

THE MEDIATOR'S ROLE

FDOE IDEA mediators in Florida are certified by the Florida Courts and are neutral third parties who are qualified and trained in effective mediation techniques. More information on Florida mediator certification requirements can be found at <https://www.flcourts.org/Resources-Services/Alternative-Dispute-Resolution/Training-Information>. The role of the mediator is to facilitate a negotiation process between parties who have reached an impasse. The mediator neither makes the decisions as to the appropriate terms of the agreement, nor holds that one party over another is "right." You do not need to "convince" the mediator of your position. The mediator will work with you to clarify the issues that are causing the disagreement, provide you with uninterrupted opportunities to present your point of view in a nonthreatening environment, stimulate mutual problem solving efforts and promote positive relationships by shifting the focus to the student's needs. Even if the mediator is an attorney, he or she is not acting in that capacity for either party during the mediation session. The parties may not subpoena the mediator or compel the mediator to produce any documents provided by a party in any pending or future administrative or judicial proceeding. Mediators will not voluntarily testify on behalf of a party in any pending or future administrative or judicial proceeding.

PARTICIPANT EVALUATIONS

An opportunity to evaluate the process will be provided to all parties following the mediation. The purpose of the participant evaluation is to determine the usefulness of mediation in resolving educational disputes. No personally identifiable information is shared. Your cooperation in the evaluation of the process is appreciated and will be valuable in guiding future efforts.

REQUESTING MEDIATION

When parents and schools are unable to resolve their differences through the individual educational plan (IEP) process, either party may request mediation. Mediation may be requested before or at the same time that a formal state complaint is filed. Mediation may be requested before or at the same time that a request for a due process hearing is filed. Although mediation is not a necessary step prior to a due process hearing, it is a step that is encouraged. Mediation may not interfere with the right to a due process hearing or be used to delay due process timelines.

Within 15 days of receiving notice of a parent's due process request, and prior to the initiation of a due process hearing, the district must convene a meeting called a resolution session, which must include the parent of the student and relevant members of the IEP team. The purpose of the resolution session is for the parent to discuss the due process request so that the district has the opportunity to resolve the dispute. This resolution session may only be waived if both the parent and the school district agree in writing to waive the meeting or if both parties agree to participate in mediation.

A parent may submit the completed form to request a mediation, which is located on the FDOE website at <http://www.fldoe.org/core/fileparse.php/7675/urlt/MediationRequestForm.pdf>, to the local school district's ESE office or to BEESS by email at IDEAMediation@fldoe.org or by fax at 850-245-0953. A parent may also contact BEESS at 850-245-0475 with any questions.



Florida Department of Education
(FDOE)
Bureau of Exceptional Education
and Student Services (BEESS)

**MEDIATION -
PARENTS AND
SCHOOL DISTRICTS
WORKING TOGETHER**



WHAT IS EXCEPTIONAL STUDENT EDUCATION (ESE) MEDIATION?

Mediation can help resolve differences before they become major barriers to parent-school relationships. The process is not intended to be confrontational or adversarial, as participants use a problem-solving approach to resolve the issues. A court-certified and trained FDOE Individuals with Disabilities Education Act (IDEA) mediator helps the parties reach a mutually satisfactory and legally binding agreement that is in the best interest of the student. Mediation is voluntary for all parties, and discussions that occur during the mediation process are confidential and may not be used as evidence in any subsequent legal proceeding.

ESE MEDIATION MAY:

- ✓ resolve disagreements concerning identification, evaluation, educational placement and a free appropriate public education for an exceptional student
- ✓ clarify issues causing the disagreement
- ✓ provide those involved with uninterrupted opportunities to present their points of view
- ✓ stimulate mutual problem solving efforts
- ✓ promote positive working relationships between parents and school personnel
- ✓ help parents and school personnel focus on what they have in common the student rather than the issues that divide them

Many school districts have implemented their own forms of mediation. Participation in this process of problem solving at the district level is strongly encouraged by BEESS.

THE MEDIATION AGREEMENT

A court-certified and trained FDOE IDEA mediator guides the parent, the school district or agency representative and other parties who have knowledge necessary to resolve the dispute through a structured negotiation process. If the parties reach a mediation agreement, it is put in writing and signed by both parties and the mediator. Copies of the mediation agreement are provided to each party. The mediation agreement is a legally binding contract, which is enforceable in a state court of competent jurisdiction or in a U.S. district court.

MEDIATION IS VOLUNTARY

Although either the parent or the district may request mediation, both parties must agree to participate, as the mediation process is voluntary. After a request for mediation is made to BEESS and both parties agree to mediate, the mediation session is scheduled by BEESS. A mediator is selected on a rotational basis. Generally, the mediation session occurs within 14 days after the mediator is assigned. Mediation sessions can occur virtually. Participants should set aside three to six hours for this process.

PER LAW, EACH SESSION IN THE MEDIATION PROCESS MUST BE HELD IN A LOCATION THAT IS CONVENIENT TO THE PARTIES TO THE DISPUTE. IN ADDITION TO FACE-TO-FACE MEDIATION, BEESS ALSO OFFERS VIRTUAL MEDIATION AS AN OPTION IF AGREED UPON BY BOTH PARTIES.

PAYING FOR MEDIATION

In Florida, FDOE's ESE mediation process is paid for by FDOE and provided at no charge to parents. Districts pay for gifted education mediation. Each party is responsible for their individual expenses.