

# PREVENTING CONFLICT in the Education of Children with Special Needs



with

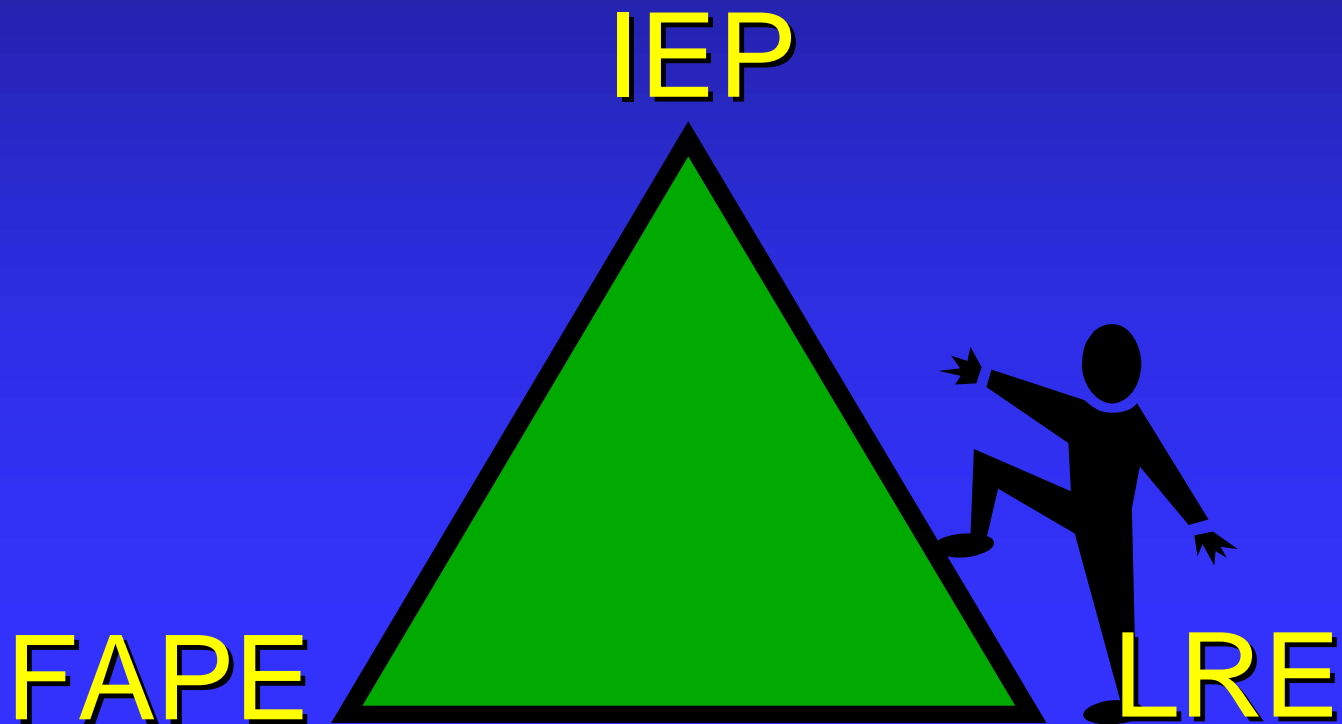
Nicholas Martin

THE CENTER FOR ACCORD  
Roanoke, Texas



**IDEA: Foundation of IEP Teams**  
requires public schools to make available  
to all eligible children:

Everything follows from these.



# Weasel Words

open to interpretation and debate



free appropriate education

least restrictive

equal partners

relevant records

reasonably calculated

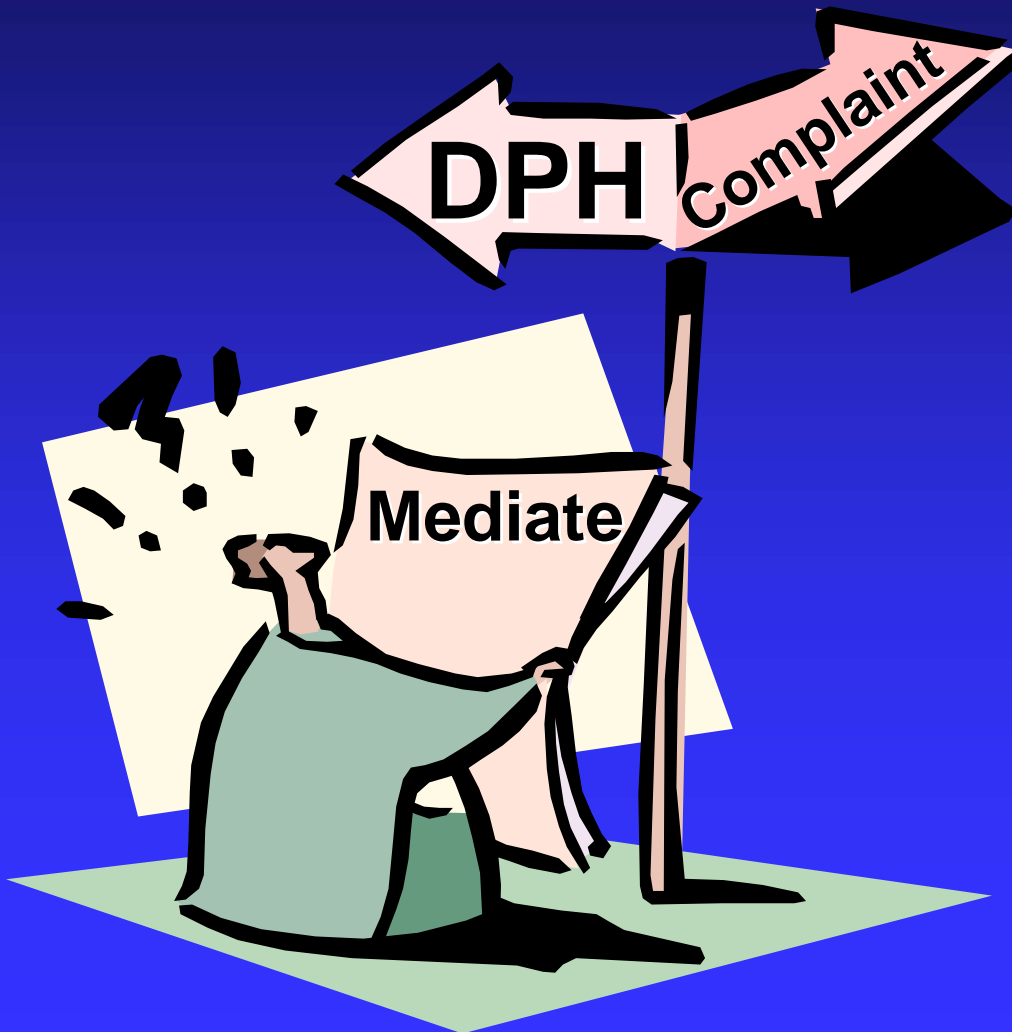
eligible child

whenever possible

maximum opportunity



When IEP team participants have differences, what can they do?



# Formal Options (under law)

- Due Process Hearings\*
- Formal Complaints
- Mediations

Note that a DPH can no longer be requested before a:

**“RESOLUTION MEETING”**

**Table 2: Dispute Resolution Activity in California, Massachusetts, Ohio, and Texas, Fiscal Years 2000-02**

Type of dispute resolution activity	Fiscal Year		
	2000	2001	2002
<b>California</b>			
Complaints			989
Due process hearings		42	316
Mediations		1,511	1,774
<b>Massachusetts</b>			
Complaints	300	367	524
Due process hearings	39	35	33
Mediations	636	570	565
<b>Ohio</b>			
Complaints	113	137	162
Due process hearings	48	29	50
Mediations	92	125	91
<b>Texas</b>			
Complaints	158	158	152
Due process hearings	71	72	97
Mediations	147	142	139

Source: State education agencies in Massachusetts, Ohio, and Texas; and, for California, we obtained complaint data from the SEA and due process hearing and mediation data from the Special Education Hearing Office, University of the Pacific.

US Gen'l Accounting Office 2003  
[www.gao.gov/new.items/d03897](http://www.gao.gov/new.items/d03897) pg 17

**Table 2: Dispute Resolution Activity in California, Massachusetts, Ohio, and Texas, Fiscal Years 2000-02**

Type of dispute resolution activity	Fiscal Year		
	2000	2001	2002
<b>California</b>			
Complaints	<b>3079</b>		989
Due process hearings			316
Mediations			1,774
<b>Massachusetts</b>			
Complaints	<b>1122</b>		524
Due process hearings			33
Mediations			565
<b>Ohio</b>			
Complaints	<b>303</b>		162
Due process hearings			50
Mediations			91
<b>Texas</b>			
Complaints	<b>388</b>		152
Due process hearings			97
Mediations			139

Source: State education agencies in Massachusetts, Ohio, and Texas; and, for California, we obtained complaint data from the SEA and due process hearing and mediation data from the Special Education Hearing Office, University of the Pacific.

Table 2: Dispute Resolution Activity in California, Massachusetts, Ohio, and Texas, Fiscal Years 2000-2002

adjusted for population

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Mediations			
<b>Ohio</b>			
Complaints			
Due process hearings			
Mediations			
<b>Texas</b>			
Complaints			
Due process hearings			
Mediations			

## 2003 Census Estimates

CA: 35.5 million

MA: 6.4

OH: 11.4

TX: 22.1

Source: State education agencies in Massachusetts, Ohio, and Texas; and, for California, we obtained complaint data from the SEA and due process hearing and mediation data from the Special Education Hearing Office, University of the Pacific.



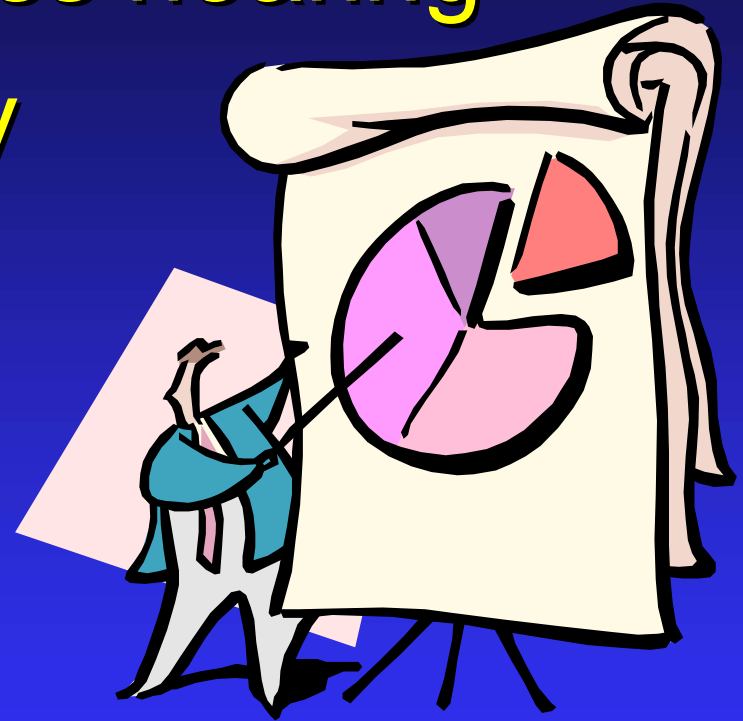
Table 2: Dispute Resolution Activity in California, Massachusetts, Ohio, and Texas, Fiscal Years 2000, 2001, and 2002

**adjusted for population**

Dispute resolution activity	Fiscal Year				
	2000	2001	2002		
<b>California</b>	<b>1917</b>				
Complaints				91	989
Due process hearings				42	316
Mediations	11	1,774			
<b>Massachusetts</b>	<b>3874</b>				
Complaints				300	524
Due process hearings				39	33
Mediations	636	565			
<b>Ohio</b>	<b>587</b>				
Complaints				37	162
Due process hearings				29	50
Mediations	25	91			
<b>Texas</b>	<b>388</b>				
Complaints				158	152
Due process hearings				71	97
Mediations	147	139			

Source: State education agencies in Massachusetts, Ohio, and Texas; and, for California, we obtained complaint data from the SEA and due process hearing and mediation data from the Special Education Hearing Office, University of the Pacific.

Note: in most states, less than 1/4 of due process hearing requests actually go to hearing; most are settled or withdrawn.



But some states differ greatly,  
CA 4%, DC 85%

## A few IEP-related facts:

1) ~12% of the public school population receives services under IDEA:

6.5 million US



A few IEP-related facts:

2) Federal government supplies  
~18% of a 40% commitment  
for the costs of special  
education students.

This leaves schools  
a \$10.6 billion/yr  
shortfall nationwide.



A few IEP-related facts:

3) DPHs cost school districts an average of over \$50,000 each in legal fees.

School districts nationwide spend over \$90 million a year in conflict resolution.



# What's all the Brouhaha?

Consider some of the issues typically being put before hearing officers.

# Examples of DPH Issues:

## Whether the ISD

1. provided **timely and appropriate** eligibility determination
2. provided a free, **appropriate** public education
3. provided an **appropriate** full and individual reevaluation
4. **failed to implement** student's IEP services and modifications
5. failed to afford parent **procedural safeguards**
6. denied parent the **right to participate** as equal member of the ARD
7. failed to provide FAPE in the **least restrictive** environment
8. denied FAPE by failing to implement **substantial portions** of his IEP
9. **failed to develop a transition plan** prior to the school year.

## Whether student:

10. should be **dismissed from special education**
11. is entitled to an **independent evaluation**
12. was **eligible to receive** extended school year services
13. is **entitled to residential placement**

# Implications

**FACTS:** DPHs are very expensive in time, stress, money, and relationships. Estimated at **>\$50,000** each in combined legal costs.

Typically, <25% of requests for DPH go the distance and probability of petitioners winning is low (typically ~20%).

**QUESTIONS:** Who wins? Who loses?  
Who suffers?

**Are there any better ways?**



## The Reauthorization: IDEA '97

“Changes in the law represent an effort to ensure that school officials consider parents as **decision-making partners** in the undertaking of providing special education and related services to their child....”



[www.abt.sliidea.org/Reports/FSI\\_FinalRpt.doc](http://www.abt.sliidea.org/Reports/FSI_FinalRpt.doc)

## The Reauthorization: IDEA '97

“including provisions...designed to save money and reduce discord by encouraging parents and educators to **work out their differences using non-adversarial means.**”

[www.abt.sliidea.org/Reports/FSI\\_FinalRpt.doc](http://www.abt.sliidea.org/Reports/FSI_FinalRpt.doc)

So, how's it going?



# Nationwide Statistics

6.5 million children with “special needs” [~12%]

per 10,000 children:

5 due process hearings held

10 state complaints

7 mediations

[www.gao.gov/highlights/d03897high.pdf](http://www.gao.gov/highlights/d03897high.pdf)

It is also known that a handful of states account for a disproportionate number of disputes:

CA, MD, NJ, NY, PA, DC

# Nationwide Statistics

6.5 million children with “special needs” [~12%]

per 10,000 children:

22 = {  
5 due process hearings held  
10 state complaints  
7 mediations

---

9,978

[www.gao.gov/highlights/d03897high.pdf](http://www.gao.gov/highlights/d03897high.pdf)

Does that mean the remaining 9,978 children  
and their families are happy?

# Nationwide Statistics



Does that mean the remaining 9,978 children  
and their families are happy?

# Informal Indicators of Dissatisfaction



**“Bad” attitudes**

passive

defensive

unpleasant

difficult

angry



## Informal Indicators of Dissatisfaction

### “Loading for bear”

taking notes,  
bringing tape recorders,  
bringing ally or attorney  
in preparation for a fight.

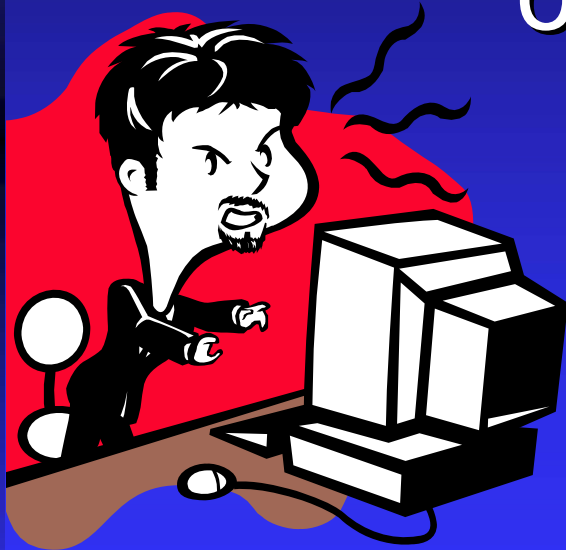


## Informal Indicators of Dissatisfaction

# Angry phone calls

or letters

or emails





## Informal Indicators of Dissatisfaction



Empty chairs

at the table

parents just don't attend

# Early Warning Systems:

How are we doing in our own schools and districts?



Is it important to know?

# Early Warning Systems:

How could we find out?

Any signs to watch for?

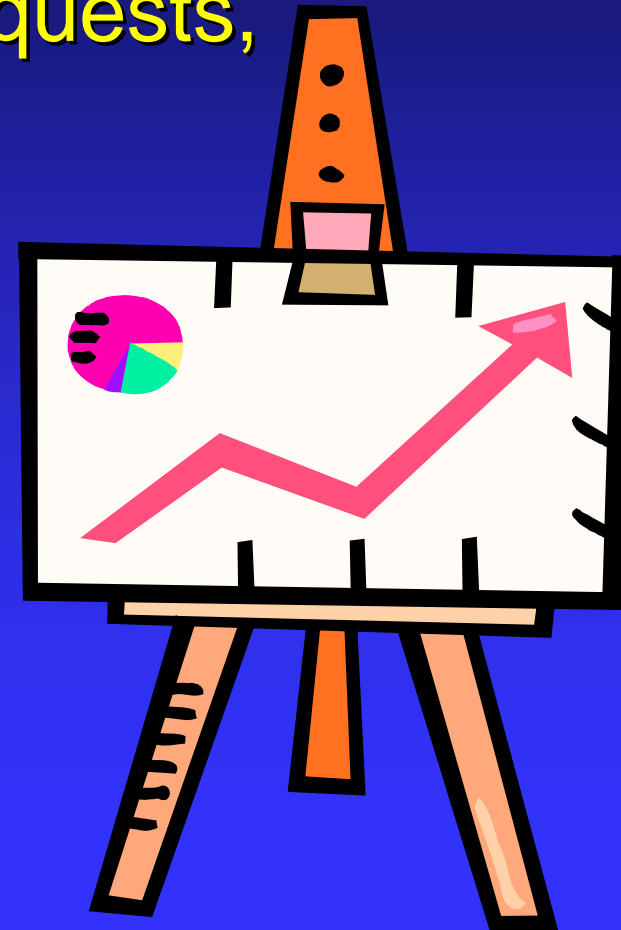


# Early Warning Systems:

- 1) Frequency and trend of formal indicators (due process hearing requests, formal complaints, and mediations).

How many per year?

Are they increasing  
or decreasing?



# Early Warning Systems:

## 2) Frequency and trend of informal indicators:

bad attitudes

informal complaints

parent attendance



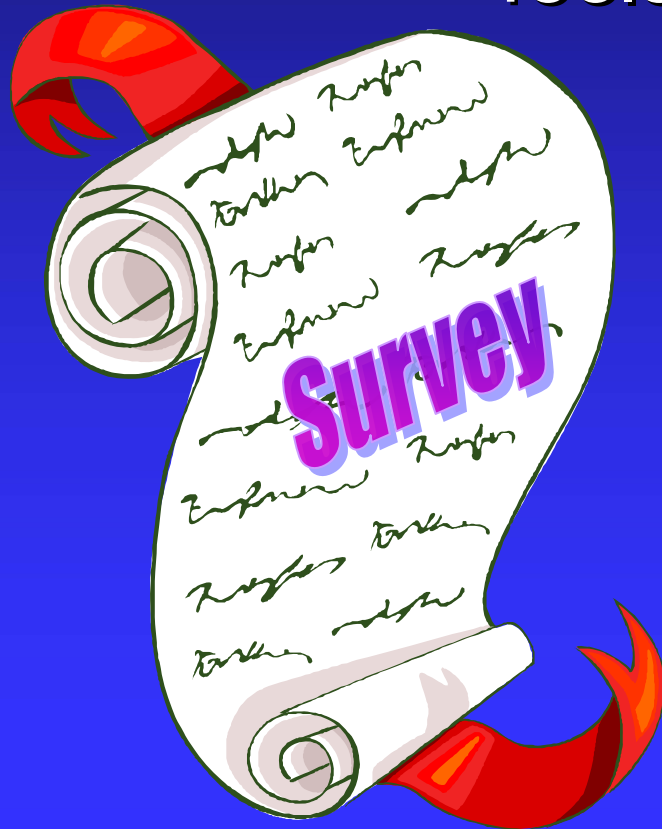
# Early Warning Systems:

## 3) Don't overlook the obvious:

**Q:** If you want to know how someone feels about something,  
feels about something,  
¿what could you do?

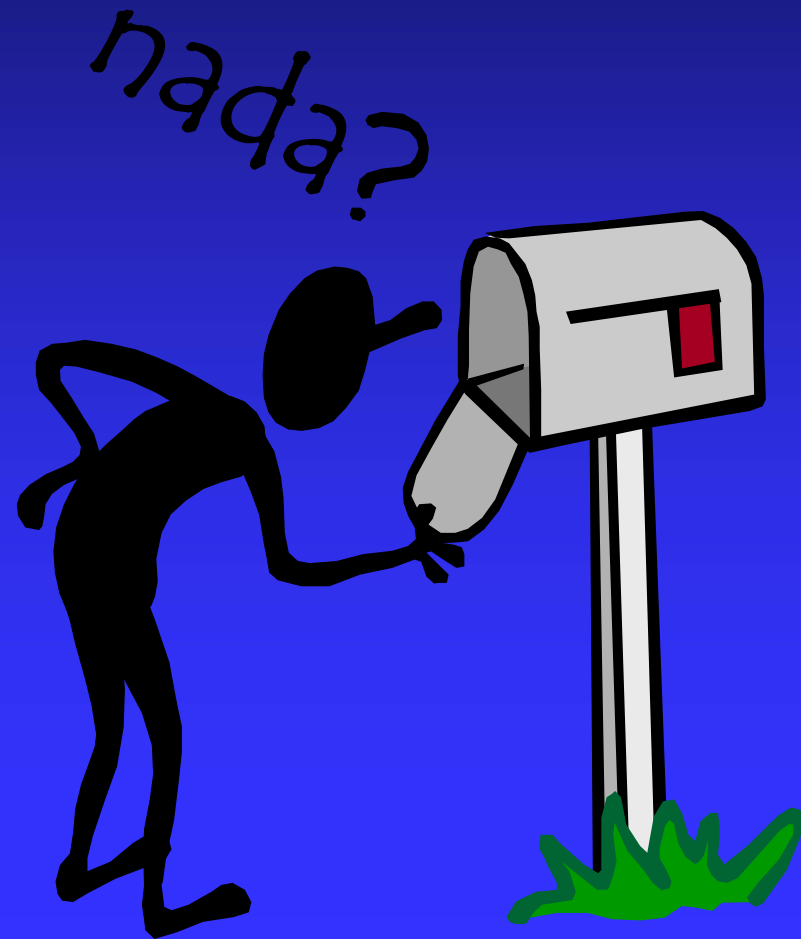
**A: Ask them!**

*however...*



# Participant Surveys

1) Most schools and districts don't use them.



# Participant Surveys

2) Those that do use them may do so infrequently and with a very narrow focus.





# Participant Surveys

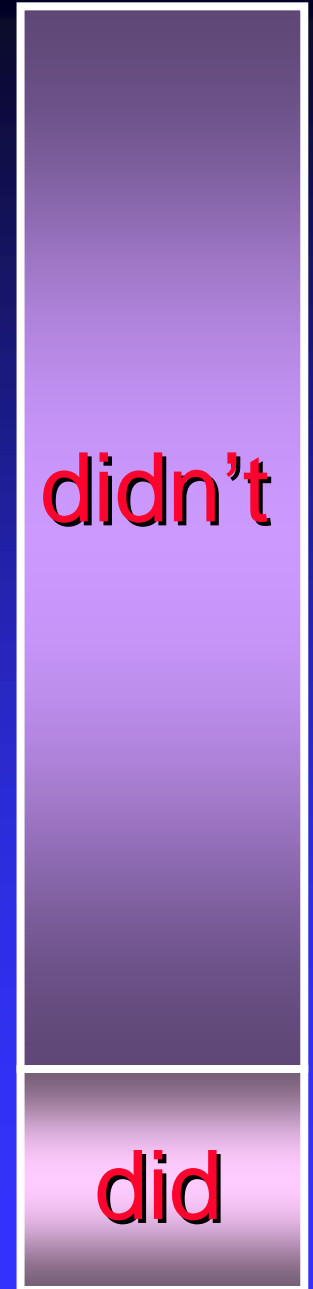
3) Many receive low response rates which may not be a representative sampling.

90%

didn't

10%

did



# Participant Surveys

4) Many get the “happy diner” response - everything’s fine even when it’s not.



However, interviews with leaders of parent organizations reveal a number of frequently voiced concerns.



# Parent Leaders' Concerns

1. Getting parents involved in training and activities is very difficult.



## Parent Leaders' Concerns

2. IEP team members often have differing objectives and constraints – financial, staffing, available resources, and time.



## Parent Leaders' Concerns

3. Parents often feel alone with their many feelings, and school staff may be insufficiently aware or supportive.



## Parent Leaders' Concerns

4. Parents may not get evaluation reports ahead of time, so they are often unprepared for and upset by what they hear at IEP meetings.



## Parent leaders' concerns

5. The IEP process is often complicated, confusing, and poorly understood.





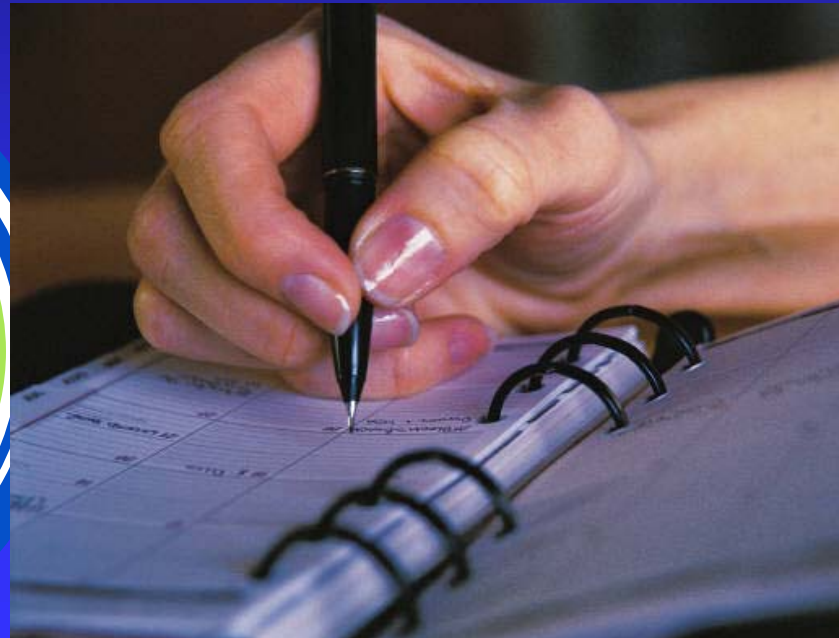
## Parent leaders' concerns

6. Staff attending IEP meetings often have other commitments and can't give adequate time to the meeting.



## Parent leaders' concerns

7. Meetings are often scheduled at the convenience of school staff rather than parents.



## Parent leaders' concerns

8. Parents of children with special needs have often had a history of negative experience with school staff.



## Parent leaders' concerns

9. Confidentiality is breached, especially in smaller communities where participants know each another in a variety of contexts.



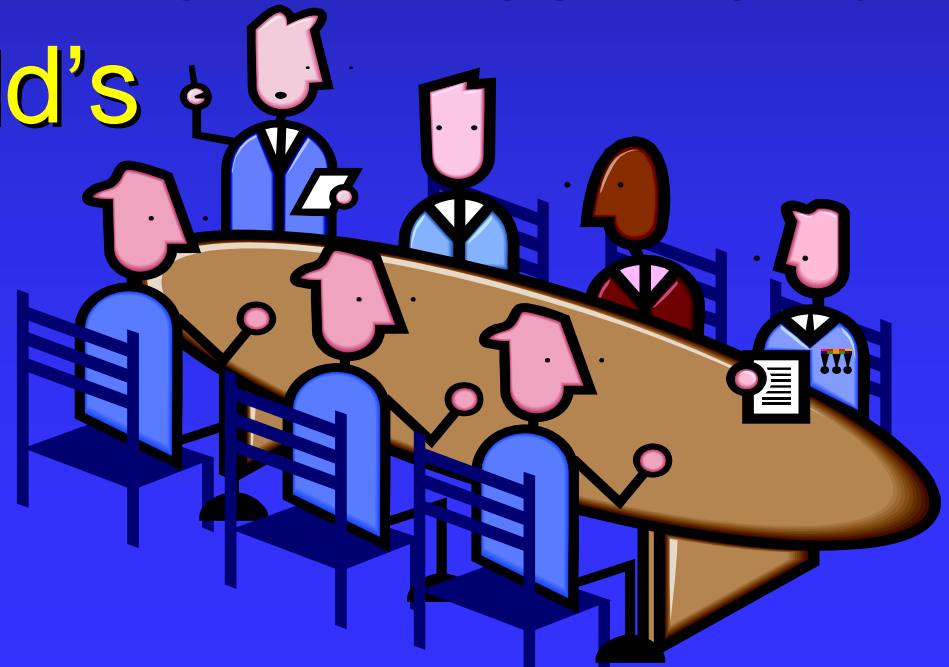
## Parent leaders' concerns

10. General classroom teachers often have a limited understanding of the IEP process and may see the child with special needs as a burden and intrusion.



## Parent leaders' concerns

11. Parents often feel intimidated by the presence of several school personnel and don't see themselves as equal partners on the IEP team and in their child's education.



## Parent leaders' concerns

12. IEP meetings lack a clear structure, including introductions, agenda, and objectives. Tangents are common, as is running out of time.



# Seeds of Conflict

1. Process is not well understood.
2. Perception of one against many.
3. Lack of structure.
4. Lack of time.



## Question:

How do the parent concerns fit with the “weasel words” (FAPE, LRE, IEP, etc.)?

Maybe DPHs don't always address the real issues?



See handouts

"Suggestions to Address IEP  
Team Parent Concerns"

and

"School Staff Suggestions  
for System Improvement."

Great Teams  
and  
Great Meetings

# Good and Bad Meetings



Think of meetings you have attended that you really enjoyed.

What made them effective? What did you like about them?



# Good and Bad Meetings

Think of any meetings you have attended that you dreaded.



What made them ineffective and what did you not like about them?

## Good and Bad Meetings

How can we use these  
insights to make our  
IEP meetings  
the best they can be?

# Characteristics of Ideal IEP Meetings

1. pre-conferencing occurs to assure adequate preparation by all participants



# Characteristics of Ideal IEP Meetings

2. pre-conferencing with parents occurs when difficult issues are anticipated



# Characteristics of Ideal IEP Meetings

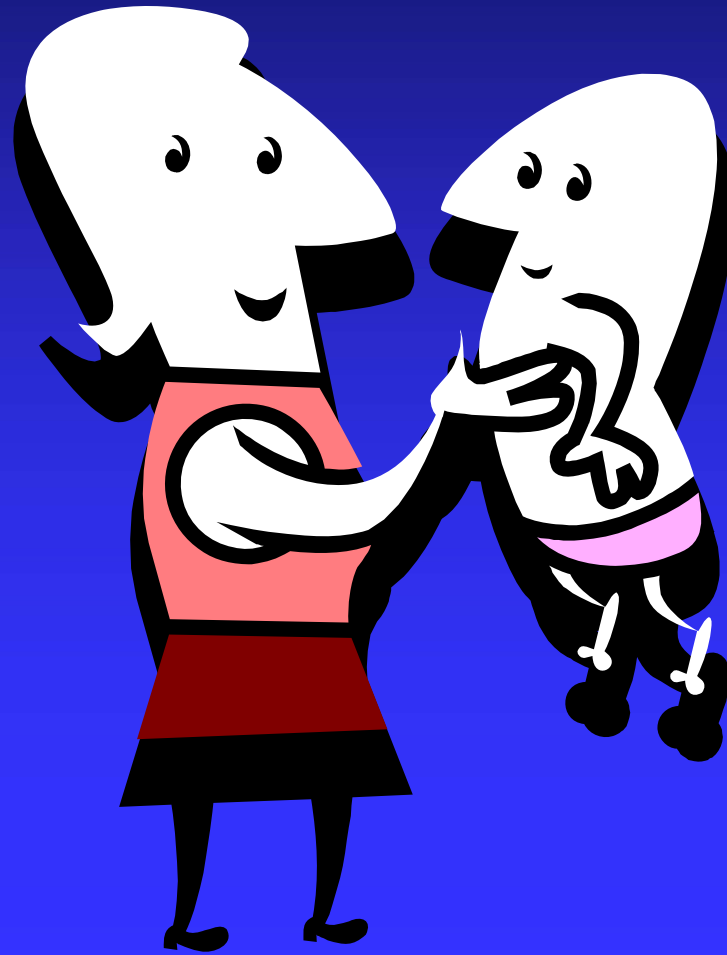
3. evaluation results are reviewed in advance





# Characteristics of Ideal IEP Meetings

4. child care has been arranged in advance



# Characteristics of Ideal IEP Meetings

5. chairperson meets informally with parents before the formal meeting (to welcome, answer questions, cover procedural safeguards, etc.)



# Characteristics of Ideal IEP Meetings

6. all participants are introduced to each other



# Characteristics of Ideal IEP Meetings

7. a written agenda is visible to all participants, on paper or posted



# Characteristics of Ideal IEP Meetings

8. round table seating in a comfortable setting, free from noise and distractions



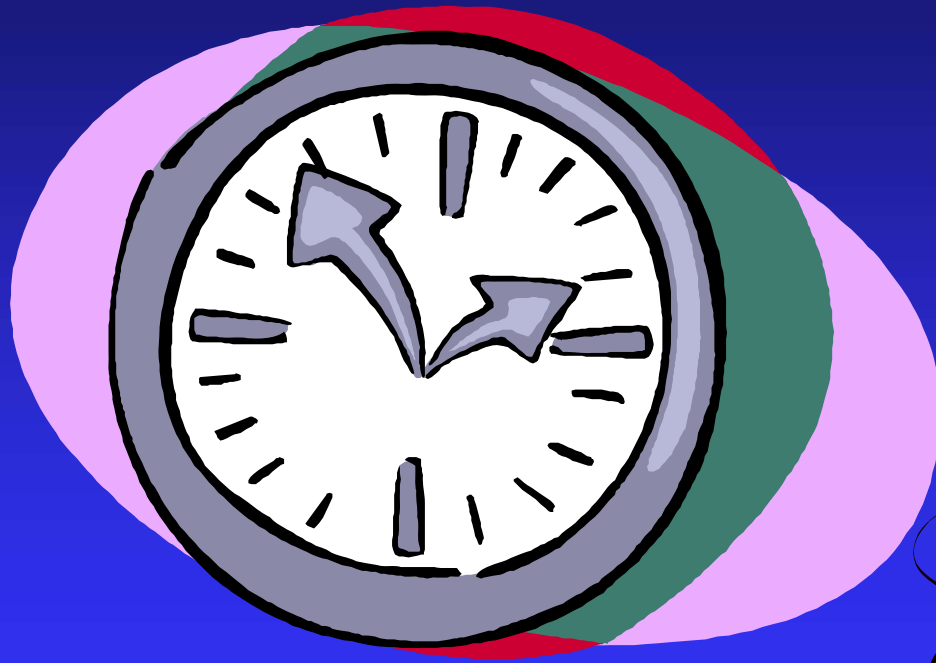
# Characteristics of Ideal IEP Meetings

9. refreshments are provided to promote comfort and a welcoming atmosphere



# Characteristics of Ideal IEP Meetings

10. each member is time conscious



# Characteristics of Ideal IEP Meetings

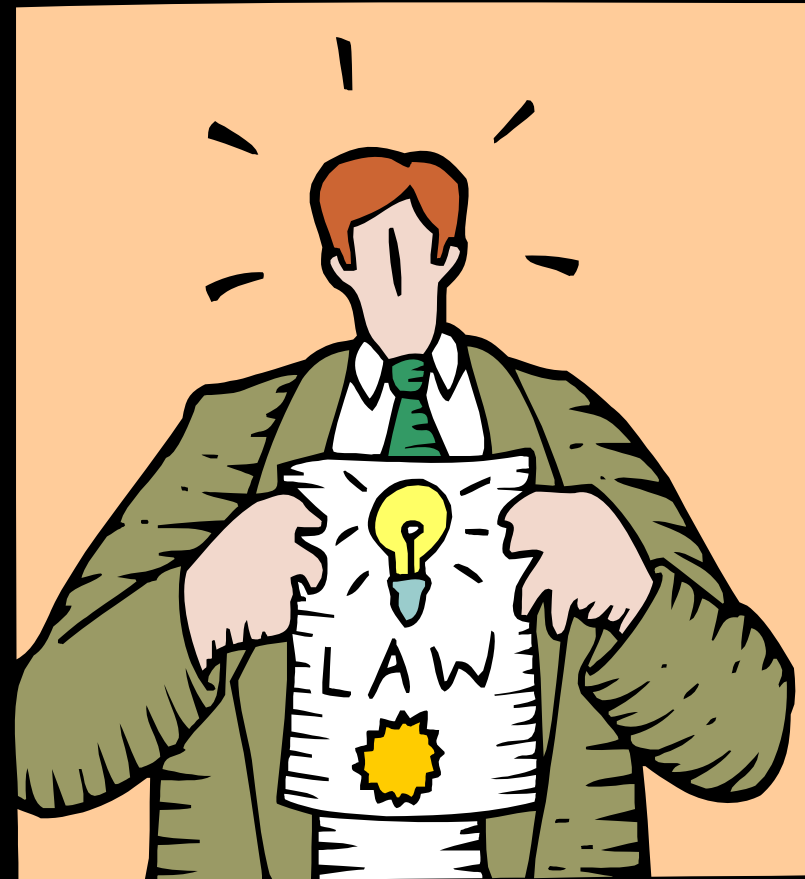
11. the chairperson budgets the available time and politely redirects participants who wander





# Characteristics of Ideal IEP Meetings

12. ground rules are agreed (re. civility, interrupting, leaving, phones, etc.)



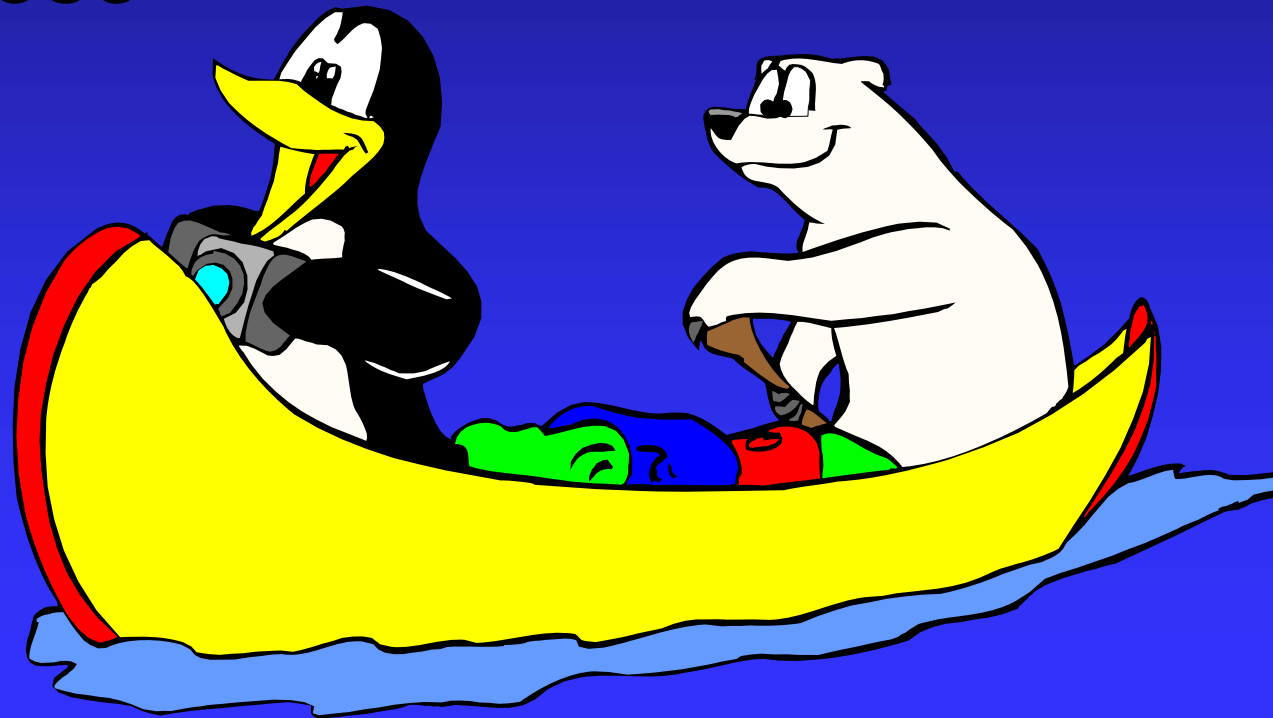
# Characteristics of Ideal IEP Meetings

13. an atmosphere of mutual respect exists



# Characteristics of Ideal IEP Meetings

14. participants share in and contribute to a common purpose



# Characteristics of Ideal IEP Meetings

15. breaks are taken as needed



# Characteristics of Ideal IEP Meetings

16. the meeting has a clear purpose; and roles and responsibilities are clear for tasks occurring before, during, and after the meeting



# Characteristics of Ideal IEP Meetings

17. the outcome of the meeting is restated at the end for clarity and any necessary correction



# Characteristics of Ideal IEP Meetings

18. a written “parking lot” is established for issues to be addressed at a later date, rather than letting them

get  
lost



# Characteristics of Ideal IEP Meetings

19. an “open door” exists for airing and sharing between meetings

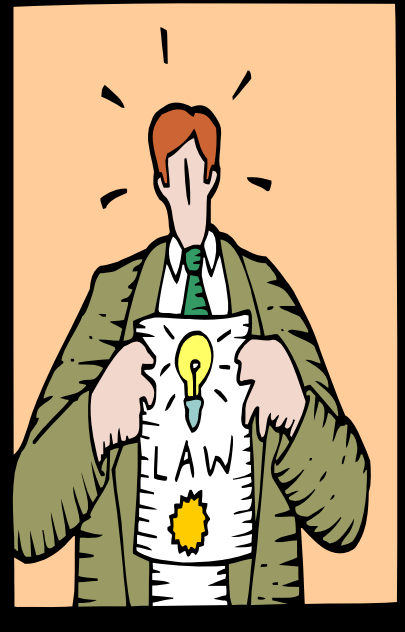




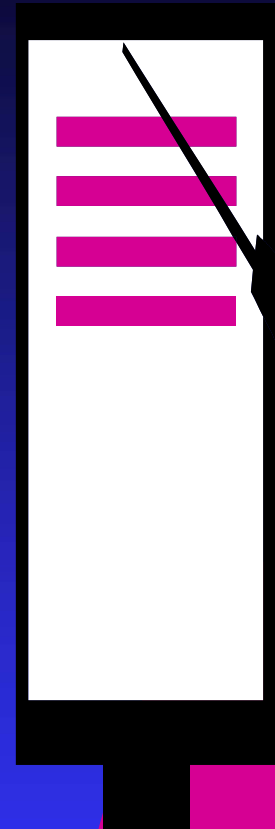
# Characteristics of Ideal IEP Meetings

20. the meeting ends on a positive note, and participants are thanked for their time and contributions





# Introductions, Ground Rules, and Agendas



# Sample Introduction

# Comprehensive Introduction

Introductions

Purpose of meeting

Time frames

Written agenda

Ground rules

Creature comforts

# Setting the Stage: Ground Rules

Questions:



Why have ground rules?

What ground rules might help accomplish this?

# Setting the Stage: Ground Rules

1. watch the time
2. stay on task
3. respect and courtesy
4. cell phones off
5. stay until breaks



Closing Remarks  
and  
Evaluation Form  
as SOP

What if every meeting ended with such questions as:

- 1) Is there anything anyone would like to say before we close for today?
- 2) How do we feel about today's meeting – anything we should do differently next time?



Simple  
Evaluation Form  
as  
SOP

## IEP TEAM MEETING EVALUATION

*This evaluation form is intended to help us work more effectively together and do our best possible work as a team for the benefit of our student. Thank you for caring enough to share your honest thoughts and feelings.*

- 1) On a scale of 1-10, with 10 high, please indicate your overall satisfaction with today's meeting by circling one of the following:

1    2    3    4    5    6    7    8    9    10

- 2) What did you find most worthwhile or commendable about this meeting?

- 3) How might this meeting have been improved, or what might we do differently next time?

- 4) Any additional comments?

# Collaboration and Consensus

What is the purpose of the team?

assure a FAPE in a LRE with an IEP

How?

through collaboration and  
mutual agreement

# What Promotes Collaboration?



# What Promotes Collaboration???

1. Remembering our common purpose
2. Giving everyone a voice
3. Communicating openly with respect
4. Assuming good reason and intention
5. Exploring underlying interests
6. Valuing the team and its members
7. Trusting the process

# What Helps People Reach Consensus???

1. Remembering common goals
2. Remaining calm and respectful
3. Listening well
4. Communicating well
5. Exploring underlying interests
6. Avoiding demonizing
7. Trusting the process

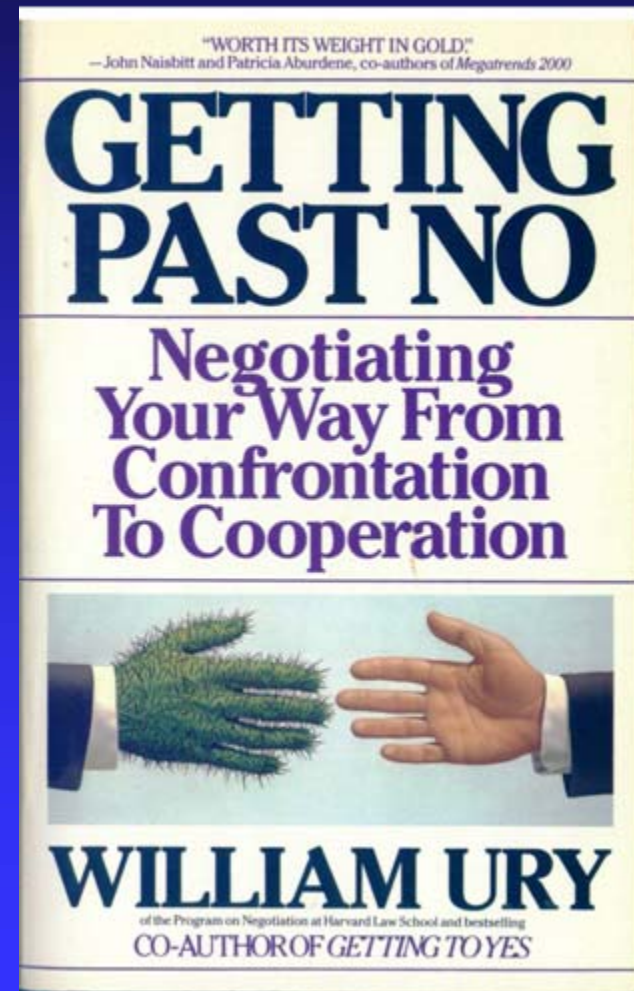
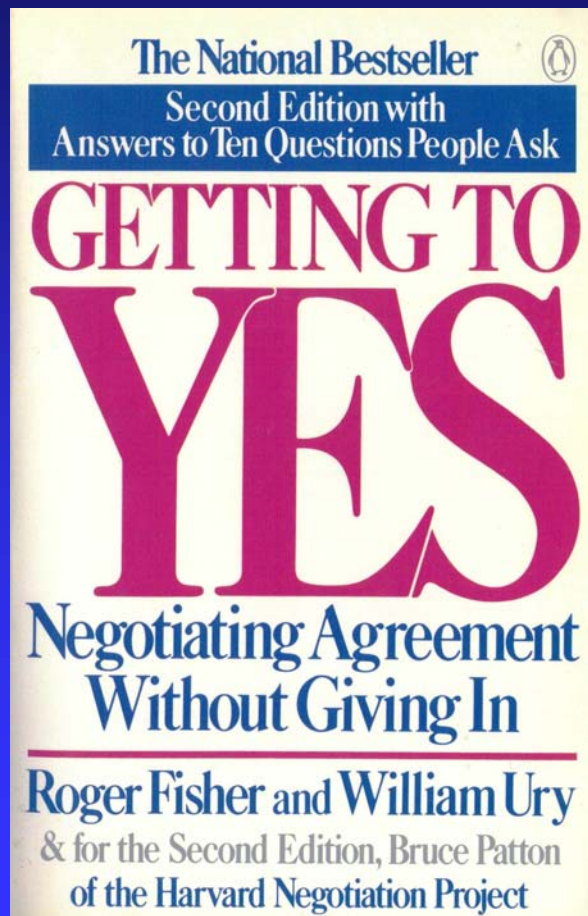
# When Consensus Does Not Seem Possible

- 1) first clarify why, then
- 2) collaboratively and consensually decide how to proceed:
  - \* defer pending further information?
  - \* delay pending further thought and discussion?
  - \* defer to an expert?
  - \* request facilitation or mediation?

Note that when all else fails, the “district representative” must exercise his/her role as final decision maker (thus shifting from facilitator to arbitrator). Rarely necessary if there is time.



# Suggested Reading



But what about  
Conflict?

# Two Defining Hallmarks of Conflict

## 1) Negative Feelings



hurt, fear, disrespected,  
mistrust, overwhelmed,  
disappointed, ashamed, grief,  
injustice, anger...



# Two Defining Hallmarks of Conflict

## 2) Oppositional Stance

self/other, us/them, friend/enemy, parent/school



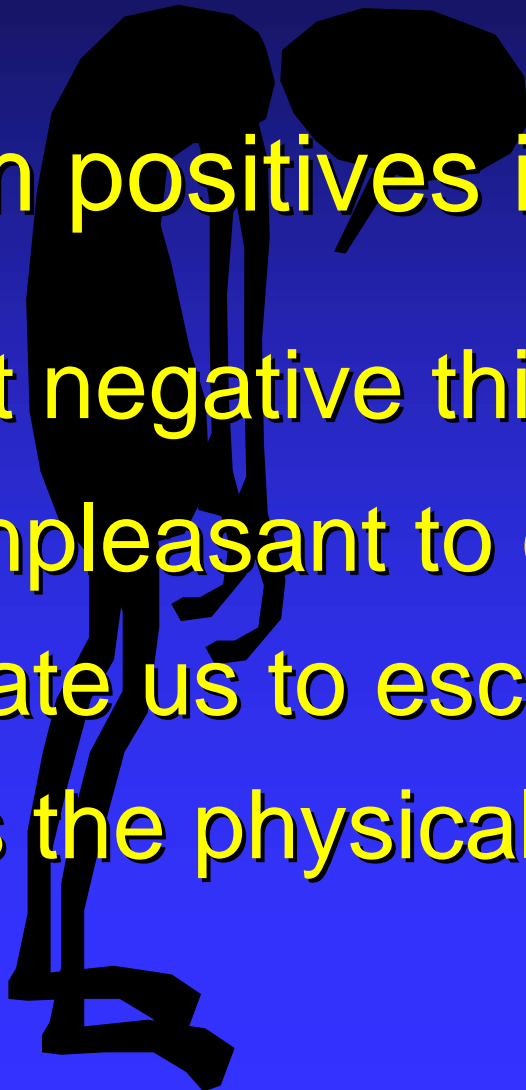
versus

us, team, togetherness, collaboration, synergy

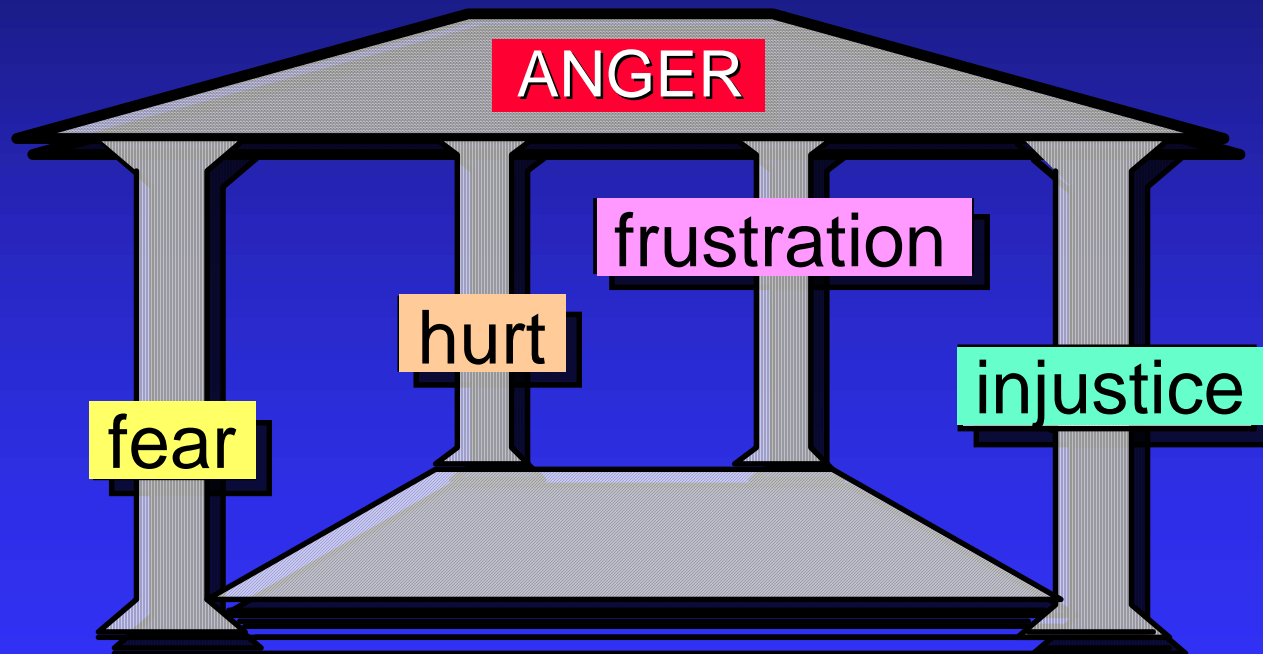
# Negative (“Bad”) Feelings

differ from positives in that they:

- 1) reflect negative thinking
- 2) are unpleasant to experience
- 3) motivate us to escape them
- 4) stress the physical body



# THE FOUR PILLARS that hold up the roof of



# So what?

Expressing anger tends to:

- 1) mask the underlying feelings
- 2) leave the underlying feelings unresolved
- 3) promote distance and defensiveness in others
- 4) hinder productive problem solving



However obnoxious  
someone is on the surface,  
underneath that somewhere  
they're hurting,  
and underneath *that* is  
a worthwhile person.

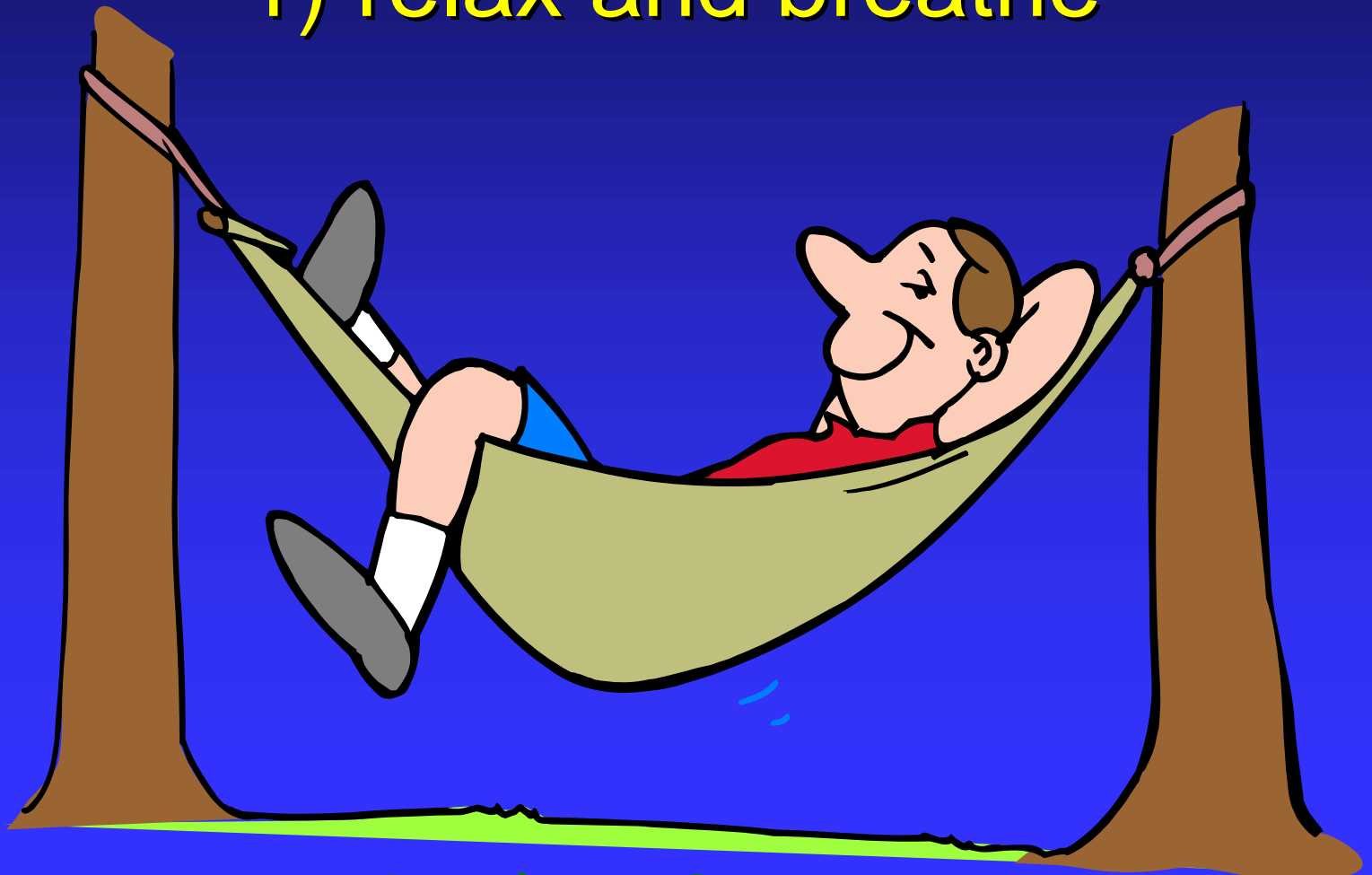




# Turning Conflict into Cooperation

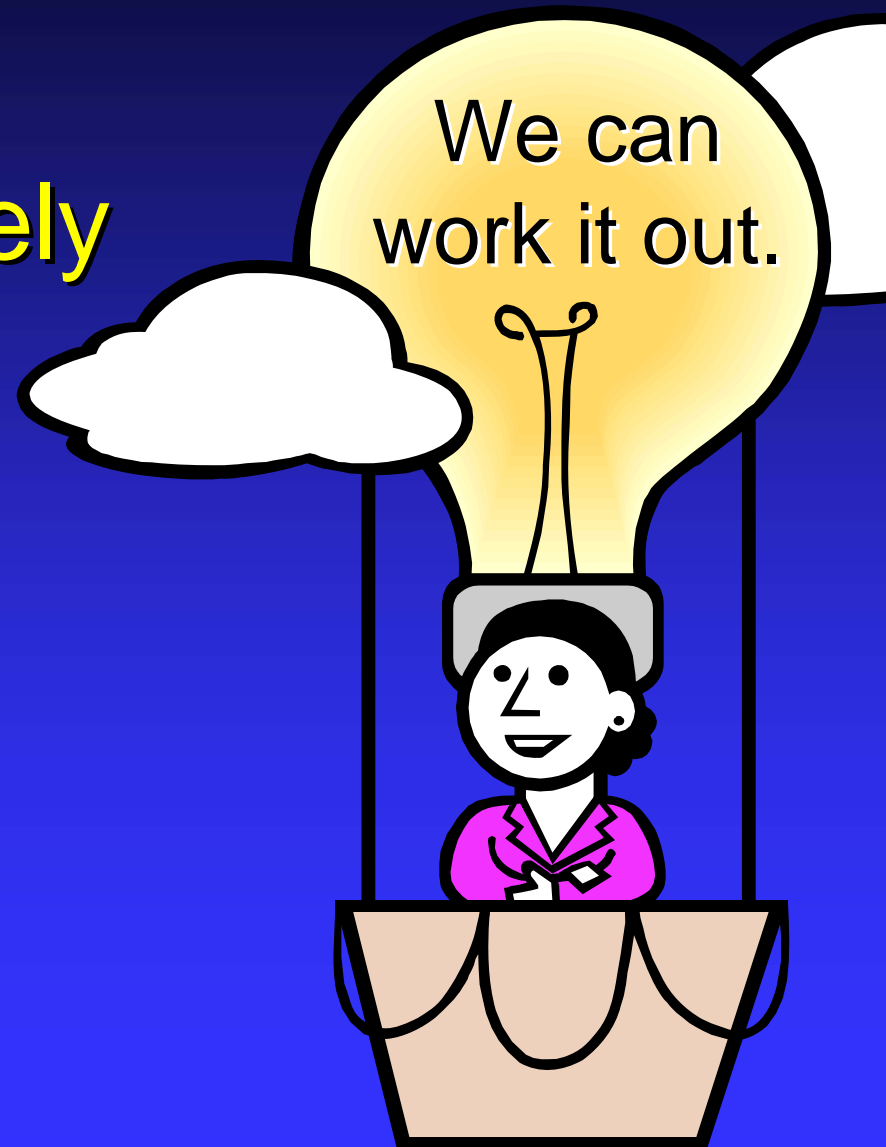
KEYS TO SUCCESS

1) relax and breathe



# Turning Conflict into Cooperation

2) think positively



# Turning Conflict into Cooperation

## 3) communicate effectively



## 4) trust the process

together we really *can* work it out

**Law & Policy**

**Awareness**

Governing  
factors at IEP  
Meetings

**Attitude**

**Budget**

**Awareness**

Governing  
factors at IEP  
Meetings

**Attitude**

***"Attitudes are the real disability."***

# Udder Blunders

**Parent:** I am sick of my child having to spend her life studying for a bunch of stupid tests just to keep YOU out of trouble.

**Administrator:** I'm sorry you feel that way, Mrs. Jones, but we don't make the rules. The state does that, and we just do our best to follow them.

Parent:

“I don’t want my child sent to the self-contained classroom.”





# 1) The Hands

(controlling and suppressing gestures)

“Mrs. Jones....”



Instead

Use open and welcoming gestures  
(let body language reflect intention).

2) “I Know How You Feel.”  
(ineffective support of feelings)

Instead (before explanations)

“Say some more about that.”

“What was that like for you?”

“Is this what you mean...?”

“This must be really hard for you.”

Then, “May I explain?”

Teacher:

“I want that child  
moved to the  
self-contained  
classroom.”



### 3) Giving an Education

(poor timing of information)



“Under IDEA, we can’t just do that....”

***“People don’t care how much you know  
till they know how much you care.”***

**Instead**

Let “education” be one of *many* options.

Wait for a good time to shift focus.

Ask permission to shift (“**May I explain?**”).

## 4) Rushing to “Fix It”

“I’ll see if we can’t get some additional support for Sally.”



**Risks** missing important points by assumptions; limited buy-in and support.

**Alternatives** Gather adequate information.  
Ask for group suggestions and participation.

# Beware the BIG Four:

- 1) The Hands
- 2) “I Know How You Feel”
- 3) Giving an Education
- 4) Rushing to Fix-It

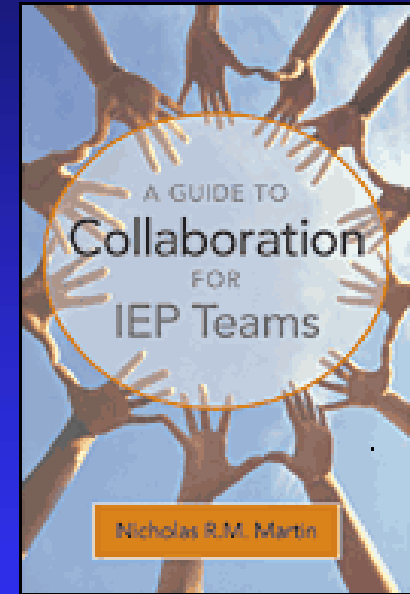
# Role Plays in Conflict Resolution

## The Drill

1. Relax, breathe, and think positively.
2. Say some more about that.
3. Is there anything else you'd like me to understand about that?
4. May I respond to what you've said?

25

# Prevention-Intervention Options



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***A Guide to Collaboration for IEP Teams***  
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## Intervention options

- 1. Hold a Focus:** ask for more twice, then ask to respond: “Say some more about that. (pause) Anything else I should know about this? (pause) May I respond to what you said?”
- 2. Share the Conflict:** express your own feelings and trust that the next steps will become clear: “I feel kind of attacked right now. I’m not sure how to proceed.”
- 3. Probe for Underlying Interests:** explore reasons so as to gain understanding: “This issue seems to be very important to you, and you must have good reasons. Can you help us understand your thoughts about that?”
- 4. Educate:** give explanations, perhaps about policies, laws, etc.: “We cannot transfer a child to another school unless their needs really can't be met where they currently are.”
- 5. Paraphrase and Reflect** what you hear them saying: “Let me see if I understand what you’re saying: you think we are always trying to tell you how to raise your child, right?”

## Intervention options

6. **Acknowledge**: recognize a possible situation, feeling, or thought: “Mrs. Jones, sometimes these reports can be really discouraging, and we’re facing some issues that can be really hard.”
7. **Affirm**: use praise or agreement as a means of support: “I think you’ve raised some valid concerns here. If I were you, I might be feeling irritated, too.”
8. **Confront the Individual**: objectively point out a person’s disturbing behavior: “Mrs. Smith, I notice that you are raising your voice right now.”
9. **Confront the Group**: make comments about the group rather than the individual: “Team, are we keeping to our ground rules and staying on task right now?”
10. **Reflect/Invite to the Group**: share an observation and ask the group to assist: “We seem to be having a tough time right now. Anyone have any ideas how we might move through this?”

## Intervention options

- 11. Point at Self** to avoid putting anyone else in an uncomfortable position: “I’m not sure I understood all those big words, Mrs. Jones. Could you rephrase that for me, please?”
- 12. Refocus:** gently lead back to the issue at hand: “Could I ask you to summarize the key points we need to understand about this?”
- 13. Share Your Good Intention,** why you are saying what you are: “I really want to be respectful of your ideas, Mrs. Smith. I want you to know that I care what you think and feel.”
- 14. Apologize:** recognize a possible wrongdoing, even if not your fault: “I am really sorry if I’ve been trying to tell you how to raise your child. I apologize for whatever I may have done to give that impression.”
- 15. Ask for Help:** ask the person to tell you what they need: “Mr. Jones, would you like to talk about your feelings, or maybe take a break, or something else...? What would be most helpful to you right now?”

## Intervention options

- 16. When in Doubt, Check It Out:** “Mr. Doe, are you maybe a little upset with me or something that was said?”
- 17. Shift to a Comfort Zone,** a topic that is easier to discuss and return to a more difficult topic later in the meeting: “Mrs. Jones, what are some of the areas where you see Johnny really progressing these days? I know I’ve seen real progress in his temper control.”
- 18. Make a Deal** with the other party to speak up if they have a certain perception or feeling: “If you see me trying to tell you how to raise your child, would you be willing to point it out and let me know?”
- 19. Use Humor** to lower intensity (being careful not to appear disrespectful): “My wife must have given me decaf this morning, because I’m having a little trouble keeping up. Can you run that by me one more time?”
- 20. Remind of Ground Rules** made earlier: “Team, I notice that we seem to be interrupting and raising our voices; do we remember that we agreed to be respectful and give everyone a chance to speak and be heard?”

## Intervention options

- 21. Play with the Time Shape:** propose a short-term solution to be reevaluated later: “Would you be willing to try this idea for, say, a month; and then we could reevaluate and maybe change it at our next meeting?”
- 22. Caucus:** to provide time for small group or individual discussion: “Mrs. Jones, would it be helpful to take a little time for just you and me to talk in private?”
- 23. Take a Break:** perhaps to provide time for tempers to cool: “I wonder if a five-minute leg stretch might be a good idea right now?”
- 24. Call Security:** if at any time you really believe the safety of a participant is in jeopardy, err on the side of caution (if you don't have an emergency plan, get one).
- 25. Suspend and Reconvene:** if the meeting cannot proceed for legal reasons (e.g., a required participant is not present) or because collaboration does not seem possible today (e.g., tempers are too high, adequate preparation was not done...).

Consider:



The strength of a relationship

is not to be measured

In the frequency or magnitude

of the difficulties encountered,

But rather in the ability to resolve them.

In conclusion:

“We fight the way we train.”



Let's continue learning  
how to work together  
as partners  
for the benefit of our children,  
just as we are doing here today.

# Questions?



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