

SPECIAL
EDUCATION
ALTERNATIVE
DISPUTE
RESOLUTION
AT ARIZONA
DEPARTMENT
OF EDUCATION





Who is Dispute Resolution?

- **Chief**
 - **Investigators (4 in Phoenix 1 in Tucson)**
 - **Compliance Coordinator**
 - **Facilitated IEP Coordinator**
 - **Program Coordinator**
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- **Contracted Mediators**
 - **Contracted providers of Facilitated IEPs**
 - **OAH/ALJs**

Alternative Dispute Resolution

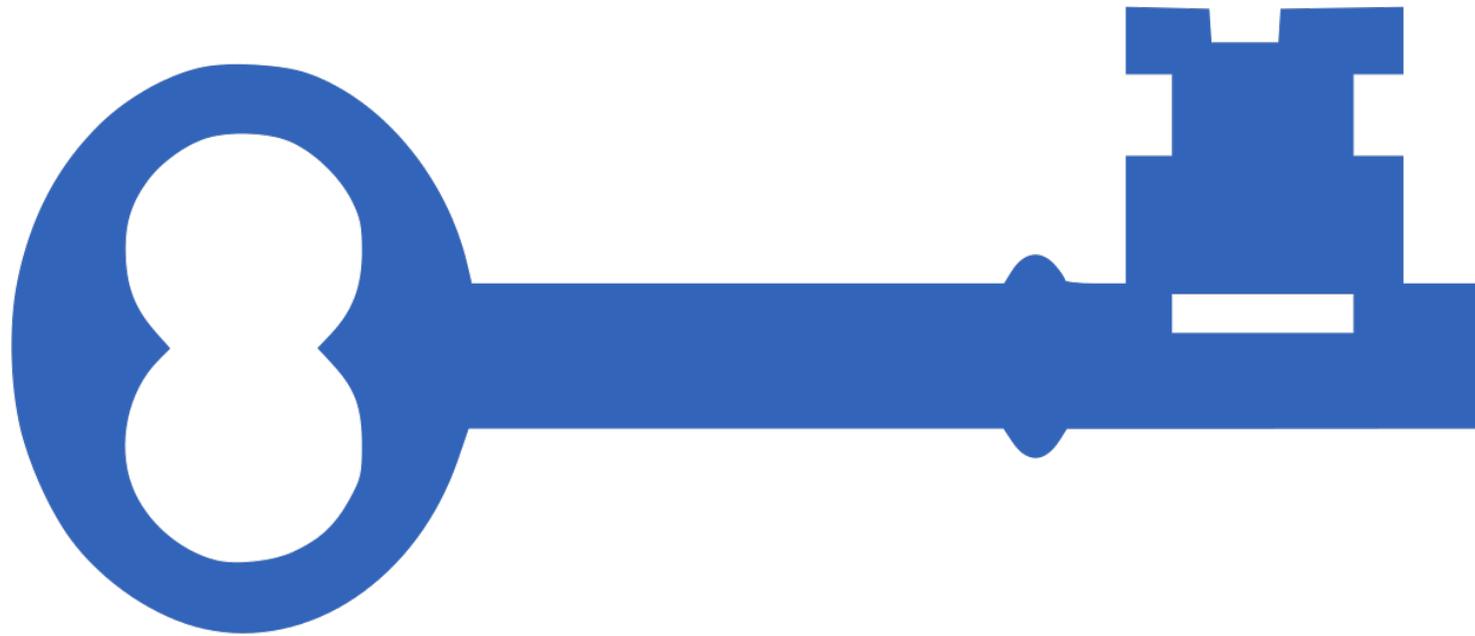
Alternative Dispute Resolution (ADR) is used to promote understanding, open communication, and satisfying solutions to conflict that support and strengthen relationships. ADR is designed to meet the interests of the parties involved that results in a crafted, mutually agreeable outcome, rather than living with a decision made by a third party, such as a hearing officer or judge.





Alternative Dispute Options

- Offer of Early Resolution
- Mediation
- Evaluative Mediation
- Facilitated IEP



COMMUNICATION
IS THE KEY TO
SUCCESS IN ADR

OFFER OF EARLY RESOLUTION

- Option to resolve a **state administrative complaint** without further investigation or a finding of compliance or non-compliance
- Offer should be made 10 days after district receives state complaint
- Must address the **specific allegations made by Complainant and evidence a willingness to offer an immediate solution**
- Must be able to be completed within 60 days. The Correction Action Coordinator will monitor the completion of the offer. If not completed, then the investigation will resume
- Approval or rejection of proposal is solely at the discretion of Dispute Resolution. An investigative report will issue, however, the finding will be that the offer of early resolution has been accepted and resolves the allegations. If rejected, the investigation will proceed, and findings will issue as to compliance or non-compliance with IDEA part B

WHEN TO CONSIDER OER

- A state complaint has been filed against your district
- You may have already determined that some non-compliance is likely to be found and you want to make a good faith offer to fix it
- You believe you are in compliance, but you want to resolve the matter with the parent quickly and rebuild the relationship with the parent
- You want the action taken to directly benefit the student
- The complaint does not allege systemic non-compliance or involve groups of students

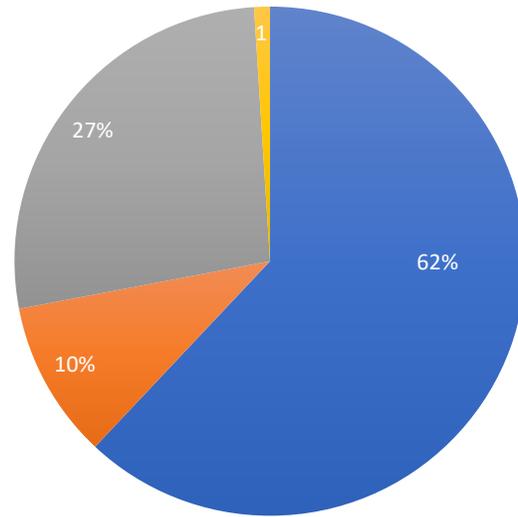
MEDIATION

- Either party may request
- Requires consent of both parties
- There does NOT need to be a formal state complaint or due process to utilize mediation
- Mediators are independent contractors who are trained to facilitate communication between the parties and to assist the parties in resolving the special education issues related to a student on an IEP
- Does NOT require the presence of an attorney
- Preserves relationships. Encourages partnerships for the benefit of the student



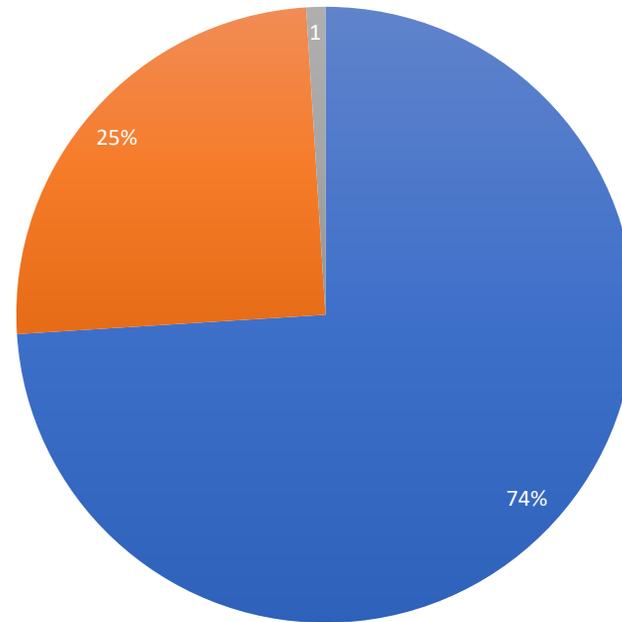
MEDIATION PROGRAM OUTCOMES FY19-20

82 Mediation Requests
Received



■ Med Held ■ Private Settlement ■ Withdrawn ■ Pending

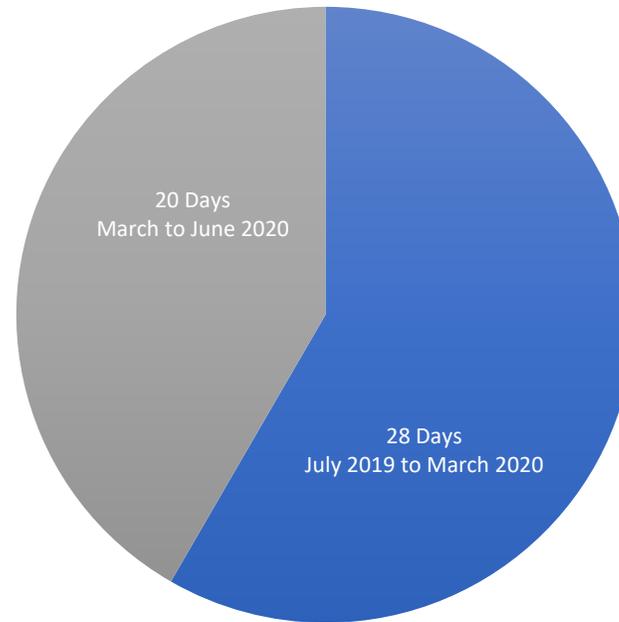
MEDIATIONS HELD & AGREEMENTS



**Mediations Held FY 19-20:
Agreement Outcomes**

■ Agreement ■ No Agreement ■ Pending

SCHOOL CLOSURE IMPACT ON MEDIATION TIMELINES



**Average # Days to Completion
Expectation = < 30**

■ Before school closure ■ During lockdown

WHEN TO CONSIDER MEDIATION

- May be a way to avoid a due process complaint
 - Less costly than a hearing
- Ability to be more creative in solving the dispute
- Assistance of a neutral third party would be helpful in reaching a solution
- Preservation of the relationship with the family
 - Rebuild trust
- Want to resolve the dispute quickly

EVALUATIVE MEDIATION

- Either party may make a request to ADE or to OAH
- Requires consent of both parties
- Utilized when a Due Process Hearing is pending
- May be requested even if other alternative dispute options have failed
- Mediator is an ALJ who is not assigned to the DP case
- Does NOT require the presence of an attorney
- Honest opinion on the legal strengths and weaknesses of each party's case can be given
- Encourage settlement through the lens of what might happen at hearing



WHEN TO CONSIDER EVALUATIVE MEDIATION

One party's position is unrealistic

Other alternative dispute options have been unsuccessful

Gain insight into the strength or weakness of your case

Avoidance of the time, stress, and cost of a hearing

Settlement is in the best interest of the student

FACILITATED IEP

- ADE provided facilitator for challenging IEP meetings OR training for school staff in how to conduct a facilitated IEP meeting and “grow” district facilitators.
- Assists in development of compliant IEPs
- Results in more productive, student centered discussion during the IEP meeting
- Voluntary

Bravery is the choice to show up and listen to another person, be it a loved one or a perceived foe, even when it is uncomfortable, painful, or the last thing you want to do.

BE BRAVE

Contact Information

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<http://www.azed.gov/disputeresolution/>

