

Sharpening Focus: Moving from Developing to Implementing Early Dispute Resolution Practices That Impact Children with Disabilities in Washington, D.C.

PROPOSAL FROM THE DC OFFICE OF THE OMBUDSMAN FOR PUBLIC EDUCATION TO PRESENT A 90 MINUTE INTERACTIVE PRESENTATION AT CADRE'S SEVENTH NATIONAL SYMPOSIUM ON DISPUTE RESOLUTION IN SPECIAL EDUCATION

Overview

- In 2015, the Office of the Ombudsman for Public Education and other DC government agencies and community organizations, participated jointly as panel members at CADRE's Sixth National Symposium.
- The panel discussed how the DC educational environment was beginning to shift towards developing new special education dispute resolution processes and beginning to shift away from being driven by litigation and administrative hearings.
- Now that those processes have been developed, the objective of this proposal is to show how those processes have improved outcomes for children with disabilities in the District.

DC Special Education Dispute Resolution Landscape

DC School Talk

Advocates for
Justice and
Education

Office of the
Student
Advocate

Office of the
Ombudsman
for Public
Education

DC Public
Schools

DC Office of
the State
Superintendent

Office of
Dispute
Resolution

DC DISPUTE RESOLUTION CONTINUUM

SYSTEMIC IMPROVEMENTS TO PROCESSES AND PROCEDURES PREVENT FUTURE CONFLICTS.

| | PREVENTION | DISAGREEMENT | CONFLICT | LEGAL | SYSTEMATIC |
|---|--|--|---|---|---|
| STAGES OF CONFLICT | Effective processes and good communication reduce the number of conflicts. | There is a disagreement however the conflict has not escalated. | Conflict has escalated beyond the ability of the parties to work toward resolution without assistance. | Formal and legal processes are necessary for resolving the issue and protecting rights. | Conflict that is caused by inadequate policies and procedures. |
| NATURE OF INTERVENTIONS | Interventions strengthen the abilities of families to navigate the system and advocate for their children. | Third party intervention is focused on providing information and advice to families and individuals to help them address specific issues. | Third party intervention involves informal and informal processes for facilitating communication and problem-solving among involved parties when there is an active conflict. | These interventions are required by law. Many involve decision-making by a third party based on rights under law or policy. <ul style="list-style-type: none"> • State Complaint • Due Process Hearing • Resolution Session • Formal investigations | Advocates for change by identifying systemic issues and making recommendations. Provides opportunities for engagement and problem-solving on improved policies and processes. |
| INTERVENTION OPTIONS | <ul style="list-style-type: none"> • Parent-engagement • Youth engagement* • Participant & Stakeholder Training • Information sharing/ Outreach materials | <ul style="list-style-type: none"> • Case management* • Technical and legal information • Case-specific coaching* | <ul style="list-style-type: none"> • IEP Facilitation* • Mediation Models* • Ombudsperson* | <ul style="list-style-type: none"> • Resolution Meeting • Mediation under IDEA • Written State Complaints • Due Process Hearing | <ul style="list-style-type: none"> • Special Education Legislation* • Special Education Policy making • Stakeholder decision-making |
| ORGANIZATIONS RESPONSIBLE FOR INTERVENTIONS | <ul style="list-style-type: none"> • Office of the Student Advocate • Advocates for Justice and Education (PTI) • School Talk | <ul style="list-style-type: none"> • Ombudsman for Public Education • Advocates for Justice and Education (PTI) • School Talk | <ul style="list-style-type: none"> • Advocates for Justice and Education (PTI) • OSSE ODR • DCPS Resolution Team • Ombudsman for Public Ed. • Office of the Student Advocate • SchoolTalk (provides training) | <ul style="list-style-type: none"> • OSSE ODR • DCPS Resolution Team | <ul style="list-style-type: none"> • DC Council • DME • OSSE • Office of the Student Advocate • Ombudsman for Public Education |

* Intervention options developed within the last two years

DC Special Education Dispute Resolution Landscape

There are at least five (5) processes in the District that resolve special education disputes which fit within CADRE's continuum framework:

- **Facilitations:** The Office of the Ombudsman for Public Education (Disagreement/Conflict stages)
- **Facilitated IEP Meetings:** Advocates for Justice and Education (in partnership with DCPS and funded by OSSE) (Conflict stage)
- **IDEA-Mandated Facilitated Resolution Sessions:** Office of the State Superintendent of Education (Legal)
- **IDEA-Mandated Mediations:** Office of the State Superintendent of Education (Legal)
- **State Complaints:** Office of the State Superintendent of Education (Legal)

Challenges

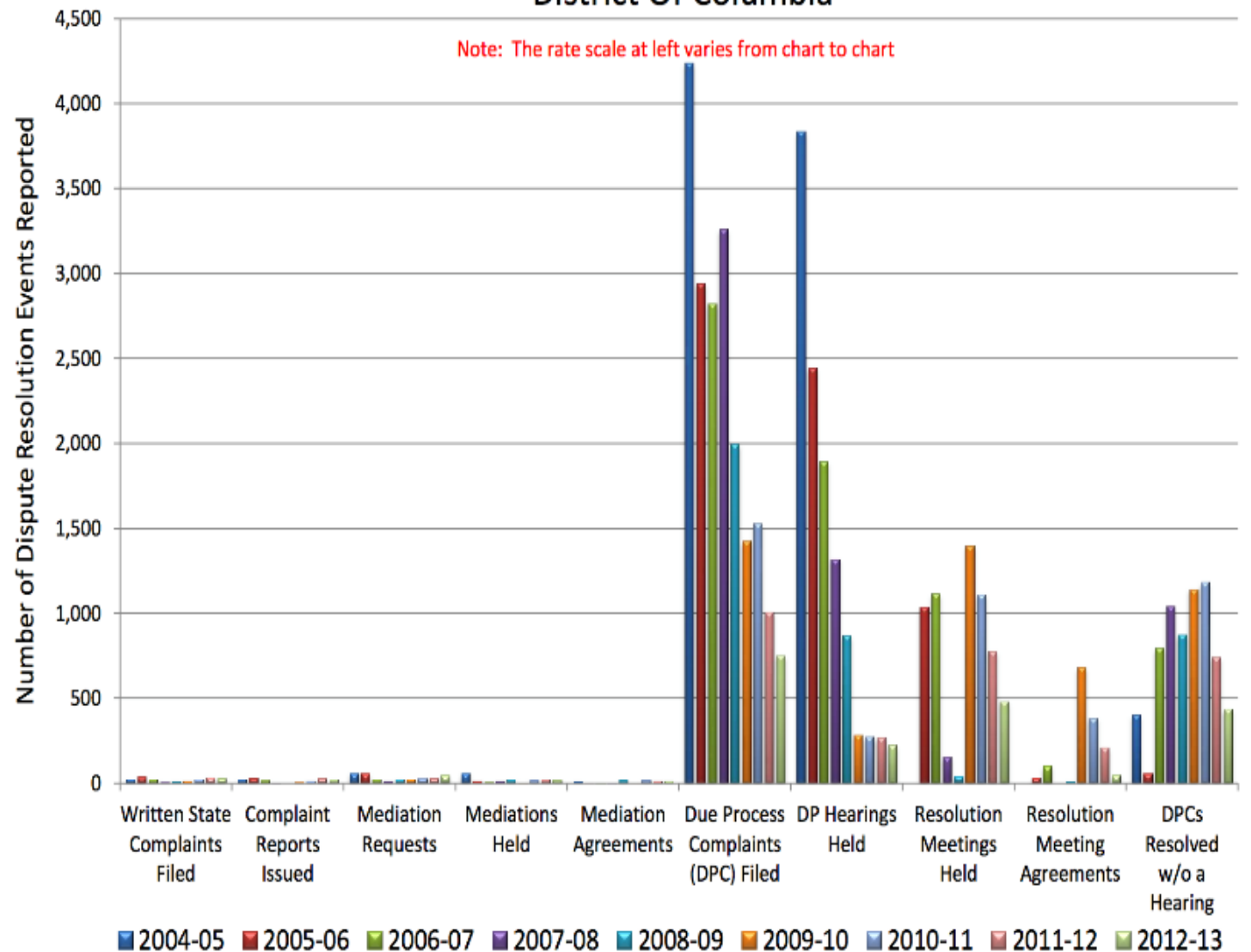
- Stakeholders are not always clear on which process best meets their needs because there are so many agencies and organizations that appear to do the same thing.
- Special education disputes are still robust even though there has been a steady decline of due process complaints filed in the District and as a result, fewer IDEA-mandated facilitated resolution meetings and mediations are being conducted.
- There is a need and desire for different types of special education dispute resolution processes that occur at earlier stages in the CADRE continuum and have a more profound impact on children with disabilities.

Brief Observation*

- In the District, Due Process Complaint filing, DP Hearings, Facilitated Resolutions, and IDEA-Mandated Mediations District wide are steadily declining.
- However, special education complaints and disputes are still significant. There is a desire for different types of resolution.
- For instance, 21% of the 478 cases the Office of the Ombudsman handled during SY 2015-2016, were special education or related service related cases.



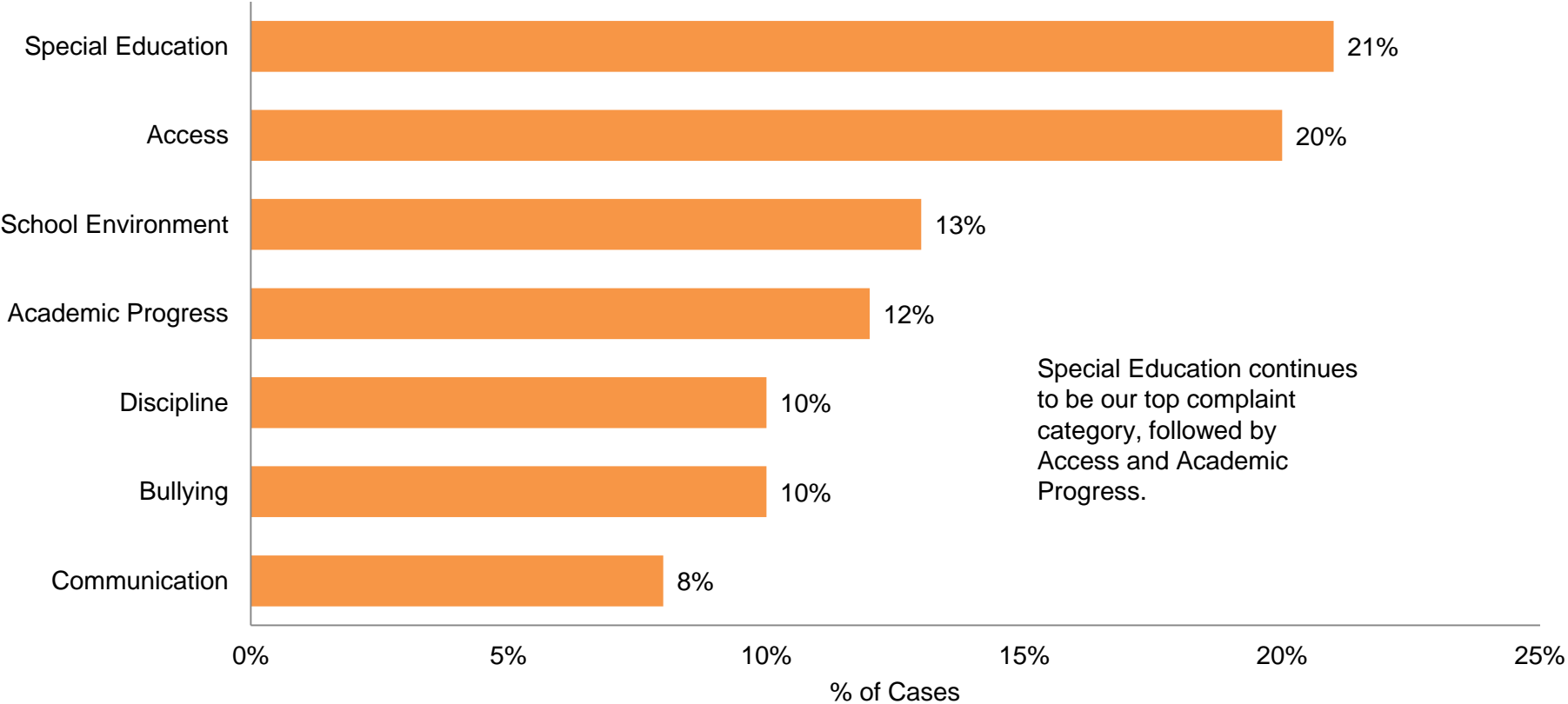
IDEA Dispute Resolution Activity: District Of Columbia



Prepared by Richard Zeller & Amy Whitehorne - Contact: cadre@directionservice.org

* These data hold constant and will be updated if proposal is accepted.

DC Office of The Ombudsman for Public Education Caseload Breakdown for SY 2015-2016



Strategies to Overcome Challenges

- Seek expertise in defining and developing processes used by the Office of the Ombudsman to resolve special education disputes at an earlier stage in order to make a more profound impact on children with disabilities and vulnerable families,
- Clearly define differences between processes,
- Further develop ways DC agencies and community organizations can better collaborate to ensure maximum impact on children with disabilities in the District.

Seeking Expertise

- The Harvard Negotiation and Mediation Clinical Program analyzed the Office of the Ombudsman for Public Education to ensure maximum of impact of special education dispute resolution processes within the Office and throughout the District.
- They provided and the Office accepted several observations and recommendations:
 - Clearly articulate what the Ombudsman's Office does,
 - Develop an empathetic, facilitative process that balances equity and impartiality, and more directly impacts children with disabilities,
 - Define a set of core beliefs that guide the Office's work,
 - Provide the same educational resources to all parties to a special education dispute in a manner customized to that dispute,
 - Make referrals to other agencies in a systematic fashion.

Office of the Ombudsman for Public Education

Our Mission

To provide *equal access* to education for all students within District of Columbia public and charter schools, and to support student engagement and achievement.

Our Vision

We envision an educational system where all parents, families, educators and students are fully engaged in the public school systems and are empowered to make informed decisions that *improve student achievement*.

DC Office of the
Ombudsman
for Public Education



Our work at a glance

DC Office of the
Ombudsman
for Public Education



- Our focus on “equal access” causes the Office to view our early dispute resolution work through the lens of equity.
- Our students and families approach our office with a profound sense of frustration. In response, we have adopted an “activist” Classical Ombudsman model.
- By “activist,” we believe it is our responsibility to adopt a proactive posture to the systemic inequities that plague our most vulnerable families.
- We address issues that are brought to our attention by providing direct intervention to include mediation and facilitation.
- Our office serves as a mechanism for parents, students, and families to have a real voice in addressing systemic inequities that are causing our children, particularly children of color, to fail.
- We respond from a place of empathy.

Development of an Empathetic, Facilitative Process

The Harvard Team observed that the Office already has a basic framework for special education disputes consisting of an intake process and four invention stages. The Team suggested that the Office clearly define each stage.



Intake and Fact-Gathering

- We engage in an intake process that is designed to issue spot and help the caller identify the actionable issues.
- As part of our fact-gathering process, we explain our role as a neutral, impartial body. Our initial contact with schools involves a phone call or email. In the initial contact, it is important to frame our services not merely as dispute resolution but also as dispute prevention.
- Thus, our messaging to school principals and school staff members is that dispute prevention allows administrators and educators to focus on their jobs rather than to focus on conflicts, thus meeting all parties' shared goal of providing students with high-quality education.
- Many principals and school staff do not understand dispute resolution and how it can help students achieve. So Office staff framing the message in a way that connects our dispute resolution work to the overall goal of student achievement is important.
- In our work, we focus on the problem-solving nature of our work. Everyone needs problem-solvers and principals need thought partners. In our work, it is important to demonstrate to school leaders that we are capable of thought partnership.

6 Core Beliefs

DC Office of the
Ombudsman
for Public Education



I

Good outcomes center on students.

II

Everyone deserves to be heard and respected.

III

Schools and families share ownership of conflicts that affect kids' education.

IV

Addressing conflict early can create transformative opportunities.

V

Our independence and impartiality allow us to support families and schools.

VI

We improve education across DC by identifying common challenges

Educating the Parties

- The Harvard team offered suggestions about how the Office may reframe its existing educational role to help parties to find the resources they need AND:
 - Become knowledgeable about special education laws,
 - Resolve their conflicts faster and more amicably, and
 - Communicate more effectively with one another.
- To accomplish this we have agreed to prepare handouts for parties that outline and define the Office's education, shuttle diplomacy, referral, and facilitation services.
- According to Harvard, educating parties establishes institutional competence, which in turn helps bring otherwise reluctant parties to the bargaining table.
- In other words, the Office's educational role can instill trust in the Office's work, and trust in "the process" can then help overcome distrust between parties.

Tools to Educate Parties

- **Create Brochures:** that educate parents on the special education laws that are at a reading level appropriate for parents.
- **Coaching:** prepares parents to engage in productive conversations and engage in persuasive communication. Help them develop the salient points about what their child needs, their goals for their child, etc.
- **Share Templates:** with parents on how to request an evaluation in writing, or suggest sample language for bringing a concern to the attention of a principal.
 - Currently, we offer such language. Also, we offer language to plug into a State Complaint or some other matter if the schools actions have been so egregious that they warrant filing a complaint with the state education agency.
- **Referrals:** we will also make active referrals to our state education agency.

In-Person Intervention: Facilitation

The Harvard team recommends that the Office give its process to resolve special education disputes a simplified name: **a facilitation**, rather than a facilitated mediation.

This simpler name seeks to advance two goals:

- First, it distinguishes the Ombud's process from the IDEA-mandated mediation option available through ODR; and
- Second, it emphasizes that the process is meant to be approachable, collaborative, and less “legal” than a mediation might sound.

This subtle framing may help the parties enter the process with open and collaborative mindsets about what is to come in the facilitation process.

Characteristics of Major Styles of Mediation

- The Harvard team recommends that the Office conduct its facilitations using a facilitative style to mediation that also allows the Office evaluate the parties' statements.
- The Harvard team suggests that the exact line between facilitative and evaluative mediation is elusive.
- The Office will generally already have educated the parties about the substantive requirements of special education law.
- As a future goal, the Harvard team suggests that families be allowed an advocate to support their participation in the process as a mechanism for combating power imbalances between the parent and schools.

| Transformative | Facilitative | Evaluative |
|--|---|--|
| <ul style="list-style-type: none"> ▪ Mediators tend to have dispute resolution backgrounds ▪ Mediators take the view that conflict is fundamentally a social phenomenon ▪ Mediators attempt to empower parties by asking questions that allow participants to determine their goals and process ▪ Mediators' attention focuses on finding opportunities to strengthen communication between parties more than substantive issues | <ul style="list-style-type: none"> ▪ Mediators tend to have dispute resolution backgrounds ▪ Mediators are likely to be directive about process but not about substance ▪ Mediators solicit ideas from the parties ▪ Mediators must be cognizant of whether open, free-flowing conversations could compromise parties' willingness or ability to express their true interests ▪ Mediation may or may not include settlement, depending on parties' needs | <ul style="list-style-type: none"> ▪ Mediators tend to have subject-area expertise (e.g., in special education law) ▪ Mediators may pressure the parties toward certain substantive outcomes to ensure resolution ▪ Mediator may provide predictions of outcome on the merits in other processes ▪ Mediation focuses on issue settlement and may leave underlying causes unaddressed |

Selecting the Most Impactful Special Education Dispute Resolution Framework

- **Our office selected the facilitative mediation framework because it met two important considerations:**
 - Selected special education dispute resolution approach had to be tailored to the types of sped disputes that arise in DC.
 - Needs to help families and schools find resolutions that are sustainable over time.
 - We raised questions about the imbalance of power and inequity and so, the Harvard team tried to address this issue by incorporating the following suggestions in terms of process.
 - The facilitator can help prepare parties for mediation by collecting the facts necessary for a fair conversation by recommending more fact-sharing between the parties
 - By sending the parties (identical) educational materials on special education rights.
 - The facilitator could also further communicate with the parties to discuss available dispute resolution options.
- **While the Harvard team did not mention this: it is also important for the facilitator to recommend various options to schools such as:**
 - Providing accommodations under a 504 Plan,
 - Understanding that RTI is not an adequate substitution for evaluating students.
 - RTI process and sped evaluation should happen concurrently.
 - This requires an understanding of special education laws/policies and how they can work to benefit our students.

Facilitation Planning

- The Harvard team suggests that a facilitator from the Office enter parties into a facilitation plan.
- The Harvard team further suggests that the facilitator should verbally walk the participants through document, explaining the purposes it defines for the facilitation, the facilitator's role in the room, the logistical details the parties agreed upon, and the facilitation's rule of confidentiality—that only the final agreement is disclosable after the process ends.

FACILITATION PLAN

| | |
|--|---|
| What are the facilitation's purposes? | <ul style="list-style-type: none"> To identify what is happening from the school's and family's perspectives To determine possible root causes of the dispute To choose approach(es) to address or resolve those root causes To decide what the family and school will do to implement those approaches |
| What role will the Office of the Ombudsman play? | <ul style="list-style-type: none"> The Office will provide a staff member as a facilitative mediator ("facilitator") throughout the conversation. The facilitator guides the process during the meeting and, if necessary, reminds the parties of the ground rules. The facilitator will be responsible for making sure that all parties have an opportunity to share their perspectives. The facilitator will stay impartial and will not advocate for any one side's preferred solution. The facilitator will help the parties clarify their understandings of and assumptions about special education law and about the current dispute. |
| Who will be present? | <ul style="list-style-type: none"> The school will have the following people at the facilitation: [insert names and titles] The family will have the following people at the facilitation: [insert names and titles] The facilitation will also include: [insert names, titles and/or role] |
| Time & location | <ul style="list-style-type: none"> The first session will take place at [location] from [start time] to [end time] on [date]. If necessary, a second session will take place at [location] from [start time] to [end time] on [date]. |
| Confidentiality | <ul style="list-style-type: none"> The Office of the Ombudsman, school, and family agree to keep all communication during the facilitation confidential. Consistent with DC law on mediation, information shared in our facilitation cannot be used in any other proceeding, including a due process hearing or litigation. Any signed, written agreement we reach at the end of the process is not confidential. |
| Other | <ul style="list-style-type: none"> We also agree: [If needed, insert other notes, including any ground rules the parties mutually agreed be included for the facilitation.] |

By signing this form, we indicate our commitment to participate in a facilitation to address our special education dispute. We understand that the facilitation will follow the model of a facilitated mediation. Our signatures also indicate that we have had an opportunity to ask about each point below and that we understand each point below.

Signed:

| | | |
|------------------------|------------------------|------------------------|
| <i>For the school:</i> | <i>For the family:</i> | <i>For the Office:</i> |
| _____ | _____ | _____ |
| <i>Name:</i> | <i>Name:</i> | <i>Name:</i> |
| <i>Date:</i> | <i>Date:</i> | <i>Date:</i> |

Conducting the Facilitation

The Harvard team suggests facilitator's from the Office utilize a framing tool that structures the facilitation in four stages:

Stage 1: Articulate what's happening

Stage 2: Define causes for the dispute

Stage 3: Explore possible helpful approaches

Stage 4: Determine action steps

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Conducting the Facilitation-Stage I

- The facilitator introduces the facilitative process to parties and gets the participants' facts and feelings out in the open.
- The facilitator offers opening remarks and explains his/her role and the roles of the parties.
- The facilitator reminds the parties of the confidential nature of the discussion, and covers ground rules, if any, on which the parties have previously agreed.
- The facilitator should also ensure that a facilitation agreement to engage in the facilitation has been signed.
- The facilitator then reminds the parties that special education processes invoke technical language, and that a common and correct understanding of these terms among all participants is necessary to form a sustainable resolution.
- The facilitator then asks the parties to share their understanding of the conflict that brought them to the table.
- This perspective sharing is an opportunity for both the facilitators and the parties to listen actively and identify commonalities and differences in the parties' viewpoints.

Conducting the Facilitation-Stage II

- The goal is that stage is to isolate the root causes of the conflict from the symptoms of the conflict. This starts with an exchange.
- The exchange is an open discussion that allows all parties to understand all used terminology or jargon used to describe used processes.
- The facilitator should also ask clarifying questions to help meet that goal.
- The facilitator should also work with the parties to generate a mutually agreed upon topic list.
- The topic list will provide the order in which the parties discuss options for resolution. It also serves as an organizational tool and as an assurance that no important issues are skipped.

Conducting the Facilitation-Stage III

- Asks the parties to put forth resolution options.
- This option generation should take the form of **brainstorming** followed by **option analysis**.
- Brainstorming sessions allow all ideas to get on the table without concern for feasibility or unwanted consequences.
- Once all options are presented, the parties can discuss and narrow down the options to those that address their concerns, appear to be workable, and, above all, help the student.
- As a facilitator, we pay attention to analyzing resolution options for time-sensitive issues, such as a student who has missed significant class time, or who may need to enroll in a new program by a set deadline.
- Then parties can engage in making decisions.
- The facilitator is tasked with listening for hesitations or hedging to identify weak spots in the agreement, and ask the parties to explore what might resolve their lingering concerns.
- It is also important to remind parties that they should not feel pressured to settle for terms they do not like, and that the most meaningful and durable solutions are those that all parties will deliver the best outcome.
- The Harvard team created a Stage III Checklist for Office Staff Members.

Conducting the Facilitation-Stage IV

- Develop a written agreement that is:
 - **As detailed as possible**
 - **Aware of realistic constraints** (e.g. tasks that take a long time to complete; foreseeable events, etc.)
 - **Written in skimmable bullet points**
 - **Free of ambiguous modifiers** (e.g. reasonable, quick, improved, etc)
 - **Sensitive to schools' fear of litigation** (e.g. schools worry how a formal facilitation may be used in a due process hearing or trial; they don't want document to be used as an admission of wrongdoing)
 - **In the parties own words** (or at least words they easily understand)

OUR PLAN MOVING FORWARD

We discussed these legal rules:

-

We both agree to:

- What: Attend an eligibility meeting for [student name].
- When:
- Duration:
- Where:
- Purpose:
- Who else:

The school agrees to:

- What:
- By When:
- By Whom:
- Duration:
- Where:
- Purpose:

The family agrees to:

If a problem comes up that we cannot resolve, we will:

During a facilitation on [date] offered by the Office of the Ombudsman, we—[insert names of decision-makers here]—met to discuss what we can do to work together to support [student name] in school. This agreement is meant to record the actions we discussed taking to support our student going forward and to help us implement those steps. Our signatures indicate that we understand and agree to all terms outlined in the plan below.

Signed:

For the school: _____ *For the family:* _____

Name: _____ *Date:* _____ *Name:* _____ *Date:* _____

Closing out the Facilitative Process

- The Harvard team recommends that the Office gather data to inform its evolution through surveys issued at the end of each facilitation.
- Because the Office identified families' satisfaction as the core feature of successful interventions, capturing those data directly from facilitation participants would allow the Office to measure a core metric of success.

Lessons Learned and Best Practices

The Office of the Ombudsman for Public Education impacts children in a profound way by providing early intervention to a special education disputes. Our unique, empathetic, facilitative approach to facilitating special education disputes enable vulnerable families to be empowered with a voice and equal access to resources that it ordinarily would not have had.

Case Example: Special Education Facilitation

The Office of the Ombudsman for Public Education was contacted by a parent because her son was having severe behavioral issues and she was having trouble enrolling him in school. She contacted the Office in October 2016. The Parent complained that her neighborhood school did not want to enroll him because he presented challenges to students and staff in prior years. The Ombudsman's Office facilitated a meeting between the school and the parent. The school complied but with reservation. They wanted assurances that the student would be given supports to help with behavioral issues. The meeting occurred and the Office clarified that it was the parents right to enroll her son in the neighborhood school. The school agreed but placed qualifications on his enrollment; the SPED Team wanted to follow the prescribed timelines but the Principal was requesting expedited testing especially since the young man was enrolled and did not get fully enrolled until November.

We continued to inquire into whether there are exceptions to DCPS' timeline and evaluation criteria. We never received a definitive answer and Central was slow to respond and never provided support to the local school needing its guidance. Once evaluations were completed, the Office participated in an Eligibility Determination Meeting where the Team determined that the student has a Specific Learning Disability. Also, the Team reported that prior to the Eligibility Determination Meeting they had to gather data and had implemented a BIP that resulted in mitigated aggressive behaviors and increased educational engagement. The Team also determined that the student presented negative behavior because of his SLD and not because of an emotional disturbance even though the student was diagnosed as having severe depression.

Case Analysis: Special Education Facilitation

The Office of the Ombudsman for Public Education facilitated a dispute early enough in the process so that amicable, non-litigious steps could be implemented. The power imbalance was equalized because the Office of the Ombudsman was not bound to rigid processes. Instead, the Office was able to take both an activist approach and act as facilitator. This unique approach enabled the vulnerable parent to have an opportunity to be heard and provided a forum where both parties could work through its concerns.

Under these facts, a facilitated IEP meeting would not have been available because an IEP had not yet been developed. At the same time, an IDEA-mandated mediation or facilitated resolution session was not an option because a due process complaint had not yet been filed. The parent could have filed a State Complaint based IDEA Child Find mandates but it would have take at least 60 days for an investigation to be completed and findings to be determined. By then, the student would have missed more than of the school year.

Takeaway: The Office of the Ombudsman for Public Education provided early intervention to a special education disputes that started before an IEP are developed and before a DPC was filed. Our unique, empathetic, facilitative approach to facilitating special education disputes enabled a vulnerable family to be empowered with a voice and equal access to resources that it ordinarily would not have had. As a result, a 7 year old, African-American boy, was given an opportunity to change the trajectory of his life in a positive way.

| | Facilitation by the Office | IDEA Mediation (rarely used in DC) | Facilitated Resolution Meeting | IDEA Due Process Hearing | State Complaint |
|--------------------------------|---|---|--|--|--|
| Main Features | <ul style="list-style-type: none"> Voluntary process Impartial facilitator from the Office of the Ombudsman Resolves issues at earliest level and in a student-focused way | <ul style="list-style-type: none"> Voluntary process Impartial state-assigned person trained in mediation Attorneys often involved Less formal than a hearing Results in a legally binding mediation agreement | <ul style="list-style-type: none"> Formal event triggered by the filing of a due process complaint (DPC) Attorneys are often used Parties discuss facts of DPC Neutral facilitator is present Results in a legally binding settlement agreement | <ul style="list-style-type: none"> Formal event Attorneys typically involved Resembles going to court Occurs after offer of mediation and resolution meeting For disputes about special education eligibility, evaluation, or placement Dispute must have arisen in past 2 years | <ul style="list-style-type: none"> Written complaint by parent to state for a perceived violation of state or federal special education law Investigated by the State Education Agency Alleged violations must have occurred within past year |
| Timeline | <ul style="list-style-type: none"> No specific timeline to complete, but the aim is for a speedy resolution Typically involves 1 or 2 meetings | <ul style="list-style-type: none"> 30-day resolution period, followed by a 45-day period to complete a hearing and get a decision | <ul style="list-style-type: none"> Within 15 calendar days of receiving notice of the parent’s DPC and prior to the initiation of a due process hearing. | <ul style="list-style-type: none"> 45 days from the end of the resolution period —unless specific extensions to the timeline are granted Expedited timeline for cases involving disciplinary action requires hearing within 20 days of complaint and determination 10 days after hearing | <ul style="list-style-type: none"> 60 days from receipt of the complaint unless extended for unusual circumstances |
| Decision-makers | <ul style="list-style-type: none"> Parents and school leaders Both parties must agree to the solution in writing. | <ul style="list-style-type: none"> Parent and school district/LEA All parties must agree to the solution in writing | <ul style="list-style-type: none"> Parent and school district/LEA All parties must agree to the solution usually in a settlement agreement | <ul style="list-style-type: none"> Hearing Officer | <ul style="list-style-type: none"> Office of the State Superintendent for Education, in Letter of Determination |
| Dissatisfied with the outcome? | <ul style="list-style-type: none"> Request a hearing (opportunity for IDEA mediation included) File a due process complaint or a State Complaint with OSSE | <ul style="list-style-type: none"> Continue to a due process hearing | <ul style="list-style-type: none"> Continue to a due process hearing | <ul style="list-style-type: none"> Appeal the decision in state or federal court | <ul style="list-style-type: none"> Limited appeal right to DC Court of Appeals |

| | Facilitation by the Office | Facilitated IEP Meetings (AJE) | OSSE IDEA Mediation (rarely used in DC) |
|-----------------------|---|--|---|
| Main Features | <ul style="list-style-type: none"> ▪ Voluntary process ▪ Impartial facilitator from the Office of the Ombudsman ▪ Resolves issues at earliest level and in a student-focused way ▪ Usually ends with a facilitation plan not necessarily an agreement. | <ul style="list-style-type: none"> ▪ Voluntary process ▪ Independent facilitator with expertise in facilitation, special education laws, conflict management, group decision-making and group dynamics. ▪ The facilitator helps the team overcome the pressures and challenges of a potentially contentious meeting. ▪ The facilitator does not make educational decisions regarding the student or development of the IEP. ▪ The facilitator’s primary goal is to assist team members in the thoughtful, productive construction of a quality IEP. | <ul style="list-style-type: none"> ▪ Voluntary process ▪ Impartial state-assigned person trained in mediation ▪ Attorneys often involved ▪ Less formal than a hearing ▪ Results in a legally binding agreement |
| Critical Distinctions | <ul style="list-style-type: none"> ▪ Non-traditional, facilitative, flexible, empathetic, child-centered approach to special education early dispute resolution. ▪ Balances Classical Ombudsman (Activist) Model with impartial facilitation of disputes. ▪ Response to burgeoning demand for special education dispute resolution earlier in the CADRE Dispute Resolution continuum. ▪ Resolves a broad array of issues beginning at the disagreement phase of the CADRE Dispute Resolution Continuum to include disputes involving: ▪ Requests for Initial Evaluations; Eligibility determination disputes; IEP development disputes; delivery of service disputes; Change in placements | <ul style="list-style-type: none"> ▪ Non-traditional, facilitative approach to mediating/facilitating special education IEP disputes to include but not limited to IEP goals, etc. ▪ Limited in scope to IEP’s and the events that occur mainly during and/or as a result of the existence of an IEP. | <ul style="list-style-type: none"> ▪ More traditional, formal mediation driven by the filing of a due process agreement even though it is less formal than a due process hearing. |

Matrix for Referrals to Other Agencies and Organizations

| Office | Service | When most appropriate |
|--|--|--|
| <i>The Office of the Student Advocate</i> | Coaching | When a parent desires extensive support in how to approach school or LEA staff about a problem, or when a parent has a disability or other challenge that would benefit from support; by “extensive support,” we mean a coaching across multiple conversations that might be perceived as compromising the Office’s impartiality |
| <i>The Office of the Ombudsman</i> | Education | All cases, with the same background resources provided to all parties |
| <i>The Office of the Ombudsman</i> | Shuttle Diplomacy | Short-duration, simple-problem dispute in which larger relational problems are not central |
| <i>The Office of the Ombudsman</i> | Facilitation | Higher-stakes conflicts in which the Office’s early interactions with the parties indicate a willingness to work collaboratively and in which communication and relationship issues, in addition to the presenting evaluation, service, or process issues, seem central |
| <i>Other advocacy groups</i> ⁵³ | Representation, counseling | Disputes in which parents would benefit from formal representation or more prescriptive guidance |
| <i>The Office of Dispute Resolution</i> | IDEA Mediation ⁵⁴ | [Not typically used in DC] ⁵⁵ Complaints about the identification, evaluation, or placement of a student with a disability where the parties may benefit from the presence of a special education expert |
| <i>The Office of Dispute Resolution</i> | IDEA Due Process Hearing ⁵⁶ | Complaints about the identification, evaluation, or placement of a student with a disability where the parties are unable or unlikely to come to agreement, perhaps because school officials fail to cooperate with the Office’s processes, or where exclusionary discipline might be applied |
| <i>The State Complaint Office</i> | State Complaint Process ⁵⁷ | Complaints in which a parent alleges that there has been a facial violation of special education law (e.g., a failure to render services prescribed by an IEP) and in which school officials decline to cooperate with the Office’s processes |