

# *Pennsylvania Training and Technical Assistance Network*

*Office for Dispute Resolution*

## **ODR Focus Group Meeting Minutes – June 30, 2004**

### **Attendees**

Andrea Algatt	Department of Public Welfare
Michael Carricato	PA Department of Education, Bureau of Special Education
Angela DeMario	East Penn School District
Glenna Hazeltine	The School District of Philadelphia
Ernest Helling	PA Department of Education, Chief Counsel's Office
Charles Jelley	Tremba & Jelley Law Firm
Cindy Judy	ODR
Bob Lear	Law Offices of Caryl Oberman
Linda McKay	ODR
Vivian Narehood	Gibbel, Kraybill and Hess Law Firm
Han Nguyen	Education Law Center
Linda Rhen	Lancaster-Lebanon IU 13
Dixie Rider	ODR
Cathy Skidmore	Appeals Panel
Kerry Smith	ODR
Louise Thieme	Parent Education Network
Edward Titterton	Appeals Panel
Fran Warkomski	PaTTAN
Jane Williams	Sweet, Stevens, Tucker and Katz Law Firm

The meeting began at 11:15am.

### **I. Introductions**

The Focus Group was honored to have Dr. Linda Rhen in attendance. Dr. Rhen is currently the Executive Director of the Lancaster-Lebanon Intermediate Unit #13. Dr. Rhen will officially assume a new position effective November 1, 2004. Dr. Rhen will be the Director of the Bureau of Special Education at the Pennsylvania Department of Education.

### **II. Due Process**

Ms. Smith advised that some ESY (extended school year) cases were counted twice in the ODR database due to limitations in the database, which will be rectified. There has been an increase in the number of expedited and ESY cases over the last two (2) years.

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### III. ODR Reconfiguration

ODR continues its comprehensive analysis of all internal policies and procedures in order to become a more efficient and economical staff. We have hired key staff (Cindy Judy and Dixie Rider) to assist with the implementation of these new policies and procedures.

### IV. Case Manager Changes

Case Managers are more closely tracking the BSE Assurance process. Case Managers will have more direct management of cases and there will be more statistical tracking of Case Manager case activity.

### V. Database/Statistical Changes

- Beginning July 1<sup>st</sup>, Michele Lehman will be the staff member responsible for database and statistical changes and reports. Ms. Lehman will re-design the database to be more user-friendly and efficient.
- OSEP is interested in the interplay between Due Process and Mediation, etc. Ms. Lehman will develop a student identifier system for tracking Due Process/Mediation cases.
- ODR has been preparing more systematic and regular statistical reports on both Case Manager and Hearing Officer performance as they relate to timelines, continuances, etc.
- ODR is working with Liquid Media on the new website and also designing a web-automated data entry form for due process requests.
- ODR is also looking at faxing or e-mailing hearing notices to parties. This new procedure will help with timelines.

### VI. Highlights from December 2001 Focus Group Meeting

#### **Inconsistencies in Process . . . and ODR should assign Hearing Officers before scheduling hearings**

- ODR has recently completed the revision of the Hearing Officer Handbook. This handbook is accessible on the ODR website to download.
- ODR is also working on an office procedures manual for standardization between all office personnel.

### **Timelines need improvement ... Training hearing officers about using consistency with timelines**

ODR's goal for resolution of a due process proceeding is 45 days (from when due process is requested). Ms. Smith advised that this is a problem that plagues many states across the country. Improvement of timelines is a priority with OSEP. Ms. Smith and Ms. McKay will be meeting with Maryland and District of Columbia personnel to see how they manage the timelines issue as well as other issues common to dispute resolution systems. Ms. Smith will also be talking with New Jersey personnel.

### **Case Managers**

There is a concerted effort to make more training available to Case Managers to enhance case management of files. ODR will be providing ongoing training on regulations to keep Case Managers up to date. ODR will also be having a training on case management of files to track timeliness.

### **Due Process Hearings are expensive**

ODR has implemented several cost-savings measures. Under normal circumstances, Hearing Officers are assigned to specific geographic regions so travel costs are kept to a minimum. Each Hearing Officer provides detailed bills for each case and Ms. Judy scrutinizes each bill for accuracy.

### **Review of Court Reporting Services**

There was much discussion on this topic. Ms. Judy is performing a comprehensive review of all court reporting contracts and terms. She is also expanding our pool of participating contractors. The issue of the handling of exhibits was also discussed. Follow-up work is needed and ODR is initially seeking Hearing Officer input on this topic.

### **Some Hearing Officers have a conflict of interest.**

Hearing Officers who had a conflict of interest are no longer contractors for ODR. A question was raised as to the diversification of the Hearing Officer pool. This is a priority of the office and efforts continue to expand the pool.

### **Hearing Officer Performance**

Ms. Smith will continue to perform on-site observations of Hearing Officers in the next fiscal year.

### **Hearing Officers should be able to do research from an index of Hearing Officer decisions so that decisions can be more consistent.**

The Due Process Digest, a summary of Hearing Officer and Appeals Panel decisions, is now available on the ODR web page.

## **VII. Under Consideration**

- The efficacy of a contract writer for Hearing Officer decisions
- A Settlement Hearing Officer
- Comments/suggestions needed on a fee review process and satisfaction survey.

## **VIII. Mediation**

Linda McKay then spoke on mediation, statistics, and trainings for mediators.

One of the issues discussed at the December 2001 Focus Group meeting was to “train educators and families about mediation and complaint management so they don’t just jump to due process with every disagreement.” In response to this discussion, we developed Dispute Resolution Skills training and approximately 1,500 individuals participated in this skills training. We will be preparing a survey to be sent to the participants 9 – 12 months after their training to determine if the training was beneficial.

Another issue that was raised at the December 2001 Focus Group meeting was to “train mediators on problem solving and agreement writing.” Linda advised that there was Advanced Mediation training in May 2004 and one key topic was on skills required to move parties to resolution and write mutually acceptable, legally appropriate agreements. There was discussion that the mediation agreement should be part of the IEP. The question was raised on who enforces these agreements. ODR cannot enforce and the specific legal provision indicating that BSE enforces these agreements was included in Chapter 342, which has been repealed. A similar provision was not inserted into Chapter 14 when it was revised in 2001.

A new Mediation Evaluation form has been developed. A follow-up evaluation is in the planning stages to be sent at various points post the mediation session, i.e., 3 months, 6 months.

At the April 2002 Focus Group meeting, the attendees requested that we “provide IEP facilitators for particularly challenging situations, such as when there is an underlying philosophical difference”. In response to this request, we piloted IEP Facilitation training in the 2003/2004 school year. ODR used independent contractors as facilitators and the facilitations were conducted in select districts

throughout the state. Mike Carricato, PDE/BSE, asked if there could be incentives for school districts to go to mediation or IEP facilitation instead of due process.

ODR developed and delivered a two-day training to prepare individuals to conduct IEP facilitations. This training will be repeated in September 2004, which will be focused mainly on individuals with mediation training.

**IX. Web Page**

The new PaTTAN/ODR web page has a much greater visual appeal and will be easier to navigate.

The meeting concluded at 2:00pm.