

Preparing for  
Special Education  
Mediation and  
Resolution Sessions:  
*A Guide for Families  
and Advocates*

A joint publication of

The *Advocacy*  
INSTITUTE

and



The Children's Law Clinic  
Duke University School of Law

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## The *Advocacy* INSTITUTE

The Advocacy Institute is a non-profit organization dedicated to the development of products, projects and services that work to improve the lives of people with disabilities. Founded in 2000, The Advocacy Institute conducts the Advocate Academy, web-based training tailored for advocates and professionals in the field of special education.

Located in the Washington, D.C. metropolitan area, the Institute also provides public policy and legislative services to national organizations, develops and oversees projects related to special education law and policy, and produces publications that assist parents and advocates in understanding education and special education law.

Learn more at [www.AdvocacyInstitute.org](http://www.AdvocacyInstitute.org).



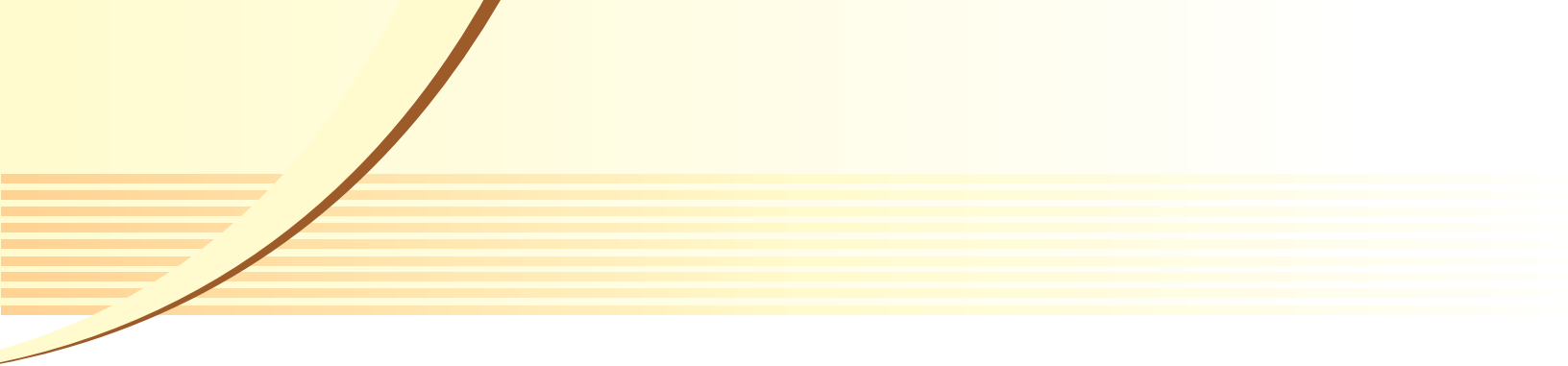
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The Children's Law Clinic is a program of Duke University Law School that provides free legal services to low-income children and their parents in matters relating to the rights of children in school and in certain other cases involving a child's health or well-being. Since its establishment in 2002, the Children's Law Clinic has represented hundreds of children from a wide region around Durham, North Carolina.

The clinic is staffed by law students learning to practice law under the close supervision of faculty. Clinic students are trained primarily in the areas of special education and school discipline. In addition to providing free legal services to children and their families, the clinic staff provides community education presentations to groups about special education, school discipline and the services of the clinic.

Learn more at [www.law.duke.edu/childedlaw](http://www.law.duke.edu/childedlaw).

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## Introduction

The Advocacy Institute and the Children’s Law Clinic at Duke Law School are pleased to offer this publication to contribute to better outcomes for children with special needs. Through a collection of articles, this guide seeks to provide families and advocates with an array of information that will equip them to make the most of the new and expanded dispute resolution options offered by the Individuals with Disabilities Education Act (IDEA). As the nation’s special education law has evolved, Congress has consistently sought to provide new ways to encourage informal and speedy resolution of problems. To that end, the 2004 reauthorization of IDEA saw the expansion of the availability of mediation as well as the addition of the resolution session. In addition to these required procedures, most States are now offering informal “early dispute resolution” processes intended to diffuse and resolve disagreements before they reach a level requiring a formal process. Strategies to prevent conflict from reaching formal procedure levels include such things as communication and conflict resolution skills training for both school personnel and parents, IEP facilitation, parent help-lines, and parent-to-parent support programs. The success of these approaches is helping reduce the use of formal processes.

This guide provides a comprehensive article on preparing for special education mediation and resolution sessions, including tips for both families and advocates. A flowchart of mediation and resolution session supports the understanding of how these two processes work and intersect. For additional insight, it provides both an interview with a seasoned special education mediator and a summary of a study that sought to identify the factors that contribute to parent-school conflict. Finally, it offers communication tips for building strong partnerships and additional resources for locating further information.

We hope these tools will support your efforts to resolve special education disagreements in an effective and efficient manner.

Sincerely,



Candace Cortiella  
Director  
The Advocacy Institute




Jane R. Wettach  
Director  
Children’s Law Clinic  
Duke Law School



**“The committee is discouraged to hear that many parents, teachers, and school officials find that some current IDEA provisions encourage an adversarial, rather than a cooperative, atmosphere, in regards to special education. In response, the committee has made changes to promote better cooperation and understanding between parents and schools, leading to better educational programs and related services for children with disabilities.”**


*Senate Committee on Health, Education, Labor and Pensions Report 108-185 to accompany S. 1248, a bill to reauthorize the Individuals with Disabilities Education Act, November 3, 2003*

## Important Terms to Know

**Due Process Complaint:** A written complaint filed by a parent or a school district involving any matter relating to the identification, evaluation, educational placement or provision of a free appropriate public education to a student with a disability. Due process complaints must be filed within two years of the matter in dispute. 

**Due Process Hearing:** A formal, quasi-legal procedure before an impartial hearing officer or administrative law judge (or panel of judges) who is not an employee of the state educational agency or school district. Both the parents and the school district present arguments and evidence.

**Mediation:** A confidential, voluntary process that allows parties to resolve disputes without a formal due process hearing. An impartial mediator helps the parties to express their views and positions and to understand the other's views and positions. The mediator's role is to facilitate discussion and help parties reach an agreement — not to recommend solutions or take positions or sides.

**Resolution Session:** A mandatory meeting that the school district must convene within 15 days of receiving the parents' due process complaint. The resolution session includes parents, members of the IEP team relevant to the complaint, and a representative of the school district who has decision-making authority. If a resolution is reached to resolve the complaint, the parties execute a legally binding agreement which a party may void within 3 business days of the agreement's execution. The parents and the school district may agree in writing to waive resolution session, or agree to use the mediation process under IDEA. 

**State Complaint:** A written complaint that can be filed by any organization or individual claiming that a school district within the state has either violated a requirement of Part B of IDEA (the part that contains all requirements regarding the delivery of special education services) or the state's special education law or regulations. State complaints must be filed within one year of the alleged violation.




# Preparing for Special Education Mediation and Resolution Sessions

Jane R. Wettach

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and Director, Duke Children's Law Clinic

## Introduction

The Individuals with Disabilities Education Act (IDEA) entitles children with disabilities to a free, appropriate public education in the least restrictive environment.  Typically, parents and school officials sometimes disagree on what special education services and placement a child should receive under this right. Recognizing the potential for disputes, the IDEA provides several dispute resolution mechanisms to help parents and school officials resolve differences of opinion. This article describes two of these dispute resolution mechanisms — mediation and resolution sessions — and provides advice to parents who utilize them.

## Mediation

### What is special education mediation?

Special education mediation is a process in which a mediator helps to resolve a dispute between a parent and school district personnel over a child's special education program. A mediator is a neutral person who will help the participants arrive at a mutually satisfactory agreement. The mediator is paid by the state education agency, so there is no cost to either the school district or the parents.

Parents may request mediation at any time to attempt to resolve a dispute. Typically, mediation is attempted *prior* to the filing of a due process petition, but it can be requested following the filing of due process. The state education agency is required to establish and implement procedures for mediation.

The mediator schedules the mediation at a convenient time and place and facilitates the discussion. Although mediators vary in the way they handle sessions, participants can expect the mediator to help the parties make introductions, define the issues, present their points of view, explore options, and come to an agreement. More specifically, the mediator should:

- Help the parents and school officials state their positions clearly and productively;
- Help the parents and school officials stay focused on the relevant issues;

- Provide a neutral assessment of the strength of each side’s position;
- Separate the parents from the school personnel, if necessary or useful, and become their go-between for communication;
- Identify areas of agreement and disagreement;
- Suggest possibilities to each side that might bring them closer to agreement;
- Facilitate the drafting of a mediation agreement that resolves the dispute, if the parents and school officials have come to an agreement.

### Legal requirements for mediation

IDEA requires that state departments of education offer Local Educational Agencies (LEAs, generally school districts) and parents the opportunity to participate in mediation to settle any disagreements between them. [20 U.S.C. 1415(e); 34 CFR 300.506]

IDEA requires state departments to:

- Maintain a list of qualified mediators who are knowledgeable about special education law and trained in mediation techniques;
- Compensate the mediators, so that the process is free to both parents and school districts;
- Establish and implement procedures for facilitating mediation.

The law also requires that mediation be *voluntary on both sides*. So, if a parent requests mediation, but the school district objects to it, then it will not be scheduled. Mediation must not delay a parent’s right to go forward with due process if that is what the parent chooses to do, but asking for and engaging in mediation will not delay the expiration of the statute of limitations for filing due process, which is two years or other time limit set by the state. In other words, the clock for the two-year period of time (the limit) in which parents can file due process *continues to run* during any mediation.

What people say in the mediation session is confidential and inadmissible

as evidence in a later due process hearing or civil court — unless it was also spoken in another context where confidentiality did not apply. This might be in an Individualized Education Program (IEP) meeting, an informal conversation, or in correspondence.

If the mediation results in a verbal agreement, then that agreement must be put in writing and signed by the parents and a representative of the district. An agreement reached through mediation is enforceable in court. This means that neither the parent nor the school district must go through an administrative due process hearing to have the terms enforced if there is a breach of the agreement.

### When should a parent ask for mediation?

Mediation should be used when the issue cannot be resolved in any less formal way. Typically, mediation should *not be requested* until after the parent disagrees with the decision made by the IEP team on the issue in question.

The following types of disagreements are more amenable than others to a mediated agreement:

- Need for more/different special education services or related services
- Classroom or school placement
- Compensatory services
- Eligibility for special education services
- Outcome of a manifestation determination review

Other types of disagreements, such as the following: are not as likely to be resolved through mediation:

- Assignment of a student to a particular teacher or service provider;
- Hiring or firing of school staff;

**Parents might request mediation because they are committed to mending damaged relationships, but feel the need for a third party to help.**

- Assignment of a student to a particular school building, if that does not involve a change of placement;
- Assignment of case management to other personnel.

If the parties reach a successful resolution, due process will be avoided. This generally is desirable, because due process is more *adversarial, costly, emotionally draining, time consuming, formal, and risky*. Parents might request mediation because they are committed to mending damaged relationships, but feel the need for a third party to help. The parents may believe that they and school personnel can come to an agreement that will benefit the child by talking through the issue outside the formal structure of an IEP meeting and with the help of a mediator. Often, new school district personnel will become involved in the decision-making process and open up new possibilities.

Mediation can be useful even if parents are committed to choosing due process, because it can narrow the issues of disagreement and allow the parents to gain a better understanding of the school district's position. This will help parents prepare their case if due process occurs.

### **When should a parent *not* ask for mediation?**

Mediation should not be requested in certain situations. For example, if the IEP team has not addressed the core issue but could do so if it held a meeting, the parent should first request that the IEP Team meet to consider the issue.

In general, mediation is not useful when the issue is not timely enough to be heard at due process. If the statute of limitations has run out (two years from the disputed IEP decision, unless the state has a different time limit), school officials have no incentive to enter an agreement. Also, if either the parents or the district is firmly opposed to a compromise, or if all potential personnel have already been involved and the issue has been thoroughly explored without success, mediation is less likely to effectively resolve the dispute.

## **Resolution Sessions**

### **What is a resolution session?**

A resolution session is a face-to-face meeting between a parent and school district officials following the filing of a due process complaint. The resolution session is designed to give the parties the chance to settle the case before a due process hearing. Unlike mediation, which is completely *optional* and *voluntary*, resolution sessions are *required* by the Individuals with Disabilities Education Act [20 USC 1415 (f)(1)(B); 34 CFR 300.510]. IDEA requires the school district to convene a resolution session within 15 days of the filing of a due process complaint. Relevant members of the IEP Team must be present, i.e., those who have knowledge of the issues raised in the due process complaint, as well as someone who has decision-making authority, i.e., someone who has authority to legally bind the school district. Parents also must be present.

If the parent refuses to participate, the school district may ask the hearing officer to dismiss the parent's due process complaint or request an extension of the time period allowed for due process. A dismissal in these circumstances, however, would not prevent the parent from filing a new petition on the same grounds, as long as the statute of limitations has not run out on the issue.

At the resolution session, the parent must present the basis for the due process complaint and the facts that support the complaint. This presentation gives the school district personnel the opportunity to understand the issues more fully and resolve the complaint without going to due process. Like mediation agreements, if a settlement agreement is reached during a resolution session, it must be memorialized in writing and is enforceable in court. The agreement is not final until three business days after it is signed, because either side can rescind it



during that time. If no settlement is reached within 30 days after the filing of the due process complaint, the hearing may go forward.

Although attorneys are permitted to participate in resolution sessions, the school district may have an attorney participate only if the parent brings an attorney, too. The parent's attorney may not get attorney fees from the district for participating (although the parties may discuss attorney fees and agree to the payment of attorney fees for other work done by the attorney). Discussions at a resolution session are *not* confidential (unlike mediation, which *is* confidential); Anything that anyone says in the resolution session can be mentioned in a future due process or court hearing.

The parent and the school district can jointly agree to waive the resolution session and proceed to the due process hearing. The parties can agree to try mediation if they have not already done so, or they can agree to have a facilitator participate in the resolution session. (In some states, the state education agency makes facilitators available at the request of the school or parents.) Moreover, the parents are under no obligation to accept any settlement offer made to them by the school district; they may reject it and proceed to due process. If the school district fails to convene the resolution session within 15 days of receipt of the due process petition, the parent can ask the hearing officer to proceed with the due process hearing.

Parents may ask for an *expedited* resolution session in cases involving school discipline and the results of a manifestation determination review. An expedited resolution session must be convened within seven rather than 15 days.

## When should a parent participate in a resolution session?

A parent *must* participate in a resolution session if the parent filed a due process complaint and the district will not agree to waive the session. A parent *should* participate when the resolution session will involve higher-level personnel than have not been involved to date. These new participants might bring a different understanding to the issue or have more settlement authority. Even if a parent feels fairly certain that no resolution will be reached, the discussions at the resolution session inevitably give the parent a better sense of the district's defense against the parent's claims.



A parent who has been assisted by an advocate or attorney since the dispute arose may have a clearer understanding of the case and be better prepared to articulate concerns and support claims asserted in the due process complaint. This may result in a resolution where previous conversations had failed. The parent who is open to compromise and wants to avoid spending inordinate amounts of time, money, and emotions on the dispute should engage in the resolution session.

A parent may want to *waive* the resolution session, however, when district-level personnel have already been involved, and a good-faith effort at resolution has reached an impasse. At that point, it probably makes sense to proceed to due process. Also, a parent who is not open to negotiation or compromise and wants to get started with due process as soon as possible may want to waive the resolution session. However, if the district opposes the waiver, the parent *must* participate or risk having the due process petition dismissed or delayed.

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**A parent should spend a lot of time preparing for either mediation or a resolution session to get the best results.**

## Preparing for mediation and resolution sessions

A parent should spend a lot of time preparing for *either* mediation or a resolution session to get the best results. If an advocate is involved, the advocate should work through all of the following steps with the parent.

### Selecting the participants

One factor in a successful mediation or resolution session is the people who participate in the discussion. The parent can request that certain people be present. For example, specific teachers or related services providers who know the child may make valuable contributions. These people often advocate for the child and know the child's learning style and needs. It is critical that the district has personnel with decision-making power on hand, but if these are the same personnel who came to the last IEP meeting, an agreement may be unlikely. It is also critical for personnel who are familiar with the entire range of programs in the district to attend.

The parent should have someone there for support. This should be someone whom the parent trusts and is knowledgeable about the child, the special education process, and the particular issue involved. It may be a family member, a personal friend, or a lay advocate. The parent may want an attorney at the resolution session, which is perfectly permissible, but the parent will have to cover the costs. Fees for the resolution session are not reimbursable, even if the parent ultimately wins the due process case. If the parent has an attorney present, the district will have one, too. Other knowledgeable persons who could provide valuable input at the meeting include a private therapist, tutor, social worker, psychologist, or educational consultant.

A mediator will always be present at a mediation, while a neutral third party does not have to facilitate the discussion at a resolution session. However, the parent may request a facilitator who is not involved in the dispute. Since the IDEA does not address this, the participation of a facilitator would be at the discretion of the school district.

### Logistical arrangements

The parent should talk ahead of time with a district representative to work out issues such as the time and place for the meeting, and the participants who will attend. Parents should not surprise the district by bringing someone they have not identified ahead of time, arbitrarily limiting the meeting time or announcing that they have only an hour, or refusing to meet in a certain location. The parents and the school district representative should also decide on the ground rules for the meeting *in advance* with a district representative, such as: Any subjects off limits? Any people off limits? Can the meeting be recorded? Again, an advocate can help parents figure out appropriate ground rules.

A mediation or a resolution session can take the better part of a day, or even longer. The parent should plan to be available for the entire day and make arrangements for work, child care, and other obligations. The group can agree in advance that the meeting will conclude at a certain time, but the participants are free to reconvene later if necessary to complete the discussion.

### Parent preparation

The parent and advocate should spend time ahead of the resolution session in order to be well prepared. This will include study and organization of the student's records and analysis of the case. Parents should also practice articulating their interests and goals.

### Study and organization of records

Organizing the student's school records and becoming fully aware of their contents can be the difference between a successful and an unsuccessful mediation or resolution session.

Three ring binders work very well for organizing school records. The records are clipped in and easily removed for copying. They can be tabbed to make it easy to locate the right record at the right time.

Here is a suggestion for organizing a three-ring binder to use at a mediation or resolution session.

1. Obtain the student's full special education file from the school district. Even if the parent believes she has a complete set of documents, she should ask for it anyway. The parent may find documents that she doesn't have, or learn that the school district is missing certain documents. (Note: Parents have a right to the records under both the IDEA and the Family Education Privacy Rights Act (FERPA). The latter requires the school district to produce the records within 45 days, but that typically happens much more quickly, especially if there is a dispute pending.)
2. Compare the parent's records with the school records to develop a complete file. Some people like to keep track of which records came from the school and which ones came from the parents.
3. Divide the records into the following categories: IEP's and meeting minutes, IEP progress reports, evaluations, correspondence, academic records (such as regular report cards, or scores on state and/or districtwide tests), discipline records, miscellaneous records. Other categories might be necessary for individual cases.
4. Put the records in chronological order. Punch them and place them behind the appropriate tabs in the binder. (Placing an additional small tab on each record can be even more helpful with identifying it quickly.)
5. Create an annotated table of contents at the beginning of each section. Using the table function of a word processing program works well. It might look like this:

|   |  |
|---|--|
| <p>IEP<br/>2/17/07 - 2/16/08<br/><br/>4th-5th grade</p> | <p>Three goals, one in reading, one in writing, one in organization.<br/>Present levels of performance:<br/>Reading — reading at grade 2.6 level<br/>Writing — can write a sentence but not a coherent paragraph<br/>Organization — fails to turn in homework; lacks focus in class<br/><br/>Special education services — pull-out for language arts 5x/week for 50 minutes<br/>Classroom accommodations — testing in a separate room; extended time for tests; preferential seating</p> |
| <p>2/17/08<br/><br/>Meeting minutes</p>                 | <p>Parent expressed concern about lack of reading progress. Teacher said Ronnie was coming along nicely. Parent asked about using the Wilson reading system. Teacher said she was not trained in that and did not have access to the materials. Said that the curriculum she is using is appropriate. The team talked about whether Ronnie needed more time in the resource room and decided to keep it at one period per day.</p>   |
| <p>IEP<br/>2/17/06 - 2/16/07<br/><br/>3rd-4th grade</p> | <p>Two goals, one in reading, one in writing<br/>Present levels of performance:<br/>Reading — reading is below grade level; needs to work on vocabulary<br/>Writing — can write a sentence but not a coherent paragraph<br/><br/>Special education services — pull-out for language arts 5x/week for 50 minutes<br/>Classroom accommodations — testing in a separate room; extended time for tests; preferential seating</p>   |

Creating this type of table accomplishes many things that help with preparation. First, while time-consuming, it requires real focus on the records. Whoever prepares this type of summary will become very familiar with the records. All kinds of interesting things will pop out in the course of summarizing. For example, it will become clear that the same goals were repeated year after year, or that the goals were completely unrelated from one year to the next and did not allow a sensible development of skills. It may become apparent that the present levels of performance are vague, or that the goals cannot be measured. Lost or omitted records can be identified.

If the meeting gets delayed, the summary will serve as a memory aide, and the parent and advocate can review the summaries instead of the thick file before the meeting. Likewise, if the case is not resolved, the work of organizing the records in preparation for due process is already done. Lastly, the tables allow the parent or advocate to find exactly the right record at the right moment during the meeting. This is vastly preferable to saying, "I know it's in there somewhere!" as you rustle through papers while everyone else waits.

## Case analysis

It is extremely important that the parent develop a "big picture" perspective on the child's situation. This often takes a lot of conversation with school district personnel. The desired goal is a realistic, insightful understanding of the overall quality of the child's education and the extent of the child's progress, as well as a legally-supportable way to resolve the dispute. Parents should generally understand the provisions of the special education law. Legal information is available on the website of the United States Department of Education, and is usually available on the website of the state's department of education.

Government-funded Parent Training & Information Centers, as well as a number of other private, non-profit organizations make legal information available through the Internet and toll-free phone numbers.

Answering the following questions can help the parents see the big picture and identify the key issues:

- What are the child's impairments? How are the symptoms manifested in the child?
- How does the child's impairment impede academic progress?
- Using the child's evaluations and educational history, how does the child's impairment specifically affect the child's ability to learn and make overall educational progress? Examples: Is the child paying attention? Processing? Remembering? Following through? Communicating? Behaving?
- What can special education do to allow better academic progress?
- Can special education overcome the impairment?
  - Example: a child with a reading disability can be taught to read using a different teaching method; once the child learns to read, the impairment is overcome.
  - Example: a non-verbal autistic child can be taught to speak, which overcomes the impairment of being non-verbal
  - Example: a child with ADHD and organizational problems can be taught certain organizational techniques that help overcome the effects of ADHD
  - Example: a child with a behavioral problem can be taught to adjust behavior and overcome the behavioral issues.

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**It is extremely important that the parent develop a "big picture" perspective on the child's situation.**

- Can special education only accommodate the impairment?
  - Example: a child with severe anxiety cannot be taught not to be anxious. Special ed must accommodate for the anxiety with appropriate placement. (Note: mental health treatment might help the child overcome anxiety, but remember, the school district is not obligated to provide medical or mental health treatment. Its job is education.)
  - Example: a child with limited cognitive skills cannot be taught to have higher cognitive skills. Special ed must accommodate the child's slower learning pace.
  - Example: a child with chronic fatigue/pain cannot be taught to have no fatigue or pain. Special ed must accommodate the needs for a shorter day/rest periods, etc.
- What does the current IEP provide for the child, and how is each aspect of it successful or unsuccessful in either overcoming or accommodating the impairment so that the child can make reasonable progress?
- What changes in the IEP are necessary for reasonable progress? Is it more time with a special education teacher — which would involve a new placement — or is it more time with a related services provider? Is it different classroom accommodations and modifications?

Likewise, it is extremely important to have the clearest possible understanding of how the school district sees the child's situation. After drawing on meeting discussions, correspondence, and the IEP meeting minutes, parents should try to clearly explain why the school district does not agree with them. This helps the parents and their advocate understand the heart of the dispute. It also is important to understand whether or not the parents and school officials see the facts differently, or simply have more of a philosophical difference. If the parents can pinpoint the heart of the dispute, they should try to prepare an objective response to each reason that the district personnel have stated to support the district's position.

When the parent does not fully understand the district's position, the parent should ask questions during the meeting that clarify the district's reasons for rejecting the parent's position. For example, if the district determines that the child made reasonable progress under the current IEP, the parent should ask the school officials to describe:

- What specific skills has the child developed over the last year, six months, etc.?
- What data showing progress has been collected?
- Are work samples that show progress available?
- How do you explain failing grades, repeated IEP goals, etc.?
- How have you determined what is reasonable progress for the child? Upon what is that determination based?

If the district's position is that the child hasn't made progress, but that the new services it is now offering will allow the child to make future progress, ask the school officials:

- Why do you think that these new services will allow the child to make progress?
- How much progress will that allow? How will the district measure progress in objective terms?
- Do you think the program/setting/placement suggested by the parent is not appropriate? Why?
- Are you aware of any independent studies or literature that support the district's chosen program for students who have this disability?

## Practice

The parent should — literally — practice clearly stating goals and desired results. It's a good idea for the parent to write out an opening statement that can be read to the other meeting participants, or at least used as a guide in making an opening presentation. Once again, an advocate can be very helpful here, listening to possible ways of describing the goals and desired results, and giving feedback to the parent. The opening statement should incorporate the big picture understanding of the child and his/her educational needs, and a statement describing the parents' understanding of the issues in dispute.

The statement should describe the parent's goals, framed in terms of the child's ability to make progress, as well as a very brief presentation of the facts in support of the parent's position. The parent should be able to deliver the statement in about 10 minutes. An advocate can help the parent add more detail or suggest places to cut, depending on what is needed.

The articulated goals should be realistic and conform to the law, and the parent must understand the limits of the law. IDEA does not guarantee that a child will maximize his or her potential. Likewise, the law does not require the district to pay for private services unless the child did not make reasonable progress under the IEP offered, cannot make reasonable progress under any IEP changes offered by the district, and the private services chosen by the parent are appropriate to foster progress. IDEA does not offer monetary damages for emotional injuries nor does it compel a school district to fire an incompetent teacher.

On the other hand, IDEA will reimburse parents for out of pocket expenses for private education if the parents can prove that their child's IEP did not make reasonable progress possible and that the private services were appropriate. It also allows for compensatory (i.e., extra) services, often in the form of one-on-one tutoring, to allow the child to make up for lack of reasonable progress. It allows for changes to the IEP for the future, including a private placement if the school district does not have an appropriate placement for the child.

Parents should be open to multiple possibilities for achieving their goals through mediation or a resolution session. For instance, they can generate a list of potential options for settling the dispute. Parents can rank their goals in order, from most to least important.

## **Preparation for presentation of evidence**

Unlike a due process hearing, a mediation or resolution session does not require the presentation of evidence. However, parents who want to be successful should be prepared to persuade the school district's officials that they are ready for due process and have the evidence to prove their case. So before they go to the mediation or resolution session, parents should be able to identify the evidence that supports their position. That evidence might include the following:

- Report cards reflecting failing or very poor grades
- IEP progress reports showing that IEP goals have not been attained
- IEP statements about present levels of performance that fail to reflect progress from the previous levels of performance
- IEP goals repeated from year to year
- Standardized test scores reflecting a lack of progress (particularly if standard scores and percentiles are declining over time)
- Independent evaluations that document lack of progress and/or recommend certain services/ special education placement, etc.
- Records showing increased disciplinary incidents

The parent should come to the mediation or resolution session with organized records, as well as notes on what records support the facts as the parent perceives them. If the parents are relying on the opinion of persons outside the school district, (e.g., a private evaluator or the child's therapist), they may want a statement or records from that person to share with the participants. There may be reasons why the parent does not want to share this information, but if the goal is to resolve the dispute, it's usually better to be forthcoming at this stage.

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## General tips for successful negotiation in mediation or resolutions sessions


Participants must have the right attitude to succeed in mediation or resolution sessions. Advocates can help parents develop the right state of mind for success.

Successful participants are:

- mentally ready, open to fresh thinking, willing to entertain new ideas, and prepared to see others' points of view
- open to seeing people in a new light
- optimistic about resolving the situation
- willing to accept some level of compromise
- willing to consider someone else's proposal
- able to assume that all parties are operating in good faith, want to see the child make progress, and will carry out agreements
- respectful of the district personnel's time/money/ need to take other children into account

The book, *Getting to Yes*, by Roger Fisher and William Ury, is one of the best resources around for helping people engage in successful negotiation. The authors of this book have identified four basic principles that help negotiators *get to yes*. The following is a brief summary of those principles and how they might apply in a special education dispute.

### Separate the People from the Problem


Parents must recognize that the school district is made up of people who have emotions, values, and cultures of their own. They also must acknowledge and be sensitive to the feelings of the district personnel (especially teachers who view themselves as good teachers under siege, and district personnel who fear for their jobs if they don't tow the party line. ). A parent should try to empathize with the people in the district and see the situation from their point of view.

Parents also must acknowledge their own emotions and try to separate them from the problem. Their personal grief over their child's impairments and lack

of school success, or anger at not being listened to can interfere with their ability to carefully focus on the more technical issues of appropriate special education services.

Parents or advocates who recognize a "people problem" should try to deal with it separately from the special education problem. They should try to talk honestly about the feelings and perceptions of the other people around the table. (This may be easier in a mediated setting, as the mediator can help the parties face these touchy issues.)

### Focus on Interests, not Positions

Positions are commitments to stated and defined outcomes. Interests — which are the reasons for adopting positions — are informed by concerns. It is often true that parties engaged in a mediation  resolution session have underlying interests which are compatible. So, when participants focus on their interests rather than their positions, they often can arrive at multiple solutions that respond to everyone's interests.

Parents should practice speaking about their interests rather than their positions. Here are some examples:

- *Position:* My daughter needs a full-time, 1-on-1 aide;
- *Interest:* My daughter needs to use the toilet during the day, but cannot do that independently; my daughter needs to move about the building during the day to get to certain classrooms, but cannot find her way; my daughter gets very anxious and then shuts down when the work is difficult, but responds well when someone assists her personally; etc.
- *Position:* My son must have the Wilson Reading Program.
- *Interest:* My son has been unable to master reading. He doesn't understand the letter-sound relationship. He doesn't understand how words

break down in syllables. He learns better with multi-sensory teaching. I'm very concerned that he doesn't begin middle school with the reading deficits he has, and there is only one year left before that happens.

### **Invent Options for Mutual Gain**

Both before and during mediation or a resolution session, all participants should brainstorm without making judgments. Everyone should be encouraged to go beyond conventional kinds of thinking; offer ideas to the other participants in the negotiations and be open to suggestions from them; everyone should work hard to avoid criticizing new ideas prematurely. The goal is to broaden rather than eliminate options. Parents should be encouraged to focus on multiple solutions. Everyone should strive for mutual gain. Continue to circle back to the interests of both the parents and the school district and find ways to mutually satisfy everyone's interests. Certainly, everyone in the special education process benefits when the students and teachers are successful, and behavior problems are reduced. Invent as many options as possible before rejecting any of them.

### **Insist on Using Objective Criteria**

Negotiation that depends upon the strength of the personality or will of either party will not usually result in a fair agreement. One way to avoid this is to come to an agreement on the objective criteria to be used in the process. This approach can be very effective in a special education case, where a child's progress or lack thereof can be measured by any number of objective assessment tools. Since the overarching issue in most special education cases is the child's potential or actual progress, the parties need only

agree on an independent source for defining what progress is expected and how to measure progress.

The parents and school district usually should be able to agree on an independent expert who can help define reasonable progress and suggest appropriate tests or other assessment measures. This eliminates any dispute about whether or not the child has made progress; the objective assessment results provide the unbiased answer to both parties.

## **The role of non-lawyer advocates and how they can avoid practicing law**

While the IDEA does not define the role that non-attorney advocates can perform at mediation or resolution sessions, it is not uncommon for parents to bring those advocates with them. (IDEA specifically allows non-attorneys to accompany parents at due process hearings: a parent who has asked for a due process hearing has the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities.)

While non-attorney advocates can accompany parents, it is not always clear what their role can be. It is clear, however, that they may not engage in the practice of law. What constitutes unauthorized practice is a matter of individual state law. In some states, non-attorney advocates are explicitly allowed to represent people in administrative special education due process hearings (e.g., New Jersey). In others, they are not (e.g., Delaware). Advocates should get further guidance on this issue by consulting an attorney, the state bar organization,

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**Negotiation that depends upon the strength of the personality or will of either party will not usually result in a fair agreement.**



or the chief judge of the administrative court in the state.

The line between practicing and not practicing law is sometimes fuzzy, even after state law has been consulted. Nevertheless, advocates can engage in certain activities that are unquestionably *not* practicing law. Here are some examples:

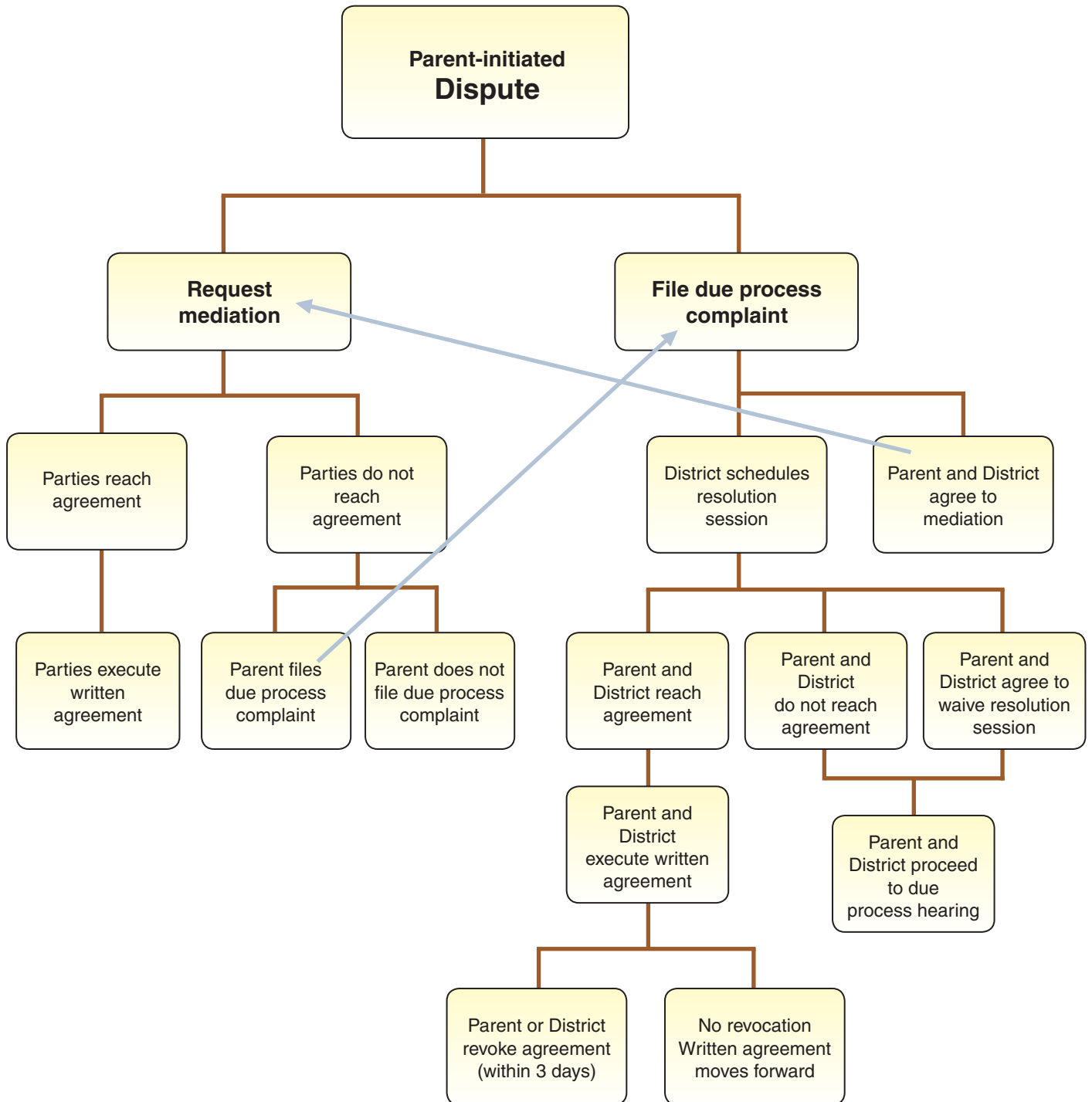
- Helping a parent organize records
- Helping a parent write a letter to a school official
- Talking with a parent about his or her goals; making suggestions about programs/placements/accommodations that might work for the child
- Providing parents with a copy of the law, regulations, or state policies and procedures
- Accompanying parents to IEP meetings, teacher conferences, meetings with district personnel, mediation or resolution sessions, as long as the advocate does not misrepresent his/her status as a lay advocate and does not claim to represent the parent
  - It's OK to ask questions, offer an opinion, articulate the parent's concerns
  - It's not OK to say that the parent will not accept that option; that is an illegal action
- Accompanying parents to due process hearings and talking to them about the case during the hearing

Other activities clearly are practicing law. Here are some examples:

- Drafting and filing court documents for a parent
- Speaking in court on behalf of a parent
- Providing legal advice when not supervised by an attorney. Examples:
  - Your child has a valid legal claim for private school, placement in the regular classroom, or extra time on tests; your statute of limitations has run out

Depending on the state, some activities may or may not be considered practicing law. These would include drafting and filing a due process complaint and other hearing documents on behalf of a parent and appearing in a representative capacity in a due process hearing.

# Mediation and Resolution Session Flowchart



# Mediation and Due Process Hearing A Comparison

## Mediation

**Purpose:** The mediator uses an informal process to assist parties through their negotiations and planning to an outcome they themselves determine.

**History:** The mediator encourages parties to focus on the child's current skills and needs as a foundation for exploring the possibility of an agreement.

**Intervention style:** The mediator may intervene to guide parties in discussion, to clarify what is intended, to elicit parties' best thinking, to maintain a civil process, to reframe important questions in a way that engages people.

**Preparation:** Parties need to think about the student's current performance, progress and any need for special support or instruction. The requirement for preparation is not exhaustive and is oriented toward the present.

**Resources:** The resources required for this effort are the 2 to 3 hours spent by the parties and mediator to identify and work on the issues they wish to resolve.

**Parties' relationship:** The mediation is an assisted negotiation. The mediator will try to maintain or restore a working relationship between the parent(s) and school staff in order to help them to complete their negotiations and planning process successfully.

**Private discussions:** The mediator will meet with parties together and in separate private discussions in which parties may make statements that are later held confidential.

**Confidentiality:** The comments and offers made during mediation sessions are confidential and cannot be used in another forum.

**Sources of information:** The mediator relies on the verbal statements of the parties as the primary source to inform each other and him/herself about the child's program, their concerns and aspirations, and the goals, interests and choices before them.

**Skills of the mediator:** The mediator prepares people for the mediation and guides them through it in ways that contribute to a successful negotiation, employing interpersonal, facilitative and cognitive skills. The mediator must be knowledgeable about legal standards in special education issues.

## Due Process Hearing

**Purpose:** The hearing officer uses a formal process requiring presentation of evidence, sworn testimony, and cross-examination to determine facts, which help him/her to form a conclusion. The officer then makes a decision for the parties.

**History:** The hearing officer is likely to hear and consider more detailed history, especially with regard to procedural violations or failure of school staff or parent to fulfill their obligations in the past.

**Intervention style:** The hearing officer must maintain control of the hearing environment while ensuring that parties are permitted to present their cases and must have on the record the evidence necessary to decide the case.

**Preparation:** The requirements for preparation are exhaustive. Representatives for parent and school must be able to marshal all evidence, prepare witnesses to testify, fully inform the hearing officer and create a record for appeal, if necessary.

**Resources:** The resources required for a hearing include the costs of representation, the time and cost of preparation and the several days parties typically spend at the hearing.

**Parties' relationship:** The hearing officer will try to minimize the acrimony and tension at the hearing, but much of it is inherent in an adversarial proceeding. Parties cross-examine each other, challenge each other's credibility and competence.

**Private discussions:** No ex parte or private discussions may occur between parties and the hearing officer. The decision is based on the record of documents and testimony.

**Confidentiality:** The record of the hearing is confidential but will be used if the case is appealed to a court of law.

**Sources of information:** The hearing officer relies on documentary evidence and testimony, and assesses the credibility of witnesses and expert opinions, especially the diagnostic, evaluative and testing qualifications of professionals involved in evaluating a student and delivering services.

**Skills of the hearing officer:** The hearing officer's role is to conduct a fair and orderly hearing, to inform him/herself, to rule on evidence, and to develop the record. Outside the hearing, the officer weighs evidence and writes a logical, persuasive, and legally defensible decision. Knowledge of the law is essential.

# Factors Contributing to Parent-School Conflict in Special Education

Too little is known about how parents involved in special education conflicts view the dynamics of those conflicts. The parental perspective, especially on the handling of situations that escalate conflict, is crucial for developing resolution strategies.

In an attempt to identify factors that escalate and de-escalate parent-school conflict, researcher Jeannie Lake interviewed 44 study participants including parents of children with disabilities (22), school officials (16) and mediators (6) who had taken part in a special education appeals process in the state of Massachusetts. For purposes of the study, conflict was defined as real or perceived differences that arise from specific educational circumstances that engender negative emotion as a consequence (Deutsch, 1873).

The participants were asked questions that primarily dealt with the following concerns:

- critical incidents prompting requests for mediation
- actions, if taken, that could have reduced the conflict
- factors other than the core issues that inflamed the conflict
- why the conflict wasn't resolved at the school level
- in hindsight, different steps that should have been taken before and during conflict
- other possible options for resolving parent-school conflicts

The study found eight categories of factors that have a bearing on how parent-school conflict intensifies or cools down:

- differing (discrepant) views about a child or a child's needs
- knowledge
- service delivery
- reciprocal power
- constraints
- valuation
- communication
- trust (this is the basis for many of the conflict-related issues)

In any given conflict, more than one of these categories can be operating simultaneously in ways that escalate, de-escalate or limit conflict. Here are the study findings for each category.

## ■ Discrepant views of a child or a child's needs

Ninety percent of participants identified this as a factor that causes or fuels conflict. Parents thought that differing views happened for two reasons: either the school did not view their child as an individual with unique talents and abilities, or it saw their child through a deficit-model perspective, focusing only on the child's weaknesses. School officials reported that parents would become "single-minded" about what was right for their child and, therefore, reject good programming suggestions. One mediator perspective was that students may display a skill outside of school, but not in school, and that parents may see only the former while school personnel see only the latter, so each side draws different, incomplete conclusions.

## ■ Knowledge

Parents, educators and mediators all cited the lack of two things — problem-solving knowledge and communications strategies — as conflict-escalating factors. One school official's suggestion was that special education directors and school personnel ought to readily provide that knowledge to parents, lest they seek it from outside agencies. Parents lamented that an “imbalance” of knowledge — where parents lack the information that school officials already have — makes it very hard to advocate on behalf of their children. All three groups said parents are unsure if the knowledge they have is sufficient to make sound judgments about the evaluations and services their children are receiving. Too often, parents discover their lack of knowledge when the first conflict arises over their children's educational program.

## ■ Service delivery

Parents, educators and mediators all touched on the lack of programming options that existed, along with the inability to effectively anticipate and plan in advance for what children with disabilities need. Giving parents a role in early-stage planning made it more likely that parents would buy into programs. Two mediator viewpoints were noteworthy: schools should continuously reassess their program options for relevance, and when parents want a private placement, school officials should have a supportive dialogue with them to determine why they want that outside program. Parents reported the use of independent advocates and evaluators to assist them with the “gray areas” of disagreements over quality of services, definition of inclusive services, instructional programs and case management.

## ■ Constraints

Resource constraints — on time, money, personnel and materials — are factors affecting conflicts. Finances, in particular, made conflicts worse, according to parents, special education directors and mediators alike. They tended to create “turf



battles”, where parents of children with severe disabilities feel too much money is going to serve mildly-disabled children, while parents of less severely-disabled children think the funding bias goes in the other direction. Suspicions could arise about money being the unstated, hidden reason to deny services. School principals also fought over allocations between general and special education funding.

## ■ Valuation

It was important to both sides to be considered partners in the relationship. Devaluation happened when either party felt lied to or suspected the other party withheld information. Parents felt devalued if they believed that school officials shortchanged or underestimated their children. School officials noted that conflicts got worse if parents were not entirely honest with them or open about their feelings. Parents were sensitive to perceived condescension from school officials and felt let down if they thought the school system could not properly serve their children's needs.

## ■ Reciprocal power

Parents and school administrators engaged in power plays to get the upper hand in conflict, either consciously or unconsciously. Parents had to be more tenacious to get their way, but whoever won, the struggle took an emotional toll on everybody involved.

## ■ Communication

When communication was lacking, misunderstood, untrue, deceitful or withheld, conflicts tended to escalate. The same was true if people felt they were not being heard or listened to. Parents felt intimidated from communicating when the schools brought too many officials to team meetings. On the flip side, parents and school officials alike praised mediation with a neutral third party for allowing them to feel safe and comfortable, open up, and achieve true communication about their needs and feelings, often for the first time.

## ■ Trust

If parents felt they could trust school personnel, it was much easier to tolerate small glitches or minor mistakes. When that trust was broken or lacking, parents lost faith in the process and school officials and disdained suggestions from them. School officials were, in some cases, unaware of the point at which a parent chose to stop trusting or believing

in the school's ability to make things right for the student. In time, parents who did not trust the school stopped hoping for good outcomes or mutual communication, and started asking for out-of-district placements, changes of schools, mediation or due process hearings.

### Some basic conclusions could be drawn from this study, among them:

- When factors that lead to conflict are identified, it is easier to understand the conflict.
- If school officials can identify what parents need, and separate those needs from the parents' positions, they can bridge gaps between parent and school perspectives. The same thing happens when educators take seriously the parents' long- and short-term goals for their children.
- Educators must pay attention to the whole child — strengths, desires, needs and goals — and not just the child's deficits.
- Financial constraints can impede the ability of IEP Teams to make important decisions about a child's educational programming.
- Parents cannot advocate for their children if they do not have enough knowledge to understand if particular service offerings are appropriate.
- Power struggles between parents and schools can be defused when educators develop strong, reciprocal relationships with parents and children. Good communication, problem-solving and negotiating skills are vital to these relationships.
- Both parents and educators are responsible for building and maintaining trust. It is up to both to have conciliatory and collaborative attitudes when disputes happen.
- Conflict is not necessarily bad if both sides view it as an opportunity for growth, change, creative problem-solving and improved self-assessment and skill testing.

As the researchers who conducted this study noted, too little is known about how parents involved in special education conflicts view the dynamics of those conflicts. The Individuals with Disabilities Education Act (IDEA) promotes early resolution to special education disputes. Understanding the parental perspective, especially on the handling of situations that escalate conflict, is crucial for developing effective resolution strategies.

Jeannie F. Lake and Bonnie S. Billingsley, *An Analysis of Factors That Contribute to Parent-School Conflict in Special Education*. Published in *Remedial and Special Education*, Volume 21, Number 4, July/August 2000, Pages 240-251.



## An Interview with Art Stewart

Coordinator of Mediation Dispute Resolution and Administrative Services  
Virginia Department of Education

### **Q: What is mediation?**

**A:** Mediation is assisted negotiation which the parties have voluntarily chosen. The discussion is confidential, allowing people to speak in an unguarded manner, without being concerned about being quoted at a later date. This allows a flexibility in the negotiation process which conflict usually removes. The parties in the mediation self-determine the outcome. What does this mean? You select the process and you are in charge of the outcome.

### **Q: How successful is mediation?**

**A:** It is a highly successful process, resulting in an agreement between parents and school administrators between 75-85% of the time.

### **Q: How does mediation work in special education issues?**

**A:** Mediators seek to interrupt old and unproductive cycles of interaction. One of the mediator's tasks is to ensure that each person at the table has a full voice and is heard. They pay attention to the comfort level of the participants, providing what is needed for people to be at their best as negotiators. They work to focus the discussion by asking questions and summarizing key points, identifying the issues, framing them carefully. They manage the issues and attend to sequence, timing and development. They facilitate a methodical process for people to move from voicing and revisiting a student's circumstances to evaluating the usefulness and benefit of possible outcomes. They carefully conduct a process without directing the outcome. Bringing a mediator into the review of a student's needs changes the way people communicate with each other, changes the process and, as a result, brings new possibilities for outcomes.

### **Q: What should I expect from a mediator?**

**A:** A mediator should act in a way which doesn't leave anyone with a perception of bias or unequal attention or treatment. Participants should feel no coercion from the mediator. A mediator should be

competent to conduct a process where people can feel comfortable discussing difficult issues which concern them. The mediator should be knowledgeable of federal special education law and regulation, state education law and regulation as well as key case law. This is important to make sure that rights and obligations are fairly represented. Mediation provides some degree of flexibility in a highly regulated area. However, mediated agreements should reflect the guarantees in the framework of law and regulation.

### **Q: When should I request mediation?**

**A:** Mediation must be jointly requested by parents and a school district. The earlier it is requested, the better. Continuing to bring the IEP Team back to the table with the same participants, same room, same agenda, same format, bears decreasing returns. Bringing in a mediator introduces a skilled and impartial facilitator to the table. A mediator helps people re-examine their thinking, assumptions and conclusions and encourages fresh thinking.

### **Q: Mediation has been recognized as an effective way to resolve special education issues. What obstacles do you see which might stand in the way of reaching agreement through mediation?**

**A:** If one or more of the participants thinks that there is only one right way to assist the student, only one possible outcome, and adheres to that point of view, the likelihood of success may be reduced. People who mistake negotiations for combat may act in ways which do not help to develop the negotiation process. For example, surprise is valuable in battle. In negotiations, it is destabilizing. If people have important materials or information to exchange, such as a new evaluation, it is helpful to provide it to the other participants ahead of time so that they may give it proper consideration and due weight.

If people have been involved in a disagreement over a period of time, the issues may have become personalized. This may result in people feeling



defensive and taking positions. In her article, Jane Wettach outlines the differences between positions and interests. If the negotiations history has been difficult, that may cast a shadow over current discussions.

Negotiators have biases of their own minds which they bring to the table. People often don't pay attention to evidence which disconfirms their own thinking. Emotional events are experienced as occurring more frequently than they actually do occur. People may get anchored to a point of view which restricts their ability to consider good alternatives. Negotiators may err in wanting to "win" and forgetting the importance of building and maintaining a constructive working relationship.

If the relationships between adults have deteriorated, those issues may eclipse the focus on the student and his needs. If the participants do not have a sense of what they want, what an acceptable outcome would be, it is harder to achieve closure. As these issues arise, they define the mediator's task.

**Q: Do you see some ways that school districts can make the mediation process more welcoming for families?**

**A:** It is helpful to continue to adopt a collaborative and problem-solving approach as issues arise. We know some of the assumptions parents might make when bringing a disagreement forward. They may assume that they'll get a "no" answer. They may expect that the outcome is pre-determined. They may fear that they won't be listened to, that their concerns will not be treated as legitimate. They may be worried that there will be repercussions toward their student as a result of their raising the issues which concern them. They may think that the mediator is an agent of the school district and fail to discern that he is unaffiliated and impartial. They often feel that this will be "just another meeting" and not be hopeful that it will change anything. It might be very helpful and reduce the parents' concerns if someone on the school staff contacted the parents before mediation to discuss any of their reservations. It is also the mediator's task to describe the role of the mediator, the mediation process and to help the parents understand how to anticipate and use the process in order to benefit their child's educational interests.

**Q: Do you see mediation becoming more and more popular as a resolution option prior to due process?**

**A:** I think that as we see the data emerging, successful mediated outcomes greatly outnumber successful resolution session outcomes. Why? Change the process and you change the outcome. Resolution sessions are designed to have the same format and participation as the last, unsuccessful meeting. Of course what is needed, in order to build and maintain a successful mediation program, is to keep the option and knowledge of how to effectively use the process continually in front of people as a public information service.

**Q: You have been in the field of special education dispute resolution for thirty years. What are the most significant changes you have seen over the years?**

**A:** Mediation was an option which states gradually adopted starting in 1974, first in Massachusetts and Connecticut. It became required as a state-offered service with the reauthorization of IDEA in 1997. Since then, the U.S. Department of Education-sponsored Regional Resource Centers and the Consortium for Alternative Dispute Resolution in Education have provided valuable support and leadership for state departments of education and mediators.

Schools have had to adapt to providing services to populations with a newly identified eligibility. Parents have been instrumental at the definition, eligibility and service provision levels. Once a new eligibility was established, discovering what the appropriate accommodations and methodologies were became an effort which had its reflection in dispute resolution processes. In 1979, the issues were about learning disabilities. Today, the needs of students with autism are greatly represented in our caseload.



# Communication Tips for Building Strong Partnerships

This is a collection of effective communication skills that can be used to encourage solution oriented conversations.

## 1 Know who and how to contact the right person to address your concerns.

- Identify your concerns and the outcomes you would like to see.  
***“We really need to focus on...”***
- Focus positively on the issue at hand and strive not to allow negativity to take control.  
***“I’m sure we’ll find a good solution to...”***
- Talk to the person closest to your child first.

## 2 Use reputable resources.

- Know what you’re talking about.
- Is the concern based on hearsay?
- Use data and documentation.
- Learn about the subject.

Misconceptions and misinformation are barriers to success.

## 3 Make a list of your concerns, questions and possible options and outcomes.

Look at your list and decide which question needs to be taken care of first. Identify who can help you with your question.

- Does everything need to be discussed at one time?
- What are the absolute priorities?
- What can be addressed at a later date?
- Is this something that will require a meeting or will a phone call be sufficient?

## 4 Practice what you want to say and HOW to say it.

***“What’s most important for Zach right now is...”***

- Stay centered on the child
- Focus on the positives
- Be clear about your goals
- Listen. Ask questions. Clarify.

***90% of communication is non-verbal*** so try to be aware of your facial expressions and body language. Folded arms, heavy sighing, and rolling eyes send a negative message. Manage your anger and refrain from using an intimidating tone of voice.

**5** Questions that begin with “why” or “who” create more defensiveness than those that begin with “what” and “how”.

***“How can we help Jim feel safe on the playground?”***

***“What are some of the skills we can focus on?”***

***“How can we find time for our team meetings?”***

- Communicate to express, not to impress.
- First understand, and then ... be understood.

**6** Be direct if you do not understand something that is being said.

Ask the speaker,

***“Do I understand correctly ...”***

***“I just don’t understand what you are saying. Can you explain it in a different way or give me some examples?”***

Keep asking until you understand.

**7** Communicate your real “interest” beneath your “position”.

Saying, “I want Jim to have 3 periods of speech per week” is a **position**.

Underlying this statement is an **interest** in ***having Jim be able to talk to his friends at the lunch table, be able to express his needs, and answer questions with yes and no.***

If the team understands the interest, they can start working on solutions.

Some people have difficulty expressing themselves. Be patient and listen for their true meaning.

## Final Tips

Try not to finish somebody’s sentence or put words in their mouth, even if you think you know what they are going to say. Reframe the sentence for clarity.

***“So what I think you are saying is ... Is that right?”***

Try not to worry about the educational lingo and remember ... you are an expert about your child.

Be open to brainstorming some solutions. Say what you mean in a way that does not place blame but rather identifies the concern.

***“I know that there’s a way to work this out together, so that we begin to see the results we’re looking for.” “Let’s see what kind of ideas we can come up with to take care of this concern.”***

Present options in a collaborative way.

***“we can”***... instead of ***“you should”***

***“yes”***... instead of ***“yes, but”***

## Resources

### Center for Appropriate Dispute Resolution in Special Education (CADRE)

CADRE works to increase the nation's capacity to effectively resolve special education disputes, reducing the use of expensive adversarial processes. Funded by the U.S. Department of Education, CADRE works with state and local education and early intervention systems, parent centers, families and educators to improve programs and results for children with disabilities.

**[www.directionservice.org/cadre](http://www.directionservice.org/cadre)**

### State/Territory Mediation Database

Maintained by CADRE, this database provides contact information for state divisions of special education and early intervention, mediation coordinators, and mediation service providers. In addition, basic information about accessing and using each state's mediation program is provided.

**[www.directionservice.org/cadre/state](http://www.directionservice.org/cadre/state)**

### State Parent Training and Information Centers Directory

Funded by the U.S. Department of Education, Parent Centers — Parent Training and Information Centers (PTIs) and Community Parent Resource Centers (CPRCs) — in each state provide training and information to parents of infants, toddlers, children, and youth with disabilities and to professionals who work with them. This assistance helps parents to participate more effectively with professionals in meeting their children's educational needs. The Parent Centers work to improve outcomes for children ages birth-26 years with all disabilities (emotional, learning, cognitive, and physical).

**[www.taalliance.org/ptidirectory](http://www.taalliance.org/ptidirectory)**

