

## Questions and Answers about Special Education Mediation

### *WHAT IS SPECIAL EDUCATION MEDIATION?*

Mediation is a way to settle a dispute which:

- helps parents, school and agency personnel solve disagreements about a student's special education needs
- uses a trained and experienced mediator to guide the participants toward a mutually acceptable solution
- encourages open communication in a confidential setting
- is structured, yet informal
- is voluntary for all parties
- does not take away the right to a conciliation conference or a due process hearing

### *How does the mediation process work?*

Once a completed and signed *Request for Mediation* form is received by MNSEMS, the parties are asked when they can meet and a mediator is assigned. Most mediation sessions can be scheduled within two to four weeks.

### *Who may attend the mediation session?*

The number of participants at each mediation session will be kept to a minimum in order to enhance effective problem solving. People attending must include someone who has the authority to make decisions and to commit any resources agreed upon as a result of the mediation - typically the parents and the school district's representative. Other participants may include individuals who have knowledge of the student's needs or who have specialized knowledge of the issues in the dispute. The parties must agree on who can attend the session. Generally, the school will be limited to no more participants than the parents have present.

### *How long does a mediation session take?*

Mediation sessions can take from five to six hours. Depending on the complexity of the issues and the number of participants, however, a session could last a full day. While conflicts are normally resolved in one session, some cases may require additional sessions.

### *What occurs during the mediation session?*

The mediation session consists of several stages:

- **Introduction** - the mediator reviews his/her role and explains the ground rules covering confidentiality, the use of caucus, and other procedural rules. The mediator then outlines what will happen during the session and responds to the participants' questions.
- **Sharing Points of View/Defining Issues** - parties are given a chance to define the issues from their point of view. These comments would generally take no more than 15-20 minutes each. The mediator may ask questions to clarify or summarize what has been said.

- **Caucus** - the mediator may use a caucus, which is a chance for each party to meet privately with the mediator, to clarify issues and to discuss possible solutions.
- **Discussion of Options for Resolution** - the mediator assists the parties to identify a wide range of possible solutions, tests those solutions, and explores the consequences of not settling the dispute.
- **Agreement** - if there is an agreement, the mediator will help the parties write it down. If agreement is reached, each party will receive a copy. The agreement is enforceable in court. If appropriate, an Individualized Educational Program (IEP) team meeting will be scheduled to incorporate the terms of the mediation agreement into the IEP. If the session does not result in an agreement, the parties are free to pursue any of the options they had before they entered into mediation.

## To Request Mediation

A request for mediation can occur whenever the parents or the school believe it might help resolve a given dispute. All parties must agree to participate in this voluntary process. A request form must be signed by the parties and sent to the Minnesota Special Education Mediation Service (MNSEMS) office. These forms are available at school district offices, agency offices, at advocacy organizations and public libraries, or will be sent to an interested party by MNSEMS. An attempt to convene a mediation session cannot be used to deny or delay a parent's right to a due process hearing.

***For more information:***

For more information about special education mediation and the Minnesota Special Education Mediation Service or to obtain this material in a different format like large print, Braille or on tape, contact:

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For TTY communication, contact the Minnesota Relay Service at 1-800-627-3529