





## Benefits of Mediation

- Free 
- Fast 
- Future Focused 

Result → Reduces Stress




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## How it began

- 1997 reauthorization of IDEA— first formal introduction of mediation into IDEA law
- Although several states provided option to mediate Special Education disputes prior to 1997, reauthorization mandated mediation under federal law for both IDEA, Parts B & C




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## Mediation Requirements

- Each state must provide a mediation program for resolving Early Intervention disputes
- It is voluntary for the parties
- Mediation must be conducted by "qualified & impartial mediator"




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### Requirements cont'd

- State responsible for covering costs of mediation process
- Mediation cannot be used to delay or hinder parents' right to due process hearing




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### Mediation is One of Four Formal Mechanisms for Resolving Disputes

- ✓ State Complaint Procedures
- ✓ Due Process hearings
- ✓ Mediation
- ✓ Resolution Process




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**Key Differences in Dispute Resolution Mechanisms**

	State complaint	Due Process Hearing	UALA Mediation
Who can request	Any organization or individual	Parent, public agency, or the child 18 years old	Parent, public agency, or the child 18 years old
Who decides	State education agency officials	Impartial hearing officer	Mutually between parties
Federal timeline	60 calendar days	45 calendar days	Our Program 14 days or less
Financial cost	No cost to parents or LEAs	Generally expensive for LEAs & for parents if they hire attorney	Currently no cost to parents or LEAs
Relative financial cost	Generally much less expensive than due process hearings	Generally expensive, for cost of hearing officer & attorneys	Paid for by grant from Dept of Ed.




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<p><b>Mediation</b></p> <p>Conducted by an impartial trained mediator</p> <p>Used to resolve any dispute, not just if complaint or hearing is filed</p> <p>Confidential</p> <p>Timeline begins at end of mediation or no later than 30 days after</p>	<p><b>Resolution Process</b></p> <p>Conducted by the DHS</p> <p>May ONLY be used after a request for a due process hearing</p> <p>Not confidential</p> <p>Timeline begins upon completion of resolution session</p>
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**Resolution Process**

LEAs have 15 days to schedule a Resolution session after a request for Due Process.

If the school does not conduct the Resolution session within 15 days, the parent may request the hearing officer to begin the due process timelines.

If the school wants to conduct a Resolution session and the parent refuses to attend, after 30 days, the school may request that the complaint be dropped.

Both parties may agree in writing to waive the Resolution session and proceed to Due Process or they may choose to go to mediation.


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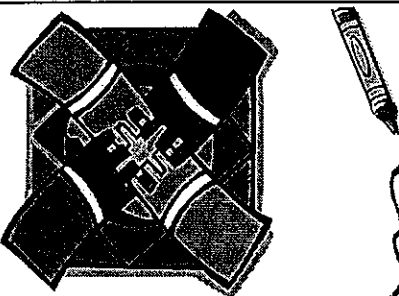
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In most states, 85% of all Special Education Mediations reach an agreement.


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**Why Mediate?  
What's In It For Me?**

- ★ Achieves Understanding
- ★ Helps Problem-Solving
- ★ Reduces Stress
- ★ Creates a Partnership
- ★ Builds Trust
- ★ Opens Lines of Communication



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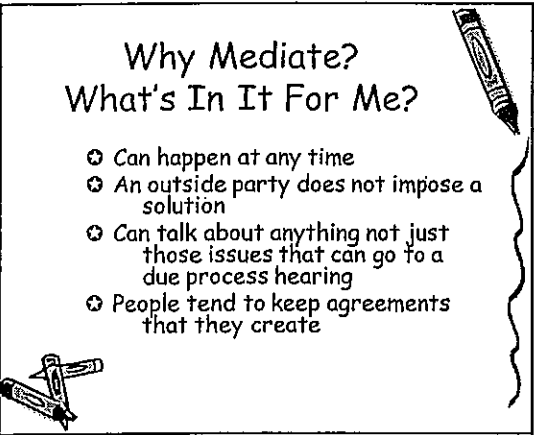
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**Why Mediate?  
What's In It For Me?**

- ★ Can happen at any time
- ★ An outside party does not impose a solution
- ★ Can talk about anything not just those issues that can go to a due process hearing
- ★ People tend to keep agreements that they create



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**Mediation**  
*"guided negotiation"*



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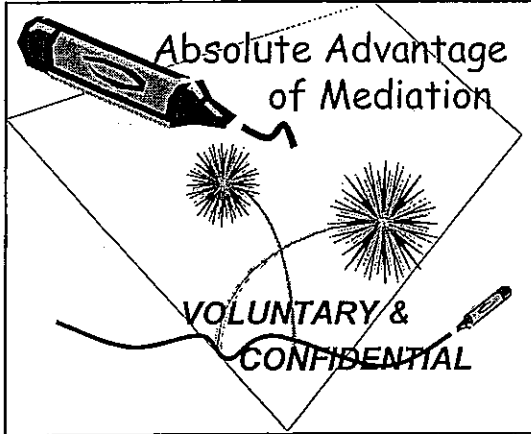
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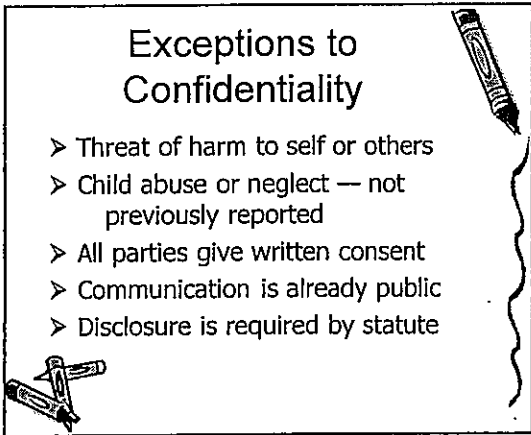
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### Exceptions to Confidentiality

- Threat of harm to self or others
- Child abuse or neglect — not previously reported
- All parties give written consent
- Communication is already public
- Disclosure is required by statute

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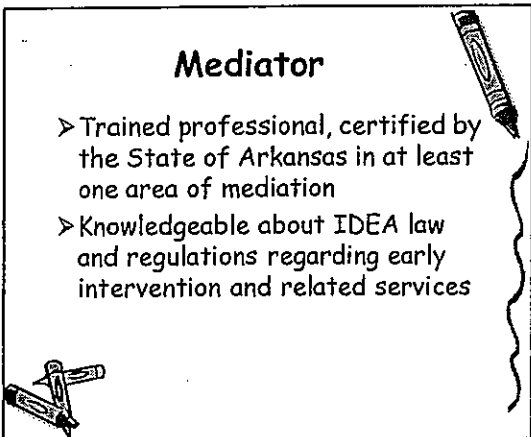
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### Mediator

- Trained professional, certified by the State of Arkansas in at least one area of mediation
- Knowledgeable about IDEA law and regulations regarding early intervention and related services

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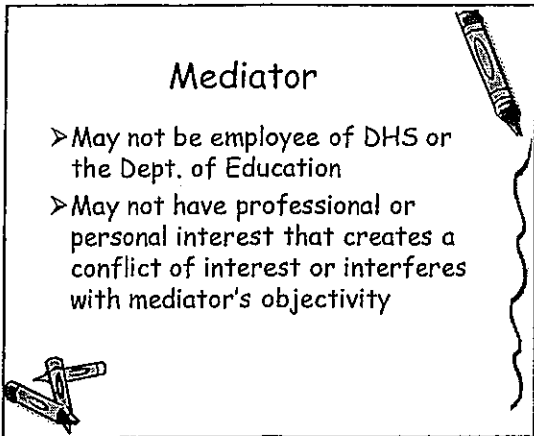
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**Mediator**

- May not be employee of DHS or the Dept. of Education
- May not have professional or personal interest that creates a conflict of interest or interferes with mediator's objectivity



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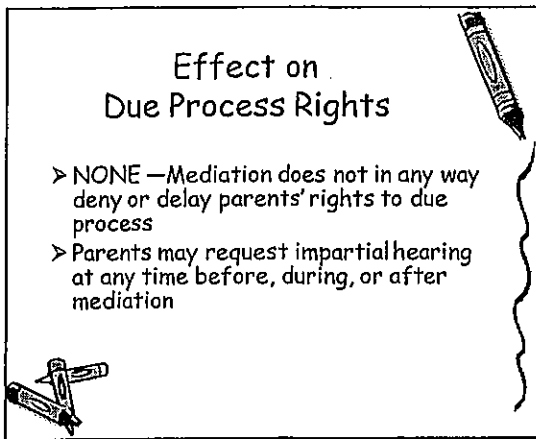
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**Effect on  
Due Process Rights**

- NONE —Mediation does not in any way deny or delay parents' rights to due process
- Parents may request impartial hearing at any time before, during, or after mediation



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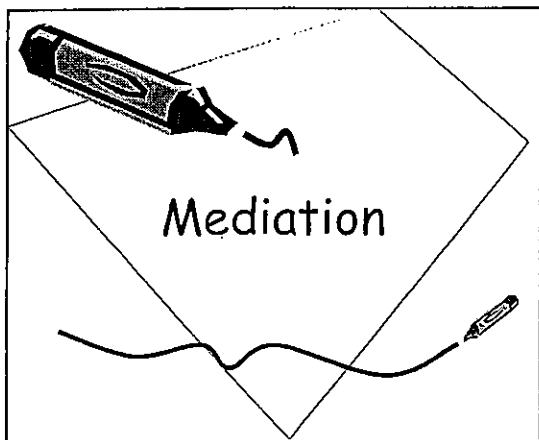
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**Mediation**

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**Who Attends /EI**

- Parents/guardians, service providers, and early intervention program personnel involved with the child
- Someone from DHS with decision making authority
- Parents may be accompanied by support persons
- Attorneys may not attend

**The More The Merrier**



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**Who Attends Special Education Mediation ?**

- Parents/guardians, teachers, and other interested persons with knowledge of the child.
- Someone from LEA with decision making authority
- Parents may be accompanied by support persons
- Attorneys may not attend

**The More The Merrier**



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**Preparing for Mediation**

- ❖ Put aside personality conflicts
- ❖ Think of what
  - ❖ You want from mediation
  - ❖ You want from the other party
  - ❖ The other party wants from the mediation
  - ❖ The other party wants from you
- ❖ What you are willing to do



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### Preparing for Mediation

- ❖ Gather appropriate documents
- ❖ Make copies for the mediator and the other parties
- ❖ Outline the issues you wish to discuss
- ❖ Write out questions
- ❖ Remain open to ideas which differ from yours


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### Interest Based Bargaining Negotiation on the merits

Fisher and Ury's four principles:  
Getting to Yes

1. Separate the PEOPLE from the problem.
2. Focus on INTERESTS, not positions.
3. Invent OPTIONS for mutual gain.
4. Insist on using objective CRITERIA


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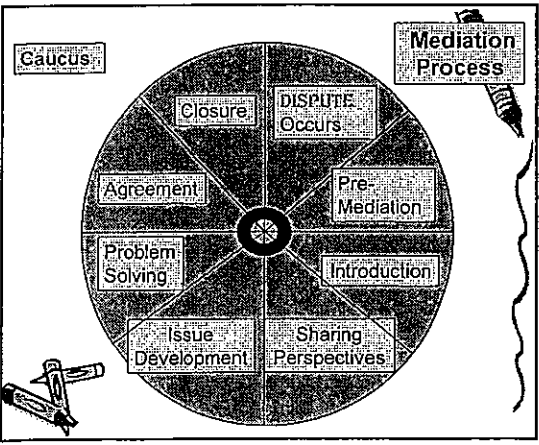
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## Role of Mediator

- Facilitate Open Communication
- Maintain Integrity of the Process
- Remain Impartial
- Act as an Agent of Reality
- Sift Information
- Frame the Discussion
- Validate Parties



★ Goal: Empower the Parties ★

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Responsibilities of All Participants,  
especially, Parents, Family and sometimes

Child/Children

- Participate & Provide Input
- Express Wants
- Identify Needs
- Identify Strengths
- Assist in Information Development
- Assist in Identifying Issues
- Assist in Identifying Potential Solutions
- Review Case Plans with Long-Term Perspective



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## Guiding Principles

- Honest Communication
- Good Faith Effort
- No One Dominates the Conversation
- No Blame
- Listen to Understand—Not to Find Fault
- Remember—Understanding *doesn't* mean Agreement but Understanding is Necessary to Problem Solving



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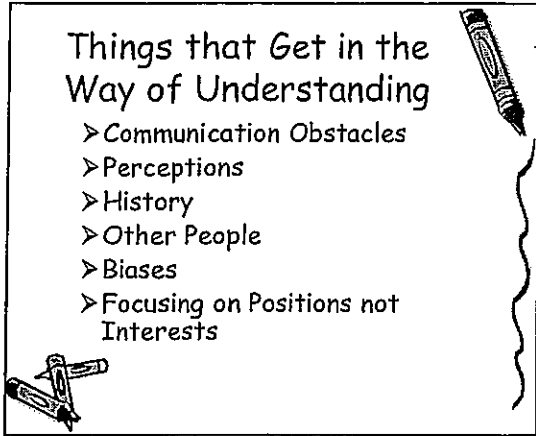
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### Things that Get in the Way of Understanding

- > Communication Obstacles
- > Perceptions
- > History
- > Other People
- > Biases
- > Focusing on Positions not Interests



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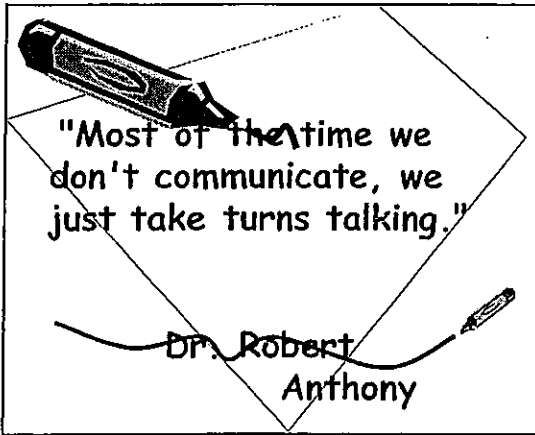
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"Most of the time we don't communicate, we just take turns talking."

Dr. Robert Anthony



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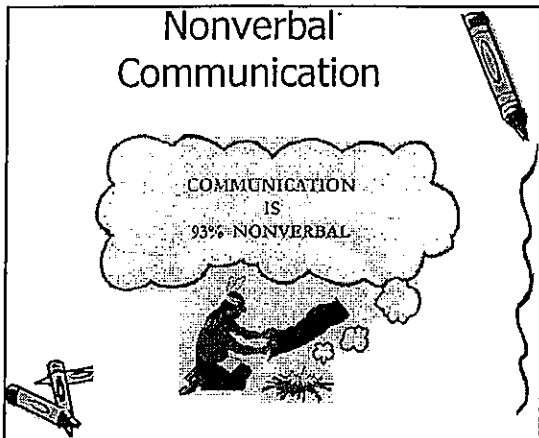
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### Nonverbal Communication

COMMUNICATION IS 93% NONVERBAL



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## Communication

The average person

- ✓ Speaks 125 words/minute
- ✓ Listens 450 words/minute
- ✓ Processes 1200 words/minute


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## Blocks to Listening

<input type="checkbox"/> Comparing	<input type="checkbox"/> Identifying
<input type="checkbox"/> Mind Reading	<input type="checkbox"/> Advising
<input type="checkbox"/> Rehearsing	<input type="checkbox"/> Sparring
<input type="checkbox"/> Filtering	<input type="checkbox"/> Being Right
<input type="checkbox"/> Judging	<input type="checkbox"/> Derailing
<input type="checkbox"/> Dreaming	<input type="checkbox"/> Placating


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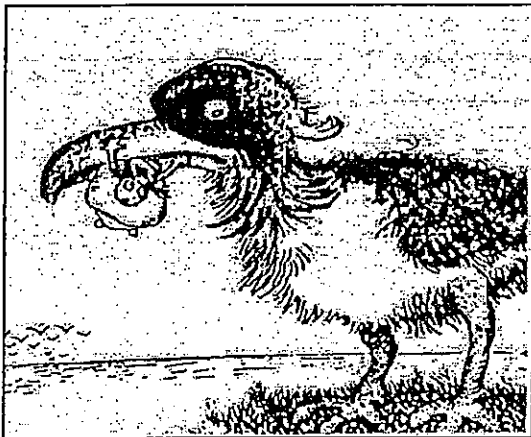
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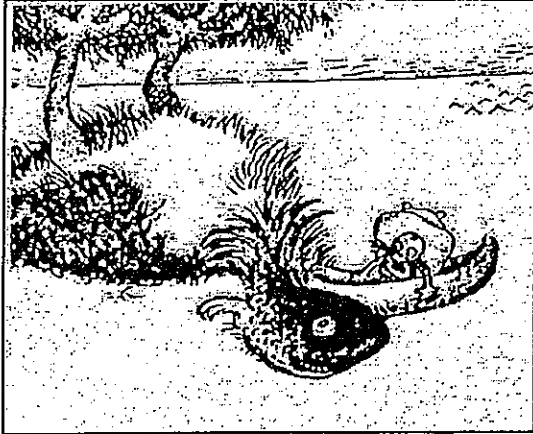
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**Agreement Reached**

➤ Written, signed agreement specifies responsibilities of each party and becomes part of student's file. Those with a need to know or who are involved in the IFSP or IEP will have access to the agreement.



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**Agreement**

Is legally binding and enforceable by any state court or federal district court.



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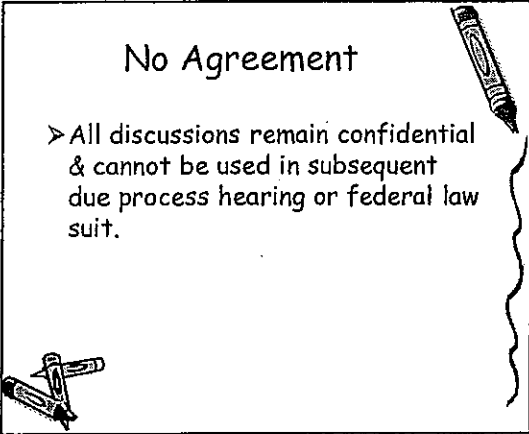
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### No Agreement

➤ All discussions remain confidential & cannot be used in subsequent due process hearing or federal law suit.



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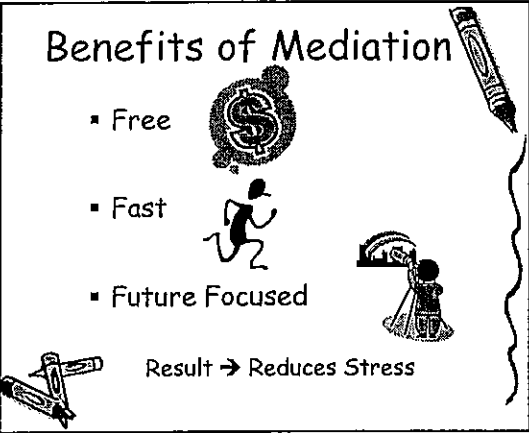
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### Benefits of Mediation

- Free 
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- Future Focused 

Result → Reduces Stress



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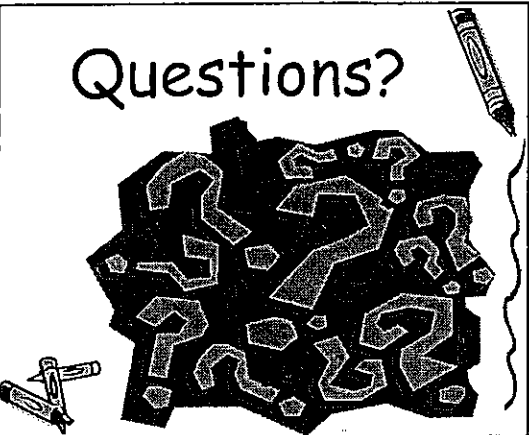
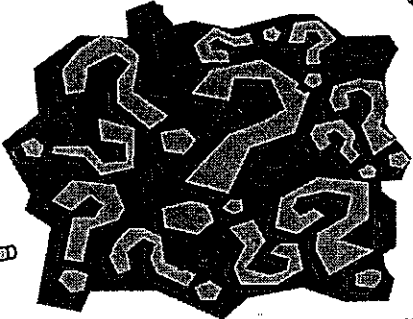
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### Questions?



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