

Wisconsin Special Education Mediation System

IEP Facilitation ■
Mediation ■
Resolution Process ■

WSEMS & DISPUTE RESOLUTION OPTIONS

Nissan Bar-Lev & Jan Serak

Parents and Schools Working Together

WSEMS Intro

Discretionary Grant since 1995

Partner Team:

- Nissan Bar-Lev, CESA 7 Special Ed. Director
- Jan Serak, WI FACETS Co-Director
- Nina Meierding, Mediator/Professor/Attorney

WSEMS Staff:

- Jane Burns, Burns Mediation Services
- Nelsinia Wroblewski, WI FACETS Leadership Coordinator & WSEMS Multicultural Outreach Coordinator

2

CADRE
Center for Alternative Dispute Resolution in Special Education

Wisconsin -
An Exemplary
Dispute Resolution
System in
Special Education

Profiled in June 2010

Center for Alternative Dispute Resolution
in Special Education (CADRE)
Bloomington, Oregon


<http://www.directionservice.org/cadre/pdf/Profile%20Wisconsin.pdf>

CADRE's Exemplar Collection: Resources for State Special Education Dispute Resolution Systems

Dispute Resolution in Special Education - Exemplar Collection
 "Resources and guidance that illuminate and promote exemplary approaches to the design, implementation and improvement of dispute resolution systems."

Exemplar Home | State System Profile | Resource Showcase | Videos | Other Resources


To access these resources, please click on any banner below.




Dispute Resolution State System Profiles

Resource Showcase

Process	Facilitation	Mediation	Compliance
Overnight	2 items	4 items	8 items
Professional Standards	4 items	9 items	5 items
Outreach	3 items	4 items	2 items
Evaluation	9 items	2 items	3 items



Video Resources



About the Exemplar Collection and Resources

<http://www.disputeinstitute.org/cadre/exemplar>

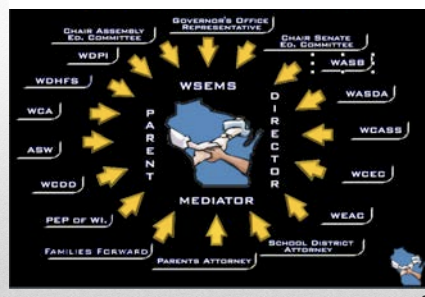
Exemplar Home | State System Profile | Resource Showcase | Videos | Other Resources

Resource Showcase

Link to...	System-wide	Parent & Stakeholder Engagement & Training	Early Assistance for Parent and Teacher Intermediary	Facilitation	Resolution Hearing	Mediation	Written State Complaints	Due Process Complaints and Hearings
Change: System Design	19 items	3 items			1 item	8 items	1 item	3 items
Change: Law/Regulation/Policy	33 items	2 items	2 items	10 items	7 items			7 items
Change: Stakeholder Involvement in Advisory Committees	7 items	2 items						
Change: Data Tracking Forms	8 items	4 items	9 items	17 items	66 items	23 items		28 items
Change: Laws	18 items	3 items	8 items	10 items	23 items	19 items		21 items
Change: Communication/Training and Technical Assistance/Professional Development	2 items			2 items	9 items			4 items
Change: Professional Standards/Training and Technical Assistance/Professional Development	3 items	13 items			4 items	3 items		3 items
Change: Systems/Processes/Tools	17 items	9 items	4 items	12 items	7 items	19 items		2 items
Change: Systems/Processes/Tools	8 items	1 item	3 items	2 items	3 items	7 items		4 items
Change: Systems/Processes/Tools	10 items	4 items	1 item	2 items	1 item	10 items		4 items

CADRE Exemplar Resources

Stakeholders' Council



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6

GOVERNING SYSTEM

GOVERNOR'S OFFICE REPRESENTATIVE

CHAIR ASSEMBLY ED. COMMITTEE

GOVERNOR'S OFFICE REPRESENTATIVE

CHAIR SENATE ED. COMMITTEE

WOPH

WDFHS

WCA

ASW

WCDD

PEP OF WI

FAMILIES FORWARD

PARENTS ATTORNEY

SCHOOL DISTRICT ATTORNEY

WEAC

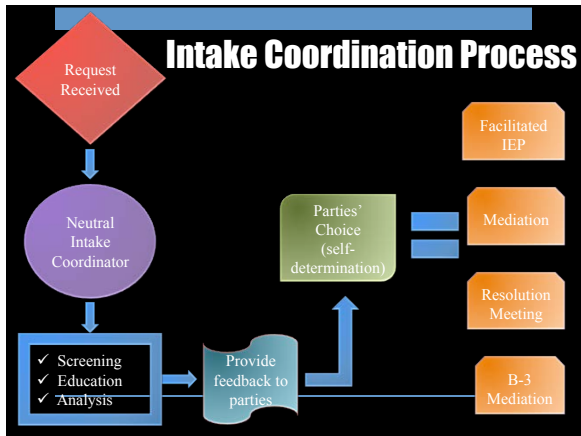
WCED

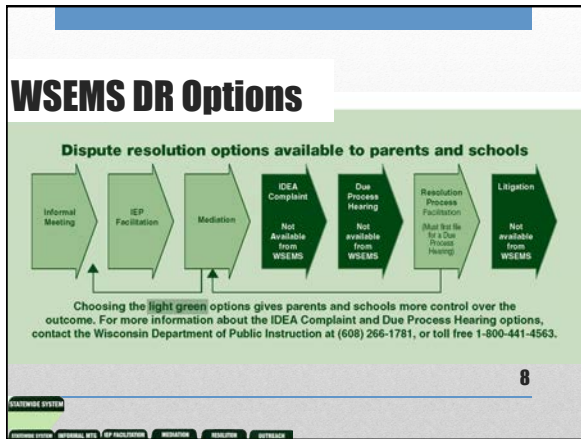
WCASS

WASDA

WASB


WASD





WSEMS Roster

- 25 Neutrals
- Impartiality
- Selection
- Professional diversity
<http://www.wsems.us/mediators.html>
- Training
- Used for both mediation & facilitation



8

WSEMS IEP Facilitation

- Option for early conflict resolution
- Trained, impartial professional (facilitator) attends IEP meeting to help IEP team with the process
- Free
- 3-hour time limit



IEP FACILITATION

HOMEWORK SYSTEM INITIALS WTS IEP FACILITATION RESOLUTION RESOLUTION OUTREACH

When to Request IEP Facilitation

- Early in IEP Process
- If you think an IEP meeting will be difficult (as, trust issues, communication issues)
- For any IEP meeting (initial, annual, re-evaluation, review/revision)

HOMEWORK SYSTEM

HOMEWORK SYSTEM INITIALS WTS IEP FACILITATION RESOLUTION RESOLUTION OUTREACH

IEP Facilitation Request Form

- Contact WSEMS: 888-298-3857
- Complete [Request for Facilitated IEP form](#) (wsems.us/forms)
- Joint or individual request
- Voluntary process
- Case intake & screening



IEP Facilitation Participants

- Facilitated IEP participants not specifically covered in IDEA or WI laws
- IDEA IEP team members
- WSEMS Facilitator (is not a member of IEP team)



SLIDESHOW SYSTEM

CONTENTS LIST | PREVIOUS SLIDE | NEXT SLIDE | HOME | SEARCH | HELP

Facilitator Opening

- Role clarification
“My role is to help you communicate with each other to reach a consensus around the most effective IEP for ____ (child’s name). I am not a formal member of the IEP team. I will be working closely with ____ (case manager) who will ensure the IEP process is followed. Let me know if you have questions at any time.”

SLIDESHOW SYSTEM

CONTENTS LIST | PREVIOUS SLIDE | NEXT SLIDE | HOME | SEARCH | HELP

Facilitator’s Role

- Role is to assist in the IEP process -not content
- Keeps team focused on developing the IEP document
- Maintains open, respectful communication
- Ensures everyone has a voice
- Encourages active listening
- Offers ways to address/resolve conflicts
- Makes no decisions for the parties

SLIDESHOW SYSTEM

CONTENTS LIST | PREVIOUS SLIDE | NEXT SLIDE | HOME | SEARCH | HELP

Participants' Satisfaction with IEP Facilitation

- Satisfaction with the IEP Facilitation process
 - 2004-12 84% (n=893)
 - 2011-12 89% (n=71)
- Would use the same Facilitator again
 - 2004-12 84% (n=890)
 - 2011-12 84% (n=71)
- Would use the IEP Facilitation process again
 - 2004-12 86% (n=893)
 - 2011-12 87% (n=71)

16

Mediation - Rules & Regs

- IDEA 2004 Regulations – 34 CFR 300.506
- Wisconsin Statutes – 115.797
- Wisconsin Statutes – 802.12 & 904.085

17

MEDIATION

WSEMS Mediation

- Option for early conflict resolution
- Trained, impartial professional (mediator) helps parties reach their own agreement
- Scheduling
- Confidential
- Free



MEDIATION

DISPUTE SYSTEMS INFORMAL RESOLUTION IEP FACILITATION MEDIATION RESOLUTION OUTREACH

Reasons to Mediate

- Facilitate the early resolution of disputes
- Decrease the cost in resolving disputes
- Save time preparing for & participating in due process
- Avoid uncertainty associated with due process
- Allow the parties to be the decision makers
- Encourage the parties to preserve good relationships

When to Request Mediation

- Early in the process (as, impasse, specific dispute)
- A referral for special education must have been made
- Law provides for issues dealing with: evaluation, disability identification, placement, IEP and provision of FAPE

MEDIATION

ATTORNEY GENERAL INFORMATION SYSTEMS OFFICE OF FACILITIES **MEDIATION** RESOLUTION OUTREACH

Mediation Request Form

- Joint or single request
- Description of dispute
- Sign/fax/mail



MEDIATION

ATTORNEY GENERAL INFORMATION SYSTEMS OFFICE OF FACILITIES **MEDIATION** RESOLUTION OUTREACH

Mediation Participants

- Parents or competent adult student
- 2 LEA reps (can include an attorney as one of reps)
- Parties must agree on any other participants who may attend



22

MEDIATION

Mediator's Role

- Help parties understand how mediation works
- Help parties decide who will participate in the mediation session
- Facilitate & structure the discussion between parties
- Have working knowledge of special education laws
- Not a decision-maker
- Help parties reach agreement

23

MEDIATION

Agreement to Mediate

1. Mediator:

- Parties agree on named mediator
- No legal advice

2. Mediator Conflict of Interest:

- No financial or personal interest
- Before accepting case: PERCEPTION of bias
- Disclose any conflict of interest before or that may arise (Model Standards of Conduct)

3. Authority of Mediator:

- The mediator does not have the authority to impose settlement.
- Authorized to caucus
- Authorized to seek expert advice

4. Location & Time:

- Convenient date, time, place acceptable to all parties

MEDIATION

Agreement to Mediate (Continued)

5. Termination of Mediation:

- By reaching agreement
- Mediator states that further efforts at mediation will not contribute to Resolution of the dispute
- By a declaration of a party or parties

6. Mediation Sessions

- Further explanation of caucus

7. Confidentiality

- Wis. Stat. 904.085
- Ask parties to keep process confidential from neighbors, colleagues, etc.

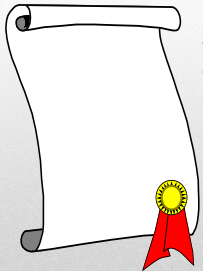
8. Agreement

- Must be written
- Mandatory language – “All discussions that occur during mediation are confidential & may not be used as evidence in any hearing or civil proceeding

9. Recording

MEDIATION

Mediation Agreement



- Parties write how they decided to resolve their dispute.
- Mediator can be the scrivener.
- List the terms:
 - Be specific.
 - Withdraw due process, IDEA or OCR complaints, or litigation/Quid Pro Quo
 - Loop back provision.
 - How to share information.
- Just the parties sign.
- Never total agreement into IEP
- No template.

MEDIATION

Participants' Satisfaction with Mediation

- Satisfied with mediation process
 - 2000-12 87% (n=1759)
 - 2011-12 88% (n=94)
- Would use mediation again
 - 2000-12 89% (n=1756)
 - 2011-12 89% (n=94)
- Would use same mediator again
 - 2000-12 87% (n=1754)
 - 2011-12 88% (n=94)



21

Other Mediation Data

- **OUTCOMES:** Rate of agreement 2000-12 (n=605)
 - Agreement 87.1% or 527 cases
 - No Agreement 12.9% or 78 cases
- Average number of sessions per case
 - o 2000-12 - One (n= 606)
- Average length of a mediation session
 - o 2000-12 - **4 hours** (n=605)

28

Resolution Process

WAIVER OF RESOLUTION SESSION FOLLOWING RECEIPT OF DUE PROCESS HEARING REQUEST

SCHOOL OFFER
If you need this waiver in a different language or format contact _____ at _____

If you need this waiver in a different language or format contact _____ at _____

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- Concept and timelines in IDEA 2004
- Can be held with or without a WSEMS neutral
- No confidentiality
- Written agreement
- Waiver option

Resolution Meeting Participants

- Parents of the child
- School representative
- Relevant IEP team member(s)



Outreach

- Website
- Training
- Dissemination of System Materials
- en Español
- Target audiences: parents & school professionals

31

CADRE Exemplar Videos: Patricia Williams, Wisconsin DPI



contact Us - About CADRE - Privacy Topical Search: Select & Topics GO Text Search: Enter Search Text Here GO

Dispute Resolution in Special Education - Parent Resource Collection

"Resources and guidance that help family members understand and prepare for their dispute resolution options."

Parent Dispute Resolution Resource Showcase

This Showcase is an easily searchable collection of resources related to special education dispute resolution that are of value to parents and the centers who serve them. The resources found here are also beneficial to educators and professionals who work with family members.

[How To Use This Showcase](#)

Link by:	Stakeholder Training	Parent Engagement & Early Assistance	EP/ITSP and Facilitation	Mediation	Resolution Hearings	Written Complaints	Due Process Hearings	System-wide
Large Public Audience	3 Items	3 Items	3 Items	4 Items	3 Items	4 Items	5 Items	14 Items
Training Material	9 Items	6 Items	3 Items					8 Items
Preparing for the Process	7 Items	2 Items	14 Items	18 Items	5 Items	12 Items	12 Items	4 Items
Brochures/Fact Sheets	7 Items	9 Items	15 Items	21 Items	5 Items	11 Items	13 Items	7 Items
Videos & Webinars	1 Item	6 Items	2 Items	3 Items	1 Item	1 Item	1 Item	11 Items
Resources for New Parents	1 Item	10 Items	3 Items	2 Items	2 Items	2 Items	2 Items	9 Items

There is considerable variability from state to state in relation to how dispute resolution processes are made available and the state regulations associated with them. Parents and family members are strongly encouraged to contact a parent center in their state for more information. Click [here](#) to go to a directory of the national network of federally funded parent training and information centers and community parent resource centers. These centers provide training, information and other vital assistance to families of children with all disabilities ages birth to 26 years and the professionals who work with them.

[Parent Center Network](#)

How to Use This Showcase

CADRE: Voices from the Field



Questions



Workshop Evaluation:

https://www.surveymonkey.com/s/WSEMS_Eval-Web 35
