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*Love, equity, and access for young people with disabilities*



# **SPECIAL EDUCATION MEDIATION GUIDELINES & PROCEDURES**

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## **WHAT WE DO**

- **LEARNING & SCHOOL**
- **FAMILY SUPPORT SYSTEMS**
- **PARENTING & ADVOCACY**
- **WORKING & ADULT LIFE**
- **FRIENDSHIP & SOCIAL SKILLS**

# include nyc is...

a provider of one-on-one support, training, and practical information to young people with disabilities, their families, and the professionals who work with them.

a family-founded, independent nonprofit

a Parent Center serving NYC children and young people with disabilities, birth through 26, and their families

here to help you make informed decisions

# Special Education Mediation

- What is it?
- Who does it?
- Is there a cost?
- Who decides?

# The Mediation Centers

## (Community Dispute Resolution Centers)

- Are non-profit organizations (est. 1981) and supervised by the Unified Court System
- Are free!
- Serve every county of NYS
- 1990: Started mediating Special Education issues

# Meet Jelen



Jelen is a 6<sup>th</sup> grade student in a General Ed class and receives SETSS 5 times a week and counseling once a week.

His classification is Learning Disabled.

Recent evaluations show that Jelen's academic levels have declined. He has low self esteem, has trouble expressing his feelings and frequently has angry outbursts.

# Jelen's Mom

Jelen's mother feels that the school doesn't know how to help her son.



The school calls her every day at work to complain about his behavior. She's had to meet with the school so many times and she's afraid she may lose her job.

She's upset that the school told her Jelen should be classified Emotionally Disturbed and that he should be in a special class.

Jelen's mom is concerned because her son can't even read and she knows that is making him frustrated. She feels the school should be helping him more, but she doesn't want him in a special class.





# School Principal

The principal says that Jelen's behavior has become difficult.

He doesn't do his work at school or at home, he talks back to adults, distracts other students, and gets into fights often.

Jelen doesn't attend SETSS consistently and his grades have been declining.

The principal tried to use a conduct sheet to help with Jelen's behavior but it didn't have any affect. Jelen spends a lot of time out of the class because of his behavior problems.

The school feels that Jelen should be classified Emotionally Disturbed and placed in a small class so he can get more specialized attention for his academic and behavior issues.

# Communication And Trust



The school doesn't know how to help my child!



My kid won't go to school and they called ACS on me!

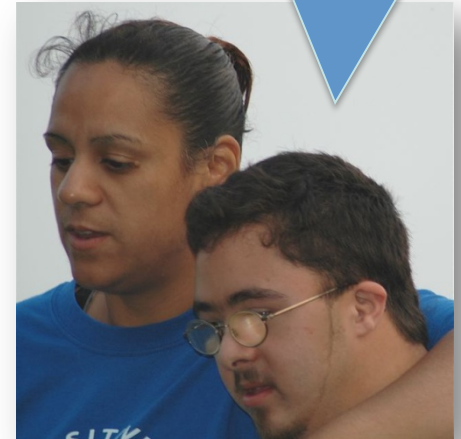
The team made up their minds before I came in to the meeting!



The teacher never says anything good about my child - only complaints



No one understands my child and no one listens to me



# Communication and Trust



Those parents won't consent to an evaluation!

We had a Behavior Plan but it's not working and I don't know what else to do.



I can't tolerate being yelled at by this parent!



This child's parents refuse to come in and talk.



I'm afraid this child is going to hurt herself or another student.



# What forms of due process proceedings can address these issues?

## IMPARTIAL HEARING

A proceeding where an impartial hearing officer makes a decision based on testimony and evidence.

## MEDIATION

A form of dispute resolution where a neutral mediator helps the parties reach their own agreement. A mediator does not make decisions for the parties.

Mediation is a dispute resolution process in which a

# NEUTRAL third person

brings people in conflict together to have a conversation to help them find their own solutions.



# What Kind of Issues Can be Mediated?

- Evaluation
- Eligibility
- Classification
- Services
- Placement

# Suspension-Related Mediation

- Pre-suspension
- Re-entry after suspension

# What issues can't be mediated?

- Reimbursement for attorney fees
- Reimbursement for non-approved private school
- Initial placement: schools cannot request mediation (or hearing) but parents may



# The Mediation Session

- **Participants:**
  - Parent
  - Student (if possible)
  - Parent Advocate/Attorney
  - Special Education Administrator, CSE or D75 Representative
  - School Representatives
  - Service Providers
- **Time:** Can last for 2-3 hours
- **Place:** School, DOE office or Mediation Center

# Mediator's Role

- Fosters discussing student strengths as well as problems
- Encourages plain language so that everyone understands
- Allows parties to experiment with interim plans
- Encourages thinking outside of the box
- Clarifies the issues and keeps the focus on those issues

# Mediation Agreements

- Must be in writing
- Binding
- Include specific action plans with timelines and accountability
- District representative arranges implementation
- Agreements are brought to CSE for immediate implementation, not renegotiation

# Mediation Facts

Parents must be informed about the option of mediation

Mediation does not deny or delay right to a hearing

Mediation is timely

Mediation is voluntary for all parties

Mediation must be confidential

Mediators must be neutral

# The Mediators

- Not employed by DOE or parents
- Supervised by Community Dispute Resolution Centers
- Trained in conflict resolution techniques
- Trained in Special Ed law and procedures

# Benefits of Mediation

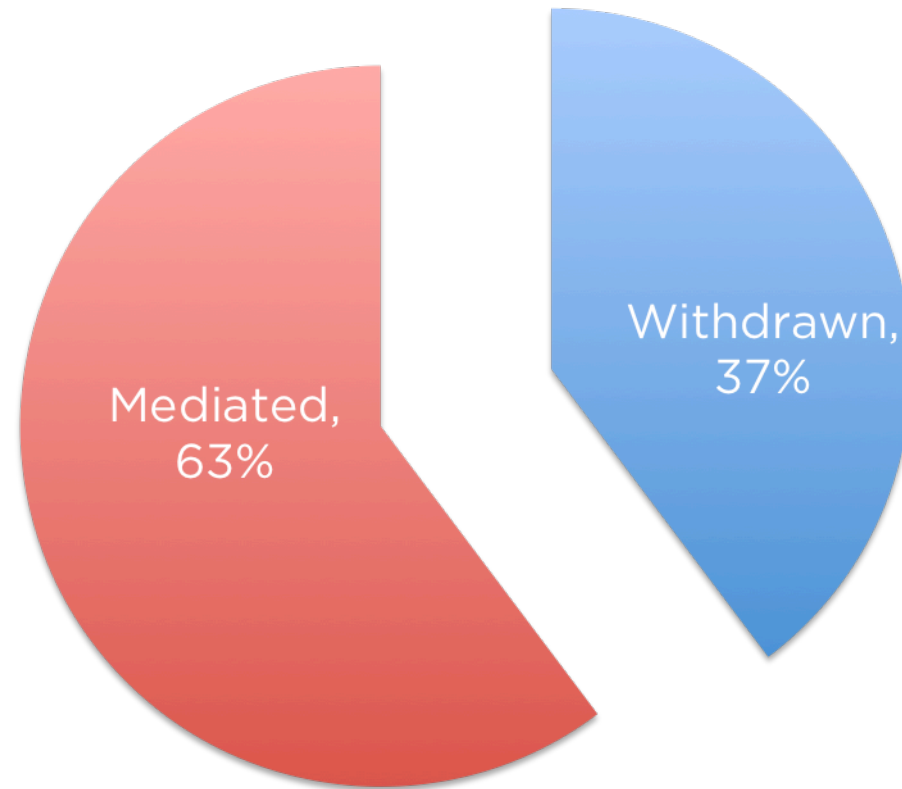


The process is empowering for all parties

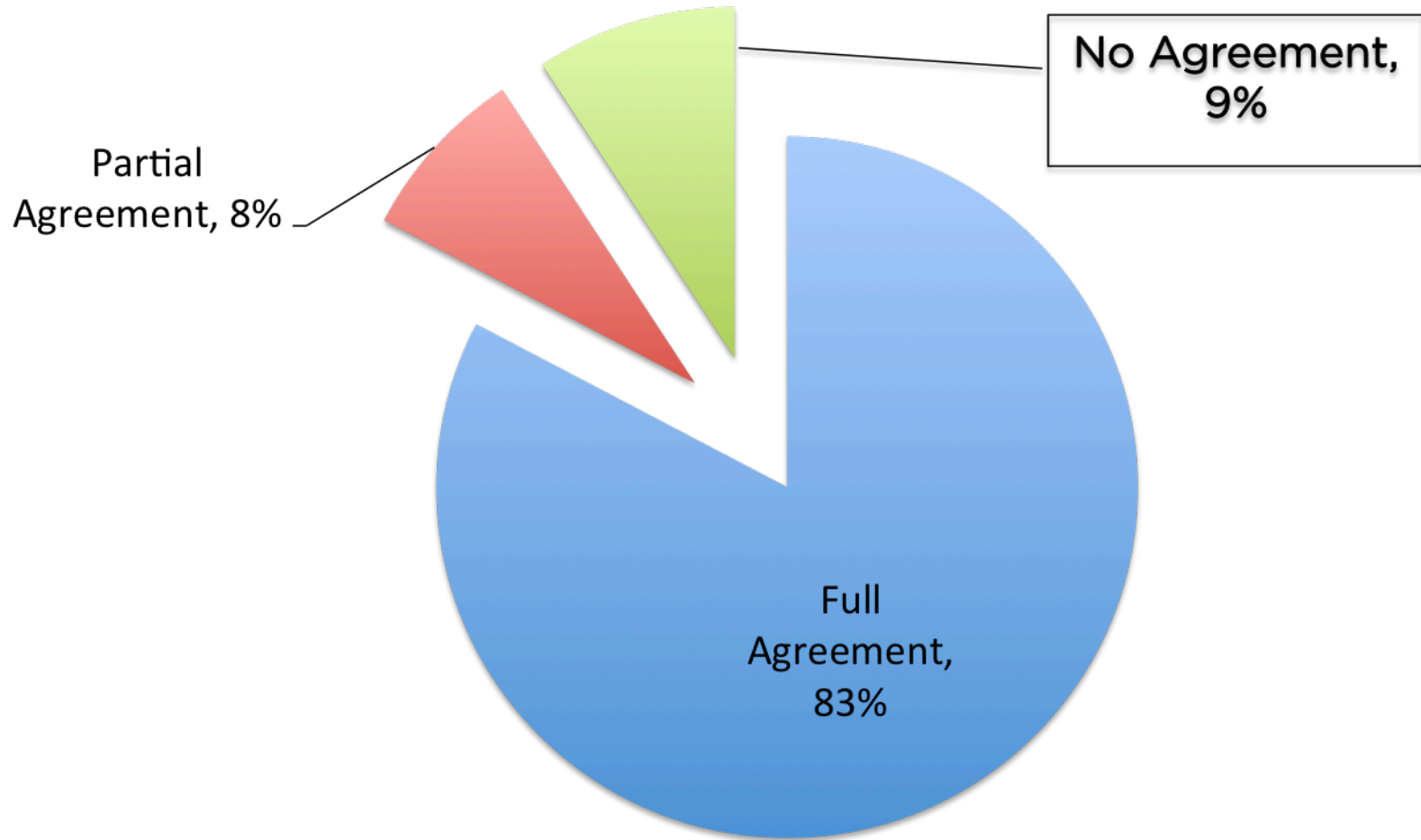
Improves parent/school relationship

Flexible, workable and sustainable solutions are implemented

# REFERRALS (1,274 CASES) SEPT 2008 - FEB 2017



**MEDIATION OUTCOMES (768 CASES)  
SEPT 2008 – FEB 2017**





# Due Process

## Mediation

- Mediation is timely.
- Mediation allows the parties to discuss issues and work together to develop a mutually agreeable solution.
- A neutral third party (the trained mediator) helps to facilitate the discussion.
- Parties control the outcome.
- Parties may still use the Impartial Hearing option.

## Impartial Hearing

- Is a legal proceeding that takes time.
- An Impartial Hearing Officer (IHO) presides, and provides parties the opportunity to present testimony and witnesses.
- Parties do not control outcome.
- The IHO decides the outcome and issues a decision based on evidence.
- Decisions are final except for appeal (additional legal action).

# Resolution Session

- Either parent or school can request mediation in lieu of resolution session, and both must agree to the process
- Mediation takes place in same time frame as resolution session (within 15 days of filing for impartial hearing) unless time is waived in writing
- If parties agree in mediation, impartial hearing request is withdrawn
- If parties do not reach agreement in mediation, proceed to hearing



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# NYC Community Dispute Resolution Centers

- **NY Peace Institute (Manhattan & Brooklyn)**

210 Joralemon St. Suite 618, Brooklyn, NY, 11201

T: 718 834 6671

- **IMCR Mediation Center (Bronx)**

384 East 149 St. Suite 330, Bronx, NY 10455

T: 718 585 1190

- **Community Mediation Services**

89-64 163rd St. Jamaica, NY 11432

T: 718 523 6868

- **Staten Island Dispute Resolution Center**

130 Stuyvesant Place, 5<sup>th</sup> Floor, Staten Island, NY 10301

T: 718 815 4557

- **New York State Dispute Resolution Center**

info: <http://www.nysdra.org/>

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