Exploring Options to Resolve Disagreements within Juvenile Courts, Education, and Special Education

Monica Drovota, Interim Associate Director, OEC, Ohio Department of Education
Heather Clingerman, Education Program Specialist, Dispute Resolution Section, OEC, Ohio Department of Education
Jennifer Batton, Former Director of Education Programs, Ohio Commission on Dispute Resolution and Conflict Management
Office for Exceptional Children

Dispute Resolution Options

- Due Process
- State Compliant
- Mediation
- Facilitation
Due Process

• Most adversarial option
• Impartial Hearing Officer decides outcome
• Costly for districts
• Can be appealed to State Level Review Officer
• Additional appeal to court
Formal State Complaint

- Filed by any individual or organization
- Can be resolved through mediation or facilitation
- 60-day investigation
  - Documentation
  - Interviews
  - On-site observations
- Letter of Findings assigns corrective action when necessary

http://education.ohio.gov/Topics/Special-Education/Dispute-Resolution
Neutral third party works with the district and parents to **reach agreement** on a variety of issues.

Mediation can resolve a written state complaint or a due process hearing request.
• Chair the meeting
• Ensure conversations are respectful
• Ensure everyone has an opportunity to speak
• May caucus if needed
• Trained in mediation and Special Education Laws
Neutral third party works with the IEP team or the evaluation team to reach consensus
Facilitators

- Do not chair meetings
- Are not part of the team
- Only step in if the team is no longer productive
- Do not allow recorded meetings unless required by ADA or both parties agree
- Do not make decisions
- Trained in alternative dispute resolution techniques and Special Education Laws
Why use mediation or facilitation?

<table>
<thead>
<tr>
<th>Improve communication</th>
<th>Manage expectations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strengthen relationships</td>
<td>Avoid (or resolve) Due Process and Complaints</td>
</tr>
<tr>
<td>Keep the solution local</td>
<td>Free to districts and families</td>
</tr>
<tr>
<td>Focus on the student</td>
<td></td>
</tr>
</tbody>
</table>
When to Use Mediation or Facilitation

- Special education disagreements
- Evaluation or Individualized Education Program Team dysfunction
- Both parties agree to the process
How to Request Mediation or Facilitation

Call 877-644-6338 and ask for the special education mediation coordinator

OECMediationFacilitation@education.ohio.gov

Access the direct request form at education.ohio.gov
Who should attend the meeting?

**Mediation**
- Parent/Student
- A district representative
- Others related to the specific issue requiring mediation

**Facilitation**
- The entire ETR or IEP team, including the student when appropriate
Mediation as a Standalone Service
2016-2019

<table>
<thead>
<tr>
<th>Jan</th>
<th>Feb</th>
<th>Mar</th>
<th>Apr</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>Aug</th>
<th>Sept</th>
<th>Oct</th>
<th>Nov</th>
<th>Dec</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>5</td>
<td>2</td>
<td>12</td>
<td>7</td>
<td>18</td>
<td>8</td>
<td>6</td>
<td>4</td>
<td>5</td>
<td>3</td>
<td>6</td>
</tr>
<tr>
<td>2017</td>
<td>11</td>
<td>6</td>
<td>8</td>
<td>3</td>
<td>11</td>
<td>10</td>
<td>3</td>
<td>8</td>
<td>7</td>
<td>3</td>
<td>9</td>
</tr>
<tr>
<td>2018</td>
<td>9</td>
<td>9</td>
<td>6</td>
<td>4</td>
<td>8</td>
<td>6</td>
<td>5</td>
<td>4</td>
<td>4</td>
<td>13</td>
<td>6</td>
</tr>
<tr>
<td>2019</td>
<td>4</td>
<td>6</td>
<td>12</td>
<td>3</td>
<td>17</td>
<td>6</td>
<td>2</td>
<td>4</td>
<td>6</td>
<td>15</td>
<td>7</td>
</tr>
</tbody>
</table>
### Facilitation as a Standalone Service (2016-2019)

<table>
<thead>
<tr>
<th>Month</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
<th>2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jan</td>
<td>21</td>
<td>23</td>
<td>20</td>
<td>19</td>
</tr>
<tr>
<td>Feb</td>
<td>10</td>
<td>20</td>
<td>20</td>
<td>26</td>
</tr>
<tr>
<td>Mar</td>
<td>18</td>
<td>27</td>
<td>32</td>
<td>24</td>
</tr>
<tr>
<td>Apr</td>
<td>18</td>
<td>21</td>
<td>28</td>
<td>27</td>
</tr>
<tr>
<td>May</td>
<td>18</td>
<td>19</td>
<td>24</td>
<td>15</td>
</tr>
<tr>
<td>June</td>
<td>8</td>
<td>12</td>
<td>13</td>
<td>8</td>
</tr>
<tr>
<td>July</td>
<td>3</td>
<td>5</td>
<td>3</td>
<td>10</td>
</tr>
<tr>
<td>Aug</td>
<td>15</td>
<td>25</td>
<td>17</td>
<td>14</td>
</tr>
<tr>
<td>Sept</td>
<td>12</td>
<td>20</td>
<td>28</td>
<td>23</td>
</tr>
<tr>
<td>Oct</td>
<td>14</td>
<td>27</td>
<td>22</td>
<td>22</td>
</tr>
<tr>
<td>Nov</td>
<td>13</td>
<td>20</td>
<td>28</td>
<td>27</td>
</tr>
<tr>
<td>Dec</td>
<td>11</td>
<td>15</td>
<td>9</td>
<td>14</td>
</tr>
</tbody>
</table>
Share your learning community with us!
#MyOhioClassroom

Celebrate educators!
#OhioLovesTeachers
Monica Drvota
Interim Associate Director, OEC, Ohio Department of Education

Phone: 877-644-6338
Email: monica.drvota@education.ohio.gov
Heather Clingerman
Education Program Specialist, Dispute Resolution Section, OEC, Ohio Department of Education

Phone: 877-644-6338
Email: heather.clingerman@education.ohio.gov
Jennifer Batton
Former Director of Education Programs, Ohio Commission on Dispute Resolution and Conflict Management
Email: ConflictEducationConsultants@gmail.com
Exploring Options to Resolve Disagreements within Juvenile Courts, Education, and Special Education

Breakout Session B (Part 2)

Jennifer Batton, MA, Conflict Education Consultants
Bridging Divides: What To Do When People Disagree

Developed by
Jennifer Batton, MA, Conflict Education Consultants,
conflicteducationconsultants@gmail.com

Copyright 2017 by the Minnesota Bureau of Mediation Services
Opening: Interest-Based Problem Solving

Traditional Approach
Goal: Win
Process: Adversarial
Attack problem and people
Focus on position
Come with “the” solution

Interest-Based Approach
Goal: Win-Win
Process: Collegial
Concentrate on the Problem
Focus on interests
Willing to explore options

Opening: Interest Based Problem Solving

Process

1. Agree on the problem or decision to be made

2. Engage in dialogue to exchange information and to increase understanding of other points of view.

3. Generate options for mutual gain based on shared interests.

4. Develop an integrative solution.

5. Reach final agreement that all parties can accept.
Preparing for the Conversation: Framing the Problem

Goal: Describe the problem so both sides agree

- Remove the judgment – neither side is “right or “wrong”
- Describe it as a difference between the two
- Acknowledge each story as legitimate
- No need to agree
- Have a willingness to explore their perception
Problem Solving: Positions v. Interests

Positions v. Interests

\[ \text{Position} = \text{what you want} \]

\[ \text{Interest} = \text{why you want it (needs, hopes desires)} \]
Preparing for the Conversation: Framing the Problem

Examples:
1. City council member - We must build this jail to prevent overcrowding!
   Residents - We don't want criminals in our backyard!

2. School board member - Physical ed. is essential for the health of our children, we can not cut it.
   Another school board member - We don't have the financial resources to support it! And our children need to perform better on state tests!
Preparing for the Conversation: Reframing Examples

**Statement 1:** Resident where jail may be built: “We don’t want criminals in our backyard!”

**Try reframing the problem:**

- as an interest(s) v. position(s)
- by testing perceptions
- as an individual component(s) of the problem
- by the needs not being met for this person
Preparing for the Conversation: Reframing Examples

Statement 2: School board member, “Physical education is essential for the health of our kids, we can not cut it!”

Try reframing the problem:

• as an interest(s) v. position(s)
• as an observation v. inference
• by intentions v. impact
Understanding Conflict: Meetings Gone Wrong

Also Known As –

Why these skills are important!

How not to be “that other person”!

Council Meeting - Agenda Setting, June 4, 2012 (3:44), Maine

https://www.youtube.com/watch?v=58oR7gjqwQE
Enhancing Communication Strategies: Communication Obstacles

- Advising
- Arguing
- Criticizing
- Judging
- Probing
- Interrupting
- Long speeches
- Repeating
- Acting superior
- Accusing/Blaming
- Complaining
- Nagging
- Threatening
- Punishing
- Bribing

Enhancing Communication Strategies: Seven Caring Habits (Glasser)

Seven Caring Habits (Glasser)

1. Supporting
2. Encouraging
3. Listening
4. Accepting
5. Trusting
6. Respecting
7. Negotiating Differences

Enhancing Communication Strategies Practice
De-Escalating Angry Individuals

Nonverbal signs

Verbal Signs

Questioning

Refusal/Non-compliance

The Ohio Commission on Dispute Resolution and Conflict Management (OCDRCM) and the Ohio Department of Education (ODE). (2007). Conflict Management Training for Adults, Practical Skills and Strategies. Columbus, Ohio: OCDRCM. (pp. D-4 to D-9).
Jennifer Batton
Former Director of Education Programs, Ohio Commission on Dispute Resolution and Conflict Management

Email: ConflictEducationConsultants@gmail.com
References


References

References

• The Ohio Commission on Dispute Resolution and Conflict Management (OCDRCM) and the Ohio Department of Education (ODE). (2002). Staff Development Trainer Manual to accompany School Conflict Management Video Series. Columbus, Ohio: OCDRCM.
• The Ohio Commission on Dispute Resolution and Conflict Management (OCDRCM) and the Ohio Department of Education (ODE). (2007). Conflict Management Training for Adults, Practical Skills and Strategies. Columbus, Ohio: OCDRCM.
References

