

CHILDREN AND FAMILIES ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

PART 3 - children and young people in England with special Educational Needs OR DISABILITIES

Appeals, mediation and dispute resolution

Section 55: Mediation

269. When a parent or young person wishes to bring an appeal about the special educational needs element of a plan, they may do so only if an independent mediation adviser has provided them with information about mediation and how it might help. It will be up to the parents or young person to decide whether to go forward to mediation. Where they decide to do so, they must take part in mediation before they can bring an appeal to the First-tier Tribunal. Where they decide against mediation they will be able to go straight to appeal.
270. The mediation adviser must issue a certificate to the parent or young person if he or she has provided them with information and advice about pursuing mediation and the parent or young person has informed the adviser that they do not wish to pursue mediation about assessments, the drawing up of plans or the special educational element of the EHC plan. The adviser must also issue a certificate if they have provided information and advice, the parent or young person has told them they wish to pursue mediation with the local authority and has participated in mediation. Parents and young people do not have to contact the mediation adviser if they want mediation about the health or social care elements of the plan.
271. Appeals which only concern the name of a school, college or other institution specified in the EHC plan or the type of school, college or institution specified in the EHC plan or the fact that the EHC plan does not name any school, college or other institution can be made without getting mediation information or going to mediation. This is because the parent or young person will already have been able to request a particular school or institution in the further education sector, and had discussions with the local authority about which institution should be named on the EHC plan. Requiring mediation in these circumstances would involve repeating the same discussions. This section gives the Secretary of State regulation-making powers concerning mediation as listed in this section, including about giving notice, imposing time limits, qualifications and experience of mediation advisers and local authority action following mediation.