WSEMS & DISPUTE RESOLUTION OPTIONS

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WSEMS Intro

Funded by WDPI since 1996

Nationally-recognized Exemplar System

Partner team:

• Courtney Salzer, WI FACETS Exec. Dir.
• Nissan Bar-Lev, CESA 7 Special Ed. Director
• Gia Pionek, Mediation Partner, System Administrator and Intake Coordinator

Latino Outreach Coordinator

• Nelsinia Ramos, WI FACETS Associate Director & WSEMS Latino Outreach Coordinator

Stakeholder Designed System
WSEMS DR Options

STATEWIDE SYSTEM

Dispute resolution options available to parents and schools

Informal Meeting — IEP Facilitation — Mediation — IDEA Complaint — Due Process Hearing — Resolution Process Facilitation — Litigation

Choosing the dark blue options gives parents and schools more control over the outcome. For more information about the IDEA Complaint and Due Process Hearing options, contact the Wisconsin Department of Public Instruction at (608) 266-1781, or toll free 1-800-441-4563.
WSEMS Roster

- Roster/list of neutrals
- Impartiality
- Selection
- Professional diversity
  http://www.wsems.us/mediators.html
- Training
- Used for both mediation & facilitation
WSEMS IEP Facilitation

- Option for early conflict resolution
- Trained, impartial professional (facilitator) attends IEP meeting to help IEP team with the process
- Free
When to Request IEP Facilitation

- Early in IEP Process
- If you think an IEP meeting will be difficult (trust issues, communication issues)
- For any IEP meeting (initial, annual, re-evaluation, review/revision)
• 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 are the same as in non-facilitated IEPs
- WSEMS Facilitator (is not a member of IEP team)
Facilitator’s Role

• Role is to assist in the IEP process
• Keeps team focused on developing the IEP document
• Clarifies points of agreement and disagreement and maintains open, respectful communication
• Helps team discuss specific steps of what will occur after the IEP meeting
• Offers ways to address/resolve conflicts
• Makes no decisions for the IEP team
Participant Surveys - IEP Facilitation 2004 – 20 \( (n=2,377) \)

- Satisfied with the IEP Facilitation process - 90.5%
- Felt that the facilitation gave them an opportunity to be a part of the IEP process (89%)
- Thought IEP Facilitation will improve future IEP meetings – 82%
- Would use the same facilitator again – 88.5%
- Thought the facilitator was impartial throughout the process – 88%

Facilitator Surveys 2004-2020 \( (n=448) \)

- Most common disabilities - Autism (39.5%); EBD (21%)
- Most common subject matter issues – placement, accommodation, behavior intervention plans
WSEMS Mediation

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

- Early in the process (specific dispute, impasse)
- A referral for special education must have been made
- For issues dealing with: evaluation, placement, disability identification, IEP, provision of FAPE
- Other reasons to request:
  - Need for creative, flexible solutions
  - Need to be able to be forward-looking
  - Save costs (resolve quickly, avoid time/expense of preparing for/participating in due process hearing)
  - Allow the parties to be the decision makers
  - Encourage the parties to preserve good relationships
  - Need for privacy
Joint or single request
Description of dispute
Sign/fax/mail
Scheduling
Mediation Participants

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

- Schedule the mediation
- Helps school and district decide who will participate
- Helps participants understand how mediation works
- Facilitates and structures the discussion between participants
- Not a decision-maker
- No legal advice
- Help parties reach agreement
What Do We Do in Mediation?

• Mediation process is informal
• All participants often in the same room but may have separate sessions
• Mediator explains and all sign Agreement to Mediate
• Mediator explains mediation process and mediator’s role.
• Participants explain why they are there and what positive outcomes they would like to resolve their dispute.
• Mediator may ask questions to clarify, brainstorm, or create options.
• No audio, video or written record of the session
Mediation Agreement

- Parties work together to write the Mediation Agreement (details of how they decided to resolve their dispute)
  ✓ Important to be specific
  ✓ Indicate whether other pending processes (DPH, IDEA or OCR complaint, litigation) are withdrawn as part of the Agreement.
  ✓ Include a provision to go back to mediation if needed
  ✓ Mandatory language – all discussions during mediation are confidential and may not be used as evidence in any hearing or civil proceeding
  ✓ How the participants plan to share information
- Mediator can write the agreement as directed/phrased by the parties
- Just the parties sign (can have lawyer review 1st – own expense)
- Copies of Agreement…
Satisfaction with Mediation

• Satisfied with mediation process
  o 2000-20  90.4%  (n=3,171)

• Would use mediation again
  o 2000-20  92.4%  (n=3,171)

• Would use same mediator again
  o 2000-20  90.7%  (n=3,171)

• Rate of written agreements
  o 2000-20  89.7%  (n=3,171)

• Ave. number of sessions per case
  o 2000-20  1.4    (n=3,171)

• Ave. length of a mediation session
  o 2000-20  4.0 hours  (n=3.171)
Resolution Process

- Resolution Meeting
- Timelines
- Can be held with or without a WSEMS neutral
- Participants: parents, school rep, relevant IEP team members(s)
- No confidentiality
- Waiver option
- Written agreement

WAIVER OF RESOLUTION SESSION FOLLOWING RECEIPT OF DUE PROCESS HEARING REQUEST

If you need this waiver in a different language or communicated in a different way, or have questions about this agreement, please contact __________ at __________

Within 15 days of receiving notice of a parents' request for a due process hearing, and prior to the beginning of a due process hearing, the school district must convene a meeting with the parents and the relevant member or members of the individualized education program (IEP) team who have specific knowledge of the facts identified in the hearing request. The meeting must include a representative of the school district who has decision-making authority on behalf of that district. The meeting may not include an attorney of the school district unless the parent is accompanied by an attorney. The purpose of the meeting is for the parents of the child to discuss their hearing request and the facts that form the basis of the hearing request, so that the school district has the opportunity to resolve the dispute that is the basis for the hearing request.

The district is not required to hold this meeting if the parents and the school district agree in writing to waive the meeting or agree to use the mediation process to try to resolve the issues included in the hearing request. If the parents and school district do not agree to waive the resolution session and the district has not resolved the due process complaint to the parent's satisfaction within 30 days of the receipt of the due process hearing request, the due process hearing must occur. An agreement to waive the resolution session must be in writing.

Agreement to use mediation process rather than resolution session:

I agree to waive the resolution session and use mediation to attempt to resolve the due process issues.

<table>
<thead>
<tr>
<th>Signature of parent/legal guardian or adult</th>
<th>Date</th>
<th>Signature of school district representative</th>
<th>Date</th>
</tr>
</thead>
</table>

Agreement to proceed directly to due process hearing:

I agree to waive the resolution session and want to proceed directly to the due process hearing.

<table>
<thead>
<tr>
<th>Signature of parent/legal guardian or adult</th>
<th>Date</th>
<th>Signature of school district representative</th>
<th>Date</th>
</tr>
</thead>
</table>
Outreach

- Website
- Training
- Dissemination of System materials
- en Español
- Target audience: parents & school professionals

Welcome to the Wisconsin Special Education Mediation System (WSEMS) website

WSEMS is a grant-funded system that provides trained neutrals to parents and school districts for Mediation, IEP Facilitation and Resolution Process services. WSEMS services are free, private and confidential. WSEMS was founded in 1990 by a parent, a special education director, and a mediator. This collaboration continues today as an example of how parents, teachers, administrators, advocates and attorneys can work together in a cooperative way for the best interests of the students in Wisconsin’s public schools.

http://wsems.us
CADRE Exemplar Video: Patricia Williams, WI DPI

http://www.directionservice.org/cadre/williamsinterviews.cfm
CADRE: Voices from the Field

http://www.directionservice.org/cadre/barlevinterviews.cfm
Questions?