

A PEATC

Do You Know....



Factsheet for Virginia's Parents—The Special Education Mediation Process

What do I do when I disagree with the School Division?

While it is always best to try to resolve disagreements by working together, sometimes that just doesn't happen. This fact sheet will talk about one option for resolving disputes--the **Special Education Mediation Process**.

What is Special Education Mediation?

- Mediation is a process that helps parents and schools resolve special education or 504 plan disagreements through **negotiation**. A neutral mediator holds a meeting with parents and school staff to talk about the area(s) of disagreement and to explore and identify possible solutions. The mediator **does not provide legal advice**.
- Mediation is **voluntary**. Both the school and parents must agree to participate. Parents should submit a request in writing to the principal or IEP case manager. Once this happens, the school will get the parents' signature and submit a [Mediation Request Form](#) to the Virginia Department of Education (VDOE). VDOE will then assign a mediator.
- If progress is not being made or tensions are high during mediation, the **mediator may meet privately** with either the parents or school to gain additional insight.
- When successful, mediation results in an **agreed upon solution**. It may take more than one session. Both parents and the school can take time to review the Agreement before signing. Once signed, the Agreement becomes **part of the student record** and can be **enforced in court** like a contract.

What are the Benefits of Mediation?

- It is **confidential and at no cost to the parents or school**. VDOE pays for the mediator who is trained and impartial (objective). Mediators are **not VDOE or school system employees**. As with all other special education meetings or processes, interpreters are provided at no cost to the parent if needed.
- Mediation is **less confrontational** than some of the other dispute resolution processes. It can help the parents and school **maintain a working relationship** which is useful for future discussions or disagreements.

The Mediation Process

1. The mediator provides an **overview** of the format, roles, and goals of the process.
2. The mediator **defines the issues** to be discussed keeping the focus on the student.
3. The mediator **asks questions** to help the parties process and have **productive conversation and brainstorming**.
4. The mediator asks the parties to **explore possible outcomes and options**.
5. If an **agreement** is or is not reached and next steps are discussed.

RESOURCES:

[8VAC20-81-190 Virginia Mediation Regulation](#)

[IDEA Regulations](#)

[VDOE Parents Guide to Dispute Resolution](#)

[VDOE - Preparing for Special Education Mediation](#)

[VDOE Special Education Regulations](#)

Contact Us:

800-869-6782 / 703-923-0010

www.peatc.org

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Fact Sheet for Virginia's Parents

- Any issue can be raised. If you have filed for a complaint or due process, those will not be delayed by mediation unless the parents and school agree. If the mediation results in an Agreement, the complaint or due process can be withdrawn.
- **Attorneys are not needed**, but either party can bring an attorney. Tell the mediator in advance so that the other party can decide if they want to have legal counsel. The parties present the case. Attorneys can only serve as advisors
- **VDOE staff cannot participate in mediation sessions** but are allowed to observe in order to evaluate the mediator. Parents must be notified and can refuse to participate if DOE will be present.

When Should Mediation be Requested?

- If you feel as though the **school is not listening to you** or you **are not making any progress** at IEP meetings and you think that a **third party** could help.
- If you want to try to **avoid more formal, costly, or involved procedures** like due process or, you want to reach a **resolution** after filing a for due process or submitting a state complaint.

Here are a just a few examples of when mediation may be helpful.

- ✓ The parents and school **disagree on the amount of therapy** (speech, occupational, etc.) the student should receive.
- ✓ The parents and school **disagree on placement**. For example, the parent wants general education and school proposes a self-contained classroom.
- ✓ The parents and school cannot agree on a student's **special education eligibility** category or the **evaluations** to be conducted.

Be Prepared

Have **all your documents in order** and **provide copies** of new information before the mediation so everyone is prepared. Think about the issues and **be open to options** about how to resolve them. Try to **stay positive** and if you feel stressed, **ask for a break**. You can bring a friend or other supporter with you.

WHAT DOES THE MEDIATOR DO?

- Helps the parents and school (the parties) figure out the **real issues**.
- Assists with **communication** and helps the parties stay open to each other's views.
- Supports discussion and **brainstorming** of potential solutions
- Helps identify **alternatives** and options
- Keeps the meeting **focused on the child's needs**.
- Helps explore areas of agreement and assists in **drafting the written agreement** if the mediation is successful.

Since mediation is confidential, information cannot be shared and discussed with anyone outside the mediation, including on social media. Information from a mediation also cannot be used as evidence in a due process hearing.

PEATC's mission focuses on building positive futures for Virginia's children by working collaboratively with families, schools, and communities to improve opportunities for excellence in education and success in school and community life. For more information about us, please contact:

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