

Request for Mediation

Mediation is one of three formal methods of resolving disputes in special education at the local level. Other methods are formal complaint and due process hearing. Mediation:

- May be suggested by either the parents or a public agency representative;
- May take place only if both parties agree to mediate;
- Costs are borne by the Kansas State Department of Education (KSDE); no cost to either the parents or the public agency;
- Is voluntary throughout the process, mediator has no authority to order resolution;
- Provides an opportunity for agreement, written and committed to by the parties, themselves.

Parent(s) Name: _____

Address: _____
(or contact information
if homeless) _____

City/State/Zip: _____

Phone Number(s): _____

Email Address(es): _____

USD/Coop/Interlocal/or other public agency

No. & Name: _____

Address: _____

City/State/Zip: _____

Contact Name: _____

Phone Number(s): _____

Student for whom mediation is requested:

Name: _____

Disability _____ Birthdate: _____
(optional)

Has a due process hearing been requested? ☐ yes ☐ no

Has a hearing been scheduled? ☐ yes ☐ no If yes, please state the date: _____

Please indicate preferred dates and times when you are available for a mediation session.

Unless there is an emergency situation requiring immediate resolution, please allow approximately two weeks for the selection of a mediator and for the mediator to set up a mediation session.

Preferred Dates: _____

Agreement to Mediate

We, the undersigned, have been fully informed of the mediation process and agree to abide by the procedures and guidelines governing the process, and that:

1. The mediator is a specially trained impartial third party whose role is to assist us in making mutually determined decisions regarding the appropriate special education services or placement for:

(Name of Student)

2. The mediator is not serving as a legal representative, counselor, or advocate and will not make decisions regarding the special education services or placement to be provided to the student.
3. The mediator cannot be called upon as a witness or consultant in any other administrative, judicial, or educational process. Mediation discussions are confidential. Any recording (electronic or otherwise) of a mediation session is not permitted. The only written record will be the agreement that we jointly develop and agree upon in the mediation process; and
4. Participation in a mediation session is voluntary, and mediation may not be used to delay or waive the parties' right to proceed with a due process hearing.
5. Kansas Law, at K.S.A. 72-996, requires that any agreement reached by the parties to this mediation must be in writing and signed by the parent and an authorized representative of the school district. The law also requires that, at a minimum, every mediation agreement must include the following statements:
 - 1) the resolution of each issue presented in the mediation;
 - 2) all discussions that occurred during the mediation process are confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and
 - 3) each party understands that the agreement is legally binding upon them; and
 - 4) the agreement may be enforced in state or federal court.

[Optional] If this mediation includes complaint issues currently under investigation by the Kansas State Department of Education, both parties ☐ agree ☐ do not agree that the timelines for completion of that investigation shall be extended to provide us with an opportunity to complete the mediation process.

Parent: _____
Signature

Date: _____
Type or Print Name

Parent: _____
Signature

Date: _____
Type or Print Name

Education Agency
Representative: _____
Signature

Date: _____
Type or Print Name

Confidentiality Notice

We understand that discussions held in mediation are to be kept confidential. Nothing that is said may be used as evidence in any later due process hearing or other legal action. In addition:

The parties are not allowed to tell anyone about discussions which occur during the mediation process. This includes statements made, settlement proposals made or rejected, and the reasons an agreement was not reached, if that happens. Parties may not discuss information regarding mediation discussions with a judge, administrative hearing officer, complaint investigator or arbitrator. However, the parties may discuss information, on a need to know basis, with appropriate staff and professional advisors. Also, a parent may disclose mediation discussions to his/her spouse. The parties may not at any time, before, during, or after mediation, call the mediator or anyone associated with the mediator as a witness. This includes any judicial, administrative, or arbitration proceeding concerning this dispute. The parties may not subpoena or demand the production of any recordings, records, notes, work product, or other written information of the mediator in any judicial, administrative, or arbitration proceeding concerning this dispute. The exception to the above is that the agreement to mediate and any written agreement made and signed by the parties as a result of mediation may be used in any relevant proceeding, unless the parties agree in writing not to do so.

Adapted from: Senate Report 105-17, Committee on Labor and Human Resources, S.717, Individuals with Disabilities Education Act Amendment of 1997.

Please mail to: Mediation Consultant
KS State Dept. of Education, Special Education, & Title Services
900 SW Jackson St. Suite 620
Topeka, KS 66612

Alternatively, mediation forms may be emailed to formalcomplaints@ksde.org. Phone: (800) 203-9462 or (785) 291-3097