

Arc Guide to Special Education Mediation

What is special education mediation?

The Minnesota Department of Education (MDE) describes mediation as, “an informal, voluntary process to help resolve disagreements about a student’s special education program. An impartial third party (mediator) helps parents and schools work toward a solution to their differences while keeping the focus on the student’s needs”.

Most Individualized Education Program (IEP) team decisions are made at the IEP meeting. However, when the team members cannot agree on certain issues, mediation may be beneficial. The goal of mediation is to work toward a solution that both parent and school agree on: a win-win for both sides.

The mediator does not make decisions in this process.

Mediation is:

- A voluntary process for the parent and school that encourages communication. Both the parent and the school must agree to mediate.
- A place where facts, feelings and desired outcomes are discussed and decided.
- Provided at no cost to the parent and school through the Minnesota Department of Education Special Education Mediation Service (MNSEMS).

Mediation can be beneficial when there are:

- General concerns on the IEP.
- Differing opinions on the student’s needs, services, etc.
- Issues or problems related to communication, trust, relationships, etc.

How do I request mediation?

The parent or the school can request mediation. Below is a link to MNSEMS. In the middle of the page there is a link to the form to request mediation and explains how the process works.
<https://education.mn.gov/MDE/fam/sped/conf/med/index.htm>

What happens next?

- A staff person at MNSEMS finds out if the parent and school are willing to mediate.
- If they do not agree to mediate, the team can proceed with the regular IEP process or look at another form of alternative dispute resolution such as facilitated IEP.
- If both the district and the parent agree to mediation, they are asked when they can meet and a mediator is assigned.
- The mediation usually occurs within 2 to 4 weeks at a location agreed upon by both the parent and the district.
- The parties must agree on who will attend. Someone from the school district who has the authority to make decisions and to agree to services must attend.

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- Mediation can last 5-6 hours and may need to be continued on later days.

What should I do to prepare for mediation?

It is recommended that you call the Arc Minnesota to talk to an advocate about your specific situation. You and the Arc advocate will discuss:

- Who should attend.
- How to clearly describe the issue and your point of view.
- What the issues are - what is important, potential solutions, what is not an option, where and on what you can compromise.
- What documents you should bring.
- What the other party may want and offer.
- Review the “Agreement to Mediate” sent to you by the mediator. Ask any questions you have about the agreement. The agreement will be signed at the mediation.

There are generally four stages of mediation:

- Introductions
 - Participants introduce themselves and state their roles.
 - The mediator describes the process and rules.
 - The parent, school and mediator sign the “Agreement to Mediate.”
- Sharing of views/issues
 - Done by both parent and district - state concerns, interests, problems, what is working, what is not working.
 - The mediator may clarify and summarize.
 - The mediator might ask to meet privately with the parent or district as they further discuss their issue(s) to get more information. This is called “caucus”. If the mediator caucuses with either the parent or district, they must do it with the other participants as well.
- Discussion of ideas as a group
 - Think of possible solutions and discuss pros and cons of each.
 - Decide on solutions that meet everyone’s needs as much as possible.
 - Come to agreement.
- Agreement
 - The mediator will write the agreement down for both parties to sign. The agreement should answer questions such as who, what, where, when, why and how much.
 - The agreement should list specific, detailed outcomes and decisions.
 - Each party will receive a copy of the agreement and is expected to follow it.
 - A copy of the agreement will also be given to the MDE.
 - An IEP meeting may be scheduled to add the terms of the agreement to the IEP document or the team at mediation can decide to add the agreement to the IEP.

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Resources:

Minnesota Statute 125A.091, Subd. 9-10

Arc Guide to Facilitated IEP Meeting

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