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## INTRODUCTION

As an informed and involved parent, you are vital to the success of your child's special education program. Federal laws and ND regulations enable you to play an important role in the special education process. By sharing what you know about your child and by helping to make decisions, you will make an important contribution to your child's education.

The decisions you make should be based on knowledge and understanding of your rights and responsibilities. If problems and misunderstandings do arise, however, there are several ways to address them. First, you may want to talk with the school personnel directly involved with the problem and discuss your concerns. If the problem is not resolved, you may request a mediation meeting, file a formal complaint, and/or request a due process hearing. Each of these options has a specific purpose for helping you with your concerns, so it is important that you choose the best option for you.

This brochure describes the mediation process.

### What is mediation?

Parents of children with disabilities and school staff sometimes disagree about a child's special education and related services. Mediation offers an informal, effective way to resolve differences. It may focus on issues specific to a student's educational services or it may address communication issues that affect the working relationship of parents and educators.

### How will mediation help me?

Mediation is less stressful than formal proceedings, less time consuming and can

improve relationships between educators and parents. Mediation can help the parties envision other alternatives to their original positions. If the parties agree on issues, those points of agreement are outlined in a *Mediation Agreement*.

### What are the characteristics of special education mediation?

The mediation process is:

1. *Voluntary* - it is optional for the parents and the school
2. *Confidential* - it is open communication in a confidential setting. There is no disclosure of information given by either party unless permission is obtained from the party.
3. *At no cost to either party* - The ND Department of Public Instruction bears the costs related to special education mediation. If attorneys are involved in the dispute, parties are responsible for any fees they incur. Attorneys are not allowed to participate in the actual mediation meeting, but might be involved before or after the meeting or during caucus.
4. *An alternative* - It may occur prior to or concurrent with a request for a complaint investigation or a due process hearing. It does not interfere with either the right to due process or with due process timelines.

### Who may request mediation?

Mediation may be requested by the child's parent, guardian or surrogate parent, organizations, groups, or by school personnel.

### How do I request mediation?

Requests for mediation Requests should be addressed to the Dispute Resolution Coordinator at the address printed on the front of this

brochure. You may request mediation by completing the [Request for Mediation](#) form that can be found on the NDDPI website at: <http://www.dpi.state.nd.us/forms/sfn58601.pdf> or by calling NDDPI at the telephone number listed on the front of this brochure.

### What steps should you take before requesting mediation or other conflict resolution procedures?

The following steps are suggested, but are not required before requesting mediation services.

1. Talk with the school personnel involved and let them know that you are seriously concerned. Reasonable efforts should be made to resolve the problem at the school district or public agency level.
2. Make an appointment to see your director of special education and/or your superintendent of schools.
3. Contact a parent support group or an advocate to discuss your concerns.
4. Call the ND Department of Public Instruction for assistance. See the front of this brochure for contact information.

### What is the role of the Mediator?

The role of the mediator is to help the parties respectfully discuss the issues and to consider alternatives to the dispute. The mediator does not make decisions, but may ask questions and make suggestions for both parties to consider. If the parties do not agree with the suggestions, the mediator does not push for their acceptance. The mediator guides the discussion so that the parties can effectively problem-solve the disputed issues.

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### **What are the qualifications of mediators?**

All of the mediators accessed by the ND Department of Public Instruction or local school districts have received specialized training in mediation. In addition to training on the mediation process, the mediators have had preparation in special education issues. This training is conducted at a minimum of every two years.

### **What are the steps in the mediation process?**

A mediation session consists of several phases:

*Introduction* - The mediator begins the session promptly and explains the mediation process, the ground rules for the meeting, and confidentiality requirements to all participants.

*Joint Session* - Both parties to the dispute are given an opportunity *without interruption* to present the issue(s) from their point of view.

Only the mediator may ask questions or summarize what has been said. Parties can clarify their issues if the mediator has not accurately summarized them.

*Caucus* - The mediator may use the caucus, which is an opportunity for each party to meet privately with the mediator or with their family members or colleagues, to further clarify issues and positions. The mediator will not share information from the caucus without your consent.

*Agreement* - The parties determine the terms of the agreement and the mediator puts the agreement in writing. The agreement should be specific and should address:

- To what issue the particular agreement is tied;
- How it will be implemented or carried out;
- Who is responsible for carrying it out;
- The associated timelines; and,
- Whether services are to be rendered on a trial basis and what happens at the end of the trial.

The mediation agreement is signed by both parties and the mediator. At the conclusion of the session, or shortly thereafter, each party receives a copy.

### **What results may I expect?**

Mediators are trained to encourage open communication in a confidential setting. They help parties to move from a point of impasse to a point of resolution through the use of diverse mediation strategies. If a mediation session results in an agreement that would require changes to a student's IEP, the IEP team would then need to reconvene to consider how to incorporate those elements of the agreement into the student's IEP. The agreement may also specify other agreed upon actions that are to be taken.

Not all mediation sessions result in agreements. Even if an agreement is not reached, there is the potential of both parties leaving the session with an enhanced perspective of the issues. Most mediations result in better communication between the school and the parents, which in turn leads to an improved situation for the student.

The ND Department of Public Instruction believes that this brochure will be useful to you in resolving your concerns. The Department is dedicated to building positive, effective parent and professional partnerships based upon knowledge, trust and open communication.

This brochure describes the special education **mediation** process. If you wish to discuss other dispute resolution options available to you in resolving your problems, you may contact the Department at the number listed on the front of this brochure.

# *Dispute Resolution in Special Education*

## **Mediation**



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