

MEDIATION AND IMPARTIAL HEARINGS



Under the federal law IDEA (the Individuals with Disabilities Education Act), states must give parents two options for resolving disagreements with the school districts: mediation and impartial hearing. What are the differences between mediation and impartial hearing?

MEDIATION

1. Conducted in front a neutral third party who has no power to issue a finding, or determination to resolve the dispute
2. Usually held without attorneys. As mediation isn't geared towards proving right or wrong positions in relation to regulations, attorneys are often unnecessary.
3. Rules of evidence are relaxed. There is no need to prepare discovery evidence in advance, call expert witnesses, or to keep the procedure on only the issues initially raised as being in dispute.
4. No one is forced to agree to anything they don't want. Final resolutions are always within the parties' control.
5. When resolution is reached, an agreement is drawn up at the Mediation session. It may be implemented immediately.
6. Mediation are usually scheduled between two and four weeks of receipt of request. The cost of mediation to the parties is usually nothing. The State Education Department (SED) contracts mediation services.

IMPARTIAL HEARING

1. Conducted in front of a neutral third party who is empowered to father evidence and issues a decision favoring one party over the other.
2. Usually held with attorneys. As Hearings are based on facts and procedural issues, attorneys attempt to argue for their case and find fault with the other party's positions and issues.
3. Rules of evidence hold. Discovery or information each party intends to present must be presented beforehand and the proceedings must stay within the framework of that evidence.
4. Decisions are made by the Hearing officer. Short of appealing the decision, parties have no control over the outcome.
5. A Hearing officer has 45 days to make a decision. Parents and districts have to wait $\frac{1}{4}$ a school year before the decision can be enacted.
6. Hearings are usually scheduled between four and six weeks of the request. The cost of the average hearing in NYC can run in the tens of thousands of dollars. While a parent who wins incurs no costs, school districts' expenses are enormous.

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MEDIATION

7. Mediation practice is based on strengthening communication and understanding. Thus, after Mediation sessions, parties usually feel their relationship has improved.

IMPARTIAL HEARING

7. Impartial hearings are legal proceedings. The hearing has parties speaking to the officer, not each other and determines a winner and a loser.

ACCESSING MEDIATION

Parents may request Mediation directly through the Mediation Center. Each borough has a Mediation Center, known as a Community Dispute Resolution Center Program (CDRCP).

CDRCs are annexes of the United Court System

The CDRCPs are city and state funded centers which are annexes of the Unified Court System. These Mediation Centers handle a variety of disputes, including custody and visitation cases, community disputes (landlord/tenant, merchant/customer) interpersonal disputes (neighbor/neighbor, parent/child), lemon law arbitration, small claims disputes and Early Intervention and special education disputes.

Mediators are specially trained as mediators, not special education experts

Mediators are trained as “generalist mediators” who receive additional training for handling special content cases. Mediators are not special education experts. They are process experts who are highly skilled in helping people explore all the options available to them, discuss their issues and interest in supportive, forward thinking style and provide an atmosphere where trust, confidentiality and impartiality prevail. Mediators also have access to the expertise of the State Education Department’s Office for Special Education, for technical assistance on regulatory issues.

Mediation is voluntary

Parents may bring anyone they wish to Mediation sessions. School districts must bring personnel who are authorized to enter into agreements related to the issues in dispute, and who are familiar with the specific issues programs in dispute. They are also limited to two representatives, unless both parties agree that there is a need for additional district representation. Mediation is voluntary on the part of the parties.

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MEDIATION CENTERS

THE BRONX

IMCR Dispute Resolution Center
384 East 149th Street, Room 330
Bronx NY 10455
T: (718) 585-1190
Fax: (718) 585-1962
www.imcr.org

BROOKLYN

The New York Peace Institute
210 Joralemon Street, Suite 618
Brooklyn, NY 11201
T: (718) 834-6671
Fax: (718) 834-6681
info@nypeace.org

MANHATTAN

The New York Peace Institute
111 John Street, Suite 600
New York, NY 10038
T: (212) 577-1740
Fax: (212) 577-1748
info@nypeace.org

QUEENS

Community Mediation Services, Inc.
89-64 163rd Street
Jamaica, NY 11432
T: (718) 523-6868
Fax: (718) 523-8204
www.mediatenyc.org

STATEN ISLAND

NY Center for Interpersonal Development
(SI Dispute Community Resolution Center)
130 Stuyvesant Place, 5th Floor
Staten Island, NY 10301
T: (718) 815-4557
Fax: (718) 876-6068