

Building Collaborative Relationships in Special Education:
Foundations and Strategies

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Appropriate Dispute
Resolution In
Special Education
(CADRE)



The IDEA Partnership
Project (at NASDSE)



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Development Team

The following individuals & organizations participated in the development of this presentation



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- American Occupational Therapy Association (AOTA)
 - Carol Gryde



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The following individuals & organizations participated in the development of this presentation



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- Maureen Hollowell



□ **National Education Association (NEA)**

- Judy Richards



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□ **School Social Work Association of America (SSWAA)**

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- Diana MTK Autin



□ **Wisconsin Family Assistance Center for Education, Training & Supports (FACETS)**

- Nelsinia Ramos



□ **Wisconsin Special Education Mediation System**

- Nissan Bar-Lev
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“Seek first to understand, then to be understood.”

Stephen Covey, “Habit 5”
Seven Habits of Highly Effective People

CADRE/IDEA Partnership

Dispute Resolution Workgroup Vision

- ❑ Educational outcomes will be improved when families, schools and service providers are working together effectively.
- ❑ Provision of training and educational opportunities to a diverse group of stakeholders enhances the capacity to engage in collaborative problem solving and shared learning that is responsive to individual students' needs.

Workshop Outcomes

Participants will acquire an increased awareness of the breadth of issues and strategies associated with Special Education Dispute Prevention/ Early Resolution including:

- ❑ Gaining a better understanding of conflict and the ways that people respond
- ❑ Learning about programs and strategies that comprise the “Continuum of Conflict Resolution Practices”
- ❑ Understanding the power of listening in preventing and resolving conflicts
- ❑ Gaining an awareness of interest based problem solving strategies
- ❑ Understanding the important role of cultural issues in relation to resolving disputes
- ❑ Becoming aware of useful resources for additional information

Our Assumptions...

- ❑ Different cultures may have differing perspectives on conflict and how it's most appropriately approached
- ❑ Conflict is a healthy reflection of a diverse and changing society
- ❑ Most parent/school relationships are or can be positive and mutually respectful
- ❑ Skills can be acquired that help facilitate productive relationships

Our Assumptions...

- ❑ Early opportunities exist to collaboratively address differing viewpoints on how to best serve the child
- ❑ Adversarial processes should be reserved for situations where other options have been exhausted
- ❑ The cost of adversarial processes can be high in personal, relationship and financial costs

Conflict

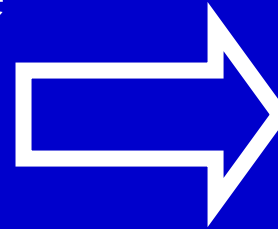
“Conflict is the sandpaper that allows us to smooth the rough edges of our life.”

– The Magic of Conflict Thomas F. Crumb Simon and Schuster, 1987

What does the word “conflict” bring to mind?

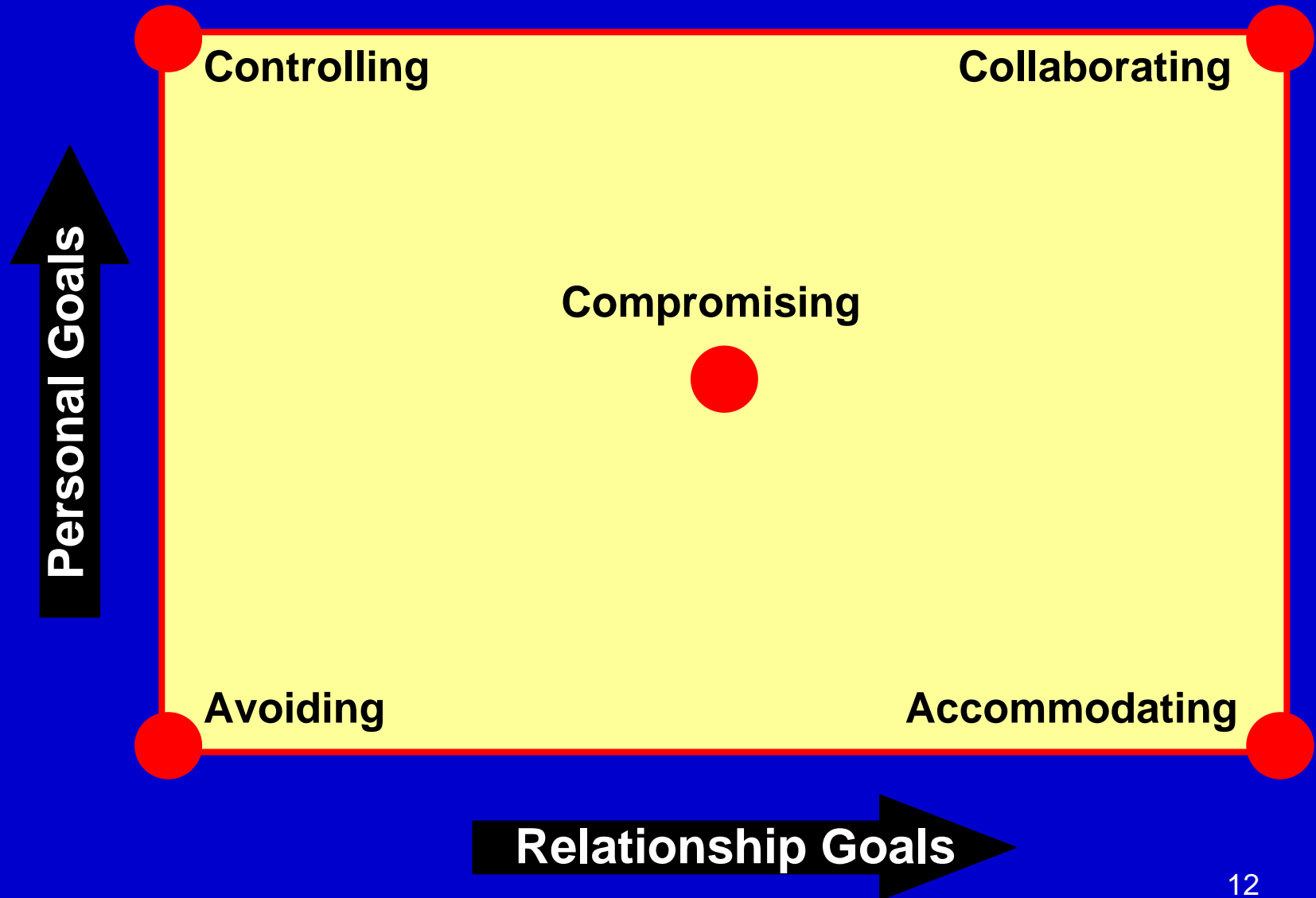
Conflict

- ❑ Expressed struggle
- ❑ Two or more people
- ❑ Interdependent
- ❑ Strong emotion
- ❑ Perceived blockage

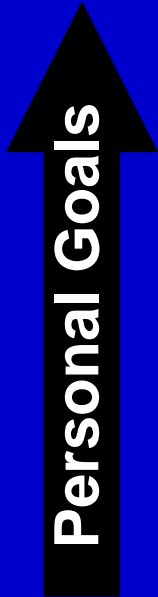


Needs
Values

The Five Conflict Handling Modes



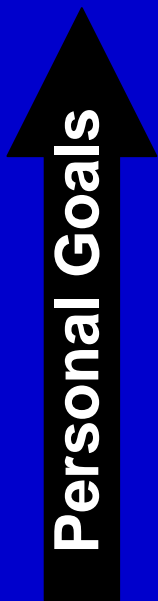
Avoiding



- What is it:
 - Sidestep, postpone, or withdraw from the issue for the present
- When to use it?
 - When potential harm outweighs benefits to resolve
 - When time is needed to collect information or cool down



Accommodating



- What is it?
 - Sacrifice your own personal goals to satisfy the concerns of the other(s)
 - Yield to another point of view
- When to use it?
 - When relationships are most important
 - Reach a quick, temporary solution



Controlling

Personal Goals

- What is it?
 - Pursue own ends without agreement of others
 - Achieving one's personal goals paramount
- When to use it?
 - When unpopular actions must be implemented
 - When your family or organization's welfare is at stake

Relationship Goals

Compromising



Personal Goals

- What is it?
 - Quick, mutually acceptable alternatives
 - Both parties give up something
- When to use it? ●
 - When two parties of equal power are strongly committed to mutually exclusive goals
 - To achieve temporary solutions to complex issues



Relationship Goals

Collaborating

Personal Goals

- What is it?
 - Identifying concerns of each person and finding alternatives that meet both sets of needs
 - Finding a solution that fully satisfies needs and concerns of both people
- When to use it?
 - When relationships & issues are both important
 - To gain commitment and acceptance for a high-quality decision

Relationship Goals

Scenario 1

- Your son, who is in the sixth grade, wants to grow his hair long and pierce his nose.

Scenario 2

- You have asked the school principal to have your child with a disability included and involved in more classes with children who do not have disabilities. The principal says she does not have the staff to provide your child with an aide which would be necessary if your child were to attend those classes.

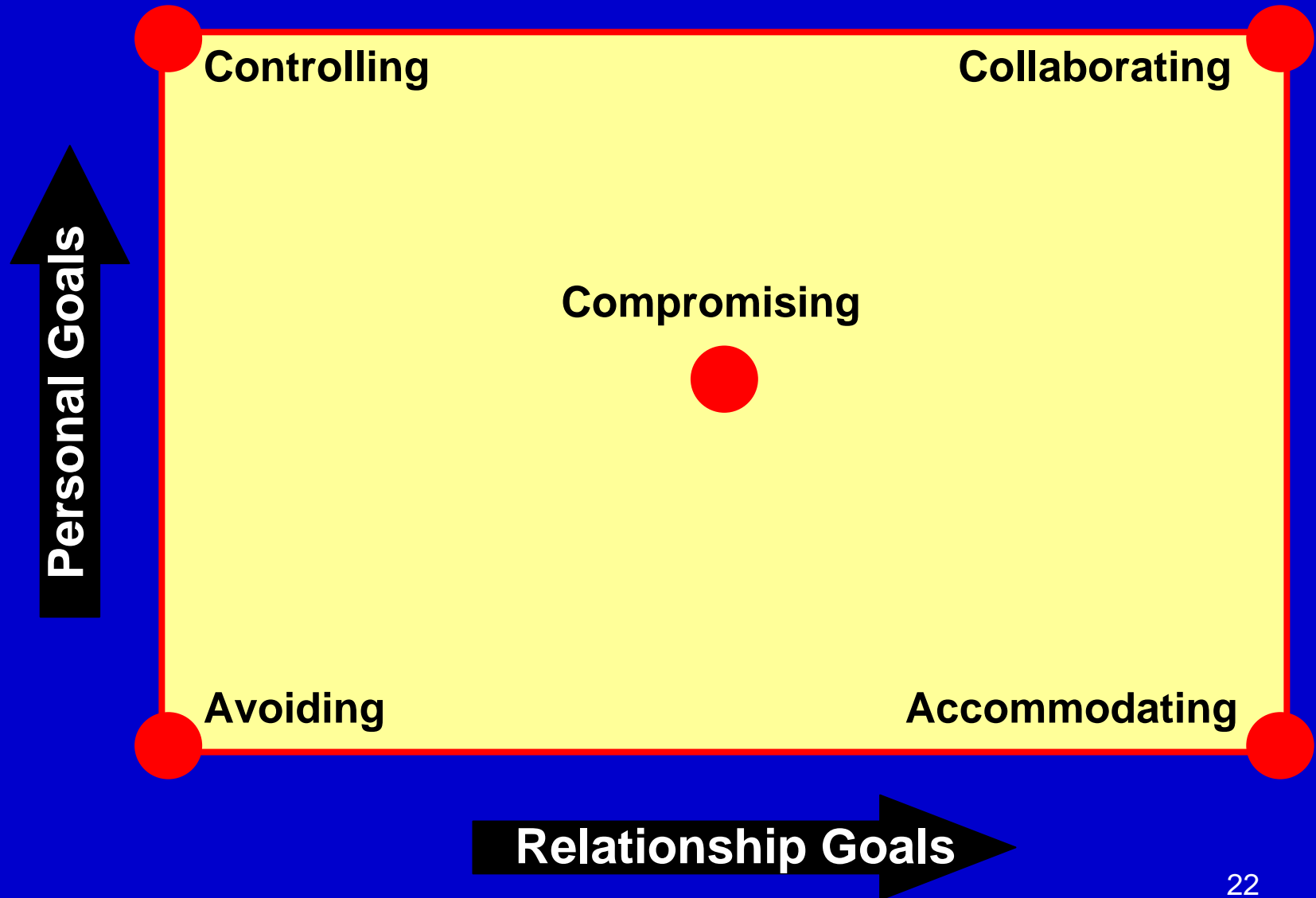
Scenario 3

- You want to take a vacation to the mountains, but your spouse/partner wants to use the vacation time to visit his/her ailing mother.

Scenario 4

- You have been given additional responsibilities at work. Your boss has indicated that the company might be willing to give you a small hourly raise. You believe that the additional duties indicate a higher raise.

The Five Conflict Handling Modes



Costs of Conflict

- ❑ Financial costs
- ❑ Educational costs: bleeds energy away from instruction, can interfere with needed consistency
- ❑ Human costs: stress, burnout, marital discord
- ❑ Relationships: hurts relationships among people who have to work together
- ❑ Societal costs: parents, families, schools divided; bad press for special education; missed opportunities

Comparison of Dispute Resolution Approaches

Informal Negotiation	Resolution Session	IEP Facilitation	Mediation	IDEA Complaint	Due Process
Private/Informal	Private/Informal	Private/Informal	Private/Informal	Public/Formal	Public/Formal
2-3 days	15-30 days	12 Days	21 Days	60 Days	45 Days
\$?	\$?	\$?	\$?	\$?	\$?
Future	Future	Future	Future	Past	Past
Voluntary	Voluntary	Voluntary	Voluntary	Involuntary	Involuntary
Win/Win	Win/Win	Win/Win	Win/Win	Win/Lose	Win/Lose

Source: Adapted from Wisconsin Special Education Mediation System

- ❑ How much do you think each of these processes costs?
- ❑ What do you include when you think about process costs?
- ❑ It's more cost-effective to resolve disputes early.

Dispute Resolution Processes Under IDEA '04

- ❑ Written State Complaint (assumed to be in regulations)
- ❑ Mediation
- ❑ Resolution Sessions
- ❑ Due Process Hearings

- ❑ For more information, visit:
<http://www.ed.gov/policy/speced/guid/idea/idea2004.html>

Dispute Resolution Options

No Neutral

With a Neutral

C
O
N
F
L
I
C
T

Informal / Formal Negotiation

Litigation

Destructive

Telephone Call

Facilitated IEP Meeting

IDEA Complaint

Slander

Scheduled Meeting

Mediation Session

Law Suit

Hate Mail

Resolution Session

Facilitated Resolution Session

Due Process

Violence

Least coercive

Most coercive

Most self-determination

Least self-determination

Use of Procedural Safeguards 2002-2003 – 50 States

- Mediations Held
 - 6,790 held
 - 4,722 with agreements (70%)
- Due Process Hearings
 - 12,889 requests
 - 2,184 hearings held (17%)
- Complaints Filed
 - 5,715 filed
 - 2,992 with findings (52%)

Listening

Listening to Understand

Instruction:

Identify a situation/issue from your workplace that you have/had strong thoughts and feelings about, and are comfortable sharing here today with someone who you don't know (pick manageable issue.)

High Risk Responses (listening?)

1. Ordering
2. Threatening
3. Moralizing
4. Advice
5. Logical Argument
6. Questions
7. Judging
8. Praising
9. Name Calling
10. Diagnosing
11. Reassuring
12. Diverting

Certain Responses ...

- ❑ Derail the conversation
- ❑ Take the focus off the other
- ❑ Block the other from finding a solution
- ❑ Lower the other's self-esteem
- ❑ Distance your self from the other
- ❑ Diminish the other's motivation

“Listening is probably the most cost effective element of a conflict management system.”

Mary Rowe

Listening is a disciplined skill

I can't do two things at once if one of them is listening.

Listening to Understand

Following the thoughts and feelings of others to understand what they are saying from their perspective, frame of reference, or point of view.

Dignity and Respect

Listening Problem Solving

- ❑ Sometimes speakers just need to be heard
- ❑ Sometimes listening clears up confusion
- ❑ Sometimes listening identifies a need for problem solving

Listening to Understand (Exercise Set-Up)

- Break into triads w/people you don't know. Choose "A," "B," and "C."
- "A" – Identify a situation/issue from your workplace that you have/had strong thoughts and feelings about, and are comfortable sharing here today with someone who you don't know (pick manageable issue.)
- "B" – Seek to understand what is powerful in the situation for "A" as a human being, and communicate your understanding to "A."
- "C" – Observe, without interruption, and facilitate debriefing. Notes OK. Listen/look for any of the High Risk Responses by "B." Respectful/balanced feedback.

Listening to Understand (Do's)

- ❑ Maintain curious inquiring mind about "A"
- ❑ Put personal opinions, beliefs, and judgments about "A's" situation aside – not relevant
- ❑ Find the heart of "A's" experience by listening for what's 'behind' the situation. Listen to understand "A", not the situation.
- ❑ Use silence . . . wait
- ❑ Let "A" know you "get" what is personally powerful for him/her from the situation
- ❑ Name the EMOTION you believe that "A" is experiencing

Listening to Understand (Avoid)

- ❑ Interrupting
- ❑ Debating or trying to fix it for "A"
- ❑ Sliding opinion in under guise of listening
- ❑ 4 C's: **Contesting, Convincing, Convicting or Converting**
- ❑ Rehearsing response – it will come
- ❑ Too many questions = not listening
- ❑ Confusing yourself with "A" (projection makes perception)

Exercise (beyond paraphrasing and reflection)

1. 'A' -- Share situation succinctly (30 seconds)
2. 'B' -- Feedback your '**reach for understanding**': Use expressions like, "Sounds like...." Read between the lines (30 seconds)
3. 'A' - Correct or validate "B's" attempt to "know what you mean." Share more of situation. Educate "B" so "B" can "get it" fully.
4. 'B' – Feedback more '**reach for understanding**'
5. Repeat Steps 3 & 4 until "A" reports **feeling heard and understood** (continue for a maximum of 3 minutes – shorter than normal)
6. Debrief
7. Switch roles; repeat steps 1-6.

To listen a soul into disclosure and discovery is the greatest service one human can do for another.

Quaker saying

Summary

- AM
 - Conflict – What it is
 - Styles & approaches
 - Cost of Conflict
 - IDEA '04
 - Listening
- PM
 - Positions/Interests
 - Cultural Competence
 - Student Involvement
 - Continuum/IEP Tips
 - IEP Facilitation
 - Mediation
 - Next Steps

Positions & Interests

Positions & Interests

Position

Specific solution proposed to resolve problem - the “WHAT”

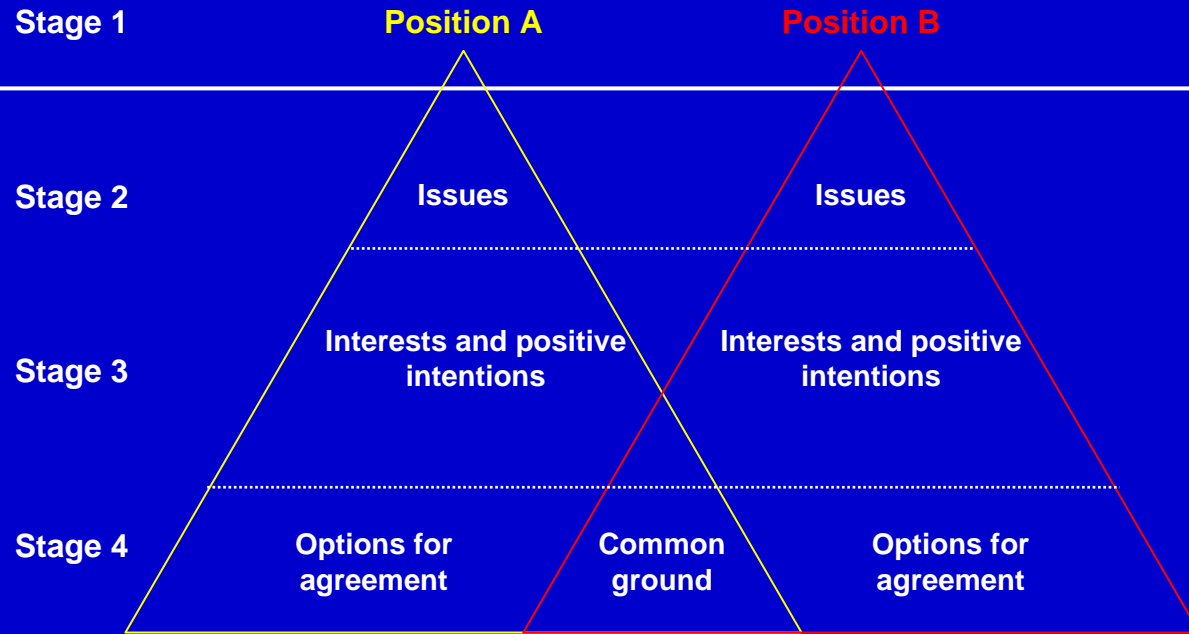
Interest

Underlying real need/desire that gives position its life (i.e., beliefs, expectations, values, fears, priorities, hopes, concerns) – the “WHY”

Sample Positions:

- *"The target level for appropriate interactions in my classroom must remain at 50%."*
- *"We want an American Sign Language interpreter in that English Lit class."*
- *"I demand an apology now!"*
- *"Rob has a right to a full time instructional assistant next term"*

Finding the Interests



Position:	One party's solution to the problem/ situation. Often a self-serving solution
Issue:	Elements or subject matter of the problem. Elements at issue between the parties that must be negotiated in order to reach agreement.
Interest:	Factors that motivate/ drive parties to reach agreement and take positions Interests underlie positions in that the parties' positions are intended to meet and or address their interests (hopes, wants, needs, fears, concerns)

Finding the Interests

Question, question, question...

- *"Why is that solution so important for you?"*
- *Why are you suggesting...?*
- *"What would you accomplish in getting what you want?"*
- *"What if that did/didn't happen?"*
- *"How will you be affected by...?"*
- *"Imagine that you got _____; what would be taken care of?"*

Finding the Interests

- ❑ What need is the person taking this position attempting to satisfy?
- ❑ What is motivating the person?
- ❑ What is the person trying to accomplish?
- ❑ What is the person afraid will happen if a demand is not fulfilled?

Case of Lisa -- Role Play and Debrief

What are the INTERESTS of Mr. Smith, Mrs. Smith, the District Special Education Administrator, and the Building Principal?

Summary: Interest-based Negotiation

- ❑ Aims not to change the other person, but to change negotiation behavior
- ❑ Shifts from "your position versus mine" to "you and I versus the problem"
- ❑ Involves a mutual exploration of interests to yield more creative options.
- ❑ Uses objective criteria

Adapted from Highnam, K. (2001). Interest-based negotiation, CSSEA 2001 Fall Conference and AGM. Surry B.C, Canada. CSSEA; Fisher and Ury, *Getting to Yes*.

Cultural Competence & Diversity

Cultural Competence and Diversity

- ❑ Understand the role of differences that affect or define status, relationships and socially acceptable behavior
- ❑ Provide ongoing training and support in diversity, cultural competence, flexibility
- ❑ Provide qualified, trained and prepared interpreters when needed
- ❑ Modify communication methods, processes and materials to respond to individual circumstances

Cultural Competence and Diversity

- ❑ Recognize that many people communicate and process information differently
- ❑ Check-in, monitor and behave responsibly
- ❑ Allow time for reflection, don't always fill silent spaces
- ❑ Engage community leaders and cultural liaisons
- ❑ Actions and words don't always have impact we intend

Cultural Competence and Diversity

The Platinum Rule:

“Do unto others as they would have you do unto them.”

Tony Alessandra

Student Involvement

Fundamental Value:

The student should be present and participate as much as possible in any meeting regarding their services.

“Nothing about me
without me.”

Student Participation

- ❑ What are the advantages?
- ❑ What are the challenges?
- ❑ What are the things to keep in mind?

CADRE Continuum of Conflict Resolution Options

Stage I			Stage II			Stage III			Stage IV			Stage V			Stages of conflict			
<i>Prevention</i>			<i>Disagreement</i>			<i>Conflict</i>			<i>Procedural Safeguards</i>			<i>Legal Review</i>			Levels of Intervention			
Participant & Stakeholder Training	Stakeholder Council	Collaborative Rule Making	Parent-to-Parent Assistance	Case Manager	Telephone Intermediary	Facilitation	Mediation Models	Ombudsperson	Third-Party Opinion/Consultation	Resolution Session	Mediation Under IDEA	Complaints	Due Process Hearing	Hearing Process (Tier II)	Litigation	Legislation	Assistance/ Intervention Options	
Third-Party Assistance									Third-Party Intervention									Dimensions that help clarify placement of the options along the continuum
Decision Making by Parties									Decision Making by Third Party									
Interest Based Based on mutually acceptable solutions									Rights Based Based on legally defined rights									
Informal & Flexible									Formal & Fixed									

What IEP Conveners Can Do To Encourage Parent Participation in Meetings (Pre-Meeting)

- ❑ Explain crucial nature of parent's involvement and what will happen at the meeting
- ❑ Invite parents to bring anyone they wish
- ❑ Explain who will be there from the school and why. Ask the parent(s) if anyone has been left out
- ❑ Schedule convenient time and location, and ample time for meeting
- ❑ Establish if parent(s) need help with transportation or childcare
- ❑ Invite parents to review relevant documents prior to meeting, encourage classroom visits
- ❑ Keep parents advised of progress on an ongoing basis

What IEP Conveners Can Do To Encourage Parent Participation in Meetings (During Meeting)

- ❑ Make parents feel welcome
 - ❑ Greet at door
 - ❑ Cup of coffee?
 - ❑ Same size chairs for everyone
 - ❑ Brief pre-meeting chit-chat and acclimatization
- ❑ Everyone introduce themselves and explain why they are there
 - ❑ Everyone be addressed with the same degree of formality
- ❑ Speak in clear, plain language – avoid jargon and discipline-specific terminology
- ❑ Have specific materials available that are referred to

What IEP Conveners Can Do To Encourage Parent Participation in Meetings (During Meeting)

- ❑ Focus on the child's individualized needs – not your program, classroom, or resource limitations
- ❑ Listen carefully
- ❑ Maintain confidentiality – don't discuss other students
- ❑ Don't hurry
- ❑ Be honest and trust that the parent is also
- ❑ Be willing to say "I don't know"
- ❑ Involve student for at least a portion of the meeting if they can contribute and always if 18 or over

What IEP Conveners Can Do To Encourage Parent Participation in Meetings (Post-Meeting)

- Review and evaluate
 - What worked
 - What didn't
 - Incorporate improvements into future meetings
 - Consider building meeting tip file for each child – sources of anger, joy etc.
- Send home thank you note
- Write down specific suggestions about things parents can do at home to help

Wisconsin IEP Facilitation (External Facilitator)

- ❑ What is a facilitated IEP?
- ❑ Why establish a Stakeholders' Council?
- ❑ Why maintain parent-school partnership?
- ❑ Why use IEP facilitation?
- ❑ When to use IEP facilitation?



Wisconsin IEP Facilitation (External Facilitator)

- ❑ Requesting IEP facilitation
- ❑ Screening process
- ❑ Wisconsin IEP external facilitators
- ❑ Role of the facilitator



Wisconsin IEP Facilitation (External Facilitator)

- ❑ Participants satisfied with facilitated IEP process:
 - ❑ Agree: 87.0%
 - ❑ No Opinion: 3.8%
 - ❑ Disagree: 9.2%

- ❑ Participants would use facilitated IEP again:
 - ❑ Agree: 89.0%
 - ❑ No Opinion: 8.0%
 - ❑ Disagree: 3.0%

Wisconsin IEP Facilitation (External Facilitator)

- Participants believed that the facilitator was neutral:
 - Agree: 86.6%
 - No Opinion: 5.9%
 - Disagree: 7.5%

- Participants would use same facilitator again:
 - Agree: 85.8%
 - No Opinion: 6.6%
 - Disagree: 7.6%

Internal Facilitator

- ❑ Skilled in facilitation techniques, but is not a facilitation expert
- ❑ Is a member of the group
- ❑ Is *not* impartial
- ❑ Participates in content-related discussions & decisions
- ❑ Assists with process-related decisions

Mediation

Creating Agreement: The Mediation Process

- ❑ Setting the Stage: Environment, Expectations, Process
- ❑ Establish rapport and trust
- ❑ Uninterrupted Time for each participant
- ❑ Identify, clarify, summarize issues
- ❑ Discuss issues and listen for common ground
- ❑ Generate possible solutions
- ❑ Consider possible solutions
- ❑ Build agreements along the way

Power Imbalances

Inherent in Conflict

- ❑ Actual and Perceived Power may differ
- ❑ Participants may not be equipped/ supported to participate effectively
- ❑ Cultural differences may contribute

Addressing Power Imbalances

- ❑ All voices encouraged, supported and welcomed
- ❑ Well-facilitated processes and trained participants
- ❑ Relationships well-built help overcome imbalance

What else can help address power imbalances?

Please complete your
Evaluation Forms!

For more information, contact

CADRE, the National Center on Dispute
Resolution in Special Education
www.directionservice.org/cadre

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The IDEA Partnership
www.ideapartnership.org