

CADRE Webinar - July 10, 2012
“IEP/IFSP Facilitation Techniques for Success: Counter Proposals & Consensus-As-You-Go”
Presented by Trisha Bergin-Lytton

Marshall: We'll give the poll just another minute while I do a brief introduction. I want to say hello and on behalf of CADRE, The National Center on Dispute Resolution in Special Education, I'd like to welcome you to today's webinar on IEP/IFSP Facilitation Techniques for Success: Counter Proposals & Consensus-As-You-Go. Today's webinar is one in a continuing series of CADRE webinars and I'll be providing you with some additional information at the end of this call about our next webinar and when it's scheduled for. You should be seeing some poll questions on your screen, if you could please answer those (audio cuts out) muted to preserve sound quality. Later on in this call we hope to have a little bit of time for Trisha to answer questions and if you wish to pose a question press *6 to unmute your phones but at this point please leave your phone muted. You can also enter questions or comments into the chat box on the bottom right hand corner of your screen throughout today's webinar. CADRE staff will be attending to those. So I'd like to welcome today's presenter, Trisha Bergin-Lytton. Trisha is an independent mediator, IEP/IFSP facilitator, trainer and consultant. Ms Bergin-Lytton has presented skill-building workshops about the facilitated IEP/IFSP process and special education mediations at a number of state level and national conferences including very well received presentations at several CADRE symposia. As I look through her very impressive credentials, I was particularly struck that she has provided over 575 alternate dispute resolution services dealing with extremely challenging multi-party situations, primarily working with school districts special education departments but also with other governmental judicial agencies. And so with that, Trisha, please take it away.

Trisha: Thank you Marshall, I appreciate those kind words and vote of confidence and I think we'll just go ahead and get underway and move to our second slide here. I welcome everybody that's participating this morning and just a little bit of housekeeping and then we'll get going here. We're going to spend 75 minutes together first few minutes introduction and some guidelines, next couple of minutes of purpose and outcomes and then we're going to move into a little bit of framework centered around just the facilitation process itself and IEPs and IFSPs and then we're going to get into really the heart of the webinar today and that is that we'll be doing consensus-as-you-go and counter proposal techniques. So those are what we'll spend the most time on today, about 40 minutes. We'll then have 15 minutes of a question and answer open up for then having some discussion. During the 40 minutes I'm hoping there should be a couple of points where I'll be able to check in with the CADRE folks as they're monitoring questions and take a couple of questions. We won't really be open for a lot of chatting back and forth during the webinar or we won't get through the subject matter. So there'll be a couple of points during the 40 minutes that I'll go ahead and say let's a look at some questions that pertain to what we just discussed and I'll count on the CADRE folks to help monitor and shoot me a couple of questions and then at the end we'll have 15 minutes so I hope that will work for everybody. I do want to say typically my presentations and trainings are very interactive and a lot of participant interaction and activities and due to the webinar and the format it's going to be mostly lecture format. So, hope everybody will follow along. The intent today is just to be,

subject matter to be informative and educational, it's not intended to be legal advice. I work with attorneys a lot – I leave that expertise to them, just so folks are aware of that. The PowerPoint is copyrighted so I would just appreciate that you honor that and I thank you ahead of time for that. And now getting into the purpose of the presentation and I think this is what was on the CADRE website to introduce the webinar to see if you were of interest in participating and that is to increase your knowledge and skill level by exploring effective techniques to implement during an IEP or an IFSP meeting, that will promote positive interactions and outcomes and improve the opportunity for you to gain and maintain agreements. And I will say that, I think, many of you that are participating at least from the counts I could see before the surveys went off the screen should have lots of skill and lots of knowledge in maybe one of the two areas, either IEPs or facilitating and mediating and we may have some folks that are skilled in both areas. So I'm hoping that we're just going to build on your current knowledge and skill level in the fields that you are all in. The outcomes for today – we're going to go over two techniques, counter proposal technique, consensus-as-you-go technique - and going to recognize the purpose of each of those techniques, the process of each of those techniques, examine the significance of the skill of questioning for each of those techniques, investigate strategies to implement each of those techniques, and then discover the benefits and challenges if you do choose to use each of these techniques. I think there's a lot of practical application day to day, not just IEP or IFSP meetings, but I think as you go about your business each day and have department meetings or organization meetings or just work with a family or a district, you can use either of these two techniques. It does not have to be that you think about these only at the time you go to an IEP or an IFSP meeting. Without further ado we'll get into a little bit of framework about IEP/IFSP facilitation and I'm going to just spend about 10 minutes as the agenda sort of had on its slide where we all just kind of at least are coming from the same sort of framework before we move into our two techniques. And I'll just say that facilitation in general, it doesn't have to be at an IEP or an IFSP, the goal should always be as the facilitator to improve the way the team that you're working with defines its problems, resolves its team problems and makes team decisions. Ultimately you're trying increase the group's effectiveness to collaborating and developing whatever the required task is at hand. We happen to be talking about IEPs and IFSPs but any facilitation goal should always sort of concentrate on helping that group become a more productive group in the future maybe without your assistance even. I always look at my work of facilitating an IEP or an IFSP as providing a model for facilitation. I'll kind of think about doing a little mini training while I'm working with that case and hoping that I can share as much information as much of my pre-meeting and during meeting techniques and skills and knowledge that they can be repeated without me having to be present or without an outside facilitator having to be present so that the group itself really begins to pick up and be able to duplicate some of those skills, some of those techniques on their own. Ultimately hoping that the group can work with families, districts, without relying on having to maybe go to that formal complaint (*audio cuts out*). And the purpose of an IEP or IFSP facilitation. I think it is typically trying to initiate some early conflict management or resolution, whatever wording or terminology you like to use. Building and improving upon team relationships, I always remind folks if you're working with a young student you've got a lot of years to go so it behooves you to learn how to work productively and collaborate with the group around that student. Encouraging full participation of who's at

the team meeting, supporting the IEP or IFSP process. And I always have a phrase that I use that helps people understand what my role is as that outside facilitator and that is that I'm an advocate for the process, the IEP or the IFSP process. I'm not there as an advocate for the family. I'm not there as an advocate for the district. But I'm there as an advocate for the process, that we walk through all those components, address those components, reach consensus and really hear out a lot of proposals that come up during the meetings. I think we're obviously demonstrating effective communication skills while we're facilitating an IEP or an IFSP, enhancing those problem solving techniques of the group, and promoting the investigation and evaluation of solution options. So, really taking the time to really look at all those issues that are coming up throughout that meeting surrounding that student's educational program. Maintaining consensus building, obviously a big purpose and then addressing IEP and IFSP issues. And let me just say for a minute, I think a lot of times people feel like an IEP or IFSP team has more authority or responsibility than they do. So I think it helps before entering that meeting and starting that meeting to find out what the issues are and to find out through discussing with both your parties, your family and your districts folks, which of those are really responsibilities of the IEP and which aren't. Few examples, board policies, school board policies, attendance, truancy, use of cell phones, are not something that an IEP team is going to change. In a student's plan, certainly they can individualize things. Hiring and firing staff is not the responsibility of an IEP team. Possibly, you know, the hiring and firing the independent transportation organization that may provide bussing for a district are not within the responsibility of an IEP or IFSP team. So I think it helps to sort of, sort of tag which of those are the responsibility of the team and which aren't. I do a lot in another training that has to do with how you deal with those and how you can handle those. I think that all of these purposes that I've listed, whether you're proactively as (*audio cuts out*) because you hear some rumblings of some issues that may escalate into something you don't want and you want to deal with it proactively that you may be convening a facilitated IEP, at the formal complaints stage through your state department's process, part of a complaint could be that as a corrective action plan you're being asked to convene a facilitated IEP or IFSP. If you're at the due process complaints stage one of two ways a facilitated IEP might come out of that or result from that, either the decision by the hearing officer has stated you'll convene a facilitated IEP/IFSP as part of the remedy or at a mediation there could be a settlement agreement that is an agreement that states the next IEP will be a facilitated IEP. So those are a couple of ways that facilitated IEPs can sort of come to fruition. I think future purposes are always in my mind and that's to improve the communication between the parties, increase collaboration by learning new skills and techniques. I'm always looking to eliminate my work by not having to be called in by that group again or by that same district again and hoping that they're picking up and learning skills as they come to the next juncture of another issue that they want to proactively work with the family around. So best practices over the years and I've been facilitating IEPs before it was in style since about really 2000, so for about 12 years now and so some best practices that I've developed over the years is that before an IEP or IFSP meeting is going to be convened I always try to get voluntary agreement to participate in this process, that it's okay for an outsider to come in and assist the group and work with the group. My standard practice is a signed written agreement as that outside independent contract person I treat it like I do a mediation and I want to be sure that my role is understood and that confidentiality is

understood, that I have no enforcement powers after the IEP or IFSP is developed nor can I be called as a witness to a future proceeding. So I like to get that taken care of upfront. Mutually selected or accepted – whether the district is proactively trying to convene a facilitated IEP due to either a parent request or the district wanting to step out in front of it and provide a facilitated IEP/IFSP or that you're being assigned through the state department whatever that process is, that there's a way for you to go back and say you know we need a different person or that you get a choice of one or two or three people that get assigned to you and different states have different processes. Mutually selected or accepted facilitators - it's pretty important that parties involved feel that your impartial, unbiased and all that good stuff that goes along with being that mediator/facilitator person. Solution oriented participants – I ask parties right up front what their goal is in participating in a facilitated IEP. I'm hoping that I hear that they want to develop an educational program that meets that student's needs. If I hear that it's really a stepping stone to move on to the next procedure, the next legal maneuver, I'll make sure that all parties still want to proceed and so that'll be something that the parties will decide. I always want to get identification and agreement on an IEP or IFSP chairperson. Who's the typical person that runs it? Do we need a new person to be the chair? And that's up to the group to decide. And then the model that I typically use is a co-chair model with that chairperson. So I'm working kind of in tandem with someone who typically chairs those meetings. The IEP or an IFSP scribe I ask for the identification and agreement of – who's going to run the computer program? Who's going to input data? Who's going to check the boxes, fill in the blanks and sort of keep us on track when we're making decisions throughout those IEP components? And then I also want identification and agreement on the prior written notice of action items scribe. And most district people, at least, and I think a lot of families and advocate groups will realize that that is a particular item that, part of IDEA, that when you do have a proposal there's some certain items that need to be captured and discussed and so I think it's helpful to share those responsibilities during an IEP, that we have someone that's taking care of all the components start to finish and then we have a very different person that's doing our documenting and scribing of our prior written notice of action items so that there's not a lot of jumping back and forth – there's one person for the proposals and there's one person for the IEP document itself. And then I always ask for a sharing by exchanging between the parties and by the parties I mean family/district that's usually the parties that are at that table. Any drafts that anybody has created ahead of time, whether it be family or district, that those be exchanged. And any reports that are going to be brought forth that are going to be new or are going to be reviewed or referred to, I always ask parties to exchange those 48 hours before the meeting so that everyone has the same access, the same knowledge, the same information and the same ability to review those documents in some private time, some down time before the meeting. So those are some things that I always take care of ahead of time. Some practices during the meeting. I really try to follow the IEP/IFSP components as the agenda. I'm many times asked to create an agenda as the facilitator and I refuse to create that agenda by myself, I will create it with my key representatives or key contacts from the family and from the district. Typically it's the IEP or the IFSP components drafted down a list that's going to be the agenda. We may dovetail or insert in certain items and certain components of that IEP or IFSP that we know have been problematic in the past and that we're going to spend some time on so that that gets flagged and we don't forget those. And then we agree on that agenda together.

Maintain focus on the student's needs - typically by the time I've been asked to come in there've been some adults who haven't been able to communicate real well, might be some personality issues that have revved up and I'm going to stay focused on the student's needs, not the various adult needs at the table, so I'm really going to focus on that. I'm going to guide discussion toward the future. The history and the past might have brought us together, might have brought me into the picture but there's nothing we can change about that. So best practice for me is to stay focused on developing that future educational program for that youngster that's going to begin tomorrow or the next week or whatever date that start date is. I pay close attention and listen for embedded proposals, we'll talk a lot more about that, but I really listen for people asking for things that sort of get overlooked and highlighting those and seeing if we need some further discussion. And then implementing consensus-as-you-go, highlighting those agreeable and items that, you know, are consensus and we're on a positive track and we've got agreement and we're going to talk a lot more about that as well. Not saying that those are the only practices during a meeting but those are the ones I really try to keep in the forefront of my mind and keep really on track with. So the process itself - When do proposals take place during an IEP or IFSP? And the answer to that is anytime during the whole entire meeting. Any proposals can come up anytime. And who can make those proposals? Any participant at the table can make those proposals. And how is each proposal documented? And this gets in to that area where I was talking about a prior written notice scribe. And this is in IDEA Part B a real biggy item where you have to note the particular proposal that was requested, who made that request, the specifics surrounding it, what data is being used to ask for that and justify it, what options are being considered, what other factors are relevant to the action, and then eventually according to IDEA the district gets to make that final decision of accepting or rejecting. So there's a lot of information that needs to go into the proposals according to IDEA. So I think it's real important once you hear that proposal that you realize there's going to be some further information that's going to need to come forth to have an accurate record of that meeting and that proposal. So we'll talk more about proposals and that process as we get into our next segment. And at this point, maybe a minute or two, I'm going to go the CADRE folks and ask if there's a person who at least has question about the facilitated IEP or IFSP process. So I don't know if...

Marshall: Trisha, we haven't received any questions yet. Trisha is going to pause again and we'll be checking the chat box again and then otherwise there'll be a chance for folks to unmute their phones at the end of the call and ask questions actually on the line but I think pressing right along. You might be interested in knowing, Trisha, we now have 265 people on the webinar, so you've got a big audience.

Trisha: Okay, alright, good!

Marshall: There is a question about can you say again what the duties of the chairman are?

Trisha: Well and I don't designate any particular duties. Typically I think a group that has worked together has a certain system of what their chairperson does. Typically it's to move the meeting along component to component and that's the person that I usually then will work

with in a co-chair kind of mode, co-facilitator kind of mode. As a district person who has a certain, you know, if the district has a certain mode of how they typically walk through that meeting and proceed and whatever their chairperson duties are I'll want to ask the district some of those questions. So I don't have any designated duties that I assign to a chairperson I just want to know if that chairperson's willing to work with me as a co-kind of chair co-facilitator. That they'll kind of do their thing moving folks along and I'll be asking a lot of questions and being sure that we're really ready to move along. And that we've really discussed and reached consensus on certain items or did we have proposals built within some of those components and we're not ready to move on. So I don't really have any specific duties. I'll find out what a district has for that chairperson, because it's usually a district person, and what their duties are. And I'll make sure with the family, gaining agreements if that's the identification of our chairperson, how has that worked out before? Are there any things that you really want me to pay close attention to that haven't worked for you in the past? So I'll have that conversation ahead of time.

Marshall: One other question, Trisha, and then maybe move along. Linda Cartwright asks whether a parent has ever taken on the role of chair.

Trisha: None of the meetings that I have had, although that's quite open for discussion. If that came up I would be willing to entertain that and ask the district how comfortable they would be about that. A thought I could have is maybe a triple sort of chairperson where a parent and a district person could be chairing and then I'd be co-chairing with that pair as the facilitator. So that would be a thought I could think about, but I've never had that come up, but I'd certainly be willing to entertain it and discuss it with whatever group I'd be working with.

Marshall: Okay.

Trisha: Okay. I'm going to move on then and we're now going to move into our techniques. So to have a counter proposal we need a proposal first. So going to do a little groundwork with proposal. Proposal definition: A proposal is the act of offering or suggesting something for acceptance, adoption or performance. It's an act of putting forward or stating something for consideration. I think proposal formats promote solution oriented thinking. I think it focuses folks on the future. It eliminates some of the past history and more of the kind of complaining and whining. It makes people kind of reference themselves into, you know, a proposal format. What do they think will work? Let's look at solutions. With reminders it's been very interesting to me how quickly teams pick up on this. So the process itself of a proposal and how I look at it is a proposal request is presented and that proposal has to be validated with a reason for a request and I guess a rhetorical question - how do you validate something? Someone's got to notice it and ask if that was a proposal. I don't think people that haven't done proposal formats in the past are real good as saying okay I have a proposal and my proposal is...They might just sort of ask for something. I'd like my son to have a half hour more of speech therapy and that may be grasped onto and it may not. So I think a real important point that I, as a facilitator, watch for are those little kind of requests that maybe don't sound sometimes as forceful as others but to pick up on that and to actually say, it sounded like Mr. Jones was asking for an

additional half hour of speech therapy for his son. Was that what I heard? And then to get verification from Mr. Jones, yes you heard me right. And then to kind of then pause for a moment and make sure the IEP/IFSP team begins to do some exploration with that. So not charging ahead and moving forward but stopping and looking at some objective basis for the proposal, looking at some other options or choices that might be available, looking at some specific implementation details, and then looking at any associated advantages and disadvantages. So I think the team's got to pause and that's where that facilitator has to make sure that pause happens and that exploration begins to happen. Eventually a decision gets made with a rationale to accept or reject that proposal. Hopefully it's a consensus but it is the district, according to IDEA, that gets to make that accept or reject. And then that prior written notice scribe getting some draft wording down that captures that proposal essence and what's going to be documented in the record. And again we talked about all those components that need to be there, according to IDEA, in that proposal. So that last step is really your consensus-as-you-go. So the final step of each requested proposal. The way I sort of envision it, and it is a function while I'm facilitating. Is that the final step is that consensus-as-you-go. So you've gotten your prior written notice scribe to present some draft wording of that proposal and all those elements that need to go with it, along with that accept/reject decision. And present, what does that mean? That that scribe is going to present? I've seen it done a couple of different ways. Either that scribe orally, you know, reads aloud what they've captured. The best idea is that it's also on a projection device so that it's a visual as well as a verbal. I think we can all relate to the fact that we've got lots of learning styles when we're working with a large group of people. And so I think the oral hearing mode is one and then the visual projection device is the other. So hopefully that presentation by that scribe, that prior written notice scribe, in whatever format that district uses to capture proposals is then presented orally and visually. And then at that point the team needs to agree that that wording has captured the essence of that proposal, discussion, and that decision, and move on to finalizing that wording. Now if the team doesn't agree that that captures the essence of that proposal then halt, stop a minute, get some clarification, get some revision to that prior written notice scribe's draft wording before you move on and then get final version of that wording of that proposal. And again, ideally, you know, being able to see it - projection device as well as possibly being read. So consensus-as-you-go is automatically built into that proposal process being that last step. Now some benefits as far as the consensus-as-you-go concept itself. I think it encourages people to actually listen for proposals and it also improves the ability to capture and validate each proposal. It reflects an accurate and timely documentation of various proposals that come up during a meeting. I think it addresses each proposal only once at the time it is requested. And I'll just say here as a side bar, lots of times that IEP walks you through those various components and builds up to being able to make that decision about what that youngster's educational program is going to look like. And sometimes when you are way up at an earlier component, let's say in the present levels of performance you've already got a request for a service which is going to come up many components later and so what I'll do is I won't ignore that proposal but I'll ask the group, it sounds like Mrs. Smith just asked for - whatever that might be - and is this the appropriate time for us to stop and explore that or will that come up at another point. So I'll always give it back to the group to kind of lead me. I may know that answer but I'm not going to be the person that goes there. I want to that group to learn how to

do that. So I might hear that oh we'll come up with that, you know, much later in the day. So then I might ask the group is it okay if we ask our prior written notice scribe to go ahead and at least capture that concept for us, that Mrs. Smith has just asked for more inclusion time, let's say, or less inclusion time, whatever it may be. And then we get to that component we'll have it tagged and we won't forget to address it. How with that work for everybody? And I'll ask Mrs. Smith if that works for her as well. So that were not sort of having somebody wonder, when is my point going to be addressed. That we would have written it down for them so that they can feel rest assured we'll get back to that when that concept comes up and that component comes up. I think it enhances on-topic discussions and participation through each proposal process step until a decision is made and documented. So you're, you know, everybody that has different proposals, are assured that we're going to walk through and gain some sort of a consensus we're going to reach, hopefully, and get all those particulars documented. And it particularly highlights on-going agreements and solutions, which I really like to focus on as the positive – we've reached another agreement, you know we've reached another solution. Good job. Now, I will say that I haven't always done it this way. I started this concept maybe about six or seven years ago after a somewhat negative or challenging experience where I was with a group facilitating an IEP. Attorneys were representing family and district and we probably had two dozen players at the table. IEP finally came to an end about 5 or 6 hours from the time we started and we finally got to the prior written notice of action item, which is that kind of last item that you review everything and make sure that that is what we've discussed today and agreed upon. We spent two more hours carving that up with attorneys present and wanting that wording to be just so so. We had a scribe that was running along and documenting as the meeting was going on but we weren't doing consensus-as-you-go. So we weren't having that read aloud or visually presented on the projection device after each proposal, so we spent a couple of hours, very exhausted, end of the day, trying to recreate and re-invent and re-remember items that we'd discussed 5, 6 hours ago. And I kind of felt like that really wasn't the most accurate way to document that prior written notice of action items and be accurate. So put on my thinking cap and kind of came up with this idea, that every time there's a proposal we'll walk through it make sure we gain that consensus about that wording and the decision that was reached. So, not to say there aren't challenges dealing with and using consensus-as-you-go technique. You've got to have the ability to promptly grasp and then verbally summarize proposal concepts as you hear them to be able to ask the group if you did just hear a proposal. You've got to have the ability to instantly develop written language to capture that proposal with the decision to accept or reject and all those other components that IDEA requires. So whoever is your prior written notice scribe, whoever's been identified, agreed upon and selected to do that job, they need to feel comfortable with getting written language down pretty quickly and being able to capture the essence of a proposal. Of course, I'll assist them and have the rest of the group assist them. But they've got to be able to really get some things down for us to then review. Computer programs are the next challenge. You kind of either hate them or love them. Depending on what kind of computer programs districts are using. And I think the biggest kind of bugaboo that I've run into going to many different districts and seeing many different computer programs used is that they're not really user friendly and they don't allow the IEP scribe to jump from component back and forth and have material saved so easily. And then the other factor that comes into play is that if you've got two scribes you've got two

laptops open and so does that computer program allow the same student's IEP to be open at the same time with data entered or can only one be opened and the other one must be closed and must be in like a save mode and merging those two documents at the end, the prior written notice into the IEP. So those are just some thoughts about you know some challenges when you do use the consensus-as-you-go concept and the computer programs themselves. And then projection device, making sure that you're going to have the availability of a projection device or you're not and making sure that you have a blank wall to show that on. I've been assigned to facilitate IEPs in a library one time where there were just books and bookcases all over the wall, we had to hurry up and find some butcher paper and cover a couple bookcases so that we had a blank wall to show the projection device on. So, the other thought is that's challenging, if you have two scribes and two laptops, do you have two projection devices? If you do not and you only have one, the group needs to make a decision – which one do they want to visually see – the IEP scribe and the IEP document itself or the prior written notice and what she's documenting or he is documenting and scribing. So I allow the group to make that decision I don't. I will just say typically the groups choose they want to see the prior written of action items, those proposals and all those elements that need to go into those, so each group is different. So Q&A before we continue on about just the proposal process and how that consensus-as-you-go fits right in as the last step in a proposal process. So Marshall, I guess I'll go to you and ask if there's anything that is, burning question there on either of those components before we move on.

Marshall: Good. We've gotten five questions and I believe a couple of them you answered after they were asked but I'll try to move through them quickly in case you have comments. Anna Brynild asked, "Do they have to provide that notice of refusal at the meeting? They tend to table it to the districts in my area."

Trisha: I'm not going to get into a legal answer, but typically prior written notice of action items during an IEP get decided there. Now if the decision is that we're going to come back, we're going to have to do some investigating and we're going to come back to another meeting and address this later that could be your end result and your consensus that you're going to investigate that as a district and you're going to come back in 5 days or 7 days or 30 days or whatever the issue is and how long it's going to take to investigate. But you'll need to address that at some point and have an answer.

Marshall: Okay and then from Nina Meierding, "I like the concept of 'consensus-as-you-go', but could it discourage linkage, for example, linking different issues and solutions as they come up. A party could say, 'No we already talked about that...'"

Trisha: Okay, well and if we talked about that and reached consensus then I'm not sure why we would by talking about it again and a lot of times these issues are interwoven. So at no point, at least as the facilitator, would I say, "Oh we already talked about that, we're not talking about it again." I might remind them that you know, in one of the first components of the IEP we talked about that and I thought we had that already reached consensus. But if the group wants to discuss that again then you know let's have that discussion. So you know, I would, I always put

it back to the group so it would never be that we're never going to go there again. I would give it back to the group. But I would remind the group I thought we talked about that I thought we came to some consensus. As we're at this juncture do people have different thoughts about that and that might lead to a new proposal and that's fine.

Marshall: Okay, I'm going to, let's see, Dawn Lynch asked how the role of a facilitator is different than that of a mediator.

Trisha: Well and that could be a real long, I do a whole training, a half a day on that. Typically a facilitator is a mediator so you're using your bag of tricks from your mediation skills and toolbox and that. But a facilitator, the way I look at it is a mediator probably has some process that they follow when they come to a mediation and they have their two parties there and how they're going to interact and how they're going to come to some decisions and if they come to an agreement who's going to write up that agreement. Whereas a facilitator comes into the process, and your, it's not your process, there is nothing that you own about it. It's really the parties, the families, the district. There's an IEP - that's what you have to follow. You have to march through all those components and reach at the end some sort of a development of an educational program that meets that youngster's needs and that's going to allow that youngster to be successful in school and that will benefit from the education. So I always look at it as, coming in as a facilitator, it's not my process I don't own it (*audio cuts out*) like I might at mediation with a process.

Marshall: Good. So there are two others. Doreen Byrd, I'm going to, I believe that your question about deferring discussion has previously answered. If not, please comment. And then Debbie asked if you would talk a bit more about consensus and how you get there. Another thick topic.

Trisha: Yeah. And I'm going to say, let's hold off on that question and see when I get through the next section if that doesn't become a little more clear, if that's okay as far as timing.

Marshall: That's good. Let's press on.

Trisha: Okay. So proposal rejection - now what do we do? This is when I think a meeting can go south pretty quickly and you can get people behaving pretty, pretty ornery, badly, shall we say? And I think when someone has a proposal and they get that rejected, that's a fairly negative kind of below the belt hit. This was my proposal and I think it's a good one and I think this is what my son or daughter needs or as a district I think that this is what we need to do for this kiddo and I'm not happy about it being rejected. So I think you can get, you know, some very negative vibes that can come off of a projection or a proposal rejection and I think it's real important to capture that and move it into a positive. And what I do is, move into a counter proposal pretty quickly and I try to save that concept and save that sort of person who got that proposal rejected with a counterproposal notion. And what a counter proposal is it's in response to an original proposal that was considered unsatisfactory, for whatever reason the district rejected it, because that's what they get to do according to IDEA. It's offered to nullify

or substitute for a previous proposal. So not saying you would negate and not document the original proposals that would get rejected and all the elements that need to go with that according to IDEA but you can quickly move into a process to sort of try to save that concept or save a piece of that concept. I think counter proposal process promotes creativity and team collaboration, it focuses on options, it eliminates the negativity and the defenses that might come along with that rejection, and again participants are very quick to catch onto this just like the proposal process. And the counter proposal process is exactly the same as the proposal process it's just in a counter proposal format. Same steps, counter proposal gets offered, it's got to be validated, so somebody's got to hear that and ask, so did we have a counter proposal. It sounded like, and that's something I usually do, it sounded like and then I'll kind of summarize what I heard. I'll typically then go back to that person who got that rejection and ask them if they were hearing that as well, that we had a counter proposal. And then stopping and actually doing some exploration. What's the objective basis for that counter proposal, other options, specific implementation details, associated advantages/disadvantages for that counter proposal? And again a decision gets to be made by the district – accept/reject with a rationale. And then that scribe, again, needs to get that draft wording down and present that to the group so that we can get that consensus-as-you-go concept going again. So, counter proposal doesn't look that much different than the proposal process. The consensus-as-you-go is still happening as your last step in that counter proposal process. You want that prior written scribe to get that draft wording down, capture the essence of that discussion with the accept or reject, let the group sort of see – either that that scribe is reading it aloud, hopefully along with it's on the projection device so that people can see it. Either the team agrees and you end up getting some final finalization to that and consensus being reached or you have disagreement and you go back and get clarification on what about that draft wording doesn't work. What doesn't it capture that seems right? And then revise that so that you can come up with that final wording and final version that everybody can agree to and then move on. Okay, I think in the counter proposal step what people rush to do is as soon as something gets rejected, a proposal gets rejected, quickly somebody wants to feel like ah, I know the counter proposal here it is here it is. And I think you need to hold off on immediately jumping to a counter proposal and do a little more exploring with what was it about that proposal that doesn't work, what piece of it doesn't work, what part of it doesn't work, can we still build upon the concept itself and do it a different way. So I think two steps to that counter proposal before you can really develop one. Explore a little more, validate, verify what you think you've heard from some discussion happening before you actually generate a counter proposal. And I typically don't generate the counter proposal. As the facilitator what I'll do is ask some key questions in the exploration stage and then I'll actually see if I can summarize when everybody's kind of out of gas, and out of thinking about being creative and thinking outside that box and the discussion seems to come to a lull. I'll sort of say, so do we have a counter proposal and if so it sounded like we have something like and I'll try to summarize things. And then I'll go back to the person that had the rejection and ask them, what do you think about the counter proposal, will that work for you? It's a little bit different than what you asked for but the main concept, you know, survived just how it was going to be done is going to be different. So that's what I tend to do in that counter proposal process. And lets kind of look at those two steps. First step being explore some more options. I think developing questions is a big key here. As a facilitator it's not up to me to voice

my opinion or to make statements or make suggestions about what I think. It's up to me to be the question box – I think. I'm not an active participant at that IEP or IFSP, I don't know that child, I've never interacted with that child. So it's pretty impossible for me to make any statements or to be actively sort of engaged in real intricacies of that child's IEP, that's up to the participants. What's up to me is to be sure everybody's heard all the discussion and the consensus that's reached is in agreement, its clarified, you know it validates what people were asking for. So questions are a real big part, I think, of what I do as the facilitator. And so I'm going to do some scenarios here in these next few slides and this would be something that if we were at a training together you all would be doing some small group activities and interacting with each other. But we have this webinar format, so we'll press forward. And scenario: Proposal: Parents request homebound for Alicia due to her behavior at school. For whatever reason, the district rejects that - not going to happen. Okay? Quickly what I may do as the facilitator to save that concept and that rejection is begin to ask some exploration questions. So what I might do is go with that parent and say, look at that parent and say, "Can you help us understand what doesn't work for Alicia in a school environment?" Another question might be, "Which of Alicia's needs do you think would be addressed at a homebound instruction?" And so I would begin to kind of plant some seeds to get some discussion going and not lay, let that rejection sort of just lay heavy, I'd move it right into let's have some further discussion. I'm hoping if I led with a couple of discussions real quickly and had some feedback and then that the district would maybe ask some questions, the parents would ask some more questions and we'd have a wealth of exploring of some other options and ideas. I would then, after this discussion takes place and there was lots of ideas on the table. If I kind of felt like there was something there on the table that they were all agreeing to, that we might have a counter proposal, I might say something like and I'd address it to the person who had the rejection with the same proposal, same scenario that the parent requested homebound for Alicia due to her behavior at school but it was rejected. After this exploration and discussion I might say it sounds like a half a day at school and an hour of home instruction each day that the district's offering would address your concerns, did I follow that discussion correctly, Mr. Smith? So I'd be looking back at the parent. Depending on what his response might be, I might say, so would you like to accept the districts counter proposal or do you prefer to make a new proposal. So I'm sort of giving a lot of sort of credence back to the person who had that rejection and seeing if were ready to go ahead and follow our counter proposal process and get that out there, get that validated, and get our elements that we need to address and get some (*audio cuts out*). Couple things about questioning and bear with me those that are mediators and do this for a living, you know, we have all sorts of levels of participants here so I'm going to do some basics on questioning. Open-ended, close-ended, real basic, okay. Open ended you're just trying to get some more understanding of a situation. You might be allowing (*audio cuts out*). Extended, you're just kind of looking for one or two words, a yes or no, you're trying to verify some details, you're maybe trying to obtain some quick responses. You may be trying to refocus a rambler. You may be trying to direct a party to get to a specific issue and stay on that particular issue. Another scenario, and lets try to do step one step two here together for counter proposal. Here's the scenario: Parent requests an outside trainer from a local university to address different behaviors of student's on the autism spectrum disorder. For whatever reason after some discussion, that gets rejected by the district. Quickly, I might think of a couple

questions to ask in that exploration stage to keep that concept alive for that parent and a couple questions that come to mind. What specific areas are you looking for the trainer to address? Could you share with the team what makes the university person the best person to provide this training? Hopefully some of those answers will dovetail into some questions by the district, some further discussion between the whole group and eventually if I feel like we've got a little bit of a lull and we've got some agreement on the table but we may have a counter proposal I would then summarize by saying, now that you're aware the district has contracted with a new psychologist with autism spectrum disorder expertise, do I hear that you are willing to allow that person to provide the training, initially at least. So given this information do you want to make a new proposal or do you want to accept the district's counter proposal? And I'd be back addressing that to the parent. So sort of that two step, explore a little more, pick up that concept run with it. See what didn't work about it – why it got rejected and see if you can work something into making it, making it be acceptable. Okay, so more on questioning and we'll do another scenario. The intent of questioning. Usually you're trying to get some clarification. You might be trying to probe a little more, get a little bit more information than what you've heard so far. You might be trying to do a hypothesis or a scenario testing, questioning to look for more alternatives. You might be doing doubt raising or constructive skepticism. So you're kind of looking for the feasibility - that advantages/disadvantages kind of thing, implementation ideas. And then evaluating, questions that are going to assess – is this feasible? Let's look at advantages/disadvantages, implementation. So different intents for questioning and let's look at this scenario and see about step one exploring and step two did we get to a counter proposal. So here's the scenario: Parents are asking we want the district to pay for or provide the current hippotherapy for Bella which we are not paying for at this time. Okay, that gets rejected by the district. Quickly some questions I (*audio cuts out*) can you share with us which of Bella's needs are addressed at the current hippotherapy sessions? Or I might ask – What type of progress has Bella made up to date? So anything that's going to keep that topic alive, keep discussion on it and see if we can have that proposal or a piece of it still be saved. Eventually I'm hoping discussion takes place, district folks answer questions, ask some questions, parents have some more questions and can answer questions back to the district and eventually when I see a lull and see that we may have some agreement here – I'm hearing pieces of some things, as the facilitator I would look at the parent and I'd say well after this further discussion are you now agreeing that occupational therapy services here at the school which would duplicate some of the hippotherapy tasks involving that fine motor hand and finger movements you think could address Bella's needs. And then I might say so would you feel comfortable accepting this counter proposal from the district or do you want to make a new one. So I'm back to the person who had that rejection and hoping that we can come up with saving that concept maybe in a different fashion than what they were asking for. So, questioning techniques. Again, could be fact based that you just want particulars of the case. Could be positional, that's more of a negotiation term and you're really trying to find out what the bottom line is that we have to accomplish at this meeting. A narrative, just wanting to know a little more what really happened, you want to get some feeling how it affected them. Some problem solving - what decisions do we really need to make today? Procedural – how are we going to make those decisions? And then interest based which is more of a negotiation sort of what's really some of the underlying maybe values. Culture might play into that of why that

issue is so important to you. Okay? So let's do another scenario. Parents request fifth grader Isaac be assigned a new male EA instead of the current female EA and the district rejects that. Some questions I may quickly sort of try to come up with to save that concept and see if we can get some more exploring about it. Could you help us understand your concerns about the current situation? And I'd address it to the parent or has Isaac shared some concerns with you that you'd be willing to share with the group so that we can better understand why you're asking for this proposal? So anything that's going to gain some more information, help lead a discussion, help people think outside the box, gain some more further information, be creative, etc. After the group has exchanged more ideas, asked some questions, I see a lull in the conversation and feel like we have some agreements on the table, I might say, since the school has offered an alternative private bathroom for Isaac's use instead of the boy's restroom situated throughout the school, with the continued use of the assigned female EA, how are you feeling about that district counter proposal? So it sounds as if you are willing to accept that counter proposal by the district at this time. Okay? So that little two step dance where get a little bit more information, have a little bit more revealed about why that's so important to that person who made that proposal and then see if you can gain some options out there and better understanding and get a counter proposal. And the next, I've got a question, an area to maybe open for question here, but running a couple minutes behind, but Marshall I don't know if you want to see if anybody's got any burning questions on that counter proposal process?

Marshall: I have two questions, which you may be able to dispatch quickly. From Susan Marks, "What do you do when a district team member says what doesn't work about a proposal is that it's too expensive?"

Trisha: Well shame on you, because money's never an issue. And I'd say you probably maybe talk to talk to your legal counsel about how to handle that because that should not be anything that gets discussed at an IEP. Now if that did come up, I would maybe, as the facilitator, I might say, "So is that something you actually want to discuss right now - the finances involved with this?" And there'd probably be some other district people at the table that would probably quickly voice their opinion with, "No that's not what we want to discuss right now."

Marshall: Great. And then from Karrie Potter, "If the district has to take time to develop counter proposals, how long would be appropriate before reconvene?"

Trisha: Well I'm not separating the group during these counter proposals so it's not like mediation where you are doing all these kind of caucuses. You're all at the table. It needs to be a group sort of let's think of some counter proposals. So even although the counter proposal might come from the district because it was a parent proposal that got rejected, I'm keeping the group together because they're going to need to question and answer each other and have a full discussion about options, implementation ideas. Now, I'm not saying at no point what I not allow the district to maybe take a break and get their heads together before they came back because I have done that with attorneys present. But, I'm not trying to imply like all these counter proposals would be a break in the meeting and you separate yourself and then you

come back. This is a group, a full group discussion. You are going to need the back and forth question answers feedback to come up with your, you know, counter proposal.

Marshall: Okay let's. Why don't we go ahead and head for home. There is another question but I'm hoping to kind of have a couple of minutes at the end, so take it away Trisha.

Trisha: Right. Okay just two last slides and we're almost home. So the counter proposal benefits that I see are that it does allow a person to save face. So whoever asked that proposal and got that rejection isn't feeling real good. So it does allow them to save face when you pick up that concept and see if you can gain some more understanding about it and see if you can help that person save something out of that proposal. It encourages continued conversation on the topic, obviously. It can de-escalate emotionally charged behavior. Like we said, when you get a rejection you can kind of start going south and get some very badly behaving folks so you want to eliminate that. It can demonstrate a willingness to collaborate. Transforms a negative into a positive. It can clarify a participant's different interests. So what are those underlying reasons for them really hanging on to that particular belief or that particular got to have this item for my kiddo kind of a thing? Validates a particular concern, obviously because you keep talking about it and don't let that rejection just pass as a rejection and moving on. You see if you can get some more exploration and options coming forth. It supports commonalities - we're here to address that youngsters needs in his educational program - what's it going to take? We're all here for the same purpose. Promotes creativity - it kind of forces people to think outside the box to keep thinking, keep being creative. It maintains teamwork. And that's why I said, the person that asked how long would you go back and forth before you came back to the table. My thought is you're staying together as a team, teamwork. That's how you've got to work together, as a team And then last of all, it gains finally, an agreement on something, it may not be that original concept or that original proposal, but if you can squeak out anything around that same concept, you know, you've got an agreement there. Now challenges that can go along with that, with the counter proposal concept is it does force you to stay on a particular topic until a decision gets reached. And you know there's a whole bunch of topics and a lot of things that people want to talk about at IEPs, so it does force you to stay on one topic and really reach consensus. Following along with counter proposal discussion, so as the facilitator you've got to stay tuned in at all times with all this back and forth discussion and thinking outside the box and being creative and doing this extra exploration to see if you can come up with that counter proposal. And if you're going to summarize that and think you've got it, you better be firing off on all cylinders and paying attention with all those folks. And I will say as far as numbers of people who could be there, I've had a maximum of 32 people at one meeting. Typically it's around 20 so you've got a lot of voices that you're trying to pay attention to. You've got to be able to recognize the intricacies of specific proposal concepts and those of us that have worked with IDEA for many many many years every little component has an intricacy about it. So you've really got to pay attention to that as the facilitator. You've got to be able to synthesize and then summarize information that's shared by a number of participants. So saying that you've got around two dozen people sitting at the table. A lot of people to listen to and take heed of what their feelings are and what their ideas are. You've got to continue to emphasize those commonalities. Even if you begin to get stuck during that counter proposal

process, continue to stress we're all here for (*audio cuts out*). You've got to manage to perceive power imbalance just in case you feel like that's happening as the facilitator. You've got to be able to engage a participant who might have shut down because they got that rejection. Got to be able to sustain exploration of options, so if people aren't creative at the table, you better be creative with some questions. And keep instilling that positive momentum – we've got some ideas out here, we're close, we're almost there, we've got two pieces carved out and we got one more we need to work on. So you've got to continue to be that cheerleader, I think, and that's not always easy to do. Okay. Review. We are there. You have acquired information about purpose, process, strategies to implement, significance to the skill of questioning, and benefits and challenges of, our two techniques – counter proposal, consensus-as-you-go - hopefully to utilize during a future IEP or IFSP meeting. And I hope you all agree that we really have covered those items because your next step is, now that you've gained knowledge about the counter proposal technique and the consensus-as-you-go technique you should be ready to implement each of these techniques, educate others about each of these techniques, promote and support each technique, see if you can initiate a collaborative dialogue within your organization about the benefits of each technique, and then explore any necessary steps to develop an organizational process that would actually encourage IEP/IFSP participants to utilize each technique. So I'm hoping most of you feel pretty comfortable with first three and feel like you can charge forward eventually with the maybe the fourth and the fifth. So having said that, I think we're in our question mode and have gone a few minutes over but I hope we're in good shape still. So, Marshall, I'll kind of give it to you to see where you want to go now that we're in our question format.

Marshall: So Trisha, that was fabulous! Let me, we have one question from Denise. And Denise wants to know, "What do you do when the district wants to roll any new proposals into standard therapies: PT, OT, speech? How do you request proof/credentials of specific therapists that they're qualified to provide services proposed by parents?"

Trisha: I'm not sure, is that an independent person that the family is coming forth saying they want that person to provide...

Marshall: Denise if you're still there if you would press *6 you could elaborate on your question. Denise, are you there? Press *6 if you wish to expand on your question. Denise is typing. So I wonder if there is someone else that would like to pose a quick question. We don't have much time before we wrap this up. Please press *6 if you have a quick question you'd like to ask. Okay, last chance and then we're going to go ahead and wrap this up. So *6 if you wish to ask a question. Press *6 on your keyboard. Oh, here's a question from Jeannie Kelly, "If there is absolutely no resolving a counter do you move ahead, reschedule, what?"

Trisha: Well, good question, and at times there, you don't come up with a counter. Depending on what the original proposal was sometimes it's still, it's a flat rejection and that's that. But I think that fact that you've attempted to stay on that concept, try to explore for a counter proposal and you still may come up with a dead-end, that's okay you've at least attempted to come up with a counter proposal and you may not always be successful with that.

Marshall: Okay and I'm going to try, I'm going to break Denise's question and just take the first part in case there's something that you might say about that. So the first half of the question is, "What do you do when the district wants to roll any new proposals into standard therapies: PT, OT, speech?" And I'm kind of imagining that what that might mean would be that if a parent asks for something and the district's response is to translate it into something they have rather than to consider it sort of independent of a particular approach they would use.

Trisha: Right and I guess my question would be, I'd go back, I'd still go for a counter proposal and I'd still try to ask the parent, what more are they trying to address, what needs are they trying to address for their, for their child that doesn't work with the standard procedure that is the implication and see if we can get some back and forth discussion going. Can that parent sort of share with the group what he or she feels doesn't work to meet their child's needs and see what the districts responses are and see if you can come up with something different. But yeah, lots of districts do have their little standard way of, you know, we offer an hour of speech to these kinds of kids and a half hour of speech to these kinds of kids and trying to see if people can think outside the box and get into conversations about, you know, how that's delivered. Is that part of the issue for the parent? And you're going to need to ask a lot of questions of the group to find out, is it a one on one service provided OT/PT speech, do you want it done with a partner instead, another youngster that may have the same disability or the same needs. Do you want it done in the classroom? Do you want part of it done in the classroom and part of it done one on one? And again until you're asking the questions of the group you're not sure where the misfit is happening and you may be able to come up with something different in a counter proposal.

Marshall: Great! Well Trisha that was terrific. We're going to, I'm going to ask those of you who are on the call, if you would just take a minute, we're going to put a closing poll, actually three up, which is information that we really need to provide to our funders and to support continuing to offer these webinars and so I would really appreciate you taking a minute and responding. While you do that I want to let you know that CADRE's next webinar will be on September 19th at 11:30 Pacific Time, and again please note 11:30 Pacific Time. We had some, some of our friends from the East coast were on very early this morning for us and so make sure you note that Pacific Time. We're really delighted our next webinar will be presented by another long time CADRE friend, Greg Abell, who is the principal at Sound Options Group. Greg will be presenting on re-connecting with the roots of the IEP/IFSP process. We've had the chance to hear Greg talk about this and we're sure it will be another outstanding webinar. So please do tune in and join us in the future. Again, I really want to thank Trisha Bergin-Lytton. She's just done a superb job for us today. Her contact information is available on the CADRE website. We'll also, her PowerPoint, her copyrighted PowerPoint, will be soon available on the CADRE website, and we have recorded this webinar so we would expect to have the, this webinar available, streaming from the CADRE website perhaps within a week or so and we will announce that so that if there are people who would like to see it but who weren't available today you might let them know. So with that we are right at time and so thank you very much.

As always at CADRE we are welcome to support you in any way we can so let us know how we can be of help. Thank you and have a great summer. See you in September. Bye.