



*How to Operate the Slide:*

Slide loads fully. No clicks needed except to advance to the next slide.

CLICK to advance to next slide.

This title slide introduces the focus of the module and allows you to begin the training session and draw everyone's attention.

The topics that *will* be covered in this module are listed on Slide 4, the agenda slide.

**Theme E Considered**

You can also use this slide to give the audience the Big Picture of the modules comprising **Theme E** of *Building the Legacy*. This includes making participants aware that:

- there are other themes around which important IDEA-related issues can be (and are!) meaningfully grouped (see the list of themes in this training curriculum in the box above); and
- there's more to know about procedural safeguards than what's covered in this specific module.

**Themes in**  
*Building the Legacy*

---

**Theme A**  
Welcome to IDEA

**Theme B**  
IDEA  
and General Education

**Theme C**  
Evaluating Children  
for Disability

**Theme D**  
Individualized Education  
Programs (IEPs)

**Theme E**  
Procedural Safeguards

*Available online at:*  
[www.nichcy.org/training/contents.asp](http://www.nichcy.org/training/contents.asp)

The complex block contains a list of five themes, each with a bold title and a brief description. To the right of the list is a URL for more information. At the bottom right of the block is a photograph of a diverse group of children smiling and huddled together. The entire block is enclosed in a black border.

## Familiar Approaches to Resolving Conflicts



A.

B.



Slide loads fully.  
No clicks are  
needed except to  
advance to the  
next slide.

CLICK to advance to next slide.

Slide 2 looks at some possibly familiar, definitely whimsical ways of resolving disputes.

A—the thumb war

B—a shoot-off at marbles

Ask questions to prompt both the audience's contemplation of the absurd and their sharing with you and each other what they know already about IDEA's dispute resolution processes. Suggestions:

- When was the last time any of you used such a method for resolving a conflict?
- Have you ever used either method?
- How would either method work in special education to settle disagreements?
- Would the outcome be fair? Why or why not?

- Would anyone in the room prefer these methods over what you know about IDEA's dispute resolution processes?
- What does mediation (due process, state complaint) have to offer that other familiar approaches to resolving conflict don't offer??

### The Purpose of Activity I

Dispute resolution is a complicated subject; it may well raise personal recollections in the audience for some participants that might disrupt the flow of the training curriculum. Therefore, this module begins with an activity designed to have participants consider how human nature plays into any conflict situation. Humanity has a long history of disagreeing over most everything, a wide spectrum of

ways in which we express disagreement, and many constructive and destructive ways of resolving our conflicts. The activity sheet—**Handout E-8**—is designed to introduce an element of laughter into a difficult subject. In combination with the opening slides, which are purposefully wry, we hope that a positive mood can be established to take on the discussion of conflict. Considering the nonconstructive options for dispute resolution that people have pursued over the years, the positive mechanisms available under IDEA stand in contrast.



## Opening Activity

### Purposes

1. To have participants reflect on ways of expressing disagreement and resolving conflicts.
2. To create a positive atmosphere within which to discuss the resolution of conflict.

### Total Time Activity Takes

10 minutes.

### Group Size

Pairs, to complete activity sheet. Large group, to discuss.

### Materials

Handout E-8  
Flip chart (optional)

### Instructions

1. Frame the activity by talking for a minute or two about mankind's long history of getting into—and out of—disagreements. Refer participants to **Handout E-8**, the activity sheet opening this training session.
2. Tell participants their task is to work with a partner to brainstorm answers to the activity sheet. Give them 5 minutes.

3. Call the room back to large group and have people tell you some of their brainstorming for #1, "Expressing Disagreement." What are some of the funny ways we have of letting others know we don't agree? Not so funny ways? Ask for audience input on what they feel are constructive ways of expressing disagreement and what ways are no-no's in their experience.

4. Now ask for their brainstormed lists for #2, "Finding Resolution." Has anyone in the room ever flipped a coin to resolve a disagreement? What other methods work—or don't work? How do they pick an approach when they have a conflict? What factors might be involved in choosing one approach over another? (Whether money is involved, anger, who the other person is)

5. Working from the list you generated whole-group, take a room vote, show of hands. What's the silliest way to resolve a conflict? The least productive? The one most people seem to go for? The most likely to succeed?

## How About These?



A.



B.

Slide loads fully.  
No clicks are  
needed except to  
advance to the  
next slide.

CLICK to advance to next slide.

Slide 3 continues the quest for the ultimate dispute resolution approach: the most fair to both parties, minimizing cost and acrimony or ill will, and most timely and responsive to the circumstances. On this slide, our choices are...

A — a race between stakeholders

B — a chess game, winner takes all!

And what do participants think of these two alternatives? Were either mentioned in their brainstorming with the opening activity? Briefly explore how these alternatives would work to resolve a conflict between parents and the public agency.

### Suggestions:

- Would you select your fastest runner and send that runner to win or lose a disagreement over whether your child is making adequate progress under his or her current IEP?
- How good are you at chess? How well would that work out for you, do you think? If you had to play chess, winner take all—would you win, or lose? Would either result have anything to do with whether or not your child was making adequate progress under the current IEP and what should be done about that?
- What alternatives does IDEA now offer?

Take a minute or two to contrast the fairness and cost involved in using an IDEA process to resolve a dispute between parents and the public agency versus using a contest like a track race.

None of this whimsy is intended to diminish the critical nature of dispute resolution. Quite the contrary. Hopefully, no one in the audience would argue with the premise that it is unacceptable to resolve conflicts on any basis other than the merits of each party's position and evidence.

And that's what we're going to look at today: IDEA's options for resolving disputes that allow the parties to continue their work together afterwards—namely, ensuring that a child with a disability has available to him or her a free appropriate public education in the least restrictive environment.

As a segue into seriousness, the box below offers a small reflection on ancient dispute resolution approaches.



**Have you heard of the “Spartan way” of arbitrating disputes?**

The Greek biographer and philosopher Plutarch once told the story of two men who wanted to avoid the rigors of a trial, but who made the mistake of submitting their dispute to the Spartan king, Archidamus II (469-427 BC), for arbitration. The king took the disputants to the temple of Athene of the Brazen House and asked them to swear to abide by his award. They agreed.

Then the arbitrator said: “You both stay here till you have made up your quarrel.”

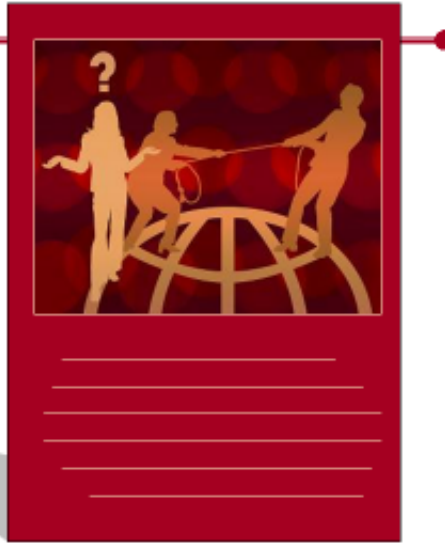


Fazzi, C. (2000, August-October). Tales of arbitration from ancient literature. *Dispute Resolution Journal*. Retrieved June 6, 2007 at [http://findarticles.com/p/articles/mi\\_qa3923/is\\_200008/ai\\_n8905522](http://findarticles.com/p/articles/mi_qa3923/is_200008/ai_n8905522)

## This module looks at...

### IDEA's options for dispute resolution

- Informal approaches
- State complaints
- Mediation
- Due process complaints
- Resolution process
- Due process hearings
- Expedited due process hearings in disciplinary situations
- Other hearings



Slide loads fully. No clicks are needed except to advance to the next slide.

CLICK to advance to next slide.

Slide 4 is an advance organizer for the audience as to what content they're going to hear and discuss in this module. The slide loads the header "This module will look at..." and a list of IDEA's dispute resolution options.

### Using the Slide to Activate Knowledge

Each of the bulleted items allows you to solicit remarks from your audience, as time permits. The interaction you have with the audience—or more precisely, *their* participation in the interaction—activates their knowledge base and attention,

and allows other participants to absorb that knowledge and interest.

Some suggestions:

*Bullet 1: Informal approaches.* Ask for a show of hands—how many in the audience are administrators of schools? Administrators of school systems? Parents? Teachers? Something else entirely? When they read the first bullet, informal approaches to dispute resolution, what comes to mind? (Friendly phone call, an IEP meeting)

*Bullet 2: State complaints.* Has anyone in the audience filed a State complaint? Does anyone

know how to file one? What type of information needs to be included in one? How many in the audience are administrators or public agency staff who have been involved in a State complaint investigation?

*Bullet 3: Mediation.* Ask similar questions—have they ever participated in a mediation? What have they heard about mediation?

*Remaining bullets.* Same drill. What does the audience know about due process complaints and due process hearings? How about the resolution sessions—

added to IDEA by the 2004 Amendments? How about expedited due process hearings in disciplinary situations? And what might that last item ("other hearings") be referring to? (Insider scoop: It's referring to hearings when a child with a

disability is unilaterally placed at a private school when tuition reimbursement is at issue. But we'll get to that, we promise.)

These are the elements that will be examined in some detail in this module. When done, no one in the audience will have to

play tic-tac-toe or engage in a footrace to resolve a dispute in special education. They will have other, much fairer tools to use.

## Slide 5

### Procedural Safeguards Notice

## Procedural Safeguards Notice

- Is a comprehensive written explanation of procedural safeguards available to parents of a child with a disability.
- Must be provided to parents once per school year.
- Must also be given to parents under specific conditions.



Slide loads fully. No clicks are needed except to advance to the next slide.

CLICK to advance to next slide.

To help parents better understand their rights under IDEA, including their options for resolving disagreements, public agencies must provide parents with a copy of the procedural safeguards notice. As the slide indicates, this is a comprehensive written explanation of the procedural safeguards available to the parents of a child with a disability.

The procedural safeguards notice, by the way, was examined in some detail in Module 17, *Introduction to Procedural Safeguards*, some of which is being reiterated here.

As the slide also indicates, the public agency must provide parents with this notice only one time a school year, except under certain specific circumstances, namely:



- when the child is initially referred for evaluation or the child's parent requests that the child be evaluated;
- upon receipt of the first State complaint and upon receipt of the first due process complaint in a school year;
- in accordance with the discipline procedures in §300.530(h) [i.e., disciplinary removal that constitutes a change of placement for the child]; and
- when the parent requests a copy of the procedural safeguards notice.

The box below provides the provision from the final Part B regulations at §300.504(a). Refer participants to **Handout E-4**.

The final Part B regulations require that the procedural safeguards notice contain a full explanation of the procedural safeguards relating to, among other matters, the availability of mediation and an opportunity to present and resolve complaints through the due process complaint and State complaint procedures, including:

- (1) the time period in which to file a complaint;
- (2) the opportunity for the agency to resolve the complaint; and
- (3) the difference between the due process complaint and the State complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures. [§300.504(c)(5)]

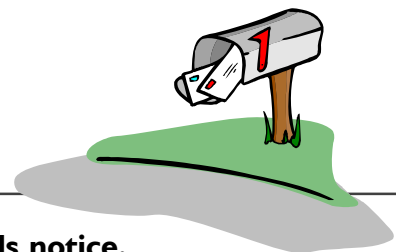
While the requirement to ensure that parents are provided notice of their procedural safeguards is not new, the 2004 Amendments to IDEA and the final Part B regulations expand the required content of the procedural safeguards notice regarding the State complaint and due process complaint procedures. This represents a key change from previous regulations. It may be helpful to take a look at your public agency's procedural safeguards notice and the Model Procedural Safeguards Notice developed by the Department in accordance with section 617(e) of the IDEA. The Department's Model Notice may be found at the Department's Web site at:



<http://idea.ed.gov/static/modelForms>

Also, in keeping with §300.507(b), public agencies must provide parents information about free or low-cost legal and other relevant services in the area if the parent requests the information, or if the parent or the public agency files a due process complaint. Examples of such resources include the State's Protection and Advocacy (P&A) agency and Legal Aid Bureau. If you have questions about the dispute resolution options, you may want to contact your local Parent Training and Information (PTI) Center. To locate your State's P&A and PTI, visit NICHCY and find your *State Resource Sheet*. Both of these groups are listed on the sheet. All *State Resource Sheets* are available at:

[www.nichcy.org/states.htm](http://www.nichcy.org/states.htm)



### **§300.504 Procedural safeguards notice.**

(a) *General.* A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents only one time a school year, except that a copy also must be given to the parents—

- (1) Upon initial referral or parent request for evaluation;
- (2) Upon receipt of the first State complaint under §§300.151 through 300.153 and upon receipt of the first due process complaint under §300.507 in a school year;
- (3) In accordance with the discipline procedures in §300.530(h); and
- (4) Upon request by a parent.