



STATE OF NEW JERSEY

DEPARTMENT OF EDUCATION

A Memo from the New Jersey Department of Education

Date: December 10, 2025

To: Local Educational Agency Leads, Directors of Approved Private Schools for Students with Disabilities

Route To: Directors of Special Education

From: Kathy Ehling, Assistant Commissioner
Division of Educational Services

Special Education Mediation Agreements

This memorandum outlines important reminders to the procedures that the Office of Special Education (OSE) follows when mediation and due process hearing requests are filed with the New Jersey Department of Education (NJDOE). In March 2025, in response to recommendations from a court-appointed compliance monitor, the Office of Administrative Law (OAL) added Administrative Law Judges (ALJs) to OSE's existing roster of Individuals with Disabilities Education Act (IDEA) mediators. Since then, ALJs have been available to serve as mediators in due process cases when the parties request mediation.

In a December 3, 2025 broadcast memo, [Notice of Changes to Procedures for Due Process Hearing Requests](#), the NJDOE announced that, based on monitoring activities conducted by the United States Department of Education (USDE), the OSE will discontinue the practice of having ALJs sign settlement agreements as "final decision approving settlements" for cases opened after January 1, 2026. Instead, when a settlement agreement resolves a due process complaint, the ALJ will issue a formal dismissal order confirming that the case is closed due to a legally binding private agreement. As a result, settlement agreements for cases opened after January 1, 2026 must be executed privately, outside of the OAL process.

This broadcast memo serves as a reminder of the role of the mediator and clarifies what may be included in a mediation agreement, whether facilitated by a mediator or an ALJ, in accordance with N.J.A.C. 6A:14-2.6. Pursuant to these provisions, IDEA mediators' responsibilities are to:

1. Facilitate communication between the parties in an impartial manner.
2. Chair the meeting.
3. Assist the parties in reaching an agreement and, if an agreement is reached, the mediator shall prepare the document setting forth the agreement of the parties at the mediation conference.
4. Assure that the agreement prepared by the mediator complies with Federal and State law and regulation.
5. When appropriate, adjourn the mediation to a date certain that is not more than 45 days from the date of the request for a mediation conference, at the request of the parties to obtain additional information or explore options.
6. Terminate mediation if, in the mediator's judgment, the parties are not making progress toward resolving the issue(s) in dispute.

7. Ensure mediation agreements do not address special education or related services for more than one school year.

As part of its general supervision and monitoring responsibilities under IDEA, the OSE reviews every mediation agreement developed by IDEA mediators to ensure compliance with state and federal special education regulations and to safeguard the rights of students with disabilities to receive a Free Appropriate Public Education (FAPE) in the Least Restrictive Environment (LRE). Examples of mediation agreement provisions that would likely be found contrary to federal and state requirements include, but are not limited to: waiving a student's right to a FAPE; preventing a parent from filing future due process complaints or state complaints; requiring a parent to disenroll the child from the district; limiting parent communication or participation; waiving the requirement for an annual review of a student's Individualized Education Program (IEP); and waiving the district's responsibility to monitor a student's progress.

If the OSE determines that any provision of a mediation agreement does not comply with federal or state law or regulations, the OSE will notify all parties that the noncompliant provisions cannot be enforced. In addition, the OSE will also implement appropriate corrective action when necessary to ensure district practices align with federal and state requirements.

Please direct questions to the Office of Special Education at (609) 376-9060 or OSEinfo@doe.nj.gov.

c: Members, State Board of Education
NJDOE Staff
Statewide Parent Advocacy Network
Garden State Coalition of Schools
NJ LEE Group
Administrative Law Judges