



FOCUS on Results

Guidance & Technical Assistance from the Office of Special Education and Early Intervention Services



Office of Special Education and Early Intervention Services

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Accountability

Assessment

Curriculum & Instruction

Dispute Resolution

Early Childhood

IEPs & IFSPs

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This *FOCUS on Results* document will describe key communication and conflict resolution skills and outline three steps for using the skills to achieve cooperation in the individualized family service plan (IFSP) and individualized education program (IEP) processes.

Key Ideas:

- Communication and conflict resolution skills can play a role in developing workable plans for infants through young adults with disabilities and their families.
- Effective communication skills can be learned and practiced; when they are, they can lead to shared purposes, common solutions, and positive working relationships.
- When disputes arise, mediation is a logical remedy; Michigan offers mediation and other conflict resolution services at no cost to early intervention and special education stakeholders.

Communication and Conflict Resolution Skills Can Lead to Lasting Relationships and Positive Results for Children

by David Gruber

Here's a word of advice for special education stakeholders: Include communication and conflict resolution among your basic management skills.

This advice comes from the Office of Special Education and Early Intervention Services (OSE/EIS). It reflects the OSE/EIS emphasis on encouraging collaboration in planning services under the *Individuals with Disabilities Education Act* (IDEA).

Communication and conflict resolution skills can play an effective role in reconciling the varied interests that must come together to develop workable plans for infants through young adults with disabilities and their families. These plans include individualized family service plans (IFSP) for children birth to age 3 under IDEA Part C and individualized education programs (IEP) for children birth to 21 under IDEA Part B. (Michigan law applies from birth to age 26.)

Communication and conflict resolution skills can foster cooperative agreements and durable relationships among parties who must work together in the best interests of the child. When these skills are used early, when children are first identified for services, they open the door to positive conversations and relationships for many years.

Begin With a Purpose

The people involved in the IFSP or IEP processes—students, parents, educators, service providers, and advocates—begin their relationship with certain responsibilities, which depend somewhat on the age group being served. The responsibility under IDEA Part C is to coordinate early intervention once a child is suspected of having a developmental delay, health issue, or disability. The responsibility under IDEA Part B is to provide a free and appropriate public education (FAPE) to students with disabilities.

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▼
The words “child” and “student” as used in this document describe the following persons eligible for services under federal and state law. In Michigan:

Early Intervention Services (under Part C of the IDEA) and special education services (under the Michigan Mandate) are available to eligible infants and toddlers (birth through two years of age) and their families.

Special Education Services (under Part B and Section 619 of the IDEA) are available to eligible children through age 21, and are available under the Michigan Mandate to age 26.



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Many factors influence the ability to meet these responsibilities, including the nature of the disability, school and community resources, performance targets, skill levels, time, logistics, and an acute concern for the well being of the child or student. ▼ These factors shape the educational, budgetary, logistical, professional, and emotional interests or needs each party brings to the planning process.

Communicate to Find Solutions

The first step in reconciling the parties' diverse needs is to identify and talk together about these needs, either in the IFSP planning process, or in the individualized education program team (IEPT) meeting. A neutral facilitator trained in effective communication skills can foster and provide a model for a productive interchange among the participants. Effective communication skills include:

- **Active listening.** Listening attentively promotes understanding of a party's needs and interests. Acknowledging or paraphrasing the speaker's message communicates that the message is getting across. Restating the message helps both parties agree that the message is understood.
- **Neutral phrasing.** Avoid using words that sound critical or judgmental of others. For example, parents in a dispute might talk about poor teaching, tardy service, or few options. Educators in conflict might talk about unrealistic expectations. Dropping adjectives can remove the criticism and foster open-ended discussion on matters relating to “teaching,” “service,” “options,” etc.
- **“I” statements.** “I” statements can prevent listeners from becoming defensive. “I” statements also encourage parties to be specific when expressing feelings, causes, and potential solutions. A parent might wish to say to a teacher, “You are allowing Johnny to fall behind.” The parent can rephrase that concern and say, “I am

unhappy with Johnny's lack of progress in turning in his math homework. Would it be possible to give him more computer time to complete his work?”

- **Brainstorming.** Once the parties have come to a common understanding, they can begin to brainstorm solutions. Here, again, it is important for each party to reserve judgment and keep the discussion open, since one idea may lead to another. The goal is to get as many ideas on the table as possible from all concerned parties, including some ideas that might at first seem far-fetched. The team can decide in the next phase of their planning whether the ideas are right for the situation.
- **Practical choices.** The parties analyze their ideas and look for practical solutions that satisfy everyone's needs. If the parties reach an agreement, it is a good idea to schedule a follow-up meeting to see if their solution is working and to make any needed adjustments.

Communicate to Put Ideas to Work

The second step in reconciling the diverse needs of all participants is to use these communication skills in implementing the IFSP or IEP. Putting these plans into action requires many different contacts: among school staff, among school personnel and students and parents, and between school and agency personnel. By using good communication skills to attend to others' needs and find mutual solutions, parties can address questions or issues that may arise. Regular contacts,

Key Communication Skills

Active listening—Promotes understanding of interests and needs

Neutral framing—Promotes open-ended discussion of how needs can be met

“I” Statements—Foster a safe environment for discussing solutions

Brainstorming—Generates options for solving problems

Practical choices—Enables parties to select the best option for all

along with annual IFSP or IEP reviews, provide opportunities for furthering positive relationships.

Resolve Conflicts Through Mediation

The third step in reconciling the diverse needs of all participants is to design a process to resolve conflict among involved parties. An impasse, or deadlock, may arise when the parties cannot agree on, or implement, a solution because of new differences or failures in communication.

Mediation is a logical remedy. Through mediation, a neutral third party with no stake in the outcome of the dispute applies the communication skills described above to advance or restore communication among the parties. The mediator encourages all parties involved to phrase issues in a neutral fashion, brainstorm, and develop an answer that is right for their circumstances.

By entering into mediation after reaching an impasse, the parties build relationships and underscore their commitment to collaborative problem solving and its importance to the child or student. IDEA Parts B and C mandate that mediation be made available when a parent or other interested party requests a due process hearing. In Michigan, mediation is available at any time for any special education or early intervention dispute.

Mediation rests on the assumption that most disputes arise from miscommunication, differing perspectives, and diverging interests or needs. It relies on the belief that parties, with the right skills used in the right settings, can retain decision-making authority and resolve matters to everyone's benefit.

Mediation differs from more traditional forms of conflict resolution—due process hearings, complaints, and litigation—for which IDEA also provides (see Figure 1).

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Figure 1

IDEA Mandated Dispute Resolution Processes

Complaint Process: A special education (Part B) or early intervention (Part C) complaint involves an allegation (claim) that a district has failed to implement an individualized education program (IEP) or individualized family services plan (IFSP) for a child or student with a disability or has not complied with state or federal regulations related to early intervention or special education services. Formal complaints must be written and signed and must include the facts on which the allegation is based. Each written complaint related to Part B (special education) must be given/sent to a district or intermediate school district (ISD) administrator; complaints related to Part C must be given/sent to the the Michigan Department of Education or any public agency that provides *Early On*[®] services.

Sources: *Early On Family Rights: Part 4 of the Early On Guidebook*. MDE, 2004; *FOCUS on Results*, GATA 03-04, available at www.cenmi.org or by calling (800) 593-9146.

Due Process Hearings: An administrative proceeding that resembles a trial. School districts and parents present witnesses, evidence, and arguments to sup-

port their positions. An impartial hearing officer decides each issue and orders corrective action, as needed. Hearings can last from a few hours to several days. A hearing may be requested by either a parent/guardian or a school official in the event of a dispute about an issue, which typically arises out of or is related to the IEP process. Issues that might be involved include a student's evaluation, identification, placement, IEP, or any other matter concerning the appropriate education and services for a student.

Source: 20 U.S.C. (United States Code) § 1415(f) and the *Michigan Special Education Mediation Program Policy and Procedures Manual*, 2004.

Litigation: Legal (court) action. A party who is dissatisfied with the due process hearing decision may file an appeal in state circuit court or federal district court. An appeal must be filed within 120 days of the hearing decision.

Source: 20 U.S.C. § 1415(i), and the *Michigan Special Education Mediation Program Policy and Procedures Manual*, 2004.

Statement of Compliance with Federal Law

The Michigan Department of Education complies with all Federal laws and regulations prohibiting discrimination and with all requirements and regulations of the U.S. Department of Education.

Compliance with Title IX

What Title IX is: Title IX of the Education Amendments of 1972 is the landmark federal law that bans sex discrimination in schools, whether it is in curricular, extra-curricular or athletic activities.

Title IX states: "No person in the U.S. shall, on the basis of sex be excluded from participation in, or denied the benefits of, or be subject to discrimination under any educational program or activity receiving federal aid."

The Michigan Department of Education (MDE) is in compliance with Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 et seq. (Title IX), and its implementing regulation, at 34 C.F.R. Part 106, which prohibits discrimination based on sex.

The MDE, as a recipient of federal financial assistance from the United States Department of Education (USDOE), is subject to the provisions of Title IX. MDE does not discriminate based on gender in employment or in any educational program or activity that it operates.

The designated individual at the Michigan Department of Education for inquiries and complaints regarding Title IX is:

Roberta E. Stanley, Director, Office of Administrative Law and Federal Relations, Michigan Department of Education, Hannah Building, 608 West Allegan, P.O. Box 30008, Lansing, Michigan 48909, Phone: (517) 335-0436, Email: stanleyr@michigan.gov.



Michigan's Community Dispute Resolution Centers (CDRC)

1. Citizens Mediation Service, Inc., St. Joseph (269) 982-7898, citizens@citizensmediation.net
2. Northern Community Mediation, Petosky (231) 487-1771, jane@NorthernMediation.org
3. Eastern UP DRC, Inc., Sault Ste. Marie (906) 635-2725, cdrc@gw.Issu.edu
4. UPCAP Services, Inc., Escanaba (906) 789-9580, cgocresolve@yahoo.com
5. Community DRC of Genesee County, Flint (810) 249-2619, daynalharper@aol.com
6. Western UP Mediators, Ironwood, (906) 932-0010 mediator@up.net
7. Conflict Resolution Services, Inc., Traverse City, (231) 941-5835, CRService@thirdlevel.org
8. Dispute Resolution Center of Central MI, Lansing, (517) 485-2274, drccm@tds.net
9. Southeastern Dispute Resolution Services, Jackson, (517) 784-4800, mstanley@caajlh.org
10. Gryphon Place, Kalamazoo, (269) 552-3434, bburnside@gryphon.org
11. Dispute Resolution Center of West MI, Grand Rapids, (616) 774-0121, drcwestmich@hotmail.com
12. The Resolution Center, Mt. Clemens, (586) 469-4714, theresolutioncenter@mediate.com

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These approaches assume that conflicts arise from willful acts or errors in judgment. The parties give up decision-making authority, which passes to an impartial hearing officer, administrative review person, or judge. One party wins and the other loses.

Collaborative Methods Work

The results of collaborative methods compare favorably to the results of traditional methods of dispute resolution. Traditional methods are adversarial in nature and they can be long, disruptive, and expensive. Reaching a decision through a due process hearing can take up to five months and cost up to \$40,000. Litigation can take up to two years and cost even more. That's a hefty burden for school districts, parents, and taxpayers.

By contrast, IFSP and IEPT participants who have good communication skills can reconcile diverse interests dur-

ing their first meetings. This early success can prevent the need for further proceedings other than required reviews. If communication alone fails to resolve differences, mediation can be completed within a month through services free to parents and school districts (see Figure 2). Mediation succeeds in more than 80 percent of cases and allows everybody to win.

In choosing whether to use a collaborative approach to resolving conflicts, keep six important ideas in mind:

1. Collaborative skills are designed to solve problems among people with diverse interests. Proving who is right or wrong about a given issue in this context is irrelevant. The goal is to cooperate on making the best possible plan for the child or student.
2. Collaborative approaches can be—and mediation under IDEA is—confidential.

Figure 2

How to Obtain Services Through the Michigan Special Education Mediation Program (MSEMP)

Educators and parents can learn more about conflict management in early intervention and special education through the Michigan Special Education Mediation Program (MSEMP). The program provides presentations and workshops, along with facilitation and mediation services, to all 83 Michigan counties.

The MSEMP makes these services available through the Community Dispute Resolution Program (CDRP), a statewide network of local conflict resolution centers. The CDRP has achieved a resolution rate in special education cases of more than 80 percent, and a satisfaction rate of more than 90 percent.

Presentations feature an overview of special education and early intervention mediation, how it compares with hearing and complaint processes, and how to access services. Workshops explore the dynamics of conflict and a step-by-step approach to resolving disputes. They can provide experience in communication and conflict resolution through role-playing exercises.

For administrative questions about the MSEMP or information on training programs, please contact **(517) 485-2274** or **resolve@tds.net**.

Facilitation and mediation services are provided through mediators trained by the MSEMP. Their qualifications include a 40-hour course in basic mediation techniques, a 10-hour internship, 25 hours of mediation experience, and a 16-hour training program in mediating special education issues. Mediators must update their special education mediation skills by taking an eight-hour training program at least once every two years.

MSEMP services are provided free to school districts and parents. The MSEMP is funded by a grant from the Michigan Department of Education, Office of Special Education and Early Intervention Services.

Educators and parents may request more information or access services by calling **(800) 8RESOLVE**. The number will contact the CDRP center serving the caller's county. Trained center staff can answer questions and schedule presentations, facilitation, and mediations.

Confidentiality fosters a safe environment for discussing the real issues and developing creative solutions.

3. The parties involved retain control of the outcome. They are free to agree or disagree on any issue and make their own decisions. A neutral facilitator cannot impose a solution.
4. Decisions reached by collaborative means are more likely to last; everyone understands the decisions, and the decisions address the needs of all parties.
5. Solutions reached collaboratively set no precedents, which means they do not have legal or procedural impact on other, similar cases. Since solutions will affect only the case in question, participants in later disputes have flexibility solving problems.
6. The use of collaborative approaches leaves the door open to using traditional procedures, if necessary (e.g., complaint, due process hearings, litigation). In other words, parties using mediation do not waive their right to file a complaint, request a due process hearing, or pursue litigation.

Special education and early intervention stakeholders can capture the benefits of collaborative problem solving by committing to its use. They can support that commitment by helping other involved adults learn the necessary skills. Learners

would include IFSP and IEPT participants and those who are responsible for early intervention and special education programs but do not participate in individual cases. Stakeholders can further support their commitment to collaborative problem solving by using mediation for issues that call for the assistance of a neutral third party before advancing to hearings or litigation.

In 1997, the U.S. House Committee on Education and the Workforce expressed a strong preference for mediation over litigation in resolving special education disputes. In 2004, the OSE/EIS released a study entitled *Survey of Parents and Educators: Opinions and Experience Related to Mediation*. The survey report said, "Throughout the survey, the data repeatedly indicates that those with experience and familiarity with mediation strongly believe that it is the best dispute resolution alternative. Moreover, those indicating experience and/or familiarity with mediation believe that it should be one of the first options considered, and certainly should not be viewed as an option of last resort."

Count those as votes for collaborative methods of resolving disputes. When it comes to building lasting relationships and positive outcomes for infants through young adults, it helps to have the right tools.

Michigan's Community Dispute Resolution Centers (CDRC) Cont'd.

13. Marquette-Alger Resolution Services, Marquette, (906) 475-5739, frazier_mars@yahoo.com
14. Westshore Dispute Resolution Center, Muskegon, (231) 727-6001, wdrcc@verizon.net
15. Oakland Mediation Center, Inc., Bloomfield Hills, (248) 338-4280, camureche@mediation-omc.org.
16. Community Mediation Services, Gaylord (989) 732-1576, mediation@voyager.net
17. Center for Dispute Resolution, Holland, (616) 399-1600, cdrexec@macatawa.org
18. Center for Dispute Resolution, Caro, (989) 672-4044, peggyd@hdc-caro.org
19. DRC of Washtenaw Co., Ann Arbor, (734) 222-3745, drc@mimmediation.org
20. Neighborhood Reconciliation Center, Detroit, (313) 417-9400, hlscheron@mediation-wayne.org

If you are unsure which program serves your county, call **(800) 8RESOLVE**.

Opportunities for Using Collaborative Communication

	Early On [®] (Part C)	Special Education (Part B)	Transition	
Applications	IFSP Facilitations Annually Participants: <ul style="list-style-type: none"> • Parent(s) • Other family • Advocate • Service coordinator • Evaluator • Service providers 	IEP Team Facilitations Annually Participants: <ul style="list-style-type: none"> • Parent(s) • Student • Teachers • Service providers • School district representative 	Informal Interactions As needed Participants: <ul style="list-style-type: none"> • Parents/teachers • Parents/principal • Special education staff/general education staff 	Mediation As needed Participants: <ul style="list-style-type: none"> • Parties to dispute and advocate, if desired

David Gruber is Executive Director of Dispute Resolution Education Resources, Inc. Contact him at 2929 Covington Ct., Suite 201, Lansing, MI 48912, (517) 485-2274, Fax (517) 485-1183, resolve@tds.net.



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WEB LINKS

Dispute Resolution Web Sites

**Consortium for Appropriate Dispute Resolution
 in Special Education (CADRE)**
www.directionservice.org/cadre

Michigan Special Education Mediation Program (MSEMP)
www.cenmi.org/msemp

Dispute Resolution Education Resources, Inc.
www.michiganresolution.org

Mediate.com
www.mediate.com

American Bar Association Network
www.abanet.org/dispute/home.html

Association for Conflict Resolution
www.acresolution.org

National Education Web Sites with Dispute Resolution Pages

National Association of State Directors of Special Education (NASDSE)
www.nasdse.org

**National Information Center for Children and Youth
 with Disabilities (NICHCY)**
www.nichcy.org

Technical Assistance Alliance for Parent Centers (The Alliance)
www.taalliance.org

U.S. Department of Education, Office of Special Education Programs (OSEP)
www.ed.gov/offices/OSERS/OSEP/

Michigan Special Education Web Sites

**Citizens Alliance to Uphold Special Education (CAUSE)
 Michigan's designated parent training and information center**
www.causeonline.org

Center for Educational Networking (CEN)
www.cenmi.org

Michigan Department of Education
www.michigan.gov/mde
 (Click on Administrators, then Special Education)