

**New Jersey Department of Education,  
Office of Special Education Policy and Procedure  
How Does IEP Facilitation Compare to Mediation?**

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	<b>FIEP MEETING</b>	<b>MEDIATION MEETING</b>
<b>OPTION</b>	Is an option for using a third party (facilitator) to promote effective communication and assist the IEP team in developing a mutually agreeable IEP.	Is a dispute resolution option for using a third party (mediator) to promote effective communication and assist the IEP team in developing a mutually agreeable IEP.
<b>FOCUS</b>	Focuses on the needs of the student, the IEP process and an agreed upon IEP document.	Focuses on the needs of the student, the relationship of the participants and the resolution of the conflict.
<b>GOAL</b>	Collaborative efforts resulting in a mutually agreeable IEP.	Resolving existing disputes about special education placements or services resulting in a mutually acceptable mediation agreement.
<b>PARTICIPANTS</b>	IEP Facilitation must include: The required IEP team members to complete the IEP process; including the parent, and when appropriate, the student. May also include attorneys, advocates and other relevant parties who have knowledge of the student, with the exception of any consented to excusals, prior to the meeting.	Mediation participants: Must include persons who have legal authority to act on behalf of the student and local district respectively. May also include attorneys, advocates, interpreters, and other relevant parties who have knowledge of the student.
<b>ATTORNEY</b>	Parties generally advise each other if an attorney will be present.	OSEPP requests that the parties advise each other if an attorney will be present.

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<b>SCHEDULING</b>	The school schedules the IEP meeting and sends notice to the parent and either the parent/guardian or school district representative may submit a Request for IEP Facilitation to OSEPP.	The OSEPP scheduler works with the parties to schedule the mediation and OSEPP sends the confirmation to the parties.
<b>LENGTH</b>	OSEPP recommends a 3 hour time limit.	Whatever is needed to resolve the conflict, an average session is 3 hours.
<b>PRACTITIONERS' ROLE</b>	Facilitator keeps the focus on a productive student-centered IEP process conducted in a respectful and collaborative manner and on developing an agreed upon IEP document in a timely manner.	Mediator helps the parties identify issues, see other's perspectives and consider options for the resolution of the disagreement.
<b>CONFIDENTIALITY</b>	The parameters of confidentiality apply to all IEP meetings, including FIEP meetings.	All discussions that occur during the mediation process are confidential and may not be used as evidence in any subsequent due process hearing or civil proceedings.
<b>OUTCOME</b>	IEP Facilitation does not relieve the school district of the responsibility to meet regulatory timelines. If an agreement is reached on the IEP, the school district is required to complete the IEP document and provide written notice to the parent; as well as send written notice to the parent regarding the provision of services. The only record kept of the Facilitated IEP meeting is the date, time and location of the meeting, surveys, and the result. Neither the facilitator, nor OSEPP will keep a copy of the IEP document.	Mediation cannot be used to delay or deny a due process hearing. If a resolution is reached in mediation, the parties must execute a legally binding mediation agreement. The only record kept of the mediation session is the date(s), time(s) and location of the mediation session(s), the written agreement (if applicable), and the signatures of each participant.

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<b>AUTHORIZATION</b>	An initial IEP cannot be implemented without the parent's written consent. Subsequent IEPs can be implemented, after written notice is provided, unless the parent objects by requesting a due process hearing within the 15 calendar days after receiving written notice.	Both the parents and an authorized district representative must sign the mediation agreement.
<b>ENFORCEMENT</b>	The IEP is enforceable through the state complaint process or a due process hearing.	The written, signed mediation agreement is enforceable in any state court of competent jurisdiction or in a district court of the United States. [20 USC 1415(e)(2)(F)] or by OSEPP on behalf of the parents for program and services.
<b>ADMISSIBILITY</b>	The IEP is admissible in subsequent proceedings.	All discussions that occur during the mediation process are confidential and may not be used as evidence in any subsequent due process hearing or civil proceedings.