

The Dispute Resolution Process

Independent Mediation Service

Introduction

Mediation is available as part of the Ministry of Education's Dispute Resolution Process (DRP). The DRP provides help for schools and boards of trustees, parents, caregivers and whānau, to resolve issues involving children and young people with additional learning needs.

If the issue has already been raised and discussed with the child or young person's teacher and principal, and it hasn't been resolved with the help of Ministry of Education (Ministry) facilitation, those involved can ask the Ministry's regional Director of Education to carry out a review. This review will check that everything that should have been done has been done.

If the Ministry thinks it would be helpful, and everyone agrees, it can arrange for independent mediation through the Ministry of Business, Innovation and Employment (MBIE). Mediation can offer a creative way to resolve a dispute through discussion and collaborative problem solving. Experienced MBIE mediators will provide this service.

Mediation is:

- » where those involved discuss their issue with the help of a mediator – a third party who is trained and has extensive experience in mediation
- » neutral and independent – mediators have no interest in a dispute other than helping those involved to reach their best outcomes

- » less formal than legal proceedings (it doesn't involve evidence, witnesses or lawyers, and meetings are held in meeting rooms rather than somewhere more formal)
- » a free and voluntary service
- » a process that encourages everyone involved to work together to resolve issues and focus on the future
- » a process that needs everyone to act in good faith – everyone needs to be committed to finding a solution that works
- » a process that ideally results in a written agreement that everyone signs
- » a process that does not stop anyone involved from taking further steps if the issue is not resolved at mediation.

Role of the mediator

- » A mediator will not take sides and will work with everyone involved to help resolve an issue and/or improve a situation.
- » The mediator does not make a decision, but helps everyone find their own solutions.
- » The mediator will ensure the process is fair and safe and do their best to help resolve a dispute.
- » Mediators should support and build on parent, caregiver, whānau and school relationships and focus on outcomes for the child or young person. They should ensure that all relevant people are involved and that the child or young person's views have been taken into account.



Advantages of the mediation service

It is:

- » **professional** - provided by a team that has sound mediation experience and a strong interest in education
- » **timely** - it's relatively quick and straightforward to use
- » **inclusive** - makes it possible for everyone to be heard
- » **flexible** - is flexible enough to take account of everyone's needs
- » **autonomous** - everyone makes their own decisions
- » **beneficial** - ideally results in a shared and signed agreement
- » **future focussed** - helps everyone involved to move on
- » **independent** - the mediator has no interest in the dispute other than helping those involved to reach their best outcomes
- » **free for parents, caregivers, whānau and schools** (this service is funded by the Ministry of Education).

Who can attend mediation

Those involved can bring a support person(s) and/or advocate to the mediation, but they don't have to. An interpreter can also be arranged, if needed.

It is important to consider the voice of the child or young person in the mediation process. They should have the process explained to them and be given the chance to be present, and take part, if everyone agrees.

What happens at mediation

Stage 1 - Separate initial meetings

Those involved will be given separate rooms where they can meet with their support people, and/or the mediator. This room can be used throughout the mediation process. Before the mediation meeting, the mediator will meet briefly with those involved and their support people. They will explain the process and their role, the ground rules for the mediation and what will be expected of everyone during the process. The mediator will answer any questions they have and get a better understanding of the dispute from their point of view.

The mediator will then have a similar separate meeting with the others involved.

Stage 2 - The joint meeting

The mediator will start the joint meeting with introductions and an opening statement about the mediation process. The mediator will then ask those involved to summarise the issue from their point of view (make an opening statement), usually starting with whoever asked for the mediation meeting. Those making opening statements will have uninterrupted speaking time. After opening statements have been made, the mediator will summarise the opening statements and work with those involved to agree on an agenda for the meeting, if needed.

Stage 3 - Exploring the issues

The mediator will encourage everyone to discuss the issue in more detail and to understand each other's point of view. They will do this by summarising and reflecting what has been said and asking questions. Everyone will be encouraged to use this joint session to communicate openly with each other.

Stage 4 - Working towards an agreement

At this point the mediator will ask those involved to think about a range of options that might resolve the dispute.

During this phase of the process, those involved might want to go into a separate session for some of the time. During separate sessions, the mediator may ask questions to help them understand the potential impact of different options. The mediator will work with everyone to help them make the best choice from the available options.

Once an agreement has been reached, the mediator will help those involved record it in a written settlement agreement. Everyone will be given a copy of this agreement.

Stage 5 - Closure

The mediator will make a closing statement and give everyone involved a copy of the signed agreement. Further meetings can be arranged, if needed.

If no agreement has been reached, the mediator will help everyone agree on which issues are still unresolved and what the next steps could be.

The mediator will inform the Ministry whether or not the dispute has been resolved. Any other information will be shared with the Ministry only with the agreement of everyone involved.

Collection and use of personal information under the DRP

To help the Ministry provide the right type of support under the DRP, we will need to collect personal information about those involved, including the child or young person, parent and school. We will need to share this information with the Ministry of Business, Innovation and Employment as part of the referral process. The Ministry will also use this information to review how, and how well, we provide support through the DRP.

Everyone involved will be asked to sign a form giving us authority to collect and share this information.