

The WI Department of Public Instruction  
Special Education Team  
May 11, 2009

Special Education Mediation and IEP Facilitation

Framework: Wisconsin Special Education Mediation  
System





# WISCONSIN SPECIAL EDUCATION MEDIATION SYSTEM

Parent(s) of  
child with  
disability

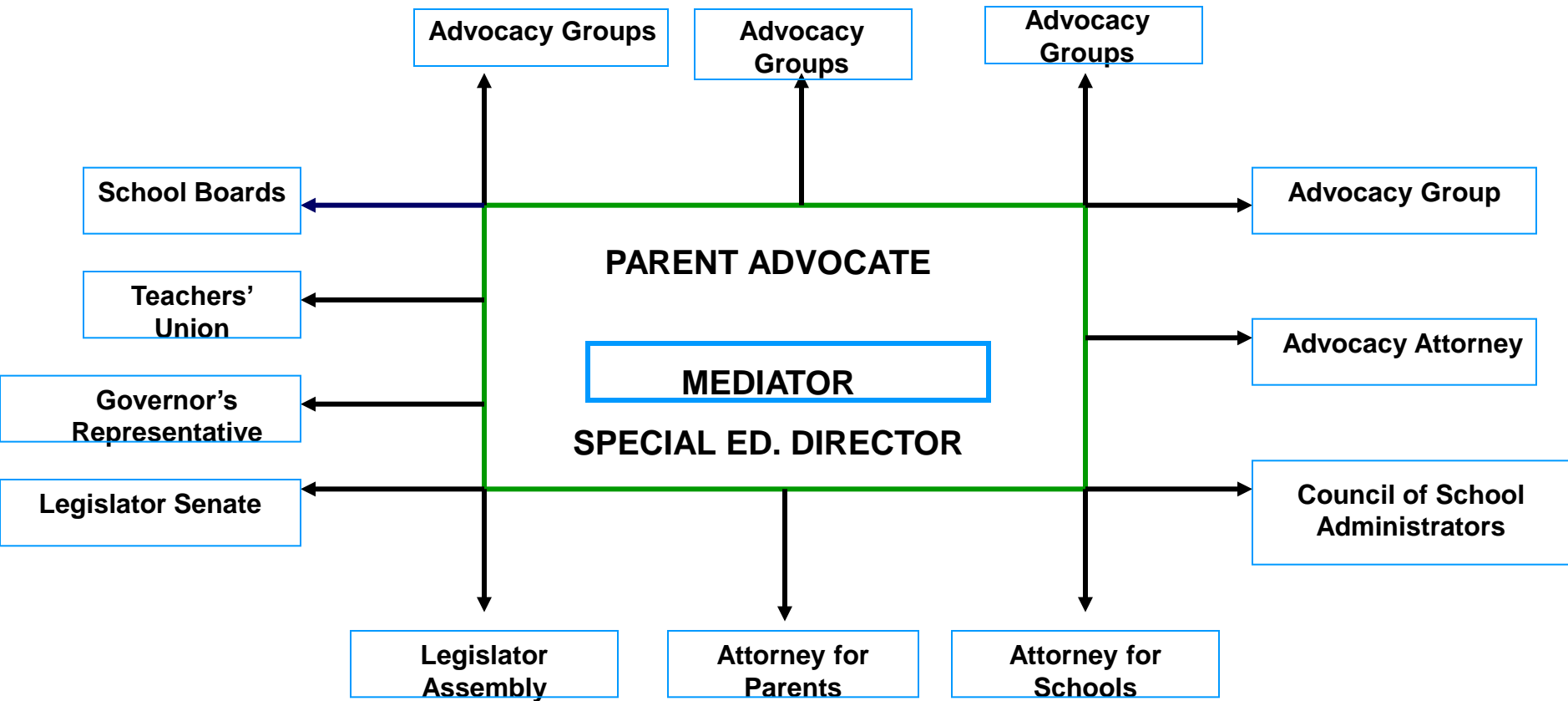
SUE

School District

“free appropriate public education”  
(federal & state law)



# FORMATION OF STAKEHOLDERS' COUNCIL



# SYSTEM DESIGN BY STAKEHOLDERS

## QUESTIONS

### INTAKE & SCREENING

- How will mediation be requested?
- At what point in process will disputants mediate?
- Who will administer the referral process?
- Who will assess case suitability for mediation?

### REFERRAL

- Who will be eligible to serve as a mediator?
- What mediator training will be required?
- How will a mediator be selected for a case?

### SYSTEM

- What are confidentiality parameters?
- Will any record be made of agreements?
- Who will be able to participate in sessions?
- Who will pay for system administration and sessions?



# WI Statute 115.797

- Signed into law December, 1998.
- IEP Facilitation Pilot 04-05
- WSEMS the first step toward developing a culture of collaboration to replace a culture of conflict

## Data from Participant (District and Parent) Reporting Forms 00-08

- **82% satisfied with the mediation outcome** (N=1187)
- **88.2% satisfied with mediation process** (N=1195)
- **89.6% would use mediation again** (N=1191)



# Types of Mediation Disputes

- **Proposal / Refusal to initiate or change:**



- **Eligibility**
- **IEP Issues**
- **Educational Placement**
- **Provision of FAPE**



# Two Important MEDIATION components

## 1. Confidentiality

- Gives privacy to negotiate
- Process protection (WI Stat. 904.085)
- Explore settlement without fear
- Final agreement
- Who requests/goes to mediation





# Continued

## 2. Neutrality

- Mediators-Standards of Conduct
- Neutral intake site and person
- All parties asked same questions
- All parties receive same materials
- Language
- Mediators-don't work LEA or SEA



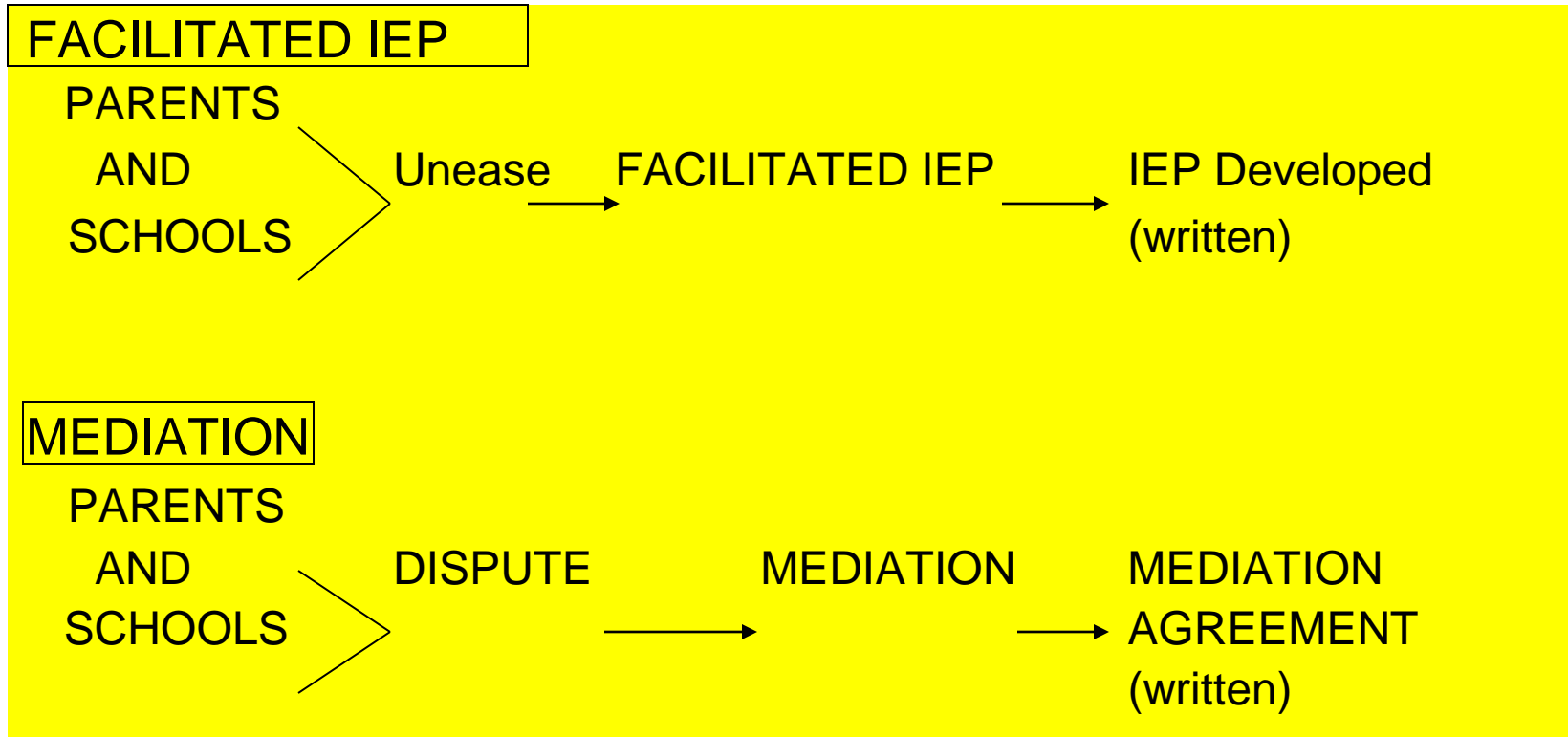
# IEP Facilitation Components

Facilitation process:

- All of the neutrality components of mediation
- Very little, if any, of the confidentiality components.



# Differences Between Facilitated IEP Meeting and Mediation



# Differences between Facilitation and Mediation

## Facilitation

## Mediation

	Facilitation	Mediation
Objective	Help improve process for developing the IEP.	Help the parties negotiate a resolution to a defined dispute under WI Stat. 115.797.
Timing	Intervene when parties realize discussion will be difficult and complex; <u>before</u> any impasse is identified.	Intervention is usually <u>after</u> parties reach impasse.
Method	<p>Entire group stays together.</p> <p>Role of neutral to help with meeting process.</p> <p>Outcome IEP developed or not.</p>	<p>Group stays together or works with mediator in caucus.</p> <p>Role of the neutral to help with collaborative problem solving.</p> <p>Outcome can be a written agreement/contract.</p>



# Intake Office role with the parties

- Establish rapport
- Educate participants about processes
- Gain commitment to mediate/facilitate
- Build credibility



# IEP FACILITATION

## ➤ How to Request IEP Facilitation?

✓ Joint or individual request

Sign/Mail/Fax/Scan

✓ Neutral intake system

**Wisconsin Special Education Mediation System (WSEMS)**  
**Request for a Facilitated IEP Meeting**

Complete and submit one (1) signed copy. Retain a copy for your records. Submit signed form to:  
**WISCONSIN SPECIAL EDUCATION MEDIATION SYSTEM**  
 Burns Mediation Services  
 PO BOX 107  
 Hartland, WI 53209-0107  
 (Toll free) 1 - 888 - 288 - 3857 FAX: 1 (262) 538-1348

**Instructions**

1. Either the parent or school district may initiate the facilitated IEP process by completing this form and sending or faxing the completed form to the contact information provided above.
2. Both the parents and school district may jointly complete one form. This form should be sent or faxed to the contact information provided above. WSEMS, with input from the parties, will appoint a facilitator for the IEP meeting from a list of trained professionals.
3. Parties should try and contact WSEMS at least two weeks prior to the IEP meeting. Both parties must agree to the IEP facilitation in order for the process to take place. WSEMS will keep the parties notified about the progress of the request.

**We understand and agree to the following:**

1. We are requesting that the WSEMS appoint a neutral facilitator from its roster.
2. We understand that the WSEMS pays the fees of the facilitator.
3. We understand that the signing of this request gives the facilitator access to student records during the facilitation process.
4. We understand that the facilitator is not a member of the IEP team.
5. We understand that the facilitator cannot provide legal advice to any participant.

**GENERAL INFORMATION**

Name of School District Administrator			Name of Student			Date of Birth			
Name of School District						Name of Parent/Guardian			
Address						Address			
City			State	Zip	City			State	Zip
Telephone Area/No.						Telephone Area/No. (Daytime Telephone)			

**SIGNATURES**

We understand that Facilitated IEP is a voluntary dispute resolution option. We understand and agree with the five (5) items noted above.

Signature of School District Administrator		Date Signed	Signature of Parent/Guardian		Date Signed
➤			➤		

The WSEMS is funded by the Wisconsin Department of Public Instruction through an IDEA Discretionary Grant

IEP FACILITATION



STATEWIDE SYSTEM

INFORMAL MTG

IEP FACILITATION

MEDIATION

RESOLUTION

OUTREACH

# MEDIATION

## How to Request Mediation?

- Joint or single request
- Description of dispute
  - Sign-fax/mail/scan
- Neutral intake system

**Wisconsin Special Education Mediation System (WSEMS)**  
REQUEST FOR SPECIAL EDUCATION MEDIATION

**INSTRUCTIONS:** Complete and submit one (1) signed copy. Retain a copy for your records. Submit signed form to:  
WISCONSIN SPECIAL EDUCATION MEDIATION SYSTEM  
Burns Mediation Services  
PO Box 107  
Hartland, WI 53029-0107  
(Fax) 920-886-3807 FAX: 1 (202) 536-1348

1. Either the parent or school district may initiate the mediation process by completing this Request for Special Education Mediation form and sending the completed form to WSEMS.

2. Both the parents and school district administrator may jointly complete a single Request for Special Education Mediation form. The form should be sent or faxed to WSEMS at the address or phone number shown. WSEMS will appoint a mediator who will arrange mediation at a location, date, and time convenient to both parties.

3. If a **single request**, WSEMS will notify the other party in writing of the request for mediation with a request that the other party notify WSEMS within **ten (10) business days** after receiving the notice of their willingness to participate in mediation. If the responding party agrees to mediate, WSEMS will appoint a qualified mediator to arrange a mediation session. If WSEMS does not receive a timely response or if the other party notifies WSEMS of their refusal to participate in mediation, WSEMS will so notify the requesting party.

**MEDIATION REQUEST**

We wish to request that WSEMS appoint a mediator who will convene a special education mediation session regarding the following unresolved issues:

**GENERAL INFORMATION**

Name of School District Administrator (Superintendent)			Name of Student			Date of Birth					
Name of School District			Name of Parent/Guardian								
Address						Address					
City		State		Zip		City		State		Zip	
Telephone Area/No.						Telephone Area/No. (Daytime Telephone)					

**SIGNATURES**

We understand mediation is a voluntary dispute resolution option available to encourage early resolution of issues whenever possible. We understand that mediation may not delay or deny the right to a formal due process hearing. We understand that mediation is confidential and that the information will not be shared with others.

Signature of School District Administrator (Superintendent)		Date Signed		Signature of Parent/Guardian		Date Signed	
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MEDIATION

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# WSEMS Case Management Procedure for Mediation and Facilitation

## Step 1

- **Intake**

Information Only

Mediation/Fac Request

1 Party or Joint

## Step 2

- **Screening**

Subject Matter

Party

Nature of Dispute

## Step 3

- **Referral**

Mediator/Fac requested

No mediator/Fac  
requested

## Step 4

- **Follow up**

Technical assistance  
mediators

Case management





## WSEMS

### Intake/Screening Questions for Mediation and/or IEP facilitation

- **Child's Name/Age:**
- **Does child reside at home with both parents?**

Parent(s): **What is your child's disability?**

District: **What is the child's disability from the I-5 IEP  
form or Dec 1 head count:**

- **Does the child receive any related services?**
- **Has your child been involved in any kind of  
specialized programs outside of school? No \_\_\_\_  
Yes \_\_\_\_**

**If so, which?**



## Continued

- **Are you working with an attorney or parent advocate?**
- **Who are you thinking about bringing to the mediation?**
- **Mediation Issues:**

**Parent:**

**District:**

- **What have you done to try and resolve the issues before filing for mediation?**



## Continued

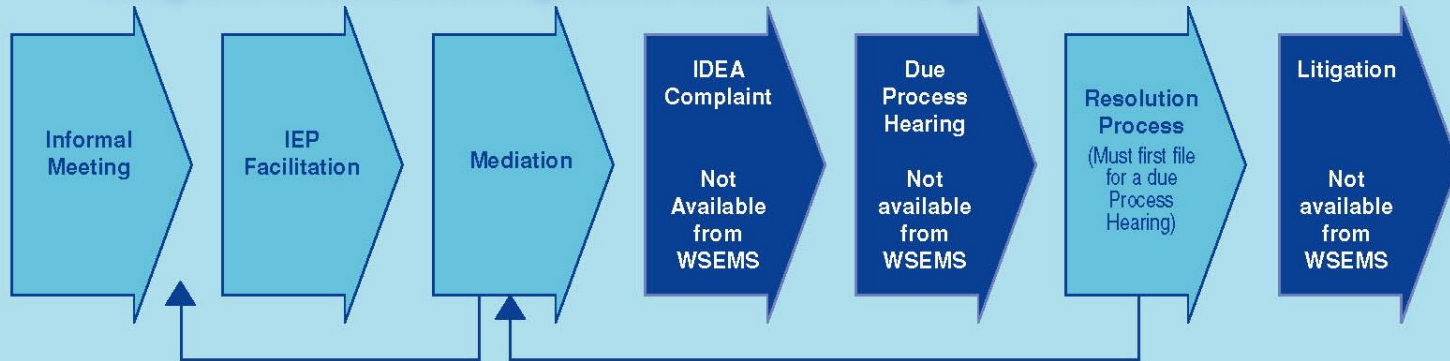
- **Is there a due process or any other process pending?**
- **Are there any other circumstances we should be aware of?**
- **Who is responsible for drafting the documents related to the IEP? Does the same person oversee implementation?**
- **How can a facilitator be helpful? Parent: District:**



# OPTIONS

## STATEWIDE SYSTEM

### Dispute resolution options available to parents and schools



Choosing the **light 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.

## STATEWIDE SYSTEM

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INFORMAL MTG

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And Everyone Lived Happily Ever After...

