

This is a reminder that the Individuals with Disabilities Education Act (IDEA) regulation at 34 C.F.R. §300.506 provides the option of mediation as a way to resolve disagreements between school districts/agencies and parents or legal guardians of students with disabilities. The South Carolina Department of Education promotes and encourages the use of mediation as a mechanism to maintain relationships between school districts/agencies and parents and legal guardians while working together to resolve disagreements.

Mediation is less formal than a due process hearing, and is not intended to be conducted in an adversarial manner. Mediation is voluntary, which means both the parents or legal guardians and the school district/agency must agree to participate in the process and the process is confidential. Either a parent or legal guardian or a school district/agency may request mediation in an attempt to resolve disputes regarding a proposal or refusal to initiate or change the identification, evaluation, or educational placement of a student with a disability, or the provisions of a free appropriate public education (FAPE) to a student.

The school district/agency must maintain copies of any forms or written documentation relating to the mediation process. Both parties must sign and date the *Request for Mediation* form when agreeing to mediation. The mediation session must occur within fourteen calendar days of the date the parties agree to participate. The school district/agency must transmit a copy of the *Request for Mediation* form that is signed and dated by both parties and a copy of any written agreements reached during the process to the SCDE, Office of General Counsel.

The attached guidance document contains a detailed explanation of the special education mediation process in South Carolina and is intended to provide guidance for parents and school districts/agencies in an effort to resolve disputes concerning the provision of special education and related services for students with disabilities. The document also includes an explanation of the process and a description of each party's role in the mediation process. I am also attaching the list of current mediators and forms that may be used in requesting mediation and sample forms that you may use to formulate written agreements that result from the use of mediation process.

Because mediation agreements are legally enforceable in state or federal courts of competent jurisdiction, the parties must give detailed explanations of any agreements reached during the process. If the parties agree that someone will do something within a certain period of time, give a detailed description of who will do what and when. The parent or legal guardian and a representative of the school district/agency, who has the authority to bind the school district/agency, must sign the mediation agreement.

Mediation agreements are not a way to agree to do something that would otherwise violate federal or state requirements. For example, the parties can not use a mediation agreement to require a parent to pick a student up from school any time the student engages in interfering behaviors that violate the school code of conduct and make the parent responsible for providing the student's missed educational services to relieve the school district/agency of the need to appropriately address the student's behaviors. Mediation is often used, however, to resolve issues related to how much time a student will receive special education

and related services outside the general education setting and parental requests for additional supplementary supports.