

The Exemplary Pennsylvania Model: Ensuring the Full-Range of Dispute Resolution Options

Showcasing Exemplary Practices: CADRE's Fifth National Symposium on
Dispute Resolution in Special Education



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Office for Dispute Resolution

Dispute Resolution in Special Education

- Between Fall 2008 and Summer 2010, CADRE undertook a process to identify state dispute resolution systems that were found to be “particularly effective”, not “perfect”.

- CADRE and OSEP identified four states:
 - Iowa
 - Oklahoma
 - Pennsylvania (ODR)
 - Wisconsin

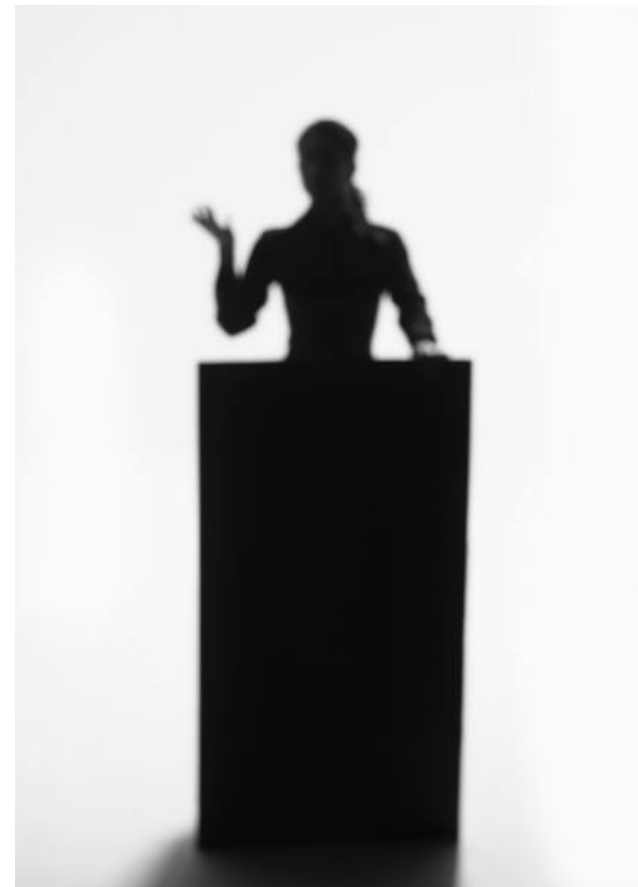
The Office for Dispute Resolution (ODR)

- ❑ Funded by Department of Education under contract with PDE:
 - to provide administration of due process and mediation
- ❑ Additional Components of ODR:
 - Conflict Resolution Training
 - Stakeholder Council
 - ConsultLine (Parent helpline)
 - Facilitation Services (IEP and Resolution Meeting)
 - Multi-Media Productions

The Office for Dispute Resolution (ODR)

Who Are We?

- Kerry Smith
 - Director
- Dixie Trinen
 - Dispute Resolution Coordinator



Pennsylvania: Who Are We?



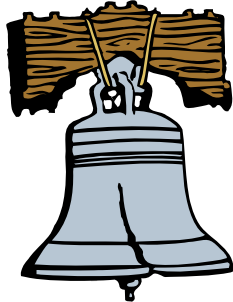
Lancaster



Pittsburgh



Gettysburg



Philadelphia



7-Pak Consortium of Large States

- California
- Florida
- Illinois
- New York
- Ohio
- Pennsylvania
- Texas



Pennsylvania: Who Are We?



- ❑ Home of the PARC Consent Decree
- ❑ *Precursor to* P.L. 94-142: The Education for All Handicapped Act
- ❑ *Precursor to* Individuals with Disabilities Education Act

Four (Very Different) Exemplar States 2008-09 CADRE Data

• State

- Iowa.....
- Oklahoma.....
- Pennsylvania*..
- Wisconsin.....

Child Count

- 67,362
- 93,936
- 294,958
- 125,304

*only 7-PAK representative

Four (Very Different) Exemplar States

2008-09 CADRE Data

State

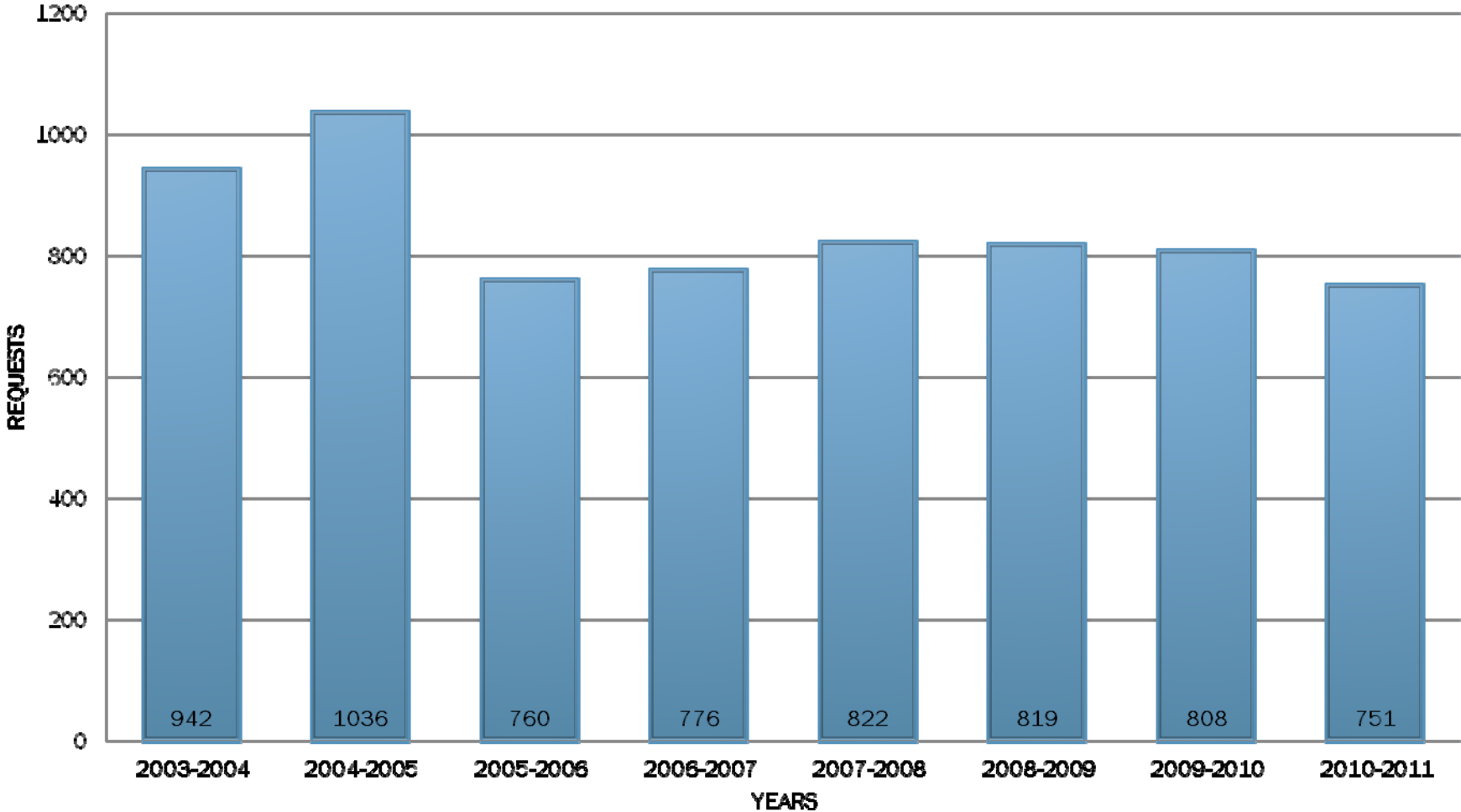
Due Process

- Iowa.....
- Oklahoma.....
- Pennsylvania....
- Wisconsin.....

- 2.4
- 2.4
- 26.5
- 2.6

• Rates per 10,000 students

DUE PROCESS HEARING REQUESTS FY 2003-2004 through FY 2010-2011



Our Recommendations for Becoming an Exemplar State...

- ❑ Hire quality, creative, highly committed staff
- ❑ Seek Stakeholder input to guide program initiatives



...Becoming an Exemplar State

- ❑ Utilize the countless resources available (CADRE; IDEA Partnership; listservs; relationships with other states, training, continuing education, etc.)
- ❑ Possess the willingness to fail



Our Goal Today

- Identify key components of our dispute resolution system, including
 - Challenges/Roadblocks
 - Lessons Learned
 - Successes
 - What's Next
 - Resources Available



ODR Staffing

- Director
 - Legal Assistant (1)
 - Dispute Resolution Coordinator
 - Case Managers (4)
 - Support Staff (2*)
 - Database Staff (1)
 - Technology Staff (1)
 - ConsultLine Manager
 - ConsultLine Specialists (3)
- * One temporary/part-time



ODR Staffing

□ Hearing Officers

- 6 full-time
- 1 contractor
 - (conflict/overflow cases)
- 1 contractor
 - (gifted education)



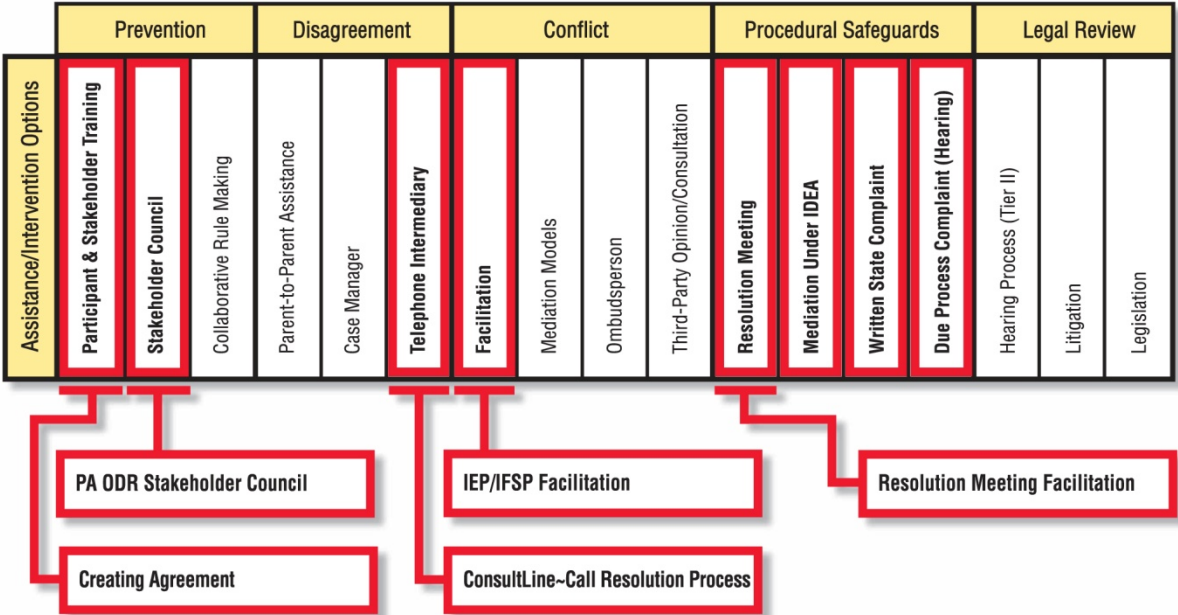
□ Mediators/Facilitators

- 24 Contracted Mediators
- 19 Contracted Facilitators

ODR Continuum

The CADRE Continuum of Processes and Practices

Pennsylvania's Dispute Resolution Options in Bold



CADRE Continuum: Participant & Stakeholder Training

- Building Partnerships
- Creating Agreement
- Collaborative Problem Solving in
Early Intervention and
Special Education



Jointly Developed By:



The Consortium For
Appropriate Dispute
Resolution In
Special Education
(CADRE)



The IDEA Partnership
Project (at NASDSE)



With funding from the US Department of
Education, Office of Special Education
Programs (OSEP)

Creating Agreement Workgroup Vision

- Educational outcomes are improved when families, schools and service providers work together effectively.
- Training and support for diverse groups of stakeholders helps them learn together and problem solve in ways that are more responsive to individual students' needs.

Timeline for Conflict Training in PA

- 2002: ODR began presenting *Dispute Resolution Skills Training* (DRST)
- 2008: ODR invited to *train the trainer* presentation for *Creating Agreement*
- 2008-2009: ODR-sponsored series of inaugural summits, introducing stakeholders to training
- 2009-present: hybrid of DRST and *Creating Agreement* presented to stakeholders

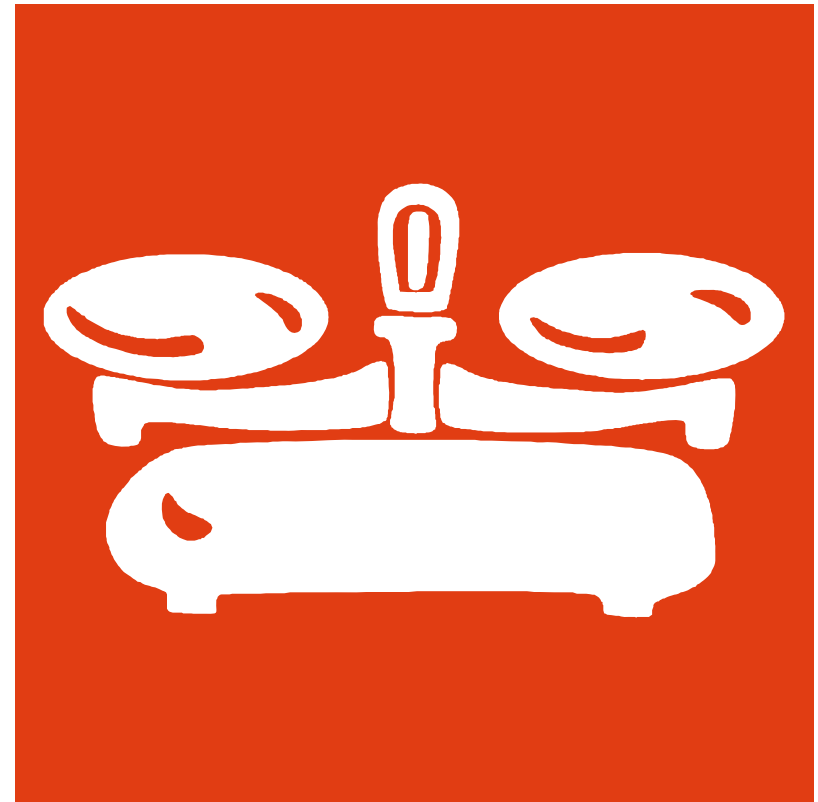
Challenges/Roadblocks

- Overcoming participant reluctance to train with parents and educators together;
- Having enough qualified trainers;
- Having enough available trainers; and
- Expanding training beyond grass roots efforts to increase scope of impact.



Lessons Learned

- *Train the Trainer* programs hold promise.
- Key is finding individuals willing and able to commit to learning conflict principles and presenting them to others.
- Balance between *getting the word out* and *maintaining quality of the training*.



Success!!!

- Upwards of 2,500 stakeholders trained.
- Evaluations overwhelmingly positive.
- Participants often note dire need for such training.
- Trainers have continued education (graduate level study of conflict analysis and effective conflict engagement).



What's Next

- ODR is investigating ways to expand outreach, such as online training and other cost-effective methods of delivery.
 - Collaboration with colleges & universities
 - Online modules
 - Taped presentations of *Creating Agreement* training
 - Webinars
 - Stakeholder Council input/assistance

CADRE Continuum: Stakeholder Council

- Transition from Advisory Panel to Stakeholder Council
- Members seated in September 2009
- Meet quarterly
- Operating Procedures in place

Stakeholder Council

- Diverse membership that includes parents, advocates, attorneys, educators, constituency groups
- Self sustaining
- Provides functional input on the services of ODR
- Interviews hearing officer candidates and makes recommendations
- Drafted Code of Ethics for PA Mediators

Challenges/Roadblocks

- Nomination of members
- Need for operating procedures
- Confusion regarding scope of SC “jurisdiction”
- Retention and replacement of members



Lessons Learned

- Paradigm shift from ODR-driven to Stakeholder-driven is a significant departure from what constituents are used to
- Comprehensive, well-drafted operating procedures are critical and well worth the time
- Anticipate the need to have a solid plan in place regarding retention/replacement of members to ensure that SC remains vital and relevant
- Identifying agenda items can be challenging

Success!!!

- Stakeholder Council interviews and makes recommendations about hearing officers
- All SC hiring recommendations have been successful
- Complaints about hearing officers has been reduced



What's Next

- Development of policy regarding retention/replacement of members
- Consideration of ways to improve agenda setting
- Exploration of other states' stakeholder councils
- Study of theory underlying stakeholder councils
 - Typical pitfalls
 - Challenges



CADRE Continuum: Telephone Intermediary (ConsultLine)



Telephone Intermediary (ConsultLine)

Toll-free telephone line for parents/advocates.

Specialists provide information on:

- Identification, evaluation and services for a child
- Procedural Safeguards
- Formal complaint process through the Bureau of Special Education (BSE)
- Dispute resolution options
- Resources available



Telephone Intermediary (ConsultLine)

- 4 Specialists, including manager
- Averages about 4,000 calls per year
- Specialists return calls in an equitable manner
- Calls returned typically within 24 hours
- Average length of calls (20 – 45 min+)



Telephone Intermediary (ConsultLine) Call Resolution Process

- When parent identifies potential compliance-related concerns
- Upon permission, Specialist will email Special Ed Director and PDE Compliance Advisor
- Specialist provides to LEA specific information provided by parent
- Notification includes parent-proposed resolution
- BSE Compliance Advisor does follow-up with LEA

Challenges/Roadblocks

- Live service is very limited due to volume of calls
- It takes time to develop well-informed and experienced staff
- Finding appropriate training and professional development opportunities becomes more difficult as Specialists become more experienced

Lessons Learned

- Specialist position is highly specialized; few people possess entry level requisite knowledge
- Training is needed on the differences between advocating, legal advice, and sharing of information
- Not all personality styles are happy with this kind of job

Success!!!

- Evaluations of ConsultLine services are routinely very complimentary
 - 97% satisfaction rate
- Reduction in State Complaints
- Excellent resource for other child-serving agencies

What's Next

- New inclusive parent page soon to be launched.
- Pilot activity to assist parents in preparing for mediation.



ODR ConsultLine Resources Available

- Special Education ConsultLine booklet
- Brand new parent page as part of ODR website
- Extensive links and resources to state and federal agencies

CADRE Continuum: IEP/IFSP Facilitation



IEP/IFSP Facilitation - Pilot

- ODR recipient of OSEP General Supervision Enhancement Grant (GSEG)
- Original developers of pilot chose directive method of Facilitation
 - Meeting belonged to the Facilitator
 - Role of Facilitator included providing technical assistance
 - Facilitator directed the crafting of the IEP/IFSP
- Completed IEP/IFSP only goal

Challenges/Roadblocks - Pilot

- Both parent groups and LEAs were uncomfortable with pilot.
- Grant money ran out.



Lessons Learned - Pilot

- Mediation and facilitation skills are very different.
- Needed answers to these questions:
 - What changes are needed to get “buy in” to the process?
 - Who should facilitate?
 - What training is necessary?
 - What model will work best for PA?
 - What procedures need to be put in place?

Lessons Learned - Pilot

- Identify differences between mediation and facilitation
- Investigate different models of facilitation
- Meet with constituents
- Choose your model carefully.
- Carefully/thoughtfully draft procedures.
- Bring in national trainers to provide Facilitation training (who share your vision of the model)!!

Challenges/Roadblocks - Now

- High turnover of Special Education Administrators prevents awareness and understanding of facilitation
- Lack of parent awareness of the option
- Parents complain that the final IEP/IFSP sent to them later does not incorporate all items agreed to at the Facilitated IEP/IFSP meeting.

Success!!! - Now

IEP/IFSP Facilitation now:

- Voluntary, free service
- Facilitative model is successful
- Evaluations of service are positive

What's Next

- Looking for ways to expand public awareness of this option (for both parents and LEAs) to increase requests
 - Mass mailing of copy of informational video to LEAs
 - More direct contact via phone calls to parties with 2 case managers
 - Advertise via PennLink

ODR IEP Facilitation Resources Available

- IEP/IFSP Facilitation Video (<http://odr-pa.org/iep-facilitation-video/>)
- IEP/IFSP Facilitation brochures and publications

CADRE Continuum: Resolution Meeting Facilitation



Resolution Meeting Facilitation

- Available for all parent-initiated due process requests involving a student with a disability
- Voluntary and FREE for both sides
- LEA and parent schedule the meeting; ODR arranges for the facilitator
- If agreement is reached and issues resolved, the parent can ask the Hearing Officer to withdraw the due process request.

Benefits of Resolution Meeting Facilitation

- Builds and improves relationships
- Provides opportunities for parties to resolve conflicts which could remove the need for due process
- Encourages parents and professionals to identify new options
- Typically less stressful than a due process hearing

Challenges/Roadblocks

- IDEA not clear on what Resolution Meeting should look like or include so LEAs hesitant to invite facilitator.
- Many attorneys initially did not see the need or advantage to the presence of a facilitator.

Challenges/Roadblocks

- High turnover of Special Education Administrators prevents knowledge and understanding of facilitation
- Public awareness of the option is an ongoing challenge

Lessons Learned

- More positive response when case manager makes personal contact via phone to offer resolution meeting facilitation versus simply email notice.



Success!!!

- As LEAs become more comfortable with the process, more repeat LEAs asking for resolution meeting facilitation.
- Most requests now coming from attorneys for both sides.
- For 2010-11, 26 resolution meeting facilitations took place; of these, 20 did not proceed to due process.

What's Next

- Looking for ways to expand public awareness of this option (for both parents and LEAs) to increase requests
 - More direct contact via phone calls to parties with 2 case managers
 - Advertise via PennLink

ODR Resolution Meeting Facilitation Resources Available

- Resolution Meeting Facilitation brochure
- Resolution Meetings: A Guide for Parents and Educators booklet
- Resolution Meeting Facilitation Fact Sheet

CADRE Continuum: Mediation under IDEA





Mediation

- High quality training of mediators is ongoing:
 - Greg Abell, Sound Options Group
 - Bernie Mayer, Ph.D., Werner Institute & Creighton University
 - Bob Stains and Mary Jacksteit, Public Conversations Project



Mediation

- High quality training of mediators is ongoing:
 - Justice Center of Atlanta
 - Pennsylvania Bar Institute Exceptional Children's Conference
 - Various Technical Assistance Consultants from PaTTAN and OCDEL



Challenges/Roadblocks

- High turnover of Special Education Administrators prevents awareness of mediation
- Confidentiality regarding mediation is an issue
- Scheduling in timely manner when parties do not give available dates
- Confusion over expectations of mediation and role of mediator
 - Parties, especially parents, expect mediators to have a strong knowledge of special education law.
 - PA model is facilitative, not evaluative.



Lessons Learned

- Pendency during mediation (PA Chapter 14 regulations) was important factor from parent perspective but in practical terms is rarely an issue.
- As mediation requests have increased, so have the complaints about mediators.

Success!!!

- Requests are rising!
- Reorganization of ODR now has 2 case managers devoted to mediation and facilitation; therefore,
- More personal contact instead of email than before

What's Next

- Finalization of Mediator Code of Ethics
- Exploration of cost-effective methods for training mediators
- Keeping the requests on the increase
- Mass mailing of copy of informational video to LEAs



ODR Mediation Resources Available

- Mediation Process video
- FAQs regarding mediation
- Guide to Mediation booklet
- Mediation brochure
- Information sheet describing “stay put” - Pendency
- FAQs regarding pendency

CADRE Continuum: Due Process Complaint (Hearing)



High Quality Training of Hearing Officers

- LRP Special Education School Attorneys Conference
- Council of Parent Attorneys and Advocates (COPAA) Conference
- Ninth Academy for IDEA Administrative Law Judges and Hearing Officers
- National Association of Hearing Officials (NAHO) 2010 Annual Professional Development Conference.
- Pa Bar Institute Exceptional Children Conference
- PA Department of Education annual conference

Challenges/Roadblocks

- Transitioned from two-tier to one-tier system in July 2008
 - Time-consuming processes
- Increased compliment of full-time hearing officers and greatly reduced number of contracted hearing officers
- Garnering support of stakeholders for the use of other dispute resolution activities prior to pursuing due process

Lessons Learned

- Benefits of smaller, full-time compliment of hearing officers include:
 - More effective communication between ODR and Hearing Officers
 - Reduction in costs for training
 - Better opportunities for mentoring new staff

Lessons Learned

- Benefits of smaller, full-time compliment of hearing officers include:
 - More relationship building between and among Hearing Officers and staff
 - More consistency among Hearing Officers in process and procedures

Success!!!

- In fiscal year 2010-2011, ODR received the smallest number of due process requests than in the previous 8 years and beyond.
- Concomitant with the reduction in due process is an increase in mediation requests.
- Hearing officer complaints have been greatly reduced.
- Hearing officers report high levels of job satisfaction.

What's Next

- Continue high level of hearing officer training opportunities despite budgetary constraints
- Continue looking for ways to continue downturn of number of requests by increasing use of other dispute resolution options

ODR Due Process Resources Available

- Mock Due Process Hearing video
- Introduction to Special Education Law video
- Motions Practice in a Due Process Hearing video
- Procedural Safeguards Notice video (coming soon)
- Procedural Safeguards Notice – audio version

ODR Due Process Resources Available

- Special Education Dispute Resolution Manual
- Prehearing Directions
- FAQs
- Due Process Fact Sheet
- Hearing Officer Decisions

ODR

Resources available to assist constituents

- Special Education Dispute Resolution Manual
- Online request submission and activity evaluation
- Informational videos
- Brochures/Fact sheets

ODR

Resources available to assist constituents

- Links to state and federal resources
- Link to CADRE
- Bilingual Specialist to assist callers
- ODR website (www.odr-pa.org)

ODR

Video Resources available

- The Mediation Process
- IEP Facilitation
- Resolution Meeting
- Mock Due Process Hearing
- Introduction to Special Education Law

ODR

Video Resources available

- Motions Practice in a Due Process Hearing
- Procedural Safeguards Notice (coming soon)
- Procedural Safeguards Notice – audio version
- A Tale of Two Conversations – CADRE Website

ODR Data Collection

- Always changing to meet new needs for data
- PA regulations added into the mix
- Well organized and user friendly database worth every penny

What's Next for ODR?

- Exploring the implementation of Hearing Officer settlement conferences prior to due process
- Hearing Officers preparing to produce a video on rules of due process proceedings
- Hearing Officers preparing for a presentation to the PA Bar Institute on due process

What's Next for ODR?

- Investigating the development of online lecture series on dispute resolution by ODR Director
- Preliminary talks with a Pennsylvania university about collaborating in the development of conflict training modules for online use.

What's Next for ODR?

- Revisiting the development of manual to assist unrepresented (pro se) parents to prepare for due process
- Proactive effort to support and expand dispute resolution and agreement-reaching activities for parents and LEAs.
- Investigate cost-effective technology options to increase public outreach and availability of services.

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.”

Nicholas Martin

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