

DO HIGH AGREEMENT RATES CORRELATE WITH HIGH SATISFACTION RATES?

CADRE SYMPOSIUM
RESTORING FOCUS ON THE CHILD
OCTOBER 18-20, 2017

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SATISFACTION IMPACTS DURABILITY



Process Satisfaction

Outcome (Product) Satisfaction

Mediator and Party Satisfaction

Our exit surveys are designed to assess satisfaction in all three areas.

TODAY

Overarching Principles

Parties' Autonomy and Freedom of Choice

Mediation Model

Durability of Agreements

The Beginning Impacts the End

Pre-mediation: Intake, Screening, Referral

Mediation Process

Statistics

Satisfaction: Process, Outcome, Personal

Lessons Learned / Long Term Change Challenges

Hot Topic Discussion

PARTY AUTONOMY



Parties' autonomy and freedom of choice, both in process and in outcome, is a core value of the Wisconsin Special Education Mediation System (WSEMS).

FACILITATIVE MODEL



Facilitative mediation is the preferred model of mediation at WSEMS in which the parties (with the assistance of the mediator) explore options and design solutions.

DURABILITY

Durability of agreements is the goal. Simply reaching an agreement is not seen as a major indicator of success.

Agreements often include a loop back provision in case of post-mediation issues, however it is not often needed.

The agreement states the contract is binding in state and federal court, however the provision has never needed to be utilized for a WSEMS mediation agreement.

THE BEGINNING IMPACTS THE END



System Design

Stakeholder model

Partnership model

Process Design

Pre-mediation

Intake, Screening, Referral

SYSTEM DESIGN

Stakeholder Model / Statewide buy-in

Outreach

Referral source

Participant

Touchstone

Partnership

Mediator Partner, Parent Partner, School
Partner Modeling collaboration

PROCESS DESIGN

Intake and Screening

Dispute resolution professional is an independent contractor, not an employee of state agency

Goals:

- Provide education (process/confidentiality)

- Provide process coaching

- Identify educational and emotional issues

- Identify and clarify participants

- Consider cultural needs

- Consider parties' negotiation/communication history

NUMBER OF MEDIATION REQUESTS 2007-2017

2007-2008	94 requests
2008-2009	80 requests
2009-2010	70 requests
2010-2011	76 requests
2011-2012	49 requests
2012-2013	74 requests
2013-2014	68 requests
2014-2015	87 requests
2015-2016	120 requests
2016-2017	125 requests

WSEMS CONVENING RESOLUTION STATISTICS IN THE MEDIATION PROCESS

Year	#Withdrawn*	#Resolved*
2010-2011	11 requests	7
2013-2014	16 requests	8
2014-2015	10 requests	5
2015-2016	19 requests	9
2016-2017	17 requests	7

***Resolved** means both parties agreed the issues had been resolved between the time of submitting the request form and **both parties withdrawing** of the request before ever reaching the mediator selection part of the process.

WSEMS RESOLUTION STATISTICS IN THE CONVENING PROCESS

36 additional cases have been resolved during the convening process.

50% of the cases that did not proceed to mediation were resolved in the intake/convening process.

This statistic highlights the importance of an impartial intake process conducted by a person with dispute resolution training and experience.

REFERRAL TO A MEDIATOR

Party Involvement in Choice of Mediator and of Process

- Essential part of WSEMS system design
- Wisconsin State Law
- Gives parents, student, district, and support people a voice
- Helps with buy-in to the mediation process
- Parties can request a different mediator at any time during the process (very rarely used)

CONSIDERATIONS IN MEDIATOR SELECTION



Process Style

Philosophy of Mediation

Background – Other Areas of Expertise

Cultural, Language, Gender Considerations

Geographical Location

Lawyer / Non-Lawyer

Experience in Working with Students in Mediation
Sessions

WHO IS NOMINATING MEDIATORS?

Year	Families/School Districts	WSEMS
2010-2011	48%	51%
2011-2012	55%	45%
2012-2013	52%	48%
2013-2014	58%	42%
2014-2015	60%	40%
2015-2016	56%	44%
2016-2017	57%	43%

MEDIATION PROCESS

Mediators Paid by the Hour

Pre-mediation Highly Effective in Certain Cases

Examples:

Sufficient information exchanged between parties

Discussion of who will participate (no surprises!)

Clarifying issues to be discussed in mediation

Flexible Process – Joint and Separate Sessions

No Time Restrictions on Duration of Mediation

Balanced with fiscal responsibility and fiduciary duty

TIME MANAGEMENT 2000-2016



Average length: 4.2 hours (n=793; mediator surveys)


Average number of meetings: 1.5 (n=815; mediator surveys)

90% of parties believed that mediators used time adequately (n=2,371)

80% of parties believed that mediators kept the meeting focused (n=2371)

WSEMS 9 YEAR AVERAGE AGREEMENT RATE IS 88%

19% HIGHER THAN 69% NATIONAL AVERAGE (PER CADRE)



2008 -2009	93%
2009 - 2010	91%
2010 - 2011	91%
2011 – 2012	82%
2012 – 2013	88%
2013 – 2014	81%
2014 – 2015	92%
2015 - 2016	86%
2016 - 2017	94% (with 10 cases open)

(2016-2017 not included in the average rate to mirror CADRE)

SURVEY TOPICS

PROCESS SATISFACTION



I understood the mediation process.

Mediation gave me the opportunity to be part of the resolution process.

Overall, I was satisfied with the mediation process.

I would use mediation again to resolve a dispute.

PARTICIPANT COMMENTS ABOUT THE PROCESS

DISTRICT: “Comfortable and safe environment for discussion. Feel the child will benefit from the outcome.”

FAMILY: “Mediator did a good job communicating with everyone between meetings. Her impartiality put everyone at ease and she helped us understand each others’ perceptions.”

FAMILY: “Mediator was very good at asking clarifying questions on topics... the fact she took the time to meet the child being discussed impressed upon me her commitment to helping all of us understand what is best for the child. “

SURVEY TOPICS

OUTCOME SATISFACTION

I am satisfied with the agreement reached.

I think the agreement will help resolve the dispute.

I believe that the other parties will follow through with the agreement.

The outcome of the mediation was better than I expected.

PARTICIPANT COMMENTS ABOUT THE OUTCOME

DISTRICT: “Mediator did a nice job teasing out the relevant issues allowing us an open and honest dialogue to reach agreement”

FAMILY: “The concern “blocks” were discovered and addressed so we could create an agreement we can all agree with. “

FAMILY: “I respect the mediator and his help with the agreement. I am satisfied the critical resolution points will enable my son to return to school. I am glad mediation is an option.”

SURVEY TOPICS

SATISFACTION WITH MEDIATOR



The mediator explained the process thoroughly.

The mediator was impartial.

The mediator did not try to pressure me into an agreement.

The mediator used time adequately.

The mediator kept the meeting focused.

I would use this mediator again.

PARTICIPANT COMMENTS ABOUT THE MEDIATOR

FAMILY: “Mediator’s strength was in perceiving mood and emotion of parties and redirecting energy from negative to positive.”

DISTRICT: “Our mediator was quick to assess and identify the important points and then agreement was reached quickly.”

FAMILY: “Mediator had a great understanding of the process and helped us all come to an agreeable plan for the child (not the adults).”

DISTRICT: “I hardly knew the mediator was there. That is when I realized he was being so effective.”

DO HIGHER AGREEMENT RATES CORRELATE WITH HIGH SATISFACTION RATES?

WSEMS Average Agreement rate is 87% since the start of the system in August 1998 until July, 2016 (n=905/1,038).

2000-2016

89% of parties were satisfied with process (n=2,374)

91% of parties would use mediation again (n=2,371)

Of those parties that came to agreement, 85% (n=1,978) believed the agreement would *resolve the conflict*.

LESSONS LEARNED AND LONG TERM CHANGE

Increasingly, attorneys and family advocates are working with the parties to use mediation, instead of other legal processes, to successfully meet the student's needs.

Some insurance companies are now providing attorneys for districts for mediation when no other legal process has been filed.

Fewer due process hearings and IDEA complaints are being filed.

There is an increasing focus on:

- Student participation in the mediation session

- System-wide cultural proficiency

- Modeling collaboration statewide

CHALLENGES

Increasing Diversity on Roster

Increasing Early Intervention of Cases

Increasing the Use of IEP Facilitation

Increasing Outreach to Many of the State's Populations

- very rural

- homeless

- minority (Native American, Hispanic)

Continuing to Maintain Real and Perceived System Impartiality

HOT TOPIC QUESTIONS

- How do you measure satisfaction with the mediation process/outcome/mediators in your state?
- Do you involve students in the mediations? How? What are the barriers?
- How does your intake process compliment/enhance/help the mediation process?
- How do you include/not include attorneys in your mediations? How was that decision reached? What result?
- What challenges have you seen in your own programs? Is implementing IEP facilitation one?