

MEDIATION PROCESS

The Mediation process is to encourage early resolution of problems whenever possible. States are required to offer mediation as a voluntary option to parents and public agencies as an initial process for resolving disputes. Mediation cannot be used to deny or delay a parent's right to a due process hearing or deny any other parental rights under Part B of the Individuals with Disabilities Education Act. Mediation sessions are conducted by a qualified and impartial mediator who is trained in effective mediation techniques. The state education agency shall bear the cost of the mediation process and maintain a list of qualified mediators who are knowledgeable in laws and regulations relating to the provision of special education and related services.

Attorneys shall not participate in the mediation process.

Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

The parties to the mediation process are required to sign a confidentiality pledge prior to the commencement of such process.

An agreement reached by the parties to the dispute in the mediation process shall be set forth in a legally binding agreement that sets forth that resolution and that states that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceedings; is signed by both the parent and a representative of the agency who has the authority to bind such agency.

A written, signed mediation agreement under this section is enforceable in any State court of competent jurisdiction or in a district court of the United States. Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal court or State court of a State receiving assistance under IDEA.