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MARYLAND OFFICE OF ADMINISTRATIVE HEARINGS: SPECIAL EDUCATION MEDIATION

Fact Sheet

9

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How can the Special Education Mediation Service help you?

Mediation is an alternative method of resolving special education disputes. It attempts to help parents and school officials reach mutually agreeable solutions concerning the identification, evaluation, placement or provision of a free appropriate public education (FAPE) to a student with a disability. Mediation is designed to avoid the cost of litigation and the adversarial relationship that can result between parents and school systems from prolonged due process proceedings.

What types of issues can mediation address?

All issues related to the identification, evaluation, placement, and provision of a free appropriate public education to a student with a disability may be mediated.

How are the mediators selected?

Mediators are administrative law judges, staff attorneys and other trained staff of the Office of Administrative Hearings selected on a rotating basis based on their availability. All mediators have received training in both mediation skills and special education law. They are not employees of either the Maryland State Department of Education (MSDE) or any local school system, and they are impartial.

Must the parties abide by any decision reached by a mediator?

A mediator has no power to make a decision concerning a dispute. Instead, the mediator's role is to listen to the views of each participant and assist them in arriving at a mutually agreeable solution to the problem.

Can the parties still schedule a due process hearing as well as participate in mediation?

Yes. Mediation may occur prior to or concurrent with a request for a due process hearing. Mediation cannot deny or delay a parent's right to procedural protections afforded under the law. For additional information regarding the procedures for resolving disputes, refer to the following web link: http://www.marylandpublicschools.org/MSDE/divisions/earlyinterv/complaint_investigation/CIDP_Branch.

Will the same administrative law judge preside over both the mediation session and the due process hearing if both take place?

No. The administrative law judge assigned to hear your due process case will not be the same person that is assigned to conduct the mediation. Further, the mediation is confidential, so the person conducting the mediation will not discuss it with the administrative law judge assigned to hear the due process case.

<i>If a parent requests a mediation session, are school officials involved in disputes required to attend and vice versa?</i>	No. Participation in mediation is voluntary for all parties.
<i>May lawyers participate in the mediation session?</i>	Yes. Participants may have legal representation at a session although many people choose to represent themselves.
<i>May others speak at the mediation session, such as doctors, experts, family members, etc.?</i>	Yes. Participants may bring other people who may help during the session, but to keep the session informal and manageable, the number of such additional persons should be kept to a minimum.
<i>What type of preparation is desirable for a mediation session?</i>	Spend some time thinking about the dispute. Organize your thoughts as well as all relevant documents, etc. and come to the session with an open mind, willing to attempt to reach a mutually agreeable solution.
<i>How much, if anything, will a mediation session cost?</i>	The mediation service is provided by MSDE through the Office of Administrative Hearings at no cost to either parents or local school systems. However, if any party chooses to bring counsel, doctors or other experts to a mediation, that party bears the cost of the experts' services.
<i>Does an agreement have to be reached within the time allotted for a mediation session?</i>	No. The mediator may recess the session and reconvene at a later time if additional information is needed to help the participants reach an agreement.
<i>May parties meet with the mediator privately?</i>	Yes. If necessary, the mediator may meet individually with each participant to further clarify their concerns.
<i>How soon can a mediation hearing take place?</i>	Mediation will be held as promptly as possible and in all cases be held within 30 days following a request for mediation. Timelines may be extended by mutual agreement of the participants.
<i>Can arrangements be made for special needs?</i>	Reasonable accommodations will be made for participants who have special needs because of a disability or foreign language.

For more information, call the Division of Special Education/Early Intervention Services at 410-767-0238 (Baltimore area) or 1-888-246-0016 (toll free) or visit our website at marylandpublicschools.org

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