

How to Prepare for and Participate in Mediation or Facilitation

Special Education Mediation Services



SPECIAL EDUCATION MEDIATION SERVICES

**How to Prepare for and Participate in
Mediation or Facilitation**

Special Education Mediation Services

Grant-Funded

A Grant-Funded Initiative of the Michigan Department of Education Office of Special Education (OSE).

Free

Offer FREE mediation, IEP facilitation and collaborative communication training to schools and parents across Michigan.

Federally Mandated

Enables the OSE to meet its obligation under the IDEA to provide statewide mediation services at no-cost to schools and parents to resolve special education disputes.

What We Do

We support students who receive special education supports and services (IFSP/IEP) birth to age 26 by fostering cooperation and effective teamwork among those who plan their education. The overall goal is to help students, parents and educators make decisions that improve education outcomes.





How We Do It

Mediation

A FREE neutral mediator leads families and schools through a process to resolve conflict and come to a mutual agreement on a plan to benefit the student and improve outcomes.

Facilitation

We help families and schools navigate complex meetings, stay on task, and make sure all points of view are heard by providing a FREE neutral meeting facilitator.

Free
Fast
Effective



Today's Agenda



Facilitation

- What is Facilitation?
- Standard expectations
- Types of Facilitator involvement
- Interventions for the process
- Different kinds of meetings
- Meeting follow-up
- Formal dispute resolution

Mediation

- Standard expectations
- What we need from each party
- How to prepare for participation
- Interventions for the process
- Different kinds of meetings
- Meeting follow-up
- Formal dispute resolution



Intake

This call is your opportunity to explain what has happened and what you would like changed.

You'll be asked for:

- Student's name
- Birthdate
- Grade level
- Contact information for yourself and any other people you would like to attend the session.
- Release of student information.





Intake Continued

The district will be contacted to share their perspective and participant information.

The intake specialists are not permitted to offer advice. However, they may provide links to information related to your concerns.



Scheduling and Paperwork



- After both parties agree to participate in good faith, an email will be sent introducing them to the case manager.
- The case manager will request paperwork from the participating parties.
- A Statement of Understanding (for Mediation or Facilitation) will be sent to everyone via DocuSign.
- The case manager will coordinate your schedules to find an available time for the meeting unless it has already been set.

What is Facilitation?

- SEMS facilitators use meeting management and communication skills to help make any special education meetings more efficient and effective.
- Facilitating special education meetings is an optional process, not mandated by IDEA, and is funded by MDE OSE at no cost to parents and schools.
- Either the parent or district can request facilitation. Both must agree to the service.



Standard Facilitator Expectations

Facilitation Goal

To help families and schools navigate complex meetings, stay on task, and make sure all points of view are heard.

Remain Neutral

Statement of Understanding

Opening Statement

Questions



How Facilitation Helps

Facilitation Goal

To help families and schools navigate complex meetings, stay on task, and make sure all points of view are heard.

- Model effective communication and listening
- Identifies points of agreement/disagreement
- Maintain open communication
- Ensures everyone at the meeting can participate fully
- Build and improve relationships
- Encourage IEP Team to consider new options to address unresolved problems
- Resolves disagreements more quickly than with other dispute resolution options
- Supports decision-making with team members who know the student best



Facilitator Involvement

Facilitation Goal

To help families and schools navigate complex meetings, stay on task, and make sure all points of view are heard.

The School decides who runs the meeting – either the Facilitator or the School Designee

- Helps create an agenda
- Communication guidelines for the meeting
- Guides discussion by asking student focused questions
- Keeps team members on task and the meeting within the scheduled time



Facilitator Involvement Continued

Facilitation Goal

To help families and schools navigate complex meetings, stay on task, and make sure all points of view are heard.

- Ensuring everyone is ready to move to next part of IEP/agenda
- Asks questions to clarify points of disagreement and help identify workable solutions.
- Helps ensure that the language in the document (IFSP, IEP, BIP, MDR) reflects decisions made during the meeting.



Interventions

Facilitation Goal

To help families and schools navigate complex meetings, stay on task, and make sure all points of view are heard.

Stopping sidebars

De-escalating emotional contributions

Ensure all have opportunity to contribute

Keep meeting on track and on time.



Facilitator Won't

Facilitation Goal

To help families and schools navigate complex meetings, stay on task, and make sure all points of view are heard.

Be a part of the team

Give legal advice

Take sides

Tell school staff or parents/guardians what to do

Make a decision



Types of Meetings

Facilitation Goal

To help families and schools navigate complex meetings, stay on task, and make sure all points of view are heard.

Any Special Education Meeting

- Initial Individualized Education Program (IEP)
- Review IEP
- Individual Family Service Plan (IFSP)
- Multidisciplinary Evaluation Team meeting (MET)
- Review of Existing Evaluation Data meeting (REED)
- Behavior Intervention Plan meeting (BIP)
- Manifestation Determination Review (MDR)
- Planning conference
- Resolution Session



Follow Up

Facilitation Goal

To help families and schools navigate complex meetings, stay on task, and make sure all points of view are heard.

Items Facilitator will be sure to Address:

- Who will provide copy of documents to the parent/guardian?
- Who will distribute the document to staff?
- When will placement/services be effective?
- Has parent/guardian been made aware of procedural safeguards? Do they understand them?
- Any other action items from meeting that need clarification: additional meeting dates, who to contact with questions, what happens next?



How To Request FREE Service

(Did we mention they're free?)



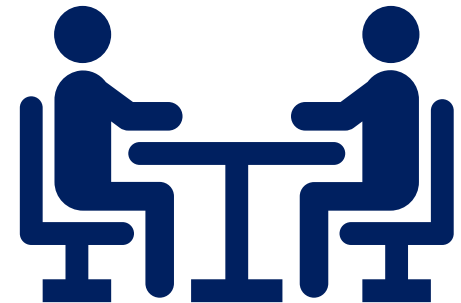
Call
1-833-KIDS-1ST
Mikids1st.org



Participate in
Intake Process



We contact
parties, arrange
schedules and
process
paperwork.

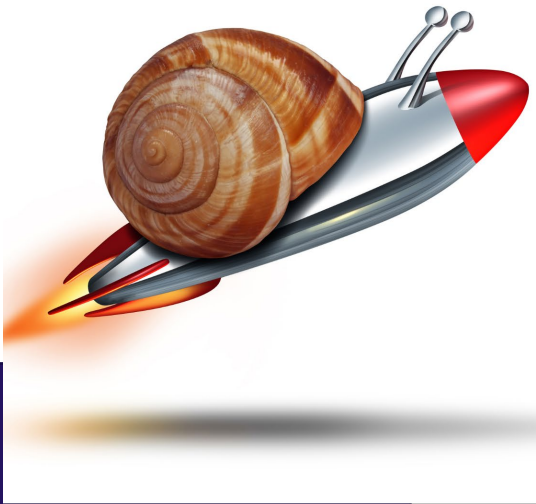


Parties Meet

How quickly can we help? ... it depends

Steps to arrange services:

- Intake staff must contact both the parent and the school district.
school-initiated inquiry vs parent-initiated
- Parties connected to regional service partner.
- Applicable student records requested.
- Meeting scheduled.
- SEMS assigns a mediator/facilitator on a random, rotational or other impartial basis from our statewide roster.
- A Statement of Understanding signed.



SEMS makes every effort to meet ALL service requests. Completion of this process presents a challenge if the time between the request and a scheduled meeting is less than 4 school days.



Standard Mediation Expectations

Mediation Goal: A neutral mediator leads families and schools through a process to resolve conflict and come to a mutual agreement on a plan to benefit the student and improve outcomes.

The IDEA describes mediation as a dispute resolution option that is voluntary on the part of the parties, not used to deny or delay a parent's right to a hearing or complaint and is conducted by a qualified and impartial mediator trained in effective mediation techniques. Mediation can be requested **anytime** there is a disagreement about special education.

Michigan Department of Education Office of Special Education June 7, 2021



Benefits of Mediation

Mediation Goal: A neutral mediator leads families and schools through a process to resolve conflict and come to a mutual agreement on a plan to benefit the student and improve outcomes.

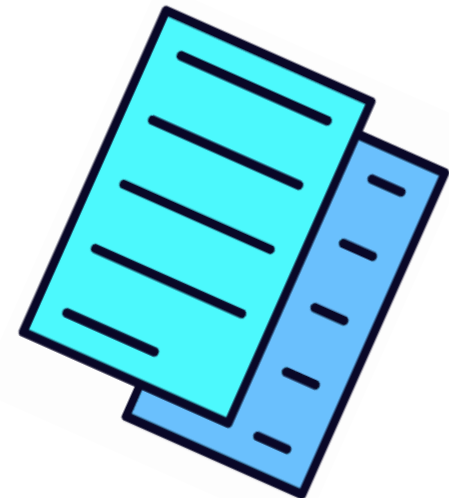
- Mediation can help everyone better understand differing points of view.
- Participants work together on finding solutions and retain control over the outcome, rather than having a decision made by someone unfamiliar with the student.
- People are often more satisfied with and committed to mediated agreements because they are developed through a collaborative process.
- Disagreements may be resolved more quickly than with other dispute resolution options.
- Mediation focuses planning for the future.



What Schools and Families Provide

Mediation Goal: A neutral mediator leads families and schools through a process to resolve conflict and come to a mutual agreement on a plan to benefit the student and improve outcomes.

- List of priority issues
- Copy of IEP/IFSP/MET/MDR/BIP/Complaint
- Evaluation data and reports
- Names and emails of all participants
- Perception and background of identified or potential issues



How to Prepare for Mediation

Mediation Goal: A neutral mediator leads families and schools through a process to resolve conflict and come to a mutual agreement on a plan to benefit the student and improve outcomes.

- Organize your documents and write dates and notes on them. Consider making three copies – one for yourself, one for the other party, and one for the mediator.
- Make a list of the issues and questions you want to discuss during the mediation process. This can help you remember all your concerns, so you can present them in an organized manner.
- Think of questions other participants might ask and write down some possible responses.



How to Prepare for Mediation Continued

Mediation Goal: A neutral mediator leads families and schools through a process to resolve conflict and come to a mutual agreement on a plan to benefit the student and improve outcomes.

- Try to think of many different solutions to the problem and write them down.
- Think about how you plan to deal with emotions (yours and others) during the meeting.
- Try to arrive a little before the scheduled meeting time, so you have time to get ready to participate.
- The mediation is more likely to result in an agreement if everyone listens carefully to one another and is respectful.

Center for Appropriate Dispute Resolution in Special Education



Standard Mediator Expectations

Mediation Goal: A neutral mediator leads families and schools through a process to resolve conflict and come to a mutual agreement on a plan to benefit the student and improve outcomes.

- Remain neutral
- Conduct mediation
- Clear definition of the process
- Opening Statement
- Confirm the agenda/ratify the agenda
- Ensure equal participation
- Make sure all abide by rules of conduct
- Help parties stay on topic
- Guide parties toward agreement
- Record the agreement



What Supported Negotiation Looks Like

Mediation Goal: A neutral mediator leads families and schools through a process to resolve conflict and come to a mutual agreement on a plan to benefit the student and improve outcomes.

- Techniques
- Caucus
- Role of attorneys and parent advocates



Mediation Agreement

Mediation Goal: A neutral mediator leads families and schools through a process to resolve conflict and come to a mutual agreement on a plan to benefit the student and improve outcomes.

- Who writes the agreement?
- How to flesh out terms of an agreement.
- Who, what, by when
- Agreements can be written for just the resolution of one item.
- **Benefits to signing at the table.**
- **Risks of not signing at the table**



Important Considerations

Mediation Goal: A neutral mediator leads families and schools through a process to resolve conflict and come to a mutual agreement on a plan to benefit the student and improve outcomes.

- Mediation can sometimes be an emotional, tiring, and frustrating process.
- Parents and educators may feel at a disadvantage if they don't take time to prepare before the mediation session.
- Some complex situations may require more than one mediation session to create a detailed agreement.
- There are no guarantees that mediation will lead to a written agreement.
- If a dispute is resolved through the mediation process, the agreement must be in writing. It must be signed by the parent and an authorized representative of the school district. The mediation agreement must state that all of the discussions that took place during the mediation process will remain confidential.



Next Steps

Mediation Goal: A neutral mediator leads families and schools through a process to resolve conflict and come to a mutual agreement on a plan to benefit the student and improve outcomes.

- Who's doing what?
- Prepare an action item lists
- What will resolution look like in the classroom/at the center/school
- What if the agreement is not followed?



Mediation Myths

Mediation Goal: A neutral mediator leads families and schools through a process to resolve conflict and come to a mutual agreement on a plan to benefit the student and improve outcomes.

- Mediators will make a decision if parties cannot.
- Attorneys and advocates don't participate in mediation
- Mediation agreements can't be enforced.
- A party can be forced to participate in mediation.
- What is discussed in mediation can be used in other legal proceedings.
- SEMS sends bills for mediation services.
- Only districts can request mediation.
- Mediators will provide legal or advocacy support.



Mediation and Complaints

The parent and the school may resolve some or all the issues of a state or due process complaint using mediation.

Release of Contact Information to SEMS

_____ Yes, I am interested in mediation and authorize the OSE to forward my name and contact information to SEMS. I understand SEMS will contact me directly.

_____ No, I am not interested in mediation. I understand SEMS will not contact me, and at any point, I can contact the public agency or SEMS to request mediation. Visit the SEMS website or call 833-543-7178 for more information.



State Complaints

Extension of Timeline for Mediation

A parent and a public agency may agree to participate in mediation at any time during a state complaint investigation without stopping the 60-calendar-day timeline.

However, the parent and public agency may agree to make a written request to the OSE for an extension of the 60-calendar-day timeline when engaging in mediation through Special Education Mediation Services (SEMS), the state-approved option for mediation.

Timeline extensions for the purpose of mediation are optional for parents and public agencies. Without agreement from the OSE after a request from both parties for an extension, the OSE will issue a final decision within the 60-calendar-day timeline.



State Complaints Continued

Option to Withdraw State Complaint

- The parent and school may resolve some or all the issues in the state complaint in mediation. The Mediator will ask if complainant wants to withdraw the state complaint. There can be a mediation agreement without a complaint withdrawal.
- A complainant may withdraw or stop, a state complaint investigation at any time within the 60-calendar-day timeline and for any reason.
- To withdraw a state complaint, the complainant must submit a written request to the OSE, which may be provided by mail, fax, email, or hand delivery. Upon receipt, a request to withdraw will be processed and the parties and other relevant individuals will be notified via mail.
- If the mediation agreement includes the agreement to withdraw the complaint, SEMS will forward the signature page to OSE which serves as notification.



Resolution Period and Options

- When the complaint is filed by the parent, the district has 15 days (7 days if expedited) to schedule a resolution session with the parent and work toward an agreement. The resolution period is 30 days.
- With mutual written agreement, the parties may:
 - Waive the resolution period and proceed directly to the hearing process
 - Hold the resolution session
 - Special Education Mediation Services (SEMS) can provide a neutral facilitator for a Resolution Session.
 - Participate in mediation in lieu of the resolution session.



Resolution Session or Mediation?

Differences

- Resolution Session agreements have an automatic 3 day "out" clause. **Mediation agreements are enforceable upon signing**
- Districts are not permitted to bring attorneys unless the parent brings one. **Either party may be represented. The mediator manages the meeting and encourages the conversation between the parent and district representative.**
- Resolution session agreements do not have statutory confidentiality language. **Anything discussed in mediation is confidential and can not be used in another proceeding.**
- Resolution session agreements are limited to the allegations in the due process complaint. **Mediation agreements can address the complaint issues and any others the parties agree to discuss.**
- Resolution session must be scheduled within 15 (or 7) days of the complaint filing. **Mediation has no statutory timeline. The resolution period will extend until the mediation is completed.**



Due Process

Resolution Session

- When the complaint is filed by the parent, the district and parent have 15 days (7 days if expedited) to hold a resolution session and work toward an agreement.
- If the dispute is resolved and an agreement is reached, the parties can request for the hearing to be withdrawn and the case will be closed.
- If the resolution session is waived, or an agreement was not reached, the Administrative Law Judge (ALJ) will schedule a pre-hearing conference.
- Both district and parent can agree to waive the resolution session.
- Special Education Mediation Services (SEMS) can provide a neutral facilitator for a Resolution Session. Mediation can be held at any time up to the due process hearing.



Resolution Sessions

Special Considerations

- The mediator will keep participants focused on issues in the complaint and can help create the agreement.
- Three day out clause.
- An agreement can be created even if just one issue is resolved.



Contact SEMS



Services

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Information

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Website

Mikids1st.org

We are here to support you!

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For more information visit

www.michiganallianceforfamilies.org

Call 800-552-4821

En Español 313-217-1060

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Michigan Alliance for Families

In collaboration with



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