

Mediation

Mediation provides an opportunity for parents/providers to resolve their disagreements (e.g., individual child complaints) in a non-adversarial, informal manner. Mediation is available for disputes including any matters arising prior to the filing of a due process hearing. Mediation may occur at any point when it is requested for conflict resolution. When in conjunction with a request for a hearing, the Infant Toddler Program cannot delay time lines unless agreed upon by all parties. Parents cannot be required to use mediation and mediation may not be used to deny or delay a parent's rights.

Mediation

Mediation includes the following:

- A mediation process is available as a supplement to the formal hearing process and may be voluntarily chosen by the parent. The procedures shall ensure that the mediation process:
 - Is voluntary on the part of the parties.
 - Is not used to deny or delay a parent's right to a due process hearing or to deny any other rights under Part C.
 - Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.
- A parent can request mediation alone or simultaneously with a request for an impartial due process hearing and may refuse or withdraw from the mediation process at any time. A parent may also request mediation when filing an administrative complaint.
- The Infant Toddler Program maintains a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of early intervention services for infants and toddlers with disabilities and their families. The Department of Health and Welfare is responsible for costs associated with the mediation process related to early intervention services, including the costs of meetings.
- Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties in the dispute.
- Mediation must be completed in a timely manner following receipt of a request for mediation and may not be used to deny or delay a parent's right to an impartial due process hearing or to deny any of their rights under Part C.
- If an agreement is reached by the parties in the dispute during the mediation, the parties must execute a legally binding agreement that sets forth that resolution and that:
 - States all discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal court or State court of a State receiving assistance under Part C.

The parties in the mediation process will be required to sign a confidentiality pledge prior to the commencement of such process.

- The mediation agreement must be to the satisfaction of both parties and must not conflict with state or federal law or policy.
- The agreement is signed by both parties (the parent and a representative of the Infant Toddler Program who has the authority to bind the agency) and both parties are given a copy at the end of the mediation.
- Written, signed mediation agreement is enforceable in any State court or competent jurisdiction or in a district court of the United States.
- Mediation does not restrict parents from requesting an impartial due process hearing at any time. Parents may simultaneously file a request for mediation and for an impartial due process hearing.

Impartiality of Mediator

- An individual who serves as a mediator under Part C:
 - May not be an employee of the lead agency or an early intervention service provider that is involved in the provision of early intervention services or other services to the child.
 - Must not have a personal or professional interest that conflicts with the person's objectivity.
- A person who otherwise qualifies as a mediator is not an employee of the lead agency or and early intervention provider because he or she is paid by the agency or provider to serve as a mediator.

The Infant Toddler Program will select mediators on a random, rotational, or other impartial basis.