:

- First, the mediator gives an **introduction**. During the introduction, the mediator explains his or her role and describes the mediation process.
- Second, there is an initial **joint session**. The joint session is the first opportunity for the school and parent(s) to share and gather information. The mediator asks each participant to explain the situation from his or her viewpoint.
- Third, the mediator may call for **separate sessions**. During these private sessions, the mediator has a chance to talk to each party alone about some sensitive facts. S/he helps to clearly define what each party is interested in getting out of the mediation. The mediator may also help the parties develop options for reaching an agreement. The information shared during the private session is not revealed to the other party unless the mediator is given permission to do so.
- Fourth, there may be **additional joint sessions** during which the school staff and parent(s) continue to explore possible options.
- Fifth, there is a **final joint session**. At this point, the school staff and parent(s) work together with the mediator to write down how they decided to resolve their dispute. The parties then sign this written document, which becomes a binding mediation agreement. If no agreement has been reached, the mediator will work with the parties to determine what the next steps will be.